

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1422

Introduced by

Representatives Novak, Dockter, O'Brien, J. Olson, Pyle, D. Ruby, Tveit, Heinert

Senators Conley, Rummel

1 A BILL for an Act to amend and reenact sections 39-06-42, 39-06.1-06, and 39-06.1-09 and
2 paragraph 23 of subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota
3 Century Code, relating to operating a motor vehicle while driving privileges are suspended or
4 revoked, the amount of statutory fees, the definition of moving violations, and entries against a
5 driving record; and to provide a penalty.

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

7 **SECTION 1. AMENDMENT.** Section 39-06-42 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **39-06-42. Penalty for driving while license suspended or revoked - Impoundment of**
10 **vehicle number plates - Authority of cities.**

- 11 1. Except as provided in section 39-06.1-11, an individual who operates a motor vehicle
12 on a highway or on public or private areas to which the public has a right of access for
13 vehicular use in this state while an individual's operator's license is suspended or
14 revoked in any jurisdiction is guilty of a class B misdemeanor for the first, second, or
15 third offense within a five-year period. Any subsequent offense within the same
16 five-year period is a class A misdemeanor.
- 17 2. If the suspension or revocation was imposed for violation of section 39-08-01 or
18 equivalent ordinance or was governed by section 39-06-31 or chapter 39-20, the
19 sentence must be at least four consecutive days' imprisonment and a fine as the court
20 deems proper. The execution of sentence may not be suspended or the imposition of
21 sentence deferred under subsection 3 or 4 of section 12.1-32-02. Forfeiture of bail is

1 not permitted in lieu of the defendant's personal appearance in open court for
2 arraignment on a charge under this subsection.

3 3. A court may dismiss a charge under this section upon motion by the defendant if the
4 defendant's operator's license is reinstated within sixty days of the date of the offense
5 and the defendant provides to the court satisfactory evidence of the reinstatement.
6 Alternatively, upon motion, a court may grant a motion to amend a charge under this
7 section to a violation of section 39-06-01.

8 4. In addition to any other punishment imposed, the court may order the number plates of
9 the motor vehicle owned and operated by the offender at the time of the offense to be
10 destroyed by the sheriff. If a period of suspension has been extended under
11 subsection 6 of section 39-06-17, the court may order the number plates to be
12 destroyed under this subsection. The offender shall deliver the number plates to the
13 court without delay at a time certain as ordered by the court following the conviction.
14 The court shall deliver the number plates to the sheriff and notify the department of the
15 order. An offender who does not provide the number plates to the court at the
16 appropriate time is subject to revocation of probation.

17 5. A city may authorize, by ordinance, its municipal judge to order destruction of motor
18 vehicle number plates by the office of the police officer that made the arrest in the
19 manner provided in subsection 4.

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

22 **39-06.1-06. Amount of statutory fees.**

23 The fees required for a noncriminal disposition under section 39-06-01, 39-06.1-02, or
24 39-06.1-03 must be as follows:

25 1. For a nonmoving violation as defined in section 39-06.1-08, a fee of twenty dollars
26 except for a violation of any traffic parking regulation on any state charitable or penal
27 institution property or on the state capitol grounds, a fee in the amount of five dollars,
28 excluding a violation of subsection 11 of section 39-01-15.

29 2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except
30 for:

- a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, or 39-10-42, 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, a fee of twenty-five dollars.
 - d. A violation of subsection 1 of section 39-12-02, section 39-08-23, or section 39-08-25, a fee of one hundred dollars.
 - e. A violation of subdivision d of subsection 1 of section 39-12-04, a fee of one hundred dollars.
 - f. A violation of subsection 6 of section 39-04-37, a fee of one hundred dollars.
 - g. A violation of subsection 2 of section 39-10-21.1, a fee of two hundred fifty dollars.
 - h. A violation of section 39-10-59, a fee of five hundred dollars.
 - i. A violation of section 39-09-01, a fee of thirty dollars.
 - j. A violation of section 39-09-01.1, a fee of thirty dollars.
 - k. A violation of section 39-10-46 or 39-10-46.1, a fee of one hundred dollars.
 - l. A violation of subsection 1 of section 39-08-20, one hundred fifty dollars for a first violation and three hundred dollars for a second or subsequent violation in three years.
 - m. A violation of section 39-10-24 or 39-10-44, a fee of forty dollars.
 - n. A violation of section 39-10-50.1, a fee of fifty dollars.
 - o. A violation of section 39-19-03, a fee of fifty dollars.
3. For a violation of section 39-21-44 or a rule adopted under that section, a fee of two hundred fifty dollars.
4. Except as provided in subsections 5 and 7, 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 |

| | | |
|---|---------|--|
| 1 | 16 - 20 | \$ 15 plus \$2/each mph over 15 mph over limit |
| 2 | 21 - 25 | \$ 25 plus \$3/each mph over 20 mph over limit |
| 3 | 26 - 35 | \$ 40 plus \$3/each mph over 25 mph over limit |
| 4 | 36 - 45 | \$ 70 plus \$3/each mph over 35 mph over limit |
| 5 | 46 + | \$100 plus \$5/each mph over 45 mph over limit |

- 6 5. On a highway on which the speed limit is a speed higher than fifty-five miles
7 [88.51 kilometers] an hour, for a violation of section 39-09-02, or an equivalent
8 ordinance, a fee established as follows:

| | | |
|----|---------------------|---|
| 9 | Miles per hour over | |
| 10 | lawful speed limit | Fee |
| 11 | 1 - 10 | \$2/each mph over limit |
| 12 | 11 + | \$20 plus \$5/each mph over 10 mph over limit |

- 13 6. For a violation of section 39-06.2-10.9 or subsection 3 of section 39-21-46, a fee
14 established as follows:

- 15 a. Driving more than eleven hours since the last ten hours off duty, driving after
16 fourteen hours on duty since the last ten hours off duty, driving after sixty hours
17 on duty in seven days or seventy hours in eight days, no record of duty status or
18 log book in possession, failing to retain previous seven-day record of duty status
19 or log book, or operating a vehicle with four to six out-of-service defects, one
20 hundred dollars;
- 21 b. False record of duty status or log book or operating a vehicle with seven to nine
22 out-of-service defects, two hundred fifty dollars;
- 23 c. Operating a vehicle after driver placed out of service, operating a vehicle with ten
24 or more out-of-service defects, or operating a vehicle that has been placed out of
25 service prior to its repair, five hundred dollars; and
- 26 d. All other violations of motor carrier safety rules adopted under subsection 3 of
27 section 39-21-46, fifty dollars.

- 28 7. On a highway on which the speed limit is posted in excess of sixty-five miles
29 [104.61 kilometers] an hour, for a violation of section 39-09-02, or equivalent
30 ordinance, a fee of five dollars for each mile per hour over the limit.

- 1 8. For a violation of a school zone speed limit under subdivision b of subsection 1 of
2 section 39-09-02, a fee of forty dollars for one through ten miles per hour over the
3 posted speed; and forty dollars, plus one dollar for each additional mile per hour over
4 ten miles per hour over the limit unless a greater fee would be applicable under this
5 section.
- 6 9. For a violation of a highway construction zone speed limit under subsection 2 of
7 section 39-09-02, a fee of eighty dollars for one through ten miles per hour over the
8 posted speed; and eighty dollars plus two dollars for each mile per hour over ten miles
9 per hour over the limit, unless a greater fee would be applicable under this section.
10 The fee in this subsection does not apply to a highway construction zone unless
11 individuals engaged in construction are present at the time and place of the violation
12 and the posted speed limit sign states "Minimum Fee \$80".
- 13 10. For a violation of operating a motor vehicle while not being licensed under section
14 39-06-01, a fee of one hundred fifty dollars.

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

17 **39-06.1-09. Moving violation defined.**

18 For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a
19 violation of section 39-04-11, 39-04-22, subsection 1 of section 39-04-37, section 39-04-55,
20 ~~39-06-01~~, 39-06-04, 39-06-14, 39-06-14.1, 39-06-16, 39-06.2-07, 39-08-20, 39-08-23, 39-08-24,
21 39-08-25, 39-09-01, 39-09-01.1, 39-09-04.1, or 39-09-09, subsection 1 of section 39-12-02,
22 section 39-12-04, 39-12-05, 39-12-06, 39-12-09, 39-19-03, 39-21-45.1, 39-24-02, or 39-24-09,
23 except subdivisions b and c of subsection 5 of section 39-24-09, or equivalent ordinances; or a
24 violation of the provisions of chapter 39-10, 39-10.2, 39-21, or 39-27, or equivalent ordinances,
25 except subsection 5 of section 39-10-26, section 39-21-44, and subsections 2 and 3 of section
26 39-21-46, and those sections within those chapters which are specifically listed in subsection 1
27 of section 39-06.1-08.

28 **SECTION 4. AMENDMENT.** Paragraph 23 of subdivision a of subsection 3 of section
29 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

- 30 (23) Operating a motor vehicle without a license in 40 points
31 violation of section 39-06-01, or equivalent ordinance