

# MOTOR VEHICLES

## CHAPTER 322

### HOUSE BILL NO. 1229

(Representatives Kreidt, Devlin, Uglem)  
(Senators Brown, Espegard, J. Lee)

## MOBILITY-IMPAIRED PARKING PERMITS

AN ACT to create and enact a new subsection to section 39-01-15 of the North Dakota Century Code, relating to mobility-impaired parking permits; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new subsection to section 39-01-15 of the North Dakota Century Code is created and enacted as follows:

The department shall issue a mobility-impaired parking permit for a vehicle owned and operated by care providers licensed by the state, veterans-related organizations, and other entities that regularly transport mobility-impaired individuals for use by those providers and entities to park in designated parking spaces while transporting mobility-impaired individuals.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 21, 2005

Filed March 22, 2005

## CHAPTER 323

### SENATE BILL NO. 2135

(Transportation Committee)

(At the request of the Department of Transportation)

## LICENSE PLATES AND BRANCH OFFICE FEES

AN ACT to amend and reenact sections 39-02-03, 39-04-02.1, and 39-04-10 of the North Dakota Century Code and section 9 of chapter 331 of the 2001 Session Laws, relating to motor vehicle branch office fees, address corrections, renewal of amateur radio license plates, and Lewis and Clark license plates; and to repeal section 8 of chapter 331 of the 2001 Session Laws, relating to the expiration of authority to issue Lewis and Clark license plates.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-02-03 of the North Dakota Century Code is amended and reenacted as follows:

**39-02-03. Powers and duties of director and department.** The director, subject to the approval of the governor, may adopt and enforce such administrative rules and designate such agencies and establish such branch offices as may be necessary to carry out the laws applicable to the director's office and department. The director shall provide suitable forms for applications, registration cards, license number plates, and all other forms requisite for the operation of the director's office and department, and shall prepay all transportation charges thereon. In addition, the director shall provide for a uniform maximum fee schedule for the various services provided by the branch offices. Any branch office may establish a different fee schedule if the schedule does not contain a fee that exceeds a maximum fee established by the director and is approved by the director. All branch office personnel managers must be bonded. The department and the officers thereof shall enforce the provisions of all laws pertaining to the director and the department.

**SECTION 2. AMENDMENT.** Section 39-04-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-04-02.1. Change of address.** Whenever any person after making application for or obtaining the registration of a vehicle moves from the address named in the application or shown upon a registration card such person shall within ten days thereafter notify the department ~~in writing~~ of the person's old and new addresses.

**SECTION 3. AMENDMENT.** Section 39-04-10 of the North Dakota Century Code is amended and reenacted as follows:

**39-04-10. Special plates for amateur radio station licenseholders.** Owners of motor vehicles required to be registered under subdivisions a and b of subsection 2 of section 39-04-19, who hold an unrevoked and unexpired official amateur radio station license issued by the federal communications commission, Washington, D.C., may receive special plates. The plates will be issued upon application to the department, accompanied by proof of ownership of the amateur radio station license, compliance with the state motor vehicle laws relating to

registration and licensing of motor vehicles, and payment of the regular license fee, as prescribed under the North Dakota motor vehicle laws. The special plates will be issued in lieu of the plates ordinarily issued, and must have inscribed on them the official amateur radio call letters of the applicant as assigned by the federal communications commission. ~~The application must be filed by October first prior to the year of issuance.~~

**SECTION 4. AMENDMENT.** Section 9 of chapter 331 of the 2001 Session Laws is amended and reenacted as follows:

**SECTION 9. EFFECTIVE DATE.** Section 2 of this Act is effective for registrations due after June 30, 2001. Section 1 of this Act becomes effective on January 1, 2003. ~~Section 8 of this Act becomes effective on January 1, 2007.~~

**SECTION 5. REPEAL.** Section 8 of chapter 331 of the 2001 Session Laws is repealed.

Approved March 7, 2005

Filed March 8, 2005

## CHAPTER 324

### SENATE BILL NO. 2101

(Transportation Committee)

(At the request of the Department of Transportation)

## MOTOR VEHICLE PERMITS, REGISTRATION, AND DEFINITIONS

AN ACT to create and enact a new subsection to section 39-04-05 and a new subsection to section 39-04-06 of the North Dakota Century Code, relating to mobility impaired parking permits and grounds for refusing or suspending a vehicle registration; and to amend and reenact subdivision 1 of subsection 2 of section 39-04-18 and subsection 1 of section 57-40.3-01 of the North Dakota Century Code, relating to registration of house mover vehicles and the definition of an all-terrain vehicle.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new subsection to section 39-04-05 of the North Dakota Century Code is created and enacted as follows:

When a motor carrier has been ordered out of service by the federal motor carrier safety administration.

**SECTION 2.** A new subsection to section 39-04-06 of the North Dakota Century Code is created and enacted as follows:

When a motor carrier has been ordered out of service by the federal motor carrier safety administration.

**SECTION 3. AMENDMENT.** Subdivision 1 of subsection 2 of section 39-04-18 of the North Dakota Century Code is amended and reenacted as follows:

- i. Motor vehicles owned and operated by ~~the holder of a valid building mover's permit issued by the public service commission, a resident building mover~~ or by a resident well driller; provided, however, that such vehicles are used only for moving buildings or building moving equipment, or are used only for drilling water wells or moving water well-drilling equipment; provided, further, that such vehicles display a license plate issued by the director upon the payment of a fee of twenty-five dollars for two axle trucks, fifty dollars for tandem axle trucks and single axle truck-tractor units, and seventy-five dollars for each tandem axle truck-tractor unit.

Any vehicle which has been issued this special motor vehicle license may be registered under the regular motor vehicle registration law, by payment of the difference between the amount paid for the special motor vehicle license and the regular registration fee for such vehicle.

Any vehicle which has been issued this special motor vehicle license and is found being operated upon the highways of

this state without being equipped with special house-moving or well-drilling equipment shall forfeit the fee paid and, in addition, must be required to register under the regular motor vehicle registration law of this state. None of the above limitations may be construed as restricting the operation of the special licensed vehicle when such operation would not require a greater fee than that paid for this operation.

<sup>161</sup> **SECTION 4. AMENDMENT.** Subsection 1 of section 57-40.3-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "All-terrain vehicle" means any motorized off-highway vehicle fifty inches [1270 millimeters] or less in width, ~~having a dry weight of one thousand pounds [453.59 kilograms] or less,~~ traveling on three or more low-pressure tires, designed for operator use only with no passengers, having a seat or saddle designed to be straddled by the operator, and handlebars for steering control.

Approved April 7, 2005

Filed April 12, 2005

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<sup>161</sup> Section 57-40.3-01 was also amended by section 4 of House Bill No. 1055, chapter 569, and section 14 of House Bill No. 1342, chapter 344.

## CHAPTER 325

### SENATE BILL NO. 2368

(Senators Robinson, Wardner)  
(Representatives N. Johnson, Metcalf, Mueller)

## NONPROFIT ORGANIZATION LICENSE PLATES

AN ACT to create and enact a new section to chapter 39-04 of the North Dakota Century Code, relating to organization number plates.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 39-04 of the North Dakota Century Code is created and enacted as follows:

#### **Public or nonprofit organization number plate.**

1. The director shall develop an organization number plate program for distinctive number plates for qualifying public and for nonprofit organizations recognized by the internal revenue service as tax exempt under 26 U.S.C. 501(c)(3). When appropriate, the department shall design a distinctive number plate to minimize the changes to a single application of overlay on the left side of the number plate. The organization may submit a design for the distinctive number plate for approval by the director. Upon approval by the director and proper application with proof of a minimum of four hundred applicants for a certain organization's number plate, the director shall include the number plate in the organization number plate program.
2. The following organizations do not qualify for an organization number plate: out-of-state colleges and universities; groups within high schools, junior colleges, universities, and technical schools, including individual boosters, athletic boosters, and similar groups; unions; political organizations; religious organizations; groups that promote racial or social disharmony; and public offices.
3. Upon proper application for a plate in the organization number plate program and payment of all other fees required under this chapter for registration of the motor vehicle and payment of an additional annual fee of twenty-five dollars, a qualified applicant is entitled to issuance of a certain organization number plate. However, the director may not issue the plates to the owner of a passenger motor vehicle or a truck the gross weight of which equals or exceeds ten thousand pounds [4535.92 kilograms].
4. The director shall deposit ten dollars of the additional organization number plate fee in the highway tax distribution fund and transfer monthly fifteen dollars to the proper organization to support programs of that organization.

## CHAPTER 326

### SENATE BILL NO. 2348

(Senators Nething, Robinson, Trenbeath)  
(Representatives Delmore, Headland, Weisz)

## PUBLIC TRANSPORTATION FUNDING

AN ACT to amend and reenact sections 39-04.2-03 and 39-04.2-04 of the North Dakota Century Code, relating to funding of public transportation.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-04.2-03 of the North Dakota Century Code is amended and reenacted as follows:

**39-04.2-03. Additional registration fee - Deposit in fund.** At the time of registering a motor vehicle subject to registration under section 39-04-19, the owner shall pay to the director in addition to the registration fee a fee of ~~two three~~ twelve eighteen dollars for each motor vehicle registered. The fee must be deposited with the state treasurer, who shall credit the fee to the public transportation fund.

**SECTION 2. AMENDMENT.** Section 39-04.2-04 of the North Dakota Century Code is amended and reenacted as follows:

#### **39-04.2-04. Distribution of funds.**

1. Moneys appropriated by the legislative assembly to the public transportation fund must be disbursed under guidelines issued by the director. The funds must be used by transportation providers to establish and maintain public transportation, especially for the elderly and handicapped, and may be used to contract to provide public transportation, as matching funds to procure money from other sources for public transportation and for other expenditures authorized by the director.
2. Following authorization of the director, the state treasurer shall pay the public transportation funds to transportation providers in each county. Each county shall receive ~~two three~~ twelve eighteen thousand ~~two three~~ twelve eighteen hundred dollars plus one dollar and fifty cents per capita of population in the county, based upon the latest regular or special official federal census. Each year the director shall increase or decrease the one dollar and fifty cents per capita amount in order to distribute all funds appropriated for the biennium. If there are multiple transportation providers in one county, then the base amount of ~~two three~~ twelve eighteen thousand ~~two three~~ twelve eighteen hundred dollars must be divided equally among the providers and the additional per capita amount must be based upon the percentage of elderly and handicapped ridership provided by each transportation provider within the county.

3. Unless otherwise provided by law, any moneys remaining in the fund at the end of each biennium must be retained in the public transportation fund for redistribution.

Approved April 6, 2005

Filed April 6, 2005

## CHAPTER 327

### HOUSE BILL NO. 1044

(Legislative Council)  
(Transportation Committee)

### MOTOR VEHICLE LIEN FILING

AN ACT to amend and reenact sections 39-05-05, 39-05-16.1, 39-05-17, and 39-05-33 of the North Dakota Century Code, relating to the filing of liens on a motor vehicle; to repeal section 39-05-17.1 of the North Dakota Century Code, relating to the delivery of a certificate of title; and to provide a penalty.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-05-05 of the North Dakota Century Code is amended and reenacted as follows:

**39-05-05. Application for certificate of title - Contents - Fee to accompany.**

1. An application for a certificate of title must be made upon ~~an appropriate~~ a form furnished or approved provided by the department and must contain all of the following:
  - a. A full description of the vehicle, including the name of the manufacturer, either the engine, serial, or identification number, and any other distinguishing marks. The department may assign a vehicle identification number for a vehicle not otherwise assigned a number. The assigned number must be permanently affixed to the vehicle and the department may require the vehicle be inspected before issuing a certificate of title for the vehicle.
  - b. A statement as to whether the vehicle is new or used.
  - c. A statement of the applicant's title and ~~of any liens or encumbrances upon the vehicle~~ the name and address of each lienholder in the order of priority.
  - d. The name and address of the person to whom the certificate of title must be delivered.
  - e. ~~The names and addresses of any lienholders in the order of their priority and the dates of their security agreements.~~
  - f. If applicable, a statement as to whether the vehicle ~~for which certificate of title is sought~~ is a specially constructed, reconstructed, or foreign vehicle; ~~such facts must be stated in the application.~~
  - g. f. The ~~buyer's~~ owner's street address, city, and county, or township and county, of residence ~~and the~~. A dealer shall make specific inquiry ~~relative thereto~~ as to this information before filling in ~~such~~ the information on the application.

- ~~h. g.~~ The department may require odometer disclosure information as required under the Truth in Mileage Act of 1986 [Pub. L. 99-579].
- ~~i. h.~~ ~~Such Any~~ other information as required by the department ~~may~~ require.
2. The owner of every vehicle ~~which that~~ has been registered outside of this state shall surrender to the department the certificate of title and registration card or other evidence ~~which that~~ may satisfy the department the applicant is the lawful owner or possessor of the vehicle.
3. If the vehicle for which certificate of title is sought is a new vehicle, ~~no a~~ certificate of title may not be issued unless a certificate of origin executed by the manufacturer of ~~such the~~ vehicle is attached to the application for registration or is attached to the application for the certificate of title for the vehicle. If the new vehicle for which certificate of title is sought is of foreign manufacture, the certificate of origin must be furnished by the importer of the vehicle. The manufacturer or importer of all new vehicles shall designate the total shipping weight of the vehicle on the certificate of origin.
4. When a new vehicle is purchased from a dealer, the application for the certificate of title must include a statement of the transfer by the dealer ~~and of any lien retained by the dealer or other lienholder. If the title to the vehicle is reserved by the dealer or other lienholder, the certificate must be made out to the dealer or lienholder and delivered to that person as the owner or lienholder of the vehicle.~~
5. ~~Every~~ Each application must be accompanied by a fee of five dollars, which is in addition to any fee charged for the registration of ~~such the~~ vehicle.

**SECTION 2. AMENDMENT.** Section 39-05-16.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-05-16.1. Release of a security interest.**

1. Upon the satisfaction of a security interest in a vehicle for which the certificate of title is in the possession of the lienholder, the lienholder ~~shall~~, within ten days after demand, and in any event within thirty days of the satisfaction, shall execute a release of the lienholder's security interest ~~as in a manner prescribed by the department prescribes~~. The lienholder shall:
- a. Mail or deliver the certificate of title and release to the next lienholder named on the certificate of title, who ~~shall~~, within thirty days of receipt, shall mail or deliver the certificate of title, release, and a fee of five dollars to the department. The department shall issue and mail or deliver a new certificate of title to the first lienholder named on the new certificate of title.
- b. If there are no other lienholders named on the certificate of title, mail or deliver the certificate of title and release to the owner or ~~any other person who delivers to the lienholder an authorization from the owner to receive the certificate of title and release. The~~ the owner's designee. Within thirty days of receipt, the person

receiving the certificate of title and release shall, ~~within thirty days of receipt~~, mail or deliver the certificate of title, release, and a fee of five dollars to the department. The department may prescribe further application procedures and, upon determining that there has been a proper compliance with these procedures, shall issue a new certificate of title and mail or deliver it to the owner or ~~any person the owner authorizes to receive it~~ the owner's designee.

2. Upon the satisfaction of a security interest in a vehicle for which the certificate of title is in the possession of a prior lienholder, the lienholder whose security interest is satisfied shall execute, within ten days after demand and; in any event within thirty days of the satisfaction, ~~execute~~ a release in the form the department prescribes and deliver the release to the owner or ~~any person who delivers to the lienholder an authorization from the owner to receive it~~ the owner's designee. Upon receipt of a release delivered by the owner to the lienholder in possession of the certificate of title, that lienholder in possession of the certificate of title shall either deliver the certificate of title to the owner or the person authorized by the owner for delivery to the department; or, upon receipt of the release, mail or deliver it with the release and the certificate of title to the department which shall, upon. Upon the payment of a five dollar fee, the department shall issue a new certificate.
3. Notwithstanding this section, a lienholder who uses an electronic lien notification system shall follow the procedure adopted for that system by the department.

**SECTION 3. AMENDMENT.** Section 39-05-17 of the North Dakota Century Code is amended and reenacted as follows:

**39-05-17. Transfer of title of vehicle - Endorsement required - Certificate of title delivered - New certificate obtained - Penalty.**

1. The owner of a motor vehicle who ~~sells or~~ transfers title to a vehicle shall endorse an assignment and warranty of title upon the certificate of title for the vehicle; ~~with a statement whether there are liens or encumbrances thereon, which statement must be verified by the owner~~. The owner shall include on the assignment and warranty of title the name of the ~~purchaser transferee~~ and the selling price of the vehicle.
2. ~~The~~ If legal title passes to the transferee, the owner shall deliver the endorsed certificate of title to the purchaser if title passes to the purchaser transferee within fifteen days.
3. ~~If the legal title does not pass passes to the purchaser under the terms of the contract for sale of the vehicle a lienholder rather than the transferee, the lienholder transferee shall endorse thereon a statement that the lienholder holds the lien, the date thereof, and the name of the purchaser, and shall send the certificate of title to the department with an application of the purchaser for a new certificate of title showing the name names of the new owner, and lienholder, and the date of the lien of the lienholder, which~~. The certificate of title when issued must be returned sent by the department to the lienholder, who shall retain the same in the lienholder's possession until the terms of the contract are complied with by the purchaser, and thereupon, after showing the lien has been paid and satisfied the lienholder shall deliver the certificate of

title properly assigned to the purchaser. The purchaser or the department may use an electronic lien notification procedure in lieu of sending a certificate of title to a lienholder.

4. Within thirty days after receipt, the transferee shall present deliver the endorsed and assigned certificate of title to the department, within thirty days after the receipt thereof, accompanied by with a transfer fee of five dollars, and shall make an application for and obtain a new certificate of title for the vehicle. In addition to any other penalty, the registration to a motor vehicle may be suspended or revoked whenever if the purchaser or transferee fails to present the endorsed and assigned certificate of title to the department for transfer and make application for a new certificate of title within the prescribed thirty days. The department shall deliver the new certificate of title to the lienholder with priority. If there is no lienholder, delivery is must be made to the purchaser owner.
5. A violation of the provisions of this section by an owner, lienholder, or transferee is a class B misdemeanor.

**SECTION 4. AMENDMENT.** Section 39-05-33 of the North Dakota Century Code is amended and reenacted as follows:

**39-05-33. General penalty.** Any person violating any of the provisions provision of this chapter for which another penalty is not provided specifically is guilty of a class B misdemeanor. This section does not apply to the department.

**SECTION 5. REPEAL.** Section 39-05-17.1 of the North Dakota Century Code is repealed.

Approved March 21, 2005  
Filed March 22, 2005

## CHAPTER 328

### HOUSE BILL NO. 1225

(Representatives Ruby, Bellew, Kretschmar, Metcalf)  
(Senators Mathern, Tollefson)

## MOTOR VEHICLE OPERATOR'S LICENSE DENIAL

AN ACT to amend and reenact subsection 3 of section 39-06-03 of the North Dakota Century Code, relating to individuals to whom motor vehicle operator's licenses may not be issued.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 3 of section 39-06-03 of the North Dakota Century Code is amended and reenacted as follows:

3. To any ~~person~~ individual who is ~~an~~ a habitual drunkard, or is ~~an~~ a habitual user of narcotic drugs, or is ~~an~~ a habitual user of any other drug to a degree ~~which~~ that renders the ~~person~~ individual incapable of safely driving a motor vehicle. The director has good cause to believe that an individual is a habitual drunkard or user if the individual has three or more convictions for violating section 39-08-01, or equivalent ordinance, or three or more administrative suspensions under chapter 39-20 within a five-year period. An individual who is a habitual drunkard or user may provide the director with adequate proof of the removal of the habit which may include satisfactory completion of a licensed alcohol or drug treatment program.

Approved March 30, 2005  
Filed March 31, 2005

## CHAPTER 329

### HOUSE BILL NO. 1136

(Transportation Committee)

(At the request of the Department of Transportation)

## MINOR'S PERMITS, LICENSES, AND SUSPENSIONS

AN ACT to amend and reenact sections 39-06-08, 39-06-24, 39-06-37, 39-06.1-14, subsection 19 of section 39-06.2-02, and subsection 2 of section 39-06.2-10 of the North Dakota Century Code, relating to an application of a minor for an instruction permit or operator's license, failure to surrender a suspended license, definition of hazardous material, and disqualification of commercial driving privileges.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-06-08 of the North Dakota Century Code is amended and reenacted as follows:

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

**SECTION 2. AMENDMENT.** Section 39-06-24 of the North Dakota Century Code is amended and reenacted as follows:

**39-06-24. Authority to cancel licenses.** The director ~~may~~ shall cancel any operator's license, permit, or nondriver photo identification card upon determining that the person is not entitled to the issuance of the document under the laws of this state or that said person failed to give the required or correct information on the application or the fee was in the form of an insufficient fund or no-account check. The making of a false statement in any application for an operator's license, permit, or nondriver photo identification card, concerning the applicant's age or the prior loss of driving privileges through a cancellation, suspension, revocation, or similar sanction in any state, is grounds for the director to cancel any document or privilege issued on the basis of the application.

**SECTION 3. AMENDMENT.** Section 39-06-37 of the North Dakota Century Code is amended and reenacted as follows:

**39-06-37. Surrender and return of license - Duration of multiple suspensions and revocations for separate violations.**

1. The director upon canceling, ~~suspending~~, or revoking a license shall require that such license must be surrendered to and be retained by the director.
2. If any person fails immediately to return to the director any license or permit which has been canceled, ~~suspended~~, or revoked, the order of the director shall authorize any peace officer or the director's designated

agent to secure possession thereof and return the same to the director. A suspension, revocation, or cancellation ordered under this title must be deemed to have commenced when the order is delivered to the licensee at the address of record in the department pursuant to section 39-06-20. Constructive delivery under this section must be considered as occurring forty-eight hours after the order is mailed to the person by regular mail.

3. Unless otherwise specifically provided in this title, any suspension, revocation, cancellation, or denial of licensing ordered under any provision of this title must be in addition to, and run consecutive to, any other or existing suspension, revocation, cancellation, or denial of licensing ordered for a separate violation.

**SECTION 4. AMENDMENT.** Section 39-06.1-14 of the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-14. Failure to surrender license.** The director shall extend the period of ~~suspension or~~ revocation in all cases that involve a time period, within this title, when the person whose license or permit has been ~~suspended or~~ revoked fails to surrender such license or permit within forty-eight hours after delivery of the order of ~~suspension or~~ revocation. Such period of ~~suspension or~~ revocation must be extended by one day for each day such person fails to surrender such license. Delivery of the order must be deemed to have occurred seventy-two hours after the order is mailed by regular mail to the address of record in the department under section 39-06-20.

**SECTION 5. AMENDMENT.** Subsection 19 of section 39-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

19. "Hazardous materials" ~~has the meaning as that found in section 403 of the Hazardous Materials Transportation Act [49 App. U.S.C. 1804 et seq.]~~ means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.

**SECTION 6. AMENDMENT.** Subsection 2 of section 39-06.2-10 of the North Dakota Century Code is amended and reenacted as follows:

2. A person is disqualified for life if convicted of two or more violations of any of the offenses specified in subsection 1, 7, 9, or 11, or any combination of those offenses, arising from two or more separate incidents. Only offenses committed after July 1, 1989, may be considered in applying this subsection.

Approved April 11, 2005

Filed April 12, 2005

## CHAPTER 330

### SENATE BILL NO. 2099

(Transportation Committee)

(At the request of the Department of Transportation)

### DRIVER'S LICENSE REVISIONS

AN ACT to amend and reenact sections 39-06-30 and 39-06-34, subsection 1 of section 39-06-42, sections 39-16-03.1 and 39-20-01, subsection 2 of section 39-20-04, and subsection 1 of section 39-20-04.1 of the North Dakota Century Code, relating to the meaning of the term conviction, time required for a decision after a hearing, driving while license is suspended, when entries on a driving record are confidential, the implied consent advisory for refusal to submit to alcohol test, procedure to negate effect of a refusal, and suspension of person under twenty-one years of age for driving with a prohibited alcohol concentration; and to repeal sections 39-16-30 and 39-16.1-21 of the North Dakota Century Code, relating to driving while a license is suspended.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-06-30 of the North Dakota Century Code is amended and reenacted as follows:

**39-06-30. Conviction - Meaning and effect.** For purposes of this title the term "conviction" means a final order or judgment of conviction by the North Dakota supreme court or, any lower court having jurisdiction, a tribal court, or a court in another state provided that no appeal is pending and the time for filing a notice of appeal has elapsed. Subject to the filing of an appeal, a conviction includes those instances when:

1. A sentence is imposed and suspended;
2. Imposition of a sentence is deferred under subsection 4 of section 12.1-32-02; or
3. There is a forfeiture of bail or collateral deposited to secure a defendant's appearance in court and the forfeiture has not been vacated.

**SECTION 2. AMENDMENT.** Section 39-06-34 of the North Dakota Century Code is amended and reenacted as follows:

**39-06-34. Director may require reexamination.** In addition to other powers set forth in this chapter, the director, having good cause to believe that a licensed operator is incompetent or otherwise not qualified to be licensed, may upon written notice of at least five days to the licensee require the licensee to submit to such physical, mental, or driver's examination as may be deemed necessary. If the director has good cause to believe that the licensed operator presents an immediate danger to the motoring public, the director may immediately, and without prior notice, suspend the operator's license pending the examination. The notice of suspension must provide the operator with the opportunity for a hearing within five days of the receipt of the notice of suspension. When a hearing is requested it must be

conducted under section 39-06-33 and the hearing officer's recommended decision must be rendered within two days of the conclusion of the hearing. Upon the conclusion of such examination the director shall take action as may be appropriate and may suspend or revoke the license of such person or permit the licensee to retain the license, or may issue a license subject to restrictions as permitted under section 39-06-17. Refusal or neglect of the licensee to submit to such examination shall be grounds for suspension or revocation of the license.

**SECTION 3. AMENDMENT.** Subsection 1 of section 39-06-42 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in ~~chapters 39-16 and 39-16.1~~ and section 39-06.1-11, any person who drives a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state while that person's license or privilege so to do is suspended or revoked in any jurisdiction is guilty of a class B misdemeanor for the first, second, or third offense within a five-year period. Any subsequent offense within the same five-year period is a class A misdemeanor.

**SECTION 4. AMENDMENT.** Section 39-16-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-16-03.1. Entries on driver record abstract confidential.** Notwithstanding any other provision of this chapter, the following entries on a driver record or abstract are not available to the public, except for statistical purposes, other than by order of a court of competent jurisdiction accompanied by a fee of twenty-five dollars:

1. An entry more than three years old.
2. After the period of suspension ceases, an entry concerning a suspension under subsection 4, 5, 6, or 7 of section 39-06-03 or subsection 2, 5, or 6 of section 39-06-32.
3. An entry concerning a suspension as the result of a person under twenty-one years of age who has an alcohol concentration of at least two one-hundredths of one percent but under ~~ten~~ eight one-hundredths of one percent by weight within two hours after driving or being in actual physical control of a vehicle.

<sup>162</sup> **SECTION 5. AMENDMENT.** Section 39-20-01 of the North Dakota Century Code is amended and reenacted as follows:

**39-20-01. Implied consent to determine alcohol and drug content of blood.** Any person who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state is deemed to have given consent, and shall consent, subject to the provisions of this chapter, to a chemical test, or tests, of the blood, breath, saliva, or urine for the purpose of determining the alcohol, other drug, or combination thereof, content of the

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<sup>162</sup> Section 39-20-01 was also amended by section 16 of House Bill No. 1088, chapter 195.

blood. As used in this chapter the word "drug" means any drug or substance or combination of drugs or substances which renders a person incapable of safely driving, and the words "chemical test" or "chemical analysis" mean any test to determine the alcohol, or other drug, or combination thereof, content of the blood, breath, saliva, or urine, approved by the state toxicologist under this chapter. The test or tests must be administered at the direction of a law enforcement officer only after placing the person, except persons mentioned in section 39-20-03, under arrest and informing that person that the person is or will be charged with the offense of driving or being in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor, drugs, or a combination thereof. For the purposes of this chapter, the taking into custody of a child under section 27-20-13 or a person under twenty-one years of age satisfies the requirement of an arrest. The law enforcement officer shall also inform the person charged that refusal of the person to submit to the test determined appropriate will result in a revocation for up to ~~three~~ four years of the person's driving privileges. The law enforcement officer shall determine which of the tests is to be used. When a person under the age of eighteen years is taken into custody for violating section 39-08-01 or an equivalent ordinance, the law enforcement officer shall attempt to contact the person's parent or legal guardian to explain the cause for the custody. Neither the law enforcement officer's efforts to contact, nor any consultation with, a parent or legal guardian may be permitted to interfere with the administration of chemical testing requirements under this chapter. The law enforcement officer shall mail a notice to the parent or legal guardian of the minor within ten days after the test results are received or within ten days after the minor is taken into custody if the minor refuses to submit to testing. The notice must contain a statement of the test performed and the results of that test; or if the minor refuses to submit to the testing, a statement notifying of that fact. The attempt to contact or the contacting or notification of a parent or legal guardian is not a precondition to the admissibility of chemical test results or the finding of a consent to, or refusal of, chemical testing by the person in custody.

**SECTION 6. AMENDMENT.** Subsection 2 of section 39-20-04 of the North Dakota Century Code is amended and reenacted as follows:

2. A person's driving privileges are not subject to revocation under subdivision a of subsection 1 if all of the following criteria are met:
  - a. An administrative hearing is not held under section 39-20-05;
  - b. The person mails an affidavit to the director within twenty-five days after the temporary operator's permit is issued. The affidavit must state that the person:
    - (1) Intends to voluntarily plead guilty to violating section 39-08-01 or equivalent ordinance within twenty-five days after the temporary operator's permit is issued;
    - (2) Agrees that the person's driving privileges must be suspended as provided under section 39-06.1-10;
    - (3) Acknowledges the right to a section 39-20-05 administrative hearing and section 39-20-06 judicial review and voluntarily and knowingly waives these rights; and
    - (4) Agrees that the person's driving privileges must be revoked as provided under this section without an administrative hearing or judicial review, if the person does not plead guilty

within twenty-five days after the temporary operator's permit is issued, or the court does not accept the guilty plea, or the guilty plea is withdrawn;

- c. The person pleads guilty to violating section 39-08-01 or equivalent ordinance within twenty-five days after the temporary operator's permit is issued;
- d. The court accepts the person's guilty plea and a notice of that fact is mailed to the director within twenty-five days after the temporary operator's permit is issued;
- e. A copy of the final order or judgment of conviction evidencing the acceptance of the person's guilty plea is received by the director prior to the return or reinstatement of the person's driving privileges; and
- f. The person has never been convicted under section 39-08-01 or equivalent ordinance.

**SECTION 7. AMENDMENT.** Subsection 1 of section 39-20-04.1 of the North Dakota Century Code is amended and reenacted as follows:

1. After the receipt of a person's operator's license, if taken under section 39-20-03.1 or 39-20-03.2, and the certified report of a law enforcement officer and if no written request for hearing has been received from the arrested person under section 39-20-05, or if that hearing is requested and the findings, conclusion, and decision from the hearing confirm that the law enforcement officer had reasonable grounds to arrest the person and test results show that the arrested person was driving or in physical control of a vehicle while having an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight at the time of the performance of a test within two hours after driving or being in physical control of a motor vehicle, the director shall suspend the person's operator's license as follows:
  - a. For ninety-one days if the person's driving record shows that, within the five years preceding the date of the arrest, the person has not previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has not previously been suspended or revoked under this chapter and the violation was for an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, and under eighteen one-hundredths of one percent by weight.
  - b. For one hundred eighty days if the operator's record shows the person has not violated section 39-08-01 or equivalent ordinance within five years preceding the last violation and the last violation was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.

- c. For three hundred sixty-five days if the person's driving record shows that, within the five years preceding the date of the arrest, the person has once previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has once previously been suspended or revoked under this chapter with the last violation or suspension for an alcohol concentration under eighteen one-hundredths of one percent by weight.
- d. For two years if the person's driving record shows that within the five years preceding the date of the arrest, the person's operator's license has once been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, with the last violation or suspension for an alcohol concentration of at least eighteen one-hundredths of one percent by weight or if the person's driving record shows that within the five years preceding the date of arrest, the person's operator's license has at least twice previously been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, or any combination thereof, and the suspensions, revocations, or denials resulted from at least two separate arrests with the last violation or suspension for an alcohol concentration of under eighteen one-hundredths of one percent by weight.
- e. For three years if the operator's record shows that within five years preceding the date of the arrest, the person's operator's license has at least twice previously been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, or any combination thereof, and the suspensions, revocations, or denials resulted from at least two separate arrests and the last violation or suspension was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.

**SECTION 8. REPEAL.** Sections 39-16-30 and 39-16.1-21 of the North Dakota Century Code are repealed.

Approved March 22, 2005  
Filed March 22, 2005

## CHAPTER 331

### SENATE BILL NO. 2274

(Senators Nething, Espegard, Heitkamp)  
(Representatives Carlson, Hawken, Weiler)

## VEHICLE WEIGHT AND SIZE LIMITATIONS

AN ACT to create and enact two new sections to chapter 39-21 of the North Dakota Century Code, relating to axles on a vehicle; to amend and reenact subsection 2 of section 39-06.1-06 and sections 39-06.1-09, 39-12-02, 39-12-05.3, and 39-12-08 of the North Dakota Century Code, relating to weight and size limitations and permits for vehicles; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>163</sup> **SECTION 1. AMENDMENT.** Subsection 2 of section 39-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except for:
  - a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, 39-10-42, 39-10-46, or 39-10-46.1, a fee of fifty dollars.
  - b. A violation of section 39-10-05 involving failure to yield to a pedestrian or subsection 1 of section 39-10-28, a fee of fifty dollars.
  - c. A violation of section 39-21-41.2, no fee may be imposed by the state, a city, or a county including a city or county operating under a home rule charter.
  - d. A violation of subsection ~~2~~ 1 of section 39-12-02, a fee of one hundred dollars.
  - e. A violation of subdivision d of subsection 1 of section 39-12-04, a fee of one hundred dollars.

**SECTION 2. AMENDMENT.** Section 39-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-09. Moving violation defined.** For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a violation of section 39-04-22; subsection 1 of section 39-04-37; section 39-04-55; 39-06-01; 39-06-14; 39-06-16; 39-09-04.1; 39-09-09; subsection ~~2~~ 1 of section 39-12-02; sections 39-12-04; 39-12-05; 39-12-06; 39-12-09; 39-24-02; or 39-24-09, except subdivisions

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<sup>163</sup> Section 39-06.1-06 was also amended by section 3 of Senate Bill No. 2208, chapter 340.

b and c of subsection 5, or equivalent ordinances; or a violation of the provisions of chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except subsection 4 of section 39-10-26, sections 39-21-44 and 39-21-45.1, and subdivision b of subsection 1 and subsection 2 of section 39-21-46, and those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

<sup>164</sup> **SECTION 3. AMENDMENT.** Section 39-12-02 of the North Dakota Century Code is amended and reenacted as follows:

**39-12-02. Special permits for vehicles of excessive size and weight issued - Contents - Fees.**

1. The highway patrol and local authorities in their respective jurisdictions, upon application and payment of the appropriate charges and for good cause shown, may issue a special written permit authorizing the applicant to operate or move a vehicle, mobile home, or modular unit of a size or weight exceeding the maximum specified by this chapter, upon a highway under the jurisdiction of the body granting the permit. Every permit may designate the route to be traversed and may contain any other restrictions or conditions deemed necessary by the body granting the permit. Every permit must be carried in the vehicle to which it refers and must be opened to inspection by any peace officer or agent of the superintendent of the highway patrol unless prior approval is obtained from the highway patrol. It is a violation of this chapter for any person to violate any of the terms or conditions of the permit. All permits for the movement of excessive size and weight on state highways must be for single trips only. The highway patrol and local authorities may adopt rules governing the movement of oversize and overweight vehicles.
2. A person operating a motor vehicle, or the owner of the motor vehicle being operated, without a permit as specified in subsection 1 must be assessed a fee of one hundred dollars.
- ~~3.~~ Upon any application for a permit to move a new manufactured building or modular unit from outside this state to be located anywhere within this state, the manufacturer is deemed to have certified that the new manufactured building or modular unit meets all applicable building codes and all applicable electrical wiring and equipment, plumbing, and fire standards. The state is not liable to any person for issuing a permit in violation of this subsection.
4. 3. An appropriate charge must be made for each permit and all funds collected hereunder by the highway patrol must be deposited in the state highway fund for use in the construction and maintenance of highways and operating expenses of the department of transportation. Except for publicly owned vehicles that provide service beyond the agency's jurisdiction, official, publicly owned, emergency, or military vehicles are not subject to charges for permits. The minimum fee for selected charges is as follows:

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<sup>164</sup> Section 39-12-02 was also amended by section 1 of House Bill No. 1357, chapter 337.

- a. The fee for the ten percent weight exemption, harvest and wintertime, is fifty dollars per month for fees paid on a monthly basis or two hundred fifty dollars per year for fees paid on a yearly basis. Unused fees paid on a monthly basis are refundable. Unused fees paid on a yearly basis are not refundable.
  - b. The fee for a non-self-issuing interstate permit is ten dollars per trip.
  - c. The fee for special mobile equipment is twenty-five dollars per trip.
  - d. The fee for engineering is twenty-five dollars per trip.
  - e. The fee for faxing a permit is five dollars.
  - f. The fee for a single trip permit is twenty dollars per trip.
  - g. The fee for a bridge length permit is thirty dollars per trip or one hundred fifty dollars per calendar year.
- 5- 4. The director of tax equalization of the county of destination must be furnished a copy of the permit for the movement of an overdimensional mobile home.

**SECTION 4. AMENDMENT.** Section 39-12-05.3 of the North Dakota Century Code is amended and reenacted as follows:

**39-12-05.3. Weight limitations for vehicles on highways other than the interstate system.**

1. A person may not operate on a highway that is not part of the interstate system any vehicle with a single axle that carries a gross weight in excess of twenty thousand pounds [9071.85 kilograms] or a wheel load over ten thousand pounds [4535.92 kilograms]. A wheel may not carry a gross weight over five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width. Axles spaced forty inches [101.60 centimeters] apart or less are considered as one axle. On axles spaced over forty inches [101.60 centimeters] and under eight feet [2.44 meters] apart, the axle load may not exceed nineteen thousand pounds [8618.26 kilograms] per axle, with a maximum of thirty-four thousand pounds [15422.14 kilograms] gross weight on a tandem axle and a maximum of forty-eight thousand pounds [21772.32 kilograms] gross weight on any grouping of three or more axles. The wheel load, in any instance, may not exceed one-half the allowable axle load. Spacing between axles is measured from axle center to axle center.
2. Subject to the limitations imposed by subsection 1 on tires, wheel, and axle loads, a person may not operate on a highway that is not part of the interstate system any vehicle the gross weight of which exceeds that determined by the formula of:

$$W = 500 \frac{LN + 12N + 36}{N-1}$$

where W equals the maximum gross weight in pounds on any vehicle or combination of vehicles; L equals distance in feet between the two extreme axles of any vehicle or combination of vehicles; and N equals the number of axles of any vehicle or combination of vehicles under consideration. The gross weight on state highways may not exceed one hundred five thousand five hundred pounds [47854.00 kilograms] unless otherwise posted and on all other highways the gross weight may not exceed eighty thousand pounds [36287.39 kilograms] unless designated by local authorities for highways under their jurisdiction for gross weights not to exceed one hundred five thousand five hundred pounds [47854.00 kilograms]. Local authorities are encouraged to assess all roads under their jurisdiction and designate the roads for the appropriate weight limits allowed under this subsection.

3. The gross weight limitations in subsections 1 and 2 do not apply to equipment the director and the state highway patrol approve for exemption. The exemption may not exceed one hundred five thousand five hundred pounds [47854.00 kilograms]. For every vehicle approved for exemption the highway patrol shall issue a nontransferable permit valid for one year. The highway patrol may charge an administrative fee for the permit.
4. The director, and local authorities, as to the highways under their respective jurisdictions, may issue permits authorizing a specific motor vehicle to exceed the weight limitations stated in subsections 1 and 2 by ten percent. The permits may not provide for a gross weight in excess of one hundred five thousand five hundred pounds [47854.00 kilograms]. The permits must provide only for the movement of agricultural products from the field of harvest to the point of initial storage site, and for the collection and transport of solid wastes, during the period from July fifteenth to December first, and for the general movement of products during the period from December first to March seventh. The appropriate jurisdictional authority shall establish an appropriate fee for the permits and direct how they shall be issued. The highway patrol shall issue the permits authorized by the director.
5. The director, and local authorities, as to highways under their respective jurisdictions, may issue permits authorizing all vehicles carrying potatoes or sugar beets to exceed weight limitations stated in subsections 1 and 2 by ten percent during the period from July fifteenth to December first. The permits may not provide for a gross weight in excess of one hundred five thousand five hundred pounds [47854.00 kilograms]. The appropriate jurisdictional authority shall establish an appropriate fee for the permits and direct how they shall be issued. The highway patrol shall issue the permits authorized by the director.
6. The gross weight limitations in subsections 1 and 2 do not apply to movement of a self-propelled fertilizer spreader if the weight of a single axle does not exceed twenty-two thousand pounds [9979.03 kilograms] and does not exceed five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width. The gross weight limitations in subsections 1 and 2 do not apply to movement of a self-propelled agricultural chemical applicator if the weight of a single axle does not exceed twenty-two thousand pounds [9979.03 kilograms] and does not exceed five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width. The highway

patrol shall issue a seasonal permit for the commercial movement of vehicles exempted by this subsection. The seasonal permit issued under this subsection or under subdivision d of subsection 1 of section 39-12-04 entitles an individual with the permit to operate a vehicle as allowed by either of these provisions. A seasonal permit issued under this subsection is subject to the requirements of subdivision d of subsection 1 of section 39-12-04.

7. The weight limitations in subsections 1 and 2 do not apply to equipment the director and the state highway patrol approve for exemption but the weight limitations in section 39-12-05 do apply to that equipment. For every vehicle approved for exemption, the highway patrol shall issue a nontransferable bridge length permit valid for a single trip or a calendar year.

**SECTION 5. AMENDMENT.** Section 39-12-08 of the North Dakota Century Code is amended and reenacted as follows:

**39-12-08. Penalty for violation of chapter.** Any A person violating any of the provisions of sections 39-12-04, 39-12-05, or 39-12-06 operating a motor vehicle or the owner of the motor vehicle being operated without a permit as specified in this chapter must be assessed a fee of ~~twenty~~ one hundred dollars. Any person violating any other provision of this chapter, for which a specific penalty is not provided, must be assessed a fee of ~~ten~~ twenty dollars. Violating the conditions of any permit type automatically voids the permit.

**SECTION 6.** Two new sections to chapter 39-21 of the North Dakota Century Code are created and enacted as follows:

**Retractable axle control requirements.**

1. For a motor vehicle manufactured after July 31, 2005, variable load suspension or retractable axles, or both, raised or lowered by air, hydraulic, or other pressure must have the lock or pressure regulator valve, or both, positioned outside the cab and inaccessible from the driver's compartment if there is more than one variable load suspension axle or retractable axle, or a combination of each.
2. The control to lift and lower a retractable or variable load suspension axle may be accessible in the driver's compartment, but also may not function as the pressure control device unless allowed by subsection 1.

**Requirement for steerable, castering, or pivoting axles.** A single unit vehicle or any vehicle in combination may not be equipped with more than four axles unless the additional axles are steerable, castering, or pivoting axles.

**SECTION 7. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 25, 2005

Filed April 26, 2005

## CHAPTER 332

### HOUSE BILL NO. 1054

(Representatives Carlisle, Maragos, Porter, Iverson)  
(Senators Dever, Robinson)

## TEMPORARY RESTRICTED DRIVER'S LICENSES

AN ACT to amend and reenact section 39-06.1-11 of the North Dakota Century Code, relating to temporary restricted driver's licenses.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

#### **39-06.1-11. Temporary restricted license - Ignition interlock device.**

1. Except as provided under subsection 2, if the ~~licensing authority~~ director has suspended a license under section 39-06.1-10, or if ~~the director~~ has extended a suspension or revocation under section 39-06-43, ~~for more than seven days, the authority may, for good cause, upon receiving written application from the offender affected, the director may for good cause~~ issue a temporary restricted operator's license valid for the remainder of the suspension period after seven days of the suspension period have passed; for the remainder of the suspension period.
2. If the ~~licensing authority~~ director has suspended a license under chapter 39-20, or after a violation of section 39-08-01 or equivalent ordinance, ~~upon written application of the offender the authority director may, in accordance with this section, for good cause, and upon written application of the offender, issue for good cause~~ a temporary restricted license that takes effect after thirty days of the suspension have been served after a first offense under section 39-08-01 or chapter 39-20. The ~~licensing authority~~ director may not issue a temporary restricted license to any offender whose operator's license has been revoked under section 39-20-04 or suspended upon a second or subsequent offense under section 39-08-01 or chapter 39-20, except that a temporary restricted license may be issued for good cause if ~~no offenses have been~~ the offender has not committed an offense for a period of two years before the date of the filing of a written application that must be accompanied by a report from an addiction facility or if the offender is participating in the drug court program and has not committed an offense for a period of three hundred sixty-five days before the date of the filing of a written application that must be accompanied by a recommendation from the district court. The director may conduct a hearing for the purposes of obtaining information, reports, and evaluations from courts, law enforcement, and citizens to determine the offender's conduct and driving behavior ~~for~~ during the ~~two-year prerequisite~~ period of time. The director may also require that an ignition interlock device be installed in the offender's vehicle.
3. The ~~licensing authority~~ director may not issue a temporary restricted license for a period of license revocation or suspension imposed under

subsection 5 of section 39-06-17, section 39-06-31, or subsection 3.1 of section 39-06.1-10. A temporary restricted license may be issued for suspensions ordered under subsection 7 of section 39-06-32 if it could have been issued had the suspension resulted from in-state conduct.

- ~~3.~~ 4. A restricted license issued under this section ~~may authorize~~ is solely for the use of a motor vehicle ~~only~~ during the licensee's normal working hours, ~~or~~ and may contain any other restrictions authorized by section 39-06-17. Violation of a restriction imposed according to this section is deemed a violation of section 39-06-17.

Approved March 15, 2005

Filed March 16, 2005

## CHAPTER 333

### SENATE BILL NO. 2102

(Transportation Committee)

(At the request of the Department of Transportation)

### DUI REPEAT OFFENSES

AN ACT to amend and reenact subsection 3 of section 39-08-01 of the North Dakota Century Code, relating to driving under the influence of intoxicating liquor repeat offenders and impounding motor vehicle license plates.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 3 of section 39-08-01 of the North Dakota Century Code is amended and reenacted as follows:

3. Upon conviction of a second or subsequent offense within five years under this section or equivalent ordinance, the court ~~may~~ must order the motor vehicle number plates of all of the motor vehicle vehicles owned and operated by the offender at the time of the offense to be impounded for the duration of the period of suspension or revocation of the offender's driving privilege by the licensing authority. The impounded number plates must be sent to the director who must retain them for the period of suspension or revocation, subject to their disposition by the court. The court may make an exception to this subsection, on an individual basis, to avoid undue hardship to an individual who is completely dependent on the motor vehicle for the necessities of life, including a family member of the convicted individual and a coowner of the motor vehicle, but not including the offender.

Approved April 6, 2005

Filed April 6, 2005

## CHAPTER 334

### HOUSE BILL NO. 1098

(Transportation Committee)

(At the request of the Department of Transportation)

### ACCIDENT REPORT COPIES

AN ACT to amend and reenact section 39-08-13 of the North Dakota Century Code, relating to providing copies of accident reports.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>165</sup> **SECTION 1. AMENDMENT.** Section 39-08-13 of the North Dakota Century Code is amended and reenacted as follows:

#### **39-08-13. Accident report forms.**

1. The director shall prepare and supply to law enforcement agencies, garages, and other suitable agencies or individuals forms for accident reports required by law, appropriate with respect to the purposes to be served. The reports to be made by investigating officers shall call for sufficiently detailed information to disclose the cause of a traffic accident, conditions then existing, persons and vehicles involved, and whether the requirements for the deposit of security under section 39-16-05 are applicable.
2. Every accident report required to be made to the director must be made in the appropriate format or approved by the director and must contain all the information required therein unless not available.
3. Every law enforcement officer who investigates a vehicle accident for which a report must be made as required in this chapter shall forward a report of such accident to the department within ten days after the accident.
4. The reports required to be forwarded by law enforcement officers and the information contained therein shall not be privileged or held confidential. If, however, the investigating officer expresses an opinion as to fault or responsibility for the accident, the opinion is confidential and not open to public inspection, except as provided in subsection 5.
5. Upon affirmation by a party to the accident, a party's legal representative, or the insurer of any party to the accident that the investigating officer's opinion is material to a determination of liability and upon payment of a fee of five dollars, the director may release a copy of the investigating officer's opinion to the entity requesting the

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<sup>165</sup> Section 39-08-13 was also amended by section 2 of House Bill No. 1286, chapter 377.

information. The request must be made on an appropriate form approved by the director.

6. Upon request of any person and upon payment of a fee of two dollars, the director may furnish to a requestor a copy of that portion of an investigating officer's accident report which does not disclose the opinion of the reporting officer, if the report shows that the accident is one for which a driver is required to file a report under section 39-08-09.
7. Copies of accident reports are not admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident.
8. The director, without a request under subsection 4 or 5, may send a copy of an accident report to the registered owner of each vehicle involved as indicated by the report.

Approved March 8, 2005  
Filed March 8, 2005

## CHAPTER 335

### HOUSE BILL NO. 1095

(Transportation Committee)

(At the request of the Department of Transportation)

## CONSTRUCTION ZONE SPEED LIMITS

AN ACT to amend and reenact subsection 2 of section 39-09-02 and section 39-09-07.1 of the North Dakota Century Code, relating to highway construction zone speed limits and speed limit reductions.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 2 of section 39-09-02 of the North Dakota Century Code is amended and reenacted as follows:

2. The director may designate and post special areas of state highways where lower speed limits apply. Differing limits may be established for different times of the day within highway construction zones which are effective when posted upon appropriate fixed or variable speed limit signs.

**SECTION 2. AMENDMENT.** Section 39-09-07.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-09-07.1. Speed zones - Reduction limitation.** ~~No~~ Except for highway construction zones, no street, road, or highway in the state highway system or any other township, county, or state road or highway may be posted in a manner which reduces the maximum speed limit on the street, road, or highway by more than twenty miles [32.19 kilometers] per hour between any two signs so posted in a speed zone. The maximum speed limit reduction between any two signs posted in a highway construction zone may not exceed thirty miles [48.28 kilometers] per hour.

Approved March 15, 2005

Filed March 16, 2005

**CHAPTER 336****HOUSE BILL NO. 1096**

(Transportation Committee)

(At the request of the Department of Transportation)

**TRAFFIC CONTROL DEVICE INTERFERENCE**

AN ACT to amend and reenact section 39-10-07.3 of the North Dakota Century Code, relating to interference with official traffic control devices.

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

**SECTION 1. AMENDMENT.** Section 39-10-07.3 of the North Dakota Century Code is amended and reenacted as follows:

**39-10-07.3. Interference with official traffic-control device or railroad sign or signal.** ~~No~~ A person may not, without lawful authority, attempt to or in fact alter, deface, injure, knock down, ~~or~~ remove, or interfere with the operation of any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.

Approved March 14, 2005

Filed March 14, 2005

## CHAPTER 337

### HOUSE BILL NO. 1357

(Representatives Monson, Brandenburg, Pollert, Weisz)  
(Senator Trenbeath)

## COMBINATION VEHICLE PERMIT FEES

AN ACT to amend and reenact subsection 4 of section 39-12-02 of the North Dakota Century Code, relating to longer combination vehicle permits.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>166</sup> **SECTION 1. AMENDMENT.** Subsection 4 of section 39-12-02 of the North Dakota Century Code is amended and reenacted as follows:

4. An appropriate charge must be made for each permit and all funds collected hereunder by the highway patrol must be deposited in the state highway fund for use in the construction and maintenance of highways and operating expenses of the department of transportation. Except for publicly owned vehicles that provide service beyond the agency's jurisdiction, official, publicly owned, emergency, or military vehicles are not subject to charges for permits. The minimum fee for selected charges is as follows:
  - a. The fee for the ten percent weight exemption, harvest and wintertime, is fifty dollars per month for fees paid on a monthly basis or two hundred fifty dollars per year for fees paid on a yearly basis. Unused fees paid on a monthly basis are refundable. Unused fees paid on a yearly basis are not refundable.
  - b. The fee for a non-self-issuing interstate permit is ten dollars per trip.
  - c. The fee for special mobile equipment is twenty-five dollars per trip.
  - d. The fee for engineering is twenty-five dollars per trip.
  - e. The fee for faxing a permit is five dollars.
  - f. The fee for a single trip permit is twenty dollars per trip.
  - g. The fee for a longer combination vehicle permit is one hundred dollars per month for fees paid on a monthly basis.

Approved April 12, 2005  
Filed April 13, 2005

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<sup>166</sup> Section 39-12-02 was also amended by section 3 of Senate Bill No. 2274, chapter 331.

## CHAPTER 338

### HOUSE BILL NO. 1099

(Transportation Committee)

(At the request of the Department of Transportation)

## VEHICLE DEALER BONDS, LICENSES, AND PENALTIES

AN ACT to amend and reenact sections 39-18-01, 39-18-02, 39-22-05, 39-22-14, 39-22-18, 39-22.1-02, 39-22.1-03, 39-22.3-03, and 39-22.3-05 of the North Dakota Century Code, relating to penalties assessed against vehicle dealers, bond requirements for vehicle dealers, renewal of a dealer license, and unlicensed vehicle dealers; to provide a penalty; and to provide an effective date.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-18-01 of the North Dakota Century Code is amended and reenacted as follows:

**39-18-01. Mobile home dealer's license - Fees - Dealer's plates - Penalty.** No person, partnership, corporation, or limited liability company may engage in the business of buying, selling, or exchanging of mobile homes or travel trailers, or advertise or hold oneself or itself out to the public as being in the business of buying, selling, or exchanging of mobile homes or travel trailers without first being licensed to do so as hereinafter provided.

Application for dealer's license and renewal license must be made to the department on such forms as the department prescribes and furnishes, and the application must be accompanied by an annual fee of thirty-five dollars for which must be issued one dealer plate. A dealer's license expires on December thirty-first of each year, and application for renewal of a dealer's license must be made on or before the expiration of the current dealer's license.

A mobile home dealer's license must be issued only to those who will maintain a permanent office and place of business, and an adequate service department, during the licensing year, and will abide by all the provisions of law pertaining to mobile home dealers.

In addition, the dealer shall maintain that person's business records in one central location.

Upon the payment of the fee of ten dollars for each additional plate, the department shall register and issue dealer's license plates for use on any mobile homes owned by the licensed dealer, and the mobile homes bearing the dealer's license plates may be lawfully operated upon the public highways of the state of North Dakota by the dealer, and the dealer's agents and servants, during the year of the registration. A dealer's license plates expire on December thirty-first of each year.

The term "mobile home" as used in this chapter includes and has the same meaning as "housetrailer", and both terms have the meaning prescribed in section

39-01-01. The term "travel trailer" as used in this chapter has the meaning as prescribed in section 39-01-01.

Any mobile home dealer licensed under the provisions of this chapter may sell house cars without being licensed under the provisions of chapter 39-22. A mobile home dealer plate displayed on a house car must be displayed on the rear of the vehicle.

Any dealer violating this chapter must be assessed a one hundred dollar fee by the department for a first violation and a two hundred dollar fee by the department for a second violation within two years of the first violation. The department shall suspend the license of a mobile home dealer licensed under this chapter if a third or subsequent violation of this chapter occurs within five years of the first violation.

**SECTION 2. AMENDMENT.** Section 39-18-02 of the North Dakota Century Code is amended and reenacted as follows:

**39-18-02. Bond required.** Before the issuance of a mobile home dealer's license, as provided by law, the applicant for such license shall furnish a continuous surety bond executed by the applicant as principal and executed by a surety company licensed and qualified to do business within the state of North Dakota, which must be in the amount of ten thousand dollars, and be conditioned upon the faithful compliance by said applicant as a dealer, if such license be issued to the dealer, that such dealer will comply with all the laws of the state of North Dakota pertaining to such business, and regulating or being applicable to the business of said dealer as a dealer in mobile homes, and indemnifying any person dealing or transacting business with such dealer in connection with any mobile home from any loss or damage occasioned by the failure of such dealer to comply with the provisions of the laws of the state of North Dakota, including the furnishing of a proper and valid certificate of title to the vendee of a mobile home within fifteen days of the sale of such mobile home, and to the vendee of a travel trailer as defined by section 57-55-01 within fifteen days of the sale of such travel trailer, and that such bond must be filed with the director prior to the issuance of the license herein provided for. Provided, however, that the aggregate liability of the surety to all such persons for all such losses or damages may, in no event, exceed the amount of such bond. Any third party sustaining injury within the terms of the bond may proceed against the principal and surety without making the state a party to any such proceedings. The bond may be canceled by the surety, as to future liability, by giving written notice by certified mail, addressed to the principal at the address stated in the bond, and to the department. Thirty days after the mailing of the notice, the bond is null and void as to any liability thereafter arising. The surety remains liable, subject to the terms, conditions, and provisions of the bond, until the effective date of the cancellation.

**SECTION 3. AMENDMENT.** Section 39-22-05 of the North Dakota Century Code is amended and reenacted as follows:

**39-22-05. Bond required.** Before the issuance of a motor vehicle dealer's license, as provided by law, the applicant for the license shall furnish a continuous surety bond executed by the applicant as principal and executed by a surety company, licensed and qualified to do business within the state of North Dakota, which bond must run to the state of North Dakota, be in the amount of twenty-five thousand dollars and be conditioned upon the faithful compliance by the applicant as a dealer, if the license is issued to the dealer, that such dealer will comply with all of the statutes of the state of North Dakota regulating or being applicable to the business of the dealer as a dealer in motor vehicles, and indemnifying any person

dealing or transacting business with the dealer in connection with any motor vehicle from any loss or damage occasioned by the failure of the dealer to comply with any of the provisions of this title, including the furnishing of a proper and valid certificate of title to the motor vehicle involved in any such transaction, and that the bond shall be filed with the director prior to the issuance of license provided by law. The aggregate liability of the surety of all persons, however, may in no event exceed the amount of the bond. Any third party sustaining injury within the terms of the bond may proceed against the principal and surety without making the state a party to the proceedings. The bond may be canceled by the surety, as to future liability, by giving written notice by certified mail, addressed to the principal at the address stated in the bond, and to the department. Thirty days after the mailing of the notice, the bond is null and void as to any liability thereafter arising. The surety remains liable, subject to the terms, conditions, and provisions of the bond, until the effective date of the cancellation.

**SECTION 4. AMENDMENT.** Section 39-22-14 of the North Dakota Century Code is amended and reenacted as follows:

**39-22-14. Motor vehicle dealer license - Fees - Penalty.** It is unlawful for any person to engage in the business of buying, selling, or exchanging of motor vehicles without possessing a current motor vehicle dealer license. A person may not advertise or otherwise hold out to the public as engaging in the buying, selling, or exchanging of motor vehicles for resale without possession of a current new motor vehicle dealer license or used motor vehicle dealer license. The motor vehicle dealer license fee is one hundred dollars per year and with which must be issued one dealer plate. A nonrefundable fee of one hundred dollars must be charged for the initial inspection of an application for a dealer license and must accompany the initial application for a new or used motor vehicle dealer license. The applicant shall provide the business's federal employer identification number or, in the case of an application from an individual, social security number. Any person violating a provision of this section must be assessed a one hundred dollar fee by the department for a first violation and a two hundred dollar fee by the department for a second violation within two years of the first violation. The department must suspend the license of a motor vehicle dealer licensed under this chapter if a third or subsequent violation of this section occurs within five years of the first violation. Any person not licensed as a dealer under this section who has been previously found to be in violation of this section, and assessed the fees specified, is guilty of a class B misdemeanor if a third or subsequent violation occurs.

**SECTION 5. AMENDMENT.** Section 39-22-18 of the North Dakota Century Code is amended and reenacted as follows:

**39-22-18. Renewal of dealer license - Fees - Minimum sales requirement - Penalty.** A dealer license issued under this chapter expires on December thirty-first of each year. A licensed dealer may apply for renewal of the dealer's license on forms prescribed by the department and payment of the dealer license and dealer plate fees required by this chapter. The department shall not renew the dealer license of any applicant who has made less than four retail motor vehicle sales during the previous year. The department may adopt administrative rules to limit the number of dealer plates available to an applicant based on the applicant's motor vehicle sales history. Any dealer who fails to submit a renewal application before the expiration of the dealer's current license, in addition to all other fees due, shall pay a one hundred dollar fee at the time the dealer's license is renewed.

**SECTION 6. AMENDMENT.** Section 39-22.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**39-22.1-02. Bond required.** Before the issuance of a trailer dealer's license, as provided by law, the applicant for such license shall furnish a continuous surety bond executed by the applicant as principal and executed by a surety company licensed and qualified to do business within the state of North Dakota, which must be in the amount of ten thousand dollars, and be conditioned upon the faithful compliance by said applicant as a dealer, if such license be issued to the applicant, that such dealer will comply with all the laws of the state of North Dakota pertaining to such business, and regulating or being applicable to the business of said dealer as a dealer in trailers, and indemnifying any person dealing or transacting business with such dealer in connection with any trailer from any loss or damage occasioned by the failure of such dealer to comply with the provisions of the laws of the state of North Dakota, including, but not limited to, the furnishing of a proper and valid certificate of title to the vendee of a trailer within fifteen days of the sale of such trailer, and that such bond shall be filed with the director prior to the issuance of the license herein provided for. Provided, however, that the aggregate liability of the surety to all such persons for all such losses or damages may, in no event, exceed the amount of such bond. Any third party sustaining injury within the terms of the bond may proceed against the principal and surety without making the state a party to any such proceedings. Any applicant bonded pursuant to the provisions of chapter 39-18 or 39-22 may not be required to furnish the surety bond provided for in this section whenever the bond issued pursuant to chapter 39-18 or 39-22 is written to include the requirements of this section. The bond may be canceled by the surety, as to future liability, by giving written notice by certified mail, addressed to the principal at the address stated in the bond, and to the department. Thirty days after the mailing of the notice, the bond is null and void as to any liability thereafter arising. The surety remains liable, subject to the terms, conditions, and provisions of the bond, until the effective date of the cancellation.

**SECTION 7. AMENDMENT.** Section 39-22.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**39-22.1-03. Suspension or revocation of dealer's license - Penalty.** The director may suspend or revoke any dealer's license for failure of the licensee to comply with any of the laws of the state of North Dakota governing trailer dealers, or for the failure to comply with the reasonable rules and regulations of the director as established under chapter 28-32, but no order suspending or revoking a dealer's license may be made without a hearing at which the licensee must be given an opportunity to be heard. Any dealer violating the provisions of this chapter must be assessed a one hundred dollar fee by the department for a first violation and a two hundred dollar fee by the department for a second violation within two years of the first violation. The department shall suspend the license of a trailer dealer licensed under this chapter if a third or subsequent violation of the chapter occurs within five years of the first violation.

**SECTION 8. AMENDMENT.** Section 39-22.3-03 of the North Dakota Century Code is amended and reenacted as follows:

**39-22.3-03. Issuance of license - Conditions - Penalty.** No license may be issued until the applicant furnishes proof satisfactory to the director that the applicant has and will continue to maintain an established place of business. An established central place of business means a permanent enclosed building or structure either owned or leased with a stated periodic rental, at which a permanent business of bartering, trading, and selling of motorcycles, the repair, maintenance, and servicing of motorcycles and the storage of parts and accessories therefor, will be carried out in good faith and not for the purpose of evading this section, and where the business books, records, and files shall be maintained, and does not mean a residence, tents,

temporary stands, or other temporary quarters, nor permanent quarters occupied pursuant to any temporary arrangement. Said central place of business may consist of several buildings, or structures, but no building or structure may be located beyond one thousand feet [304.8 meters] from any other buildings or structures of said central place of business. Such central place of business must be located within the state of North Dakota. The licensee must be permitted to use unimproved lots and premises for sales, storage, or display of motorcycles. A nonrefundable fee of fifty dollars will be charged for each inspection and must accompany each initial application for a motorcycle dealer's license. Any dealer violating this chapter must be assessed a one hundred dollar fee by the department for a first violation and a two hundred dollar fee by the department for a second violation within two years of the first violation. The department shall suspend the license of a motorcycle dealer licensed under this chapter if a third or subsequent violation of this chapter occurs within five years of the first violation.

**SECTION 9. AMENDMENT.** Section 39-22.3-05 of the North Dakota Century Code is amended and reenacted as follows:

**39-22.3-05. Bond required.** The license applicant shall furnish a continuous surety bond executed by a surety company, licensed and qualified to do business within the state of North Dakota, which bond must run to the state of North Dakota in the amount of ten thousand dollars and be conditioned upon the faithful compliance by said applicant with all the statutes of the state of North Dakota, regulating or being applicable to a dealer in motorcycles, and indemnifying any person having a motorcycle transaction with said dealer from any loss of damage occasioned by the failure of such dealer to comply with any statutory requirement of such transaction. The bond must be filed with the director prior to the issuance of a license. The aggregate liability of the surety of all persons may in no event exceed the amount of the bond. Any third party sustaining injury within the terms of the bond may proceed against the principal and surety without making the state a party of any such proceedings. The bond may be canceled by the surety, as to future liability, by giving written notice by certified mail, addressed to the principal at the address stated in the bond, and to the department. Thirty days after the mailing of the notice, the bond is null and void as to any liability thereafter arising. The surety remains liable, subject to the terms, conditions, and provisions of the bond, until the effective date of the cancellation.

**SECTION 10. EFFECTIVE DATE.** This Act becomes effective on January 1, 2006.

Approved March 8, 2005  
Filed March 8, 2005

## CHAPTER 339

### SENATE BILL NO. 2246

(Senator Traynor)

(Representatives Delmore, D. Johnson, Nicholas)

### PARK MODEL TRAILERS

AN ACT to amend and reenact section 39-18-03.2 of the North Dakota Century Code, relating to park model trailers; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 39-18-03.2 of the North Dakota Century Code is amended and reenacted as follows:

##### **39-18-03.2. Park model trailer fee.**

1. The owner of a park model trailer, as defined in subsection 2 of section 57-55-10, shall pay the department a fee of twenty dollars per calendar year to qualify for the exemption under section 57-55-10. The department shall issue a receipt for payment of the fee ~~under this section~~ but payment of the fee does not confer any rights to the owner of a park model trailer which are not otherwise provided by law.
2. In lieu of subsection 1, upon the request of an owner of a park model trailer, as defined in subsection 2 of section 57-55-10, the department shall register the trailer as a travel trailer for a registration fee of twenty dollars per calendar year. The payment of the fee qualifies the trailer for an exemption under section 57-55-10. The department shall issue a number plate upon payment of the registration fee.
3. Fees collected under this section must be deposited in the highway tax distribution fund.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 6, 2005

Filed April 6, 2005

## CHAPTER 340

### SENATE BILL NO. 2208

(Senators Espegard, G. Lee, Trenbeath)  
(Representatives Delmore, Hawken, Nottestad)

## MOTOR VEHICLE CHILD RESTRAINT SYSTEMS

AN ACT to amend and reenact sections 24-02-01.5 and 39-01-01, subdivision c of subsection 2 of section 39-06.1-06, sections 39-08-18, 39-08-19, 39-21-41.2, and 51-20-01, and subsection 9 of section 57-40.3-04 of the North Dakota Century Code, relating to motor vehicle child restraint systems.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>167</sup> **SECTION 1. AMENDMENT.** Section 24-02-01.5 of the North Dakota Century Code is amended and reenacted as follows:

**24-02-01.5. (Contingent effective date - See note - Effective through June 30, 2005) Department of transportation - Administrative rules.** The department of transportation may adopt the administrative rules necessary to carry out its responsibilities and functions as created and transferred by sections 24-02-01.1 through 24-02-01.5. Rules adopted by the agencies whose functions relate to the functions or agencies created, transferred, or covered by sections 2-05-03, 24-02-01.1 through 24-02-01.5, subsections 7 and 11 of section 24-01-01.1, sections 24-02-13, 24-16-02, 24-17-02, subsections 8 10, 42 14, and 43 15 of section 39-01-01, subsection 1 of section 39-16-01, subsection 7 of section 39-24-01, subsection 2 of section 49-17.1-01, subsection 1 of section 54-06-04, subsection 1 of section 54-27-19, subsection 6 of section 57-40.3-01, subsection 1 of section 57-43.1-01, section 57-43.1-44, subsection 6 of section 57-43.2-01, and section 57-43.2-37 remain in effect until they are specifically amended or repealed by the department.

**(Effective after June 30, 2005) Department of transportation - Administrative rules.** The department of transportation may adopt the administrative rules necessary to carry out its responsibilities and functions as created and transferred by sections 24-02-01.1 through 24-02-01.5. Rules adopted by the agencies whose functions relate to the functions or agencies created, transferred, or covered by sections 2-05-03, 24-02-01.1 through 24-02-01.5, subsections 7 and 11 of section 24-01-01.1, sections 24-02-13, 24-16-02, 24-17-02, subsections 8 10, 42 14, and 43 15 of section 39-01-01, subsection 1 of section 39-16-01, subsection 7 of section 39-24-01, subsection 2 of section 49-17.1-01, subsection 1 of section 54-06-04, subsection 1 of section 54-27-19, subsection 6 of section 57-40.3-01, subsection 1 of section 57-43.1-01, section 57-43.1-44, subsection 5 of section 57-43.2-01, and section 57-43.2-37 remain in effect until they are specifically amended or repealed by the department.

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<sup>167</sup> Section 24-02-01.5 was also amended by section 1 of Senate Bill No. 2154, chapter 341, and section 6 of Senate Bill No. 2217, chapter 94.

<sup>168</sup> **SECTION 2. AMENDMENT.** Section 39-01-01 of the North Dakota Century Code is amended and reenacted as follows:

**39-01-01. Definitions.** In this title, unless the context or subject matter otherwise requires:

1. "Appropriate licensed addiction treatment program" means an addiction treatment program conducted by an addiction facility licensed by the department of human services or conducted by a licensed individual specifically trained in addiction treatment.
2. Authorized emergency vehicles:
  - a. Class A authorized emergency vehicles means:
    - (1) Vehicles of a governmentally owned fire department.
    - (2) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title or by a salaried employee of a municipal police department within the municipality or by a sheriff or deputy sheriff not including special deputy sheriffs, or by the director of the department of corrections and rehabilitation and the director's authorized agents who have successfully completed training in the operation of class A authorized emergency vehicles.
    - (3) Vehicles clearly identifiable as property of the department of corrections and rehabilitation when operated or under the control of the director of the department of corrections and rehabilitation.
    - (4) Ambulances.
    - (5) Vehicles operated by or under the control of the director, district deputy director, or a district deputy game warden of the game and fish department.
    - (6) Vehicles owned or leased by the United States and used for law enforcement purposes.
    - (7) Vehicles designated for the use of the adjutant general or assistant adjutant general in cases of emergency.
    - (8) Vehicles operated by or under the control of the director of the parks and recreation department.
    - (9) Vehicles operated by or under the control of a licensed railroad police officer and used for law enforcement purposes.

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<sup>168</sup> Section 39-01-01 was also amended by section 25 of House Bill No. 1016, chapter 16, and section 1 of House Bill No. 1342, chapter 344.

- b. Class B authorized emergency vehicles means wreckers and such other emergency vehicles as are authorized by the local authorities.
- c. Class C authorized emergency vehicles means:
  - (1) Vehicles authorized by state and local division of emergency management organizations.
  - (2) Vehicles used by volunteer firefighters while performing their assigned disaster and emergency responsibilities.
  - (3) Vehicles, other than ambulances, used by emergency medical services personnel.
- 3. "Bicycle" means every device propelled solely by human power upon which any person may ride, having two tandem wheels either of which is more than twenty inches [50.8 centimeters] in diameter.
- 4. "Bus" means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. Provided, every motor vehicle designed for carrying not more than fifteen persons and used for a ridesharing arrangement, as defined in section 8-02-07, is not a "bus".
- 5. "Business district" means the territory contiguous to a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet [91.44 meters] or more is occupied by buildings in use for business.
- ~~5-4-~~ 6. "Camping trailer" means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.
- 7. "Child restraint system" means a specifically designed device, built-in seating system, or belt-positioning booster that meets the federal motor vehicle safety standards and is permanently affixed to a motor vehicle, is affixed to the vehicle by a safety belt or universal attachment system, or is combined with a federally compliant safety belt system.
- ~~6-~~ 8. "Commercial freighting" means the carriage of things other than passengers, for hire, except that such term does not include:
  - a. The carriage of things other than passengers within the limits of the same city;
  - b. Carriage by local dray lines of baggage or goods to or from a railroad station from or to places in such city or in the immediate vicinity thereof, in this state, and not to exceed two miles [3.22 kilometers] from the corporate or recognized limits of said city; or
  - c. Hauling done by farmers for their neighbors in transporting agricultural products to or from market.

7. 9. "Commercial passenger transportation" means the carriage of passengers for hire, except that the term does not include:
- The carriage of passengers within the limits of a city.
  - The carriage by local buslines of passengers to or from a railroad station from or to places within any city or within two miles [3.22 kilometers] of the limits of the city.
  - The carriage of passengers under a ridesharing arrangement, as defined in section 8-02-07.
8. 10. "Commissioner" means the director of the department of transportation of this state, acting directly or through authorized agents as provided by section 24-02-01.3.
9. 11. "Controlled-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.
40. 12. "Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.
44. 13. "Dealer" means every person, partnership, corporation, or limited liability company engaged in the business of buying, selling, or exchanging motor vehicles, or who advertises, or holds out to the public as engaged in the buying, selling, or exchanging of motor vehicles, or who engages in the buying of motor vehicles for resale. Any person, partnership, corporation, limited liability company, or association doing business in several cities or in several locations within a city must be considered a separate dealer in each such location.
42. 14. "Department" means the department of transportation of this state as provided by section 24-02-01.1.
43. 15. "Director" means the director of the department of transportation of this state as provided by section 24-02-01.3.
44. ~~Repealed by S.L. 1989, ch. 72, § 25.~~
45. 16. "Driver" means every person who drives or is in actual physical control of a vehicle.
46. 17. "Essential parts" means all integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation and includes all integral parts and body parts, the removal, alteration, or

substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

- ~~47.~~ 18. "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or by destroying life or limb.
- ~~48.~~ 19. "Farm tractor" includes every motor vehicle designed and used primarily as a farm implement for drawing plows, moving machines, and other implements of husbandry.
- ~~49.~~ 20. "Farm trailer" includes those trailers and semitrailers towed by a bona fide resident farmer hauling the farmer's own agricultural, horticultural, dairy, and other farm products if the gross weight, not including the towing vehicle, does not exceed twenty-four thousand pounds [10886.22 kilograms].
- ~~49.1.~~ 21. "Fifth-wheel travel trailer" means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.
- ~~20.~~ 22. "Flammable liquid" means any liquid which has a flash point of seventy degrees Fahrenheit [21.11 degrees Celsius], or less, as determined by a tagliabue or equivalent closed-cup test device.
- ~~24.~~ 23. "Foreign vehicle" means every motor vehicle which is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.
- ~~22.~~ 24. "Gross weight" means the weight of a vehicle without load plus the weight of any load thereon.
- ~~23.~~ 25. "Guest" means and includes a person who accepts a ride in any vehicle without giving compensation therefor.
- ~~24.~~ 26. "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel and of every way privately maintained within a mobile home park, trailer park, or campground containing five or more lots for occupancy by mobile homes, travel trailers, or tents when any part thereof is open for purposes of vehicular travel.
- ~~25.~~ 27. "House car" or "motor home" means a motor vehicle which has been reconstructed or manufactured primarily for private use as a temporary or recreational dwelling and having at least four of the following permanently installed systems:

- a. Cooking facilities.
  - b. Icebox or mechanical refrigerator.
  - c. Potable water supply including plumbing and a sink with faucet either self-contained or with connections for an external source, or both.
  - d. Self-contained toilet or a toilet connected to a plumbing system with connection for external water disposal, or both.
  - e. Heating or air-conditioning system, or both, separate from the vehicle engine or the vehicle engine electrical system.
  - f. A 110-115 volt alternating current electrical system separate from the vehicle engine electrical system either with its own power supply or with a connection for an external source, or both, or a liquefied petroleum system and supply.
- ~~26.~~ 28. "Implement of husbandry" means every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highway.
- ~~27.~~ 29. "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. Where a highway includes two roadways thirty feet [9.14 meters] or more apart, then every crossing of each roadway of such divided highway by an intersecting highway must be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet [9.14 meters] or more apart, then every crossing of two roadways of such highways must be regarded as a separate intersection.
- ~~28.~~ 30. "Intoxicating liquor" means and includes any beverage containing alcohol.
- ~~29.~~ 31. "Judgment" means any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state of the United States, upon a claim for relief arising out of ownership, maintenance, or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a claim for relief on an agreement of settlement for such damages.
- ~~30.~~ 32. "Legal owner" means a person who holds the legal title to a vehicle.
- ~~34.~~ 33. "Lienholder" means a person holding a security interest in a vehicle.

- ~~32.~~ 34. "Local authorities" includes every county, municipal, and other local board or body having authority to adopt local police regulations under the constitution and laws of this state.
- ~~33.~~ 35. "Mail" means to deposit mail properly addressed and with postage prepaid with the United States postal service.
- ~~34.~~ 36. "Manifest injustice" means a specific finding by the court that the imposition of sentence is unreasonably harsh or shocking to the conscience of a reasonable person, with due consideration of the totality of circumstances.
- ~~35.~~ 37. "Manufacturer" means any person who manufactures, assembles, or imports and sells new motor vehicles to new motor vehicle dealers for resale in the state; but such term does not include a person who assembles or specially builds interior equipment on a completed vehicle supplied by another manufacturer, distributor, or supplier.
- ~~36.~~ 38. "Metal tires" includes all tires the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material except that this provision does not apply to pneumatic tires.
- ~~37.~~ 39. "Modular unit" includes every factory fabricated transportable building unit designed to be incorporated with similar units at a building site into a modular structure to be used for residential, commercial, educational, or industrial purposes.
- ~~38.~~ 40. "Motor vehicle" includes every vehicle that is self-propelled, every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and, for purposes of motor vehicle registration, title registration, and operator's licenses, motorized bicycles. The term does not include a snowmobile as defined in section 39-24-01.
- ~~39.~~ 41. "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding implements of husbandry.
- ~~40.~~ 42. "Motorized bicycle" means a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion or footrests for use by the operator, a power source providing up to a maximum of two brake horsepower having a maximum piston or rotor displacement of 3.05 cubic inches [49.98 milliliters] if a combustion engine is used, which will propel the vehicle, unassisted, at a speed not to exceed thirty miles [48.28 kilometers] per hour on a level road surface, and a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged, and the vehicle may not have a width greater than thirty-two inches [81.28 centimeters].
- ~~44.~~ 43. "Nonresident" means any person who is not a resident of this state.
- ~~42.~~ 44. "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in this state.

- ~~43.~~ 45. "Official traffic-control devices" means all signs, signals, markings, and devices not inconsistent with this title placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.
44. 46. "Operator" means every person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.
45. 47. "Operator's license", "driver's license", or "license to operate a motor vehicle" means any operator's or driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:
- a. Any temporary license or instruction permit;
  - b. The privilege of any person to drive a motor vehicle whether such person holds a valid license; or
  - c. Any nonresident's operating privilege as defined in this section.
46. 48. "Owner" means a person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.
47. 49. "Park", when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.
48. 50. "Passenger motor vehicle" means every motor vehicle designed principally for the transportation of persons and includes vehicles which utilize a truck chassis, but have a seating capacity for four or more passengers.
49. 51. "Pedestrian" means any person afoot.
- ~~50.~~ 52. "Person" includes every natural person, firm, copartnership, association, corporation, or limited liability company.
- ~~51.~~ 53. "Pneumatic tires" includes all tires inflated with compressed air.
- ~~52.~~ 54. "Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.
- ~~53.~~ 55. "Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
54. 56. "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

- ~~55-~~ 57. "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance, or use of a motor vehicle, in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of ten thousand dollars because of injury to or destruction of property of others in any one accident.
- ~~56-~~ 58. "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.
- ~~57-~~ 59. "Railroad sign or signal" means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.
- ~~58-~~ 60. "Reconstructed vehicle" means any vehicle, of a type required to be registered, materially altered from its original construction by the removal, addition, or substitution of new or used essential parts.
- ~~59-~~ 61. "Recreational vehicle" means any motorcycle not qualified for registration, all-terrain vehicle, snowmobile, vessel, or personal watercraft.
- ~~60-~~ 62. "Residence district" means territory contiguous to a highway not comprising a business district, when the frontage on such highway for a distance of three hundred feet [91.44 meters] or more is occupied mainly by dwellings, or by dwellings and buildings in use for business.
- ~~64-~~ 63. "Right of way" means the privilege of the immediate use of a roadway.
- ~~62-~~ 64. "Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.
- ~~63-~~ 65. "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein refers to any such roadway separately but not to all such roadways collectively.
- ~~64-~~ 66. "Saddle mount" means placing the front wheels of the drawn vehicle upon the bed of the drawing vehicle.
- ~~65-~~ 67. "Safety zone" means the area or space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set aside as a safety zone.
- ~~66-~~ 68. "Salvage certificate of title" means a document issued by the department for purposes of proof of ownership of a salvage or destroyed vehicle and not acceptable for motor vehicle registration purposes.

- ~~67.~~ 69. "Schoolbus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-related events. For the purposes of chapter 39-21, "schoolbus" means any motor vehicle that is owned or leased by a public or governmental agency and used to transport primary or secondary school students to or from school or to or from school-related events, or is privately owned and operated for compensation to transport primary or secondary school students to or from school or to or from school-related events. Schoolbus does not include a bus used as a common carrier.
- ~~68.~~ 70. "Semitrailer" includes every vehicle of the trailer type so designed and used in conjunction with a truck or truck tractor that some part of its own weight and that of its own load rests upon or is carried by a truck or truck tractor, except that it does not include a "housetrailer" or "mobile home" as defined in subsection ~~83.~~
- ~~69.~~ 71. "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.
- ~~70.~~ 72. "Solid tire" includes every tire made of rubber or other resilient material other than a pneumatic tire.
- ~~74.~~ 73. "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway.
- ~~72.~~ 74. "Specially constructed vehicle" means any vehicle which was not constructed originally under the distinct name, make, model, or type by a generally recognized manufacturer of vehicles.
- ~~73.~~ 75. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.
- ~~74.~~ 76. "State" means a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of the Dominion of Canada.
- ~~75.~~ 77. "Stop", when required, means complete cessation from movement.
- ~~76.~~ 78. "Stop" or "stopping", when prohibited, means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.
- ~~77.~~ 79. "Street" means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
- ~~78.~~ 80. "Superintendent" means the superintendent of the North Dakota state highway patrol, acting directly or through authorized employees of the superintendent.

- ~~79.~~ 81. "Through highway" means every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield right of way to vehicles on such through highway and in obedience to either a stop sign or yield sign, when such signs are erected by law.
- ~~80.~~ 82. "Trackless trolley coach" means every motor vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.
- ~~84.~~ 83. "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highway for purposes of travel.
- ~~82.~~ 84. "Traffic-control signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.
- ~~83.~~ 85. "Trailer" includes every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle, except that it does not include a "house trailer" or "mobile home", which terms mean a vehicle as defined in this subsection which is designed and intended for use as living or sleeping quarters for people and which is not used for commercial hauling of passengers.
- ~~84.~~ 86. "Travel trailer" means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require a special highway movement permit when towed by a motorized vehicle.
- ~~85.~~ 87. "Truck" includes every motor vehicle designed, used, or maintained primarily for transportation of property.
- ~~85-1.~~ 88. "Truck camper" means a portable unit that is constructed to provide temporary living quarters for recreational, camping, or travel use; consists of a roof, floor, and sides; and is designed to be loaded onto and unloaded from the bed of a pickup truck.
- ~~86.~~ 89. "Truck tractor" includes every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.
- ~~87.~~ 90. "Urban district" means the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than one hundred feet [30.48 meters] for a distance of a quarter of a mile [402.34 meters] or more.
- ~~88.~~ 91. "Used vehicle" means a motor vehicle which has been sold, bargained, exchanged, given away, or the title to which has been transferred to another, by the person who first acquired it from the manufacturer or importer, dealer, or agent of the manufacturer or importer.
- ~~89.~~ 92. "Vehicle" includes every device in, upon, or by which any person or property may be transported or drawn upon a public highway, except

devices moved by human power or used exclusively upon stationary rails or tracks.

<sup>169</sup> **SECTION 3. AMENDMENT.** Subdivision c of subsection 2 of section 39-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

- c. A violation of section 39-21-41.2, ~~no a fee may be imposed by the state, a city, or a county including a city or county operating under a home rule charter~~ of twenty-five dollars.

**SECTION 4. AMENDMENT.** Section 39-08-18 of the North Dakota Century Code is amended and reenacted as follows:

**39-08-18. Open container law - Penalty.**

1. A person may not drink or consume alcoholic beverages, as defined in section 5-01-01, in or on any motor vehicle when the vehicle is upon a public highway or in an area used principally for public parking. A person may not have in that person's possession on that person's person while in or on a private motor vehicle upon a public highway or in an area used principally for public parking, any bottle or receptacle containing alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. It is unlawful for the owner of any private motor vehicle or the driver, if the owner be not then present in or on the motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon the public highway or in an area used principally for public parking any bottle or receptacle containing such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed except when such bottle or receptacle is kept in the trunk of the motor vehicle when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment must be deemed to be within the area occupied by the driver and passengers. This subsection does not prohibit the consumption or possession of alcoholic beverages in a house car, ~~as defined by subsection 25 of section 39-01-04,~~ if the consumption or possession occurs in the area of the house car used as sleeping or living quarters and that area is separated from the driving compartment by a solid partition, door, curtain, or some similar means of separation; however, consumption is not authorized while the house car is in motion. Any person violating this subsection must be assessed a fee of fifty dollars; however, the licensing authority may not record the violation against the person's driving record unless the person was the driver of the motor vehicle at the time that the violation occurred.
2. Subsection 1 does not apply to a public conveyance that has been commercially chartered for group use, any passenger for compensation in a for-hire motor vehicle, or a privately owned motor vehicle operated by a person in the course of that person's usual employment

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<sup>169</sup> Section 39-06.1-06 was also amended by section 1 of Senate Bill No. 2274, chapter 331.

transporting passengers at the employer's direction. This subsection does not authorize possession or consumption of an alcoholic beverage by the operator of any motor vehicle described in this subsection while upon a public highway or in an area used principally for public parking.

**SECTION 5. AMENDMENT.** Section 39-08-19 of the North Dakota Century Code is amended and reenacted as follows:

**39-08-19. Penalty for harassment of domestic animals.** Any person operating a motorcycle, snowmobile, or other motor vehicle ~~as defined in subsection 38 of section 39-01-04~~ who willfully harasses or frightens any domestic animal, is, upon conviction, guilty of a class B misdemeanor. If injury or death results to the animal due to such action, such person is liable for the value of the animal and exemplary damages as provided in section 36-21-13.

**SECTION 6. AMENDMENT.** Section 39-21-41.2 of the North Dakota Century Code is amended and reenacted as follows:

**39-21-41.2. Child restraint devices - Evidence.**

1. If a child, under ~~four~~ seven years of age, is present in any motor vehicle, that motor vehicle must be equipped with at least one child restraint system for each such child. However, a child under the age of seven who is at least fifty-seven inches [1.45 meters] tall and who weighs at least eighty pounds [36.28 kilograms] is not required to use a child restraint system. The child restraint system must meet the standards adopted by the United States department of transportation for those systems [49 CFR 571.213]. While the motor vehicle is in motion, each such child must be properly secured in the child restraint system in accordance with the manufacturer's instructions. A child weighing more than forty pounds [18.14 kilograms] may be restrained by a lap belt if the vehicle is not equipped with lap and shoulder belts or if all lap and shoulder belts are in use by other occupants. While the motor vehicle is moving, each child of ~~four~~ seven through seventeen years of age who is in the motor vehicle must be in an approved child restraint system in accordance with the manufacturer's instructions or correctly buckled in a seatbelt. Use of child restraint systems and seatbelts is not required in motor vehicles that were not equipped with seatbelts when manufactured. ~~If all of the seatbelts are used by other family members in the vehicle or if a child is being transported in an emergency situation, this section does not apply.~~
2. Violation of this section is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation.

<sup>170</sup> **SECTION 7. AMENDMENT.** Section 51-20-01 of the North Dakota Century Code is amended and reenacted as follows:

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<sup>170</sup> Section 51-20-01 was also amended by section 13 of House Bill No. 1342, chapter 344.

**51-20-01. Definitions.** As used in this chapter, unless the context requires otherwise:

1. "Contractual arrangement" means a written franchise or other written agreement, by whatever name such agreement may be called, between a distributor and a dealer whereby the dealer agrees to sell at retail and service the distributor's recreation vehicles in a given location or locations, whether or not exclusively with respect to a given geographic area, and the distributor authorizes the dealer to sell, or sell and service, and agrees to supply an inventory of recreation vehicles, and, if the dealer is to perform service, an inventory of parts for those vehicles.
2. "Dealer" means a person, partnership, corporation, limited liability company, or other business entity which sells at retail and services new recreation vehicles.
3. "Distributor" means any manufacturer, wholesaler, or distributor of recreation vehicles who has a contractual arrangement with a dealer in such vehicles.
4. "Recreation vehicle" includes snowmobiles as defined in section 39-24-01, plus trailers for transporting same when those trailers are furnished by the same distributor who furnishes the snowmobiles; all-terrain vehicles as defined in section 39-29-01; motorcycles as defined in ~~subsection 39~~ of section 39-01-01; travel trailers, which term means vehicles without motive power designed for recreational use as living or sleeping quarters for people and which do not exceed forty feet [12.19 meters] in length; and motorboats, whether propelled by an inboard or outboard marine engine, plus any outboard marine engines and boat trailers.
5. "Repair parts" includes accessories.

<sup>171</sup> **SECTION 8. AMENDMENT.** Subsection 9 of section 57-40.3-04 of the North Dakota Century Code is amended and reenacted as follows:

9. Any motor vehicle ~~being registered pursuant to~~ under chapter 39-04 for the first time by a person other than a manufacturer of motor vehicles, as defined in ~~subsection 35~~ of section 39-01-01, who assembled the motor vehicle for that person's own use.

Approved April 7, 2005  
Filed April 12, 2005

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<sup>171</sup> Section 57-40.3-04 was also amended by section 1 of Senate Bill No. 2123, chapter 583.

## CHAPTER 341

### SENATE BILL NO. 2154

(Senators Heitkamp, Fischer, Lyson)  
(Representatives Amerman, R. Kelsch, Nelson)

## COLLECTOR SNOWMOBILE PERMITS

AN ACT to amend and reenact sections 24-02-01.5, 39-24-01, 39-24-04, and 39-24-05 of the North Dakota Century Code, relating to collector snowmobiles.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>172</sup> **SECTION 1. AMENDMENT.** Section 24-02-01.5 of the North Dakota Century Code is amended and reenacted as follows:

**24-02-01.5. (Contingent effective date - See note - Effective through June 30, 2005) Department of transportation - Administrative rules.** The department of transportation may adopt the administrative rules necessary to carry out its responsibilities and functions as created and transferred by sections 24-02-01.1 through 24-02-01.5. Rules adopted by the agencies whose functions relate to the functions or agencies created, transferred, or covered by sections 2-05-03, 24-02-01.1 through 24-02-01.5, subsections 7 and 11 of section 24-01-01.1, sections 24-02-13, 24-16-02, 24-17-02, subsections 8, 12, and 13 of section 39-01-01, subsection 1 of section 39-16-01, ~~subsection 7 of section 39-24-01,~~ subsection 2 of section 49-17.1-01, subsection 1 of section 54-06-04, subsection 1 of section 54-27-19, subsection 6 of section 57-40.3-01, subsection 1 of section 57-43.1-01, section 57-43.1-44, subsection 6 of section 57-43.2-01, and section 57-43.2-37 remain in effect until they are specifically amended or repealed by the department.

**(Effective after June 30, 2005) Department of transportation - Administrative rules.** The department of transportation may adopt the administrative rules necessary to carry out its responsibilities and functions as created and transferred by sections 24-02-01.1 through 24-02-01.5. Rules adopted by the agencies whose functions relate to the functions or agencies created, transferred, or covered by sections 2-05-03, 24-02-01.1 through 24-02-01.5, subsections 7 and 11 of section 24-01-01.1, sections 24-02-13, 24-16-02, 24-17-02, subsections 8, 12, and 13 of section 39-01-01, subsection 1 of section 39-16-01, ~~subsection 7 of section 39-24-01,~~ subsection 2 of section 49-17.1-01, subsection 1 of section 54-06-04, subsection 1 of section 54-27-19, subsection 6 of section 57-40.3-01, subsection 1 of section 57-43.1-01, section 57-43.1-44, subsection 5 of section 57-43.2-01, and section 57-43.2-37 remain in effect until they are specifically amended or repealed by the department.

**SECTION 2. AMENDMENT.** Section 39-24-01 of the North Dakota Century Code is amended and reenacted as follows:

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<sup>172</sup> Section 24-02-01.5 was also amended by section 1 of Senate Bill No. 2208, chapter 340, and section 6 of Senate Bill No. 2217, chapter 94.

**39-24-01. Definitions.** For the purposes of this chapter:

1. "Collector snowmobile" means a snowmobile that is twenty-five years old or older, was originally produced as a separate identifiable make by a manufacturer, and is owned and operated solely as a collector's item.
2. "Dealer" means every a person, partnership, corporation, or limited liability company engaged in the business of buying, selling, or exchanging snowmobiles, or who advertises, or holds out to the public as being engaged in the buying, selling, or exchanging of snowmobiles, or who engages in the buying of snowmobiles for resale.
- ~~2.~~ 3. "Operate" means to ride in or on and control the operation of a snowmobile.
- ~~3.~~ 4. "Operator" means every person who operates or is in actual physical control of a snowmobile.
4. 5. "Owner" means a person, other than a lienholder, having the property in or title to a snowmobile and who is entitled to the use or possession thereof of that snowmobile.
5. "Person" includes an individual, partnership, corporation, limited liability company, association, the state and its departments, agencies, and political subdivisions, and any body of persons, whether incorporated or not.
6. "Register" means the act of assigning a registration number to a snowmobile.
7. "Registrar" means the director of the department of transportation of this state as provided in section 24-02-01.3.
- ~~8.~~ "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel.
- ~~9.~~ 8. "Snowmobile" means a self-propelled vehicle designed for travel on snow, ice, or a natural terrain and steered by skis or runners.

**SECTION 3. AMENDMENT.** Section 39-24-04 of the North Dakota Century Code is amended and reenacted as follows:

**39-24-04. (Effective through July 31, 2005) Exemption from registration - Exemption from fees.**

1. A registration number must be issued without the payment of a fee for snowmobiles owned by the state of North Dakota or any of its political subdivisions upon application for the registration.
2. No registration or fees may be required of:
  - a. Snowmobiles owned and used by the United States or another state or its political subdivisions.
  - b. Snowmobiles registered in a country other than the United States and temporarily used within this state.

- c. Snowmobiles validly licensed in another state and which have not been within this state for more than thirty consecutive days.
- d. Snowmobiles operated upon lands owned or leased by the snowmobile owner.
- e. Snowmobiles incapable of speeds in excess of ten miles per hour and with an engine displacement of less than one hundred cubic centimeters.
- f. Collector snowmobiles. The director may issue a special permit to a person to operate in a parade; in organized group outings, including races, rallies, or other promotional events; and for up to ten days each year for personal transportation. The permit must be in the form of a card to be carried on or by the operator of the collector snowmobile. The permit is valid for the duration of the ownership of the snowmobile by the recipient of the permit. The director may impose a reasonable restriction of a permittee and may revoke, amend, suspend, or modify a permit for cause.

**(Effective after July 31, 2005) Exemption from registration - Exemption from fees.**

1. A registration number must be issued without the payment of a fee for snowmobiles owned by the state of North Dakota or any of its political subdivisions upon application for the registration.
2. No registration or fees may be required of:
  - a. Snowmobiles owned and used by the United States or another state or its political subdivisions.
  - b. Snowmobiles registered in a country other than the United States and temporarily used within this state.
  - c. Snowmobiles validly licensed in another state and which have not been within this state for more than thirty consecutive days.
  - d. Snowmobiles operated upon lands owned or leased by the snowmobile owner.
  - e. Snowmobiles incapable of speeds in excess of ten miles per hour and with an engine displacement of less than one hundred cubic centimeters.
  - f. Collector snowmobiles. The director may issue a special permit to a person to operate in a parade; organized group outings, including races, rallies, or other promotional events; and for up to ten days each year for personal transportation. The director may impose a reasonable restriction of a permittee and may revoke, amend, suspend, or modify a permit for cause.
3. If a snowmobile is exempt from registration under subdivision b or c of subsection 2, the owner is required to display on the snowmobile a decal received upon payment of a fifteen dollar per year trail access fee.

Fees collected under this subsection must be deposited in the state snowmobile fund.

**SECTION 4. AMENDMENT.** Section 39-24-05 of the North Dakota Century Code is amended and reenacted as follows:

**39-24-05. Disposition of registration fees and trail tax - Transfer from highway tax distribution fund.** Fees from registration of snowmobiles must be deposited with the state treasurer and credited to the motor vehicle registration fund. The snowmobile trail tax must be deposited in a state snowmobile fund in the state treasury. Additionally, an amount equal to the tax collected on thirty gallons [113.56 liters] of motor vehicle fuel multiplied by the number of collector snowmobiles and snowmobiles registered under this chapter must be transferred annually from the highway tax distribution fund, before allocation of the fund under section 54-27-19, and credited to the state snowmobile fund. The parks and recreation department may, upon appropriation by the legislative assembly, expend from such fund moneys it deems necessary for purposes of administering snowmobile safety programs and establishing and maintaining snowmobile facilities and programs.

Approved March 9, 2005

Filed March 9, 2005

## CHAPTER 342

### SENATE BILL NO. 2205

(Senators J. Lee, Espegard)  
(Representatives Iverson, Kingsbury, Nelson)

## SNOWMOBILE REGISTRATION AND OPERATION

AN ACT to amend and reenact subsection 2 of section 39-24-03, subsection 6 of section 39-24-09, and section 39-24-09.1 of the North Dakota Century Code, relating to snowmobile registration and snowmobile operation by an individual who is at least twelve years of age.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 2 of section 39-24-03 of the North Dakota Century Code is amended and reenacted as follows:

2. Upon receipt of the application and the appropriate fee, the department shall register a snowmobile and assign a registration number and a certificate of registration. The registration number must be at least one and one-half inches [3.81 centimeters] in height and of a reflectorized material and must be securely affixed on each side of the ~~forward half of the~~ snowmobile in a position as to provide clear legibility for identification. The certificate of registration must include information regarding the make, year, serial number, and name and address of the owner. The fee for registration of each snowmobile must be five dollars for any portion of the registration period and the registration period is for two years beginning October first of each odd-numbered year. The fee for a duplicate or replacement registration number or registration card which is lost, mutilated, or becomes illegible may not exceed five dollars. In addition, in each year that fees are collected for the unsatisfied judgment fund there must be assessed a fee of one dollar per year for each snowmobile registered, which must be placed in the unsatisfied judgment fund. For each snowmobile registered under the provisions of this chapter, there must be assessed a snowmobile trail tax in the amount of thirty-five dollars.

**SECTION 2. AMENDMENT.** Subsection 6 of section 39-24-09 of the North Dakota Century Code is amended and reenacted as follows:

6. It is unlawful for any person to operate a snowmobile pursuant to chapter 39-24 without having in possession a valid driver's license ~~or permit~~, except as provided by section 39-24-09.1.

**SECTION 3. AMENDMENT.** Section 39-24-09.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-24-09.1. Operation by persons under age sixteen individuals at least twelve years of age.** ~~Except as otherwise provided in this section, it is unlawful for any person~~ An individual twelve years of age and over ~~who has not reached sixteen years of age and who is not~~ may not operate a snowmobile unless the individual is in possession of a valid driver's license or permit to operate a snowmobile, except upon the lands of the person's parent or guardian operates the snowmobile on private land, or unless ~~and until~~ the person individual has completed a snowmobile safety training course as prescribed by the director of the parks and recreation department pursuant to chapter 28-32 and has received the appropriate snowmobile safety certificate issued by the director of the department of transportation. The failure of an operator to exhibit a snowmobile safety certificate upon demand to any official authorized to enforce this chapter is presumptive evidence that the ~~person~~ individual is not the holder of the certificate. Fees collected from each ~~person~~ individual receiving certification must be deposited into the snowmobile trail tax fund for purposes of establishing snowmobile safety programs.

Approved April 18, 2005

Filed April 20, 2005

**CHAPTER 343****SENATE BILL NO. 2339**

(Senators Trenbeath, Urlacher)  
(Representatives Price, Weisz)

**MOTORCYCLE SAFETY EDUCATION FEES**

AN ACT to amend and reenact section 39-28-01 of the North Dakota Century Code, relating to motorcycle safety education fees.

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

**SECTION 1. AMENDMENT.** Section 39-28-01 of the North Dakota Century Code is amended and reenacted as follows:

**39-28-01. Additional fees for motorized bicycle and motorcycle registration.** In addition to the fees required by section 39-04-19 for motorized bicycle and motorcycle registration, a motorcycle safety education fee of ~~five~~ ten dollars is required at the time of registration of each motorized bicycle and motorcycle.

Approved March 16, 2005

Filed March 17, 2005

## CHAPTER 344

### HOUSE BILL NO. 1342

(Representatives Weisz, Drovdal, Ruby)  
(Senator Trenbeath)

### ALL-TERRAIN VEHICLES

AN ACT to amend and reenact subsection 59 of section 39-01-01 and sections 39-29-01, 39-29-01.1, 39-29-02, 39-29-03, 39-29-04, 39-29-05, 39-29-06, 39-29-07, 39-29-08, 39-29-09, 39-29-12, 51-20-01, and 57-40.3-01 of the North Dakota Century Code, relating to all-terrain vehicles; and to provide a penalty.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>173</sup> **SECTION 1. AMENDMENT.** Subsection 59 of section 39-01-01 of the North Dakota Century Code is amended and reenacted as follows:

59. "Recreational vehicle" means any motorcycle not qualified for registration, ~~all-terrain~~ off-highway vehicle, snowmobile, vessel, or personal watercraft.

<sup>174</sup> **SECTION 2. AMENDMENT.** Section 39-29-01 of the North Dakota Century Code is amended and reenacted as follows:

**39-29-01. Definitions.** As used in this chapter, unless the context otherwise requires:

1. ~~"All-terrain vehicle" means any motorized off-highway vehicle fifty inches [1270.00 millimeters] or less in width, having a dry weight of one thousand pounds [453.59 kilograms] or less, traveling on three or more low-pressure tires, designed for operator use only with no passengers, having a seat or saddle designed to be straddled by the operator, and handlebars for steering control.~~
2. "Dealer" means any person engaged in the business of buying, selling, or exchanging ~~all-terrain~~ off-highway vehicles or who advertises, or holds out to the public as engaged in the buying, selling, or exchanging of ~~all-terrain~~ off-highway vehicles, or who engages in the buying of ~~all-terrain~~ off-highway vehicles for resale.
2. "Off-highway vehicle" means any wheeled motorized vehicle not designed for use on a highway and capable of cross-country travel on land, snow, ice, marsh, swampland, or other natural terrain. An

<sup>173</sup> Section 39-01-01 was also amended by section 25 of House Bill No. 1016, chapter 16, and section 2 of Senate Bill No. 2208, chapter 340.

<sup>174</sup> Section 39-29-01 was also amended by section 1 of House Bill No. 1412, chapter 345.

off-highway vehicle must be classified into one of the following categories:

- a. Class I off-highway vehicle is a vehicle that does not qualify as road capable under chapters 39-21 and 39-27, has a seat or a saddle designed to be straddled by the operator, and has handlebars for steering control of two wheels.
  - b. Class II off-highway vehicle is less than fifty inches [1270.00 millimeters] in width, travels on three or more low-pressure tires, has a saddle designed to be straddled by the operator, and has handlebars for steering control.
  - c. Class III off-highway vehicle weighs less than eight thousand pounds, travels on four or more tires, has a seat and a wheel for steering control, and is designated for or capable of cross-country on or over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, unless registered by the department under chapter 39-04.
3. "Operate" means to ride in or on and control the operation of an all-terrain off-highway vehicle.
  4. "Operator" means a ~~person~~ an individual who operates or is in actual physical control of an all-terrain off-highway vehicle.
  5. "Owner" means a person, other than a lienholder, having the property in or title to an all-terrain off-highway vehicle and entitled to its use or possession.
  6. "Register" means the act of assigning a registration number to an all-terrain off-highway vehicle.

**SECTION 3. AMENDMENT.** Section 39-29-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-29-01.1. Safety fee - Imposition - Collection by dealer - Payment to department - Use of fee.** Upon the sale of ~~an all-terrain~~ a new or used off-highway vehicle, ~~each~~ a dealer shall collect a five dollar safety fee from the buyer. By the end of each calendar quarter, the dealer shall file a report with the parks and recreation department which discloses the number of all-terrain off-highway vehicles sold the previous months and includes the fees collected from the buyer. Fees imposed under this section must be deposited in the all-terrain off-highway vehicle fund established under ~~subsection 2 of~~ section 39-29-05. The fees may be used only by the parks and recreation department and only for all-terrain off-highway vehicle safety education and promotion.

**SECTION 4. AMENDMENT.** Section 39-29-02 of the North Dakota Century Code is amended and reenacted as follows:

**39-29-02. All-terrain Off-highway vehicle registration.** Except as provided in this chapter, a ~~person~~ an individual may not operate an all-terrain off-highway vehicle unless it has been registered ~~in accordance with~~ under this chapter.

**SECTION 5. AMENDMENT.** Section 39-29-03 of the North Dakota Century Code is amended and reenacted as follows:

**39-29-03. Registration - Application - Issuance - Fees - Renewal.**

1. Application for registration must be made to the department of transportation in the form the department prescribes and furnishes. The registration must state the name and address of every owner of the all-terrain off-highway vehicle and be signed by at least one owner. A copy of the application is evidence of registration for the first thirty days after the date of application.
2. On receipt of an application and the appropriate fee, the department shall register the all-terrain off-highway vehicle and assign a registration number and a certificate of registration. The certificate of registration must include information regarding the make, year, serial number, and name and address of the owner.
3. The fee for registration of each all-terrain off-highway vehicle is five dollars for a registration period of two years. For a duplicate or replacement registration number or registration card which is lost, mutilated, or becomes illegible, the department may charge a fee of not more than five dollars. For each all-terrain off-highway vehicle registered under this chapter, there is an all-terrain off-highway vehicle trail tax of five dollars.
4. The owner of an all-terrain off-highway vehicle shall renew the registration in the manner the department prescribes and pay the registration fees and applicable tax provided in subsection 3.
5. On application for registration as prescribed in subsection 2, and on payment of the amounts prescribed in subsection 3, an all-terrain off-highway vehicle dealer is entitled to be issued registration numbers distinctively marked as dealer's registration numbers. The dealer's registration numbers may be used only on all-terrain off-highway vehicles owned by the dealership.

**SECTION 6. AMENDMENT.** Section 39-29-04 of the North Dakota Century Code is amended and reenacted as follows:

**39-29-04. Exemption from registration - Exemption from fees.**

1. Registration and payment of fees is not required of:
  - a. All-terrain Off-highway vehicles owned and used by the United States or another state or its political subdivisions.
  - b. All-terrain Off-highway vehicles registered in a foreign country and temporarily used in this state.
  - c. All-terrain Off-highway vehicles validly licensed in another state and which have not been within this state for more than thirty consecutive days.
  - d. All-terrain Off-highway vehicles used exclusively for work on private agricultural lands or on industrial jobsites on private land.
  - e. All-terrain Off-highway vehicles used exclusively in organized track racing events.

2. ~~All-terrain off-highway~~ vehicles owned by the state or any of its political subdivisions are exempt from the registration fees in section 39-29-03.

**SECTION 7. AMENDMENT.** Section 39-29-05 of the North Dakota Century Code is amended and reenacted as follows:

**39-29-05. Disposition of registration fees and trail tax.**

1. Fees from registration of ~~all-terrain off-highway~~ vehicles must be deposited with the state treasurer and credited to the motor vehicle registration fund.
2. The ~~all-terrain off-highway~~ vehicle trail tax must be deposited in a state ~~off-highway vehicle~~ fund in the state treasury. The parks and recreation department may, on appropriation by the legislative assembly, expend from that fund moneys for establishing ~~all-terrain off-highway~~ vehicle facilities, ~~all-terrain off-highway~~ vehicle use areas, and ~~all-terrain off-highway~~ vehicle safety and education programs, and enforcement of this chapter.

**SECTION 8. AMENDMENT.** Section 39-29-06 of the North Dakota Century Code is amended and reenacted as follows:

**39-29-06. Transfer or termination of all-terrain off-highway vehicle ownership - Change of address of owner.** Within fifteen days after the transfer of any ownership interest in an ~~all-terrain off-highway~~ vehicle, other than a security interest, or the destruction or abandonment of any ~~all-terrain off-highway~~ vehicle, or a change of address of the owner as listed with the application for registration, written notice of the fact must be given by the new owner to the director in the form the director requires.

**SECTION 9. AMENDMENT.** Section 39-29-07 of the North Dakota Century Code is amended and reenacted as follows:

**39-29-07. Licensing by political subdivisions.** Political subdivisions of this state may not require licensing or registration of ~~all-terrain off-highway~~ vehicles.

**SECTION 10. AMENDMENT.** Section 39-29-08 of the North Dakota Century Code is amended and reenacted as follows:

**39-29-08. Rules.** ~~Rules for the regulation and use of all-terrain vehicles must be adopted as follows:~~

1. The department shall adopt rules for the registration of ~~all-terrain off-highway~~ vehicles and display of registration numbers.
2. The director ~~may~~, in the interest of public health, welfare, and safety, ~~may~~ regulate, by rule, the operation of ~~all-terrain off-highway~~ vehicles on state highways. The director's authority to prohibit the use of ~~all-terrain off-highway~~ vehicles is limited to the roadways, shoulders, inslopes, and medians within the right of way, except where such action is necessary to avoid an obstacle. Notwithstanding the racing prohibitions in section 39-08-03.1, the director may, on a case-by-case basis, permit organized and bona fide ~~all-terrain off-highway~~ vehicle races on the ditch bottoms, backslopes, and the top of the backslopes of the state highway rights of way. The planning, organization, route

selection, and safety precautions of any ~~such~~ race are the sole responsibility of the person obtaining the permit. The director, the department, and the department's employees do not incur ~~no~~ any liability for permitting ~~such~~ races.

3. The director of the parks and recreation department shall adopt rules to regulate use of ~~all-terrain~~ off-highway vehicles in state parks and other state-owned land under the supervision of the director of the parks and recreation department.
4. The governing bodies of political subdivisions may adopt rules to regulate use of ~~all-terrain~~ off-highway vehicles in areas under their jurisdiction. The governing body of a city may, by ordinance, regulate, restrict, and prohibit the use of ~~all-terrain~~ off-highway vehicles operated in the city limits in areas under the exclusive jurisdiction of the city.

<sup>175</sup> **SECTION 11. AMENDMENT.** Section 39-29-09 of the North Dakota Century Code is amended and reenacted as follows:

**39-29-09. Operation of ~~all-terrain~~ off-highway vehicles.**

1. A ~~person~~ An individual may not operate an ~~all-terrain~~ off-highway vehicle on the roadway, shoulder, or inside bank or slope of any road, street, or highway except as provided in this chapter. Except in emergencies, a ~~person~~ an individual may not operate an ~~all-terrain~~ off-highway vehicle within the right of way of any controlled-access highway. An individual may operate a registered off-highway vehicle on a gravel, dirt, or loose surface roadway. An individual may operate a registered off-highway vehicle on a paved county or township roadway if the off-highway vehicle is towing an implement of husbandry and does not exceed the speed of twenty-five miles [40.23 kilometers] per hour. An individual may operate a registered off-highway vehicle on a paved county or township roadway designated and posted at a speed not exceeding forty-five miles [72.42 kilometers] per hour.
2. The operator of an ~~all-terrain~~ off-highway vehicle may make a direct crossing of a street or highway only if:
  - a. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
  - b. The ~~all-terrain~~ off-highway vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
  - c. The operator yields the right of way to all oncoming traffic which constitutes an immediate hazard; and
  - d. In crossing a divided highway, the crossing is made only at an intersection of the highway with another public street or highway.

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<sup>175</sup> Section 39-29-09 was also amended by section 1 of House Bill No. 1327, chapter 346, and section 2 of House Bill No. 1412, chapter 345.

3. A ~~person~~ Unless an individual is operating a class 1 off-highway vehicle, an individual may not operate an ~~all-terrain off-highway~~ vehicle unless it is equipped with at least one headlamp, one taillamp, and brakes, all in working order, which conform to standards prescribed by rule of the director of the ~~department of transportation~~, except when under the direct supervision of an ~~all-terrain off-highway~~ vehicle instructor teaching a certified ~~all-terrain off-highway~~ vehicle safety training course, the requirement for a headlamp and taillamp may be waived.
4. The emergency conditions under which an ~~all-terrain off-highway~~ vehicle may be operated other than as provided by this chapter are only those that render the use of an automobile impractical under the conditions and at the time and location in question.
5. A ~~person~~ An individual may not operate an ~~all-terrain off-highway~~ vehicle in the following ways, which are declared to be unsafe and a public nuisance:
  - a. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
  - b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage to ~~such another~~ another person or the property of another person.
  - c. While under the influence of intoxicating liquor or a controlled substance.
  - d. Without a lighted headlamp and taillamp except when used by an ~~all-terrain off-highway~~ vehicle instructor during a certified ~~all-terrain off-highway~~ vehicle safety training course.
  - e. In any tree nursery or planting in a manner ~~which~~ that damages growing stock.
  - f. Without a manufacturer-installed or equivalent muffler in good working order and connected to the ~~all-terrain off-highway~~ vehicle's exhaust system.
  - g. On any private land where the private land is posted prohibiting trespassing. The name and address of the person posting the land and the date of posting must appear on each sign in legible characters. The posted signs must be readable from outside the land and be placed conspicuously at a distance of not more than eight hundred eighty yards [804.68 meters] apart. Land entirely enclosed by a fence or other enclosure is sufficiently posted by posting of ~~such~~ these signs; at or on all gates through the fence or enclosure.
6. Except as provided in section 39-29-10, a ~~person~~ an individual may not operate an ~~all-terrain off-highway~~ vehicle without having in possession a valid driver's license or permit.
7. When an ~~all-terrain off-highway~~ vehicle is operated within the right of way of any road, street, or highway, during times or conditions that

warrant the use of lights by other motor vehicles, the ~~all-terrain off-highway~~ vehicle must be operated in the same direction as the direction of other motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right of way traveled by the ~~all-terrain off-highway~~ vehicle.

8. A ~~person~~ An individual may not operate an ~~all-terrain off-highway~~ vehicle within the right of way of any highway while towing a sled, skid, or other vehicle, unless the object towed is connected to the ~~all-terrain off-highway~~ vehicle by a hinged swivel and secure hitch.
9. ~~Helmet required.~~ No person An individual under the age of eighteen years may not operate, ride, or otherwise be propelled on an ~~all-terrain off-highway~~ vehicle unless the person wears a safety helmet meeting United States department of transportation standards.
10. ~~Passenger restrictions.~~ No An operator of an ~~all-terrain off-highway~~ vehicle may not carry a passenger while operating the vehicle unless the off-highway vehicle is equipped and recommended by the manufacturer to carry a passenger and the passenger is carried as recommended by the manufacturer.
11. Unless otherwise provided by law, an off-highway vehicle may be operated on an aggregate road surface only when designated as part of an active off-highway vehicle trail by the managing entity.

**SECTION 12. AMENDMENT.** Section 39-29-12 of the North Dakota Century Code is amended and reenacted as follows:

**39-29-12. Penalties.** Violation of subdivision b, c, or g of subsection 5 of section 39-29-09 is a class B misdemeanor. Violation of any other provision of section 39-29-09 is an infraction for which a fee of twenty dollars must be assessed. Violation of section 39-29-02 is an infraction, for which a fee of fifty dollars must be assessed. If the ~~person~~ individual provides proof of registration since the violation, the fee may be reduced by one-half. Violation of any other provision of this chapter is an infraction, for which a fee of ten dollars must be assessed.

<sup>176</sup> **SECTION 13. AMENDMENT.** Section 51-20-01 of the North Dakota Century Code is amended and reenacted as follows:

**51-20-01. Definitions.** As used in this chapter, unless the context requires otherwise:

1. "Contractual arrangement" means a written franchise or other written agreement, by whatever name such agreement may be called, between a distributor and a dealer whereby the dealer agrees to sell at retail and service the distributor's recreation vehicles in a given location or locations, whether or not exclusively with respect to a given geographic area, and the distributor authorizes the dealer to sell, or sell and service,

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<sup>176</sup> Section 51-20-01 was also amended by section 7 of Senate Bill No. 2208, chapter 340.

and agrees to supply an inventory of recreation vehicles, and, if the dealer is to perform service, an inventory of parts for those vehicles.

2. "Dealer" means a person, partnership, corporation, limited liability company, or other business entity which sells at retail and services new recreation vehicles.
3. "Distributor" means any manufacturer, wholesaler, or distributor of recreation vehicles who has a contractual arrangement with a dealer in such vehicles.
4. "Recreation vehicle" includes snowmobiles as defined in section 39-24-01, plus trailers for transporting same when those trailers are furnished by the same distributor who furnishes the snowmobiles; ~~all-terrain~~ off-highway vehicles as defined in section 39-29-01; motorcycles as defined in subsection 39 of section 39-01-01; travel trailers, which term means vehicles without motive power designed for recreational use as living or sleeping quarters for people and which do not exceed forty feet [12.19 meters] in length; and motorboats, whether propelled by an inboard or outboard marine engine, plus any outboard marine engines and boat trailers.
5. "Repair parts" includes accessories.

<sup>177</sup> **SECTION 14. AMENDMENT.** Section 57-40.3-01 of the North Dakota Century Code is amended and reenacted as follows:

**57-40.3-01. Definitions.** As used in this chapter, except when the context clearly indicates a different meaning:

1. ~~"All-terrain vehicle" means any motorized off-highway vehicle fifty inches [1270 millimeters] or less in width, having a dry weight of one thousand pounds [453.59 kilograms] or less, traveling on three or more low-pressure tires, designed for operator use only with no passengers, having a seat or saddle designed to be straddled by the operator, and handlebars for steering control.~~
2. "Low-speed vehicle" means a four-wheeled vehicle that is able to attain a speed, upon a paved surface, of twenty miles per hour [32 kilometers per hour] in one mile [1.6 kilometers per hour] and not more than twenty-five miles per hour [40 kilometers per hour] in one mile [1.6 kilometers per hour] and may not exceed one thousand five hundred pounds [680.39 kilograms] in unloaded weight.
3. 2. "Motor vehicle" includes every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, every trailer, semitrailer, park model trailer as defined in subsection 2 of section 57-55-10, ~~all-terrain~~ off-highway vehicle, snowmobile, low-speed vehicle, and travel trailer

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<sup>177</sup> Section 57-40.3-01 was also amended by section 4 of House Bill No. 1055, chapter 569, and section 4 of Senate Bill No. 2101, chapter 324.

for which a certificate of title is required to be obtained under chapter 39-05, but not including housetrailers or mobile homes.

3. "Off-highway vehicle" means off-highway vehicle as defined in section 39-29-01.
4. "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, business trust, receiver, or any other group or combination acting as a unit and the plural as well as the singular number.
5. "Purchase price" means the total amount paid for the motor vehicle whether received in money or otherwise; provided, however, that when a motor vehicle or other tangible personal property that will be subject to a sales or use tax imposed by chapter 57-39.2 or 57-40.2 when sold or used is taken in trade as a credit or as part payment on a motor vehicle taxable under this chapter, the credit or trade-in value allowed by the person selling the motor vehicle shall be deducted from the total selling price to establish the purchase price of the vehicle being sold and the trade-in allowance allowed by the seller on a motor vehicle accepted as a trade-in shall constitute the purchase price of a motor vehicle accepted as a trade-in. If a motor vehicle is purchased by an owner who has had a motor vehicle stolen or totally destroyed, a credit or trade-in credit shall be allowed in an amount not to exceed the total amount the purchaser has been compensated by an insurance company for the loss but not to exceed the total amount of motor vehicle excise tax paid. The purchaser must provide the director of the department of transportation with a notarized statement from the insurance company verifying the fact that the original vehicle was a total loss and stating the amount compensated by the insurance company for the loss. The statement from the insurance company must accompany the purchaser's application for a certificate of title for the replacement vehicle. In instances in which a licensed motor vehicle dealer places into the dealer's service a new vehicle for the purpose of renting, leasing, or dealership utility service, the reasonable value of the vehicle replaced shall be included as trade-in value provided the vehicle replaced has been subject to motor vehicle excise tax under section 57-40.3-02 and if the new vehicle is properly registered and licensed. "Purchase price" when the motor vehicle is acquired by gift or by any other transfer for a nominal or no monetary consideration also includes the average value of similar motor vehicles, established by standards and guides as determined by the director of the department of transportation. "Purchase price" when a motor vehicle is manufactured by a person who registers it under the laws of this state means the manufactured cost of such motor vehicle and manufactured cost means the amount expended for materials, labor, and other properly allocable costs of manufacture except that, in the absence of actual expenditures for the manufacture of a part or all of the motor vehicle, manufactured cost means the reasonable value of the completed motor vehicle.
6. "Purchaser" means any person owning or in possession of a motor vehicle who makes application to the director of the department of transportation for registration plates or a certificate of title for such vehicle.

7. "Registrar" means the director of the department of transportation of this state as provided by section 24-02-01.3, and who shall act as the agent of the state tax commissioner in administering this chapter.
8. "Sale", "sells", "selling", "purchase", "purchased", or "acquired" includes any transfer of title or ownership of a motor vehicle by way of gift, exchange or barter, or by any other manner or by any other means whatsoever for or without consideration.
9. "Semitrailer" includes every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another motor vehicle and for which a certificate of title is required to be obtained pursuant to the provisions of chapter 39-05, except that it does not include a "housetrailer" or "mobile home".
10. "Snowmobile" means a self-propelled vehicle designed for travel on snow, ice, or a natural terrain and steered by skis or runners.
11. "Trailer" includes every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle and for which a certificate of title is required to be obtained pursuant to the provisions of chapter 39-05, except that it does not include a "housetrailer" or "mobile home".
12. "Travel trailer" means a mobile home or housetrailer designed to be towed behind a motor vehicle for recreational purposes and providing temporary sleeping quarters for people.
13. "Use" means the exercise by any person of any right or power over a motor vehicle incident to the ownership or possession of such a vehicle, except that it shall not include the sale or holding for sale of such a vehicle in the regular course of business.
14. "Vehicle" includes every device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or animal power or used exclusively upon stationary rails or tracks.

Approved April 22, 2005

Filed April 25, 2005

## CHAPTER 345

### HOUSE BILL NO. 1412

(Representatives R. Kelsch, Delmore, Nelson, Porter)  
(Senators Lyson, Trenbeath)

### ALL-TERRAIN VEHICLE PASSENGERS

AN ACT to amend and reenact subsection 1 of section 39-29-01 and subsection 10 of section 39-29-09 of the North Dakota Century Code, relating to passengers on all-terrain vehicles; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>178</sup> **SECTION 1. AMENDMENT.** Subsection 1 of section 39-29-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "All-terrain vehicle" means any motorized off-highway vehicle fifty inches [1270.00 millimeters] or less in width, having a dry weight of one thousand pounds [453.59 kilograms] or less, traveling on three or more low-pressure tires, ~~designed for operator use only with no passengers,~~ having a seat or saddle designed to be straddled by the operator, and handlebars for steering control.

<sup>179</sup> **SECTION 2. AMENDMENT.** Subsection 10 of section 39-29-09 of the North Dakota Century Code is amended and reenacted as follows:

10. ~~Passenger restrictions. No~~ An operator of an all-terrain vehicle may not carry a passenger while operating the vehicle unless the vehicle is equipped and recommended by the manufacturer to carry a passenger and the passenger is carried as recommended by the manufacturer.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 7, 2005  
Filed March 8, 2005

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<sup>178</sup> Section 39-29-01 was also amended by section 2 of House Bill No. 1342, chapter 344.

<sup>179</sup> Section 39-29-09 was also amended by section 1 of House Bill No. 1327, chapter 346, and section 11 of House Bill No. 1342, chapter 344.

## CHAPTER 346

### HOUSE BILL NO. 1327

(Representatives Gulleson, Amerman, Nelson)  
(Senators Heitkamp, G. Lee)

## ALL-TERRAIN VEHICLE OPERATION

AN ACT to create and enact a new subsection to section 39-29-09 of the North Dakota Century Code, relating to the operation of all-terrain vehicles; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>180</sup> **SECTION 1.** A new subsection to section 39-29-09 of the North Dakota Century Code is created and enacted as follows:

A person who is performing pest control or survey work for a political subdivision may operate an all-terrain vehicle on the bottom, back slope, inside slope, and shoulder of a highway other than a controlled-access highway.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 22, 2005  
Filed March 22, 2005

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<sup>180</sup> Section 39-29-09 was also amended by section 11 of House Bill No. 1342, chapter 344, and section 2 of House Bill No. 1412, chapter 345.