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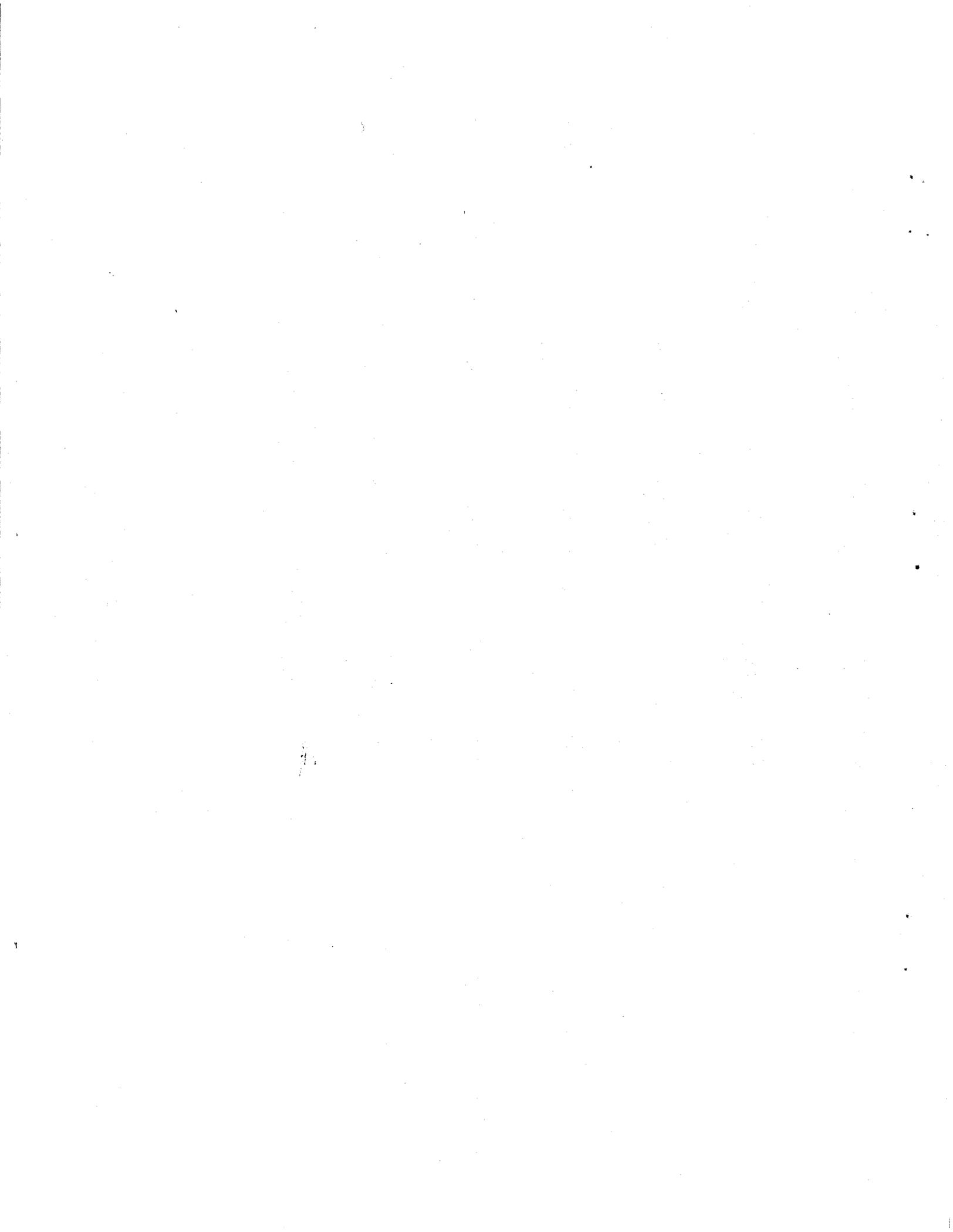


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TITLE 7
Agriculture, Commissioner of

JULY 1983

STAFF COMMENT: Chapter 7-02-02 contains all new material but is not underscored so as to improve readability.

ARTICLE 7-02

APIARY DIVISION

Chapter	
7-02-01	General Provisions [Repealed]
7-02-02	Rules of the Apiary Division

**CHAPTER 7-02-01
GENERAL PROVISIONS**

[Repealed as the result of S.L. 1983, ch. 92, § 3]

**CHAPTER 7-02-02
RULES OF THE APIARY DIVISION**

Section	
7-02-02-01	Beekeeper's License
7-02-02-02	Registration of Apiaries
7-02-02-03	Measurement of Two-mile [3.22-kilometer] Radius Restriction
7-02-02-04	Sale or Transfer of Commercial Locations
7-02-02-05	Pollination Locations
7-02-02-06	Crops Pollinated
7-02-02-07	Identification of Hives

7-02-02-08 Notification of Violation
7-02-02-09 Yards Registered Under North Dakota Century
Code Chapter 4-12

7-02-02-01. Beekeeper's license. No application for a beekeeper's license will be accepted by the commissioner of agriculture prior to January first of that licensing year. The registration of apiaries required under North Dakota Century Code section 4-12.2-07 shall be submitted at the same time as a license application.

History: Effective July 1, 1983.
General Authority: NDCC 4-12.2-02
Law Implemented: NDCC 4-12.2-04

7-02-02-02. Registration of apiaries. When applications for apiary locations are received on the same date by the commissioner of agriculture and the apiary locations are within two miles [3.22 kilometers] of one another, priority shall be given to the apiary with the earlier date of written permission from property owner. This is in reference to new commercial apiaries or apiaries with territorial rights. Any further conflicts as to yard priority will be resolved by the commissioner of agriculture.

History: Effective July 1, 1983.
General Authority: NDCC 4-12.2-02
Law Implemented: NDCC 4-12.2-07

7-02-02-03. Measurement of two-mile [3.22-kilometer] radius restriction. All commercial apiaries, for the purpose of enforcing North Dakota Century Code section 4-12.2-09, shall be located not less than two miles [3.22 kilometers] from the perimeter of the quarter section of a commercial apiary operated by another beekeeper.

History: Effective July 1, 1983.
General Authority: NDCC 4-12.2-02
Law Implemented: NDCC 4-12.2-09

7-02-02-04. Sale or transfer of commercial locations. Notification of the sale or transfer of a commercial location shall be made to the department, by submitting a copy of the document showing written permission from property owner of the land on which an apiary is located to beekeeper.

History: Effective July 1, 1983.
General Authority: NDCC 4-12.2-02
Law Implemented: NDCC 4-12.2-09

7-02-02-05. **Pollination locations.** Apiaries used for pollination service must be registered with the department of agriculture. Registration will not be granted until all fees required under North Dakota Century Code chapters 4-12.1 and 4-12.2 are paid. This registration must include the following information: (1) crop to be pollinated and number of acres [hectares]; (2) number of colonies used for pollination; (3) name and telephone number of beekeeper or agent posted in apiary; and (4) legal description of apiary to nearest quarter section.

History: Effective July 1, 1983.

General Authority: NDCC 4-12.2-02

Law Implemented: NDCC 4-12.2-10

7-02-02-06. **Crops pollinated.** Pollination locations may be allowed only on the following crops:

1. Leguminosae. Placement of bees is limited to five days prior to onset of blossoming and bees are to be removed five days after ninety-five percent of flowers have wilted or five days after harvest, as determined by the department of agriculture.

Alfalfa--Medicago sativa L.

For certified seed production only.

Sweetclover--Melilotus alba or officinalis.

For seed production only.

Sainfoin--Onobrychis viciifolia Scop

Red clover--Trifolium partense L.

For seed production only.

Alsike clover--Trifolium hybridum L.

For seed production only.

Crownvetch--Coronilla varia L.

For seed production only.

Hairy vetch--Vicia villosa Roth

Birdsfoot trefoil--Lotus corniculatus L.

2. Compositae. Placement of bees is limited to five days prior to when first heads open, and bees may remain throughout entire flowering period, as determined by the department of agriculture.

Sunflower--Helianthus annuus

Safflower--Carthamus tinctorius L.

3. Cruciferae. Placement of bees is limited to five days prior to ninety-five percent bloom of the crop and bees are to be removed five days after harvest, as determined by the department of agriculture.

Oilseed rape--Brassica napus

Yellow mustard--Brassica alba

Brown mustard--Brassica juncea

4. Curcubitaceae. Placement of bees is limited to five days prior to onset of flowering and bees are to be removed when ninety-five percent of flowers have opened and have been pollinated, as determined by the department of agriculture.

Cucumber--Curcurbita sativus

Cantaloupe--Cucumis melo L.

Watermelon--Colocynthis citrullus

5. Buckwheat--Fagopyrum esculentum. Placement of bees is limited to five days prior to onset of blossoming and bees are to be removed five days after harvest, as determined by the department of agriculture.
6. Miscellaneous crops. Those crops not listed, which are benefited by bee pollination, as determined by the department of agriculture.

History: Effective July 1, 1983.

General Authority: NDCC 4-12.2-02

Law Implemented: NDCC 4-12.2-10

7-02-02-07. **Identification of hives.** All beekeepers shall identify their hives by one of the following: (1) painting of beekeeper's name and address or phone number on hive; or (2) posting of beekeeper's name and address or phone number in apiary; or (3) branding of hives. The commissioner may record any brands submitted to the commissioner by a beekeeper for identification purposes.

History: Effective July 1, 1983.

General Authority: NDCC 4-12.2-02

Law Implemented: NDCC 4-12.2-14

7-02-02-08. **Notification of violation.** Each beekeeper or beekeeper's agent will be notified by letter of any violation found in the apiary at the time of inspection. It shall be the beekeeper's responsibility to comply with the recommended procedures for correcting the violation.

History: Effective July 1, 1983.

General Authority: NDCC 4-12.2-02

Law Implemented: NDCC 4-12.2-16

7-02-02-09. Yards registered under North Dakota Century Code chapter 4-12. Registration of apiary locations pursuant to North Dakota Century Code section 4-12.2-07 shall take effect May 1, 1984; until such time, registration of apiary locations pursuant to North Dakota Century Code chapter 4-12 shall remain in effect unless canceled by the department of agriculture.

History: Effective July 1, 1983.
General Authority: NDCC 4-12.2-02
Law Implemented: NDCC 4-12.2-07

TITLE 25
Embalmers, Board of

JULY 1983

25-02-01-02. Preparation room. Every preparation room shall be provided with proper and convenient receptacles for refuse. ~~Other waste material shall be destroyed by incineration immediately~~ Waste material shall be packaged in a plastic or nonporous bag and sealed at the conclusion of each case and the public health thereby maintained.

History: Amended effective July 1, 1983.

General Authority: NDCC 43-10-05, 43-10-06

Law Implemented: NDCC 43-10-05, 43-10-06

25-02-01-09. Shipment of bodies. Only under supervision of a North Dakota licensed ~~embalmers~~ embalmer can ship bodies be shipped or transported from point to point in North Dakota, or from any point in North Dakota to any other state upon compliance with shipping regulations of the state department of health.

History: Amended effective July 1, 1983.

General Authority: NDCC 43-10-05, 43-10-06

Law Implemented: NDCC 43-10-05, 43-10-06

25-02-02-02. Qualifications for licensure. To qualify for a license as an embalmer, the applicant shall comply with all of the following requirements:

1. Be of good moral character and temperate habits.
2. Furnish evidence of successful completion of an accredited four-year high school course of study.
3. Furnish evidence of satisfactory completion of at least two years of accredited college or university course of study (one

year means a minimum of thirty semester hours or a minimum of forty-five quarter hours). The following is the suggested course of study as adopted by the state board of embalmers:

Freshman Year

		Semester Hours	
Freshman English	English 101-102	3	3
General Biology	Biol. 163-164	4	4
Social Science (History, Government Economics)		3	3
Fundamentals of Speech	Sp. 101	3	
Elements of Accounting	Acct. 102		3
Military Science	M.S. 101-102	1	2
Physical Education	P.E. 101-102	1	1

Sophomore Year

General Chemistry	Chem. 105-106	4	4
Microbiology	Bact. 102	4	
Human Anatomy	Anat. 204		3
Pers. and Prev. Hygiene	Bact. 212		3
General Psychology	Psy. 101	3	
Introduction to Sociology	Soc. 201		3
Business Law	B.L. 315	3	
or			
Bus. Reports and Letter Writing	Man. 322		
Military Science	M.S. 201-202	1	2
Physical Education	P.E. 201-202	1	1

4. Have completed a course of instruction of not less than twelve months from a school of embalming as accredited by the American board of funeral service education or any successor recognized by the United States office of education for funeral service education.
5. Furnish a certified record containing a list of subjects completed with the individual grades or rating from the school described in subsection 4.
6. Have served at least twelve months internship after completion of educational requirements during which time the applicant has assisted in the preparation of not less than twenty-five bodies as evidenced by reports on file with the executive secretary.
7. Demonstrate to a licensed embalmer proficiency in the art of embalming. Final embalming report to indicate by affidavit signed by a licensed North Dakota embalmer that the intern is proficient in embalming.

History: Amended effective April 1, 1979; July 1, 1983.

General Authority: NDCC 43-10-05

Law Implemented: NDCC 43-10-11

25-02-02-04. License renewal, destruction, suspension, and reinstatement.

1. Date of renewal. ~~The annual fee of fifteen dollars for renewal of an embalmer's license shall be payable on or before January first of each year.~~ The license to practice embalming or preparing dead human bodies shall be issued for one year only but shall be renewed by the board upon payment to the treasurer of the annual renewal fee. The amount of the fee shall not exceed fifty dollars. The board may refuse to issue or renew the license for cause. The executive secretary of the board shall notify each holder of an embalmer's license thirty days prior to the renewal date. A retired embalmer who has been licensed by the board may be given a paid up honorary membership certificate as long as the embalmer is not engaged in active practice.
2. Loss or destruction of original license. In the event of the loss or destruction of the original license issued to any embalmer, the secretary of the state board of embalmers is authorized to issue a duplicate license upon verified proof of the loss or destruction of the original license.
3. Causes for which the board may refuse or suspend a license. The board may refuse to renew or suspend a license for any of the following:
 - a. Conviction of an offense where the board determines that the offense has a direct bearing upon a person's ability to serve the public as an embalmer or where the board determines pursuant to North Dakota Century Code section 12.1-33-02.1 that the person, following conviction of any offense, is not sufficiently rehabilitated.
 - b. Misrepresentation or fraud in the conduct of the business of the profession of an embalmer.
 - c. Solicitation after death or while death is impending for embalming business by the licensee, or by the agents, assistants or employees of the licensee. This subdivision does not prohibit general advertising.
 - d. Gross immorality.
 - e. Aiding or abetting an unlicensed person to practice embalming.

- f. Violation of any provision of North Dakota Century Code chapter 43-10.
 - g. Violation of any state law or municipal ordinance or regulation affecting the handling, custody, care, or transportation of dead human bodies.
 - h. Refusing to surrender promptly the custody of a dead human body upon the express order of a person lawfully entitled to its custody.
 - i. Gross negligence or gross incompetency in the practice of embalming.
4. Reinstatement of revoked license. A licensee whose license has been revoked can be reinstated only by the unanimous consent of the board and upon passing such examination and investigation as the board may deem necessary and proper under all circumstances.

History: Amended effective July 1, 1983.

General Authority: NDCC 43-10-05

Law Implemented: NDCC 43-10-13, 43-10-15, 43-10-16, 43-10-17, 43-10-18, 43-10-19

25-02-02-05. Licensure by reciprocity.

- 1. Education and experience requirements. Applicants for license through reciprocity with other states must meet educational and experience requirements in conformity with the requirements of the North Dakota state board of embalmers.
- 2. License through examination. Consideration for reciprocity will be given only to embalmers who secured through examination the license on which they apply for reciprocal license, who were at the time of taking such examination and securing such license an actual and legal resident of the state that issued the license, and who have been actively engaged in the practice of their profession as a licensed embalmer for a period of not less than two years preceding the filing of an application for reciprocity.
- 3. Fee. The applicant must pay the fee of ~~five~~ one hundred dollars.
- 4. Submit to examination. A licensee through reciprocity shall submit to an examination at the time and place designated by the board for the purpose of taking a written examination on the laws, rules, and regulations of North Dakota regarding the practice of embalming.

History: Amended effective July 1, 1983.

General Authority: NDCC 43-10-05

25-02-02-06. Intern embalmer.

1. Application.

- a. The application for registration as an embalmer's intern shall be made upon a form approved by the board and verified by the applicant. This registration will be valid for one year only provided the intern is under the supervision of a registered embalmer holding a North Dakota license residing in North Dakota. Such registration may not be renewed more than three times.
- b. A renewal application for the second year of internship shall be forwarded to the executive secretary of the board no later than the first of January of each and every year. This renewal application shall be accompanied by an affidavit from the embalmer that the intern has assisted in the preparation of dead human bodies during the year and that the intern's work has been satisfactory. The intern license shall be issued for a period of twelve months.

2. Qualifications for internship. In order to qualify as an embalmer's intern, the applicant shall comply with the following requirements:

- a. Be eighteen years of age.
- b. Be of good moral character.
- c. Furnish evidence of having completed an accredited four-year high school course of study and evidence of completion of two years of accredited college or university studies.
- d. Reside in same city in which the licensed embalmer under whom the intern is registered maintains a fully equipped embalming establishment.

3. Certification. The state board of embalmers shall pass upon every application for internship at its regular meeting. The applicant shall be duly notified whether the applicant has been accepted or rejected after a majority vote of the board has been received.

4. Intern register. The executive secretary of the board shall keep a separate register for interns.

5. Lapsed certificate. In case an intern has allowed the certificate of internship to lapse for thirty days or more, no reregistration shall be permitted so as to make the intern's registration continuous from the date of the intern's original registration.
6. Monthly report. Each registered intern must submit a report to the executive secretary of the state board of embalmers by the fifteenth of the month stating all cases in which the intern has assisted during the preceding month. This report is to be made on forms furnished by the state board of embalmers.
7. Employment of one intern embalmer. In order to maintain a high standard of instruction, a licensed embalmer shall be permitted to have only one registered intern embalmer working for the embalmer at any one time.

History: Amended effective April 1, 1979; July 1, 1983.

General Authority: NDCC 43-10-05

Law Implemented: NDCC 43-10-05

25-03-01-01. Funeral home license. A funeral home license shall not be transferred from one owner to another. The new owner shall submit an application for a new license to the executive secretary of the state board of embalmers, accompanied by a license fee of ~~twenty-five~~ fifty dollars. The funeral home license is issued in conjunction with a North Dakota embalmer's license. Should the licensee signing the funeral home license application no longer be associated with the funeral home, the licensee shall notify the state board of embalmers. No funeral home license shall be valid unless the funeral home is under the supervision of a licensed embalmer. A change in licensed personnel shall require a new funeral home license.

History: Amended effective July 1, 1983.

General Authority: NDCC 43-10-05

Law Implemented: NDCC ~~43-10-22~~ 43-10-05

TITLE 37
Highway Department

JULY 1983

37-03-01-01. Definitions. The terms herein shall have the meaning as provided in North Dakota Century Code chapters 39-01 and 39-16, with the latter chapter controlling in cases of conflict, except:

1. "Approved course" means any defensive driving course approved by the national safety council and any driving while intoxicated counterattack program approved by the director.
2. "Approved facility" means any hospital or facility for the treatment of alcoholism, drug-dependent persons, or mental health or retardation service as approved by the director.
3. "Director" means the commissioner's duly appointed and acting director of the drivers license division of the state highway department, or the director's duly authorized agent, or licensing authority as that term is used in North Dakota Century Code chapter 39-06.1.
4. "Good cause to believe" or "sufficient evidence" means any information received by the director in writing from:
 - a. Federal, state, or local authorities;
 - b. Licensed physicians, including psychiatrists;
 - c. Any official as to admissions or adjudication of traffic offense;
 - d. Any court as to a conviction of a traffic offense;
 - e. Any state or private hospital;

- f. Any facility for the treatment of alcoholics and drug-dependent persons approved by the state department of health;
 - g. Any facility licensed as an addiction hospital by the state department of health;
 - h. Any mental health and retardation service unit;
 - i. Any federal or state court which indicates that a person may be physically or mentally unable to safely operate a motor vehicle on the highways of the state of North Dakota;
 - j. Any person who has relevant information in regard to the ability of an applicant for a license, a licensee, or permittee to safely operate a motor vehicle; or
 - k. Any person on an application for an operator's license, instructional permit, or renewal thereof.
5. "Licensee" means any person who holds a valid operator's license, under the laws of this state.
 6. "Policy of insurance" means a motor vehicle liability policy in the amount of ten thousand dollars for bodily injury to or death of one person in any one accident, and subject to said limit for one person, in the amount of twenty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of five thousand dollars because of injury to or destruction of property of others in any one accident.
 7. "Security" means a cash bond not to exceed twenty-five thousand dollars.
 8. "Security requirements" means evidence of proof of compliance by the driver of filing security, obtaining a policy of insurance or a bond as required by North Dakota Century Code chapter 39-16 or chapter 39-16.1.
 9. "Underlying suspension" when used in a statute relating to driver's license sanctions means the basic or essential fact or occurrence upon which a suspension has been or may be ordered. Whenever a suspension has two or more concurrent causes, one of which is for an alcohol-related offense or occurrence, the alcohol-related suspension is the underlying suspension.

History: Effective January 1, 1979; amended effective July 1, 1983.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 39-06, 39-06.1, 39-16-02

37-03-02-01. Habitual drunkard - Determination. The director shall have good cause to believe that a person is a habitual drunkard if a person has three or more convictions for driving while intoxicated violating North Dakota Century Code section 39-08-01, or equivalent ordinance, with respect to intoxicating liquor or three or more administrative suspensions for testing at a blood-alcohol concentration of at least ten one-hundredths of one percent by weight within a five-year period. Such person shall not have one's operator's license privileges restored until that person has reported for an evaluation at an approved facility to determine that person's tolerance to the use of alcohol. A person's cooperation, refusal, or neglect to submit to such examination and the evaluation made by the approved facility will be used to determine the disposition of a person's driving privileges. The director has the final responsibility in the disposition of a person's driving privileges. Such disposition may result in the refusal to issue or reissue a license or the revocation or restoration, either partial or total, of a person's driving privileges.

History: Effective January 1, 1979; amended effective July 1, 1983.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 39-06-03, 39-06-32 39-06-34

37-03-03-08. Blood tests - Reports by arresting officer. Under circumstances where the arresting officer has obtained a blood sample from a resident operator arrested for violating North Dakota Century Code section 39-08-01, or equivalent ordinance, and it has been necessary for a county sheriff at the direction of the arresting officer to issue a temporary operator's permit upon taking possession of the person's North Dakota operator's license, the sheriff who issued the temporary operator's permit shall notify the arresting officer of the date of issuance of the temporary operator's permit at the same time the North Dakota operator's license is forwarded to the arresting officer. The arresting officer must forward to the commissioner the person's North Dakota operator's license and a sworn report within five days of the date of issuance of the temporary operator's permit by the sheriff.

History: Effective July 1, 1983.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 39-20-03.1

37-03-03-09. Hearings prior to suspension or revocation for alcohol offenses. Hearings authorized under North Dakota Century Code section 39-20-05 shall be scheduled by the hearing officer assigned to the particular case, by sending notice to the licensee, or the licensee's counsel, if any. The date, time, and place of the hearing shall be established by the hearing officer as workload permits. The scheduled date, time, and place for hearing may be changed only with the permission of the hearing officer, bearing in mind the time constraints provided by North Dakota Century Code section 39-20-05 for holding the hearing. Rescheduling will be allowed only for the most compelling reasons and scheduling conflicts of the licensee or counsel will not be

sufficient cause to reschedule a hearing at a time beyond that provided by law.

It is the responsibility of the licensee or law enforcement officer concerned with the hearing to obtain and present at the hearing all documents or exhibits that the licensee or officer believes necessary to prove the issues to be considered. However, the officer need not produce a duplicate copy of the sworn report submitted to the state highway commissioner with the operator's license following the arrest or stop involved.

History: Effective July 1, 1983.
General Authority: NDCC 28-32-03
Law Implemented: NDCC 39-20-05

37-03-03-10. Temporary operator's permit. If the decision of an administrative hearing officer at the conclusion of a hearing is that a person's operator's license or privilege be revoked or suspended for refusing a blood-alcohol test or testing at least ten one-hundredths of one percent by weight of alcohol, the hearing officer, if the conditions warrant, may issue a temporary operator's permit on a form provided therefor, extending operating privileges for not more than four hours from the time the decision is announced after the hearing, to allow the person to return to the person's home.

Both the temporary operator's permit provided by this section, and the one provided by North Dakota Century Code chapter 39-20, to be issued by an arresting officer, are valid only if accompanied by the licensee's copy of the uniform traffic complaint and summons (traffic citation), if any, issued by the arresting officer.

History: Effective July 1, 1983.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 39-20-05

37-03-03-11. Notice of alcohol addiction treatment - Procedure. The notice required by North Dakota Century Code section 39-06.1-10 relating to alcohol addiction treatment will inform the person of the requirements for completing alcohol addiction treatment found in North Dakota Century Code section 39-06.1-10 and will require that the addiction counselor at the licensed addiction treatment facility provide prompt written notification to the director of the enrollment of the person in the treatment program, and of the person's completion of the program or the person's failure to complete the program.

It is the person's responsibility to ensure that the appropriate addiction counselor makes the prompt written notification of enrollment required by this section.

History: Effective July 1, 1983.
General Authority: NDCC 28-32-02

Law Implemented: NDCC 39-06.1-10

37-03-03-12. Notice of intention to revoke, suspend, or deny license - Law enforcement officer as agent. The temporary operator's permit issued by the law enforcement officer, containing a notice that motor vehicle operating privileges will be revoked or suspended and of an opportunity for a hearing, shall constitute the written notice required by North Dakota Century Code section 39-20-05 from the commissioner.

History: Effective July 1, 1983.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 39-20-05

37-03-04-01.1. Temporary restricted operator's license - Criteria and procedure for issuance.

1. Where authorized by North Dakota Century Code section 39-06.1-11, a temporary restricted operator's license may be issued by the director according to the criteria in this section. In reviewing the person's record for the nature, frequency, and severity of violations and convictions entered thereon, the criteria considered will include:

a. Availability of public transportation.

b. Number of drivers in the household.

c. The nature of the driver's primary employment.

A temporary restricted operator's license will be issued only to allow driving to, from, or during the person's primary employment, to and from an alcohol education or treatment program, to and from school if the person is over eighteen years of age where the need is shown and the offense involved is alcohol related, or for normal life maintenance needs if extenuating circumstances are shown.

2. The applicant for a temporary restricted operator's license shall make application only on the form provided by the director. The application form shall be completed, providing all of the information requested. Any incomplete application forms will be returned to the applicant for completion. The application shall:

a. Explain the need for the temporary restricted operator's license.

b. Provide a written statement from the applicant's employer, if any, or school authority, verifying the need for the temporary restricted operator's license.

- c. Identify the vehicles to be driven under the temporary restricted operator's license.
- d. Include any other information deemed necessary by the director.
3. The temporary restricted operator's license will contain all limitations and restrictions deemed necessary by the director, including the days of the week, hours of the day, geographical area for driving, and the vehicles to be driven. The holder of the temporary restricted operator's license must notify the director of any changes in circumstances under which the temporary restricted operator's license was issued, and of any change in the vehicles desired to be driven.
4. If a temporary restricted operator's license has been denied, a reapplication may be made after thirty days have elapsed from the date of denial, if additional or changed information required for issuance becomes available.
5. No temporary restricted operator's license will be issued to an alcohol- or drug-impaired driver who has contributed to the cause of death or serious bodily injury of another person, or if within five years preceding the violation which caused the need to apply for the temporary restricted operator's license the person has had license privileges suspended or revoked by administrative decision of the state highway commissioner for an alcohol-related violation or occurrence.

History: Effective July 1, 1983.
 General Authority: NDCC 28-32-02.
 Law Implemented: NDCC 39-06.1-11

STAFF COMMENT: Article 37-05 contains all new material but is not underscored so as to improve readability.

ARTICLE 37-05

OUTDOOR ADVERTISING ADJACENT TO HIGHWAYS

Chapter	
37-05-01	Application and Permit
37-05-02	Placement and Maintenance of Signs
37-05-03	Size and Spacing - Penalty
37-05-04	Directional and Other Official Signs

CHAPTER 37-05-01

APPLICATION AND PERMIT

Section	
37-05-01-01	Permit Required
37-05-01-02	Application for Permit
37-05-01-03	Permit Duration and Fee
37-05-01-04	Permit Number - Placement of Sign
37-05-01-05	Permit License
37-05-01-06	Permit Revocation
37-05-01-07	Leases and Zoning

37-05-01-01. Permit required. Unless otherwise provided by this article, no person may erect or maintain any outdoor advertising sign authorized by North Dakota Century Code chapter 24-17, or by this article, along any portion of the right of way of any highway on the interstate or federal-aid primary portions of the state highway system, without having first obtained a written permit issued by the state highway commissioner or the commissioner's authorized agent.

Outside urban areas, any sign visible from the main-traveled way and meeting any of the criteria listed below is a sign which has been erected with the purpose of its message being read from the main-traveled way of any highway on the interstate or federal-aid primary portions of the state highway system. These criteria apply to any sign regulated under North Dakota Century Code section 24-17-03.1. Where a sign is visible from the main-traveled way of more than one highway, one or more of which is a controlled highway under this article, the more stringent of the applicable control requirements applies. The criteria are:

1. The sign has any lettering one inch [2.54 centimeters] or more in height or width for each fifty feet [15.24 meters] of distance from the sign to the main-traveled way of a controlled highway, the distance from the sign to the main-traveled way being measured at right angles to the highway at the shortest distance between the sign and the centerline of the main-traveled way nearest the sign.
2. At least eighty percent of the total average daily traffic count of vehicles, as determined by the state highway department counts, on all highways from which the sign is visible is traveling in either or both directions along the main-traveled way of a highway controlled by this article.
3. The sign is visible from the main-traveled way of the highway for more than five seconds traveling at the posted speed limit, or for the time needed to read the whole message, whichever is less.
4. The sign is placed at an angle that makes it easily visible to traffic on the main-traveled way of the controlled highway.

5. The sign advertises a location not directly accessible from the noncontrolled highway, and is clearly intended for travelers on the main-traveled way of the controlled highway.

Unless the context otherwise requires, terms used herein are defined as in 23 CFR, part 750, subpart G.

History: Effective July 1, 1983.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-03, 24-17-03.1, 24-17-09

37-05-01-02. Application for permit. Permits may be applied for only on the form provided by the highway commissioner or the commissioner's agent. All information on the application form must be provided in addition to any supplemental information required by the commissioner prior to acting on the application. Incomplete applications will be returned to the applicant. All information on the permit applications shall be certified as correct by the applicant, under penalty of law.

History: Effective July 1, 1983.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-09

37-05-01-03. Permit duration and fee. Every application for a permit shall be accompanied by a fee in the amount of twenty-five dollars, for a license period of five years. Only signs in conforming areas need be licensed. All other signs may be tagged for identification by the highway commissioner. Permits are effective for five years from the date of issuance, and must be renewed as of their fifth anniversary. Renewals shall be by application and fee in the amount prescribed above. Any sign for which the permit is not renewed as of the fifth anniversary of its issuance is unlawful advertising and shall be removed upon the order of the commissioner or the commissioner's agent pursuant to North Dakota Century Code section 24-17-11. Permits shall be applied for only on the application form provided by the commissioner. If the permit is not granted, the applicant will be given written notification of the reasons for the denial of the permit.

History: Effective July 1, 1983.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-09

37-05-01-04. Permit number - Placement of sign. Each permit issued under this chapter shall have an identification number, and shall entitle the holder to erect only the advertising sign described in the application and only at the exact location authorized. Within five days of erecting a sign pursuant to a permit, the holder of the permit shall deliver written notification to the commissioner or the commissioner's

agent who signed the permit that the sign has been erected. If this written notification is not provided within six months of the date of issuance of the permit, the permit is automatically void and revoked under this chapter, and any sign subsequently erected at the location without the issuance of a permit with a new application and fee is unlawful advertising and shall be removed upon the order of the commissioner or the commissioner's agent pursuant to North Dakota Century Code section 24-17-11.

History: Effective July 1, 1983.
General Authority: NDCC 24-17-10
Law Implemented: NDCC 24-17-09

37-05-01-05. Permit license. No person shall erect and maintain any outdoor advertising sign unless there is securely fastened thereon a permit license as specified in this chapter. The erecting of any outdoor advertising sign without having affixed thereon a permit license is prima facie evidence that the sign has been erected and is being maintained in violation of the provisions of this chapter and is unlawful advertising and shall be removed upon the order of the commissioner or the commissioner's agent pursuant to North Dakota Century Code section 24-17-11.

History: Effective July 1, 1983.
General Authority: NDCC 24-17-10
Law Implemented: NDCC 24-17-09

37-05-01-06. Permit revocation. Upon the revocation of any permit issued under this chapter, the sign for which it was issued constitutes unlawful advertising under North Dakota Century Code section 24-17-11, and shall be removed upon the order of the commissioner or the commissioner's agent. In addition to other reasons provided by law and this article, permits will be revoked under circumstances, including the following:

1. If a sign is not erected within six months of the date of issuance of the permit.
2. If any information on the permit application is found to be false and was false on the date submitted to the commissioner or the commissioner's agent.
3. If the sign is not erected at the location and in the manner authorized by the permit, or otherwise not in accordance with this article.

History: Effective July 1, 1983.
General Authority: NDCC 24-17-10
Law Implemented: NDCC 24-17-09

37-05-01-07. Leases and zoning.

1. Leases submitted with permit applications must be written leases showing on their face that the applicant is authorized by the landowner in question to erect a sign on the property on the date of the application and for six months thereafter. If no written lease exists between the applicant and the landowner, the applicant may substitute a letter from the landowner authorizing erection of a sign on the property and showing the duration of the authority, or the landowner may sign the permit application. A landowner's letter or signature on the sign permit application must be used when no written lease exists between the applicant and the landowner either because none was drafted and executed or because the applicant claims to be a successor to the rights of a prior lessee.

2. In addition to other requirements and limitations provided by state and federal law and rules, signs may be erected and maintained only in areas zoned by local zoning authorities as industrial or commercial, or in areas which are unzoned but are commercial or industrial in use pursuant to the agreement between the commissioner and the United States secretary of transportation according to 23 U.S.C. 131. Zoned or unzoned areas will be as defined and limited by state and federal law or administrative rules on the subject, including North Dakota Century Code chapter 24-17; 23 U.S.C. 131; and 23 CFR part 750.

History: Effective July 1, 1983.

General Authority: NDCC 24-17-10

Law Implemented: NDCC 24-17-03, 24-17-03.1, 24-17-09

TITLE 69
Public Service Commission

JULY 1983

69-03-04-06. Provision for nonsmoking area.

1. All common motor carriers of passengers which desire to permit smoking of cigars, cigarettes, or pipes, shall provide a nonsmoking area, consisting of a number of seats in the front of the motor vehicle, of not less than twenty-five percent of the capacity of the vehicle. Smoking of cigars, cigarettes, or pipes shall not be permitted in the designated nonsmoking area of the motor vehicle; provided, however, that the provisions of this subsection shall not apply to charter operations performed by common motor carriers of passengers.
2. In the event of any unusual circumstances, the operator of the motor vehicle may exercise reasonable discretion to the extent permitted by the carrier, by making minor modification in the designation of the nonsmoking area in order to assure the comfort of all passengers and the provision of safe, adequate, and expeditious transportation service.

History: Effective July 1, 1983.

General Authority: NDCC 49-18-08

Law Implemented: NDCC 49-18-08

69-03-06-01.1. General lease requirements. Other than under the exceptions as set forth in section 69-03-06-03, the Unless otherwise provided by section 69-03-06-01.3 or 69-03-06-03, an authorized carrier may perform transportation with a vehicle it does not own only under the following conditions:

1. LEASE. There shall be a written lease granting the use of the vehicle and meeting the requirements contained in section 69-03-06-01.1 69-03-06-01.2.

2. COMMISSION APPROVAL. Three copies of the lease must be filed with the commission. No lease will be valid unless expressly approved by the motor carrier division of the public service commission.
3. INSURANCE. Every vehicle subject to a lease shall be covered by insurance in amounts not less than those prescribed in chapter 69-03-02, evidence of which must be filed with the commission.
- ~~4. LEASE CARRIED IN VEHICLE. A copy of the lease evidencing commission approval must be carried in the leased vehicle at all times.~~
- 5- 4. IDENTIFICATION. During the period of the lease there shall be displayed on both sides of each vehicle, identification signs showing the name, or trade name, of the motor carrier under whose authority the vehicle is being operated, and the carrier's address. The identification signs shall be readably legible, during daylight hours, from a distance of fifty feet [15.24 meters] while the vehicle is not in motion, and such signs maintained as to remain so legible.
- 6- 5. OPERATION RECORDS. An authorized carrier leasing a vehicle pursuant to this chapter shall be prepared at any time it seeks to change its rates and charges, to submit evidence of the cost of operating the vehicle while leased to the carrier over the most recent twelve-month period.

History: Effective September 1, 1981; amended effective July 1, 1983.

General Authority: NDCC 49-18-08, 49-18-19

Law Implemented: NDCC 49-18-08, 49-18-19, 49-18-39.1

69-03-06-01.2. Written lease requirements. The written lease required under ~~section~~ sections 69-03-06-01.1 and 69-03-06-01.3 shall ~~contain the following provisions~~ provide for the following:

1. PARTIES. The lease shall be made between the authorized carrier and the owner of the vehicle. The lease shall be signed by these parties or by their authorized representatives.
2. DURATION TO BE SPECIFIC. The lease shall specify the time and date or the circumstances on which the lease begins and ends.
- ~~3. MINIMUM DURATION. The period for which the lease applies shall be for thirty days or more.~~
- 4- 3. EXCLUSIVE POSSESSION AND RESPONSIBILITIES. The lease shall provide that the authorized carrier lessee shall have exclusive possession, control, and use of the vehicle for the duration of the lease. The lease shall further provide that

the authorized carrier lessee shall assume complete responsibility for the operation of the vehicle for the duration of the lease.

- 5- 4. COMPENSATION TO BE SPECIFIC. The amount to be paid by the authorized carrier for the vehicle and drivers' services shall be clearly stated on the face of the lease or in an addendum which is attached to the lease. The amount to be paid may be expressed as a percentage of gross revenue, a flat rate per mile [1.61 kilometers], a variable rate depending on the direction traveled or the type of commodity transported, or by any other method of compensation mutually agreed upon by the parties to the lease. The compensation stated on the lease or in the attached addendum may apply to the vehicle and drivers' services either separately or as a combined amount.
- 6- 5. ITEMS SPECIFIC IN LEASE. The lease shall clearly specify the responsibility of each party with respect to the cost of fuel, fuel taxes, empty mileage, permits of all types, detention and accessorial services, base plates and licenses, and any unused portions of such items.
- 7- 6. LESSEE RESPONSIBLE. The lessee, under the terms of the lease, must be responsible for all claims for damages or otherwise arising out of the use of the vehicle and for the lawful operation thereof.
- 8- 7. INSURANCE. The lease shall clearly specify the obligation of the authorized carrier to maintain insurance coverage for the protection of the public and shippers pursuant to chapter 69-03-02. The lease shall further specify who is responsible for providing any other insurance coverage for the operation of the lease vehicle.

History: Effective September 1, 1981; amended effective July 1, 1983.

General Authority: NDCC 49-18-08, 49-18-19

Law Implemented: NDCC 49-18-08, 49-18-19, 49-18-39.1

69-03-06-01.3. Short term lease requirements. A carrier need not comply with the requirements of section 69-03-06-01.1 where transportation with a leased vehicle is performed pursuant to a lease of not more than seventy-two hours duration and where the following conditions are met:

1. LEASE. There shall be a written lease granting the use of the vehicle and meeting the requirements contained in section 69-03-06-01.2.
2. INSURANCE. Every vehicle subject to a lease shall be covered by insurance in amounts not less than those prescribed in chapter 69-03-02.

3. IDENTIFICATION. During the period of the lease there shall be displayed on both sides of each vehicle, identification signs showing the name, or trade name, of the motor carrier under whose authority the vehicle is being operated, and the carrier's address. The identification signs shall be legible, during daylight hours, from a distance of fifty feet [15.24 meters] while the vehicle is not in motion, and such signs maintained as to remain legible.
4. IDENTIFICATION PERMIT. The carrier shall complete and issue for the leased vehicle an identification permit secured from the commission which shall be carried in the vehicle at all times while it is under lease. The commission shall collect a fee of twenty dollars for each identification permit. A copy of each identification permit shall be returned to the commission within five days after issuance along with a signed copy of the written lease.

History: Effective July 1, 1983.

General Authority: NDCC 49-18-08, 49-18-19

Law Implemented: NDCC 49-18-08, 49-18-09, 49-18-39.1, 49-18-41

69-03-13-01. Definitions. As used throughout this article, except where the context otherwise requires:

1. "Bus" means any motor vehicle designed, constructed, and used for the transportation of passengers, including taxicabs.
2. "Business district" means territory contiguous to a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet [91.44 meters] or more is occupied by buildings used for business purposes.
3. "Driveaway-towaway operations" means any operation in which any motor vehicle or motor vehicles, new or used, constitute the commodity being transported, when one set or more of wheels of any such motor vehicle or motor vehicles are on the roadway during the course of transportation; whether or not any such motor vehicle furnishes the motive power.
4. "Driver" means any person who drives any motor vehicle.
5. "Full trailer" means any motor vehicle, with or without motive power, designed to be drawn by another motor vehicle, and so constructed that no part of its weight except the towing device rests upon the towing vehicle. A semitrailer equipped with an auxiliary front axle (dolly) shall be deemed to be a "full trailer". A "pole trailer" is not a "full trailer".
6. "General exemptions" means:

- a. Intracity operations. The rules in this article do not apply to a driver wholly engaged in exempt intracity commercial zone operations as defined in subsection 19 of section 49-18-02 of the North Dakota Century Code section 69-03-01-16.
- b. Passenger car operations. The rules in this article do not apply to a driver who drives only a motor vehicle that fulfills all the following criteria:
 - (1) Is a passenger-carrying vehicle built on a passenger car chassis with a seating capacity of ten or fewer persons, including the driver.
 - (2) Is not transporting passengers for hire.
 - (3) Is not transporting hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with North Dakota Century Code section 39-21-44.
7. "Gross weight" means the combined weight of the motor vehicle and any load thereon.
8. "Motor carrier", except as otherwise specifically provided, means a common carrier by motor vehicle, a contract carrier by motor vehicle, and agents, officers, representatives, and employees of a motor carrier, who are responsible for the hiring, supervising, training, assigning or dispatching of drivers.
9. "Motor vehicle" means any vehicle, bus, truck, truck tractor, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead source and furnishing local passenger transportation similar to street-railway service.
10. "Pole trailer" means any vehicle without motive power, possibly of variable wheel base, designed to be drawn by another vehicle, and attached to the towing vehicle by means of a "reach", or "pole", or by being "boomed" or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregular-shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connection.
11. "Residence district" means territory contiguous to a highway not comprising a business district, when the frontage on the highway for a distance of three hundred feet [91.44 meters]

or more is occupied mainly by dwellings and buildings used for business.

12. "Safe haven" means an area specifically approved in writing by local, state, or federal governmental authorities for the parking of unattended vehicles containing class A or class B explosives.
13. "Semitrailer" means any motor vehicle other than a "pole trailer", with or without motive power, designed to be drawn by another motor vehicle and so constructed that some part of its weight rests upon the towing vehicle.
14. "Shipping paper" means a shipping order, bill of lading, manifest, or other shipping document serving a similar purpose and containing the information required by the United States department of transportation, materials transportation bureau [49 CFR 172.202, 172.203, and 172.204, or as amended].
15. "Truck" means any self-propelled motor vehicle except a truck tractor, designed and used, or exclusively used whether or not so designed, for the transportation of property.
16. "Truck tractor" means a self-propelled motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.
17. "Vehicle" means any conveyance of any type whatsoever operated upon the highways.

History: Effective October 1, 1979; amended effective December 1, 1981; July 1, 1983.

General Authority: NDCC 49-18-46

Law Implemented: NDCC 49-18-46

69-03-07-04. Fire extinguisher. All motor vehicles shall be equipped with a fire extinguisher, suitable for attachment to motor vehicles, which shall be kept in the cab and in a satisfactory operative condition at all times.

General Authority: NDCC 49-18-46

Law Implemented: NDCC 49-18-46

Repealed effective July 1, 1983.

69-03-07-05. Reserve equipment. Sufficient reserve equipment shall be maintained by all motor transportation companies to ensure the reasonable maintenance of adequate service.

General Authority: NDCE 49-18-46
Law Implemented: NDCE 49-18-46

Repealed effective July 1, 1983.

69-03-07-14. Emergency equipment on all power units. On every bus, truck, truck tractor, and every driven vehicle in driveaway-towaway operation, there shall be:

- 1- SPARE FUSES. At least one spare fuse or other overload protective device, if the devices used are not of a reset type, for each kind and size used in driveaway-towaway operations, spares located on any one of the vehicles will be deemed adequate.
- 2- TIRE CHAINS. One set of tire chains for at least one driving wheel on each side, during the time when likely to encounter conditions requiring them, except that this requirement shall not apply to motor vehicles engaged in driveaway-towaway operations if such motor vehicles are not operated when such conditions exist.

General Authority: NDCE 49-18-46
Law Implemented: NDCE 49-18-46

Repealed effective July 1, 1983.

69-03-07-15. Buses - Additional emergency equipment. On every bus, except buses engaged in driveaway-towaway operations, there shall be:

- 1- One hand axe, except for buses having a seating capacity of eight or less persons.
- 2- One first-aid kit complying with the following requirements:
 - a- Size of kit. The kit shall be of heavy duty forty-eight unit type or larger, or have contents equivalent in quality and number to the contents of such a kit.
 - b- Material for case and cover. The case and the cover shall be substantially constructed of sheet steel, wood, fiber, or other durable material. If made of sheet steel, the case and cover shall be of metal at least No. 24 United States gauge (nominal).

- e. **Tightness of case.** The case and cover shall be so constructed, including corners, covers, and closure means, that it shall be reasonably dust and weatherproof when the cover is in the closed position, or the kit shall be mounted in a protected location within the passenger compartment of the motor vehicle so as to be reasonably dust and weatherproof.
- d. **Opening and stop for cover.** If made of sheet steel or other metals, the case shall be so designed and constructed that the cover will be capable of being easily opened to an angle of ninety degrees to one hundred degrees with the case and a substantial stop shall be provided at the angle of full opening. The stop shall not interfere with the smooth operation of the cover.
- e. **Method of hinging cover.** If made of metal, the cover shall be attached to the case by, at least, two substantial hinges or by a continuous piano-type hinge. If nonmetallic, the cover shall be attached by either a sliding or a hinged joint, if hinged, it shall be as prescribed for metallic construction.
- f. **Size of case.** The dimensions of the case shall be such as to permit the contents to be easily extracted and yet maintain the contents in a relatively fixed position.
- g. **Contents of kit.** The kit shall contain at least the contents specified in this subdivision, in not less than the quantities shown:
- (1) two units - one inch {2.54 centimeter} adhesive bandage.
 - (2) two units - two inch {5.08 centimeter} bandage compress.
 - (3) four units - three inch {7.62 centimeter} bandage compress.
 - (4) four units - four inch {10.16 centimeter} bandage compress.
 - (5) two units - three inch by three inch {7.62 centimeter by 7.62 centimeter} plain gauze pads.
 - (6) two units - gauze roller bandage.

- (7) two units - eye dressing packet-
- (8) eight units - plain absorbent gauze - one-half square yard [-42 square meter]-
- (9) six units - plain absorbent gauze - twenty-four inches by seventy-two inches [60.96 centimeters by 182.88 centimeters]-
- (10) ten units - triangular bandage-
- (11) one unit - scissor-
- (12) three units - cold pack-
- (13) two units - ammonia ampoules-

General Authority: NDCE 49-18-46
 Law Implemented: NDCE 49-18-46

Repealed effective July 1, 1983.

69-03-09-07. Emergency equipment - Inspection and use. No motor vehicle shall be driven unless the driver thereof shall have satisfied oneself that the emergency equipment required by sections 69-03-07-14 and 69-03-07-15 are in place and ready for use, nor shall any driver fail to use or make use of such equipment when and as needed-

General Authority: NDCE 49-18-46
 Law Implemented: NDCE 49-18-46

Repealed effective July 1, 1983.

69-03-10-06. Driver's daily log.

1. LOG ENTRIES. Except as provided in subsection 20, every motor carrier shall require that a driver's daily log shall be made in duplicate by every driver used by the motor carrier and every driver who operated a motor vehicle shall make such a log. Failure to make logs, failure to make required entries therein, falsification of entries, or failure to preserve logs shall make both the driver and the carrier liable to prosecution. Driver's logs shall be prepared and retained in accordance with the provisions of subsections 2 through 19.
2. ENTRIES TO BE CURRENT. Drivers shall keep the log current to the time of the last change of duty status.

3. ENTRIES MADE BY DRIVER ONLY. Except that the name and principal place of business address of the carrier may be printed, all entries shall be made by the driver in the driver's own handwriting.
4. DATE. The month, day, and year for each calendar day on or off duty shall be entered.
5. TOTAL MILEAGE. Total mileage entered shall be that mileage traveled while driving on duty but not driving, and resting in a sleeper berth during the day covered by the log. Mileage while driving shall be shown separately.
6. VEHICLE IDENTIFICATION. The carrier's vehicle number or numbers or the state and license number or numbers of each vehicle or unit of a combination operated during the calendar day shall be entered.
7. NAME OF CARRIER. The name or names of the carrier or carriers shall be that or those for which duty is performed. When work is performed for more than one carrier on the same calendar day, the beginning and finishing time, showing a.m. or p.m., worked for each carrier shall be shown after each carrier name. Drivers of leased vehicles shall show the name of the carrier performing the transportation.
8. DRIVER'S SIGNATURE. The driver shall certify to the correctness of the log by signing the driver's first name and last name in full and the driver's middle name or middle initial, if any. Below the driver's signature the driver shall list the initials and last name of each codriver.
9. HOME TERMINAL. The driver's home terminal address shown shall be that at which the driver normally reports for duty.
10. TIME BASE TO BE USED. The log shall be prepared, maintained, and submitted, using the time standard in effect at the driver's home terminal, for a twenty-four-hour calendar day beginning at midnight. However, if written notification is given by a carrier to the director of the motor carrier division for the district in which the carrier's principal office is located, drivers of any named terminal or terminals of the carrier may prepare logs for a twenty-four-hour period beginning at noon of one day and ending at noon of the next succeeding day. For drivers preparing logs on a noon-to-noon basis, the term seven or eight consecutive days means the period of seven or eight consecutive days beginning at 12:01 p.m. on any day.
11. LINE 1. OFF DUTY. Except for time spent resting in a sleeper berth, a continuous line shall be drawn between the appropriate time markers to record the period or periods of time when the driver is not on duty, not required to be in

readiness to work, or is not under any responsibility for performing work.

12. LINE 2. SLEEPER BERTH. A continuous line shall be drawn between the appropriate time markers to record the period or periods of time off duty resting in a sleeper berth.
13. LINE 3. DRIVING. A continuous line shall be drawn between the appropriate time markers to record the period or periods of time on duty driving a motor vehicle.
14. LINE 4. ON DUTY NOT DRIVING. A continuous line shall be drawn between the appropriate time markers to record the period or periods of time on duty not driving specified in subdivisions a, b, d, e, f, g, and h of subsection 3 of section 69-03-10-02 or any other time on duty but not driving as defined in subsection 3 of section 69-03-10-02 and section 69-03-10-05.
15. REMARKS. The appropriate time marker and the name of the city, with state abbreviation, or place at or near which each change of duty occurs, shall be recorded, such as the place of reporting for work, starting to drive, on duty not driving, and where released from work. Explain the reason resulting in hours exceeding those permitted by section 69-03-10-03. Show the transportation performed each day by entering a shipping document number or numbers, or name of a shipper and commodity.
16. TOTAL HOURS. The total hours in each duty status: off duty other than in a sleeper berth; off duty in a sleeper berth; driving; and on duty not driving shall be entered, the total of which entries shall equal twenty-four hours.
17. ORIGIN AND DESTINATION. The name of the place where a trip begins and the final destination or farthest turn around point shall be shown at the bottom of the log. If the trip requires more than one calendar day, the log for each day shall show the origin and final destination. If a driver departs from and returns to the same place any day, the destination shall be indicated by entering the farthest point reached followed by the words "and return".
18. FILING DRIVER'S LOG. The driver shall forward each day the original log to the driver's home terminal or to the motor carrier's principal place of business. When the services of a driver are used by more than one carrier during any calendar day, the driver shall furnish each such carrier a copy of the log containing full and complete entries including: the entry of all duty time for the entire day; the name of each such carrier served by the driver that day and the beginning and finishing time, showing a.m. or p.m., worked for each carrier. Motor carriers when using a driver for the first time or

intermittently shall obtain from the driver a signed statement giving the total time on duty during the immediately preceding seven days and time at which such driver was last relieved from duty prior to beginning work for such carrier.

19. PRESERVATION OF DRIVER'S LOG. Daily logs for each calendar month may be retained at the driver's home terminal until the twentieth day of the succeeding calendar month and shall then be forwarded to the carrier's principal place of business where they shall be retained for ~~twelve~~ six months from date of receipt. However, a motor carrier may upon written request to and upon receiving consent from the director of the motor carrier division, forward and retain such logs at such regional or terminal offices as are proposed by the carrier and approved by the director. The driver shall retain a copy of each daily log for ~~thirty eight~~ days and all. All logs for the preceding ~~thirty seven~~ days which shall be in the driver's possession while on duty.

20. DRIVER'S LOG - WHEN NOT REQUIRED. The requirements of this section shall not apply to any of the following:
 - a. Any regularly employed driver who drives wholly within a radius of one hundred miles [160.94 kilometers] of the garage or terminal at which the driver reports for work provided, that the motor carrier employing such driver maintains and retains for a period of ~~one year~~ six months accurate and true records showing the total number of hours the driver is on duty per day and the time at which the driver reports for and is released from duty each day.

 - b. Drivers of motor vehicles having not more than two axles and whose gross weight does not exceed ten thousand pounds [4,535.92 kilograms], unless such vehicle is used to transport passengers or explosives or other dangerous articles of such type and in quantity as to require the vehicle to be specifically marked or placarded, or when operated without cargo under conditions which require the vehicle to be so marked or placarded under the cited regulations.

History: Amended effective September 1, 1981; July 1, 1983.

General Authority: NDCC 49-18-46

Law Implemented: NDCC 49-18-46

69-03-13-01. Definitions. As used throughout this article, except where the context otherwise requires:

1. "Bus" means any motor vehicle designed, constructed, and used for the transportation of passengers, including taxicabs.

2. "Business district" means territory contiguous to a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet [91.44 meters] or more is occupied by buildings used for business purposes.
3. "Driveaway-towaway operations" means any operation in which any motor vehicle or motor vehicles, new or used, constitute the commodity being transported, when one set or more of wheels of any such motor vehicle or motor vehicles are on the roadway during the course of transportation; whether or not any such motor vehicle furnishes the motive power.
4. "Driver" means any person who drives any motor vehicle.
5. "Full trailer" means any motor vehicle, with or without motive power, designed to be drawn by another motor vehicle, and so constructed that no part of its weight except the towing device rests upon the towing vehicle. A semitrailer equipped with an auxiliary front axle (dolly) shall be deemed to be a "full trailer". A "pole trailer" is not a "full trailer".
6. "General exemptions" means:
 - a. Intracity operations. The rules in this article do not apply to a driver wholly engaged in exempt intracity commercial zone operations as defined in subsection 19 of section 49-18-02 of the North Dakota Century Code section 69-03-01-16.
 - b. Passenger car operations. The rules in this article do not apply to a driver who drives only a motor vehicle that fulfills all the following criteria:
 - (1) Is a passenger-carrying vehicle built on a passenger car chassis with a seating capacity of ten or fewer persons, including the driver.
 - (2) Is not transporting passengers for hire.
 - (3) Is not transporting hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with North Dakota Century Code section 39-21-44.
7. "Gross weight" means the combined weight of the motor vehicle and any load thereon.
8. "Motor carrier", except as otherwise specifically provided, means a common carrier by motor vehicle, a contract carrier by motor vehicle, and agents, officers, representatives, and employees of a motor carrier, who are responsible for the hiring, supervising, training, assigning or dispatching of drivers.

9. "Motor vehicle" means any vehicle, bus, truck, truck tractor, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead source and furnishing local passenger transportation similar to street-railway service.
10. "Pole trailer" means any vehicle without motive power, possibly of variable wheel base, designed to be drawn by another vehicle, and attached to the towing vehicle by means of a "reach", or "pole", or by being "boomed" or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregular-shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connection.
11. "Residence district" means territory contiguous to a highway not comprising a business district, when the frontage on the highway for a distance of three hundred feet [91.44 meters] or more is occupied mainly by dwellings and buildings used for business.
12. "Safe haven" means an area specifically approved in writing by local, state, or federal governmental authorities for the parking of unattended vehicles containing class A or class B explosives.
13. "Semitrailer" means any motor vehicle other than a "pole trailer", with or without motive power, designed to be drawn by another motor vehicle and so constructed that some part of its weight rests upon the towing vehicle.
14. "Shipping paper" means a shipping order, bill of lading, manifest, or other shipping document serving a similar purpose and containing the information required by the United States department of transportation, materials transportation bureau [49 CFR 172.202, 172.203, and 172.204, or as amended].
15. "Truck" means any self-propelled motor vehicle except a truck tractor, designed and used, or exclusively used whether or not so designed, for the transportation of property.
16. "Truck tractor" means a self-propelled motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.
17. "Vehicle" means any conveyance of any type whatsoever operated upon the highways.

History: Effective October 1, 1979; amended effective December 1, 1981; July 1, 1983.

General Authority: NDCC 49-18-46

Law Implemented: NDCC 49-18-46

69-04-01-04. Collection of charges.

1. All charges earned by a licensed carrier, in accordance with the schedules of rates applicable, must be paid and collected in legal tender upon delivery of freight unless appropriate credit arrangements are made in advance.
2. In no instance shall credit be extended beyond a period of ~~seven~~ fifteen calendar days, ~~not counting legal holidays and Sundays~~. When the freight bill covering a shipment is presented to the shipper on or before the date of delivery, the credit period shall run from the first twelve midnight following delivery of freight. When the freight bill is not presented to the shipper on or before the date of delivery, the credit period shall run from the first twelve midnight following the presentation of the freight bill.
3. Where a common carrier by motor vehicle has relinquished possession of freight and collected the amount of tariff charges represented in the freight bill presented by it as the total amount of such charges, and another freight bill for additional charges is thereafter presented to the shipper, the carrier may extend credit in the amount of such additional charges for a period of thirty calendar days, to be computed from the first twelve midnight following the presentation of the subsequently presented freight bill.
4. Freight bills for all transportation charges shall be presented to the shippers within seven days from the first twelve midnight following delivery of freight.
5. Shippers may elect to have their freight bills presented by means of the United States mails and, when the mail service is so used, the time of mailing by the carrier shall be deemed to be the time of presentation of the bills. In case of dispute as to the time of mailing, the postmark shall be accepted as showing such time.
6. The mailing by the shipper of valid checks, drafts, or money orders, which are satisfactory to the carrier, in payment of freight charges within the credit period allowed such shipper, may be deemed to be the collection of the tariff charges within the credit period for the purpose of this chapter. In case of dispute as to the time of mailing, the postmark shall be accepted as showing such time.

History: Amended effective July 1, 1983.

General Authority: NDCC 49-18-08
Law Implemented: NDCC 49-18-08

69-04-01-06. Tariffs generally - Available to subscribers.

1. Tariffs or supplements filed with the commission shall comply with all laws, rules, regulations, and orders applicable thereto, and any tariff or supplement or part thereof not so complying shall be of no force and effect as of a date to be determined by the commission. Except as otherwise authorized in subsections subsection 2 and 4, one copy of each new tariff, supplement, and looseleaf page must be transmitted to each subscriber thereto by first-class mail (or other means requested in writing by the subscriber) not later than the time the copies for official filing are transmitted to the commission. The letter of transmittal accompanying the copies to the commission must contain the following certification:

I hereby certify that I have on or before this day sent one copy of each publication listed hereon to each subscriber thereto by first-class mail, or by other means of transmission agreed upon in writing by the subscriber.

Signature of person
transmitting publications

Date

2. If a new tariff or supplement is filed which in its entirety is published under an authority from the commission to publish and file without notice or on notice of less than ten days, or if a new looseleaf page is filed which contains a provision published under an authority from the commission to publish and file without notice or on notice of less than ten days, subsection 1 need not be complied with as to such publication if it cannot be or compliance would cause excessive delay, but one copy of such publication must be transmitted to each subscriber thereto by first-class mail (or other means requested in writing by the subscriber) within five calendar days, starting with the calendar day following that on which the copies for official filing are transmitted to the commission, and the letter of transmittal to the commission must contain the following certification:

I hereby certify that I will within five calendar days after today send one copy of each publication listed hereon to each subscriber thereto by first-class mail, or by other means of transmission agreed upon in writing by the subscriber.

Signature of person
transmitting publications

Date

Included in this exception are supplements issued for the purpose of announcing suspensions made by the commission, publications (published in the name of a carrier only) announcing adoptions, and publications reproducing service orders.

3. When copies of different publications are transmitted to the commission at the same time, some copies of which have been transmitted to subscribers in compliance with subsection 1 and some copies of which will be transmitted to subscribers in compliance with subsection 2, two letters of transmittal must accompany the copies to the commission, one complying with subsection 1 and the other complying with subsection 2.
4. If there are no subscribers to any publication listed on a letter of transmittal accompanying the copies for official filing to the commission, the letter of transmittal must contain the following certification:

I hereby certify that there are no subscribers to the publications listed hereon.

Signature of person
transmitting publications

Date

If copies of different publications are transmitted to the commission at the same time, some of which are subscribed to and some of which are not, only the provisions of subsection 1 or 2, or both, as the case may be, need be complied with.

- 5- 4. Expedited service, when transmitting one copy of each publication must be provided to each subscriber requesting it. The cost of this service may be passed on to the subscriber.
- 6- 5. Carriers and agents shall furnish without delay one copy of any of their tariff publications, effective or published but not yet effective, to any person upon reasonable request therefor at a reasonable charge not to exceed that assessed a subscriber.
- 7- 6. As used in this section, "subscriber" means a party who voluntarily or upon reasonable request is furnished at least one copy of a particular tariff and amendments thereto (including reissues thereof) by the publishing carrier or agent. The term does not, however, pertain to requests for a copy or copies of a tariff without a request for future amendments thereto.

History: Amended effective July 1, 1983.

General Authority: NDCC 49-18-08

Law Implemented: NDCC 49-18-08

69-04-01-08. Standard time for filing Filing of tariffs and petitions to suspend. All tariffs and supplements must be filed and posted at least thirty days prior to the effective date thereof, unless otherwise authorized by the commission. Petitions to suspend tariffs or supplements shall be filed at least fifteen days before the same shall otherwise become effective.

History: Amended effective July 1, 1983.

General Authority: NDCC 49-18-08

Law Implemented: NDCC 49-18-08