

**HOUSE BILL NO. 1316**

Introduced by

Representatives Mock, Christy, Ista, Koppelman, Louser, D. Ruby, Wagner, Warrey

Senators Conley, Meyer

1 A BILL for an Act to create and enact a new section to chapter 39-10.1 of the North Dakota  
2 Century Code, relating to autocycles; to amend and reenact sections 39-01-01, 39-08-01, and  
3 39-10.1-08 of the North Dakota Century Code, relating to definitions relating to autocycles,  
4 driving while under the influence of intoxicating liquor, and exempting autocycles from the point  
5 system; and to provide a penalty.

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

7 **SECTION 1. AMENDMENT.** Section 39-01-01 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **39-01-01. Definitions.**

10 In this title, unless the context or subject matter otherwise requires:

- 11 1. "Appropriate licensed addiction treatment program" means an addiction treatment  
12 program conducted by an addiction facility licensed by the department of health and  
13 human services or conducted by a licensed individual specifically trained in addiction  
14 treatment.
- 15 2. "Authorized emergency vehicles":
- 16 a. "Class A" authorized emergency vehicles means:
- 17 (1) Vehicles of a governmentally owned fire department.
- 18 (2) Vehicles when operated by or under the control of a police officer having  
19 authority to enforce the provisions of this title or by a salaried employee of a  
20 municipal police department within the municipality or by a sheriff or deputy  
21 sheriff not including special deputy sheriffs, or by the director of the  
22 department of corrections and rehabilitation and the director's authorized  
23 agents who have successfully completed training in the operation of class A  
24 authorized emergency vehicles.

- 1           (3) Vehicles clearly identifiable as property of the department of corrections and  
2           rehabilitation when operated or under the control of the director of the  
3           department of corrections and rehabilitation.
- 4           (4) Ambulances and other vehicles authorized by licensure granted under  
5           chapter 23-27.
- 6           (5) Vehicles operated by or under the control of the director, district deputy  
7           director, or a district deputy game warden of the game and fish department.
- 8           (6) Vehicles owned or leased by the United States and used for law  
9           enforcement purposes.
- 10          (7) Vehicles designated for the use of the adjutant general or assistant adjutant  
11          general in cases of emergency.
- 12          (8) Vehicles operated by or under the control of the director of the parks and  
13          recreation department.
- 14          (9) Vehicles operated by or under the control of a licensed railroad police officer  
15          and used for law enforcement purposes.
- 16          (10) Vehicles operated by or under the control of the state forester.
- 17          (11) Vehicles operated by or under the control of the bureau of criminal  
18          investigation and used for law enforcement purposes.
- 19          (12) Vehicles operated by or under the department of health and human services  
20          in cases of emergencies.
- 21          (13) Vehicles used or operated by governmental search and rescue personnel  
22          while performing emergency operations or duties. As used in this paragraph,  
23          "search and rescue" means deployment, coordination, and use of available  
24          resources and personnel in locating, relieving the distress, and preserving  
25          the life of and removing an individual who is missing, trapped, or lost in the  
26          backcountry, remote areas, or waters of the state. The term includes water  
27          and dive rescue.
- 28          b. "Class B" authorized emergency vehicles means wreckers and such other  
29          emergency vehicles as are authorized by the local authorities.
- 30          c. "Class C" authorized emergency vehicles means:

- 1           (1) Vehicles used by the state division of homeland security or local division of  
2           emergency management organizations.
- 3           (2) Vehicles used by volunteer firefighters while performing their assigned  
4           disaster and emergency responsibilities.
- 5           (3) Vehicles, other than ambulances, used by emergency medical services  
6           personnel.
- 7           (4) Vehicles used by volunteer search and rescue personnel if performing an  
8           emergency operation or duty upon the request of a state entity, political  
9           subdivision, or volunteer fire department. A volunteer organization may  
10          classify a personal vehicle as a class C emergency vehicle if needed to  
11          assist in a search and rescue operation in accordance with this paragraph.  
12          As used in this paragraph, "search and rescue" means deployment,  
13          coordination, and use of available resources and personnel in locating,  
14          relieving the distress, and preserving the life of and removing an individual  
15          who is missing, trapped, or lost in the backcountry, remote areas, or waters  
16          of the state. The term includes water and dive rescue.
- 17          3. "Autocycle" means a vehicle that:
- 18           a. Has fully operative pedals for propulsion entirely by human power;
- 19           b. Has at least four wheels and is operated in a manner similar to a bicycle;
- 20           c. Has at least five seats for passengers;
- 21           d. Has been designed to be occupied by a driver and powered either by passengers  
22           providing pedal power to the drive train of the vehicle or by a motor capable of  
23           propelling the vehicle in the absence of human power;
- 24           e. Is used for commercial purposes;
- 25           f. Is operated by the owner of the vehicle or an employee of the owner of the  
26           vehicle;
- 27           g. Is equipped with antilock brakes; and
- 28           h. Is equipped with a steering wheel that gives the driver exclusive control of the  
29           direction of the vehicle.

- 1        4. "Bicycle" means every device propelled solely by human power upon which any  
2                    person may ride, having two tandem wheels or two parallel wheels and one forward or  
3                    rearward wheel. The term includes an electric bicycle and an autocycle.
- 4        4.5. "Bus" means every motor vehicle designed for carrying more than ten passengers and  
5                    used for the transportation of persons, and every motor vehicle, other than a taxicab,  
6                    designed and used for the transportation of persons for compensation. Provided,  
7                    every motor vehicle designed for carrying not more than fifteen persons and used for a  
8                    ridesharing arrangement, as defined in section 8-02-07, is not a "bus".
- 9        5.6. "Business district" means the territory contiguous to a highway when fifty percent or  
10                   more of the frontage thereon for a distance of three hundred feet [91.44 meters] or  
11                   more is occupied by buildings in use for business.
- 12        6.7. "Camping trailer" means a vehicular portable unit mounted on wheels and constructed  
13                   with collapsible partial side walls that fold for towing by another vehicle and unfold at  
14                   the campsite to provide temporary living quarters for recreational, camping, or travel  
15                   use.
- 16        7.8. "Cancellation" means a license is annulled and terminated because of an error or  
17                   defect or because the licensee is no longer entitled to the operator's license, but the  
18                   cancellation of a license is without prejudice and application for a new license may be  
19                   made at any time after the cancellation.
- 20        8.9. "Child restraint system" means a specifically designed device, built-in seating system,  
21                   or belt-positioning booster that meets the federal motor vehicle safety standards and is  
22                   permanently affixed to a motor vehicle, is affixed to the vehicle by a safety belt or  
23                   universal attachment system, or is combined with a federally compliant safety belt  
24                   system.
- 25        9.10. "Commercial freighting" means the carriage of things other than passengers, for hire,  
26                   except that such term does not include:  
27                   a.    The carriage of things other than passengers within the limits of the same city;  
28                   b.    Carriage by local dray lines of baggage or goods to or from a railroad station from  
29                   or to places in such city or in the immediate vicinity thereof, in this state, and not  
30                   to exceed two miles [3.22 kilometers] from the corporate or recognized limits of  
31                   said city; or

- 1 c. Hauling done by farmers for their neighbors in transporting agricultural products  
2 to or from market.
- 3 ~~40.11.~~ "Commercial passenger transportation" means the carriage of passengers for hire,  
4 except that the term does not include:
- 5 a. The carriage of passengers within the limits of a city.  
6 b. The carriage by local buslines of passengers to or from a railroad station from or  
7 to places within any city or within two miles [3.22 kilometers] of the limits of the  
8 city.  
9 c. The carriage of passengers under a ridesharing arrangement, as defined in  
10 section 8-02-07.
- 11 ~~41.12.~~ "Commissioner" means the director of the department of transportation of this state,  
12 acting directly or through authorized agents as provided by section 24-02-01.3.
- 13 ~~42.13.~~ "Controlled-access highway" means every highway, street, or roadway in respect to  
14 which owners or occupants of abutting lands and other persons have no legal right of  
15 access to or from the same except at such points only and in such manner as may be  
16 determined by the public authority having jurisdiction over such highway, street, or  
17 roadway.
- 18 ~~43.14.~~ "Conviction" means a final order or judgment or conviction by the North Dakota  
19 supreme court, any lower court having jurisdiction, a tribal court, or a court in another  
20 state if an appeal is not pending and the time for filing a notice of appeal has elapsed.  
21 Subject to the filing of an appeal, the term includes:
- 22 a. An imposed and suspended sentence;  
23 b. A deferred imposition of sentence under subsection 4 of section 12.1-32-02; or  
24 c. A forfeiture of bail or collateral deposited to secure a defendant's appearance in  
25 court and the forfeiture has not been vacated.
- 26 ~~44.15.~~ "Crosswalk" means that part of a roadway at an intersection included within the  
27 connections of the lateral lines of the sidewalks on opposite sides of the highway  
28 measured from the curbs, or, in the absence of curbs, from the edges of the  
29 traversable roadway; or any portion of a roadway at an intersection or elsewhere  
30 distinctly indicated for pedestrian crossing by lines or other markings on the surface.

- 1 ~~15-16.~~ "Dealer" means every person, partnership, corporation, or limited liability company  
2 engaged in the business of buying, selling, or exchanging motor vehicles, or who  
3 advertises, or holds out to the public as engaged in the buying, selling, or exchanging  
4 of motor vehicles, or who engages in the buying of motor vehicles for resale. Any  
5 person, partnership, corporation, limited liability company, or association doing  
6 business in several cities or in several locations within a city must be considered a  
7 separate dealer in each such location.
- 8 ~~16-17.~~ "Department" means the department of transportation of this state as provided by  
9 section 24-02-01.1.
- 10 ~~17-18.~~ "Director" means the director of the department of transportation of this state as  
11 provided by section 24-02-01.3.
- 12 ~~18-19.~~ "Driver" means every person who drives or is in actual physical control of a vehicle.
- 13 ~~19-20.~~ "Electric bicycle" means a bicycle equipped with fully operable pedals, a saddle or  
14 seat for the rider, and an electric motor of seven hundred fifty or fewer watts which  
15 meets the requirements of one of the following three classes:
- 16 a. A class 1 electric bicycle if the motor provides assistance only when the individual  
17 is pedaling and the motor ceases to provide assistance when a speed of twenty  
18 miles [32 kilometers] per hour is achieved.
- 19 b. A class 2 electric bicycle if the motor is capable of propelling the bicycle without  
20 the individual pedaling and the motor ceases to provide assistance when a speed  
21 of twenty miles [32 kilometers] per hour is achieved.
- 22 c. A class 3 electric bicycle if the motor provides assistance only when the individual  
23 is pedaling and the motor ceases to provide assistance when a speed of  
24 twenty-eight miles [45 kilometers] per hour is achieved.
- 25 ~~20-21.~~ "Electronic communication device" means an electronic device, including a wireless  
26 telephone, personal digital assistant, a portable or mobile computer or other device,  
27 and video display equipment. The term does not include a global positioning system or  
28 navigation system or a device that is physically or electronically integrated into the  
29 motor vehicle.
- 30 ~~21-22.~~ "Essential parts" means all integral and body parts of a vehicle of a type required to be  
31 registered hereunder, the removal, alteration, or substitution of which would tend to

1 conceal the identity of the vehicle or substantially alter its appearance, model, type, or  
2 mode of operation and includes all integral parts and body parts, the removal,  
3 alteration, or substitution of which will tend to conceal the identity or substantially alter  
4 the appearance of the vehicle.

5 ~~22-23.~~ "Explosives" means any chemical compound or mechanical mixture that is commonly  
6 used or intended for the purpose of producing an explosion and which contains any  
7 oxidizing and combustive units or other ingredients in such proportions, quantities, or  
8 packing that an ignition by fire, by friction, by concussion, by percussion, or by  
9 detonator of any part of the compound or mixture may cause such a sudden  
10 generation of highly heated gases that the resultant gaseous pressures are capable of  
11 producing destructive effects on contiguous objects or by destroying life or limb.

12 ~~23-24.~~ "Farm tractor" includes every motor vehicle designed and used primarily as a farm  
13 implement for drawing plows, moving machines, and other implements of husbandry.

14 ~~24-25.~~ "Farm trailer" includes those trailers and semitrailers towed by a bona fide resident  
15 farmer hauling the farmer's own agricultural, horticultural, dairy, and other farm  
16 products if the gross weight, not including the towing vehicle, does not exceed  
17 twenty-four thousand pounds [10886.22 kilograms].

18 ~~25-26.~~ "Fifth-wheel travel trailer" means a vehicular unit mounted on wheels, designed to  
19 provide temporary living quarters for recreational, camping, or travel use, of such size  
20 or weight as not to require a special highway movement permit and designed to be  
21 towed by a motorized vehicle that contains a towing mechanism that is mounted  
22 above or forward of the tow vehicle's rear axle.

23 ~~26-27.~~ "Flammable liquid" means any liquid which has a flash point of seventy degrees  
24 Fahrenheit [21.11 degrees Celsius], or less, as determined by a tagliabue or  
25 equivalent closed-cup test device.

26 ~~27-28.~~ "Foreign vehicle" means every motor vehicle which is brought into this state other than  
27 in the ordinary course of business by or through a manufacturer or dealer and which  
28 has not been registered in this state.

29 ~~28-29.~~ "Gross weight" means the weight of a vehicle without load plus the weight of any load  
30 thereon.

1 ~~29-30.~~ "Guest" means and includes a person who accepts a ride in any vehicle without giving  
2 compensation therefor.

3 ~~30-31.~~ "Highway" means the entire width between the boundary lines of every way publicly  
4 maintained when any part thereof is open to the use of the public for purposes of  
5 vehicular travel and of every way privately maintained within a mobile home park,  
6 trailer park, or campground containing five or more lots for occupancy by mobile  
7 homes, travel trailers, or tents when any part thereof is open for purposes of vehicular  
8 travel.

9 ~~31-32.~~ "House car" or "motor home" means a motor vehicle which has been reconstructed or  
10 manufactured primarily for private use as a temporary or recreational dwelling and  
11 having at least four of the following permanently installed systems:

- 12 a. Cooking facilities.
- 13 b. Icebox or mechanical refrigerator.
- 14 c. Potable water supply including plumbing and a sink with faucet either  
15 self-contained or with connections for an external source, or both.
- 16 d. Self-contained toilet or a toilet connected to a plumbing system with connection  
17 for external water disposal, or both.
- 18 e. Heating or air-conditioning system, or both, separate from the vehicle engine or  
19 the vehicle engine electrical system.
- 20 f. A 110-115 volt alternating current electrical system separate from the vehicle  
21 engine electrical system either with its own power supply or with a connection for  
22 an external source, or both, or a liquefied petroleum system and supply.

23 ~~32-33.~~ "Implement of husbandry" means every vehicle designed and adapted exclusively for  
24 agricultural, horticultural, or livestock raising operations or for lifting or carrying an  
25 implement of husbandry and in either case not subject to registration if used upon the  
26 highway.

27 ~~33-34.~~ "Intersection" means the area embraced within the prolongation or connection of the  
28 lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two  
29 highways which join one another at, or approximately at, right angles, or the area  
30 within which vehicles traveling upon different highways joining at any other angle may  
31 come in conflict. Where a highway includes two roadways thirty feet [9.14 meters] or



1 more apart, then every crossing of each roadway of such divided highway by an  
2 intersecting highway must be regarded as a separate intersection. In the event such  
3 intersecting highway also includes two roadways thirty feet [9.14 meters] or more  
4 apart, then every crossing of two roadways of such highways must be regarded as a  
5 separate intersection.

6 ~~34.35.~~ "Intoxicating liquor" means and includes any beverage containing alcohol.

7 ~~35.36.~~ "Judgment" means any judgment which has become final by expiration without appeal  
8 of the time within which an appeal might have been perfected, or by final affirmation  
9 on appeal, rendered by a court of competent jurisdiction of any state of the United  
10 States, upon a claim for relief arising out of ownership, maintenance, or use of any  
11 motor vehicle, for damages, including damages for care and loss of services, because  
12 of bodily injury to or death of any person, or for damages because of injury to or  
13 destruction of property, including the loss of use thereof, or upon a claim for relief on  
14 an agreement of settlement for such damages.

15 ~~36.37.~~ "Legal owner" means a person who holds the legal title to a vehicle.

16 ~~37.38.~~ "Licensed health care provider" means doctor of medicine, doctor of osteopathy,  
17 doctor of chiropractic, optometrist, psychologist, advanced practice registered nurse,  
18 or physician assistant who is licensed, certified, or registered in accordance with laws  
19 and regulations in this or another state.

20 ~~38.39.~~ "Lienholder" means a person holding a security interest in a vehicle.

21 ~~39.40.~~ "Local authorities" includes every county, municipal, and other local board or body  
22 having authority to adopt local police regulations under the constitution and laws of  
23 this state.

24 ~~40.41.~~ "Mail" means to deposit mail properly addressed and with postage prepaid with the  
25 United States postal service.

26 ~~41.42.~~ "Manifest injustice" means a specific finding by the court that the imposition of  
27 sentence is unreasonably harsh or shocking to the conscience of a reasonable  
28 person, with due consideration of the totality of circumstances.

29 ~~42.43.~~ "Manufactured home" means a structure, transportable in one or more sections, that,  
30 in the traveling mode, is eight body feet [2.44 meters] or more in width or forty body  
31 feet [12.19 meters] or more in length, or, when erected onsite, is three hundred twenty

1 square feet [29.73 square meters] or more, and which is built on a permanent chassis  
2 and designed to be used as a dwelling with or without a permanent foundation when  
3 connected to the required utilities, and includes the plumbing, heating, air-conditioning,  
4 and electrical systems contained therein. The term includes any structure that meets  
5 all of the requirements of this subsection except the size requirements and with  
6 respect to whether the manufacturer voluntarily files a certification required by the  
7 United States secretary of housing and urban development and complies with the  
8 standards established under title 42 of the United States Code.

9 ~~43-44.~~ "Manufacturer" means any person who manufactures, assembles, or imports and sells  
10 new motor vehicles to new motor vehicle dealers for resale in the state; but such term  
11 does not include a person who assembles or specially builds interior equipment on a  
12 completed vehicle supplied by another manufacturer, distributor, or supplier.

13 ~~44-45.~~ "Metal tires" includes all tires the surface of which in contact with the highway is wholly  
14 or partly of metal or other hard, nonresilient material except that this provision does  
15 not apply to pneumatic tires.

16 ~~45-46.~~ "Mobile home" means a structure, either single or multisectional, which is built on a  
17 permanent chassis, ordinarily designed for human living quarters, either on a  
18 temporary or permanent basis, owned or used as a residence or place of business of  
19 the owner or occupant, which is either attached to utility services or is twenty-seven  
20 feet [8.23 meters] or more in length.

21 ~~46-47.~~ "Modular unit" includes every factory fabricated transportable building unit designed to  
22 be incorporated with similar units at a building site into a modular structure to be used  
23 for residential, commercial, educational, or industrial purposes.

24 ~~47-48.~~ "Motor vehicle" includes every vehicle that is self-propelled, every vehicle that is  
25 propelled by electric power obtained from overhead trolley wires, but not operated  
26 upon rails, and, for purposes of motor vehicle registration, title registration, and  
27 operator's licenses, motorized bicycles. The term does not include a snowmobile as  
28 defined in section 39-24-01 or, an electric bicycle, or an autocycle.

29 ~~48-49.~~ "Motorcycle" means every motor vehicle having a seat or saddle for the use of the  
30 rider and designed to travel on not more than three wheels in contact with the ground,  
31 but excluding implements of husbandry. The term does not include an electric bicycle.

- 1 ~~49-50.~~ "Motorized bicycle" means a vehicle equipped with two or three wheels, foot pedals to  
2 permit muscular propulsion or footrests for use by the operator, a power source  
3 providing up to a maximum of two brake horsepower having a maximum piston or  
4 rotor displacement of 3.05 cubic inches [49.98 milliliters] if a combustion engine is  
5 used, which will propel the vehicle, unassisted, at a speed not to exceed thirty miles  
6 [48.28 kilometers] per hour on a level road surface, and a power drive system that  
7 functions directly or automatically only, not requiring clutching or shifting by the  
8 operator after the drive system is engaged, and the vehicle may not have a width  
9 greater than thirty-two inches [81.28 centimeters]. The term does not include an  
10 electric bicycle.
- 11 ~~50-51.~~ "Motor-powered recreational vehicle" means a motorcycle, unconventional vehicle, or  
12 off-highway vehicle as defined in section 39-29-01, or a snowmobile as defined in  
13 section 39-24-01. The term does not include an electric bicycle.
- 14 ~~51-52.~~ "Nonresident" means any person who is not a resident of this state.
- 15 ~~52-53.~~ "Nonresident's operating privilege" means the privilege conferred upon a nonresident  
16 by the laws of this state pertaining to the operation by such person of a motor vehicle,  
17 or the use of a vehicle owned by such person, in this state.
- 18 ~~53-54.~~ "Official traffic-control devices" means all signs, signals, markings, and devices not  
19 inconsistent with this title placed or erected by authority of a public body or official  
20 having jurisdiction, for the purpose of regulating, warning, or guiding traffic.
- 21 ~~54-55.~~ "Operator" means every person who drives or is in actual physical control of a motor  
22 vehicle upon a highway or who is exercising control over or steering a vehicle being  
23 towed by a motor vehicle.
- 24 ~~55-56.~~ "Operator's license", "driver's license", or "license to operate a motor vehicle" means  
25 any operator's or driver's license or any other license or permit to operate a motor  
26 vehicle issued under, or granted by, the laws of this state, including:  
27 a. Any temporary license or instruction permit;  
28 b. The privilege of any person to drive a motor vehicle whether such person holds a  
29 valid license; or  
30 c. Any nonresident's operating privilege as defined in this section.

Sixty-eighth  
Legislative Assembly

- 1 ~~56-57.~~ "Owner" means a person, other than a lienholder, having the property in or title to a  
2 vehicle. The term includes a person entitled to the use and possession of a vehicle  
3 subject to a security interest in another person, but excludes a lessee under a lease  
4 not intended as security.
- 5 ~~57-58.~~ "Park", when prohibited, means the standing of a vehicle, whether occupied or not,  
6 otherwise than temporarily for the purpose of and while actually engaged in loading or  
7 unloading.
- 8 ~~58-59.~~ "Passenger motor vehicle" means every motor vehicle designed principally for the  
9 transportation of persons and includes vehicles which utilize a truck chassis, but have  
10 a seating capacity for four or more passengers.
- 11 ~~59-60.~~ "Pedestrian" means any person afoot.
- 12 ~~60-61.~~ "Person" includes every natural person, firm, copartnership, association, corporation,  
13 or limited liability company.
- 14 ~~61-62.~~ "Pneumatic tires" includes all tires inflated with compressed air.
- 15 ~~62-63.~~ "Pole trailer" means every vehicle without motive power designed to be drawn by  
16 another vehicle and attached to the towing vehicle by means of a reach, or pole, or by  
17 being boomed or otherwise secured to the towing vehicle, and ordinarily used for  
18 transporting long or irregularly shaped loads such as poles, pipes, or structural  
19 members capable, generally, of sustaining themselves as beams between the  
20 supporting connections.
- 21 ~~63-64.~~ "Police officer" means every officer authorized to direct or regulate traffic or to make  
22 arrests for violations of traffic regulations.
- 23 ~~64-65.~~ "Primary source identity document" means documentary evidence of an individual's  
24 name, date of birth, and legal presence required in chapters 39-06 and 39-06.2 related  
25 to the issuance of permits, licenses, and nondriver photo identification cards, and  
26 retained in the driver record.
- 27 ~~65-66.~~ "Private road or driveway" means every way or place in private ownership and used  
28 for vehicular travel by the owner and those having express or implied permission from  
29 the owner, but not by other persons.
- 30 ~~66-67.~~ "Proof of financial responsibility" means proof of ability to respond in damages for  
31 liability, on account of accidents occurring after the effective date of the proof, arising

1 out of the ownership, maintenance, or use of a motor vehicle, in the amount of  
2 twenty-five thousand dollars because of bodily injury to or death of one person in any  
3 one accident, and, subject to the limit for one person, in the amount of fifty thousand  
4 dollars because of bodily injury to or death of two or more persons in any one  
5 accident, and in the amount of twenty-five thousand dollars because of injury to or  
6 destruction of property of others in any one accident.

7 ~~67.68.~~ "Railroad" means a carrier of persons or property upon cars, other than streetcars,  
8 operated upon stationary rails.

9 ~~68.69.~~ "Railroad sign or signal" means any sign, signal, or device erected by authority of a  
10 public body or official or by a railroad and intended to give notice of the presence of  
11 railroad tracks or the approach of a railroad train.

12 ~~69.70.~~ "Reconstructed vehicle" means any vehicle, of a type required to be registered,  
13 materially altered from its original construction by the removal, addition, or substitution  
14 of new or used essential parts.

15 ~~70.71.~~ "Recreational vehicle" means any motorcycle not qualified for registration, off-highway  
16 vehicle, snowmobile, vessel, or personal watercraft. The term does not include an  
17 electric bicycle.

18 ~~71.72.~~ "Residence district" means territory contiguous to a highway not comprising a  
19 business district, when the frontage on such highway for a distance of three hundred  
20 feet [91.44 meters] or more is occupied mainly by dwellings, or by dwellings and  
21 buildings in use for business.

22 ~~72.73.~~ "Revocation" means that the operator's license is terminated and may not be renewed  
23 or restored, except on application for a new license presented to and acted upon by  
24 the director after the expiration of the period of revocation.

25 ~~73.74.~~ "Right of way" means the privilege of the immediate use of a roadway.

26 ~~74.75.~~ "Road tractor" means every motor vehicle designed and used for drawing other  
27 vehicles and not so constructed as to carry any load thereon either independently or  
28 any part of the weight of a vehicle or load so drawn.

29 ~~75.76.~~ "Roadway" means that portion of a highway improved, designed, or ordinarily used for  
30 vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two

1 or more separate roadways, the term "roadway" as used herein refers to any such  
2 roadway separately but not to all such roadways collectively.

3 ~~76-77.~~ "Saddle mount" means placing the front wheels of the drawn vehicle upon the bed of  
4 the drawing vehicle.

5 ~~77-78.~~ "Safety zone" means the area or space officially set aside within a highway for the  
6 exclusive use of pedestrians and which is so plainly marked or indicated by proper  
7 signs as to be plainly visible at all times while set aside as a safety zone.

8 ~~78-79.~~ "Salvage certificate of title" means a document issued by the department for purposes  
9 of proof of ownership of a salvage or destroyed vehicle and not acceptable for motor  
10 vehicle registration purposes.

11 ~~79-80.~~ "Schoolbus" means a motor vehicle designed or used to carry more than ten  
12 passengers in addition to the driver, and is used for the purpose of transporting  
13 preprimary, primary, or secondary school students from home to school, from school to  
14 home, or to and from school-related events. For the purposes of chapter 39-21,  
15 "schoolbus" means any motor vehicle that is owned or leased by a public or  
16 governmental agency and used to transport preprimary, primary, or secondary school  
17 students to or from school or to or from school-related events, or is privately owned  
18 and operated for compensation to transport preprimary, primary, or secondary school  
19 students to or from school or to or from school-related events. Schoolbus does not  
20 include a bus used as a common carrier.

21 ~~80-81.~~ "Semitrailer" includes every vehicle of the trailer type so designed and used in  
22 conjunction with a truck or truck tractor that some part of its own weight and that of its  
23 own load rests upon or is carried by a truck or truck tractor, except that it does not  
24 include a "housetrailer" or "mobile home".

25 ~~81-82.~~ "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of  
26 a roadway, and the adjacent property lines, intended for use of pedestrians.

27 ~~82-83.~~ "Solid tire" includes every tire made of rubber or other resilient material other than a  
28 pneumatic tire.

29 ~~83-84.~~ "Special mobile equipment" means every vehicle not designed or used primarily for  
30 the transportation of persons or property and only incidentally operated or moved over  
31 a highway.

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- 1 ~~84.85.~~ "Specially constructed vehicle" means any vehicle which was not constructed  
2 originally under the distinct name, make, model, or type by a generally recognized  
3 manufacturer of vehicles.
- 4 ~~85.86.~~ "Stand" or "standing" means the halting of a vehicle, whether occupied or not,  
5 otherwise than temporarily for the purpose of and while actually engaged in receiving  
6 or discharging passengers.
- 7 ~~86.87.~~ "State" means a state, territory, or possession of the United States, the District of  
8 Columbia, the Commonwealth of Puerto Rico, or a province of the Dominion of  
9 Canada.
- 10 ~~87.88.~~ "Stop", when required, means complete cessation from movement.
- 11 ~~88.89.~~ "Stop" or "stopping", when prohibited, means any halting, even momentarily, of a  
12 vehicle, whether occupied or not, except when necessary to avoid conflict with other  
13 traffic or in compliance with the directions of a police officer or traffic-control sign or  
14 signal.
- 15 ~~89.90.~~ "Street" means the entire width between boundary lines of every way publicly  
16 maintained when any part thereof is open to the use of the public for purposes of  
17 vehicular travel.
- 18 ~~90.91.~~ "Superintendent" means the superintendent of the North Dakota state highway patrol,  
19 acting directly or through authorized employees of the superintendent.
- 20 ~~91.92.~~ "Suspension" means that the operator's license is temporarily withdrawn but only  
21 during the period of the suspension.
- 22 ~~92.93.~~ "Through highway" means every highway or portion thereof on which vehicular traffic  
23 is given preferential right of way, and at the entrances to which vehicular traffic from  
24 intersecting highways is required by law to yield right of way to vehicles on such  
25 through highway and in obedience to either a stop sign or yield sign, when such signs  
26 are erected by law.
- 27 ~~93.94.~~ "Trackless trolley coach" means every motor vehicle which is propelled by electric  
28 power obtained from overhead trolley wires but not operated upon rails.
- 29 ~~94.95.~~ "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other  
30 conveyances either singly or together while using any highway for purposes of travel.

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- 1 ~~95-96.~~ "Traffic-control signal" means any device, whether manually, electrically, or  
2 mechanically operated, by which traffic is alternately directed to stop and to proceed.
- 3 ~~96-97.~~ "Trailer" includes every vehicle without motive power designed to carry property or  
4 passengers wholly on its own structure and to be drawn by a motor vehicle, except  
5 that it does not include a "houstrailer" or "mobile home", which terms mean a vehicle  
6 as defined in this subsection which is designed and intended for use as living or  
7 sleeping quarters for people and which is not used for commercial hauling of  
8 passengers.
- 9 ~~97-98.~~ "Travel trailer" means a vehicular unit mounted on wheels, designed to provide  
10 temporary living quarters for recreational, camping, or travel use, and of such size or  
11 weight as not to require a special highway movement permit when towed by a  
12 motorized vehicle.
- 13 ~~98-99.~~ "Truck" includes every motor vehicle designed, used, or maintained primarily for  
14 transportation of property.
- 15 ~~99-100.~~ "Truck camper" means a portable unit that is constructed to provide temporary living  
16 quarters for recreational, camping, or travel use; consists of a roof, floor, and sides;  
17 and is designed to be loaded onto and unloaded from the bed of a pickup truck.
- 18 ~~100-101.~~ "Truck tractor" includes every motor vehicle designed and used primarily for drawing  
19 other vehicles and not so constructed as to carry a load other than a part of the weight  
20 of the vehicle and load so drawn.
- 21 ~~101-102.~~ "Urban district" means the territory contiguous to and including any street which is built  
22 up with structures devoted to business, industry, or dwelling houses situated at  
23 intervals of less than one hundred feet [30.48 meters] for a distance of a quarter of a  
24 mile [402.34 meters] or more.
- 25 ~~102-103.~~ "Used vehicle" means a motor vehicle which has been sold, bargained, exchanged,  
26 given away, or the title to which has been transferred to another, by the person who  
27 first acquired it from the manufacturer or importer, dealer, or agent of the manufacturer  
28 or importer.
- 29 ~~103-104.~~ "Vehicle" includes every device in, upon, or by which any person or property may be  
30 transported or drawn upon a public highway, except devices moved by human power



1           or used exclusively upon stationary rails or tracks. The term does not include an  
2           electric bicycle.

3           **SECTION 2. AMENDMENT.** Section 39-08-01 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **39-08-01. Persons under the influence of intoxicating liquor or any other drugs or**  
6 **substances not to operate vehicle - Penalty.**

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

10          a. (1) That person has an alcohol concentration of at least eight one-hundredths  
11           of one percent by weight at the time of the performance of a chemical test  
12           within two hours after the driving or being in actual physical control of a  
13           vehicle.

14          b. (2) That person is under the influence of intoxicating liquor.

15          c. (3) That person is under the influence of any drug or substance or combination  
16           of drugs or substances to a degree which renders that person incapable of  
17           safely driving.

18          d. (4) That person is under the combined influence of alcohol and any other drugs  
19           or substances to a degree which renders that person incapable of safely  
20           driving.

21          e. (5) That individual refuses to submit to any of the following:

22           (1) (a) A chemical test, or tests, of the individual's blood, breath, or urine to  
23           determine the alcohol concentration or presence of other drugs, or  
24           combination thereof, in the individual's blood, breath, or urine, at the  
25           direction of a law enforcement officer under section 39-06.2-10.2 if the  
26           individual is driving or is in actual physical control of a commercial  
27           motor vehicle; or

28           (2) (b) A chemical test, or tests, of the individual's blood, breath, or urine to  
29           determine the alcohol concentration or presence of other drugs, or  
30           combination thereof, in the individual's blood, breath, or urine, at the  
31           direction of a law enforcement officer under section 39-20-01.

- 1           f. ~~Subdivision e~~
- 2           (6) Paragraph 5 does not apply to an individual unless the individual has been
- 3                 advised of the consequences of refusing a chemical test consistent with the
- 4                 Constitution of the United States and the Constitution of North Dakota.
- 5           b. The fact any person charged with violating this section is or has been legally
- 6                 entitled to use alcohol or other drugs or substances is not a defense against any
- 7                 charge for violating this section. It is an affirmative defense that a drug was used
- 8                 only as directed or cautioned by a practitioner who legally prescribed or
- 9                 dispensed the drug to that person. If the individual violated ~~subdivisions a, b, c, or~~
- 10                ~~of this subsection and subdivision e of this subsection~~paragraphs 1, 2, 3, or 4
- 11                of subdivision a of this subsection and paragraph 5 of subdivision a of this
- 12                subsection and the violations arose from the same incident, for purposes of
- 13                suspension or revocation of an operator's license, the violations are deemed a
- 14                single violation and the court shall forward to the department of transportation
- 15                only the conviction for driving under the influence or actual physical control.
- 16           c. A passenger on an autocycle may not be charged with a violation of this section.
- 17        2. An individual who operates a motor vehicle on a highway or on public or private areas
- 18                to which the public has a right of access for vehicular use in this state who refuses to
- 19                submit to a chemical test, or tests, required under section 39-06.2-10.2 or 39-20-01, is
- 20                guilty of an offense under this section.
- 21        3. An individual violating this section or equivalent ordinance is guilty of a class B
- 22                misdemeanor for the first or second offense in a seven-year period, of a class A
- 23                misdemeanor for a third offense in a seven-year period, and of a class C felony for any
- 24                fourth or subsequent offense within a fifteen-year period. The minimum penalty for
- 25                violating this section is as provided in subsection 5. The court shall take judicial notice
- 26                of the fact that an offense would be a subsequent offense if indicated by the records of
- 27                the director or may make a subsequent offense finding based on other evidence.
- 28        4. Upon conviction of a second or subsequent offense within seven years under this
- 29                section or equivalent ordinance, the court may order the motor vehicle number plates
- 30                of all of the motor vehicles owned and operated by the offender at the time of the
- 31                offense to be destroyed by the office of the police officer that made the arrest. The

1 offender shall deliver the number plates to the court without delay at a time certain as  
2 ordered by the court following the conviction. The court shall deliver the number plates  
3 to the office and notify the department of the order. An offender who does not provide  
4 the number plates to the court at the appropriate time is subject to revocation of  
5 probation. The court may make an exception to this subsection, on an individual basis,  
6 to avoid undue hardship to an individual who is completely dependent on the motor  
7 vehicle for the necessities of life, including a family member of the convicted individual  
8 and a co-owner of the motor vehicle, or if the offender is participating in the twenty-  
9 four seven sobriety program.

10 5. A person convicted of violating this section, or an equivalent ordinance, must be  
11 sentenced in accordance with this subsection.

12 a. (1) For a first offense, the sentence must include both a fine of at least five  
13 hundred dollars and an order for addiction evaluation by an appropriate  
14 licensed addiction treatment program.

15 (2) In addition, for a first offense when the convicted person has an alcohol  
16 concentration of at least sixteen one-hundredths of one percent by weight,  
17 the offense is an aggravated first offense and the sentence must include a  
18 fine of at least seven hundred fifty dollars and at least two days'  
19 imprisonment.

20 b. For a second offense within seven years, the sentence must include at least ten  
21 days' imprisonment, of which forty-eight hours must be served consecutively; a  
22 fine of one thousand five hundred dollars; an order for addiction evaluation by an  
23 appropriate licensed addiction treatment program; and at least three hundred  
24 sixty days' participation in the twenty-four seven sobriety program under chapter  
25 54-12 as a mandatory condition of probation.

26 c. For a third offense within seven years, the sentence must include at least one  
27 hundred twenty days' imprisonment; a fine of at least two thousand dollars; an  
28 order for addiction evaluation by an appropriate licensed addiction treatment  
29 program; at least three hundred sixty days' supervised probation; and at least  
30 three hundred sixty days' participation in the twenty-four seven sobriety program  
31 under chapter 54-12 as a mandatory condition of probation.

- 1           d. For a fourth or subsequent offense within fifteen years, the sentence must include  
2           at least one year and one day's imprisonment; a fine of at least two thousand  
3           dollars; an order for addiction evaluation by an appropriate licensed treatment  
4           program; at least two years' supervised probation; and participation in the twenty-  
5           four seven sobriety program under chapter 54-12 as a mandatory condition of  
6           probation.
- 7           e. The imposition of sentence under this section may not be deferred under  
8           subsection 4 of section 12.1-32-02 for an offense subject to this section.
- 9           f. If the offense is subject to subdivision a or b, a municipal court or district court  
10          may not suspend a sentence, but may convert each day of a term of  
11          imprisonment to ten hours of community service for an offense subject to  
12          paragraph 2 of subdivision a. If the offense is subject to subdivision c, the district  
13          court may suspend a sentence, except for sixty days' 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 offense is subject to subdivision d, the district court may  
17          suspend a sentence, except for one year's imprisonment, under subsection 3 of  
18          section 12.1-32-02 on the condition that the defendant first undergo and  
19          complete an evaluation for alcohol and substance abuse treatment and  
20          rehabilitation. If the defendant is found to be in need of alcohol and substance  
21          abuse treatment and rehabilitation, the district court may order the defendant  
22          placed under the supervision and management of the department of corrections  
23          and rehabilitation and is subject to the conditions of probation under section  
24          12.1-32-07. The district court may require the defendant to complete alcohol and  
25          substance abuse treatment and rehabilitation under the direction of the drug  
26          court program as a condition of probation in accordance with rules adopted by  
27          the supreme court. The district court may terminate probation under this section  
28          when the defendant completes the drug treatment program. If the district court  
29          finds that a defendant has failed to undergo an evaluation or complete treatment  
30          or has violated any condition of probation, the district court shall revoke the

1 defendant's probation and shall sentence the defendant in accordance with this  
2 subsection.

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

7 h. If the penalty mandated by this section includes imprisonment or placement upon  
8 conviction of a violation of this section or equivalent ordinance, and if an  
9 addiction evaluation has indicated that the defendant needs treatment, the court  
10 may order the defendant to undergo treatment at an appropriate licensed  
11 addiction treatment program under subdivision g of subsection 1 of section  
12 12.1-32-02 and the time spent by the defendant in the treatment must be credited  
13 as a portion of a sentence of imprisonment or placement under this section. A  
14 court may not order the department of corrections and rehabilitation to be  
15 responsible for the costs of treatment in a private treatment facility.

16 i. If the court sentences an individual to the legal and physical custody of the  
17 department of corrections and rehabilitation, the department may place the  
18 individual in an alcohol treatment program designated by the department. Upon  
19 the individual's successful completion of the alcohol treatment program, the  
20 department shall release the individual from imprisonment to begin the  
21 court-ordered period of probation. If there is not any court-ordered period of  
22 probation, the court may order the individual to serve the remainder of the  
23 sentence of imprisonment on supervised probation and the terms and conditions  
24 must include participation in the twenty-four seven sobriety program and any  
25 terms and conditions of probation previously imposed by the court. Probation  
26 under this subsection may include placement in another facility or treatment  
27 program. If an individual is placed in another facility or treatment program after  
28 release from imprisonment, the remainder of the individual's sentence of  
29 imprisonment must be considered time spent in custody. Individuals incarcerated  
30 under this section subsequent to a second probation revocation are not eligible  
31 for release from imprisonment upon the successful completion of treatment.

1           j. If the individual has participated in the twenty-four seven sobriety program as a  
2           condition of pretrial release or for the purpose of receiving a temporary restricted  
3           operator's license under section 39-06.1-11, the sentencing court may give credit  
4           for the time the individual has already served on the twenty-four seven sobriety  
5           program when determining the amount of time the individual must serve on the  
6           twenty-four seven sobriety program for the purposes of probation, if that  
7           individual has not violated the twenty-four seven sobriety program before  
8           sentencing.

9           6. As used in subdivisions b and c of subsection 5, the term "imprisonment" includes  
10          house arrest. As a condition of house arrest, a defendant may not consume alcoholic  
11          beverages. The house arrest must include a program of electronic home detention and  
12          the defendant shall participate in the twenty-four seven sobriety program. The  
13          defendant shall defray all costs associated with the electronic home detention. For an  
14          offense under subdivision b or c of subsection 5, no more than ninety percent of the  
15          sentence may be house arrest.

16          7. As used in this title, participation in the twenty-four seven sobriety program under  
17          chapter 54-12 means compliance with sections 54-12-27 through 54-12-31, and  
18          requires sobriety breath testing twice per day seven days per week or electronic  
19          alcohol monitoring, urine testing, or drug patch testing. The offender is responsible for  
20          all twenty-four seven sobriety program fees and the court may not waive the fees. For  
21          purposes of this section, the twenty-four seven sobriety program is a condition of  
22          probation and a court may not order participation in the program as part of the  
23          sentence. If an individual ordered to participate in the twenty-four seven program is not  
24          a resident of this state, that individual shall enroll in a twenty-four seven program or an  
25          alcohol compliance program if available in that individual's state of residence and shall  
26          file proof of such enrollment.

27          **SECTION 3. AMENDMENT.** Section 39-10.1-08 of the North Dakota Century Code is  
28          amended and reenacted as follows:

29          **39-10.1-08. Point system not applicable.**

30          Any violation of this chapter, or any moving violation as defined in section 39-06.1-09, or  
31          any nonmoving violation as defined in section 39-06.1-08 when committed on a bicycle or an

1 electric bicycle, or an autocycle, as defined in section 39-01-01, is not cause for the licensing  
2 authority to assess points against the driving record of the violator pursuant to section  
3 39-06.1-10. Any other legally authorized penalty for a criminal traffic offense or noncriminal  
4 traffic violation is applicable to bicyclists.

5 **SECTION 4.** A new section to chapter 39-10.1 of the North Dakota Century Code is created  
6 and enacted as follows:

7 **Autocycles.**

8 Unless otherwise allowed by a governmental entity having jurisdiction, an autocycle may  
9 not be operated on any bicycle path or multi-use path.