

**HOUSE BILL NO. 1381**

Introduced by

Representatives Gruchalla, Dahl, Heilman, Guggisberg

Senators Olafson, Sorvaag

1 A BILL for an Act to amend and reenact section 39-06.1-05, subsections 12 and 13 of section  
2 39-06.1-06, section 39-06.1-09, subsection 3 of section 39-06.1-10, and sections 39-09-02 and  
3 39-10-21.1 of the North Dakota Century Code, relating to the penalty for driving on a closed  
4 road, in a construction zone, and in a school zone; and to provide a penalty.

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

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

8 **39-06.1-05. Offenses excepted.**

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

- 11 1. Driving or being in actual physical control of a vehicle in violation of section 39-08-01,  
12 or an equivalent ordinance.
- 13 2. Reckless driving or aggravated reckless driving in violation of section 39-08-03, or an  
14 equivalent ordinance.
- 15 3. A violation of chapter 12.1-16 resulting from the operation of a motor vehicle.
- 16 4. Leaving the scene of an accident in violation of section 39-08-04, 39-08-05, 39-08-07,  
17 or 39-08-08, or equivalent ordinances.
- 18 5. Driving while license or driving privilege is suspended or revoked in violation of section  
19 39-06-42, or an equivalent ordinance.
- 20 6. Violating subdivision b or c of subsection 5 of section 39-24-09.
- 21 7. Operating a modified motor vehicle in violation of section 39-21-45.1.
- 22 8. Driving without liability insurance in violation of section 39-08-20.
- 23 9. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46.

1       10.    Causing an accident with an authorized emergency vehicle or a vehicle operated by or  
2            under the control of the director used for maintaining the state highway system in  
3            violation of subsection 5 of section 39-10-26.

4       11.    Knowingly entering a closed road under section 39-10-21.1.

5       12.    Driving in excess of twenty miles per hour over a speed limit in a school zone or  
6            construction zone in violation of subdivision b of subsection 1 or subsection 2 of  
7            section 39-09-02.

8       **SECTION 2. AMENDMENT.** Subsections 12 and 13 of section 39-06.1-06 of the North  
9       Dakota Century Code are amended and reenacted as follows:

10      12.    For a violation of a school zone speed limit under subdivision b of subsection 1 of  
11            section 39-09-02, or, notwithstanding subsection 2 of section 40-05-06 or section  
12            40-05.1-06, of an ordinance in a city or home rule city for a violation of a speed limit  
13            dependent upon being on or near a school, fees for a noncriminal disposition are forty  
14            dollars for one through ten miles per hour over the posted speed; and forty dollars,  
15            plus one dollar for each additional mile per hour over ten miles per hour over the limit  
16            ~~unless a greater fee would be applicable under this section to~~ twenty miles per hour  
17            over the limit.

18      13.    For a violation of a highway construction zone speed limit under subsection 2 of  
19            section 39-09-02, a fee of eighty dollars for one through ten miles per hour over the  
20            posted speed; and eighty dollars plus two dollars for each mile per hour over ten miles  
21            per hour over the limit, ~~unless a greater fee would be applicable under this section to~~ to  
22            twenty miles per hour over the limit. The fee in this subsection does not apply to a  
23            highway construction zone unless individuals engaged in construction are present at  
24            the time and place of the violation and the posted speed limit sign states "Minimum  
25            Fee \$80".

26      **SECTION 3. AMENDMENT.** Section 39-06.1-09 of the North Dakota Century Code is  
27      amended and reenacted as follows:

28      **39-06.1-09. Moving violation defined.**

29      For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a  
30      violation of section 39-04-22, subsection 1 of section 39-04-37, section 39-04-55, 39-06-01,  
31      39-06-14, 39-06-16, 39-09-04.1, 39-09-09, subsection 1 of section 39-12-02, sections 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 section 39-10-21.1, subsection 5 of section 39-10-26, sections 39-21-44 and 39-21-45.1, subsections 2 and 3 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 4. AMENDMENT.** Subsection 3 of section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

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

a. Noncriminal Violations

Noncriminal Adjudication or Admission of:	Points Assigned:
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- |   |          |
|---|----------|
| (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 |
| (5) Unlawful stopping, standing, or parking on open highway in violation of section 39-10-47  | 2 points |
| (6) Unlawful parking in prohibited place  | 1 point  |
| (7) Leaving motor vehicle improperly unattended on an open highway  | 1 point  |
| (8) Opening or leaving motor vehicle doors open when unsafe to do so  | 1 point  |
| (9) Except as provided in sections 39-21-44 and 39-21-45.1, knowingly driving with defective, nonexistent, or unlawful equipment in violation of section 39-21-46, or equivalent ordinances | 2 points |
| (10) Careless driving in violation of section 39-09-01, or equivalent ordinance   | 6 points |

1	(11) Violating or exceeding restrictions contained in	4 points
2	a restricted certificate issued pursuant to section	
3	39-06.1-03	
4	(12) Racing or drag racing motor vehicles in violation	10 points
5	of section 39-08-03.1, or equivalent ordinance	
6	(13) Exhibition driving in violation of section 39-08-03.1, or	3 points
7	equivalent ordinance	
8	(14) Failing to yield right of way in violation of	2 points
9	section 39-10-20, 39-10-22 through 39-10-26,	
10	39-10-28, 39-10-33.3, 39-10-44, or 39-10-72, or	
11	equivalent ordinances	
12	(15) Disobeying an official traffic-control device	2 points
13	in violation of section 39-10-04, 39-10-05, or	
14	39-10-07, or equivalent ordinances	
15	(16) Driving on wrong side of	2 points
16	road in violation of	
17	section 39-10-08,	
18	39-10-14, or 39-10-16, or	
19	equivalent ordinances	
20	(17) Failing to dim headlights in violation of section	1 point
21	39-21-21, or equivalent ordinance	
22	(18) Failing to stop at railroad crossing in violation of section	3 points
23	39-10-41 or 39-10-42, or equivalent ordinances	
24	(19) Knowingly driving with defective brakes in violation of	2 points
25	section 39-21-32 or 39-21-33, or equivalent ordinances	
26	(20) Disregarding the lawful commands of a police officer in	2 points
27	violation of section 39-10-02, or equivalent ordinance	
28	(21) Overtaking where prohibited or in an unsafe manner in	2 points
29	violation of section 39-10-11, 39-10-12, 39-10-13, or	
30	39-10-15, or equivalent ordinances	

1	(22) Overtaking and passing a schoolbus in violation of	6 points
2	section 39-10-46, or equivalent ordinance	
3	(23) Operating a motor vehicle without a license in	4 points
4	violation of section 39-06-01, or equivalent ordinance	
5	(24) Improperly operating or unlawfully carrying	2 points
6	passengers or packages on a motorcycle in violation	
7	of section 39-10.2-02, or equivalent ordinance	
8	(25) Improperly operating a motorcycle in laned traffic in	2 points
9	violation of section 39-10.2-03, or equivalent ordinance	
10	(26) Clinging to other vehicles while riding a motorcycle in	4 points
11	violation of section 39-10.2-04, or equivalent ordinance	
12	(27) Carrying a passenger on a motorcycle not equipped	2 points
13	with passenger footrests in violation of section	
14	39-10.2-05, or equivalent ordinance	
15	(28) Operating a motorcycle without protective headgear	2 points
16	in violation of subsection 1 of section 39-10.2-06, or	
17	equivalent ordinance	
18	(29) Failing to use the care required in section 39-09-01.1,	2 points
19	or equivalent ordinance	
20	(30) Except as provided in paragraph 33, operating a motor	
21	vehicle in excess of speed limit in violation of section	
22	39-09-02 <u>except a violation of driving in excess of</u>	
23	<u>twenty miles per hour over a speed limit in a school or</u>	
24	<u>construction zone in violation of subdivision b of</u>	
25	<u>subsection 1 or subsection 2 of section 39-09-02, or</u>	
26	equivalent ordinance	
27	6 - 10 mph over limit	0 points
28	11 - 15 mph over limit	1 point
29	16 - 20 mph over limit	3 points
30	21 - 25 mph over limit	5 points
31	26 - 35 mph over limit	9 points

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1	36 - 45 mph over limit	12 points
2	46 + mph over limit	15 points
3	(31) Driving in violation of section 39-08-18	2 points
4	(32) Driving in violation of section 39-08-09	6 points
5	(33) On a highway on which the speed limit is posted in	
6	excess of sixty-five miles [104.61 kilometers] an hour,	
7	operating a motor vehicle in excess of the speed limit	
8	in violation of section 39-09-02, or equivalent ordinance	
9	Miles per hour over lawful speed limit	Points
10	1 - 5	0
11	6 - 10	1
12	11 - 15	3
13	16 - 20	5
14	21 - 25	7
15	26 - 30	10
16	31 - 35	12
17	36 +	15
18	(34) Failing to have a minor in a child restraint system	1 point
19	or seatbelt in violation of section 39-21-41.2	
20	(35) Failure or refusal to comply with rules of the	0 points
21	superintendent of the highway patrol in violation	
22	of subsection 3 of section 39-21-46	
23	(36) Violation of section 39-21-44 or any rule adopted	2 points
24	under that section	
25	b. Criminal Violations	
26	Conviction of:	Points Assigned:
27	(1) Reckless driving in violation of section 39-08-03, or	8 points
28	equivalent ordinance	
29	(2) Aggravated reckless driving in violation of section	12 points
30	39-08-03, or equivalent ordinance	

1	(3) Leaving the scene of an accident involving property	14 points
2	damage in violation of section 39-08-05, 39-08-07,	
3	or 39-08-08, or equivalent ordinances	
4	(4) Leaving the scene of an accident involving personal	18 points
5	injury or death in violation of section 39-08-04, or	
6	equivalent ordinance	
7	(5) Violating restrictions in a restricted license issued	3 points
8	under section 39-06-17 and relating to the use of	
9	eyeglasses or contact lenses while driving	
10	(6) Violating any restrictions other than those listed in	4 points
11	paragraph 5, contained in a restricted license issued	
12	under section 39-06-17 or 39-06.1-11	
13	(7) Except as provided in paragraph 9, operating	6 points
14	a motor vehicle without liability insurance,	
15	in violation of section 39-08-20	
16	(8) Knowingly driving a modified motor vehicle in violation	2 points
17	of section 39-21-45.1, or equivalent ordinance	
18	(9) Operating a motor vehicle without liability insurance,	14 points
19	in violation of section 39-08-20, if the violation was	
20	discovered as the result of investigation of an accident	
21	in which the driver is the owner	
22	(10) Except as provided in paragraph 9 of subdivision a,	2 points
23	knowingly operating an unsafe vehicle in violation of	
24	section 39-21-46, or equivalent ordinance	
25	(11) Fleeing in a motor vehicle from a peace officer in	24 points
26	violation of section 39-10-71, or equivalent ordinance	
27	(12) Except as provided in paragraph 9, operating a motor	12 points
28	vehicle without liability insurance, in violation of section	
29	39-08-20, if the driving record shows that the licensee has	
30	within the eighteen months preceding the violation previously	
31	violated section 39-08-20	

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|------|--|------------------|
| (13) | Causing an accident with an authorized emergency vehicle or a vehicle operated by or under the control of the director used for maintaining the state highway system in violation of subsection 5 of section 39-10-26, or equivalent ordinance | 2 points         |
| (14) | <u>Knowingly entering a closed road in violation of section 39-10-21.1</u>   | <u>6 points</u>  |
| (15) | <u>Driving in excess of twenty miles per hour over the speed limit in a school or construction zone in violation of subdivision b of subsection 1 or subsection 2 of section 39-09-02</u>  |                  |
|      | <u>20 - 25 mph over limit</u>  | <u>6 points</u>  |
|      | <u>26 - 35 mph over limit</u>  | <u>9 points</u>  |
|      | <u>36 - 45 mph over limit</u>  | <u>12 points</u> |
|      | <u>46 + mph over limit</u>   | <u>15 points</u> |

**SECTION 5. AMENDMENT.** Section 39-09-02 of the North Dakota Century Code is amended and reenacted as follows:

### 39-09-02. Speed limitations - Penalty.

1. Subject to the provisions of section 39-09-01 and except in those instances when 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. Driving



1                   in excess of twenty miles [32.19 kilometers] per hour over the limit in violation of  
2                   this subdivision is an infraction.

3           c.   Twenty miles [32.19 kilometers] an hour when approaching within fifty feet [15.24  
4           meters] and in traversing an intersection of highways when the driver's view is  
5           obstructed. A driver's view is deemed to be obstructed when at any time during  
6           the last fifty feet [15.24 meters] of the driver's approach to such intersection, the  
7           driver does not have a clear and uninterrupted view of such intersection and of  
8           the traffic upon all of the highways entering such intersection for a distance of two  
9           hundred feet [60.96 meters] from such intersection.

10          d.   Twenty miles [32.19 kilometers] an hour when the driver's view of the highway  
11          ahead is obstructed within a distance of one hundred feet [30.48 meters].

12          e.   Twenty-five miles [40.23 kilometers] an hour on any highway in a business district  
13          or in a residence district or in a public park, unless a different speed is designated  
14          and posted by local authorities.

15          f.   Fifty-five miles [88.51 kilometers] an hour on gravel, dirt, or loose surface  
16          highways, and on paved two-lane county and township highways if there is no  
17          speed limit posted, unless otherwise permitted, restricted, or required by  
18          conditions.

19          g.   Sixty-five miles [104.61 kilometers] an hour on paved two-lane highways if posted  
20          for that speed, unless otherwise permitted, restricted, or required by conditions.

21          h.   Seventy miles [112.65 kilometers] an hour on paved and divided multilane  
22          highways, unless otherwise permitted, restricted, or required by conditions.

23          i.   Seventy-five miles [120.70 kilometers] an hour on access-controlled, paved and  
24          divided, multilane interstate highways, unless otherwise permitted, restricted, or  
25          required by conditions.

26          2.   The director may designate and post special areas of state highways where lower  
27          speed limits apply. Differing limits may be established for different times of the day  
28          within highway construction zones which are effective when posted upon appropriate  
29          fixed or variable speed limit signs. Driving in excess of twenty miles [32.19 kilometers]  
30          per hour over the posted speed limit in this section is an infraction if individuals are

1           engaged in construction and are present at the time and place of the violation and the  
2           speed limit sign states "Minimum Fee \$80".

3           3. Except as provided by law, it is unlawful for any person to drive a vehicle upon a  
4           highway at a speed that is unsafe or at a speed exceeding the speed limit prescribed  
5           by law or established pursuant to law.

6           4. In charging a violation of the provisions of this section, the complaint must specify the  
7           speed at which the defendant is alleged to have driven and the speed which this  
8           section prescribes is prima facie lawful at the time and place of the alleged offense.

9           **SECTION 6. AMENDMENT.** Section 39-10-21.1 of the North Dakota Century Code is  
10          amended and reenacted as follows:

11          **39-10-21.1. Closing road because of hazardous conditions - Posting of official**  
12          **traffic-control devices - Entering closed road prohibited - Penalty.**

13          1. The highway patrol or local law enforcement authorities having jurisdiction over a road  
14          may close a road temporarily due to hazardous conditions for the protection and safety  
15          of the public. If such a closing is made, the authority ordering the closing shall make  
16          every reasonable attempt to notify the public and, when practical, may post  
17          appropriate official traffic-control devices to advise motorists of the closing. ~~No person,~~  
18          ~~while operating~~

19          2. An operator of a motor vehicle; may not knowingly enter a road closed under this  
20          section.

21          3. An operator who violates this section is guilty of an infraction.