

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1047

Introduced by

Legislative Council

(Judiciary B Committee)

1 A BILL for an Act to amend and reenact sections 39-06.1-05, 39-06.1-06, 39-07-09, 39-08-21,
2 39-21-16, and 39-21-46 of the North Dakota Century Code, relating to the fees for driving in
3 excess of the speed limit.

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

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

7 **39-06.1-05. Offenses excepted.** The procedures authorized under sections
8 39-06.1-02 and 39-06.1-03 may not be utilized by a person charged with one of the following
9 offenses:

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

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

3 **39-06.1-06. Amount of statutory fees.** The fees required for a noncriminal disposition
4 pursuant to either section 39-06.1-02 or 39-06.1-03 must be as follows:

- 5 1. For a nonmoving violation as defined in section 39-06.1-08, a fee of any amount
6 not to exceed twenty dollars.
- 7 2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars,
8 except for:
- 9 a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, 39-10-42, 39-10-46, or
10 39-10-46.1, a fee of fifty dollars.
- 11 b. A violation of section 39-10-05 involving failure to yield to a pedestrian or
12 subsection 1 of section 39-10-28, a fee of fifty dollars.
- 13 c. A violation of section 39-21-41.2, no fee may be imposed by the state, a city,
14 or a county including a city or county operating under a home rule charter.
- 15 3. Except as provided in ~~subsections 7, 11, and 12~~ subsection 10 of this section, for
16 a violation of section 39-09-02, or an equivalent ordinance, a fee established as
17 follows:

| 18 Miles per hour over | |
|------------------------|-----------------------------------------------------------|
| 19 lawful speed limit | Fee |
| 20 4—5 | \$ 5 |
| 21 6—10 | \$ 5 plus \$1/each mph over 5 mph over limit |
| 22 11—15 | \$ 10 plus \$1/each mph over 10 mph over limit |
| 23 16—20 | \$ 15 plus \$2/each mph over 15 mph over limit |
| 24 21—25 | \$ 25 plus \$3/each mph over 20 mph over limit |
| 25 26—35 | \$ 40 plus \$3/each mph over 25 mph over limit |
| 26 36—45 | \$ 70 plus \$3/each mph over 35 mph over limit |
| 27 46+ | \$100 plus \$5/each mph over 45 mph over limit |
| 28 <u>1 - 10</u> | <u>\$ 3/each mph over limit</u> |
| 29 <u>11 +</u> | <u>\$ 5/each mph over limit</u> |

- 30 4. For a violation of section 39-09-01, or an ordinance defining careless driving, a fee
31 of thirty dollars.

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- 1 5. For a violation of section 39-09-01.1, or an ordinance defining care required in
2 driving, a fee of not less than ten dollars nor more than thirty dollars.
- 3 6. For a violation of any traffic parking regulations, except a violation of subsection 10
4 of section 39-01-15, on any state charitable or penal institution property or on the
5 state capitol grounds, a fee in the amount of five dollars.
- 6 7. ~~Except as provided in subsection 11, on a highway on which the speed limit is a~~
7 ~~speed higher than fifty five miles [88.51 kilometers] an hour, for a violation of~~
8 ~~section 39-09-02, or an equivalent ordinance, a fee established as follows:~~

9 Miles per hour over

| 10 | lawful speed limit | Fee |
|----|--------------------|-----------------------------------------------------------|
| 11 | 4—5 | \$ 10 plus \$1/each mph over limit |
| 12 | 6—10 | \$ 15 plus \$2/each mph over 5 mph over limit |
| 13 | 11—15 | \$ 25 plus \$3/each mph over 10 mph over limit |
| 14 | 16—20 | \$ 40 plus \$3/each mph over 15 mph over limit |
| 15 | 21—25 | \$ 55 plus \$3/each mph over 20 mph over limit |
| 16 | 26—35 | \$ 70 plus \$3/each mph over 25 mph over limit |
| 17 | 36—45 | \$120 plus \$5/each mph over 35 mph over limit |
| 18 | 46+ | \$170 plus \$5/each mph over 45 mph over limit |

- 19 ~~8.~~ For a violation of section 39-21-41.4, a fee not to exceed twenty dollars.
- 20 ~~9.~~ 8. For a violation of section 39-21-44 or a rule adopted under that section, a fee of
21 two hundred fifty dollars.
- 22 ~~10.~~ 9. For a violation of subsection ~~2~~ 3 of section 39-21-46, a fee established as follows:
- 23 a. Driving more than ten hours since the last eight hours off duty, driving after
24 fifteen hours on duty since the last eight hours off duty, driving after sixty
25 hours on duty in seven days or seventy hours in eight days, no record of duty
26 status or log book in possession, failing to retain previous seven-day record of
27 duty status or log book, or operating a vehicle with four to six out-of-service
28 defects, one hundred dollars;
- 29 b. False record of duty status or log book or operating a vehicle with seven to
30 nine out-of-service defects, two hundred fifty dollars;

- 1 c. Operating a vehicle after driver placed out of service, operating a vehicle with
2 ten or more out-of-service defects, or operating a vehicle that has been
3 placed out of service prior to its repair, five hundred dollars; and
4 d. All other violations of motor carrier safety rules adopted under subsection ~~2~~ 3
5 of section 39-21-46, fifty dollars.

6 ~~11.~~ 10. On a highway on which the speed limit is posted in excess of seventy miles
7 [~~112.65 kilometers~~] an hour, for a violation of section ~~39-09-02~~, or equivalent
8 ordinance, a fee established as follows:

9 Miles per hour over

10 lawful speed limit

Fee

11 ~~1-5~~ \$20

12 ~~6-10~~ \$40

13 ~~11-15~~ \$60

14 ~~16-20~~ \$80

15 ~~21-25~~ \$100

16 ~~26-30~~ \$125

17 ~~31-35~~ \$150

18 ~~36+~~ \$150 plus \$5/each mph over ~~35 mph over limit~~

19 ~~42.~~ 10. For a violation of a school zone speed limit under subdivision b of subsection 1 of
20 section 39-09-02, of a highway construction zone speed limit under subsection 2 of
21 section 39-09-02, or, notwithstanding subsection 2 of section 40-05-06 or section
22 40-05.1-06, of an ordinance in a city or home rule city for a violation of a speed
23 limit dependent upon being on or near a school, fees for a noncriminal disposition
24 are forty dollars for one through ten miles per hour over the posted speed; and
25 forty dollars, plus one dollar for each additional mile per hour over ten miles per
26 hour over the limit unless a greater fee would be applicable under this section.
27 The fees in this subsection do not apply to a highway construction zone unless
28 individuals engaged in construction are present at the time of the violation and the
29 posted speed limit sign states "Minimum Fee \$40".

30 **SECTION 3. AMENDMENT.** Section 39-07-09 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **39-07-09. Offenses under which person halted may not be entitled to release**
2 **upon promise to appear.** Section 39-07-07 does not apply to a person if:

- 3 1. The halting officer has good reason to believe the person guilty of any felony or if
4 the person is halted and charged with an offense listed in section 39-06.1-05 but
5 not listed in subsection 2; or
6 2. The halting officer, acting within the officer's discretion, determines that it is
7 inadvisable to release the person upon a promise to appear and if the person has
8 been halted and charged with any of the following offenses:
9 a. Reckless driving.
10 b. Driving in excess of speed limitations established by the state or by local
11 authorities in their respective jurisdictions.
12 c. Driving while license or driving privilege is suspended or revoked for violation
13 of section 39-06-42, or an equivalent ordinance.
14 d. Operating a modified vehicle.
15 e. Driving without liability insurance in violation of section 39-08-20.
16 f. Failing to display a placard or flag, in violation of any rule implementing
17 section 39-21-44, while transporting explosive or hazardous materials.
18 g. Operating an unsafe vehicle in violation of ~~subdivision b~~ of subsection 4 2 of
19 section 39-21-46.

20 The halting officer forthwith shall take any person not released upon a promise to appear
21 before the nearest or most accessible magistrate.

22 **SECTION 4. AMENDMENT.** Section 39-08-21 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **39-08-21. Medical qualifications exemption for intrastate drivers.** Notwithstanding
25 the adoption by the superintendent of the state highway patrol of federal motor carrier safety
26 regulations pursuant to subsection ~~2~~ 3 of section 39-21-46, the provisions of 49 CFR
27 391.41(b)(1)-(11) do not apply to a person who is qualified through a state medical waiver
28 program to operate a commercial motor vehicle within the boundaries of this state or a person
29 who:

- 30 1. Is otherwise qualified to operate a commercial motor vehicle and who possesses,
31 on March 26, 1991, a class 1 license issued pursuant to section 39-06-14, as that

- 1 section existed on June 30, 1989, or a class A license issued pursuant to chapter
2 39-06.2;
- 3 2. Operates a commercial motor vehicle only within the boundaries of this state; and
4 3. Has a medical or physical condition that:
- 5 a. Would prevent such person from operating a commercial motor vehicle under
6 federal motor carrier safety regulations contained in 49 CFR, chapter III,
7 subchapter B;
- 8 b. Existed on March 26, 1991, or at the time of the first required physical
9 examination after that date; and
- 10 c. An examining physician has determined has not substantially worsened since
11 March 26, 1991, or the time of the first required physical examination after
12 that date.

13 **SECTION 5. AMENDMENT.** Section 39-21-16 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **39-21-16. Lamps on other vehicles and equipment.** Every vehicle, including
16 animal-drawn vehicles and vehicles referred to in subsection ~~3~~ 4 of section 39-21-46, not
17 specifically required by the provisions of this chapter to be equipped with lamps or other lighting
18 devices, must at all times specified in section 39-21-01 be equipped with at least one lamp
19 displaying a white light visible from a distance of not less than one thousand feet [304.8 meters]
20 to the front of the vehicle, and must also be equipped with two lamps displaying red light visible
21 from a distance of not less than one thousand feet [304.8 meters] to the rear of the vehicle, or
22 two red reflectors visible for distances of one hundred feet [30.48 meters] to six hundred feet
23 [182.88 meters] to the rear when illuminated by the lower beams of headlamps.

24 **SECTION 6. AMENDMENT.** Section 39-21-46 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **39-21-46. Scope and effect of equipment requirements - Penalty.**

- 27 1. a. It is unlawful for any person to drive or move, or for the owner to cause or
28 knowingly permit to be driven or moved, on any highway any vehicle or
29 combination of vehicles which the actor knows does not contain those parts
30 or is not at all times equipped with lamps and other equipment in proper
31 condition and adjustment as required in this chapter, or which the actor knows

1 is equipped in any manner in violation of this chapter, or for any person to do
2 any act forbidden or fail to perform any act required under this chapter for
3 which a fee or penalty for its violation is not otherwise provided.

4 ~~b.~~

5 2. A person who drives or moves, or any owner who causes or knowingly permits to
6 be driven or moved upon a highway, any vehicle or combination of vehicles which
7 that person knows is in such unsafe condition as to endanger a person is guilty of
8 an infraction.

9 ~~2.~~ 3. The superintendent of the state highway patrol shall, under chapter 28-32, adopt
10 necessary rules concerning the safe operation of motor vehicles and when and
11 how motor carrier audits or inspections will be conducted. The rules must
12 duplicate or be consistent with current motor carrier safety regulations of the
13 United States department of transportation. The superintendent of the state
14 highway patrol may adopt the motor carrier safety regulations by reference, and
15 any adoption must be construed to incorporate amendments as may be made from
16 time to time. A violation of rules adopted under this subsection is a noncriminal
17 violation. A person who fails or refuses to comply with these rules must be
18 assessed a fee in the amount set forth in ~~subsection 10 of~~ section 39-06.1-06 for
19 each violation.

20 ~~3.~~ 4. Nothing contained in this chapter may be construed to prohibit the use of additional
21 parts and accessories on any vehicle not inconsistent with the provisions of this
22 chapter.

23 ~~4.~~ 5. The provisions of this chapter with respect to equipment on vehicles do not apply
24 to implements of husbandry, road machinery, road rollers, or farm tractors except
25 as specifically made applicable.

26 ~~5.~~ 6. The provisions of this chapter with respect to equipment required on vehicles do
27 not apply to motorcycles or motor-driven cycles, except as specifically made
28 applicable.

29 ~~6.~~ 7. The provisions of this chapter and regulations of the department do not apply to
30 vehicles moved solely by human power, except as specifically made applicable.