

**SENATE BILL NO. 2088**

Introduced by

Transportation Committee

(At the request of the Highway Patrol)

1 A BILL for an Act to create and enact two new subsections to section 39-06.1-06 of the North  
2 Dakota Century Code, relating to fees for traffic offenses; to amend and reenact  
3 sections 39-06.1-05, 39-06.1-07, 39-06.1-09, and 39-06.1-10, subdivision g of subsection 2 of  
4 section 39-07-09, and subsections 1 and 2 of section 39-21-46 of the North Dakota Century  
5 Code, relating to traffic offenses; and to provide penalties.

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

7 **SECTION 1. AMENDMENT.** Section 39-06.1-05 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **39-06.1-05. Offenses excepted.** The procedures authorized under sections  
10 39-06.1-02 and 39-06.1-03 may not be utilized by a person charged with one of the following  
11 offenses:

- 12 1. Driving or being in actual physical control of a vehicle in violation of section  
13 39-08-01, or an equivalent ordinance.
- 14 2. Reckless driving or aggravated reckless driving in violation of section 39-08-03, or  
15 an equivalent ordinance.
- 16 3. A violation of chapter 12.1-16 resulting from the operation of a motor vehicle.
- 17 4. Leaving the scene of an accident in violation of section 39-08-04, 39-08-05,  
18 39-08-07, or 39-08-08, or equivalent ordinances.
- 19 5. Driving while license or driving privilege is suspended or revoked in violation of  
20 section 39-06-42, or an equivalent ordinance.
- 21 6. Violating subdivision b or c of subsection 5 of section 39-24-09.
- 22 7. Operating a modified motor vehicle in violation of section 39-21-45.1.
- 23 8. Driving without liability insurance in violation of section 39-08-20.

9. ~~Failing to display a placard or flag, in violation of any rule implementing section 39-21-44, while transporting explosive or hazardous materials.~~

~~40.~~ Operating an unsafe vehicle in violation of subdivision b of subsection 1 of section 39-21-46.

**SECTION 2.** A new subsection to section 39-06.1-06 of the 1999 Supplement to the North Dakota Century Code is created and enacted as follows:

For a violation of section 39-21-44 or a rule adopted under that section, a fee of two hundred fifty dollars.

**SECTION 3.** A new subsection to section 39-06.1-06 of the 1999 Supplement to the North Dakota Century Code is created and enacted as follows:

For a violation of subsection 2 of section 39-21-46, a fee established as follows:

- a. Driving more than ten hours since the last eight hours off duty, driving after fifteen hours on duty since the last eight hours off duty, driving after sixty hours on duty in seven days or seventy hours in eight days, no record of duty status or log book in possession, failing to retain previous seven-day record of duty status or log book, or operating a vehicle with four to six out-of-service defects, one hundred dollars;
- b. False record of duty status or log book or operating a vehicle with seven to nine out-of-service defects, two hundred fifty dollars;
- c. Operating a vehicle after driver placed out of service, operating a vehicle with ten or more out-of-service defects, or operating a vehicle that has been placed out of service prior to its repair, five hundred dollars; and
- d. All other violations of motor carrier safety rules adopted under subsection 2 of section 39-21-46, fifty dollars.

**SECTION 4. AMENDMENT.** Section 39-06.1-07 of the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-07. Notification to offenders - Duties of licensing authority.** The licensing authority shall prepare notification forms and a temporary operator's permit as provided in section 39-20-03.1 or 39-20-03.2 to be delivered to persons charged along with the uniform traffic summons and complaint as provided in section 29-05-31. The notification forms must contain language, approved by the attorney general, informing persons charged with traffic

violations, other than offenses listed in section 39-06.1-05, of the procedures available to them under sections 39-06.1-02 and 39-06.1-03 and informing persons who refuse a chemical test or onsite screening test under chapter 39-20 or who, on taking a chemical test, are found to be in violation of subdivision a of subsection 1 of section 39-08-01, of the procedures available under chapter 39-20. The notification must also contain a schedule of points to be charged against a person's driving record or other operator's license penalties as provided by law and a schedule of statutory fees and bond amounts as determined in accordance with sections 39-06.1-06 and 39-06.1-02. A notification form separate from the uniform traffic summons and complaint may be delivered to a person charged with a violation of subsection 2 of section 39-21-46.

**SECTION 5. AMENDMENT.** Section 39-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-09. Moving violation defined.** For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a violation of section 39-04-22; subsection 1 of section 39-04-37; section 39-04-55; 39-06-01; 39-06-14; 39-06-16; 39-09-04.1; 39-09-09; 39-12-04; 39-12-05; 39-12-06; 39-12-09; 39-24-02; or 39-24-09, except subdivisions b and c of subsection 5, or equivalent ordinances; or a violation of the provisions of chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except sections 39-21-44; and 39-21-45.1; and subdivision b of subsection 1 and subsection 2 of section 39-21-46, and those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

**SECTION 6. AMENDMENT.** Section 39-06.1-10 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-10. Entries against driving record - Licensing authority duties - Hearings - Demerit schedule - Suspension.**

1. When a report of a conviction of a traffic offense, or admission or adjudication of a traffic violation is received by the licensing authority, the licensing authority shall proceed to enter the proper number of points on the licensee's driving record, unless the number points assigned to the violation are two or less. If the number points assigned to the violation are two or less, the violation and points may not be entered on the driving record but must be recorded separately, and the separate record shall not be available to the public. Points from violations in which the assigned number points are two or less shall be considered a part of the driving

record only for purposes of point reduction pursuant to section 39-06.1-13 and for purposes of license suspension. When the driving record shows that the licensee has an accumulated point total of twelve or more points, assigned on the basis of the schedule contained in subsection 3, the authority shall notify the licensee of its intention to suspend the operator's license according to the provisions of section 39-06-33. For the purposes of this chapter, the licensing authority may also receive and act on reports of traffic offense convictions forwarded by federal, military, and tribal courts in this state.

2. If the licensing authority confirms, after hearing or opportunity for hearing, that the licensee's driving record has an accumulated point total of twelve or more points, the licensing authority shall suspend the licensee's operator's license according to the following schedule:

Accumulated Point Total:	Period of Suspension:
a. Twelve	7 days
b. Thirteen and above	7 days for each point over eleven

Surrender and return of licenses suspended pursuant to this section must be governed by the provisions of section 39-06-37.

3. Points must be assigned and accumulated on the basis of the following schedule:

a. Noncriminal Violations

Noncriminal Adjudication

or Admission of:

	Points Assigned:
(1) Overtime and double parking in violation of city ordinances	0 points
(2) Failure to display license plates	1 point
(3) Permitting unauthorized minor to drive	2 points
(4) Permitting unauthorized person to drive	2 points

Fifty-seventh  
Legislative Assembly

1	(5)	Unlawful stopping,	2 points
2		standing, or parking on	
3		open highway in violation	
4		of section 39-10-47	
5	(6)	Unlawful parking in	1 point
6		prohibited place	
7	(7)	Leaving motor vehicle	1 point
8		improperly unattended on	
9		an open highway	
10	(8)	Opening or leaving motor	1 point
11		vehicle doors open when	
12		unsafe to do so	
13	(9)	Except as provided	2 points
14		in sections 39-21-44	
15		and 39-21-45.1,	
16		knowingly driving with	
17		defective, nonexistent, or	
18		unlawful equipment	
19		in violation of <u>subdivision a of</u>	
20		subsection 1 of	
21		section 39-21-46, or	
22		equivalent ordinances	
23	(10)	Careless driving in	6 points
24		violation of section	
25		39-09-01, or equivalent	
26		ordinance	
27	(11)	Violating or exceeding	4 points
28		restrictions contained in	
29		a restricted certificate	
30		issued pursuant to section	
31		39-06.1-03	

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1	(12)	Racing or drag racing	10 points
2		motor vehicles in violation	
3		of section 39-08-03.1, or	
4		equivalent ordinance	
5	(13)	Exhibition driving in	3 points
6		violation of section	
7		39-08-03.1, or equivalent	
8		ordinance	
9	(14)	Failing to yield right of	2 points
10		way in violation of	
11		section 39-10-20, 39-10-22	
12		through 39-10-26, 39-10-28,	
13		39-10-33.3, 39-10-44, or	
14		39-10-72, or equivalent	
15		ordinances	
16	(15)	Disobeying an official	2 points
17		traffic-control device	
18		in violation of section	
19		39-10-04, 39-10-05,	
20		or 39-10-07, or	
21		equivalent ordinances	
22	(16)	Driving on wrong side of	2 points
23		road in violation of	
24		section 39-10-08,	
25		39-10-14, or 39-10-16, or	
26		equivalent ordinances	
27	(17)	Failing to dim headlights	1 point
28		in violation of section	
29		39-21-21, or equivalent	
30		ordinance	
31	(18)	Failing to stop at railroad	3 points

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1		crossing in violation of	
2		section 39-10-41 or	
3		39-10-42, or equivalent	
4		ordinances	
5	(19)	Knowingly driving with	2 points
6		defective brakes in	
7		violation of section	
8		39-21-32 or 39-21-33, or	
9		equivalent ordinances	
10	(20)	Disregarding the lawful	2 points
11		commands of a police	
12		officer in violation of	
13		section 39-10-02, or	
14		equivalent ordinance	
15	(21)	Overtaking where prohibited	2 points
16		or in an unsafe manner in	
17		violation of section	
18		39-10-11, 39-10-12,	
19		39-10-13, or 39-10-15, or	
20		equivalent ordinances	
21	(22)	Overtaking and passing a	6 points
22		schoolbus in violation of	
23		section 39-10-46, or	
24		equivalent ordinance	
25	(23)	Operating a motor vehicle	4 points
26		without a license in	
27		violation of section	
28		39-06-01, or equivalent	
29		ordinance	
30	(24)	Improperly operating or	2 points
31		unlawfully carrying	

- 1 passengers or packages on  
2 a motorcycle in violation  
3 of section 39-10.2-02,  
4 or equivalent ordinance
- 5 (25) Improperly operating a 2 points  
6 motorcycle in laned traffic  
7 in violation of section  
8 39-10.2-03, or equivalent  
9 ordinance
- 10 (26) Clinging to other vehicles 4 points  
11 while riding a motorcycle  
12 in violation of section  
13 39-10.2-04, or equivalent  
14 ordinance
- 15 (27) Carrying a passenger on a 2 points  
16 motorcycle not equipped  
17 with passenger footrests  
18 in violation of section  
19 39-10.2-05, or equivalent  
20 ordinance
- 21 (28) Operating a motorcycle 2 points  
22 without protective headgear  
23 in violation of subsection 1  
24 of section 39-10.2-06, or  
25 equivalent ordinance
- 26 (29) Failing to use the care 2 points  
27 required in section  
28 39-09-01.1, or equivalent  
29 ordinance
- 30 (30) Except as provided in  
31 paragraphs 31 and 34 of this



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1	<del>subdivision</del> , operating a motor	
2	vehicle in excess of speed limit	
3	in violation of section 39-09-02,	
4	or equivalent ordinance	
5	16 - 20 mph over limit	3 points
6	21 - 25 mph over limit	4 points
7	26 - 35 mph over limit	6 points
8	36 - 45 mph over limit	8 points
9	46 + mph over limit	12 points
10	(31) Within city limits on a	
11	noncontrolled access highway,	
12	operating a motor vehicle in	
13	excess of the speed limit in	
14	violation of section 39-09-02, or	
15	equivalent ordinance	
16	6 - 10 mph over limit	1 point
17	11 - 15 mph over limit	2 points
18	16 - 20 mph over limit	3 points
19	21 - 25 mph over limit	4 points
20	26 - 35 mph over limit	6 points
21	36 - 45 mph over limit	8 points
22	46 + mph over limit	12 points
23	(32) Driving in violation of	2 points
24	section 39-08-18	
25	(33) Driving in violation of	6 points
26	section 39-08-09	
27	(34) On a highway on which the	
28	speed limit is a speed higher	
29	than fifty-five miles [88.51	
30	kilometers] an hour, operating a	
31	motor vehicle in excess of the	

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1	speed limit in violation of	
2	section 39-09-02, or equivalent	
3	ordinance	
4	Miles per hour over	
5	lawful speed limit	Points
6	6 - 10	1
7	11 - 15	4
8	16 - 25	7
9	26 - 35	10
10	36 +	12
11	(35) Failing to have a minor in a child	1 point
12	restraint system or seatbelt in	
13	violation of section 39-21-41.2	
14	(36) <u>Failure or refusal to comply</u>	<u>0 points</u>
15	<u>with rules of the superintendent</u>	
16	<u>of the highway patrol in violation</u>	
17	<u>of subsection 2 of section 39-21-46</u>	
18	(37) <u>Violation of section 39-21-44 or any</u>	<u>2 points</u>
19	<u>rule adopted under that section</u>	
20	b. Criminal Violations	
21	Conviction of:	Points Assigned:
22	(1) Reckless driving in	8 points
23	violation of section	
24	39-08-03, or equivalent	
25	ordinance	
26	(2) Aggravated reckless	12 points
27	driving in violation of	
28	section 39-08-03, or	
29	equivalent ordinance	
30	(3) Leaving the scene of an	14 points
31	accident involving	

- 1 property damage in  
2 violation of section  
3 39-08-05, 39-08-07, or  
4 39-08-08, or equivalent  
5 ordinances
- 6 (4) Leaving the scene of an 18 points  
7 accident involving personal  
8 injury or death in  
9 violation of section  
10 39-08-04, or equivalent  
11 ordinance
- 12 (5) Violating restrictions in 3 points  
13 a restricted license  
14 issued under section  
15 39-06-17 and relating  
16 to the use of eyeglasses  
17 or contact lenses while  
18 driving
- 19 (6) Violating any restrictions 4 points  
20 other than those listed in  
21 paragraph 5, contained in  
22 a restricted license issued  
23 under section 39-06-17 or  
24 39-06.1-11
- 25 (7) Except as provided in 6 points  
26 paragraph 9, operating  
27 a motor vehicle without  
28 liability insurance,  
29 in violation of section  
30 39-08-20
- 31 (8) Knowingly driving a 2 points

1		modified motor vehicle in	
2		violation of section	
3		39-21-45.1, or equivalent	
4		ordinance	
5	(9)	Operating a motor vehicle	14 points
6		without liability	
7		insurance, in violation of	
8		section 39-08-20, if the	
9		violation was discovered as	
10		the result of investigation	
11		of an accident in which the	
12		driver is the owner	
13	(10)	<del>Knowingly failing to</del>	<del>2 points</del>
14		<del>display a placard or flag,</del>	
15		<del>in violation of any rule</del>	
16		<del>implementing section 39-21-44,</del>	
17		<del>while transporting explosive</del>	
18		<del>or hazardous materials</del>	
19	(11)	Except as provided in	2 points
20		paragraph 9 of subdivision a,	
21		knowingly operating an	
22		unsafe vehicle in	
23		violation of <u>subdivision b of</u>	
24		subsection 1 of	
25		section 39-21-46, <u>or equivalent</u>	
26		<u>ordinance</u>	
27	(12) (11)	Fleeing in a motor	24 points
28		vehicle from a peace	
29		officer in violation	
30		of section 39-10-71,	
31		or equivalent ordinance	

12 points

~~(13)~~ (12) Except as provided in  
paragraph 9, operating a  
motor vehicle without  
liability insurance, in  
violation of section 39-08-20,  
if the driving record shows  
that the licensee has within  
the eighteen months preceding  
the violation previously  
violated section 39-08-20

- 3.1. a. If the director is informed by a court that a person has been convicted of violating section 39-08-01, or equivalent ordinance, the director, subject to the offender's opportunity for hearing under subsection 1, may not restore the operator's license to the offender until the offender furnishes to the director the written statement of the counselor or instructor of an appropriate licensed addiction treatment program that the offender does not require either an education or treatment program or that the offender has physically attended the prescribed program and has complied with the attendance rules. The director shall send notice to the offender informing the offender of the provisions of this subsection.
- b. If within the seven years preceding the most recent violation of section 39-08-01, or equivalent ordinance, the offender has previously violated section 39-08-01, or equivalent ordinance, at least three times, the director may restore driving privileges to the offender only after that person has completed addiction treatment through an appropriate licensed addiction treatment program and has had no alcohol-related or drug-related offense for two consecutive years after completion of treatment.
4. If judicial disposition of a traffic violation includes an order or recommendation of suspension or revocation of an operator's license, the suspension or revocation runs concurrently with any suspension ordered under this section. After a conviction of a person for violating section 39-08-01, the director shall, in

suspending the person's operator's license, give credit for the time in which license suspension or revocation has been or is being imposed under chapter 39-20 in connection with the same offense.

5. A suspension must be deemed to have commenced twenty days after the order of suspension is delivered to the licensee at the licensee's address of record in the department. Constructive delivery under this section must be considered as occurring seventy-two hours after proper deposit in the mails.

6. Points assigned pursuant to this section must be recorded against an operator's driving record regardless of whether the operator has ever had an operator's license issued in this state, and the licensing authority shall maintain records on all violators regardless of whether they are licensed. Upon the assignment of twelve or more points, any unlicensed operator must be deemed to be driving under suspension if the operator has never had an operator's license or if the operator has failed to renew the operator's license.

7. The period of suspension imposed for a violation of section 39-08-01 or equivalent ordinance is:

a. Ninety-one days if the operator's record shows the person has not violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation.

b. Three hundred sixty-five days if the operator's record shows the person has once violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation.

c. Two years if the operator's record shows the person has at least twice violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation.

**SECTION 7. AMENDMENT.** Subdivision g of subsection 2 of section 39-07-09 of the North Dakota Century Code is amended and reenacted as follows:

g. Operating an unsafe vehicle in violation of subdivision b of subsection 1 of section 39-21-46.

**SECTION 8. AMENDMENT.** Subsection 1 of section 39-21-46 of the North Dakota Century Code is amended and reenacted as follows:

- 1           1. a.     It is unlawful for any person to drive or move, or for the owner to cause or  
2                     knowingly permit to be driven or moved, on any highway any vehicle or  
3                     combination of vehicles which the actor knows ~~to be in such unsafe condition~~  
4                     ~~as to endanger any person, or which the actor knows~~ does not contain those  
5                     parts or is not at all times equipped with lamps and other equipment in proper  
6                     condition and adjustment as required in this chapter, or which the actor knows  
7                     is equipped in any manner in violation of this chapter, or for any person to do  
8                     any act forbidden or fail to perform any act required under this chapter for  
9                     which a fee or penalty for its violation is not otherwise provided.
- 10           ~~b. Unless otherwise specifically provided in this chapter or in section 39-06.1-08~~  
11                     ~~or 39-06.1-09, any~~ A person who, in violation of this chapter, drives or moves,  
12                     or any owner who causes or knowingly permits to be driven or moved upon a  
13                     highway, any vehicle or combination of vehicles which that person knows is in  
14                     such unsafe or improperly equipped condition as to endanger a person is  
15                     guilty of an infraction.

16           **SECTION 9. AMENDMENT.** Subsection 2 of section 39-21-46 of the North Dakota  
17 Century Code is amended and reenacted as follows:

- 18           2.     The superintendent of the state highway patrol shall, under chapter 28-32, adopt  
19                     necessary rules concerning the safe operation of motor vehicles and when and  
20                     how motor carrier audits or inspections will be conducted. The rules must  
21                     duplicate or be consistent with current motor carrier safety regulations of the United  
22                     States department of transportation. The superintendent of the state highway  
23                     patrol may adopt the motor carrier safety regulations by reference, and any  
24                     adoption must be construed to incorporate amendments as may be made from  
25                     time to time. ~~Any proceeding under this section for issuing or modifying rules and~~  
26                     ~~determining compliance with rules of the superintendent of the state highway patrol~~  
27                     ~~must be conducted in accordance with chapter 28-32 and appeals may be taken as~~  
28                     ~~provided in chapter 28-32.~~ A violation of rules adopted under this subsection is a  
29                     noncriminal violation. A person who fails or refuses to comply with these rules  
30                     must be assessed a fee in the amount set forth in section 3 of this Act for each  
31                     violation.