

## REGULATION OF DRIVERS AND MOTOR VEHICLES - BACKGROUND MEMORANDUM

Section 1 of 2011 House Bill No. 1442 (attached as an [appendix](#)) directs the Legislative Management to study the regulations of drivers and of motor vehicles in the North Dakota Century Code (NDCC) for consistency, clarity, and substance. As introduced, House Bill No. 1442 would have required an inspection certificate from the Department of Transportation or the Highway Patrol for all modifications to a motor vehicle's suspension, steering, or braking systems. The bill would have prohibited the use of air or hydraulic suspension systems used to change body height while the vehicle is in motion. The bill would have prohibited a part of the motor vehicle from extending below the lowest part of the wheel rim, except for tires and electric grounding devices. In addition, the bill would have required wheels and tires to be equipped with fenders that cover the entire width of the tread. The bill would have removed the weight threshold of 7,000 pounds or less to which modification requirements applied. The legislative history reveals the impetus for the bill came from a Minot law enforcement officer's concern with a pickup that slightly exceeded 7,000 pounds and had a raised body that raised the bumper to exceed the maximum allowable bumper height of 27 inches. The bill was amended in the House, and one of the amendments would have raised the threshold to 16,000 pounds. The main opposition to the bill came from car clubs and street rod groups. The opponents said the changes in the law would affect the operation of the modified vehicles that car club and street rod group members operate.

Testimony reveals that prohibitions against special motor vehicles contained in North Dakota Administrative Code (NDAC) Section 37-12-02-01 could not be enforced against the particular pickup in question if adopted as a municipal ordinance. On the state level, it was explained that the special motor vehicle rules were for use when the Highway Patrol inspects a vehicle and are not for application against a vehicle that is in operation. In short, the interplay of administrative rules and statutory provisions created uncertainty in the application of the law. As a result, the Senate amended the bill to provide for this study.

### PREVIOUS STUDIES

In general, the study is of NDCC Title 39 with some exceptions. In the last 10 years, interim committees have studied a number of areas relating to Title 39.

During the 2001-02 interim, the Judiciary B Committee conducted two relevant studies. The committee studied the fees and point demerits for traffic offenses and studied the feasibility and desirability of a centralized process for administering noncriminal traffic violations. In the fees and points study, the committee focused on speeding and recommended bill drafts relating to speed limits and

the fee for violation of a speed limit. As to the study of the centralized process for administering noncriminal traffic violations, the committee studied the process at the city and county level before information is transmitted to the Department of Transportation. The committee focused on the complicated procedures contained in NDCC Sections 39-06.1-02, 39-06.1-03, and 39-06.1-04.

During the 2003-04 interim, the Transportation Committee conducted three relevant studies. First, the committee studied motor vehicle insurance. As part of that study, the committee reviewed NDCC Chapter 39-16.1. Although Chapter 39-16 was not reviewed in much detail, Chapters 39-16.1 and 39-16 work in concert. The purpose of these two chapters is to protect innocent victims of motor vehicle accidents from financial disaster. Both chapters apply to a motor vehicle owner who has had an accident or has been convicted of certain traffic offenses. Sanctions imposed by Chapter 39-16 are intended to guarantee financial responsibility for a first accident. In contrast, the sanctions imposed by Chapter 39-16.1 are designed to establish proof of financial responsibility for future accidents.

Second, the 2003-04 interim committee studied the alternative methods for recording and discharging a lien on a motor vehicle. The committee reviewed and rewrote portions of NDCC Chapter 39-05 as part of the creation of an electronic lien notification procedure.

Third, the 2003-04 interim committee studied the requirements for the registration and licensing of snowmobiles and all-terrain vehicles and the licensing of motorcycle and low-speed vehicle dealers. Although the committee made no recommendation regarding the study, the committee did review the provisions of law relating to these types of vehicles.

During the 2005-06 interim, the Transportation Committee studied the effectiveness of financial responsibility requirements imposed on individuals convicted of driving without liability insurance. The committee reviewed the provisions of NDCC Chapters 39-16.1 and 39-16.

During the 2007-08 interim, the Transportation Committee studied exemptions from Federal Motor Carrier Safety Regulations. As part of this study, the committee reviewed NDCC Chapter 39-06.2--Commercial Driver's Licenses--which is intended to implement federal law. In addition, under Section 39-21-46 the superintendent of the Highway Patrol must adopt rules duplicate to or consistent with current Federal Motor Carrier Safety Regulations. The committee reviewed the allowable exceptions from these regulations.

During the 2009-10 interim, the Public Safety and Transportation Committee studied highway construction funding and focused on overweight

vehicles. The committee recommended two bills relating to overweight vehicles--House Bill No. 1042 and Senate Bill No. 2044. House Bill No. 1042, which did not pass, would have allocated extraordinary road use fee collections for deposit in the general fund of the county where the overweight vehicle violation occurred if the violation did not occur on a state or federal highway. The bill would have provided that extraordinary road use fee collections for a violation occurring on a state or federal highway would continue to be deposited in the state highway fund.

Senate Bill No. 2044, as introduced, would have provided that a violation of an overweight vehicle permit issued under a county home rule ordinance is considered a violation of state law. As passed, the bill clarified that overweight permit fees for permits issued by local authorities go to the local authority, and the citation fees for a violation of a permit issued by a local authority are for a violation of state law. As part of this study, the committee reviewed select portions of NDCC Chapter 39-12.

These previous studies show areas of NDCC Title 39 which have been recently studied. If an area has been recently studied and changes have been made or not been made after careful review, this committee may wish not to study the same areas. To the contrary, if the area has been studied and consistency, clarity, and substance have not been improved, this committee may wish to study the area again.

## NORTH DAKOTA CENTURY CODE TITLE 39

A review of NDCC Title 39 may be useful to focus the study. In particular, chapters that do not directly relate to motor vehicles or drivers of motor vehicles may be disregarded as not relating to the study. These chapters include:

39-03	Highway Patrol
39-03.1	Highway Patrolmen's Retirement System
39-04.2	Public Transportation
39-10.1	Bicycles
39-13	Traffic Signs
39-16.2	Gas Transporter Financial Responsibility
39-18	Mobile Home Dealer Regulation
39-19	Reciprocity Agreements, Arrangements, or Declarations
39-22	Motor Vehicle Dealer Licensing
39-22.1	Trailer Dealer's Licensing and Bonding
39-22.3	Motor-Powered Recreational Vehicle Dealers
39-25	Regulation Commercial Driver Training
39-26	Abandoned Motor Vehicles
39-28	Motorcycle Safety Education
39-30	Motor Vehicle Chop Shops
39-31	Common Household Goods Carriers
39-33	Driver and Motor Vehicle Record Privacy

There are other chapters that relate to motor vehicles and drivers but may be of lesser importance because of a number of reasons. These reasons include that the chapter has a more remote relation to the act of driving a motor vehicle than other chapters; that the chapter or a portion of the chapter has been thoroughly studied recently by an interim committee

and may be in less need of review; or that there are chapters that are insular and, as such, do not interrelate with other chapters usually because of federal requirements. These chapters are listed below and the reason for placement on the list follows the statutory reference:

39-05	Title Registration	A portion of this chapter has been recently studied in detail.
39-06.1	Disposition of Traffic Offenses	This chapter has been recently studied in detail.
39-06.2	Commercial Driver's Licenses	This chapter stands alone because it parallels federal law.
39-16	Financial Responsibility of Owners and Operators	This chapter relates to liability for automobile collisions and has been studied.
39-16.1	Proof of Financial Responsibility for the Future	This chapter relates to insurance and has been recently studied in detail.
39-32	Intrastate Commercial Driver Hours of Service	This chapter stands alone because it adopts exceptions allowed by federal law.

There are also chapters that relate to vehicles other than automobiles. Other than motorcycles, these vehicles are subject to special provisions and are exempt from major portions of NDCC Title 39. Most of these vehicles have been studied in the past. These special vehicles are listed with a description of the chapter as follows:

39-10.2	Motorcycles	Generally, motorcycles are treated the same as automobiles except for certain required equipment.
39-10.3	Experimental Vehicles	Experimental vehicles have special registration and limited use provisions.
39-24	Regulation and Registration of Snowmobiles	Snowmobiles have special registration and limited use provisions (studied during the 2003-04 interim).
39-27	Motorcycle Equipment	Motorcycles have special equipment requirements.
39-29	Off-Highway Vehicles	Off-highway vehicles have special registration, equipment, and limited use provisions (studied during the 2003-04 interim).
39-29.1	Low-Speed Vehicles	Low-speed vehicles have special registration, equipment, and limited use provisions.
39-29.2	Unconventional Vehicles	Unconventional vehicles have special registration and limited use provisions.

This leaves a number of chapters that are squarely within the parameters of the study. All of these chapters have been divided into the subject headings of motor vehicles or drivers. Under each heading, the chapters are arranged by subject matter and the chapters that relate to that subject matter. Following each chapter is a list of any NDAC sections that relate to the listed chapters. In reviewing a chapter, related rules may be reviewed to promote the goal of the study of consistency, clarity, and of all of the substance. In addition, if applicable, any previous study is listed under the subject matter and chapter line.

**Motor vehicles**

Registration (NDCC Chapters 39-02 and 39-04)

Special Motor Vehicles  
(NDAC Chapter 37-12-02)

Title (NDCC Chapter 39-05)

Application and Requirements of Disclosure  
(NDAC Chapter 37-09-01)

Obtaining Certificate of Title for Untitled Vehicles  
(NDAC Chapter 37-12-04)

Inspection of Salvage Vehicles  
(NDAC Chapter 37-12-05)

During the 2003-04 interim, the Transportation Committee studied an alternative for motor vehicle lien filing and focused on the title registration process. This resulted in a rewrite of NDCC Sections 39-05-05, 39-05-16.1, 39-05-17, and 39-05-33.

**Vehicle restrictions**

Size, Width, and Height Restrictions  
(NDCC Chapter 39-12)

Multiple vehicle combinations administrative provisions  
Implements of Husbandry  
(NDAC Chapter 37-06-02)

Combinations of Two, Three, or Four Vehicles -  
Seventy-Five Feet or Less  
(NDAC Chapter 37-06-03)

Combinations of Two, Three, or Four Vehicles -  
Over Seventy-Five Feet  
(NDAC Chapter 37-06-04)

Movement of oversize or overweight vehicles  
administrative provisions

Adoption of Regulations  
(NDAC Chapter 38-06-02)

Permit Fees  
(NDAC Chapter 38-06-03)

Liability of Permit Applicant and Permit Conditions -  
(NDAC Chapter 38-06-04)

During the 2009-10 interim, the Public Safety and Transportation Committee studied highway construction funding. The committee focused on overweight vehicles permit, violation, and use fees.

Equipment of Vehicles  
(NDCC Chapter 39-21)

Slow-Moving Vehicle Identification Emblem  
(NDAC Article 37-02)

Hazardous Materials  
(NDAC Article 38-03)

Hazardous Materials - Agricultural Operations  
(NDAC Chapter 38-03-02)

Hazardous Materials - Petroleum Products  
(NDAC Chapter 38-03-03)

Motor Carrier Safety Regulations  
(NDAC Chapter 38-04-01)

Flags and lights for vehicles exempt from width  
limitations

Standards Marking Vehicles and Loads  
(NDAC Chapter 38-05-02)

Lighting Requirements  
(NDAC Chapter 38-05-03)

During the 2007-08 interim, the Transportation Committee studied Federal Motor Carrier Safety Regulations and exemptions for interstate and intrastate transportation. The study focused on NDCC Section 39-21-46.

**Drivers**

Licenses

Operators' Licenses  
(NDCC Chapter 39-06)

General Requirements of Licensing  
(NDAC Chapters 37-03-01)

Inimical Operators  
(NDAC Chapters 37-03-02)

Suspension, Revocation, and Restoration of Driver's  
Licenses  
(NDAC Chapters 37-03-03)

Administrative Hearing and Appeal Procedures for  
Driver's License Suspension or Revocation  
(NDAC Chapter 37-03.1-01)

Visual Requirements  
(NDAC Chapter 37-08-01)

Traffic offenses

Regulations Governing Operators  
(NDCC Chapter 39-08)

This chapter mainly relates to crimes.

Speed Restrictions  
(NDCC Chapter 39-09)

This chapter includes care required and careless driving.

General Rules of the Road  
(NDCC Chapter 39-10)

This chapter is mainly on driving prohibitions.

Traffic offense procedure

Disposition of Traffic Offenses  
(NDCC Chapter 39-06.1)

This chapter includes points and fees.

Hearing procedure, alcohol treatment procedure, and  
restricted licenses for minors  
(NDAC Chapters 37-03-03 and 37-03-04)

During the 2001-02 interim, the Judiciary B Committee studied the fees and demerits for traffic offenses with a focus on speed limits and speeding.

During the 2001-02 interim, the Judiciary B Committee studied the feasibility and desirability of a centralized process for administering noncriminal traffic violations. The study focused on the noncriminal procedure in NDCC Sections 39-06.1-02, 39-06.1-03, and 39-06.1-04.

General Regulations Governing Traffic  
(NDCC Chapter 39-07)

This chapter includes law enforcement procedure.

During the 2001-02 interim, the Judiciary B Committee studied the feasibility and desirability of a centralized process for administering noncriminal traffic violations. The study focused on the noncriminal procedure in NDCC Section 39-07-07.

Chemical Test for Intoxication, Implied Consent  
(NDCC Chapter 39-20)

This chapter contains administrative procedures and penalties for driving while under the influence.

Temporary operator's permit and notice of intention to  
revoke, suspend, or deny license by officer  
(NDAC Chapter 37-03-03)

**Both motor vehicles and drivers**

Definitions and General Provisions  
(NDCC Chapter 39-01)

### **SUGGESTED STUDY APPROACH**

Rewriting NDCC Title 39 by the committee would be a very ambitious undertaking. The committee may wish to prioritize chapters within Title 39. The committee could prioritize based on a member's recollection as to bills during the last or last few legislative sessions that were difficult to understand due to the subject matter. For example, equipment issues were the subject matter of the introduced version of the bill that created this study. Other areas that appear to create confusion are overweight vehicles and the particular vehicles that may be operated with a Class D license under different circumstances. The committee may desire to receive testimony from representatives of the Department of Transportation and the Highway Patrol for recommendations of areas to be reviewed. Once the committee has prioritized an area, the committee may have committee counsel redraft the area for consistency and clarity and present the changes as a bill draft. As part of the presentation, committee counsel could raise major substantive issues for the committee's consideration. Then, the committee may wish to receive testimony from interested parties and make substantive recommendations.

ATTACH:1