

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

HOUSE BILL NO. 1047
(Legislative Council)
(Judiciary B Committee)

AN ACT to amend and reenact sections 39-06.1-05 and 39-06.1-06, paragraph 33 of subdivision a of subsection 3 of section 39-06.1-10, and sections 39-07-09, 39-08-21, 39-09-02, 39-21-16, and 39-21-46 of the North Dakota Century Code, relating to driving in excess of the speed limit.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. Driving or being in actual physical control of a vehicle in violation of section 39-08-01, or an equivalent ordinance.
2. Reckless driving or aggravated reckless driving in violation of section 39-08-03, or an equivalent ordinance.
3. A violation of chapter 12.1-16 resulting from the operation of a motor vehicle.
4. Leaving the scene of an accident in violation of section 39-08-04, 39-08-05, 39-08-07, or 39-08-08, or equivalent ordinances.
5. Driving while license or driving privilege is suspended or revoked in violation of section 39-06-42, or an equivalent ordinance.
6. Violating subdivision b or c of subsection 5 of section 39-24-09.
7. Operating a modified motor vehicle in violation of section 39-21-45.1.
8. Driving without liability insurance in violation of section 39-08-20.
9. Operating an unsafe vehicle in violation of ~~subdivision b of~~ subsection 4 2 of section 39-21-46.

SECTION 2. AMENDMENT. Section 39-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-06. Amount of statutory fees. The fees required for a noncriminal disposition pursuant to either section 39-06.1-02 or 39-06.1-03 must be as follows:

1. For a nonmoving violation as defined in section 39-06.1-08, a fee of any amount not to exceed twenty dollars.
2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except for:
 - a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, 39-10-42, 39-10-46, or 39-10-46.1, a fee of fifty dollars.
 - b. A violation of section 39-10-05 involving failure to yield to a pedestrian or subsection 1 of section 39-10-28, a fee of fifty dollars.

c. A violation of section 39-21-41.2, no fee may be imposed by the state, a city, or a county including a city or county operating under a home rule charter.

3. Except as provided in subsections 7, and 11, ~~and 12~~ of this section, 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	\$ 5
6 - 10	\$ 5 plus \$1/each mph over 5 mph over limit
11 - 15	\$ 10 plus \$1/each mph over 10 mph over limit
16 - 20	\$ 15 plus \$2/each mph over 15 mph over limit
21 - 25	\$ 25 plus \$3/each mph over 20 mph over limit
26 - 35	\$ 40 plus \$3/each mph over 25 mph over limit
36 - 45	\$ 70 plus \$3/each mph over 35 mph over limit
46 +	\$100 plus \$5/each mph over 45 mph over limit

4. For a violation of section 39-09-01, or an ordinance defining careless driving, a fee of thirty dollars.
5. For a violation of section 39-09-01.1, or an ordinance defining care required in driving, a fee of not less than ten dollars nor more than thirty dollars.
6. For a violation of any traffic parking regulations, except a violation of subsection 10 of section 39-01-15, on any state charitable or penal institution property or on the state capitol grounds, a fee in the amount of five dollars.
7. ~~Except as provided in subsection 11, on~~ 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 <u>10</u>	\$ 10 plus \$1/each <u>\$2/each</u> mph over limit
6 - 10	\$ 15 plus \$2/each mph over 5 mph over limit
11 - 15+	\$ 25 20 plus \$3/each <u>\$5/each</u> mph over 10 mph over limit
16 - 20	\$ 40 plus \$3/each mph over 15 mph over limit
21 - 25	\$ 55 plus \$3/each mph over 20 mph over limit
26 - 35	\$ 70 plus \$3/each mph over 25 mph over limit
36 - 45	\$120 plus \$5/each mph over 35 mph over limit
46+	\$170 plus \$5/each mph over 45 mph over limit

8. For a violation of section 39-21-41.4, a fee not to exceed twenty dollars.
9. For a violation of section 39-21-44 or a rule adopted under that section, a fee of two hundred fifty dollars.
10. For a violation of subsection ~~2~~ 3 of section 39-21-46, a fee established as follows:
- 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;
 - 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 3 of section 39-21-46, fifty dollars.
11. On a highway on which the speed limit is posted in excess of ~~seventy~~ sixty-five miles [~~142.65~~ 104.61 kilometers] an hour, for a violation of section 39-09-02, or equivalent ordinance, a fee ~~established as follows:~~

Miles per hour over lawful speed limit	Fee
1—5	\$ 20
6—10	\$ 40
11—15	\$ 60
16—20	\$ 80
21—25	\$100
26—30	\$125
31—35	\$150
36+	\$150 plus \$5/each mph over 35 mph over limit

of five dollars for each mile per hour over the limit.

12. For a violation of a school zone speed limit under subdivision b of subsection 1 of section 39-09-02, of a highway construction zone speed limit under subsection 2 of section 39-09-02, or, notwithstanding subsection 2 of section 40-05-06 or section 40-05.1-06, of an ordinance in a city or home rule city for a violation of a speed limit dependent upon being on or near a school, fees for a noncriminal disposition are forty dollars for one through ten miles per hour over the posted speed; and forty dollars, plus one dollar for each additional mile per hour over ten miles per hour over the limit unless a greater fee would be applicable under this section. The fees in this subsection do not apply to a highway construction zone unless individuals engaged in construction are present at the time of the violation and the posted speed limit sign states "Minimum Fee \$40".

SECTION 3. AMENDMENT. Paragraph 33 of subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

- (33) On a highway on which the speed limit is posted in excess of ~~seventy~~ sixty-five miles [~~142.65~~ 104.61 kilometers] an hour, operating a motor vehicle in excess of the speed limit in violation of section 39-09-02, or equivalent ordinance

Miles per hour over lawful speed limit	Points
1 - 5	0
6 - 10	1
11 - 15	<u>2</u> <u>3</u>
16 - 20	5
21 - 25	7
26 - 30	10

31 - 35
36 +

12
15

SECTION 4. AMENDMENT. Section 39-07-09 of the North Dakota Century Code is amended and reenacted as follows:

39-07-09. Offenses under which person halted may not be entitled to release upon promise to appear. Section 39-07-07 does not apply to a person if:

1. The halting officer has good reason to believe the person guilty of any felony or if the person is halted and charged with an offense listed in section 39-06.1-05 but not listed in subsection 2; or
2. The halting officer, acting within the officer's discretion, determines that it is inadvisable to release the person upon a promise to appear and if the person has been halted and charged with any of the following offenses:
 - a. Reckless driving.
 - b. Driving in excess of speed limitations established by the state or by local authorities in their respective jurisdictions.
 - c. Driving while license or driving privilege is suspended or revoked for violation of section 39-06-42, or an equivalent ordinance.
 - d. Operating a modified vehicle.
 - e. Driving without liability insurance in violation of section 39-08-20.
 - f. Failing to display a placard or flag, in violation of any rule implementing section 39-21-44, while transporting explosive or hazardous materials.
 - g. Operating an unsafe vehicle in violation of ~~subsection b of~~ subsection 4 2 of section 39-21-46.

The halting officer forthwith shall take any person not released upon a promise to appear before the nearest or most accessible magistrate.

SECTION 5. AMENDMENT. Section 39-08-21 of the North Dakota Century Code is amended and reenacted as follows:

39-08-21. Medical qualifications exemption for intrastate drivers. Notwithstanding the adoption by the superintendent of the state highway patrol of federal motor carrier safety regulations pursuant to subsection ~~2~~ 3 of section 39-21-46, the provisions of 49 CFR 391.41(b)(1)-(11) do not apply to a person who is qualified through a state medical waiver program to operate a commercial motor vehicle within the boundaries of this state or a person who:

1. Is otherwise qualified to operate a commercial motor vehicle and who possesses, on March 26, 1991, a class 1 license issued pursuant to section 39-06-14, as that section existed on June 30, 1989, or a class A license issued pursuant to chapter 39-06.2;
2. Operates a commercial motor vehicle only within the boundaries of this state; and
3. Has a medical or physical condition that:
 - a. Would prevent such person from operating a commercial motor vehicle under federal motor carrier safety regulations contained in 49 CFR, chapter III, subchapter B;
 - b. Existed on March 26, 1991, or at the time of the first required physical examination after that date; and

- c. An examining physician has determined has not substantially worsened since March 26, 1991, or the time of the first required physical examination after that date.

SECTION 6. AMENDMENT. Section 39-09-02 of the North Dakota Century Code as amended in section 1 of House Bill No. 1046, as approved by the fifty-eighth legislative assembly, is amended and reenacted as follows:

39-09-02. Speed limitations.

1. Subject to the provisions of section 39-09-01 and except in those instances where a lower speed is specified in this chapter, it presumably is lawful for the driver of a vehicle to drive the same at a speed not exceeding:
 - a. Twenty miles [32.19 kilometers] an hour when approaching within fifty feet [15.24 meters] of a grade crossing of any steam, electric, or street railway when the driver's view is obstructed. A driver's view is deemed to be obstructed when at any time during the last two hundred feet [60.96 meters] of the driver's approach to such crossing, the driver does not have a clear and uninterrupted view of such railway crossing and of any traffic on such railway for a distance of four hundred feet [121.92 meters] in each direction from such crossing.
 - b. Twenty miles [32.19 kilometers] an hour when passing a school during school recess or while children are going to or leaving school during opening or closing hours, unless a lower speed is designated or posted by local authorities.
 - c. Twenty miles [32.19 kilometers] an hour when approaching within fifty feet [15.24 meters] and in traversing an intersection of highways when the driver's view is obstructed. A driver's view is deemed to be obstructed when at any time during the last fifty feet [15.24 meters] of the driver's approach to such intersection, the driver does not have a clear and uninterrupted view of such intersection and of the traffic upon all of the highways entering such intersection for a distance of two hundred feet [60.96 meters] from such intersection.
 - d. Twenty miles [32.19 kilometers] an hour when the driver's view of the highway ahead is obstructed within a distance of one hundred feet [30.48 meters].
 - e. Twenty-five miles [40.23 kilometers] an hour on any highway in a business district or in a residence district or in a public park, unless a different speed is designated and posted by local authorities.
 - f. Fifty-five miles [88.51 kilometers] an hour on gravel, dirt, or loose surface highways, and on paved two-lane county and township highways if there is no speed limit posted, unless otherwise permitted, restricted, or required by conditions.
 - g. Sixty-five miles [104.61 kilometers] an hour on paved two-lane highways ~~and on paved and divided multilane highways~~ if posted for that speed, unless otherwise permitted, restricted, or required by conditions.
 - h. Seventy miles [112.65 kilometers] an hour on ~~access-controlled~~, paved and divided, multilane ~~interstate~~ highways, unless otherwise permitted, restricted, or required by conditions.
 - i. Seventy-five miles [120.70 kilometers] an hour on access-controlled, paved and divided, multilane interstate highways, unless otherwise permitted, restricted, or required by conditions.
2. The director may designate and post special areas of state highways where lower speed limits apply.

3. Except as provided by law, it is unlawful for any person to drive a vehicle upon a highway at a speed that is unsafe or at a speed exceeding the speed limit prescribed by law or established pursuant to law.
4. In charging a violation of the provisions of this section, the complaint must specify the speed at which the defendant is alleged to have driven and the speed which this section prescribes is prima facie lawful at the time and place of the alleged offense.

SECTION 7. AMENDMENT. Section 39-21-16 of the North Dakota Century Code is amended and reenacted as follows:

39-21-16. Lamps on other vehicles and equipment. Every vehicle, including animal-drawn vehicles and vehicles referred to in subsection 3 4 of section 39-21-46, not specifically required by the provisions of this chapter to be equipped with lamps or other lighting devices, must at all times specified in section 39-21-01 be equipped with at least one lamp displaying a white light visible from a distance of not less than one thousand feet [304.8 meters] to the front of the vehicle, and must also be equipped with two lamps displaying red light visible from a distance of not less than one thousand feet [304.8 meters] to the rear of the vehicle, or two red reflectors visible for distances of one hundred feet [30.48 meters] to six hundred feet [182.88 meters] to the rear when illuminated by the lower beams of headlamps.

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

39-21-46. Scope and effect of equipment requirements - Penalty.

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 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.~~
2. A person who 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 condition as to endanger a person is guilty of an infraction.
- ~~2.~~ 3. 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. 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 ~~subsection 10 of section 39-06.1-06~~ for each violation.
- ~~3.~~ 4. Nothing contained in this chapter may be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.
- ~~4.~~ 5. The provisions of this chapter with respect to equipment on vehicles do not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as specifically made applicable.

- ~~5.~~ 6. The provisions of this chapter with respect to equipment required on vehicles do not apply to motorcycles or motor-driven cycles, except as specifically made applicable.
- ~~6.~~ 7. The provisions of this chapter and regulations of the department do not apply to vehicles moved solely by human power, except as specifically made applicable.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1047.

House Vote: Yeas 57 Nays 34 Absent 3

Senate Vote: Yeas 32 Nays 14 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,
at _____ o'clock _____ M.

Secretary of State