

**HOUSE BILL NO. 1208**

Introduced by

Representatives Klemin, Vigesaa

Senators Hogue, Lyson

1 A BILL for an Act to create and enact two new paragraphs to subdivision a of subsection 3 of  
2 section 39-06.1-10 and a new section to chapter 39-08 of the North Dakota Century Code,  
3 relating to the use of a wireless communications device and demerit points; to amend and  
4 reenact subsection 2 of section 39-06.1-06 and section 39-06.1-09 North Dakota Century Code,  
5 relating to fees for a moving violation; and to provide a penalty.

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

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

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

11 a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, 39-10-42, 39-10-46, or  
12 39-10-46.1, a fee of fifty dollars.

13 b. A violation of section 39-10-05 involving failure to yield to a pedestrian or  
14 subsection 1 of section 39-10-28, a fee of fifty dollars.

15 c. A violation of section 39-21-41.2, a fee of twenty-five dollars.

16 d. A violation of subsection 1 of section 39-12-02 or section 4 of this Act, a fee of  
17 one hundred dollars.

18 e. A violation of subdivision d of subsection 1 of section 39-12-04, a fee of one  
19 hundred dollars.

20 **SECTION 2. AMENDMENT.** Section 39-06.1-09 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **39-06.1-09. Moving violation defined.** For the purposes of sections 39-06.1-06 and  
23 39-06.1-13, a "moving violation" means a violation of section 39-04-22, subsection 1 of section  
24 39-04-37, section 39-04-55, 39-06-01, 39-06-14, 39-06-16, section 4 of this Act, 39-09-04.1,

1 39-09-09, subsection 1 of section 39-12-02, sections 39-12-04, 39-12-05, 39-12-06, 39-12-09,  
2 39-24-02, or 39-24-09, except subdivisions b and c of subsection 5, or equivalent ordinances;  
3 or a violation of the provisions of chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances,  
4 except subsection 4 of section 39-10-26, sections 39-21-44 and 39-21-45.1, subsections 2 and  
5 3 of section 39-21-46, and those sections within those chapters which are specifically listed in  
6 subsection 1 of section 39-06.1-08.

7 **SECTION 3.** Two new paragraphs to subdivision a of subsection 3 of section  
8 39-06.1-10 of the North Dakota Century Code are created and enacted as follows:

9 Using a wireless 2 points  
10 communications device  
11 in violation of section 4  
12 of this Act

13 For a second offense 4 points  
14 or subsequent offense  
15 using a wireless  
16 communications device in  
17 violation of section 4  
18 of this Act

19 **SECTION 4.** A new section to chapter 39-08 of the North Dakota Century Code is  
20 created and enacted as follows:

21 **Use of a wireless communications device prohibited.**

- 22 1. The operator of a motor vehicle in motion or part of traffic may not use a wireless  
23 communications device to compose, read, or send an electronic message.  
24 2. Under this section, "electronic message" means a self-contained piece of digital  
25 communication that is designed or intended to be transmitted between physical  
26 devices. The term includes e-mail, a text message, an instant message, a  
27 command or request to access a world wide web page, or other data that uses a  
28 commonly recognized electronic communications protocol. The term does not  
29 include voice or other data transmitted as a result of making a phone call or data  
30 transmitted automatically by a wireless communications device without direct  
31 initiation by an individual.

- 1           3. This section does not apply if a wireless communications device is used solely in a  
2           voice-activated or other hands-free mode; for making a cellular phone call; for  
3           obtaining emergency assistance to report a traffic accident, medical emergency, or  
4           serious traffic hazard or to prevent a crime about to be committed, in the  
5           reasonable belief that an individual's life or safety is in immediate danger; or in an  
6           authorized emergency vehicle while in the performance of official duties.
- 7           4. In addition to any other fee or action against a license, for a third or subsequent  
8           violation of this section the department shall suspend the license of the operator for  
9           a period of three hundred sixty-five days.