

**OPINION
58-109**

February 27, 1958 (OPINION)

HIGHWAY COMMISSIONER

RE: Revocation of Driver's License is Not a Penalty

I wish to acknowledge receipt of your letter of February 19, 1958, requesting an opinion construing certain provisions of the accident reporting law.

Chapter 253 of the 1955 Session Laws has been codified into the 1957 Supplement to the North Dakota Revised Code of 1943 and is found in section 39-0804 through section 39-0817. In enacting Chapter 253 of the 1955 Session Laws, the Legislature specifically provided that this act shall be construed as being a part of Title 39 of the Revised Code of 1943 as amended.

Chapter 262 of the 1957 Session Laws has now been codified into the 1957 Supplement and is found in section 39-0809 through section 39-0814. Chapter 262 was an amendment of Chapter 253 of the 1955 Session Laws. The construction clause of Chapter 253 of the 1955 Session Laws was not disturbed in the 1957 amendment.

Construing all of Chapter 253 of the 1955 Session Laws and Chapter 262 of the 1957 Session Laws in the manner provided by the Legislature as a part of Title 39 and considering further the fact that the provisions of both of these chapters have been incorporated into Chapter 39-08 of the 1957 Supplement to the North Dakota Revised Code of 1943, it appears that they are in fact a part of Title 39 and subject to the general penalty provisions of section 39-0706 of the North Dakota Revised Code of 1943.

A further general penalty clause is found in section 12-1727 of the North Dakota Revised Code of 1943.

The Supreme Court of North Dakota, in the case of Thompson v. Thompson, 78 N.W. 2nd 395, specifically held that the action of the Highway Commissioner in suspending or revoking a motor vehicle operator's license is not an act of punishment and therefore, the action of the Highway Commissioner cannot be considered as the penalty for violating the statutory provision.

LESLIE R. BURGUM

Attorney General