

**HOUSE BILL NO. 1195  
with Senate Amendments  
HOUSE BILL NO. 1195**

Sixty-second  
Legislative Assembly  
of North Dakota

Introduced by

Representatives Klemin, Drovdal, Vigesaa

Senators Hogue, Lyson, Nething

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

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

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

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

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

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

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

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

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

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

21 **39-06.1-09. Moving violation defined.**

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

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

7 **SECTION 3.** A new section to chapter 39-08 of the North Dakota Century Code is created  
8 and enacted as follows:

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

10 1. The operator of a motor vehicle that is part of traffic may not use a wireless  
11 communications device to compose, read, or send an electronic message.

12 2. Under this section:

13 a. "Electronic message" means a self-contained piece of digital communication that  
14 is designed or intended to be transmitted between physical devices. The term  
15 includes e-mail, a text message, an instant message, a command or request to  
16 access a world wide web page, or other data that uses a commonly recognized  
17 electronic communications protocol. The term does not include:

18 (1) Reading, selecting, or entering a telephone number, an extension number,  
19 or voice mail retrieval codes and commands into an electronic device for the  
20 purpose of initiating or receiving a telephone or cellular phone call or using  
21 voice commands to initiate or receive a telephone or cellular phone call;

22 (2) Inputting, selecting, or reading information on a global positioning system  
23 device or other navigation system device;

24 (3) Using a device capable of performing multiple functions, such as fleet  
25 management systems, dispatching devices, smart phones, citizen band  
26 radios, music players, or similar devices, for a purpose that is not otherwise  
27 prohibited;

28 (4) Voice or other data transmitted as a result of making a telephone or cellular  
29 phone call; or

30 (5) Data transmitted automatically by a wireless communication device without  
31 direct initiation by an individual.

- 1            b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of  
2            travel on any street or highway and includes a temporary stop or halt of motion,  
3            such as at an official traffic-control signal or sign. The term does not include a  
4            motor vehicle that is lawfully parked.
- 5            3. This section does not apply if a wireless communications device is used for obtaining  
6            emergency assistance to report a traffic accident, medical emergency, or serious traffic  
7            hazard or to prevent a crime about to be committed, in the reasonable belief that an  
8            individual's life or safety is in immediate danger, or in an authorized emergency vehicle  
9            while in the performance of official duties.