Fifty-seventh Legislative Assembly of North Dakota

#### SENATE BILL NO. 2088

Introduced by

**Transportation Committee** 

(At the request of the Highway Patrol)

- 1 A BILL for an Act to create and enact two new subsections to section 39-06.1-06 of the North
- 2 Dakota Century Code, relating to fees for traffic offenses; to amend and reenact
- 3 sections 39-06.1-05, 39-06.1-07, 39-06.1-09, and 39-06.1-10, subdivision g of subsection 2 of
- 4 section 39-07-09, and subsections 1 and 2 of section 39-21-46 of the North Dakota Century
- 5 Code, relating to traffic offenses; and to provide penalties.

#### 6 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:
- 9 **39-06.1-05. Offenses excepted.** The procedures authorized under sections
- 10 39-06.1-02 and 39-06.1-03 may not be utilized by a person charged with one of the following
- 11 offenses:
- 1. Driving or being in actual physical control of a vehicle in violation of section 39-08-01, or an equivalent ordinance.
- 14 2. Reckless driving or aggravated reckless driving in violation of section 39-08-03, or an equivalent ordinance.
- 16 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.
- 21 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.
- 23 8. Driving without liability insurance in violation of section 39-08-20.

1	9.	Failir	ng to display a placard or flag, in violation of any rule implementing section		
2		<del>39-2</del>	1-44, while transporting explosive or hazardous materials.		
3	<del>10.</del>	Oper	rating an unsafe vehicle in violation of subdivision b of subsection 1 of section		
4		39-2°	1-46.		
5	SEC	CTION	2. A new subsection to section 39-06.1-06 of the 1999 Supplement to the		
6	North Dako	ta Cer	ntury Code is created and enacted as follows:		
7		For a	a violation of section 39-21-44 or a rule adopted under that section, a fee of		
8		two h	nundred fifty dollars.		
9	SEC	CTION	3. A new subsection to section 39-06.1-06 of the 1999 Supplement to the		
10	North Dako	ta Cer	ntury Code is created and enacted as follows:		
11		For a	a violation of subsection 2 of section 39-21-46, a fee established as follows:		
12		<u>a.</u>	Driving more than ten hours since the last eight hours off duty, driving after		
13			fifteen hours on duty since the last eight hours off duty, driving after sixty		
14			hours on duty in seven days or seventy hours in eight days, no record of duty		
15			status or log book in possession, failing to retain previous seven-day record of		
16			duty status or log book, or operating a vehicle with four to six out-of-service		
17			defects, one hundred dollars;		
18		<u>b.</u>	False record of duty status or log book or operating a vehicle with seven to		
19			nine out-of-service defects, two hundred fifty dollars;		
20		<u>C.</u>	Operating a vehicle after driver placed out of service, operating a vehicle with		
21			ten or more out-of-service defects, or operating a vehicle that has been		
22			placed out of service prior to its repair, five hundred dollars; and		
23		<u>d.</u>	All other violations of motor carrier safety rules adopted under subsection 2 of		
24			section 39-21-46, fifty dollars.		
25	SEC	CTION	<b>4. AMENDMENT.</b> Section 39-06.1-07 of the North Dakota Century Code is		
26	amended a	nd ree	enacted as follows:		
27	39-0	06.1-0°	7. Notification to offenders - Duties of licensing authority. The licensing		
28	authority sh	all pre	epare notification forms and a temporary operator's permit as provided in		
29	section 39-2	20-03.	1 or 39-20-03.2 to be delivered to persons charged along with the uniform		
30	traffic sumn	nons a	and complaint as provided in section 29-05-31. The notification forms must		
31	contain language, approved by the attorney general, informing persons charged with traffic				

10

11

22

23

24

25

26

27

28

29

30

31

- 1 violations, other than offenses listed in section 39-06.1-05, of the procedures available to them 2 under sections 39-06.1-02 and 39-06.1-03 and informing persons who refuse a chemical test or 3 onsite screening test under chapter 39-20 or who, on taking a chemical test, are found to be in 4 violation of subdivision a of subsection 1 of section 39-08-01, of the procedures available under 5 chapter 39-20. The notification must also contain a schedule of points to be charged against a 6 person's driving record or other operator's license penalties as provided by law and a schedule 7 of statutory fees and bond amounts as determined in accordance with sections 39-06.1-06 and 8 39-06.1-02. A notification form separate from the uniform traffic summons and complaint may 9 be delivered to a person charged with a violation of subsection 2 of section 39-21-46.
  - **SECTION 5. 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; 39-06-16; 39-09-04.1; 39-09-09; 39-12-04;
- 15 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,
- 17 39-10.2, or 39-21, or equivalent ordinances, except sections 39-21-44, and 39-21-45.1, and
- 18 <u>subdivision b of subsection 1 and subsection 2 of section</u> 39-21-46, and those sections within
- 19 those chapters which are specifically listed in subsection 1 of section 39-06.1-08.
- SECTION 6. AMENDMENT. Section 39-06.1-10 of the 1999 Supplement to the North
  Dakota Century Code is amended and reenacted as follows:
  - 39-06.1-10. Entries against driving record Licensing authority duties Hearings Demerit schedule Suspension.
    - 1. When a report of a conviction of a traffic offense, or admission or adjudication of a traffic violation is received by the licensing authority, the licensing authority shall proceed to enter the proper number of points on the licensee's driving record, unless the number points assigned to the violation are two or less. If the number points assigned to the violation are two or less, the violation and points may not be entered on the driving record but must be recorded separately, and the separate record shall not be available to the public. Points from violations in which the assigned number points are two or less shall be considered a part of the driving

1		reco	rd only	y for purposes of point reduction pursuant to section	on 39-06.1-13 and for				
2		purp	purposes of license suspension. When the driving record shows that the licensee						
3		has a	has an accumulated point total of twelve or more points, assigned on the basis of						
4		the s	the schedule contained in subsection 3, the authority shall notify the licensee of its						
5		inten	ntion to	suspend the operator's license according to the p	provisions of section				
6		39-0	6-33.	For the purposes of this chapter, the licensing aut	thority may also				
7		recei	ive an	d act on reports of traffic offense convictions forwa	arded by federal,				
8		milita	ary, ar	nd tribal courts in this state.					
9	2.	If the	licen	sing authority confirms, after hearing or opportunit	y for hearing, that the				
10		licen	see's	driving record has an accumulated point total of tw	velve or more points,				
11		the li	icensir	ng authority shall suspend the licensee's operator's	s license according to				
12		the f	ollowir	ng schedule:					
13		Accu	ımulat	ed Point Total:	Period of Suspension:				
14		a.	Twelv	ve .	7 days				
15		b.	Thirte	een and above	7 days for each				
16					point over eleven				
17		Surre	Surrender and return of licenses suspended pursuant to this section must be						
18		gove	erned b	by the provisions of section 39-06-37.					
19	3.	Poin	ts mus	st be assigned and accumulated on the basis of th	e following schedule:				
20		a.	Nonc	riminal Violations					
21			Nonc	riminal Adjudication					
22			or Ad	mission of:	Points Assigned:				
23			(1)	Overtime and double	0 points				
24				parking in violation					
25				of city ordinances					
26			(2)	Failure to display	1 point				
27				license plates					
28			(3)	Permitting unauthorized	2 points				
29				minor to drive					
30			(4)	Permitting unauthorized	2 points				
31				person to drive					

1	(5)	Unlawful stopping,	2 points
2		standing, or parking on	
3		open highway in violation	
4		of section 39-10-47	
5	(6)	Unlawful parking in	1 point
6		prohibited place	
7	(7)	Leaving motor vehicle	1 point
8		improperly unattended on	
9		an open highway	
10	(8)	Opening or leaving motor	1 point
11		vehicle doors open when	
12		unsafe to do so	
13	(9)	Except as provided	2 points
14		in sections 39-21-44	
15		and 39-21-45.1,	
16		knowingly driving with	
17		defective, nonexistent, or	
18		unlawful equipment	
19		in violation of subdivision a of	
20		subsection 1 of	
21		section 39-21-46, or	
22		equivalent ordinances	
23	(10)	Careless driving in	6 points
24		violation of section	
25		39-09-01, or equivalent	
26		ordinance	
27	(11)	Violating or exceeding	4 points
28		restrictions contained in	
29		a restricted certificate	
30		issued pursuant to section	
31		39-06.1-03	

1	(12)	Racing or drag racing	10 points
2		motor vehicles in violation	
3		of section 39-08-03.1, or	
4		equivalent ordinance	
5	(13)	Exhibition driving in	3 points
6		violation of section	
7		39-08-03.1, or equivalent	
8		ordinance	
9	(14)	Failing to yield right of	2 points
10		way in violation of	
11		section 39-10-20, 39-10-22	
12		through 39-10-26, 39-10-28,	
13		39-10-33.3, 39-10-44, or	
14		39-10-72, or equivalent	
15		ordinances	
16	(15)	Disobeying an official	2 points
17		traffic-control device	
18		in violation of section	
19		39-10-04, 39-10-05,	
20		or 39-10-07, or	
21		equivalent ordinances	
22	(16)	Driving on wrong side of	2 points
23		road in violation of	
24		section 39-10-08,	
25		39-10-14, or 39-10-16, or	
26		equivalent ordinances	
27	(17)	Failing to dim headlights	1 point
28		in violation of section	
29		39-21-21, or equivalent	
30		ordinance	
31	(18)	Failing to stop at railroad	3 points

1		crossing in violation of	
2		section 39-10-41 or	
3		39-10-42, or equivalent	
4		ordinances	
5	(19)	Knowingly driving with	2 points
6		defective brakes in	
7		violation of section	
8		39-21-32 or 39-21-33, or	
9		equivalent ordinances	
10	(20)	Disregarding the lawful	2 points
11		commands of a police	
12		officer in violation of	
13		section 39-10-02, or	
14		equivalent ordinance	
15	(21)	Overtaking where prohibited	2 points
16		or in an unsafe manner in	
17		violation of section	
18		39-10-11, 39-10-12,	
19		39-10-13, or 39-10-15, or	
20		equivalent ordinances	
21	(22)	Overtaking and passing a	6 points
22		schoolbus in violation of	
23		section 39-10-46, or	
24		equivalent ordinance	
25	(23)	Operating a motor vehicle	4 points
26		without a license in	
27		violation of section	
28		39-06-01, or equivalent	
29		ordinance	
30	(24)	Improperly operating or	2 points
31		unlawfully carrying	

1		passengers or packages on	
2		a motorcycle in violation	
3		of section 39-10.2-02,	
4		or equivalent ordinance	
5	(25)	Improperly operating a	2 points
6		motorcycle in laned traffic	
7		in violation of section	
8		39-10.2-03, or equivalent	
9		ordinance	
10	(26)	Clinging to other vehicles	4 points
11		while riding a motorcycle	
12		in violation of section	
13		39-10.2-04, or equivalent	
14		ordinance	
15	(27)	Carrying a passenger on a	2 points
16		motorcycle not equipped	
17		with passenger footrests	
18		in violation of section	
19		39-10.2-05, or equivalent	
20		ordinance	
21	(28)	Operating a motorcycle	2 points
22		without protective headgear	
23		in violation of subsection 1	
24		of section 39-10.2-06, or	
25		equivalent ordinance	
26	(29)	Failing to use the care	2 points
27		required in section	
28		39-09-01.1, or equivalent	
29		ordinance	
30	(30)	Except as provided in	
31		paragraphs 31 and 34 of this	

1		subdivision, operating a motor	
2		vehicle in excess of speed limit	
3		in violation of section 39-09-02,	
4		or equivalent ordinance	
5		16 - 20 mph over limit	3 points
6		21 - 25 mph over limit	4 points
7		26 - 35 mph over limit	6 points
8		36 - 45 mph over limit	8 points
9		46 + mph over limit	12 points
10	(31)	Within city limits on a	
11		noncontrolled access highway,	
12		operating a motor vehicle in	
13		excess of the speed limit in	
14		violation of section 39-09-02, or	
15		equivalent ordinance	
16		6 - 10 mph over limit	1 point
17		11 - 15 mph over limit	2 points
18		16 - 20 mph over limit	3 points
19		21 - 25 mph over limit	4 points
20		26 - 35 mph over limit	6 points
21		36 - 45 mph over limit	8 points
22		46 + mph over limit	12 points
23	(32)	Driving in violation of	2 points
24		section 39-08-18	
25	(33)	Driving in violation of	6 points
26		section 39-08-09	
27	(34)	On a highway on which the	
28		speed limit is a speed higher	
29		than fifty-five miles [88.51	
30		kilometers] an hour, operating a	
31		motor vehicle in excess of the	

1			speed limit in violation of	
2			section 39-09-02, or equivalent	
3			ordinance	
4			Miles per hour over	
5			lawful speed limit	Points
6			6 - 10	1
7			11 - 15	4
8			16 - 25	7
9			26 - 35	10
10			36 +	12
11		(35)	Failing to have a minor in a child	1 point
12			restraint system or seatbelt in	
13			violation of section 39-21-41.2	
14		<u>(36)</u>	Failure or refusal to comply	<u>0 points</u>
15			with rules of the superintendent	
16			of the highway patrol in violation	
17			of subsection 2 of section 39-21-46	
18		<u>(37)</u>	Violation of section 39-21-44 or any	2 points
19			rule adopted under that section	
20	b.	Crim	inal Violations	
21		Conv	riction of:	Points Assigned:
22		(1)	Reckless driving in	8 points
23			violation of section	
24			39-08-03, or equivalent	
25			ordinance	
26		(2)	Aggravated reckless	12 points
27			driving in violation of	
28			section 39-08-03, or	
29			equivalent ordinance	
30		(3)	Leaving the scene of an	14 points
31			accident involving	

1		property damage in	
2		violation of section	
3		39-08-05, 39-08-07, or	
4		39-08-08, or equivalent	
5		ordinances	
6	(4)	Leaving the scene of an	18 points
7		accident involving personal	
8		injury or death in	
9		violation of section	
10		39-08-04, or equivalent	
11		ordinance	
12	(5)	Violating restrictions in	3 points
13		a restricted license	
14		issued under section	
15		39-06-17 and relating	
16		to the use of eyeglasses	
17		or contact lenses while	
18		driving	
19	(6)	Violating any restrictions	4 points
20		other than those listed in	
21		paragraph 5, contained in	
22		a restricted license issued	
23		under section 39-06-17 or	
24		39-06.1-11	
25	(7)	Except as provided in	6 points
26		paragraph 9, operating	
27		a motor vehicle without	
28		liability insurance,	
29		in violation of section	
30		39-08-20	
31	(8)	Knowingly driving a	2 points

1			modified motor vehicle in	
2			violation of section	
3			39-21-45.1, or equivalent	
4			ordinance	
5		(9)	Operating a motor vehicle	14 points
6			without liability	
7			insurance, in violation of	
8			section 39-08-20, if the	
9			violation was discovered as	
10			the result of investigation	
11			of an accident in which the	
12			driver is the owner	
13		(10)	Knowingly failing to	2 points
14			display a placard or flag,	
15			in violation of any rule	
16			implementing section 39-21-44,	
17			while transporting explosive	
18			or hazardous materials	
19		<del>(11)</del>	Except as provided in	2 points
20			paragraph 9 of subdivision a,	
21			knowingly operating an	
22			unsafe vehicle in	
23			violation of subdivision b of	
24			subsection 1 of	
25			section 39-21-46, or equivalent	
26			ordinance	
27	<del>(12)</del>	<u>(11)</u>	Fleeing in a motor	24 points
28			vehicle from a peace	
29			officer in violation	
30			of section 39-10-71,	
31			or equivalent ordinance	

1		<del>(13)</del>	<u>(12)</u>	Except as provided in	12 points
2				paragraph 9, operating a	
3				motor vehicle without	
4				liability insurance, in	
5				violation of section 39-08-20,	
6				if the driving record shows	
7				that the licensee has within	
8				the eighteen months preceding	
9				the violation previously	
10				violated section 39-08-20	
11	3.1.	a.	If the	e director is informed by a court that a person	n has been convicted of
12			viola	ting section 39-08-01, or equivalent ordinand	ce, the director, subject to the
13			offer	der's opportunity for hearing under subsecti	on 1, may not restore the
14			oper	ator's license to the offender until the offend	er furnishes to the director
15			the v	vritten statement of the counselor or instruct	or of an appropriate licensed
16			addi	ction treatment program that the offender do	es not require either an
17			educ	ation or treatment program or that the offen	der has physically attended
18			the p	prescribed program and has complied with the	ne attendance rules. The
19			direc	tor shall send notice to the offender informing	ng the offender of the
20			prov	sions of this subsection.	
21		b.	If wit	hin the seven years preceding the most rece	ent violation of section
22			39-0	8-01, or equivalent ordinance, the offender h	nas previously violated
23			secti	on 39-08-01, or equivalent ordinance, at lea	st three times, the director
24			may	restore driving privileges to the offender only	y after that person has
25			com	pleted addiction treatment through an approp	priate licensed addiction
26			treat	ment program and has had no alcohol-relate	ed or drug-related offense for
27			two	consecutive years after completion of treatm	ent.
28	4.	. If j	judicial	disposition of a traffic violation includes an o	rder or recommendation of
29		su	spensio	on or revocation of an operator's license, the	suspension or revocation
30		ru	ns conc	urrently with any suspension ordered under	this section. After a
31		со	nviction	of a person for violating section 39-08-01, t	he director shall, in

1 suspending the person's operator's license, give credit for the time in which license 2 suspension or revocation has been or is being imposed under chapter 39-20 in 3 connection with the same offense. 4 5. A suspension must be deemed to have commenced twenty days after the order of 5 suspension is delivered to the licensee at the licensee's address of record in the 6 department. Constructive delivery under this section must be considered as 7 occurring seventy-two hours after proper deposit in the mails. 8 6. Points assigned pursuant to this section must be recorded against an operator's 9 driving record regardless of whether the operator has ever had an operator's 10 license issued in this state, and the licensing authority shall maintain records on all 11 violators regardless of whether they are licensed. Upon the assignment of twelve 12 or more points, any unlicensed operator must be deemed to be driving under 13 suspension if the operator has never had an operator's license or if the operator 14 has failed to renew the operator's license. 15 The period of suspension imposed for a violation of section 39-08-01 or equivalent 7. 16 ordinance is: 17 Ninety-one days if the operator's record shows the person has not violated a. 18 section 39-08-01 or equivalent ordinance within the five years preceding the 19 last violation. 20 b. Three hundred sixty-five days if the operator's record shows the person has 21 once violated section 39-08-01 or equivalent ordinance within the five years 22 preceding the last violation. 23 Two years if the operator's record shows the person has at least twice 24 violated section 39-08-01 or equivalent ordinance within the five years 25 preceding the last violation. 26 **SECTION 7. AMENDMENT.** Subdivision g of subsection 2 of section 39-07-09 of the 27 North Dakota Century Code is amended and reenacted as follows: 28 Operating an unsafe vehicle in violation of <u>subdivision b of</u> subsection 1 of g. 29 section 39-21-46. 30 SECTION 8. AMENDMENT. Subsection 1 of section 39-21-46 of the North Dakota 31 Century Code is amended and reenacted as follows:

2.

- 1. <u>a.</u> 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 to be in such unsafe condition as to endanger any person, or 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. Unless otherwise specifically provided in this chapter or in section 39 06.1 08 or 39 06.1 09, any A person who, in violation of this chapter, 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 or improperly equipped condition as to endanger a person is guilty of an infraction.

**SECTION 9. AMENDMENT.** Subsection 2 of section 39-21-46 of the North Dakota Century Code is amended and reenacted as follows:

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. Any proceeding under this section for issuing or modifying rules and determining compliance with rules of the superintendent of the state highway patrol must be conducted in accordance with chapter 28-32 and appeals may be taken as provided in chapter 28-32. 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 section 3 of this Act for each violation.