

# MOTOR VEHICLES

## CHAPTER 375

HOUSE BILL NO. 1109

(Transportation Committee)

(At the request of the Department of Transportation)

### OPERATOR'S LICENSE AND SUSPENSION

AN ACT to create and enact a new subsection to section 39-01-01 of the North Dakota Century Code, relating to definition of the terms operator's license, driver's license, and license to operate a motor vehicle; and to amend and reenact subsection 2 of section 39-01-17, subsection 1 of section 39-06-03.1, sections 39-06-20, 39-06-35, 39-06-36, subdivision b of subsection 7 of section 39-06.1-10, and subdivision b of subsection 1 of section 39-20-04.1 of the North Dakota Century Code, relating to certification of records, nondriver photo identification cards, change of address and suspension for alcohol-related offenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 39-01-01 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

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

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

SECTION 2. AMENDMENT. Subsection 2 of section 39-01-17 of the North Dakota Century Code is amended and reenacted as follows:

2. A certified copy of any record, electronic or original, maintained by the ~~commissioner~~ director relative to title 39 is admissible in any judicial proceedings or administrative hearing in the same manner as the original of the record.

SECTION 3. AMENDMENT. Subsection 1 of section 39-06-03.1 of the North Dakota Century Code is amended and reenacted as follows:

1. The ~~commissioner~~ director shall issue upon request a nondriver color photo identification card to any ~~person~~ North Dakota resident, of the age of ~~fourteen~~ twelve years or over, fulfilling the requirements of this section. If the person is under the age of twenty-one, the photo must be against the same color background required on a motor vehicle operator's license of an operator under the age of twenty-one years.

**SECTION 4. AMENDMENT.** Section 39-06-20 of the North Dakota Century Code is amended and reenacted as follows:

**39-06-20. Notice of change of address or name.** Whenever any person after applying for or receiving an operator's license or permit moves from the address named in such application or in the license or permit issued to such person or when the name of a licensee is changed by marriage or otherwise, such person shall within ten days thereafter notify the ~~commissioner~~ director in writing or in person of such person's old and new addresses or of such former and new names and of the number of any license or permit then held by such person. Such person may obtain a corrected license or permit by making application as provided for in section 39-06-18.

**SECTION 5. AMENDMENT.** Section 39-06-35 of the North Dakota Century Code is amended and reenacted as follows:

**39-06-35. Period of suspension.** When the period of suspension imposed under this title ceases, the operator's license or driving privilege that has been suspended may not be returned or reinstated, and remains under suspension, until the operator pays to the ~~commissioner~~ director a reinstatement fee of twenty-five dollars, or fifty dollars if the suspension was the result of a violation under section 39-08-01 or chapter 39-20, and, if applicable, until the provisions of subsection 3.1 of section 39-06.1-10 have been complied with. Upon payment of the reinstatement fee the license must be returned to the operator. A reinstatement fee is not required for a license to be returned to the operator if the return of the license is due to the findings of a hearing, reexamination of hearing, or court or judicial review under chapter 39-06, 39-06.1, or 39-20.

**SECTION 6. AMENDMENT.** Section 39-06-36 of the North Dakota Century Code is amended and reenacted as follows:

**39-06-36. Restoration of revoked licenses.** Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked is not entitled to have such license or privilege renewed or restored unless the revocation was for a cause which has been removed, except that after the expiration of the revocation period such person may make application for a new license as provided by law, but the ~~commissioner~~ director may not then issue a new license unless and until he is satisfied after investigation of the individual's driving records, driving habits, and driving ability of such person that it will be safe to grant the privilege of driving a motor vehicle on the public highways. A person whose license or privilege to drive a motor vehicle has been revoked must pay to the ~~commissioner~~ director a revocation reinstatement fee of twenty-five dollars, or fifty dollars if the revocation was imposed for violation of subsection 5 of section 39-06-17, section 39-06-31, 39-06-43, or 39-20-04, in addition to any license renewal fee, for issuance of a new license. Until the reinstatement fee is paid the license and privilege to drive a motor vehicle remain under revocation. A reinstatement fee is not required if a revoked license is reinstated due to the findings of a hearing, reexamination of hearing, or court or judicial review as provided under chapter 39-06, 39-06.1, or 39-20.

**SECTION 7. AMENDMENT.** Subdivision b of subsection 7 of section 39-06.1-10 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- b. Three hundred ~~sixty-four~~ sixty-five 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.

<sup>1</sup> **SECTION 8. AMENDMENT.** Subdivision b of subsection 1 of section 39-20-04.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- b. For three hundred ~~sixty-four~~ sixty-five days if the person's driving record shows that, within the five years preceding the date of the arrest, the person has once previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has once previously been suspended or revoked under this chapter.

Approved March 22, 1993  
Filed March 23, 1993

---

<sup>1</sup> NOTE: Section 39-20-04.1 was also amended by section 4 of House Bill No. 1098, chapter 387.

## CHAPTER 376

SENATE BILL NO. 2130  
(Transportation Committee)  
(At the request of the Department of Transportation)

### MOBILITY-IMPAIRED PARKING AND LICENSES

AN ACT to amend and reenact subsections 1, 2, 4, 6, and 9 of section 39-01-15 and section 39-04-10.2 of the North Dakota Century Code, relating to mobility-impaired parking certificates and license plates; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>1</sup> SECTION 1. AMENDMENT. Subsections 1, 2, 4, 6, and 9 of section 39-01-15 of the 1991 Supplement to the North Dakota Century Code are amended and reenacted as follows:

1. Any mobility-impaired person who displays prominently upon an automobile parked by that person or under that person's direction and for that person's use, the distinguishing certificate specified in subsection 4 or license plates issued under section 39-04-10.2 is entitled to courtesy in the parking of the automobile. Provided, however, that any municipality may, by ordinance, prohibit parking on any street or highway for the purpose of creating a fire lane, or to provide for the accommodation of heavy traffic during morning and afternoon rush hours, and the privileges extended to such impaired persons do not apply on streets or highways where and during such times as parking is prohibited.
2. A mobility-impaired person as used in this section includes any person who ~~has lost the use of one or both legs~~ uses portable oxygen; requires personal assistance or the use of crutches, a wheelchair, or a walker to walk two hundred feet [60.96 meters] without rest; is restricted by cardiac, pulmonary, or vascular disease from walking two hundred feet [60.96 meters] without rest; has a forced expiratory volume of less than one liter for one second or an arterial oxygen tension of less than sixty millimeters of mercury on room air while at rest and is classified III or IV by standards for cardiac disease set by the American heart association; or has an orthopedic, neurologic, or other medical condition that makes it impossible for the person to walk two hundred feet [60.96 meters] without assistance or rest.
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

---

<sup>1</sup> NOTE: Section 39-01-15 was also amended by section 2 of House Bill No. 1027, chapter 261.

applicant is a mobility-impaired person within the criteria of subsection 2. The director shall waive the requirement for a written statement from a qualified physician if the applicant has previously submitted an application containing a certification from a qualified physician that the applicant's impairment is not reversible. 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~~ nine and one-half inches [24.13 centimeters] in height and ~~eight and one-half three~~ inches [21.59 7.62 centimeters] in width and must bear, in ~~blue on white~~ white on blue, the internationally accepted symbol of access for the mobility impaired. The certificate must bear the expiration date and registration number assigned by the director. The director shall adopt rules governing the issuance of the certificate. A temporary certificate, valid for an initial period not to exceed three months, may be issued by the director for a fee of three dollars upon application supported by a physician's statement. The director may issue a maximum of one additional temporary certificate, for a fee of three dollars. The temporary certificate may be extended an additional period, not to exceed three months, upon application supported by a physician's statement that the extension is warranted. ~~The director shall determine the form and size of the temporary certificate.~~ Temporary certificates must be the same size as other certificates issued under this section and must be white on red. The director may issue a maximum of ~~two~~ one additional certificates certificate, if the applicant does not have license plates issued under section 39-04-10.2, for a fee of six dollars per certificate, to a mobility-impaired person to whom a certificate has been issued under this subsection. The additional certificates may only be used by or on behalf of the mobility-impaired person.

6. A certificate issued under this section must be ~~prominently displayed on hung from the left hand dashboard~~ rearview mirror of the motor vehicle whenever the vehicle is occupying a space reserved for the mobility impaired and is being used by a mobility-impaired person or another person for the purposes of transporting the mobility-impaired person. No part of the certificate may be obscured. A fee of five dollars may be imposed for a violation of this subsection.
9. Whenever any public or private entity designates parking spaces for use by motor vehicles operated by mobility-impaired persons, those reserved spaces must comply with the requirements of ~~American National Standards A117.1-1986~~ the Americans with disabilities accessibility guidelines 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, each reserved space must be indicated by an official sign approved by the director bearing the internationally accepted symbol of access for the mobility impaired. The sign must indicate that unauthorized use of the space is a nonmoving violation for which a fee of one hundred dollars

must be imposed. For particular events, a public or a private entity may reserve additional parking spaces for use by motor vehicles operated by mobility-impaired persons. In that case, each temporarily reserved space must be indicated by 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 shall enforce this section in any parking lot or parking facility, whether publicly or privately owned.

**SECTION 2. AMENDMENT.** Section 39-04-10.2 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**39-04-10.2. Special plates for mobility-impaired persons.** The director may issue, without charge, upon application and payment of the regular license fee, plates marked with the internationally accepted symbol of access for the mobility impaired, to any ~~mobility impaired applicant upon submission by the applicant of a written statement issued by a qualified physician to the director that the applicant is a mobility impaired person within the meaning of subsection 2 of section 39-01-15.~~ The director shall determine the form and size of the symbol and shall adopt rules governing the issuance of the plate motor vehicle owner who possesses a parking certificate issued under subsection 4 of section 39-01-15. This section is not applicable to applicants who possess more than one parking certificate issued under subsection 4 of section 39-01-15.

**SECTION 3. EFFECTIVE DATE.** This Act becomes effective for parking certificates which expire after December 31, 1994.

Approved April 7, 1993  
Filed April 8, 1993

## CHAPTER 377

HOUSE BILL NO. 1076  
(Government and Veterans Affairs Committee)  
(At the request of the Public Employees Retirement System)

### HIGHWAY PATROLMEN'S RETIREMENT BENEFITS

AN ACT to amend and reenact subdivision a of subsection 4 of section 39-03.1-11 of the North Dakota Century Code, relating to retirement benefits under the highway patrolmen's retirement system; to repeal section 39-03.1-24 of the North Dakota Century Code, relating to military service 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.** Subdivision a of subsection 4 of section 39-03.1-11 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted 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 ~~eighty-three~~ ninety-six 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, ~~1991~~ 1993, are entitled to receive benefits equal to two and ~~eighty-three~~ ninety-six 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~~ 1993.

**SECTION 2. REPEAL.** Section 39-03.1-24 of the North Dakota Century Code is repealed.

**SECTION 3. APPLICATION OF ACT.** This Act applies to benefits payable after June 30, 1993.

Approved March 11, 1993  
Filed March 12, 1993

## CHAPTER 378

SENATE BILL NO. 2252  
(Senators Krauter, Goetz)  
(Representatives Kretschmar, Porter, Kerzman)

**PERSONALIZED VEHICLE PLATES**

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

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

**SECTION 1. AMENDMENT.** Section 39-04-10.3 of the 1991 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 license plates marked with ~~initials~~ not more than seven numerals, letters, or ampersands, or combinations of numerals and, letters, and ampersands, 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 license plates authorized by this section available for motor vehicles registered under section 39-04-10.6, trailers, travel trailers, and motorcycles. The fee for the special license 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 license plates ~~must for motorcycles may~~ contain not more than six numerals, letters, or ampersands, or a combination of not more than six numerals ~~and, letters, and ampersands.~~ In the event of sale or transfer of the vehicle, the special license plates may remain with the vehicle or they may be surrendered and, upon application, a regular license ~~plate~~ plates must be issued without additional cost, or upon payment of the applicable registration fee, the special license plates must be transferred to the replacement motor vehicle.

Approved April 21, 1993  
Filed April 22, 1993

## CHAPTER 379

SENATE BILL NO. 2255  
(Senators Krauter, Keller, Urlacher)  
(Representatives Dorso, Kerzman, Kretschmar)

### MOTOR VEHICLE REGISTRATION PRORATION

AN ACT to amend and reenact sections 39-04-14 and 39-04-14.1 of the North Dakota Century Code, relating to renewal of motor vehicle registrations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

**39-04-14. Renewal of registration.** Every vehicle registration, except those described in section 39-04-14.1, under this chapter expires on December thirty-first each year and must be renewed annually upon application by the owner and by payment of the fees required by law, such renewal to take effect on the first day of January each year. An owner who has made proper application for renewal of registration of a vehicle previous to January first but who has not received the number plates, plate, or registration card for the ensuing year is entitled to operate or permit the operation of such vehicle upon the highways upon displaying thereon the number plates or plate issued for the preceding year for such time, to be prescribed by the department, as may be required for the issuance of ~~such~~ the new plates. If a previously registered motor vehicle whose gross weight exceeds ten thousand pounds [4535.92 kilograms] is purchased during the period the vehicle's registration in this state is expired, the registration fee must be prorated on a monthly basis from the date of purchase to January first.

**SECTION 2. AMENDMENT.** Section 39-04-14.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-04-14.1. Renewal of registration of motor vehicles under certain weight.** Except as otherwise provided in this section, the registration of a motor vehicle whose gross weight does not exceed ten thousand pounds [4535.92 kilograms] expires on the last day of the month which is the anniversary of the month it was originally registered. The registration may be renewed annually on application by the owner and payment of fees required by law. The renewal takes effect on the first day of the first month of the registration period. An owner of more than one vehicle qualifying for staggered registration under this section may renew all of the owner's vehicles in the same month. The registrar shall prorate the registration fees accordingly. If a previously registered motor vehicle whose gross weight does not exceed ten thousand pounds [4535.92 kilograms] is purchased during the period the vehicle's registration in this state is expired, the department shall collect the annual registration fee under section 39-04-19 and shall issue registration that expires on the last day of the month that is the anniversary of the month the vehicle was purchased.

Approved April 7, 1993  
Filed April 8, 1993

## CHAPTER 380

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

### VEHICLE REGISTRATION FEE DEPOSITS

AN ACT to amend and reenact section 39-04-39 of the North Dakota Century Code, relating to distribution of vehicle registration fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

**39-04-39. Distribution of registration fees collected.** Any moneys in the registration fund accruing from license fees or from other like sources, in excess of the amount required to pay salaries and other necessary expenses, in accordance with the legislative assembly's appropriation for such purposes, must be promptly deposited ~~with the state treasurer who shall place such moneys~~ in a the highway tax distribution fund which must be distributed in the manner as prescribed by law.

Approved February 11, 1993  
Filed February 11, 1993

## CHAPTER 381

SENATE BILL NO. 2112  
(Transportation Committee)  
(At the request of the North Dakota Highway Patrol)

### IDENTIFICATION REMOVAL AND ODOMETER TAMPERING

AN ACT to amend and reenact sections 39-05-28 and 39-21-51 of the North Dakota Century Code, relating to removal of engine, serial, or identification numbers from motor vehicles and selling or offering for sale vehicles with altered odometers.

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

**SECTION 1. AMENDMENT.** Section 39-05-28 of the North Dakota Century Code is amended and reenacted as follows:

**39-05-28. Penalty for defacing, destroying, removing, or altering engine, serial, or identification numbers.** Any person who with fraudulent intent shall:

1. Deface, destroy, remove, or alter the engine, serial, or identification number of a motor vehicle;
2. Place or stamp other than the original engine, serial, or identification number, or a number assigned, upon a motor vehicle; or
3. Sell or offer for sale any motor vehicle bearing an altered or defaced engine, serial, or identification number, other than the original or a number assigned, is guilty of a class C felony.

**SECTION 2. AMENDMENT.** Section 39-21-51 of the North Dakota Century Code is amended and reenacted as follows:

**39-21-51. Alteration of odometers or other mileage recorders, hour meters on tachometers or other hour recorders - Penalty.** A person may not willfully, as defined in section 12.1-02-02, alter a motor vehicle odometer or other mileage recorder, hour meter on tachometer or other hour recorder, or offer for sale or sell a motor vehicle knowing the odometer or other mileage recorder has been altered, for the purpose of deceiving another. Violation of this section is a class C felony if the person has previously been convicted of violating this section, or if the person has violated this section with respect to more than one vehicle, and a class B misdemeanor in all other cases.

Approved February 16, 1993  
Filed February 16, 1993

## CHAPTER 382

HOUSE BILL NO. 1024  
(Legislative Council)  
(Interim Budget Committee on Government Services)

### IMPAIRED DRIVER TREATMENT

AN ACT to amend and reenact section 39-06-31 and subdivision g of subsection 4 of section 39-08-01 of the North Dakota Century Code, relating to treatment services for persons convicted of driving while under the influence of drugs or substances.

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

**SECTION 1. AMENDMENT.** Section 39-06-31 of the North Dakota Century Code is amended and reenacted as follows:

**39-06-31. Mandatory revocation of licenses.** The commissioner shall revoke forthwith, for a period of one year, or for such period as may be recommended by the trial court, the license of any operator upon receiving a record of such operator's conviction of any of the following offenses:

1. Any felony, including a violation of chapter 12.1-16, in the commission of which a motor vehicle is used.
2. Any misdemeanor resulting from the operation of a motor vehicle and causing serious bodily injury, as defined in section 12.1-01-04, to another person.
3. The making of a false affidavit or statement under oath to the commissioner under this chapter or under any other law relating to the ownership or operation of motor vehicles.

The revocation of the license under this section may be beyond any time of imprisonment or court-ordered ~~inpatient~~ addiction treatment.

**SECTION 2. AMENDMENT.** Subdivision g of subsection 4 of section 39-08-01 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- g. If the penalty mandated by this section includes imprisonment upon conviction of a violation of this section or equivalent ordinance, and if an addiction evaluation has indicated that the defendant needs treatment, the court may order the defendant to undergo ~~inpatient~~ treatment at an appropriate licensed addiction treatment program and the time spent by the defendant in the ~~inpatient~~ treatment must be credited as a portion of a sentence of imprisonment under this section.

Approved April 7, 1993  
Filed April 8, 1993

## CHAPTER 383

SENATE BILL NO. 2174  
(Transportation Committee)  
(At the request of the Department of Transportation)

### COMMERCIAL DRIVERS PENALTIES

AN ACT to create and enact nine new sections to chapter 39-06.2, and a new subdivision to subsection 1 of section 39-06.2-10 of the North Dakota Century Code, relating to alcohol-related offenses in a commercial motor vehicle, implied consent requirements, hearings, sanctions, judicial appeals, temporary driver permits, out-of-service orders, and operating a commercial motor vehicle while having an alcohol concentration of four one-hundredths of one percent by weight or greater; to create and enact section 4 to House Bill No. 1488, as approved by the fifty-third legislative assembly, which relates to driving without liability insurance and reissuance of a motor vehicle operator's license following certain cancellations of financial responsibility, and declaring retroactive application of that Act; to amend and reenact subsections 4 and 7 of section 39-06-32, subsection 2 of section 39-06.2-04, section 39-06.2-11, and subsection 1 of section 39-20-07 of the North Dakota Century Code, relating to sanctions for violating the implied consent laws of another state stemming from the operation of a commercial motor vehicle in another state, employer's notification of certain traffic offenses, providing a class D driver's license when a commercial driver's license is suspended, revoked, or disqualified, and alcohol concentration and its application to commercial drivers' licensing; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Subsections 4 and 7 of section 39-06-32 of the 1991 Supplement to the North Dakota Century Code are amended and reenacted as follows:

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~~ 39-06.2-10.
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, or because of a violation of that state's law forbidding the driving or being in actual physical control of a commercial motor vehicle while having an alcohol concentration of at least four one-hundredths of one percent by

weight. The specific requirements for establishing the violation 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, if the violation does not involve a commercial motor vehicle. If the violation involves a commercial motor vehicle, the period of suspension must be the same as the period of suspension provided in section 39-06.2-10.

**SECTION 2. AMENDMENT.** Subsection 2 of section 39-06.2-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. Notification of suspensions, revocations, and cancellations. Any driver whose commercial driver's license is suspended, revoked, or canceled by any state, or who loses the privilege to drive a commercial motor vehicle in any state for any period, including being disqualified from driving a commercial motor vehicle, or who is subject to an out-of-service order, must notify the employer of that fact before the end of the business day following the day the driver received notice of that fact.

**SECTION 3.** A new subdivision to subsection 1 of section 39-06.2-10 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Driving or being in actual physical control of a commercial motor vehicle while the alcohol concentration of the person's blood, breath, or urine is four one-hundredths of one percent or more by weight.

**SECTION 4.** A new section to chapter 39-06.2 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Prohibited alcohol offenses for commercial motor vehicle drivers. Any person who drives or is in actual physical control of a commercial motor vehicle within this state with an alcohol concentration of at least four one-hundredths of one percent by weight must, in addition to any other sanctions which may be imposed under this code, be disqualified from driving a commercial motor vehicle under section 39-06.2-10.

**SECTION 5.** A new section to chapter 39-06.2 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Implied consent requirements for commercial motor vehicle drivers.

1. A person who drives or is in actual physical control of a commercial motor vehicle within this state is deemed to have given consent to take a test or tests of that person's blood, breath, or urine for the purpose of determining that person's alcohol concentration, or the presence of other drugs. The result of any test administered within two hours of driving or being in actual physical control of a commercial motor vehicle is that person's alcohol concentration. The test must be conducted pursuant to the provisions of section 39-20-07.
2. A test or tests may be administered at the direction of a law enforcement officer who, after stopping or detaining the commercial motor vehicle driver, has probable cause to believe that driver was driving a commercial motor vehicle while having alcohol or drugs in the driver's system.

3. A person requested to submit to a test as provided in subsection 1 or 5 must be warned by the law enforcement officer requesting the test that a refusal to submit to the test will result in that person being immediately placed out of service for a period of twenty-four hours and being disqualified from operating a commercial motor vehicle for a period of not less than one year under section 39-06.2-10.
4. If the person refuses testing, or submits to a test that discloses an alcohol concentration of at least four one-hundredths of one percent by weight, the law enforcement officer must submit a certified report to the director certifying that the test was requested pursuant to subsection 1 or 5 and that the person refused to submit to testing, or submitted to a test under subsection 1 which disclosed an alcohol concentration of at least four one-hundredths of one percent by weight.
5. A person who drives or is in actual physical control of a commercial motor vehicle within this state is deemed to have given consent to an onsite alcohol screening test under section 39-20-14.
6. Upon receipt of the certified report of a law enforcement officer submitted under subsection 4, the director must disqualify the driver from driving a commercial motor vehicle under section 39-06.2-10.

**SECTION 6.** A new section to chapter 39-06.2 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Action following test result for a resident driver. If a person submits to a test under section 5 of this Act and the test shows that person to have an alcohol concentration of at least four one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a commercial motor vehicle, the following procedures apply:

1. When a breath sample test result derived under section 39-20-07 reveals a resident driver to have an alcohol concentration of at least four one-hundredths of one percent by weight, the law enforcement officer shall immediately take possession of the person's commercial driver's license. The law enforcement officer shall issue the driver an out-of-service order as provided for in section 12 of this Act. If the driver then has valid driving privileges, the law enforcement officer must issue to the driver a temporary driver's permit, in accordance with section 11 of this Act.
2. If a test administered under section 5 of this Act was by a urine or blood sample and the person tested is not a resident of an area in which the law enforcement officer has jurisdiction, the law enforcement officer shall, on receiving the analysis of the sample by the state toxicologist showing that person had an alcohol concentration of at least four one-hundredths of one percent by weight, either proceed in accordance with subsection 1 during that person's reappearance within the officer's jurisdiction or notify a law enforcement agency having jurisdiction where the person lives. On that notification, that law enforcement agency shall immediately take possession of the person's North Dakota commercial driver's license or permit and, within twenty-four hours, forward it and a copy of the temporary driver's permit to the halting officer. The law

enforcement agency shall also, on taking possession of the person's commercial driver's license, issue to that person a temporary driver's permit according to section 11 of this Act.

3. The halting officer, within five days of the issuance of the temporary driver's permit, shall forward to the director a certified written report in the form required by the director and the person's commercial driver's license taken under subsection 1 or 2. If the person was issued a temporary driver's permit because of the results of a test, the report must show that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle while in violation of section 4 of this Act, that the person was lawfully detained, that the person was tested for alcohol concentration under this chapter, and that the results of the test show that the person had an alcohol concentration of at least four one-hundredths of one percent by weight. In addition to the commercial driver's license and report, the law enforcement officer must forward to the director a certified copy of the operational checklist and test records of a breath test and a copy of the certified copy of the analytical report for a blood or urine test for all tests administered at the direction of the officer.

**SECTION 7.** A new section to chapter 39-06.2 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Action following test result or refusal of testing by nonresident driver. If a driver licensed in another state refuses, in this state, a test provided under section 5 of this Act or submits to a test under section 5 of this Act, and the test results show an alcohol concentration of at least four one-hundredths of one percent by weight, the following procedures apply:

1. When a breath sample test result, derived under section 39-20-07, reveals the driver to have alcohol concentration of at least four one-hundredths of one percent by weight, the halting officer, without taking possession of the person's out-of-state driver's license, shall inform the driver of the test results and issue an out-of-service order according to section 12 of this Act and a temporary driver's permit according to section 11 of this Act.
2. When a urine or blood sample test result, derived under section 39-20-07, reveals an alcohol concentration of at least four one-hundredths of one percent by weight, the halting officer shall mail the person a temporary driver's permit issued according to section 11 of this Act and a notice as provided under section 39-06.1-07.
3. The law enforcement officer, within five days of issuing the temporary driver's permit, shall forward to the director a certified written report in the form required by the director and a certified copy of the operational checklist and test records of a breath test and a copy of the certified copy of the analytical report for a blood or urine test for all tests administered at the direction of the officer. If the person was issued a temporary driver's permit because of the person's refusal to submit to a test under sections 5 of this Act and 39-20-14, the report must include information as provided in section 6 of this Act. If the person was issued a temporary driver's permit because of the results of a

test, the report must show that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle while in violation of section 4 of this Act, that the person was lawfully detained, that the person was tested for alcohol concentration under this chapter, and that the results of the test show that the person had an alcohol concentration of at least four one-hundredths of one percent by weight.

**SECTION 8.** A new section to chapter 39-06.2 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Revocation of privilege to drive commercial motor vehicle upon refusal to submit to testing. If a person refuses to submit to testing under section 5 of this Act, the law enforcement officer shall immediately take possession of the person's driver's license and issue to that person a temporary driver's permit. The director, upon the receipt of that person's driver's license and a certified written report of the law enforcement officer in the form required by the director, forwarded by the officer within five days after issuing the temporary driver's permit, showing that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle while in violation of section 4 of this Act or, had reason to believe that the person committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol, that the person was lawfully detained, and that the person had refused to submit to the screening test under section 5 of this Act, shall revoke that person's commercial driver's license or permit to drive and any nonresident commercial driver's privilege for the appropriate period under section 39-06.2-10, or if the person is a resident without a commercial driver's license or permit, the director shall deny to the person the issuance of a commercial driver's license or permit for the appropriate period under section 39-06.2-10 after the date of the alleged violation, subject to the opportunity for a prerevocation hearing and postrevocation review as provided in this chapter. In the revocation of the person's driver's license the director shall give credit for time in which the person was without a driver's license after the day of the person's refusal to submit to the test except that the director may not give credit for time in which the person retained driving privileges through a temporary driver's permit.

**SECTION 9.** A new section to chapter 39-06.2 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Administrative hearing on request.

1. Before issuing an order of suspension, revocation, or disqualification under section 39-06.2-10, the director shall afford that person an opportunity for a hearing as provided by section 39-20-05, if the person mails a request for the hearing to the director within ten days after the date of issuance of the temporary driver's permit.
2. If the issue to be determined by the hearing concerns license suspension for operating a commercial motor vehicle while having an alcohol concentration of at least four one-hundredths of one percent by weight, the hearing must be before a hearing officer assigned by the director and at a time and place designated by the director. The hearing must be

- recorded and its scope may cover only the issues of whether the arresting officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle in violation of section 4 of this Act, whether the person was lawfully detained, whether the person was tested in accordance with section 5 of this Act, and whether the test results show the person had an alcohol concentration of at least four one-hundredths of one percent by weight. For purposes of this section, a copy of a certified copy of an analytical report of a blood or urine sample from the office of the state toxicologist, or a certified copy of the checklist and test records from a certified breath test operator establish prima facie the alcohol concentration shown therein. Whether the person was warned that the privilege to drive might be suspended based on the results of the test is not an issue.
3. If the issue to be determined by the hearing concerns license revocation for refusing to submit to a test under section 5 of this Act, the hearing must be before a hearing officer assigned by the director at a time and place designated by the director. The hearing must be recorded. The scope of a hearing for refusing to submit to a test under section 5 of this Act may cover only the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle in violation of section 4 of this Act, whether the person was lawfully detained, and whether that person refused to submit to the test or tests. The scope of a hearing for refusing to submit to a test under subsection 3 of section 7 of this Act may cover only the issues of whether the law enforcement officer had reason to believe the person committed a moving traffic violation or was involved in a traffic accident as a driver, whether in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol and, whether the person refused to submit to the onsite screening test. Whether the person was warned that the privilege to drive would be revoked or denied for refusal to submit to the test or tests is not an issue.
4. At a hearing under this section, the regularly kept records of the director may be introduced. Those records establish prima facie their contents without further foundation. For purposes of this chapter, any copy of a certified copy of an analytical report of a blood or urine sample received by the director from the office of the state toxicologist or a law enforcement officer, a certified copy of the checklist and test records received by the director from a certified breath test operator, and any copy of a certified copy of a certificate of the office of the state toxicologist relating to approved methods, devices, operators, materials, and checklists used for testing for alcohol concentration received by the director from the office of the state toxicologist or the clerk of district court, are regularly kept records of the director.
5. At the close of the hearing, the hearing officer shall notify the person of the hearing officer's findings of fact, conclusions of law, and decision based on the findings and conclusions and shall immediately deliver to the person a copy of the decision. If the hearing officer does not find in favor of the person, the copy of the decision serves as the director's official notification to the person of the revocation,

suspension, or denial of driving privileges in this state. If the hearing officer finds, based on a preponderance of the evidence, that the person refused a test under section 5 of this Act or that the person had an alcohol concentration of at least four one-hundredths of one percent by weight, the hearing officer shall immediately take possession of the person's temporary driver's permit issued under this chapter. If the hearing officer does not find against the person, the hearing officer shall sign, date, and mark on the person's permit an extension of driving privileges for the next twenty days and shall return the permit to the person. The hearing officer shall report the findings, conclusions, and decisions to the director within ten days of the conclusion of the hearing. If the hearing officer has determined in favor of the person, the director shall return the person's commercial driver's license by regular mail to the address on file with the director under section 39-06.2-08.

6. If the person who requested a hearing under this section fails to appear at the hearing without justification, the right to the hearing is waived, and the hearing officer's determination on license revocation, suspension, or denial will be based on the written request for hearing, law enforcement officer's report, and other evidence as may be available. On the date for which the hearing is scheduled, the hearing officer shall mail to the person, by regular mail, at the address on file with the director under section 39-06-20, or at any other address for the person or the person's legal representative supplied in the request for hearing, a copy of the decision which serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state. Even if the person for whom the hearing is scheduled fails to appear at the hearing, the hearing is deemed to have been held on the date for which it is scheduled for purposes of appeal under section 10 of this Act.

**SECTION 10.** A new section to chapter 39-06.2 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Judicial review. Any person whose commercial driver's license or privilege has been suspended, revoked, or denied by the decision of the hearing officer under section 9 of this Act may appeal within seven days after the date of the hearing under section 9 of this Act as shown by the date of the hearing officer's decision, section 28-32-15 notwithstanding, by serving on the director and filing a notice of appeal and specifications of error in the district court in the county where the events occurred for which the demand for a test was made, or in the county in which the administrative hearing was held. The court shall set the matter for hearing, and the petitioner shall give twenty days' notice of the hearing to the director and to the hearing officer who rendered the decision. Neither the director nor the court may stay the decision pending decision on appeal. Within twenty days after receipt of the notice of appeal, the director or the hearing officer who rendered the decision shall file in the office of the clerk of court to which the appeal is taken a certified transcript of the testimony and all other proceedings. It is the record on which the appeal must be determined. No additional evidence may be heard. The court shall affirm the decision of the director or hearing officer unless it finds the evidence insufficient to warrant the conclusion reached by the director or hearing officer. The court may direct that the matter be returned to the director or hearing officer for rehearing and the presentation of additional evidence.

**SECTION 11.** A new section to chapter 39-06.2 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Temporary driver's permit. A temporary driver's permit extends driving privileges for twenty-five days, unless earlier terminated by the decision of a hearing officer under section 9 of this Act. The law enforcement officer must sign and note the date of issuance on the temporary driver's permit. The temporary driver's permit serves as the director's official notification to the driver of the director's intent to revoke, suspend, or deny driving privileges in this state. No temporary driver's permit may be issued for the period covered by an out-of-service order.

**SECTION 12.** A new section to chapter 39-06.2 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Out-of-service order - Rules. The director shall adopt rules for the issuance and enforcement of out-of-service orders. The rules must be in accordance with the standards and requirements of the federal Commercial Motor Vehicle Safety Act of 1986 [Pub. L. 99-570; 100 Stat. 3207-179; 49 App. U.S.C. 2708] and 49 CFR parts 383 and 392.

**SECTION 13. AMENDMENT.** Section 39-06.2-11 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**39-06.2-11. License reissuance - Class D license.** The ~~commissioner~~ director may issue a class D driver's license to a driver suspended, revoked, or disqualified under this chapter when:

1. The suspension, revocation, or disqualification arises from a violation under this chapter which would not require similar sanctions under chapter 39-06 ~~or~~, 39-06.1, or 39-20.
2. The period of suspension, revocation, or disqualification imposed for a violation under this chapter is greater than that which could have been imposed under chapter 39-06 ~~or~~, 39-06.1, or 39-20 for the same violation, and the period of suspension or revocation provided for under chapter 39-06 ~~or~~, 39-06.1, or 39-20 has been satisfied under the existing suspension or revocation.

**SECTION 14. AMENDMENT.** Subsection 1 of section 39-20-07 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. A person having, at that time, an alcohol concentration of not more than five one-hundredths of one percent by weight is presumed not to be under the influence of intoxicating liquor. This presumption has no application to the administration of chapter 39-06.2.

**SECTION 15.** Section 4 to House Bill No. 1488, as approved by the fifty-third legislative assembly, is created and enacted as follows:

**SECTION 4. RETROACTIVE APPLICATION OF ACT.** Section 2 of this Act applies retroactively to cases arising after April 9, 1990.

**SECTION 16. EMERGENCY.** This Act is declared to be an emergency measure.

## CHAPTER 384

HOUSE BILL NO. 1219  
(Representatives Oban, Gates, Cleary)  
(Senators Evanson, Marks, Mathern)

### FAILURE TO YIELD TO PEDESTRIAN

AN ACT to amend and reenact subsection 2 of section 39-06.1-06 of the North Dakota Century Code, relating to statutory fees for failure to yield the right of way to a pedestrian.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 39-06.1-06 of the 1991 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:
  - a. A violation of section 39-10-41 or 39-10-42, a fee of fifty dollars.
  - b. A violation of section 39-10-05 involving failure to yield to a pedestrian or subsection 1 of section 39-10-28, a fee of fifty dollars.

Approved April 28, 1993  
Filed April 30, 1993

## CHAPTER 385

SENATE BILL NO. 2266  
(Senators Redlin, Kelsh, Goetz)  
(Representatives Cleary, Rydell, Soukup)

### SAFETY BELTS

AN ACT to create and enact a new subsection to section 39-06.1-06 and two new sections to chapter 39-21 of the North Dakota Century Code, relating to the required use of safety belts in certain motor vehicles and providing for secondary enforcement; and to provide a penalty.

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

**SECTION 1.** A new subsection to section 39-06.1-06 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

For a violation of section 2 of this Act, a fee not to exceed twenty dollars.

**SECTION 2.** A new section to chapter 39-21 of the North Dakota Century Code is created and enacted as follows:

**Use of safety belts required in certain motor vehicles - Enforcement.** Subject to the limitations of this section and section 3 of this Act, a driver may not operate upon a highway a motor vehicle designed for carrying fewer than eleven passengers, which was originally manufactured with safety belts unless each front seat occupant is wearing a properly adjusted and fastened safety belt. This section does not apply to a child in a child restraint or seat belt in accordance with section 39-21-41.2, to drivers of implements of husbandry, to operators of farm vehicles as defined in subsection 5 of section 39-04-19, to rural mail carriers while on duty delivering mail, or when all front seat safety belts are in use by other occupants. From the effective date of this Act until December 31, 1993, only warning tickets may be issued for a violation of this section.

**SECTION 3.** A new section to chapter 39-21 of the North Dakota Century Code is created and enacted as follows:

**Secondary enforcement.** A peace officer may not issue a citation for a violation of section 2 of this Act unless the officer lawfully stopped or detained the driver of the motor vehicle for another violation. Drivers' license points may not be assessed against any person for violation of section 2 of this Act.

Approved March 25, 1993  
Filed March 25, 1993

## CHAPTER 386

HOUSE BILL NO. 1324  
(Representative Pyle)  
(Senator Lips)

### FLEEING POLICE OFFICER PENALTY

AN ACT to amend and reenact subsection 3 of section 39-06.1-10, subsection 1 of section 39-06.1-13, and section 39-10-71 of the North Dakota Century Code, relating to points assigned against a driving record and the penalty for fleeing or attempting to elude a peace officer.

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

**SECTION 1. AMENDMENT.** Subsection 3 of section 39-06.1-10 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. Points must be assigned and accumulated on the basis of the following schedule:
  - 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 improperly unattended on an open highway	1 point
(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)                 | <del>Repealed by S.L. 1981, ch. 389, § 4</del>  |                      |
| (12)                 | Violating or exceeding restrictions contained in a restricted certificate issued pursuant to section 39-06.1-03   | 4 points             |
| <del>(13)</del>      | <del>Fleeing in motor vehicle from peace officer in violation of section 39-10-71, or equivalent ordinance</del>  | <del>24 points</del> |
| <del>(14)</del> (12) | Racing or drag racing motor vehicles in violation of section 39-08-03.1, or equivalent ordinance  | 10 points            |
| <del>(15)</del> (13) | Exhibition driving in violation of section 39-08-03.1, or equivalent ordinance  | 3 points             |
| <del>(16)</del> (14) | 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, 39-10-44, or 39-10-72, or equivalent ordinances                                      | 2 points             |
| <del>(17)</del> (15) | Disobeying an official traffic-control device in violation of section 39-10-04, 39-10-05, or 39-10-07, or equivalent ordinances   | 2 points             |

- |                      |  |          |
|----------------------|--|----------|
| <del>(18)</del> (16) | 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 |
| <del>(19)</del> (17) | Failing to dim headlights in violation of section 39-21-21, or equivalent ordinance  | 1 point  |
| <del>(20)</del> (18) | Failing to stop at railroad crossing in violation of section 39-10-41 or 39-10-42, or equivalent ordinances                                    | 3 points |
| <del>(21)</del> (19) | Knowingly drove with defective brakes in violation of section 39-21-32 or 39-21-33, or equivalent ordinances                                   | 2 points |
| <del>(22)</del> (20) | Disregarding the lawful commands of a police officer in violation of section 39-10-02, or equivalent ordinance                                 | 2 points |
| <del>(23)</del> (21) | 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 |
| <del>(24)</del> (22) | Overtaking and passing a schoolbus in violation of section 39-10-46, or equivalent ordinance   | 6 points |
| <del>(25)</del>      | <del>Repealed by S.L. 1985, ch. 430, § 4</del>   |          |
| <del>(26)</del> (23) | Operating a motor vehicle without a license in violation of section 39-06-01, or equivalent ordinance  | 4 points |
| <del>(27)</del> (24) | Improperly operating or unlawfully carrying passengers or packages on a motorcycle in violation of section 39-10.2-02,                         | 2 points |

or equivalent ordinance

- ~~(28)~~ (25) Improperly operating a motorcycle in laned traffic in violation of section 39-10.2-03, or equivalent ordinance 2 points
- ~~(29)~~ (26) Clinging to other vehicles while riding a motorcycle in violation of section 39-10.2-04, or equivalent ordinance 4 points
- ~~(30)~~ (27) 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)~~ (28) Operating a motorcycle without protective headgear in violation of subsection 1 of section 39-10.2-06, or equivalent ordinance 2 points
- ~~(32)~~ (29) Failing to use the care required in section 39-09-01.1, or equivalent ordinance 2 points
- ~~(33)~~ (30) Except as provided in paragraphs 34 31 and 37 34 of this 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)~~ (31) 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
<del>(35)</del> (32)	Driving in violation of section 39-08-18	2 points
<del>(36)</del> (33)	Driving in violation of section 39-08-09	6 points
<del>(37)</del> (34)	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

## b. Criminal Violations

Conviction of:	Points Assigned:
(1) Reckless driving, in violation of section 39-08-03, or equivalent ordinance	8 points
(2) Aggravated reckless driving, in violation of section 39-08-03, or equivalent ordinance	12 points
(3) Leaving the scene of an accident involving property damage in violation of section 39-08-05, 39-08-07, or 39-08-08, or equivalent ordinances	14 points
(4) Leaving the scene of an accident involving personal injury or death in violation of section 39-08-04, or equivalent ordinance	18 points
(5) <del>Repealed by S.L. 1991,</del>	

- ch. 414, § 4,  
effective July 7, 1991
- ~~(6)~~ Repealed by S.L. 1991,  
ch. 414, § 4,  
effective July 7, 1991
- ~~(7)~~ Repealed by S.L. 1991,  
ch. 414, § 4,  
effective July 7, 1991
- ~~(8)~~ Violating restrictions in 3 points  
a restricted license  
issued under section  
39-06-17 and relating  
to the use of eyeglasses  
or contact lenses while  
driving
- ~~(9)~~(6) Violating any restrictions 4 points  
other than those listed in  
paragraph ~~8~~ 5 of this  
subdivision, contained in  
a restricted license issued  
under section 39-06-17 or  
39-06.1-11
- ~~(10)~~(7) Except as provided in 6 points  
paragraph ~~12~~ 9 of this  
subdivision, operating  
a motor vehicle without  
liability insurance,  
in violation of section  
39-08-20
- ~~(11)~~(8) Knowingly drove a 2 points  
modified motor vehicle in  
violation of section  
39-21-45.1, or equivalent  
ordinance
- ~~(12)~~(9) Operating a motor vehicle 14 points  
without liability  
insurance, in violation of  
section 39-08-20, if the  
violation was discovered as  
the result of investigation  
of an accident in which the  
driver is the owner
- ~~(13)~~(10) Knowingly failing to 2 points  
display a placard or flag,  
in violation of any rule  
implementing section 39-21-44,  
while transporting explosive

or hazardous materials

~~(14)~~(11) Except as provided in paragraph 9 of subdivision a of this subsection, knowingly operating an unsafe vehicle in violation of subsection 1 of section 39-21-46 2 points

(12) Fleeing in a motor vehicle from a peace officer in violation of section 39-10-71, or equivalent ordinance 24 points

**SECTION 2. AMENDMENT.** Subsection 1 of section 39-06.1-13 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The licensing authority shall reduce the point total shown on any licensee's driving record by one point for each three-month period during which no points are recorded against ~~his~~ the licensee's driving record for a moving violation or a violation listed in paragraphs ~~12~~ 12 through ~~16~~ 16 of subdivision a of subsection 3 of section 39-06.1-10. The three-month period must be calculated from the date of entry of the last points against that licensee's driving record.

**SECTION 3. AMENDMENT.** Section 39-10-71 of the North Dakota Century Code is amended and reenacted as follows:

**39-10-71. Fleeing or attempting to elude a peace officer.** Any driver of a motor vehicle who willfully fails or refuses to bring the vehicle to a stop, or who otherwise flees or attempts to elude, in any manner, a pursuing police vehicle or peace officer, when given a visual or audible signal to bring the vehicle to a stop, is guilty of a class A misdemeanor for a first or second offense and a class C felony for a subsequent offense. A signal complies with this section if the signal is perceptible to the driver and:

1. If given from a vehicle, the signal is given by hand, voice, emergency light, or siren, and the stopping vehicle is appropriately marked showing it to be an official police vehicle; or
2. If not given from a vehicle, the signal is given by hand, voice, emergency light, or siren, and the officer is in uniform and prominently displays the officer's badge of office.

Approved March 23, 1993  
Filed March 23, 1993

## CHAPTER 387

HOUSE BILL NO. 1098  
(Transportation Committee)

(At the request of the Department of Transportation)

**ALCOHOL CONCENTRATION OF OPERATORS**

AN ACT to amend and reenact subdivision a of subsection 1 of section 39-08-01, sections 39-20-03.1, 39-20-03.2, 39-20-04.1, 39-20-05, subsection 4 of section 39-20-07, and sections 39-20-09 and 65-01-11 of the North Dakota Century Code, relating to alcohol concentration of motor vehicle operators and statutory references to the director of the department of transportation.

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

**SECTION 1. AMENDMENT.** Subdivision a of subsection 1 of section 39-08-01 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- a. That person has a ~~blood~~ an alcohol concentration of at least ten one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a vehicle.

**SECTION 2. AMENDMENT.** Section 39-20-03.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**39-20-03.1. Action following test result for a resident operator.** If a person submits to a test under section 39-20-01, 39-20-02, or 39-20-03 and the test shows that person to have a ~~blood~~ an alcohol concentration of at least ten one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a vehicle, the following procedures apply:

1. The law enforcement officer shall immediately take possession of the person's operator's license if it is then available and shall immediately issue to that person a temporary operator's permit if the person then has valid operating privileges, extending driving privileges for the next twenty-five days, or until earlier terminated by the decision of a hearing officer under section 39-20-05. The law enforcement officer shall sign and note the date on the temporary operator's permit. The temporary operator's permit serves as the ~~commissioner's~~ director's official notification to the person of the ~~commissioner's~~ director's intent to revoke, suspend, or deny driving privileges in this state.
2. If a test administered under section 39-20-01 or 39-20-03 was by saliva or urine sample or by drawing blood as provided in section 39-20-02 and the person tested is not a resident of an area in which the law enforcement officer has jurisdiction, the law enforcement officer shall, on receiving the analysis of the saliva, urine, or blood from the state toxicologist and if the analysis shows that person had a ~~blood~~ an alcohol

concentration of at least ten one-hundredths of one percent by weight, either proceed in accordance with subsection 1 during that person's reappearance within the officer's jurisdiction or notify a law enforcement agency having jurisdiction where the person lives. On that notification, that law enforcement agency shall immediately take possession of the person's North Dakota operator's license or permit if it is then available and, within twenty-four hours, forward the license and a copy of the temporary operator's permit to the law enforcement agency making the arrest or to the ~~commissioner~~ director. The law enforcement agency shall also, on taking possession of the person's operator's license, issue to that person a temporary operator's permit as provided in this section, and shall sign and date the permit as provided in subsection 1. The temporary operator's permit serves as the ~~commissioner's~~ director's official notification to the person of the ~~commissioner's~~ director's intent to revoke, suspend, or deny driving privileges in this state.

3. The law enforcement officer, within five days of the issuance of the temporary operator's permit, shall forward to the ~~commissioner~~ director a certified written report in the form required by the ~~commissioner~~ director and the person's operator's license taken under subsection 1 or 2. If the person was issued a temporary operator's permit because of the results of a test, the report must show that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01, or equivalent ordinance, that the person was lawfully arrested, that the person was tested for ~~blood~~ alcohol concentration under this chapter, and that the results of the test show that the person had ~~a blood~~ an alcohol concentration of at least ten one-hundredths of one percent by weight. In addition to the operator's license and report, the law enforcement officer shall forward to the ~~commissioner~~ director a certified copy of the operational checklist and test records of a breath test and a copy of the certified copy of the analytical report for a blood, saliva, or urine test for all tests administered at the direction of the officer.

**SECTION 3. AMENDMENT.** Section 39-20-03.2 of the North Dakota Century Code is amended and reenacted as follows:

**39-20-03.2. Action following test result or on refusing test by nonresident operator.** If a person licensed in another state refuses in this state to submit to a test provided under section 39-20-01 or 39-20-14, or who submits to a test under section 39-20-01, 39-20-02, or 39-20-03 and the test results show the person to have ~~a blood~~ an alcohol concentration of at least ten one-hundredths of one percent by weight at the time of performance of a test within two hours after driving or being in physical control of a motor vehicle, the following procedures apply:

1. Without taking possession of the person's out-of-state operator's license, the law enforcement officer shall issue to the person a notification of the test results and a temporary operator's permit extending nonresident operating privileges in this state for twenty-five days from the date of issuance or until earlier terminated by the decision of a hearing officer under section 39-20-05. The temporary permit must be signed and dated by the officer and serves as the ~~commissioner's~~ director's official notification to the person of the ~~commissioner's~~ director's intent to

revoke, suspend, or deny driving privileges in this state, and of the hearing procedures under this chapter.

2. If the test was administered by saliva or urine sample or by drawing blood, the law enforcement officer, on reviewing the ~~blood~~ alcohol concentration analysis showing the person had a ~~blood~~ an alcohol concentration of at least ten one-hundredths of one percent by weight, shall mail the person a notification of the test results, a temporary operator's permit extending nonresident operating privileges in this state for twenty-five days from the date of mailing or until earlier terminated by the decision of a hearing officer under section 39-20-05, and notice of the intent to revoke, suspend, or deny driving privileges in this state, together with the notice provided under section 39-06.1-07 of the procedures available under this chapter. The temporary operator's permit must be signed and dated by the officer.
3. The law enforcement officer, within five days of issuing the temporary operator's permit, shall forward to the ~~commissioner~~ director a certified written report in the form required by the ~~commissioner~~ director and a certified copy of the operational checklist and test records of a breath test and a copy of the certified copy of the analytical report for a blood, saliva, or urine test for all tests administered at the direction of the officer. If the person was issued a temporary operator's permit because of the person's refusal to submit to a test under sections 39-20-01 and 39-20-14, the report must include information as provided in section 39-20-04. If the person was issued a temporary operator's permit because of the results of a test, the report must show that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01, or equivalent ordinance, that the person was lawfully arrested, that the person was tested for ~~blood~~ alcohol concentration under this chapter, and that the results of the test show that the person had a ~~blood~~ an alcohol concentration of at least ten one-hundredths of one percent by weight.

**SECTION 4. AMENDMENT.** Section 39-20-04.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

<sup>1</sup> 39-20-04.1. Administrative sanction for driving or being in physical control of a vehicle while having certain ~~blood~~ alcohol concentration.

1. After the receipt of a person's operator's license, if taken under section 39-20-03.1 or 39-20-03.2, and the certified report of a law enforcement officer and if no written request for hearing has been received from the arrested person under section 39-20-05, or if that hearing is requested and the findings, conclusion, and decision from the hearing confirm that the law enforcement officer had reasonable grounds to arrest the person and test results show that the arrested person was driving or in physical control of a vehicle while having a ~~blood~~ an alcohol concentration of at

---

<sup>1</sup> NOTE: Section 39-20-04.1 was also amended by section 8 of House Bill No. 1109, chapter 375.

least ten one-hundredths of one percent by weight at the time of the performance of a test within two hours after driving or being in physical control of a motor vehicle, the ~~commissioner~~ director shall suspend the person's operator's license as follows:

- a. For ninety-one days if the person's driving record shows that, within the five years preceding the date of the arrest, the person has not previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has not previously been suspended or revoked under this chapter.
  - b. For three hundred sixty-four days if the person's driving record shows that, within the five years preceding the date of the arrest, the person has once previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has once previously been suspended or revoked under this chapter.
  - c. For two years if the person's driving record shows that within the five years preceding the date of the arrest, the person's operator's license has at least twice previously been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, or any combination thereof, and the suspensions, revocations, or denials resulted from at least two separate arrests.
2. In the suspension of the person's operator's license the ~~commissioner~~ director shall give credit for the time the person was without an operator's license after the day of the offense, except that the ~~commissioner~~ director may not give credit for the time the person retained driving privileges through a temporary operator's permit issued under section 39-20-03.1 or 39-20-03.2.

**SECTION 5. AMENDMENT.** Section 39-20-05 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**<sup>2</sup> 39-20-05. Administrative hearing on request.**

1. Before issuing an order of suspension, revocation, or denial under section 39-20-04 or 39-20-04.1, the director shall afford that person an opportunity for a hearing if the person mails a request for the hearing to the 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 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

---

<sup>2</sup> NOTE: Section 39-20-05 was also amended by section 3 of Senate Bill No. 2136, chapter 389, and by section 7 of Senate Bill No. 2228, chapter 236.

temporary operator's permit, the 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 director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state.

2. If the issue to be determined by the hearing concerns license suspension for operating a motor vehicle while having ~~a blood~~ an alcohol concentration of at least ten one-hundredths of one percent by weight, the hearing must be before a hearing officer assigned by the ~~commissioner~~ director and at a time and place designated by the ~~commissioner~~ director. The hearing must be recorded and its scope may cover only the issues of whether the arresting officer had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle in violation of section 39-08-01 or equivalent ordinance; whether the person was placed under arrest; whether the person was tested in accordance with section 39-20-01 or 39-20-03 and, if applicable, section 39-20-02; and whether the test results show the person had ~~a blood~~ an alcohol concentration of at least ten one-hundredths of one percent by weight. For purposes of this section, a copy of a certified copy of an analytical report of a blood, urine, or saliva sample from the office of the state toxicologist, or a certified copy of the checklist and test records from a certified breath test operator establish prima facie the ~~blood~~ alcohol concentration shown therein. Whether the person was informed that the privilege to drive might be suspended based on the results of the test is not an issue.
3. If the issue to be determined by the hearing concerns license revocation for refusing to submit to a test under section 39-20-01 or 39-20-14, the hearing must be before a hearing officer assigned by the ~~commissioner~~ director at a time and place designated by the ~~commissioner~~ director. The hearing must be recorded. The scope of a hearing for refusing to submit to a test under section 39-20-01 may cover only the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle in violation of section 39-08-01 or equivalent ordinance; whether the person was placed under arrest; and whether that person refused to submit to the test or tests. The scope of a hearing for refusing to submit to a test under section 39-20-14 may cover only the issues of whether the law enforcement officer had reason to believe the person committed a moving traffic violation or was involved in a traffic accident as a driver, whether in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol and, whether the person refused to submit to the onsite screening test. Whether the person was informed that the privilege to drive would be revoked or denied for refusal to submit to the test or tests is not an issue.
4. At a hearing under this section, the regularly kept records of the ~~commissioner~~ director may be introduced. Those records establish prima facie their contents without further foundation. For purposes of this chapter, any copy of a certified copy of an analytical report of a blood,

urine, or saliva sample received by the ~~commissioner~~ director from the office of the state toxicologist or a law enforcement officer, a certified copy of the checklist and test records received by the ~~commissioner~~ director from a certified breath test operator, and any copy of a certified copy of a certificate of the office of the state toxicologist relating to approved methods, devices, operators, materials, and checklists used for testing for ~~blood~~ alcohol concentration received by the ~~commissioner~~ director from the office of the state toxicologist or the clerk of district court, are regularly kept records of the ~~commissioner~~ director.

5. At the close of the hearing, the hearing officer shall notify the person of the hearing officer's findings of fact, conclusions of law, and decision based on the findings and conclusions and shall immediately deliver to the person a copy of the decision. If the hearing officer does not find in favor of the person, the copy of the decision serves as the ~~commissioner's~~ director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state. If the hearing officer finds, based on a preponderance of the evidence, that the person refused a test under section 39-20-01 or 39-20-14 or that the person had ~~a blood~~ an alcohol concentration of at least ten one-hundredths of one percent by weight, the hearing officer shall immediately take possession of the person's temporary operator's permit issued under this chapter. If the hearing officer does not find against the person, the hearing officer shall sign, date, and mark on the person's permit an extension of driving privileges for the next twenty days and shall return the permit to the person. The hearing officer shall report the findings, conclusions, and decisions to the ~~commissioner~~ director within ten days of the conclusion of the hearing. If the hearing officer has determined in favor of the person, the ~~commissioner~~ director shall return the person's operator's license by regular mail to the address on file with the ~~commissioner~~ director under section 39-06-20.
6. If the person who requested a hearing under this section fails to appear at the hearing without justification, the right to the hearing is waived, and the hearing officer's determination on license revocation, suspension, or denial will be based on the written request for hearing, law enforcement officer's report, and other evidence as may be available. The hearing officer shall, on the date for which the hearing is scheduled, mail to the person, by regular mail, at the address on file with the ~~commissioner~~ director under section 39-06-20, or at any other address for the person or the person's legal representative supplied in the request for hearing, a copy of the decision which serves as the ~~commissioner's~~ director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state. Even if the person for whom the hearing is scheduled fails to appear at the hearing, the hearing is deemed to have been held on the date for which it is scheduled for purposes of appeal under section 39-20-06.

**SECTION 6. AMENDMENT.** Subsection 4 of section 39-20-07 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. Alcohol concentration is based upon grams of alcohol per one hundred ~~cubic centimeters~~ milliliters of blood or grams of alcohol per two

hundred ten liters of alveolar air or grams of alcohol per sixty-seven ~~cubic centimeters~~ milliliters of urine.

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

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

**SECTION 8. AMENDMENT.** Section 65-01-11 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

<sup>3</sup> **65-01-11. Burden of proof in compensation matters - Death certificate.** If the bureau or an employer claims that an employee is not entitled to the benefits of the North Dakota Workers' Compensation Law by reason of the fact that the employee's injury was caused by the employee's willful intention to injure himself, or to injure another, or by reason of the voluntary intoxication of the employee, the burden of proving such exemption or forfeiture is upon the bureau or upon the person alleging the same; however, a ~~blood~~ an alcohol level above the legal intoxication limit as defined in subsection 3 of section 39-20-07 creates a rebuttable presumption that the injury was due to intoxication. Any claimant against the fund, however, has the burden of proving by a preponderance of the evidence that the claimant is entitled to participate in the same. In the event of a claim for death benefits the official death certificate must be considered as evidence of death and may not be used to establish the cause of death.

Approved March 16, 1993  
Filed March 16, 1993

---

<sup>3</sup> NOTE: Section 65-01-11 was also amended by section 4 of Senate Bill No. 2200, chapter 614.

## CHAPTER 388

SENATE BILL NO. 2299  
(Senator Lindgren)

### DUI MULTIPLE OFFENSES

AN ACT to amend and reenact subsection 2 of section 39-08-01 of the North Dakota Century Code, relating to sentences for persons operating a motor vehicle while under the influence of intoxicating liquor or any other drug or substance.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 39-08-01 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. A person violating this section or equivalent ordinance is guilty of a class B misdemeanor for the first or second ~~conviction~~ offense in a five-year period, and of a class A misdemeanor for a later ~~conviction~~ offense in a five-year period. Notwithstanding the other provisions of this subsection, a person violating this section or equivalent ordinance is guilty of a class A misdemeanor for the fourth or subsequent ~~conviction~~ offense in a seven-year period. The minimum penalty for violating this section is as provided in subsection 4. The court shall take judicial notice of the fact that a ~~conviction~~ an offense would be a subsequent ~~conviction~~ offense if indicated by the records of the director or may make such finding based on other evidence.

Approved March 11, 1993  
Filed March 11, 1993

## CHAPTER 389

SENATE BILL NO. 2136  
(Transportation Committee)  
(At the request of the Department of Transportation)

### IMPLIED CONSENT HEARINGS

AN ACT to amend and reenact section 39-08-10, subsections 1, 2, and 3 of section 39-08-13, and subsection 1 of section 39-20-05 of the North Dakota Century Code, relating to reporting of motor vehicle accidents and implied consent administrative hearings.

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

**SECTION 1. AMENDMENT.** Section 39-08-10 of the North Dakota Century Code is amended and reenacted as follows:

**39-08-10. Officer to report.** Every law enforcement officer, who in the regular course of duty investigates a motor vehicle accident required to be reported as provided in section 39-08-09 either at the time and at the scene of the accident or thereafter by interviewing the participants, or witnesses, shall make and forward promptly a written report of such accident to the commissioner promptly forward to the director a report of the accident in a format prescribed by the director.

**SECTION 2. AMENDMENT.** Subsections 1, 2, and 3 of section 39-08-13 of the North Dakota Century Code are amended and reenacted as follows:

1. The ~~commissioner~~ director shall prepare and supply to law enforcement agencies, garages, and other suitable agencies or individuals forms for accident reports required by law, appropriate with respect to the purposes to be served. The ~~written~~ reports to be made by investigating officers shall call for sufficiently detailed information to disclose the cause of a traffic accident, conditions then existing, persons and vehicles involved, and whether the requirements for the deposit of security under section 39-16-05 are applicable.
2. Every accident report required to be made ~~in writing to the director~~ must be made ~~on~~ in the appropriate ~~form~~ format or approved by the ~~commissioner~~ director and must contain all the information required therein unless not available.
3. Every law enforcement officer who investigates a vehicle accident for which a report must be made as required in this chapter shall forward a ~~written~~ report of such accident to the department within five days after investigation of the accident.

<sup>1</sup> SECTION 3. AMENDMENT. Subsection 1 of section 39-20-05 of the 1991 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 director shall afford that person an opportunity for a hearing if the person mails a request for the hearing to the 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~~ thirty days after the issuance of the temporary operator's permit 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 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 director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state.

Approved February 16, 1993  
Filed February 16, 1993

---

<sup>1</sup> NOTE: Section 39-20-05 was also amended by section 5 of House Bill No. 1098, chapter 387, and by section 7 of Senate Bill No. 2228, chapter 236.

## CHAPTER 390

HOUSE BILL NO. 1488  
(Representatives Allmaras, Dorso, Freier, Timm)  
(Senators Mutch, O'Connell)

**PROOF OF INSURANCE FOR DRIVERS**

AN ACT to amend and reenact section 39-08-20 and subsection 3 of section 39-16.1-19 of the North Dakota Century Code, relating to driving without liability insurance and reissuance of a motor vehicle operator's license following certain cancellations of financial responsibility; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 39-08-20 of the 1991 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 fails to submit such evidence to the officer or the officer's agency within twenty days of the date of the request. If that person produces a valid policy of liability insurance in effect at the time of violation of this section to the officer, officer's agency, or a court, that person may not be convicted or assessed any court costs for violation of this section. 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 2. AMENDMENT.** Subsection 3 of section 39-16.1-19 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. Whenever any person whose proof has been canceled or returned under subdivision c of subsection 1 applies for a license within a period of ~~three years one year~~ from the date proof was originally required, ~~any such the application must be refused and no license may be returned or reissued and the.~~ The person's operator's license and driving privileges ~~shall remain remain~~ under suspension or revocation, ~~unless until~~ the applicant ~~shall reestablish such reestablishes~~ proof for the remainder of ~~such three year the one-year period and pay to the commissioner in addition to any other fees, a fee of ten dollars.~~

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

Approved April 8, 1993  
Filed April 9, 1993

## CHAPTER 391

SENATE BILL NO. 2173  
(Senators Marks, O'Connell)  
(Representative Bernstein)

### VEHICLE HEIGHT LIMITATIONS

AN ACT to amend and reenact subsection 2 of section 39-12-04 of the North Dakota Century Code, relating to height limitations on vehicles; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 39-12-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. a. A height of ~~thirteen~~ fourteen feet ~~six inches~~ [~~4.11~~ 4.27 meters], whether loaded or unloaded. This height limitation does not affect any present structure such as bridges and underpasses that are not ~~thirteen~~ fourteen feet ~~six inches~~ [~~4.11~~ 4.27 meters] in height.
- b. The limitation in subdivision a does not apply to vehicles that are at most fifteen feet six inches [4.72 meters] high when all of the following apply:
  - (1) The vehicle is an implement of husbandry and is being moved by a resident farmer, rancher, dealer, or manufacturer.
  - (2) The trip is at most ~~forty~~ sixty miles [~~64.40~~ 96.56 kilometers].
  - (3) The trip is between sunrise and sunset.
  - (4) None of the trip is on an interstate highway.

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

Approved March 10, 1993  
Filed March 11, 1993

## CHAPTER 392

SENATE BILL NO. 2419  
(Senator Tomac)  
(Representatives Cleary, Gerntholz)

### TOURIST-ORIENTED SIGNS

AN ACT to amend and reenact section 39-13-09 of the North Dakota Century Code, relating to tourist-oriented directional signs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-13-09 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**39-13-09. 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~~ rural agricultural business and 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 July 1, 1991, 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 [182.88 centimeters] wide and sixteen inches [40.64 centimeters] 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~~ administration of 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.
  - l. Provisions stating the qualifications of contractors.
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 permit applicant~~ shall ~~contract~~ engage a qualified contractor 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 25, 1993  
Filed March 26, 1993

## CHAPTER 393

HOUSE BILL NO. 1097  
(Transportation Committee)

(At the request of the Department of Transportation)

### FINANCIAL RESPONSIBILITY LICENSE SANCTIONS

AN ACT to amend and reenact section 39-16.1-07 of the North Dakota Century Code, relating to the revocation or suspension of an operator's license for failure to comply with financial responsibility laws.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-16.1-07 of the North Dakota Century Code is amended and reenacted as follows:

**39-16.1-07. Revocation or suspension of license for reasons other than provisions of this chapter.**

1. Whenever the ~~commissioner~~ director under any other law of this state, except ~~subsections 1 through 5 of section~~ sections 39-06-40 and ~~section~~ 39-06-40.1, revokes the license of any person, the license must remain revoked and may not be renewed nor shall any license be issued to such person, unless the person gives and maintains proof of financial responsibility.
2. If a person by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the revocation of license, driving or being in actual physical control of a vehicle while under the influence in violation of section 39-08-01 or equivalent ordinance, or operating a motor vehicle upon the highway while the person's license or privilege to drive is under suspension, for a violation requiring a license or privilege to drive suspension of at least ninety-one days or revocation, or cancellation, the license or driving privilege must remain suspended, or revoked, ~~or canceled and may not be renewed, nor may any~~ no license may be issued or returned to the person, unless the person gives and maintains proof of financial responsibility.
3. ~~If a person's operator's license has been revoked or suspended or issuance has been denied as an administrative sanction under chapter 39-20, the person's operator's license may not be renewed, nor may any license be issued or returned to the person, unless the person gives and maintains proof of financial responsibility.~~
- 4- Whenever the ~~commissioner~~ director revokes or suspends a nonresident's operating privilege by reason of an administrative sanction under chapter 39-20, a conviction, or forfeiture of bail, the privilege remains revoked or suspended unless the person gives and maintains proof of financial responsibility.

Approved April 9, 1993  
Filed April 9, 1993

## CHAPTER 394

SENATE BILL NO. 2137  
(Transportation Committee)  
(At the request of the Department of Transportation)

### OPERATOR'S LICENSE REVOCATION REVIEW

AN ACT to amend and reenact section 39-20-06 of the North Dakota Century Code, relating to judicial review when a person's operator's license is suspended or revoked.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-20-06 of the North Dakota Century Code is amended and reenacted as follows:

**39-20-06. Judicial review.** Any person whose operator's license or privilege has been suspended, revoked, or denied by the decision of the hearing officer under section 39-20-05 may appeal within seven days after the date of the hearing under section 39-20-05 as shown by the date of the hearing officer's decision, section 28-32-15 notwithstanding, by serving on the commissioner director and filing a notice of appeal and specifications of error in the district court in the county where the events occurred for which the demand for a test was made, or in the county in which the administrative hearing was held. The court shall set the matter for hearing, and the petitioner shall give twenty days' notice of the hearing to the commissioner director and to the hearing officer who rendered the decision. Neither the commissioner director nor the court may stay the decision pending decision on appeal. Within ~~fifteen~~ twenty days after receipt of the notice of appeal, the commissioner director or the hearing officer who rendered the decision shall file in the office of the clerk of court to which the appeal is taken a certified transcript of the testimony and all other proceedings. It is the record on which the appeal must be determined. No additional evidence may be heard. The court shall affirm the decision of the commissioner director or hearing officer unless it finds the evidence insufficient to warrant the conclusion reached by the commissioner director or hearing officer. The court may direct that the matter be returned to the commissioner director or hearing officer for rehearing and the presentation of additional evidence.

Approved March 10, 1993  
Filed March 11, 1993

## CHAPTER 395

SENATE BILL NO. 2345  
(Senators Traynor, Tennefos)  
(Representative Mahoney)

## INCLEMENT WEATHER VEHICLE LIGHTS

AN ACT to amend and reenact section 39-21-01 of the North Dakota Century Code, relating to the display of vehicle lights during inclement weather.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-21-01 of the North Dakota Century Code is amended and reenacted as follows:

39-21-01. When lighted lamps are required. Every Subject to exceptions with respect to parked vehicles, every vehicle upon a highway within this state ~~at~~ must display lighted lamps and illuminating devices as required in this chapter for different classes of vehicles as follows:

1. At any time from sunset to sunrise, and every farm tractor upon a highway within this state at any time from a half hour after sunset to a half hour before sunrise, ~~and at:~~
2. At any time when it is raining, snowing, sleeting, or hailing or during other adverse driving conditions and these conditions do not render a person or vehicle on the highway clearly discernible at a distance of one thousand feet [304.8 meters] ahead; or
3. At any other time when, ~~due to visibility is impaired by weather, smoke, fog, or other conditions, or when there is insufficient light or unfavorable atmospheric conditions, persons and vehicles to render a person or vehicle on the highway are not~~ clearly discernible at a distance of one thousand feet [304.8 meters] ahead ~~must display lighted lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles.~~ Stoplights, turn signals, and other signaling devices must be lighted as prescribed for the use of such devices.

Approved March 23, 1993  
Filed March 23, 1993

## CHAPTER 396

SENATE BILL NO. 2534  
 (Senators Krauter, O'Connell)  
 (Representative Kerzman)

### VEHICLE SAFETY CHAINS AND BRAKES

AN ACT to amend and reenact subsection 3 of section 39-21-32 and section 39-21-44.2 of the North Dakota Century Code, relating to vehicle brake equipment and safety chain connections between vehicles.

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

**SECTION 1. AMENDMENT.** Subsection 3 of section 39-21-32 of the North Dakota Century Code is amended and reenacted as follows:

3. Every trailer or semitrailer when operated upon a highway at a speed in excess of ~~fifteen~~ twenty-five miles [~~24.14~~ 40.23 kilometers] per hour must be equipped with safety chains or brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and said brakes must be so designed and connected that in case of an accidental breakaway of the towed vehicle the brakes ~~shall be~~ are automatically applied.

**SECTION 2. AMENDMENT.** Section 39-21-44.2 of the North Dakota Century Code is amended and reenacted as follows:

**39-21-44.2. Drawbar or connection between vehicles - Precautions required.** The drawbar or other ~~connection~~ coupling device between ~~any two~~ vehicles, one of which is towing or drawing the other on a highway, must include safety chains connecting the vehicles. The drawbar or other coupling device, and the safety chains, must be of such a design, strength, and construction so as to prevent the unintentional uncoupling of the vehicles. The safety chain requirement of this section does not apply to:

1. A fifth-wheel coupling device; or
2. A vehicle towing an implement of husbandry or an implement of husbandry towing a vehicle, when operated at a speed not exceeding twenty-five miles [40.23 kilometers] per hour.

Approved April 7, 1993  
 Filed April 8, 1993

# CHAPTER 397

SENATE BILL NO. 2120  
(Transportation Committee)  
(At the request of the Parks and Tourism Department)

## SNOWMOBILE FUND

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.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-24-05 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

<sup>1</sup> 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 parks and tourism department may, upon appropriation by the legislative assembly, expend from such fund moneys it deems necessary for purposes of administering snowmobile safety programs and establishing and maintaining snowmobile facilities and programs.

Approved April 12, 1993  
Filed April 12, 1993

<sup>1</sup> NOTE: Section 39-24-05 was also amended by section 8 of House Bill No. 1400, chapter 80.

## CHAPTER 398

SENATE BILL NO. 2123  
(Natural Resources Committee)  
(At the request of the Parks and Tourism Department)

### SNOWMOBILE NONREGISTRATION PENALTY

AN ACT to amend and reenact section 39-24-11 of the North Dakota Century Code, relating to penalties for nonregistration of snowmobiles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-24-11 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

<sup>1</sup> **39-24-11. Penalties.** Any person who violates subdivision b, 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~~  fifty dollars. ~~A person who operates an unregistered snowmobile on land owned, leased, or managed by the parks and tourism department must be assessed a fee of fifty dollars; however, if~~ 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 7, 1993  
Filed April 8, 1993

---

<sup>1</sup> NOTE: Section 39-24-11 was also amended by section 11 of House Bill No. 1400, chapter 80.

## CHAPTER 399

SENATE BILL NO. 2121  
(Transportation Committee)  
(At the request of the Parks and Tourism Department)

### ALL-TERRAIN VEHICLE LIGHTS

AN ACT to amend and reenact section 39-29-09 of the North Dakota Century Code, relating to operation of all-terrain vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-29-09 of the North Dakota Century Code is amended and reenacted as follows:

**39-29-09. Operation of all-terrain vehicles.**

1. A person may not operate an all-terrain vehicle on the roadway, shoulder, or inside bank or slope of any road, street, or highway except as provided in this chapter. Except in emergencies, a person may not operate an all-terrain vehicle within the right of way of any controlled access highway.
2. The operator of an all-terrain vehicle may make a direct crossing of a street or highway only if:
  - a. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
  - b. The all-terrain vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
  - c. The operator yields the right of way to all oncoming traffic which constitutes an immediate hazard; and
  - d. In crossing divided highway, the crossing is made only at an intersection of the highway with another public street or highway.
3. A person may not operate an all-terrain vehicle unless it is equipped with at least one headlamp, one taillamp, and brakes, all in working order, which conform to standards prescribed by rule of the ~~highway commissioner~~ director of the department of transportation, except when under the direct supervision of an all-terrain vehicle instructor teaching a certified all-terrain vehicle safety training course, the requirement for a headlamp and taillamp may be waived.
4. The emergency conditions under which an all-terrain vehicle may be operated other than as provided by this chapter are only those that render the use of an automobile impractical under the conditions and at the time and location in question.

5. A person may not operate an all-terrain vehicle in the following ways, which are declared to be unsafe and a public nuisance:
  - a. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
  - b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage to such person or property.
  - c. While under the influence of intoxicating liquor or a controlled substance.
  - d. Without a lighted headlamp and taillamp except when used by an all-terrain vehicle instructor during a certified all-terrain vehicle safety training course.
  - e. In any tree nursery or planting in a manner which damages growing stock.
  - f. Without a manufacturer-installed or equivalent muffler in good working order and connected to the all-terrain vehicle's exhaust system.
  - g. On any private land where the private land is posted prohibiting trespassing. The name and address of the person posting the land and the date of posting must appear on each sign in legible characters. The posted signs must be readable from outside the land and be placed conspicuously at a distance of not more than eight hundred eighty yards [804.68 meters] apart. Land entirely enclosed by a fence or other enclosure is sufficiently posted by posting of such signs, at or on all gates through the fence or enclosure.
6. Except as provided in section 39-29-10, a person may not operate an all-terrain vehicle without having in possession a valid driver's license or permit.
7. When an all-terrain vehicle is operated within the right of way of any road, street, or highway, during times or conditions that warrant the use of lights by other motor vehicles, the all-terrain vehicle must be operated in the same direction as the direction of other motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right of way traveled by the all-terrain vehicle.
8. A person may not operate an all-terrain vehicle within the right of way of any highway while towing a sled, skid, or other vehicle, unless the object towed is connected to the all-terrain vehicle by a hinged swivel and secure hitch.
9. Helmet required. No person under the age of eighteen may operate, ride, or otherwise be propelled on an all-terrain vehicle unless the person wears a safety helmet meeting United States department of transportation standards.
10. Passenger restrictions. No operator of an all-terrain vehicle may carry a passenger while operating.

Approved February 16, 1993  
Filed February 16, 1993

## CHAPTER 400

SENATE BILL NO. 2122  
(Natural Resources Committee)  
(At the request of the Parks and Tourism Department)

### ALL-TERRAIN VEHICLE NONREGISTRATION PENALTY

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-29-12 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

<sup>1</sup> **39-29-12. Penalties.** Violation of subdivision b, 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~~ fifty dollars must be assessed; ~~however, if the violation occurs on land owned, leased, or managed by the parks and tourism 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 7, 1993  
Filed April 8, 1993

---

<sup>1</sup> NOTE: Section 39-29-12 was also amended by section 16 of House Bill No. 1400, chapter 80.