

April 6, 2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2169

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 39-09 of the North Dakota Century Code, relating to temporary alteration of the maximum speed limit; to amend and reenact sections 39-08-01.2 and 39-08-01.4 of the North Dakota Century Code, and section 39-10-21.1 of the North Dakota Century Code, as amended by Senate Bill No. 2189, as approved by the sixty-eighth legislative assembly, relating to the special punishment for causing injury or death while operating a vehicle while under the influence of alcohol or any other drugs or substances, driving while under the influence of alcohol or any other drugs or substances while being accompanied by a minor, and entering a closed road; to provide for a legislative management study; to provide for a legislative management report; and to provide a penalty.

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

**SECTION 1. AMENDMENT.** Section 39-08-01.2 of the North Dakota Century Code is amended and reenacted as follows:

**39-08-01.2. Special punishment for causing injury or death while operating a vehicle while under the influence of alcohol or any other drugs or substances.**

1. An individual is guilty of criminal vehicular homicide if the individual commits an offense under section 39-08-01 or equivalent ordinance and as a result the individual causes a death of another individual to occur, including the death of an unborn child, unless the individual who causes the death of the unborn child is the mother. A violation of this subsection is a class A felony. If an individual commits a violation under this subsection, the court shall impose at least three years' imprisonment. If the individual violates this section after having been previously convicted of a violation of section 39-08-01 or 39-08-03, or equivalent ordinance, the court shall impose at least ten years' imprisonment. An individual may not be prosecuted and found guilty of this and an offense under chapter 12.1-16 if the conduct arises out of the same incident.
2. An individual is guilty of criminal vehicular injury if the individual violates section 39-08-01 or equivalent ordinance and as a result that individual causes substantial bodily or serious bodily injury to another individual. Violation of this subsection is a class C felony. If an individual violates this subsection, the court shall impose at least one year's imprisonment. If the individual violates this section after having been previously convicted of a violation of section 39-08-01 or 39-08-03 or equivalent ordinance, the court shall impose at least two years' imprisonment.
3. The sentence under this section may not be suspended unless the court finds that manifest injustice would result from the imposition of the sentence. Before a sentence under this section applies, a defendant must be notified of the minimum mandatory sentence. The elements of an

offense under this section are the elements of an offense for a violation of section 39-08-01 and the additional elements that create an offense in each subsection of this section. Whether an individual caused death or substantial or serious bodily injury must be determined in accordance with section 12.1-02-05.

**SECTION 2. AMENDMENT.** Section 39-08-01.4 of the North Dakota Century Code is amended and reenacted as follows:

**39-08-01.4. Driving while under the influence of alcohol or any other drugs or substances while being accompanied by a minor - Penalty.**

1. It is a class A misdemeanor for an individual who is at least twenty-one years of age to violate section 39-08-01 if the violation occurred while a minor was accompanying the individual in a motor vehicle. If an individual has a previous conviction for a violation of section 39-08-01.4, a violation of this section is a class C felony. ~~An individual convicted under this section must be sentenced in accordance with subsection 5 of section 39-08-01.~~
2. The minimum sentence for an individual convicted of violating this section must include:
  - a. For a first offense, a fine of seven hundred fifty dollars, at least two days' imprisonment, an order for a substance abuse evaluation by an appropriate licensed addiction treatment program, at least three hundred sixty days of unsupervised probation, and at least three hundred sixty days' participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
  - b. For a second or subsequent offense within fifteen years, at least one year and one day's imprisonment, a fine of two thousand dollars, an order for a substance abuse evaluation by an appropriate licensed addiction treatment program, at least two years' supervised probation, and at least three hundred sixty days' participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.

**SECTION 3.** A new section to chapter 39-09 of the North Dakota Century Code is created and enacted as follows:

**Temporary alteration of maximum speed limit on state highway due to hazardous road conditions.**

The maximum speed limit as provided under section 39-09-02 may be altered temporarily on all or any part of the state highway system by the director and the superintendent of the highway patrol when jointly determined that road conditions are too hazardous for the posted speed limit. The duration of any maximum speed limit altered under this section may not exceed five days. A maximum speed limit altered under this section is effective when posted on an appropriately fixed or variable sign.

**SECTION 4. AMENDMENT.** Section 39-10-21.1 of the North Dakota Century Code, as amended by Senate Bill No. 2189, as approved by the sixty-eighth legislative assembly, is amended and reenacted as follows:

**39-10-21.1. Closing road because of hazardous road conditions - Road closure notice - Entering closed road prohibited.**

1. The highway patrol or local law enforcement authorities having jurisdiction over a road may close a road temporarily due to hazardous conditions for the protection and safety of the public. If a closing is made, the authority ordering the closing shall make every reasonable attempt to notify the public and, when practical, may post appropriate official traffic-control devices to advise motorists of the closing.
2. If a road closure under subsection 1 has been announced to the public and the road has been closed at the point of entry with an appropriate traffic control device in use at major points of entry, an individual may not drive on the road.
3. If an individual is operating a vehicle on a road before the road has been closed under subsection 1, the individual is allowed to drive to the nearest safe location to leave the closed road to seek shelter.
4. The highway patrol or local law enforcement authorities having jurisdiction over a road may close a road temporarily from use by commercial motor vehicles due to hazardous conditions for the protection and safety of the public.

**SECTION 5. LEGISLATIVE MANAGEMENT STUDY - TRAFFIC FEES.** During the 2023-24 interim, the legislative management shall consider studying the traffic fines imposed by state and local governments and conduct an analysis of the fee structure provided under title 39. The study must include a comprehensive assessment and review of North Dakota's traffic fines, fees, and penalty statutes in comparison to the fines, fees, and penalties of other states. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

**SECTION 6. STUDY OF SEAT BELTS - DEPARTMENT OF TRANSPORTATION - REPORT TO THE LEGISLATIVE MANAGEMENT.** During the 2023-24 interim, the department of transportation shall study seat belt usage in the state. The study must include an evaluation of the effects of seat belt use on driving behavior and traffic fatalities and injuries and a statistical examination of the effects of seat belt usage in various speed zones and while on different highways. The department shall report its findings to the legislative management by June 1, 2024.

**SECTION 7. STUDY ON HIGHWAY SAFETY - DEPARTMENT OF TRANSPORTATION - REPORT TO THE LEGISLATIVE MANAGEMENT.** During the 2023-24 interim, the department of transportation, in consultation with the highway patrol, shall study highway safety. The study must include an assessment of crash data, speed differentials on the interstate, the use of variable speed limits and the ability to close roads to commercial vehicle traffic. The department shall report its findings to the legislative management by June 1, 2024."

Renumber accordingly