

SENATE BILL NO. 2345

Introduced by

Senator W. Stenehjem

Representative Delmore

1 A BILL for an Act to amend and reenact section 20.1-13.1-03, subsection 8 of section
2 20.1-13.1-10, sections 20.1-13.1-13, 20.1-15-03, subsection 10 of section 20.1-15-11, sections
3 20.1-15-14, 39-20-02, subsection 10 of section 39-20-07, sections 39-20-12, 39-24.1-03,
4 subsection 8 of section 39-24.1-08, and section 39-24.1-11 of the North Dakota Century Code,
5 relating to blood tests for driving while under the influence.

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

7 **SECTION 1. AMENDMENT.** Section 20.1-13.1-03 of the North Dakota Century Code
8 is amended and reenacted as follows:

9 **20.1-13.1-03. Persons qualified to administer chemical test and opportunity for**
10 **additional test.** Only an individual medically qualified to draw blood, including a physician, or
11 a qualified technician, chemist, or registered nurse, acting at the request of a game warden or a
12 law enforcement officer may withdraw blood for the purpose of determining the alcoholic, drug,
13 or combination thereof, content of the blood. This limitation does not apply to the taking of a
14 breath, saliva, or urine specimen. The person tested may have an individual medically qualified
15 to draw blood, including a physician, or a qualified technician, chemist, or registered nurse, or
16 other qualified person of that person's own choosing administer a chemical test in addition to
17 any administered at the direction of a game warden or a law enforcement officer with all costs
18 of the additional chemical test to be the responsibility of the person charged. The failure or
19 inability to obtain an additional chemical test by a person does not preclude the admission of
20 the chemical test taken at the direction of a game warden or a law enforcement officer. Upon
21 the request of the person who is tested, a copy of the operational checklist and test record of a
22 breath sample test or analytical report of a blood, urine, or saliva sample test taken at the
23 direction of the game warden or law enforcement officer must be made available to that person
24 by the department or law enforcement agency that administered the chemical test.

1 **SECTION 2. AMENDMENT.** Subsection 8 of section 20.1-13.1-10 of the 1997
2 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3 8. A signed statement from the ~~nurse or medical technician drawing~~ individual
4 medically qualified to draw the blood sample for testing as set forth in subsection 3
5 is prima facie evidence that the blood sample was properly drawn and no further
6 foundation for the admission of ~~such~~ this evidence may be required.

7 **SECTION 3. AMENDMENT.** Section 20.1-13.1-13 of the North Dakota Century Code
8 is amended and reenacted as follows:

9 **20.1-13.1-13. Liability.** Any individual medically qualified to draw blood or any
10 licensed physician, nurse, technician, or an employee of a hospital who draws blood from any
11 person pursuant to a request of any arresting warden or officer is not liable in any civil action for
12 damages arising out of the act except for gross negligence.

13 **SECTION 4. AMENDMENT.** Section 20.1-15-03 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **20.1-15-03. Persons qualified to administer chemical test and opportunity for**
16 **additional test.** Only an individual medically qualified to draw blood, including a physician, ~~or~~
17 a qualified technician, chemist, or registered nurse, acting at the request of a game warden or a
18 law enforcement officer may withdraw blood for the purpose of determining the alcoholic, drug,
19 or combination thereof, content of the blood. This limitation does not apply to the taking of a
20 breath, saliva, or urine specimen. The person tested may have an individual medically qualified
21 to draw blood, including a physician, ~~or~~ a qualified technician, chemist, or registered nurse, or
22 other qualified person of that person's own choosing administer a chemical test in addition to
23 any administered at the direction of a game warden or a law enforcement officer with all costs
24 of the additional chemical test to be the responsibility of the person charged. The failure or
25 inability to obtain an additional chemical test by a person does not preclude the admission of
26 the chemical test taken at the direction of a game warden or a law enforcement officer. Upon
27 the request of the person who is tested, a copy of the operational checklist and test record of a
28 breath sample test or analytical report of a blood, urine, or saliva sample test taken at the
29 direction of the game warden or law enforcement officer must be made available to that person
30 by the department or law enforcement agency that administered the chemical test.

1 **SECTION 5. AMENDMENT.** Subsection 10 of section 20.1-15-11 of the 1997
2 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3 10. A signed statement from the ~~nurse or medical technician drawing~~ individual
4 medically qualified to draw the blood sample for testing as set forth in subsection 5
5 is prima facie evidence that the blood sample was properly drawn and no further
6 foundation for the admission of ~~such~~ this evidence may be required.

7 **SECTION 6. AMENDMENT.** Section 20.1-15-14 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **20.1-15-14. Liability.** Any individual medically qualified to draw blood or any licensed
10 physician, nurse, technician, or an employee of a hospital who draws blood from any person
11 pursuant to a request of any arresting warden or officer is not liable in any civil action for
12 damages arising out of the act except for gross negligence.

13 **SECTION 7. AMENDMENT.** Section 39-20-02 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **39-20-02. Persons qualified to administer test and opportunity for additional test.**
16 Only an individual medically qualified to draw blood, including a physician, ~~or a~~ qualified
17 technician, chemist, or registered nurse, acting at the request of a law enforcement officer may
18 withdraw blood for the purpose of determining the alcohol, drug, or combination thereof, content
19 therein. This limitation does not apply to the taking of breath, saliva, or urine specimen. The
20 person tested may have an individual medically qualified to draw blood, including a physician,
21 ~~or a~~ qualified technician, chemist, or registered nurse, or other qualified person of the person's
22 choosing administer a chemical test or tests in addition to any administered at the direction of a
23 law enforcement officer with all costs of an additional test or tests to be the sole responsibility of
24 the person charged. The failure or inability to obtain an additional test by a person does not
25 preclude the admission of the test or tests taken at the direction of a law enforcement officer.
26 Upon the request of the person who is tested, a copy of the operational checklist and test
27 record of a breath sample test or analytical report of a blood, urine, or saliva sample test taken
28 at the direction of the law enforcement officer must be made available to that person by the law
29 enforcement agency ~~which~~ that administered the test or tests.

30 **SECTION 8. AMENDMENT.** Subsection 10 of section 39-20-07 of the North Dakota
31 Century Code is amended and reenacted as follows:

1 10. A signed statement from the ~~nurse or medical technician drawing~~ individual
2 medically qualified to draw the blood sample for testing as set forth in subsection 5
3 is prima facie evidence that the blood sample was properly drawn and no further
4 foundation for the admission of ~~such~~ this evidence may be required.

5 **SECTION 9. AMENDMENT.** Section 39-20-12 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **39-20-12. Liability.** Any individual medically qualified to draw blood or any licensed
8 physician, nurse, technician, or an employee of a hospital who draws blood from any person
9 pursuant to a request of any arresting officer is not liable in any civil action for damages arising
10 out of said act except for gross negligence.

11 **SECTION 10. AMENDMENT.** Section 39-24.1-03 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **39-24.1-03. Persons qualified to administer chemical test and opportunity for**
14 **additional test.** Only an individual medically qualified to draw blood, including a physician, ~~or~~
15 a qualified technician, chemist, or registered nurse, acting at the request of a law enforcement
16 officer may withdraw blood for the purpose of determining the alcohol, drug, or combination
17 thereof, content of the blood. This limitation does not apply to the taking of a breath, saliva, or
18 urine specimen. The person tested may have an individual medically qualified to draw blood,
19 including a physician, ~~or~~ a qualified technician, chemist, or registered nurse, or other qualified
20 person of that person's own choosing administer a chemical test in addition to any administered
21 at the direction of a law enforcement officer with all costs of the additional chemical test to be
22 the responsibility of the person charged. The failure or inability to obtain an additional chemical
23 test by a person does not preclude the admission of the chemical test taken at the direction of a
24 law enforcement officer. Upon the request of the person who is tested, a copy of the
25 operational checklist and test record of a breath sample test or analytical report of a blood,
26 urine, or saliva sample test taken at the direction of the law enforcement officer must be made
27 available to that person by the law enforcement agency that administered the chemical test.

28 **SECTION 11. AMENDMENT.** Subsection 8 of section 39-24.1-08 of the North Dakota
29 Century Code is amended and reenacted as follows:

30 8. A signed statement from the ~~nurse or medical technician drawing~~ individual
31 medically qualified to draw the blood sample for testing as set forth in subsection 3

1 is prima facie evidence that the blood sample was properly drawn and no further
2 foundation for the admission of ~~such~~ this evidence may be required.

3 **SECTION 12. AMENDMENT.** Section 39-24.1-11 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **39-24.1-11. Liability.** Any individual medically qualified to draw blood or any licensed
6 physician, nurse, technician, or an employee of a hospital who draws blood from any person
7 pursuant to a request of any arresting officer is not liable in any civil action for damages arising
8 out of the act except for gross negligence.