

Fifty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1291

Introduced by

Representatives Mahoney, Fairfield, Keiser, R. Kelsch

Senators Kringstad, O'Connell

1 A BILL for an Act to create and enact sections 39-06-04.1, 39-06-04.2, 39-06-04.3, 39-06-04.4,  
2 39-06-04.5, and 39-06-04.6 of the North Dakota Century Code, relating to a graduated motor  
3 vehicle driver licensing program for minors; to amend and reenact sections 39-06-03, 39-06-04,  
4 39-06-05, 39-06-07, 39-06-08, subsection 1 of section 39-06-14, and section 39-06-17 of the  
5 North Dakota Century Code, relating to a graduated motor vehicle driver licensing program for  
6 minors; and to provide an effective date.

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

8 **SECTION 1. AMENDMENT.** Section 39-06-03 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **39-06-03. ~~What persons~~ Persons who may not be licensed.** The director may not  
11 issue any license hereunder:

- 12 1. To any person who is under the age of sixteen years, except that the director may  
13 issue an instructional permit, a restricted instructional permit, or restricted license  
14 ~~as hereinafter provided in under~~ sections 39-06-04, 39-06-05, and 39-06-17 to any  
15 person who is less than sixteen years of age.
- 16 2. To any person whose license has been suspended in this state or in any other  
17 state during ~~such~~ the suspension, except as provided in section 39-06.1-03 or  
18 39-06.1-11, nor to any person whose license has been revoked, except as  
19 provided in sections 39-06-35 and 39-06-36.
- 20 3. To any person who is an habitual drunkard, or is an habitual user of narcotic drugs,  
21 or is an habitual user of any other drug to a degree ~~which~~ that renders the person  
22 incapable of safely driving a motor vehicle.

- 1           4. To any person who has previously been adjudged to be afflicted with or suffering  
2           from any mental disability or disease and who has not at the time of application  
3           been restored to competency by the methods provided by law.
- 4           5. To any person who is required by this chapter to take an examination, unless ~~such~~  
5           that person has successfully passed ~~such~~ the examination.
- 6           6. To any person who is required under the laws of this state to deposit security or file  
7           proof of financial responsibility and who has not deposited ~~such~~ the security or  
8           filed ~~such~~ the proof.
- 9           7. To any person when the director has good cause to believe that ~~such~~ the person  
10          by reason of physical or mental disability would not be able to operate a motor  
11          vehicle with safety upon the highways.
- 12          8. To any person when the director has good cause to believe that the operation of a  
13          motor vehicle on the highways by ~~such~~ the person would be inimical to public  
14          safety or welfare.
- 15          9. ~~Repealed by S.L. 1977, ch. 348, § 2.~~

16           **SECTION 2. AMENDMENT.** Section 39-06-04 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18           **39-06-04. ~~Instruction~~ Instructional permit - Minimum age - Testing.** Any person  
19 who is at least fourteen years of age may ~~apply to the director for~~ obtain an ~~instruction~~  
20 instructional permit if the person passes a test administered by the director. The director may  
21 issue to the applicant an ~~instruction~~ instructional permit which entitles the applicant while  
22 having such permit in the permittee's immediate possession to drive a motor vehicle upon the  
23 public highways for a period of one year when accompanied by a licensed operator who is at  
24 least eighteen years of age and holds a license corresponding to the vehicle the permittee  
25 operates and has had at least one year of driving experience and who is occupying a seat  
26 beside the driver. Persons holding an ~~instruction~~ instructional permit for the operation of a  
27 motorcycle shall operate the motorcycle only during hours when the use of headlights is not  
28 required pursuant to section 39-21-01, and may not carry or transport any passenger. Any  
29 ~~instruction~~ instructional permit may be renewed or a new permit issued for an additional period.  
30 A person who is not yet eighteen years of age is not eligible for a restricted license until that  
31 person has had an ~~instruction~~ instructional permit issued for at least ~~three~~ six months. The

1 director may recognize an ~~instruction~~ instructional permit issued by another jurisdiction in  
2 computing the ~~three-month~~ six-month instructional period.

3 **SECTION 3.** Six new sections to chapter 39-06 of the North Dakota Century Code are  
4 created and enacted as follows:

5 **39-06-04.1. Graduated driver licensing - Instruction and experience.** To ensure  
6 that a minor has both instruction and experience before obtaining an operator's license, driving  
7 privileges are granted on an incremental basis in accordance with the following process:

- 8 1. An instructional permit.
- 9 2. A restricted license.
- 10 3. An operator's license.

11 An instructional permit issued under section 39-06-04 or a restricted license issued under  
12 section 39-06-04.3 must have a notation that indicates the level of driving privileges granted by  
13 the permit or license.

14 **39-06-04.2. Instructional permit - Restrictions.** An instructional permit authorizes  
15 the permitholder to drive the type or class of motor vehicle specified on the permit only under  
16 the following conditions:

- 17 1. The permitholder must be in possession of the permit while operating the motor  
18 vehicle; and
- 19 2. The permitholder may drive only when a supervising driver is seated in the front  
20 seat of the vehicle when it is in motion. No individual other than the supervising  
21 driver and the permitholder may be in the front seat unless the vehicle has only a  
22 front seat, in which case, the supervising driver must be seated next to the  
23 permitholder. A supervising driver must hold a valid operator's license and be at  
24 least eighteen years of age.

25 **39-06-04.3. Restricted license - Minimum age.** A minor who is at least fourteen  
26 years of age may obtain a restricted license if the minor:

- 27 1. Has held an instructional permit issued by the director for at least six months, and  
28 has:
  - 29 a. Passed a course of classroom instruction as approved by the superintendent  
30 of public instruction and a course of behind-the-wheel instruction as approved  
31 by the superintendent of public instruction;

- 1           b. Completed fifty hours of driving with that minor's parent or guardian in
- 2                     compliance with the department rules designed for experience in various day
- 3                     and night driving conditions;
- 4           c. Successfully completed a course at a commercial driving training school
- 5                     which has been approved by the superintendent of the state highway patrol
- 6                     pursuant to chapter 39-25; or
- 7           d. A combination of classes described in this subsection;
- 8           2. Has not had a report of a conviction of a traffic offense or admission or
- 9                     adjudication of a traffic violation during the preceding six months; and
- 10          3. Has passed a road test administered by the director.

11           **39-06-04.4. Restricted license - Restrictions.** A restricted license authorizes the  
12 licenseholder to drive the type or class of motor vehicle specified on the restricted license only  
13 under the following conditions:

- 14          1. A restricted licenseholder must be in possession of the license while operating the
- 15                     motor vehicle;
- 16          2. A restricted licenseholder may drive without supervision in any of the following
- 17                     circumstances:
  - 18                  a. From six a.m. to twelve midnight; or
  - 19                  b. When driving or operating any motor vehicle for the purpose of farming or
  - 20                     ranching or for driving directly between work, home, a sanctioned school
  - 21                     activity, or a church activity, but may carry passengers only during the hours
  - 22                     listed in subdivision a unless accompanied by a supervising driver; and
- 23          3. A restricted licenseholder may drive at any time when accompanied by a
- 24                     supervising driver who is seated in the front seat of the vehicle when it is in motion.
- 25                     The supervising driver need not be the only other occupant of the front seat, but
- 26                     must be seated next to the licenseholder. A supervising driver must hold a valid
- 27                     motor vehicle operator's license and be at least eighteen years of age. An
- 28                     individual holding a restricted driver's license driving a motor vehicle may not carry
- 29                     more passengers than the vehicle manufacturer's suggested passenger capacity.

1           **39-06-04.5. Full licensure.** A restricted driver's licenseholder who reaches sixteen  
2 years of age may obtain an operator's license if the individual's driving privileges are not  
3 suspended or revoked.

4           **39-06-04.6. Violations.** It is unlawful for the holder of an instructional permit or a  
5 restricted license to drive a motor vehicle in violation of the restrictions that apply to the permit  
6 or license. Failure to comply with a restriction concerning the permit or license or the failure to  
7 comply with the supervising driver requirements constitutes operating a motor vehicle without a  
8 license. If a licenseholder who is under eighteen years of age has a report of a conviction or  
9 admission or adjudication of a violation of any of the liquor laws in conjunction with the use of a  
10 motor vehicle, or has accumulated six or more points on that person's driving record during any  
11 previous twelve consecutive months, the license privilege must be returned to the permit level  
12 following completion of any period of suspension or other penalty so imposed.

13           **SECTION 4. AMENDMENT.** Section 39-06-05 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15           **39-06-05. Restricted ~~instruction~~ instructional permit - When ~~instruction~~**  
16 **instructional permit not required.**

17           1. The director upon receiving proper application may issue a restricted ~~instruction~~  
18 instructional permit effective for a school year or more restricted period to an  
19 applicant who is at least fourteen years of age and enrolled in a commercial driver  
20 training course which includes practice driving and which is approved by the  
21 superintendent of the highway patrol pursuant to chapter 39-25. Such ~~instruction~~  
22 instructional permit entitles the permittee when the permittee has such a permit in  
23 the permittee's immediate possession to operate a motor vehicle only on a  
24 designated highway or within a designated area but only when an approved  
25 instructor is occupying a seat beside the permittee.

26           2. Any student who is at least fourteen years of age and enrolled in behind-the-wheel  
27 driver's training through a high school program approved by the superintendent of  
28 public instruction may operate a motor vehicle, under the supervision of a driver  
29 training instructor certified by the superintendent of public instruction, without a  
30 permit or license to operate a motor vehicle; provided, that the school district  
31 sponsoring the driver's training program has an insurance policy covering any

1 damage which may be done by any such student while operating the vehicle, and  
2 provided further that proof of coverage is filed with the superintendent of public  
3 instruction by the school district's insurance carrier. The insurance coverage must  
4 be in the amount required under section 39-16.1-02.

5 **SECTION 5. AMENDMENT.** Section 39-06-07 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **39-06-07. Application for license or ~~instruction~~ instructional permit.**

- 8 1. Every application for an ~~instruction~~ instructional permit, a restricted license, or for  
9 an operator's license must be made upon a form furnished by the director.  
10 2. Every application must state the full name, date of birth, sex, residence and  
11 mailing address, and briefly describe the applicant. In signing the application the  
12 applicant is deemed to have certified that all information contained on the  
13 application is true and correct. The application must be accompanied by the  
14 proper fee. The application must also provide for the voluntary identification of the  
15 applicant as a donor under the provisions of chapter 23-06.2. The application  
16 must contain such other information as the director may require.  
17 3. Whenever an application is received from a person previously licensed in another  
18 jurisdiction, the director may request a copy of the driver's record from such other  
19 jurisdiction. When received, the driving record becomes a part of the driving  
20 record in this state with the same force and effect as though entered on the driving  
21 record in this state in the original instance.  
22 4. Whenever the director receives a request for a driving record from another  
23 licensing jurisdiction, the record must be forwarded without charge.

24 **SECTION 6. AMENDMENT.** Section 39-06-08 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **39-06-08. Application of minors.** The application of any minor for an ~~instruction~~  
27 instructional permit, a restricted license, or operator's license must be signed and verified  
28 before a person authorized to administer oaths or the director's agent, by the father, mother, or  
29 legal guardian, or, in the event there is no parent or legal guardian, then by another responsible  
30 adult who is willing to assume the obligation imposed under this chapter upon a person signing  
31 the application of a minor.

1           **SECTION 7. AMENDMENT.** Subsection 1 of section 39-06-14 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3           1. The director, upon payment of a ten dollar fee, shall issue to every qualified  
4 applicant for a restricted license under section 39-06-17 an operator's license as  
5 applied for in the form prescribed by the director. The license must bear a  
6 distinguishing number assigned to the licensee, a color photograph of the licensee,  
7 the full name, date of birth, residence address, and a brief description of the  
8 licensee, and either a facsimile of the signature of the licensee or a space upon  
9 which the licensee shall write the licensee's usual signature. If the licensee is  
10 under the age of twenty-one, the photograph must be against a color border or  
11 background that is different from the color used for other licensees. If requested  
12 on the license application, the license issued by the director must include a  
13 statement making an anatomical gift under chapter 23-06.2. No license is valid  
14 until it has been signed by the licensee with the licensee's usual signature. The  
15 department shall develop a system to require each applicant for an operator's  
16 license or renewal of an operator's license to determine whether or not the  
17 applicant wishes to be a donor under chapter 23-06.2. For purposes of  
18 verification, an officer may require the licensee to write the licensee's signature in  
19 the presence of the officer. The director may adopt rules, pursuant to chapter  
20 28-32, relating to the manner in which photographs are to be obtained and placed  
21 on operator's licenses. The photograph may be produced by digital imaging or  
22 other electronic means and is not a public record.

23           **SECTION 8. AMENDMENT.** Section 39-06-17 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25           **39-06-17. Restricted licenses - Penalty for violation.**

26           1. ~~The~~ In addition to the provisions of sections 39-06-04.1 through 39-06-04.6, the  
27 director, upon issuing an instructional permit, a restricted license, an operator's  
28 license or a temporary restricted operator's license pursuant to section 39-06.1-11,  
29 has authority to impose restrictions suitable to the licensee's driving ability with  
30 respect to the type of or special mechanical control devices required on a motor  
31 vehicle which the permittee or licensee may operate or such other restrictions

- 1 applicable to the permittee or licensee as the director may determine to be  
2 appropriate to assure the safe operation of a motor vehicle by the permittee or  
3 licensee.
- 4 2. The director may either issue a special restricted permit or license or may set forth  
5 such restrictions upon the usual permit or license form. The director shall likewise  
6 restrict licenses pursuant to the requirements of section 39-16.1-09.
- 7 3. ~~A~~ Subject to the provisions of sections 39-06-04.1 through 39-06-04.6, a restricted  
8 operator's license, a restricted license, or an instructional permit to operate the  
9 parent's or legal guardian's automobile, or an automobile which is equipped with  
10 dual controls and while accompanied by a qualified instructor, may be issued to  
11 any child, who is at least fourteen years of age, and otherwise qualified, upon the  
12 written recommendation of the parent or legal guardian. ~~No operator's~~ A restricted  
13 license may not be issued until the child, accompanied by the parent or legal  
14 guardian, appears in person and satisfies the director that
- 15 a. ~~The child is at least fourteen years of age.~~  
16 b. ~~The child is qualified to operate an automobile safely.~~  
17 c. ~~It is necessary for the child to drive the parent's or guardian's automobile~~  
18 ~~without being accompanied by an adult.~~  
19 d. ~~The child has completed a course of classroom instruction and a course of~~  
20 ~~behind the wheel instruction acceptable to the director; or, in the alternative,~~  
21 ~~has successfully completed a course at an approved commercial driver~~  
22 ~~training school~~ the requirements for receiving a restricted license have been  
23 met.
- 24 The parent or guardian at all times is responsible for any and all damages growing  
25 out of the negligent operation of a motor vehicle by any such child. The provisions  
26 of this subsection do not authorize the child who is at least fourteen years of age  
27 but less than sixteen years of age to drive a commercial truck, motorbus, or  
28 taxicab except the holder of a ~~class-D~~ restricted license, ~~fourteen or fifteen years~~  
29 ~~of age,~~ may drive a farm motor vehicle having a gross weight of fifty thousand  
30 pounds [22679.62 kilograms] when used to transport agricultural products, farm



- 1 machinery, or farm supplies to or from a farm when so operated within one  
2 hundred fifty miles [241.40 kilometers] of the driver's farm.
- 3 4. The director may upon receiving satisfactory evidence of any violation of the  
4 restrictions of ~~such~~ an instructional permit, a restricted license, or restricted  
5 operator's license suspend or revoke the same but the permitholder or licensee is  
6 entitled to a hearing as upon a suspension or revocation under this chapter.
- 7 5. It is a class B misdemeanor for any person to operate a motor vehicle in any  
8 manner in violation of the restrictions imposed in a restricted license issued to that  
9 person. If the restricted license was issued under section 39-06.1-11 and the  
10 underlying suspension was imposed for a violation of section 39-08-01 or  
11 equivalent ordinance, or is governed by chapter 39-20, punishment is as provided  
12 in subsection 2 of section 39-06-42 and upon receiving notice of the conviction the  
13 director shall revoke, without opportunity for hearing, the licensee's restricted  
14 license and shall extend the underlying suspension for a like period of not more  
15 than one year. The director may not issue a restricted license for the extended  
16 period of suspension imposed under this subsection. If the conviction referred to  
17 in this section is reversed by an appellate court, the director shall restore the  
18 person to the status held by the person prior to the conviction, including restoration  
19 of driving privileges if appropriate.

20 **SECTION 9. EFFECTIVE DATE.** This Act becomes effective on July 1, 2000.