

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1098
(Transportation Committee)
(At the request of the Highway Patrol)

AN ACT to amend and reenact sections 39-08-05, 39-08-08, 39-08-10, 39-08-11, 39-08-13, 39-08-14, 39-08-15, and 39-08-16 of the North Dakota Century Code, relating to reporting crashes and obtaining crash reports and data.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-08-05 of the North Dakota Century Code is amended and reenacted as follows:

39-08-05. ~~Accidents~~Crashes involving damage to vehicle - Penalty.

The driver of any vehicle involved in an ~~accident~~crash resulting only in ~~damage to a vehicle which is driven or attended by any person~~property damage to the driver's vehicle or any other vehicle shall immediately stop ~~such~~the vehicle at the scene of ~~such accident~~the crash or as close ~~thereto~~to the scene of the crash as possible but shall ~~forthwith~~ return to and ~~in every event shall remain~~ at the scene of ~~such accident~~the crash until the driver has fulfilled the requirements of section 39-08-06 and 39-08-09. Every such stop must be made without obstructing traffic more than is necessary. Any person failing to stop or comply with ~~said~~the requirements ~~under such circumstances~~in this section is guilty of a class B misdemeanor.

SECTION 2. AMENDMENT. Section 39-08-08 of the North Dakota Century Code is amended and reenacted as follows:

39-08-08. Duty upon striking highway fixtures or other property.

The driver of any vehicle involved in an ~~accident~~crash resulting only in damage to highway fixtures or other property shall take reasonable steps to locate and notify the owner or person in charge of ~~such~~the property of ~~such fact and of the damage~~the damage. The driver shall provide the driver's name and address, and of the registration number of the vehicle the driver is driving and shall upon request and if available exhibit the driver's operator's or chauffeur's license and. The driver shall make report of such accident~~the crash~~ when and as required in section 39-08-09. The driver shall provide the name of the motor vehicle insurance policy carrier and the policy number of the driver, or if the driver is not the owner of the vehicle, then the motor vehicle insurance policy carrier and the policy number of the owner of the vehicle, to the owner or person in charge of the damaged property or to the law enforcement officer investigating the crash.

SECTION 3. AMENDMENT. Section 39-08-10 of the North Dakota Century Code is amended and reenacted as follows:

39-08-10. Officer to report.

Every law enforcement officer, who in the regular course of duty investigates a motor vehicle ~~accident~~crash required to be reported as provided in section 39-08-09 either at the time and at the scene of the ~~accident~~crash or thereafter by interviewing the participants, or witnesses, shall make and promptly forward to the director a report of the ~~accident~~crash in ~~the~~ format prescribed by the director. The report must contain all the information required therein unless the information is not available, and must be transmitted electronically to the department of transportation using the software prescribed by the director.

SECTION 4. AMENDMENT. Section 39-08-11 of the North Dakota Century Code is amended and reenacted as follows:

39-08-11. When driver unable to report.

1. An ~~accident~~A crash notice is not required from any person who is physically incapable of making the report during the period of such incapacity.
2. Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an ~~accident~~crash and there was another occupant in the vehicle at the time of the ~~accident~~crash capable of doing so, ~~such~~the occupant shall make or cause to be given the notice not given by the driver.
3. Whenever the driver is physically incapable of giving notice of an ~~accident~~crash and ~~such~~the driver is not the owner of the vehicle, then the owner of the vehicle involved shall within five days after learning of the ~~accident~~crash give ~~such~~the notice and insurance information not given by the driver.

SECTION 5. AMENDMENT. Section 39-08-13 of the North Dakota Century Code is amended and reenacted as follows:

39-08-13. Accident~~Crash~~ report forms.

1. The director shall prepare and supply to law enforcement agencies, garages, and other suitable agencies or individuals forms for ~~accident~~crash reports required by law, appropriate with respect to the purposes to be served. The reports to be made by investigating officers shall call for sufficiently detailed information to disclose the cause of a traffic ~~accident~~crash, conditions then existing, persons and vehicles involved, and whether the requirements for the deposit of security under section 39-16-05 are applicable.
2. Every ~~accident~~crash report required to be made to the director must be made in the ~~appropriate format or approved~~prescribed by the director and must contain all the information required therein unless not available.
3. Every law enforcement officer who investigates a vehicle ~~accident~~crash for which a report must be made as required in this chapter shall forward a report of such ~~accident~~crash to the department within ten days after the ~~accident~~crash.
4. The reports required to be forwarded by law enforcement officers and the information contained in the reports is not privileged or confidential. ~~If, however, the investigating officer expresses an opinion as to fault or responsibility for the accident, the opinion is confidential and not open to public inspection, except as provided in subsection 5.~~Crash reports held by a public entity other than the department of transportation and a law enforcement agency that contracts with service providers are exempt records. In addition, the following information contained in the report is an exempt record as defined in section 44-04-17.1 unless the requester is a party to the ~~accident~~crash, a party's legal representative, the insurer of any party to the ~~accident~~crash, the agent of that insurer, or the legal representative or insurer of an individual involved in defending or investigating a prior or subsequent claim or ~~accident~~crash involving a party to the ~~accident~~crash:
 - a. Driver identification number of a party in the report;
 - b. Telephone number of a party in the report;
 - c. Insurance company name and policy number of a party in the report; and
 - d. Day and month of birth of a party in the report.

5. Upon ~~affirmation by request from a party to the accident~~crash, a party's legal representative, or the insurer of any party to the ~~accident~~ crash that the ~~investigating officer's opinion is material to a determination of liability~~crash, the agent of the insurer, or the legal representative or insurer of ~~an individual involved in defending or investigating a prior or subsequent claim or crash involving a party to the crash~~, and upon payment of a fee of ~~five~~up to seven dollars, the director ~~or investigating agency~~ shall release a completed copy of the ~~investigating officer's opinion~~crash report to the entity requesting the information. The request must be made on an ~~appropriate~~the form approved~~prescribed~~ by the director.
6. Upon request of any person and upon payment of a fee of ~~two~~up to seven dollars, the director ~~or the law enforcement agency~~ may furnish to a requester a copy of that ~~portion of an investigating officer's accident~~crash report which does not ~~disclose the opinion of the reporting officer or~~ contain any exempt information that may not be disclosed, if the report shows that the ~~accident~~crash is one for which a driver is required to file a report under section 39-08-09.
7. Copies of ~~accident~~crash reports are not admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle ~~accident~~crash.
8. The director, without a request under subsection 4 or 5, may send a copy of an ~~accident~~crash report to the registered owner of each vehicle involved as indicated by the report.

SECTION 6. AMENDMENT. Section 39-08-14 of the North Dakota Century Code is amended and reenacted as follows:

39-08-14. Public inspection of reports relating to ~~accidents~~crashes.

1. All ~~accident~~crash reports made by persons involved in ~~accidents~~crashes or by garages shall be without prejudice to the individual so reporting and shall be for the confidential use of the department or other state agencies having use for the records for ~~accident~~crash prevention purposes, or for the administration of the laws of this state relating to the deposit of security and proof of financial responsibility by persons driving or the owners of motor vehicles, except that the department may disclose the identity of a person involved in an ~~accident~~crash when such identity is not otherwise known or when such person denies the person's presence at such ~~accident~~crash.
2. All ~~accident~~crash reports and supplemental information filed in connection with the administration of the laws of this state relating to the deposit of security or proof of financial responsibility are confidential and not open to general public inspection, nor may copying of lists of such reports be permitted.
3. No written reports or written information mentioned in this section may be used as evidence in any trial, civil or criminal, arising out of an ~~accident~~crash, except that the director shall furnish upon demand of any party to such trial, or upon demand of any court, a certificate showing that a specified ~~accident~~crash report has or has not been made to the director in compliance with law.
4. Notwithstanding any other provisions of this chapter, any information compiled or otherwise made available to the department pursuant to this chapter must be transmitted to each and every duly authorized official or agency of the United States requesting such.

SECTION 7. AMENDMENT. Section 39-08-15 of the North Dakota Century Code is amended and reenacted as follows:

39-08-15. Director of the department of transportation to tabulate and analyze ~~accident~~crash reports.

The director shall tabulate and may analyze all ~~accident~~crash reports and shall publish annually, or at more frequent intervals, statistical information based thereon as to the number and circumstances of traffic ~~accidents~~crashes.

SECTION 8. AMENDMENT. Section 39-08-16 of the North Dakota Century Code is amended and reenacted as follows:

39-08-16. Any incorporated city may require ~~accident~~crash reports.

Any incorporated city or other municipality may by ordinance require that the driver of a vehicle involved in an ~~accident~~crash shall file with a designated city department a report of such ~~accident~~crash or a copy of any report herein required to be filed with the director. All such reports must be for the confidential use of the city department and subject to the provisions of section 39-08-14.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1098.

House Vote: Yeas 82 Nays 10 Absent 2

Senate Vote: Yeas 45 Nays 2 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State