

MOTOR VEHICLES

CHAPTER 414

HOUSE BILL NO. 1379
(Conmy)

MOTORIZED BICYCLE SUBJECT TO TRAFFIC LAWS

AN ACT to create and enact a new subsection to section 39-06-14 of the North Dakota Century Code, relating to permits to operate motorized bicycles; to amend and reenact subsections 2, 34, and 36 of section 39-01-01, subsection 3 of section 39-06-14, and sections 39-10.2-01 and 39-28-01 of the North Dakota Century Code, relating to the definitions of bicycle, motor vehicle, and motorized bicycle, to application of traffic laws to persons operating motorcycles and motorized bicycles, and to additional fees for motorized bicycle and motorcycle registration for purposes of motorcycle safety education; and to repeal section 39-10.1-07.1 of the North Dakota Century Code, relating to minimum age requirements for operators of motorized bicycles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 2, 34, and 36 of section 39-01-01 of the 1981 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. "Bicycle" means a ~~motorized bicycle~~ and every device propelled solely by human power upon which any person may ride, having two tandem wheels either of which is more than twenty inches [50.8 centimeters] in diameter.
34. "Motor vehicle" includes every vehicle, ~~except motorized bicycles~~, which is self-propelled ~~and~~, every vehicle which 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.
36. "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, is equipped with 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 shall the vehicle may not have a width no greater than thirty-two inches [81.28 centimeters].

SECTION 2. AMENDMENT. Subsection 3 of section 39-06-14 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. a. All applicants holding a valid North Dakota ~~driver's~~ operator's license making application for renewal, shall be issued a class 3 license without being subjected to an examination as herein provided.
- b. All applicants, except those holding a valid North Dakota ~~driver's~~ operator's license who will be issued a class 3 license, applying for issuance of ~~driver~~ operator licenses shall be issued a classified license after having been required to submit to an examination in the type of motor vehicle or combination of vehicles for which license is desired and which license shall authorize the holder to drive the vehicles set forth in a class as follows:
- (1) Class 1. Any vehicle or combination of vehicles except vehicles under class 4.
- (2) Class 2. Any vehicle or combination of vehicles except:
- a- (a) Vehicles towing a trailer when the trailer being towed has a gross weight in excess of six thousand pounds [2721.55 kilograms].
- b- (b) Vehicles under class 4.
- (3) Class 3. Any two-axle or tandem-axle vehicle except:
- a- (a) A truck tractor combination as defined in subsection 76 of section 39-01-01.
- b- (b) A bus more than eighty inches [20.32 decimeters] in width and designed to carry more than ten persons and used for carrying passengers.
- e- (c) A two-axle or tandem-axle vehicle or combination of vehicles when towing a

trailer when the trailer being towed has a gross weight in excess of six thousand pounds [2721.55 kilograms].

d- (d) Vehicles under class 4.

~~Provided, however, an~~ An operator with a class 3 license may operate a farm tractor towing another vehicle having a gross weight in excess of six thousand pounds [2721.55 kilograms], and ~~may operate~~ a truck towing a trailer, semitrailer, or farm trailer when the gross weight of the trailer, semitrailer, or farm trailer, not including the weight of the towing vehicle, does not exceed twenty-four thousand pounds [10886.22 kilograms].

(4) Class 4. Any 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 motorized bicycles, tractors, and vehicles on which the operator or passengers, or both, ride within an enclosed cab.

c. The holder of a class 1, 2, or 3 license may receive a class 4 endorsement upon successful completion of an examination.

d. An applicant sixteen years of age and older, who does not hold a current valid ~~driver's~~ operator's license may be issued a class 4 learner's permit after successful completion of a written examination. The class 4 license will be issued after the applicant has successfully completed a driver's examination.

e. Applicants fourteen or fifteen years of age may be issued a motorcycle learner's permit if the applicant is enrolled in or has completed an approved motorcycle safety course. Applicants for a motorcycle operator's license who are under sixteen shall hold an initial learner's permit for at least two months ~~prior to~~ before applying for a class 4 operator's license, shall have completed an approved motorcycle safety course, and shall hold a valid motorcycle learner's permit at the time of application. Any person under sixteen years of age who holds a permit or license ~~shall be~~ is restricted to the operation of a motorcycle powered with an engine of two hundred cubic centimeters, or less, displacement. Evidence that the applicant has met one of the following standards shall accompany the application for a class 4 license:

- a- (1) Satisfactory completion of a motorcycle course which included at least six hours of classroom instruction and six hours of actual motorcycle operation.
- b- (2) Successful completion of a motorcycle course at an approved commercial driver training school which included at least six hours of classroom instruction and six hours of actual motorcycle operation.

SECTION 3. A new subsection to section 39-06-14 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

The commissioner may issue a motorized bicycle operator's permit to an applicant who is at least fourteen years of age. To obtain a permit, the applicant shall pay a fee of eight dollars and take a written examination of the applicant's knowledge of traffic laws and general rules of the road. If the applicant passes the written examination and the commissioner is satisfied that the applicant has adequate eyesight, the commissioner may issue the applicant a motorized bicycle operator's permit, even if the applicant does not have an operator's license. The period expires in the same manner as an operator's license. A person who has an operator's license is not required to obtain a motorized bicycle operator's permit.

SECTION 4. AMENDMENT. Section 39-10.2-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10.2-01. Traffic laws apply to person operating motorcycle or motorized bicycle. Every person operating a motorcycle or motorized bicycle shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this title, except as to special regulations in this chapter and except as to those provisions of this title which by their nature can have no application. For purposes of this chapter, the term "motorcycle" means motorcycles and motorized bicycles.

SECTION 5. AMENDMENT. Section 39-28-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-28-01. Additional fees for motorized bicycle and motorcycle registration. In addition to the fees required by section 39-04-19, for motorized bicycle and motorcycle registration, a motorcycle safety education fee of five dollars shall be required at the time of registration of each motorized bicycle and motorcycle.

SECTION 6. REPEAL. Section 39-10.1-07.1 of the North Dakota Century Code is hereby repealed.

Approved March 15, 1983

CHAPTER 415

SENATE BILL NO. 2373
(Senators Wright, Olson, Redlin)
(Representatives Rice, E. Pomeroy, Kelly)

PENALTIES FOR DWI

AN ACT to create and enact two new subsections to section 39-01-01, a new subsection to section 39-06-31, a new subsection to section 39-06.1-10, two new sections to chapter 39-08, and three new sections to chapter 39-20 of the North Dakota Century Code, relating to penalty and punishment for operating a motor vehicle while under the influence of intoxicating liquor or controlled substances and to law enforcement procedures; to amend and reenact section 27-20-51, subsection 5 of section 27-20-54, subsection 1 of section 39-06-01, subsection 5 of section 39-06-17, subsection 2 of section 39-06-23, section 39-06-33.1, subsections 1 and 2 of section 39-06-35, sections 39-06-36, 39-06-42, 39-06-43, subsection 1 of section 39-06.1-05, section 39-06.1-07, subdivision b of subsection 3 and subsection 4 of section 39-06.1-10, sections 39-06.1-11, 39-07-07, 39-07-10, 39-07-11, 39-08-01, 39-20-01, 39-20-02, 39-20-04, 39-20-05, 39-20-06, 39-20-07, 39-20-08, 39-20-09, 39-20-14, 40-18-01, 40-18-12, and 40-18-13 of the North Dakota Century Code, relating to reporting juvenile offenses, penalty and punishment for operating a motor vehicle while under the influence or for driving in violation of license suspension, revocation, or restriction, testing for blood alcohol concentration, interpretation of tests, issuing of notification forms to arrested drivers, and law enforcement, judicial, and administrative procedures; and to repeal section 39-06-29.1 of the North Dakota Century Code, relating to the authority to suspend operator's licenses of juveniles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-20-51 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-51. Inspection of court files and records. All

1. Except as provided in subsection 2, all files and records of the court in a proceeding under this chapter shall may not be disclosed to the public and are open to inspection only by:
 - 1- a. The judge, officers, and professional staff of the court.
 - 2- b. The parties to the proceeding and their counsel and representatives.
 - 3- c. A public or private agency or institution providing supervision or having custody of the child under order of the court, which shall be given a copy of the findings and order of disposition when it receives custody of the child.
 - 4- d. A court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who prior thereto had been a party to the proceeding in juvenile court.
 - 5- e. With leave of court any other person or agency or institution having a legitimate interest in the proceeding or in the work of the court.
 - 6- f. Upon leave of the court, the principal of any public or private school which is a member of the North Dakota high school activities association, or the superintendent of any school district which has one or more schools involved in the association, but only to the extent necessary to enforce the rules and regulations of the North Dakota high school activities association.
2. In a proceeding under this chapter, if the court finds that a child committed a delinquent or unruly act which constitutes a violation of a law or local ordinance governing the operation of a motor vehicle or a delinquent act of manslaughter or negligent homicide caused by the child's operation of a motor vehicle, the court shall, within ten days, report the finding to the state highway commissioner.

SECTION 2. AMENDMENT. Subsection 5 of section 27-20-54 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Upon entry of an order under subsection 2 or 4, the proceeding shall be treated as if it never occurred. All index references, except those which may be made by the state highway commissioner, shall be deleted, and upon

inquiry in any matter the child, the court, law enforcement officers, and representatives of agencies, except the state highway commissioner, shall properly reply that no record exists with respect to the child. Copies of the order shall be sent to each agency or official therein named. Each law enforcement agency and law enforcement officer except the state highway commissioner, upon receipt of a copy of the order, shall destroy all files, records, and references to the child pertaining to his apprehension, detention, and referral to the juvenile court and any record of disposition made by the juvenile court.

SECTION 3. Two new subsections to section 39-01-01 of the 1981 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

"Appropriate licensed addiction treatment program" means an addiction treatment program conducted by an addiction facility licensed by the department of human services.

"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.

SECTION 4. AMENDMENT. Subsection 1 of section 39-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. ~~No~~ A person, ~~except these hereinafter~~ unless expressly exempted in this section, ~~shall~~ may not drive any motor vehicle ~~upon~~ on a highway or on public or private areas to which the public has a right of access for vehicular use in this state unless ~~such~~ the person has a valid license as an operator under the provisions of this chapter or a temporary operator's permit issued under chapter 39-20. ~~No~~ A person ~~shall~~ may not receive an operator's license unless and until ~~he~~ that person surrenders to the commissioner all valid operator's licenses in ~~his~~ the person's possession issued to ~~him~~ the person by any other jurisdiction. All surrendered licenses shall be returned by the commissioner to the issuing department together with information that the licensee is now licensed in a new jurisdiction. ~~No~~ A person ~~shall be permitted to~~ may not have more than one valid operator's license at any time.

SECTION 5. AMENDMENT. Subsection 5 of section 39-06-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. It is a class B misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to ~~him~~ that person. If the restricted license was issued under section 39-06.1-11 and the underlying suspension was imposed for a violation of section 39-08-01 or equivalent ordinance, or is governed by chapter 39-20, punishment is as provided in subsection 2 of section 39-06-42 and upon receiving notice of the conviction the commissioner shall revoke, without opportunity for hearing, the licensee's restricted license and shall extend the underlying suspension for a like period of not more than one year. The commissioner may not issue a restricted license for the extended period of suspension imposed under this subsection. If the conviction referred to in this section is reversed by an appellate court, the commissioner shall restore the person to the status held by the person prior to the conviction, including restoration of driving privileges if appropriate.

SECTION 6. AMENDMENT. Subsection 2 of section 39-06-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Revocation" means that the ~~driver's~~ operator's license and privilege to drive a motor vehicle on the ~~public~~ highways a highway or on public or private areas to which the public has a right of access for vehicular use in this state are terminated and shall not be renewed or restored, except that ~~an~~ application for a new license may be presented to and acted upon by the commissioner after the expiration of the period of revocation, which period ~~shall not~~ must be less than at least thirty days ~~nor~~ but not more than one year, except as provided in sections 39-06-17, 39-06-31, 39-06-36, and 39-06-43.

SECTION 7. A new subsection to section 39-06-31 of the North Dakota Century Code is hereby created and enacted to read as follows:

Any offense classified as a felony which is a violation of section 22 of this Act. The revocation of the license under this subsection may be beyond any time of imprisonment or court-ordered inpatient addiction treatment.

SECTION 8. AMENDMENT. Section 39-06-33.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-33.1. Authority to suspend licenses after traffic death or injury - Show cause order required. The Except as provided in section 39-06-31, the commissioner may suspend the license of an operator upon a showing by ~~its~~ the commissioner's records or other sufficient

evidence that the licensee has been convicted by a court of competent jurisdiction for violation of the provisions of this title or any other law of this state or municipal ordinance regulating the operation of motor vehicles on highways where it appears from the department commissioner's records that the violation for which he the licensee was convicted contributed in causing an accident resulting in the death or serious personal injury, requiring professional medical care of another, or serious property damage. ~~Prior to~~ Before suspending the license of any person as authorized in this section, the commissioner shall immediately notify the licensee in writing to show cause, within twenty days, why his the license should not be suspended ~~or~~ revoke. Upon the request of a licensee the commissioner shall afford him the licensee an opportunity for a hearing as early as practical within ~~not to exceed~~ twenty days after receipt of such the request in the county wherein the licensee resides unless the department and licensee agree that such hearing may be held in some other county at a time and place designated by the commissioner. Upon such hearing the commissioner or his duly authorized agent hearing officer may administer oaths and, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee. Upon such hearing the commissioner may, for good cause, ~~either suspend or~~ revoke the license of such person the licensee.

SECTION 9. AMENDMENT. Subsections 1 and 2 of section 39-06-35 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. The commissioner ~~shall~~ may not suspend a driver's an operator's license or privilege to drive a motor vehicle on the public highways for a period of more than one year, except as permitted or required under this section, section 39-06-17, section 39-06-43, or section 16 of this Act.
2. At When the end of the period of suspension a license surrendered to the department under section 39-06-37 shall be returned to the licensee imposed under this title ceases, the operator's license or driving privilege that has been suspended may not be returned or reinstated, and remains under suspension, until the operator pays to the commissioner a reinstatement fee of twenty-five dollars. Upon payment of the reinstatement fee the license must be returned to the operator. A reinstatement fee is not required for a license to be returned to the operator if the return of the license is due to the findings of a hearing, reexamination of hearing, or court or judicial review under chapter 39-06, 39-06.1, or 39-20.

SECTION 10. AMENDMENT. Section 39-06-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-36. Restoration of revoked licenses. Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked shall not be entitled to have such license or privilege renewed or restored unless the revocation was for a cause which has been removed, except that after the expiration of the revocation period such person may make application for a new license as provided by law, but the commissioner shall not then issue a new license unless and until he is satisfied after investigation of the individual's driving records, driving habits, and driving ability of such person that it will be safe to grant the privilege of driving a motor vehicle on the public highways. A person whose license or privilege to drive a motor vehicle has been revoked must pay to the commissioner a revocation reinstatement fee of twenty-five dollars, in addition to any license renewal fee, for issuance of a new license. Until the reinstatement fee is paid the license and privilege to drive a motor vehicle remain under revocation. A reinstatement fee is not required if a revoked license is reinstated due to the findings of a hearing, reexamination of hearing, or court or judicial review as provided under chapter 39-06, 39-06.1 or 39-20.

SECTION 11. AMENDMENT. Section 39-06-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-42. Penalty for driving while license suspended or revoked - Impoundment of vehicle number plates - Authority of cities.

1. Except as provided in chapters 39-16 and 39-16.1, and in section 39-06.1-11, any person who drives a motor vehicle on any public highway of this state at a time when his or on public or private areas to which the public has a right of access for vehicular use in this state while that person's license or privilege so to do is suspended or revoked shall be is guilty of a class B misdemeanor.
2. If the suspension or revocation was imposed for violation of section 39-08-01 or equivalent ordinance or was governed by section 39-06-31 or chapter 39-20, the sentence must be at least fifteen days' imprisonment and such fine as the court deems proper. The sentence and the imposition of sentence may not be suspended under chapter 12-53. Forfeiture of bail is not permitted in lieu of the defendant's personal appearance in open court for arraignment on a charge under this subsection.
3. In addition to any other punishment imposed, the court may order the number plates of the motor vehicle owned and operated by the offender at the time of the offense to be impounded by the sheriff for the duration of the period of suspension or revocation, as the case may be, of the offender's driving license or privilege. When a period of suspension has been extended under subsection 5 of section 39-06-17, the court may order the number plates to be impounded in accordance with this subsection. The

impounded number plates may be released, upon order of the court, to a bona fide purchaser of the offender's motor vehicle, if that purchaser produces a new certificate of title to the motor vehicle issued by the registrar of motor vehicles.

- 2- 4. A city may, by ordinance, authorize its municipal judge to order impoundment of motor vehicle number plates in the manner provided in subsection 1 of this section 3.

SECTION 12. AMENDMENT. Section 39-06-43 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-43. Extension of license suspension or revocation. The commissioner upon receiving a record of the conviction of any person upon a charge of driving a vehicle while the license or driving privileges of the person was suspended shall extend the period of that suspension for an additional like period and if the original suspension was for an indefinite or unstated period of time, the additional suspension shall be for a period of six months on and after the date the person would otherwise have been entitled to the return of license or privileges. If, however, the original suspension of driving privileges resulted solely from failure to appear in court or to post and forfeit bond on noncriminal traffic violations, there shall be no additional period of suspension. If the conviction was upon a charge of driving while a license or driving privileges was revoked, the commissioner shall not issue a new license for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license. Upon a conviction of a person for violating a restricted license issued under section 39-06.1-11 and in which the underlying suspension was imposed for violating section 39-08-01 or equivalent ordinance or is governed by chapter 39-20, the commissioner shall extend the period of the underlying suspension in accordance with subsection 5 of section 39-06-17.

SECTION 13. AMENDMENT. Subsection 1 of section 39-06.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Driving or being in actual physical control of a vehicle ~~while under the influence of a controlled substance or intoxicating liquor~~ in violation of section 39-08-01, or an equivalent ordinance.

SECTION 14. AMENDMENT. Section 39-06.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06.1-07. Notification to offenders - Duties of licensing authority. The licensing authority shall prepare a notification ~~form~~ forms and a temporary operator's permit as provided in section 33 or 34 of this Act to be appended to the form of delivered to persons charged

along with the uniform traffic summons and complaint as provided in section 29-05-31. The notification ~~form~~ forms shall contain language, approved by the attorney general, informing persons charged with traffic violations, other than offenses listed in section 39-06.1-05, of the procedures available to them under sections 39-06.1-02 and 39-06.1-03 and informing persons who refuse a chemical test or onsite screening test under chapter 39-20 or who, on taking a chemical test, are found to be in violation of subdivision e of subsection 1 of section 39-08-01, of the procedures available under chapter 39-20. The notification shall also contain a schedule of points to be charged against a person's driving record or other operator's license penalties as provided by law, and a schedule of statutory fees and bond amounts as determined in accordance with sections 39-06.1-06 and 39-06.1-02.

SECTION 15. AMENDMENT. Subdivision b of subsection 3 and subsection 4 of section 39-06.1-10 of the 1981 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

b. Criminal Violations	Points Assigned:
Conviction of:	
(1) Reckless driving, in violation of section 39-08-03, or equivalent ordinance	8 points
(2) Aggravated reckless driving, in violation of section 39-08-03, or equivalent ordinance	12 points
(3) Leaving the scene of an accident involving property damage in violation of sections 39-08-05, 39-08-07, or 39-08-08, or equivalent ordinances	14 points
(4) Leaving the scene of an accident involving personal injury or death in violation of section 39-08-04, or equivalent ordinance	18 points
(5) Driving while under the influence <u>while under the actual physical control of a motor vehicle in violation of section 39-08-01, or equivalent ordinance, if the driving record shows that the licensee has not</u>	15 <u>24</u> points

- within the five years preceding the violation previously violated section 39-08-01, or equivalent ordinance
- (6) Being in actual physical control of a motor vehicle while under the influence in violation of section 39-08-01, or equivalent ordinance 6 points
- Driving or being in actual physical control of a motor vehicle in violation of section 39-08-01, or equivalent ordinance, if the driving record shows that the licensee has within the five years preceding the violation previously violated section 39-08-01, or equivalent ordinance 63 points
- (7) Violating restrictions in a restricted license issued pursuant to under section 39-06-17 and relating to the use of eyeglasses or contact lenses while driving 3 points
- (8) Violating any restrictions other than those listed in paragraph 7 of this subdivision, contained in a restricted license issued pursuant to under section 39-06-17 or section 39-06.1-11 4 points
4. If judicial disposition of a traffic violation includes an order or recommendation of suspension or revocation of an operator's license, such the suspension or revocation shall run concurrently with any suspension ordered pursuant to under this section. After a conviction of a person for violating section 39-08-01, the commissioner shall, in suspending the person's operator's license, give credit for the time in which license suspension or revocation has been or is being imposed under chapter 39-20 in connection with the same offense.

SECTION 16. A new subsection to section 39-06.1-10 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

- a. If the commissioner is informed by a court that under section 39-08-01 or 40-18-12 a person convicted of violating section 39-08-01 or equivalent ordinance has been referred for addiction evaluation to an appropriate licensed addiction treatment program and has been subsequently evaluated as needing addiction treatment, the commissioner shall, within three days of being so informed, send notice to the offender informing the offender of the addiction evaluation and of the provisions of this subsection.
- b. If the offender does not, within thirty days from the date the commissioner mailed the notice, enroll in an appropriate licensed addiction treatment program, with that enrollment verified by the program's addiction counselor or instructor, or, if enrolled, the offender does not complete the treatment program, the commissioner shall, subject to the offender's opportunity for hearing under subsection 1, suspend that person's driving privileges in accordance with subdivisions c and d.
- c. If the driving record shows that:
- | <u>The suspension</u> | <u>must be at least:</u> |
|---|--------------------------|
| <u>(1) Within the five years preceding the most recent violation of section 39-08-01, or equivalent ordinance, the offender has not previously violated section 39-08-01 or equivalent ordinance</u> | <u>180 days</u> |
| <u>(2) Within the five years preceding the most recent violation of section 39-08-01, or equivalent ordinance, the offender has once previously violated section 39-08-01 or equivalent ordinance</u> | <u>1 year</u> |
| <u>(3) Within the five years preceding the most recent violation of section 39-08-01, or equivalent ordinance, the offender has twice</u> | <u>2 years</u> |

previously violated
section 39-08-01
or equivalent ordinance

- d. If within the seven years preceding the most recent violation of section 39-08-01, or equivalent ordinance, the offender has previously violated section 39-08-01 or equivalent ordinance at least three times, the commissioner may restore driving privileges to the offender only after that person has completed addiction treatment through an appropriate licensed addiction treatment program and has had no alcohol or drug-related offense for two consecutive years after completion of treatment.
- e. A period of license suspension imposed on an offender under this subsection is in addition and consecutive to any period of license suspension or revocation imposed under section 39-06-31 or chapter 39-20 or after a conviction of violating section 39-08-01 or equivalent ordinance.

SECTION 17. AMENDMENT. Section 39-06.1-11 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06.1-11. Temporary restricted license. ~~When~~

1. Except as provided under subsection 2, if the licensing authority has suspended a license, pursuant to under section 39-06.1-10, or when the commissioner has revoked a license pursuant to section 39-20-04, or when or if the commissioner has extended a suspension or revocation pursuant to under section 39-06-43, for a period in excess of for more than seven days, the authority may, for good cause, upon receiving written application from the licensee offender affected, issue a temporary restricted operator's license valid, after seven days of the suspension period have passed, for the remainder of the suspension period. The
2. If the licensing authority has suspended a license under chapter 39-20, or after a violation of section 39-08-01 or equivalent ordinance, the authority may, in accordance with this section, for good cause, and upon written application of the offender, issue a temporary restricted license which takes effect after thirty days of the suspension have been served after a first offense under section 39-08-01 or chapter 39-20. The licensing authority may not issue a temporary restricted license to any offender whose operator's license is under suspension upon a second or subsequent offense within the time limitations under section 39-08-01. The licensing authority may not issue a temporary restricted license for

a period of license revocation or suspension imposed under section 39-06-31, section 16, or 26 of this Act or subsection 5 of section 39-06-17.

3. A restricted license issued under this section may authorize the use of a motor vehicle only during the licensee's normal working hours, or may contain any other restrictions authorized by section 39-06-17. Violation of a restriction imposed according to this section ~~shall~~ be is deemed a violation of section 39-06-17.

SECTION 18. AMENDMENT. Section 39-07-07 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-07. Halting person for violating traffic regulations - Duty of officer halting. Whenever any person is halted for the violation of any of the provisions of chapters 39-01 through 39-13, 39-18, 39-21, and 39-24, or of equivalent city ordinances, the officer halting ~~such~~ that person, except as otherwise provided in section 39-07-09 and section 33 or 34 of this Act, may:

1. Take the name and address of ~~such~~ the person;
2. Take the license number of ~~his~~ the person's motor vehicle; and
3. Issue a summons or otherwise notify ~~him~~ that person in writing to appear at a time and place to be specified in ~~such~~ the summons or notice.

A halting officer employed by any political subdivision of the state may not take a person into custody or require that person to proceed with the officer to any other location for the purpose of posting bond, where the traffic violation was a noncriminal offense under section 39-06.1-02. The officer shall provide the person with an envelope for use ~~by that person to mail~~ in mailing the bond.

SECTION 19. AMENDMENT. Section 39-07-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-10. Officer violating provisions for arrest and notice of hearing to defendant may be removed from office. Any officer violating ~~any of the provisions of sections~~ section 39-07-07, 39-07-08, ~~and~~ 39-07-09, or section 33 or 34 of this Act is guilty of misconduct in office and ~~shall be~~ is subject to removal from office.

SECTION 20. AMENDMENT. Section 39-07-11 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-11. Magistrate to keep record of convictions of traffic violations - Records of conviction to be forwarded to licensing authority. Every magistrate in this state, as defined in section 29-01-14, shall keep

a full record of every case brought before him the magistrate in which a person is charged with a violation of section 12.1-16-02 or 12.1-16-03, or of any provision of chapters 39-05 through 39-13, ~~and chapters 39-21 and 39-24~~, or with a violation of a municipal ordinance which is equivalent to any of the provisions of the foregoing statutes. Within ten days after a final order or judgment of conviction, for a violation not subject to disposition and reporting ~~pursuant to~~ under chapter 39-06.1, by the North Dakota supreme court or any lower court having jurisdiction, provided that no appeal is pending and the time for filing a notice of appeal has elapsed, the magistrate then having jurisdiction shall forward a report of that fact to the licensing authority. Any conviction for which a report is received by the licensing authority may be deemed by the licensing authority to be final, and the licensing authority may take any action authorized by law to be taken based ~~upon~~ on the report. Subject to the filing of an appeal, a conviction ~~shall include~~ includes those instances when:

1. A sentence is imposed and suspended;
2. Imposition of a sentence is suspended under chapter 12-53; or
3. There is a forfeiture of bail or collateral deposited to secure a defendant's appearance in court and the forfeiture has not been vacated.

SECTION 21. AMENDMENT. Section 39-08-01 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. ~~No~~ A person shall ~~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. ~~He is an habitual user of narcotic drugs or is under the influence of a narcotic drug;~~ That person has a blood alcohol concentration of at least ten one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving.
 - b. ~~He~~ That person is under the influence of intoxicating liquor~~;~~.
 - c. ~~He is under the influence of any controlled substance to a degree which renders him incapable of safely driving;~~ or That person is an habitual user of

- narcotic drugs or is under the influence of a narcotic drug.
- d. He is under the influence of a combination of intoxicating liquor and a controlled substance to a degree rendering him incapable of safely driving. That person is under the influence of any controlled substance to a degree which renders that person incapable of safely driving.
 - e. That person is under the influence of a combination of intoxicating liquor and a controlled substance to a degree which renders that person incapable of safely driving.
2. A person may not 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. That person has a blood alcohol concentration of at least ten one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after being in physical control of a vehicle.
 - b. That person is under the influence of intoxicating liquor.
 - c. That person is an habitual user of narcotic drugs or is under the influence of a narcotic drug.
 - d. That person is under the influence of any controlled substance to a degree which renders that person incapable of safely driving.
 - e. That person is under the influence of a combination of intoxicating liquor and a controlled substance to a degree which renders that person incapable of safely driving.
3. A person violating any provision of this section or equivalent ordinance is guilty of a class B misdemeanor for the first or second conviction in a twenty-four-month five-year period, and of a class A misdemeanor for the second a later conviction in a twenty-four-month five-year period. Notwithstanding the other provisions of this subsection, a person violating this section or equivalent ordinance is guilty of a class A misdemeanor for the fourth or subsequent conviction in a seven-year period. The minimum penalty for such violation shall be either three days in jail or a fine of one hundred dollars, or both such fine and imprisonment. In the event the complaint does not include the allegation that, if

convicted, such conviction would be the second or subsequent violation within the time limit as provided in this section, the violating this section is as provided in subsection 5. The court may shall take judicial notice of such the fact that a conviction would be a subsequent conviction if indicated by the records of the state highway department commissioner or may make such finding based on other evidence.

3- Repealed by S.B. 1975, ch. 106, § 673-

4. Upon conviction, the court may order the motor vehicle number plates of the motor vehicle owned and operated by the offender at the time of the offense to be impounded by the sheriff or the chief law enforcement officer of the city, as is appropriate, for the duration of the period of suspension of the offender's driver's license or driving privilege by the licensing authority. The impounded motor vehicle number plates may be released, upon the order of the court, to a bona fide purchaser of the offender's motor vehicle, if that purchaser produces a new certificate of title issued by the registrar of motor vehicles.

5. The court may, upon a conviction of a person under this section, but prior to sentencing, refer the person to an addiction facility licensed by the North Dakota state department of health for diagnosis. Upon receipt of the results of this diagnosis, the court may impose a sentence as prescribed in this section or it may sentence the person to treatment in a facility approved by the North Dakota department of human services. A person convicted of violating this section, or an equivalent ordinance, must be sentenced in accordance with this subsection.

a. For a first offense, the sentence must include both a fine of at least two hundred fifty dollars and referral for addiction evaluation to an appropriate licensed addiction treatment program. If the addiction evaluation indicates treatment is needed, the court shall notify the commissioner.

b. For a second offense within five years, the sentence must include at least four days' imprisonment of which forty-eight hours must be served consecutively, or ten days' community service; a fine of at least five hundred dollars; and referral for addiction evaluation to an appropriate licensed addiction treatment program. If the addiction evaluation indicates treatment is needed, the court shall notify the commissioner.

c. For a third offense within five years, the sentence must include at least sixty days' imprisonment, of

which forty-eight hours must be served consecutively; a fine of one thousand dollars, and referral for addiction evaluation to an appropriate licensed addiction treatment program. If the addiction evaluation indicates treatment is needed, the court shall notify the commissioner.

- d. For a fourth offense within seven years, the sentence must include one hundred eighty days' imprisonment, of which forty-eight hours must be served consecutively and a fine of one thousand dollars.
- e. A sentence or imposition of sentence under this section may not be suspended under chapter 12-53 except that a fine or a sentence of imprisonment may be suspended in any of the following instances:
 - (1) Upon conviction of being in actual physical control of a motor vehicle in violation of this section or equivalent ordinance.
 - (2) If the defendant is under age eighteen when convicted except that if the defendant has, within the preceding five years, previously been convicted of violating section 39-08-01 or equivalent ordinance, the sentence must include at least forty-eight consecutive hours imprisonment or in a minimum security facility or at least ten days of community service, which sentence or imposition of sentence may not be suspended under chapter 12-53.
- f. For purposes of this section, conviction of an offense under a law or ordinance of another state which is equivalent to this section shall be considered a prior offense if such offense was committed within the time limitations specified in this subsection.
- g. If the penalty mandated by this section includes imprisonment 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 inpatient treatment at an appropriate licensed addiction treatment program and the time spent by the defendant in the inpatient treatment must be credited as a portion of a sentence of imprisonment under this section.

SECTION 22. A new section to chapter 39-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

Special punishment for causing injury or death while operating a vehicle while under the influence of alcohol.

1. If a person is charged with violation of section 39-08-01 and violation of section 12.1-16-02, 12.1-16-03, or 39-08-03 arising from the same occurrence, the court shall consolidate the charges for trial. The penalty provided in this section applies when the court finds the person guilty of violation of section 39-08-01 and section 12.1-16-02 or 12.1-16-03, or a violation of sections 39-08-01 and 39-08-03 if the court finds that the violation caused serious bodily injury, as defined in section 12.1-01-04, to another person.
2. If the defendant was at least eighteen years of age at the time of the violation of section 39-08-01 and section 12.1-16-02 or 12.1-16-03, the sentence under section 12.1-16-02 or 12.1-16-03 must be at least one year's imprisonment. If the defendant was at least eighteen years of age at the time of the violation of section 39-08-01 and section 39-08-03, the sentence under section 39-08-03 must be at least ninety days' imprisonment. The sentence for violation of section 12.1-16-02, 12.1-16-03, or 39-08-03 may not be suspended unless the court finds that manifest injustice would result from imposition of the sentence. The sentence must be served in its entirety, without benefit of parole or pardon. The sentence for violation of section 12.1-16-02, 12.1-16-03, or 39-08-03 under this section must be consecutive to any sentence imposed for violating section 39-08-01 or equivalent ordinance.
3. If the defendant was less than eighteen years of age at the time of the offense, the punishment may be in accordance with subsection 2 or chapter 27-20.

SECTION 23. A new section to chapter 39-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

Prior offenses. For purposes of this chapter, chapter 39-06.1, and chapter 39-20 a previous conviction does not include any prior violation of section 39-08-01 or equivalent ordinance if the offense occurred prior to July 1, 1981.

* SECTION 24. AMENDMENT. Section 39-20-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-01. Implied consent to determine alcoholic content of blood. Any person who operates a motor vehicle upon the public highways of on a highway or on public or private areas to which the public has a right of access for vehicular use in this state shall be is deemed to have given consent, and shall consent, subject to the provisions of this chapter, to a chemical test, or tests, of his the blood,

* NOTE: Section 39-20-01 was also amended by section 1 of House Bill No. 1188, chapter 444.

breath, saliva, or urine for the purpose of determining the alcoholic content of his the blood. The test or tests shall must be administered at the direction of a law enforcement officer only after placing such the person, except persons mentioned in section 39-20-03, under arrest and informing him that person that he the person is or will be charged with the offense of driving or being in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor. The arresting officer shall also inform the person charged that refusal of the person to submit to the test determined appropriate will result in a revocation for one year of the person's driving privileges. The arresting officer shall determine which of the aforesaid tests shall is to be used.

* SECTION 25. AMENDMENT. Section 39-20-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-02. Persons qualified to administer test and opportunity for additional test. Only a physician, or a qualified technician, chemist, or registered nurse acting at the request of a law enforcement officer may withdraw blood for purpose of determining the alcoholic content therein. This limitation shall does not apply to the taking of breath, saliva, or urine specimen. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of his own choosing administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer with all costs of an additional test or tests to be the sole responsibility of the person charged. The failure or inability to obtain an additional test by a person shall not preclude the admission of the test or tests taken at the direction of law enforcement officer. Upon the request of the person who is tested, full information concerning the test or tests taken at the direction of the law enforcement officer shall be made available to him.

** SECTION 26. AMENDMENT. Section 39-20-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-04. Revocation of privilege to drive motor vehicle upon refusal to submit to chemical testing. If a person under arrest refuses to submit to chemical testing under section 39-20-01 or 39-20-14, none shall be given, but the commissioner, upon the receipt of that person's operator's license, if taken under section 33 or 34 of this Act, and a sworn report of the law enforcement officer, forwarded by the arresting officer within five days after the refusal, showing that he the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor in violation of section 39-08-01 or equivalent ordinance, that the person was lawfully arrested if applicable, and that the person had refused to submit to the test or tests under section 39-20-01 or 39-20-14, shall revoke his that person's license or permit to drive and any nonresident operating privilege for a period of six months, or, if one year, or if the person is a

* NOTE: Section 39-20-02 was also amended by section 2 of House Bill No. 1188, chapter 444.

** NOTE: Section 39-20-04 was also amended by section 3 of House Bill No. 1188, chapter 444.

resident without a license or a permit to operate a motor vehicle in this state, the commissioner shall deny to the person the issuance of a license or permit for a ~~period of six months~~ one year after the date of the alleged violation, subject to the opportunity for a prerovocation hearing and postrevocation review as ~~hereinafter~~ provided in this chapter. In the revocation of the person's operator's license the commissioner shall give credit for time in which the person was without an operator's license after the day of the person's refusal to submit to the test except that the commissioner may not give credit for time in which the person retained driving privileges through a temporary driver's permit issued under sections 33 and 34 of this Act.

* SECTION 27. AMENDMENT. Section 39-20-05 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-05. Administrative hearing on request. ~~Prior to~~

1. Before issuing an order of suspension, revocation, or denial under section 39-20-04 or section 35 of this Act, the commissioner shall give ~~such~~ the person a written notice of intention to revoke, suspend, or deny and afford ~~him~~ that person an opportunity for a hearing. ~~if the commissioner receives a written request within ten days, he shall hold such hearing if the person mails a request for the hearing to the commissioner within five days after the issuance of the temporary operator's permit. The hearing must be held within ~~sixty~~ twenty days. The~~ after the date of issuance of the temporary operator's permit.
2. If the issue to be determined by the hearing concerns license suspension for operating a motor vehicle while having a blood alcohol concentration of at least ten one-hundredths of one percent by weight, the hearing must be before a hearing officer assigned by the commissioner and at a time and place designated by the commissioner. The hearing must be recorded and its scope may cover only the issues of whether the arresting officer had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle in violation of 39-08-01 or equivalent ordinance; whether the person was placed under arrest; whether the person was tested in accordance with section 39-20-01 or 39-20-03 and, if applicable, section 39-20-02; and whether, based on a review of the test procedures and results, the person had a blood alcohol concentration of at least ten one-hundredths of one percent by weight. Whether the person was informed that the privilege to drive might be suspended based on the results of the test is not an issue.
3. If the issue to be determined by the hearing concerns license revocation for refusing to submit to a test under

* NOTE: Section 39-20-05 was also amended by section 4 of House Bill No. 1188, chapter 444.

section 39-20-01 or 39-20-14, the hearing shall must be before the commissioner or his authorized agent in the county wherein the alleged events occurred for which the person was arrested; unless the commissioner or his authorized agent and the person agree that the hearing may be held in some other county a hearing officer assigned by the commissioner at a time and place designated by the commissioner. The hearing shall must be transcribed recorded and its scope shall may cover only the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor in violation of section 39-08-01 or equivalent ordinance; whether the person was placed under arrest if applicable; and; whether he that person refused to submit to the test or tests. Whether the person was informed that his the privilege to drive would be revoked or denied if he refused for refusal to submit to the test or tests shall is not be an issue.

4. At the a hearing under this section, the regularly kept records of the commissioner may be introduced and shall. Those records establish prima facie the their contents thereof without further foundation. The commissioner or his authorized agent shall promptly make findings of fact, conclusions, and decision as provided for in section 28-32-13. At the close of the hearing, the hearing officer shall notify the person of the hearing officer's findings of fact, conclusions of law, and decision based on the findings and conclusions and shall immediately deliver to the person a copy of the decision. If the hearing officer finds, based on a preponderance of the evidence, that the person refused a test under section 39-20-01 or 39-20-14 or that the person was operating a motor vehicle with a blood alcohol concentration of at least ten one-hundredths of one percent by weight, the hearing officer shall immediately take possession of the person's temporary operator's permit issued under section 33 or 34 of this Act. If the hearing officer does not find against the person, the hearing officer shall sign, date, and mark on the person's permit an extension of driving privileges for the next twenty days and shall return the permit to the person. The hearing officer shall report the findings, conclusions, and decisions to the commissioner within ten days of the conclusion of the hearing. Within two days from the date in which the commissioner receives the report, the commissioner shall mail a notice of the decision to the person who requested the hearing and, if the decision of the hearing officer is to not suspend or not revoke the person's operator's license, shall return the license to the person. If the hearing officer has determined in favor of the person, the commissioner shall return the person's operator's license.

Notice of the decision and resulting order of the commissioner ~~shall be~~ is sufficient if mailed by regular mail to the address on file with the commissioner pursuant ~~to~~ under section 39-06-20.

5. If the person who requested a hearing under this section fails to appear at the hearing without justification, the right to the hearing is waived, and the commissioner's determination on license revocation, suspension, or denial will be based on the written request for hearing, law enforcement officer's report, and other evidence as may be available.

SECTION 28. AMENDMENT. Section 39-20-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-06. Judicial review. Any person aggrieved by the decision of the commissioner or his authorized agent a hearing officer under section 39-20-05 may, within thirty seven days after the commissioner mailed the notice of the decision, section 28-32-15 notwithstanding, serve on the commissioner and file a notice of appeal and specifications of error in the district court in the county wherein where the alleged events occurred for which he was arrested the demand for a test was made, or in the county in which the administrative hearing was held. It shall be the duty of the The court to shall set the matter for hearing, and the petitioner shall give twenty days' notice thereof of the hearing to the commissioner and to the hearing officer who rendered the decision. The commissioner shall or the court may not thereupon stay his the decision until the hearing date but in no event for more than sixty days. Within fifteen days after receipt of the notice, the commissioner or the hearing officer who rendered the decision shall file in the office of the clerk of court to which the appeal is taken a certified transcript of the testimony and all other proceedings. It shall constitute is the record on which appeal shall be determined. No additional evidence shall may be heard. The court shall affirm the decision of the commissioner or his authorized agent hearing officer unless it finds the evidence insufficient to warrant the conclusion reached by the commissioner or hearing officer. The court may in its discretion direct that the matter be returned to the commissioner or hearing officer for rehearing and the presentation of additional evidence.

* SECTION 29. AMENDMENT. Section 39-20-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-07. Interpretation of chemical tests. Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor, evidence of the amount of alcohol in the person's blood at the time of the act alleged as shown by a chemical analysis of his the blood, breath, saliva, or urine is admissible. For the purpose of this section:

- * NOTE: Section 39-20-07 was also amended by section 5 of House Bill No. 1188, chapter 444.

1. A person having, at that time, ~~five-hundredths~~ a blood alcohol concentration of not more than ~~five one-hundredths~~ of one percent ~~or less~~ by weight of ~~alcohol~~ in his blood is presumed not to be under the influence of intoxicating liquor.
2. Evidence that there was at that time more than ~~five-hundredths~~ ~~five one-hundredths~~ of one percent and less than ~~ten-hundredths~~ of one percent by weight of alcohol in the person's blood is relevant evidence, but it is not to be given prima facie effect in indicating whether the person was under the influence of intoxicating liquor.
3. A person having, at that time, ~~ten-hundredths~~ a blood alcohol concentration of at least ~~ten one-hundredths~~ of one percent ~~or more~~ by weight of ~~alcohol~~ in his blood shall be presumed to be at the time of the performance of a chemical test within two hours after driving or being in physical control of a vehicle is under the influence of intoxicating liquor at the time of driving or being in physical control of a vehicle.
4. Percent by weight of alcohol in the blood shall be or blood alcohol concentration is based upon grams of alcohol per one hundred cubic centimeters of blood or grams of alcohol per two hundred ten liters of alveolar breath.
5. The results of ~~such~~ the chemical analysis shall must be received in evidence when it is shown that the sample was properly obtained and the test was fairly administered, ~~provided that a and if the test of a person's blood,~~ urine, breath, or other bodily substance and the result thereof is further shown to have been performed according to methods ~~or~~ and with devices approved by the state toxicologist, ~~or both,~~ and by an individual possessing a certificate of qualification to administer the test issued by the state toxicologist. The state toxicologist is authorized to approve satisfactory techniques, devices, and methods of chemical analysis and to determine the qualifications of individuals to conduct such analysis, and shall issue a certificate to all qualified operators who shall exhibit the certificate upon demand ~~by~~ of the person requested to take the chemical test. The state toxicologist may appoint, train, certify, and supervise field inspectors of breath testing equipment and its operation, and the inspectors shall report the findings of any inspection to the state toxicologist for appropriate action. Upon approval of the methods or devices, or both, and techniques required to perform ~~such~~ the tests and the persons qualified to administer them, the state toxicologist shall prepare and file written record of ~~such~~ the approval with the clerk of the district court in each

county ~~within the state which~~ and shall include in the record:

- a. A quarterly register of the specific testing devices currently approved, including serial number, location, and the date and results of last inspection.
- b. A quarterly register of currently qualified and certified operators of ~~said the devices,~~ stating the date of certification and its expiration.
- c. The operational check list and forms prescribing the methods and techniques currently approved by the state toxicologist in using ~~such the~~ devices during the administration of the tests.

Copies of ~~the above these~~ records certified by the clerk of the district court ~~shall must~~ be admitted as prima facie evidence of the matters ~~stated therein~~ in the records.

6. A certified copy of the analytical report of a blood analysis signed by the state toxicologist ~~shall must~~ be accepted as prima facie evidence of the results of ~~such a~~ chemical analysis performed ~~herein~~ under this chapter.
7. Notwithstanding any statute or rule to the contrary, the defendant may subpoena the state toxicologist or any employee ~~thereof~~ of the state toxicologist to testify at the trial of the issue ~~at no~~ without cost to the defendant.
8. A signed statement from the nurse or medical technician drawing the blood sample for testing as set forth in subsection 5 is prima facie evidence that the blood sample was properly drawn and no further foundation for the admission of such evidence may be required.

* SECTION 30. AMENDMENT. Section 39-20-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-08. Proof of refusal admissible in any civil or criminal action or proceeding. If the person under arrest refuses to submit to the test or tests, proof of refusal ~~shall be~~ is admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was driving or in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor, ~~provided the person shall first have testified in the action.~~

** SECTION 31. AMENDMENT. Section 39-20-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 39-20-08 was also amended by section 6 of House Bill No. 1188, chapter 444.

** NOTE: Section 39-20-09 was also amended by section 7 of House Bill No. 1188, chapter 444.

39-20-09. Effect of evidence of chemical test. The provisions of this chapter do not limit the introduction of any other competent evidence bearing on the question of whether the person was under the influence of intoxicating liquor but, if the test results show a blood alcohol concentration of at least ten one-hundredths of one percent, the purpose of such evidence shall be limited to the issues of probable cause, whether an arrest was made prior to the administering of the test, and the validity of the test results.

SECTION 32. AMENDMENT. Section 39-20-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-14. Screening tests. Any person who operates a motor vehicle upon the public highways of this state shall be is deemed to have given consent to submit to an onsite screening test or tests of his the person's breath for the purpose of estimating the alcohol content of his the person's blood upon the request of a law enforcement officer who has reason to believe that such the person committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or the accident the officer has, through his the officer's observations, formulated an opinion that such the person's body contains alcohol. A person shall may not be required to submit to a screening test or tests of his breath while at a hospital as a patient if the medical practitioner in immediate charge of his the person's case is not first notified of the proposal to make the requirement, or objects to the test or tests on the ground that such would be prejudicial to the proper care or treatment of the patient. The screening test or tests shall be performed by an enforcement officer certified as a chemical test operator by the state toxicologist and according to methods and with devices approved by the state toxicologist. The results of such screening test shall be used only for determining whether or not a further test shall be given under the provisions of section 39-20-01. The officer shall inform the person that refusal of the person to submit to a screening test will result in a revocation for one year of that person's driving privileges. If such person refuses to submit to such screening test or tests, none shall be given, but such refusal shall be sufficient cause to revoke such person's license or permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 shall be available. No provisions of this section shall supersede any provisions of chapter 39-20, nor shall any provision of chapter 39-20 be construed to supersede this section except as provided herein.

SECTION 33. A new section to chapter 39-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

Action following test result or on refusing test for a resident operator. If a person refused to submit to a test as provided under section 39-20-01 or 39-20-14, or if a person submits to a test under section 39-20-01, 39-20-02, or 39-20-03 and the test

shows that person to have a blood alcohol concentration of at least ten one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving, the following procedures apply:

1. The law enforcement officer shall immediately take possession of the person's operator's license and shall immediately issue to that person a temporary operator's permit extending driving privileges for the next twenty days. The law enforcement officer shall sign and note the date on the temporary operator's permit. The temporary operator's permit serves as the department's official notification to the person of the department's intent to revoke, suspend, or deny driving privileges in this state.
2. If a test administered under section 39-20-01 or 39-20-03 was by drawing blood as provided in section 39-20-02 and the person tested is not a resident of an area in which the law enforcement officer has jurisdiction, the law enforcement officer shall, on receiving the analysis of the blood from the state toxicologist and if the analysis shows that person had a blood alcohol concentration of at least ten one-hundredths of one percent by weight, notify the sheriff in the county of this state where the person lives. On that notification, that sheriff shall immediately take possession of the person's North Dakota operator's license and, within twenty-four hours, relay the license to the arresting officer. The sheriff shall also, on taking possession of the person's operator's license, issue to that person a temporary operator's permit as provided in this section, and shall sign and date the permit as provided in subsection 1. The temporary operator's permit serves as the department's official notification to the person of the department's intent to revoke, suspend, or deny driving privileges in this state.
3. The law enforcement officer, within five days of issuing the temporary operator's permit, shall forward to the commissioner a sworn report and the person's operator's license taken under subsection 1 or 2. If the person was issued a temporary operator's permit because of the person's refusal to submit to a test or tests under section 39-20-01 or section 39-20-14, the sworn report shall include information as provided in section 39-20-04. If the person was issued a temporary operator's permit because of the results of a test, the sworn report must show that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01, or equivalent ordinance, that the person was lawfully arrested, that the person was tested in accordance with section 39-20-01, 39-20-02, or 39-20-03, and that the test results of the test show that the person

had a blood alcohol concentration of at least ten one-hundredths of one percent by weight.

SECTION 34. A new section to chapter 39-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

Action following test result or on refusing test by a nonresident operator. If a person licensed in another state refuses in this state to submit to a test provided under section 39-20-01 or 39-20-14, or who submits to a test under section 39-20-01, 39-20-02, or 39-20-03 and the test results show the person to have a blood alcohol concentration of at least ten one-hundredths of one percent by weight, the following procedures apply:

1. Without taking possession of the person's out-of-state operator's license, the law enforcement officer shall issue to the person a temporary operator's permit extending nonresident operating privileges in this state for twenty days from the date of issuance. The temporary permit shall be signed and dated by the officer and serves as the department's official notification to the person of the department's intent to revoke, suspend, or deny driving privileges in this state.
2. If the test was administered by drawing blood, the law enforcement officer, on reviewing the blood alcohol concentration analysis showing the person had a blood alcohol concentration of at least ten one-hundredths of one percent by weight, shall mail the person a notification of the test results, a temporary operator's permit extending nonresident operating privileges in this state for twenty days from the date of mailing, and notice of the intent to revoke, suspend, or deny driving privileges in this state, together with the notice provided under section 39-06.1-07 of the procedures available under this chapter. The temporary operator's permit shall be signed and dated by the officer. The law enforcement officer, within five days of issuing the temporary operator's permit, shall forward to the commissioner a sworn report. If the person was issued a temporary operator's permit because of the person's refusal to submit to a test under sections 39-20-01 and 39-20-14, the sworn report shall include information as provided in section 39-20-04. If the person was issued a temporary operator's permit because of the results of a test, the sworn report must show that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01, or equivalent ordinance, that the person was lawfully arrested, that the person was tested in accordance with section 39-20-01, 39-20-02, or 39-20-03, and that the results of the test show that the

person had a blood alcohol concentration of at least ten one-hundredths of one percent by weight.

SECTION 35. A new section to chapter 39-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

Administrative penalty for driving or being in physical control of a vehicle while having certain blood alcohol concentration.

1. After the receipt of a person's operator's license, if taken under section 33 or 34 of this Act, and the sworn report of a law enforcement officer and if no written request for hearing has been received from the arrested person under section 39-20-05, or if that hearing is requested and the findings, conclusion, and decision from the hearing confirm that the arrested person was driving or in physical control of a vehicle while having a blood alcohol concentration of at least ten one-hundredths of one percent by weight, the commissioner shall suspend the person's operator's license as follows:
 - a. For ninety days if the person was arrested for driving or being in actual physical control of a motor vehicle in violation of section 39-08-01 or equivalent ordinance and the person's driving record shows that, within the five years preceding the date of the arrest, the person has not previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has not previously been suspended under this section.
 - b. For one year if the person was arrested for driving or being in actual physical control of a motor vehicle in violation of section 39-08-01 or equivalent ordinance and the person's driving record shows that, within the five years preceding the date of the arrest, the person has previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has previously been suspended under this section.
2. In the suspension of the person's operator's license the commissioner shall give credit for the time the person was without an operator's license after the day of the offense, except that the commissioner may not give credit for the time the person retained driving privileges through a temporary operator's permit issued under section 33 or 34 of this Act or section 39-20-06.

SECTION 36. AMENDMENT. Section 40-18-01 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-01. Jurisdiction of municipal judge. The municipal judge within a city having a population of three thousand or more shall be an attorney licensed to practice law in this state, unless no person so licensed is available in the city, and shall have exclusive jurisdiction of, and shall hear, try, and determine, all offenses against the ordinances of the city. The offices of county judge and municipal judge may not be held by the same person. In a city with a population of less than three thousand, the municipal judge may be, but need not be, an attorney licensed to practice law in this state, nor shall he be required to be a resident of the city in which he is to serve. Notwithstanding any other provision of law, the municipal court or municipal judge has no jurisdiction to hear, try, and determine an offense which would be a violation of section 39-08-01 or equivalent ordinance, if the person charged with the offense has twice previously been convicted of violation of section 39-08-01 or equivalent ordinance within the five years preceding the commission of the offense charged or if the person charged with the offense has three times previously been convicted of violation of section 39-08-01 or equivalent ordinance within the seven years preceding the commission of the offense charged. If such an offense is charged in the municipal court and the municipal judge has notice of violation of section 39-08-01 or equivalent ordinance twice within the five years, or three times within the seven years, preceding the commission of the offense charged, the municipal judge shall dismiss the charge, without prejudice, and direct that the charge be filed against the person in the county court.

SECTION 37. AMENDMENT. Section 40-18-12 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-12. Commitment for violation of city ordinance - Limitation - Labor in lieu of fine - Diagnosis and treatment of persons convicted while driving under the influence. If the defendant is found guilty of the violation of a municipal ordinance and is committed as provided in section 40-11-12, the governing body may provide by ordinance that he shall be required to the defendant work for the municipality at such labor as his the defendant's strength and health will permit, not exceeding eight hours in each working day. For that work, the person so imprisoned shall must be allowed for each day, exclusive of his board, ten dollars on account of the fines and costs assessed against him. If a person is convicted under an ordinance prohibiting driving while under the influence of an intoxicating liquor or a narcotic drug, the court may, prior to sentencing, shall refer the person to an approved treatment facility appropriate licensed addiction treatment program for diagnosis addiction evaluation and, if the evaluation indicates that treatment is needed, report to the state highway commissioner in accordance with section 39-08-01. Upon receipt of the results of this diagnosis, the court may impose a sentence as prescribed by the city's ordinances or it may sentence the person to treatment in a facility approved by the state division of alcoholism and drug abuse.

SECTION 38. AMENDMENT. Section 40-18-13 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-13. Sentencing alternatives - Suspension of sentence or imposition of sentence. Subject to section 40-05-06, a municipal judge may ~~utilize~~ use the sentencing alternatives provided by section 12.1-32-02 and may suspend any sentence ~~imposed by him~~ the judge imposes or suspend the imposition of any sentence during the good behavior of any person adjudged to have committed an offense, or for other reasonable cause, ~~pursuant to~~ under chapter 12-53, except that a municipal judge may not suspend a sentence or the imposition of sentence for driving a motor vehicle in violation of an operator's license suspension, revocation, or restriction or for a violation of section 39-08-01 or equivalent ordinance if that suspension of sentence or suspension of the imposition of sentence is prohibited under section 39-06-17, section 39-06-42, or chapter 39-08.

* SECTION 39. REPEAL. Section 39-06-29.1 of the North Dakota Century Code is hereby repealed.

Approved April 14, 1983

* NOTE: Section 39-06-29.1 was also amended by section 74 of House Bill No. 1058, chapter 82.

CHAPTER 416

SENATE BILL NO. 2196
(Committee on Transportation)
(At the request of the Motor Vehicle Department)

PASSENGER MOTOR VEHICLE

AN ACT to create and enact a new subsection to section 39-01-01 of the North Dakota Century Code, relating to the definition of a passenger motor vehicle; to amend and reenact sections 39-04-06, 39-04-10.1, and 39-04-37 of the North Dakota Century Code, relating to the rescission or suspension of registration, the manufacturer's plate, and registration violations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. A new subsection to section 39-01-01 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

"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.

SECTION 2. AMENDMENT. Section 39-04-06 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-06. When registration rescinded or suspended. The department shall rescind or suspend the registration of a vehicle for any of the following:

1. When the department determines a vehicle is unsafe or unfit to be operated or is not equipped as required by law.
2. Whenever the person to whom the registration card or registration number plates ~~therefor~~ have been issued makes or permits any unlawful use of the same or permits the use thereof by a person or on a vehicle not entitled thereto.

3. Whenever the commissioner finds that a vehicle is registered in accordance with a reciprocity agreement, arrangement, or declaration and the vehicle is operated in violation of the agreement.
4. When the department determines that a motor vehicle is not covered by security for payment of basic no-fault benefits and the liabilities covered under motor vehicle liability insurance as required by chapter 26-41.
5. When the department is satisfied that the registration or registration card, plate, or permit was fraudulently or erroneously issued.
6. When a registered vehicle has been dismantled or wrecked.
7. When a registration card, registration plate, or permit is knowingly displayed upon a vehicle other than the one for which issued.
8. When the department determines that the owner has committed any offense under this chapter involving the registration or the registration card, plate, or permit to be suspended or rescinded.
9. When the purchaser or transferee of a vehicle fails to present the endorsed and assigned certificate of title to the department for transfer and make application for a new certificate of title within thirty days as required by section 39-05-17.

Any registration suspended for any of the above reasons shall be restored upon compliance with the laws governing vehicle registration.

Whenever a check is returned to the department for want of payment the department shall rescind the registration of the vehicle covered by the check.

Any registration rescinded for want of payment of a check shall be restored upon payment of the registration fee and the additional sum of ten dollars for the a reasonable cost of not to exceed twenty dollars for the collection of the check.

SECTION 3. AMENDMENT. Section 39-04-10.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-10.1. Manufacturer's plate - Fee. A resident factory representative of any ~~passenger~~ motor vehicle manufacturer may procure from the registrar of motor vehicles a manufacturer's plate, which shall be designed by the registrar, for a fee of one hundred fifty dollars, which fee shall be for a twelve-month period. If such plate is procured at other than the beginning of the

registration period such fees shall be prorated on a monthly basis. The procurement of such manufacturer's plate by a factory representative shall be in lieu of the payment of any other registration fees, sales tax, or use tax on the ~~passenger~~ motor vehicle used by the factory representative in the course of ~~his~~ employment for the period for which the manufacturer's plate is current and valid. ~~Such~~ The manufacturer's plate shall not be used by any person other than the representative to whom it was issued, nor shall such plate be used on any vehicle other than that vehicle used by the factory representative in the course of ~~his~~ employment. Upon the sale of the vehicle for which such manufacturer's plate was issued, the plate shall be retained by the factory representative and used upon replacement vehicles subsequently acquired from the manufacturer for use in the course of ~~his~~ employment.

In addition to the foregoing provisions, a ~~bona fide domestic~~ manufacturer of ~~passenger~~ motor vehicles shall be entitled to use a manufacturer plate on its demonstration vehicles. Such plate shall be issued in the name of the manufacturer and shall be used solely for demonstration purposes only by the registrant or its designated employees.

SECTION 4. AMENDMENT. Section 39-04-37 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-37. Violations of registration provisions. It shall be unlawful for any person to commit any of the following acts:

1. To operate, or for the owner thereof knowingly to permit anyone to operate, upon a highway any motor vehicle the registration of which has been canceled or revoked, or which is not registered, or which does not have attached thereto and displayed thereon a number plate ~~or~~, plates, or validation tabs assigned thereto by the registrar for the current registration year period, subject to the exemptions allowed in this chapter.
2. To display or cause or permit to be displayed, or to have in possession, any registration card ~~or~~, registration number plate, or validation tabs knowing the same to be fictitious or to have been canceled, revoked, suspended, or altered.
3. To lend any registration number plate ~~or~~, registration card, or validation tabs to any person not entitled thereto, or knowingly permit the use of any registration number plate or registration card by any person not entitled thereto.
4. To fail or refuse to surrender to the department, upon demand, any registration card ~~or~~, registration number plate, or validation tab which has been suspended, canceled, or revoked as is provided in this chapter.

5. To use a false or fictitious name or address in any application for the registration of any vehicle, or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise to commit a fraud in any ~~such~~ application.

Approved April 8, 1983

CHAPTER 417

SENATE BILL NO. 2454
(Mutch, Tennefos)

STATE MOTOR VEHICLE IDENTIFICATION

AN ACT to amend and reenact section 39-01-02 of the North Dakota Century Code, relating to the identification of motor vehicles owned by the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 39-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-01-02. ~~State-owned motor~~ Motor vehicles ~~to have owned or leased by the state to display name painted on side of vehicles -~~ Exceptions - Penalty for failure. All motor vehicles owned by any state department, institution, or industry and operated by such department, institution, or industry the state, except the official vehicle for use by the governor, shall have painted displayed on each front door the following words: NORTH DAKOTA. The words must be in letters four inches [10.16 centimeters] in height. Two and one-half inches [6.35 centimeters] directly below such those words shall there must be printed in letters one and one-half inches [3.81 centimeters] in height the name of the department, institution, or industry of the state agency owning or operating such leasing the motor vehicle. The width of the lettering display required by this section shall must be proportionate to the required height and the. The color of such the lettering shall must be in clear and sharp contrast to the background. The state highway patrol and all peace officers of this state shall enforce the provisions of this section. The state auditor, in the course of spot-checking or verifying the inventory of any department, institution, or industry state agency, shall include in his the auditor's report to the governor and the legislative assembly any instance of noncompliance with this section that shall come comes to his the auditor's attention. The above requirements shall do not apply to cars vehicles owned and operated by the attorney general's office, the bureau of criminal investigation, the cars vehicles used for drivers education at state institutions or by the department of public instruction, the state highway patrol, or cars vehicles used principally in juvenile, parole, and placement service; or to any truck owned by any state

* NOTE: Section 39-01-02 was also amended by section 4 of House Bill No. 1171, chapter 160.

department, institution, or industry agency. A passenger motor vehicle bearing official plates must be in compliance with this section. Any state official, or any employee of any state department, institution, or industry, The administrator of any state agency who uses or authorizes the use of a motor vehicle which shall is not be marked as is required by this section is guilty of a class B misdemeanor.

Approved March 17, 1983

CHAPTER 418

HOUSE BILL NO. 1189
(Committee on Transportation)
(At the request of the Highway Patrol)

TRUCK REGULATORY DIVISION TRANSFER

AN ACT to amend and reenact sections 39-03-04, 39-03.1-07, 39-03.1-09, 39-04-40, 39-04.1-07, 39-05-32, 39-12-01, 39-12-02, 39-12-05.1, 39-12-06, 39-12-07, subsections 1 and 2 of section 39-18-05, sections 39-19-01, 39-19-04, and 49-18-45 of the North Dakota Century Code, relating to the classification of truck regulatory employees, the appointment of highway patrolmen, the highway patrol retirement plans, enforcement of motor vehicle registration, and title registration laws, establishment of the highway patrol as enforcement agency for size, width and height restrictions, issuance of trip permits to oversize vehicles, changing the agency for execution and administration of reciprocal agreements, and enforcement of laws concerning motor carriers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03-04. Qualifications of patrolmen - Veterans have preference. No person shall be appointed as a patrolman unless he has all of the following qualifications:

1. Is not less than eighteen and not more than thirty-three years of age on the date of his appointment.
2. Has passed such physical examination and such other qualification test as may be required by the superintendent.
3. Is of good moral character and temperate habits.
4. Has been a citizen of the United States for not less than two years prior to his appointment.

Preference for appointment shall be given at all times to honorably discharged veterans and citizens of the state of North Dakota, and

all appointments shall be made without regard to any political party affiliation of the applicant. From July 1, 1983, through June 30, 1984, the superintendent may waive the age requirements for the personnel of the truck regulatory division of the state highway department that are so employed as of June 30, 1983.

SECTION 2. AMENDMENT. Section 39-03.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03.1-07. Membership. Every member of the North Dakota highway patrol, including the superintendent and assistant superintendent, shall be required to contribute to the retirement system established by this chapter; provided, that personnel of the truck regulatory division of the state highway department transferred to the highway patrol after July 1, 1983, shall not be members of the retirement system established by this chapter but, instead, shall remain members of the public employees retirement system and social security. Contributions by members under this chapter shall commence with the first payroll after July 1, 1949. If any person who becomes a member of the North Dakota highway patrol subsequent to July 1, 1949, shall have been at any time theretofore a member of the North Dakota highway patrol, he shall receive credit for any such service prior to July 1, 1949, upon complying with the provisions of this chapter.

*** SECTION 3. AMENDMENT.** Section 39-03.1-09 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03.1-09. Payments by contributors. Every member, except as provided in section 39-03.1-07, shall be required to contribute into the fund a sum equal to seven percent of his monthly salary, but not to exceed one hundred thirty-three dollars, which sum shall be deducted from his salary and credited to his account in the fund. A contributor who was paid a refund or severance allowance upon a termination of employment with the patrol and who again becomes a contributor may, at any time prior to retirement, elect to return to the fund the amount which was paid him as a refund or severance allowance plus regular interest thereon for the period during which the amount was withdrawn from the fund. All such payments must be made in full before a retirement or optional retirement allowance is granted, and, if the contributor elects to make such payment, any survivor's allowance to which his survivor would otherwise be entitled shall be reduced by an amount and for such time as will assure that the back payments will be returned to the fund. Every contributor who shall elect to make such back payments shall receive full credit under this chapter for all contributions made into the fund and for all service credits to which he might thereby be entitled.

SECTION 4. AMENDMENT. Section 39-04-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

*** NOTE:** Section 39-03.1-09 was also amended by section 2 of House Bill No. 1095, chapter 217.

39-04-40. Officers to enforce the provisions of chapter. The highway patrol and all other road or police officers, including appointees of the commissioner shall enforce the provisions of this chapter.

* SECTION 5. AMENDMENT. Section 39-04.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04.1-07. Enforcement. It shall be the duty of the state highway patrol and highway department appointees to enforce the provisions of this chapter.

SECTION 6. AMENDMENT. Section 39-05-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-05-32. Officers to enforce provisions of chapter. The highway patrol and all other road or police officers, including appointees of the commissioner, shall enforce the provisions of this chapter.

SECTION 7. AMENDMENT. Section 39-12-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-12-01. State and local authorities may classify highways as to weight and load capacities. The commissioner, the board of county commissioners, and other appropriate bodies having control of roads, may classify public highways and roads under their respective jurisdictions and enforce limitations as to the weight and load of vehicles thereon for such respective classifications must be enforced as provided in section 39-12-07.

SECTION 8. AMENDMENT. Section 39-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-12-02. Special permits for vehicles of excessive size and weight issued - Contents - Fees. The commissioner, highway patrol, and local authorities in their respective jurisdictions, upon application and payment of the appropriate charges and for good cause shown, may issue a special written permit authorizing the applicant to operate or move a vehicle of a size or weight exceeding the maximum specified by this chapter, upon a highway under the jurisdiction of the body granting the permit. Every such permit may designate the route to be traversed, and may contain any other restrictions or conditions deemed necessary by the body granting such permit. Every such permit shall be carried in the vehicle to which it refers and shall be opened to inspection by any peace officer. It shall be a violation of the provisions of this chapter for any person to violate any of the terms or conditions of such special permit. All permits for the movement of excessive size and weight on state highways shall be single trips only.

An appropriate charge shall be made for each permit and all funds collected hereunder by the state highway commissioner and highway patrol shall be deposited in the state highway fund and are hereby appropriated for use in the construction and maintenance of

* NOTE: Section 39-04.1-07 was repealed by section 2 of Senate Bill No. 2144, chapter 423.

highways and operating expenses of the highway department. Official or publicly owned vehicles shall not be required to pay charges for permits.

*** SECTION 9. AMENDMENT.** Section 39-12-05.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-12-05.1. Weight limitations for vehicles on designated highways. On state highways other than on the interstate system designated by the commissioner and on other highways designated by local authorities under their jurisdiction:

1. No single axle shall carry a gross weight in excess of twenty thousand pounds [9071.85 kilograms] nor a wheel load to exceed ten thousand pounds [4535.92 kilograms]. No wheel shall carry a gross weight in excess of five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width. Axles spaced forty inches [101.6 centimeters] apart or less shall be considered as one axle, and axles spaced over forty inches [101.6 centimeters] and under eight feet [2.44 meters] apart, the axle load shall not exceed seventeen thousand pounds [7711.07 kilograms] per axle. The wheel load, in any instance, shall not exceed one-half the allowable axle load. Spacing between axles shall be measured from axle center to axle center.
2. Subject to the limitations imposed by subsection 1 on tires, wheel, and axle loads, no vehicle or combinations of vehicles shall be operated whose gross weight exceeds that determined by the formula of:

$$W = 500 \left(\frac{LN}{N-1} + 12N + 36 \right)$$

where W equals maximum weight in pounds carried on any group of two or more axles; L equals distance in feet between the extremes of any group of two or more consecutive axles; and N equals number of axles in the group under consideration. Such gross weight limitations shall not apply to equipment as the commissioner or the ~~commissioner's agents~~ highway patrol may approve for exemption. Gross weight shall not exceed one hundred five thousand five hundred pounds [47,854.00 kilograms].

SECTION 10. AMENDMENT. Section 39-12-06 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-12-06. Limitations on extending of load beyond side of motor vehicle. No motor vehicle carrying any load beyond the lines of the left fenders of such vehicle nor extending more than twelve inches [30.48 centimeters] beyond the line of the fenders on the right side of such vehicle shall be operated on the highways, except as permitted

*** NOTE:** Section 39-12-05.1 was repealed by section 3 of House Bill No. 1521, chapter 441.

by section 39-12-04. The state highway department or the highway patrol shall have authority to revoke permits when such holder violates or abuses the privilege or conditions of permit.

SECTION 11. AMENDMENT. Section 39-12-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-12-07. Peace officers may weigh vehicle to determine load - Decreasing gross weight of vehicle. Every police officer, including members of the state highway patrol and appointees of the state highway department, having reason to believe that the weight of a vehicle and the load carried thereon is unlawful, may weigh such vehicle and load or have the same weighed either by means of portable or stationary scales, and for that purpose he may require the vehicle to be driven to the nearest scales. Such officer may require the driver of such vehicle immediately to unload such portion of the load as may be necessary to decrease the gross weight to the maximum allowed by the provisions of this chapter.

* SECTION 12. AMENDMENT. Subsections 1 and 2 of section 39-18-05 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. For good cause shown therefor, the state highway department or the highway patrol may, at its their discretion, issue single trip permits for movement of a mobile home exceeding statutory size to persons or firms having adequate towing vehicle and insurance coverage. The state highway department or the highway patrol shall have authority to establish reasonable permit conditions and regulations in the interest of safety, public interest, and adverse weather conditions. The state highway department or the highway patrol shall have authority to revoke permits when such holder violates or abuses the privilege or conditions of permit.
2. For good cause shown therefor, the state highway department or the highway patrol may issue annual permits for movement of mobile homes exceeding statutory size, to mobile home manufacturers, dealers, or transport companies; providing, however, that the towing vehicle shall consist of a three-fourths ton [680.39 kilograms] or larger truck with dual wheels, and that no annual permits shall be issued for movement of mobile homes exceeding overall dimensions of one hundred twenty inches [304.8 centimeters] wide, plus safety equipment, if required.

SECTION 13. AMENDMENT. Section 39-19-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-19-01. Highway commissioner - Reciprocity powers. The commissioner or the motor vehicle registrar shall have the power to execute agreements, arrangements, or declarations involving the reciprocal use of the highways of this state by vehicles excepted in

* NOTE: Section 39-18-05 was also amended by section 1 of House Bill No. 1370, chapter 666.

part or in full from registration requirements or mile tax payments in lieu thereof, or involving reciprocity between this state and any other state on matters relating to drivers' licensing, financial responsibility, traffic law enforcement, vehicle sizes and weights, and vehicle inspection.

SECTION 14. AMENDMENT. Section 39-19-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-19-04. International registration plan - Multistate reciprocal agreement - Effective date Change of state agency. The North Dakota state highway department, or a the designated agency of the department acting directly or through the department, shall make application to join the international registration plan and the multistate reciprocal agreement, and is authorized to expend the necessary fees required for membership. Applications shall be appropriately made by January of 1980 and, if accepted, the effective date of membership shall be January 1, 1981 which has joined the international registration plan and multistate reciprocal agreement shall transfer such membership to the department of motor vehicles. The department of motor vehicles is authorized to expend the necessary fees required for membership.

SECTION 15. AMENDMENT. Section 49-18-45 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-45. Enforcement of chapter - Appointment of additional highway patrolmen. Any peace officer of the state may make an arrest for any violation of this chapter, and the state's attorney of the county wherein such offense was committed shall prosecute the same. The highway patrol, and officers and inspectors designated by the commissioner of the state highway department, shall enforce the provisions of this chapter in any part of the state. Upon written request of the commission, or the highway patrol, or appointees of the commissioner of the state highway department, the attorney general shall prosecute or assist in the prosecution of any person alleged to have violated any provision of this chapter, or any rule laid down by the commission thereunder. The commission, together with its officers and employees, and the highway patrol, and appointees of the commissioner of the state highway department, shall assist in the enforcement of this chapter and shall institute, or cause to be instituted, prosecutions for the violation of any of the provisions hereof.

The superintendent of the state highway patrol is authorized to appoint additional patrolmen, not to exceed five, to aid in the enforcement of this chapter.

Approved April 5, 1983

CHAPTER 419

HOUSE BILL NO. 1066
(Legislative Council)
(Interim Retirement Committee)

HIGHWAY PATROLMEN'S RETIREMENT FUND ADMINISTRATION

AN ACT to amend and reenact section 21-10-06, subsection 2 of section 39-03.1-01, and subsection 7 of section 54-52-04 of the North Dakota Century Code, relating to the North Dakota highway patrolmen's retirement system; and to repeal section 39-03.1-03 of the North Dakota Century Code, relating to the North Dakota highway patrolmen's retirement board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 21-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-06. Funds under management of board - Accounts. The board ~~shall~~ is charged with the investment of the following funds:

1. State bonding fund.
2. Teachers' fund for retirement, in accordance with section 15-39.1-26.
3. State fire and tornado fund.
4. Workmen's compensation fund.
5. ~~Highway patrolmen's retirement fund.~~
6. Soldiers' home improvement fund, in accordance with section 37-15-14.1.

Separate accounts shall be maintained for each of the above funds and the moneys or securities of the individual funds shall not be commingled. However, when it is deemed advantageous in the purchase, sale, or exchange of securities, securities belonging to one or more of the funds or the Bank of North Dakota may be purchased, sold, or exchanged as part of a single transaction. In the event of such sale, the respective funds shall immediately be credited with their proportionate share of the proceeds. In the

event of such purchase or exchange, title to the securities shall be taken in the name of the individual funds, proportionate to their share of the total purchase price.

The board of university and school lands shall consult with the state investment board or the director thereof on investment policies, and the board of university and school lands may delegate authority to the state investment board or the investment director to make such purchases, sales, or exchanges on its behalf.

SECTION 2. AMENDMENT. Subsection 2 of section 39-03.1-01 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Board" means the North Dakota highway patrolmen's ~~retirement~~ public employees retirement board.

SECTION 3. AMENDMENT. Subsection 7 of section 54-52-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. The board shall administer the provisions of the chapter ~~providing for a uniform group insurance program for state employees~~ chapters 39-03.1 and 54-52.1.

SECTION 4. REPEAL. Section 39-03.1-03 of the North Dakota Century Code is hereby repealed.

Approved March 3, 1983

CHAPTER 420

SENATE BILL NO. 2414
(Nething, Vosper)

RETIREMENT OF POW PLATES

AN ACT to create and enact a new section to chapter 39-04 of the North Dakota Century Code, relating to retirement of POW license plates and issuance of commemorative replicas.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Retirement of POW plates. On the death of a prisoner of war to whom was issued a special number plate under subdivision o of subsection 2 of section 39-04-18, the registrar shall retire the number used on that number plate. On the request of the survivors of the deceased prisoner of war, the registrar shall issue to the survivors one commemorative plaque resembling the number plate that had been issued to the prisoner of war.

Approved April 8, 1983

CHAPTER 421

SENATE BILL NO. 2221
(Committee on Transportation)
(At the request of the Motor Vehicle Department)

MOTOR VEHICLE DEPARTMENT SERVICES AND DOCUMENT FEES

AN ACT to amend and reenact section 39-04-13, subsection 5 of section 39-05-05, sections 39-05-09.1, 39-05-16.1, 39-05-17, 39-05-19, 39-05-20.2 of the North Dakota Century Code, relating to the costs and the fees for motor vehicle department services and documents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

. SECTION 1. AMENDMENT. Section 39-04-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-13. Duplicates to be obtained of number plate, tab, sticker, or registration card if lost, mutilated, or illegible - Fee. If any number plate, tab, sticker, or registration card issued under the provisions of this chapter shall be lost, mutilated, or shall become illegible, the person who is entitled thereto shall make immediate application for and obtain a duplicate or substitute ~~therefor~~ upon furnishing information of such fact satisfactory to the department and upon payment of the cost of issuing the duplicate item, not to exceed the sum of ~~three~~ five dollars for each duplicate number plate, tab, sticker, or registration card issued.

SECTION 2. AMENDMENT. Subsection 5 of section 39-05-05 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Every application shall be accompanied by a fee of ~~three~~ five dollars, which shall be in addition to any fee charged for the registration of such vehicle.

SECTION 3. AMENDMENT. Section 39-05-09.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-05-09.1. Lost, stolen, or mutilated certificate of title. If a certificate of title is lost, stolen, mutilated, destroyed, or becomes illegible, the first lienholder or, if none, the owner or

legal representative of the owner named in the certificate, as shown by the records of the department, shall promptly make application for and may obtain a duplicate upon furnishing information satisfactory to the department, and upon the payment of ~~three~~ five dollars. The duplicate certificate of title shall contain the legend "This is a duplicate certificate and may be subject to the rights of a person under the original certificate". It shall be mailed to the first lienholder named in it or, if none, to the owner.

A person recovering an original certificate of title for which a duplicate has been issued shall promptly surrender the original certificate to the department.

SECTION 4. AMENDMENT. Section 39-05-16.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-05-16.1. Release of a security interest.

1. Upon the satisfaction of a security interest in a vehicle for which the certificate of title is in the possession of the lienholder, the lienholder shall, within ten days after demand, and in any event within thirty days, execute a release of the lienholder's security interest as the department prescribes. The lienholder shall:
 - a. Mail or deliver the certificate of title and release to the next lienholder named on the certificate of title, who shall, within thirty days of receipt, mail or deliver the certificate of title, release, and a fee of ~~three~~ five dollars to the department. The department shall issue and mail or deliver a new certificate of title to the first lienholder named on the new certificate of title.
 - b. If there are no other lienholders named on the certificate of title, mail or deliver the certificate of title and release to the owner or any other person who delivers to the lienholder an authorization from the owner to receive the certificate of title and release. The person receiving the certificate of title and release shall, within thirty days of receipt, mail or deliver the certificate of title, release, and a fee of ~~three~~ five dollars to the department. The department may prescribe further application procedures and, upon determining that there has been a proper compliance with these procedures, shall issue a new certificate of title and mail or deliver it to the owner or any person the owner authorizes to receive it.
2. Upon the satisfaction of a security interest in a vehicle for which the certificate of title is in the possession of

a prior lienholder, the lienholder whose security interest is satisfied shall within ten days after demand and, in any event within thirty days, execute a release in the form the department prescribes and deliver the release to the owner or any person who delivers to the lienholder an authorization from the owner to receive it. The lienholder in possession of the certificate of title shall either deliver the certificate of title to the owner or the person authorized by him the owner for delivery to the department; or, upon receipt of the release, mail or deliver it with the certificate of title to the department which shall, upon the payment of a ~~three~~ five dollar fee, issue a new certificate.

SECTION 5. AMENDMENT. Section 39-05-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-05-17. Transfer of title of vehicle - Endorsement required - Certificate of title delivered - New certificate obtained - Penalty. The owner of a motor vehicle who sells or transfers title to a vehicle shall endorse an assignment and warranty of title upon the certificate of title for the vehicle, with a statement whether there are liens or encumbrances thereon, which statement shall be verified by the owner. The owner shall deliver the certificate of title to the purchaser if title passes to the purchaser. If the title does not pass to the purchaser under the terms of the contract for sale of the vehicle, the lienholder shall endorse thereon a statement that he ~~holds~~ they hold the lien, the date thereof and the name of the purchaser, and shall send the certificate of title to the department with an application of the purchaser for a new certificate of title showing the name of the owner, lienholder, and the date of the lien of the lienholder, which certificate of title when issued shall be returned by the department to the lienholder, who shall retain the same in his their possession until the terms of the contract are complied with by the purchaser, and thereupon, after showing the lien has been paid and satisfied he the lienholder shall deliver the certificate of title properly assigned to the purchaser. The purchaser or transferee shall present the endorsed and assigned certificate to the department, within thirty days after the receipt thereof, accompanied by a transfer fee of ~~three~~ five dollars, and shall make an application for and obtain a new certificate of title for ~~such~~ the vehicle. In addition to any other penalty, the registration to a motor vehicle may be suspended or revoked whenever the purchaser or transferee fails to present the endorsed and assigned certificate of title to the department for transfer and make application for a new certificate of title within the prescribed thirty days. The department shall deliver the new certificate of title to the lienholder with priority. If there is no lienholder delivery is made to the purchaser. A violation of the provisions of this section shall constitute an infraction.

SECTION 6. AMENDMENT. Section 39-05-19 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-05-19. Obtaining certificate of title for vehicle when ownership obtained by other than voluntary means. Whenever the ownership of any vehicle shall pass otherwise than by voluntary transfer, the transferee may obtain a certificate of title for the vehicle from the department upon application for the certificate and payment of a fee of ~~three~~ five dollars. The application for the certificate shall be accompanied by instruments or documents of authority, or certified copies thereof, as may be required by law to evidence or effect a transfer of title in or to chattels in such case. The department, when satisfied of the genuineness and regularity of such transfer, shall issue a new certificate of title to the person entitled thereto.

SECTION 7. AMENDMENT. Section 39-05-20.2 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-05-20.2. Issuance of salvage certificate of title. Any person or organization who completely destroys or completely dismantles a vehicle so as to cause that vehicle to lose its identity shall forward the title for that vehicle to the department within ten days and the department shall issue a salvage certificate of title.

If a vehicle for which a salvage certificate of title has been issued is reconstructed, a regular certificate of title may be obtained by completing an application for the certificate. The application shall be accompanied by a certificate of inspection in the form and with the contents specified by the department, surrender of the salvage certificate of title, and the payment of a ~~three~~ five dollar fee.

Approved March 10, 1983

CHAPTER 422

SENATE BILL NO. 2197
(Committee on Transportation)
(At the request of the Motor Vehicle Department)

MOTOR VEHICLE REGISTRATION FEES AND WEIGHTS

AN ACT to amend and reenact section 39-04-14.1, subsections 2 and 5 of section 39-04-19, and section 39-04-24 of the North Dakota Century Code, relating to staggered registration of certain motor vehicles, motor vehicle registration fees, and the registrar determining the weight of a motor vehicle; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-14.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-14.1. Renewal of passenger motor vehicle registration of motor vehicles under certain weight. Every passenger motor vehicle registration under this chapter shall expire March thirty-first each year and shall be renewed annually upon application by the owner and by payment of the fees required by law, such renewal to take effect on the first day of April each year. An owner who has made proper application for renewal of registration of a passenger motor vehicle previous to April first but who has not received the number plates, plate, or registration card for the ensuing year shall be entitled to operate or permit the operation of such vehicle upon the highways upon displaying thereon the number plates or plate issued for the preceding year for such time, to be prescribed by the department, as may be required for the issuance of such new plates. Except as otherwise provided in this section, the registration of a motor vehicle whose gross weight does not exceed ten thousand pounds [4535.92 kilograms] expires on the last day of the month which is the anniversary of the month it was originally registered. The registration may be renewed annually on application by the owner and payment of fees required by law. The renewal takes effect on the first day of the first month of the registration period. An owner of more than one vehicle qualifying for staggered registration under this section may renew all of the owner's vehicles in the same month. The registrar shall prorate the registration fees accordingly.

SECTION 2. AMENDMENT. Subsections 2 and 5 of section 39-04-19 of the 1981 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. Motor vehicles required to be registered in this state shall be furnished license plates upon the payment of the following annual fees; however, if a motor vehicle first becomes subject to registration other than at the beginning of the registration period, such fees shall be prorated on a monthly basis. The minimum fee charged hereunder shall be five dollars:

a. Passenger motor vehicles including buses for hire, hearses, and ambulances:

Gross Weights	YEARS REGISTERED				
	1st, 2nd, and 3rd Years	4th, 5th, and 6th Years	7th, 8th, and 9th Years	10th and Subsequent Years	
	1st, 2nd, 3rd, and 4th Years	5th, 6th, and 7th Years	8th, 9th, and 10th Years	11th and Subsequent Years	
1,999 or less	\$ 37.00	\$ 30.00	\$ 24.00	\$ 20.00	
2,000-2,399	39.00	32.00	25.00	20.00	
2,400-2,799	41.00	34.00	27.00	20.00	
2,800-3,199	43.00	35.00	28.00	21.00	
Less than 3,200	44.00	36.00	28.00	20.00	
3,200-3,599	47.00	38.00	30.00	22.00	
3,600-3,999	51.00	42.00	33.00	24.00	
4,000-4,499	61.00	50.00	39.00	28.00	
	64.00	52.00	40.00	28.00	
4,500-4,999	77.00	62.00	48.00	34.00	
	82.00	65.00	50.00	34.00	
5,000-5,999	105.00	85.00	65.00	45.00	
	113.00	91.00	69.00	47.00	
6,000-6,999	135.00	109.00	83.00	57.00	
	146.00	117.00	88.00	60.00	
7,000-7,999	165.00	133.00	101.00	69.00	
	179.00	143.00	108.00	73.00	
8,000-8,999	195.00	157.00	119.00	81.00	
	212.00	170.00	128.00	86.00	
9,000 and over	225.00	181.00	137.00	93.00	
	245.00	196.00	148.00	99.00	

In addition to the fees required in this subsection and section 49-18-32, all motorbuses used for the transportation of persons for hire over the highways of this state which have a seating capacity of more than seven passengers shall pay an annual additional license fee of twelve dollars for each passenger capacity in excess of seven. Motor passenger buses operating exclusively within the corporate limits of any city shall not be required to pay this fee.

A house car is subject to registration at the rates prescribed for other vehicles under this subdivision modified by using the weight applicable to a vehicle whose weight is forty percent of that of the house car, but not using a weight of less than four thousand pounds [1814.35 kilograms].

- b. Schoolbuses, buses owned and operated by religious, charitable, or nonprofit organizations and used exclusively for religious, charitable, or other public nonprofit purposes, and trucks or combination trucks and trailers, including commercial and noncommercial trucks, except those trucks or combinations of trucks and trailers which qualify for registration under subsection 5:

Gross Weights	YEARS REGISTERED				
	1st, 2nd, and 3rd Years	4th and 5th Years	6th and 7th Years	8th and Subsequent Years	
	1st, 2nd, 3rd, and 4th Years	5th and 6th Years	7th and 8th Years	9th and Subsequent Years	
0- Not over 4,000	\$31.00	\$26.00	\$21.00	\$20.00	
	42.00	29.00	24.00	21.00	
4,001- 6,000	36.00	30.00	25.00	20.00	
	47.00	34.00	28.00	22.00	
6,001- 8,000	41.00	34.00	28.00	20.00	
	52.00	39.00	32.00	23.00	
8,001-10,000	46.00	39.00	31.00	21.00	
	57.00	44.00	36.00	25.00	
10,001-12,000	52.00	43.00	34.00	23.00	
	62.00	49.00	40.00	27.00	
12,001-14,000	57.00	47.00	37.00	25.00	
	67.00	54.00	44.00	30.00	
14,001-16,000	67.00	56.00	45.00	32.00	
	72.00	59.00	48.00	33.00	
16,001-18,000	72.00	60.00	48.00	34.00	
	77.00	64.00	52.00	35.00	
18,001-20,000	78.00	65.00	52.00	36.00	
	80.00	67.00	54.00	36.00	
20,001-22,000	83.00	69.00	55.00	37.00	
22,001-24,000	88.00	73.00	58.00	39.00	

Gross Weights	YEARS REGISTERED			
	1st, 2nd, 3rd, and 4th Years	5th, 6th, 7th, 8th, and 9th Years	10th and Subsequent Years	
24,001- 26,000	\$ 186.00	\$ 151.00	\$ 133.00	
26,001- 28,000	221.00	179.00	158.00	
28,001- 30,000	256.00	207.00	182.00	
30,001- 32,000	296.00	240.00	212.00	
32,001- 34,000	331.00	268.00	236.00	

34,001-	36,000	366-00	296-00	261-00
36,001-	38,000	401-00	324-00	285-00
38,001-	40,000	436-00	352-00	310-00
40,001-	42,000	471-00	380-00	334-00
42,001-	44,000	506-00	408-00	359-00
44,001-	46,000	541-00	436-00	383-00
46,001-	48,000	576-00	464-00	408-00
48,001-	50,000	611-00	492-00	432-00
50,001-	52,000	656-00	530-00	467-00
52,001-	54,000	691-00	558-00	491-00
54,001-	56,000	726-00	586-00	516-00
56,001-	58,000	761-00	614-00	540-00
58,001-	60,000	796-00	642-00	565-00
60,001-	62,000	831-00	670-00	589-00
62,001-	64,000	866-00	698-00	614-00
64,001-	66,000	901-00	726-00	638-00
66,001-	68,000	936-00	754-00	663-00
68,001-	70,000	971-00	782-00	687-00
70,001-	72,000	1,006-00	810-00	712-00
72,001-	74,000	1,041-00	838-00	736-00
74,001-	76,000	1,076-00	866-00	761-00
76,001-	78,000	1,111-00	894-00	785-00
78,001-	80,000	1,146-00	922-00	810-00
80,001-	82,000	1,181-00	950-00	834-00
82,001-	84,000	1,215-00	1,010-00	858-00
84,001-	86,000	1,250-00	1,070-00	882-00
86,001-	88,000	1,285-00	1,130-00	906-00
88,001-	90,000	1,320-00	1,190-00	930-00
90,001-	92,000	1,355-00	1,250-00	954-00
92,001-	94,000	1,390-00	1,310-00	978-00
94,001-	96,000	1,425-00	1,370-00	1,002-00
96,001-	98,000	1,460-00	1,430-00	1,026-00
98,001-	100,000	1,495-00	1,490-00	1,050-00
100,001-	102,000	1,530-00	1,550-00	1,074-00
102,001-	104,000	1,565-00	1,610-00	1,098-00
104,001-	105,500	1,600-00	1,670-00	1,122-00

Gross Weights	1st, 2nd, 3rd	6th, 7th, 8th	11th and
	4th and 5th	9th and 10th	Subsequent
	Years	Years	Years
20,001- 22,000	\$ 110.00	\$ 84.00	\$ 71.00
22,001- 26,000	162.00	132.00	116.00
26,001- 30,000	223.00	181.00	159.00
30,001- 34,000	289.00	234.00	206.00
34,001- 38,000	350.00	283.00	249.00
38,001- 42,000	411.00	332.00	291.00
42,001- 46,000	472.00	380.00	334.00
46,001- 50,000	533.00	429.00	377.00
50,001- 54,000	603.00	487.00	428.00
54,001- 58,000	664.00	536.00	471.00
58,001- 62,000	725.00	585.00	514.00
62,001- 66,000	786.00	633.00	557.00
66,001- 70,000	847.00	682.00	599.00
70,001- 74,000	908.00	731.00	642.00

74,001- 78,000	969.00	780.00	685.00
78,001- 82,000	1,030.00	829.00	728.00
82,001- 86,000	1,153.00	934.00	815.00
86,001- 90,000	1,275.00	1,038.00	902.00
90,001- 94,000	1,397.00	1,143.00	989.00
94,001- 98,000	1,519.00	1,248.00	1,077.00
98,001-102,000	1,641.00	1,352.00	1,164.00
102,001-105,500	1,763.00	1,457.00	1,251.00

c. Motorcycles-

- (1) Without sidecar, six dollars per motorcycle.
- (2) With sidecar, ten dollars per unit.

d. A house car shall be subject to registration at the corresponding rate prescribed for trucks under subdivision b, and the registrar shall issue distinctive plates for each house car registered.

5. Trucks or combinations of trucks and trailers weighing from 24,991 to more than 20,000 but not more than 82,000 pounds [19886.66 to more than 9071.84 but not more than 37194.57 kilograms] which are used as farm vehicles only, shall be are entitled to registration pursuant to under the following fee schedule and the provisions of this subsection. Farm vehicles shall be are considered, for the purpose of this subsection, as trucks or combinations of trucks and trailers weighing from 24,991 to more than 20,000 but not more than 82,000 pounds [19886.66 to more than 9071.84 but not more than 37194.57 kilograms] owned, or leased for a minimum period of at least one year by a bona fide resident farmer who uses sueh the vehicles exclusively for transporting his the farmer's own property or other property on a farm work exchange basis with other farmers between farms and the usual local trading places but not in connection with any commercial retail or wholesale business being conducted from sueh those farms, nor otherwise for hire.

Gross Weights	YEARS REGISTERED				8th and Subsequent Years
	1st, 2nd, and 3rd Years	4th and 5th Years	6th and 7th Years	8th and 9th Years	
Gross Weights	1st, 2nd, 3rd, and 4th Years	5th and 6th Years	7th and 8th Years	9th and Subsequent Years	
20,001-22,000	\$ 83.00	\$ 69.00	\$ 55.00	\$ 37.00	
22,001-24,000	88.00	73.00	58.00	39.00	
24,001-26,000	\$ 96.00	\$ 79.00	\$ 62.00	\$ 41.00	
26,001-28,000	106.00	87.00	68.00	45.00	
28,001-30,000	116.00	95.00	74.00	49.00	
30,001-32,000	131.00	108.00	85.00	58.00	
32,001-34,000	141.00	116.00	91.00	62.00	

34,001-36,000	151.00	124.00	97.00	66.00
36,001-38,000	161.00	132.00	103.00	70.00
38,001-40,000	171.00	140.00	109.00	74.00
40,001-42,000	181.00	148.00	115.00	78.00
42,001-44,000	191.00	156.00	121.00	82.00
44,001-46,000	201.00	164.00	127.00	86.00
46,001-48,000	211.00	172.00	133.00	90.00
48,001-50,000	221.00	180.00	139.00	94.00
50,001-52,000	241.00	198.00	155.00	108.00
52,001-54,000	251.00	206.00	161.00	112.00
54,001-56,000	261.00	214.00	167.00	116.00
56,001-58,000	271.00	222.00	173.00	120.00
58,001-60,000	281.00	230.00	179.00	124.00
60,001-62,000	291.00	238.00	185.00	128.00
62,001-64,000	301.00	246.00	191.00	132.00
64,001-66,000	311.00	254.00	197.00	136.00
66,001-68,000	321.00	262.00	203.00	140.00
68,001-70,000	331.00	270.00	209.00	144.00
70,001-72,000	341.00	278.00	215.00	148.00
72,001-74,000	351.00	286.00	221.00	152.00
74,001-76,000	361.00	294.00	227.00	156.00
76,001-78,000	371.00	302.00	233.00	160.00
78,001-80,000	381.00	310.00	239.00	164.00
80,001-82,000	391.00	318.00	245.00	168.00

SECTION 3. AMENDMENT. Section 39-04-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-24. Registrar to determine weight of motor vehicle when manufacturer's weight unknown. Any ~~passenger~~ motor vehicle not having an advertised manufacturer's weight shall pay a license fee based upon the actual weight as determined by the registrar from satisfactory proofs submitted to him. Any truck not having a manufacturer's advertised load capacity shall pay a license fee in accordance with the schedules provided in this chapter and applicable thereto upon its load capacity as determined by the registrar upon satisfactory proofs submitted to him.

SECTION 4. EFFECTIVE DATE. Section 1 of this Act is effective January 1, 1984.

Approved April 21, 1983

CHAPTER 423

SENATE BILL NO. 2144
(Committee on Transportation)
(At the request of the Motor Vehicle Department)

MOTOR VEHICLE REGISTRATION REQUIREMENTS

AN ACT to amend and reenact section 39-04-14 of the North Dakota Century Code, relating to renewal of registration; to repeal section 39-04-15.1, subsection 2 of section 39-04-23, section 39-04-25, and chapter 39-04.1 of the North Dakota Century Code, relating to the installment registration of certain vehicles, seasonal registration of passenger buses, reduction of vehicle gross weight, and additional fees assessed on certain motor vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-14. Renewal of registration. Every vehicle registration, except those described in sections ~~section~~ 39-04-14.1 and 39-04-15.1, under this chapter shall expire on December thirty-first, each year and shall be renewed annually upon application by the owner and by payment of the fees required by law, such renewal to take effect on the first day of January each year. An owner who has made proper application for renewal of registration of a vehicle previous to January first but who has not received the number plates, plate, or registration card for the ensuing year shall be entitled to operate or permit the operation of such vehicle upon the highways upon displaying thereon the number plates or plate issued for the preceding year for such time, to be prescribed by the department, as may be required for the issuance of such new plates.

* SECTION 2. REPEAL. Subsection 2 of section 39-04-23, section 39-04-25, and chapter 39-04.1 of the North Dakota Century Code, and section 39-04-15.1 of the 1981 Supplement to the North Dakota Century Code are hereby repealed.

Approved April 19, 1983

* NOTE: Section 39-04.1-07 was amended by section 5 of House Bill No. 1189, chapter 418.

CHAPTER 424

SENATE BILL NO. 2132
(Committee on Transportation)
(At the request of the Motor Vehicle Department)

CERTIFICATE OF COMPLIANCE WITH MOTOR VEHICLE REGISTRATION LAW

AN ACT to amend and reenact section 39-04-17 of the North Dakota Century Code, relating to the certificate of a notary showing compliance with the motor vehicle registration law.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-17. Certificate of notary showing compliance with registration is prima facie evidence. The possession of a certificate made out by ~~the~~ a notary public or an authorized agent of a licensed vehicle dealer who took the acknowledgment of the application when the vehicle was first registered or required to be registered under the laws of this state, where such certificate shows the date of application, the make, registered weight, and year model of the motor vehicle, the manufacturer's number of the motor vehicle which such application describes, and further shows that such notary public, or authorized agent of a vehicle dealer, personally mailed the application with the remittance fee, shall be prima facie evidence of compliance with motor vehicle law with reference to the ~~motor~~ vehicle therein described, for a period of thirty days from the date of such application. Any violation of the requirements of this section shall constitute grounds for the suspension of the dealer's license; however, no such suspension shall be ordered upon a first violation of this section is an infraction punishable by a fine of not less than fifty dollars. ~~Intent shall not be a requisite for showing the violation.~~

Approved March 3, 1983

CHAPTER 425

SENATE BILL NO. 2170
(Committee on Transportation)
(At the request of the Motor Vehicle Department)

MOTOR VEHICLE REGISTRATION EXEMPTION

AN ACT to amend and reenact subsection 2 of section 39-04-18 of the North Dakota Century Code, relating to motor vehicles exempt from registration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsection 2 of section 39-04-18 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The following motor vehicles may be operated upon the highways, roads, and streets of this state without being registered, under such limitations as are herein specified; provided, however, that whenever the commissioner determines that it is to the best interest of the state of North Dakota and determines by reciprocal agreement or otherwise that as great or greater privileges are not granted North Dakota residents while traveling in other states or territories, the commissioner may cancel or limit the application of any exception to residents or motor vehicles from such other state or territory:
 - a. Farm tractors as defined in subsection 17 of section 39-01-01, special mobile equipment and road rollers and other road construction or maintenance machinery that cannot be operated on the highways and streets of this state in a normal operating manner.
 - b. Motor vehicles owned by or in possession of Indian mission schools or by this state or any of its agencies, departments, or political subdivisions, including school districts possessing a motor vehicle or vehicles used for driver education instruction; provided, however, that the vehicles shall display license plates provided by the motor vehicle department at actual cost. Each new automobile motor vehicle loaned or furnished by a licensed North Dakota

* NOTE: Section 39-04-18(2) was also amended by section 72 of House Bill No. 1058, chapter 82.

new ear motor vehicle dealer to a school district in North Dakota to be used exclusively for instructing pupils in the driver education and training program conducted by the school district will be assigned an official license plate bearing a decal with the words "driver education" appearing on it. The license plates shall be used only on the autemebiles motor vehicles furnished by dealers and used in the driver education program, and for no other purpose except for garaging and safekeeping of the autemebiiie motor vehicle. No person shall use an autemebiiie a motor vehicle bearing official license plates bearing a decal with the words "driver education" appearing on it as provided for in this subdivision for any purpose other than driver education course instruction. Any person using a driver education motor vehicle for purposes other than for instruction shall be guilty of a class B misdemeanor. No person shall be in violation of this subdivision in the event he is required by the dealer or a school administrator to house or otherwise protect the vehicle at his home or other facility.

- c. Motor vehicles registered in any other state or territory when coming into this state a distance not exceeding twenty miles [32.19 kilometers]; provided, however, that such motor vehicles have displayed thereon the current license plates issued by the state or territory in which they are registered and provided further that the owners or operators thereof are not residents of this state for any purpose and are not gainfully employed or stationed in this state. Nor shall such vehicles be required to pay any other tax, and no registration fee or tax shall be required when such vehicles do not leave the incorporated limits of any city while in the state of North Dakota within a zone circumscribed by a line running parallel to the corporate limits of any city or contiguous cities and twenty miles [32.19 kilometers] distant therefrom. Nothing contained in this section shall be construed as preventing trucks from coming into the state such distance as shall be necessary to reach the nearest railway shipping station.
- d. Motor vehicles owned and operated by the United States government, or any foreign government, or any of their agencies or departments; provided, however, that such motor vehicles shall display identification plates.
- e. Passenger motor vehicles registered in any other state or territory; provided, however, that such motor vehicles have displayed thereon the current license plates issued by the state or territory in which they are registered and provided further that the owners or

- operators thereof are not residents of this state for any purpose and are not gainfully employed or stationed in this state.
- f. Motor vehicles owned and operated by a manufacturer of motor vehicles when such motor vehicles are operated or moved such distance as may be authorized by the registrar of motor vehicles from the factory where manufactured or assembled, to a depot or place of shipment, or other point of delivery; provided, however, that such vehicles have displayed in plain sight the name and address of the manufacturer and a written permit from local police authorities.
 - g. Motor vehicles owned and operated by a licensed North Dakota motor vehicle dealer from a railway depot, warehouse, salesroom, or place of shipment; provided, however, that such vehicles have displayed in plain sight the name and address of the dealer and a written permit from the local police authorities.
 - h. Motor vehicles owned and operated by nonresidents engaged in harvest of agricultural products from July fifteenth through ~~November fifteenth~~ December thirty-first of any one year; provided, however, that such motor vehicles have displayed thereon a decal or other means of identification issued by the registrar of motor vehicles upon payment of a fee of ~~twenty-five~~ fifty dollars.
 - i. Passenger motor vehicles owned and operated by nonresident military personnel stationed in this state, provided such motor vehicle is registered in the state or territory whereof such military person is a resident, and provided further that current license plates from such state or territory are displayed on such motor vehicle.
 - j. Passenger motor vehicles or pickup trucks not exceeding ten thousand pounds [4535.92 kilograms] gross weight owned and operated by a disabled veteran under the provisions of Public Law 79-663 [38 U.S.C. 1901]; provided, however, that such vehicles display a distinctive license plate issued by the registrar of motor vehicles upon the payment of one dollar. This exemption shall also apply to any passenger motor vehicle or pickup truck not exceeding ten thousand pounds [4535.92 kilograms] gross weight subsequently purchased or acquired by such a disabled veteran; provided, that it shall be allowed only with respect to one such motor vehicle owned by such a disabled veteran at any one time.

- k. Motor vehicles having not over two axles and not being used in combination, owned and operated by nonresidents and any motor vehicle or combination of three axles or more operated in this state pursuant to a proportional licensing or other agreement or arrangement with any jurisdiction having motor vehicle registration authority.
- l. Motor vehicles owned and operated by the holder of a valid building mover's permit issued by the public service commission, or by a resident well driller; provided, however, that such vehicles are used only for moving buildings or building moving equipment, or on which is mounted well-drilling equipment; provided, further, that such vehicles display a ~~special~~ license plate issued by the registrar of motor vehicles upon the payment of a fee of twenty-five dollars for two axle trucks, fifty dollars for single axle truck-tractor units, and seventy-five dollars for each tandem axle truck-tractor unit. Any vehicle which has been issued this special motor vehicle license may be registered under the regular motor vehicle registration law, by payment of the difference between the amount paid for the special motor vehicle license and the regular registration fee for such vehicle and ~~surrendering of such special license plate~~. Any vehicle which has been issued this special motor vehicle license and is found being operated upon the highways of this state without being equipped with special house-moving or well-drilling equipment, shall forfeit the fee paid and, in addition, shall be required to register under the regular motor vehicle registration law of this state. None of the above limitations shall be construed as restricting the operation of the special licensed vehicle when such operation would not require a greater fee than that paid for this operation.
- m. Any trailer, semitrailer, or farm trailer when the gross weight, not including the weight of the towing vehicle, does not exceed one thousand five hundred pounds [680.39 kilograms] and it is not for hire or commercial use, or when used to transport recreational vehicles or boats and it is not for hire or commercial use.
- n. Any vehicle which is driven or moved upon a highway only for the purpose of crossing the highway from one property to another. The crossing shall be made at an angle of approximately ninety degrees to the direction of the highway.
- o. Passenger motor vehicles or pickup trucks not exceeding ten thousand pounds [4535.92 kilograms]

gross weight owned and operated by a resident who, while serving in the United States armed forces, was a prisoner of war and has received an honorable discharge from the United States armed forces; provided, however, that the vehicles display a distinctive license plate issued by the registrar of motor vehicles upon the payment of one dollar. This exemption shall also apply to any passenger motor vehicle or pickup truck not exceeding ten thousand pounds [4535.92 kilograms] gross weight subsequently purchased or acquired by such a former prisoner of war; provided, that the exemption provided by this subdivision shall be allowed only with respect to one motor vehicle owned by such a former prisoner of war at any one time.

Approved April 14, 1983

CHAPTER 426

HOUSE BILL NO. 1701
(Representative Gorder)
(Senator Tallackson)

VEHICLE LIMITATIONS AND TRIP PERMIT REQUIREMENTS

AN ACT to amend and reenact subsection 1 of section 39-04-19, subsections 2 and 3 of section 39-12-04, and section 57-54.1-12 of the North Dakota Century Code, relating to trip permit fees, height and length limitations for vehicles, and occasional trip permits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-04-19 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Nonresidents electing to pay mile tax in lieu of registration, when authorized to do so by the commissioner, shall pay a fee of ~~ten~~ twenty dollars for a trip permit which shall be valid for a period of seventy-two hours. All fees collected under the provisions of this subsection shall be credited to the highway construction fund.

SECTION 2. AMENDMENT. Subsections 2 and 3 of section 39-12-04 of the 1981 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2.
 - a. A height of thirteen feet six inches [4.11 meters], whether loaded or unloaded, ~~except that such~~. This height limitation shall does not affect any present structure such as bridges and underpasses that are not thirteen feet six inches [4.11 meters] in height.
 - b. The limitation in subdivision a does not apply to vehicles that are at most fifteen feet six inches [4.72 meters] high when all of the following apply:
 - (1) The vehicle is an implement of husbandry and is being moved by a resident farmer, rancher, or dealer.

- (2) The trip is at most forty miles [64.40 kilometers].
- (3) The trip is between sunrise and sunset.
- (4) None of the trip is on an interstate highway.

3. A length limitation as follows:

- a. A single unit vehicle with two or more axles including the load thereon shall not exceed a length of forty fifty feet [12.19 15.24 meters].
- b. A combination of two units including the load thereon shall not exceed a length of sixty-five seventy-five feet [19.81 22.86 meters].
- c. A combination of three or four units including the load thereon shall not exceed a length of sixty-five seventy-five feet [19.81 22.86 meters]. Combinations of three units are permissible only as follows-
- (1) A truck tractor and semitrailer may draw a trailer or semitrailer.
- (2) A motor vehicle may draw three motor vehicles attached thereto by a triple saddle mount method.
- (3) Two implements of husbandry may be towed by a truck or farm tractor operated by resident farmers between sunrise and sunset at a speed limit not to exceed twenty-five miles [40.23 kilometers] per hour. The two-implement-of-husbandry limit shall not apply to a packer-grain drill combination or to other combinations of implements of husbandry which the commissioner determines by rule are consistent with public highway safety.
- (4) A truck may draw two trailers, subject to any rules adopted by the commissioner that are consistent with public highway safety, subject to any rules adopted by the commissioner that are consistent with public highway safety. The rules shall not apply to a three-unit combination consisting of a truck tractor and semitrailer drawing a trailer or semitrailer.
- d. A combination of two or, three, or four units including the load thereon may be operated on and ever all four-lane divided highways and those highways in the state designated by the commissioner and shall not exceed a length of seventy-five one hundred ten feet [22.86 33.53 meters], subject to any rules adopted by

the commissioner that are consistent with public highway safety.

e. Length limitations shall not apply to:

- (1) Building moving equipment.
- (2) Emergency tow trucks towing disabled lawful combinations of vehicles to a nearby repair facility.
- (3) Vehicles and equipment owned and operated by the armed forces of the United States or the national guard of this state.
- (4) Structural material of telephone, power, and telegraph companies.
- (5) Truck-mounted haystack moving equipment, provided such equipment does not exceed a length of fifty-six feet [17.07 meters].
- (6) A truck tractor and semitrailer or truck tractor, semitrailer and the trailer when operated on the interstate highway system or parts of the federal aid primary system as designated by the commissioner, only when federal law requires the exemption.

* SECTION 3. AMENDMENT. Section 57-54.1-12 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54.1-12. Occasional trip permits. Any person who occasionally makes trips into or through North Dakota and who elects to secure occasional trip permits as hereinafter provided shall be exempt from the licensing requirements herein imposed. The word "occasionally" shall mean no more than one trip ~~or series of trips~~ in any ~~seventy-two hour period or two trips or series of trips in any two seventy-two hour periods~~ into or through the state of North Dakota. Occasional trip permits shall be issued by the tax commissioner or the commissioner's agent for a fee of ~~five~~ fifteen dollars per trip pursuant to regulations and procedures prescribed by the tax commissioner.

Approved April 8, 1983

* NOTE: Chapter 57-54.1 was repealed by section 3 of House Bill No. 1073, chapter 656, and section 3 of House Bill No. 1072, chapter 657.

CHAPTER 427

SENATE BILL NO. 2145
 (Committee on Transportation)
 (At the request of the Motor Vehicle Department)

REGISTRATION FOR TRAILERS AND MOBILE HOMES

AN ACT to amend and reenact subsection 4 of section 39-04-19 and section 39-18-03 of the North Dakota Century Code, relating to registration fees for certain trailers and mobile homes, travel trailers and house trailers; and to repeal section 39-04-21.1 of the North Dakota Century Code, relating to prorated registration fees for certain trailers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 39-04-19 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Every trailer, semitrailer, and farm trailer required to be registered under this chapter shall be furnished registration plates upon the payment of one of the following annual fees: a fifteen dollar annual fee.
 - a- Ten dollars for trailers and farm trailers which are not semitrailers, including trailers which are offered for lease or rent to the public.
 - b- Ten dollars per axle, limited to a maximum of thirty dollars, for semitrailers and farm trailers which are semitrailers, when the gross weight, not including the weight of the towing vehicle, does not exceed twenty-four thousand pounds {10886-22 kilograms}.
 - c- Ten dollars for semitrailers when the gross weight, not including the weight of the towing vehicle, exceeds twenty-four thousand pounds {10886-22 kilograms}.

Every trailer, semitrailer, or farm trailer not required to be registered under this chapter shall be furnished an identification plate upon the payment of a fee of five dollars.

SECTION 2. AMENDMENT. Section 39-18-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-18-03. Titling and licensing of mobile homes, house trailers, and travel trailers - License fee. The owner of a travel trailer, house trailer, or mobile home, who sells or transfers ~~his~~ the title to such vehicle shall endorse an assignment and warranty of title upon the certificate of title for such vehicle, along with a statement ~~verified under oath~~ as to whether there are liens or encumbrances thereon. The owner shall deliver the certificate of title to the purchaser within fifteen days after such sale if title passes to the purchaser. If the legal title does not pass to the purchaser under the contract for sale of the vehicle, the legal title owner shall endorse thereon a statement that ~~he holds~~ they hold the lien, the date thereof, and the name of the purchaser, and shall send the certificate of title to the ~~registrar of motor vehicles~~ vehicle department with an application of the purchaser for a new certificate of title showing the name of the legal owner, the registered owner, the date of the lien of the legal owner, which certificate of title when issued shall be returned by the ~~registrar~~ department to the legal title owner; who shall retain the same in ~~his~~ their possession until the terms of the contract are complied with by the purchaser, and thereupon, after showing that the lien has been paid and satisfied ~~he~~ they shall deliver the certificate of title properly assigned to the purchaser. The purchaser or transferee shall present the endorsed and assigned certificate to the department, within ~~fifteen~~ thirty days after the receipt thereof, accompanied by a transfer fee of ~~three~~ five dollars, and shall make an application for and obtain a new certificate of title for such vehicle. A penalty of not more than ten dollars may be imposed by the registrar for failure to present the certificate of title to the department as required by this section. Except when transported by a drive-away transporter duly registered and licensed under the laws of this state, no person shall haul a mobile home, house trailer, or travel trailer unless the same shall first be registered with and titled by the department, a certificate of title has been issued, and it displays a number plate issued by and under such regulations as the registrar may prescribe. The annual fee for such licensing shall be ~~ten~~ twenty dollars for mobile homes and house trailers, and ~~in accordance with the following schedule for travel trailers as defined by section 57-55-01-~~

- 1- Where the length is less than thirteen feet {3.96 meters}, five dollars-
- 2- Where the length is thirteen feet {3.96 meters} or more but less than fifteen feet {4.57 meters}, ten dollars-
- 3- Where the length is fifteen feet {4.57 meters} or more but less than twenty feet {6.10 meters}, fifteen dollars-
- 4- Where the length is twenty feet {6.10 meters} or more but less than twenty-four feet {7.32 meters}, twenty dollars-

5. Where the length is twenty-four feet {7.32 meters} or more, thirty-five dollars twenty dollars for travel trailers.

Commencing January 1, 1974, the The registration required hereunder shall be on a calendar-year basis. The registrar shall provide for the preatiening or refunding of registration fees payable prior to January 1, 1974. Initial registrations shall be preatied on a quarterly basis, adjusted to the next dollar, with a minimum fee of three dollars.

If such mobile home, house trailer, or travel trailer enters the state carrying the current number plate of another state, no number plates shall be required by the state of North Dakota for a period of thirty days.

The annual license fee provided for in this section shall not preclude the taxation of certain mobile homes pursuant to chapter 57-55.

If such mobile home, house trailer, or travel trailer remains stationary or parked within the state of North Dakota for a period of one year, no license shall be required for that year, provided that nothing in this chapter shall permit the use of a dealer's tag plate on such mobile home, house trailer, or travel trailer after the same has been sold by the dealer to whom such tag plate was issued.

SECTION 3. REPEAL. Section 39-04-21.1 of the North Dakota Century Code is hereby repealed.

Approved April 8, 1983

CHAPTER 428

SENATE BILL NO. 2431
(Redlin)REGISTRATION FEE AGREEMENTS WITH HOME
RULE CITIES

AN ACT to create and enact a new section to chapter 39-04, and a new subsection to section 40-05.1-06 of the North Dakota Century Code, permitting home rule cities to levy certain taxes and fees and authorizing collection agreements; and to amend and reenact section 57-01-02.1 of the North Dakota Century Code, relating to tax collection agreements with home rule cities; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Motor vehicle registration fee collection agreements with home rule cities. The governing body of any incorporated city that has adopted the home rule provisions of chapter 40-05.1 and the department may enter into contractual agreements where the department may collect any motor vehicle registration fees assessed by the city. The department shall deposit with the state treasurer all money collected under this section and shall accompany each remittance with a certificate showing the city for which it was collected. The state treasurer, quarterly, shall pay to the city auditors of the several cities the money to which they are entitled under this section. Agreements entered into under this section shall provide for an agreed amount to be allowed the department for services rendered in connection with the collections. Any sums collected for services rendered shall be paid to the state treasurer for deposit in the motor vehicle registration fund.

SECTION 2. A new subsection to section 40-05.1-06 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

To impose registration fees on motor vehicles, or sales and use taxes in addition to any other taxes imposed by law.

SECTION 3. AMENDMENT. Section 57-01-02.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-01-02.1. Sales and use tax Tax collection agreements with home rule cities.

1. The governing body of any incorporated city that has adopted the home rule provisions of chapter 40-05.1 and the tax commissioner are hereby authorized and empowered to enter into contractual agreements whereby the tax commissioner shall have authority to collect any sales and use taxes assessed by such incorporated city.
2. It shall be the duty of the tax commissioner to deposit with the state treasurer all money collected by him under this section and to accompany each remittance with a certificate showing the city for which it was collected. The state treasurer, quarterly, shall pay to the city auditors of the several cities the money to which they are entitled under this section.
3. The agreements entered into under this section may also provide for an agreed amount to be allowed the tax commissioner for services rendered in connection with such collections. Any sums collected for services rendered shall be paid to the state treasurer for deposit in the general fund.

SECTION 4. EFFECTIVE DATE. This Act becomes effective on July 1, 1984.

Approved April 15, 1983

CHAPTER 429

HOUSE BILL NO. 1182
(Committee on Transportation)
(At the request of the Highway Patrol)

DRIVER'S LICENSE ISSUANCE

AN ACT to create and enact a new subsection to section 39-06-02 of the North Dakota Century Code, relating to residency for driver's license matters; and to amend and reenact subsection 1 of section 39-06-03.1 and section 39-06-19 of the North Dakota Century Code, relating to the issuance of a nondriver photo identification card at age sixteen and the renewal of drivers' licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. A new subsection to section 39-06-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

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

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

- 1. The commissioner shall issue upon request a nondriver color photo identification card to any person, of the age of ~~eighteen~~ sixteen years or over, fulfilling the requirements of this section.

* SECTION 3. AMENDMENT. Section 39-06-19 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-19. Expiration of license - Renewal. Every operator's license issued under the provisions of this chapter shall expire and be renewed according to the following schedule: The expiration date of operator's license for every person whose year of birth occurred in

* NOTE: Section 39-06-19 was also amended by section 73 of House Bill No. 1058, chapter 82.

a year ending in an odd numeral shall be twelve midnight on the anniversary of the birthday in the second subsequent year ending in an odd numeral. The expiration date of operator's license for every person whose year of birth occurred in a year ending in an even numeral shall be twelve midnight on the anniversary of the birthday in the second subsequent year ending in an even numeral. Application with fee for renewal of license shall be presented to the commissioner not prior to ninety days before the expiration date of the operator's license. The commissioner may require an examination of an applicant as upon an original application. Every application for renewal of a license by an applicant ~~under the age of twenty-one or over the age of seventy~~ shall be accompanied by a certificate of examination from either the driver licensing or examining authorities or a physician or an optometrist, licensed in this or another state, containing a statement as to the corrected and uncorrected vision of the applicant. The commissioner shall provide visual examination equipment at each location where a license may be renewed. An application for a motor vehicle operator's license from an applicant applying for first license under the age of twenty-one may be accompanied by a certificate of examination from a physician or an optometrist, licensed in this or another state, containing a statement as to the corrected and uncorrected vision of the applicant, in lieu of the eye examination conducted by the driver licensing authorities. No certificate of examination shall be dated more than six months prior to the date of the driver license application. Every person submitting application and fee for renewal of license one year or more after expiration of license, except an applicant whose military, or merchant marine service, as defined in section 16-18-01, has terminated less than sixty days prior to such application, shall be treated as a new driver and subject to the examination as upon an original application. The fee for every operator's license shall be eight dollars.

Approved April 5, 1983

CHAPTER 430

SENATE BILL NO. 2489
(Senator Tallackson)
(Representative Gorder)

SUSPENSION OF LICENSE FOR INCOMPETENCE

AN ACT to amend and reenact section 39-06-33 of the North Dakota Century Code, relating to suspension of driver's license for incompetence to drive and rehearings on the issue of competence.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-06-33 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-33. Hearings ~~prior to~~ on suspension.

1. In matters of driver's license suspension arising under ~~the provisions of~~ section 39-06-32, the commissioner shall first give notice of intention to suspend to the licensee. The licensee shall have ten days from the date of receipt of ~~such the~~ notice to request, in writing, a hearing ~~upon~~ on the intended suspension.
2. Any hearing conducted under this section ~~shall must~~ be before the commissioner or ~~his~~ an authorized agent and ~~shall must~~ be heard within sixty days of the receipt of the request for hearing and in the county of the licensee's residence, ~~however,~~ unless the parties may agree to a different time and place for the hearing. ~~Upon such~~ At the hearing, the commissioner or ~~his the~~ duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant evidentiary matter. At the hearing, the regularly kept records of the commissioner may be introduced and ~~shall establish are~~ prima facie the evidence of their contents thereof without further foundation.
3. Within twenty days of the completion of the hearing, the commissioner or ~~his the~~ authorized agent shall issue a

written order evincing the determination made. The mailing of the decision and the resulting order by regular mail to the address recorded in the files of the commissioner pursuant to under section 39-06-20 shall be is sufficient notice. In the event If a suspension is ordered, a reexamination of the licensee may be required.

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

Approved March 17, 1983

CHAPTER 431

SENATE BILL NO. 2362
(Senator Olson)
(Representative Conmy)

NONCRIMINAL TRAFFIC CONVICTION APPEAL

AN ACT to amend and reenact subsection 5 of section 39-06.1-03 of the North Dakota Century Code, relating to jury trial on appeal from noncriminal traffic convictions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 39-06.1-03 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. a. If a person is aggrieved by a finding that he committed the violation, he may, without payment of a filing fee, appeal that finding to the district court or county court for trial anew, and the case may be tried to a jury, if requested. If, after trial in the district appellate court, the person is again found to have committed the violation, there shall be no further appeal. Notice of appeal under this subsection shall be given within thirty days after a finding of commission of a violation is entered by the official. Oral notice of appeal may be given to the official at the time that he the official adjudges that a violation has been committed. Otherwise, notice of appeal shall be in writing and filed with the official, and a copy of the notice shall be served upon the city attorney or state's attorney, as the case may be prosecuting attorney. An appeal taken under this subsection shall not operate to stay the reporting requirement of subsection 4, nor to stay appropriate action by the licensing authority upon receipt of that report.
- b. The district appellate court, upon application by the appellant, may:

- (1) Order a stay of any action by the licensing authority during pendency of the appeal, but not to exceed a period of one hundred twenty days;
- (2) Order a stay and that the appellant be issued a temporary restricted driving certificate by the licensing authority to be effective for no more than one hundred twenty days; or
- (3) Deny the application.

An application for a stay or temporary certificate under this subdivision shall be accompanied by a certified copy of the appellant's driving record, for the furnishing of which the licensing authority may charge a fee of two dollars. Any order granting a stay or a temporary certificate shall be forwarded forthwith by the clerk of court to the licensing authority, which shall issue a temporary certificate in accordance with the order in the manner provided by law. A court shall not make a determination on an application under this subdivision without notice to the appropriate prosecuting attorney. A person who violates or exceeds the restrictions contained in any temporary restricted driving certificate issued pursuant to this subdivision shall be guilty of a traffic violation and shall be assessed a fee of twenty dollars.

- c. If the person charged is found not to have committed the violation by the ~~district court or the jury~~ appellate court, the clerk of court shall report that fact to the licensing authority immediately. If an appeal under this subsection is from a violation of a city ordinance, the city attorney for the city wherein the alleged violation occurred shall prosecute the appeal. In all other cases, the appropriate state's attorney shall prosecute the appeal.

Approved April 8, 1983

CHAPTER 432

HOUSE BILL NO. 1254
(Sanstead)

SPEEDING POINT ASSESSMENT

AN ACT to create and enact a new paragraph to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code, relating to assignment of points against motor vehicle operators for speeding violations; and to amend and reenact section 39-06.1-06 of the North Dakota Century Code, relating to the amount of statutory fees for speeding violations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-06.1-06 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06.1-06. Amount of statutory fees. The fees required for a noncriminal disposition pursuant to either section 39-06.1-02 or section 39-06.1-03 shall be as follows:

1. For a nonmoving violation as defined in section 39-06.1-08, a fee of ten dollars.
2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars.
3. For a violation of section 39-09-02, or an equivalent ordinance, the penalty shall be a fee and a point assessment against the driver's license established as follows:

Speed (mph)	Fee (\$)	Points
56 - 60	\$ 5	0
61 - 65	\$ 5 plus \$1/each mph over 60	1
66 - 70	\$ 10 plus \$1/each mph over 65	2
71 - 75	\$ 15 plus \$2/each mph over 70	3
76 - 80	\$ 25 plus \$3/each mph over 75	4
81 - 90	\$ 40 plus \$3/each mph over 80	6
91 - 100	\$ 70 plus \$3/each mph over 90	8
101 +	\$100 plus \$5/each mph over 100	12

Miles per hour over lawful speed limit		Fee
1 - 5	\$ 5	
6 - 10	\$ 5 plus \$1/each mph over 5 mph over limit	
11 - 15	\$ 10 plus \$1/each mph over 10 mph over limit	
16 - 20	\$ 15 plus \$2/each mph over 15 mph over limit	
21 - 25	\$ 25 plus \$3/each mph over 20 mph over limit	
26 - 35	\$ 40 plus \$3/each mph over 25 mph over limit	
36 - 45	\$ 70 plus \$3/each mph over 35 mph over limit	
46 +	\$100 plus \$5/each mph over 45 mph over limit	

4. For a violation of section 39-09-01, or an ordinance defining careless driving, a fee of thirty dollars.
5. For a violation of section 39-09-01.1, or an ordinance defining care required in driving, a fee of not less than ten dollars nor more than thirty dollars.
6. For a violation of section 39-09-02, or an equivalent ordinance, which violation is not provided for in subsection 3, the penalty shall be a fee and a point assessment against the driver's license as follows:
 - a. From one to five miles {1.61 to 8.05 kilometers} per hour in excess of the lawful limit, a fee of five dollars, and no points.
 - b. From six to ten miles {9.66 to 16.09 kilometers} per hour in excess of the lawful speed limit, a fee of ten dollars, and one point.
 - c. From eleven to fifteen miles {17.70 to 24.14 kilometers} per hour in excess of the lawful speed limit, a fee of fifteen dollars, and two points.
 - d. From sixteen to twenty-five miles {25.75 to 40.23 kilometers} per hour in excess of the lawful speed limit, a fee of twenty dollars, and four points.
 - e. Twenty-six or more miles {41.84 or more kilometers} per hour in excess of the lawful speed limit, a fee of twenty-five dollars, and six points.
7. For a violation of section 39-08-20, a fee of not less than twenty-five dollars nor more than one hundred dollars.
- 8- 7. For a violation of subsection 6 of section 39-01-15, any municipal ordinance equivalent to subsection 6 of section 39-01-15, or any traffic parking regulations on any state charitable or penal institution property or on the state capitol grounds, a fee in the amount of five dollars.

SECTION 2. A new paragraph to subdivision a of subsection 3 of section 39-06.1-10 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Operating a motor vehicle in excess of speed
limit in violation of section 39-09-02, or
equivalent ordinance

6 - 10 mph over limit	1 point
11 - 15 mph over limit	2 points
16 - 20 mph over limit	3 points
21 - 25 mph over limit	4 points
26 - 35 mph over limit	6 points
36 - 45 mph over limit	8 points
46 + mph over limit	12 points

Approved April 6, 1983

CHAPTER 433

HOUSE BILL NO. 1559
(R. Larson)

WRECKER AND TOWING SERVICE ACCIDENT REPORT

AN ACT to create and enact a new section to chapter 39-07 of the North Dakota Century Code, relating to wrecker and towing services responsibilities in reporting accidents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

Wrecker and towing services to report. The person in charge or the operator of any commercial towing or wrecker service which causes any motor vehicle to be transported to a private residence or business other than a garage or repair shop which shows evidence of having been involved in a reportable accident as provided in section 39-08-09 or of being struck by any bullet, shall report or cause a report to be made to a police officer within twenty-four hours after such motor vehicle is transported. The report must give the registration number, and the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle, or any missing parts, along with the location such vehicle was transported to, if the vehicle does not have a sticker on a window thereof issued by a police officer, sheriff, or highway patrolman, bearing information to show that the accident in which the vehicle was involved has been investigated. If the vehicle does bear such a sticker the towing or wrecker service need not make the report this section requires.

Approved April 5, 1983

CHAPTER 434

HOUSE BILL NO. 1374
(Conmy)

INSURANCE INFORMATION AND ACCIDENT REPORTS

AN ACT to amend and reenact sections 39-08-09 and 39-08-11 of the North Dakota Century Code, relating to the filing of driver's accident reports.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-08-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-09. Immediate notice and written report of accident. The driver of a vehicle involved in an accident resulting in injury to or death of any person or property damage to an apparent extent of four hundred dollars or more shall immediately give notice of such accident to the local police department if such accident occurs within a municipality, otherwise to the office of the county sheriff or the state highway patrol. Within ten days after such accident, the driver shall also forward a written report of the accident to the commissioner. The name of the motor vehicle insurance policy carrier and the policy number of the driver, or if the driver is not the owner of the vehicle, then the motor vehicle insurance policy carrier and the policy number of the owner of the vehicle, must be furnished to the law enforcement officer investigating the accident. If the driver does not have the required information concerning insurance to furnish to the investigating law enforcement officer, then within five days of the accident the driver shall supply that information to the driver's license division in the form the division requires.

The commissioner may suspend the license or permit to drive and any nonresident operating privileges of any person failing to ~~report an accident~~ comply with the duties as provided in sections 39-08-06 through 39-08-09 until such report has duties have been ~~filed~~ fulfilled, and the commissioner may extend such suspension not to exceed thirty days.

SECTION 2. AMENDMENT. Section 39-08-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. An accident notice is not required from any person who is physically incapable of making the report during the period of such incapacity.
2. Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall make or cause to be given the notice not given by the driver.
3. Whenever the driver is physically incapable of making a written report giving notice of an accident and such driver is not the owner of the vehicle, then the owner of the vehicle involved shall within five days after learning of the accident make such report not made give such notice and insurance information not given by the driver.

Approved April 5, 1983

CHAPTER 435

HOUSE BILL NO. 1524
(Gorder, Retzer)

DRIVING RECORD AND ACCIDENT REPORT ACCESSIBILITY

AN ACT to amend and reenact sections 39-08-13 and 39-16-03 of the North Dakota Century Code, relating to accessibility to motor vehicle accident report forms and abstracts of driving records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-08-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-13. Accident report forms.

1. The commissioner shall prepare and supply to ~~police departments, coroners, sheriffs law enforcement agencies,~~ garages, and other suitable agencies or individuals, forms for accident reports required ~~hereunder by law,~~ appropriate with respect to ~~the persons required to make such reports~~ and the purposes to be served. The written reports to be made by investigating officers shall call for sufficiently detailed information to disclose ~~with reference to a traffic accident~~ the cause of a traffic accident, conditions then existing, persons and vehicles involved, and ~~contain information sufficient to enable the commissioner to determine~~ whether the requirements for the deposit of security under section 39-16-05 are applicable.
2. Every accident report required to be made in writing shall be made on the appropriate form approved by the commissioner and shall contain all the information required therein unless not available.
3. Every law enforcement officer who investigates a vehicle accident ~~of for~~ which a report must be made as required in this chapter, ~~or who otherwise prepares a written report as a result of an investigation either at the time of and at the scene of the accident or thereafter by interviewing the participants or witnesses,~~ shall forward a written

report of such accident to the department within five days after his investigation of the accident.

4. Such written The reports required to be forwarded by law enforcement officers and the information contained therein shall not be privileged or held confidential, except, however, the opinion of the law enforcement or investigating officer, if included in the report, shall be confidential and not open to public inspection. If, however, the investigating officer expresses an opinion as to fault or responsibility for the accident, the opinion shall be confidential and not open to public inspection, except as provided in subsection 5.
5. Upon affirmation by a party to the accident, a party's legal representative, or the insurer of any party to the accident that the investigating officer's opinion is material to a determination of liability and upon payment of a fee of five dollars, the commissioner may release a copy of the investigating officer's opinion to the entity requesting the information. The request must be made on an appropriate form approved by the commissioner.
6. Upon request of any person and upon payment of a fee of two dollars, the commissioner may furnish to a requestor a copy of that portion of an investigating officer's accident report which does not disclose the opinion of the reporting officer, if the report shows that death, personal injury, or property damage of four hundred dollars or more resulted from the accident.
7. Copies of accident reports shall not be admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident.

SECTION 2. AMENDMENT. Section 39-16-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-16-03. Abstract --Accident report - Not admissible in evidence - Fee. The commissioner upon request shall furnish any person a certified abstract of the operating record of any person subject to the provisions of this chapter which shall include the convictions, adjudications, and admissions of commission of traffic offenses of such person any driver and suspensions, revocations, and restrictions of his a person's driving privileges.

The commissioner upon request shall in addition furnish any person a copy of that portion of an officer's accident report which does not disclose the opinion of the reporting officer, when the report shows that death, personal injury, or property damage of two hundred dollars or more resulted from such accident.

Copies of accident reports and abstracts shall not be admissible as evidence in any action for damages or criminal

~~proceedings~~ civil or criminal trial arising out of a motor vehicle accident.

A fee of two dollars shall be paid for each abstract of any operating record ~~or copy of accident report~~ and ~~the~~. The commissioner shall send an additional copy of the abstract ~~or accident report~~ to the driver whose abstract ~~or accident report~~ was requested, accompanied by a statement identifying the person making the request, ~~provided that no~~. No abstract or statement shall be sent to a driver where the request for ~~his~~ the driver's abstract was made by the federal bureau of investigation or the United States central intelligence agency, or their agents, or by any law enforcement agency of this state, or of its political subdivisions.

Approved March 10, 1983

CHAPTER 436

HOUSE BILL NO. 1647
(Hjelle)

MOTOR VEHICLE OPERATION LAWS

AN ACT to amend and reenact section 39-10-01 of the North Dakota Century Code, relating to the places where laws governing the operation of vehicles apply.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-01. Provisions of ~~chapter~~ title refer to vehicles upon the highways - Exceptions.

1. The provisions of this ~~chapter~~ title relating to the operation of vehicles ~~refer exclusively apply~~ to the operation of vehicles upon highways or other places open to the public for the operation of vehicles except:
 - 1- Where where a different place is specifically referred to in a given section.
2. The provisions of the laws of this state this title, or equivalent ordinances, relating to reporting of accidents or crashes in which a motor vehicle is involved, careless driving, exhibition driving, drag racing, reckless or aggravated reckless driving, driving while under the influence of intoxicating liquor or controlled substances, manslaughter or homicide or negligent homicide resulting from the operation of a motor vehicle, any felony in the commission of which a motor vehicle is used, and or fleeing or attempting to elude a police peace officer shall apply upon highways and elsewhere throughout the state.

Approved April 14, 1983

CHAPTER 437

SENATE BILL NO. 2110
(Committee on Transportation)
(At the request of the Highway Patrol)

USE OF EMERGENCY LIGHTS BY LAW
ENFORCEMENT OFFICERS

AN ACT to amend and reenact subsection 5 of section 39-10-03 of the North Dakota Century Code, relating to the use of emergency lights when stopped upon a highway for the purpose of controlling traffic.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 39-10-03 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Any law enforcement officer as provided in paragraph 2 of subdivision a of subsection 1 of section 39-01-01 having stopped another vehicle along a highway, and while still involved in that incident, ~~where flashing red or combination red and white lights were used in making the stop or any other such activity,~~ may switch to the use of amber lights, visible under normal atmospheric conditions for at least five hundred feet [152.4 meters], for the purpose of maintaining traffic flow.

Approved January 28, 1983

CHAPTER 438

HOUSE BILL NO. 1197
(Committee on Transportation)
(At the request of the Highway Patrol)

RIGHT OF WAY ON FREEWAY ENTRY

AN ACT to create and enact a new section to chapter 39-10 of the North Dakota Century Code, relating to vehicles approaching or entering freeways.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

Entering freeways - Right of way. A vehicle entering a freeway, as defined in section 24-01-01.1, from an acceleration lane, ramp, or any other approach road shall yield the right of way to a vehicle on the main roadway entering the merging area at the same time, regardless of whether the approach road is to the left or the right of the main roadway, unless posted signs indicate otherwise.

Approved February 1, 1983

CHAPTER 439

HOUSE BILL NO. 1497
(Schoenwald, Sanstead, Lautenschlager)

SCHOOLBUS LIGHTS

AN ACT to create and enact a new subsection to section 39-10-46 of the North Dakota Century Code, relating to activation of amber caution lights on schoolbuses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. A new subsection to section 39-10-46 of the North Dakota Century Code is hereby created and enacted to read as follows:

The operator of a schoolbus equipped with amber caution lights may activate those lights at a distance of not less than three hundred feet nor more than five hundred feet from the point where school children are to be received or discharged from the bus.

Approved March 8, 1983

CHAPTER 440

SENATE BILL NO. 2358
(Mutch, Erickson)

MOTOR VEHICLE WEIGHTS

AN ACT to amend and reenact subsection 1 of section 39-12-05 of the North Dakota Century Code, as amended by House Bill No. 1521, as approved by the forty-eighth legislative assembly, relating to motor vehicle weight limitations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-12-05 of the North Dakota Century Code as amended by House Bill No. 1521, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

1. With a single axle that carries a gross weight in excess of twenty thousand pounds [9071.85 kilograms] or a wheel load over ten thousand pounds [4535.92 kilograms]. A wheel may not carry a gross weight over five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width. Axles spaced forty inches [~~±91.6~~ 101.60 centimeters] apart or less are considered as one axle and, on axles spaced over forty inches [~~±91.6~~ 101.60 centimeters] and under eight feet [2.44 meters] apart, the axle load may not exceed seventeen thousand pounds [7711.07 kilograms] per axle. On state highways and subject to the approval of the highway commissioner, from December first to March seventh, the limitations on gross weight provided in this subsection may be exceeded by ten percent. On county highways and subject to the approval of the board of county commissioners, from December first to March seventh, the limitations on gross weights provided in this subsection may be exceeded by ten percent. The wheel load, in any instance, may not exceed one-half the allowable axle load. Spacing between axles is measured from axle center to axle center.

Approved April 13, 1983

CHAPTER 441

HOUSE BILL NO. 1521
(Aubol)

MOTOR VEHICLE WEIGHT LIMITATIONS

AN ACT to amend and reenact sections 39-12-05 and 39-12-05.2 of the North Dakota Century Code, relating to vehicle weight limits on certain highways; and to repeal section 39-12-05.1 of the North Dakota Century Code, relating to gross weights of vehicles on designated highways.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-12-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-12-05. Weight limitations for vehicles on interstate system. On the interstate highway system and where not otherwise provided A person may not operate on a highway any vehicle:

1. No With a single axle shall carry that carries a gross weight in excess of twenty thousand pounds [9071.85 kilograms] nor or a wheel load to exceed over ten thousand pounds [4535.92 kilograms]. No A wheel shall may not carry a gross weight in excess of over five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width. Axles spaced forty inches [101.6 centimeters] apart or less shall be are considered as one axle and, on axles spaced over forty inches [101.6 centimeters] and under eight feet [2.44 meters] apart, the axle load shall may not exceed seventeen thousand pounds [7711.07 kilograms] per axle. The wheel load, in any instance, shall may not exceed one-half the allowable axle load. Spacing between axles shall be is measured from axle center to axle center.
2. Subject to the limitations imposed by subsection 1 on tires, wheel, and axle loads, no vehicle or combination of vehicles shall be operated whose the gross weight, including the load, of which exceeds sixty-four thousand pounds {29,029.91 kilograms} or that determined by adding the distance in feet {meters} between the first axle and the last axle of the vehicle or combination of vehicles,

to the factor forty and multiplying this sum by seven hundred fifty, whichever is less. The gross weight limitation shall not apply to equipment as the commissioner or the commissioner's agents may approve for exemption, but gross weights shall not exceed eighty thousand pounds {36,287.39 kilograms}. The decision on exemption shall be determined on the basis of improved equipment design, which, in the commissioner's opinion, will better distribute the load and reduce roadway damage, provided, further, that where the distance between the first axle and the last axle of any group of axles of the vehicle or combination of vehicles is eighteen feet {5.49 meters} or less, the gross weight on the group of axles under consideration shall be determined by adding the distance in feet {meters} between the first axle and the last axle of the group under consideration to the factor of forty and multiplying this sum by six hundred fifty. No truck under eighty-two thousand pounds {37,194.57 kilograms} operating on the highways of this state shall be required to pay a fee for an improved equipment permit that determined by the formula of:

$$W = 500 \frac{LN + 12N + 36}{N-1}$$

where W equals maximum weight in pounds carried on any group of more than one axle; L equals distance in feet between the extremes of any group of consecutive axles; and N equals number of axles in the group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds [15,422.14 kilograms] each, providing the overall distance between the first and last axles of the consecutive sets of tandem axles is at least thirty-six feet [10.97 meters]. On all state highways and unless otherwise posted, the gross weight may not exceed one hundred five thousand five hundred pounds [47,854.00 kilograms]. On the interstate system and on all other highways the gross weight may not exceed eighty thousand pounds [36,287.39 kilograms] except that highways under the jurisdiction of local authorities, may be designated by them for gross weights not over one hundred five thousand five hundred pounds [47,854.00 kilograms]. The gross weight limitations do not apply to equipment that the state highway commissioner or the commissioner's agents approve for exemption. The exemption may not exceed eighty thousand pounds [36,287.57 kilograms] on the interstate system and one hundred five thousand five hundred pounds [47,854.00 kilograms] on all other highways. For every vehicle approved for exemption the commissioner shall issue a nontransferable certificate of exemption valid for one year. The commissioner may charge an administrative fee for the certificate.

SECTION 2. AMENDMENT. Section 39-12-05.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-12-05.2. Interstate weight limitations if permitted by Congress. Notwithstanding the provisions of section 39-12-05, weight limitations for vehicles on the interstate system shall be deemed amended to permit weight limitations not in excess of that allowed by section 39-12-05.1, at such time that vehicle weights in excess of the limitations imposed by section 39-12-05 are permitted by the Congress of the United States on the interstate system. If congressional action occurs authorizing a greater gross weight on the interstate system than allowed under section 39-12-05, a person may operate on an interstate highway a vehicle the gross weight of which is at most the weight allowed by the congressional action.

* SECTION 3. REPEAL. Section 39-12-05.1 of the North Dakota Century Code is hereby repealed.

Approved March 21, 1983

* NOTE: Section 39-12-05.1 was amended by section 9 of House Bill No. 1189, chapter 418.

CHAPTER 442

HOUSE BILL NO. 1384
(Representatives E. Pomeroy, Goetz, Kloubec)
(Senators Grotberg, Lodoen, Tennefos)

NOTICE OF LISTING MOBILE HOME FOR SALE

AN ACT to amend and reenact section 39-18-08 of the North Dakota Century Code, relating to notice to mobile home park owners or operators upon listing for sale any used mobile home.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-18-08 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-18-08. Sales by real estate broker or salesman of used mobile home. Notwithstanding any other provision of law, a person licensed as a real estate broker or salesman may sell or offer to sell, buy or offer to buy, solicit prospective purchasers of, solicit or obtain listings of, or negotiate the purchase, sale, or exchange of any used mobile home if the mobile home has been previously sold by a mobile home dealer. For the purposes of this section, a used mobile home is a mobile home which has been previously sold by a mobile home dealer. Any person, including a person licensed as a real estate broker or salesman, who obtains a listing for the sale or exchange of a used mobile home which is located in a mobile home park, as defined in section 23-10-01, shall provide notice of such listing within seven days after the listing is obtained, in writing, to the owner or operator of the mobile home park and to the lender if there is a lien attached to the used mobile home by a security agreement or other document evidencing the lien.

No real estate broker who engages in the activities authorized by this section may maintain any place of business where two or more mobile homes are displayed and offered for sale by the broker, unless the broker is also licensed as a mobile home dealer pursuant to this chapter.

Approved March 15, 1983

CHAPTER 443

HOUSE BILL NO. 1363
(Timm, Aubol, Hjelle)

JOINT OPERATION OF PORTS OF ENTRY

AN ACT to create and enact a new section to chapter 39-19 of the North Dakota Century Code, relating to the highway commissioner's authority to enter into agreements with adjacent states for the occupation and operation of ports of entry, the collection of fees, taxes, and the enforcement of vehicle size and weight limits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-19 of the North Dakota Century Code is hereby created and enacted to read as follows:

Agreements for joint operation of ports of entry. The commissioner may negotiate and enter into bilateral agreements with the appropriate officials of adjacent states, as provided herein:

1. The agreements may provide for the manning and operation of jointly occupied ports of entry, for the collection of highway user fees, registration fees, permit fees, fuel taxes and any other fees and taxes which may be prescribed by law or rule.
2. The agreements may further provide for the collection of these fees and taxes by either party state at jointly occupied ports of entry before authorization is given for a vehicle to legally operate within that state or jurisdiction, and for the enforcement of safety, size and weight laws, and rules of the respective states.

Approved March 7, 1983

CHAPTER 444

HOUSE BILL NO. 1188
(Committee on Judiciary)
(At the request of the Attorney General)

IMPLIED CONSENT FOR DRUG TESTING

AN ACT to amend and reenact sections 39-20-01, 39-20-02, 39-20-04, 39-20-05, 39-20-07, 39-20-08, 39-20-09, and 39-20-11 of the North Dakota Century Code, relating to chemical tests for intoxication, implied consent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 39-20-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-01. Implied consent to determine alcoholic and drug content of blood. Any person who operates a motor vehicle upon the public highways of this state shall be deemed to have given consent subject to the provisions of this chapter to a chemical test, or tests, of his blood, breath, saliva, or urine for the purpose of determining the alcoholic, other drug, or combination thereof content of his blood. As used in this chapter the word "drug" means a "controlled substance" as defined in section 19-03.1-01. The test or tests shall be administered at the direction of a law enforcement officer only after placing such person except persons mentioned in section 39-20-03 under arrest and informing him that he is or will be charged with the offense of driving or being in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor, drugs, or a combination thereof. The arresting officer shall determine which of the aforesaid tests shall be used.

** SECTION 2. AMENDMENT. Section 39-20-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-02. Persons qualified to administer test. Only a physician, or a qualified technician, chemist, or registered nurse acting at the request of a law enforcement officer may withdraw blood for purpose of determining the alcoholic, drug, or combination thereof content therein. This limitation shall not apply to the taking of breath, saliva, or urine specimen. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other

* NOTE: Section 39-02-01 was also amended by section 24 of Senate Bill No. 2373, chapter 415.

** NOTE: Section 39-20-02 was also amended by section 25 of Senate Bill No. 2373, chapter 415.

qualified person of his own choosing administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of the test or tests taken at the direction of law enforcement officer. Upon the request of the person who is tested, full information concerning the test or tests taken at the direction of the law enforcement officer shall be made available to him.

* SECTION 3. AMENDMENT. Section 39-20-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-04. Revocation of privilege to drive motor vehicle upon refusal to submit to chemical testing. If a person under arrest refuses to submit to chemical testing, none shall be given, but the commissioner, upon the receipt of a sworn report of the law enforcement officer, forwarded by the arresting officer within five days after the refusal, showing that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor, drugs, or a combination thereof and that the person had refused to submit to the test or tests, shall revoke his license or permit to drive and any nonresident operating privilege for a period of six months; or, if the person is a resident without a license or a permit to operate a motor vehicle in this state, the commissioner shall deny to the person the issuance of a license or permit for a period of six months after the date of the alleged violation, subject to the opportunity for a prerevocation hearing and postrevocation review as hereinafter provided.

** SECTION 4. AMENDMENT. Section 39-20-05 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-05. Administrative hearing on request. Prior to issuing an order of revocation or denial under section 39-20-04, the commissioner shall give such person a written notice of intention to revoke or deny and afford him an opportunity for a hearing. If the commissioner receives a written request within ten days, he shall hold such hearing within sixty days. The hearing shall be before the commissioner or his authorized agent in the county wherein the alleged events occurred for which the person was arrested, unless the commissioner or his authorized agent and the person agree that the hearing may be held in some other county. The hearing shall be transcribed and its scope shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor, drugs, or a combination thereof; whether the person was placed under arrest; and, whether he refused to submit to the test or tests. Whether the person was informed that his privilege to drive would be revoked or denied if he refused to submit to the test or tests shall not be an issue. At the hearing, the regularly kept records of the

* NOTE: Section 39-20-04 was also amended by section 26 of Senate Bill No. 2373, chapter 415.

** NOTE: Section 39-20-05 was also amended by section 27 of Senate Bill No. 2373, chapter 415.

commissioner may be introduced and shall establish prima facie the contents thereof without further foundation. The commissioner or his authorized agent shall promptly make findings of fact, conclusions, and decision as provided for in section 28-32-13. Notice of the decision and resulting order of the commissioner shall be sufficient if mailed by regular mail to the address on file with the commissioner pursuant to section 39-06-20.

* SECTION 5. AMENDMENT. Section 39-20-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-07. Interpretation of chemical tests. Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor, drugs, or a combination thereof, evidence of the amount of alcohol, drugs, or a combination thereof in the person's blood at the time of the act alleged as shown by a chemical analysis of his blood, breath, saliva or urine is admissible. For the purpose of this section:

1. A person having, at that time, five-hundredths of one percent or less by weight of alcohol in his blood is presumed not to be under the influence of intoxicating liquor.
2. Evidence that there was at that time more than five-hundredths of one percent and less than ten-hundredths of one percent by weight of alcohol in the person's blood is relevant evidence, but it is not to be given prima facie effect in indicating whether the person was under the influence of intoxicating liquor.
3. A person having, at that time, ten-hundredths of one percent or more by weight of alcohol in his blood shall be presumed to be under the influence of intoxicating liquor.
4. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred cubic centimeters of blood.
5. The results of such chemical analysis shall be received in evidence when it is shown that the test was fairly administered, provided that a test of a person's blood, urine, breath, or ~~ether bodily substance~~ saliva and the result thereof is further shown to have been performed according to methods or with devices approved by the state toxicologist, or both, and by an individual possessing a certificate of qualification to administer the test issued by the state toxicologist. The state toxicologist is authorized to approve satisfactory techniques, devices, and methods of chemical analysis and to determine the qualifications of individuals to conduct such analysis, and shall issue a certificate to all qualified operators

* NOTE: Section 39-20-07 was also amended by section 29 of Senate Bill No. 2373, chapter 415.

who shall exhibit the certificate upon demand by the person requested to take the chemical test.

6. The state toxicologist may appoint, train, certify, and supervise field inspectors of breath-testing equipment and its operation, and the inspectors shall report the findings of any inspection to the state toxicologist for appropriate action. Upon approval of the methods or devices, or both, and techniques required to perform such tests and the persons qualified to administer them, the state toxicologist shall prepare and file written record of such approval with the clerk of the district court in each county within the state which shall include:
 - a. A quarterly register of the specific testing devices currently approved including serial number, location, and the date and results of last inspection.
 - b. A quarterly register of currently qualified and certified operators of said devices stating the date of certification and its expiration.
 - c. The operational check list and forms prescribing the methods and techniques currently approved by the state toxicologist in using such devices during the administration of the tests.
7. Copies of the above records referred to in subsections 5 and 6, certified by the clerk of the district court, shall be admitted as prima facie evidence of the matters stated therein.
- 6- 8. A certified copy of the analytical report of a blood analysis signed by the state toxicologist shall be accepted as prima facie evidence of the results of such a chemical analysis performed herein.
- 7- 9. Notwithstanding any statute or rule to the contrary, the defendant may subpoena the state toxicologist or any employee thereof to testify at the trial of the issue, at no cost to the defendant, the person who conducted the chemical analysis referred to in this section to testify at the trial on the issue of the amount of alcohol, drugs, or a combination thereof in the defendant's blood, breath, saliva, or urine at the time of the alleged act.

* SECTION 6. AMENDMENT. Section 39-20-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-08. Proof of refusal admissible in any civil or criminal action or proceeding. If the person under arrest refuses to submit to the test or tests, proof of refusal shall be admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was driving or in actual physical

* NOTE: Section 39-20-08 was also amended by section 30 of Senate Bill No. 2373, chapter 415.

control of a vehicle upon the public highways while under the influence of intoxicating liquor, drugs, or a combination thereof, provided the person shall first have testified in the action.

* SECTION 7. AMENDMENT. Section 39-20-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-09. Effect of evidence of chemical test. The provisions of this chapter do not limit the introduction of any other competent evidence bearing on the question of whether the person was under the influence of intoxicating liquor, drugs, or a combination thereof.

SECTION 8. AMENDMENT. Section 39-20-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-11. Application to prosecutions under municipal ordinances. The provisions of this chapter shall also apply to prosecutions for the violation of municipal ordinances prohibiting the driving or control of a motor vehicle while under the influence of intoxicating liquor, drugs, or a combination thereof.

Approved March 8, 1983

* NOTE: Section 39-20-09 was also amended by section 31 of House Bill No. 2373, chapter 415.

CHAPTER 445

HOUSE BILL NO. 1336
(Representative Koehn)
(Senator Leibhan)

MOTOR VEHICLE WINDSHIELDS

AN ACT to create and enact a new subsection to section 39-21-39 of the North Dakota Century Code, relating to unobstructed motor vehicle windshields.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. A new subsection to section 39-21-39 of the North Dakota Century Code is hereby created and enacted to read as follows:

A person may not operate a motor vehicle with any object or any material displayed, affixed, or applied on the front windshield or on any side window where that material alters the color or reduces the light transmittance, or reduces the clear and unobstructed view through the windshield or window. This subsection does not apply to windows behind the driver or to tinted windows or windshields in compliance with the Federal Motor Vehicle Safety Standards No. 205.

Approved April 14, 1983

CHAPTER 446

HOUSE BILL NO. 1587
(Representatives Rayl, Schneider, Hjelle)
(Senators Goodman, Christensen)

CHILD RESTRAINT SYSTEMS

AN ACT to create and enact a new section to chapter 39-21 of the North Dakota Century Code, relating to requirement of use of child restraint systems in certain motor vehicles; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

Child restraint devices - Penalty - Evidence.

1. If a child, not over two years of age, is present in any passenger car that is operated by the child's parent or legal guardian, that passenger car must be equipped with at least one child restraint system for each such child under two years. The child restraint system must at least meet the standards adopted by the United States department of transportation for those systems [49 CFR 571.213]. While the car is in motion, each such child must be properly secured in the child restraint system in accordance with the manufacturer's instructions. If a child who is at least two and at most four years of age is present in a passenger car, unless properly secured in an approved child restraint system, the child must be buckled in a seatbelt whenever the car is moving. Use of child restraint systems and seatbelts is not required in passenger cars manufactured before 1966 that have not been equipped with seatbelts.
2. Violation of this section is an infraction and is punishable by a fine not to exceed twenty dollars. The fine may be suspended on showing proof of acquiring a child restraint system complying with this section within one month of the violation.
3. Violation of this section is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 1984.

Approved March 15, 1983

CHAPTER 447

SENATE BILL NO. 2166
(Committee on Transportation)
(At the request of the Motor Vehicle Department)

HAZARDOUS MATERIALS TRANSPORTATION

AN ACT to amend and reenact section 39-21-44 of the North Dakota Century Code, relating to the transportation of explosives or hazardous materials.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-21-44 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-44. Vehicle transporting explosives or hazardous materials - Administrative procedure and judicial review. Any person operating any vehicle transporting any explosive or hazardous material as a cargo or part of a cargo upon a highway shall comply with this section.

1. The vehicle shall be marked or placarded on each side and the rear with the word "Explosives" or the words "Hazardous Materials" as appropriate in letters not less than eight inches {20-32 centimeters} high, or there shall be displayed on the rear of the vehicle a red flag not less than twenty-four inches {60-96 centimeters} square marked with the word "Danger" in white letters six inches {15-24 centimeters} high.
- 2- The vehicle shall be equipped with ~~not less than two~~ at least one fire extinguishers extinguisher, filled and ready for immediate use, and placed at a convenient point on the vehicle.
2. The ~~department~~ superintendent of the state highway patrol shall, pursuant to chapter 28-32, adopt such rules as may be necessary for the safe transportation of hazardous materials. Rules shall duplicate or be consistent with current hazardous materials regulations of the United States department of transportation. The ~~department~~ superintendent of the state highway patrol is authorized to adopt the hazardous materials regulations by reference and any adoption shall be construed to incorporate amendments as may be made from time to time. Any proceeding under this section for issuing or modifying rules and regulations and determining compliance with rules and regulations of the ~~department~~ superintendent of the state highway patrol shall be conducted in accordance with chapter 28-32 and appeals may be taken as provided in chapter 28-32.

Approved March 4, 1983

CHAPTER 448

SENATE BILL NO. 2141
(Committee on Transportation)
(At the request of the Motor Vehicle Department)

MOTOR VEHICLE DEALERS

AN ACT to amend and reenact sections 39-22-02, 39-22-05, and 39-22-06 of the North Dakota Century Code, relating to motor vehicle dealer's license, bonding of motor vehicle dealers, and dealers establishing motor vehicle lots.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-22-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-22-02. Motor vehicle dealer's license - Fees - Additional number plates. It shall be unlawful for any person, partnership, or corporation to engage in the business of buying, selling, or exchanging of motor vehicles, or to advertise or hold himself out to the public as engaging in the buying, selling, or exchanging of motor vehicles, or to engage in the buying of motor vehicles for resale, unless he possesses a current new motor vehicle dealer's license or used motor vehicle dealer's license for which he shall pay the license fee of twenty-five dollars per year, and with which shall be issued one set of dealer's plates without possessing a current motor vehicle dealer's license. No person, partnership, or corporation shall advertise or 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's license, or used motor vehicle dealer's license. The motor vehicle dealer's license fee is twenty-five dollars per year and with which must be issued one set of dealer's plates. A second set of dealer's number plates shall be issued to the dealer upon payment of an additional fee of twenty-five dollars. Additional dealer's number plates shall be issued to the dealer upon payment of a fee of ten dollars per set. Such number plates may be used on any car owned by the dealer vehicle owned by the dealership and used in the direct functions of demonstrating, buying, or selling vehicles. These may not include service vehicles or vehicles used in other functions of the business. In addition to the dealer's license plates, the registrar of motor vehicles may issue to any dealer holding a regular dealer's license plate, an in-transit license plate for a fee of two dollars

per plate. Such plates may be used on vehicles in lieu of dealer's plates while a motor vehicle is in transit from its place of manufacture or any other place, to the dealer. Special utility plates may be issued by the registrar to any dealer, for a fee of two dollars, which special utility plate shall be used only on a vehicle while it is being used by the dealership to which the plate is issued within a radius of twenty-five miles [40.23 kilometers] of the licensee's place of business.

No application shall be granted nor a license issued to anyone until or unless the applicant shall furnish proof satisfactory to the registrar of the fact that the applicant has, does, and will continue to maintain, in the case of a used motor vehicle dealer's license, an established place of business, and has facilities and equipment for the maintenance, servicing, and repair of motor vehicles. An established central place of business, when used in this sense, means a permanent or enclosed building or structure either owned in fee or leased with a stated periodic rental, at which a permanent business of bartering, trading, and selling of motor vehicles, the repair, maintenance, and servicing of motor vehicles, and the storage of parts and accessories therefor, will be carried on as such in good faith and not for the purpose of evading this section, and at which place of business shall be kept and maintained the books, records, and files necessary to conduct the business at such place, and shall not mean a residence, tents, temporary stands, or other temporary quarters, nor permanent quarters occupied pursuant to any temporary arrangement. Said central place of business may consist of several buildings, or structures, but no building or structure constituting a part of said central place of business shall be located at a distance greater than one thousand feet [304.8 meters] from any other buildings or structures of said central place of business. If the license is granted hereunder, the licensee shall be permitted to use unimproved lots and premises for sales, storage, or display of motor vehicles. A nonrefundable fee of fifty dollars will be charged for each inspection and must accompany the initial application for new or used motor vehicle dealer's license.

Every dealer must have repair and service facilities and he must maintain a service and repair shop with a minimum investment of at least one thousand dollars in tools and shop equipment, as appraised by a representative of the registrar of motor vehicles at the central established place of business. The established place of business must be located within the state of North Dakota.

In the case of an application for a new motor vehicle dealer's license, the applicant shall furnish proof satisfactory to the registrar of the fact that the applicant has, does, and will continue to maintain all of the facilities described above applicable to a used motor vehicle dealer's license and in addition thereto, shall furnish proof satisfactory to the registrar of the fact that the applicant has a bona fide contract or franchise in effect with a manufacturer or distributor of the new motor vehicle or motor vehicles in which he the dealer proposes to deal. A new

motor vehicle dealer's license shall entitle the holder to deal in both used motor vehicles and in those new motor vehicles only for which ~~he the dealer~~ has a bona fide contract or franchise in effect with a manufacturer or distributor. A used motor vehicle dealer's license shall entitle the holder to deal in used motor vehicles only.

Whenever a motor vehicle dealer shall purchase or hold for sale a new motor vehicle for which ~~he the dealer~~ does not have a bona fide contract or franchise in effect with a manufacturer or distributor, such new motor vehicle shall become, at the time of purchase or possession, subject to the registration provisions of chapter 39-04, the title registration provisions of chapter 39-05, and the motor vehicle excise tax provisions of chapter 57-40.3.

If the licensee desires to remove from the central established place of business occupied when the license is granted to a new location, ~~he the licensee~~ shall first secure from the registrar of motor vehicles permission to do so. ~~He The licensee~~ shall be required to furnish proof satisfactory to the registrar that the premises to which ~~he the licensee~~ proposes to remove conform with the requirements hereinbefore set forth.

SECTION 2. AMENDMENT. Section 39-22-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-22-05. Bond required. Before the issuance of a motor vehicle dealer's license, as provided by law, the applicant for such a license shall furnish a surety bond executed by the applicant as principal and executed by a surety company, licensed and qualified to do business within the state of North Dakota, which bond shall run to the state of North Dakota, be in the amount of ten thousand dollars and be conditioned upon the faithful compliance by said applicant as a dealer, if the license be issued to ~~it or him the dealer~~, that such dealer will comply with all of the statutes of the state of North Dakota, including this chapter, regulating or being applicable to the business of said dealer as a dealer in motor vehicles, and indemnifying any person dealing or transacting business with said dealer in connection with any motor vehicle from any loss or damage occasioned by the failure of such dealer to comply with any of the provisions of this title, including, but not limited to, the furnishing of a proper and valid certificate of title to the motor vehicle involved in any such transaction, and that such bond shall be filed with the registrar of motor vehicles prior to the issuance of license provided by law. The aggregate liability of the surety of all persons, however, shall in no event exceed the amount of said bond. Any third party sustaining injury within the terms of the bond may proceed against the principal and surety without making the state a party to any such proceedings.

SECTION 3. AMENDMENT. Section 39-22-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-22-06. Used ea Motor vehicle lots - Location. A registered dealer as described in this chapter may establish open used ea motor vehicle lots as may be necessary in the conduct of his business in an area not further removed than three miles [4.83 kilometers] from the city limits of the town in which he the dealer operates a licensed place of business.

Approved March 15, 1983

CHAPTER 449

SENATE BILL NO. 2143
(Committee on Transportation)
(At the request of the Motor Vehicle Department)

TRAILER DEALER'S LICENSE

AN ACT to amend and reenact sections 39-22.1-01, 39-22.1-02, and 39-22.1-03 of the North Dakota Century Code, relating to licensing of trailer dealers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-22.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-22.1-01. ~~Semitrailer~~ Trailer dealer's license - Fees - Plates. No person, partnership, or corporation shall engage in the business of buying, selling, or exchanging of ~~semitrailers~~ trailers, or advertise or hold ~~himself or~~ itself out to the public as being in the business of buying, selling, or exchanging of ~~semitrailers~~ trailers without first being licensed to do so as hereinafter provided.

Application for dealer's license and renewal license shall be made to the registrar of motor vehicles on such forms as the registrar shall prescribe and furnish, and such application shall be accompanied by an annual fee of fifteen dollars. Such dealer's license shall expire on December thirty-first of each year, and application for renewal of such dealer's license shall be made on or before the expiration of the current dealer's license.

A ~~semitrailer~~ trailer dealer's license shall be issued only to those who will maintain a permanent office and place of business and will abide by all the provisions of law pertaining to ~~semitrailer~~ trailer dealers. In addition, the dealer shall maintain his business records in one central location.

Upon the payment of a fee of five dollars for each plate, the registrar shall register and issue dealer's license plates for use on any ~~semitrailers~~ trailers owned by the licensed dealer, and such ~~semitrailers~~ trailers bearing such dealer's license plates may be lawfully operated upon the public highways of the state of North

Dakota by such dealer, his the dealer's agents and or representatives, during the year of such registration. Such dealer's license plates shall expire on December thirty-first of each year.

The term "semitrailer" "trailer" as used in this chapter shall include and have the same meaning as the meaning prescribed in subsection 61 of section 39-01-01 not include those trailers exempt from registration in chapter 39-04.

SECTION 2. AMENDMENT. Section 39-22.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-22.1-02. Bond required. Before the issuance of a semitrailer trailer dealer's license, as provided by law, the applicant for such license shall furnish a surety bond executed by the applicant as principal and executed by a surety company licensed and qualified to do business within the state of North Dakota, which shall be in the amount of ten thousand dollars, and be conditioned upon the faithful compliance by said applicant as a dealer, if such license be issued to ~~it or him~~ the applicant, that such dealer will comply with all the laws of the state of North Dakota pertaining to such business, and regulating or being applicable to the business of said dealer as a dealer in semitrailers trailers, and indemnifying any person dealing or transacting business with such dealer in connection with any semitrailer trailer from any loss or damage occasioned by the failure of such dealer to comply with the provisions of the laws of the state of North Dakota, including, but not limited to, the furnishing of a proper and valid certificate of title to the vendee of a semitrailer trailer within fifteen days of the sale of such semitrailer trailer, and that such bond shall be filed with the registrar of motor vehicles prior to the issuance of the license herein provided for. Provided, however, that the aggregate liability of the surety to all such persons for all such losses or damages shall, in no event, exceed the amount of such bond. Any third party sustaining injury within the terms of the bond may proceed against the principal and surety without making the state a party to any such proceedings. Any applicant bonded pursuant to the provisions of chapter 39-18 or 39-22 shall not be required to furnish the surety bond provided for in this section whenever the bond issued pursuant to chapter 39-18 or 39-22 is written to include the requirements of this section.

SECTION 3. AMENDMENT. Section 39-22.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-22.1-03. Suspension or revocation of dealer's license. The registrar of motor vehicles may suspend or revoke any dealer's license for failure of the licensee to comply with any of the laws of the state of North Dakota governing semitrailer trailer dealers, or for the failure to comply with the reasonable rules and regulations of the registrar as established under chapter 28-32, but no order suspending or revoking a dealer's license shall be made without a hearing at which the licensee shall be given an opportunity to be heard.

Approved March 3, 1983

CHAPTER 450

SENATE BILL NO. 2310
(Erickson)

WHOLESALE MOTOR VEHICLE DEALERS

AN ACT to repeal chapter 39-22.2 of the North Dakota Century Code, relating to wholesale motor vehicle dealers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL. Chapter 39-22.2 of the North Dakota Century Code is hereby repealed.

Approved March 18, 1983

CHAPTER 451

SENATE BILL NO. 2230
(Committee on Transportation)
(At the request of the Motor Vehicle Department)

MOTORCYCLE DEALER LICENSURE

AN ACT to create and enact a new chapter to title 39 of the North Dakota Century Code, relating to licensing of motorcycle dealers; to repeal section 39-22-03 of the North Dakota Century Code, relating to motorcycle dealer's license fees; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. A new chapter to title 39 of the North Dakota Century Code is hereby created and enacted to read as follows:

Motorcycle dealer's license - Fees - Additional number plates. It shall be unlawful for any person, partnership, or corporation to engage in the business of buying, selling, or exchanging of motorcycles without possessing a current motorcycle dealer's license. No person, partnership, or corporation may advertise or hold out to the public as engaging in the buying, selling, or exchanging of motorcycles for resale without possession of a current motorcycle dealer's license. The motorcycle dealer's license fee is twenty-five dollars per year and with which shall be issued one dealer's plate. Additional dealer's plates are five dollars each. A dealer plate may be displayed on any motorcycle owned by the dealer.

Application Required. No license may be granted unless a completed application has been made in the form prescribed by the registrar.

Issuance of License - Conditions. No license shall be issued until the applicant furnishes proof satisfactory to the registrar that the applicant has and will continue to maintain an established place of business. An established central place of business means a permanent enclosed building or structure either owned or leased with a stated periodic rental, at which a permanent business of bartering, trading, and selling of motorcycles, the repair, maintenance, and servicing of motorcycles and the storage of parts and accessories therefor, will be carried out in good faith and not for the purpose of evading this section, and where the business

books, records, and files shall be maintained, and shall not mean a residence, tents, temporary stands, or other temporary quarters, nor permanent quarters occupied pursuant to any temporary arrangement. Said central place of business may consist of several buildings, or structures, but no building or structure shall be located beyond one thousand feet [304.8 meters] from any other buildings or structures of said central place of business. Such central place of business must be located within the state of North Dakota. The licensee shall be permitted to use unimproved lots and premises for sales, storage, or display of motorcycles. A nonrefundable fee of fifty dollars will be charged for each inspection and shall accompany each initial application for a motorcycle dealer's license.

Grounds for denial, suspension, cancellation, or revocation of dealer's license. The registrar of motor vehicles may deny an application for a dealer's license or suspend, revoke, or cancel such a license after it has been granted for the following reasons:

1. For any material misstatement by an applicant in the application for the license.
2. For any willful failure to comply with the provisions of this chapter or with any rule adopted by the registrar of motor vehicles.
3. For knowingly permitting any salesperson to sell or exchange, or offer or attempt to sell or exchange any motorcycle except for the licensed motorcycle dealer by whom the salesperson is employed, or to offer, transfer, or assign any sale or exchange that they may have negotiated to any other dealer.
4. For having violated any law relating to the sale, distribution, or financing of motorcycles.
5. For having ceased to have an established place of business as herein defined.

Such cancellation and revocation shall be done in the manner and according to the procedure described in chapter 28-32.

Bond required. The license applicant shall furnish a surety bond executed by a surety company, licensed and qualified to do business within the state of North Dakota, which bond shall run to the state of North Dakota in the amount of ten thousand dollars and be conditioned upon the faithful compliance by said applicant with all the statutes of the state of North Dakota, regulating or being applicable to a dealer in motorcycles, and indemnifying any person having a motorcycle transaction with said dealer from any loss of damage occasioned by the failure of such dealer to comply with any statutory requirement of such transaction. The bond shall be filed with the registrar prior to the issuance of a license. The aggregate liability of the surety of all persons shall in no event exceed the amount of the bond. Any third party sustaining injury

within the terms of the bond may proceed against the principal and surety without making the state a party of any such proceedings.

Disposition of fees. Fees from registration of dealers shall be deposited with the state treasurer and credited to the highway tax distribution fund.

Dealer permitting license to be used by another dealer - License revoked - Penalty. Any dealer who permits any other dealer to use their dealer's license, or permits the use of such license for the benefit of any other dealer, shall have their dealer's license revoked and shall be guilty of an infraction.

Dealers to furnish information to registrar. All dealers engaged in the sale of motorcycles in this state shall furnish the registrar with such information as to models, specifications, selling prices, and such other data requested by the registrar as may be necessary in carrying out the provisions of this chapter.

Powers of the registrar of motor vehicles. In addition to other powers provided by law, the registrar of motor vehicles shall have the following powers and duties which shall be exercised in conformity with this chapter:

1. To cancel, revoke, or suspend a dealer's license as provided for in this chapter.
2. To prescribe rules not inconsistent with this chapter governing the application for dealer's licenses and the cancellation or suspension or revocation of dealer's license.
3. To employ and pay such persons as he may deem necessary to inspect dealers in this state, investigate dealers for the information of the registrar of motor vehicles, to procure evidence in connection with any prosecution or other action to suspend, revoke, or cancel a dealer's license in relation to any matter in which the registrar of motor vehicles has any duty to perform.

Examination of books and records. The registrar of motor vehicles or his duly authorized representative may inspect the books, letters, records, and contracts of any licensed motorcycle dealer relating to any specific complaint made against such dealer and held to be in violation of any of the provisions of title 39.

Officers to administer the provisions of chapter. The registrar and his appointees shall be responsible for the administration of the provisions of this chapter.

Penalty for violation of provisions of chapter. Any person violating any of the provisions of this chapter for which another penalty is not specifically provided is guilty of a class B misdemeanor.

SECTION 2. REPEAL. Section 39-22-03 of the North Dakota Century Code is hereby repealed.

Approved March 15, 1983

CHAPTER 452

SENATE BILL NO. 2208
(Committee on Transportation)
(At the request of the Motor Vehicle Department)

VEHICLE EQUIPMENT SAFETY COMPACT

AN ACT to repeal chapter 39-23 of the North Dakota Century Code, relating to the vehicle equipment safety compact.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL. Chapter 39-23 of the North Dakota Century Code is hereby repealed.

Approved March 4, 1983

CHAPTER 453

HOUSE BILL NO. 1183
(Committee on Transportation)
(At the request of the Parks and Recreation Department)

OPERATION AND ENFORCEMENT OF SNOWMOBILE LAWS

AN ACT to amend and reenact sections 39-24-09.1, 39-24-10, and 39-24-11 of the North Dakota Century Code, relating to the operation and enforcement of snowmobile laws; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-24-09.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-24-09.1. Operation by persons under age sixteen. Except as otherwise provided in this section, it shall be unlawful for any person twelve years of age and over who has not reached sixteen years of age and who is not in possession of a valid driver's license or permit to operate a snowmobile, except upon the lands of the person's parent or guardian, unless and until the person has completed a snowmobile safety training course as prescribed by the director pursuant to chapter 28-32 and has received the appropriate snowmobile safety certificate issued by the commissioner, and unless the person is accompanied by a parent or guardian person holding a valid driver's license. The failure of an operator to exhibit a snowmobile safety certificate upon demand to any official authorized to enforce the provisions of this chapter shall be presumptive evidence that such person is not the holder of such certificate.

SECTION 2. AMENDMENT. Section 39-24-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-24-10. Enforcement. Highway patrolmen of this state, county sheriffs, and city police officers, Peace officers of this state and their respective duly authorized representatives are hereby authorized to enforce the provisions of this chapter.

SECTION 3. AMENDMENT. Section 39-24-11 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-24-11. Penalties. Any person who violates subdivision b or subdivision c of subsection 5 of section 39-24-09 shall be guilty of a class B misdemeanor. Any person who violates any other provision of section 39-24-09 shall be assessed a fee of twenty dollars. Any person, unless specifically exempted, who fails to register as required by section 39-24-02 shall be assessed a fee of ~~thirteen~~ twenty-five dollars. Any person who violates any other provision of this chapter for which a specific penalty is not provided shall be assessed a fee of ten dollars.

Approved March 3, 1983