

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2052**

Introduced by

Legislative Management

(Judiciary Committee)

1 A BILL for an Act to create and enact a new section to chapter 27-20, a new section to chapter
2 39-08, and a new section to chapter 54-12 of the North Dakota Century Code, relating to
3 participation in the twenty-four seven sobriety program and the use of drug court for driving
4 under the influence offenders; to amend and reenact sections 27-20-10, 27-20-31, 39-06-03,
5 subdivision h of subsection 2 of section 39-06-49, section 39-08-01, subsection 2 of section
6 39-16-03.1, section 39-20-01, subsection 2 of section 39-20-04, subsections 2 and 3 of section
7 39-20-05, and section 39-20-15 of the North Dakota Century Code, relating to driving under the
8 influence offenses and participation in the twenty-four seven sobriety and drug court programs;
9 to provide for retroactive application; and to declare an emergency.

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

11 **SECTION 1. AMENDMENT.** Section 27-20-10 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **27-20-10. Informal adjustment.**

- 14 1. Before a petition is filed, the director of juvenile court or other officer of the court
15 designated by it, subject to its direction, may give counsel and advice to the parties
16 and impose conditions for the conduct and control of the child with a view to an
17 informal adjustment if it appears:
- 18 a. The admitted facts bring the case within the jurisdiction of the court;
 - 19 b. Counsel, advice, and conditions, if any, for the conduct and control of the child
20 without an adjudication would be in the best interest of the public and the child;
 - 21 and
 - 22 c. The child and the child's parents, guardian, or other custodian consent thereto
23 with knowledge that consent is not obligatory.

- 1 2. The giving of counsel and advice and any conditions imposed for the conduct and
2 control of the child cannot extend beyond nine months from the day commenced
3 unless extended by the court for an additional period not to exceed six months and
4 does not authorize the detention of the child if not otherwise permitted by this chapter.
5 If the child admits to driving or being in actual physical control of a vehicle in violation
6 of section 39-08-01 or an equivalent ordinance, the child may be required to pay a fine
7 as a condition imposed under this section.
- 8 3. An incriminating statement made by a participant to the person giving counsel or
9 advice and in the discussions or conferences incident thereto may not be used against
10 the declarant over objection in any hearing except in a hearing on disposition in a
11 juvenile court proceeding or in a criminal proceeding against the declarant after
12 conviction for the purpose of a presentence investigation.
- 13 4. ~~If a child is subject to informal adjustment for a violation of section 39-08-01 or~~
14 ~~equivalent ordinance, or if a child is found to have an alcohol concentration of at least~~
15 ~~two one hundredths of one percent by weight at the time of performance of a test~~
16 ~~within two hours after driving or being in physical control of a motor vehicle, the~~
17 ~~juvenile court shall require the child to participate in the twenty-four seven sobriety~~
18 ~~program under chapter 54-12 for up to nine months.~~

19 **SECTION 2. AMENDMENT.** Section 27-20-31 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **27-20-31. Disposition of delinquent child.**

22 If the child is found to be a delinquent child, the court may make any of the following orders
23 of disposition best suited to the child's treatment, rehabilitation, and welfare:

- 24 1. Any order authorized by section 27-20-30 for the disposition of a deprived child;
- 25 2. Placing the child on probation under the supervision of the director, probation officer,
26 or other appropriate officer of the court or of the court of another state as provided in
27 section 27-20-41 or the director of the county social service board under conditions
28 and limitations the court prescribes;
- 29 3. Ordering the child to pay a fine if the delinquent act committed by the child constitutes
30 manslaughter resulting from the operation of a motor vehicle in violation of section
31 12.1-16-02; negligent homicide in violation of section 12.1-16-03; or driving or being in

1 actual physical control of a vehicle in violation of section 39-08-01, or an equivalent
2 ordinance. The court may suspend the imposition of a fine imposed pursuant to this
3 subsection upon such terms and conditions as the court may determine. Fines
4 collected pursuant to this subsection must be paid into the county treasury for
5 disposition pursuant to section 29-27-02.1;

- 6 4. Committing the child to the division of juvenile services or to another state department
7 to which commitment of delinquent or unruly children may be made. When necessary,
8 the commitment order may provide that the child initially be placed in a secure facility;
- 9 5. Ordering the child to make monetary restitution to the victim of the offense or to
10 complete a specified number of hours of community service as determined by the
11 court, or both;
- 12 6. Ordering the periodic testing for the use of illicit drugs or alcohol pursuant to rules or
13 policies adopted by the supreme court; or
- 14 7. Ordering the child's participation in a juvenile drug court program.
- 15 ~~8. If a child is adjudicated delinquent for a violation of section 39-08-01 or equivalent
16 ordinance, or if a child is found to have an alcohol concentration of at least two
17 one-hundredths of one percent by weight at the time of performance of a test within
18 two hours after driving or being in physical control of a motor vehicle, the juvenile court
19 shall require the child to participate in the twenty-four seven sobriety program under
20 chapter 54-12.~~

21 **SECTION 3.** A new section to chapter 27-20 of the North Dakota Century Code is created
22 and enacted as follows:

23 **Twenty-four seven sobriety program - Participation.**

- 24 1. If a child is subject to informal adjustment under section 27-20-10, is found to be
25 delinquent under section 27-20-31, or is found to be unruly under section 27-20-32,
26 the juvenile court shall require the child to participate in the twenty-four seven sobriety
27 program under chapter 54-12 for a period of not less than eight weeks:
 - 28 a. If the child is found to have violated section 39-08-01 or equivalent ordinance; or
 - 29 b. If a child is found to have an alcohol concentration of at least two one-hundredths
30 of one percent by weight at the time of performance of a test within two hours
31 after driving or being in physical control of a motor vehicle.

1 2. If a child is subject to informal adjustment under section 27-20-10 and is required to
2 participate in the twenty-four seven sobriety program, the period of participation may
3 not exceed nine months.

4 3. If a child required to participate in the twenty-four seven sobriety program under this
5 section fails to comply with program requirements without being excused, the testing
6 site shall notify the juvenile court and refer the child to the juvenile court for further
7 disposition. The child may not be detained or otherwise taken into custody without
8 authorization from the juvenile court.

9 **SECTION 4. AMENDMENT.** Section 39-06-03 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **39-06-03. No operator's license to certain individuals.**

12 The director may not issue an operator's license:

13 1. To an individual who is under the age of sixteen years, except that the director may
14 issue an instructional permit under section 39-06-04, a restricted permit under section
15 39-06-05, or a license under section 39-06-17.

16 2. To an individual whose license has been suspended or revoked in this state or in any
17 other state during the suspension, except under section 39-06.1-03 or 39-06.1-11, or
18 to any person whose license has been revoked, except under sections 39-06-35,
19 39-06-36, and 39-06.1-11.

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

29 4. To an individual who has previously been adjudged to be afflicted with or suffering
30 from any mental disability or disease and who has not at the time of application been
31 restored to competency by the methods provided by law.

1 ~~5.4.~~ To an individual who is required by this chapter to take an examination, unless the
2 individual has successfully passed such examination.

3 ~~6.5.~~ To an individual who is required under the laws of this state to deposit security or file
4 proof of financial responsibility and who has not deposited the security or filed the
5 proof.

6 ~~7.6.~~ To an individual if the director has good cause to believe that the individual by reason
7 of physical or mental disability would not be able to operate a motor vehicle with safety
8 .

9 ~~8.7.~~ To an individual when the director has good cause to believe that the operation of a
10 motor vehicle on the highways by that individual would be inimical to public safety or
11 welfare.

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

14 h. Reinstatement after suspension is fifty dollars unless the suspension was the
15 result of a suspension under subsection ~~4, 5, or 7~~3, 4, or 6 of section 39-06-03 or
16 subdivision b of subsection 1 of section 39-06-32, then the fee is twenty-five
17 dollars, or unless the suspension was a result of a violation under section
18 39-08-01 or chapter 39-20, then the fee is one hundred dollars.

19 **SECTION 6. AMENDMENT.** Section 39-08-01 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **39-08-01. Persons under the influence of intoxicating liquor or any other drugs or**
22 **substances not to operate vehicle - Penalty.**

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

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

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

- 1 c. That person is under the influence of any drug or substance or combination of
2 drugs or substances to a degree which renders that person incapable of safely
3 driving.
- 4 d. That person is under the combined influence of alcohol and any other drugs or
5 substances to a degree which renders that person incapable of safely driving.
- 6 e. That individual refuses to submit to any of the following:
- 7 (1) A chemical test, or tests, of the individual's blood, breath, or urine to
8 determine the alcohol concentration or presence of other drugs, or
9 combination thereof, in the individual's blood, breath, or urine, at the
10 direction of a law enforcement officer under section 39-06.2-10.2 if the
11 individual is driving or is in actual physical control of a commercial motor
12 vehicle; or
- 13 (2) A chemical test, or tests, of the individual's blood, breath, or urine to
14 determine the alcohol concentration or presence of other drugs, or
15 combination thereof, in the individual's blood, breath, or urine, at the
16 direction of a law enforcement officer under section 39-20-01; or
- 17 (3) An onsite screening test, or tests, of the individual's breath for the purpose
18 of estimating the alcohol concentration in the individual's breath upon the
19 request of a law enforcement officer under section 39-20-14.

20 The fact that any person charged with violating this section is or has been legally
21 entitled to use alcohol or other drugs or substances is not a defense against any
22 charge for violating this section, unless a drug which predominately caused
23 impairment was used only as directed or cautioned by a practitioner who legally
24 prescribed or dispensed the drug to that person. If the individual violated subdivisions
25 a, b, c, or d of this subsection and subdivision e of this subsection and the violations
26 arose from the same incident, for purposes of suspension or revocation of an
27 operator's license, the violations are deemed a single violation and the court shall
28 forward to the department of transportation only the conviction for driving under the
29 influence or actual physical control.

- 30 2. a. An individual who operates a motor vehicle on a highway or on public or private
31 areas to which the public has a right of access for vehicular use in this state who

1 refuses to submit to a chemical test, or tests, required under section
2 39-06.2-10.2, 39-20-01, or 39-20-14, is guilty of an offense under this section.

3 b. An individual is not subject to an offense under this section for refusal to submit
4 to an onsite screening test under section 39-20-14 if the person submits to a
5 chemical test under section 39-20-01 or 39-06.2-10.2 for the same incident. Upon
6 the individual's refusal to submit to an onsite screening test, the police officer
7 shall inform the individual that the individual may remedy the refusal if the
8 individual takes a chemical test under section 39-20-01 or 39-06.2-10.2 for the
9 same incident.

10 3. An individual violating this section or equivalent ordinance is guilty of a class B
11 misdemeanor for the first or second offense in a seven-year period, of a class A
12 misdemeanor for a third offense in a seven-year period, and of a class C felony for any
13 fourth or subsequent offense ~~regardless of the length of time since the previous~~
14 ~~offense~~within a fifteen-year period. The minimum penalty for violating this section is as
15 provided in subsection 5. The court shall take judicial notice of the fact that an offense
16 would be a subsequent offense if indicated by the records of the director or may make
17 a subsequent offense finding based on other evidence.

18 4. Upon conviction of a second or subsequent offense within seven years under this
19 section or equivalent ordinance, the court may order the motor vehicle number plates
20 of all of the motor vehicles owned and operated by the offender at the time of the
21 offense to be destroyed by the office of the police officer that made the arrest. The
22 offender shall deliver the number plates to the court without delay at a time certain as
23 ordered by the court following the conviction. The court shall deliver the number plates
24 to the office and notify the department of the order. An offender who does not provide
25 the number plates to the court at the appropriate time is subject to revocation of
26 probation. The court may make an exception to this subsection, on an individual basis,
27 to avoid undue hardship to an individual who is completely dependent on the motor
28 vehicle for the necessities of life, including a family member of the convicted individual
29 and a coowner of the motor vehicle, or if the offender is participating in the twenty-four
30 seven sobriety program.

- 1 5. A person convicted of violating this section, or an equivalent ordinance, must be
2 sentenced in accordance with this subsection. ~~For purposes of this subsection, unless~~
3 ~~the context otherwise requires, "drug court program" means a district court supervised~~
4 ~~treatment program approved by the supreme court which combines judicial~~
5 ~~supervision with alcohol and drug testing and chemical addiction treatment in a~~
6 ~~licensed treatment program. The supreme court may adopt rules, including rules of~~
7 ~~procedure, for drug courts and the drug court program.~~
- 8 a. (1) For a first offense, the sentence must include both a fine of at least five
9 hundred dollars and an order for addiction evaluation by an appropriate
10 licensed addiction treatment program.
- 11 (2) In addition, for a first offense when the convicted person has an alcohol
12 concentration of at least sixteen one-hundredths of one percent by weight,
13 the offense is an aggravated first offense and the sentence must include a
14 fine of at least seven hundred fifty dollars and at least two days'
15 imprisonment.
- 16 b. For a second offense within seven years, the sentence must include at least ten
17 days' imprisonment, of which forty-eight hours must be served consecutively; a
18 fine of one thousand five hundred dollars; an order for addiction evaluation by an
19 appropriate licensed addiction treatment program; and at least ~~twelve~~
20 ~~months~~three hundred sixty days' participation in the twenty-four seven sobriety
21 program under chapter 54-12 as a mandatory condition of probation.
- 22 c. For a third offense within seven years, the sentence must include at least one
23 hundred twenty days' imprisonment; a fine of at least two thousand dollars; an
24 order for addiction evaluation by an appropriate licensed addiction treatment
25 program; at least ~~one year~~three hundred sixty days' supervised probation; and
26 at least three hundred sixty days' participation in the twenty-four seven sobriety
27 program under chapter 54-12 as a mandatory condition of probation.
- 28 d. For a fourth or subsequent offense within fifteen years, the sentence must include
29 at least one year and one day's imprisonment; a fine of at least two thousand
30 dollars; an order for addiction evaluation by an appropriate licensed treatment
31 program; at least two years' supervised probation; and participation in the twenty-

1 four seven sobriety program under chapter 54-12 as a mandatory condition of
2 probation.

3 e. The imposition of sentence under this section may not be deferred under
4 subsection 4 of section 12.1-32-02 for an offense subject to this section.

5 f. If the offense is subject to subdivision a or b, a municipal court or district court
6 may not suspend a sentence, but may convert each day of a term of
7 imprisonment to ten hours of community service for an offense subject to
8 paragraph 2 of subdivision a. If the offense is subject to subdivision c, the district
9 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 and upon completion of the twenty-four seven sobriety
13 program. If the offense is subject to subdivision d, the district court may suspend
14 a sentence, except for one year's imprisonment, under subsection 3 of section
15 12.1-32-02 on the condition that the defendant first undergo and complete an
16 evaluation for alcohol and substance abuse treatment and rehabilitation. If the
17 defendant is found to be in need of alcohol and substance abuse treatment and
18 rehabilitation, the district court may order the defendant placed under the
19 supervision and management of the department of corrections and rehabilitation
20 and is subject to the conditions of probation under section 12.1-32-07. The district
21 court may require the defendant to complete alcohol and substance abuse
22 treatment and rehabilitation under the direction of the drug court program as a
23 condition of probation in accordance with rules adopted by the supreme court. If
24 the district court finds that a defendant has failed to undergo an evaluation or
25 complete treatment or has violated any condition of probation, the district court
26 shall revoke the defendant's probation and shall sentence the defendant in
27 accordance with this subsection.

28 g. For purposes of this section, conviction of an offense under a law or ordinance of
29 another state which is equivalent to this section must be considered a prior
30 offense if such offense was committed within the time limitations specified in this
31 section.

- 1 h. If the penalty mandated by this section includes imprisonment or placement upon
2 conviction of a violation of this section or equivalent ordinance, and if an
3 addiction evaluation has indicated that the defendant needs treatment, the court
4 may order the defendant to undergo treatment at an appropriate licensed
5 addiction treatment program under subdivision g of subsection 1 of section
6 12.1-32-02 and the time spent by the defendant in the treatment must be credited
7 as a portion of a sentence of imprisonment or placement under this section. A
8 court may not order the department of corrections and rehabilitation to be
9 responsible for the costs of treatment in a private treatment facility.
- 10 i. If the court sentences an individual to the legal and physical custody of the
11 department of corrections and rehabilitation, the department may place the
12 individual in an alcohol treatment program designated by the department. Upon
13 the individual's successful completion of the alcohol treatment program, the
14 department shall release the individual from imprisonment to serve the remainder
15 of the sentence of imprisonment on probation, which may include placement in
16 another facility or treatment program. If an individual is placed in another facility
17 or treatment program after release from imprisonment, the remainder of the
18 individual's sentence of imprisonment must be considered time spent in custody.
- 19 j. If the individual has participated in the twenty-four seven sobriety program as a
20 condition of pretrial release or for the purpose of receiving a temporary restricted
21 operator's license under section 39-06.1-11, the sentencing court may give credit
22 for the time the individual has already served on the twenty-four seven sobriety
23 program when determining the amount of time the individual must serve on the
24 twenty-four seven sobriety program for the purposes of probation, if that
25 individual has not violated the twenty-four seven sobriety program before
26 sentencing.
- 27 6. As used in subdivisions b and c of subsection 5, the term "imprisonment" includes
28 house arrest. As a condition of house arrest, a defendant may not consume alcoholic
29 beverages. The house arrest must include a program of electronic home detention and
30 the defendant shall participate in the twenty-four seven sobriety program. The
31 defendant shall defray all costs associated with the electronic home detention. For an

1 offense under subdivision b or c of subsection 5, no more than ninety percent of the
2 sentence may be house arrest.

3 7. As used in this title, participation in the twenty-four seven sobriety program under
4 chapter 54-12 means compliance with sections 54-12-27 through 54-12-31, and
5 requires sobriety breath testing twice per day seven days per week or electronic
6 alcohol monitoring, urine testing, or drug patch testing. The offender is responsible for
7 all twenty-four seven sobriety program fees and the court may not waive the fees. For
8 purposes of this section, the twenty-four seven sobriety program is a condition of
9 probation and a court may not order participation in the program as part of the
10 sentence.

11 **SECTION 7.** A new section to chapter 39-08 of the North Dakota Century Code is created
12 and enacted as follows:

13 **Partial suspension of sentence for drug court completion.**

- 14 1. Notwithstanding section 39-08-01, all but ten days of the minimum mandatory
15 sentence required for a defendant charged with a third or subsequent violation of
16 section 39-08-01 may be suspended on the condition the defendant successfully
17 completes a drug court program approved by the supreme court.
- 18 2. For purposes of this section, unless the context otherwise requires, "drug court
19 program" means a district court-supervised treatment program approved by the
20 supreme court which combines judicial supervision with alcohol and drug testing and
21 chemical addiction treatment in a licensed treatment program. The supreme court may
22 adopt rules, including rules of procedure, for drug courts and the drug court program.

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

- 25 2. After the period of suspension ceases, an entry concerning a suspension under
26 subsection ~~4, 5, 6, or 7~~ 3, 4, 5, or 6 of section 39-06-03 or subsection 2, 5, or 6 of
27 section 39-06-32.

28 **SECTION 9. AMENDMENT.** Section 39-20-01 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **39-20-01. Implied consent to determine alcohol concentration and presence of drugs.**

2 1. Any individual who operates a motor vehicle on a highway or on public or private
3 areas to which the public has a right of access for vehicular use in this state is deemed
4 to have given consent, and shall consent, subject to the provisions of this chapter, to a
5 chemical test, or tests, of the blood, breath, or urine for the purpose of determining the
6 alcohol concentration or presence of other drugs, or combination thereof, in the
7 individual's blood, breath, or urine. As used in this chapter, the word "drug" means any
8 drug or substance or combination of drugs or substances which renders an individual
9 incapable of safely driving, and the words "chemical test" or "chemical analysis" mean
10 any test to determine the alcohol concentration or presence of other drugs, or
11 combination thereof, in the individual's blood, breath, or urine, approved by the
12 director of the state crime laboratory or the director's designee under this chapter.

13 2. The test or tests must be administered at the direction of a law enforcement officer
14 only after placing the individual, except individuals mentioned in section 39-20-03,
15 under arrest and informing that individual that the individual is or will be charged with
16 the offense of driving or being in actual physical control of a vehicle upon the public
17 highways while under the influence of intoxicating liquor, drugs, or a combination
18 thereof. For the purposes of this chapter, the taking into custody of a child under
19 section 27-20-13 or an individual under twenty-one years of age satisfies the
20 requirement of an arrest. The law enforcement officer shall determine which of the
21 tests is to be used.

22 3. a. The law enforcement officer shall inform the individual charged that North Dakota
23 law requires the individual to take the test to determine whether the individual is
24 under the influence of alcohol or drugs; that refusal to take the test directed by
25 the law enforcement officer is a crime punishable in the same manner as driving
26 under the influence; and that refusal of the individual to submit to the test directed
27 by the law enforcement officer may result in a revocation for a minimum of one
28 hundred eighty days and up to three years of the individual's driving privileges.
29 ~~The law enforcement officer shall determine which of the tests is to be used.~~

30 b. A test administered under this section is not admissible in any criminal or
31 administrative proceeding to determine a violation of section 39-08-01 or this

1 chapter if the law enforcement officer fails to inform the individual charged as
2 required under subdivision a.

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

16 **SECTION 10. AMENDMENT.** Subsection 2 of section 39-20-04 of the North Dakota
17 Century Code is amended and reenacted as follows:

- 18 2. A person's driving privileges are not subject to revocation ~~under subdivision a of~~
19 ~~subsection 4~~ 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.

14 **SECTION 11. AMENDMENT.** Subsections 2 and 3 of section 39-20-05 of the North Dakota
15 Century Code are amended and reenacted as follows:

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

1 applicable, section 39-20-02; and whether the test results show the individual had an
2 alcohol concentration of at least eight one-hundredths of one percent by weight or,
3 with respect to an individual under twenty-one years of age, an alcohol concentration
4 of at least two one-hundredths of one percent by weight. For purposes of this section,
5 a copy of a certified copy of an analytical report of a blood or urine sample from the
6 director of the state crime laboratory or the director's designee, or electronically posted
7 by the director of the state crime laboratory or the director's designee on the crime
8 laboratory information management system and certified by a law enforcement officer
9 or individual who has authorized access to the crime laboratory management system
10 through the criminal justice data information sharing system or a certified copy of the
11 checklist and test records from a certified breath test operator, and a copy of a certified
12 copy of a certificate of the director of the state crime laboratory designating the
13 director's designees, establish prima facie the alcohol concentration or the presence of
14 drugs, or a combination thereof, shown therein. ~~Whether the individual was informed~~
15 ~~that the privilege to drive might be suspended based on the results of the test is not an~~
16 ~~issue.~~

- 17 3. If the issue to be determined by the hearing concerns license revocation for refusing to
18 submit to a test under section 39-20-01 or 39-20-14, the hearing must be before a
19 hearing officer assigned by the director at a time and place designated by the director.
20 The hearing must be recorded. The scope of a hearing for refusing to submit to a test
21 under section 39-20-01 may cover only the issues of whether a law enforcement
22 officer had reasonable grounds to believe the person had been driving or was in actual
23 physical control of a vehicle in violation of section 39-08-01 or equivalent ordinance or,
24 with respect to a person under twenty-one years of age, the person had been driving
25 or was in actual physical control of a vehicle while having an alcohol concentration of
26 at least two one-hundredths of one percent by weight; whether the person was placed
27 under arrest; and whether that person refused to submit to the test or tests. The scope
28 of a hearing for refusing to submit to a test under section 39-20-14 may cover only the
29 issues of whether the law enforcement officer had reason to believe the person
30 committed a moving traffic violation or was involved in a traffic accident as a driver,
31 whether in conjunction with the violation or the accident the officer has, through the

1 officer's observations, formulated an opinion that the person's body contains alcohol
2 and, whether the person refused to submit to the onsite screening test. ~~Whether the~~
3 ~~person was informed that the privilege to drive would be revoked or denied for refusal~~
4 ~~to submit to the test or tests is not an issue.~~

5 **SECTION 12. AMENDMENT.** Section 39-20-15 of the North Dakota Century Code is amended
6 and reenacted as follows:

7 **39-20-15. Restricted license upon twenty-four seven sobriety program participation.**

8 Any driver suspended under this chapter may elect to participate in the twenty-four seven
9 sobriety program under chapter 54-12. The director may issue a temporary restricted license
10 that takes effect after ~~fifteen~~fourteen days of the suspension have been served provided that the
11 driver is not subject to any unrelated suspension. Notwithstanding any other provision of law, an
12 individual may not receive a temporary restricted operator's license until after fourteen days
13 after the administrative hearing on the offense under this chapter has been waived or held, or
14 after fourteen days of the final appeal, whichever is longer.

15 **SECTION 12.** A new section to chapter 54-12 of the North Dakota Century Code is created
16 and enacted as follows:

17 **Law enforcement acceptance of department of transportation action.**

18 A law enforcement agency shall accept, the same as if ordered by the court, an individual
19 as part of the twenty-four seven program if the individual provides documentation that the
20 individual will be issued a temporary restricted license by the department of transportation
21 which is conditioned on participation in the twenty-four seven program.

22 **SECTION 13. RETROACTIVE APPLICATION.** Subsection 1 of section 39-01-08, as
23 amended by section 6 of this Act, applies retroactively to violations of subdivision a, b, c, or d of
24 subsection 1 of section 39-08-01 and subdivision e of subsection 1 of section 39-08-01 which
25 arose from the same incident and which occurred on or after June 30, 2013.

26 **SECTION 14. EMERGENCY.** This Act is declared to be an emergency measure.