IN THE SUPREME COURT

STATE OF NORTH DAKOTA

Peter Ratka,

Appellant,

v.

Supreme Court No. 20130083

Director, North Dakota Department
of Transportation,

Appellee.

* *

BRIEF OF APPELLANT

* *

Appeal from Judgment

Mercer County District Court
South Central Judicial District
Civil No. 29-2012-CV-00134

* *

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STATEMENT OF THE CASE

Peter Ratka appeals from a district court judgment affirming an administrative revocation of his driving privileges for a period of one year. (A. 49, 53-58, 61).

STATEMENT OF THE FACTS

Ratka was arrested for DUI in Beulah, North Dakota at 1:45 AM (A. 22, line 25). Ratka was driven 13 miles to Hazen, North Dakota, where, outside the hospital, he was asked to submit to a blood draw. Ratka responded no. (A. 25).

The arresting officer started to drive to the jail in Stanton, North Dakota. Ratka then stated he wanted to contact his lawyer. (A. 25, lines 19-22; 40, lines 1-3). The officer turned around, parked in the hospital parking lot, and allowed Ratka to call his lawyer on his cell phone (A. 25, line 22, through 26, line 3). After a half hour, Ratka was not able to contact his lawyer (A. 26, lines 5-8; 40, lines 15-16). The officer told Ratka he would have to make a decision on his own. Ratka responded no, he would not submit to a blood test (A. 26, lines 8-10).

The officer again started driving to Stanton (A. 26, lines 12-13). On the drive to Stanton, Ratka stated he wanted a phone book so he could call a lawyer (A. 40, lines 18-22; 41, lines 13-14; 46, lines 10-14). The officer,

however, considered the matter a refusal and took Ratka to the jail (A. 40, lines 22-23; 43, lines 1-2).

The officer left Ratka at the jail (A. 26, lines 13-14). The officer asked the jailer to hand Ratka a phone book (A. 40, lines 23-24), but the officer considered it too late for Ratka to cure his refusal:

> A. . . . He had plenty of chance to contact an attorney. He also had plenty a chance to ask me for a phone book, and plenty of chance to inform me that he was unable to contact an attorney.

(A. 41, lines 4-7).

> A. . . . I think I was going above and beyond trying to work with him that night.

(A. 41, lines 18-19).

It is approximately a 15 minute drive between Hazen and Stanton (A. 43, lines 5-6). The officer released Ratka to the jail at 2:45 AM (A. 41, line 20, through 42, line 1). Therefore, at that time there was still one half hour to do the test, as the time of driving had been 1:15 AM (A. 23). Also, the officer had once before done a blood test in Stanton (A. 45, lines 4-8).

The officer completed the citation for DUI and the Report and Notice form in the dispatch area of the Sheriff's Department after Ratka was placed

in the jail. The officer then handed Ratka's copies of these documents to the dispatcher, who in turn handed them to the jailer, who placed the papers in Ratka's property (A. 44). The officer did not hand the papers to Ratka (A. 27, lines 2-9). Therefore, Ratka did not have further opportunity to discuss a lawyer, a phone book or a cure of the refusal after he was turned over to the jail.

At the administrative hearing, the arresting officer first testified that he was not a certified chemical test operator (A. 9, lines 18-19). Then he testified that he was going to conduct the screening test:

Q. . . . were you going to do it?

A. Correct.

Q. . . . But you're not certified?

A. Oh, I'm not certified with the Intoxilyzer. I am certified with the S-D5.

Q. Oh, okay.

(A. 16-17).

Later the arresting officer testified that the certificate he had for the S-

D5 was from the highway patrol upon being certified as a police officer (A. 32, lines 6-14; 38, lines 16-19).

There was no testimony that the officer was certified by the director of the state crime laboratory or the director's designee.

STANDARD OF REVIEW

In Morrell v. N. Dak. Dept. of Transportation, 1999 ND 140, ¶ 6, 598 N.W.2d 111, the Court wrote:

The Administrative Agencies Practices Act, N.D.C.C. ch. 28-32, governs the review of an administrative decision to suspend or revoke a driver's license. Dworshak v. Moore, 1999 ND 172, ¶ 6, 583 N.W.2d 799. When reviewing a driver's license suspension, we review the agency's decision, not the district court's decision. Id. We affirm the agency's decision unless: 1) a preponderance of the evidence does not support the agency's findings; 2) the agency's findings of fact do not support its conclusions of law and its decision; 3) the agency's decision violates the constitutional rights of the appellant; 4) the agency did not comply with the Administrative Agencies Practice Act in the proceedings; 5) the agency's rules and procedures have not afforded the appellant a fair hearing; or 6) the agency's decision is not in accordance with the law. Id. When reviewing the findings of an administrative agency, we do not substitute our own

judgment for that of the agency, but instead determine whether a reasonable mind could have determined that the factual conclusions were proven by the weight of the evidence presented. Stanton v. Moore, 1998 ND 213, ¶ 10, 587 N.W.2d 148.

SUMMARY OF ARGUMENT

The arresting officer did not afford Ratka a reasonable opportunity to cure his refusal of a blood test.

If Ratka had cured his refusal of a blood test, he would not have been facing a refusal of the screening test.

There was no evidence that the officer was properly certified under N.D.C.C. § 39-20-14 to perform the screening test Ratka was found to have refused.

ARGUMENT

ISSUE FOR REVIEW NO. 1

Did the arresting officer afford Ratka a reasonable opportunity to speak with an attorney?

The question of whether a person has been given a reasonable opportunity to consult with an attorney is not purely a question of fact. It is one of both law and fact. Questions of both law and fact are reviewed de novo. Lies v. N.D. Dep't of Trans., 2008 ND 30, ¶ 9, 744 N.W.2d 783.

Ratka argued to the Hearing Officer he was not given the proper opportunity to consult with an attorney before deciding to take the blood test (A. 47, lines 7-10).

A person arrested for DUI must be afforded a reasonable opportunity to consult with counsel before deciding whether to submit to a chemical test. Kuntz v. State Highway Commissioner, 405 N.W.2d 285 (N.D. 1987). The person also has the right, within a reasonable period of time, to effectively reconsider a prior refusal to take a chemical test. Kuntz, supra at 289, citing Lund v. Hjelle, 224 N.W.2d 552 (N.D. 1974). Further, a driver can cure an initial refusal, notwithstanding the fact that the officer issued a temporary operator's permit and mailed the Report and Notice Form to the Department of Transportation by the time of the request. Krehlik v. Moore, 542 N.W.2d 443 (N.D. 1996). In so ruling, the North Dakota Supreme Court recognized "the legislature's desire for suspects to choose to take the test." Krehlik, supra at 445-446, citing State v. Murphy, 516 N.W.2d 285, 287 (N.D. 1994).

Here, Ratka refused the blood test, but then asked to call "his

attorney." The arresting officer gave Ratka that opportunity. Ratka could not make contact with his attorney, and again refused the blood test. On the drive from Hazen to Stanton, Ratka asked for a phone book to call "an attorney." Cf. Lies v. N.D. Department of Transportation, 2008 ND 30, ¶¶ 12-13, 744 N.W.2d 783. The arresting officer denied this request. This constituted a failure to allow Ratka a reasonable opportunity to consult with a lawyer after Ratka made such a request. Lies, at ¶¶ 10-11, citing Baillie v. Moore, 522 N.W.2d 748, 749-750 (N.D. 1994). There existed sufficient time to allow Ratka to use a phone book to contact "an attorney." The failure to do so prevents the revocation of his driver's license for refusal to take a chemical test. Lies, at ¶ 10.

ISSUE FOR REVIEW NO. 2

If the revocation of Ratke's driver's license for refusal to take the blood test is prevented by the failure to provide him a reasonable opportunity to consult with a lawyer, can he be revoked for refusing the screening test?

N.D.C.C. § 39-20-14 provides in relevant part, "However, the director

must not revoke an individual's driving privileges for refusing to submit to a screening test requested under this section if the individual provides a sufficient breath, blood, or urine sample for a chemical test requested under section 39-20-01 for the same incident."

The Hearing Officer concluded, because Ratka did not provide the requested blood test, that the above provision was not applicable. Ratka contends, because the arresting officer denied him a reasonable opportunity to consult with a lawyer before deciding to take the requested blood test, he was effectively denied the benefit of the provision, and there should be no revocation. The Department should be estopped from revoking his driving privileges.

Ratka has found no North Dakota Supreme Court opinion directly on point on this issue. There are a number of cases which are similar factually. See e.g. Bell v. N.D. Department of Transportation, 2012 ND 102, 816 N.W.2d 786; Kasowski v. N.D. Dep't of Transportation, 2011 ND 92, 797 N.W.2d 40; Wetsch v. N.D. Department of Transportation, 2004 ND 93, 679

N.W.2d 282; Obrigewitch v. Director, N.D. Dep't of Transportation, 2002 ND 177, 653 N.W.2d 73; Houn v. N.D. Dep't of Transportation, 2000 ND 131, 613 N.W.2d 29; Scott v. N.D. Dep't of Trans. Dir., 557 N.W.2d 385 (N.D. 1996); Mayo v. Moore, 527 N.W.2d 257 (N.D. 1995); Jorgensen v. N.D. Dep't of Transportation, 498 N.W.2d 167 (N.D. 1993). However, none of these cases presented Ratka's issue squarely, and none of these cases ruled squarely on the issue.

Had Ratka been allowed to cure his refusal, then he would not have been facing a refusal for taking the screening test. The Hearing Officer's decision should be reversed as not being in accordance with the law.

ISSUE FOR REVIEW NO. 3

Did Ratka refuse to submit to a screening test under N.D.C.C. § 39-20-14?

Ratka's hearing, in part, was under N.D.C.C. § 39-20-05(3) and (5) "for refusing to submit to a test under section . . . 39-20-14". N.D.C.C. § 39-20-14 provides for screening tests. That section provides in relevant part, "The screening test or tests must be performed by an enforcement officer

certified as a chemical test operator by the director of the state crime laboratory or the director's designee and according to methods and with devices approved by the director of the state crime laboratory or the director's designee."

The Hearing Officer concluded the arresting officer was certified to operate the S-D5, as he testified. This conclusion is erroneous as there was no testimony the arresting officer was certified by the director or the director's designee. The Hearing Officer's conclusion is not supported by a preponderance of the evidence.

The Hearing Officer acknowledged the foundational documents, including the certified list of chemical test operators were not in evidence. However, the Hearing Officer also concluded this was not an issue at the hearing. Ratka contends differently. N.D.C.C. § 39-20-05(3) provides, "Whether the person was informed that the privilege to drive would be revoked or denied for refusal to submit to the test or tests is not an issue." The statute does not state that any other requirements of a "test under section

. . . 39-20-14" are not an issue. The Hearing Officer's conclusion is not in accordance with the law.

Here, if the arresting officer was not shown to be certified by the director or the director's designee, and he was the one who was going to conduct the test, it was not shown that Ratka "refused a test under section . . . 39-20-14". N.D.C.C. § 39-20-05(5).

CONCLUSION

WHEREFORE, Ratka requests the Supreme Court of North Dakota to reverse the judgment of the district court, and order the Director to reinstate his driving privileges.

Respectfully submitted this 22nd day of April 2013.

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CERTIFICATE OF SERVICE

I hereby certify that I made service of a true copy of the foregoing brief, along with a true copy of the Appendix, by hand delivery, on this 22nd day of April 2013, on:

Michael T. Pitcher
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Addendum

concentration of under eighteen one-hundredths of one percent by weight.

e. For three years if the operator's record shows that within five years preceding the date of the arrest, the person's operator's license has at least twice previously been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, or any combination thereof, and the suspensions, revocations, or denials resulted from at least two separate arrests and the last violation or suspension was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.

2. In the suspension of the person's operator's license the director shall give credit for the time the person was without an operator's license after the day of the offense, except that the director may not give credit for the time the person retained driving privileges through a temporary operator's permit issued under section 39-20-03.1 or 39-20-03.2.

Source: S.L. 1983, ch. 415, § 35; 1985, ch. 429, § 16; 1989, ch. 478, § 4; 1993, ch. 375, § 8; 1993, ch. 387, § 4; 1997, ch. 334, § 5; 2003, ch. 316, § 5; 2003, ch. 321, § 3; 2005, ch. 330, § 7; 2009, ch. 328, § 7.

Effective Date.
The 2009 amendment of this section by section 7 of chapter 328, S.L. 2009 became effective August 1, 2009.

Collateral References.
Validity, Construction, and Application of State "Zero Tolerance" Laws Relating to Underage Drinking and Driving, 34 A.L.R.6th 623.

39-20-05. Administrative hearing on request.

1. Before issuing an order of suspension, revocation, or denial under section 39-20-04 or 39-20-04.1, the director shall afford that person an opportunity for a hearing if the person mails or communicates by other means authorized by the director a request for the hearing to the director within ten days after the date of issuance of the temporary operator's permit. The hearing must be held within thirty days after the date of issuance of the temporary operator's permit. If no hearing is requested within the time limits in this section, and no affidavit is submitted within the time limits under subsection 2 of section 39-20-04, the expiration of the temporary operator's permit serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state.
2. If the issue to be determined by the hearing concerns license suspension for operating a motor vehicle while having an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, the hearing must be before a hearing officer assigned by the director and at a time and place designated by the director. The hearing must be recorded and its scope may cover only the issues of whether the arresting officer had reasonable grounds to believe the individual had been driving or was in actual physical control of a vehicle in violation of section 39-08-01 or equivalent ordinance or, with respect to an individual under twenty-one years of age, the individual had been driving or was in actual physical control of a vehicle while having an alcohol concentration of at least two one-hundredths of one percent by weight; whether the indi-

vidual was placed under arrest, unless the individual was under twenty-one years of age and the alcohol concentration was less than eight one-hundredths of one percent by weight, then arrest is not required and is not an issue under any provision of this chapter; whether the individual was tested in accordance with section 39-20-01 or 39-20-03 and, if applicable, section 39-20-02; and whether the test results show the individual had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight. For purposes of this section, a copy of a certified copy of an analytical report of a blood or urine sample from the director of the state crime laboratory or the director's designee or a certified copy of the checklist and test records from a certified breath test operator establish prima facie the alcohol concentration or the presence of drugs, or a combination thereof, shown therein. Whether the individual was informed that the privilege to drive might be suspended based on the results of the test is not an issue.

3. If the issue to be determined by the hearing concerns license revocation for refusing to submit to a test under section 39-20-01 or 39-20-14, the hearing must be before a hearing officer assigned by the director at a time and place designated by the director. The hearing must be recorded. The scope of a hearing for refusing to submit to a test under section 39-20-01 may cover only the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle in violation of section 39-08-01 or equivalent ordinance or, with respect to a person under twenty-one years of age, the person had been driving or was in actual physical control of a vehicle while having an alcohol concentration of at least two one-hundredths of one percent by weight; whether the person was placed under arrest; and whether that person refused to submit to the test or tests. The scope of a hearing for refusing to submit to a test under section 39-20-14 may cover only the issues of whether the law enforcement officer had reason to believe the person committed a moving traffic violation or was involved in a traffic accident as a driver, whether in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol and, whether the person refused to submit to the onsite screening test. Whether the person was informed that the privilege to drive would be revoked or denied for refusal to submit to the test or tests is not an issue.
4. At a hearing under this section, the regularly kept records of the director and state crime laboratory may be introduced. Those records establish prima facie their contents without further foundation. For purposes of this chapter, the following are deemed regularly kept records of the director and state crime laboratory:
   a. Any copy of a certified copy of an analytical report of a blood or urine sample received by the director from the director of the state crime laboratory or the director's designee or a law enforcement officer or a certified copy of the checklist and test records received by the director from a certified breath test operator; and
   b. Any copy of a certified copy of a certificate of the director of the state crime laboratory or the director's designee relating to

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approved methods, devices, operators, materials, and checklists used for testing for alcohol concentration or the presence of drugs received by the director from the director of the state crime laboratory or the director's designee, or that have been electronically posted with the state crime laboratory division of the attorney general at the attorney general website.

5. At the close of the hearing, the hearing officer shall notify the person of the hearing officer's findings of fact, conclusions of law, and decision based on the findings and conclusions and shall immediately deliver to the person a copy of the decision. If the hearing officer does not find in favor of the person, the copy of the decision serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state. If the hearing officer finds, based on a preponderance of the evidence, that the person refused a test under section 39-20-01 or 39-20-14 or that the person had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, the hearing officer shall immediately take possession of the person's temporary operator's permit issued under this chapter. If the hearing officer does not find against the person, the hearing officer shall sign, date, and mark on the person's permit an extension of driving privileges for the next twenty days and shall return the permit to the person. The hearing officer shall report the findings, conclusions, and decisions to the director within ten days of the conclusion of the hearing. If the hearing officer has determined in favor of the person, the director shall return the person's operator's license by regular mail to the address on file with the director under section 39-06-20.
6. If the person who requested a hearing under this section fails to appear at the hearing without justification, the right to the hearing is waived, and the hearing officer's determination on license revocation, suspension, or denial will be based on the written request for hearing, law enforcement officer's report, and other evidence as may be available. The hearing officer shall, on the date for which the hearing is scheduled, mail to the person, by regular mail, at the address on file with the director under section 39-06-20, or at any other address for the person or the person's legal representative supplied in the request for hearing, a copy of the decision which serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state. Even if the person for whom the hearing is scheduled fails to appear at the hearing, the hearing is deemed to have been held on the date for which it is scheduled for purposes of appeal under section 39-20-06.

Source: S.L. 1959, ch. 286, § 5; 1961, ch. 270, § 1; 1969, ch. 356, § 3; 1973, ch. 313, § 2; 1981, ch. 385, § 6; 1983, ch. 415, § 27; 1983, ch. 444, § 4; 1985, ch. 429, § 17; 1987, ch. 481, § 4; 1989, ch. 479, § 2; 1991, ch. 429, § 2; 1993, ch. 236, § 7; 1993, ch. 387, § 5; 1993, ch. 389, § 3; 1997, ch. 334, § 6; 1999, ch. 278, § 62; 1999, ch. 340, § 7; 2001, ch. 120, § 1; 2001, ch. 340, § 10; 2003, ch. 316, § 6; 2005, ch. 195, § 19; 2011, ch. 288, § 17.

Effective Date.

The 2011 amendment of this section by section 17 of chapter 288, S.L. 2011 became effective August 1, 2011.

Applicability of Administrative Agencies Practices Act.

District court erred in applying the ten-day period for notice of a hearing in N.D.C.C. § 28-32-21(1)(d) to the proceeding to suspend

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—Time of Test.

District court erred in reversing an administrative hearing officer's decision that suspended a driver's privileges for 91 days because there was evidence in the record to support the administrative hearing officer's decision when an officer testified that he checked the driver's mouth and waited 19 minutes to administer a breath test. Steinmeyer v. DOT, 2009 ND 126, 768 N.W.2d 491, 2009 N.D. LEXIS 124 (July 9, 2009).

Compliance with State Toxicologist's Directions.

—In General.

When defendant was arrested for driving under the influence of alcohol, he was transported to a where his blood was drawn by a registered nurse using a blood testing kit supplied by the North Dakota State Toxicologist; the officer inspected the exterior of the kit to ensure that it was sealed and that the expiration date had not passed, and he opened the kit and inspected its contents. After the nurse completed the blood draw, she and the officer recorded their actions on Form 104 and mailed the kit to the state crime lab for analysis; because the officer's handling of the kit complied with N.D.C.C. § 39-20-07(5), (10), defendant's blood alcohol sample showing a concentration of .13 percent was properly admitted into evidence. State v. Gietzen, 2010 ND 82, 786 N.W.2d 1, 2010 N.D. LEXIS 128 (May 11, 2010).

—Intoxilyzer Instructions.

Suspension of the driver's driving privileges for 91 days was upheld where his stop at a sobriety checkpoint was constitutional, N.D. Const. art. I, § 8, U.S. Const. amend. IV, as the stop of the driver at the checkpoint was reasonable; under N.D.C.C. § 39-20-07(5), the driver's breath tests were administered according to the approved method and the hearing officer did not err by admitting the results into evidence. Martin v. N.D. DOT, 2009 ND 181, 773 N.W.2d 190, 2009 N.D. LEXIS 187 (Oct. 13, 2009).

Confrontation Rights.

In defendant's criminal prosecution for driving under the influence of alcohol, the district court did not err in admitting Form 104 or the deputy state toxicologist's certification, because those evidentiary documents laid a foundation for the admission of defendant's chemical analysis and did not attempt to directly prove an element of the charged offense. Defendant's right to confrontation was not violated by the State's failure to call the nurse to testify, because the arresting officer and the forensic scientist who tested the blood sample both testified and were cross-examined. State v. Gietzen, 2010 ND 82, 786 N.W.2d 1, 2010 N.D. LEXIS 128 (May 11, 2010).

39-20-14. Screening tests. Any individual who operates a motor vehicle upon the public highways of this state is deemed to have given consent to submit to an onsite screening test or tests of the individual's breath for the purpose of estimating the alcohol concentration in the individual's breath upon the request of a law enforcement officer who has reason to believe that the individual committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the individual's body contains alcohol. An individual may not be required to submit to a screening test or tests of breath while at a hospital as a patient if the medical practitioner in immediate charge of the individual's case is not first notified of the proposal to make the requirement, or objects to the test or tests on the ground that such would be prejudicial to the proper care or treatment of the patient. The screening test or tests must be performed by an enforcement officer certified as a chemical test operator by the director of the state crime laboratory or the director's designee and according to methods and with devices approved by the director of the state crime laboratory or the director's designee. The results of such screening test must be used only for determining whether or not a further test shall be given under the provisions of section 39-20-01. The officer shall inform the individual that refusal of the individual to submit to a screening test will result in a revocation for up to four years of that individual's driving privileges. If such individual refuses to submit to such screening test or tests, none may be given, but such refusal is sufficient

cause to revoke such individual's license or permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 must be available. However, the director must not revoke an individual's driving privileges for refusing to submit to a screening test requested under this section if the individual provides a sufficient breath, blood, or urine sample for a chemical test requested under section 39-20-01 for the same incident. No provisions of this section may supersede any provisions of chapter 39-20, nor may any provision of chapter 39-20 be construed to supersede this section except as provided herein. For the purposes of this section, "chemical test operator" means an individual certified by the director of the state crime laboratory or the director's designee as qualified to perform analysis for alcohol in an individual's blood, breath, or urine.

Source: S.L. 1971, ch. 383, § 1; 1973, ch. 315, § 1; 1977, ch. 367, § 1; 1983, ch. 415, § 32; 1985, ch. 429, § 21; 1989, ch. 479, § 3; 2005, ch. 195, § 22; 2007, ch. 325, § 6; 2011, ch. 288, § 19.

Effective Date.
The 2011 amendment of this section by section 19 of chapter 288, S.L. 2011 became effective August 1, 2011.

CHAPTER 39-21
EQUIPMENT OF VEHICLES

39-21-01. When lighted lamps are required. Subject to the exceptions for parked vehicles, every vehicle upon a highway within this state must display lighted headlamps, taillamps, and illuminating devices as required in this chapter for different classes of vehicles as follows:

1. At any time from sunset to sunrise, and every farm tractor upon a highway within this state at any time from a half hour after sunset to a half hour before sunrise;
2. At any time when it is raining, snowing, sleeting, or hailing or during other adverse driving conditions and these conditions do not render a person or vehicle on the highway clearly discernible at a distance of one thousand feet [304.8 meters] ahead; or
3. At any other time when visibility is impaired by weather, smoke, fog, or other conditions, or when there is insufficient light to render a person or vehicle on the highway clearly discernible at a distance of one thousand feet [304.8 meters] ahead.

Stoplights, turn signals, and other signaling devices must be lighted as prescribed for the use of these devices.

Source: S.L. 1963, ch. 283, § 19; 1965, ch. 282, § 1; 1979, ch. 418, § 5; 1979, ch. 430, § 1; 1979, ch. 431, § 1; 1987, ch. 464, § 3; 1993, ch. 395, § 1; 2011, ch. 289, § 1.

Effective Date.
The 2011 amendment of this section by section 1 of chapter 289, S.L. 2011 became effective August 1, 2011.

39-21-45. Air-conditioning equipment.

1. The term "air-conditioning equipment", as used or referred to in this section, means mechanical vapor compression refrigeration equip-