

**Senate Bill 2100**  
**Senate Transportation Committee**  
**Senator Clemens, Chairman**  
**January 07, 2021**

Chairman Clemens and members of the Senate Transportation Committee, my name is Sergeant Wade Kadrmas and I am the Safety and Education Officer for the North Dakota Highway Patrol. I am here today to support and provide background information on Senate Bill 2100 which makes changes to Title 39. These changes range from vehicle registration and titles, drivers' licenses, turning movements, vehicle equipment, snowmobile insurance, and helmets for off-highway vehicle riders under the age of 18.

House Concurrent Resolution 3052 was passed during the 2019 Legislative Session. This resolution requested Legislative Management to study North Dakota Century Code Title 39, including traffic fines and penalties imposed by state and local governments, implementation of methods and mechanisms to improve traffic safety, decrease motor vehicle crashes, fatalities, and injuries, and discourage impaired driving, speeding, distracted driving, and lack of seatbelt use in North Dakota. Although this resolution was passed, this study was not selected by Legislative Management.

Absent an official study of Title 39, Senate Bill 2100 addresses several sections within Century Code. These amendments address several concerns that have been brought to our attention by the officers patrolling the highways and enforcing traffic and criminal laws.

I will provide information on the changes to each section of Century Code as affected by this bill. I have also provided an addendum to the written testimony which provides current Century Code that will be changed by this bill as well as other Century Code that may be referenced regarding this bill. The addendum also includes photos of equipment violations that may assist in understanding the proposed amendments.

**SECTION 1:** This section, along with the amendment in section six of this bill to subdivision f of subsection two of section 39-06.1-06, clarify that the higher \$100 fine for failing to register a motor vehicle only applies to individuals who fail to purchase temporary registration outlined in subsection one of section 39-04-18.2 and meet the definition of resident under subdivision e of subsection two of section 39-04-18. The current law states “*by an individual by becoming a*

*resident of this state*” which is found in subdivision f of subsection two of section 39-06.1-06 which outlines the penalty. The current wording has been interpreted as meaning any resident of the state; which allows a law enforcement officer to issue either a twenty dollar or a \$100 citation to a North Dakota resident who has let North Dakota registration tabs expire.

It is the North Dakota Highway Patrol’s understanding when the law was created the intent of the law was to only increase the fine amount for vehicles licensed out of state. The intent was to encourage individuals to purchase temporary registration while gainfully employed in the state. The changes to this section and section six addressed by this bill would clean up confusion and result in a violation if an owner operates or knowingly permits anyone to operate a motor vehicle without a temporary registration permit

**SECTION 2:** North Dakota law requires that a current registration card be carried in the vehicle. If an individual is cited for not having a current registration card the citation must be dismissed if the person produces or displays a valid registration card to any peace officer; the registration must be valid when the citation was issued. Law enforcement technologies have advanced to allow an officer real time access to registration information. NDHP policy directs our officers to verify status of the registration and issue a warning if registration is current and no card is present at the time of the stop. From 2017 to present, troopers have taken enforcement action for this violation just over 2,700 times resulting in only eleven citations with the remaining resulting in warnings. The patrol’s enforcement policy provides guidance to issue a warning for any violation unless there are multiple warnings verified by our records management system.

The proposed changes would give an individual fourteen days to provide documentation to the hearing official proving the vehicle was registered when the citation was issued. This process would be similar to the process currently in place for failing to carry proof of liability insurance. SB 2056 contains a suggested amendment proposed by the Supreme Court that proof of current insurance be presented to the “prosecutor where the matter is pending”. I ask the committee to consider an amendment to this section to utilize verbatim with this suggested wording.

**SECTION 3:** When the owner or transferor of a motor vehicle fails to transfer the endorsed certificate of title within the 30-day time limit established by law, law enforcement must use their discretion to determine the start of the time period since it is not clearly established. This lack of

clarity has proven difficult. Establishing in law when the start day of the 30-day period begins would provide clarification to the transferor, transferee, and law enforcement officer.

**SECTION 4:** Changes to this section provides clarification on what a motorized bicycle permit holder is allowed to do. 39-01-01 defines a motorized bicycle as a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion or footrests for use by the operator. These vehicles must be under 50 cc and cannot exceed thirty miles per hour. A motorized bicycle permit can be issued to an individual who is at least fourteen years of age, the same age that a motorcycle permit can be issued. Motorcycle permit holders are restricted to daylight driving only and are not allowed to carry passengers. There is currently nothing in law to prohibit a motorized bicycle permit holder to carry passengers or drive after dark. We believe the same restrictions should be in place for a motorized bicycle permit holder since motorized bicycles are less maneuverable and just as vulnerable as a motorcycle. The proposed change would result in a moving violation with a penalty of four points and twenty dollars. The committee may also want to consider adding the requirement for individuals 17 and under to wear a helmet if they are operating or a passenger on a motorized bicycle. This requirement would be consistent with current motorcycle helmet law and the off-highway vehicle law for those 17 and under.

**SECTION 5:** Chapter 39-06 subsection 16 requires the operator of a motor vehicle to have the operator's license in the individual's immediate possession at all times when operating a motor vehicle. If an individual fails to have their license when stopped, it is a violation that can result in a twenty-dollar citation. However, if the individual produces in court, or in the office of the arresting officer, an operator's license that was valid at the time of the citation, the operator can't be convicted or assessed a fine or fees. The proposed change in section five is similar to the changes in section two that would allow an individual fourteen days to produce to the hearing official an operator's license that was valid at the time the citation was issued. We are proposing and amendment to this section, using the same language suggested by the ND Supreme Court in Senate Bill 2056 regarding proof of current insurance.

Current technologies provide law enforcement the ability to verify license status during a stop. NDHP's enforcement policy provides guidance to issue a warning if an officer can verify if the individual has a valid license and issue a citation if unable to verify the license. From 2017 to present, troopers took enforcement action for this violation over 6,000 times, resulting in 150 citations and the remaining were warnings.

**SECTION 6:** If section 1 of SB 2100 is passed, a new section would need to be created to assign a fine of \$100 for violation of the new subsection created in section 1.

**SECTION 7:** This section affects Class D instruction permits and reciprocal use of highways. A new subdivision was added under subsection 2 of 39-06.1-06 to assign a fine of \$50 for a violation of a class D instructional permit and reciprocal use of highways. These violations are also included in section nine of this bill where they are defined as moving violations. Currently, these violations are infractions requiring a court appearance. An offense for violating a class D instructional permit is also assessed two points. A common violation of a class D instruction permit occurs when a permit holder does not have an individual who holds a valid driver's license occupying the seat next to them, that is at least eighteen years of age, and who has had at least three years of driving experience. A class D permit holder can also be cited for operating an electronic communications device to talk, compose, read, or send an electronic message while operating a motor vehicle. We feel that a \$50 fine is more appropriate than requiring the violator to appear in court for an infraction.

An out of state commercial motor vehicle operator can be cited for a violation of reciprocal use of highways if they do not purchase registration in North Dakota. When a commercial vehicle is operated in numerous states, it must be registered in each state and can be done through the International Registration Plan (IRP). If the owner does not wish to participate in IRP, the owner has the option to purchase temporary registration in each of the states in which they operate, or they can purchase a trip permit for each state which allows them to pass through the state in lieu of registration. A North Dakota trip permit costs twenty dollars and is obtainable through the NDHP E-permits system.

Changing these two violations to non-criminal would give individuals fourteen days to either pay the fine or request a court hearing. Individuals under the age of 18 wouldn't be required to appear in juvenile court and individuals over 18 wouldn't be required to appear in district or municipal court. Individuals from out of state wouldn't be required to return to North Dakota for a court appearance

We are providing an additional amendment relating to this section. Currently, a violation of a Class D instructional permit is a criminal violation under paragraph 10 of subdivision b of subsection 3 of section 39-06.1-10. A new paragraph would need to be added under subdivision

a of subsection 3 of section 39-06.1-10 to classify a violation of 39-06-04 as non-criminal and assigned 2 points.

**SECTION 8:** This section makes amendments to 39-06.1-08 which defines non-moving violations.

- The display of number plates and tabs under 39-04-11 isn't a violation unless an individual operates a vehicle on a public highway. We propose to remove it from 39-06.1-08 and add it to moving violations under 39-06.1-09
- There is currently no fine specified if an individual fails to change the address listed on the vehicle registration card when the owner's address changes. Since there is no specific fine for violating this law, it is considered an infraction and requires a court appearance. Adding 39-04-02.1 as a non-moving violation would allow the issuance of a citation of twenty dollars with no requirement for a court appearance and give the individual 14 days to pay or contest the citation. It is a non-moving violation since there is no requirement for the vehicle to be operated on a public roadway. Individuals can update a change of address through an online form on the NDDOT website.
- Passage of section 1 of this bill would require deletion here and movement to the new subsection created in 39-04-37.
- There is currently no fine specified when an individual fails to change the address on their driver's license or identification card. A violation is considered an infraction and requires a court appearance. Adding 39-06-20 as a non-moving violation would allow the issuance of a citation of twenty dollars with no requirement for a court appearance. The individual would have 14 days to pay or contest the citation. It is being listed as a non-moving violation since there is no requirement for the individual to be operating a vehicle at the time of the violation. Individuals can update a change of address through an online form on the NDDOT website.

**SECTION 9:** This section makes amendments to 39-06.1-09 which defines moving violations.

- The display of number plates and tabs under 39-04-11 was crossed out in section 8 of this bill and should be added as a moving violation. This violation isn't considered a violation unless an individual operates a vehicle on a public highway. We propose to change it from a non-moving violation under 39-06.1-08 to a moving violation under 39-06.1-09.

- Passage of section 7 of this bill would require 39-06-04 and 39-19-03 to be added as a moving violation. Both of these violations only take place while the vehicle is being moved upon a roadway.
- We propose placing violations of 39-27 (Motorcycle Equipment) as moving violations to issuance of a citation of twenty dollars with no requirement for a court appearance and allow the individual 14 days to pay or contest the citation. This change is consistent with automobile equipment violations under Chapter 39-21.

**SECTION 10:** Section 39-07-05 of the North Dakota Century Code exempts persons, motor vehicles, and other equipment from violations under Chapters 39-08, 39-09, 39-10, and 39-12 while actually engaged in work upon a highway. The only violations in these chapters that currently apply to individuals engaged in work upon a highway are driving under the influence, reckless and aggravated reckless driving, and harassment of domestic animals. Green highlighted items in the addendum are the current exceptions.

Individuals engaged in work upon a highway deal with traffic traveling through construction zones or along the highway. There can be construction on both sides of the road which may require construction workers to cross or travel on the designated public roadway. When a construction worker travels on or across the public portion where they may encounter general traffic, the workers should not be exempt from open containers, reporting of crashes, and yielding to other traffic on a road or path designated for the public to traverse the construction zone. The proposed amendments would remove all exemptions in Chapter 39-08 and add an exception for 39-09-01.1, care required in operating a vehicle, and 39-10-22.1 entering freeways – right of way.

**SECTION 11:** The NDHP requests clarification to denote that driving left of center can only be done when there is no hazard present from other traffic by adding “unless doing so creates a hazard for approaching vehicles” to subsection 2 of section 39-10-14. This section currently allows a vehicle to be driven on the left side of the roadway when a vehicle is turning left into or from an alley, private road, or driveway. Drivers often pull into the left lane before making a left turn into a private road or driveway when there is traffic behind them, this is usually done out of courtesy so the traffic behind them will not have to slow down. The addition of the text would provide the needed clarification.

**SECTION 12:** The amendment to section 39-10-19 provides clarification that only emergency and highway maintenance vehicles are allowed to cross the dividing space, barrier, or section of a controlled access roadway (interstate). This language is consistent with laws on controlled access roadways across the country. Many motorists interpret that without a sign prohibiting the crossing on these access spaces, there is no violation. This amendment will clarify the 39-10-19 violation which currently carries a fine of \$20 and no points. Another option for law enforcement is to issue a violation against 39-10-20 for entering a controlled access highway at areas other than entrances or exits. This violation carries a \$20 fine and 2 points. NDHP troopers historically have taken enforcement action for 39-10-19 (378 citations/ 127 warnings from 2017 to present) rather than 39-10-20 (17 citations/ 3 warnings from 2017 to present).

**SECTION 13:** The amendment to subsection 2 of section 39-10-26 of the North Dakota Century Code will clarify moving over for emergency vehicles is required on the interstate system within city limits. Initially, a comma was used to separate the list of roadways, but the lack of an additional comma has led to a misinterpretation that the violation only applies to the interstate system outside of city limits. This law is meant to protect emergency personnel working on the interstate system regardless if the work is occurring within or outside of city limits. The law does not apply to multilane highways within city limits such as State Street (Hwy 83) in Bismarck or Gateway Drive (Hwy 2) in Grand Forks.

**SECTION 14:** 39-10-38 requires the use of turn signals when a vehicle is moving right or left upon a roadway and must be done not less than the last 100 feet before making the movement. If a driver is merging onto another roadway or in to or from traffic, the law requires them to move their vehicle either right or left and therefore requires an appropriate signal. The law has been interpreted that a signal isn't needed when a vehicle merges onto a roadway as it is not specifically noted in the law. This addition provides clarification for occasions where motorists must use the turn signal.

**SECTION 15:** The amendment in section 15 will clarify that lighting displayed underneath a motor vehicle is not authorized while the vehicle is on a public roadway. Additional lighting outside of approved use and standards is distracting to other motorists and creates a safety concern.

**SECTION 16:** Currently, 39-21-07 may be confusing and be interpreted that the sections listed therein only apply to passenger buses, trucks, truck tractors, and certain trailers, semitrailers and pole trailers. The amendment in this section clarifies that the sections apply to all vehicles. It does not require extra lighting but simply requires when supplemental lighting is added by individuals, that lighting must maintain the same standards as that of required lighting equipment. The addition of clearance lamps or marker lamps must meet the requirements within these sections.

**SECTION 17:** Subsection 2 of section 39-21-15 consistently provides the option for either a red light or reflector to be used on the specified farm equipment as long as it is visible from the distance detailed in law. The last sentence requires a red lamp reflector to be mounted and visible from the same distances to the rear. Adding the word “or” clarifies that either a red lamp or reflector is needed to the rear if the equipment or implement of husbandry extends beyond the extreme left projection of the towing tractor or vehicle.

**SECTION 18:** Aftermarket lighting in vehicles can be installed underneath, on all sides, and into various parts of a vehicle and can be steady burning, flashing, or rotating. Federal standard S5.1.3 states that no additional lamp, reflective device or other motor vehicle equipment shall be installed that impairs the effectiveness of lighting equipment required by federal standards. Aftermarket lighting is distracting and can cause confusion for other motorists. Aftermarket lighting impairs the effectiveness of lighting equipment when displayed while the vehicle is being driven on a roadway. The terminology in this amendment is consistent with wording used to describe the color of signal lamps and signal devices required by 39-21-19 which are required by federal standards. Table I and Table II on page 24 of the addendum outline the required lighting on vehicles. We proposed these changes to the bill to maintain safety and eliminate confusion and distractions for all roadway users.

**SECTION 19:** A sign, poster, or other nontransparent material can obstruct a driver’s clear view of the roadway just as a damaged windshield can. Currently, a law enforcement officer must explain why they believe a sign, poster, or other nontransparent material may obstruct a driver’s clear view of the highway or any intersecting highway when they stop a vehicle for a violation of 39-21-39. Damage can also obstruct a driver’s view and should be added to the list of driver obstructions. This proposal only makes it a violation if the damage obstructs the driver’s clear view of the roadway.



**SECTION 20:** A common modification to a motor vehicle is replacing factory tires with larger tires. Replacing factory tires with wider tires can cause sand, mud, rocks, liquids, and other road spray to be thrown into the air by the rotating tire when the tires are wider than the fenders of a vehicle. To prevent damage to other vehicles and remove the danger caused by flying debris, we propose an amendment to require fenders on the vehicle that cover the entire tread width that comes in contact with the road surface. This is currently addressed in the Department of Transportation's Administrative Rules, but is more fitting to be placed within this section of Century Code.

**SECTION 21:** North Dakota law allows snowmobiles to operate within the highway right-of-way if the operation occurs in the bottom of the ditch or along the out-slope. The law further allows snowmobiles to make a direct crossing of a non-interstate, street, or highway. There is no law requiring snowmobiles to have liability insurance if it is being operated legally within the highway right-of-way. The law currently only requires liability insurance for snowmobiles if a person is operating upon any property maintained, leased or owned by the North Dakota Parks and Recreation Department. Snowmobiles are not defined as a motor vehicle in the definitions found in 39-01-01 of the North Dakota Century Code. Since they aren't defined as a motor vehicle, they are not required to have liability insurance under 39-08-20. Troopers do encounter snowmobiles along our roadways and have issued 102 warnings and 3 citations for snowmobile violations that occurred along roadways since 2017. We propose this change in Century Code to require liability insurance for snowmobiles operated on a public highway or right of way.

**SECTION 22:** North Dakota law requires helmets to be worn by individuals under 18, who are operating, riding, or otherwise propelled on an off-highway vehicle. Under the current law, a citation is only issued to the individual under the age of 18 who is not wearing a helmet. We propose wording similar to the motorcycle law which indicates the driver may not operate the vehicle unless all occupants 17 or younger are wearing a helmet. Currently, if an adult is operating the OHV and a passenger under 18 is not wearing a helmet, the citation has to be issued to the passenger regardless of the age of the passenger. The appropriate enforcement action should be taken on the driver, rather than potentially a 10-year-old child who is not wearing their helmet.

Mr. Chairman, this concludes my testimony and I would be happy to answer any questions.