

**FIRST ENGROSSMENT  
with Senate Amendments**

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 and 39-06.1-06, paragraph 33 of  
2 subdivision a of subsection 3 of section 39-06.1-10, sections 39-07-09 and 39-08-21,  
3 subdivision h of subsection 1 of section 39-09-02, and sections 39-21-16 and 39-21-46 of the  
4 North Dakota Century Code, relating to driving in excess of the speed limit.

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

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

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

- 11 1. Driving or being in actual physical control of a vehicle in violation of section  
12 39-08-01, or an equivalent ordinance.
- 13 2. Reckless driving or aggravated reckless driving in violation of section 39-08-03, or  
14 an equivalent ordinance.
- 15 3. A violation of chapter 12.1-16 resulting from the operation of a motor vehicle.
- 16 4. Leaving the scene of an accident in violation of section 39-08-04, 39-08-05,  
17 39-08-07, or 39-08-08, or equivalent ordinances.
- 18 5. Driving while license or driving privilege is suspended or revoked in violation of  
19 section 39-06-42, or an equivalent ordinance.
- 20 6. Violating subdivision b or c of subsection 5 of section 39-24-09.
- 21 7. Operating a modified motor vehicle in violation of section 39-21-45.1.
- 22 8. Driving without liability insurance in violation of section 39-08-20.
- 23 9. Operating an unsafe vehicle in violation of ~~subdivision b of~~ subsection 4 2 of  
24 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, 10 and 11, and 12~~ of this section, for a  
16 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 <del>4—5</del>      | <del>\$ 5</del>   |
| 21 <del>6—10</del>     | <del>\$ 5 plus \$1/each mph over 5 mph over limit</del>   |
| 22 <del>11—15</del>    | <del>\$ 10 plus \$1/each mph over 10 mph over limit</del> |
| 23 <del>16—20</del>    | <del>\$ 15 plus \$2/each mph over 15 mph over limit</del> |
| 24 <del>21—25</del>    | <del>\$ 25 plus \$3/each mph over 20 mph over limit</del> |
| 25 <del>26—35</del>    | <del>\$ 40 plus \$3/each mph over 25 mph over limit</del> |
| 26 <del>36—45</del>    | <del>\$ 70 plus \$3/each mph over 35 mph over limit</del> |
| 27 <del>46+</del>      | <del>\$100 plus \$5/each mph over 45 mph over limit</del> |
| 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 <del>4—5</del>	<del>\$ 10 plus \$1/each mph over limit</del>
12 <del>6—10</del>	<del>\$ 15 plus \$2/each mph over 5 mph over limit</del>
13 <del>11—15</del>	<del>\$ 25 plus \$3/each mph over 10 mph over limit</del>
14 <del>16—20</del>	<del>\$ 40 plus \$3/each mph over 15 mph over limit</del>
15 <del>21—25</del>	<del>\$ 55 plus \$3/each mph over 20 mph over limit</del>
16 <del>26—35</del>	<del>\$ 70 plus \$3/each mph over 25 mph over limit</del>
17 <del>36—45</del>	<del>\$120 plus \$5/each mph over 35 mph over limit</del>
18 <del>46+</del>	<del>\$170 plus \$5/each mph over 45 mph over limit</del>

- 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 ~~44.~~ 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 of five dollars for each mile per hour over the limit.

20 ~~42.~~ 11. For a violation of a school zone speed limit under subdivision b of subsection 1 of  
21 section 39-09-02, of a highway construction zone speed limit under subsection 2 of  
22 section 39-09-02, or, notwithstanding subsection 2 of section 40-05-06 or section  
23 40-05.1-06, of an ordinance in a city or home rule city for a violation of a speed  
24 limit dependent upon being on or near a school, fees for a noncriminal disposition  
25 are forty dollars for one through ten miles per hour over the posted speed; and  
26 forty dollars, plus one dollar for each additional mile per hour over ten miles per  
27 hour over the limit unless a greater fee would be applicable under this section.  
28 The fees in this subsection do not apply to a highway construction zone unless  
29 individuals engaged in construction are present at the time of the violation and the  
30 posted speed limit sign states "Minimum Fee \$40".

1           **SECTION 3. AMENDMENT.** Paragraph 33 of subdivision a of subsection 3 of section  
2 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

3	(33) On a highway on which the	
4	speed limit is posted in	
5	excess of seventy miles [112.65	
6	kilometers] an hour, operating a	
7	motor vehicle in excess of the	
8	speed limit in violation of	
9	section 39-09-02, or equivalent	
10	ordinance	
11	Miles per hour over	
12	lawful speed limit	Points
13	1 - 5	0
14	6 - 10	4 <u>2</u>
15	11 - 15	<u>2</u> 4
16	16 - 20	5
17	21 - 25	7
18	26 - 30	10
19	31 - 35	12
20	36 +	15

21           **SECTION 4. AMENDMENT.** Section 39-07-09 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23           **39-07-09. Offenses under which person halted may not be entitled to release**  
24 **upon promise to appear.** Section 39-07-07 does not apply to a person if:

- 25           1. The halting officer has good reason to believe the person guilty of any felony or if  
26           the person is halted and charged with an offense listed in section 39-06.1-05 but  
27           not listed in subsection 2; or
- 28           2. The halting officer, acting within the officer's discretion, determines that it is  
29           inadvisable to release the person upon a promise to appear and if the person has  
30           been halted and charged with any of the following offenses:
  - 31           a. Reckless driving.

- 1           b.   Driving in excess of speed limitations established by the state or by local
- 2                   authorities in their respective jurisdictions.
- 3           c.   Driving while license or driving privilege is suspended or revoked for violation
- 4                   of section 39-06-42, or an equivalent ordinance.
- 5           d.   Operating a modified vehicle.
- 6           e.   Driving without liability insurance in violation of section 39-08-20.
- 7           f.   Failing to display a placard or flag, in violation of any rule implementing
- 8                   section 39-21-44, while transporting explosive or hazardous materials.
- 9           g.   Operating an unsafe vehicle in violation of ~~subdivision b~~ of subsection 4 2 of
- 10                   section 39-21-46.

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

13           **SECTION 5. AMENDMENT.** Section 39-08-21 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15           **39-08-21. Medical qualifications exemption for intrastate drivers.** Notwithstanding  
16 the adoption by the superintendent of the state highway patrol of federal motor carrier safety  
17 regulations pursuant to subsection ~~2~~ 3 of section 39-21-46, the provisions of 49 CFR  
18 391.41(b)(1)-(11) do not apply to a person who is qualified through a state medical waiver  
19 program to operate a commercial motor vehicle within the boundaries of this state or a person  
20 who:

- 21           1.   Is otherwise qualified to operate a commercial motor vehicle and who possesses,  
22                   on March 26, 1991, a class 1 license issued pursuant to section 39-06-14, as that  
23                   section existed on June 30, 1989, or a class A license issued pursuant to chapter  
24                   39-06.2;
- 25           2.   Operates a commercial motor vehicle only within the boundaries of this state; and
- 26           3.   Has a medical or physical condition that:
  - 27                   a.   Would prevent such person from operating a commercial motor vehicle under  
28                           federal motor carrier safety regulations contained in 49 CFR, chapter III,  
29                           subchapter B;
  - 30                   b.   Existed on March 26, 1991, or at the time of the first required physical  
31                           examination after that date; and

1           c. An examining physician has determined has not substantially worsened since  
2           March 26, 1991, or the time of the first required physical examination after  
3           that date.

4           **SECTION 6. AMENDMENT.** Subdivision h of subsection 1 of section 39-09-02 of the  
5 North Dakota Century Code is amended and reenacted as follows:

6           h. ~~Seventy~~ Seventy-five miles [~~442.65~~ 120.70 kilometers] an hour on  
7           access-controlled, paved and divided, multilane interstate highways, unless  
8           otherwise permitted, restricted, or required by conditions.

9           **SECTION 7. AMENDMENT.** Section 39-21-16 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11           **39-21-16. Lamps on other vehicles and equipment.** Every vehicle, including  
12 animal-drawn vehicles and vehicles referred to in subsection ~~3~~ 4 of section 39-21-46, not  
13 specifically required by the provisions of this chapter to be equipped with lamps or other lighting  
14 devices, must at all times specified in section 39-21-01 be equipped with at least one lamp  
15 displaying a white light visible from a distance of not less than one thousand feet [304.8 meters]  
16 to the front of the vehicle, and must also be equipped with two lamps displaying red light visible  
17 from a distance of not less than one thousand feet [304.8 meters] to the rear of the vehicle, or  
18 two red reflectors visible for distances of one hundred feet [30.48 meters] to six hundred feet  
19 [182.88 meters] to the rear when illuminated by the lower beams of headlamps.

20           **SECTION 8. AMENDMENT.** Section 39-21-46 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22           **39-21-46. Scope and effect of equipment requirements - Penalty.**

23           1.   a. It is unlawful for any person to drive or move, or for the owner to cause or  
24           knowingly permit to be driven or moved, on any highway any vehicle or  
25           combination of vehicles which the actor knows does not contain those parts  
26           or is not at all times equipped with lamps and other equipment in proper  
27           condition and adjustment as required in this chapter, or which the actor knows  
28           is equipped in any manner in violation of this chapter, or for any person to do  
29           any act forbidden or fail to perform any act required under this chapter for  
30           which a fee or penalty for its violation is not otherwise provided.

31           b.

- 1           2. A person who drives or moves, or any owner who causes or knowingly permits to  
2           be driven or moved upon a highway, any vehicle or combination of vehicles which  
3           that person knows is in such unsafe condition as to endanger a person is guilty of  
4           an infraction.
- 5       ~~2.~~ 3. The superintendent of the state highway patrol shall, under chapter 28-32, adopt  
6           necessary rules concerning the safe operation of motor vehicles and when and  
7           how motor carrier audits or inspections will be conducted. The rules must  
8           duplicate or be consistent with current motor carrier safety regulations of the  
9           United States department of transportation. The superintendent of the state  
10          highway patrol may adopt the motor carrier safety regulations by reference, and  
11          any adoption must be construed to incorporate amendments as may be made from  
12          time to time. A violation of rules adopted under this subsection is a noncriminal  
13          violation. A person who fails or refuses to comply with these rules must be  
14          assessed a fee in the amount set forth in ~~subsection 10 of~~ section 39-06.1-06 for  
15          each violation.
- 16       ~~3.~~ 4. Nothing contained in this chapter may be construed to prohibit the use of additional  
17          parts and accessories on any vehicle not inconsistent with the provisions of this  
18          chapter.
- 19       ~~4.~~ 5. The provisions of this chapter with respect to equipment on vehicles do not apply  
20          to implements of husbandry, road machinery, road rollers, or farm tractors except  
21          as specifically made applicable.
- 22       ~~5.~~ 6. The provisions of this chapter with respect to equipment required on vehicles do  
23          not apply to motorcycles or motor-driven cycles, except as specifically made  
24          applicable.
- 25       ~~6.~~ 7. The provisions of this chapter and regulations of the department do not apply to  
26          vehicles moved solely by human power, except as specifically made applicable.