

**HOUSE BILL NO. 1088**

Introduced by

Judiciary Committee

(At the request of the Attorney General)

1 A BILL for an Act to amend and reenact subsections 4 and 5 of section 19-03.1-37, sections  
2 20.1-13.1-01 and 20.1-13.1-03, subsection 2 of section 20.1-13.1-05, subsections 2 and 4 of  
3 section 20.1-13.1-08, subsections 3, 4, and 6 of section 20.1-13.1-10, sections 20.1-15-01 and  
4 20.1-15-03, subsection 2 of section 20.1-15-05, subsections 2 and 4 of section 20.1-15-08,  
5 subsections 5, 6, and 8 of section 20.1-15-11, section 20.1-15-15, subsection 2 of section  
6 28-32-01, subsection 2 of section 39-06.2-10.3, subsections 2 and 4 of section 39-06.2-10.6,  
7 sections 39-20-01 and 39-20-02, subsection 2 of section 39-20-03.1, subsections 2 and 4 of  
8 section 39-20-05, subsections 5, 6, and 8 of section 39-20-07, sections 39-20-13, 39-20-14,  
9 39-24.1-01 and 39-24.1-03, and subsections 3, 4, and 6 of section 39-24.1-08 of the North  
10 Dakota Century Code, relating to the state toxicologist and the state crime laboratory.

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

12 **SECTION 1. AMENDMENT.** Subsections 4 and 5 of section 19-03.1-37 of the North  
13 Dakota Century Code are amended and reenacted as follows:

- 14 4. In all prosecutions under this chapter, chapter 19-03.2, or chapter 19-03.4 involving  
15 the analysis of a substance or sample thereof, a certified copy of the analytical  
16 report signed by the ~~state toxicologist, or the toxicologist's designee, or the director~~  
17 ~~of the state crime laboratory; or the director's designee;~~ must be accepted as prima  
18 facie evidence of the results of the analytical findings.
- 19 5. Notwithstanding any statute or rule to the contrary, a defendant who has been  
20 found to be indigent by the court in the criminal proceeding at issue may subpoena  
21 the ~~state toxicologist or the director~~ or an employee of the state crime laboratory;  
22 ~~or any employee of either,~~ to testify at the preliminary hearing and trial of the issue  
23 at no cost to the defendant. If the ~~state toxicologist, the director~~ or an employee of  
24 the state crime laboratory, ~~or any employee of either,~~ is subpoenaed to testify by a

1 defendant who is not indigent and the defendant does not call the witness to  
2 establish relevant evidence, the court shall order the defendant to pay costs to the  
3 witness as provided in section 31-01-16.

4 **SECTION 2. AMENDMENT.** Section 20.1-13.1-01 of the North Dakota Century Code  
5 is amended and reenacted as follows:

6 **20.1-13.1-01. Implied consent to determine alcoholic and drug content of blood.**

7 Any person who operates a motorboat or vessel in this state is deemed to have given consent,  
8 and shall consent, subject to this chapter, to a chemical test, or tests, of the blood, breath,  
9 saliva, or urine for the purpose of determining the alcoholic, other drug, or combination thereof,  
10 content of the blood. As used in this chapter, "operates" means to be in motion, en route, but  
11 not at anchor or aground; "vessel" means any watercraft used or designed to be used for  
12 navigation on the water such as a boat operated by machinery, either permanently or  
13 temporarily affixed, a sailboat other than a sailboard, an inflatable manually propelled boat, a  
14 canoe, kayak, or rowboat, but does not include an inner tube, air mattress, or other water toy;  
15 "drug" means any drug or substance or combination of drugs or substances which renders a  
16 person incapable of safely operating a motorboat or vessel; and "chemical test" means any test  
17 or tests to determine the alcoholic, or other drug, or combination thereof, content of the blood,  
18 breath, saliva, or urine, approved by the director of the state toxicologist crime laboratory or the  
19 director's designee under this chapter. The chemical test must be administered at the direction  
20 of a game warden or a law enforcement officer only after placing the person, except persons  
21 mentioned in section 20.1-13.1-04, under arrest and informing that person that the person is or  
22 will be charged with the offense of operating a motorboat or vessel while under the influence of  
23 intoxicating liquor, drugs, or a combination thereof. For the purposes of this chapter, the taking  
24 into custody of a minor under section 27-20-13 satisfies the requirement of an arrest. The  
25 game warden or law enforcement officer shall also inform the person charged that refusal of the  
26 person to submit to the chemical test determined appropriate will result in that person being  
27 prohibited from operating a motorboat or vessel for up to three years. The game warden or law  
28 enforcement officer shall determine the chemical test to be used. When a minor is taken into  
29 custody for violating section 20.1-13-07, the game warden or law enforcement officer shall  
30 diligently attempt to contact the minor's parent or legal guardian to explain the cause for the  
31 custody and the implied consent chemical testing requirements. Neither the game warden or

1 law enforcement officer's efforts to contact, nor any consultation with, a parent or legal guardian  
2 may be permitted to interfere with the administration of chemical testing requirements under this  
3 chapter.

4 **SECTION 3. AMENDMENT.** Section 20.1-13.1-03 of the North Dakota Century Code  
5 is amended and reenacted as follows:

6 **20.1-13.1-03. Persons qualified to administer chemical test and opportunity for**  
7 **additional test.** Only an individual medically qualified to draw blood, acting at the request of a  
8 game warden or a law enforcement officer, may withdraw blood for the purpose of determining  
9 the alcoholic, drug, or combination thereof, content of the blood. The director of the state  
10 ~~toxicologist~~ crime laboratory or the director's designee shall determine the qualifications or  
11 credentials for being medically qualified to draw blood and shall issue a list of approved  
12 designations, including medical doctor and registered nurse. This limitation does not apply to  
13 the taking of a breath, saliva, or urine specimen. The person tested may have an individual of  
14 that person's own choosing, who is medically qualified to draw blood, administer a chemical test  
15 in addition to any administered at the direction of a game warden or a law enforcement officer  
16 with all costs of the additional chemical test to be the responsibility of the person charged. The  
17 failure or inability to obtain an additional chemical test by a person does not preclude the  
18 admission of the chemical test taken at the direction of a game warden or a law enforcement  
19 officer. Upon the request of the person who is tested, a copy of the operational checklist and  
20 test record of a breath sample test or analytical report of a blood, urine, or saliva sample test  
21 taken at the direction of the game warden or law enforcement officer must be made available to  
22 that person by the department or law enforcement agency that administered the chemical test.

23 **SECTION 4. AMENDMENT.** Subsection 2 of section 20.1-13.1-05 of the North Dakota  
24 Century Code is amended and reenacted as follows:

25 2. If a chemical test administered under section 20.1-13.1-01 or 20.1-13.1-04 was by  
26 saliva or urine sample or by drawing blood as provided in section 20.1-13.1-03 and  
27 the person tested does not reside in an area in which the game warden or law  
28 enforcement officer has jurisdiction, the game warden or law enforcement officer  
29 shall, on receiving the analysis of the saliva, urine, or blood from the director of the  
30 ~~state toxicologist~~ crime laboratory or the director's designee and if the analysis  
31 shows that person had an alcohol, other drug, or a combination thereof

1 concentration of at least ten one-hundredths of one percent by weight, either  
2 proceed in accordance with subsection 1 during that person's reappearance within  
3 the game warden's or officer's jurisdiction or notify a game warden or law  
4 enforcement agency having jurisdiction where the person resides. On that  
5 notification, that game warden or law enforcement agency shall immediately issue  
6 a statement of intent to prohibit the person from operating a motorboat or vessel.  
7 The issuance of a statement of intent to prohibit the person from operating a  
8 motorboat or vessel serves as the director's official notification to the person of the  
9 director's intent to prohibit the person from operating a motorboat or vessel in this  
10 state.

11 **SECTION 5. AMENDMENT.** Subsections 2 and 4 of section 20.1-13.1-08 of the North  
12 Dakota Century Code are amended and reenacted as follows:

13 2. If the issue to be determined by the hearing concerns the prohibition from  
14 operating a motorboat or vessel for operating a motorboat or vessel while having  
15 an alcohol, other drug, or a combination thereof concentration of at least ten  
16 one-hundredths of one percent by weight, the hearing must be before a hearing  
17 officer assigned by the director and at a time and place designated by the director.  
18 The hearing must be recorded and its scope may cover only the issues of whether  
19 the arresting warden or officer had probable cause to believe the person had been  
20 operating a motorboat or vessel in violation of section 20.1-13-07; whether the  
21 person was placed under arrest; whether the person was tested in accordance with  
22 section 20.1-13.1-01 or 20.1-13.1-04 and, if applicable, section 20.1-13.1-03; and  
23 whether the chemical test results show the person had an alcohol, other drug, or a  
24 combination thereof concentration of at least ten one-hundredths of one percent by  
25 weight. For purposes of this section, a copy of a certified copy of an analytical  
26 report of a blood, urine, or saliva sample from the director of the state toxicologist  
27 crime laboratory or the director's designee, or a certified copy of the checklist and  
28 test records from a certified breath test operator establish prima facie the alcohol,  
29 other drug, or a combination thereof concentration shown therein. Whether the  
30 person was informed that that person may be prohibited from operating a  
31 motorboat or vessel based on the results of the chemical test is not an issue.

1           4. At a hearing under this section, the regularly kept records of the director may be  
2 introduced. Those records establish prima facie their contents without further  
3 foundation. For purposes of this chapter, the following are deemed regularly kept  
4 records of the director: any copy of a certified copy of an analytical report of a  
5 blood, urine, or saliva sample received by the director from the director of the state  
6 ~~toxicologist~~ crime laboratory or the director's designee or a game warden or a law  
7 enforcement officer, a certified copy of the checklist and test records received by  
8 the director from a certified breath test operator, and any copy of a certified copy of  
9 a certificate of the director of the state ~~toxicologist~~ crime laboratory or the director's  
10 designee relating to approved methods, devices, operators, materials, and  
11 checklists used for testing for alcohol, other drug, or a combination thereof  
12 concentration received by the director from the director of the state ~~toxicologist~~  
13 crime laboratory or the director's designee, or the recorder, unless the board of  
14 county commissioners has designated a different official to maintain the certificate.

15           **SECTION 6. AMENDMENT.** Subsections 3, 4, and 6 of section 20.1-13.1-10 of the  
16 North Dakota Century Code are amended and reenacted as follows:

17           3. The results of the chemical test must be received in evidence when it is shown that  
18 the sample was properly obtained and the test was fairly administered, and if the  
19 test is shown to have been performed according to methods and with devices  
20 approved by the director of the state ~~toxicologist~~ crime laboratory or the director's  
21 designee, and by an individual possessing a certificate of qualification to administer  
22 the test issued by the director of the state ~~toxicologist~~ crime laboratory or the  
23 director's designee. The director of the state ~~toxicologist~~ crime laboratory or the  
24 director's designee is authorized to approve satisfactory devices and methods of  
25 chemical tests and determine the qualifications of individuals to conduct such tests,  
26 and shall issue a certificate to every qualified operator. An operator shall exhibit  
27 the certificate upon demand of the person requested to take the chemical test.

28           4. The director of the state ~~toxicologist~~ crime laboratory or the director's designee  
29 may appoint, train, certify, and supervise field inspectors of breath testing  
30 equipment and its operation, and the inspectors shall report the findings of any  
31 inspection to the director of the state ~~toxicologist~~ crime laboratory or the director's

1           designee for appropriate action. Upon approval of the methods or devices, or both,  
2           required to perform the tests and the persons qualified to administer them, the  
3           director of the state ~~toxicologist~~ crime laboratory or the director's designee shall  
4           prepare and file written record of the approval with the director and the recorder in  
5           each county, unless the board of county commissioners designates a different  
6           official, and shall include in the record:

- 7           a. An annual register of the specific testing devices currently approved, including  
8           serial number, location, and the date and results of last inspection.  
9           b. An annual register of currently qualified and certified operators of the devices,  
10          stating the date of certification and its expiration.  
11          c. The operational checklist and forms prescribing the methods currently  
12          approved by the director of the state ~~toxicologist~~ crime laboratory or the  
13          director's designee in using the devices during the administration of the tests.

14          The material filed under this section may be supplemented when the director of the  
15          state ~~toxicologist~~ crime laboratory or the director's designee determines it to be  
16          necessary, and any supplemental material has the same force and effect as the  
17          material that it supplements.

- 18          6. A certified copy of the analytical report of a blood, urine, or saliva test issued by the  
19          director of the state ~~toxicologist~~ crime laboratory or the director's designee must be  
20          accepted as prima facie evidence of the results of a chemical test performed under  
21          this chapter.

22           **SECTION 7. AMENDMENT.** Section 20.1-15-01 of the North Dakota Century Code is  
23          amended and reenacted as follows:

24           **20.1-15-01. Implied consent to determine alcoholic and drug content of blood.**

25          Any person who is afield with a gun or other firearm or a bow and arrow is deemed to have  
26          given consent, and shall consent, subject to this chapter, to a chemical test of the blood, breath,  
27          saliva, or urine for the purpose of determining the alcoholic, other drug, or combination thereof,  
28          content of the blood. As used in this chapter, "drug" means any drug or substance or  
29          combination of drugs or substances which renders a person incapable of safely hunting or  
30          being afield with a gun or other firearm or a bow and arrow, and "chemical test" means any test  
31          or tests to determine the alcoholic, or other drug, or combination thereof, content of the blood,

1 breath, saliva, or urine, approved by the director of the state ~~toxicologist~~ crime laboratory or the  
2 director's designee under this chapter. The chemical test must be administered at the direction  
3 of a game warden or a law enforcement officer only after placing the person, except persons  
4 mentioned in section 20.1-15-04, under arrest and informing that person that the person is or  
5 will be charged with the offense of being afield with a gun or other firearm or a bow and arrow  
6 while under the influence of intoxicating liquor, drugs, or a combination thereof. For the  
7 purposes of this chapter, the taking into custody of a minor under section 27-20-13 satisfies the  
8 requirement of an arrest. The game warden or law enforcement officer shall also inform the  
9 person charged that refusal of the person to submit to the chemical test determined appropriate  
10 will result in a revocation for up to four years of the person's hunting privileges. The game  
11 warden or law enforcement officer shall determine the chemical test to be used. When a minor  
12 is taken into custody for violating section 20.1-01-06, the game warden or law enforcement  
13 officer shall diligently attempt to contact the minor's parent or legal guardian to explain the  
14 cause for the custody and the implied consent chemical testing requirements. Neither the  
15 game warden or law enforcement officer's efforts to contact, nor any consultation with, a parent  
16 or legal guardian may be permitted to interfere with the administration of chemical testing  
17 requirements under this chapter.

18 **SECTION 8. AMENDMENT.** Section 20.1-15-03 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **20.1-15-03. Persons qualified to administer chemical test and opportunity for**  
21 **additional test.** Only an individual medically qualified to draw blood, acting at the request of a  
22 game warden or a law enforcement officer, may withdraw blood for the purpose of determining  
23 the alcoholic, drug, or combination thereof, content of the blood. The director of the state  
24 ~~toxicologist~~ crime laboratory or the director's designee shall determine the qualifications or  
25 credentials for being medically qualified to draw blood and shall issue a list of approved  
26 designations, including medical doctor and registered nurse. This limitation does not apply to  
27 the taking of a breath, saliva, or urine specimen. The person tested may have an individual of  
28 that person's own choosing, who is medically qualified to draw blood, administer a chemical test  
29 in addition to any administered at the direction of a game warden or a law enforcement officer  
30 with all costs of the additional chemical test to be the responsibility of the person charged. The  
31 failure or inability to obtain an additional chemical test by a person does not preclude the

1 admission of the chemical test taken at the direction of a game warden or a law enforcement  
2 officer. Upon the request of the person who is tested, a copy of the operational checklist and  
3 test record of a breath sample test or analytical report of a blood, urine, or saliva sample test  
4 taken at the direction of the game warden or law enforcement officer must be made available to  
5 that person by the department or law enforcement agency that administered the chemical test.

6 **SECTION 9. AMENDMENT.** Subsection 2 of section 20.1-15-05 of the North Dakota  
7 Century Code is amended and reenacted as follows:

8 2. If a chemical test administered under section 20.1-15-01 or 20.1-15-04 was by  
9 saliva or urine sample or by drawing blood as provided in section 20.1-15-03 and  
10 the person tested does not reside in an area in which the game warden or law  
11 enforcement officer has jurisdiction, the game warden or law enforcement officer  
12 shall, on receiving the analysis of the saliva, urine, or blood from the director of the  
13 state ~~toxicologist~~ crime laboratory or the director's designee and if the analysis  
14 shows that person had an alcohol, other drug, or a combination thereof  
15 concentration of at least ten one-hundredths of one percent by weight, either  
16 proceed in accordance with subsection 1 during that person's reappearance within  
17 the game warden's or officer's jurisdiction or notify a game warden or law  
18 enforcement agency having jurisdiction where the person resides. On that  
19 notification, that game warden or law enforcement agency shall immediately issue  
20 a statement of intent to revoke, suspend, or deny hunting privileges and take  
21 possession of the person's hunting license if it is then available and, within  
22 twenty-four hours, forward the license to the game warden or law enforcement  
23 agency making the arrest or to the director. The issuance of a statement of intent  
24 to revoke, suspend, or deny hunting privileges and the taking of possession of the  
25 person's hunting license serves as the director's official notification to the person of  
26 the director's intent to revoke, suspend, or deny hunting privileges in this state.

27 **SECTION 10. AMENDMENT.** Subsections 2 and 4 of section 20.1-15-08 of the North  
28 Dakota Century Code are amended and reenacted as follows:

29 2. If the issue to be determined by the hearing concerns suspension of hunting  
30 privileges for being afield with a gun or other firearm or a bow and arrow while  
31 having an alcohol, other drug, or a combination thereof concentration of at least ten

1 one-hundredths of one percent by weight, the hearing must be before a hearing  
2 officer assigned by the director and at a time and place designated by the director.  
3 The hearing must be recorded and its scope may cover only the issues of whether  
4 the arresting warden or officer had reasonable grounds to believe the person had  
5 been afield with a gun or other firearm or bow and arrow in violation of section  
6 20.1-01-06; whether the person was placed under arrest; whether the person was  
7 tested in accordance with section 20.1-15-01 or 20.1-15-04 and, if applicable,  
8 section 20.1-15-03; and whether the chemical test results show the person had an  
9 alcohol, other drug, or a combination thereof concentration of at least ten  
10 one-hundredths of one percent by weight. For purposes of this section, a copy of a  
11 certified copy of an analytical report of a blood, urine, or saliva sample from the  
12 director of the state ~~toxicologist~~ crime laboratory or the director's designee, or a  
13 certified copy of the checklist and test records from a certified breath test operator  
14 establish prima facie the alcohol, other drug, or a combination thereof  
15 concentration shown therein. Whether the person was informed that the privilege  
16 to hunt might be suspended based on the results of the chemical test is not an  
17 issue.

18 4. At a hearing under this section, the regularly kept records of the director may be  
19 introduced. Those records establish prima facie their contents without further  
20 foundation. For purposes of this chapter, the following are deemed regularly kept  
21 records of the director: any copy of a certified copy of an analytical report of a  
22 blood, urine, or saliva sample received by the director from the director of the state  
23 ~~toxicologist~~ crime laboratory or the director's designee or a game warden or a law  
24 enforcement officer, a certified copy of the checklist and test records received by  
25 the director from a certified breath test operator, and any copy of a certified copy of  
26 a certificate of the director of the state ~~toxicologist~~ crime laboratory or the director's  
27 designee relating to approved methods, devices, operators, materials, and  
28 checklists used for testing for alcohol, other drug, or a combination thereof  
29 concentration received by the director from the director of the state ~~toxicologist~~  
30 crime laboratory or the director's designee, or the recorder, unless the board of  
31 county commissioners has designated a different official to maintain the certificate.

1           **SECTION 11. AMENDMENT.** Subsections 5, 6, and 8 of section 20.1-15-11 of the  
2 North Dakota Century Code are amended and reenacted are follows:

3           5. The results of the chemical test must be received in evidence when it is shown that  
4 the sample was properly obtained and the test was fairly administered, and if the  
5 test is shown to have been performed according to methods and with devices  
6 approved by the director of the state ~~toxicologist~~ crime laboratory or the director's  
7 designee, and by an individual possessing a certificate of qualification to administer  
8 the test issued by the director of the state ~~toxicologist~~ crime laboratory or the  
9 director's designee. The director of the state ~~toxicologist~~ crime laboratory or the  
10 director's designee is authorized to approve satisfactory devices and methods of  
11 chemical tests and determine the qualifications of individuals to conduct such tests,  
12 and shall issue a certificate to every qualified operator. An operator shall exhibit  
13 the certificate upon demand of the person requested to take the chemical test.

14           6. The director of the state ~~toxicologist~~ crime laboratory or the director's designee  
15 may appoint, train, certify, and supervise field inspectors of breath testing  
16 equipment and its operation, and the inspectors shall report the findings of any  
17 inspection to the director of the state ~~toxicologist~~ crime laboratory or the director's  
18 designee for appropriate action. Upon approval of the methods or devices, or both,  
19 required to perform the tests and the persons qualified to administer them, the  
20 director of the state ~~toxicologist~~ crime laboratory or the director's designee shall  
21 prepare and file written record of the approval with the director and the recorder in  
22 each county, unless the board of county commissioners designates a different  
23 official, and shall include in the record:

- 24           a. An annual register of the specific testing devices currently approved, including  
25           serial number, location, and the date and results of last inspection.
- 26           b. An annual register of currently qualified and certified operators of the devices,  
27           stating the date of certification and its expiration.
- 28           c. The operational checklist and forms prescribing the methods currently  
29           approved by the director of the state ~~toxicologist~~ crime laboratory or the  
30           director's designee in using the devices during the administration of the tests.

1           The material filed under this section may be supplemented when the director of the  
2           state ~~toxicologist~~ crime laboratory or the director's designee determines it to be  
3           necessary, and any supplemental material has the same force and effect as the  
4           material that it supplements.

5           8. A certified copy of the analytical report of a blood, urine, or saliva test issued by the  
6           director of the state ~~toxicologist~~ crime laboratory or the director's designee must be  
7           accepted as prima facie evidence of the results of a chemical test performed under  
8           this chapter.

9           **SECTION 12. AMENDMENT.** Section 20.1-15-15 of the North Dakota Century Code is  
10          amended and reenacted as follows:

11          **20.1-15-15. Screening tests.** Any person who is afield with a gun or other firearm or a  
12          bow and arrow is deemed to have given consent to submit to an onsite screening test of the  
13          person's breath for the purpose of estimating the alcohol, other drug, or a combination thereof  
14          content of the person's blood upon the request of a game warden or a law enforcement officer  
15          who has reason to believe and has, through the officer's observations, formulated an opinion  
16          that the person's body contains alcohol, other drugs, or a combination thereof. A person may  
17          not be required to submit to a screening test of breath while at a hospital as a patient if the  
18          medical practitioner in immediate charge of the person's case is not first notified of the proposal  
19          to make the requirement or objects to the test on the ground that such would be prejudicial to  
20          the proper care or treatment of the patient. The screening test must be performed by a game  
21          warden or an enforcement officer certified as a chemical test operator by the director of the  
22          state ~~toxicologist~~ crime laboratory or the director's designee and according to methods and with  
23          devices approved by the director of the state ~~toxicologist~~ crime laboratory or the director's  
24          designee. The results of the screening test must be used only for determining whether a further  
25          test is to be given under the provisions of section 20.1-15-01. The officer shall inform the  
26          person that refusal of the person to submit to a screening test will result in a revocation for up to  
27          four years of that person's hunting privileges. If the person refuses to submit to the screening  
28          test, none may be given, but the refusal is sufficient cause to revoke the person's hunting  
29          privileges in the same manner as provided in section 20.1-15-06, and a hearing as provided in  
30          section 20.1-15-08 and a judicial review as provided in section 20.1-15-09 must be available.  
31          However, the director may not revoke a person's hunting privileges for refusing to submit to a

1 screening test requested under this section if the person provides a sufficient breath, blood, or  
2 urine sample for a chemical test requested under section 20.1-15-01 for the same incident.  
3 This section does not supersede any provisions of sections 20.1-15-01 through 20.1-15-14, nor  
4 does any provision of sections 20.1-15-01 through 20.1-15-14 supersede this section except as  
5 provided herein. For the purposes of this section, "chemical test operator" means a person  
6 certified by the director of the state toxicologist crime laboratory or the director's designee as  
7 qualified to perform analysis for alcohol, other drugs, or a combination thereof in a person's  
8 blood, breath, saliva, or urine.

9           **SECTION 13. AMENDMENT.** Subsection 2 of section 28-32-01 of the North Dakota  
10 Century Code is amended and reenacted as follows:

- 11           2. "Administrative agency" or "agency" means each board, bureau, commission,  
12 department, or other administrative unit of the executive branch of state  
13 government, including one or more officers, employees, or other persons directly or  
14 indirectly purporting to act on behalf or under authority of the agency. An  
15 administrative unit located within or subordinate to an administrative agency must  
16 be treated as part of that agency to the extent it purports to exercise authority  
17 subject to this chapter. The term administrative agency does not include:
- 18           a. The office of management and budget except with respect to rules made  
19               under section 32-12.2-14, rules relating to conduct on the capitol grounds and  
20               in buildings located on the capitol grounds under section 54-21-18, rules  
21               relating to the classified service as authorized under section 54-44.3-07, and  
22               rules relating to state purchasing practices as required under section  
23               54-44.4-04.
  - 24           b. The adjutant general with respect to the division of emergency management.
  - 25           c. The council on the arts.
  - 26           d. The state auditor.
  - 27           e. The department of commerce with respect to the division of economic  
28               development and finance.
  - 29           f. The dairy promotion commission.
  - 30           g. The education factfinding commission.
  - 31           h. The educational technology council.

- 1 i. The board of equalization.
- 2 j. The board of higher education.
- 3 k. The Indian affairs commission.
- 4 l. The industrial commission with respect to the activities of the Bank of North  
5 Dakota, North Dakota housing finance agency, North Dakota municipal bond  
6 bank, North Dakota mill and elevator association, and North Dakota farm  
7 finance agency.
- 8 m. The department of corrections and rehabilitation except with respect to the  
9 activities of the division of adult services under chapter 54-23.4.
- 10 n. The pardon advisory board.
- 11 o. The parks and recreation department.
- 12 p. The parole board.
- 13 q. The state fair association.
- 14 r. The attorney general with respect to activities of the state toxicologist and the  
15 state crime laboratory.
- 16 s. The board of university and school lands except with respect to activities  
17 under chapter 47-30.1.
- 18 t. The administrative committee on veterans' affairs except with respect to rules  
19 relating to the supervision and government of the veterans' home and the  
20 implementation of programs or services provided by the veterans' home.
- 21 u. The industrial commission with respect to the lignite research fund except as  
22 required under section 57-61-01.5.
- 23 v. The attorney general with respect to guidelines adopted under section  
24 12.1-32-15 for the risk assessment of sexual offenders, the risk level review  
25 process, and public disclosure of information under section 12.1-32-15.

26 **SECTION 14. AMENDMENT.** Subsection 2 of section 39-06.2-10.3 of the North  
27 Dakota Century Code is amended and reenacted as follows:

- 28 2. If a test administered under section 39-06.2-10.2 was by a urine or blood sample  
29 and the person tested is not a resident of an area in which the law enforcement  
30 officer has jurisdiction, the law enforcement officer shall, on receiving the analysis  
31 of the sample by the director of the state ~~toxicologist~~ crime laboratory or the

1            director's designee showing that person had an alcohol concentration of at least  
2            four one-hundredths of one percent by weight, either proceed in accordance with  
3            subsection 1 during that person's reappearance within the officer's jurisdiction or  
4            notify a law enforcement agency having jurisdiction where the person lives. On  
5            that notification, that law enforcement agency shall immediately take possession of  
6            the person's North Dakota commercial driver's license or permit and, within  
7            twenty-four hours, forward it and a copy of the temporary driver's permit to the  
8            halting officer. The law enforcement agency shall also, on taking possession of the  
9            person's commercial driver's license, issue to that person a temporary driver's  
10           permit according to section 39-06.2-10.8.

11           **SECTION 15. AMENDMENT.** Subsections 2 and 4 of section 39-06.2-10.6 of the  
12 North Dakota Century Code are amended and reenacted as follows:

- 13           2. If the issue to be determined by the hearing concerns license suspension for  
14           operating a commercial motor vehicle while having an alcohol concentration of at  
15           least four one-hundredths of one percent by weight, the hearing must be before a  
16           hearing officer assigned by the director and at a time and place designated by the  
17           director. The hearing must be recorded and its scope may cover only the issues of  
18           whether the arresting officer had reasonable grounds to believe the person had  
19           been driving or was in actual physical control of a commercial motor vehicle in  
20           violation of section 39-06.2-10.1, whether the person was lawfully detained,  
21           whether the person was tested in accordance with section 39-06.2-10.2, and  
22           whether the test results show the person had an alcohol concentration of at least  
23           four one-hundredths of one percent by weight. For purposes of this section, a copy  
24           of a certified copy of an analytical report of a blood or urine sample from the office  
25           of the director of the state toxicologist crime laboratory or the director's designee,  
26           or a certified copy of the checklist and test records from a certified breath test  
27           operator establish prima facie the alcohol concentration shown therein. Whether  
28           the person was warned that the privilege to drive might be suspended based on  
29           the results of the test is not an issue.
- 30           4. At a hearing under this section, the regularly kept records of the director may be  
31           introduced. Those records establish prima facie their contents without further

1 foundation. For purposes of this chapter, the following are deemed regularly kept  
2 records of the director: any copy of a certified copy of an analytical report of a  
3 blood or urine sample received by the director from the ~~office of the~~ director of the  
4 ~~state toxicologist~~ crime laboratory or the director's designee or a law enforcement  
5 officer, a certified copy of the checklist and test records received by the director  
6 from a certified breath test operator, and any copy of a certified copy of a certificate  
7 of the ~~office of the~~ director of the state toxicologist crime laboratory or the director's  
8 designee relating to approved methods, devices, operators, materials, and  
9 checklists used for testing for alcohol concentration received by the director from  
10 the ~~office of the~~ director of the state toxicologist crime laboratory or the director's  
11 designee, or the recorder, unless the board of county commissioners has  
12 designated a different official to maintain the certificate.

13 **SECTION 16. AMENDMENT.** Section 39-20-01 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **39-20-01. Implied consent to determine alcohol and drug content of blood.** Any  
16 person who operates a motor vehicle on a highway or on public or private areas to which the  
17 public has a right of access for vehicular use in this state is deemed to have given consent, and  
18 shall consent, subject to the provisions of this chapter, to a chemical test, or tests, of the blood,  
19 breath, saliva, or urine for the purpose of determining the alcohol, other drug, or combination  
20 thereof, content of the blood. As used in this chapter the word "drug" means any drug or  
21 substance or combination of drugs or substances which renders a person incapable of safely  
22 driving, and the words "chemical test" or "chemical analysis" mean any test to determine the  
23 alcohol, or other drug, or combination thereof, content of the blood, breath, saliva, or urine,  
24 approved by the director of the state toxicologist crime laboratory or the director's designee  
25 under this chapter. The test or tests must be administered at the direction of a law enforcement  
26 officer only after placing the person, except persons mentioned in section 39-20-03, under  
27 arrest and informing that person that the person is or will be charged with the offense of driving  
28 or being in actual physical control of a vehicle upon the public highways while under the  
29 influence of intoxicating liquor, drugs, or a combination thereof. For the purposes of this  
30 chapter, the taking into custody of a child under section 27-20-13 or a person under twenty-one  
31 years of age satisfies the requirement of an arrest. The law enforcement officer shall also

1 inform the person charged that refusal of the person to submit to the test determined  
2 appropriate will result in a revocation for up to three years of the person's driving privileges.  
3 The law enforcement officer shall determine which of the tests is to be used. When a person  
4 under the age of eighteen years is taken into custody for violating section 39-08-01 or an  
5 equivalent ordinance, the law enforcement officer shall attempt to contact the person's parent or  
6 legal guardian to explain the cause for the custody. Neither the law enforcement officer's  
7 efforts to contact, nor any consultation with, a parent or legal guardian may be permitted to  
8 interfere with the administration of chemical testing requirements under this chapter. The law  
9 enforcement officer shall mail a notice to the parent or legal guardian of the minor within ten  
10 days after the test results are received or within ten days after the minor is taken into custody if  
11 the minor refuses to submit to testing. The notice must contain a statement of the test  
12 performed and the results of that test; or if the minor refuses to submit to the testing, a  
13 statement notifying of that fact. The attempt to contact or the contacting or notification of a  
14 parent or legal guardian is not a precondition to the admissibility of chemical test results or the  
15 finding of a consent to, or refusal of, chemical testing by the person in custody.

16 **SECTION 17. AMENDMENT.** Section 39-20-02 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **39-20-02. Persons qualified to administer test and opportunity for additional test.**  
19 Only an individual medically qualified to draw blood, acting at the request of a law enforcement  
20 officer, may withdraw blood for the purpose of determining the alcohol, drug, or combination  
21 thereof, content therein. The director of the state toxicologist crime laboratory or the director's  
22 designee shall determine the qualifications or credentials for being medically qualified to draw  
23 blood, and shall issue a list of approved designations including medical doctor and registered  
24 nurse. This limitation does not apply to the taking of breath, saliva, or urine specimen. The  
25 person tested may have an individual of the person's choosing, who is medically qualified to  
26 draw blood, administer a chemical test or tests in addition to any administered at the direction of  
27 a law enforcement officer with all costs of an additional test or tests to be the sole responsibility  
28 of the person charged. The failure or inability to obtain an additional test by a person does not  
29 preclude the admission of the test or tests taken at the direction of a law enforcement officer.  
30 Upon the request of the person who is tested, a copy of the operational checklist and test  
31 record of a breath sample test or analytical report of a blood, urine, or saliva sample test taken

1 at the direction of the law enforcement officer must be made available to that person by the law  
2 enforcement agency that administered the test or tests.

3 **SECTION 18. AMENDMENT.** Subsection 2 of section 39-20-03.1 of the North Dakota  
4 Century Code is amended and reenacted as follows:

5 2. If a test administered under section 39-20-01 or 39-20-03 was by saliva or urine  
6 sample or by drawing blood as provided in section 39-20-02 and the person tested  
7 is not a resident of an area in which the law enforcement officer has jurisdiction,  
8 the law enforcement officer shall, on receiving the analysis of the saliva, urine, or  
9 blood from the director of the state toxicologist crime laboratory or the director's  
10 designee and if the analysis shows that person had an alcohol concentration of at  
11 least eight one-hundredths of one percent by weight or, with respect to a person  
12 under twenty-one years of age, an alcohol concentration of at least two  
13 one-hundredths of one percent by weight, either proceed in accordance with  
14 subsection 1 during that person's reappearance within the officer's jurisdiction or  
15 notify a law enforcement agency having jurisdiction where the person lives. On  
16 that notification, that law enforcement agency shall immediately take possession of  
17 the person's North Dakota operator's license or permit if it is then available and,  
18 within twenty-four hours, forward the license and a copy of the temporary  
19 operator's permit to the law enforcement agency making the arrest or to the  
20 director. The law enforcement agency shall also, on taking possession of the  
21 person's operator's license, issue to that person a temporary operator's permit as  
22 provided in this section, and shall sign and date the permit as provided in  
23 subsection 1. The temporary operator's permit serves as the director's official  
24 notification to the person of the director's intent to revoke, suspend, or deny driving  
25 privileges in this state.

26 **SECTION 19. AMENDMENT.** Subsections 2 and 4 of section 39-20-05 of the North  
27 Dakota Century Code are amended and reenacted as follows:

28 2. If the issue to be determined by the hearing concerns license suspension for  
29 operating a motor vehicle while having an alcohol concentration of at least eight  
30 one-hundredths of one percent by weight or, with respect to a person under  
31 twenty-one years of age, an alcohol concentration of at least two one-hundredths

1 of one percent by weight, the hearing must be before a hearing officer assigned by  
2 the director and at a time and place designated by the director. The hearing must  
3 be recorded and its scope may cover only the issues of whether the arresting  
4 officer had reasonable grounds to believe the person had been driving or was in  
5 actual physical control of a vehicle in violation of section 39-08-01 or equivalent  
6 ordinance or, with respect to a person under twenty-one years of age, the person  
7 had been driving or was in actual physical control of a vehicle while having an  
8 alcohol concentration of at least two one-hundredths of one percent by weight;  
9 whether the person was placed under arrest, unless the person was under  
10 twenty-one years of age and the alcohol concentration was less than eight  
11 one-hundredths of one percent by weight, then arrest is not required and is not an  
12 issue under any provision of this chapter; whether the person was tested in  
13 accordance with section 39-20-01 or 39-20-03 and, if applicable, section 39-20-02;  
14 and whether the test results show the person had an alcohol concentration of at  
15 least eight one-hundredths of one percent by weight or, with respect to a person  
16 under twenty-one years of age, an alcohol concentration of at least two  
17 one-hundredths of one percent by weight. For purposes of this section, a copy of a  
18 certified copy of an analytical report of a blood, urine, or saliva sample from the  
19 director of the state ~~toxicologist~~ crime laboratory or the director's designee or a  
20 certified copy of the checklist and test records from a certified breath test operator  
21 establish prima facie the alcohol concentration shown therein. Whether the person  
22 was informed that the privilege to drive might be suspended based on the results of  
23 the test is not an issue.

24 4. At a hearing under this section, the regularly kept records of the director may be  
25 introduced. Those records establish prima facie their contents without further  
26 foundation. For purposes of this chapter, the following are deemed regularly kept  
27 records of the director: any copy of a certified copy of an analytical report of a  
28 blood, urine, or saliva sample received by the director from the director of the state  
29 ~~toxicologist~~ crime laboratory or the director's designee or a law enforcement  
30 officer, a certified copy of the checklist and test records received by the director  
31 from a certified breath test operator, and any copy of a certified copy of a certificate

1           of the director of the state ~~toxicologist~~ crime laboratory or the director's designee  
2           relating to approved methods, devices, operators, materials, and checklists used  
3           for testing for alcohol concentration received by the director from the director of the  
4           state ~~toxicologist~~ crime laboratory, the director's designee, or the recorder, unless  
5           the board of county commissioners has designated a different official to maintain  
6           the certificate.

7           **SECTION 20. AMENDMENT.** Subsections 5, 6, and 8 of section 39-20-07 of the North  
8           Dakota Century Code are amended and reenacted as follows:

- 9           5. The results of the chemical analysis must be received in evidence when it is shown  
10           that the sample was properly obtained and the test was fairly administered, and if  
11           the test is shown to have been performed according to methods and with devices  
12           approved by the director of the state ~~toxicologist~~ crime laboratory or the director's  
13           designee, and by an individual possessing a certificate of qualification to administer  
14           the test issued by the director of the state ~~toxicologist~~ crime laboratory or the  
15           director's designee. The director of the state ~~toxicologist~~ crime laboratory or the  
16           director's designee is authorized to approve satisfactory devices and methods of  
17           chemical analysis and determine the qualifications of individuals to conduct such  
18           analysis, and shall issue a certificate to all qualified operators who exhibit the  
19           certificate upon demand of the person requested to take the chemical test.
- 20           6. The director of the state ~~toxicologist~~ crime laboratory or the director's designee  
21           may appoint, train, certify, and supervise field inspectors of breath testing  
22           equipment and its operation, and the inspectors shall report the findings of any  
23           inspection to the director of the state ~~toxicologist~~ crime laboratory or the director's  
24           designee for appropriate action. Upon approval of the methods or devices, or both,  
25           required to perform the tests and the persons qualified to administer them, the  
26           director of the state ~~toxicologist~~ crime laboratory or the director's designee shall  
27           prepare and file written record of the approval with the director and the recorder in  
28           each county, unless the board of county commissioners designates a different  
29           official, and shall include in the record:
- 30           a. An annual register of the specific testing devices currently approved, including  
31           serial number, location, and the date and results of last inspection.

- 1           b. An annual register of currently qualified and certified operators of the devices,  
2           stating the date of certification and its expiration.
- 3           c. The operational checklist and forms prescribing the methods currently  
4           approved by the director of the state ~~toxicologist~~ crime laboratory or the  
5           director's designee in using the devices during the administration of the tests.
- 6           The material filed under this section may be supplemented when the director of the  
7           state ~~toxicologist~~ crime laboratory or the director's designee determines it to be  
8           necessary, and any supplemental material has the same force and effect as the  
9           material that it supplements.
- 10          8. A certified copy of the analytical report of a blood, urine, or saliva analysis referred  
11          to in subsection 5 and which is issued by the director of the state ~~toxicologist~~ crime  
12          laboratory or the director's designee must be accepted as prima facie evidence of  
13          the results of a chemical analysis performed under this chapter. The certified copy  
14          satisfies the directives of subsection 5.

15           **SECTION 21. AMENDMENT.** Section 39-20-13 of the North Dakota Century Code is  
16   amended and reenacted as follows:

17           **39-20-13. State ~~toxicologist~~ crime laboratory to examine specimens of fatalities in**  
18   **accidental deaths involving a motor vehicle - Record use.** In cases of death resulting from  
19   a motor vehicle accident or other unnatural death occurring in a motor vehicle, the county  
20   coroner shall require that specimens of blood, urine, and vitreous humor be withdrawn from the  
21   body of the decedent within twenty-four hours after the decedent's death by a coroner,  
22   coroner's physician, or other qualified person, prior to embalming. The specimens must be  
23   collected and preserved by methods and techniques established by the director of the state  
24   ~~toxicologist~~ crime laboratory or the director's designee. The specimens so drawn must be sent  
25   to the director of the state ~~toxicologist~~ crime laboratory or the director's designee for analysis  
26   for alcohol, carbon monoxide, and other drug content. The director of the state ~~toxicologist~~  
27   crime laboratory or the director's designee shall keep a record of all such examinations to be  
28   used for statistical purposes. The records must be made available to the director for use by the  
29   national highway traffic safety administration in analyzing fatal accidents. The information in the  
30   possession of the director may be obtained from the director of the state ~~toxicologist~~ crime  
31   laboratory or the director's designee only as provided in this section. Except as provided, the

1 results of the examinations referred to in this section must be used only for statistical purposes,  
2 except that the results must be released upon the issuance of a subpoena duces tecum by a  
3 court of competent jurisdiction in any civil or criminal action. The cumulative results of the  
4 examinations, without identifying the individuals involved, must be disseminated to interested  
5 state and local officials and made public by the director of the state toxicologist crime laboratory  
6 or the director's designee. Any person drawing the specimens and any person making any  
7 examination under the terms of this section are immune from all liability, civil or criminal, that  
8 might otherwise be incurred or imposed. ~~The individual drawing the specimens must be paid a~~  
9 ~~fee of five dollars by the state toxicologist for each acceptable specimen submitted for analysis~~  
10 ~~under the requirements of this section.~~

11 **SECTION 22. AMENDMENT.** Section 39-20-14 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **39-20-14. Screening tests.** Any person who operates a motor vehicle upon the public  
14 highways of this state is deemed to have given consent to submit to an onsite screening test or  
15 tests of the person's breath for the purpose of estimating the alcohol content of the person's  
16 blood upon the request of a law enforcement officer who has reason to believe that the person  
17 committed a moving traffic violation or was involved in a traffic accident as a driver, and in  
18 conjunction with the violation or the accident the officer has, through the officer's observations,  
19 formulated an opinion that the person's body contains alcohol. A person may not be required to  
20 submit to a screening test or tests of breath while at a hospital as a patient if the medical  
21 practitioner in immediate charge of the person's case is not first notified of the proposal to make  
22 the requirement, or objects to the test or tests on the ground that such would be prejudicial to  
23 the proper care or treatment of the patient. The screening test or tests must be performed by  
24 an enforcement officer certified as a chemical test operator by the director of the state  
25 ~~toxicologist crime laboratory~~ or the director's designee and according to methods and with  
26 devices approved by the director of the state toxicologist crime laboratory or the director's  
27 designee. The results of such screening test must be used only for determining whether or not  
28 a further test shall be given under the provisions of section 39-20-01. The officer shall inform  
29 the person that refusal of the person to submit to a screening test will result in a revocation for  
30 up to three years of that person's driving privileges. If such person refuses to submit to such  
31 screening test or tests, none may be given, but such refusal is sufficient cause to revoke such

1 person's license or permit to drive in the same manner as provided in section 39-20-04, and a  
2 hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06  
3 must be available. However, the director must not revoke a person's driving privileges for  
4 refusing to submit to a screening test requested under this section if the person provides a  
5 sufficient breath, blood, or urine sample for a chemical test requested under section 39-20-01  
6 for the same incident. No provisions of this section may supersede any provisions of chapter  
7 39-20, nor may any provision of chapter 39-20 be construed to supersede this section except  
8 as provided herein. For the purposes of this section, "chemical test operator" means a person  
9 certified by the director of the state ~~toxicologist~~ crime laboratory or the director's designee as  
10 qualified to perform analysis for alcohol in a person's blood, breath, saliva, or urine.

11 **SECTION 23. AMENDMENT.** Section 39-24.1-01 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **39-24.1-01. Implied consent to determine alcohol and drug content of blood.** A  
14 person who operates a snowmobile on any public land or private land with public access is  
15 deemed to have given consent, and shall consent, subject to this chapter, to a chemical test, or  
16 tests, of the blood, breath, saliva, or urine for the purpose of determining the alcohol, other  
17 drug, or combination thereof, content of the blood. As used in this chapter, the definitions in  
18 section 39-24-01 apply, and in addition, "chemical test" means any test or tests to determine  
19 the alcohol, or other drug, or combination thereof, content of the blood, breath, saliva, or urine,  
20 approved by the director of the state ~~toxicologist~~ crime laboratory or the director's designee  
21 under this chapter; and "drug" means any drug or substance or combination of drugs or  
22 substances which renders a person incapable of safely operating a snowmobile. The chemical  
23 test must be administered at the direction of a law enforcement officer only after placing the  
24 person, except persons mentioned in section 39-24.1-04, under arrest and informing that  
25 person that the person is or will be charged with the offense of operating a snowmobile while  
26 under the influence of intoxicating liquor, drugs, or a combination thereof. For the purposes of  
27 this chapter, the taking into custody of a minor under section 27-20-13 satisfies the requirement  
28 of an arrest. The law enforcement officer shall also inform the person charged that refusal of  
29 the person to submit to the chemical test determined appropriate will result in that person being  
30 prohibited from operating a snowmobile for up to three years. The law enforcement officer shall  
31 determine the chemical test to be used. When a minor is taken into custody for violating

1 subdivision c of subsection 5 of section 39-24-09, the law enforcement officer shall diligently  
2 attempt to contact the minor's parent or legal guardian to explain the cause for the custody and  
3 the implied consent chemical testing requirements. Neither the law enforcement officer's efforts  
4 to contact, nor any consultation with, a parent or legal guardian may be permitted to interfere  
5 with the administration of chemical testing requirements under this chapter.

6 **SECTION 24. AMENDMENT.** Section 39-24.1-03 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **39-24.1-03. Persons qualified to administer chemical test and opportunity for**  
9 **additional test.** Only an individual medically qualified to draw blood, acting at the request of a  
10 law enforcement officer, may withdraw blood for the purpose of determining the alcohol, drug,  
11 or combination thereof, content of the blood. The director of the state ~~toxicologist~~ crime  
12 laboratory or the director's designee shall determine the qualifications or credentials for being  
13 medically qualified to draw blood, and shall issue a list of approved designations including  
14 medical doctor and registered nurse. This limitation does not apply to the taking of a breath,  
15 saliva, or urine specimen. The person tested may have an individual of that person's own  
16 choosing, who is medically qualified to draw blood, administer a chemical test in addition to any  
17 administered at the direction of a law enforcement officer with all costs of the additional  
18 chemical test to be the responsibility of the person charged. The failure or inability to obtain an  
19 additional chemical test by a person does not preclude the admission of the chemical test taken  
20 at the direction of a law enforcement officer. Upon the request of the person who is tested, a  
21 copy of the operational checklist and test record of a breath sample test or analytical report of a  
22 blood, urine, or saliva sample test taken at the direction of the law enforcement officer must be  
23 made available to that person by the law enforcement agency that administered the chemical  
24 test.

25 **SECTION 25. AMENDMENT.** Subsections 3, 4, and 6 of section 39-24.1-08 of the  
26 North Dakota Century Code are amended and reenacted as follows:

27 3. The results of the chemical test must be received in evidence when it is shown that  
28 the sample was properly obtained and the test was fairly administered, and if the  
29 test is shown to have been performed according to methods and with devices  
30 approved by the director of the state ~~toxicologist~~ crime laboratory or the director's  
31 designee, and by an individual possessing a certificate of qualification to administer

- 1 the test issued by the director of the state ~~toxicologist~~ crime laboratory or the  
2 director's designee. The director of the state ~~toxicologist~~ crime laboratory or the  
3 director's designee is authorized to approve satisfactory devices and methods of  
4 chemical tests and determine the qualifications of individuals to conduct such tests,  
5 and shall issue a certificate to every qualified operator. An operator shall exhibit  
6 the certificate upon demand of the person requested to take the chemical test.
- 7 4. The director of the state ~~toxicologist~~ crime laboratory or the director's designee  
8 may appoint, train, certify, and supervise field inspectors of breath testing  
9 equipment and its operation, and the inspectors shall report the findings of any  
10 inspection to the director of the state ~~toxicologist~~ crime laboratory or the director's  
11 designee for appropriate action. Upon approval of the methods or devices, or both,  
12 required to perform the tests and the persons qualified to administer them, the  
13 director of the state ~~toxicologist~~ crime laboratory or the director's designee shall  
14 prepare and file written record of the approval with the director and the recorder in  
15 each county, unless the board of county commissioners designates a different  
16 official, and shall include in the record:
- 17 a. An annual register of the specific testing devices currently approved, including  
18 serial number, location, and the date and results of last inspection.
- 19 b. An annual register of currently qualified and certified operators of the devices,  
20 stating the date of certification and its expiration.
- 21 c. The operational checklist and forms prescribing the methods currently  
22 approved by the director of the state ~~toxicologist~~ crime laboratory or the  
23 director's designee in using the devices during the administration of the tests.
- 24 The material filed under this subsection may be supplemented when the director of  
25 the state ~~toxicologist~~ crime laboratory or the director's designee determines it to be  
26 necessary, and any supplemental material has the same force and effect as the  
27 material that it supplements.
- 28 6. A certified copy of the analytical report of a blood, urine, or saliva test issued by the  
29 director of the state ~~toxicologist~~ crime laboratory or the director's designee must be  
30 accepted as prima facie evidence of the results of a chemical test performed under  
31 this chapter.