

CHAPTER 39-07

GENERAL REGULATIONS GOVERNING TRAFFIC

39-07-01. Bicycle or ridden animal to be deemed vehicle. For the purposes of chapters 39-08 through 39-13, a bicycle or a ridden animal must be deemed a vehicle.

39-07-02. Owner of property used for vehicular travel may prohibit or require additional conditions to use. The provisions of chapters 39-08 through 39-13, and chapter 39-21, may not be construed to prevent the owner of real property used by the public for purposes of vehicular travel, by the permission of such owner and not as a matter of right, from prohibiting such use nor from requiring different or additional conditions other than those specified in such chapters or otherwise regulating such use as may seem best to such owner.

39-07-03. Through highways designated by director and local authorities - Stop and yield intersections. The director with reference to state highways, and local authorities, with reference to highways under their jurisdiction, may, by proclamation, designate as through highways, any highway, street, or part thereof, and erect stop signs or yield signs at specified entrances thereto, or may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one or more entrances to such intersection.

39-07-03.1. Uniform traffic lights prescribed by commissioner - Prohibition.
Repealed by S.L. 1953, ch. 177, § 120.

39-07-04. Powers of local authorities. Repealed by S.L. 1975, ch. 349, § 41.

39-07-05. Persons working on highways - Exceptions. Unless specifically made applicable, the provisions of chapters 39-08, 39-09, 39-10, and 39-12, except sections 39-08-01, 39-08-03, and 39-08-19, do not apply to persons, motor vehicles, and other equipment while actually engaged in work upon a highway, but do apply to such persons and vehicles when traveling to or from such work.

39-07-06. General penalty for violation of title. Any person violating any of the provisions of this title for which another criminal penalty is not provided specifically is guilty of an infraction. As used in this section, the phrase "another criminal penalty" includes provision for payment of a fixed fee for violating another section in this title but does not include any other administrative sanction which may be imposed.

39-07-07. Halting person for violating traffic regulations - Duty of officer halting. Whenever any person is halted for the violation of any of the provisions of chapters 39-01 through 39-13, 39-18, 39-21, and 39-24, or of equivalent city ordinances, the officer halting that person, except as otherwise provided in section 39-07-09 and section 39-20-03.1 or 39-20-03.2, may:

1. Take the name and address of the person;
2. Take the license number of the person's motor vehicle; and
3. If a city ordinance or state criminal traffic violation, issue a summons or otherwise notify that person in writing to appear at a time and place to be specified in the summons or notice or, if a state noncriminal traffic violation, notify the person of the right to request a hearing when posting bond by mail.

A halting officer employed by any political subdivision of the state may not take a person into custody or require that person to proceed with the officer to any other location for the purpose of posting bond, where the traffic violation was a noncriminal offense under section 39-06.1-02. The officer shall provide the person with an envelope for use in mailing the bond.

39-07-07.1. Provision of envelopes for traffic and parking violations on state charitable or penal institution property or state capitol grounds. Preprinted envelopes must be provided for any person who elects to post bond by mail, pursuant to section 39-06.1-02, for a violation of any state traffic parking regulations on any state charitable or penal institution property or on the state capitol grounds.

39-07-08. Hearing - Time - Promise of defendant to appear - Failure to appear - Penalty. The time to be specified in the summons or notice provided for in section 39-07-07 must be within thirty-five days after the issuance of the summons or notice or earlier if so ordered by the magistrate of the city or county having jurisdiction over the offense or if the person halted demands an earlier hearing. If the person halted desires, the person may have the right, at a convenient hour, to an immediate hearing or to a hearing within twenty-four hours. The hearing must be before a magistrate of the city or county in which the offense was committed. If an immediate hearing is demanded, a district judge serving the county, with the consent of the respective prosecuting attorneys, may order the hearing to be held in any of the counties in which the district judge has jurisdiction, rather than in the county where the offense was allegedly committed. Upon the receipt from the person halted of a written promise to appear at the time and place mentioned in the summons or notice, the officer shall release the person from custody. Any person refusing to give a written promise to appear must be taken immediately by the halting officer before the nearest or most accessible magistrate, or to such other place or before such other person as may be provided by a statute or ordinance authorizing the giving of bail. Any person willfully violating the person's written promise to appear is guilty of a class B misdemeanor, regardless of the disposition of the charge upon which the person originally was halted. The time limitations for a hearing as provided by this section do not preclude a recharging of the alleged violation if the person being charged receives a new summons or notice subject to the provisions of this section.

39-07-09. Offenses under which person halted may not be entitled to release upon promise to appear. Section 39-07-07 does not apply to a person if:

1. The halting officer has good reason to believe the person guilty of any felony or if the person is halted and charged with an offense listed in section 39-06.1-05 but not listed in subsection 2; or
2. The halting officer, acting within the officer's discretion, determines that it is inadvisable to release the person upon a promise to appear and if the person has been halted and charged with any of the following offenses:
 - a. Reckless driving.
 - b. Driving in excess of speed limitations established by the state or by local authorities in their respective jurisdictions.
 - c. Driving while license or driving privilege is suspended or revoked for violation of section 39-06-42, or an equivalent ordinance.
 - d. Operating a modified vehicle.
 - e. Driving without liability insurance in violation of section 39-08-20.
 - f. Failing to display a placard or flag, in violation of any rule implementing section 39-21-44, while transporting explosive or hazardous materials.
 - g. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46.

The halting officer forthwith shall take any person not released upon a promise to appear before the nearest or most accessible magistrate.

39-07-10. Officer violating provisions for arrest and notice of hearing to defendant may be removed from office. Any officer violating section 39-07-07, 39-07-08, 39-07-09, 39-20-03.1, or 39-20-03.2 is guilty of misconduct in office and is subject to removal from office.

39-07-11. Magistrate to keep record of convictions of traffic violations - Records of conviction to be forwarded to licensing authority. Every magistrate, as defined in section 29-01-14, shall keep a full record of every case brought before the magistrate in which a person is charged with a violation of chapter 12.1-16 resulting from the operation of a motor vehicle, or of any provision of chapters 39-05 through 39-13, 39-21, and 39-24, or with a violation of a municipal ordinance which is equivalent to any of the provisions of the foregoing statutes. Within ten days after a final order or judgment of conviction, for a violation not subject to disposition and reporting under chapter 39-06.1, by the North Dakota supreme court or any lower court having jurisdiction, provided that no appeal is pending and the time for filing a notice of appeal has elapsed, the magistrate then having jurisdiction shall forward a report of that fact to the licensing authority. If the reported violation caused another person's serious bodily injury, as defined in section 12.1-01-04, the magistrate shall include that information in the report. Any conviction for which a report is received by the licensing authority may be deemed by the licensing authority to be final, and the licensing authority may take any action authorized by law to be taken based on the report. Subject to the filing of an appeal, a conviction includes those instances when:

1. A sentence is imposed and suspended;
2. Imposition of a sentence is deferred under subsection 4 of section 12.1-32-02; or
3. There is a forfeiture of bail or collateral deposited to secure a defendant's appearance in court and the forfeiture has not been vacated.

39-07-12. Garages to report. The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in a reportable accident as provided in section 39-08-09 or of being struck by any bullet shall report or cause a report to be made to a police officer within twenty-four hours after such motor vehicle is received, and before any repairs are made to such vehicle, giving the registration number, and the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle, or any missing parts, if the vehicle does not have a sticker on a window thereof issued by a police officer, sheriff, or highway patrolman, bearing information to show that the accident in which the vehicle was involved has been investigated. The police officer investigating any reportable accident shall attach a sticker to the window of any damaged vehicle showing that the accident in which such vehicle was involved has been investigated. If the vehicle does bear such a sticker, the garage or repair shop need not make the report this section requires and may begin repairs immediately. After repairs have been made and before the vehicle is released, the sticker provided herein must be removed.

39-07-13. Wrecker and towing services to report. The person in charge or the operator of any commercial towing or wrecker service which causes any motor vehicle to be transported to a private residence or business other than a garage or repair shop which shows evidence of having been involved in a reportable accident as provided in section 39-08-09 or of being struck by any bullet shall report or cause a report to be made to a police officer within twenty-four hours after such motor vehicle is transported. The report must give the registration number, and the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle, or any missing parts, along with the location such vehicle was transported to, if the vehicle does not have a sticker on a window thereof issued by a police officer, sheriff, or highway patrolman, bearing information to show that the accident in which the vehicle was involved has been investigated. If the vehicle does bear such a sticker, the towing or wrecker service need not make the report this section requires.