

Introduced by

Judiciary Committee

(At the request of the Attorney General)

1 A BILL for an Act to amend and reenact sections 20.1-13.1-01 and 20.1-13.1-03, subsections 2
2 and 3 of section 20.1-13.1-05, subsections 2 and 4 of section 20.1-13.1-08, sections
3 20.1-13.1-10, 20.1-15-01, and 20.1-15-03, subsections 2 and 3 of section 20.1-15-05,
4 subsections 2 and 4 of section 20.1-15-08, sections 20.1-15-11 and 20.1-15-15, subsection 4 of
5 section 39-06.2-10.6, sections 39-20-01 and 39-20-02, subsections 2, 3, and 4 of section
6 39-20-03.1, subsections 2 and 3 of section 39-20-03.2, subsections 2 and 4 of section
7 39-20-05, and sections 39-20-07, 39-20-14, 39-24.1-01, 39-24.1-03, and 39-24.1-08 of the
8 North Dakota Century Code, relating to chemical tests and the state crime laboratory.

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

10 **SECTION 1. AMENDMENT.** Section 20.1-13.1-01 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **20.1-13.1-01. Implied consent to determine ~~alcoholic~~ alcohol concentration and drug-**
13 **~~content~~ presence of blood drugs.**

14 Any ~~person~~ individual who operates a motorboat or vessel in this state is deemed to have
15 given consent, and shall consent, subject to this chapter, to a chemical test, or tests, of the
16 blood, breath, ~~saliva~~, or urine for the purpose of determining the ~~alcoholic, other drug~~ alcohol
17 concentration or presence of other drugs, or combination thereof, ~~content of~~ in the individual's
18 blood, breath, or urine. As used in this chapter, "operates" means to be in motion, en route, but
19 not at anchor or aground; "vessel" means any watercraft used or designed to be used for
20 navigation on the water such as a boat operated by machinery, either permanently or
21 temporarily affixed, a sailboat other than a sailboard, an inflatable manually propelled boat, a
22 canoe, kayak, or rowboat, but does not include an inner tube, air mattress, or other water toy;
23 "drug" means any drug or substance or combination of drugs or substances which renders a-
24 ~~person~~ an individual incapable of safely operating a motorboat or vessel; and "chemical test"

1 means any test or tests to determine the ~~alcoholic, or other drug~~ alcohol concentration or
2 presence of other drugs, or combination thereof, ~~content of~~ in the individual's blood, breath,
3 ~~saliva~~, or urine, approved by the director of the state crime laboratory or the director's designee
4 under this chapter. The chemical test must be administered at the direction of a game warden or
5 a law enforcement officer only after placing the ~~person~~ individual, except ~~persons~~ individuals
6 mentioned in section 20.1-13.1-04, under arrest and informing that ~~person~~ individual that the
7 ~~person~~ individual is or will be charged with the offense of operating a motorboat or vessel while
8 under the influence of intoxicating liquor, drugs, or a combination thereof. For the purposes of
9 this chapter, the taking into custody of a minor under section 27-20-13 satisfies the requirement
10 of an arrest. The game warden or law enforcement officer shall also inform the ~~person~~ individual
11 charged that refusal of the ~~person~~ individual to submit to the chemical test determined
12 appropriate will result in that ~~person~~ individual being prohibited from operating a motorboat or
13 vessel for up to three years. The game warden or law enforcement officer shall determine the
14 chemical test to be used. When a minor is taken into custody for violating section 20.1-13-07,
15 the game warden or law enforcement officer shall diligently attempt to contact the minor's
16 parent or legal guardian to explain the cause for the custody and the implied consent chemical
17 testing requirements. Neither the game warden or law enforcement officer's efforts to contact,
18 nor any consultation with, a parent or legal guardian may be permitted to interfere with the
19 administration of chemical testing requirements under this chapter.

20 **SECTION 2. AMENDMENT.** Section 20.1-13.1-03 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **20.1-13.1-03. ~~Persons~~ Individuals qualified to administer chemical test and**
23 **opportunity for additional test.**

24 Only an individual medically qualified to draw blood, acting at the request of a game warden
25 or a law enforcement officer, may withdraw blood for the purpose of determining the ~~alcoholic,~~
26 ~~drug~~ alcohol concentration or presence of other drugs, or combination thereof, ~~content of~~ in the
27 individual's blood. The director of the state crime laboratory or the director's designee shall
28 determine the qualifications or credentials for being medically qualified to draw blood and shall
29 issue a list of approved designations, including medical doctor and registered nurse. This
30 limitation does not apply to the taking of a breath, ~~saliva~~, or urine specimen. The director of the
31 state crime laboratory, or the director's designee, shall electronically post a copy of the certified

1 list of approved designations, including medical doctor and registered nurse, with the state
2 crime laboratory division of the attorney general at the attorney general website and shall make
3 the certified records required by this section available for download in a printable format on the
4 attorney general website. The ~~person~~individual tested may have an individual of that
5 ~~person's~~individual's own choosing, who is medically qualified to draw blood, administer a
6 chemical test in addition to any administered at the direction of a game warden or a law
7 enforcement officer with all costs of the additional chemical test to be the responsibility of the
8 ~~person~~individual charged. The failure or inability to obtain an additional chemical test by a
9 ~~person~~individual does not preclude the admission of the chemical test taken at the direction of a
10 game warden or a law enforcement officer. Upon the request of the ~~person~~individual who is
11 tested, a copy of the operational checklist and test record of a breath sample test or analytical
12 report of a blood, or urine, ~~or saliva~~ sample test taken at the direction of the game warden or
13 law enforcement officer must be made available to that ~~person~~individual by the department or
14 law enforcement agency that administered the chemical test.

15 **SECTION 3. AMENDMENT.** Subsections 2 and 3 of section 20.1-13.1-05 of the North
16 Dakota Century Code are amended and reenacted as follows:

17 2. If a chemical test administered under section 20.1-13.1-01 or 20.1-13.1-04 was by
18 ~~saliva or~~ urine sample or by drawing blood as provided in section 20.1-13.1-03 and the
19 ~~person~~individual tested does not reside in an area in which the game warden or law
20 enforcement officer has jurisdiction, the game warden or law enforcement officer shall,
21 on receiving the analysis of the ~~saliva,~~ urine, or blood from the director of the state
22 crime laboratory or the director's designee and if the analysis shows that
23 ~~person~~individual had an alcohol, other drug, or a combination thereof concentration of
24 at least ten one-hundredths of one percent by weight, either proceed in accordance
25 with subsection 1 during that ~~person's~~individual's reappearance within the game
26 warden's or officer's jurisdiction or notify a game warden or law enforcement agency
27 having jurisdiction where the ~~person~~individual resides. On that notification, that game
28 warden or law enforcement agency shall immediately issue a statement of intent to
29 prohibit the ~~person~~individual from operating a motorboat or vessel. The issuance of a
30 statement of intent to prohibit the ~~person~~individual from operating a motorboat or
31 vessel serves as the director's official notification to the ~~person~~individual of the

1 director's intent to prohibit the personindividual from operating a motorboat or vessel in
2 this state.

3 3. The game warden or law enforcement officer, within five days of issuing the statement
4 of intent, shall forward to the director a certified written report in the form required by
5 the director. If the statement was given because of the results of a chemical test, the
6 report must show that the game warden or officer had probable cause to believe the
7 personindividual had been operating a motorboat or vessel while in violation of section
8 20.1-13-07, that the personindividual was lawfully arrested, that the personindividual
9 was chemically tested under this chapter, and that the results of the test show that the
10 personindividual had an alcohol, other drug, or a combination thereof concentration of
11 at least ten one-hundredths of one percent by weight. In addition to the report, the
12 game warden or law enforcement officer shall forward to the director a certified copy of
13 the operational checklist and test records of a breath test and a copy of the certified
14 copy of the analytical report for a blood, ~~saliva,~~ or urine test for all tests administered
15 at the direction of the game warden or officer.

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

18 2. If the issue to be determined by the hearing concerns the prohibition from operating a
19 motorboat or vessel for operating a motorboat or vessel while having an alcohol, other
20 drug, or a combination thereof concentration of at least ten one-hundredths of one
21 percent by weight, the hearing must be before a hearing officer assigned by the
22 director and at a time and place designated by the director. The hearing must be
23 recorded and its scope may cover only the issues of whether the arresting warden or
24 officer had probable cause to believe the personindividual had been operating a
25 motorboat or vessel in violation of section 20.1-13-07; whether the personindividual
26 was placed under arrest; whether the personindividual was tested in accordance with
27 section 20.1-13.1-01 or 20.1-13.1-04 and, if applicable, section 20.1-13.1-03; and
28 whether the chemical test results show the personindividual had an alcohol, other
29 drug, or a combination thereof concentration of at least ten one-hundredths of one
30 percent by weight. For purposes of this section, a copy of a certified copy of an
31 analytical report of a blood, or urine, ~~or saliva~~ sample from the director of the state

1 crime laboratory or the director's designee, or a certified copy of the checklist and test
2 records from a certified breath test operator establish prima facie the alcohol, other
3 drug, or a combination thereof concentration shown therein. Whether the
4 ~~person~~individual was informed that that ~~person~~individual may be prohibited from
5 operating a motorboat or vessel based on the results of the chemical test is not an
6 issue.

7 4. At a hearing under this section, the regularly kept records of the director and state
8 crime laboratory may be introduced. Those records establish prima facie their contents
9 without further foundation. For purposes of this chapter, the following are deemed
10 regularly kept records of the director and state crime laboratory: ~~any~~

11 a. Any copy of a certified copy of an analytical report of a blood, ~~or~~ urine, ~~or~~ saliva
12 sample received by the director from the director of the state crime laboratory or
13 the director's designee or a game warden or a law enforcement officer, ~~or~~ a
14 certified copy of the checklist and test records received by the director from a
15 certified breath test operator; ~~and any~~

16 b. Any copy of a certified copy of a certificate of the director of the state crime
17 laboratory or the director's designee relating to approved methods, devices,
18 operators, materials, and checklists used for testing for alcohol, ~~other drug~~
19 concentration or the presence of other drugs, or a combination thereof
20 ~~concentration~~, received by the director from the director of the state crime
21 laboratory or the director's designee, ~~or the recorder, unless the board of county~~
22 ~~commissioners has designated a different official to maintain the certificate that~~
23 have been electronically posted with the state crime laboratory division of the
24 attorney general at the attorney general website.

25 **SECTION 5. AMENDMENT.** Section 20.1-13.1-10 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **20.1-13.1-10. Interpretation of chemical tests.**

28 Upon the trial of any action or proceeding arising out of acts alleged to have been
29 committed by any ~~person~~individual while operating a motorboat or vessel while under the
30 influence of intoxicating liquor, drugs, or a combination thereof, evidence of the amount of
31 alcohol, concentration or presence of other drugs, or a combination thereof, in the

1 ~~person's~~individual's blood, breath, or urine at the time of the act alleged as shown by a chemical
2 analysis of the blood, breath, ~~saliva,~~ or urine is admissible. For the purpose of this section:

- 3 1. ~~A person~~An individual having an alcohol, other drug, or a combination thereof
4 concentration of at least ten one-hundredths of one percent by weight at the time of
5 the performance of a chemical test within two hours after operating a motorboat or
6 vessel is under the influence of intoxicating liquor, drugs, or a combination thereof at
7 the time of operating a motorboat or vessel.
- 8 2. Alcohol concentration is based upon grams of alcohol per one hundred ~~cubic-~~
9 ~~centimeters~~milliliters of blood or grams of alcohol per two hundred ten liters of end
10 expiratory breath or grams of alcohol per sixty-seven ~~cubic-centimeters~~milliliters of
11 urine.
- 12 3. The results of the chemical test must be received in evidence when it is shown that the
13 sample was properly obtained and the test was fairly administered, and if the test is
14 shown to have been performed according to methods and with devices approved by
15 the director of the state crime laboratory or the director's designee, and by an
16 individual possessing a certificate of qualification to administer the test issued by the
17 director of the state crime laboratory or the director's designee. The director of the
18 state crime laboratory or the director's designee is authorized to approve satisfactory
19 devices and methods of chemical tests and determine the qualifications of individuals
20 to conduct such tests, and shall issue a certificate to every qualified operator. An
21 operator shall exhibit the certificate upon demand of the ~~person~~individual requested to
22 take the chemical test.
- 23 4. The director of the state crime laboratory or the director's designee may appoint, train,
24 certify, and supervise field inspectors of breath testing equipment and its operation,
25 and the inspectors shall report the findings of any inspection to the director of the state
26 crime laboratory or the director's designee for appropriate action. Upon approval of the
27 methods or devices, or both, required to perform the tests and the ~~persons~~individuals
28 qualified to administer them, the director of the state crime laboratory or the director's
29 designee shall prepare, certify, and file~~electronically post a~~ written record of the
30 approval with the ~~director and the recorder in each county, unless the board of county-~~

- 1 ~~commissioners designates a different official~~state crime laboratory division of the
2 attorney general at the attorney general website, and shall include in the record:
- 3 a. An annual register of the specific testing devices currently approved, including
4 serial number, location, and the date and results of last inspection.
- 5 b. An annual register of currently qualified and certified operators of the devices,
6 stating the date of certification and its expiration.
- 7 c. The operational checklist and forms prescribing the methods currently approved
8 by the director of the state crime laboratory or the director's designee in using the
9 devices during the administration of the tests.
- 10 ~~d. The material filed~~certified records electronically posted under this section may be
11 supplemented when the director of the state crime laboratory or the director's
12 designee determines it to be necessary, and any certified supplemental material
13 ~~has records have~~ the same force and effect as the material that it
14 ~~supplements records that are supplemented~~.
- 15 ~~e. The state crime laboratory shall make the certified records required by this~~
16 section available for download in a printable format on the attorney general
17 website.
- 18 5. Copies of the state crime laboratory certified records referred to in subsections 3
19 and 4, ~~certified by the recorder, or designated official, that have been electronically~~
20 posted with the state crime laboratory division of the attorney general at the attorney
21 general website must be admitted as prima facie evidence of the matters stated in the
22 records.
- 23 6. A certified copy of the analytical report of a blood; or urine; ~~or saliva~~ test issued by the
24 director of the state crime laboratory or the director's designee must be accepted as
25 prima facie evidence of the results of a chemical test performed under this chapter.
- 26 7. Notwithstanding any statute or rule to the contrary, the defendant in any criminal
27 proceeding may subpoena, without cost to the defendant, the ~~person~~individual who
28 conducted the chemical test referred to in this section to testify at the trial on the issue
29 of the amount of alcohol; concentration or presence of other drugs, or a combination
30 thereof, in the defendant's blood, breath, ~~saliva~~, or urine at the time of the alleged act.

1 8. A signed statement from the nurse or medical technician drawing the blood sample for
2 testing as set forth in subsection 3 is prima facie evidence that the blood sample was
3 properly drawn and no further foundation for the admission of such evidence may be
4 required.

5 **SECTION 6. AMENDMENT.** Section 20.1-15-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **20.1-15-01. Implied consent to determine ~~alcoholic~~alcohol concentration and ~~drug-~~
8 ~~content~~presence of blood~~drugs~~.**

9 Any ~~person~~individual who is afield with a gun or other firearm or a bow and arrow is
10 deemed to have given consent, and shall consent, subject to this chapter, to a chemical test of
11 the blood, breath, ~~saliva~~, or urine for the purpose of determining the ~~alcoholic, other drug~~alcohol
12 concentration or presence of other drugs, or combination thereof, ~~content of~~in the individual's
13 blood, breath, or urine. As used in this chapter, "drug" means any drug or substance or
14 combination of drugs or substances which renders a ~~person~~an individual incapable of safely
15 hunting or being afield with a gun or other firearm or a bow and arrow, and "chemical test"
16 means any test or tests to determine the ~~alcoholic, or other drug~~alcohol concentration or
17 presence of other drugs, or combination thereof, ~~content of~~in the individual's blood, breath,
18 ~~saliva~~, or urine, approved by the director of the state crime laboratory or the director's designee
19 under this chapter. The chemical test must be administered at the direction of a game warden or
20 a law enforcement officer only after placing the ~~person~~individual, except ~~persons~~individuals
21 mentioned in section 20.1-15-04, under arrest and informing that ~~person~~individual that the
22 ~~person~~individual is or will be charged with the offense of being afield with a gun or other firearm
23 or a bow and arrow while under the influence of intoxicating liquor, drugs, or a combination
24 thereof. For the purposes of this chapter, the taking into custody of a minor under section
25 27-20-13 satisfies the requirement of an arrest. The game warden or law enforcement officer
26 shall also inform the ~~person~~individual charged that refusal of the ~~person~~individual to submit to
27 the chemical test determined appropriate will result in a revocation for up to four years of the
28 ~~person's~~individual's hunting privileges. The game warden or law enforcement officer shall
29 determine the chemical test to be used. When a minor is taken into custody for violating section
30 20.1-01-06, the game warden or law enforcement officer shall diligently attempt to contact the
31 minor's parent or legal guardian to explain the cause for the custody and the implied consent

1 chemical testing requirements. Neither the game warden or law enforcement officer's efforts to
2 contact, nor any consultation with, a parent or legal guardian may be permitted to interfere with
3 the administration of chemical testing requirements under this chapter.

4 **SECTION 7. AMENDMENT.** Section 20.1-15-03 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **20.1-15-03. PersonsIndividuals qualified to administer chemical test and opportunity**
7 **for additional test.**

8 Only an individual medically qualified to draw blood, acting at the request of a game warden
9 or a law enforcement officer, may withdraw blood for the purpose of determining the ~~alcoholic,~~
10 ~~drug~~alcohol concentration or presence of other drugs, or combination thereof, ~~content of~~in the
11 individual's blood. The director of the state crime laboratory or the director's designee shall
12 determine the qualifications or credentials for being medically qualified to draw blood and shall
13 issue a list of approved designations, including medical doctor and registered nurse. This
14 limitation does not apply to the taking of a breath, ~~saliva,~~ or urine specimen. The director of the
15 state crime laboratory, or the director's designee, shall electronically post a copy of the certified
16 list of approved designations, including medical doctor and registered nurse, with the state
17 crime laboratory division of the attorney general at the attorney general website and shall make
18 the certified records required by this section available for download in a printable format on the
19 attorney general website. The ~~person~~individual tested may have an individual of that
20 ~~person's~~individual's own choosing, who is medically qualified to draw blood, administer a
21 chemical test in addition to any administered at the direction of a game warden or a law
22 enforcement officer with all costs of the additional chemical test to be the responsibility of the
23 ~~person~~individual charged. The failure or inability to obtain an additional chemical test by a
24 ~~person~~an individual does not preclude the admission of the chemical test taken at the direction
25 of a game warden or a law enforcement officer. Upon the request of the ~~person~~individual who is
26 tested, a copy of the operational checklist and test record of a breath sample test or analytical
27 report of a blood, or urine, ~~or saliva~~ sample test taken at the direction of the game warden or
28 law enforcement officer must be made available to that ~~person~~individual by the department or
29 law enforcement agency that administered the chemical test.

30 **SECTION 8. AMENDMENT.** Subsections 2 and 3 of section 20.1-15-05 of the North Dakota
31 Century Code are amended and reenacted as follows:

- 1 2. If a chemical test administered under section 20.1-15-01 or 20.1-15-04 was by saliva-
2 or urine sample or by drawing blood as provided in section 20.1-15-03 and the
3 ~~person~~individual tested does not reside in an area in which the game warden or law
4 enforcement officer has jurisdiction, the game warden or law enforcement officer shall,
5 on receiving the analysis of the ~~saliva~~, urine, or blood from the director of the state
6 crime laboratory or the director's designee and if the analysis shows that
7 ~~person~~individual had an alcohol, other drug, or a combination thereof concentration of
8 at least ten one-hundredths of one percent by weight, either proceed in accordance
9 with subsection 1 during that ~~person's~~individual's reappearance within the game
10 warden's or officer's jurisdiction or notify a game warden or law enforcement agency
11 having jurisdiction where the ~~person~~individual resides. On that notification, that game
12 warden or law enforcement agency shall immediately issue a statement of intent to
13 revoke, suspend, or deny hunting privileges and take possession of the
14 ~~person's~~individual's hunting license if it is then available and, within twenty-four hours,
15 forward the license to the game warden or law enforcement agency making the arrest
16 or to the director. The issuance of a statement of intent to revoke, suspend, or deny
17 hunting privileges and the taking of possession of the ~~person's~~individual's hunting
18 license serves as the director's official notification to the ~~person~~individual of the
19 director's intent to revoke, suspend, or deny hunting privileges in this state.
- 20 3. The game warden or law enforcement officer, within five days of issuing the statement
21 of intent and taking possession of the hunting license, shall forward to the director a
22 certified written report in the form required by the director and the ~~person's~~individual's
23 hunting license taken under subsection 1 or 2. If the notice was given and the license
24 was taken because of the results of a chemical test, the report must show that the
25 game warden or officer had reasonable grounds to believe the ~~person~~individual had
26 been afield with a gun or other firearm or a bow and arrow while in violation of section
27 20.1-01-06, that the ~~person~~individual was lawfully arrested, that the ~~person~~individual
28 was chemically tested under this chapter, and that the results of the test show that the
29 ~~person~~individual had an alcohol, other drug, or a combination thereof concentration of
30 at least ten one-hundredths of one percent by weight. In addition to the report, the
31 game warden or law enforcement officer shall forward to the director a certified copy of

1 the operational checklist and test records of a breath test and a copy of the certified
2 copy of the analytical report for a blood, ~~saliva~~, or urine test for all tests administered
3 at the direction of the game warden or officer.

4 **SECTION 9. AMENDMENT.** Subsections 2 and 4 of section 20.1-15-08 of the North Dakota
5 Century Code are amended and reenacted as follows:

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

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

1 certified copy of the checklist and test records received by the director from a
2 certified breath test operator; and any
3 b. Any copy of a certified copy of a certificate of the director of the state crime
4 laboratory or the director's designee relating to approved methods, devices,
5 operators, materials, and checklists used for testing for alcohol, other drug
6 concentration or the presence of other drugs, or a combination thereof
7 concentration, received by the director from the director of the state crime
8 laboratory or the director's designee, or the recorder, unless the board of county-
9 commissioners has designated a different official to maintain the certificate that
10 have been electronically posted with the state crime laboratory division of the
11 attorney general at the attorney general website.

12 **SECTION 10. AMENDMENT.** Section 20.1-15-11 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **20.1-15-11. Interpretation of chemical tests.**

15 Upon the trial of any action or proceeding arising out of acts alleged to have been
16 committed by any ~~person~~individual while being afield with a gun or other firearm or a bow and
17 arrow while under the influence of intoxicating liquor, drugs, or a combination thereof, evidence
18 of the amount of alcohol, concentration or presence of other drugs, or a combination thereof, in
19 the ~~person's~~individual's blood, breath, or urine at the time of the act alleged as shown by a
20 chemical analysis of the blood, breath, ~~saliva~~, or urine is admissible. For the purpose of this
21 section:

- 22 1. ~~A person~~An individual having, at that time, an alcohol, other drug, or a combination
23 thereof concentration of not more than five one-hundredths of one percent by weight is
24 presumed not to be under the influence of intoxicating liquor, drugs, or a combination
25 thereof.
- 26 2. Evidence that there was at that time more than five one-hundredths of one percent by
27 weight alcohol, other drug, or a combination thereof concentration in a ~~person~~an
28 individual is relevant evidence, but it is not to be given prima facie effect in indicating
29 whether the ~~person~~individual was under the influence of intoxicating liquor, drugs, or a
30 combination thereof.

- 1 3. ~~A person~~An individual having an alcohol, other drug, or a combination thereof
2 concentration of at least ten one-hundredths of one percent by weight at the time of
3 the performance of a chemical test within two hours after being afield with a gun or
4 other firearm or a bow and arrow is under the influence of intoxicating liquor, drugs, or
5 a combination thereof at the time of being afield with a gun or other firearm or bow and
6 arrow.
- 7 4. Alcohol concentration is based upon grams of alcohol per one hundred ~~cubic-~~
8 ~~centimeters~~milliliters of blood or grams of alcohol per two hundred ten liters of end
9 expiratory breath or grams of alcohol per sixty-seven ~~cubic-centimeters~~milliliters of
10 urine.
- 11 5. The results of the chemical test must be received in evidence when it is shown that the
12 sample was properly obtained and the test was fairly administered, and if the test is
13 shown to have been performed according to methods and with devices approved by
14 the director of the state crime laboratory or the director's designee, and by an
15 individual possessing a certificate of qualification to administer the test issued by the
16 director of the state crime laboratory or the director's designee. The director of the
17 state crime laboratory or the director's designee is authorized to approve satisfactory
18 devices and methods of chemical tests and determine the qualifications of individuals
19 to conduct such tests, and shall issue a certificate to every qualified operator. An
20 operator shall exhibit the certificate upon demand of the ~~person~~individual requested to
21 take the chemical test.
- 22 6. The director of the state crime laboratory or the director's designee may appoint, train,
23 certify, and supervise field inspectors of breath testing equipment and its operation,
24 and the inspectors shall report the findings of any inspection to the director of the state
25 crime laboratory or the director's designee for appropriate action. Upon approval of the
26 methods or devices, or both, required to perform the tests and the ~~persons~~individuals
27 qualified to administer them, the director of the state crime laboratory or the director's
28 designee shall prepare, certify, and file~~electronically post~~ a written record of the
29 approval with the ~~director and the recorder in each county, unless the board of county-~~
30 ~~commissioners designates a different official~~state crime laboratory division of the
31 attorney general at the attorney general website, and shall include in the record:

- 1 a. An annual register of the specific testing devices currently approved, including
2 serial number, location, and the date and results of last inspection.
- 3 b. An annual register of currently qualified and certified operators of the devices,
4 stating the date of certification and its expiration.
- 5 c. The operational checklist and forms prescribing the methods currently approved
6 by the director of the state crime laboratory or the director's designee in using the
7 devices during the administration of the tests.
- 8 d. ~~The material filed~~certified records electronically posted under this section may be
9 supplemented when the director of the state crime laboratory or the director's
10 designee determines it to be necessary, and any certified supplemental ~~material~~
11 ~~has records have~~ the same force and effect as the ~~material that it~~
12 ~~supplements~~records that are supplemented.
- 13 e. The state crime laboratory shall make the certified records required by this
14 section available for download in a printable format on the attorney general
15 website.
- 16 7. Copies of the state crime laboratory certified records referred to in subsections 5
17 and 6, ~~certified by the recorder, or designated official, that have been electronically~~
18 posted with the state crime laboratory division of the attorney general at the attorney
19 general website must be admitted as prima facie evidence of the matters stated in the
20 records.
- 21 8. A certified copy of the analytical report of a blood; or urine; ~~or saliva~~ test issued by the
22 director of the state crime laboratory or the director's designee must be accepted as
23 prima facie evidence of the results of a chemical test performed under this chapter.
- 24 9. Notwithstanding any statute or rule to the contrary, the defendant in any criminal
25 proceeding may subpoena, without cost to the defendant, the ~~person~~individual who
26 conducted the chemical test referred to in this section to testify at the trial on the issue
27 of the amount of alcohol; concentration or presence of other drugs, or a combination
28 thereof in the defendant's blood, breath, ~~saliva~~, or urine at the time of the alleged act.
- 29 10. A signed statement from the individual medically qualified to draw the blood sample for
30 testing as set forth in subsection 5 is prima facie evidence that the blood sample was

1 properly drawn and no further foundation for the admission of this evidence may be
2 required.

3 **SECTION 11. AMENDMENT.** Section 20.1-15-15 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **20.1-15-15. Screening tests.**

6 Any ~~person~~individual who is afield with a gun or other firearm or a bow and arrow is
7 deemed to have given consent to submit to an onsite screening test of the ~~person's~~individual's
8 breath for the purpose of estimating the alcohol, ~~other drug, or a combination thereof~~ content of
9 concentration in the person's bloodindividual's breath upon the request of a game warden or a
10 law enforcement officer who has reason to believe and has, through the officer's observations,
11 formulated an opinion that the ~~person's~~individual's body contains alcohol, ~~other drugs, or a~~
12 ~~combination thereof.~~ A ~~person~~individual may not be required to submit to a screening test of
13 breath while at a hospital as a patient if the medical practitioner in immediate charge of the
14 ~~person's~~individual's case is not first notified of the proposal to make the requirement or objects
15 to the test on the ground that such would be prejudicial to the proper care or treatment of the
16 patient. The screening test must be performed by a game warden or an enforcement officer
17 certified as a chemical test operator by the director of the state crime laboratory or the director's
18 designee and according to methods and with devices approved by the director of the state
19 crime laboratory or the director's designee. The results of the screening test must be used only
20 for determining whether a further test is to be given under the provisions of section 20.1-15-01.
21 The officer shall inform the ~~person~~individual that refusal of the ~~person~~individual to submit to a
22 screening test will result in a revocation for up to four years of that ~~person's~~individual's hunting
23 privileges. If the ~~person~~individual refuses to submit to the screening test, none may be given,
24 but the refusal is sufficient cause to revoke the ~~person's~~individual's hunting privileges in the
25 same manner as provided in section 20.1-15-06, and a hearing as provided in section
26 20.1-15-08 and a judicial review as provided in section 20.1-15-09 must be available. However,
27 the director may not revoke a ~~person's~~an individual's hunting privileges for refusing to submit to
28 a screening test requested under this section if the ~~person~~individual provides a sufficient breath,
29 blood, or urine sample for a chemical test requested under section 20.1-15-01 for the same
30 incident. This section does not supersede any provisions of sections 20.1-15-01 through
31 20.1-15-14, nor does any provision of sections 20.1-15-01 through 20.1-15-14 supersede this

1 section except as provided herein. For the purposes of this section, "chemical test operator"
2 means ~~a person~~an individual certified by the director of the state crime laboratory or the
3 director's designee as qualified to perform analysis for alcohol, other drugs, or a combination
4 thereof in ~~a person's~~an individual's blood, breath, ~~saliva,~~ or urine.

5 **SECTION 12. AMENDMENT.** Subsection 4 of section 39-06.2-10.6 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 4. At a hearing under this section, the regularly kept records of the director and the state
8 crime laboratory may be introduced. Those records establish prima facie their contents
9 without further foundation. For purposes of this chapter, the following are deemed
10 regularly kept records of the director and the state crime laboratory: ~~any~~

11 a. Any copy of a certified copy of an analytical report of a blood or urine sample
12 received by the director from the director of the state crime laboratory or the
13 director's designee or a law enforcement officer, a certified copy of the checklist
14 and test records received by the director from a certified breath test operator;;
15 and ~~any~~

16 b. Any copy of a certified copy of a certificate of the director of the state crime
17 laboratory or the director's designee relating to approved methods, devices,
18 operators, materials, and checklists used for testing for alcohol concentration
19 received by the director from the director of the state crime laboratory or the
20 director's designee, ~~or the recorder, unless the board of county commissioners~~
21 ~~has designated a different official to maintain the certificate~~ that have been
22 electronically posted with the state crime laboratory division of the attorney
23 general at the attorney general website.

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

26 **39-20-01. Implied consent to determine alcohol concentration and ~~drug~~**
27 **~~content~~presence of blood~~drugs.~~**

28 Any ~~person~~individual who operates a motor vehicle on a highway or on public or private
29 areas to which the public has a right of access for vehicular use in this state is deemed to have
30 given consent, and shall consent, subject to the provisions of this chapter, to a chemical test, or
31 tests, of the blood, breath, ~~saliva,~~ or urine for the purpose of determining the alcohol, ~~other drug~~

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

1 **SECTION 14. AMENDMENT.** Section 39-20-02 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **39-20-02. ~~Persons~~Individuals qualified to administer test and opportunity for**
4 **additional test.**

5 Only an individual medically qualified to draw blood, acting at the request of a law
6 enforcement officer, may withdraw blood for the purpose of determining the alcohol, ~~drug-~~
7 concentration or presence of other drugs, or combination thereof, ~~content therein in the~~
8 individual's blood. The director of the state crime laboratory or the director's designee shall
9 determine the qualifications or credentials for being medically qualified to draw blood, and shall
10 issue a list of approved designations including medical doctor and registered nurse. This
11 limitation does not apply to the taking of a breath, saliva, or urine specimen. The director of the
12 state crime laboratory, or the director's designee, shall electronically post a copy of the certified
13 list of approved designations, including medical doctor and registered nurse, with the state
14 crime laboratory division of the attorney general at the attorney general website and shall make
15 the certified records required by this section available for download in a printable format on the
16 attorney general website. The ~~person~~individual tested may have an individual of the
17 ~~person's~~individual's choosing, who is medically qualified to draw blood, administer a chemical
18 test or tests in addition to any administered at the direction of a law enforcement officer with all
19 costs of an additional test or tests to be the sole responsibility of the ~~person~~individual charged.
20 The failure or inability to obtain an additional test by a ~~person~~an individual does not preclude the
21 admission of the test or tests taken at the direction of a law enforcement officer. Upon the
22 request of the ~~person~~individual who is tested, a copy of the operational checklist and test record
23 of a breath sample test or analytical report of a blood, or urine, or saliva sample test taken at
24 the direction of the law enforcement officer must be made available to that ~~person~~individual by
25 the law enforcement agency that administered the test or tests.

26 **SECTION 15. AMENDMENT.** Subsections 2, 3, and 4 of section 39-20-03.1 of the North
27 Dakota Century Code are amended and reenacted as follows:

28 2. If a test administered under section 39-20-01 or 39-20-03 was by ~~saliva or urine~~
29 sample or by drawing blood as provided in section 39-20-02 and the ~~person~~individual
30 tested is not a resident of an area in which the law enforcement officer has jurisdiction,
31 the law enforcement officer shall, on receiving the analysis of the ~~saliva, urine, or~~

1 blood from the director of the state crime laboratory or the director's designee and if
2 the analysis shows that ~~person~~individual had an alcohol concentration of at least eight
3 one-hundredths of one percent by weight or, with respect to a ~~person~~an individual
4 under twenty-one years of age, an alcohol concentration of at least two
5 one-hundredths of one percent by weight, either proceed in accordance with
6 subsection 1 during that ~~person's~~individual's reappearance within the officer's
7 jurisdiction, proceed in accordance with subsection 3, or notify a law enforcement
8 agency having jurisdiction where the ~~person~~individual lives. On that notification, that
9 law enforcement agency shall, within twenty-four hours, forward a copy of the
10 temporary operator's permit to the law enforcement agency making the arrest or to the
11 director. The law enforcement agency shall issue to that ~~person~~individual a temporary
12 operator's permit as provided in this section, and shall sign and date the permit as
13 provided in subsection 1.

14 3. If the test results indicate an alcohol concentration at or above the legal limit, the law
15 enforcement agency making the arrest may mail a temporary operator's permit to the
16 ~~person~~individual who submitted to the blood, or urine, ~~or saliva~~ test, whether or not the
17 ~~person~~individual is a resident of the area in which the law enforcement officer has
18 jurisdiction. The third day after the mailing of the temporary operator's permit is
19 considered the date of issuance. Actual notice of the opportunity for a hearing under
20 this section is deemed to have occurred seventy-two hours after the notice is mailed
21 by regular mail to the address submitted by the ~~person~~individual to the law
22 enforcement officer. The temporary operator's permit serves as the director's official
23 notification to the ~~person~~individual of the director's intent to revoke, suspend, or deny
24 driving privileges in this state.

25 4. The law enforcement officer, within five days of the issuance of the temporary
26 operator's permit, shall forward to the director a certified written report in the form
27 required by the director. If the ~~person~~individual was issued a temporary operator's
28 permit because of the results of a test, the report must show that the officer had
29 reasonable grounds to believe the ~~person~~individual had been driving or was in actual
30 physical control of a motor vehicle while in violation of section 39-08-01, or equivalent
31 ordinance, that the ~~person~~individual was lawfully arrested, that the ~~person~~individual

1 was tested for alcohol concentration under this chapter, and that the results of the test
2 show that the ~~person~~individual had an alcohol concentration of at least eight
3 one-hundredths of one percent by weight or, with respect to a ~~person~~an individual
4 under twenty-one years of age, an alcohol concentration of at least two
5 one-hundredths of one percent by weight. In addition to the operator's license and
6 report, the law enforcement officer shall forward to the director a certified copy of the
7 operational checklist and test records of a breath test and a copy of the certified copy
8 of the analytical report for a blood, ~~saliva~~, or urine test for all tests administered at the
9 direction of the officer.

10 **SECTION 16. AMENDMENT.** Subsections 2 and 3 of section 39-20-03.2 of the North
11 Dakota Century Code are amended and reenacted as follows:

- 12 2. If the test was administered by ~~saliva~~ or urine sample or by drawing blood, the law
13 enforcement officer, on reviewing the alcohol concentration analysis showing the
14 ~~person~~individual had an alcohol concentration of at least eight one-hundredths of one
15 percent by weight or, with respect to a ~~person~~an individual under twenty-one years of
16 age, an alcohol concentration of at least two one-hundredths of one percent by weight,
17 shall mail or issue to the ~~person~~individual a notification of the test results, a temporary
18 operator's permit extending nonresident operating privileges in this state for
19 twenty-five days from the date of mailing or issuance or until earlier terminated by the
20 decision of a hearing officer under section 39-20-05, and notice of the intent to revoke,
21 suspend, or deny driving privileges in this state, together with the notice provided
22 under section 39-06.1-07 of the procedures available under this chapter. The
23 temporary operator's permit must be signed and dated by the officer. The third day
24 after the mailing of the temporary operator's permit is considered the date of issuance.
- 25 3. The law enforcement officer, within five days of issuing the temporary operator's
26 permit, shall forward to the director a certified written report in the form required by the
27 director and a certified copy of the operational checklist and test records of a breath
28 test and a copy of the certified copy of the analytical report for a blood, ~~saliva~~, or urine
29 test for all tests administered at the direction of the officer. If the ~~person~~individual was
30 issued a temporary operator's permit because of the ~~person's~~individual's refusal to
31 submit to a test under sections 39-20-01 and 39-20-14, the report must include

1 information as provided in section 39-20-04. If the ~~person~~individual was issued a
2 temporary operator's permit because of the results of a test, the report must show that
3 the officer had reasonable grounds to believe the ~~person~~individual had been driving or
4 was in actual physical control of a motor vehicle while in violation of section 39-08-01,
5 or equivalent ordinance, that the ~~person~~individual was lawfully arrested, that the
6 ~~person~~individual was tested for alcohol concentration under this chapter, and that the
7 results of the test show that the ~~person~~individual had an alcohol concentration of at
8 least eight one-hundredths of one percent by weight or, with respect to a ~~person~~an
9 individual under twenty-one years of age, an alcohol concentration of at least two
10 one-hundredths of one percent by weight.

11 **SECTION 17. AMENDMENT.** Subsections 2 and 4 of section 39-20-05 of the North Dakota
12 Century Code are amended and reenacted as follows:

13 2. If the issue to be determined by the hearing concerns license suspension for operating
14 a motor vehicle while having an alcohol concentration of at least eight one-hundredths
15 of one percent by weight or, with respect to a ~~person~~an individual under twenty-one
16 years of age, an alcohol concentration of at least two one-hundredths of one percent
17 by weight, the hearing must be before a hearing officer assigned by the director and at
18 a time and place designated by the director. The hearing must be recorded and its
19 scope may cover only the issues of whether the arresting officer had reasonable
20 grounds to believe the ~~person~~individual had been driving or was in actual physical
21 control of a vehicle in violation of section 39-08-01 or equivalent ordinance or, with
22 respect to a ~~person~~an individual under twenty-one years of age, the ~~person~~individual
23 had been driving or was in actual physical control of a vehicle while having an alcohol
24 concentration of at least two one-hundredths of one percent by weight; whether the
25 ~~person~~individual was placed under arrest, unless the ~~person~~individual was under
26 twenty-one years of age and the alcohol concentration was less than eight
27 one-hundredths of one percent by weight, then arrest is not required and is not an
28 issue under any provision of this chapter; whether the ~~person~~individual was tested in
29 accordance with section 39-20-01 or 39-20-03 and, if applicable, section 39-20-02;
30 and whether the test results show the ~~person~~individual had an alcohol concentration of
31 at least eight one-hundredths of one percent by weight or, with respect to a ~~person~~an

1 individual under twenty-one years of age, an alcohol concentration of at least two
2 one-hundredths of one percent by weight. For purposes of this section, a copy of a
3 certified copy of an analytical report of a blood, ~~or urine, or saliva~~ sample from the
4 director of the state crime laboratory or the director's designee or a certified copy of
5 the checklist and test records from a certified breath test operator establish prima facie
6 the alcohol concentration or the presence of drugs, or a combination thereof, shown
7 therein. Whether the ~~person~~individual was informed that the privilege to drive might be
8 suspended based on the results of the test is not an issue.

9 4. At a hearing under this section, the regularly kept records of the director and state
10 crime laboratory may be introduced. Those records establish prima facie their contents
11 without further foundation. For purposes of this chapter, the following are deemed
12 regularly kept records of the director and state crime laboratory: any

13 a. Any copy of a certified copy of an analytical report of a blood, ~~or urine, or saliva~~
14 sample received by the director from the director of the state crime laboratory or
15 the director's designee or a law enforcement officer, ~~or~~ a certified copy of the
16 checklist and test records received by the director from a certified breath test
17 operator, ~~;~~ and any

18 b. Any copy of a certified copy of a certificate of the director of the state crime
19 laboratory or the director's designee relating to approved methods, devices,
20 operators, materials, and checklists used for testing for alcohol concentration ~~or~~
21 the presence of drugs received by the director from the director of the state crime
22 laboratory, ~~or~~ the director's designee, ~~or the recorder, unless the board of county~~
23 ~~commissioners has designated a different official to maintain the certificate~~that
24 have been electronically posted with the state crime laboratory division of the
25 attorney general at the attorney general website.

26 **SECTION 18. AMENDMENT.** Section 39-20-07 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **39-20-07. Interpretation of chemical tests.**

29 Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have
30 been committed by any ~~person~~individual while driving or in actual physical control of a motor
31 vehicle while under the influence of intoxicating liquor, drugs, or a combination thereof,

1 evidence of the amount of alcohol, concentration or presence of other drugs, or a combination
2 thereof, in the ~~person's~~individual's blood, breath, or urine at the time of the act alleged as shown
3 by a chemical analysis of the blood, breath, ~~saliva,~~ or urine is admissible. For the purpose of
4 this section:

- 5 1. ~~A person~~An individual having, at that time, an alcohol concentration of not more than
6 five one-hundredths of one percent by weight is presumed not to be under the
7 influence of intoxicating liquor. This presumption has no application to the
8 administration of chapter 39-06.2.
- 9 2. Evidence that there was at that time more than five one-hundredths of one percent by
10 weight alcohol concentration in a ~~person~~an individual is relevant evidence, but it is not
11 to be given prima facie effect in indicating whether the ~~person~~individual was under the
12 influence of intoxicating liquor.
- 13 3. ~~A person~~An individual having an alcohol concentration of at least eight one-hundredths
14 of one percent by weight or, with respect to a ~~person~~an individual under twenty-one
15 years of age, an alcohol concentration of at least two one-hundredths of one percent
16 by weight at the time of the performance of a chemical test within two hours after
17 driving or being in physical control of a vehicle is under the influence of intoxicating
18 liquor at the time of driving or being in physical control of a vehicle.
- 19 4. Alcohol concentration is based upon grams of alcohol per one hundred milliliters of
20 blood or grams of alcohol per two hundred ten liters of end expiratory breath or grams
21 of alcohol per sixty-seven milliliters of urine.
- 22 5. The results of the chemical analysis must be received in evidence when it is shown
23 that the sample was properly obtained and the test was fairly administered, and if the
24 test is shown to have been performed according to methods and with devices
25 approved by the director of the state crime laboratory or the director's designee, and
26 by an individual possessing a certificate of qualification to administer the test issued by
27 the director of the state crime laboratory or the director's designee. The director of the
28 state crime laboratory or the director's designee is authorized to approve satisfactory
29 devices and methods of chemical analysis and determine the qualifications of
30 individuals to conduct such analysis, and shall issue a certificate to all qualified

1 operators who exhibit the certificate upon demand of the ~~person~~individual requested to
2 take the chemical test.

3 6. The director of the state crime laboratory or the director's designee may appoint, train,
4 certify, and supervise field inspectors of breath testing equipment and its operation,
5 and the inspectors shall report the findings of any inspection to the director of the state
6 crime laboratory or the director's designee for appropriate action. Upon approval of the
7 methods or devices, or both, required to perform the tests and the ~~persons~~individuals
8 qualified to administer them, the director of the state crime laboratory or the director's
9 designee shall ~~prepare, certify, and file~~electronically post a written record of the
10 approval with the ~~director and the recorder in each county, unless the board of county~~
11 ~~commissioners designates a different official~~state crime laboratory division of the
12 attorney general at the attorney general website, and shall include in the record:

- 13 a. An annual register of the specific testing devices currently approved, including
14 serial number, location, and the date and results of last inspection.
- 15 b. An annual register of currently qualified and certified operators of the devices,
16 stating the date of certification and its expiration.
- 17 c. The operational checklist and forms prescribing the methods currently approved
18 by the director of the state crime laboratory or the director's designee in using the
19 devices during the administration of the tests.
- 20 d. The ~~material filed~~certified records electronically posted under this section may be
21 supplemented when the director of the state crime laboratory or the director's
22 designee determines it to be necessary, and any certified supplemental material
23 has records have the same force and effect as the ~~material that it~~
24 supplements records that are supplemented.
- 25 e. The state crime laboratory shall make the certified records required by this
26 section available for download in a printable format on the attorney general
27 website.

28 7. Copies of the state crime laboratory certified records referred to in subsections 5
29 and 6, ~~certified by the recorder, or designated official, that have been electronically~~
30 posted with the state crime laboratory division of the attorney general at the attorney

1 general website must be admitted as prima facie evidence of the matters stated in the
2 records.

3 8. A certified copy of the analytical report of a blood; ~~or urine, or saliva~~ analysis referred
4 to in subsection 5 and which is issued by the director of the state crime laboratory or
5 the director's designee must be accepted as prima facie evidence of the results of a
6 chemical analysis performed under this chapter. The certified copy satisfies the
7 directives of subsection 5.

8 9. Notwithstanding any statute or rule to the contrary, a defendant who has been found to
9 be indigent by the court in the criminal proceeding at issue may subpoena, without
10 cost to the defendant, the ~~person~~individual who conducted the chemical analysis
11 referred to in this section to testify at the trial on the issue of the amount of alcohol;
12 concentration or presence of other drugs, or a combination thereof in the defendant's
13 blood, breath, ~~saliva~~, or urine at the time of the alleged act. If the state toxicologist, the
14 director of the state crime laboratory, or any employee of either, is subpoenaed to
15 testify by a defendant who is not indigent and the defendant does not call the witness
16 to establish relevant evidence, the court shall order the defendant to pay costs to the
17 witness as provided in section 31-01-16. An indigent defendant may also subpoena
18 the individual who withdrew the defendant's blood by following the same procedure.

19 10. A signed statement from the individual medically qualified to draw the blood sample for
20 testing as set forth in subsection 5 is prima facie evidence that the blood sample was
21 properly drawn and no further foundation for the admission of this evidence may be
22 required.

23 **SECTION 19. AMENDMENT.** Section 39-20-14 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **39-20-14. Screening tests.**

26 Any ~~person~~individual who operates a motor vehicle upon the public highways of this state is
27 deemed to have given consent to submit to an onsite screening test or tests of the
28 ~~person's~~individual's breath for the purpose of estimating the alcohol ~~content of~~concentration in
29 the ~~person's blood~~individual's breath upon the request of a law enforcement officer who has
30 reason to believe that the ~~person~~individual committed a moving traffic violation or was involved
31 in a traffic accident as a driver, and in conjunction with the violation or the accident the officer

1 has, through the officer's observations, formulated an opinion that the ~~person's~~individual's body
2 contains alcohol. A ~~person~~An individual may not be required to submit to a screening test or
3 tests of breath while at a hospital as a patient if the medical practitioner in immediate charge of
4 the ~~person's~~individual's case is not first notified of the proposal to make the requirement, or
5 objects to the test or tests on the ground that such would be prejudicial to the proper care or
6 treatment of the patient. The screening test or tests must be performed by an enforcement
7 officer certified as a chemical test operator by the director of the state crime laboratory or the
8 director's designee and according to methods and with devices approved by the director of the
9 state crime laboratory or the director's designee. The results of such screening test must be
10 used only for determining whether or not a further test shall be given under the provisions of
11 section 39-20-01. The officer shall inform the ~~person~~individual that refusal of the
12 ~~person~~individual to submit to a screening test will result in a revocation for up to four years of
13 that ~~person's~~individual's driving privileges. If such ~~person~~individual refuses to submit to such
14 screening test or tests, none may be given, but such refusal is sufficient cause to revoke such
15 ~~person's~~individual's license or permit to drive in the same manner as provided in section
16 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in
17 section 39-20-06 must be available. However, the director must not revoke a ~~person's~~an
18 individual's driving privileges for refusing to submit to a screening test requested under this
19 section if the ~~person~~individual provides a sufficient breath, blood, or urine sample for a chemical
20 test requested under section 39-20-01 for the same incident. No provisions of this section may
21 supersede any provisions of chapter 39-20, nor may any provision of chapter 39-20 be
22 construed to supersede this section except as provided herein. For the purposes of this section,
23 "chemical test operator" means a ~~person~~an individual certified by the director of the state crime
24 laboratory or the director's designee as qualified to perform analysis for alcohol in a ~~person's~~an
25 individual's blood, breath, ~~saliva~~, or urine.

26 **SECTION 20. AMENDMENT.** Section 39-24.1-01 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **39-24.1-01. Implied consent to determine alcohol concentration and ~~drug-~~**
29 **~~content~~presence of blood ~~drugs~~.**

30 A ~~person~~An individual who operates a snowmobile on any public land or private land with
31 public access is deemed to have given consent, and shall consent, subject to this chapter, to a

1 chemical test, or tests, of the blood, breath, ~~saliva,~~ or urine for the purpose of determining the
2 alcohol, ~~other drug~~ concentration or presence of other drugs, or combination thereof, ~~content-~~
3 ~~of~~ in the individual's blood, breath, or urine. As used in this chapter, the definitions in section
4 39-24-01 apply, and in addition, "chemical test" means any test or tests to determine the
5 alcohol, ~~or other drug~~ concentration or presence of other drugs, or combination thereof, ~~content-~~
6 ~~of~~ in the individual's blood, breath, ~~saliva,~~ or urine, approved by the director of the state crime
7 laboratory or the director's designee under this chapter; and "drug" means any drug or
8 substance or combination of drugs or substances which renders a ~~person~~ an individual
9 incapable of safely operating a snowmobile. The chemical test must be administered at the
10 direction of a law enforcement officer only after placing the ~~person~~ individual, except
11 ~~persons~~ individuals mentioned in section 39-24.1-04, under arrest and informing that
12 ~~person~~ individual that the ~~person~~ individual is or will be charged with the offense of operating a
13 snowmobile while under the influence of intoxicating liquor, drugs, or a combination thereof. For
14 the purposes of this chapter, the taking into custody of a minor under section 27-20-13 satisfies
15 the requirement of an arrest. The law enforcement officer shall also inform the ~~person~~ individual
16 charged that refusal of the ~~person~~ individual to submit to the chemical test determined
17 appropriate will result in that ~~person~~ individual being prohibited from operating a snowmobile for
18 up to three years. The law enforcement officer shall determine the chemical test to be used.
19 When a minor is taken into custody for violating subdivision c of subsection 5 of section
20 39-24-09, the law enforcement officer shall diligently attempt to contact the minor's parent or
21 legal guardian to explain the cause for the custody and the implied consent chemical testing
22 requirements. Neither the law enforcement officer's efforts to contact, nor any consultation with,
23 a parent or legal guardian may be permitted to interfere with the administration of chemical
24 testing requirements under this chapter.

25 **SECTION 21. AMENDMENT.** Section 39-24.1-03 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **39-24.1-03. ~~Persons~~ Individuals qualified to administer chemical test and opportunity**
28 **for additional test.**

29 Only an individual medically qualified to draw blood, acting at the request of a law
30 enforcement officer, may withdraw blood for the purpose of determining the alcohol, ~~drug-~~
31 concentration or presence of other drugs, or combination thereof, ~~content- of~~ in the individual's

1 blood. The director of the state crime laboratory or the director's designee shall determine the
2 qualifications or credentials for being medically qualified to draw blood, and shall issue a list of
3 approved designations including medical doctor and registered nurse. This limitation does not
4 apply to the taking of a breath, ~~saliva~~, or urine specimen. The director of the state crime
5 laboratory, or the director's designee, shall electronically post a copy of the certified list of
6 approved designations, including medical doctor and registered nurse, with the state crime
7 laboratory division of the attorney general at the attorney general website and shall make the
8 certified records required by this section available for download in a printable format on the
9 attorney general website. The ~~person~~individual tested may have an individual of that
10 ~~person's~~individual's own choosing, who is medically qualified to draw blood, administer a
11 chemical test in addition to any administered at the direction of a law enforcement officer with all
12 costs of the additional chemical test to be the responsibility of the ~~person~~individual charged. The
13 failure or inability to obtain an additional chemical test by a ~~person~~an individual does not
14 preclude the admission of the chemical test taken at the direction of a law enforcement officer.
15 Upon the request of the ~~person~~individual who is tested, a copy of the operational checklist and
16 test record of a breath sample test or analytical report of a blood, ~~or urine, or saliva~~ sample test
17 taken at the direction of the law enforcement officer must be made available to that
18 ~~person~~individual by the law enforcement agency that administered the chemical test.

19 **SECTION 22. AMENDMENT.** Section 39-24.1-08 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **39-24.1-08. Interpretation of chemical tests.**

22 Upon the trial of any action or proceeding arising out of acts alleged to have been
23 committed by any ~~person~~individual while operating a snowmobile while under the influence of
24 intoxicating liquor, drugs, or a combination thereof, evidence of the amount of alcohol,
25 concentration or presence of other drugs, or a combination thereof, in the ~~person's~~individual's
26 blood, breath, or urine at the time of the act alleged as shown by a chemical analysis of the
27 blood, breath, ~~saliva~~, or urine is admissible. For the purpose of this section:

- 28 1. ~~A person~~An individual having a drug in that ~~person's~~individual's body or an alcohol
29 concentration of at least ten one-hundredths of one percent by weight at the time of
30 the performance of a chemical test within two hours after operating a snowmobile is

1 under the influence of intoxicating liquor, drugs, or a combination thereof at the time of
2 operating a snowmobile.

3 2. Alcohol concentration is based upon grams of alcohol per one hundred ~~cubic-~~
4 ~~centimeters~~milliliters of blood or grams of alcohol per two hundred ten liters of end
5 expiratory breath or grams of alcohol per sixty-seven ~~cubic-centimeters~~milliliters of
6 urine.

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

18 4. The director of the state crime laboratory or the director's designee may appoint, train,
19 certify, and supervise field inspectors of breath testing equipment and its operation,
20 and the inspectors shall report the findings of any inspection to the director of the state
21 crime laboratory or the director's designee for appropriate action. Upon approval of the
22 methods or devices, or both, required to perform the tests and the ~~persons~~individuals
23 qualified to administer them, the director of the state crime laboratory or the director's
24 designee shall prepare, certify, and file~~electronically post a~~ written record of the
25 approval with the ~~director and the recorder in each county, unless the board of county-~~
26 ~~commissioners designates a different official~~state crime laboratory division of the
27 attorney general at the attorney general website, and shall include in the record:
28 a. An annual register of the specific testing devices currently approved, including
29 serial number, location, and the date and results of last inspection.
30 b. An annual register of currently qualified and certified operators of the devices,
31 stating the date of certification and its expiration.

- 1 c. The operational checklist and forms prescribing the methods currently approved
2 by the director of the state crime laboratory or the director's designee in using the
3 devices during the administration of the tests.
- 4 d. ~~The material filed~~certified records electronically posted under this
5 ~~subsection~~section may be supplemented when the director of the state crime
6 laboratory or the director's designee determines it to be necessary, and any
7 certified supplemental ~~material has~~records have the same force and effect as the
8 ~~material that it supplements~~records that are supplemented.
- 9 e. The state crime laboratory shall make the certified records required by this
10 section available for download in a printable format on the attorney general
11 website.
- 12 5. Copies of the state crime laboratory certified records referred to in subsections 3
13 and 4, ~~certified by the recorder, or designated official,~~that have been electronically
14 posted with the state crime laboratory division of the attorney general at the attorney
15 general website must be admitted as prima facie evidence of the matters stated in the
16 records.
- 17 6. A certified copy of the analytical report of a blood; or urine; ~~or saliva~~ test issued by the
18 director of the state crime laboratory or the director's designee must be accepted as
19 prima facie evidence of the results of a chemical test performed under this chapter.
- 20 7. Notwithstanding any statute or rule to the contrary, the defendant in any criminal
21 proceeding may subpoena, without cost to the defendant, the ~~person~~individual who
22 conducted the chemical test referred to in this section to testify at the trial on the issue
23 of the amount of alcohol; concentration or presence of other drugs, or a combination
24 thereof, in the defendant's blood, breath, ~~saliva~~, or urine at the time of the alleged act.
- 25 8. A signed statement from the individual medically qualified to draw the blood sample for
26 testing as set forth in subsection 3 is prima facie evidence that the blood sample was
27 properly drawn and no further foundation for the admission of this evidence may be
28 required.