

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Tuesday, the fifth day of January,
one thousand nine hundred and ninety-nine**

SENATE BILL NO. 2345
(Senator W. Stenehjelm)
(Representative Delmore)

AN ACT to amend and reenact section 20.1-13.1-03, subsection 8 of section 20.1-13.1-10, sections 20.1-13.1-13, 20.1-15-03, subsection 10 of section 20.1-15-11, sections 20.1-15-14, 39-20-02, subsection 10 of section 39-20-07, sections 39-20-12, 39-24.1-03, subsection 8 of section 39-24.1-08, and section 39-24.1-11 of the North Dakota Century Code, relating to blood tests for driving while under the influence.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

20.1-13.1-03. Persons qualified to administer chemical test and opportunity for additional test. Only ~~a physician, or a qualified technician, chemist, or registered nurse~~ an individual medically qualified to draw blood, acting at the request of a game warden or a law enforcement officer, may withdraw blood for the purpose of determining the alcoholic, drug, or combination thereof, content of the blood. The state toxicologist shall determine the qualifications or credentials for being medically qualified to draw blood, and shall issue a list of approved designations including medical doctor and registered nurse. This limitation does not apply to the taking of a breath, saliva, or urine specimen. The person tested may have ~~a physician, or a qualified technician, chemist, registered nurse, or other qualified person~~ an individual of that person's own choosing, who is medically qualified to draw blood, administer a chemical test in addition to any administered at the direction of a game warden or a law enforcement officer with all costs of the additional chemical test to be the responsibility of the person charged. The failure or inability to obtain an additional chemical test by a person does not preclude the admission of the chemical test taken at the direction of a game warden or a law enforcement officer. Upon the request of the person who is tested, a copy of the operational checklist and test record of a breath sample test or analytical report of a blood, urine, or saliva sample test taken at the direction of the game warden or law enforcement officer must be made available to that person by the department or law enforcement agency that administered the chemical test.

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

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

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

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

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

20.1-15-03. Persons qualified to administer chemical test and opportunity for additional test. Only ~~a physician, or a qualified technician, chemist, or registered nurse~~ an individual medically

qualified to draw blood, acting at the request of a game warden or a law enforcement officer, may withdraw blood for the purpose of determining the alcoholic, drug, or combination thereof, content of the blood. The state toxicologist shall determine the qualifications or credentials for being medically qualified to draw blood, and shall issue a list of approved designations including medical doctor and registered nurse. This limitation does not apply to the taking of a breath, saliva, or urine specimen. The person tested may have ~~a physician, or a qualified technician, chemist, registered nurse, or other qualified person~~ an individual of that person's own choosing, who is medically qualified to draw blood, administer a chemical test in addition to any administered at the direction of a game warden or a law enforcement officer with all costs of the additional chemical test to be the responsibility of the person charged. The failure or inability to obtain an additional chemical test by a person does not preclude the admission of the chemical test taken at the direction of a game warden or a law enforcement officer. Upon the request of the person who is tested, a copy of the operational checklist and test record of a breath sample test or analytical report of a blood, urine, or saliva sample test taken at the direction of the game warden or law enforcement officer must be made available to that person by the department or law enforcement agency that administered the chemical test.

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

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

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

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

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

39-20-02. Persons qualified to administer test and opportunity for additional test. Only a ~~physician, or a qualified technician, chemist, or registered nurse~~ an individual medically qualified to draw blood, acting at the request of a law enforcement officer, may withdraw blood for the purpose of determining the alcohol, drug, or combination thereof, content therein. The state toxicologist shall determine the qualifications or credentials for being medically qualified to draw blood, and shall issue a list of approved designations including medical doctor and registered nurse. This limitation does not apply to the taking of breath, saliva, or urine specimen. The person tested may have ~~a physician, or a qualified technician, chemist, registered nurse, or other qualified person~~ an individual of the person's choosing, who is medically qualified to draw blood, administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer with all costs of an additional test or tests to be the sole responsibility of the person charged. The failure or inability to obtain an additional test by a person does not preclude the admission of the test or tests taken at the direction of a law enforcement officer. Upon the request of the person who is tested, a copy of the operational checklist and test record of a breath sample test or analytical report of a blood, urine, or saliva sample test taken at the direction of the law enforcement officer must be made available to that person by the law enforcement agency ~~which~~ that administered the test or tests.

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

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

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

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

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

39-24.1-03. Persons qualified to administer chemical test and opportunity for additional test. Only ~~a physician, or a qualified technician, chemist, or registered nurse~~ an individual medically qualified to draw blood, acting at the request of a law enforcement officer, may withdraw blood for the purpose of determining the alcohol, drug, or combination thereof, content of the blood. The state toxicologist shall determine the qualifications or credentials for being medically qualified to draw blood, and shall issue a list of approved designations including medical doctor and registered nurse. This limitation does not apply to the taking of a breath, saliva, or urine specimen. The person tested may have ~~a physician, or a qualified technician, chemist, registered nurse, or other qualified person~~ an individual of that person's own choosing, who is medically qualified to draw blood, administer a chemical test in addition to any administered at the direction of a law enforcement officer with all costs of the additional chemical test to be the responsibility of the person charged. The failure or inability to obtain an additional chemical test by a person does not preclude the admission of the chemical test taken at the direction of a law enforcement officer. Upon the request of the person who is tested, a copy of the operational checklist and test record of a breath sample test or analytical report of a blood, urine, or saliva sample test taken at the direction of the law enforcement officer must be made available to that person by the law enforcement agency that administered the chemical test.

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

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

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

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2345.

Senate Vote: Yeas 49 Nays 0 Absent 0

House Vote: Yeas 95 Nays 2 Absent 1

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State