

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2219

Introduced by

Senators Hogue, Clemens, Conley

Representatives Fegley, D. Ruby, Thomas

1 A BILL for an Act to create and enact a new section to chapter 39-06.1 of the North Dakota
 2 Century Code, relating to civil judgment for nonpayment of statutory fees; to amend and reenact
 3 section 14-08.1-07, subsection 6 of section 39-06-19, section 39-06-32, subsection 4 of section
 4 39-06-33, subdivision i of subsection 2 of section 39-06-49, subsection 5 of section 39-06.1-11,
 5 and subsection 2 of section 39-16-03.1 of the North Dakota Century Code, relating to
 6 suspension of an operator's license for nonpayment of child support, the issuance of a
 7 temporary permit, authority to suspend an operator's license for failure to pay a fine, hearings
 8 on suspension or revocation of license, license reinstatement fees, temporary restricted
 9 licenses, and entries on driver's record abstract; to provide for a legislative management study;
 10 and to provide a penalty.

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

12 **SECTION 1. AMENDMENT.** Section 14-08.1-07 of the North Dakota Century Code is
 13 amended and reenacted as follows:

14 **14-08.1-07. Suspension of motor vehicle operator's license for nonpayment of child-**
 15 **support or failure to obey subpoena.**

16 When considering a contempt citation against a child support obligor who is in arrears in
 17 child support in an amount greater than three times the monthly child support obligation and the
 18 obligor is not current in a court-established plan to repay the unpaid child support arrears, or
 19 ~~when~~ an individual has failed, after receiving appropriate notice, to comply with a subpoena
 20 relating to a paternity or child support matter unrelated to nonpayment of child support, the court
 21 shall determine whether the ~~obligor~~ individual has a motor vehicle operator's license issued
 22 under chapter 39-06. The court may restrict or suspend a motor vehicle operator's license
 23 issued by the state which is held by the ~~obligor~~ individual. The court shall notify the department
 24 of transportation of the court's decision to restrict or suspend an ~~obligor's~~ individual's motor

1 vehicle operator's license. An appeal by an ~~obligor~~individual who has had a motor vehicle
2 operator's license restricted or suspended under this section is an appeal from the court's order
3 and may not be appealed to the department of transportation. Except for statistical purposes, an
4 entry on the driving record or abstract of a restriction or suspension under this section after the
5 restriction or suspension ceases may not be available to the public other than by order of a
6 court of competent jurisdiction. A suspension under this section is not subject to the financial
7 responsibility reporting requirements.

8 **SECTION 2. AMENDMENT.** Subsection 6 of section 39-06-19 of the North Dakota Century
9 Code is amended and reenacted as follows:

10 6. The director may not renew an operator's license if the license has been suspended
11 under section 14-08.1-07. Upon the recommendation of the court, the director may
12 issue a temporary permit to the licensee under section 39-06.1-11 if the temporary
13 permit is necessary for the licensee to work and the court has determined the licensee
14 is making a good-faith effort to comply with the ~~child support orders~~subpoena or child
15 support matter.

16 **SECTION 3. AMENDMENT.** Section 39-06-32 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **39-06-32. Authority to suspend licenses.**

19 4. The director may suspend the operator's license of an individual, after hearing, upon
20 proof by a fair preponderance of the evidence, that any of the following apply to the licensee:

21 ~~a.~~1. Commission of an offense for which mandatory revocation of license is required upon
22 conviction.

23 ~~b.~~2. Incompetence to drive a motor vehicle.

24 ~~c.~~3. Unlawful or fraudulent use of an operator's license.

25 ~~d.~~4. Refusal to submit to an implied consent chemical test on an Indian reservation or in
26 another state. For purposes of this subsection, the specific requirements for
27 establishing a refusal used on the Indian reservation or in the other state may not be
28 considered, and photostatic copies of the records of the other jurisdiction's driver's
29 licensing authority are sufficient evidence of the refusal whether those copies are
30 certified. The suspension must be for the same length of time as the revocation in
31 section 39-20-04. If the refusal arose out of an arrest or stop of an individual while

1 operating a commercial motor vehicle, the period of suspension must be the same as
2 the period of revocation provided in section 39-06.2-10.

3 ~~2.5.~~ Failure, as shown by the certificate of the court, to ~~pay a fine or~~ serve any other
4 sentence as ordered by a court upon conviction for any criminal traffic offense.

5 ~~3.6.~~ Failure, as shown by the certificate of the court, to appear in court or post and forfeit
6 bond after signing a promise to appear, if signing is required by law, in violation of
7 section 39-06.1-04, willful violation of a written promise to appear in court, in violation
8 of section 39-07-08, or violation of equivalent ordinances or laws in another
9 jurisdiction. Upon resolution by the operator of the underlying cause for a suspension
10 under this subsection, as shown by the certificate of the court, the director shall record
11 the suspension separately on the driving record. This separate record is not available
12 to the public.

13 ~~4.7.~~ An administrative decision on an Indian reservation or in another state that the
14 licensee's privilege to drive on that Indian reservation or in that state is suspended or
15 revoked because of a violation of that Indian reservation's or state's law forbidding
16 motor vehicle operation with an alcohol concentration of at least eight one-hundredths
17 of one percent by weight or, with respect to a person under twenty-one years of age,
18 an alcohol concentration of at least two one-hundredths of one percent by weight, or
19 because of a violation of that Indian reservation's or state's law forbidding the driving
20 or being in actual physical control of a commercial motor vehicle while having an
21 alcohol concentration of at least four one-hundredths of one percent by weight. The
22 specific requirements for establishing the violation on the Indian reservation or in the
23 other state may not be considered and certified copies of the records of the Indian
24 reservation's or other state's driver's licensing authority are sufficient evidence of the
25 violation. The suspension must be for the same duration as the suspension in section
26 39-20-04.1, if the violation does not involve a commercial motor vehicle. If the violation
27 involves a commercial motor vehicle, the period of suspension must be the same as
28 the period of suspension provided in section 39-06.2-10. For purposes of this section,
29 originals, photostatic copies, or electronic transmissions of the records of the driver's
30 licensing or other authority of the other jurisdiction are sufficient evidence whether they
31 are certified copies.

1 ~~5-8.~~ Conviction of an offense under this title and it appears from the director's records that
2 the offense contributed to causing an accident which resulted in death or serious
3 personal injury or serious property damage. A suspension may not be imposed if the
4 individual has been sanctioned for the same offense under section 39-06-31.

5 **SECTION 4. AMENDMENT.** Subsection 4 of section 39-06-33 of the North Dakota Century
6 Code is amended and reenacted as follows:

7 4. If a suspension is ordered under ~~subdivision b~~ of subsection 42 of section 39-06-32,
8 the notice must include a specific description of the conditions which led to the
9 conclusion that the licensee is incompetent to drive a motor vehicle. If during the
10 suspension those conditions dissipate, the licensee may request another hearing on
11 the issue of competence to drive a motor vehicle. The hearing must be held in the
12 manner required under subsections 2 and 3 for the original suspension.

13 **SECTION 5. AMENDMENT.** Subdivision i of subsection 2 of section 39-06-49 of the North
14 Dakota Century Code is amended and reenacted as follows:

15 i. Reinstatement after suspension is fifty dollars unless the suspension was the
16 result of a suspension under subsection 3, 4, or 6 of section 39-06-03 or
17 ~~subdivision b~~ of subsection 42 of section 39-06-32, then the fee is twenty-five
18 dollars, or unless the suspension was a result of a violation under section
19 39-08-01 or chapter 39-20, then the fee is one hundred dollars.

20 **SECTION 6. AMENDMENT.** Subsection 5 of section 39-06.1-11 of the North Dakota
21 Century Code is amended and reenacted as follows:

22 5. The director may not issue a temporary restricted license for a period of license
23 revocation or suspension imposed under section 39-06-31. A temporary restricted
24 license may be issued for suspensions ordered under subsection 47 of section
25 39-06-32 if it could have been issued had the suspension resulted from in-state
26 conduct.

27 **SECTION 7.** A new section to chapter 39-06.1 of the North Dakota Century Code is created
28 and enacted as follows:

Failure to pay statutory fees - Civil judgment.

1. In addition to the penalty provided under section 39-06.1-04 for failure to pay a statutory fee, the court may enter a civil traffic judgment against the individual for the nonpayment.
2. The judgment must be docketed by the clerk of court in the judgment docket maintained pursuant to section 28-20-13 in the same manner in which a civil judgment for money is docketed. The docketing of the judgment has the same effect as the docketing of a civil judgment. The docketed judgment may be docketed in any other county in the same manner, it imposes a lien upon the real property owned by the defendant to the same extent, it is subject to the same statute of limitations, and it is enforceable by execution in the same manner as provided for a civil judgment for money.
3. The civil traffic judgment may not exceed the amount of the statutory fee owed, plus interest and any applicable penalty amounts, giving credit for any amount paid.
4. The department or the applicable city or county may seek execution and enforcement of the civil traffic judgment.

SECTION 8. AMENDMENT. Subsection 2 of section 39-16-03.1 of the North Dakota Century Code is amended and reenacted as follows:

2. After the period of suspension ceases, an entry concerning a suspension under subsection 3, 4, 5, or 6 of section 39-06-03 or subsection ~~2, 5, or 6~~ 5 or 8 of section 39-06-32.

SECTION 9. LEGISLATIVE MANAGEMENT STUDY - DRIVER'S LICENSE

SUSPENSIONS FOR NONPAYMENT OF CHILD SUPPORT. During the 2023-24 interim, the legislative management shall consider studying the desirability and feasibility of repealing the department of health and human services' ability to suspend motor vehicle licenses for nonpayment of child support. The study must include an assessment of possible alternative mechanisms that could be implemented to encourage compliance with an existing child support payment plan. The study may include input from the supreme court, the attorney general, and the department of health and human services. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.