

**Sixty-eighth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1338  
(Representatives Porter, Dockter, Heinert, Karls)  
(Senators Dever, Larson)

AN ACT to amend and reenact section 31-13-04 and subsection 10 of section 39-20-07 of the North Dakota Century Code, relating to collection of samples for DNA testing and chemical tests to determine alcohol concentration and presence of drugs for individuals operating motor vehicles; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 31-13-04 of the North Dakota Century Code is amended and reenacted as follows:

**31-13-04. DNA testing - Procedure - Immunity.**

1. Samples of blood or other body fluids for DNA testing may ~~only~~ be obtained in a medically approved manner by a physician, registered nurse, licensed practical nurse, phlebotomist, or medical technologist, ~~or by other qualified personnel approved by the laboratory,~~ and packaged and submitted in kits approved or provided by the laboratory and in accordance with rules adopted by the laboratory. ~~No civil~~
2. Samples of saliva for DNA testing may be obtained by a licensed peace officer, and packaged and submitted in kits approved or provided by the laboratory and in accordance with rules adopted by the laboratory. Samples may be collected and submitted by personnel from an agency outside the state with approval of the laboratory.
3. Civil or criminal liability may not attach to any individual authorized to draw or obtain a sample of blood or other body fluids from any individual for DNA testing, ~~provided if~~ the sample of blood or other body fluids was drawn or obtained according to sampling techniques approved by the laboratory.

**SECTION 2. AMENDMENT.** Subsection 10 of section 39-20-07 of the North Dakota Century Code is amended and reenacted as follows:

10. A law enforcement officer who has witnessed an individual who is medically qualified to draw the blood sample for testing may sign a verified statement that the law enforcement officer witnessed the individual draw the blood sample and the individual followed the approved methods of the ~~state toxicologist~~ director of the state crime laboratory or the director's designee. Further foundation is not required to establish that the blood sample was drawn according to the approved method of the ~~state toxicologist~~ director of the state crime laboratory or the director's designee.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Dennis Johnson  
Speaker of the House

Tammy Miller  
President of the Senate

Buell F. Reest  
Chief Clerk of the House

Shanda Moya  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1338 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 80 Nays 10 Absent 4

Dennis Johnson  
Speaker of the House

Buell F. Reest  
Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 44 Nays 1 Absent 2

Tammy Miller  
President of the Senate

Shanda Moya  
Secretary of the Senate

Received by the Governor at 11:40 AM. on March 24, 2023.

Approved at 2:28 PM. on March 29, 2023.

Doug Burgin  
Governor

Filed in this office this 30<sup>th</sup> day of March, 2023,  
at 1:42 o'clock P M.

Michael Howe  
Secretary of State