

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2169

Page 1, line 3, after "reenact" insert "sections 39-08-01.2 and 39-08-01.4, and"

Page 1, line 3, after "to" insert "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"

Page 1, after line 15, insert:

"SECTION 2. 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 3. 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."

Renumber accordingly

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2169

Introduced by

Senators Rummel, Kessel, Sickler

Representatives Klemin, Lefor, Steiner

1 A BILL for an Act to create and enact a new subsection to section 39-06.1-06 of the North
2 Dakota Century Code, relating to the amount of fees for certain traffic offenses; to amend and
3 reenact sections 39-08-01.2 and 39-08-01.4, and subsection 2 of section 40-05-06 of the North
4 Dakota Century Code, relating to the special punishment for causing injury or death while
5 operating a vehicle while under the influence of alcohol or any other drugs or substances.
6 driving while under the influence of alcohol or any other drugs or substances while being
7 accompanied by a minor, and city fines and penalties; and to provide a penalty.

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

9 **SECTION 1.** A new subsection to section 39-06.1-06 of the North Dakota Century Code is
10 created and enacted as follows:

11 The specified fee is increased by one hundred dollars for any of the listed offenses if a
12 driver has had three previous convictions of any combination of the following offenses
13 within a five-year period:

- 14 a. A violation of section 39-08-03.1, 39-08-23, 39-08-24, or 39-08-25.
15 b. A violation of chapter 39-09.
16 c. A violation of section 39-10-04, 39-10-05, 39-10-08, 39-10-12, 39-10-13,
17 39-10-14, 39-10-15, 39-10-16, 39-10-17, 39-10-18, 39-10-22, 39-10-23,
18 39-10-24, 39-10-26, 39-10-35, 39-10-38, 39-10-44, or 39-10-46.

19 **SECTION 2. AMENDMENT.** Section 39-08-01.2 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **39-08-01.2. Special punishment for causing injury or death while operating a vehicle**
22 **while under the influence of alcohol or any other drugs or substances.**

- 23 1. An individual is guilty of criminal vehicular homicide if the individual commits an
24 offense under section 39-08-01 or equivalent ordinance and as a result the individual

- 1 causes a death of another individual to occur, including the death of an unborn child,
2 unless the individual who causes the death of the unborn child is the mother. A
3 violation of this subsection is a class A felony. If an individual commits a violation
4 under this subsection, the court shall impose at least three years' imprisonment. If the
5 individual violates this section after having been previously convicted of a violation of
6 section 39-08-01 or 39-08-03, or equivalent ordinance, the court shall impose at least
7 ten years' imprisonment. An individual may not be prosecuted and found guilty of this
8 and an offense under chapter 12.1-16 if the conduct arises out of the same incident.
- 9 2. An individual is guilty of criminal vehicular injury if the individual violates section
10 39-08-01 or equivalent ordinance and as a result that individual causes substantial
11 bodily or serious bodily injury to another individual. Violation of this subsection is a
12 class C felony. If an individual violates this subsection, the court shall impose at least
13 one year's imprisonment. If the individual violates this section after having been
14 previously convicted of a violation of section 39-08-01 or 39-08-03 or equivalent
15 ordinance, the court shall impose at least two years' imprisonment.
- 16 3. The sentence under this section may not be suspended unless the court finds that
17 manifest injustice would result from the imposition of the sentence. Before a sentence
18 under this section applies, a defendant must be notified of the minimum mandatory
19 sentence. The elements of an offense under this section are the elements of an
20 offense for a violation of section 39-08-01 and the additional elements that create an
21 offense in each subsection of this section. Whether an individual caused death or
22 substantial or serious bodily injury must be determined in accordance with section
23 12.1-02-05.

24 **SECTION 3. AMENDMENT.** Section 39-08-01.4 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **39-08-01.4. Driving while under the influence of alcohol or any other drugs or**
27 **substances while being accompanied by a minor - Penalty.**

- 28 1. It is a class A misdemeanor for an individual who is at least twenty-one years of age to
29 violate section 39-08-01 if the violation occurred while a minor was accompanying the
30 individual in a motor vehicle. If an individual has a previous conviction for a violation of
31 section 39-08-01.4, a violation of this section is a class C felony. An individual

1 convicted under this section must be sentenced in accordance with subsection 5 of
2 section 39-08-01.

3 2. The minimum sentence for an individual convicted of violating this section must
4 include:

5 a. For a first offense, a fine of seven hundred fifty dollars, at least two days'
6 imprisonment, an order for a substance abuse evaluation by an appropriate
7 licensed addiction treatment program, at least three hundred sixty days of
8 unsupervised probation, and at least three hundred sixty days' participation in the
9 twenty-four seven sobriety program under chapter 54-12 as a mandatory
10 condition of probation.

11 b. For a second or subsequent offense within fifteen years, at least one year and
12 one day's imprisonment, a fine of two thousand dollars, an order for a substance
13 abuse evaluation by an appropriate licensed addiction treatment program, at
14 least two years' supervised probation, and at least three hundred sixty days'
15 participation in the twenty-four seven sobriety program under chapter 54-12 as a
16 mandatory condition of probation.

17 **SECTION 4. AMENDMENT.** Subsection 2 of section 40-05-06 of the North Dakota Century
18 Code is amended and reenacted as follows:

19 2. For every violation of a city ordinance that regulates the operation or equipment of a
20 motor vehicle or which regulates traffic, except those ordinances listed in section
21 39-06.1-05 or the additional increased fee amount assessed under section 1 of this
22 Act, a fee may be established, by ordinance, which may exceed, by up to one hundred
23 percent, the limit, for an equivalent category of violation, set forth in section
24 39-06.1-06.