

MOTOR VEHICLES

CHAPTER 394

HOUSE BILL NO. 1167

(Committee on Transportation)

(At the request of the Department of Transportation)

DRIVING RECORDS AND LICENSE PLATES

AN ACT to amend and reenact sections 39-01-02, 39-06-21, 39-06-22, 39-06-32, subsections 1 and 2 of section 39-06-33, and subsection 3 of section 39-08-01 of the North Dakota Century Code, relating to the display of official number plates and window decals on state vehicles, the filing of application records for drivers' licenses and related actions, the maintenance of driving records of licensees and the deletion of record retention requirements, the authority to suspend operator licenses and to provide an effective date for such suspensions, and to have number plates impounded by courts returned to the director; and to require a legislative council study of vehicles used by the board of higher education and institutions under its jurisdiction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 39-01-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-01-02. Motor vehicles owned or leased by the state to display name on side of vehicles - Exceptions - Penalty. All motor vehicles owned and operated by the state, except vehicles under the control of the central vehicle management system and the official vehicle for use by the governor, must have displayed on each front door the 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 those words there must be printed in letters one and one-half inches [3.81 centimeters] in height the name of the state agency owning or leasing the motor vehicle. The width of the display required by this section must be proportionate to the required height. The color of the lettering must be in clear and sharp contrast to the background. ~~The state highway patrol and all peace officers of this state shall enforce this section. The state auditor, in the course of spot checking or verifying the inventory of any state agency, shall include in the auditor's report to the governor and the legislative assembly any instance of noncompliance with this section that comes to the auditor's attention. The above requirements do not apply to vehicles operated by the attorney general's office, the bureau of criminal investigation, or the highway patrol; vehicles used for drivers education at state institutions; vehicles used principally in juvenile, parole, and placement service; selected cars or vehicles of the state penitentiary approved by the director of institutions; vehicles owned and operated by any entity located upon the international boundary line between the United States of America and Canada used and maintained as a memorial to commemorate the long-existing relationship of peace and good will between the people and the governments of the United States of America and Canada and to further international peace among the nations of the world; or to any truck owned by any state agency. A passenger~~

* NOTE: Section 39-01-02 was also amended by section 18 of Senate Bill No. 2001, chapter 28, and by section 12 of Senate Bill No. 2245, chapter 592.

motor vehicle bearing official plates must be in compliance with this section. The administrator of any state agency who uses or authorizes the use of a motor vehicle which is not marked as required by this section is guilty of a class B misdemeanor. The central vehicle management system vehicles must display a window decal designed by the director. The state highway patrol and all peace officers of this state shall enforce this section.

SECTION 2. AMENDMENT. Section 39-06-21 of the North Dakota Century Code is amended and reenacted as follows:

39-06-21. Filing application records. The commissioner director shall file every application for a license and shall maintain individual records of convictions and adjudications of traffic offenses, suspensions, revocations, cancellations, restrictions, and traffic accidents in which they have been involved. The commissioner may destroy such records provided the required information has been microfilmed each application for a license received and shall maintain suitable indexes containing:

1. All applications denied and on each such application note the reason for the denial;
2. All applications granted; and
3. The name of every licensee whose license has been suspended, revoked, canceled, or restricted by the department and after each such name state the reasons for such actions.

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

39-06-22. Driving records of licensees. The commissioner director shall also file all accident reports and, abstracts of court records of convictions received by him the director under the laws of this state and in connection therewith maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions of such licensee and the traffic accidents in which he has been involved shall be readily ascertainable and available for the consideration of the commissioner director upon any application for renewal of license and at other suitable times. Such accident reports may be destroyed after six years and abstracts of court records may be destroyed after four years; provided the required information has been transferred to microfilm.

* SECTION 4. AMENDMENT. Section 39-06-32 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-06-32. Authority to suspend licenses. The commissioner director may suspend the license of an operator, after hearing, upon proof by a fair preponderance of the evidence, that any of the following apply to the licensee:

1. Commission of an offense for which mandatory revocation of license is required upon conviction.
2. Incompetence to drive a motor vehicle.
3. Unlawful or fraudulent use of an operator's license.

* NOTE: Section 39-06-32 was also amended by section 1 of House Bill No. 1446, chapter 412.

4. Refusal to submit to an implied consent chemical alcohol test in another state. For purposes of this subsection the specific requirements for establishing a refusal used in the other state may not be considered, and photostatic copies of the records of the other state's drivers licensing authority are sufficient evidence of the refusal whether or not those copies are certified. The suspension must be for the same length of time as the revocation in section 39-20-04. If the refusal arose out of an arrest or stop of a person while operating a commercial motor vehicle, the period of suspension must be the same as the period of revocation provided in section 39-20-04.
5. Failure, as shown by the certificate of the court, to pay a fine or serve any other sentence as ordered by a court upon conviction for any criminal traffic offense.
6. Failure, as shown by the certificate of the court, to appear in court or post and forfeit bond after signing a promise to appear, in violation of section 39-06.1-04, or willful violation of a written promise to appear in court, in violation of section 39-07-08.
7. An administrative decision in another state that the licensee's privilege to drive in that state is suspended or revoked because of a violation of that state's law forbidding motor vehicle operation with an alcohol concentration of at least ten one-hundredths of one percent by weight. The specific requirements for establishing the violation in the other state may not be considered and certified copies of the records of the other state's drivers licensing authority are sufficient evidence of the violation. The suspension must be for the same duration as the suspension in section 39-20-04.1.
8. Conviction of an offense under this title and it appears from the ~~commissioner's~~ director's records that the offense contributed to causing an accident which resulted in death or serious personal injury or serious property damage. No suspension may be imposed if the person has been sanctioned for the same offense under section 39-06-31.

An order of suspension issued under this section is effective twenty days after the date of mailing of the notice of opportunity for hearing.

SECTION 5. AMENDMENT. Subsections 1 and 2 of section 39-06-33 of the North Dakota Century Code are amended and reenacted as follows:

1. In matters of driver's license suspension or revocation arising under ~~chapter 39-06, section sections 39-06-32 and 39-06.1-10, and chapter chapters 39-16 and 39-16.1~~, the ~~commissioner~~ director shall ~~first~~ give notice of intention to suspend to the licensee by mailing the notice to the licensee at the address of record in the department under section 39-06-20. Actual notice of the opportunity for a hearing under this section must be deemed to have occurred ~~forty eight~~ ~~seventy-two~~ hours after the notice is mailed by regular mail. The licensee has ten days after the date of mailing of the notice to request, in writing, a hearing on the intended suspension or revocation.

2. Any hearing conducted under this section and any appeal from the decision of the hearing must be conducted under ~~chapter 20-32~~ rules adopted by the director, except the hearing must be heard within sixty days of the receipt of the request for hearing and in the county of the licensee's residence, unless the parties agree to a different time and place for the hearing. At the hearing, the regularly kept records of the ~~commissioner~~ director may be introduced and are prima facie evidence of their content without further foundation.

SECTION 6. AMENDMENT. Subsection 3 of section 39-08-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. 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 or revocation 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 director must be sent to the director who must retain them for the period of suspension or revocation, subject to their disposition by the court.

SECTION 7. LEGISLATIVE COUNCIL STUDY OF VEHICLES USED BY THE BOARD OF HIGHER EDUCATION AND INSTITUTIONS UNDER ITS JURISDICTION. The legislative council shall study the feasibility and desirability of requiring vehicles used by the board of higher education and institutions under its jurisdiction to be under the control of the central vehicle management system. The legislative council shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the fifty-third legislative assembly.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 395

HOUSE BILL NO. 1433
(Representatives Oban, Price, Kolbo)
(Senators Schoenwald, Tennefos)

MOBILITY-IMPAIRED PARKING CERTIFICATES

AN ACT to amend and reenact subsections 4, 5, 9, and 10 of section 39-01-15 of the North Dakota Century Code, relating to parking privileges for mobility-impaired persons; to provide for a study on the issuance of mobility-impaired certificates; to provide a penalty; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsections 4, 5, 9, and 10 of section 39-01-15 of the 1989 Supplement to the North Dakota Century Code are amended and reenacted as follows:

4. The director may issue, for a fee of three dollars per year or part of a year, a special identifying certificate to any mobility-impaired applicant upon submission by the applicant of a completed application and a written statement issued by a qualified physician to the director that the applicant is a mobility-impaired person within the criteria of subsection 2. The application must include the information required by the director. The physician's statement must describe how the impairment limits the applicant's mobility and daily life functions of the applicant. The certificate is valid for a period, not to exceed three years, as determined by the director. A physician who provides a false statement that a person is mobility impaired for the purpose of that person obtaining a certificate under this subsection is guilty of an infraction for which a minimum fine of one hundred dollars must be imposed. A certificate issued under this subsection must be at least five and one-half inches [13.97 centimeters] in height and eight and one-half inches [21.59 centimeters] in width and must bear, in blue on white, the internationally accepted symbol of access for the mobility impaired. The certificate must bear the expiration date and registration number assigned by the director. The director shall adopt rules governing the issuance of the certificate. A temporary certificate, valid for an initial period not to exceed three months, may be issued by the director for a fee of three dollars upon application supported by a physician's statement. The temporary certificate may be extended an additional period, not to exceed three months, upon application supported by a physician's statement that the extension is warranted. The director shall determine the form and size of the temporary certificate. The director may issue a maximum of two additional certificates, for a fee of six dollars per certificate, to a mobility-impaired person to whom a certificate has been issued

* NOTE: Subsections 9 and 10 of section 39-01-15 were also amended by section 1 of House Bill No. 1184, chapter 396.

under this subsection. The additional certificates may only be used by or on behalf of the mobility-impaired person.

5. ~~Two~~ Except as provided in this subsection, two dollars of each fee for issuance of a certificate and one dollar of each fee for issuance of an additional certificate under this section must be deposited in the state highway department fund for purposes of defraying the cost of issuing the certificate. The rest of the fee, and the five-dollar fee received for the issuance of an additional certificate under subsection 4, must be deposited in the state treasury and credited to the employment of people with disabilities fund. The fees deposited in the fund are hereby appropriated on a continuing basis to the committee on employment of people with disabilities of the governor's council on human resources for development of job opportunities for disabled individuals in this state. If a certificate is lost, mutilated, or destroyed, the person to whom the certificate was issued is entitled to a replacement. The person shall furnish proof satisfactory to the director that the certificate has been lost, mutilated, or destroyed, and shall pay a replacement fee of three dollars.

9. Whenever any public or private agency or authority designates parking spaces for use by motor vehicles operated by mobility-impaired persons, those reserved spaces ~~shall~~ must comply with the requirements of American National Standards A117.1-1986 and must be indicated by blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space. In addition to blue paint, the spaces reserved must also be indicated by official signs approved by the director bearing the internationally accepted symbol of access for the mobility impaired which indicate, through the use of arrows, the total width of the reserved area. The sign must indicate that unauthorized use of the space is an infraction for which a fine of one hundred dollars must be imposed. For particular events, a public or a private agency may reserve additional parking spaces for use by motor vehicles operated by mobility-impaired persons. In that case, the temporarily reserved spaces must be indicated by signs or other suitable means. A sign indicating that a space is reserved for the mobility impaired and blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space, unless the space is a temporary mobility-impaired parking space, is sufficient basis for the enforcement of this section. A law enforcement officer ~~may~~ shall enforce this section in any parking lot or parking facility, whether publicly or privately owned.

10. A person may not stop, stand, or park any vehicle in any designated parking space that is reserved for the mobility impaired unless the vehicle displays a mobility-impaired identification certificate issued by the director to a mobility-impaired person. A mobility-impaired person may not permit the use of a certificate issued under this section by a person who is not mobility impaired when that use is not in connection with the transport of the mobility-impaired person. A vehicle may temporarily use a space reserved for mobility-impaired persons without a mobility-impaired certificate for the purpose of loading and unloading mobility-impaired persons. A violation of this subsection is ~~an~~

infraction a nonmoving violation for which a fine fee of one hundred dollars must be imposed. Notwithstanding section 29-27-02.1, fifty percent of the fee imposed and collected under this subsection is appropriated on a continuing basis to the local committee on persons with disabilities, if one exists in the city in which the violation occurred, for the development of job opportunities for disabled individuals in the community.

SECTION 2. STUDY OF ISSUANCE OF MOBILITY-IMPAIRED CERTIFICATES. The department of transportation and the committee on employment of people with disabilities of the governor's council on human resources shall conduct a study to determine the feasibility and desirability of providing for the issuance of identifying certificates to mobility-impaired persons for parking privilege purposes by the committee rather than by the department. The department and the committee shall report their findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-third legislative assembly.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 396

HOUSE BILL NO. 1184
(Representatives Rydell, Oban)
(Senator Stenehjem)

MOBILITY-IMPAIRED PARKING

AN ACT to amend and reenact subsections 9 and 10 of section 39-01-15 of the North Dakota Century Code, relating to parking privileges for the mobility impaired; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsections 9 and 10 of section 39-01-15 of the 1989 Supplement to the North Dakota Century Code are amended and reenacted as follows:

9. Whenever any public or private ~~agency or authority~~ entity designates parking spaces for use by motor vehicles operated by mobility-impaired persons, those reserved spaces ~~shall~~ must be indicated by blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space. In addition to blue paint, ~~the spaces~~ each reserved space must ~~also~~ be indicated by ~~an official~~ signs sign approved by the director bearing the internationally accepted symbol of access for the mobility impaired ~~which indicate, through the use of arrows, the total width of the reserved area.~~ The sign must indicate that unauthorized use of the space is ~~an infraction~~ a nonmoving violation for which a fine fee of one hundred dollars must be imposed. For particular events, a public or a private ~~agency~~ entity may reserve additional parking spaces for use by motor vehicles operated by mobility-impaired persons. In that case, ~~the each~~ temporarily reserved spaces space must be indicated by ~~signs~~ a sign or other suitable means. A sign indicating that a space is reserved for the mobility impaired and blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space, unless the space is a temporary mobility-impaired parking space, is sufficient basis for the enforcement of this section. A law enforcement officer may enforce this section in any parking lot or parking facility, whether publicly or privately owned.
10. A person may not stop, stand, or park any vehicle in any designated parking space that is reserved for the mobility impaired unless the vehicle displays a mobility-impaired identification certificate issued by the director to a mobility-impaired person. A mobility-impaired person may not permit the use of a certificate issued under this section by a person who is not mobility impaired when that use is not in connection with the transport of the mobility-impaired person. The registered owner of a vehicle may not allow that vehicle to be used in a manner that violates this subsection. Proof of intent is not required to prove a registered

* NOTE: Subsections 9 and 10 of section 39-01-15 were also amended by section 1 of House Bill No. 1433, chapter 395.

owner's violation of this subsection. The registered owner, however, may be excused from a violation if the owner provides the citing authority with the name and address of the person operating the vehicle at the time of the violation. A vehicle may temporarily use a space reserved for mobility-impaired persons without a mobility-impaired certificate for the purpose of loading and unloading mobility-impaired persons. A violation of this subsection is an infraction a nonmoving violation for which a fine fee of one hundred dollars must be imposed.

Approved March 8, 1991
Filed March 8, 1991

CHAPTER 397

HOUSE BILL NO. 1132
(Committee on Transportation)
(At the request of the Department of Transportation)

DRIVERS' RECORDS FEES

AN ACT to amend and reenact section 39-02-05 of the North Dakota Century Code, relating to the fee for furnishing copies of records of the department of transportation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-02-05 of the North Dakota Century Code is amended and reenacted as follows:

39-02-05. Records of the department open to public inspection. All registration and license records in the office of the department must be public records and must be open to inspection by the public during business hours. The ~~registrar of motor vehicles~~ director shall charge a uniform fee, not to exceed ~~one dollar~~ three dollars, for each item of information furnished to any person concerning a specific motor vehicle. However, such charges may not be assessed to a person requesting information concerning a motor vehicle of which he is the owner, nor may such charges apply to law enforcement officials requesting motor vehicle information in their official capacity. All fees received under the provisions of this section must be credited to the motor vehicle registration fund.

Approved April 10, 1991
Filed April 10, 1991

CHAPTER 398

HOUSE BILL NO. 1224
(Gerntholz)**HIGHWAY PATROLMAN AGE REQUIREMENTS**

AN ACT to amend and reenact section 39-03-04 of the North Dakota Century Code, relating to qualifications of appointees to the highway patrol.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

39-03-04. Qualifications of patrolmen - Veterans have preference. No person may be appointed as a patrolman unless ~~he~~ the person 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. 2. Is of good moral character and temperate habits.
4. 3. Has been a citizen of the United States for not less than two years prior to ~~his~~ the appointment.

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

Approved March 19, 1991
Filed March 19, 1991

CHAPTER 399

HOUSE BILL NO. 1121
(Committee on Transportation)
(At the request of the Highway Patrol)

HIGHWAY PATROL SECURITY POWERS

AN ACT to create and enact two new subsections to section 39-03-09 of the North Dakota Century Code, relating to the powers and duties of the state highway patrol; and to amend and reenact subsection 11 of section 39-03-09 of the North Dakota Century Code, relating to the powers and duties of the state highway patrol.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 11 of section 39-03-09 of the North Dakota Century Code is amended and reenacted as follows:

11. ~~Of a peace officer for the purpose of enforcing the provisions of this code at all state charitable and penal institutions and on the state capitol grounds. To exercise general police powers over all violations of law committed on state property.~~

SECTION 2. Two new subsections to section 39-03-09 of the North Dakota Century Code are created and enacted as follows:

To provide security and protection for the governor, the governor's immediate family, and other officers next in order of succession to the office of governor to the extent and in a manner the governor and the superintendent deem adequate and appropriate.

To provide security and protection for both houses of the legislative assembly while in session as in the opinion of the speaker of the house, the president of the senate, and the superintendent are deemed adequate and appropriate.

Approved March 8, 1991
Filed March 8, 1991

CHAPTER 400

HOUSE BILL NO. 1187
(Committee on State and Federal Government)
(At the request of the Public Employees Retirement System)

HIGHWAY PATROLMEN'S RETIREMENT BENEFITS

AN ACT to create and enact two new sections to chapter 39-03.1 of the North Dakota Century Code, relating to federal limitations on retirement benefits under the highway patrolmen's retirement system; to amend and reenact section 39-03.1-11 of the North Dakota Century Code, relating to retirement benefits under the highway patrolmen's retirement system; and to provide for application of this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-03.1-11 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-03.1-11. Retirement benefit. Each contributor whose employment with the patrol has been terminated may apply to the board for retirement benefits according to this section and rules adopted by the board consistent with this chapter. The following procedures apply:

1. A contributor is entitled to credit for permanent employment or its equivalent from the date eligibility is attained until normal or postponed retirement date, as described in subsection 3.
2. Retirement benefits are based on the contributor's final average salary. Final average salary is the average of the highest salary received by the contributor for any thirty-six consecutive months employed during the last one hundred twenty months of employment. Months not employed or months in which employment was not as a permanent employee are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the contributor has worked for less than thirty-six months at the postponed retirement date, the final average salary is the average salary for all months of employment.
3. Retirement dates are as follows:
 - a. Early retirement date is the first day of the month next following the month in which the contributor attains the age of fifty years and has completed at least ten years of eligible employment.
 - b. Normal retirement date is ~~the~~ (1) The first day of the month next following the month in which the contributor attains the age of fifty-five years

and has completed at least ten years of eligible employment; or

(2) When the contributor has a combined total of years of service credit and years of age equal to eighty and has not received a retirement benefit under this chapter.

- c. Postponed retirement date is the first day of the month next following the month in which the contributor attains the age of sixty years.
 - d. Disability retirement date is the first day of the month after a contributor becomes permanently and totally disabled, according to medical evidence called for under the rules of the board, and has completed at least one hundred eighty days of employment.
4. The board shall calculate retirement benefits as follows:
- a. Normal retirement benefits for all contributors reaching the normal retirement date are payable monthly, and are:
 - (1) The first twenty-five years of credited service multiplied by two and ~~three-fourths~~ eighty-three hundredths percent of final average salary.
 - (2) All years in excess of twenty-five years of credited service multiplied by one and three-fourths percent of final average salary.
 - (3) All contributors who retired before July 1, ~~1989~~ 1991, are entitled to receive benefits equal to two and ~~three-fourths~~ eighty-three hundredths percent of final average salary multiplied by the first twenty-five years of credited service, plus one and three-fourths percent of final average salary multiplied by credited service in excess of twenty-five years, with the increased benefits payable beginning July 1, 1991.
 - b. Early retirement benefits are normal retirement benefits accrued to the date of termination of employment, but actuarially reduced to account for benefit payments beginning before the normal retirement date.
 - c. Postponed retirement benefits, for all contributors reaching the postponed retirement date, are calculated in the same manner as normal retirement benefits.
 - d. Disability retirement benefits are seventy percent of the contributor's final average salary, reduced by any workers' compensation benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.
5. On termination of employment after completing ten years of eligible employment but before the normal retirement date, a contributor who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits. The deferred benefits

are payable beginning on the contributor's normal retirement date and are one hundred percent of the contributor's normal retirement benefits. The final average salary used for calculating deferred vested retirement benefits must be increased annually, from the later of the date of termination of employment or July 1, 1991, until the date the contributor begins to receive retirement benefits from the fund, at a rate as determined by the board not to exceed a rate that would be approximately equal to annual salary increased provided state employees pursuant to action by the legislative assembly.

6. If before retiring a contributor dies after completing ten years of eligible employment, the board shall pay the contributor's accumulated deductions to any beneficiary designated by the contributor with the written consent of the contributor's spouse, if any. If the contributor has not designated any beneficiary under this section, the surviving spouse of the contributor may select one of the following optional forms of payment:
 - a. A lump sum payment of the contributor's accumulated deductions as of the date of death.
 - b. Payments for sixty months as calculated for the deceased contributor as if the contributor was age fifty-five at the date of death.
 - c. Payment of a monthly retirement benefit equal to fifty percent of the deceased contributor's accrued normal retirement benefits until the spouse dies.
7. If a contributor not eligible for the benefits of subsection 6 terminates employment for any reason before retirement, the contributor or the contributor's designated beneficiary is entitled to the contributor's accumulated deductions at termination.
8. If a contributor who is receiving retirement benefits, or a contributor's surviving spouse who is receiving retirement benefits, dies before the total amount of benefits paid to them equals the amount of the contributor's accumulated deductions at retirement, the difference must be paid to that spouse's estate, to the surviving beneficiary, or to the contributor's estate.
9. The board shall adopt rules providing for the receipt of retirement benefits in the following optional forms:
 - a. ~~Joint~~ A joint and survivor, with fifty percent or one hundred percent options option.
 - b. Life with five-year or ten-year certain options.

Unless a contributor requests that the contributor receive benefits according to one of these options at the time of applying for retirement, all retirement benefits must be in the form of a lifetime monthly pension, with a fifty percent option to the surviving spouse.

SECTION 2. A new section to chapter 39-03.1 of the North Dakota Century Code is created and enacted as follows:

Benefit limitations. Benefits with respect to a patrol member who first became a member of the highway patrolmen's retirement system on or after January 1, 1990, may not exceed the maximum benefits specified under section 415 of the Internal Revenue Code [26 U.S.C. 415] for governmental plans. This section constitutes an election under section 415(b)(10)(C) of the Internal Revenue Code [26 U.S.C. 415(b)(10)(C)] with respect to a patrol member who first became a contributor before January 1, 1990.

SECTION 3. A new section to chapter 39-03.1 of the North Dakota Century Code is created and enacted as follows:

Savings clause - Plan modifications. If the board determines that any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules, subject to the approval of the committee on public employees retirement programs. Any plan modifications made by the board pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

SECTION 4. APPLICATION OF ACT. The change in the definition of final average salary provided in section 1 of this Act applies to retirement benefits payable after June 30, 1991, but does not apply to contributors who retired before July 1, 1991.

Approved April 3, 1991
Filed April 4, 1991

CHAPTER 401

SENATE BILL NO. 2183
(Committee on Transportation)
(At the request of the Department of Transportation)

IFTA VIOLATIONS EFFECT ON REGISTRATION

AN ACT to create and enact a new subsection to section 39-04-05 and a new subsection to section 39-04-06 of the North Dakota Century Code, relating to refusing, rescinding, or suspending vehicle registration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 39-04-05 of the North Dakota Century Code is created and enacted as follows:

When the vehicle is operating in violation of the provisions of the international registration plan or the international fuel tax agreement.

SECTION 2. A new subsection to section 39-04-06 of the North Dakota Century Code is created and enacted as follows:

When the department determines a vehicle is operating in violation of the provisions of the international fuel tax agreement.

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 402

HOUSE BILL NO. 1239
(Gorman)

COLLECTOR VEHICLE PERSONALIZED PLATES

AN ACT to amend and reenact section 39-04-10.3 of the North Dakota Century Code, relating to personalized plates for a collector's motor vehicle.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-10.3 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-04-10.3. Personalized plates. The department may, in its discretion, provide special plates marked with initials, letters, or combinations of numerals and letters at the request of the registrant, upon application therefor and upon payment of an additional fee of twenty-five dollars per registration period. The department shall make the special plates authorized by this section available for motor vehicles registered under section 39-04-10.6 and motorcycles. The fee for the special plates issued under this section for vehicles registered under section 39-04-10.6 is a one-time fee of one hundred dollars. The special plates must contain not more than six letters or a combination of not more than six numerals and letters. In the event of sale or transfer of the vehicle, the special plates may remain with the vehicle or they may be surrendered and, upon application, a regular license plate must be issued without additional cost, or upon payment of the applicable registration fee, the special plates must be transferred to the replacement motor vehicle.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 403

HOUSE BILL NO. 1390
(Representatives Martinson, Gerntholz, Belter)
(Senator Dotzenrod)

NATIONAL GUARD MOTOR VEHICLE PLATES

AN ACT to create and enact a new section to chapter 39-04 of the North Dakota Century Code, relating to issuance of distinctive motor vehicle number plates to national guard members.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

National guard number plates. The director, in cooperation with the adjutant general, shall issue distinctive number plates to members of the national guard. A plate issued under this section must bear the national guard insignia designated by the adjutant general and the letters "NG" before the number. The director may issue the plates to the owner of a passenger motor vehicle or a truck the gross weight of which does not exceed ten thousand pounds [4535.92 kilograms]. On request of the director, the adjutant general shall certify those members of the national guard eligible to receive the plates. On payment of all other fees required under this chapter for registration of the motor vehicle, and payment of an additional fee of not more than five dollars to cover the cost of issuing the distinctive number plates, the applicant is entitled to issuance of the distinctive number plates. A registrant is eligible for distinctive number plates under this section if the registrant is a member of the national guard or if the registrant has retired from the national guard after twenty years or more of military service. On termination of the registrant's eligibility, the registrant shall return the distinctive number plates to the director, who shall reissue for a fee of not more than five dollars another number plate to which that registrant is entitled under this chapter. The registrar and adjutant general shall cooperate in establishing procedures to implement this section.

Approved March 13, 1991
Filed March 13, 1991

CHAPTER 404

HOUSE BILL NO. 1575
 (Representatives Nicholas, R. Anderson, Nowatzki)
 (Senators Tallackson, O'Connell, Vosper)

ETHANOL PRODUCTION INCENTIVES

AN ACT to amend and reenact sections 39-04-19, 57-43.1-02, 57-43.1-03.1, and 57-43.2-02 of the North Dakota Century Code, relating to motor vehicle registration fees, tax reductions for fuels that contain a qualifying blend of alcohol, and reductions of refunds of motor vehicle fuels taxes on fuel used for agricultural purposes; to provide an appropriation; and to provide an effective date and an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-19 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-04-19. Motor vehicle registration fees and mile tax. Motor vehicles required to pay registration fees or a mile tax shall pay the following fees:

1. Nonresidents electing to pay mile tax in lieu of registration, when authorized to do so by the department, shall pay a fee of twenty dollars for a trip permit which is valid for a period of seventy-two hours. All fees collected under the provisions of this subsection must be credited to the highway construction fund.
2. Motor vehicles required to be registered in this state must 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 must be prorated on a monthly basis. The minimum fee charged hereunder must be five dollars:

a. Passenger motor vehicles:

Gross Weights	YEARS REGISTERED			
	1st, 2nd, 3rd, 4th, and 5th Years	6th, 7th, and 8th Years	9th, 10th, and 11th Years	12th and Subsequent Years
	1st, 2nd, 3rd, 4th, 5th, and 6th Years	7th, 8th, and 9th Years	10th, 11th, and 12th Years	13th and Subsequent Years
Less than 3,200	\$ 49.00	\$ 41.00	\$ 33.00	\$ 25.00
3,200-4,499	69.00	57.00	45.00	33.00
4,500-4,999	87.00	70.00	55.00	39.00
5,000-5,999	118.00	96.00	74.00	52.00
6,000-6,999	151.00	122.00	93.00	65.00
7,000-7,999	184.00	148.00	113.00	78.00

8,000-8,999	217.00	175.00	133.00	91.00
9,000 and over	250.00	201.00	153.00	104.00

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 for hire, 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:

YEARS REGISTERED

Gross Weights	1st, 2nd, 3rd, 4th, and 5th Years	6th and 7th Years	8th and 9th Years	10th and Subsequent Years
	1st, 2nd, 3rd, 4th, 5th, and 6th Years	7th and 8th Years	9th and 10th Years	11th and Subsequent Years
not over 4,000	\$47.00	\$34.00	\$29.00	\$26.00
4,001- 6,000	52.00	39.00	33.00	27.00
6,001- 8,000	57.00	44.00	37.00	28.00
8,001-10,000	62.00	49.00	41.00	30.00
10,001-12,000	67.00	54.00	45.00	32.00
12,001-14,000	72.00	59.00	49.00	35.00
14,001-16,000	77.00	64.00	53.00	38.00
16,001-18,000	82.00	69.00	57.00	40.00
18,001-20,000	85.00	72.00	59.00	41.00

YEARS REGISTERED

Gross Weights	1st, 2nd, 3rd, 4th, 5th, and 6th Years	7th, 8th, 9th, 10th, and 11th Years	12th and Subsequent Years
	1st, 2nd, 3rd, 4th, 5th, 6th, and 7th Years	8th, 9th, 10th, 11th, and 12th Years	Subsequent Years
20,001- 22,000	\$ 115.00	\$ 89.00	\$ 76.00
22,001- 26,000	167.00	137.00	121.00
26,001- 30,000	228.00	186.00	164.00
30,001- 34,000	294.00	239.00	211.00
34,001- 38,000	355.00	288.00	254.00
38,001- 42,000	416.00	337.00	296.00
42,001- 46,000	477.00	385.00	339.00
46,001- 50,000	538.00	434.00	382.00
50,001- 54,000	608.00	492.00	433.00
54,001- 58,000	669.00	541.00	476.00
58,001- 62,000	730.00	590.00	519.00
62,001- 66,000	791.00	638.00	562.00
66,001- 70,000	852.00	687.00	604.00
70,001- 74,000	913.00	736.00	647.00
74,001- 78,000	974.00	785.00	690.00
78,001- 82,000	1,035.00	834.00	733.00

82,001- 86,000	1,158.00	939.00	820.00
86,001- 90,000	1,280.00	1,043.00	907.00
90,001- 94,000	1,402.00	1,148.00	994.00
94,001- 98,000	1,524.00	1,253.00	1,082.00
98,001-102,000	1,646.00	1,357.00	1,169.00
102,001-105,500	1,768.00	1,462.00	1,256.00

c. Motorcycles, fifteen dollars.

3. Motor vehicles acquired by disabled veterans under the provisions of Public Law 79-663 [38 U.S.C. 1901] are exempt from the payment of state sales or use tax and, if paid, such veterans are entitled to a refund. This exemption also applies to any passenger motor vehicle or pickup truck not exceeding ten thousand pounds [4535.92 kilograms] gross weight but shall apply to no more than two such motor vehicles owned by a disabled veteran at any one time.
4. Every trailer, semitrailer, and farm trailer required to be registered under this chapter must be furnished registration plates upon the payment of a twenty dollar annual fee. Every trailer, semitrailer, or farm trailer not required to be registered under this chapter must be furnished an identification plate upon the payment of a fee of five dollars.
5. Trucks or combinations of trucks and trailers weighing more than twenty thousand but not more than one hundred five thousand five hundred pounds [more than 9071.84 but not more than 47854.00 kilograms] which are used as farm vehicles only, are entitled to registration under the following fee schedule and the provisions of this subsection. Farm vehicles are considered, for the purpose of this subsection, as trucks or combinations of trucks and trailers weighing more than twenty thousand but not more than one hundred five thousand five hundred pounds [more than 9071.84 but not more than 47854.00 kilograms] owned, or leased for at least one year by a bona fide resident farmer who uses the vehicles exclusively for transporting 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 those farms, nor otherwise for hire. In addition to the penalty provided in section 39-04-41, any person violating this subsection shall license for the entire license period the farm vehicle at the higher commercial vehicle rate in accordance with the weight carried by the farm vehicle at the time of the violation.

YEARS REGISTERED

Gross Weights	1st, 2nd, 3rd, 4th, and 5th Years	6th and 7th Years	8th and 9th Years	10th and Subsequent Years
	1st, 2nd, 3rd, 4th, 5th, and 6th Years	7th and 8th Years	9th and 10th Years	11th and Subsequent Years
20,001- 22,000	\$ 88.00	\$ 74.00	\$ 60.00	\$ 42.00
22,001- 24,000	93.00	78.00	63.00	44.00
24,001- 26,000	101.00	84.00	67.00	46.00
26,001- 28,000	111.00	92.00	73.00	50.00
28,001- 30,000	121.00	100.00	79.00	54.00

30,001- 32,000	136.00	113.00	90.00	63.00
32,001- 34,000	146.00	121.00	96.00	67.00
34,001- 36,000	156.00	129.00	102.00	71.00
36,001- 38,000	166.00	137.00	108.00	75.00
38,001- 40,000	176.00	145.00	114.00	79.00
40,001- 42,000	186.00	153.00	120.00	83.00
42,001- 44,000	196.00	161.00	126.00	87.00
44,001- 46,000	206.00	169.00	132.00	91.00
46,001- 48,000	216.00	177.00	138.00	95.00
48,001- 50,000	226.00	185.00	144.00	99.00
50,001- 52,000	246.00	203.00	160.00	113.00
52,001- 54,000	256.00	211.00	166.00	117.00
54,001- 56,000	266.00	219.00	172.00	121.00
56,001- 58,000	276.00	227.00	178.00	125.00
58,001- 60,000	286.00	235.00	184.00	129.00
60,001- 62,000	296.00	243.00	190.00	133.00
62,001- 64,000	306.00	251.00	196.00	137.00
64,001- 66,000	316.00	259.00	202.00	141.00
66,001- 68,000	326.00	267.00	208.00	145.00
68,001- 70,000	336.00	275.00	214.00	149.00
70,001- 72,000	346.00	283.00	220.00	153.00
72,001- 74,000	356.00	291.00	226.00	157.00
74,001- 76,000	366.00	299.00	232.00	161.00
76,001- 78,000	376.00	307.00	238.00	165.00
78,001- 80,000	386.00	315.00	244.00	169.00
80,001- 82,000	396.00	323.00	250.00	173.00
82,001- 84,000	406.00	345.00	293.00	249.00
84,001- 86,000	426.00	362.00	307.00	261.00
86,001- 88,000	446.00	379.00	321.00	273.00
88,001- 90,000	466.00	396.00	335.00	285.00
90,001- 92,000	486.00	413.00	349.00	297.00
92,001- 94,000	506.00	430.00	363.00	309.00
94,001- 96,000	526.00	447.00	377.00	321.00
96,001- 98,000	546.00	464.00	391.00	333.00
98,001-100,000	566.00	481.00	405.00	345.00
100,001-102,000	586.00	498.00	419.00	357.00
102,001-104,000	606.00	515.00	433.00	369.00
104,001-105,500	626.00	532.00	447.00	381.00

6. A motor vehicle registered in subsection 5 may be used for custom combining operations by displaying identification issued by the department and upon payment of a fee of twenty-five dollars.

SECTION 2. AMENDMENT. Section 57-43.1-02 of the 1990 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-43.1-02. Tax imposed on motor vehicle fuels —Tax reduced for certain alcohol blended fuels.

1. Except as otherwise provided in this section, a tax of seventeen cents per gallon [3.79 liters] is imposed on all motor vehicle fuel sold or used in this state.
2. ~~The tax imposed on gasoline sold which contains a minimum ten percent blend of a qualifying alcohol whose purity is at least ninety-nine percent alcohol is reduced in accordance with this~~

subsection and subsection 3-. An alcohol is a qualifying alcohol if it is methanol produced from coal or if the taxpayer certifies that it is derived from agricultural products produced entirely in the United States. For qualifying alcohols, the tax is:

- a. From July 1, 1985, through June 30, 1987, eight cents per gallon [3.79 liters] less than the tax imposed under subsection 1-
- b. From July 1, 1987, through December 31, 1992, four cents per gallon [3.79 liters] less than the tax imposed under subsection 1-
- c. After December 31, 1992, at the same rate as the tax imposed under subsection 1-

3- The tax reduction allowed on gasoline under this section does not apply to gasoline which contains qualifying alcohol manufactured or distilled outside this state, unless the state where the alcohol is manufactured or distilled provides a specific reduction, exemption, credit, or refund from that state's motor vehicle fuels tax for what would be a qualifying alcohol manufactured or distilled in this state. Qualifying alcohols manufactured or distilled in another state are eligible for the tax reduction allowed by this section, but only to the extent that state's specific reduction, exemption, credit, or refund allowance applies to qualifying alcohol manufactured or distilled in this state. The tax reduction allowed by this subsection qualifying alcohol manufactured or distilled in another state cannot exceed the amount specified in subsection 2-

4- The dealer shall collect the tax imposed by this section from the consumer on all sales.

5- 3. Sales of fuel in the original package may be made to a licensed dealer, and the dealer may collect the tax imposed by this chapter, but on sales in the original package to persons other than licensed dealers, the dealer is liable for the tax.

SECTION 3. AMENDMENT. Section 57-43.1-03.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-43.1-03.1. Refund of tax for fuel used for agricultural purposes - Reduction for agricultural fuel tax fund. Any person who buys or uses any motor vehicle fuel for agricultural purposes, except motor vehicle fuel used in motor vehicles operated or intended to be operated in whole or in part upon any of the public highways of this state on which the motor vehicle fuel tax has been paid, must be reimbursed or repaid within the time provided in this chapter, the amount of the tax paid upon the presentation to and the approval of the commissioner of a claim for refund. The amount of the tax refund provided for in this section must be reduced by ~~two~~ four cents per gallon [3.79 liters] except for those fuels used in aircraft or with respect to refunds claimed by aircraft fuel users, ~~and the~~ two cents per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural fuel tax fund, and two cents per gallon [3.79 liters] withheld from the refund must be retained in the highway tax distribution fund. Those persons who have a valid tax assignment permit issued by the commissioner under section

57-43.1-11 must be charged ~~two~~ four cents per gallon [3.79 liters] by the dealer and the ~~two~~ four cents charged must be remitted to the commissioner by the dealer when the dealer submits the tax assigned invoices for credit.

SECTION 4. AMENDMENT. Section 57-43.2-02 of the 1990 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-43.2-02. Tax imposed - Exemptions.

1. An excise tax of seventeen cents per gallon [3.79 liters] is imposed on the sale or delivery of special fuel to any special fuel user, except that special fuel to be used for heating, agricultural, or railroad purposes or for industrial purposes other than in the performance of a contract with any unit of government is exempt from the tax imposed by this chapter, provided that the sale or delivery of special fuel for use in a motor vehicle is not exempt. For the purpose of determining the tax upon compressed natural gas under this section, one hundred twenty cubic feet [3.40 cubic meters] of compressed natural gas is equal to one gallon [3.79 liters] of other special fuel.
2. The tax on agriculturally derived alcohol if used in a pure state or if blended with another agriculturally derived liquid is:
 - a. Through December 31, 1983, four cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
 - b. From January 1, 1984, through December 31, 1984, five cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
 - c. From January 1, 1985, through December 31, 1985, six cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
 - d. From January 1, 1986, through June 30, 1992, four cents per gallon [3.79 liters] less than the tax imposed under subsection 1.
 - e. After June 30, 1992, at the same rate as the tax imposed under subsection 1.
3. The tax attaches at the time of sale, delivery, or transfer of title of such special fuel to a special fuel user or unlicensed dealer. The special fuel dealer shall collect the tax from the special fuel user and pay the tax to the commissioner as provided in this chapter.
4. ~~3.~~ Except as prohibited by section 57-43.1-09 the tax is refundable when used for nonhighway purposes, and the provisions and procedures of chapter 57-43.1 relating to the refund of motor fuel taxes apply to the tax imposed by this chapter, provided that the amount refunded for any special fuel does not include the amount of tax imposed by section 57-43.2-03 on the sale of that fuel.

SECTION 5. APPROPRIATION - TRANSFER - AUDIT REPORTS. The amount of \$3,650,000, or so much thereof as may be necessary, is hereby appropriated from the highway tax distribution fund to the agricultural products utilization commission for the purpose of providing production incentives to North Dakota ethanol plants during the biennium beginning July 1, 1991, and ending June 30, 1993. It is the intent of the legislative assembly that, of the amount appropriated in this section, \$2,400,000 is added revenue from the amendment in section 1 of this Act and \$1,250,000 is added revenue from the amendment in section 3 of this Act, and that this added revenue is to be used to provide production incentives to North Dakota ethanol plants through June 30, 1993. Distribution from the appropriation in this section to the producers of agriculturally derived fuel must be at the rate of forty cents for each gallon of agriculturally derived fuel produced in the state which is marketed by the producing plant to a distributor or wholesaler for sale within North Dakota. For purposes of this section "gallon of agriculturally derived fuel" means a gallon of fuel that qualifies for the alcohol credit under 26 U.S.C. 40, specifically including fuel to which a denaturant has been added. Payment to the producing plant must be approved by the agricultural products utilization commission upon presentation by the plant of an affidavit to the effect that the ethanol sold from the plant and for which the producers credit is being sought is to be sold at retail to consumers in North Dakota. The affidavit of the producer of the ethanol must be accompanied by an affidavit from the wholesaler or retailer to the same effect. If two or more ethanol production plants are in operation in this state throughout the 1991-93 biennium, a single plant may not receive incentive payments of more than nine hundred fifty thousand dollars for production in either fiscal year of the 1991-93 biennium. However, during any time one of the plants eligible for production incentives is not in operation for thirty or more consecutive days, any other ethanol production plant that is in operation may receive up to one hundred fifty thousand dollars per thirty calendar days in incentive payments for production during such time and the annual incentive payment limitation is waived to the extent of payments received under the authority of this sentence. Within ninety days after the end of each fiscal year of the ethanol plant beginning after December 31, 1990, any North Dakota ethanol plant receiving production incentives from the state shall file with the budget section of the legislative council a statement, certified by a certified public accountant, as to whether or not the plant produced a profit from its operation in the preceding fiscal year, after deducting the payments received from this incentive program.

SECTION 6. EFFECTIVE DATE - EXPIRATION DATE. Section 1 of this Act is effective from July 1, 1991, through June 30, 1995, and is thereafter ineffective. Section 3 of this Act is effective for motor vehicle fuel taxes paid from January 1, 1991, through December 31, 1994, and is thereafter ineffective.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 405

SENATE BILL NO. 2096
(Committee on Transportation)
(At the request of the Department of Transportation)

ABANDONED VEHICLE NUMBER PLATES

AN ACT to amend and reenact subsection 1 of section 39-04-36, section 39-26-05, and subsection 1 of section 39-26-08 of the North Dakota Century Code, relating to the removal of license plates prior to purchase of an abandoned vehicle.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-04-36 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Whenever the owner of a vehicle registered under the provisions of this chapter transfers or assigns his title thereto or interest therein, the registration of the vehicle, together with the number plates originally assigned thereto, must be transferred to the transferee as provided in this chapter. The number plates originally assigned to the vehicle must remain attached thereto until the end of the current registration year except as provided in this chapter or as provided by sections 2 and 3 of this Act.

SECTION 2. AMENDMENT. Section 39-26-05 of the North Dakota Century Code is amended and reenacted as follows:

39-26-05. Conditions under which an abandoned vehicle may be sold immediately. When an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in North Dakota or any other state or foreign country, it is immediately eligible for disposition and must be disposed of to a scrap iron processor licensed under section 39-26-10, and is not subject to the notification, reclamation, or title provisions of this chapter. Any license plate displayed on an abandoned vehicle must be removed and destroyed prior to the purchaser taking possession of the vehicle.

SECTION 3. AMENDMENT. Subsection 1 of section 39-26-08 of the North Dakota Century Code is amended and reenacted as follows:

1. An abandoned motor vehicle not more than seven model years of age taken into custody and not reclaimed under section 39-26-07 must be sold to the highest bidder at public auction or sale, following reasonable published notice thereof. The purchaser must be given a receipt in a form prescribed by the department which shall be sufficient title to dispose of the vehicle. The receipt also entitles the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. The license plates displayed on an abandoned vehicle must be removed and destroyed prior to the purchaser taking possession of the vehicle.

CHAPTER 406

HOUSE BILL NO. 1066
(G. Berg)

VEHICLE REGISTRATION CARD PRESENTATION

AN ACT to amend and reenact section 39-04-55 of the North Dakota Century Code, relating to the possession and presentation of vehicle registration cards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

39-04-55. Registration card to be carried in or on vehicle - Inspection of card - Penalty. The registration card issued for a vehicle must be carried in the driver's compartment of the vehicle or, in the case of a house trailer or mobile home or a trailer or semitrailer, regardless of when such vehicle was acquired, inside or on ~~such the~~ vehicle, at all times while the vehicle is being operated upon a highway in this state. ~~Such~~ The card is subject to inspection by any peace officer or highway ~~patrolman~~ patrol officer. Any person violating ~~any of the provisions of~~ this section must be assessed a fee of twenty dollars, ~~provided that~~. However, a person cited for violation of this section may not be found to have committed ~~a~~ the violation if ~~he shall~~ the person, within forty-eight hours after being cited, ~~produce~~ produces and ~~display~~ displays to ~~a~~ any peace officer or highway ~~patrolman~~ patrol officer, or to the hearing official before whom the person was to appear, a registration card valid at the time the person was cited. A ~~peace officer or highway patrol officer~~, upon citing a person for violating this section, shall inform the person that a violation will be considered as not having occurred if the person produces and displays a valid registration card in the manner provided in this section. A peace officer or highway ~~patrolman~~ patrol officer receiving evidence of the existence of a valid registration card as herein provided shall notify the hearing official of the appropriate jurisdiction of that fact.

Approved March 8, 1991
Filed March 8, 1991

CHAPTER 407

SENATE BILL NO. 2184
(Committee on Transportation)
(At the request of the Department of Transportation)

MOTOR VEHICLE TITLE SIGNATURE

AN ACT to amend and reenact subsection 1 of section 39-05-09 of the North Dakota Century Code, relating to contents of certificate of title to a motor vehicle.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

1. After checking the application for a certificate as provided in section 39-05-08, the department, if it is satisfied that the applicant is the person entitled to the possession of the vehicle, shall issue a certificate of title which must contain:
 - a. The name of the owner.
 - b. The vehicle identification number.
 - c. The signature of the ~~registrar and the seal of the office~~ director.
 - d. The date issued.
 - e. A description of the vehicle as determined by the department.
 - f. A statement of the owner's title and of all liens or encumbrances upon the vehicle therein described and whether possession is held by the owner or lienholder.

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 408

HOUSE BILL NO. 1070
(Representative Dorso)
(Senators Lindgren, Tennesfos)

MOTOR VEHICLE DAMAGE DISCLOSURE

AN ACT to create and enact a new section to chapter 39-05 of the North Dakota Century Code, relating to the adoption of rules by the department of transportation with respect to body damage disclosures on motor vehicle certificates of title; to amend and reenact section 39-05-20.2 of the North Dakota Century Code, relating to the issuance of salvage certificates of title; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-05 of the North Dakota Century Code is created and enacted as follows:

Body damage disclosure - Rules - Penalty. Before January 1, 1992, the department shall adopt rules relating to the manner and form of disclosing motor vehicle body damage on the certificate of title to a motor vehicle. The rules must provide for a damage disclosure statement from the transferor to the transferee at the time ownership of a motor vehicle is transferred and provide that the department must refuse to transfer the title without the required damage disclosure statement. A person who violates rules adopted pursuant to this section is guilty of a class A misdemeanor.

SECTION 2. AMENDMENT. Section 39-05-20.2 of the North Dakota Century Code is amended and reenacted 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 applicant shall include with the application must be accompanied by a certificate of inspection in the form and with the contents specified required by the department, surrender of the salvage certificate of title, and the payment of a five dollar fee. The department shall place on the regular certificate of title and on all subsequent certificates of title issued for the vehicle, a notation that damage disclosure information is available from the department. The department may not issue a new certificate unless the vehicle identification number of the vehicle has been inspected and found to conform to the description given in the application, or unless other proof of the identity of the vehicle has been provided to the satisfaction of the department.

Approved March 19, 1991
Filed March 19, 1991

CHAPTER 409

HOUSE BILL NO. 1459
(Dorso)

SALVAGE AND JUNK VEHICLE TITLE

AN ACT to create and enact a new section to chapter 39-05 of the North Dakota Century Code, relating to the adoption of rules governing the issuance of certificates of title for salvage and junk motor vehicles; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-05 of the North Dakota Century Code is created and enacted as follows:

Titles for salvage and junk motor vehicles - Rules - Penalty. The department may adopt rules defining salvage and junk motor vehicles and governing the manner and circumstances under which certificates of title for such a motor vehicle may be required. The rules must describe the facts and circumstances under which a person must receive from the department a salvage certificate of title or a junk certificate of title for a motor vehicle. A person who violates a rule adopted pursuant to this section is guilty of a class A misdemeanor.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 410

HOUSE BILL NO. 1149
(Committee on Education)

(At the request of the Superintendent of Public Instruction)

STUDENT DRIVER'S TRAINING AGE REQUIREMENT

AN ACT to amend and reenact subsection 2 of section 39-06-05 of the North Dakota Century Code, relating to the age of students enrolled in behind-the-wheel driver's training through high school programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-06-05 of the North Dakota Century Code is amended and reenacted as follows:

2. Any student who is at least fourteen years of age and enrolled in behind-the-wheel driver's training through a high school program approved by the superintendent of public instruction may operate a motor vehicle, under the supervision of a driver training instructor certified by the superintendent of public instruction, without a permit or license to operate a motor vehicle; provided, that the school district sponsoring the driver's training program has an insurance policy covering any damage which may be done by any such student while operating the vehicle, and provided further that proof of coverage is filed with the superintendent of public instruction by the school district's insurance carrier. The insurance coverage must be in the amount required under section 39-16.1-02.

Approved March 8, 1991
Filed March 8, 1991

CHAPTER 411

SENATE BILL NO. 2388
(Marks, O'Connell)

MOTOR VEHICLE OPERATOR'S LICENSE RESTRICTION

AN ACT to amend and reenact subsection 1 of section 39-06-17 of the North Dakota Century Code, relating to authority to impose restrictions on a motor vehicle operator's license.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-06-17 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The commissioner, upon issuing an operator's license or a temporary restricted operator's license pursuant to section 39-06.1-11, has authority ~~whenever good cause appears~~ to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the commissioner may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

Approved March 25, 1991
Filed March 26, 1991

CHAPTER 412

HOUSE BILL NO. 1446
(Representatives Gorder, Skjerven)
(Senator Tallackson)

DRIVERS' LICENSE SUSPENSION EXPUNGEMENT

AN ACT to amend and reenact section 39-06-32 of the North Dakota Century Code, relating to expungement from drivers' records of certain drivers' license suspensions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 39-06-32 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-06-32. Authority to suspend licenses. The commissioner may suspend the license of an operator, after hearing, upon proof by a fair preponderance of the evidence, that any of the following apply to the licensee:

1. Commission of an offense for which mandatory revocation of license is required upon conviction.
2. Incompetence to drive a motor vehicle.
3. Unlawful or fraudulent use of an operator's license.
4. Refusal to submit to an implied consent chemical alcohol test in another state. For purposes of this subsection the specific requirements for establishing a refusal used in the other state may not be considered, and photostatic copies of the records of the other state's drivers licensing authority are sufficient evidence of the refusal whether or not those copies are certified. The suspension must be for the same length of time as the revocation in section 39-20-04. If the refusal arose out of an arrest or stop of a person while operating a commercial motor vehicle, the period of suspension must be the same as the period of revocation provided in section 39-20-04.
5. Failure, as shown by the certificate of the court, to pay a fine or serve any other sentence as ordered by a court upon conviction for any criminal traffic offense.
6. Failure, as shown by the certificate of the court, to appear in court or post and forfeit bond after signing a promise to appear, in violation of section 39-06.1-04, or willful violation of a written promise to appear in court, in violation of section 39-07-08. Upon resolution by the operator of the underlying cause for a suspension under this subsection, as shown by the certificate of the court, the commissioner shall record the suspension

* NOTE: Section 39-06-32 was also amended by section 4 of House Bill No. 1167, chapter 394.

separately on the driving record. This separate record is not available to the public.

7. An administrative decision in another state that the licensee's privilege to drive in that state is suspended or revoked because of a violation of that state's law forbidding motor vehicle operation with an alcohol concentration of at least ten one-hundredths of one percent by weight. The specific requirements for establishing the violation in the other state may not be considered and certified copies of the records of the other state's drivers licensing authority are sufficient evidence of the violation. The suspension must be for the same duration as the suspension in section 39-20-04.1.
8. Conviction of an offense under this title and it appears from the commissioner's records that the offense contributed to causing an accident which resulted in death or serious personal injury or serious property damage. No suspension may be imposed if the person has been sanctioned for the same offense under section 39-06-31.

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 413

HOUSE BILL NO. 1134
(Committee on Transportation)
(At the request of the Highway Patrol)

MOTOR VEHICLE SUSPENSIONS, INSURANCE, AND ABSTRACTS

AN ACT to amend and reenact subsection 1 of section 39-06-42, sections 39-08-20 and 39-16-03 of the North Dakota Century Code, relating to suspension of driving privileges, the owner's responsibility for liability insurance, and the fee requirement for copies of operating record abstracts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-06-42 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in chapters 39-16 and 39-16.1 and section 39-06.1-11, any person who drives a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state while that person's license or privilege so to do is suspended or revoked in any jurisdiction is guilty of a class B misdemeanor.

SECTION 2. AMENDMENT. Section 39-08-20 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-08-20. Driving without liability insurance prohibited - Penalty. A person may not drive, or the owner may not cause or knowingly permit to be driven, a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by chapter 39-16.1. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law or during the investigation of an accident, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence of the policy required under this section. If unable to comply with the request, that person may not be charged with a violation of this section if that person submits such evidence to the officer or the officer's agency within twenty days of the date of the request. Violation of this section is a class B misdemeanor and the sentence imposed must include a fine of at least one hundred fifty dollars.

SECTION 3. AMENDMENT. Section 39-16-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-16-03. Abstract - 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 must include the convictions, adjudications, and admissions of commission of traffic offenses of any driver and suspensions, revocations, and restrictions of a person's driving privileges. Any person, except law enforcement or judicial officers functioning in their official capacity, requesting the abstract shall indicate in writing the reason for the request and shall identify the person or firm for whom or which the request is made and the intended recipient of the abstract.

Copies of abstracts are not admissible as evidence in any civil or criminal trial arising out of a motor vehicle accident.

A fee of three dollars must be paid for each abstract of any operating record, except no fee will be assessed to law enforcement agencies. The commissioner shall send an additional copy of the abstract to the driver whose abstract was requested, accompanied by a statement identifying the person making the request, identifying the person or firm for whom or which the request is made, identifying the intended recipient of the abstract, and providing the reason for the request. No abstract or statement may be sent to a driver where the request for 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 8, 1991
Filed March 8, 1991

CHAPTER 414

SENATE BILL NO. 2213
 (Committee on Transportation)
 (At the request of the Department of Transportation)

OPERATOR'S LICENSE SUSPENSION PERIODS

AN ACT to create and enact a new subsection to section 39-06.1-10 of the North Dakota Century Code, relating to the suspension of operators' licenses; to amend and reenact section 39-06-43 and subsection 5 of section 39-06.1-10 of the North Dakota Century Code, relating to the extension of an operator's license suspension or revocation and the constructive delivery of a notice of suspension of a person's driving privilege; and to repeal paragraphs 5, 6, and 7 of subdivision b of subsection 3 of section 39-06.1-10 of the North Dakota Century Code, relating to the assessments of points for convictions of driving under the influence or being in actual physical control of a motor vehicle while under the influence.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 39-06-43 of the North Dakota Century Code is amended and reenacted as follows:

39-06-43. Extension of license suspension or revocation. The ~~commissioner~~ director 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 must 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 may be no additional period of suspension.~~

1. Like period not to exceed ninety days if the operator's record for the three years preceding the most recent violation of section 39-06-42 or equivalent ordinance shows the person's operator's license or privilege has not been suspended, revoked, or denied for a prior violation of section 39-06-42 or equivalent ordinance;
2. One hundred eighty days if the operator's record for the three years preceding the most recent violation of section 39-06-42 or equivalent ordinance shows the person's operator's license or privilege has been once suspended, revoked, or denied for a prior violation of section 39-06-42 or equivalent ordinance;
3. One year if the operator's record for the three-year period preceding the most recent violation of section 39-06-42 or equivalent ordinance shows the person's operator's license or

* NOTE: Section 39-06-43 was also amended by section 1 of Senate Bill No. 2287, chapter 415.

privilege has been at least twice suspended, revoked, or denied for a prior violation of section 39-06-42 or equivalent ordinance.

If the suspension of driving privileges resulted solely from failure to appear in court or to post and forfeit bond on noncriminal traffic violations, there may be no additional period of suspension. Suspension periods for failure to appear or to post and forfeit bond on noncriminal traffic violations may be for an indefinite duration. If the conviction was upon a charge of driving while a license or driving privileges was revoked, the ~~commissioner~~ director may 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~~ director shall extend the period of the underlying suspension in accordance with subsection 5 of section 39-06-17.

SECTION 2. A new subsection to section 39-06.1-10 of the 1989 Supplement to the North Dakota Century Code is created and enacted as follows:

The period of suspension imposed for a violation of section 39-08-01 or equivalent ordinance is:

- a. Ninety-one days if the operator's record shows the person has not violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation.
- b. Three hundred sixty-four days if the operator's record shows the person has once violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation.
- c. Two years if the operator's record shows the person has at least twice violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation.

SECTION 3. AMENDMENT. Subsection 5 of section 39-06.1-10 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. A suspension must be deemed to have commenced when twenty days after the order of suspension is delivered to the licensee at his address of record in the department. Constructive delivery under this section must be considered as occurring ~~forty-eight~~ seventy-two hours after proper deposit in the mails.

SECTION 4. REPEAL. Paragraphs 5, 6, and 7 of subdivision b of subsection 3 of section 39-06.1-10 of the 1989 Supplement to the North Dakota Century Code are repealed.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 415

SENATE BILL NO. 2287
(Senator Marks)
(Representative DeMers)

OPERATOR LICENSE SUSPENSION EXTENDED

AN ACT to amend and reenact section 39-06-43 of the North Dakota Century Code, relating to extension of license suspension or revocation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 39-06-43 of the North Dakota Century Code is amended and reenacted 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 must 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 the original suspension was imposed for violation of section 39-08-01 or equivalent ordinance, the commissioner shall extend the period of that suspension for at least six months. 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 may 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 may 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.

Approved March 14, 1991
Filed March 15, 1991

* NOTE: Section 39-06-43 was also amended by section 1 of Senate Bill No. 2213, chapter 414.

CHAPTER 416

SENATE BILL NO. 2558
(Schoenwald)

RAILROAD CROSSING STOP VIOLATIONS

AN ACT to amend and reenact subsection 2 of section 39-06.1-06 and subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code, relating to penalty for failure to stop at a railroad crossing.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-06.1-06 of the 1990 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except for a violation of section 39-10-41 or 39-10-42, a fee of fifty dollars.

* SECTION 2. AMENDMENT. Subdivision a of subsection 3 of section 39-06.1-10 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

a. Noncriminal Violations Noncriminal Adjudication or Admission of:	Points Assigned:
(1) Overtime and double parking in violation of city ordinances	0 points
(2) Failure to display license plates	1 point
(3) Permitting unauthorized minor to drive	2 points
(4) Permitting unauthorized person to drive	2 points
(5) Unlawful stopping, standing, or parking on open highway in violation of section 39-10-47	2 points
(6) Unlawful parking in prohibited place	1 point
(7) Leaving motor vehicle	1 point

* NOTE: Subdivision a of subsection 3 of section 39-06.1-10 was also amended by section 1 of Senate Bill No. 2290, chapter 417.

- improperly unattended on
an open highway
- (8) Opening or leaving motor vehicle doors open when unsafe to do so 1 point
- (9) Except as provided in sections 39-21-44 and 39-21-45.1, knowingly drove with defective, nonexistent, or unlawful equipment in violation of subsection 1 of section 39-21-46, or equivalent ordinances 2 points
- (10) Careless driving in violation of section 39-09-01, or equivalent ordinance 6 points
- (11) Repealed by S.L. 1981, ch. 389, § 4
- (12) Violating or exceeding restrictions contained in a restricted certificate issued pursuant to section 39-06.1-03 4 points
- (13) Fleeing in motor vehicle from peace officer in violation of section 39-10-71, or equivalent ordinance 24 points
- (14) Racing or drag racing motor vehicles in violation of section 39-08-03.1, or equivalent ordinance 10 points
- (15) Exhibition driving in violation of section 39-08-03.1, or equivalent ordinance 3 points
- (16) Failing to yield right of way in violation of section 39-10-20, 39-10-22 through 39-10-26, 39-10-28, 39-10-33.3, or 39-10-44, or equivalent ordinances 2 points
- (17) Disobeying an official traffic-control device in violation of section 2 points

- 39-10-04, 39-10-05,
or 39-10-07, or
equivalent ordinances
- (18) Driving on wrong side of road in violation of section 39-10-08, 39-10-14, or 39-10-16, or equivalent ordinances 2 points
- (19) Failing to dim headlights in violation of section 39-21-21, or equivalent ordinance 1 point
- (20) Failing to stop at railroad crossing in violation of section 39-10-41 or 39-10-42, or equivalent ordinances + ~~point~~ 3 points
- (21) Knowingly drove with defective brakes in violation of section 39-21-32, or 39-21-33, or equivalent ordinances 2 points
- (22) Disregarding the lawful commands of a police officer in violation of section 39-10-02, or equivalent ordinance 2 points
- (23) Overtaking where prohibited or in an unsafe manner in violation of section 39-10-11, 39-10-12, 39-10-13, or 39-10-15, or equivalent ordinances 2 points
- (24) Overtaking and passing a schoolbus in violation of section 39-10-46, or equivalent ordinance 6 points
- (25) Repealed by S.L. 1985, ch. 430, § 4
- (26) Operating a motor vehicle without a license in violation of section 39-06-01, or equivalent ordinance 4 points
- (27) Improperly operating or unlawfully carrying passengers or packages on 2 points

- a motorcycle in violation of section 39-10.2-02, or equivalent ordinance
- (28) Improperly operating a motorcycle in laned traffic in violation of section 39-10.2-03, or equivalent ordinance 2 points
- (29) Clinging to other vehicles while riding a motorcycle in violation of section 39-10.2-04, or equivalent ordinance 4 points
- (30) Carrying a passenger on a motorcycle not equipped with passenger footrests in violation of section 39-10.2-05, or equivalent ordinance 2 points
- (31) Operating a motorcycle without protective headgear in violation of subsection 1 of section 39-10.2-06, or equivalent ordinance 2 points
- (32) Failing to use the care required in section 39-09-01.1, or equivalent ordinance 2 points
- (33) Except as provided in paragraphs 34 and 37 of subdivision a of subsection 3 of section 39-06.1-10, operating a motor vehicle in excess of speed limit in violation of section 39-09-02, or equivalent ordinance
- | | |
|------------------------|-----------|
| 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 |
- (34) Within city limits on a noncontrolled access highway, operating a motor vehicle in excess of the 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
(35)	Driving in violation of section 39-08-18	2 points
(36)	Driving in violation of section 39-08-09	6 points
(37)	On a highway on which the speed limit is a speed higher than fifty-five miles [88.51 kilometers] an hour as posted and designated by the commissioner pursuant to subdivision g of subsection 1 of section 39-09-02, operating a motor vehicle in excess of the speed limit in violation of section 39-09-02, or equivalent ordinance	
	Miles per hour over lawful speed limit	Points
	6 - 10	1
	11 - 15	4
	16 - 25	7
	26 - 35	10
	36 +	12

Approved March 25, 1991
 Filed March 26, 1991

CHAPTER 417

SENATE BILL NO. 2290
 (Senators Evanson, Solberg, Streibel)
 (Representatives Ritter, Oban, Carlisle)

FUNERAL PROCESSION TRAFFIC RULES

AN ACT to create and enact a new section to chapter 39-10 of the North Dakota Century Code, relating to traffic regulations governing funeral processions; to amend and reenact paragraph 16 of subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code, relating to point assessments for noncriminal traffic violations; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Paragraph 16 of subdivision a of subsection 3 of section 39-06.1-10 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- | | |
|--|----------|
| (16) Failing to yield right of way in violation of section 39-10-20, 39-10-22 through 39-10-26, 39-10-28, 39-10-33.3, or 39-10-44, or section 2 of this Act, or equivalent ordinances | 2 points |
|--|----------|

SECTION 2. A new section to chapter 39-10 of the North Dakota Century Code is created and enacted as follows:

Funeral processions - Traffic regulations.

1. Notwithstanding any traffic control device, a law enforcement officer leading a funeral procession may proceed through any intersection or make any turns or other movements necessary while leading the procession. The officer, without regard to any traffic control device, may direct other drivers not in the funeral procession to stop, turn, proceed, or make other movements. When leading the funeral procession, the officer shall be in a marked patrol vehicle and the vehicle's lighted headlamps, taillamps, and top- and grill-mounted signal lamps must be displayed at all times during the procession.
2. Notwithstanding any traffic control device or provision governing the right of way, whenever a law enforcement officer leading a funeral procession enters an intersection, the remainder of the vehicles in the funeral procession may follow through the intersection. Each vehicle in the procession, however, must exercise reasonable care toward any other vehicle or pedestrian on the roadway.

* NOTE: Subdivision a of subsection 3 of section 39-06.1-10 was also amended by section 2 of Senate Bill No. 2558, chapter 416.

3. Notwithstanding any traffic control device or provision governing rights of way and subject to the following conditions, vehicles in funeral procession have the right of way.
- a. All vehicles in a funeral procession must display lighted headlamps, taillamps, and flashing emergency lamps.
 - b. All vehicles in a funeral procession must follow the preceding vehicle in the procession as closely as is safe and practicable.
 - c. The driver of a vehicle in a funeral procession shall yield the right of way to an approaching emergency vehicle when directed to do so by a law enforcement officer or when the vehicle is giving an audible or visual signal.
 - d. A vehicle that becomes separated from the funeral procession and the law enforcement escort, so that the procession is no longer continuous, must proceed to its destination in a safe and prudent manner obeying all traffic signals and general rules of the road.
4. Other vehicles shall conform to the following rules:
- a. The driver of a vehicle may not drive between the vehicles comprising a funeral procession while those vehicles are in motion, except when authorized to do so by a law enforcement officer or when such vehicle is an emergency vehicle giving an audible or visible signal.
 - b. The driver of a vehicle not part of a funeral procession may not join a funeral procession for the purpose of securing the right of way granted under subsection 3.
 - c. The driver of a vehicle not in a funeral procession may not pass vehicles in such a procession on a two-lane highway or roadway.
 - d. The driver of a vehicle may pass a funeral procession on its left side on any multiple-lane highway whenever such passing can be done safely, unless the procession is in the farthest left lane, in which case passing is permissible on the right.
 - e. When a funeral procession is proceeding through a red signal as permitted by subsection 3, a vehicle that is not in the procession may not enter the intersection unless it can do so without crossing the path of the funeral procession. If the red signal changes to green while the funeral procession is still within the intersection, a vehicle facing a green signal may proceed, but the funeral procession has the right of way.

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

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 418

SENATE BILL NO. 2539
(Tennefos)

TRAFFIC OFFENSE ALTERNATIVE DISPOSITION

AN ACT to create and enact a new section to chapter 39-06.1 of the North Dakota Century Code, relating to alternative disposition of traffic offenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-06.1 of the North Dakota Century Code is created and enacted as follows:

Alternative disposition - Driver training course - Exceptions. A person issued a summons or notice to appear under section 39-07-07 may appear before the court and elect to attend a driver training course approved by the director in lieu of entry of points on the licensee's driving record. A person who elects to attend the course must so notify the court at the time of posting the bond, which is forfeited even though an election is made under this section. The person who makes the election shall pay the driver training course fee to the driver training course sponsor. When a person elects to attend the course, the point penalty of five points or fewer as provided for the violation by section 39-06.1-10 may not be assessed; provided, that proof of completion of the course is presented to the department within thirty days after the person notifies the court of the election. A person may not make an election under this section if (1) that person has made an election under this section within the twelve months preceding the date of issuance of the summons or notice to appear; (2) the offense is assigned six or more points; or (3) the offense is an offense listed in section 39-06.1-05. A person making an election under this section forfeits any point reduction option under section 39-06.1-13.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 419

SENATE BILL NO. 2083
(Satrom)

TEMPORARY RESTRICTED LICENSES

AN ACT to amend and reenact subsection 2 of section 39-06.1-11 of the North Dakota Century Code, relating to temporary restricted licenses; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-06.1-11 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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~~ has been suspended upon a second or subsequent offense under section 39-08-01 or chapter 39-20, except that a temporary restricted license may be issued for good cause if no offenses have been committed for a period of two years before the date of the filing of a written application accompanied by a report from an addiction facility. The commissioner may conduct a hearing for the purposes of obtaining information, reports, and evaluations from courts, law enforcement, and citizens to determine the offender's conduct and driving behavior for the two-year period. The commissioner may also require that an ignition interlock device be installed in the offender's vehicle. The licensing authority may not issue a temporary restricted license for a period of license revocation or suspension imposed under subsection 5 of section 39-06-17, section 39-06-31, subsection 3.1 of section 39-06.1-10, or section 39-20-04, ~~or imposed for an alcohol-related offense under section 39-06-43.~~ A temporary restricted license may be issued for suspensions ordered under subsection 7 of section 39-06-32 if it could have been issued had the suspension resulted from in-state conduct, but no temporary restricted license may be issued for suspensions ordered under subsection 4 of section 39-06-32.

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

Approved April 11, 1991
Filed April 12, 1991

CHAPTER 420

SENATE BILL NO. 2521
(Krauter, Schoenwald)

DRIVER COURSE CERTIFICATE ISSUANCE

AN ACT to amend and reenact subsection 2 of section 39-06.1-13 of the North Dakota Century Code, relating to certification of successful completion of a driver training course.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-06.1-13 of the North Dakota Century Code is amended and reenacted as follows:

2. The point total shown on a licensee's driving record must, during any twelve-month period, be reduced by three points when the licensee mails or delivers a certificate to the licensing authority indicating successful completion of instruction in a driver training course approved by the licensing authority. Successful completion of instruction must be certified to by the instructor sponsoring agency or organization of the driver training course. The reduction in points authorized by this subsection must only be from a point total accumulated prior to completion of the necessary hours of driver training instruction, and may not exceed nine points during any three-year period commencing on the date of entry of the last points against the person's driving record. If on the date the licensing authority receives the certificate of completion of the driver training course from the licensee, that licensee's driving record contains twelve or more points, the point reduction authorized by this subsection must be applied only after the period of suspension required by the number of points then on the driver's record has been served.

Approved March 25, 1991
Filed March 26, 1991

CHAPTER 421

HOUSE BILL NO. 1492
(Timm, Wald)

COMMERCIAL DRIVER RECORDS

AN ACT to repeal section 39-06.2-13 of the North Dakota Century Code, relating to availability of commercial driver record information; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 39-06.2-13 of the 1989 Supplement to the North Dakota Century Code is repealed.

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

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 422

SENATE BILL NO. 2329
(Senators Maxson, Stenehjem)
(Representatives Snyder, Kretschmar)

TRAFFIC OFFENSE COURT HEARINGS

AN ACT to amend and reenact section 39-07-08 of the North Dakota Century Code, relating to scheduling of court hearings for certain traffic offenders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-07-08 of the North Dakota Century Code is amended and reenacted as follows:

39-07-08. Hearing - Time - Promise of defendant to appear - Failure to appear - Penalty. The time to be specified in the summons or notice provided for in section 39-07-07 must be within ~~ten days~~ thirty-five days after the issuance of the summons or notice ~~unless or earlier if so ordered by the magistrate of the city or county having jurisdiction over the offense or if the person halted demands an earlier hearing, and, if the person halted desires, the person may have the right, at a convenient hour, to an immediate hearing or to a hearing within twenty-four hours. The hearing must be before a magistrate of the city or county in which the offense was committed. If an immediate hearing is demanded, a county judge serving more than one county, may, with the consent of the respective prosecuting attorneys, order the hearing to be held in any of the counties in which the county judge has jurisdiction, rather than in the county where the offense was allegedly committed.~~ Upon the receipt from the person halted of a written promise to appear at the time and place mentioned in the summons or notice, the officer shall release the person from custody. Any person refusing to give a written promise to appear must be taken immediately by the halting officer before the nearest or most accessible magistrate, or to such other place or before such other person as may be provided by a statute or ordinance authorizing the giving of bail. Any person willfully violating the person's written promise to appear is guilty of a class B misdemeanor, regardless of the disposition of the charge upon which the person originally was halted. The time limitations for a hearing as provided by this section do not preclude a recharging of the alleged violation if the person being charged receives a new summons or notice subject to the provisions of this section.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 423

SENATE BILL NO. 2350
(Senators Schoenwald, Holmberg)
(Representatives Belter, Snyder)

INTRASTATE COMMERCIAL DRIVERS' QUALIFICATIONS

AN ACT to create and enact a new section to chapter 39-08 of the North Dakota Century Code, relating to a medical qualifications exemption for intrastate drivers of commercial motor vehicles; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-08 of the North Dakota Century Code is created and enacted as follows:

Medical qualifications exemption for intrastate drivers. Notwithstanding the adoption by the superintendent of the state highway patrol of federal motor carrier safety regulations pursuant to subsection 2 of section 39-21-46, the provisions of 49 CFR Section 391.41(b)(1)-(11) do not apply to a person who:

1. Is otherwise qualified to operate a commercial motor vehicle and who possesses, on the effective date of this Act, a class 1 license issued pursuant to section 39-06-14, as that section existed on June 30, 1989, or a class A license issued pursuant to chapter 39-06.2;
2. Operates a commercial motor vehicle only within the boundaries of this state;
3. Does not operate a motor vehicle used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued pursuant to the Hazardous Materials Transportation Act [49 U.S.C. App. 1801 et seq.]; and
4. Has a medical or physical condition which:
 - a. Would prevent such person from operating a commercial motor vehicle under federal motor carrier safety regulations contained in 49 CFR, Chapter III, subchapter B;
 - b. Existed on the effective date of this Act or at the time of the first required physical examination after that date; and
 - c. An examining physician has determined has not substantially worsened since the effective date of this Act or the time of the first required physical examination after that date.

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

Approved March 25, 1991
Filed March 26, 1991

CHAPTER 424

SENATE BILL NO. 2530
(O. Hanson, Vosper)

RAILROAD CROSSING STOPS

AN ACT to amend and reenact sections 24-09-05 and 39-10-43 of the North Dakota Century Code, relating to exemptions from required stops at railroad grade crossings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-09-05 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

24-09-05. Stop signs may be required. At each grade crossing where, because of the dangers attendant upon its use, the reasonable protection to life and property makes it necessary for all persons approaching the same to stop before crossing the railroad tracks thereat, stop signs shall be installed. The department, after performing an engineering study of the crossing, may designate any crossing requiring such additional protection as a stop crossing, and shall notify the railway company operating the railroad thereat road authority with jurisdiction over the roadway of such designation and of the location where the stop sign is to be installed. Within thirty days after such notification the railway company road authority shall erect uniform stop crossing signs in conspicuous places on separate posts at the designated location on each side of said crossing.

SECTION 2. AMENDMENT. Section 39-10-43 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-10-43. Certain vehicles must stop at all railroad grade crossings.

1. The driver of a bus carrying passengers, or of any schoolbus, or of any vehicle carrying any chlorine, empty or loaded cargo tank vehicles used to transport dangerous articles or any liquid having a flashpoint below two hundred degrees Fahrenheit [93.33 degrees Celsius], cargo tank vehicles transporting a commodity having a temperature above its flashpoint at the time of loading, certain cargo tank vehicles transporting commodities under special permits issued by the hazardous materials regulations board, and every motor vehicle which must have the following placards: "explosives", "poison", "flammable oxidizers", "compressed gas", "corrosives", "flammable gas", "radioactive", or "dangerous", before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet [15.24 meters] but not less than fifteen feet [4.57 meters] from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train and may not proceed until the driver can do so safely. After stopping as required

herein and upon proceeding when it is safe to do so, the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for manually changing gears while traversing such crossing and the driver may not manually shift gears while crossing the track or tracks.

2. No stop need be made at any such crossing at which traffic is controlled by a police officer. For the purposes of this section, a United States marshal must be considered a police officer.
3. No stop need be made at a crossing that the director has designated as an out-of-service crossing and which is clearly marked by signs bearing the words "Tracks out of service" in conspicuous places on each side of the crossing.
4. The designation must be limited to use at crossings where track has been abandoned or its use discontinued.
5. The director shall notify the road authority and any railway company of a crossing under the jurisdiction of that railway company which the director has designated as an out-of-service crossing under this section and the road authority shall erect signs bearing the words "Tracks out of service" in conspicuous places on each side of the crossing. The railway company shall remove the crossbucks.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 425

HOUSE BILL NO. 1076
(Kloubec)

PARKING VIOLATION RESPONSIBILITY

AN ACT to create and enact a new section to chapter 39-10 of the North Dakota Century Code, relating to the responsibility of motor vehicle lessors for parking violations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Parking violations - Lessor responsibility. The registered owner of a motor vehicle stopped, stood, or parked in violation of this chapter or section 39-01-15 or an equivalent ordinance is not responsible for the violation if the owner furnishes an affidavit indicating that the vehicle was at the time of the violation in the care, custody, or control of another person pursuant to a lease or rental agreement. The affidavit must contain the name, address, and operator's license number of the person to whom the vehicle was leased or rented at the time of the violation and must be submitted to the appropriate clerk of court within thirty days of notification to the owner of the violation. The owner is responsible for the violation and the payment of any fees or fines if the affidavit is not submitted within the thirty-day period.

Approved March 8, 1991
Filed March 8, 1991

CHAPTER 426

SENATE BILL NO. 2122
(Committee on Transportation)
(At the request of the Highway Patrol)

OVERSIZE VEHICLE SPECIAL PERMIT

AN ACT to amend and reenact section 39-12-02 of the North Dakota Century Code, relating to obtaining special permits for vehicles of excessive size and weight.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

39-12-02. Special permits for vehicles of excessive size and weight issued - Contents - Fees. The highway patrol and local authorities in their respective jurisdictions, upon application and payment of the appropriate charges and for good cause shown, may issue a special written permit authorizing the applicant to operate or move a vehicle, mobile home or modular unit of a size or weight exceeding the maximum specified by this chapter, upon a highway under the jurisdiction of the body granting the permit. Every 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 must be carried in the vehicle to which it refers and must be opened to inspection by any peace officer or agent of the superintendent of the highway patrol unless prior approval is obtained from the highway patrol. It is a violation of 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 must be single trips only. The highway patrol and local authorities may adopt rules governing the movement of oversize and overweight vehicles.

An appropriate charge must be made for each permit and all funds collected hereunder by the highway patrol must be deposited in the state highway fund and are hereby appropriated for use in the construction and maintenance of highways and operating expenses of the highway department of transportation. For each permit for the movement of a mobile home or modular unit, the fee is ten dollars. Official or publicly owned vehicles may not be required to pay charges for permits. The director of tax equalization of the county of destination must be furnished a copy of the permit for the movement of an overdimensional mobile home.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 427

HOUSE BILL NO. 1567
(Representatives Kerzman, Meyer, Brokaw)
(Senator Krauter)

HAY MOVERS HOURS OF MOVEMENT

AN ACT to amend and reenact subdivision d of subsection 1 of section 39-12-04 of the North Dakota Century Code, relating to commercial movement of haystacks or hay bales during daylight hours on any day of the week.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision d of subsection 1 of section 39-12-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- d. Commercial movement of haystacks or hay bales with vehicles designed specifically for hauling hay, overwidth self-propelled fertilizer spreaders, and overwidth hay grinders, which may be operated on the highway after obtaining a permit issued by the highway patrol. The highway patrol shall issue permits that are valid during daylight hours on any day of the week to any commercial mover otherwise qualified under this subdivision. The permit is in lieu of registration requirements for the permit period. No permit may be issued, unless proof of financial responsibility in a minimum of three hundred thousand dollars is filed and the appropriate permit fee is paid. The permit may also be issued for hauling hay bales with vehicles or vehicle combinations other than those designed specifically for hauling haystacks. This permit, however, will not be in lieu of registration requirements. All permit fees must be deposited in the state highway distribution fund.

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 428

HOUSE BILL NO. 1047
(Legislative Council)
(Interim Jobs Development Commission)

DIRECTIONAL SIGNS

AN ACT to create and enact a new section to chapter 39-13 of the North Dakota Century Code, relating to tourist-oriented directional signs on state highway right of way.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-13 of the North Dakota Century Code is created and enacted as follows:

Tourist-oriented directional signs.

1. In this section:

- a. "Tourist-oriented directional sign" means a sign providing identification of and directional information for tourist-related businesses, services, or activities.
- b. "Tourist-related business, service, or activity" means destination tourism attractions, including recreation, historical sites, festival and cultural events, lodging and food services which are singularly and uniquely related to historical, cultural, or recreational tourist attractions, and guide services, but does not include any business operated under a franchise agreement.

2. Notwithstanding section 24-01-12, the department shall establish by rule standards for the erection and maintenance of tourist-oriented directional signs. The rules must conform to federal standards for tourist-oriented directional signs adopted under 23 U.S.C. 131(q) as of the effective date of this Act and with the manual of uniform traffic-control devices adopted by the department under section 39-13-06 except that the rules must provide that logos may not be used on tourist-oriented directional signs. The rules must require that each sign must be seventy-two inches wide and sixteen inches high. The rules must include all of the following:

- a. Criteria for eligibility for signing.
- b. Criteria for limiting or excluding businesses, services, and activities that maintain signs that do not conform to requirements under 23 U.S.C. 131.

- c. Provisions for fees to cover costs of sign manufacture, erection, and maintenance to be collected through a permit system.
 - d. Provisions specifying sign design and composition.
 - e. Criteria for determining when to permit advance signing.
 - f. Criteria for determining when to permit signing for facilities that are not located on a crossroad of a highway upon which tourist-oriented directional signs are permitted.
 - g. Criteria for signing at at-grade intersections of expressways.
 - h. Provisions specifying conditions under which the time of operation of a business, service, or activity is shown.
 - i. Provisions for covering or removing signs during off seasons for businesses, services, and activities operated on a seasonal basis.
 - j. Provisions specifying the maximum number of signs permitted per intersection.
 - k. Provisions for limiting the number of signs.
3. Upon the request of any person, a local authority that has adopted an ordinance permitting the erection of tourist-oriented directional signs may authorize their erection within the right of way of any highway under the jurisdiction of the local authority except that tourist-oriented directional signs may not be erected within the right of way of the interstate highway system. No tourist-oriented directional sign may be erected unless it is erected in compliance with rules adopted by the department for such signs.
 4. The department shall contract for the erection, installation, and maintenance of tourist-oriented directional signs within the right of way of any highway under the jurisdiction of the department except that tourist-oriented directional signs may not be erected within the right of way of the interstate highway system. No tourist-oriented directional sign may be erected unless it is erected in compliance with rules adopted by the department for such signs.

Approved March 27, 1991
Filed March 28, 1991

CHAPTER 429

HOUSE BILL NO. 1202
(Committee on Judiciary)

(At the request of the Department of Transportation)

ADMINISTRATIVE HEARINGS FOR ALCOHOL OFFENSES

AN ACT to amend and reenact subsection 2 of section 39-20-04 and subsection 1 of section 39-20-05 of the North Dakota Century Code, relating to the time for entering a notice of intent to enter a guilty plea to a driving under the influence charge in lieu of a revocation of driving privileges and the time for scheduling an implied consent administrative hearing.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-20-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. A person's driving privileges are not subject to revocation under this section if all of the following criteria are met:
 - a. No administrative hearing request is made under section 39-20-05;
 - b. The person mails an affidavit to the ~~commissioner~~ director within ~~ten~~ twenty-five days after the temporary operator's permit is issued. The affidavit must state that the person:
 - (1) Intends to voluntarily plead guilty to violating section 39-08-01 or equivalent ordinance within twenty-five days after the temporary operator's permit is issued;
 - (2) Agrees that the person's driving privileges must be suspended as provided under section 39-06.1-10;
 - (3) Acknowledges the right to a section 39-20-05 administrative hearing and section 39-20-06 judicial review and voluntarily and knowingly waives these rights; and
 - (4) Agrees that the person's driving privileges must be revoked as provided under this section without an administrative hearing or judicial review, if the person does not plead guilty within twenty-five days after the temporary operator's permit is issued, or the court does not accept the guilty plea, or the guilty plea is withdrawn.

- c. The person pleads guilty to violating section 39-08-01 or equivalent ordinance within twenty-five days after the temporary operator's permit is issued;
- d. The court accepts the person's guilty plea and a notice of that fact is mailed to the commissioner within twenty-five days after the temporary operator's permit is issued; and
- e. A copy of the final order or judgment of conviction evidencing the acceptance of the person's guilty plea is received by the commissioner prior to the return or reinstatement of the person's driving privileges.

SECTION 2. AMENDMENT. Subsection 1 of section 39-20-05 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Before issuing an order of suspension, revocation, or denial under section 39-20-04 or 39-20-04.1, the ~~commissioner~~ director shall afford that person an opportunity for a hearing if the person mails a request for the hearing to the ~~commissioner~~ director within ten days after the date of issuance of the temporary operator's permit. The hearing must be held within twenty-five days after the date of issuance of the temporary operator's permit, but the hearing officer may extend the hearing to within thirty-five days after the issuance of the temporary operator's permit if good cause is shown to accommodate the efficient scheduling of hearings. Upon a showing of good cause by the operator, or upon learning of the unavailability of the operator, or the operator's attorney, or a witness, the hearing officer may schedule the hearing on a date within forty-five days of the date of the operator's arrest. If the hearing date is extended beyond twenty-five days from the issuance of the temporary operator's permit, the ~~commissioner~~ director shall provide extended temporary operator's privileges to the date of the hearing. If no hearing is requested within the time limits in this section, and no affidavit is submitted within the time limits under subsection 2 of section 39-20-04, the expiration of the temporary operator's permit serves as the ~~commissioner's~~ director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state.

Approved March 7, 1991
Filed March 7, 1991

CHAPTER 430

SENATE BILL NO. 2416
(Senator Stenehjem)
(Representative Price)

RURAL MAIL VEHICLES

AN ACT to amend and reenact section 39-21-18.1 of the North Dakota Century Code, relating to flashing signals on rural mail vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-21-18.1 of the North Dakota Century Code is amended and reenacted as follows:

39-21-18.1. Flashing signals on rural mail vehicle - Standards. Notwithstanding any other provision of law, it is lawful for any vehicle regularly used as a rural mail delivery vehicle to display two simultaneously flashing amber lamps mounted on top of such vehicle while it is being used to deliver mail. ~~Such~~ The light assembly must consist of two lamps mounted on top of ~~such~~ the vehicle with one lamp being as near as is practicable to each side of the vehicle, displaying an amber light not less than four inches [10.16 centimeters] in diameter and visible under normal atmospheric conditions for a distance of at least five hundred feet [152.4 meters] to the front and to the rear of such vehicle. The lamp assembly must include a sign at least seven inches [17.78 centimeters] in height containing the words "U.S. MAIL" in black letters not less than four inches [10.16 centimeters] in height and of not less than three-quarters of an inch [19.05 millimeters] in width of stroke, upon a white background. ~~Such~~ The sign must be constructed so as to permit folding down out of the line of vision when not in use. The lamps must be equipped with a device to cause them to flash on and off, and such lamps must be so wired as to cause both lamps to flash simultaneously. ~~The~~ In lieu of the light assembly permitted by this section, a vehicle may display one revolving amber light placed on top of the vehicle and accompanied by a sign placed on the rear of the vehicle and containing the words "U.S. MAIL." The light and sign must comply with the requirements applicable to the amber lights and sign used with a light assembly permitted by this section. ~~Amber lights must be electrically controlled so that the lights will permitted by this section may only be actuated when the vehicle is brought to a stop~~ operated for the purpose of discharging official duties and must not be in operation except during the actual performance of duty delivering mail.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 431

SENATE BILL NO. 2251
(Satrom)

CHILD RESTRAINTS IN MOTOR VEHICLES

AN ACT to amend and reenact subsection 1 of section 39-21-41.2 of the North Dakota Century Code, relating to the required use of child restraint devices in motor vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

1. If a child, under three years of age, is present in any motor vehicle, that motor vehicle must be equipped with at least one child restraint system for each such child. The child restraint system must meet the standards adopted by the United States department of transportation for those systems [49 CFR 571.213]. While the motor vehicle is in motion, each such child must be properly secured in the child restraint system in accordance with the manufacturer's instructions. While the motor vehicle is moving, each child of three ~~to five~~ through ten years of age who is in the motor vehicle must be in an approved child restraint system or buckled in a seatbelt. Use of child restraint systems and seatbelts is not required in motor vehicles that were not equipped with seatbelts when manufactured. If all of the seatbelts are used by other family members in the vehicle, this section does not apply.

Approved March 11, 1991
Filed March 11, 1991

* NOTE: Section 39-21-41.2 was also amended by section 1 of Senate Bill No. 2557, chapter 432.

CHAPTER 432

SENATE BILL NO. 2557
(Senators O'Connell, Kinnoin, Bowman)
(Representatives Jacobson, Pyle, Porter)

CHILD RESTRAINT DEVICE EXCEPTION

AN ACT to amend and reenact section 39-21-41.2 of the North Dakota Century Code, relating to the required use of child restraint devices in motor vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. If a child, under three years of age, is present in any motor vehicle, that motor vehicle must be equipped with at least one child restraint system for each such child. The child restraint system must meet the standards adopted by the United States department of transportation for those systems [49 CFR 571.213]. While the motor vehicle is in motion, each such child must be properly secured in the child restraint system in accordance with the manufacturer's instructions. While the motor vehicle is moving, each child of three to five years of age who is in the motor vehicle must be in an approved child restraint system or buckled in a seatbelt. Use of child restraint systems and seatbelts is not required in motor vehicles that were not equipped with seatbelts when manufactured. If all of the seatbelts are used by other family members in the vehicle or if a child is being transported in an emergency situation, this section does not apply.
2. Violation of this section is punishable by a fine not to exceed twenty dollars.
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.

Approved April 5, 1991
Filed April 8, 1991

* NOTE: Section 39-21-41.2 was also amended by section 1 of Senate Bill No. 2251, chapter 431.

CHAPTER 433

HOUSE BILL NO. 1284
(Representatives Wald, Skjerven)
(Senators Lips, Graba)

SUNDAY MOTOR VEHICLE SALES

AN ACT to create and enact a new section to chapter 39-22 of the North Dakota Century Code, relating to prohibiting the sale of motor vehicles on Sundays; to provide a penalty; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-22 of the North Dakota Century Code is created and enacted as follows:

Motor vehicle sales prohibited on Sunday - Penalty. A motor vehicle dealer may not sell a motor vehicle on Sunday. A violation of this section is a class B misdemeanor.

SECTION 2. EFFECTIVE DATE. This Act is contingent on the passage of House Bill No. 1046 by the fifty-second legislative assembly. If this Act takes effect it becomes effective immediately.

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

Approved March 26, 1991
Filed March 26, 1991

CHAPTER 434

HOUSE BILL NO. 1114
(Committee on Transportation)
(At the request of the North Dakota Parks and
Recreation Department)

SNOWMOBILE REGISTRATION TIMES

AN ACT to amend and reenact section 39-24-03 of the North Dakota Century Code, relating to registration of snowmobiles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-24-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-24-03. Registration - Application - Issuance - Fees - Renewal. Application for registration must be made to the department in a form as the department shall prescribe and furnish, and must state the name and address of every owner of the snowmobile and be signed by at least one owner. A copy of the application must be carried on the person when operating and shall serve as evidence of registration for a period of not more than thirty days from the date of application.

Upon receipt of the application and the appropriate fee as hereinafter provided, the snowmobile must be registered and a registration number and a certificate of registration assigned. The registration number must be at least one and one-half inches [3.81 centimeters] in height and of a reflectorized material, and must be securely affixed on each side of the forward half of the snowmobile in such position as to provide clear legibility for identification. The certificate of registration must include information regarding the make, year, serial number, and name and address of the owner.

The fee for registration of each snowmobile must be three dollars for a registration period of two years beginning ~~January~~ October first of each ~~even-numbered~~ odd-numbered year effective ~~January 1, 1991~~ October 1, 1991. To implement this Act, on January 1, 1992, the department shall register each snowmobile registered before the effective date of this Act for a one-time period of twenty-one months. The fee for initial registration of each snowmobile registered on and after ~~January~~ January ~~October~~ first of the second year of the two-year registration period must also be three dollars. The fee for a duplicate or replacement registration number or registration card which is lost, mutilated, or becomes illegible may not exceed three dollars. In addition, in each year that fees are collected for the unsatisfied judgment fund there must be assessed a fee of one dollar per year for each snowmobile registered, which must be placed in the unsatisfied judgment fund. For each snowmobile registered under the provisions of this chapter, there must be assessed a snowmobile trail tax in the amount of seventeen dollars.

Every owner of a snowmobile shall renew the registration in a manner as the department shall prescribe, upon payment of the same registration fees provided in this section.

Upon application for registration as prescribed in this section, any snowmobile dealer as defined in section 39-24-01 must be issued registration numbers distinctively marked as dealer's registration numbers upon payment of the appropriate fee as prescribed in this section. The dealer's registration numbers must be used only on snowmobiles owned by the dealership.

Approved March 19, 1991
Filed March 19, 1991

CHAPTER 435

HOUSE BILL NO. 1568
(Representatives Myrdal, Wald)
(Senators O. Hanson, Satrom, Schoenwald)

SNOWMOBILE FUND TRANSFER

AN ACT to amend and reenact section 39-24-05 of the North Dakota Century Code, relating to the disposition of snowmobile registration and trail tax fees, and providing for an annual transfer of highway tax distribution fund moneys to the snowmobile fund; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-24-05 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-24-05. Disposition of registration fees and trail tax - Transfer from highway tax distribution fund. Fees from registration of snowmobiles must be deposited with the state treasurer and credited to the motor vehicle registrar fund. The snowmobile trail tax must be deposited in a state snowmobile fund in the state treasury. Additionally, an amount equal to the tax collected on thirty gallons of motor vehicle fuel multiplied by the number of snowmobiles registered under this chapter must be transferred annually from the highway tax distribution fund, before allocation of the fund under section 54-27-19, and credited to the state snowmobile fund. The state parks and recreation department may, upon appropriation by the legislative assembly, expend from such fund moneys it deems necessary for purposes of administering snowmobile safety programs and administering, establishing, and maintaining snowmobile facilities and programs.

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 1993, and after that date is ineffective.

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 436

HOUSE BILL NO. 1152
(Committee on Transportation)
(At the request of the North Dakota Parks and
Recreation Department)

SNOWMOBILE TRESPASSING

AN ACT to amend and reenact section 39-24-11 of the North Dakota Century Code, relating to penalties for failure to register ownership of snowmobiles and for trespassing with a snowmobile on posted land.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-24-11 of the North Dakota Century Code is amended and reenacted as follows:

39-24-11. Penalties. Any person who violates subdivision b ~~or~~, c, or g of subsection 5 of section 39-24-09 is guilty of a class B misdemeanor. Any person who violates any other provision of section 39-24-09 must be assessed a fee of twenty dollars. Any person, unless specifically exempted, who fails to register as required by section 39-24-02 must be assessed a fee of twenty-five dollars. A person who operates an unregistered snowmobile on land owned, leased, or managed by the parks and recreation department must be assessed a fee of fifty dollars; however, if the person provides proof of registration since the violation, the fee may be reduced by one-half. Any person who violates any other provision of this chapter for which a specific penalty is not provided must be assessed a fee of ten dollars.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 437

HOUSE BILL NO. 1144
(Committee on Transportation)
(At the request of the Superintendent of Public Instruction)

MOTORCYCLE SAFETY ADMINISTRATION

AN ACT to amend and reenact sections 39-28-02 and 39-28-03 of the North Dakota Century Code, relating to transferring responsibility for motorcycle safety courses and reimbursement for the cost of those courses from the superintendent of public instruction to the director of the department of transportation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-28-02 of the North Dakota Century Code is amended and reenacted as follows:

39-28-02. ~~Superintendent of public instruction~~ Director to establish standards for motorcycle safety courses. The ~~superintendent of public instruction~~ director shall establish requirements for instructional standards, course approval, and teacher certification standards for motorcycle safety courses required by this chapter. Motorcycle safety courses may be offered by public schools and by approved organizations which meet instruction, course, and teacher certification requirements. The ~~superintendent~~ director may adopt rules governing the operation of motorcycle safety courses, administer moneys pursuant to this chapter, conduct audits and otherwise examine the records and accounts of approved motorcycle safety courses, and require other information as may be necessary to monitor the quality of motorcycle safety courses.

SECTION 2. AMENDMENT. Section 39-28-03 of the North Dakota Century Code is amended and reenacted as follows:

39-28-03. Reimbursement for motorcycle safety courses. The ~~superintendent~~ director shall reimburse public schools and organizations offering approved motorcycle safety courses for the actual cost of the courses. The amount of reimbursement for each student may not exceed the actual per-pupil cost for the motorcycle safety program.

Approved March 8, 1991
Filed March 8, 1991

CHAPTER 438

HOUSE BILL NO. 1157
(Committee on Transportation)
(At the request of the North Dakota Parks and
Recreation Department)

ALL-TERRAIN VEHICLE TRESPASSING

AN ACT to amend and reenact section 39-29-12 of the North Dakota Century Code, relating to penalties for failure to register ownership of all-terrain vehicles and for trespassing with an all-terrain vehicle on posted land.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-29-12 of the North Dakota Century Code is amended and reenacted as follows:

39-29-12. Penalties. Violation of subdivision b ~~or~~, c, or g of subsection 5 of section 39-29-09 is a class B misdemeanor. Violation of any other provision of section 39-29-09 is an infraction for which a fee of twenty dollars must be assessed. Violation of section 39-29-02 is an infraction, for which a fee of twenty-five dollars must be assessed; however, if the violation occurs on land owned, leased, or managed by the parks and recreation department a fee of fifty dollars must be assessed. If the person provides proof of registration since the violation, the fee may be reduced by one-half. Violation of any other provision of this chapter is an infraction, for which a fee of ten dollars must be assessed.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 439

SENATE BILL NO. 2410
(Stenehjem)

CHOP SHOPS

AN ACT to provide for a model act relating to motor vehicle chop shops and stolen and altered motor vehicles; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. As used in this Act, unless the context or subject matter otherwise requires:

1. "Chop shop" means any building, lot, or other premises where one or more persons knowingly, as defined by section 12.1-02-02, engage in altering, destroying, disassembling, dismantling, reassembling, or storing any motor vehicle, or motor vehicle part known to be illegally obtained by theft, fraud, or conspiracy to defraud, in order to either:
 - a. Alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number of the motor vehicle or motor vehicle part, in order to misrepresent the identity of the motor vehicle or motor vehicle part, or to prevent the identification of the motor vehicle or motor vehicle part; or
 - b. Sell or dispose of the motor vehicle or motor vehicle part.
2. "Motor vehicle" includes every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, which is self-propelled or which may be connected to and towed by a self-propelled device, and includes any and all other land-based devices that are self-propelled but which are not designed for use upon a highway, including farm machinery and construction equipment.
3. "Person" includes a natural person, company, corporation, unincorporated association, partnership, professional corporation, and any other legal entity.
4. "Unidentifiable" means that the uniqueness of a motor vehicle or motor vehicle part cannot be established by either expert law enforcement investigative personnel specially trained and experienced in motor vehicle theft investigative procedures and motor vehicle identification examination techniques, or by expert employees of not-for-profit motor vehicle theft prevention agencies specially trained and experienced in motor vehicle theft investigation procedures and motor vehicle identification examination techniques.

5. "Vehicle identification number" means a number or numbers, a letter or letters, a character or characters, a datum or data, a derivative or derivatives, or a combination or combinations thereof, used by the manufacturer or the department of motor vehicles for the purposes of uniquely identifying a motor vehicle or motor vehicle part. The term includes a number or numbers, a letter or letters, a character or characters, a datum or data, a derivative or derivatives, or a combination or combinations thereof.

SECTION 2. Violations and penalties.

1. It is a class B felony if any person knowingly, as defined in section 12.1-02-02, and with intent that a violation of subsection 2 be committed:
 - a. Owns, operates, or conducts a chop shop;
 - b. Transports any motor vehicle or motor vehicle part to or from a location knowing it to be a chop shop; or
 - c. Sells, transfers, purchases, or receives any motor vehicle or motor vehicle part either to or from a location knowing it to be a chop shop.
2. Any person who knowingly, as defined in section 12.1-02-02, alters, counterfeits, defaces, destroys, disguises, falsifies, forges, obliterates, or knowingly removes a vehicle identification number, with the intent to misrepresent the identity or prevent the identification of a motor vehicle or motor vehicle part, is guilty of a class B felony.
3.
 - a. Any person who buys, disposes, sells, transfers, or possesses a motor vehicle or motor vehicle part, with knowledge that the vehicle identification number of the motor vehicle or motor vehicle part has been altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated, or removed, is guilty of a class B felony.
 - b. The provisions of subdivision a do not apply to a motor vehicle scrap processor who, in the normal legal course of business and in good faith, processes a motor vehicle or motor vehicle part by crushing, compacting, or other similar methods, provided that any vehicle identification number is not removed from the motor vehicle or motor vehicle part prior to or during any such processing.
 - c. The provisions of subdivision a do not apply to any owner or authorized possessor of a motor vehicle or motor vehicle part which has been recovered by law enforcement authorities after having been stolen or where the condition of the vehicle identification number of the motor vehicle or motor vehicle part is known to or has been reported to law enforcement authorities. It is presumed that law enforcement authorities have knowledge of all vehicle identification numbers on a motor vehicle or motor vehicle part which are altered, counterfeited, defaced, disguised, falsified, forged, obliterated, or removed,

when law enforcement authorities deliver or return the motor vehicle or motor vehicle part to its owner or authorized possessor after it has been recovered by law enforcement authorities after having been reported stolen.

4. No prosecution may be brought, and no person may be convicted, of any violation under this section, if acts of the person otherwise constituting a violation were done in good faith in order to comply with the laws or regulations of any state or territory of the United States, or of the federal government of the United States.
5. The sentence imposed upon a person convicted of any violation of this section may not be reduced to less than four years imprisonment for a second conviction of any violation of this section, or less than eight years for a third or subsequent conviction of any violation of this section, and no sentence imposed upon a person for a second or subsequent conviction of any violation of this section may be suspended or reduced until the person has served the minimum period of imprisonment provided in this section. A person convicted of a second or subsequent violation of this section is not eligible for probation, parole, furlough, or work release.
6. a. In addition to any punishment, a person who violates this section, must be ordered to make restitution to the lawful owner or owners of the stolen motor vehicle or vehicles or the stolen motor vehicle part or parts, or to the owner's insurer to the extent that the owner has been compensated by the insurer, and to any other person for any financial loss sustained as a result of a violation of this section.

As used in this section, "financial loss" includes loss of earnings, out-of-pocket and other expenses, repair and replacement costs, and claims payments. As used in this section, "lawful owner" includes an innocent bona fide purchaser for value of a stolen motor vehicle part who does not know that the motor vehicle or part is stolen, or an insurer to the extent that the insurer has compensated a bona fide purchaser for value.

- b. The court shall determine the extent and method of restitution. In an extraordinary case, the court may determine that the best interests of the victim and justice would not be served by ordering restitution. In any such case, the court shall make and enter specific written findings on the record concerning the extraordinary circumstances presented which militated against restitution.

SECTION 3. Seizure of equipment.

1. Any tool, implement, or instrumentality including a motor vehicle or motor vehicle part, used or possessed in connection with any violation of section 2 of this Act may be seized by a member of a state or local law enforcement agency upon process issued by any court of competent jurisdiction.

2. Seizure of property described in subsection 1 may be made by a member of a state or local law enforcement agency without process:
 - a. If in accordance with any applicable law or regulation;
 - b. If the seizure is incident to inspection under an administrative inspection warrant;
 - c. If the seizure is incident to search made under a search warrant;
 - d. If the seizure is incident to a lawful arrest;
 - e. If the seizure is made pursuant to a valid consent to search;
 - f. If the property seized has been the subject of a prior judgment in favor of the state in a criminal proceeding, or in an injunction or forfeiture proceeding under section 5; or
 - g. If there are reasonable grounds to believe that the property is directly or indirectly dangerous to health or safety.
3. When property is seized under this section, the seizing agency may:
 - a. Place the property under seal; or
 - b. Remove the property to a place selected and designated by the seizing party.

SECTION 4. Forfeiture of property.

1. The following are subject to forfeiture unless obtained by theft, fraud, or conspiracy to defraud and the rightful owner is known or can be identified and located:
 - a. Any tool;
 - b. Any implement; or
 - c. Any instrumentality, including any motor vehicle or motor vehicle part, whether owned or unowned by the person from whose possession or control it was seized, which is used or possessed either in violation of section 2 of this Act or to promote or facilitate a violation of section 2 of this Act.
2. Any motor vehicle, other conveyance, or motor vehicle part used by any person as a common carrier is subject to forfeiture under this section if the owner or other person in charge of the motor vehicle, other conveyance, or motor vehicle part is a consenting party to a violation of section 2 of this Act.
3. Any motor vehicle, motor vehicle part, other conveyance, tool, implement, or instrumentality is not subject to forfeiture under this section by reason of any act or omission that the owner proves to have been committed or omitted without the owner's knowledge or consent.

4. a. Seizing agencies shall utilize their best efforts to identify any seized motor vehicle or motor vehicle part to determine ownership or the identity of any other person having a right or interest in it. In its reasonable identification and owner location attempts, the seizing agency shall cause the stolen motor vehicle files of all law enforcement agencies to be searched for stolen or wanted information on motor vehicles similar to the seized motor vehicle or consistent with the seized motor vehicle part.
- b. If a motor vehicle or motor vehicle part has an apparent value in excess of one thousand dollars:
 - (1) The seizing agency shall consult with an expert of the type specified in subsection 4 of section 1 of this Act; and
 - (2) The seizing party shall request searches of the on-line and off-line files of the national crime information center and the national automobile theft bureau when files have been searched with negative results.
5. A forfeiture of a motor vehicle, motor vehicle part, or other conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission forming the ground for the forfeiture.
6. Property, described in subsection 1, seized and held for forfeiture, is not subject to replevin and is subject only to the order and judgments of a court of competent jurisdiction hearing the forfeiture proceedings.
7. a. A states attorney in the county where the seizure occurs shall bring an action for forfeiture in a court of competent jurisdiction. The forfeiture action must be brought within sixty days from the date of seizure except when the states attorney in the sound exercise of discretion determines that no forfeiture action should be brought because of the rights of property owners, lienholders, or secured creditors, or because of exculpatory, exonerating, or mitigating facts and circumstances.
- b. The states attorney shall give notice of the forfeiture proceeding by mailing a copy of the complaint in the forfeiture proceeding to each person whose right, title, or interest is of record maintained in the department of transportation, or any other department of the state, or any other state or territory of the United States, or of the federal government if the property is required to be registered in any such department.
- c. Notice of the proceeding must be given to any other person as may appear, from the facts and circumstances, to have any right, title, or interest in or to the property.
- d. The owner of the property, or any person having, or claiming, right, title, or interest in the property may within sixty days

- after the mailing of such notice file a verified answer to the complaint and may appear at the hearing on the action for forfeiture.
- e. The states attorney must show at a forfeiture hearing, by a preponderance of the evidence, that the property was used in the commission of a violation of section 2 of this Act, or was used or possessed to facilitate such violation.
 - f. The owner of property may show by a preponderance of the evidence that the owner did not know, and did not have reason to know, that the property was to be used or possessed in the commission of any violation or that any of the exceptions to forfeiture are applicable.
 - g. Unless the states attorney makes the required showing, the court shall order the property released to the owner. If the states attorney has made such a showing, the court may order:
 - (1) The property be destroyed by the agency that seized it or some other agency designated by the court;
 - (2) The property be delivered and retained for use by the agency that seized it or some other agency designated by the court; or
 - (3) The property be sold at public sale.
8. A copy of a forfeiture order must be filed with the sheriff of the county in which the forfeiture occurs and with each federal or state department with which the property is required to be registered. The order, when filed, constitutes authority for the issuance to the agency to which the property is delivered and retained for use or to any purchaser of the property of a title certificate, registration certificate, or other special certificate as may be required by law considering the condition of the property.
 9. Proceeds from the sale at public auction, after payment of all reasonable charges and expenses incurred by the agency designated by the court to conduct the sale in storing and selling the property, must be paid to the general fund of the county of seizure.
 10. No motor vehicle, either seized under section 3 of this Act or forfeited under this section, may be released by the seizing agency or used or sold by an agency designated by the court unless any altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated, or removed vehicle identification number is corrected by the issuance and affixing of either assigned or replacement vehicle identification number plates as may be appropriate under laws of this state.
 11. No motor vehicle part having any altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated, or removed vehicle identification number may be disposed of upon forfeiture except by destruction. This subsection does not apply to any motor

vehicle part that is assembled with and constitutes part of a motor vehicle.

12. No motor vehicle or motor vehicle part may be forfeited under this section solely on the basis that it is unidentifiable. Instead of forfeiture, any seized motor vehicle or motor vehicle part that is unidentifiable must be the subject of a written report sent by the seizing agency to the department of transportation. The report must include a description of the motor vehicle or motor vehicle part, its color, if any, the date, time, and place of its seizure, the name of the person from whose possession or control it was seized, the grounds for its seizure, and the location where it is held or stored.
13. When a seized unidentifiable motor vehicle or motor vehicle part has been held for sixty days or more after the notice to the department of transportation specified in subsection 12 has been given, the seizing agency, or its agent, shall cause the motor vehicle or motor vehicle part to be sold at public sale to the highest bidder. Notice of the time and place of sale must be posted in a conspicuous place for at least thirty days prior to the sale on the premises where the motor vehicle or motor vehicle part has been stored.
14. If a seized unidentifiable motor vehicle or motor vehicle part has an apparent value of one thousand dollars or less, the seizing agency shall authorize the disposal of the motor vehicle or motor vehicle part, provided that no such disposition may be made less than sixty days after the date of seizure.
15. The proceeds of the public sale of an unidentifiable motor vehicle or motor vehicle part must be deposited in the general fund of the state or other governmental unit after deduction of any reasonable and necessary towing and storage charges.
16. Seizing agencies shall utilize their best efforts to arrange for the towing and storing of motor vehicles and motor vehicle parts in the most economical manner possible. The owner of a motor vehicle or a motor vehicle part may not be required to pay more than the minimum reasonable costs of towing and storage.
17. A seized motor vehicle or motor vehicle part that is neither forfeited nor unidentifiable must be held subject to the order of the court in which the criminal action is pending or, if a request for its release from such custody is made, until the states attorney has notified the defendant or the defendant's attorney of such request and both the prosecution and defense have been afforded a reasonable opportunity for an examination of the property to determine its true value and to produce or reproduce, by photographs or other identifying techniques, legally sufficient evidence for introduction at trial or other criminal proceedings. Upon expiration of a reasonable time for the completion of the examination, which may not exceed fourteen days from the date of service upon the defense of the notice of request for return of property, the property must be released to the person making such request after satisfactory proof of the person's entitlement to possession. Notwithstanding the foregoing, upon application by

either party with notice to the other, the court may order retention of the property if it determines that retention is necessary in the furtherance of justice.

18. When a seized vehicle is forfeited, restored to its owner, or disposed of as unidentifiable, the seizing agency shall retain a report of the transaction for a period of at least one year from the date of the transaction.
19. When an applicant for a certificate of title or salvage certificate presents to the department of transportation proof that the applicant purchased or acquired a motor vehicle at a public sale conducted pursuant to this section and such fact is attested to by the seizing agency, the department of transportation shall issue a certificate of title, salvage certificate for the motor vehicle upon receipt of the statutory fee, properly executed application for a certificate of title, or other certificate of ownership, and the affidavit of the seizing agency that a state-assigned number was applied for and affixed to the motor vehicle prior to the time that the motor vehicle was released by the seizing agency to the purchaser.

SECTION 5. Civil proceedings and remedies.

1. The attorney general, any states attorney, or any aggrieved person may institute civil proceedings against any person in any court of competent jurisdiction seeking relief from conduct constituting a violation of any provision of this Act. If the plaintiff in such a proceeding proves the alleged violation, or its threat, by a preponderance of the evidence, any court of competent jurisdiction after due provision for the rights of innocent persons, shall grant relief by entering any appropriate order or judgement, including:
 - a. Ordering any defendant to be divested of any interest in any property;
 - b. Imposing reasonable restrictions upon the future activities or investments of any defendant, including prohibiting any defendant from engaging in the same type of endeavor as the defendant was engaged in previously;
 - c. Ordering the suspension or revocation of a license, permit, or prior approval granted by any public agency or any other public authority; or
 - d. Ordering the surrender of the charter of a corporation organized under the laws of the state or the revocation of a certificate authorizing a foreign corporation to conduct business within the state upon finding that the board of directors or a managerial agent acting on behalf of the corporation, in conducting the affairs of the corporation, has authorized or engaged in conduct made unlawful by this Act and that, for the prevention of future criminal conduct, the public interest requires the charter of the corporation be surrendered and the corporation dissolved or the certificate revoked.

2. In a proceeding under this section, injunctive relief must be granted in conformity with the principles that govern the granting of relief from injury or threatened injury in other cases, but no showing of special or irreparable injury must be made. Pending final determination of a proceeding under this section, a temporary restraining order or a preliminary injunction may be issued upon a showing of immediate danger of significant injury, including the possibility that any judgment for money damages might be difficult to execute, and, in a proceeding initiated by an aggrieved person, upon the execution of proper bond against injury for an injunction improvidently granted.
3. Any person injured, directly or indirectly, by conduct constituting a violation by any person of section 2 of this Act, in addition to any other relief, has a cause of action for threefold the actual damages sustained by the person.
4. A final judgment or decree rendered against the defendant in any civil or criminal proceeding estops the defendant in any subsequent civil action or proceeding brought by any person as to all matters to which the judgment or decree would be an estoppel between the parties to the civil or criminal proceeding.
5. Notwithstanding any other provision of law providing a shorter period of limitations, a civil action under this section may be commenced at any time within five years after the conduct made unlawful under section 2 of this Act terminates or the cause of action accrues or within any longer statutory period that may be applicable. If any action is brought by a states attorney to punish, prevent, or restrain any activity made unlawful under section 2 of this Act, the running of the period of limitations is suspended during the pendency of such action and for two years following its termination.
6. Personal service of any process in any action under this section may be made upon any person outside the state if the person has engaged in any conduct constituting a violation of section 2 of this Act in this state. The person is deemed to have thereby submitted to the jurisdiction of the courts of this state for the purposes of this provision.
7. Obtaining any civil remedy under this section does not preclude obtaining any other civil or criminal remedy under either this Act or any other provision of law. Civil remedies under this section are supplemental and not mutually exclusive.

SECTION 6. Venue. A criminal prosecution for any violation may be commenced in any county, without regard to place of occurrence.

Approved April 3, 1991
Filed April 4, 1991