

Report and Notice

2021 Instruction Manual



**INSTRUCTION MANUAL FOR COMPLETION
OF REPORT AND NOTICE UNDER
CHAPTER 39-20 AND 39-06.2
NORTH DAKOTA CENTURY CODE (NDCC)**

**North Dakota Department of Transportation SFN 9362
September 2021**

prepared by

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

Bismarck, North Dakota

dot.nd.gov

Law Enforcement Officers:

Enclosed is an instruction manual that has been designed to assist you in completing the revised "Report and Notice" form that is required with an arrest under Section 39-20 or 39-06.2 of the North Dakota Century Code.

If you find you have suggestions on changes or any questions, please direct your written comments to this office.

If you need more forms, please contact our office.

[ORIGINAL MAKERS OF THE WRITTEN FORM]

Drivers License Division North Dakota Department of Transportation
608 East Boulevard Avenue Bismarck, ND 58505-0750
(701) 328-2600

[TraCS Computer Form]

Affinity Global Solutions, Bismarck, ND
(701) 223-3565

TABLE OF CONTENTS

SECTION I – ARREST DATA	1
SECTION II – TESTING INFORMATION	2
SECTION III – NOTICE AND TEMPORARY PERMIT	4
SECTION IV – OFFICER'S STATEMENT OF PROBABLE CAUSE	6
SECTION V – CERTIFICATION	7
Special Circumstances	7
Distribution.....	8

SECTION I – ARREST DATA

Date of Occurrence 1	Time of Driving/Physical Control/Crash 2 <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	Time of Arrest/Lawfully Detained 3 <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	Citation Number 4
County of Occurrence 5	City of Occurrence 6	Enforcement Agency 7	
Location of Arrest or Where Detained 8			
Last Name 9	First Name	Middle Name	ICN 10
Residence Address 11	City	State	Zip Code
DLN 12		State	Date of Birth 13
Class 14	Endorsement 15	Rest Code 16	Sex 17
Area Code & Phone Number 18			

1. **Date of occurrence.** This is the date the violation occurred.
2. **Time of driving/physical control/crash.** This is the actual time you observed the violation occur—not the time you made the arrest. In the case of a crash where you did not observe the violation, estimate the time based on your crash investigation. You can use military time.
3. **Time of arrest/lawfully detained.** This is the time you actually made the arrest, detained the commercial vehicle and driver or driver under the age of 21—not the time of the violation.
4. **Citation number.** This is the number of the citation issued regarding this offense.
5. **County of occurrence.** List the county where the violation occurred.
6. **City of occurrence.** Please list city where the violation the occurred. If outside of city limits, you may leave this blank.
7. **Enforcement agency.** Please write the name of your agency; i.e., HP, PD, SO, UND PD, etc.
8. **Location of arrest.** Please list location of arrest or where detained.
9. **Name of the person arrested.** Please include last, first, and middle names. (If you have a barcode scanner, you can scan the driver’s license on the electronic form.)
10. **Incident complaint number.** Please enter incident complaint number/agency report number, if applicable.
11. **Address of person arrested or detained.** Please verify with the driver that the address that appears on their driver’s license is the correct address. Also, include state and zip code. Please use the most current address.
12. **Operator’s license.** Please provide the drivers license number and state where issued.

13. **Date of birth.** Please use numbers-month, day, and year. For example, August 24, 1950, is 08/24/1950.
14. **License class.** Please indicate the class that appears on license. Enter class information even if out of state license.
15. **Endorsement.** Please indicate endorsement(s) that appear on license.
16. **Restrictions code.** Please indicate any restrictions that appear on license.
17. **Sex.** Indicate "M" for male and "F" for female.
18. **Phone number.** Please be sure and get an area code. Phone number is important, so please try and obtain.

SECTION II – TESTING INFORMATION

In this section you will outline several areas as to the type of vehicle operated, whether or not implied consent advisory was given, location where arrest took place, type of blood-alcohol test given, and results. Please read each statement carefully and check the appropriate box.

	On the above date, there existed reasonable grounds to believe that the above-named person was operating:	
19	<input type="checkbox"/> Non-Commercial motor vehicle <input type="checkbox"/> Commercial motor vehicle (CMV) <input type="checkbox"/> CMV transporting hazardous materials in violation of NDCC Section 39-08-01 or 39-06.2-10.2	
20	<input type="checkbox"/> Officer formulated an opinion the individual's body contains alcohol. <input type="checkbox"/> Was advised by law enforcement of the implied consent advisory for a screening test required by NDCC Section 39-20-14. <input type="checkbox"/> Refused on-site screening test (NDCC 39-20-14 or 39-06.2-10.2) <input type="checkbox"/> Screening test was administered in accordance with approved method.	
21	<input type="checkbox"/> Was lawfully arrested for a violation of 39-08-01 or equivalent offense. <input type="checkbox"/> Was lawfully detained and officer has probable cause to believe that the driver was operating a CMV, while having alcohol or drugs in his or her system. <input type="checkbox"/> Was lawfully detained and officer has probable cause to believe that the driver was under twenty-one (21) years of age, while having alcohol in his or her system.	
22	<input type="checkbox"/> Was advised by law enforcement of the implied consent advisory for a chemical test as required by NDCC Section 39-20-01.	
23	<input type="checkbox"/> Refused under NDCC, Section 39-20-01 or 39-06.2-10.2 a chemical test or tests of <input type="checkbox"/> BLOOD <input type="checkbox"/> BREATH <input type="checkbox"/> URINE	
24	<input type="checkbox"/> Provided specimen of <input type="checkbox"/> BLOOD <input type="checkbox"/> BREATH <input type="checkbox"/> URINE Time Obtained _____ Test Results _____ for testing under NDCC Chapter 39-20 or 39-06.2-10.2	
25	<input type="checkbox"/> Additional specimen of <input type="checkbox"/> BLOOD <input type="checkbox"/> BREATH <input type="checkbox"/> URINE <input type="checkbox"/> REFUSAL Time Obtained _____ Test Results _____	

19. A box should be checked with each arrest or detainment indicating the type of motor vehicle that was being operated at time of occurrence. This may allow us to impose longer periods of suspension or revocation for occurrences in commercial vehicles.

Commercial motor vehicles are:

- a. Any combination of vehicles with a gross vehicle weight rating of 26,001 pounds or more provided the GVWR of the vehicles being towed is in excess of 10,000 pounds.
- b. Any single vehicle with a gross vehicle weight rating of 26,001 pounds or more. Any such vehicle towing a vehicle not in excess of 10,000 pounds.
- c. Any single vehicle with a gross vehicle weight rating of 26,000 pounds or less that is transporting hazardous material that requires at least four placards or is designed to transport 16 or more persons including the driver. Any such vehicle towing a vehicle with a GVWR not in excess of 10,000.

20. If there is a statutory basis to invoke the Implied Consent law when requesting a PBT (onsite screening test), you are required by law to advise the individual of implied consent and the consequences for refusing to submit to preliminary breath screening testing under NDCC 39-20-14. Under NDCC 39-20-14, you can ask a person submit to a pre-arrest screening test when you believe that person is operating a motor vehicle with alcohol in the body. Make sure to check the box.

The person need not be under arrest for DUI/APC for this test, but must have either committed a moving traffic violation, a violation under 39-08-01 or have been involved in a traffic collision as the driver. If the person refuses to submit to the test, it is sufficient cause to revoke the person's privilege to drive for up to three years. Be sure to advise the person of the consequences of refusal. Then, if they continue to refuse to submit to the pre-arrest screening test, check the box. The director must not revoke a person's driving privileges for refusing to submit to a screening if the person provides a sufficient breath, blood, or urine sample for a chemical test for the same incident.

21. For every arrest for DUI or APC, check the first box indicating the person was arrested for DUI or APC. If they take the PBT, check the appropriate box.

If the vehicle being driven is a commercial vehicle, as defined under #19, or if the driver is under 21 years of age and BAC is less than .08, or greater than .02, the appropriate second or third box must be checked.

22. This box should be checked with each and every arrest when requesting a chemical test. You are required by law to advise the individual of implied consent and the consequences for refusing to submit to chemical testing (NDCC Section 39-20-01).
23. If, after you have arrested the person for DUI or APC and have advised them of implied consent as required under 39-20-01 NDCC, and that person refused to submit to the chemical test, check this box and the box for the test that was refused (i.e. blood, breath, or urine).
24. If the person submits to a test, fill out this area. Check the appropriate box that corresponds with the chemical test given. Fill in the time the specimen was actually obtained. Finally, when available, indicate the results of the test. If test results are not immediately available, leave blank.

NOTE: *It is important to record the time properly. List the time when the sample is actually obtained. In the case of a blood test, this time would be recorded when the blood begins to flow into the container. In the case of an Intoxilyzer test, the time would be recorded based on the "reported AC". If the time is not completed properly, administrative action may not be taken.*

25. If you request a second test, the information would be recorded here in the same manner as listed above. If no second test is given, leave blank.

NOTE: *If second test is blood, when results are received, they must be filed with the Drivers License Division.*

SECTION III – NOTICE AND TEMPORARY PERMIT

26	TEMPORARY OPERATOR'S PERMIT: (To be issued to driver. Mark valid or not valid.) ND License/Permit attached? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Lost	
27	This permit is: <input type="checkbox"/> VALID as a Temporary Operator's Permit for 25 days from date of issue (unless terminated earlier by hearing officer) <input type="checkbox"/> NOT VALID as a Temporary Operator's Permit because: <input type="checkbox"/> Non-Licensed Driver <input type="checkbox"/> License Suspended/Revoked <input type="checkbox"/> Current permit under NDCC 39-20 or 39-06.2	This permit is NOT valid for operating a CMV until _____ MM/DD/CCYY 28 COMMERCIAL: Refusal to submit to on-site screening chemical test(s) requested by a law enforcement officer will result in being immediately placed out of service for a period of 24 hours and being disqualified from operating a commercial motor vehicle for a period of not less than one year under NDCC 39-06.2-10.
29	I certify that I (check one) <input type="checkbox"/> Issued <input type="checkbox"/> Mailed this Temporary Operator's Permit to the driver on MM/DD/CCYY _____	
	Name of Officer (Please Print & Add Badge/ID No.)	Signature of Officer

PERSON REFUSED TEST

You shall take possession of the operators license if available and issue a temporary permit.

IF BLOOD OR URINE TEST ADMINISTERED

In the case of any of these tests, you will not immediately know the results of the test; therefore, you CANNOT issue the temporary operator's permit. Until results are known to be .08 percent or greater, leave this area blank. (See page 7," Special Circumstances.")

After test results are known, or after the refusal of any portion of the test or tests, complete the "Temporary Operator's Permit" portion of the form.

- 26.** If a license was collected and attached or lost, check the appropriate box.
- 27.** Issue the permit as VALID. Even if the person arrested does not have his or her license in their possession at the time of the arrest, but does have on record a valid license, issue the permit as VALID.

NOTE: If the person has an out-of-state license, permit can be marked as VALID but do not take the license away from them.

The box "NOT VALID as a Temporary Operator's Permit" should be checked in several instances with the reason also checked.

- a. If the person arrested or detained is an unlicensed driver.
 - b. If the person arrested is currently driving under suspension, revocation, or cancellation.
 - c. If the person arrested has a 25-day permit issued for a recent arrest for DUI/APC.
- 28.** This box is checked only when the driver was operating a commercial motor vehicle and is placed out of service for 24 hours, then fill in the date fields.
 - 29.** The date indicated is when the permit was signed as either VALID or NOT VALID and issued or mailed to the driver. You must check either issued or mailed on the form. You must issue immediately if a breath test or refusal. You can only mail the permit when waiting for blood/urine. This date is also used to determine the five days in which you have to submit the form to the Drivers License Division. Please print your name and badge or ID numbers on the first line and sign the second line.

IF BREATH TEST ADMINISTERED OR PERSON REFUSED TEST, DETERMINE THE DATE AS FOLLOWS:

If you have administered a breath test and the results are .08 percent or greater, the date that goes in this blank is the date you actually issued the temporary operator's permit to that person, or the date the person arrested refused to submit to chemical testing.

An example would be as follows. If you make an arrest for DUI at 11 p.m. on August 1, 2021, and the person submits to a test at 11:30 p.m., and the results are .16 percent, you would use the date of August 1, 2021.

But, if under that same example you were not able to obtain the test and results until after midnight, say 12:30 a.m. on August 2, 2021, you would use the August 2, 2021, date. The reason is prior to obtaining a test, you do not know the person's blood alcohol concentration (BAC) and under the law you cannot confiscate their driver's license until you have a known BAC of .08 percent or greater, .02 or greater if under age 21, or they have refused to submit to the test.

NOTE TO JAILERS REGARDING TEMPORARY OPERATOR'S PERMIT: Make a special note of the SFN 9362 (25-day Temporary Operator's Permit), and that it was inventoried if the person was jailed, and that it was delivered to the person upon his release from jail. This information will be useful in showing that the individual actually received the notice of intent to suspend/revoke/cancel.

SECTION IV – OFFICER’S STATEMENT OF PROBABLE CAUSE

OFFICER’S STATEMENT OF PROBABLE CAUSE: (Check appropriate boxes and explain.)

30	Reasonable suspicion to stop or reason lawfully detained:		Probable cause to arrest/lawfully detain:	
	<input type="checkbox"/> erratic driving	Explain: _____	<input type="checkbox"/> odor of alcoholic beverage	Explain: _____
	<input type="checkbox"/> traffic violation	_____	<input type="checkbox"/> poor balance	_____
	<input type="checkbox"/> crash	_____	<input type="checkbox"/> failed field sobriety test(s)	_____
	<input type="checkbox"/> already stopped	_____	<input type="checkbox"/> failed screening test	_____

30. This portion of the form is very important and needs to be filled out completely. Your probable cause statement should be a shortened version of your arrest report. If completing the paper form, complete this portion after the driver's copy has been removed. You must include information as to what attracted your attention to the vehicle in the first place (i.e.; speeding, weaving across double lines three times in ¼ mile, etc.). You must also include any objective symptoms you observed (i.e.; eyes, speech, demeanor, alcoholic odor, etc.). You must also include a brief description of the field sobriety tests and your conclusion as to why you suspected the person of being under the influence. Boxes have been added which may be checked to assist you in preparing your probable cause statement, but please explain in narrative any other information used to establish your probable cause or reason they were lawfully detained.

If you administered a Preliminary Breath Test (PBT, or Alco-sensor FST), indicate and record the results. Do not use the PBT in place of field sobriety tests. Both establish probable cause. An incomplete statement of probable cause will result in a finding in favor of the licensee, and their operator's license/privilege to drive will be restored.

(Applicable section of law NDCC 39-20-06.)

SECTION V – CERTIFICATION

I personally certify as a law enforcement officer that this written report is true and correct to the best of my knowledge at the time of completing this report.			
31	Signature of Officer	Name of Officer/Badge or ID Number (Please Print)	Dated (MM/DD/CCYY)

31. The final step in preparation of the form is to certify that the contents are true and correct. **Date and sign the form. Please print your name and badge/ID number** on the upper line and sign the bottom line. (It is not necessary to have your signature notarized.)

SPECIAL CIRCUMSTANCES

What to do in the case of a blood or urine test.

In these cases, complete the form like you would if the test administered were a breath test. On line 24 where you would fill in the results of the blood alcohol test, leave blank until test results are known. Once the test results are known, the results must be recorded on the 25-day temporary operator's permit.

When the results of a blood or urine test are received, the arresting officer will complete all sections of the Report and Notice form, and shall mail the person a notification of the test results, and, if appropriate, issue a temporary operator's permit extending operating privileges for 25 days from the date of mailing. The completed Report and Notice form and the certified test record must be mailed to the Drivers License Division within five days of the date the permit is issued.

When completing Section V, be sure to use the correct dates. The date to be used here is the date you issue or mail the permit to the previously arrested person and notify him or her of the test results. This date begins the hearing procedure and is used in determining the five-day time frame.

DISTRIBUTION /PRINTING

After completing the form, distribute the copies as indicated:

COPY 1 – "Drivers License Division" along with ALL certified test results are to be sent to the Drivers License Division, 608 East Boulevard Avenue, Bismarck, ND 58505-0750.

COPY 2 – "Law Enforcement Agency" is to be retained by your department.

COPY 3 – "Driver Copy" should be delivered to the driver. (You may wish to tell the driver to read the complete form.)