

**SENATE BILL 2033**  
**43<sup>RD</sup> LEGISLATIVE ASSEMBLY**  
**1973**

## CHAPTER 301

SENATE BILL NO. 2033  
 (Holand, Barth, Nething)  
 (From Legislative Council Study)

## DISPOSITION OF TRAFFIC OFFENSES

AN ACT to provide for alternate methods of disposing of certain traffic offenses; to define moving and nonmoving offenses; to provide for mandatory suspension of motor vehicle operators' licenses when certain numbers of demerits have accumulated on licensees' driving records; to create and enact section 29-27-02.1 of the North Dakota Century Code, relating to disposition of fines and forfeitures; and to amend and reenact subsection 3 of section 29-01-14, sections 29-05-31, 39-05-12, subsections 2 and 9 of section 39-06-03, subsection 1 of section 39-06-17, sections 39-06-31, 39-06-32, 39-07-09, 39-07-11, 39-08-18, 39-09-01, 39-10-31, 39-12-08, 39-12-09, subsection 2 of section 39-16.1-07, subsection 1 of section 39-21-46, sections 39-21-50, 39-24-11, and 40-05-06 of the North Dakota Century Code, relating to restricted licenses and mandatory revocation of licenses, to discretionary authority to suspend licenses, to the form of the uniform traffic summons and complaint, to the powers of halting officers, to the definition of magistrates, to the duties of magistrates, to the penalties to be assessed for certain traffic offenses, and to the maximum penalties for violation of city traffic ordinances.

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

SECTION 1.) As used in this title:

1. "Halting officer" means a law enforcement officer charged with and acting under his authority to halt and, if appropriate, arrest persons suspected or known to be violating statutes or ordinances regulating the operation or equipment of vehicles, or the regulation of traffic.
2. "Licensing authority" means the state agency authorized to issue operators' licenses.
3. "Point" or "points" refers to the number of demerits assigned to particular types of traffic violations, the accumulation of which will, at a stated level,

result in suspension of the offender's operator's license.

4. "Adjudication" and "admission" as used in this Act shall mean an official determination, in the manner provided by law, that a traffic violation has been committed by a named driver.

SECTION 2.) Any person cited for a traffic violation under state law or municipal ordinance, other than an offense listed in section 5 of this Act, shall be deemed to be charged with a non-criminal offense and may appear before the designated official and pay the statutory fee for the violation charged at or prior to the time scheduled for a hearing, or, if he has posted bond in person or by mail, he may forfeit bond by not appearing at the designated time. If the person appears at the time scheduled in the citation, he may make a statement in explanation of his action, and the official may at that time, in his discretion, waive, reduce, or suspend the statutory fee or bond, or both. If the person cited follows the foregoing procedures, he shall be deemed to have admitted the violation and to have waived his right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the official designated in the citation shall be identical to the statutory fee established by section 6 of this Act. Within ten days after forfeiture of bond or payment of the statutory fee, the official having jurisdiction over the violation shall certify to the licensing authority:

1. Admission of the violation;
2. In speeding violations, whether the speed charged was in excess of the lawful speed limit by more than fifteen miles per hour; and
3. Whether the person contributed materially to a traffic accident.

This section shall not be construed as allowing a halting officer to receive the statutory fee or bond, unless he is otherwise authorized by law to do so.

SECTION 3.)

1. If a person cited for a traffic violation, other than an offense listed in section 5 of this Act, does not choose to follow one of the procedures set forth in section 2 of this Act, he may request a hearing on the issue of his commission of the violation charged, such hearing to be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance.
2. At the time of a request for a hearing on the issue of commission of the violation, the person charged shall deposit with the official having jurisdiction the sum

of fifteen dollars as a prepayment of all the costs of the hearing. The requirement of prepayment of costs need not be met if the official determines that the person is unable to make such prepayment without undue hardship. If, upon the hearing, the person charged is found not to have committed the violation, the fifteen-dollar deposit shall be returned. If the person is found to have committed the violation, or fails to appear at the hearing without just cause, the deposit shall be retained and deposited with the treasurer of the county or city, as the case may be. The sum deposited pursuant to this section shall be in addition to any bond given by the person charged, and shall also be in addition to any statutory fee paid by that person upon a finding that he committed the violation.

3. If the official finds that the person had committed the traffic violation, he shall notify the licensing authority of that fact, whether the person was driving more than fifteen miles per hour in excess of the lawful limit if charged with a speeding violation, and whether the person contributed materially to a traffic accident, within ten days of the date of the hearing. The fact that a person has admitted a violation, or has, in any proceeding, been found to have committed a violation, shall not be referred to in any way, nor be admissible as evidence in any court, civil, equity, or criminal, except an action or proceeding involving that person's driving license or privilege.
4.
  - a. If a person is aggrieved by a finding that he committed the violation, he may, without payment of a filing fee, appeal that finding to the district court for trial anew, and the case may be tried to a jury, if requested. If, after trial in the district court, the person is again found to have committed the violation, there shall be no further appeal. An appeal taken under this subsection shall not operate to stay the reporting requirement of subsection 3 of this section, nor to stay appropriate action by the licensing authority upon receipt of that report.
  - b. The district court, upon application by the appellant, may:
    - (1) Order a stay of any action by the licensing authority during pendency of the appeal, but not to exceed a period of one hundred twenty days;
    - (2) Order a stay and that the appellant be issued a temporary restricted driving certificate by the licensing authority to be effective for no more than one

hundred twenty days; or

- (3) Deny the application.

An application for a stay or temporary certificate under this paragraph shall be accompanied by a certified copy of the appellant's driving record, for the furnishing of which the licensing authority may charge a fee of fifty cents. Any order granting a stay or a temporary certificate shall be forwarded forthwith by the clerk of court to the licensing authority, which shall issue a temporary certificate in accordance with the order in the manner provided by law. A court shall not make a determination on an application under this paragraph without notice to the appropriate prosecuting attorney.

- c. If the person charged is found not to have committed the violation by the district court or the jury, the clerk of court shall report that fact to the licensing authority immediately. If an appeal under this subsection is from a violation of a city ordinance, the city attorney for the city wherein the alleged violation occurred shall prosecute the appeal. In all other cases, the appropriate state's attorney shall prosecute the appeal.
5. The state or the city, as the case may be, must prove the commission of a charged violation at the hearing or appeal under this section by a fair preponderance of the evidence. Upon an appeal under subsection 4, the court and parties shall follow, to the extent applicable, the North Dakota rules of civil procedure. If on the appeal from the finding of the official the finding is affirmed, costs may be assessed at the discretion of the trial judge.
6. As used in sections 2, 3, and 4 of this Act, the word "official" means a district judge, a judge of a county court with increased jurisdiction, a county justice, a municipal judge, or, when provided by statute, a person appointed by a district judge to serve as such official for all or a specified part of a judicial district.

SECTION 4.) If a person fails to choose one of the methods of proceeding set forth in sections 2 or 3, he shall be deemed to have admitted to commission of the violation charged, and the official having jurisdiction shall report such fact to the licensing authority within ten days after the date set for the hearing. Failure to appear at the time designated, after signing a promise to appear, without paying the statutory fee or posting and forfeiting bond shall be a misdemeanor.

SECTION 5.) The procedures authorized under sections 2 and 3 of this Act may not be utilized by a person charged with one of the following offenses:

1. Driving while under the influence of a narcotic drug or intoxicating liquor in violation of section 39-08-01, or an equivalent ordinance.
2. Operating while an habitual user of narcotic drugs in violation of section 39-08-01, or an equivalent ordinance.
3. Reckless driving or aggravated reckless driving in violation of section 39-08-03, or an equivalent ordinance.
4. Negligent homicide in violation of section 12-27-35.
5. Manslaughter resulting from the operation of a motor vehicle.
6. Leaving the scene of an accident in violation of sections 39-08-04 or 39-08-05, or equivalent ordinances.
7. Driving while license or driving privilege is suspended or revoked in violation of section 39-06-42, or an equivalent ordinance.
8. Violating subdivisions b or c of subsection 5 of section 39-24-09.

SECTION 6.) The fees required for a noncriminal disposition pursuant to either section 2 or section 3 of this Act shall be as follows:

1. For a nonmoving violation as defined in section 8, a fee in the amount of ten dollars.
2. For a moving violation as defined in section 9, a fee in the amount of twenty dollars.
3. For a violation of section 39-09-02, or an equivalent ordinance, involving a speed of more than fifteen miles per hour in excess of the lawful speed limit, a fee in the amount of forty dollars.
4. For a violation of section 39-09-01, or an ordinance defining careless driving, a fee in the amount of thirty dollars.

SECTION 7.) The licensing authority shall prepare a notification form to be appended to the form of the uniform traffic summons and complaint as provided in section 29-05-31. The

notification form shall contain language, approved by the attorney general, informing persons charged with traffic violations, other than offenses listed in section 5, of the procedures available to them under sections 2 and 3, and such notification shall contain a schedule of points to be charged, including additional points assigned for contributing materially to an accident, against a person's driving record as provided by law.

SECTION 8.) For the purposes of section 6 of this Act, a "nonmoving violation" shall mean:

1. A violation of sections 39-04-11, 39-06-44, 39-06-45, 39-10-47, 39-10-49, 39-10-50, 39-10-51, 39-10-54.1, 39-21-08, 39-21-10, 39-21-11, or 39-21-14, or a violation of any municipal ordinance equivalent to the foregoing sections.
2. A violation, discovered at a time when the vehicle is not actually being operated, of sections 39-21-03, 39-21-05, 39-21-13, 39-21-19, 39-21-32, 39-21-37, 39-21-39, or 39-21-44.2, or a violation of any municipal ordinance equivalent to the foregoing sections.

SECTION 9.) For the purposes of section 6 of this Act, a "moving violation" shall mean a violation of section 39-09-02, or an equivalent ordinance, involving speeds of fifteen miles per hour or less in excess of the lawful speed limit; or a violation of section 39-04-22; subsection 1 of section 39-04-37; sections 39-05-12; 39-06-01; 39-06-14; 39-06-16; 39-08-09; 39-08-18; 39-09-05; 39-09-09; 39-12-04; 39-12-05; 39-12-06; 39-12-09; 39-24-02; or 39-24-09, except subdivisions b and c of subsection 5, or equivalent ordinances; or a violation of the provisions of chapters 39-10 ("general rules of the road") or 39-21 ("equipment of vehicles"), or equivalent ordinances, except those sections within those chapters which are specifically listed in subsection 1 of section 8 of this Act.

SECTION 10.)

1. When a report of a conviction of a traffic offense, or admission or adjudication of a traffic violation is received by the licensing authority, the licensing authority shall proceed to enter the proper number of points on the licensee's driving record. When the driving record shows that the licensee has an accumulated point total of twelve or more points, assigned on the basis of the schedule contained in subsection 3 of this section, the authority shall notify the licensee of its intention to suspend his operator's license, and shall notify him that he may have an administrative hearing. If the licensee makes a written request for a hearing within ten days after mailing of the notice herein provided for, the hearing shall be held in accordance with the applicable provisions of chapter 28-32. For the purposes

of this Act, the licensing authority may also receive and act on reports of traffic offense convictions forwarded by federal, military, and tribal courts in this state.

2. If the licensing authority confirms, after hearing or opportunity for hearing, that the licensee's driving record has an accumulated point total of twelve or more points, the licensing authority shall suspend his operator's license according to the following schedule:

ACCUMULATED POINT TOTAL:    PERIOD OF SUSPENSION:

- |                       |                                   |
|-----------------------|-----------------------------------|
| a. Twelve             | 7 days                            |
| b. Thirteen and above | 7 days for each point over twelve |

Surrender and return of licenses suspended pursuant to this section shall be governed by the provisions of section 39-06-37. If a licensee's accumulated point total is caused to exceed eleven points due to a violation involving the height, width, or weight of a vehicle, the license of that operator shall not be suspended unless the violation shall have contributed to a vehicular accident. The points assigned due to a violation of the type mentioned in the last sentence shall be stricken from the licensee's driving record after three additional months without record of a violation.

3. Points shall be assigned and accumulated on the basis of the following schedule:

a. NONCRIMINAL VIOLATIONS

<u>NONCRIMINAL ADJUDICATION OR ADMISSION OF:</u>	<u>POINTS ASSIGNED:</u>
(1) Overtime and double parking in violation of city ordinances	0 points
(2) Failure to display license plates	1 point
(3) Permitting unauthorized minor to drive	2 points
(4) Permitting unauthorized person to drive	2 points
(5) Unlawful stopping, standing, or parking on open highway in violation of section 39-10-47	2 points



NONCRIMINAL ADJUDICATION OR ADMISSION OF:	POINTS ASSIGNED:
(6) Unlawful parking in specified prohibited places	1 point
(7) Leaving motor vehicle improperly unattended on an open highway	1 point
(8) Opening or leaving motor vehicle doors open when unsafe to do so	1 point
(9) Knowingly operating without required reflectors or clearance lamps	2 points
(10) Knowingly operating with improperly mounted reflectors or clearance lamps	1 point
(11) Knowingly operating with improper reflectors, clearance lamps, or marker lamps	1 point
(12) Knowingly having improper lighting on a vehicle parked on an open highway at night	2 points
(13) A violation of section 39-09-02, or equivalent ordinance, where the charge is speeding from ten to fifteen miles per hour in excess of the lawful speed limit	3 points
(14) Careless driving in violation of section 39-09-01, or equivalent ordinance	6 points
(15) A violation of section 39-09-02, or equivalent ordinance, where charge is speeding more than fifteen miles per hour above the lawful limit	6 points
(16) Violating or exceeding restrictions contained in a restricted license issued pursuant to section 3 of this Act, or section 39-06-17	12 points

NONCRIMINAL ADJUDICATION  
OR ADMISSION OF:

POINTS ASSIGNED:

- |   |           |
|---|-----------|
| (17) Fleeing in motor vehicle from law enforcement officers in motor vehicle when such action constitutes a specific offense under statute or ordinance | 10 points |
| (18) Racing motor vehicles when such action constitutes a specific offense under statute or ordinance   | 10 points |

b. CRIMINAL VIOLATIONS

CONVICTION OF:

POINTS ASSIGNED:

- |   |           |
|---|-----------|
| (1) Reckless driving, in violation of section 39-08-03, or equivalent ordinance   | 8 points  |
| (2) Aggravated reckless driving, in violation of section 39-08-03, or equivalent ordinance  | 12 points |
| (3) Leaving the scene of an accident involving property damage in violation of section 39-08-05, or equivalent ordinance          | 14 points |
| (4) Leaving the scene of an accident involving personal injury or death in violation of section 39-08-04, or equivalent ordinance | 18 points |
| (5) Driving while under the influence in violation of section 39-08-01, or equivalent ordinance                                   | 15 points |
| (6) Driving while an habitual user of narcotic drugs in violation of section 39-08-01, or equivalent ordinance                    | 15 points |

4. If judicial disposition of a traffic violation includes an order or recommendation of suspension or revocation of an operator's license, such suspension or revocation shall run concurrently with any suspension ordered pursuant to this section.
5. A suspension period shall not be deemed to have commenced until the operator's license suspended is delivered to the licensing authority. Proper deposit in the mails shall be constructive delivery under this subsection.

SECTION 11.) When the licensing authority has suspended a license, pursuant to section 10 of this Act, for a period in excess of seven days, the authority may, for good cause, upon receiving written application from the licensee affected, issue a temporary restricted operator's license valid, after seven days of the suspension period have passed, for the remainder of the suspension period. The restricted license may authorize the use of a motor vehicle only during the licensee's normal working hours, or may contain any other restrictions authorized by section 39-06-17. Violation of a restriction imposed according to this section shall be deemed a violation of section 39-06-17.

SECTION 12.) When a licensee completes a period of suspension ordered pursuant to section 10 or as ordered or recommended by a court of competent jurisdiction, the licensing authority shall reduce the point total shown on his driving record to eleven points. Thereafter, suspension shall be ordered when that licensee's point total again reaches twelve or more points.

SECTION 13.)

1. The licensing authority shall reduce the point total shown on any licensee's driving record by one point for each three-month period during which no points are recorded against his driving record for a moving violation or a violation listed in paragraphs 13 through 18 of subdivision a of subsection 3 of section 10 of this Act. The three-month period shall be calculated from the date of entry of the last points against that licensee's driving record.
2. The point total shown on a licensee's driving record shall be reduced by one point when the licensee mails or delivers a certificate to the licensing authority indicating successful completion of each eight hours of instruction in a driver training course approved by the licensing authority. Successful completion of eight or more hours of instruction shall be certified to by the instructor or instructors of the driver training course. The reduction in points authorized by this subsection shall only be from a point total accumulated prior to completion of the

necessary hours of driver training instruction, and shall not exceed eight points during any three-year period commencing on the date of entry of the last points against the person's driving record.

3. The point total shown on a licensee's driving record shall be reduced by seven points for successful completion of an alcoholism or narcotics treatment program approved by the state department of health. No reduction of points shall be made under this subsection, unless the licensee's driving record included, at the time of suspension, points assigned for violation of section 39-08-01, or an equivalent ordinance.

SECTION 14. AMENDMENT.) Subsection 3 of section 29-01-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- \* 3. As limited by law directing the place of exercising their jurisdiction and authority, county justices, municipal judges, and, when authorized by law, the judges of the county courts, including those with increased jurisdiction, each with authority to act as magistrate throughout the county or the city for which he is elected or appointed.

SECTION 15. AMENDMENT.) Section 29-05-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-05-31. UNIFORM TRAFFIC COMPLAINT AND SUMMONS.) There is hereby established a uniform complaint and summons which may be used in cases involving violations of statutes or ordinances relating to the operation or use of motor vehicles. Whenever the complaint and summons established by this section is used, the provisions of section 29-05-04 relating to arrests without warrants shall not apply, and the magistrates or state's attorneys shall not be required to make another complaint of the offense charged in the uniform complaint and summons. The uniform complaint and summons established herein shall be in substantially the following form:

State of North Dakota            )           In \_\_\_\_\_ Court,  
  )ss  
County of \_\_\_\_\_)           Before Hon. \_\_\_\_\_;

The undersigned, being duly sworn, upon his oath deposes and says that, on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

First Name	Middle Name	Last Name	Street	City	State
did unlawfully operate a motor vehicle upon a public highway,					
namely _____, _____ N E S W of					
Location					

\*NOTE: Subsection 3 of section 29-01-14 was also amended by section 1 of Senate Bill No. 2197, chapter 251.

\_\_\_\_\_ and did then and there commit the following

City \_\_\_\_\_

offense: \_\_\_\_\_

MPH in \_\_\_\_\_

MPH Zone \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

All in violation of Sec. \_\_\_\_\_ of the N.D. Century Code  
as amended and against the peace and dignity of the state of N.D.

Officer \_\_\_\_\_ LET A WARRANT ISSUE HEREIN Sworn  
to and subscribed before me this \_\_\_\_\_ day of

\_\_\_\_\_ 19 \_\_\_\_.

\_\_\_\_\_ Judge

\_\_\_\_\_ State's Attorney

DESCRIPTION OF DEFENDANT AND VEHICLE

Mo. \_\_\_\_ Day \_\_\_\_ Yr. \_\_\_\_ Race \_\_\_\_ Sex \_\_\_\_ Wt. \_\_\_\_ Ht. \_\_\_\_

Birth date

Hair \_\_\_\_ Dr. Lic: State \_\_\_\_ No. \_\_\_\_ Motor Vehicle:

PSC

Make \_\_\_\_ Reg. No. \_\_\_\_ State \_\_\_\_ Year \_\_\_\_ ICC No. \_\_\_\_

CLAIMED CONDITIONS OF THE VIOLATION

SLIPPERY SURFACE -

\_\_\_\_\_ Rain \_\_\_\_\_ Snow \_\_\_\_\_ Ice

DARKNESS -

\_\_\_\_\_ Night \_\_\_\_\_ Fog \_\_\_\_\_ Snow

OTHER TRAFFIC PRESENT -

\_\_\_\_\_ Cross \_\_\_\_\_ Oncoming \_\_\_\_\_ Pedestrian

\_\_\_\_\_ Same direction

IN ACCIDENT -

Ped.  Vehicle  Intersection  
 Right angle  Head on  Rear end  
 Ran off road  Other

Area:  School  Rural  Business  
 Industrial  Residential

Highway:  2 Lane  4 Lane  4 Lane Divided  
 Type  Gravel  Dirt

OFFENSE CONTRIBUTED MATERIALLY TO ACCIDENT -

Yes  No

THE STATE OF NORTH DAKOTA TO THE ABOVE-NAMED DEFENDANT

You are hereby summoned to appear at the time and place designated below to answer to the charge above indicated to be made against you \_\_\_\_\_

Appearance

Before: Municipal Judge - County Justice - County Ct. A.M.

\_\_\_\_\_ P.M.  
 Location Month Day Year Time

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

PROMISE TO APPEAR Officer \_\_\_\_\_

I hereby consent and promise to appear at the time and place specified in the above summons, the receipt of a copy of which is hereby acknowledged, and I expressly waive earlier hearing.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Defendant \_\_\_\_\_

SECTION 16.) Section 29-27-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

29-27-02.1. DISPOSITION OF STATUTORY FEES, FINES, FORFEITURES, PECUNIARY PENALTIES, AND BOND FORFEITURES.) All statutory fees, fines, forfeitures, and pecuniary penalties prescribed for a violation of state laws, when collected, shall be paid into the treasury of the proper county to be added to the state school fund. When any bail bond or other property or money deposited as bail is forfeited to the state, the proceeds collected therefrom shall be paid over to the treasurer of the county whose officers originally instituted the action and credited to the general fund of the county. In the event that the attorney general of the state of North Dakota originally instituted the action, the bail bond, money, or other property forfeited shall be paid over to the proper state official and credited to the state school fund.

SECTION 17. AMENDMENT.) Section 39-05-12 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* 39-05-12. REGISTRATION CARD TO BE CARRIED IN OR ON VEHICLE - INSPECTION OF CARD - PENALTY.) The registration card issued for a vehicle shall be carried in the driver's compartment of the vehicle or, in the case of a house trailer or mobile home or a trailer or semitrailer, regardless of when such vehicle was acquired, inside or on such vehicle, at all times while the vehicle is being operated upon a highway in this state. Such card shall be subject to inspection by any peace officer or highway patrolman. Any person violating any of the provisions of this section shall be assessed a fee of twenty dollars, provided that a person cited for violation of this section shall not be found to have committed a violation if he shall, within forty-eight hours after being cited, produce and display to a peace officer or highway patrolman, or to the hearing official before whom the person was to appear, a registration card valid at the time the person was cited. A peace officer or highway patrolman receiving evidence of the existence of a valid registration card as herein provided shall notify the hearing official of the appropriate jurisdiction of that fact.

SECTION 18. AMENDMENT.) Subsections 2 and 9 of section 39-06-03 of the 1971 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. To any person whose license has been suspended in this state or in any other state during such suspension, except as provided in section 3 or section 11 of this Act, nor to any person whose license has been revoked, except as provided in sections 39-06-35 and 39-06-36;
9. To any person who has been convicted four times of a misdemeanor on the highways, roads, or streets involving the movements of a vehicle within the preceding two-year period. No conviction for speeding shall be considered when the offense was less than ten miles per hour over the limit.

\*NOTE: Section 39-05-12 was repealed by section 2 of Senate Bill No. 2128, chapter 295.

SECTION 19. AMENDMENT.) Subsection 1 of section 39-06-17 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The commissioner, upon issuing an operator's license or a temporary restricted operator's license pursuant to section 11 of this Act, shall have authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the commissioner may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

SECTION 20. AMENDMENT.) Section 39-06-31 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-31. MANDATORY REVOCATION OF LICENSES.) The commissioner shall revoke forthwith the license of any operator upon receiving a record of such operator's conviction of any of the following offenses:

1. Manslaughter or negligent homicide resulting from operation of a motor vehicle;
2. Any felony in the commission of which a motor vehicle is used; or
3. The making of a false affidavit or statement under oath to the commissioner under this chapter or under any other law relating to the ownership or operation of motor vehicles.

SECTION 21. AMENDMENT.) Section 39-06-32 of the 1971 Supplement to the North Dakota Century is hereby amended and reenacted to read as follows:

39-06-32. AUTHORITY TO SUSPEND LICENSES.) The commissioner may suspend the license of an operator, after hearing, upon proof by a fair preponderance of the evidence, that the licensee:

1. Has committed an offense for which mandatory revocation of license is required upon conviction;
2. Is incompetent to drive a motor vehicle;
3. Has permitted an unlawful or fraudulent use of his license; or
4. Has committed an offense in another state which if committed in this state would be grounds for revocation.



SECTION 22. AMENDMENT.) Section 39-07-09 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-09. OFFENSES UNDER WHICH PERSON HALTED MAY NOT BE ENTITLED TO RELEASE UPON PROMISE TO APPEAR.) The provisions of section 39-07-07 shall not apply to a person if:

1. The halting officer shall have good reason to believe such person guilty of any felony or when such person is halted and charged with any of the offenses listed in section 5 of this Act, except reckless driving; or
2. The halting officer, acting within his discretion, deems it inadvisable to release such person upon his promise to appear when halted and charged with either of the following offenses:
  - a. Reckless driving; or
  - b. Driving in excess of speed limitations established by the state or by local authorities in their respective jurisdictions.

The halting officer forthwith shall take any person not released upon his promise to appear before the nearest or most accessible magistrate.

SECTION 23. AMENDMENT.) Section 39-07-11 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-11. MAGISTRATES TO KEEP RECORD OF CONVICTIONS OF TRAFFIC VIOLATIONS - RECORDS OF CONVICTION TO BE FORWARDED TO LICENSING AUTHORITY.) Every magistrate in this state, as defined in section 29-01-14, shall keep a full record of every case brought before him in which a person is charged with a violation of section 12-27-35 or of any provision of chapters 39-05 through 39-13, and chapters 39-21 and 39-24, or with a violation of a municipal ordinance which is equivalent to any of the provisions of the foregoing statutes. Within ten days after a determination, in any manner provided by law, that a person charged has committed one of the foregoing offenses or violations, the magistrate shall forward a certification of that fact to the licensing authority.

SECTION 24. AMENDMENT.) Section 39-08-18 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-18. OPEN BOTTLE LAW - PENALTY.) No person shall drink or consume alcoholic beverages, as defined in the North Dakota Century Code, in or on any motor vehicle when such vehicle is upon a public highway or in an area used principally for public parking. No person shall have in his possession on his person while in or on a private motor vehicle upon a public

highway or in an area used principally for public parking, any bottle or receptacle containing such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. It shall be unlawful for the owner of any private motor vehicle or the driver, if the owner be not then present in or on the motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon the public highway or in an area used principally for public parking any bottle or receptacle containing such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed except when such bottle or receptacle shall be kept in the trunk of the motor vehicle when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment shall be deemed to be within the area occupied by the driver and passengers. Any person violating the provisions of this section shall be assessed a fee of twenty dollars; however, the licensing authority shall not record the violation against the driving record of such person unless he was the driver of the automobile at the time that the violation occurred.

SECTION 25. AMENDMENT.) Section 39-09-01 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-09-01. CARE REQUIRED IN OPERATING VEHICLE.) Any person driving a vehicle upon a highway shall drive the same in a careful and prudent manner, having due regard to the traffic, surface, and width of the highway and other conditions then existing, and shall give such warnings as are reasonably necessary for safe operation under the circumstances. No person shall drive any vehicle upon a highway in a manner to endanger the life, limb, or property of any person. Any person who shall drive a vehicle upon a highway without heed to the requirements or restrictions of this section shall have committed careless driving, and shall be assessed a fee of thirty dollars.

SECTION 26. AMENDMENT.) Section 39-10-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-31. PROTECTION OF BLIND OR INCAPACITATED PEDESTRIANS.) No person on any public street or highway, unless such person is totally or partially blind, or is otherwise incapacitated, shall carry in a raised or extended position, any cane or walking stick which is white in color, or white tipped with red.

Whenever any pedestrian is crossing or attempting to cross a public street or highway, guided by a guide dog, or carrying in a raised or extended position a cane or walking stick which is white in color, or white tipped with red, the driver of every vehicle approaching the intersection, or other place where such pedestrian is attempting to cross, shall bring his vehicle to a full stop before arriving at such intersection or place of crossing, and before proceeding shall take such precautions as may be

necessary to avoid injuring such pedestrian.

Nothing contained in this chapter shall be construed to deprive any totally or partially blind or otherwise incapacitated person, not carrying such a cane or walking stick, or not being guided by a dog, of any of the rights or privileges conferred by law upon pedestrians, nor shall the failure of such totally or partially blind or otherwise incapacitated person to carry a cane or walking stick, or to be guided by a guide dog upon the streets, highways, or sidewalks of this state, be held to constitute or be evidence of contributory negligence.

Any person violating any of the provisions of this section shall be assessed a fee of twenty dollars.

SECTION 27. AMENDMENT.) Section 39-12-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-12-08. PENALTY FOR VIOLATION OF CHAPTER.) Any person violating any of the provisions of sections 39-12-04, 39-12-05, 39-12-06, or 39-12-09 shall be assessed a fee of twenty dollars. Any person violating any other provision of this chapter, for which a specific penalty is not provided, shall be assessed a fee of ten dollars.

SECTION 28. AMENDMENT.) Section 39-12-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-12-09. UNLAWFUL TO VIOLATE PROVISIONS GOVERNING SIZE, WEIGHT, OR CONSTRUCTION OF VEHICLES - SIZE AND WEIGHT SPECIFIED IN THIS CHAPTER LAWFUL THROUGH STATE - PENALTY.) It shall be unlawful for any person to drive or move, or for the owner to cause or knowingly to permit to be driven or moved, on any highway, any vehicle or vehicles of a size or weight exceeding the limitations stated in this chapter, or any vehicle or vehicles which are not constructed as required in this chapter nor according to the rules and regulations of the registrar adopted pursuant to the provisions of this chapter. The maximum size and weight of vehicles specified in this chapter shall be lawful throughout this state, except as they may be limited by virtue of specifications made pursuant to the other provisions of this chapter. Any person who violates any of the provisions of this section shall be assessed a fee of twenty dollars.

SECTION 29. AMENDMENT.) Subsection 2 of section 39-16.1-07 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If a person by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for: any offense requiring the revocation of license, driving while under the influence in violation of section 39-08-01 or equivalent

ordinance, or operating a motor vehicle upon the highway while his license or privilege to drive is under suspension, revocation, or cancellation, such license or driving privilege shall remain suspended, revoked, or canceled and shall not at any time thereafter be renewed, nor shall any license be thereafter issued or returned to such person, unless and until he shall give and thereafter maintain proof of financial responsibility.

SECTION 30. AMENDMENT.) Subsection 1 of section 39-21-46 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-46. SCOPE AND EFFECT OF REGULATIONS - PENALTY.)

1. It is unlawful for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which he knows to be in such unsafe condition as to endanger any person, or which he knows does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter, or which he knows is equipped in any manner in violation of this chapter, or for any person to do any act forbidden or fail to perform any act required under this chapter. Any person who violates any of the provisions of sections 39-21-08, 39-21-09, 39-21-10, or 39-21-14 shall be assessed a fee of ten dollars. Any person who, in violation of the provisions of this chapter, drives, or any owner who causes or knowingly permits to be driven upon a highway, any vehicle or combination of vehicles which he knows is unsafe or improperly equipped shall be assessed a fee of twenty dollars.

SECTION 31. AMENDMENT.) Section 39-21-50 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-50. SLOW-MOVING VEHICLES REQUIRED TO DISPLAY IDENTIFICATION EMBLEM - PENALTY.) All implements of husbandry, as defined in section 39-01-01, and machinery, including all road construction machinery, which is designed for operation at a speed of twenty-five miles an hour or less, shall display a triangular slow-moving vehicle emblem whenever it is traveling along the roadway on any county, state, federal highway, or city street in the state of North Dakota. Such emblem shall be mounted so as to be visible from a distance of not less than five hundred feet to the rear. The highway commissioner shall adopt standards and specifications for the design and position of mounting the slow-moving vehicle emblem. The standards and specifications for slow-moving vehicle emblems referred to in this section shall correlate with and, so far

as possible, conform with those approved by the American society of agricultural engineers. No vehicle, other than those specified in this section, shall display a slow-moving vehicle emblem, and its use on any type of stationary object is prohibited. Any person who fails or refuses to comply with the provisions of this section shall be assessed a fee of twenty dollars for each offense.

SECTION 32. AMENDMENT.) Section 39-24-11 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-24-11. PENALTIES.) Any person who shall violate subdivision b or subdivision c of subsection 5 of section 39-24-09 shall be guilty of a misdemeanor and be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment. Any person who violates any other provision of section 39-24-09 shall be assessed a fee of twenty dollars. Any person who violates any other provision of this chapter for which a specific penalty is not provided shall be assessed a fee of ten dollars.

SECTION 33. AMENDMENT.) Section 40-05-06 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-05-06. CITY FINES AND PENALTIES LIMITED.)

1. Except as provided for in subsection 2, the fine or penalty for the violation of any ordinance, resolution, or regulation of a city shall not exceed five hundred dollars, and the imprisonment shall not exceed thirty days for one offense.
2. For every violation of a city ordinance regulating the operation or equipment of motor vehicles or regulating traffic, except those ordinances listed in section 5 of this Act, a fee may be established, by ordinance, which shall not exceed the limits, for equivalent categories of violations, set forth in section 6 of this Act.

Approved March 27, 1973