

**SENATE BILL NO. 2137**

Introduced by

Transportation Committee

(At the request of the Department of Transportation)

1 A BILL for an Act to amend and reenact section 6-09-36, subsection 1 of section 39-16-05, and  
2 sections 39-16-06, 39-16-07, 39-16.1-08, 39-16.1-17, and 39-16.1-19 of the North Dakota  
3 Century Code, relating to providing a security deposit as proof of financial responsibility for  
4 driver's license purposes; and to repeal sections 39-16-09, 39-16-10, and 39-16.1-15 of the  
5 North Dakota Century Code, relating to providing a security deposit as proof of financial  
6 responsibility for driver's license purposes.

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

8 **SECTION 1. AMENDMENT.** Section 6-09-36 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **6-09-36. Bank of North Dakota - Custodian of securities.** Notwithstanding any other  
11 provision of law to the contrary, the Bank of North Dakota shall replace the state treasurer as  
12 the custodian of all securities that are required to be deposited with the state except that the  
13 state treasurer is the custodian of all securities resulting from the investment of funds by the  
14 state treasurer, or except as otherwise required by this section and sections 6-05-04, 6-05-05,  
15 6-05-27, 7-07-03, 7-07-04, and 7-07-12, ~~39-16-10, 39-16.1-15, subsection 1 of section~~  
16 ~~39-16.1-17, and subsection 1 of section 39-16.1-19.~~

17 **SECTION 2. AMENDMENT.** Subsection 1 of section 39-16-05 of the North Dakota  
18 Century Code is amended and reenacted as follows:

19 1. The director, within ninety days after the receipt of a report of a motor vehicle  
20 accident within this state for which a driver is required to file a report under section  
21 39-08-09, shall suspend the license or nonresident operating privilege of each  
22 driver of each vehicle in any manner involved in the accident ~~unless the driver~~  
23 ~~deposits security as provided in sections 39-16-09 and 39-16-10 in a sum which is~~  
24 ~~sufficient in the judgment of the director to satisfy any judgment or judgments for~~

1 ~~damages resulting from the accident as may be recovered against such driver.~~  
2 Notice of suspension and opportunity for hearing must be sent by the director to  
3 the driver not less than ten days prior to the effective date of the suspension ~~and~~  
4 ~~must state the amount required as security.~~ However, if a driver, either resident or  
5 nonresident, involved in the accident purchases an insurance policy with at least  
6 the amount of coverage required by this section, and files proof and satisfies  
7 financial responsibility requirements thereof with the director, that driver may retain  
8 the license or privilege until the driver has accepted responsibility for the accident  
9 or agreed to a settlement of claims arising from the accident or until a court of this  
10 state has determined that the driver was negligent or responsible for the accident  
11 in whole or in part. If the driver is found negligent or responsible for the accident,  
12 in whole or in part, the license or privilege must be suspended and will not be  
13 returned until the driver complies with this chapter.

14 **SECTION 3. AMENDMENT.** Section 39-16-06 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **39-16-06. When requirements as to security and suspension do not apply.** The  
17 requirements as to security and suspension in section 39-16-05 do not apply:

- 18 1. To the driver of a motor vehicle involved in an accident wherein no injury or  
19 damage was caused to the person or property of any one other than such driver.
- 20 2. To the driver of a motor vehicle if at the time of the accident the vehicle was  
21 stopped, standing, or parked and whether attended or unattended, except that the  
22 requirements of this chapter apply in the event the director determines that any  
23 such stopping, standing, or parking of the vehicle was illegal or that the vehicle was  
24 not equipped as required by the laws of this state and that any such violation  
25 contributed to the accident.
- 26 3. If prior to the date that the director would otherwise suspend license or  
27 nonresident's operating privilege under section 39-16-05, there must be filed with  
28 the director evidence satisfactory to the director that the person ~~who would~~  
29 ~~otherwise have to file security~~ has been released from liability or been finally  
30 adjudicated not to be liable or has executed a confession of judgment, payable  
31 when and in such installments as the parties have agreed to, or has executed a

1           duly acknowledged written agreement providing for the payment of an agreed  
2           amount in installments, with respect to all claims for injuries or damages resulting  
3           from the accident.

4           **SECTION 4. AMENDMENT.** Section 39-16-07 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **39-16-07. Release from suspension of license.** The license or nonresident's  
7 operating privilege suspended as provided in section 39-16-05 must remain so suspended and  
8 may not be renewed nor may any such license be issued to such person until:

- 9           1. ~~Such person deposits or there is deposited on the person's behalf the security~~  
10           ~~required under section 39-16-05;~~
- 11           2. One year has elapsed following the date of such accident and no evidence  
12           satisfactory to the director has been filed with the director that during such period  
13           an action for damages arising out of such accident has been instituted; or
- 14           3. 2. Evidence satisfactory to the director has been filed with the director of a release  
15           from liability, or a final adjudication of nonliability, or a confession of judgment, or a  
16           duly acknowledged written agreement, in accordance with subsection 3 of section  
17           39-16-06; provided, in the event there is any default in the payment of any  
18           installment under any confession of judgment, then upon notice of such default, the  
19           director shall forthwith suspend the license or nonresident's operating privilege of  
20           such persons defaulting which may not be restored unless and until the entire  
21           amount provided for in said confession of judgment has been paid; and provided  
22           further, that in the event there is any default on the payment of any installment  
23           under any duly acknowledged written agreement, then, upon notice of such default,  
24           the director shall forthwith suspend the license or nonresident's operating privilege  
25           of such person defaulting which may not be restored unless and until such person  
26           deposits and thereafter maintains security as required under section 39-16-05 in  
27           such amount as the director may then determine, or one year has elapsed  
28           following the date when such security was required and during such period no  
29           action upon such agreement has been instituted in a court in this state.

30           **SECTION 5. AMENDMENT.** Section 39-16.1-08 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1           **39-16.1-08. Proof of financial responsibility.** Proof of financial responsibility when  
2 required under this chapter may be given by filing:

- 3           1. A certificate of insurance as provided in sections 39-16.1-09 and 39-16.1-10; or  
4           2. A bond as provided in section 39-16.1-14; ~~or~~  
5           ~~3. A certificate of deposit of money or securities as provided in section 39-16.1-15.~~

6           **SECTION 6. AMENDMENT.** Section 39-16.1-17 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8           **39-16.1-17. Release of bond or deposit on making other proof of responsibility.**

- 9           1. The director shall consent to the cancellation of any bond or certificate of insurance  
10           ~~or the director shall direct and the Bank of North Dakota shall return any money or~~  
11           ~~securities~~ to the person entitled thereto upon the substitution and acceptance of  
12           other adequate proof of financial responsibility pursuant to this chapter.  
13           2. The director may not consent to the cancellation of any bond ~~or the return of any~~  
14           ~~money or securities~~ in the event any action for damages upon liability covered by  
15           such proof is then pending or any judgment upon any such liability is then  
16           unsatisfied, or in the event the person who has filed such bond ~~or deposited such~~  
17           ~~money or securities~~ has, within one year immediately preceding such request been  
18           involved as an operator or owner in any motor vehicle accident resulting in injury or  
19           damage to the person or property of others. An affidavit of the applicant as to the  
20           nonexistence of such facts, or that the applicant has been released from all of the  
21           applicant's liability, or has been finally adjudicated not to be liable, for such injury or  
22           damage, is sufficient evidence thereof in the absence of evidence to the contrary in  
23           the records of the director.

24           **SECTION 7. AMENDMENT.** Section 39-16.1-19 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26           **39-16.1-19. Cancellation of bond or return of deposit.**

- 27           1. The director shall upon request consent to the immediate cancellation of any bond  
28           or certificate of insurance, ~~or the director shall direct and the Bank of North Dakota~~  
29           ~~shall return to the person entitled thereto any money or securities deposited~~  
30           provided pursuant to this chapter as proof of financial responsibility, or the director  
31           shall waive the requirement of filing proof, in any of the following events:

- 1           a.    At any time after one year from the date such proof was required when, during  
2                    the one-year period preceding the request, the director has not received  
3                    record of a conviction or a forfeiture of bail which would require the revocation  
4                    of the license or operating privilege, or both, of the person by or for whom  
5                    such proof was furnished.
- 6           b.    The death of the person on whose behalf such proof was filed or the  
7                    permanent incapacity of such person to operate a motor vehicle.
- 8           c.    The surrender of the person's license to the director by the person who has  
9                    given proof.
- 10         2.    The director may not consent to the cancellation of any bond ~~or the return of any~~  
11               ~~money or securities~~ in the event any action for damages upon a liability covered by  
12               such proof is then pending or any judgment upon any such liability is then  
13               unsatisfied, or in the event the person who has filed such bond ~~or deposited such~~  
14               ~~money or securities~~ has, within one year immediately preceding such request,  
15               been involved as an operator or owner in any motor vehicle accident resulting in  
16               injury or damage to the person or property of others. An affidavit of the applicant  
17               as to the nonexistence of such facts, or that the applicant has been released from  
18               all of the applicant's liability, or has been finally adjudicated not to be liable, for  
19               such injury or damage, is sufficient evidence thereof in the absence of evidence to  
20               the contrary in the records of the director.
- 21         3.    Whenever any person whose proof has been canceled or returned under  
22               subdivision c of subsection 1 applies for a license within a period of one year from  
23               the date proof was originally required, the application must be refused. The  
24               person's operator's license and driving privileges remain under suspension or  
25               revocation until the applicant reestablishes proof for the remainder of the one-year  
26               period.

27           **SECTION 8. REPEAL.** Sections 39-16-09, 39-16-10, and 39-16.1-15 of the North  
28   Dakota Century Code are repealed.