

Sixty-third  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1302

Introduced by

Representatives K. Koppelman, Keiser, Kiefert, Klemin, Ruby, Delmore

Senators Hogue, Luick, Lyson, Dotzenrod, O'Connell

1 A BILL for an Act to create and enact a new subsection to section 27-20-10 and section  
2 27-20-31 of the North Dakota Century Code, relating to juveniles driving under the influence; to  
3 amend and reenact subsection 7 of section 39-06.1-10, sections 39-06.1-11, 39-08-01,  
4 39-08-01.2, 39-20-01, 39-20-03.1, 39-20-04, 39-20-04.1, and 39-20-05, subsection 6 of section  
5 39-20-07, and section 39-20-14 of the North Dakota Century Code, relating to chemical tests for  
6 driving under the influence of alcohol or drugs; to provide for a legislative management study; to  
7 provide a penalty; to provide an effective date; and to declare an emergency.

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

9 **SECTION 1.** A new subsection to section 27-20-10 of the North Dakota Century Code is  
10 created and enacted as follows:

11 If a child is subject to informal adjustment for a violation of section 39-08-01 or  
12 equivalent ordinance, or if a child is found to have an alcohol concentration of at least  
13 two one-hundredths of one percent by weight at the time of performance of a test  
14 within two hours after driving or being in physical control of a motor vehicle, the  
15 juvenile court may require the child to participate in the twenty-four seven sobriety  
16 program under chapter 54-12 for up to nine months.

17 **SECTION 2.** A new subsection to section 27-20-31 of the North Dakota Century Code is  
18 created and enacted as follows:

19 If a child is adjudicated delinquent for a violation of section 39-08-01 or equivalent  
20 ordinance, or if a child is found to have an alcohol concentration of at least two  
21 one-hundredths of one percent by weight at the time of performance of a test within  
22 two hours after driving or being in physical control of a motor vehicle, the juvenile court  
23 may require the child to participate in the twenty-four seven sobriety program under  
24 chapter 54-12.

1       **SECTION 3. AMENDMENT.** Subsection 7 of section 39-06.1-10 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3       7. The period of suspension imposed for a violation of section 39-08-01 or equivalent  
4 ordinance is:

5       a. Ninety-one days if the operator's record shows the person has not violated  
6 section 39-08-01 or equivalent ordinance within the five~~ten~~ years preceding the  
7 last violation.

8       b. One hundred eighty days if the operator's record shows the person has not  
9 violated section 39-08-01 or equivalent ordinance within five~~ten~~ years preceding  
10 the last violation and the violation was for an alcohol concentration of at least  
11 eighteen one-hundredths of one percent by weight.

12       c. Three hundred sixty-five days if the operator's record shows the person has once  
13 violated section 39-08-01 or equivalent ordinance within the five~~ten~~ years  
14 preceding the last violation.

15       d. Two years if the operator's record shows the person has at least once violated  
16 section 39-08-01 or equivalent ordinance within the five~~ten~~ years preceding the  
17 last violation and the violation was for an alcohol concentration of at least  
18 eighteen one-hundredths of one percent by weight.

19       e. Two years if the operator's record shows the person has at least twice violated  
20 section 39-08-01 or equivalent ordinance within the five~~ten~~ years preceding the  
21 last violation.

22       f. Three years if the operator's record shows the person has at least twice violated  
23 section 39-08-01 or equivalent ordinance within the five~~ten~~ years preceding the  
24 last violation and the violation is for an alcohol concentration of at least eighteen  
25 one-hundredths of one percent by weight.

26       g. An individual who has a temporary restricted driver's license with the restriction  
27 the individual participates in the twenty-four seven sobriety program under  
28 chapter 54-12 is not subject to the suspension periods under this subsection.

29       **SECTION 4. AMENDMENT.** Section 39-06.1-11 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1       **39-06.1-11. Temporary restricted license - Ignition interlock device.**

2       1. Except as provided under subsection 2, if the director has suspended a license under  
3       section 39-06.1-10 or has extended a suspension or revocation under section  
4       39-06-43, upon receiving written application from the offender affected, the director  
5       may for good cause issue a temporary restricted operator's license valid for the  
6       remainder of the suspension period after seven days of the suspension period have  
7       passed.

8       2. If the director has suspended a license under chapter 39-20, or after a violation of  
9       section 39-08-01 or equivalent ordinance, upon written application of the offender the  
10      director may issue for good cause a temporary restricted license that takes effect after  
11      thirty days of the suspension have been served after a first offense under section  
12      39-08-01 or chapter 39-20, but if the offender is participating in the twenty-four seven  
13      sobriety program under chapter 54-12, the director may issue a temporary restricted  
14      license that takes effect after fifteen days of the suspension have been served. The  
15      director may not issue a temporary restricted license to any offender whose operator's  
16      license has been revoked under section 39-20-04 or suspended upon a second or  
17      subsequent offense under section 39-08-01 or chapter 39-20, except that a temporary  
18      restricted license may be issued in accordance with subsection 5 of this section if the  
19      offender is participating in the twenty-four seven sobriety program under chapter  
20      54-12, or for good cause if the offender has not committed an offense for a period of  
21      two years before the date of the filing of a written application that must be  
22      accompanied by a report from an appropriate licensed addiction treatment program or  
23      if the offender is participating in the drug court program and has not committed an  
24      offense for a period of three hundred sixty-five days before the date of the filing of a  
25      written application that must be accompanied by a recommendation from the district  
26      court. The director may conduct a hearing for the purposes of obtaining information,  
27      reports, and evaluations from courts, law enforcement, and citizens to determine the  
28      offender's conduct and driving behavior during the prerequisite period of time. The  
29      director may also require that an ignition interlock device be installed in the offender's  
30      vehicle.

- 1           3. The director may not issue a temporary restricted license for a period of license  
2           revocation or suspension imposed under subsection 5 of section 39-06-17 or section  
3           39-06-31. A temporary restricted license may be issued for suspensions ordered under  
4           subsection 7 of section 39-06-32 if it could have been issued had the suspension  
5           resulted from in-state conduct.
- 6           4. A restricted license issued under this section is solely for the use of a motor vehicle  
7           during the licensee's normal working hours, or as provided under subsection 5 of this  
8           section, and may contain any other restrictions authorized by section 39-06-17.  
9           Violation of a restriction imposed according to this section is deemed a violation of  
10          section 39-06-17.
- 11          5. If an offender has been charged with, or convicted of, a second or subsequent  
12          violation of section 39-08-01 or equivalent ordinance, or if the offender's license is  
13          subject to suspension under chapter 39-20 and the offender's driver's license is not  
14          subject to an unrelated suspension or revocation, the director shall issue a temporary  
15          restricted driver's ~~permit~~license to the offender ~~only for the purpose of~~  
16          ~~participation upon the restriction the offender participate~~ in the twenty-four seven  
17          sobriety program ~~upon~~under chapter 54-12. The offender shall submit an application  
18          to the director for a temporary restricted license along with submission of proof of  
19          financial responsibility and proof of participation in the twenty-four seven sobriety  
20          program ~~by the offender, in order to receive a temporary restricted license~~. If a court or  
21          the parole board finds that an offender has violated a condition of the twenty four  
22          seven sobriety program, the court or parole board may order the temporary restricted  
23          driver's permit be revoked and take possession of the temporary restricted driver's  
24          permit. The court or the parole board shall send a copy of the order to the director who  
25          shall record the revocation of the temporary restricted driver's permit. Revocation of a  
26          temporary restricted driver's permit for violation of a condition of the twenty four seven  
27          sobriety program does not preclude the offender's eligibility for a temporary restricted  
28          driver's license under any other provisions of this section.

29           **SECTION 5. AMENDMENT.** Section 39-08-01 of the North Dakota Century Code is  
30    amended and reenacted as follows:

1           **39-08-01. Persons under the influence of intoxicating liquor or any other drugs or**  
2 **substances not to operate vehicle - Penalty.**

3           1. A person may not drive or be in actual physical control of any vehicle upon a highway  
4 or upon public or private areas to which the public has a right of access for vehicular  
5 use in this state if any of the following apply:

6           a. That person has an alcohol concentration of at least eight one-hundredths of one  
7 percent by weight at the time of the performance of a chemical test within two  
8 hours after the driving or being in actual physical control of a vehicle.

9           b. That person is under the influence of intoxicating liquor.

10          c. That person is under the influence of any drug or substance or combination of  
11 drugs or substances to a degree which renders that person incapable of safely  
12 driving.

13          d. That person is under the combined influence of alcohol and any other drugs or  
14 substances to a degree which renders that person incapable of safely driving.

15          The fact that any person charged with violating this section is or has been legally  
16 entitled to use alcohol or other drugs or substances is not a defense against any  
17 charge for violating this section, unless a drug which predominately caused  
18 impairment was used only as directed or cautioned by a practitioner who legally  
19 prescribed or dispensed the drug to that person.

20          2. Unless as otherwise provided in section 39-08-01.2, an individual violating this section  
21 or equivalent ordinance is guilty of a class B misdemeanor for the first ~~or second~~  
22 ~~offense in a five-year period~~, of a class A misdemeanor for a ~~third~~second offense in a  
23 ~~five-year~~ten-year period, of a class A misdemeanor for the ~~fourth~~ offense in a  
24 ~~seven-year period~~, and of a class C felony for a ~~fifth or subsequent~~third offense in a  
25 ~~seven-year~~ten-year period, and a class C felony for any fourth or subsequent offense,  
26 regardless how long it has been since the previous offense. The minimum penalty for  
27 violating this section is as provided in subsection 4. The court shall take judicial notice  
28 of the fact that an offense would be a subsequent offense if indicated by the records of  
29 the director or may make a subsequent offense finding based on other evidence. If an  
30 individual has spent time in custody for any offense, the time spent in custody may not  
31 be included as part of any period of time under this section.

- 1           3. Upon conviction of a second or subsequent offense within ~~five~~ten years under this  
2           section or equivalent ordinance, the court ~~must~~shall order the motor vehicle number  
3           plates of all of the motor vehicles owned and operated by the offender at the time of  
4           the offense to be impounded for the duration of the period of suspension or revocation  
5           of the offender's driving privilege by the licensing authority. The impounded number  
6           plates must be sent to the director who must retain them for the period of suspension  
7           or revocation, subject to their disposition by the court. The court may make an  
8           exception to this subsection, on an individual basis, to avoid undue hardship to an  
9           individual who is completely dependent on the motor vehicle for the necessities of life,  
10          including a family member of the convicted individual and a coowner of the motor  
11          vehicle, ~~but not including~~or if the offender is participating in the twenty-four seven  
12          sobriety program.
- 13          4. A person convicted of violating this section, or an equivalent ordinance, must be  
14          sentenced in accordance with this subsection. For purposes of this subsection, unless  
15          the context otherwise requires, "drug court program" means a district court-supervised  
16          treatment program approved by the supreme court which combines judicial  
17          supervision with alcohol and drug testing and chemical addiction treatment in a  
18          licensed treatment program. The supreme court may adopt rules, including rules of  
19          procedure, for drug courts and the drug court program.
- 20          a. For a first offense, if the alcohol concentration is at least eight-hundredths of one  
21          percent by weight but less than fifteen-hundredths of one percent by weight, the  
22          sentence must include a fine of at least five hundred dollars and an order for an  
23          addiction evaluation by an appropriate licensed addiction treatment program. If  
24          the alcohol concentration is at least fifteen-hundredths of one percent by weight,  
25          or if the individual refused to submit to a chemical test, or a test required under  
26          section 39-06.2-10.2, 39-20-01, or 39-20-14, the sentence must include ~~both~~  
27          at least ten days' imprisonment, of which forty-eight hours must be served  
28          consecutively; a fine of at least ~~two~~seven hundred fifty dollars ~~and;~~  
29          an order for addiction evaluation by an appropriate licensed addiction treatment program; at  
30          least six months' probation; and participation in the twenty-four seven sobriety  
31          program under chapter 54-12 as a mandatory condition of probation.

- 1           b. For a second offense within ~~five~~ten years, the sentence must include at least  
2           ~~five~~sixty days' imprisonment ~~or placement in a minimum security facility~~, of which  
3           ~~forty-eight~~ hours must be served consecutively, ~~or thirty days' community service~~;  
4           a fine of at least one thousand five hundred dollars; ~~and an order for addiction~~  
5           evaluation by an appropriate licensed addiction treatment program; ~~and at least~~  
6           twelve months' probation; and participation in the twenty-four seven sobriety  
7           program under chapter 54-12 as a mandatory condition of probation.
- 8           c. For a third offense within ~~five~~ten years, the sentence must include at least  
9           ~~sixtyone hundred eighty~~ days' imprisonment ~~or placement in a minimum security~~  
10          ~~facility~~, of which ~~forty-eight~~ hours must be served consecutively; a fine of ~~one at~~  
11          least two thousand dollars; ~~and an order for addiction evaluation by an~~  
12          appropriate licensed addiction treatment program; ~~and at least twelve months'~~  
13          probation; and participation in the twenty-four seven sobriety program under  
14          chapter 54-12 as a mandatory condition of probation.
- 15          d. For a fourth or subsequent offense ~~within seven~~ years, the sentence must include  
16          at least one hundred eightyyear and one days' imprisonment ~~or placement in a~~  
17          ~~minimum security facility~~, of which ~~forty-eight~~ hours must be served  
18          ~~consecutively~~; a fine of ~~one at~~ least three thousand dollars; ~~and an order for~~  
19          addiction evaluation by an appropriate licensed treatment program; at least two  
20          years' probation; and participation in the twenty-four seven sobriety program  
21          under chapter 54-12 as a mandatory condition of probation.
- 22          e. The ~~execution or~~ imposition of sentence under this section may not be  
23          ~~suspended or deferred~~ under subsection ~~3 or 4~~ of section 12.1-32-02 for an  
24          offense subject to this section.
- 25          f. If the offense is subject to subdivision a or b of this subsection, a municipal court  
26          or district court may suspend a sentence under subsection 3 of section  
27          12.1-32-02 if the alcohol concentration is at least eight-hundredths of one percent  
28          by weight but less than fifteen-hundredths of one percent by weight. If the alcohol  
29          concentration is at least fifteen-hundredths of one percent by weight, or if the  
30          individual refused to submit to a chemical test, or a test required under section  
31          39-06.2-10.2, 39-20-01, or 39-20-14, a municipal court or district court may

1 suspend a sentence, except for four days' imprisonment, under subsection 3 of  
2 section 12.1-32-02 on the condition that the defendant first undergo and  
3 complete an evaluation for alcohol and substance abuse treatment and  
4 rehabilitation. If the offense is subject to subdivision e or db of this subsection, the  
5 district court may suspend a sentence, except for ten days' imprisonment, under  
6 subsection 3 or 4 of section 12.1-32-02 on the condition that the defendant first  
7 undergo and complete an evaluation for alcohol and substance abuse treatment  
8 and rehabilitation. If the offense is subject to subdivision c of this subsection, the  
9 district court may suspend a sentence, except for sixty days' imprisonment, under  
10 subsection 3 of section 12.1-32-02 on the condition that the defendant first  
11 undergo and complete an evaluation for alcohol and substance abuse treatment  
12 and rehabilitation. If the offense is subject to subdivision d of this subsection, the  
13 district court may suspend a sentence, except for one year's imprisonment, under  
14 subsection 3 of section 12.1-32-02 on the condition that the defendant first  
15 undergo and complete an evaluation for alcohol and substance abuse treatment  
16 and rehabilitation. If the defendant is found to be in need of alcohol and  
17 substance abuse treatment and rehabilitation, the district court may order the  
18 defendant placed under the supervision and management of the department of  
19 corrections and rehabilitation and is subject to the conditions of probation under  
20 section 12.1-32-07. The district court shall require the defendant to complete  
21 alcohol and substance abuse treatment and rehabilitation under the direction of  
22 the drug court program as a condition of probation in accordance with rules  
23 adopted by the supreme court. If the district court finds that a defendant has  
24 failed to undergo an evaluation or complete treatment or has violated any  
25 condition of probation, the district court shall revoke the defendant's probation  
26 and shall sentence the defendant in accordance with this subsection.

27 f.g. If the court sentences an individual to the legal and physical custody of the  
28 department of corrections and rehabilitation, the department may place the  
29 defendant in an alcohol treatment program designated by the department. Upon  
30 the individual's successful completion of the alcohol treatment program, the  
31 department shall release the individual from imprisonment to serve the remainder



1 of the sentence of imprisonment on probation, which may include placement in  
2 another facility or treatment program. If an individual is placed in another facility  
3 or treatment program after release from imprisonment, the remainder of the  
4 individual's sentence of imprisonment must be considered time spent in custody.  
5 A court may not order the department to be responsible for the costs of treatment  
6 in a private treatment facility.

7 h. For purposes of this section, conviction of an offense under a law or ordinance of  
8 another state which is equivalent to this section must be considered a prior  
9 offense if such offense was committed within the time limitations specified in this  
10 subsectionsection.

11 i. An individual who operates a motor vehicle on a highway or on public or private  
12 areas to which the public has a right of access for vehicular use in this state who  
13 refuses to submit to a chemical test, or a test required under sections  
14 39-06.2-10.2, 39-20-01, or 39-20-14, is guilty of an offense under this section.

15 g-j. If the penalty mandated by this section includes imprisonment or placement upon  
16 conviction of a violation of this section or equivalent ordinance, and if an  
17 addiction evaluation has indicated that the defendant needs treatment, the court  
18 may order the defendant to undergo treatment at an appropriate licensed  
19 addiction treatment program and the time spent by the defendant in the treatment  
20 must be credited as a portion of a sentence of imprisonment or placement under  
21 this section.

22 5. As used in subdivision b of subsection 4, the term "imprisonment" ~~includes~~may include  
23 house arrest. As a condition of house arrest, a defendant may not consume alcoholic  
24 beverages. The house arrest must include a program of electronic home detention ~~in~~  
25 ~~which~~and the defendant ~~is tested at least twice daily for the consumption of~~  
26 ~~alcohol~~shall participate in the twenty-four seven sobriety program as a condition of  
27 house arrest. The defendant shall ~~defray~~pay all costs associated with the electronic  
28 home detention and participation in the twenty-four seven sobriety program. ~~This~~  
29 ~~subsection does not apply to individuals committed to or under the supervision and~~  
30 ~~management of the department of corrections and rehabilitation.~~

1       6. As used in this title, participation in the twenty-four seven sobriety program under  
2       chapter 12-54 means compliance with sections 54-12-27 through 54-12-31, and  
3       requires sobriety breath testing twice per day seven days per week or electronic  
4       alcohol monitoring, urine testing, or drug patch testing. The offender is responsible for  
5       all twenty-four seven sobriety program fees and the court may not waive the fees.

6       **SECTION 6. AMENDMENT.** Section 39-08-01.2 of the North Dakota Century Code is  
7       amended and reenacted as follows:

8       **39-08-01.2. Special punishment for causing injury or death while operating a vehicle**  
9       **while under the influence of alcohol.**

- 10       1. If an individual is convicted of an offense under chapter 12.1-16 and the conviction is  
11       based in part on the evidence of the individual's operation of a motor vehicle while  
12       under the influence of alcohol or drugs, the sentence imposed must include at least  
13       ~~one year's~~two years' imprisonment if the individual was an adult at the time of the  
14       offense.
- 15       2. If an individual is convicted of a first offense violating section 39-08-01, or section  
16       39-08-03 based in part on the evidence of the individual's operation of a motor vehicle  
17       while under the influence of alcohol or drugs, and the violation caused serious bodily  
18       injury, as defined in section 12.1-01-04, to another individual, that individual is guilty of  
19       a class A misdemeanor and the sentence must include at least ninety days'  
20       imprisonment if the individual was an adult at the time of the offense.
- 21       3. If an individual is convicted of a second or subsequent offense in ten years of violating  
22       section 39-08-01, or section 39-08-03 based in part on the evidence of the individual's  
23       operation of a motor vehicle while under the influence of alcohol or drugs, and the  
24       violation caused serious bodily injury, as defined in section 12.1-01-04, to another  
25       individual, that individual is guilty of a class C felony and the sentence must include at  
26       least one year and one day's imprisonment if the individual was an adult at the time of  
27       the offense.
- 28       4. The imposition of sentence may not be deferred under subsection 4 of section  
29       12.1-32-02 for an offense subject to this section.
- 30       5. The sentence under this section may ~~not~~ be suspended ~~unless the court finds that~~  
31       ~~manifest injustice would result from imposition of the sentence,~~ except for ninety days

1           for a first offense, and one year for a second or subsequent offense in ten years. The  
2           court shall impose not less than one year of supervised probation and shall require  
3           participation in the twenty-four seven sobriety program for at least twelve months as a  
4           mandatory condition of probation. Before a sentence under this section applies, a  
5           defendant must be notified of the minimum mandatory sentence. If the finding of guilt  
6           is by jury verdict, the verdict form must indicate that the jury found the elements that  
7           create the minimum sentence.

8           6. An individual who is convicted under this section shall serve the sentence imposed by  
9           the court without benefit of parole.

10          **SECTION 7. AMENDMENT.** Section 39-20-01 of the North Dakota Century Code is  
11          amended and reenacted as follows:

12          **39-20-01. Implied consent to determine alcohol concentration and presence of drugs.**

13          1. Any individual who operates a motor vehicle on a highway or on public or private  
14          areas to which the public has a right of access for vehicular use in this state is deemed  
15          to have given consent, and shall consent, subject to the provisions of this chapter, to a  
16          chemical test, or tests, of the blood, breath, or urine for the purpose of determining the  
17          alcohol concentration or presence of other drugs, or combination thereof, in the  
18          individual's blood, breath, or urine. As used in this chapter, the word "drug" means any  
19          drug or substance or combination of drugs or substances which renders an individual  
20          incapable of safely driving, and the words "chemical test" or "chemical analysis" mean  
21          any test to determine the alcohol concentration or presence of other drugs, or  
22          combination thereof, in the individual's blood, breath, or urine, approved by the  
23          director of the state crime laboratory or the director's designee under this chapter.

24          2. The test or tests must be administered at the direction of a law enforcement officer  
25          only after placing the individual, except individuals mentioned in section 39-20-03,  
26          under arrest and informing that individual that the individual is or will be charged with  
27          the offense of driving or being in actual physical control of a vehicle upon the public  
28          highways while under the influence of intoxicating liquor, drugs, or a combination  
29          thereof. For the purposes of this chapter, the taking into custody of a child under  
30          section 27-20-13 or an individual under twenty-one years of age satisfies the  
31          requirement of an arrest.

1       3.    The law enforcement officer also shall ~~also~~ inform the individual charged that North  
2       Dakota law requires the individual to take the test to determine whether the individual  
3       is under the influence of alcohol, drugs, or a combination of alcohol and drugs, that  
4       refusal to take the test directed by the law enforcement officer is a crime, and that  
5       refusal of the individual to submit to the test ~~determined appropriate will~~directed by the  
6       law enforcement officer may result in a revocation for up to four years of the  
7       individual's driving privileges. The law enforcement officer shall determine which of the  
8       tests is to be used.

9       4.    When an individual under the age of eighteen years is taken into custody for violating  
10       section 39-08-01 or an equivalent ordinance, the law enforcement officer shall attempt  
11       to contact the individual's parent or legal guardian to explain the cause for the custody.  
12       Neither the law enforcement officer's efforts to contact, nor any consultation with, a  
13       parent or legal guardian may be permitted to interfere with the administration of  
14       chemical testing requirements under this chapter. The law enforcement officer shall  
15       mail a notice to the parent or legal guardian of the minor within ten days after the test  
16       results are received or within ten days after the minor is taken into custody if the minor  
17       refuses to submit to testing. The notice must contain a statement of the test performed  
18       and the results of that test; or if the minor refuses to submit to the testing, a statement  
19       notifying of that fact. The attempt to contact or the contacting or notification of a parent  
20       or legal guardian is not a precondition to the admissibility of chemical test results or  
21       the finding of a consent to, or refusal of, chemical testing by the individual in custody.

22       **SECTION 8. AMENDMENT.** Section 39-20-03.1 of the North Dakota Century Code is  
23       amended and reenacted as follows:

24       **39-20-03.1. Action following test result for a resident operator.**

25       If a person submits to a test under section 39-20-01, 39-20-02, or 39-20-03 and the test  
26       shows that person to have an alcohol concentration of at least eight one-hundredths of one  
27       percent by weight or, with respect to a person under twenty-one years of age, an alcohol  
28       concentration of at least two one-hundredths of one percent by weight at the time of the  
29       performance of a chemical test within two hours after the driving or being in actual physical  
30       control of a vehicle, the following procedures apply:

- 1           1.    The law enforcement officer shall immediately issue to that person a temporary  
2           operator's permit if the person then has valid operating privileges, extending driving  
3           privileges for the next twenty-five days, or until earlier terminated by the decision of a  
4           hearing officer under section 39-20-05, or unless terminated by participation in the  
5           twenty-four seven sobriety program as provided under subsection 5 of this section.  
6           The law enforcement officer shall sign and note the date on the temporary operator's  
7           permit. The temporary operator's permit serves as the director's official notification to  
8           the person of the director's intent to revoke, suspend, or deny driving privileges in this  
9           state.
- 10          2.    If a test administered under section 39-20-01 or 39-20-03 was by urine sample or by  
11          drawing blood as provided in section 39-20-02 and the individual tested is not a  
12          resident of an area in which the law enforcement officer has jurisdiction, the law  
13          enforcement officer shall, on receiving the analysis of the urine or blood from the  
14          director of the state crime laboratory or the director's designee and if the analysis  
15          shows that individual had an alcohol concentration of at least eight one-hundredths of  
16          one percent by weight or, with respect to an individual under twenty-one years of age,  
17          an alcohol concentration of at least two one-hundredths of one percent by weight,  
18          either proceed in accordance with subsection 1 during that individual's reappearance  
19          within the officer's jurisdiction, proceed in accordance with subsection 3, or notify a law  
20          enforcement agency having jurisdiction where the individual lives. On that notification,  
21          that law enforcement agency shall, within twenty-four hours, forward a copy of the  
22          temporary operator's permit to the law enforcement agency making the arrest or to the  
23          director. The law enforcement agency shall issue to that individual a temporary  
24          operator's permit as provided in this section, and shall sign and date the permit as  
25          provided in subsection 1.
- 26          3.    If the test results indicate an alcohol concentration at or above the legal limit, the law  
27          enforcement agency making the arrest may mail a temporary operator's permit to the  
28          individual who submitted to the blood or urine test, whether or not the individual is a  
29          resident of the area in which the law enforcement officer has jurisdiction. The third day  
30          after the mailing of the temporary operator's permit is considered the date of issuance.  
31          Actual notice of the opportunity for a hearing under this section is deemed to have

1 occurred seventy-two hours after the notice is mailed by regular mail to the address  
2 submitted by the individual to the law enforcement officer. The temporary operator's  
3 permit serves as the director's official notification to the individual of the director's  
4 intent to revoke, suspend, or deny driving privileges in this state.

- 5 4. The law enforcement officer, within five days of the issuance of the temporary  
6 operator's permit, shall forward to the director a certified written report in the form  
7 required by the director. If the individual was issued a temporary operator's permit  
8 because of the results of a test, the report must show that the officer had reasonable  
9 grounds to believe the individual had been driving or was in actual physical control of a  
10 motor vehicle while in violation of section 39-08-01, or equivalent ordinance, that the  
11 individual was lawfully arrested, that the individual was tested for alcohol concentration  
12 under this chapter, and that the results of the test show that the individual had an  
13 alcohol concentration of at least eight one-hundredths of one percent by weight or,  
14 with respect to an individual under twenty-one years of age, an alcohol concentration  
15 of at least two one-hundredths of one percent by weight. In addition to the operator's  
16 license and report, the law enforcement officer shall forward to the director a certified  
17 copy of the operational checklist and test records of a breath test and a copy of the  
18 certified copy of the analytical report for a blood or urine test for all tests administered  
19 at the direction of the officer.

- 20 5. An individual charged with a violation of section 39-08-01 or equivalent ordinance may  
21 elect to participate in the twenty-four seven sobriety program under chapter 54-12 in  
22 lieu of the administrative hearing under this chapter if the individual's driver's license is  
23 not subject to an unrelated suspension or revocation. The director shall issue a  
24 temporary restricted driver's license with the restriction the individual participate in the  
25 twenty-four seven sobriety program upon application by the individual with submission  
26 of proof of financial responsibility and proof of participation in the twenty-four seven  
27 sobriety program under chapter 54-12.

28 **SECTION 9. AMENDMENT.** Section 39-20-04 of the North Dakota Century Code is  
29 amended and reenacted as follows:

1           **39-20-04. Revocation of privilege to drive motor vehicle upon refusal to submit to**  
2 **testing.**

3           1. If a person refuses to submit to testing under section 39-20-01 or 39-20-14, none may  
4 be given, but the law enforcement officer shall immediately take possession of the  
5 person's operator's license if it is then available and shall immediately issue to that  
6 person a temporary operator's permit, if the person then has valid operating privileges,  
7 extending driving privileges for the next twenty-five days or until earlier terminated by a  
8 decision of a hearing officer under section 39-20-05. The law enforcement officer shall  
9 sign and note the date on the temporary operator's permit. The temporary operator's  
10 permit serves as the director's official notification to the person of the director's intent  
11 to revoke driving privileges in this state and of the hearing procedures under this  
12 chapter. The director, upon the receipt of that person's operator's license and a  
13 certified written report of the law enforcement officer in the form required by the  
14 director, forwarded by the officer within five days after issuing the temporary operator's  
15 permit, showing that the officer had reasonable grounds to believe the person had  
16 been driving or was in actual physical control of a motor vehicle while in violation of  
17 section 39-08-01 or equivalent ordinance or, for purposes of section 39-20-14, had  
18 reason to believe that the person committed a moving traffic violation or was involved  
19 in a traffic accident as a driver, and in conjunction with the violation or accident the  
20 officer has, through the officer's observations, formulated an opinion that the person's  
21 body contains alcohol, that the person was lawfully arrested if applicable, and that the  
22 person had refused to submit to the test or tests under section 39-20-01 or 39-20-14,  
23 shall revoke that person's license or permit to drive and any nonresident operating  
24 privilege for the appropriate period under this section, or if the person is a resident  
25 without a license or a permit to operate a motor vehicle in this state, the director shall  
26 deny to the person the issuance of a license or permit for the appropriate period under  
27 this section after the date of the alleged violation, subject to the opportunity for a  
28 prerevocation hearing and postrevocation review as provided in this chapter. In the  
29 revocation of the person's operator's license the director shall give credit for time in  
30 which the person was without an operator's license after the day of the person's  
31 refusal to submit to the test except that the director may not give credit for time in

1 which the person retained driving privileges through a temporary operator's permit  
2 issued under this section or section 39-20-03.2. The period of revocation or denial of  
3 issuance of a license or permit under this section is:

- 4 a. One year if the person's driving record shows that within the five~~ten~~ years  
5 preceding the most recent violation of this section, the person's operator's license  
6 has not previously been suspended, revoked, or issuance denied for a violation  
7 of this chapter or section 39-08-01 or equivalent ordinance.
- 8 b. Three years if the person's driving record shows that within the five~~ten~~ years  
9 preceding the most recent violation of this section, the person's operator's license  
10 has been once previously suspended, revoked, or issuance denied for a violation  
11 of this chapter or section 39-08-01 or equivalent ordinance.
- 12 c. Four years if the person's driving record shows that within the five~~ten~~ years  
13 preceding the most recent violation of this section, the person's operator's license  
14 has at least twice previously been suspended, revoked, or issuance denied under  
15 this chapter, or for a violation of section 39-08-01 or equivalent ordinance, or any  
16 combination of the same, and the suspensions, revocations, or denials resulted  
17 from at least two separate arrests.

18 2. A person's driving privileges are not subject to revocation under subdivision a of  
19 subsection 1 if all of the following criteria are met:

- 20 a. An administrative hearing is not held under section 39-20-05;
- 21 b. The person mails an affidavit to the director within twenty-five days after the  
22 temporary operator's permit is issued. The affidavit must state that the person:
- 23 (1) Intends to voluntarily plead guilty to violating section 39-08-01 or equivalent  
24 ordinance within twenty-five days after the temporary operator's permit is  
25 issued;
- 26 (2) Agrees that the person's driving privileges must be suspended as provided  
27 under section 39-06.1-10;
- 28 (3) Acknowledges the right to a section 39-20-05 administrative hearing and  
29 section 39-20-06 judicial review and voluntarily and knowingly waives these  
30 rights; and



- 1                   (4) Agrees that the person's driving privileges must be revoked as provided  
2                   under this section without an administrative hearing or judicial review, if the  
3                   person does not plead guilty within twenty-five days after the temporary  
4                   operator's permit is issued, or the court does not accept the guilty plea, or  
5                   the guilty plea is withdrawn;
- 6                   c. The person pleads guilty to violating section 39-08-01 or equivalent ordinance  
7                   within twenty-five days after the temporary operator's permit is issued;
- 8                   d. The court accepts the person's guilty plea and a notice of that fact is mailed to  
9                   the director within twenty-five days after the temporary operator's permit is  
10                  issued; and
- 11                  e. A copy of the final order or judgment of conviction evidencing the acceptance of  
12                  the person's guilty plea is received by the director prior to the return or  
13                  reinstatement of the person's driving privileges; ~~and~~
- 14                  f. ~~The person has never been convicted under section 39-08-01 or equivalent~~  
15                  ~~ordinance.~~
- 16                  3. The court must mail a copy of an order granting a withdrawal of a guilty plea to  
17                  violating section 39-08-01, or equivalent ordinance, to the director within ten days after  
18                  it is ordered. Upon receipt of the order, the director shall immediately revoke the  
19                  person's driving privileges as provided under this section without providing an  
20                  administrative hearing.

21                  **SECTION 10. AMENDMENT.** Section 39-20-04.1 of the North Dakota Century Code is  
22                  amended and reenacted as follows:

23                  **39-20-04.1. Administrative sanction for driving or being in physical control of a**  
24                  **vehicle while having certain alcohol concentration.**

- 25                  1. After the receipt of the certified report of a law enforcement officer and if no written  
26                  request for hearing has been received from the arrested person under section  
27                  39-20-05, or if that hearing is requested and the findings, conclusion, and decision  
28                  from the hearing confirm that the law enforcement officer had reasonable grounds to  
29                  arrest the person and test results show that the arrested person was driving or in  
30                  physical control of a vehicle while having an alcohol concentration of at least eight  
31                  one-hundredths of one percent by weight or, with respect to a person under

1 twenty-one years of age, an alcohol concentration of at least two one-hundredths of  
2 one percent by weight at the time of the performance of a test within two hours after  
3 driving or being in physical control of a motor vehicle, the director shall suspend the  
4 person's driving privileges as follows:

- 5 a. For ninety-one days if the person's driving record shows that, within the five~~ten~~  
6 years preceding the date of the arrest, the person has not previously violated  
7 section 39-08-01 or equivalent ordinance or the person's operator's license has  
8 not previously been suspended or revoked under this chapter and the violation  
9 was for an alcohol concentration of at least eight one-hundredths of one percent  
10 by weight or, with respect to a person under twenty-one years of age, an alcohol  
11 concentration of at least two one-hundredths of one percent by weight, and under  
12 eighteen one-hundredths of one percent by weight.
- 13 b. For one hundred eighty days if the operator's record shows the person has not  
14 violated section 39-08-01 or equivalent ordinance within five~~ten~~ years preceding  
15 the last violation and the last violation was for an alcohol concentration of at least  
16 eighteen one-hundredths of one percent by weight.
- 17 c. For three hundred sixty-five days if the person's driving record shows that, within  
18 the five~~ten~~ years preceding the date of the arrest, the person has once previously  
19 violated section 39-08-01 or equivalent ordinance or the person's operator's  
20 license has once previously been suspended or revoked under this chapter with  
21 the last violation or suspension for an alcohol concentration under eighteen  
22 one-hundredths of one percent by weight.
- 23 d. For two years if the person's driving record shows that within the five~~ten~~ years  
24 preceding the date of the arrest, the person's operator's license has once been  
25 suspended, revoked, or issuance denied under this chapter, or for a violation of  
26 section 39-08-01 or equivalent ordinance, with the last violation or suspension for  
27 an alcohol concentration of at least eighteen one-hundredths of one percent by  
28 weight or if the person's driving record shows that within the five years preceding  
29 the date of arrest, the person's operator's license has at least twice previously  
30 been suspended, revoked, or issuance denied under this chapter, or for a  
31 violation of section 39-08-01 or equivalent ordinance, or any combination thereof,

1 and the suspensions, revocations, or denials resulted from at least two separate  
2 arrests with the last violation or suspension for an alcohol concentration of under  
3 eighteen one-hundredths of one percent by weight.

4 e. For three years if the operator's record shows that within ~~five~~ten years preceding  
5 the date of the arrest, the person's operator's license has at least twice previously  
6 been suspended, revoked, or issuance denied under this chapter, or for a  
7 violation of section 39-08-01 or equivalent ordinance, or any combination thereof,  
8 and the suspensions, revocations, or denials resulted from at least two separate  
9 arrests and the last violation or suspension was for an alcohol concentration of at  
10 least eighteen one-hundredths of one percent by weight.

11 2. In the suspension of the person's operator's license the director shall give credit for the  
12 time the person was without an operator's license after the day of the offense, except  
13 that the director may not give credit for the time the person retained driving privileges  
14 through a temporary operator's permit issued under section 39-20-03.1 or 39-20-03.2.

15 **SECTION 11. AMENDMENT.** Section 39-20-05 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **39-20-05. Administrative hearing on request - Election to participate in the**  
18 **twenty-four seven sobriety program.**

19 1. Before issuing an order of suspension, revocation, or denial under section 39-20-04 or  
20 39-20-04.1, the director shall afford that person an opportunity for a hearing if the  
21 person mails or communicates by other means authorized by the director a request for  
22 the hearing to the director within ten days after the date of issuance of the temporary  
23 operator's permit. Before the hearing, an individual may elect to participate in the  
24 twenty-four seven sobriety program under chapter 54-12. The hearing must be held  
25 within thirty days after the date of issuance of the temporary operator's permit. If no  
26 hearing is requested within the time limits in this section, and no affidavit is submitted  
27 within the time limits under subsection 2 of section 39-20-04, and if the individual has  
28 not provided the director with written notice of election to participate in the twenty-four  
29 seven sobriety program under chapter 54-12, the expiration of the temporary  
30 operator's permit serves as the director's official notification to the person of the  
31 revocation, suspension, or denial of driving privileges in this state.

1           2. If the issue to be determined by the hearing concerns license suspension for operating  
2           a motor vehicle while having an alcohol concentration of at least eight one-hundredths  
3           of one percent by weight or, with respect to an individual under twenty-one years of  
4           age, an alcohol concentration of at least two one-hundredths of one percent by weight,  
5           the hearing must be before a hearing officer assigned by the director and at a time and  
6           place designated by the director. The hearing must be recorded and its scope may  
7           cover only the issues of whether the arresting officer had reasonable grounds to  
8           believe the individual had been driving or was in actual physical control of a vehicle in  
9           violation of section 39-08-01 or equivalent ordinance or, with respect to an individual  
10          under twenty-one years of age, the individual had been driving or was in actual  
11          physical control of a vehicle while having an alcohol concentration of at least two  
12          one-hundredths of one percent by weight; whether the individual was placed under  
13          arrest, unless the individual was under twenty-one years of age and the alcohol  
14          concentration was less than eight one-hundredths of one percent by weight, then  
15          arrest is not required and is not an issue under any provision of this chapter; whether  
16          the individual was tested in accordance with section 39-20-01 or 39-20-03 and, if  
17          applicable, section 39-20-02; and whether the test results show the individual had an  
18          alcohol concentration of at least eight one-hundredths of one percent by weight or,  
19          with respect to an individual under twenty-one years of age, an alcohol concentration  
20          of at least two one-hundredths of one percent by weight. For purposes of this section,  
21          a copy of a certified copy of an analytical report of a blood or urine sample from the  
22          director of the state crime laboratory or the director's designee, or electronically posted  
23          by the director of the state crime laboratory or the director's designee on the crime  
24          laboratory information management system and certified by a law enforcement officer  
25          or individual who has authorized access to the crime laboratory management system  
26          through the criminal justice data information sharing system, or a certified copy of the  
27          checklist and test records from a certified breath test operator, and a copy of a certified  
28          copy of a certificate of the director of the state crime laboratory designating the  
29          director's designee, establish prima facie the alcohol concentration or the presence of  
30          drugs, or a combination thereof, shown therein. Whether the individual was informed

1           that the privilege to drive might be suspended based on the results of the test is not an  
2           issue.

3           3. If the issue to be determined by the hearing concerns license revocation for refusing to  
4           submit to a test under section 39-20-01 or 39-20-14, the hearing must be before a  
5           hearing officer assigned by the director at a time and place designated by the director.  
6           The hearing must be recorded. The scope of a hearing for refusing to submit to a test  
7           under section 39-20-01 may cover only the issues of whether a law enforcement  
8           officer had reasonable grounds to believe the person had been driving or was in actual  
9           physical control of a vehicle in violation of section 39-08-01 or equivalent ordinance or,  
10          with respect to a person under twenty-one years of age, the person had been driving  
11          or was in actual physical control of a vehicle while having an alcohol concentration of  
12          at least two one-hundredths of one percent by weight; whether the person was placed  
13          under arrest; and whether that person refused to submit to the test or tests. The scope  
14          of a hearing for refusing to submit to a test under section 39-20-14 may cover only the  
15          issues of whether the law enforcement officer had reason to believe the person  
16          committed a moving traffic violation or was involved in a traffic accident as a driver,  
17          whether in conjunction with the violation or the accident the officer has, through the  
18          officer's observations, formulated an opinion that the person's body contains alcohol  
19          and, whether the person refused to submit to the onsite screening test. Whether the  
20          person was informed that the privilege to drive would be revoked or denied for refusal  
21          to submit to the test or tests is not an issue.

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

26          a. Any copy of a certified copy of an analytical report of a blood or urine sample  
27          received by the director from the director of the state crime laboratory or the  
28          director's designee or electronically posted by the director of the state crime  
29          laboratory or the director's designee on the crime laboratory information  
30          management system and certified by, and received from, a law enforcement  
31          officer or individual who has authorized access to the crime laboratory

- 1                   management system through the criminal justice data information sharing system  
2                   or a certified copy of the checklist and test records received by the director from a  
3                   certified breath test operator; ~~and~~
- 4                   b. Any copy of a certified copy of a certificate of the director of the state crime  
5                   laboratory or the director's designee relating to approved methods, devices,  
6                   operators, materials, and checklists used for testing for alcohol concentration or  
7                   the presence of drugs received by the director from the director of the state crime  
8                   laboratory or the director's designee, or that have been electronically posted with  
9                   the state crime laboratory division of the attorney general at the attorney general  
10                  website; and
- 11                  c. Any copy of a certified copy of a certificate of the director of the state crime  
12                  laboratory designating the director's designees.
- 13                  5. At the close of the hearing, the hearing officer shall notify the person of the hearing  
14                  officer's findings of fact, conclusions of law, and decision based on the findings and  
15                  conclusions and shall immediately deliver to the person a copy of the decision. If the  
16                  hearing officer does not find in favor of the person, the copy of the decision serves as  
17                  the director's official notification to the person of the revocation, suspension, or denial  
18                  of driving privileges in this state. If the hearing officer finds, based on a preponderance  
19                  of the evidence, that the person refused a test under section 39-20-01 or 39-20-14 or  
20                  that the person had an alcohol concentration of at least eight one-hundredths of one  
21                  percent by weight or, with respect to a person under twenty-one years of age, an  
22                  alcohol concentration of at least two one-hundredths of one percent by weight, the  
23                  hearing officer shall immediately take possession of the person's temporary operator's  
24                  permit issued under this chapter. If the hearing officer does not find against the  
25                  person, the hearing officer shall sign, date, and mark on the person's permit an  
26                  extension of driving privileges for the next twenty days and shall return the permit to  
27                  the person. The hearing officer shall report the findings, conclusions, and decisions to  
28                  the director within ten days of the conclusion of the hearing. If the hearing officer has  
29                  determined in favor of the person, the director shall return the person's operator's  
30                  license by regular mail to the address on file with the director under section 39-06-20.

1           6. If the person who requested a hearing under this section fails to appear at the hearing  
2           without justification, the right to the hearing is waived, and the hearing officer's  
3           determination on license revocation, suspension, or denial will be based on the written  
4           request for hearing, law enforcement officer's report, and other evidence as may be  
5           available. The hearing officer shall, on the date for which the hearing is scheduled,  
6           mail to the person, by regular mail, at the address on file with the director under  
7           section 39-06-20, or at any other address for the person or the person's legal  
8           representative supplied in the request for hearing, a copy of the decision which serves  
9           as the director's official notification to the person of the revocation, suspension, or  
10          denial of driving privileges in this state. Even if the person for whom the hearing is  
11          scheduled fails to appear at the hearing, the hearing is deemed to have been held on  
12          the date for which it is scheduled for purposes of appeal under section 39-20-06.

13          7. An individual charged with a violation of section 39-08-01 or equivalent ordinance may  
14          elect to participate in the twenty-four seven sobriety program under chapter 54-12 in  
15          lieu of the administrative hearing under this chapter if the individual's driver's license is  
16          not subject to an unrelated suspension or revocation. The director shall issue a  
17          temporary restricted driver's license with the restriction the individual participate in the  
18          twenty-four seven program upon application by the individual with submission of proof  
19          of financial responsibility and proof of participation in the twenty-four seven sobriety  
20          program.

21          **SECTION 12. AMENDMENT.** Subsection 6 of section 39-20-07 of the North Dakota  
22 Century Code is amended and reenacted as follows:

23          6. 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 individuals qualified  
28          to administer them, the director of the state crime laboratory or the director's designee  
29          shall prepare, certify, and electronically post a written record of the approval with the  
30          state crime laboratory division of the attorney general at the attorney general website,  
31          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 certificate of the director of the state crime laboratory designating the
- 9 director's designees.
- 10 e. The 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 records
- 13 have the same force and effect as the records that are supplemented.
- 14 e.f. The state crime laboratory shall make the certified records required by this
- 15 section available for download in a printable format on the attorney general
- 16 website.

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

19 **39-20-14. Screening tests.**

- 20 1. Any individual who operates a motor vehicle upon the public highways of this state is
- 21 deemed to have given consent to submit to an onsite screening test or tests of the
- 22 individual's breath for the purpose of estimating the alcohol concentration in the
- 23 individual's breath upon the request of a law enforcement officer who has reason to
- 24 believe that the individual committed a moving traffic violation or was involved in a
- 25 traffic accident as a driver, and in conjunction with the violation or the accident the
- 26 officer has, through the officer's observations, formulated an opinion that the
- 27 individual's body contains alcohol.
- 28 2. An individual may not be required to submit to a screening test or tests of breath while
- 29 at a hospital as a patient if the medical practitioner in immediate charge of the
- 30 individual's case is not first notified of the proposal to make the requirement, or objects



1 to the test or tests on the ground that such would be prejudicial to the proper care or  
2 treatment of the patient.

3 3. The screening test or tests must be performed by an enforcement officer certified as a  
4 chemical test operator by the director of the state crime laboratory or the director's  
5 designee and according to methods and with devices approved by the director of the  
6 state crime laboratory or the director's designee. The results of such screening test  
7 must be used only for determining whether or not a further test shall be given under  
8 the provisions of section 39-20-01. The officer shall inform the individual that North  
9 Dakota law requires the individual to take the screening test to determine whether the  
10 individual is under the influence of alcohol, that refusal to take the screening test is a  
11 crime, and that refusal of the individual to submit to a screening test ~~will~~may result in a  
12 revocation for up to four years of that individual's driving privileges. If such individual  
13 refuses to submit to such screening test or tests, none may be given, but such refusal  
14 is sufficient cause to revoke such individual's license or permit to drive in the same  
15 manner as provided in section 39-20-04, and a hearing as provided in section  
16 39-20-05 and a judicial review as provided in section 39-20-06 must be available.  
17 However, the

18 4. The director must not revoke an individual's driving privileges for refusing to submit to  
19 a screening test requested under this section if the individual provides a sufficient  
20 breath, blood, or urine sample for a chemical test requested under section 39-20-01  
21 for the same incident.

22 5. No provisions of this section may supersede any provisions of chapter 39-20, nor may  
23 any provision of chapter 39-20 be construed to supersede this section except as  
24 provided herein.

25 6. For the purposes of this section, "chemical test operator" means an individual certified  
26 by the director of the state crime laboratory or the director's designee as qualified to  
27 perform analysis for alcohol in an individual's blood, breath, or urine.

28 **SECTION 14. LEGISLATIVE MANAGEMENT STUDY - DRIVING UNDER THE**  
29 **INFLUENCE.** During the 2013-14 interim, the legislative management shall consider studying  
30 the feasibility and desirability of North Dakota Century Code provisions that relate to  
31 administrative hearings and administrative sanctions for driving while under the influence of

1 alcohol or drugs. With the assistance of the department of corrections and rehabilitation and the  
2 department of human services, the study must include the need for supervision, methods of  
3 treatment, and penalties for repeat driving while under the influence of alcohol or drug  
4 offenders. The legislative management shall report its findings and recommendations, together  
5 with any legislation required to implement the recommendations, to the sixty-fourth legislative  
6 assembly.

7 **SECTION 15. EFFECTIVE DATE.** This Act becomes effective May 1, 2013.

8 **SECTION 16. EMERGENCY.** This Act is declared to be an emergency measure.