

HOUSE BILL NO. 1195

Introduced by

Representatives Klemin, Drovdal, Vigesaa

Senators Hogue, Lyson, Nething

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 of the North Dakota Century
5 Code, 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, except
10 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.**

23 For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a
24 violation of section 39-04-22, subsection 1 of section 39-04-37, section 39-04-55, 39-06-01,

1 39-06-14, 39-06-16, section 4 of this Act, 39-09-04.1, or 39-09-09, subsection 1 of section
2 39-12-02, sections 39-12-04, 39-12-05, 39-12-06, 39-12-09, 39-24-02, or 39-24-09, except
3 subdivisions b and c of subsection 5, or equivalent ordinances; or a violation of the provisions of
4 chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except subsection 5 of section
5 39-10-26, sections 39-21-44 and 39-21-45.1, subsections 2 and 3 of section 39-21-46, and
6 those sections within those chapters which are specifically listed in subsection 1 of section
7 39-06.1-08.

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

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

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

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

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

- 23 1. The operator of a motor vehicle that is part of traffic may not use a wireless
24 communications device to compose, read, or send an electronic message.
- 25 2. Under this section:
- 26 a. "Electronic message" means a self-contained piece of digital communication that
27 is designed or intended to be transmitted between physical devices. The term
28 includes e-mail, a text message, an instant message, a command or request to
29 access a world wide web page, or other data that uses a commonly recognized
30 electronic communications protocol. The term does not include:

- 1 (1) Reading, selecting, or entering a telephone number, an extension number,
2 or voice mail retrieval codes and commands into an electronic device for the
3 purpose of initiating or receiving a telephone or cellular phone call or using
4 voice commands to initiate or receive a telephone or cellular phone call;
5 (2) Inputting, selecting, or reading information on a global positioning system
6 device or other navigation system device;
7 (3) Using a device capable of performing multiple functions, such as fleet
8 management systems, dispatching devices, smart phones, citizen band
9 radios, music players, or similar devices, for a purpose that is not otherwise
10 prohibited;
11 (4) Voice or other data transmitted as a result of making a telephone or cellular
12 phone call; or
13 (5) Data transmitted automatically by a wireless communication device without
14 direct initiation by an individual.
15 b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of
16 travel on any street or highway and includes a temporary stop or halt of motion,
17 such as at an official traffic-control signal or sign. The term does not include a
18 motor vehicle that is lawfully parked.
19 3. This section does not apply if a wireless communications device is used for obtaining
20 emergency assistance to report a traffic accident, medical emergency, or serious traffic
21 hazard or to prevent a crime about to be committed, in the reasonable belief that an
22 individual's life or safety is in immediate danger, or in an authorized emergency vehicle
23 while in the performance of official duties.
24 4. In addition to any other fee or action against a license, for a third or subsequent
25 violation of this section the department shall suspend the license of the operator for a
26 period of three hundred sixty-five days.