

Introduced by

Transportation Committee

(At the request of the Department of Transportation)

1 A BILL for an Act to amend and reenact subsections 1 and 4 of section 23-07-01.1,
2 subsection 1 of section 39-06-03.1, subsections 1, 2, and 3 of section 39-06-07.2, section
3 39-06-27, subsections 4, 6, and 7 of section 39-06-32, section 39-08-21, and subsection 1 of
4 section 39-20-05 of the North Dakota Century Code, relating to reporting of physical or mental
5 disorders to the department of transportation, nondriver photo identification cards, medical
6 advice to the director, reporting of conviction, suspension, or revocation, or failure to appear by
7 other jurisdictions, hearings on suspension or revocation for unlawful use of licenses, and
8 medical qualifications exemptions for intrastate drivers; and to declare an emergency.

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

10 **SECTION 1. AMENDMENT.** Subsections 1 and 4 of section 23-07-01.1 of the 1997
11 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- 12 1. All physicians and other medical professionals may report immediately to the
13 department of transportation in writing, the name, date of birth, and address of
14 every person fourteen years of age or over coming before them for examination,
15 attendance, care, or treatment when there is reasonable cause to believe that such
16 person due to physical or mental reason is incapable of safely operating a motor
17 vehicle or diagnosed as a case of a disorder defined as characterized by lapses of
18 consciousness, gross physical or mental impairments.
- 19 4. Any physician or other medical professional who fails to make a report or who in
20 good faith makes a report, gives an opinion or recommendation pursuant to this
21 section, or participates in any proceeding founded upon this section is immune
22 from any liability, civil or criminal, that might otherwise be incurred, as a result of
23 such report, except for perjury.

1 **SECTION 2. AMENDMENT.** Subsection 1 of section 39-06-03.1 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 1. The director shall issue upon request a nondriver color photo identification card to
4 any North Dakota resident ~~of the age of twelve years or over~~ who fulfills the
5 requirements of this section. ~~The director may issue upon request a nondriver~~
6 ~~color photo identification card to any North Dakota resident under twelve years of~~
7 ~~age who fulfills the requirements of this section, except that the form of verification~~
8 ~~of the name and the date of birth is in the director's discretion, as is the manner in~~
9 ~~which the records are kept. A nondriver color photo identification card issued to a~~
10 ~~resident under twelve years of age expires on the twelfth birthday of that resident.~~
11 If the person is under the age of twenty-one, the photo must be against the same
12 color background required on a motor vehicle operator's license of an operator
13 under the age of twenty-one years.

14 **SECTION 3. AMENDMENT.** Subsections 1, 2, and 3 of section 39-06-07.2 of the
15 North Dakota Century Code are amended and reenacted as follows:

16 1. The director is authorized to seek professional medical advice from any physician
17 or optometrist authorized to practice in this state, and to use that advice in
18 decisions made by the director in regard to the issuance, renewal, suspension,
19 revocation, or cancellation of driver's licenses pursuant to this chapter. The advice
20 may be received in any manner deemed advisable by the director or the director's
21 authorized agent.

22 2. In addition to advice sought and received pursuant to subsection 1, the director
23 may consider information and advice received from an individual applicant's or
24 driver's personal physician or optometrist. Any examination and report requested
25 by the applicant or driver or required to be taken and provided by the director
26 pursuant to this chapter must be at the expense of the applicant or driver.

27 3. Any physician or optometrist providing advice to the director or director's
28 authorized agent pursuant to subsection 1 shall incur no liability for any opinion,
29 recommendation, or advice provided.

30 **SECTION 4. AMENDMENT.** Section 39-06-27 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **39-06-27. Suspending licenses upon conviction, suspension, or revocation in**
2 **another state jurisdiction.** The director may suspend or revoke the license of any resident of
3 this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving
4 notice of the conviction of ~~such that~~ that person in a tribal court or in another state of an offense
5 therein which, if committed in this state, would be grounds for the suspension or revocation of
6 the license of an operator. The director may act on a report of a conviction in tribal court
7 received from any tribal law enforcement agency. This section may not be construed as
8 authorizing the assessment of points against a resident driver's record in accordance with
9 chapter 39-06.1, except upon conviction of a resident driver for a criminal offense in a tribal
10 court or in another state which is equivalent to one of those offenses defined in section
11 39-06.1-05. ~~No~~ A suspension or revocation may not be imposed for convictions for driving
12 under suspension or revocation on an Indian reservation or in another state if a valid North
13 Dakota license or permit was in effect at the time of the violation. For ~~the~~ purposes of this
14 section, originals, photostatic copies, or electronic transmissions of the records of the drivers
15 licensing or other authority of the other jurisdiction are sufficient evidence whether or not they
16 are certified copies.

17 Upon receipt of a certification that the operating privileges of a resident of this state
18 have been suspended or revoked on an Indian reservation or in any other state pursuant to a
19 law providing for the suspension or revocation for failure to deposit security for the payment of
20 judgments arising out of a motor vehicle accident, under circumstances ~~which that~~ would
21 require the director to suspend a nonresident's operating privileges had the accident occurred
22 in this state, the director shall suspend the license of ~~such the~~ the resident if the resident was the
23 driver of a motor vehicle involved in ~~such the~~ the accident. ~~Such The~~ The suspension continues until
24 ~~such the~~ the resident furnishes evidence satisfactory to the director of the person's compliance with
25 the laws of ~~such the~~ the Indian reservation or the other state relating to the deposit of security or
26 payment of a judgment arising out of a motor vehicle accident, to the extent that ~~such~~
27 compliance would be required if the accident had occurred in this state.

28 **SECTION 5. AMENDMENT.** Subsections 4, 6, and 7 of section 39-06-32 of the North
29 Dakota Century Code are amended and reenacted as follows:

30 4. Refusal to submit to an implied consent chemical test on an Indian reservation or
31 in another state. For purposes of this subsection the specific requirements for

1 establishing a refusal used on the Indian reservation or in the other state may not
2 be considered, and photostatic copies of the records of the other jurisdiction's
3 drivers licensing authority are sufficient evidence of the refusal whether or not
4 those copies are certified. The suspension must be for the same length of time as
5 the revocation in section 39-20-04. If the refusal arose out of an arrest or stop of a
6 person while operating a commercial motor vehicle, the period of suspension must
7 be the same as the period of revocation provided in section 39-06.2-10.

8 6. Failure, as shown by the certificate of the court, to appear in court or post and
9 forfeit bond after signing a promise to appear, in violation of section 39-06.1-04, ~~or~~
10 willful violation of a written promise to appear in court, in violation of section
11 39-07-08, or violation of equivalent ordinances or laws in another jurisdiction.

12 Upon resolution by the operator of the underlying cause for a suspension under
13 this subsection, as shown by the certificate of the court, the director shall record
14 the suspension separately on the driving record. This separate record is not
15 available to the public.

16 7. An administrative decision on an Indian reservation or in another state that the
17 licensee's privilege to drive on that Indian reservation or in that state is suspended
18 or revoked because of a violation of that Indian reservation's or state's law
19 forbidding motor vehicle operation with an alcohol concentration of at least ten
20 one-hundredths of one percent by weight or, with respect to a person under
21 twenty-one years of age, an alcohol concentration of at least two one-hundredths
22 of one percent by weight, or because of a violation of that Indian reservation's or
23 state's law forbidding the driving or being in actual physical control of a commercial
24 motor vehicle while having an alcohol concentration of at least four
25 one-hundredths of one percent by weight. The specific requirements for
26 establishing the violation on the Indian reservation or in the other state may not be
27 considered and certified copies of the records of the Indian reservation's or other
28 state's drivers licensing authority are sufficient evidence of the violation. The
29 suspension must be for the same duration as the suspension in section
30 39-20-04.1, if the violation does not involve a commercial motor vehicle. If the

1 violation involves a commercial motor vehicle, the period of suspension must be
2 the same as the period of suspension provided in section 39-06.2-10.

3 **SECTION 6. AMENDMENT.** Section 39-08-21 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **39-08-21. Medical qualifications exemption for intrastate drivers.** Notwithstanding
6 the adoption by the superintendent of the state highway patrol of federal motor carrier safety
7 regulations pursuant to subsection 2 of section 39-21-46, the provisions of 49 CFR
8 391.41(b)(1)-(11) do not apply to a person who is qualified through a state medical waiver
9 program to operate a commercial motor vehicle within the boundaries of this state or a person
10 who:

- 11 1. Is otherwise qualified to operate a commercial motor vehicle and who possesses,
12 on March 26, 1991, a class 1 license issued pursuant to section 39-06-14, as that
13 section existed on June 30, 1989, or a class A license issued pursuant to chapter
14 39-06.2;
- 15 2. Operates a commercial motor vehicle only within the boundaries of this state;
- 16 3. Does not operate a motor vehicle used in the transportation of hazardous materials
17 in a quantity requiring placarding under regulations issued pursuant to the
18 Hazardous Materials Transportation Act [49 U.S.C. App. 1801 et seq.]; and
- 19 4. Has a medical or physical condition which:
 - 20 a. Would prevent such person from operating a commercial motor vehicle under
21 federal motor carrier safety regulations contained in 49 CFR, Chapter III,
22 subchapter B;
 - 23 b. Existed on March 26, 1991, or at the time of the first required physical
24 examination after that date; and
 - 25 c. An examining physician has determined has not substantially worsened since
26 March 26, 1991, or the time of the first required physical examination after
27 that date.

28 **SECTION 7. AMENDMENT.** Subsection 1 of section 39-20-05 of the North Dakota
29 Century Code is amended and reenacted as follows:

- 30 1. Before issuing an order of suspension, revocation, or denial under section
31 39-20-04 or 39-20-04.1, the director shall afford that person an opportunity for a

1 hearing if the person mails a request for the hearing to the director within ten days
2 after the date of issuance of the temporary operator's permit. The hearing must be
3 held within ~~twenty-five~~ thirty days after the date of issuance of the temporary
4 operator's permit, ~~but the hearing officer may extend the hearing to within thirty~~
5 ~~days after the issuance of the temporary operator's permit to accommodate the~~
6 ~~efficient scheduling of hearings.~~ If the hearing date is extended beyond ~~twenty-five~~
7 thirty days from the issuance of the temporary operator's permit, the director shall
8 provide extended temporary operator's privileges to the date of the hearing. If no
9 hearing is requested within the time limits in this section, and no affidavit is
10 submitted within the time limits under subsection 2 of section 39-20-04, the
11 expiration of the temporary operator's permit serves as the director's official
12 notification to the person of the revocation, suspension, or denial of driving
13 privileges in this state.

14 **SECTION 8. EMERGENCY.** Section 6 of this Act is declared to be an emergency
15 measure.