

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 and a new
2 section to chapter 39-06.2 of the North Dakota Century Code, relating to fees for traffic
3 offenses and medical qualifications; to amend and reenact section 39-06.1-05, subsection 8 of
4 section 39-06.1-06, sections 39-06.1-07, 39-06.1-09, and 39-06.1-10, subdivision g of
5 subsection 2 of section 39-07-09, and subsections 1 and 2 of section 39-21-46 of the North
6 Dakota Century Code, relating to traffic offenses; and to provide penalties.

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

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

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

- 13 1. Driving or being in actual physical control of a vehicle in violation of section
14 39-08-01, or an equivalent ordinance.
- 15 2. Reckless driving or aggravated reckless driving in violation of section 39-08-03, or
16 an equivalent ordinance.
- 17 3. A violation of chapter 12.1-16 resulting from the operation of a motor vehicle.
- 18 4. Leaving the scene of an accident in violation of section 39-08-04, 39-08-05,
19 39-08-07, or 39-08-08, or equivalent ordinances.
- 20 5. Driving while license or driving privilege is suspended or revoked in violation of
21 section 39-06-42, or an equivalent ordinance.
- 22 6. Violating subdivision b or c of subsection 5 of section 39-24-09.
- 23 7. Operating a modified motor vehicle in violation of section 39-21-45.1.
- 24 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. AMENDMENT. Subsection 8 of section 39-06.1-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

8. On a highway on which the speed limit is a speed higher than fifty-five miles [88.51 kilometers] an hour, for a violation of section 39-09-02, or an equivalent ordinance, a fee established as follows:

Miles per hour over

lawful speed limit

Fee

1 - 5	\$ 10 plus \$1/each mph over limit
6 - 10	\$ 15 plus \$2/each mph over 5 mph over limit
11 - 15	\$ 25 plus \$3/each mph over 10 mph over limit
<u>16 - 20</u>	<u>\$ 40 plus \$3/each mph over 15 mph over limit</u>
46 <u>21</u> - 25	\$ 40 <u>60</u> plus \$3/each mph over 15 mph over limit
26 - 35	\$ 70 <u>90</u> plus \$3/each mph over 25 mph over limit
36 + - <u>45</u>	\$100 <u>120</u> plus \$5/each mph over 35 mph over limit
<u>46 +</u>	<u>\$170 plus \$5/each mph over 45 mph over limit</u>

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

SECTION 4. 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 5. 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 6. 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 7. 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 0 points

parking in violation

of city ordinances

(2) Failure to display 1 point

license plates

(3) Permitting unauthorized 2 points

minor to drive

(4) Permitting unauthorized 2 points

person to drive

(5) Unlawful stopping, 2 points

standing, or parking on

open highway in violation

of section 39-10-47

(6) Unlawful parking in 1 point

prohibited place

(7) Leaving motor vehicle 1 point

improperly unattended on

an open highway

(8) Opening or leaving motor 1 point

vehicle doors open when

unsafe to do so

(9) Except as provided 2 points

in sections 39-21-44

and 39-21-45.1,

1		knowingly driving with	
2		defective, nonexistent, or	
3		unlawful equipment	
4		in violation of <u>subdivision a of</u>	
5		subsection 1 of	
6		section 39-21-46, or	
7		equivalent ordinances	
8	(10)	Careless driving in	6 points
9		violation of section	
10		39-09-01, or equivalent	
11		ordinance	
12	(11)	Violating or exceeding	4 points
13		restrictions contained in	
14		a restricted certificate	
15		issued pursuant to section	
16		39-06.1-03	
17	(12)	Racing or drag racing	10 points
18		motor vehicles in violation	
19		of section 39-08-03.1, or	
20		equivalent ordinance	
21	(13)	Exhibition driving in	3 points
22		violation of section	
23		39-08-03.1, or equivalent	
24		ordinance	
25	(14)	Failing to yield right of	2 points
26		way in violation of	
27		section 39-10-20, 39-10-22	
28		through 39-10-26, 39-10-28,	
29		39-10-33.3, 39-10-44, or	
30		39-10-72, or equivalent	
31		ordinances	

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1	(15)	Disobeying an official	2 points
2		traffic-control device	
3		in violation of section	
4		39-10-04, 39-10-05,	
5		or 39-10-07, or	
6		equivalent ordinances	
7	(16)	Driving on wrong side of	2 points
8		road in violation of	
9		section 39-10-08,	
10		39-10-14, or 39-10-16, or	
11		equivalent ordinances	
12	(17)	Failing to dim headlights	1 point
13		in violation of section	
14		39-21-21, or equivalent	
15		ordinance	
16	(18)	Failing to stop at railroad	3 points
17		crossing in violation of	
18		section 39-10-41 or	
19		39-10-42, or equivalent	
20		ordinances	
21	(19)	Knowingly driving with	2 points
22		defective brakes in	
23		violation of section	
24		39-21-32 or 39-21-33, or	
25		equivalent ordinances	
26	(20)	Disregarding the lawful	2 points
27		commands of a police	
28		officer in violation of	
29		section 39-10-02, or	
30		equivalent ordinance	
31	(21)	Overtaking where prohibited	2 points

1		or in an unsafe manner in	
2		violation of section	
3		39-10-11, 39-10-12,	
4		39-10-13, or 39-10-15, or	
5		equivalent ordinances	
6	(22)	Overtaking and passing a	6 points
7		schoolbus in violation of	
8		section 39-10-46, or	
9		equivalent ordinance	
10	(23)	Operating a motor vehicle	4 points
11		without a license in	
12		violation of section	
13		39-06-01, or equivalent	
14		ordinance	
15	(24)	Improperly operating or	2 points
16		unlawfully carrying	
17		passengers or packages on	
18		a motorcycle in violation	
19		of section 39-10.2-02,	
20		or equivalent ordinance	
21	(25)	Improperly operating a	2 points
22		motorcycle in laned traffic	
23		in violation of section	
24		39-10.2-03, or equivalent	
25		ordinance	
26	(26)	Clinging to other vehicles	4 points
27		while riding a motorcycle	
28		in violation of section	
29		39-10.2-04, or equivalent	
30		ordinance	
31	(27)	Carrying a passenger on a	2 points

1		motorcycle not equipped	
2		with passenger footrests	
3		in violation of section	
4		39-10.2-05, or equivalent	
5		ordinance	
6	(28)	Operating a motorcycle	2 points
7		without protective headgear	
8		in violation of subsection 1	
9		of section 39-10.2-06, or	
10		equivalent ordinance	
11	(29)	Failing to use the care	2 points
12		required in section	
13		39-09-01.1, or equivalent	
14		ordinance	
15	(30)	Except as provided in	
16		paragraphs 31 and 34 of this	
17		subdivision , operating a motor	
18		vehicle in excess of speed limit	
19		in violation of section 39-09-02,	
20		or equivalent ordinance	
21		16 - 20 mph over limit	3 points
22		21 - 25 mph over limit	4 points
23		26 - 35 mph over limit	6 points
24		36 - 45 mph over limit	8 points
25		46 + mph over limit	12 points
26	(31)	Within city limits on a	
27		noncontrolled access highway,	
28		operating a motor vehicle in	
29		excess of the speed limit in	
30		violation of section 39-09-02, or	
31		equivalent ordinance	

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1		6 - 10 mph over limit	1 point
2		11 - 15 mph over limit	2 points
3		16 - 20 mph over limit	3 points
4		21 - 25 mph over limit	4 points
5		26 - 35 mph over limit	6 points
6		36 - 45 mph over limit	8 points
7		46 + mph over limit	12 points
8	(32)	Driving in violation of	2 points
9		section 39-08-18	
10	(33)	Driving in violation of	6 points
11		section 39-08-09	
12	(34)	On a highway on which the	
13		speed limit is a speed higher	
14		than fifty-five miles [88.51	
15		kilometers] an hour, operating a	
16		motor vehicle in excess of the	
17		speed limit in violation of	
18		section 39-09-02, or equivalent	
19		ordinance	
20		Miles per hour over	
21		lawful speed limit	Points
22		6—10	4
23		11 - 15	4 <u>2</u>
24		16 - 25 <u>20</u>	7 <u>4</u>
25		<u>21 - 25</u>	<u>6</u>
26		26 - 35	40 <u>9</u>
27		36 + - <u>45</u>	12
28		<u>46 +</u>	<u>15</u>
29	(35)	Failing to have a minor in a child	1 point
30		restraint system or seatbelt in	
31		violation of section 39-21-41.2	

1	(36)	<u>Failure or refusal to comply</u>	<u>0 points</u>
2		<u>with rules of the superintendent</u>	
3		<u>of the highway patrol in violation</u>	
4		<u>of subsection 2 of section 39-21-46</u>	
5	(37)	<u>Violation of section 39-21-44 or any</u>	<u>2 points</u>
6		<u>rule adopted under that section</u>	
7	b.	Criminal Violations	
8		Conviction of:	Points Assigned:
9	(1)	Reckless driving in	8 points
10		violation of section	
11		39-08-03, or equivalent	
12		ordinance	
13	(2)	Aggravated reckless	12 points
14		driving in violation of	
15		section 39-08-03, or	
16		equivalent ordinance	
17	(3)	Leaving the scene of an	14 points
18		accident involving	
19		property damage in	
20		violation of section	
21		39-08-05, 39-08-07, or	
22		39-08-08, or equivalent	
23		ordinances	
24	(4)	Leaving the scene of an	18 points
25		accident involving personal	
26		injury or death in	
27		violation of section	
28		39-08-04, or equivalent	
29		ordinance	
30	(5)	Violating restrictions in	3 points
31		a restricted license	

- 1 issued under section
2 39-06-17 and relating
3 to the use of eyeglasses
4 or contact lenses while
5 driving
- 6 (6) Violating any restrictions 4 points
7 other than those listed in
8 paragraph 5, contained in
9 a restricted license issued
10 under section 39-06-17 or
11 39-06.1-11
- 12 (7) Except as provided in 6 points
13 paragraph 9, operating
14 a motor vehicle without
15 liability insurance,
16 in violation of section
17 39-08-20
- 18 (8) Knowingly driving a 2 points
19 modified motor vehicle in
20 violation of section
21 39-21-45.1, or equivalent
22 ordinance
- 23 (9) Operating a motor vehicle 14 points
24 without liability
25 insurance, in violation of
26 section 39-08-20, if the
27 violation was discovered as
28 the result of investigation
29 of an accident in which the
30 driver is the owner
- 31 (10) ~~Knowingly failing to~~ 2 points

- 1 ~~display a placard or flag,~~
2 ~~in violation of any rule~~
3 ~~implementing section 39-21-44,~~
4 ~~while transporting explosive~~
5 ~~or hazardous materials~~
- 6 (44) Except as provided in 2 points
7 paragraph 9 of subdivision a,
8 knowingly operating an
9 unsafe vehicle in
10 violation of subdivision b of
11 subsection 1 of
12 section 39-21-46, or equivalent
13 ordinance
- 14 (12) (11) Fleeing in a motor 24 points
15 vehicle from a peace
16 officer in violation
17 of section 39-10-71,
18 or equivalent ordinance
- 19 (13) (12) Except as provided in 12 points
20 paragraph 9, operating a
21 motor vehicle without
22 liability insurance, in
23 violation of section 39-08-20,
24 if the driving record shows
25 that the licensee has within
26 the eighteen months preceding
27 the violation previously
28 violated section 39-08-20
- 29 3.1. a. If the director is informed by a court that a person has been convicted of
30 violating section 39-08-01, or equivalent ordinance, the director, subject to the
31 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 8. A new section to chapter 39-06.2 of the North Dakota Century Code is created and enacted as follows:

Medical qualifications exemption. If a motor vehicle operator is operating a commercial motor vehicle and is not required to have a commercial driver's license, the motor vehicle operator is exempt from 49 CFR 391.41.

SECTION 9. 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 10. AMENDMENT. Subsection 1 of section 39-21-46 of the North Dakota Century Code is amended and reenacted as follows:

1. a. It is unlawful for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles which the actor knows ~~to be in such unsafe condition as to endanger any person, or which the actor knows~~ does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in this chapter, or which the actor knows is equipped in any manner in violation of this chapter, or for any person to do

any act forbidden or fail to perform any act required under this chapter for which a fee or penalty for its violation is not otherwise provided.

b. ~~Unless otherwise specifically provided in this chapter or in section 39-06.1-08 or 39-06.1-09, any~~ A person who, in violation of this chapter, drives or moves,
or any owner who causes or knowingly permits to be driven or moved upon a highway, any vehicle or combination of vehicles which that person knows is in such unsafe or improperly equipped condition as to endanger a person is guilty of an infraction.

SECTION 11. AMENDMENT. Subsection 2 of section 39-21-46 of the North Dakota Century Code is amended and reenacted as follows:

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