

## **CHAPTER 39-03 HIGHWAY PATROL**

### **39-03-01. Definitions.**

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

1. "Assistant superintendent" means the assistant highway patrol superintendent.
2. "Patrolmen" means the members of the highway patrol including the superintendent and the assistant superintendent.
3. "Superintendent" means the state highway patrol superintendent.

### **39-03-02. State highway patrol superintendent appointed by governor - Duties.**

The governor shall appoint a state highway patrol superintendent who shall enforce the provisions of the laws of this state relating to the protection and use of the highways in this state and the operation of motor and other vehicles upon such highways.

### **39-03-03. Patrolmen - Appointment - Removal - Duties.**

The superintendent, the assistant superintendent, and the patrolmen constitute the highway patrol. The highway patrol shall enforce the provisions of the laws of this state relating to the protection and use of highways and shall patrol the highways and cooperate with sheriffs and police in enforcing the laws regulating the operation of vehicles and the use of highways. All patrolmen and the assistant superintendent must be appointed by the superintendent. Each patrolman appointed is deemed a probationary employee for an initial period of six months, during which the patrolman must be placed under probationary training and service and is subject to an extension of an additional period of six months or dismissal at the will of the superintendent or the superintendent's designee. At the end of the probationary period, a probationary employee must either be taken off probationary status or dismissed. A nonprobationary employee employed in a regular, classified position is subject to removal for cause by the superintendent or the superintendent's designee, but the employee may appeal a dismissal under chapter 54-44.3 provided the removal of the assistant superintendent from the assistant superintendent position does not entitle that person to appeal the removal unless that person also is dismissed from the patrol.

### **39-03-04. Qualifications of patrolmen - Veterans have preference.**

No person may be appointed as a patrolman unless the person has all of the following qualifications:

1. Has passed such physical examination and such other qualification test as may be required by the superintendent.
2. Is of good moral character and temperate habits.
3. Has been a citizen of the United States for not less than two years prior to the appointment.

Preference for appointment must be given at all times to honorably discharged veterans and citizens of the state of North Dakota, and all appointments must be made without regard to any political party affiliation of the applicant.

### **39-03-05. Badge issued to patrolmen - Contents of badge.**

The superintendent shall issue to each patrolman a badge of authority with the seal of this state in the center thereof. The term "North Dakota patrol" must encircle such seal and above the same must appear the designation of the position held by the person to whom such badge is issued. Each such badge must contain a unit number or symbol of rank. No badge may be issued to any person who is not a duly appointed and acting member of the highway patrol.

### **39-03-06. Oath required of superintendent, assistant superintendent, and patrolmen.**

The superintendent, assistant superintendent, and each patrolman, before entering upon the performance of the person's duties, shall take and file the oath prescribed by law for state officers.

**39-03-07. Salary of superintendent - Limitations.**

The salary of the superintendent must be within the amount appropriated for salaries by the legislative assembly. The salary of the assistant superintendent and each patrolman must be fixed by the superintendent, and must be paid in the same manner as other state employees are paid.

**39-03-08. Manner of paying salaries, wages, and expenses of highway patrol.**

All salaries, wages, and other expenses of the highway patrol must be paid by the office of management and budget and state treasurer out of the patrol fund, upon vouchers required by law for the payment of all state expenses, duly approved by the superintendent, and audited and allowed by the office of the budget.

**39-03-08.1. Contracts - Bids.**

Repealed by S.L. 1999, ch. 332, § 1.

**39-03-08.2. Requests for bids - How advertised.**

Repealed by S.L. 1999, ch. 332, § 1.

**39-03-08.3. Bids - Requirement.**

Repealed by S.L. 1999, ch. 332, § 1.

**39-03-08.4. Checks of three lowest bidders retained.**

Repealed by S.L. 1999, ch. 332, § 1.

**39-03-08.5. Award of contracts - Bond.**

Repealed by S.L. 1999, ch. 332, § 1.

**39-03-09. Powers of highway patrol.**

The superintendent and each member of the highway patrol shall have the power:

1. Of a peace officer for the purpose of enforcing the provisions of this title relating to operators' licenses, the provisions of title 24 relating to highways, and of any other law regulating the operation of vehicles or the use of the highways, and in addition the highway patrol shall enforce all laws relating to the use or presence of alcoholic beverages in motor vehicles.
2. To make arrests upon view and without warrant for any violation committed in the person's presence of any of the provisions of this title relating to operators' licenses, or of title 24 relating to highways or to other laws regulating the operation of vehicles or the use of the highways.
3. To direct traffic in conformance with law, or, in case of fire or emergency and to expedite traffic, or, to ensure safety by directing traffic as conditions may require notwithstanding the provisions of law.
4. To facilitate compliance with the provisions of this title, to require the driver of a vehicle to stop and exhibit the driver's operator's license and the registration cards issued for the vehicle, if any are required, and to submit to an inspection and test of the equipment of such vehicle.
5. For the purpose of locating stolen vehicles and to investigate the title and registration thereof, to inspect any vehicle of a type required to be registered under the provisions of this title, in any public garage or repair shop, or in any place where such vehicles are held for sale or wrecking.
6. To serve all warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways.
7. To investigate traffic accidents and secure testimony of witnesses or of persons involved.
8. To investigate reported thefts of motor vehicles, trailers, or semitrailers.
9. To take applications for operators' licenses without making a charge therefor.

10. To enforce all laws, rules, or regulations of the state of North Dakota pertaining to the closing hours of all businesses or establishments selling alcoholic beverages outside the limits of incorporated cities of this state.
11. To exercise general police powers over all violations of law committed on state owned or leased property.
12. To exercise general police powers over all violations of law committed in their presence or when in pursuit of any actual or suspected law violator.
13. To require a motor carrier owner, or a motor carrier's agent, affected by rules adopted under chapter 39-21 to produce logs or other documents to determine compliance with rules adopted under chapter 39-21.
14. To provide security and protection for the governor, the governor's immediate family, and other officers next in order of succession to the office of governor to the extent and in a manner the governor and the superintendent deem adequate and appropriate.
15. To provide security and protection for both houses of the legislative assembly while in session as in the opinion of the speaker of the house, the president of the senate, and the superintendent are deemed adequate and appropriate.
16. Of a peace officer when responding to a call for emergency assistance requiring an immediate response. Following a call for emergency assistance which occurs outside state-owned or state-leased property, a highway, or the highway right of way, notification must be provided to the local law enforcement agency having primary jurisdiction.
17. To promote public trust and an understanding of law enforcement through education, community outreach, and job shadowing programs.
18. To exercise general police powers over any violation of law committed on public or private property when requested by another law enforcement agency.

**39-03-09.1. Job shadowing.**

For purposes of education and community outreach, and to promote public trust, the superintendent may permit a nonmember of the highway patrol to participate in job shadowing activities, including:

1. Participating in a ride-along program with a member of the highway patrol while on duty;
2. Operating a highway patrol motor vehicle on a closed course under the supervision of a member of the highway patrol; and
3. Discharging a firearm owned and used by the highway patrol while at a training facility and under the supervision of a member of the highway patrol.

**39-03-10. Patrolmen to inspect motor vehicles - Report violations.**

Repealed by S.L. 1967, ch. 296, § 2.

**39-03-11. Penalty for impersonating patrolman.**

Any person is guilty of a class A misdemeanor if:

1. Without authority, the person wears the badge of a member of the highway patrol, or a badge of similar design which would tend to deceive anyone;
2. The person impersonates a member of the highway patrol or other officer or employee of the highway patrol with intent to deceive anyone; or
3. Without authority, the person wears a uniform likely to be confused with the official uniform of the highway patrol.

**39-03-12. Penalty in violation of chapter.**

Any person who violates any of the provisions of this chapter, for which another penalty is not specifically provided, is guilty of a class B misdemeanor.

### **39-03-13. Additional powers of superintendent.**

In addition to the superintendent's powers as a member of the highway patrol, the superintendent of the patrol has the following powers as administrative head of the patrol:

1. The superintendent may organize the patrol into divisions, bureaus, and districts as the superintendent deems necessary.
2. The superintendent may designate ranks, fix salaries with appropriate allowances for those ranks, and establish promotional procedures.
3. The superintendent or the superintendent's designee may take reasonable disciplinary action against members of the patrol for inefficiency, misconduct, insubordination, or violation of an established rule, whenever the superintendent or the superintendent's designee deems the actions necessary, provided that:
  - a. When demotion in rank is ordered summarily against a member of the patrol as a disciplinary measure, to be limited to a one-grade reduction in rank, the order is appealable under chapter 54-44.3.
  - b. When a reduction in pay of a member of the patrol is ordered summarily as a disciplinary measure, it must be limited to one year's duration and the order is appealable under chapter 54-44.3.
  - c. Suspension of pay for a member of the patrol for a period not exceeding seven days may be ordered summarily as a disciplinary measure, but an order for suspension of pay for a longer period is appealable under chapter 54-44.3.
4. A suspension of pay for a member of the patrol may be summarily ordered not more than twice in one year as separate disciplinary measures, except that further suspensions are appealable under chapter 54-44.3.

#### **39-03-13.1. Law enforcement training center - Training conducted.**

The superintendent of the highway patrol is responsible for the operation, maintenance, and administration of the law enforcement training center. The superintendent shall appoint a director of the training center who is responsible for coordinating basic and advanced peace officer training and such other duties as may be prescribed by the superintendent. All peace officer training which is conducted at the law enforcement training center shall meet the certification criteria established by the peace officer standards and training board and must be in accordance with the basic and advanced peace officer curriculum established by the peace officer standards and training board.

#### **39-03-13.2. Silver alert notice system.**

The superintendent, in cooperation with the bureau of criminal investigation and the division of state radio of the department of emergency services, shall establish a silver alert notice system to activate an urgent bulletin using the emergency alert system to air a description of a disabled adult or vulnerable elderly adult as defined in section 12.1-31-07 or a minor who has a developmental disability as defined in section 25-01.2-01, who has been reported to law enforcement as missing and to aid in the location of that individual.

#### **39-03-14. Disciplinary board of review.**

Repealed by S.L. 1971, ch. 352, § 3.

#### **39-03-15. Radar evidence in speed violations.**

The speed of any motor vehicle may be checked by the use of radio microwaves or other electrical device. The results of such checks shall be accepted as prima facie evidence of the speed of such motor vehicle in any court or legal proceedings where the speed of the motor vehicle is at issue. The driver of any such motor vehicle may be arrested without a warrant under this section, provided the arresting officer is in uniform or displays the officer's badge of authority; provided that such officer has observed the record of the speed of such motor vehicle by the radio microwaves or other electrical device, or has received a radio message from the officer who observed the speed of the motor vehicle recorded by the radio microwaves or other

electrical device. Nothing herein shall affect the powers of cities or towns to adopt and use such device to measure speed.

**39-03-16. Safety division created - Director.**

There is hereby created a safety division within the state highway patrol for the purpose of reducing the danger of travel on the highways, roads, and streets of this state, the number of motor vehicle accidents with resultant loss of lives, personal injuries, and property damage, and encouraging better law enforcement, more uniform penalties, safe driving practices, and public adherence to traffic safety laws, through public education, information, and support.

The director of the safety division must be appointed by the superintendent in accordance with sections 39-03-03 and 39-03-04, and possessing such qualifications by education or experience in the field of highway safety as the superintendent shall determine. The director shall receive such compensation as may be determined by the superintendent.

**39-03-17. Powers and duties of director of the safety division.**

The director of the safety division, under the supervision of the highway patrol superintendent, shall direct and carry on a public education and information program and assist and cooperate with all governmental or private agencies, organizations, or groups in order to encourage better and safer driving practices, better law enforcement, and more uniform penalties, for the purpose of reducing the number of motor vehicle accidents.

The director shall coordinate and strengthen the highway and traffic safety activities of the state of North Dakota and its political subdivisions. The director shall specifically promote the coordination of the functions of driver licensing and control, financial responsibility, traffic law enforcement, and other highway and traffic safety activities of the state highway patrol and the department of transportation, and shall generally work and cooperate with the officials in charge of these departments and all public officials in all matters relating to motor vehicle safety.

All supplies and equipment of the public safety division of the department of transportation are hereby transferred to the public safety division of the highway patrol created by section 39-03-16.

**39-03-18. Highway patrol - Assets forfeiture fund - Purpose - Continuing appropriation.**

There is created a fund to be known as the highway patrol assets forfeiture fund. The fund consists of funds obtained from moneys, assets, and proceeds seized and forfeited pursuant to section 19-03.1-36, amounts received through court proceedings as restitution, and amounts remaining from the forfeiture of property after the payment of expenses for forfeiture and sale authorized by law. The total amount of deposits into the fund may not exceed three hundred thousand dollars within a biennium and any moneys in excess of that amount must be deposited in the general fund. The funds are appropriated as a continuing appropriation to the highway patrol for the following purposes:

1. For paying expenses necessary to inventory, safeguard, maintain, advertise, or sell property seized, detained, or forfeited, pursuant to section 19-03.1-36, or of any other necessary expenses incident to the seizure, detention, or forfeiture of the property.
2. For paying overtime compensation incurred as a result of investigations or violations of any state criminal law or law relating to the control of drug abuse.
3. For purchasing equipment related to criminal interdiction.
4. For paying matching funds required as a condition for receipt of funds from a federal government program awarding monetary grants or assistance for the investigation or apprehension of persons violating the provisions of chapter 19-03.1.

The superintendent of the highway patrol, with the concurrence of the director of the office of management and budget, shall establish the necessary accounting procedures for the use of the fund and shall personally approve, in writing, all requests for the use of the fund.

**39-03-19. Capitol building access card fund - Continuing appropriation.**

There is created in the state treasury a capitol building access card fund. The fund consists of any fees received by the superintendent for the issuance of capitol building access cards. The superintendent shall establish policies regarding the issuance of capitol building access cards and may charge a fee of ten dollars for each access card issued to an individual who is not an employee of the state of North Dakota. All moneys in the fund are appropriated to the highway patrol on a continuing basis for costs associated with the issuance of capitol building access cards and capitol complex security needs.