

Sixty-ninth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1206

Introduced by

Representatives Louser, Bolinske, Karls, Klemin

Senators Larson, Castaneda, Paulson

1 A BILL for an Act to amend and reenact sections 39-08-01.2 and 39-08-01.4 of the North
2 Dakota Century Code, relating to the special punishment for causing injury or death while
3 operating a vehicle while under the influence of alcohol or any other drugs or substances and to
4 driving while under the influence of alcohol or any other drugs or substances while being
5 accompanied by a minor; to provide a penalty; and to provide for application.

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

7 **SECTION 1. AMENDMENT.** Section 39-08-01.2 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **39-08-01.2. Special punishment for causing injury or death while operating a vehicle**
10 **while under the influence of alcohol or any other drugs or substances - Penalty.**

- 11 1. An individual is guilty of criminal vehicular homicide if the individual commits an
12 offense under section 39-08-01 or equivalent ordinance and as a result the individual
13 causes a death of another individual to occur, including the death of an unborn child,
14 unless the individual who causes the death of the unborn child is the mother. A
15 violation of this subsection is a class A felony. If an individual commits a violation
16 under this subsection, the court shall impose at least three years' imprisonment. If the
17 individual violates this section after having been previously convicted of a violation of
18 section 39-08-01 or 39-08-03, or equivalent ordinance, the court shall impose at least
19 ten years' imprisonment. An individual may not be prosecuted and found guilty of this
20 and an offense under chapter 12.1-16 if the conduct arises out of the same incident.
- 21 2. An individual is guilty of criminal vehicular injury if the individual violates section
22 39-08-01 or equivalent ordinance and as a result that individual causes substantial
23 bodily or serious bodily injury to another individual. Violation of this subsection is a
24 class C felony. If an individual violates this subsection, the court shall impose at least

one year's imprisonment. If the individual violates this section after having been previously convicted of a violation of section 39-08-01 or 39-08-03 or equivalent ordinance, the court shall impose at least two years' imprisonment.

3. The sentence under this section may not be suspended unless the court finds that manifest injustice would result from the imposition of the sentence. Before a sentence under this section applies, a defendant must be notified of the minimum mandatory sentence. The elements of an offense under this section are the elements of an offense for a violation of section 39-08-01 and the additional elements that create an offense in each subsection of this section. Whether an individual caused death or substantial or serious bodily injury must be determined in accordance with section 12.1-02-05.

SECTION 2. AMENDMENT. Section 39-08-01.4 of the North Dakota Century Code is amended and reenacted as follows:

39-08-01.4. Driving while under the influence of alcohol or any other drugs or substances while being accompanied by a minor - Penalty.

1. It is a class A misdemeanor for an individual who is at least twenty-one years of age to violate section 39-08-01 if the violation occurred while a minor was accompanying the individual in a motor vehicle. If an individual has a previous conviction for a violation of section 39-08-01.4, a violation of this section is a class C felony. An individual convicted under this section must be sentenced in accordance with subsection 5 of section 39-08-01.
2. The minimum sentence for an individual convicted of violating this section must include:
 - a. For a first offense, a fine of seven hundred fifty dollars, at least two days' imprisonment, an order for a substance abuse evaluation by an appropriate licensed addiction treatment program, at least three hundred sixty days of unsupervised probation, and at least three hundred sixty days' participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
 - b. For a second or subsequent offense within fifteen years, at least one year and one day's imprisonment, a fine of two thousand dollars, an order for a substance

1 abuse evaluation by an appropriate licensed addiction treatment program, at
2 least two years' supervised probation, and at least three hundred sixty days'
3 participation in the twenty-four seven sobriety program under chapter 54-12 as a
4 mandatory condition of probation.

5 **SECTION 3. APPLICATION.** Section 2 of this Act applies to criminal charges filed after the
6 effective date of this Act.