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Sixty-fifth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1430

Introduced by

Representatives Mock, Dobervich, D. Ruby, Sukut

Senators Laffen, D. Larson

A BILL for an Act to create and enact a new section to chapter 39-08 of the North Dakota Century Code, relating to failure to maintain control of a motor vehicle; to amend and reenact subsection 2 of section 39-06.1-06 and sections 39-06.1-09 and 39-08-23 of the North Dakota Century Code, relating to fees for a moving violation and the use of a wireless communication device while driving; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except for:
   a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, or 39-10-42, a fee of fifty dollars.
   b. A violation of section 39-10-05 involving failure to yield to a pedestrian or subsection 1 of section 39-10-28, a fee of fifty dollars.
   c. A violation of section 39-21-41.2, a fee of twenty-five dollars.
   d. A violation of subsection 1 of section 39-12-02 ~~or,~~ section 39-08-23, or section 4 of this Act, a fee of one hundred dollars.
   e. A violation of subdivision d of subsection 1 of section 39-12-04, a fee of one hundred dollars.
   f. A violation of subsection 1 of section 39-04-37 by an individual by becoming a resident of this state, a fee of one hundred dollars.
   g. A violation of subsection 2 of section 39-10-21.1, a fee of two hundred fifty dollars.
   h. A violation of section 39-10-59, a fee of one hundred dollars.

i. A violation of section 39-09-01, a fee of thirty dollars.

j. A violation of section 39-09-01.1, a fee of thirty dollars.

k. A violation of section 39-10-46 or 39-10-46.1, a fee of one hundred dollars.

l. A violation of subsection 1 of section 39-08-20, one hundred fifty dollars for a first violation and three hundred dollars for a second or subsequent violation in three years.

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

39-06.1-09. Moving violation defined.

For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a violation of section 39-04-22, subsection 1 of section 39-04-37, section 39-04-55, 39-06-01, 39-06-14, 39-06-14.1, 39-06-16, 39-08-20, 39-08-23, 39-08-24, section 4 of this Act 39-09-01, 39-09-01.1, 39-09-04.1, or 39-09-09, subsection 1 of section 39-12-02, section 39-12-04, 39-12-05, 39-12-06, 39-12-09, 39-21-45.1, 39-24-02, or 39-24-09, except subdivisions b and c of subsection 5 of section 39-24-09, or equivalent ordinances; or a violation of the provisions of chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except subsection 5 of section 39-10-26, section 39-21-44, and subsections 2 and 3 of section 39-21-46, and those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

SECTION 3. AMENDMENT. Section 39-08-23 of the North Dakota Century Code is amended and reenacted as follows:

39-08-23. Use of a wireless communications device prohibited.

1. The operator of a motor vehicle that is part of traffic may not use a wireless communications device to compose, read, or send an electronic message.
2. Under this section:
   a. "Electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. The term includes electronic mail, a text message, an instant message, a command or request to access a worldwide web page, or other data that uses a commonly recognized electronic communications protocol. The term does not include:
      (1) Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the

purpose of initiating or receiving a telephone or cellular phone call or using voice commands to initiate or receive a telephone or cellular phone call;

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

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

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

(5) Data transmitted automatically by a wireless communication device without direct initiation by an individual; or

(6) A wireless communications device used in a voice-activated, voice-operated, or any other hands-free manner.

b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of travel on any street or highway and includes a temporary stop or halt of motion, such as at an official traffic-control signal or sign. The term does not include a motor vehicle that is lawfully parked.

3. This section does not apply if a wireless communications device is used for obtaining emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard or to prevent a crime about to be committed, in the reasonable belief that an individual's life or safety is in immediate danger, or in an authorized emergency vehicle while in the performance of official duties.

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

Failure to maintain control.

1. An operator of a motor vehicle may not fail to maintain control of that motor vehicle. An individual is in violation of this section if that individual:

a. Commits an offense under this title and, at the time of the offense, the individual was engaged in the operation of a motor vehicle while distracted; or

b. Is determined to have been the operator of a motor vehicle that was involved in a reportable accident as defined in section 39-08-09 which resulted in property damage and, at the time the reportable accident occurred, the individual was engaged in the operation of a motor vehicle while distracted.

2. An individual may be issued a citation or summons for any other traffic offense that was committed by the individual in relation to the individual's commission of the traffic offense of failure to maintain control of a motor vehicle.

3. As used in this section, "operation of a motor vehicle while distracted" means the operation of a motor vehicle by an individual who, while operating the vehicle, is engaged in an activity that:

a. Is not necessary to the operation of the vehicle; and

b. Actually impairs, or would reasonably be expected to impair, the ability of the individual to safely operate the vehicle.