

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2166

Introduced by

Senators Oehlke, Armstrong

1 A BILL for an Act to create and enact paragraph 40 to subdivision a of subsection 3 of section
2 39-06.1-10 of the North Dakota Century Code, relating to entries against driving records; to
3 amend and reenact ~~section~~ sections 39-06.1-05 and 39-06.1-09, subdivision b of subsection 3
4 of section 39-06.1-10, and sections 39-07-09 and 39-21-45.1 of the North Dakota Century
5 Code, relating to authorized procedures for traffic violations, definitions of moving violations,
6 entries against driving records, discretion for release upon promise to appear, and modified
7 vehicles.

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

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

11 **39-06.1-05. Offenses excepted.**

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

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

~~8.~~ Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46.

~~9.8.~~ 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.

SECTION 2. 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, 39-06-14.1, 39-06-16, 39-08-20, 39-08-23, 39-08-24, 39-09-01, 39-09-01.1, 39-09-04.1, or 39-09-09, subsection 1 of section 39-12-02, section 39-12-04, 39-12-05, 39-12-06, 39-12-09, 39-21-45.1, 39-24-02, or 39-24-09, except subdivisions b and c of subsection 5 of section 39-24-09, or equivalent ordinances; or a violation of the provisions of chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except subsection 5 of section 39-10-26, ~~sections~~section 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 3. Paragraph 40 of subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

(40) Driving a modified motor vehicle in violation of section 39-21-45.1, or equivalent ordinance 1 point

SECTION 4. AMENDMENT. Subdivision b of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

b. Criminal Violations

Conviction of:

Points Assigned:

(1) Reckless driving in violation of section 39-08-03, or equivalent ordinance

8 points

(2) Aggravated reckless driving in violation of section 39-08-03, or equivalent ordinance

12 points

- | | | |
|----|--|---------------------|
| 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) Knowingly driving a modified motor vehicle in violation | 2 points |
| 14 | of section 39-21-45.1, or equivalent ordinance | |
| 15 | (8) Except as provided in paragraph 9 of subdivision a, | 2 points |
| 16 | knowingly operating an unsafe vehicle in violation of | |
| 17 | section 39-21-46, or equivalent ordinance | |
| 18 | (8) Fleeing in a motor vehicle from a peace officer in | 24 points |
| 19 | violation of section 39-10-71, or equivalent ordinance | |
| 20 | (9) Causing an accident with an authorized emergency | 2 points |
| 21 | vehicle or a vehicle operated by or under the control | |
| 22 | of the director used for maintaining the state highway | |
| 23 | system in violation of subsection 5 of section 39-10-26, | |
| 24 | or equivalent ordinance | |
| 25 | (10) Driving in violation of the conditions of an instruction | 2 points |
| 26 | permit | |

SECTION 5. 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.e. Failing to display a placard or flag, in violation of any rule implementing section 39-21-44, while transporting explosive or hazardous materials.
 - g.f. Operating an unsafe vehicle in violation of subsection 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 6. AMENDMENT. Section 39-21-45.1 of the North Dakota Century Code is amended and reenacted as follows:

39-21-45.1. Modification of motor vehicle.

1. Except as otherwise provided in this section, ~~a person~~ an individual may not operate upon a public highway a motor vehicle of a type required to be registered under the laws of this state with a weight of ~~seventen~~ thousand pounds [~~3175.144535.92~~ kilograms] or less with alterations or changes from the manufacturer's original design of the suspension, steering, or braking system of the motor vehicle. The weight must be computed on the basis of the unmodified and unloaded weight of the motor vehicle and without regard to any ballast that may be placed in the vehicle.
2. As to bumpers, motor vehicle height, and permitted modifications, the following requirements also apply:
 - a. The motor vehicle must be equipped with front and rear bumpers.

- 2- b. The maximum body height permitted for the motor vehicle is forty-two inches [106.68 centimeters]. Measurement of body height is made from a level ground surface to the floor of the cargo area.
- 3- c. The maximum bumper height permitted is twenty-seven inches [68.58 centimeters]. Measurement of bumper height is made from a level ground surface to the highest point on the bottom of the bumper.
- 4- d. The vehicle may be modified in accordance with the following:
 - a- (1) Any modifying equipment must meet specialty equipment marketing-association standards ~~the director's requirements~~ any other requirement applicable to a vehicle under chapter 39-21.
 - b- (2) If tires placed on a motor vehicle have a diameter greater than that of the tires on the motor vehicle as manufactured, those tires must ~~comply~~ be branded with department of transportation ~~the director's requirements~~ a United States department of transportation tire identification number.
 - c- (3) ~~The maximum outside diameter permitted for tires is forty-four inches [111.76 centimeters].~~
 - d- (4) A horizontal drop bumper may be used to comply with the bumper height requirement of subsection 3. The horizontal bumper must:
 - (1) ~~Be~~ be at least three inches [7.62 centimeters] in vertical width;
 - (2) ~~Extend~~ extend the entire horizontal body width; and
 - (3) ~~Be~~ be horizontal, load bearing, and attached to the vehicle frame to effectively transfer impact when engaged.
- e- ~~The maximum lift permitted in the suspension system is four inches [10.16 centimeters].~~
- 5- e. A person ~~An individual charged with violating this section has the burden of proceeding to show~~ showing that the modifications are permitted under this section.
- 6- f. Vehicles owned by law enforcement agencies, the military, firefighting agencies, and ambulances may be modified without regard to this section.
- 7- g.f. The director may adopt rules to implement this section.