

**FIRST ENGROSSMENT
with Conference Committee Amendments**

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, and sections 39-07-09, 39-08-21,
3 39-09-02, 39-21-16, and 39-21-46 of the North Dakota Century Code, relating to driving in
4 excess of the speed limit; and to declare an emergency.

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; and 11, ~~and 12~~ of this section, for a violation
16 of section 39-09-02, or an equivalent ordinance, a fee established as follows:

17 Miles per hour over

18	lawful speed limit	Fee
19	1 - 5	\$ 5
20	6 - 10	\$ 5 plus \$1/each mph over 5 mph over limit
21	11 - 15	\$ 10 plus \$1/each mph over 10 mph over limit
22	16 - 20	\$ 15 plus \$2/each mph over 15 mph over limit
23	21 - 25	\$ 25 plus \$3/each mph over 20 mph over limit
24	26 - 35	\$ 40 plus \$3/each mph over 25 mph over limit
25	36 - 45	\$ 70 plus \$3/each mph over 35 mph over limit
26	46 +	\$100 plus \$5/each mph over 45 mph over limit

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

29 5. For a violation of section 39-09-01.1, or an ordinance defining care required in
30 driving, a fee of not less than ten dollars nor more than thirty dollars.

1 6. For a violation of any traffic parking regulations, except a violation of subsection 10
2 of section 39-01-15, on any state charitable or penal institution property or on the
3 state capitol grounds, a fee in the amount of five dollars.

4 7. ~~Except as provided in subsection 11, on~~ On a highway on which the speed limit is
5 a speed higher than fifty-five miles [88.51 kilometers] an hour, for a violation of
6 section 39-09-02, or an equivalent ordinance, a fee established as follows:

7	Miles per hour over	
8	lawful speed limit	Fee
9	1 - 5 10	\$ 10 plus \$1/each <u>\$2/each</u> mph over limit
10	6 - 10	\$ 15 plus \$2/each mph over 5 mph over limit
11	11 - 15+	\$ 25 <u>20</u> plus \$3/each <u>\$5/each</u> mph over 10 mph over limit
12	16 - 20	\$ 40 plus \$3/each mph over 15 mph over limit
13	21 - 25	\$ 55 plus \$3/each mph over 20 mph over limit
14	26 - 35	\$ 70 plus \$3/each mph over 25 mph over limit
15	36 - 45	\$120 plus \$5/each mph over 35 mph over limit
16	46+	\$170 plus \$5/each mph over 45 mph over limit

17 8. For a violation of section 39-21-41.4, a fee not to exceed twenty dollars.

18 9. For a violation of section 39-21-44 or a rule adopted under that section, a fee of
19 two hundred fifty dollars.

20 10. For a violation of subsection ~~2~~ 3 of section 39-21-46, a fee established as follows:

21 a. Driving more than ten hours since the last eight hours off duty, driving after
22 fifteen hours on duty since the last eight hours off duty, driving after sixty
23 hours on duty in seven days or seventy hours in eight days, no record of duty
24 status or log book in possession, failing to retain previous seven-day record of
25 duty status or log book, or operating a vehicle with four to six out-of-service
26 defects, one hundred dollars;

27 b. False record of duty status or log book or operating a vehicle with seven to
28 nine out-of-service defects, two hundred fifty dollars;

29 c. Operating a vehicle after driver placed out of service, operating a vehicle with
30 ten or more out-of-service defects, or operating a vehicle that has been
31 placed out of service prior to its repair, five hundred dollars; and

1 d. All other violations of motor carrier safety rules adopted under subsection ~~2~~ 3
2 of section 39-21-46, fifty dollars.

3 11. On a highway on which the speed limit is posted in excess of ~~seventy~~ sixty-five
4 miles [~~142.65~~ 104.61 kilometers] an hour, for a violation of section 39-09-02, or
5 equivalent ordinance, a fee ~~established as follows:~~

6	Miles per hour over	
7	lawful speed limit	Fee
8	1—5	\$ 20
9	6—10	\$ 40
10	11—15	\$ 60
11	16—20	\$ 80
12	21—25	\$100
13	26—30	\$125
14	31—35	\$150
15	36+	\$150 plus \$5/each mph over 35 mph over limit

16 of five dollars for each mile per hour over the limit.

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

28 **SECTION 3. AMENDMENT.** Paragraph 33 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 (33) On a highway on which the
31 speed limit is posted in

1	excess of seventy <u>sixty-five</u>	
2	miles [112.65 <u>104.61</u>	
3	kilometers] an hour, operating a	
4	motor vehicle in excess of the	
5	speed limit in violation of	
6	section 39-09-02, or equivalent	
7	ordinance	
8	Miles per hour over	
9	lawful speed limit	Points
10	1 - 5	0
11	6 - 10	1
12	11 - 15	2 <u>3</u>
13	16 - 20	5
14	21 - 25	7
15	26 - 30	10
16	31 - 35	12
17	36 +	15

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

20 **39-07-09. Offenses under which person halted may not be entitled to release**
21 **upon promise to appear.** Section 39-07-07 does not apply to a person if:

- 22 1. The halting officer has good reason to believe the person guilty of any felony or if
23 the person is halted and charged with an offense listed in section 39-06.1-05 but
24 not listed in subsection 2; or
- 25 2. The halting officer, acting within the officer's discretion, determines that it is
26 inadvisable to release the person upon a promise to appear and if the person has
27 been halted and charged with any of the following offenses:
 - 28 a. Reckless driving.
 - 29 b. Driving in excess of speed limitations established by the state or by local
30 authorities in their respective jurisdictions.

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

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

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

13 **39-08-21. Medical qualifications exemption for intrastate drivers.** Notwithstanding
14 the adoption by the superintendent of the state highway patrol of federal motor carrier safety
15 regulations pursuant to subsection ~~2~~ 3 of section 39-21-46, the provisions of 49 CFR
16 391.41(b)(1)-(11) do not apply to a person who is qualified through a state medical waiver
17 program to operate a commercial motor vehicle within the boundaries of this state or a person
18 who:

- 19 1. Is otherwise qualified to operate a commercial motor vehicle and who possesses,
20 on March 26, 1991, a class 1 license issued pursuant to section 39-06-14, as that
21 section existed on June 30, 1989, or a class A license issued pursuant to chapter
22 39-06.2;
- 23 2. Operates a commercial motor vehicle only within the boundaries of this state; and
- 24 3. Has a medical or physical condition that:
 - 25 a. Would prevent such person from operating a commercial motor vehicle under
 - 26 federal motor carrier safety regulations contained in 49 CFR, chapter III,
 - 27 subchapter B;
 - 28 b. Existed on March 26, 1991, or at the time of the first required physical
 - 29 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.** Section 39-09-02 of the North Dakota Century Code as
5 amended in section 1 of House Bill No. 1046, as approved by the fifty-eighth legislative
6 assembly, is amended and reenacted as follows:

7 **39-09-02. Speed limitations.**

- 8 1. Subject to the provisions of section 39-09-01 and except in those instances where
9 a lower speed is specified in this chapter, it presumably is lawful for the driver of a
10 vehicle to drive the same at a speed not exceeding:
- 11 a. Twenty miles [32.19 kilometers] an hour when approaching within fifty feet
12 [15.24 meters] of a grade crossing of any steam, electric, or street railway
13 when the driver's view is obstructed. A driver's view is deemed to be
14 obstructed when at any time during the last two hundred feet [60.96 meters]
15 of the driver's approach to such crossing, the driver does not have a clear and
16 uninterrupted view of such railway crossing and of any traffic on such railway
17 for a distance of four hundred feet [121.92 meters] in each direction from such
18 crossing.
- 19 b. Twenty miles [32.19 kilometers] an hour when passing a school during school
20 recess or while children are going to or leaving school during opening or
21 closing hours, unless a lower speed is designated or posted by local
22 authorities.
- 23 c. Twenty miles [32.19 kilometers] an hour when approaching within fifty feet
24 [15.24 meters] and in traversing an intersection of highways when the driver's
25 view is obstructed. A driver's view is deemed to be obstructed when at any
26 time during the last fifty feet [15.24 meters] of the driver's approach to such
27 intersection, the driver does not have a clear and uninterrupted view of such
28 intersection and of the traffic upon all of the highways entering such
29 intersection for a distance of two hundred feet [60.96 meters] from such
30 intersection.

- 1 d. Twenty miles [32.19 kilometers] an hour when the driver's view of the highway
2 ahead is obstructed within a distance of one hundred feet [30.48 meters].
- 3 e. Twenty-five miles [40.23 kilometers] an hour on any highway in a business
4 district or in a residence district or in a public park, unless a different speed is
5 designated and posted by local authorities.
- 6 f. Fifty-five miles [88.51 kilometers] an hour on gravel, dirt, or loose surface
7 highways, and on paved two-lane county and township highways if there is no
8 speed limit posted, unless otherwise permitted, restricted, or required by
9 conditions.
- 10 g. Sixty-five miles [104.61 kilometers] an hour on paved two-lane highways ~~and~~
11 ~~on paved and divided multilane highways~~ if posted for that speed, unless
12 otherwise permitted, restricted, or required by conditions.
- 13 h. Seventy miles [112.65 kilometers] an hour on ~~access-controlled~~, paved and
14 divided, multilane ~~interstate~~ highways, unless otherwise permitted, restricted,
15 or required by conditions.
- 16 i. Seventy-five miles [120.70 kilometers] an hour on access-controlled, paved
17 and divided, multilane interstate highways, unless otherwise permitted,
18 restricted, or required by conditions.
- 19 2. The director may designate and post special areas of state highways where lower
20 speed limits apply.
- 21 3. Except as provided by law, it is unlawful for any person to drive a vehicle upon a
22 highway at a speed that is unsafe or at a speed exceeding the speed limit
23 prescribed by law or established pursuant to law.
- 24 4. In charging a violation of the provisions of this section, the complaint must specify
25 the speed at which the defendant is alleged to have driven and the speed which
26 this section prescribes is prima facie lawful at the time and place of the alleged
27 offense.

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

30 **39-21-16. Lamps on other vehicles and equipment.** Every vehicle, including
31 animal-drawn vehicles and vehicles referred to in subsection ~~3~~ 4 of section 39-21-46, not

1 specifically required by the provisions of this chapter to be equipped with lamps or other lighting
2 devices, must at all times specified in section 39-21-01 be equipped with at least one lamp
3 displaying a white light visible from a distance of not less than one thousand feet [304.8 meters]
4 to the front of the vehicle, and must also be equipped with two lamps displaying red light visible
5 from a distance of not less than one thousand feet [304.8 meters] to the rear of the vehicle, or
6 two red reflectors visible for distances of one hundred feet [30.48 meters] to six hundred feet
7 [182.88 meters] to the rear when illuminated by the lower beams of headlamps.

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

10 **39-21-46. Scope and effect of equipment requirements - Penalty.**

11 1. ~~a.~~ It is unlawful for any person to drive or move, or for the owner to cause or
12 knowingly permit to be driven or moved, on any highway any vehicle or
13 combination of vehicles which the actor knows does not contain those parts
14 or is not at all times equipped with lamps and other equipment in proper
15 condition and adjustment as required in this chapter, or which the actor knows
16 is equipped in any manner in violation of this chapter, or for any person to do
17 any act forbidden or fail to perform any act required under this chapter for
18 which a fee or penalty for its violation is not otherwise provided.

19 ~~b.~~

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

24 ~~2.~~ 3. The superintendent of the state highway patrol shall, under chapter 28-32, adopt
25 necessary rules concerning the safe operation of motor vehicles and when and
26 how motor carrier audits or inspections will be conducted. The rules must
27 duplicate or be consistent with current motor carrier safety regulations of the
28 United States department of transportation. The superintendent of the state
29 highway patrol may adopt the motor carrier safety regulations by reference, and
30 any adoption must be construed to incorporate amendments as may be made from
31 time to time. A violation of rules adopted under this subsection is a noncriminal

1 violation. A person who fails or refuses to comply with these rules must be
2 assessed a fee in the amount set forth in ~~subsection 10~~ of section 39-06.1-06 for
3 each violation.

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

7 ~~4.~~ 5. The provisions of this chapter with respect to equipment on vehicles do not apply
8 to implements of husbandry, road machinery, road rollers, or farm tractors except
9 as specifically made applicable.

10 ~~5.~~ 6. The provisions of this chapter with respect to equipment required on vehicles do
11 not apply to motorcycles or motor-driven cycles, except as specifically made
12 applicable.

13 ~~6.~~ 7. The provisions of this chapter and regulations of the department do not apply to
14 vehicles moved solely by human power, except as specifically made applicable.

15 **SECTION 9. EMERGENCY.** This Act is declared to be an emergency measure.