

Sixty-ninth
Legislative Assembly
of North Dakota

**FIRST ENGROSSMENT
with House Amendments**

ENGROSSED SENATE BILL NO. 2243

Introduced by

Senators Clemens, Conley

Representatives Koppelman, Marschall, VanWinkle

1 A BILL for an Act to amend and reenact section 39-06.1-06, subsections 1 and 3 of section
2 39-06.1-10, and sections 40-05-06, and 40-11-12 of the North Dakota Century Code, relating to
3 the amount of statutory fees, entries against a driving record, points assigned to driving records,
4 limitations on city fines and penalties, and commitment of a guilty person for nonpayment of
5 fines or costs.

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

7 **SECTION 1. AMENDMENT.** Section 39-06.1-06 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **39-06.1-06. Amount of statutory fees.**

10 The fees required for a noncriminal disposition under section 39-06.1-02 or 39-06.1-03 must
11 be as follows:

- 12 1. For a nonmoving violation as defined in section 39-06.1-08, a fee of twenty dollars
13 except for a violation of any traffic parking regulation on any state charitable or penal
14 institution property or on the state capitol grounds, a fee in the amount of five dollars,
15 excluding a violation of subsection 11 of section 39-01-15.
- 16 2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except
17 for:
 - 18 a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, or 39-10-42, a fee of fifty
19 dollars.
 - 20 b. A violation of section 39-10-05 involving failure to yield to a pedestrian or
21 subsection 1 of section 39-10-28, a fee of fifty dollars.
 - 22 c. A violation of section 39-21-41.2, a fee of twenty-five dollars.

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- 1 d. A violation of subsection 1 of section 39-12-02, section 39-08-23, or section
2 39-08-25, a fee of one hundred dollars.
- 3 e. A violation of subdivision d of subsection 1 of section 39-12-04, a fee of one
4 hundred dollars.
- 5 f. A violation of subsection 6 of section 39-04-37, a fee of one hundred dollars.
- 6 g. A violation of subsection 2 of section 39-10-21.1, a fee of two hundred fifty
7 dollars.
- 8 h. A violation of section 39-10-59, a fee of five hundred dollars.
- 9 i. A violation of section 39-09-01, a fee of thirty dollars.
- 10 j. A violation of section 39-09-01.1, a fee of thirty dollars.
- 11 k. A violation of section 39-10-46 or 39-10-46.1, a fee of one hundred dollars.
- 12 l. A violation of subsection 1 of section 39-08-20, one hundred fifty dollars for a first
13 violation and three hundred dollars for a second or subsequent violation in three
14 years.
- 15 m. A violation of section 39-10-24 or 39-10-44, a fee of forty dollars.
- 16 n. A violation of section 39-10-50.1, a fee of fifty dollars.
- 17 o. A violation of section 39-19-03, a fee of fifty dollars.
- 18 3. For a violation of section 39-21-44 or a rule adopted under that section, a fee of two
19 hundred fifty dollars.
- 20 4. ~~Except as provided in subsections 5 and 7, for a violation of section 39-09-02, or an~~
21 ~~equivalent ordinance, a fee established as follows:~~
- | Miles per hour over | Fee |
|---------------------|--|
| lawful speed limit | |
| 1-5 | \$ 5 |
| 6-10 | \$ 5 plus \$1/each mph over 5 mph over limit |
| 11-15 | \$ 10 plus \$1/each mph over 10 mph over limit |
| 16-20 | \$ 15 plus \$2/each mph over 15 mph over limit |
| 21-25 | \$ 25 plus \$3/each mph over 20 mph over limit |
| 26-35 | \$ 40 plus \$3/each mph over 25 mph over limit |
| 36-45 | \$ 70 plus \$3/each mph over 35 mph over limit |
| 46+ | \$100 plus \$5/each mph over 45 mph over limit |

1 5. On a highway on which the speed limit is a speed higher than fifty-five miles-
2 ~~[88.51 kilometers]~~ of sixty-five miles [104.61 kilometers] an hour or lower, for a violation
3 of section 39-09-02, or an equivalent ordinance, a fee established as follows:

4 Miles per hour over	
5 lawful speed limit	Fee
6 1 - 10	\$2/each mph over limit
7 11 +	\$20 plus \$5/each mph over 10 mph over limit

8 ~~6.5.~~ For a violation of section 39-06.2-10.9 or subsection 3 of section 39-21-46, a fee
9 established as follows:

- 10 a. Driving more than eleven hours since the last ten hours off duty, driving after
11 fourteen hours on duty since the last ten hours off duty, driving after sixty hours
12 on duty in seven days or seventy hours in eight days, no record of duty status or
13 log book in possession, failing to retain previous seven-day record of duty status
14 or log book, or operating a vehicle with four to six out-of-service defects, one
15 hundred dollars;
- 16 b. False record of duty status or log book or operating a vehicle with seven to nine
17 out-of-service defects, two hundred fifty dollars;
- 18 c. Operating a vehicle after driver placed out of service, operating a vehicle with ten
19 or more out-of-service defects, or operating a vehicle that has been placed out of
20 service prior to its repair, five hundred dollars; and
- 21 d. All other violations of motor carrier safety rules adopted under subsection 3 of
22 section 39-21-46, fifty dollars.

23 ~~7.6.~~ On a highway on which the speed limit is posted in excess of sixty-five miles
24 [104.61 kilometers] an hour, for a violation of section 39-09-02, or equivalent
25 ordinance, a fee of five dollars for each mile per hour over the limit.

26 ~~8.7.~~ For a violation of a school zone speed limit under subdivision b of subsection 1 of
27 section 39-09-02, a fee of forty dollars for one through ten miles per hour over the
28 posted speed; and forty dollars, plus one dollar for each additional mile per hour over
29 ten miles per hour over the limit unless a greater fee would be applicable under this
30 section.

1 ~~9-8.~~ For a violation of a highway construction zone speed limit under subsection 2 of
2 section 39-09-02, a fee of eighty dollars for one through ten miles per hour over the
3 posted speed; and eighty dollars plus two dollars for each mile per hour over ten miles
4 per hour over the limit, unless a greater fee would be applicable under this section.
5 The fee in this subsection does not apply to a highway construction zone unless
6 individuals engaged in construction are present at the time and place of the violation
7 and the posted speed limit sign states "Minimum Fee \$80".

8 9. If a violation of subsection 4, 6, 7, or 8 is for exceeding the speed limit by twenty-one
9 miles [33.8 kilometers] per hour or more in a speed zone of less than seventy-five
10 miles [120.7 kilometers] per hour, the specified fee is increased by one hundred
11 dollars. If a violation of subsection 6 is for exceeding the speed limit by sixteen miles
12 [25.75 kilometers] per hour or more in a speed zone of seventy-five miles [120.7
13 kilometers] per hour or greater, the specified fee is increased by one hundred dollars.

14 **SECTION 2. AMENDMENT.** Subsection 1 of section 39-06.1-10 of the North Dakota
15 Century Code is amended and reenacted as follows:

16 1. If a report of a conviction of a traffic offense, or admission or adjudication of a traffic
17 violation is received by the director, the director shall proceed to enter the proper
18 points on the licensee's driving record, unless the points assigned to the violation are
19 two or less. If the points assigned to the violation are two or less, the violation and
20 points may not be entered on the driving record but must be recorded separately, and
21 the separate record is not available to the public. Points from a violation in which the
22 points are two or less are considered a part of the driving record for the sole purpose
23 of point reduction under section 39-06.1-13 and for purposes of license suspension. If
24 the driving record shows that the licensee has accumulated a total of twelve or more
25 points, assigned on the basis of the schedule contained in subsection 3, the director
26 shall notify the licensee of the director's intention to suspend the operator's license
27 under section 39-06-33. For the purposes of this chapter, the director also may receive
28 and act on reports of traffic offense convictions forwarded by federal, military, and
29 tribal courts in this state.

30 **SECTION 3. AMENDMENT.** Subsection 3 of section 39-06.1-10 of the North Dakota
31 Century Code is amended and reenacted as follows:

- 1 3. Points must be assigned and accumulated on the basis of the following schedule:
- 2 a. Noncriminal Violations
- | 3 Noncriminal Adjudication or Admission of: | Points Assigned: |
|---|------------------|
| 4 (1) Overtime and double parking in violation of city | 0 points |
| 5 ordinances | |
| 6 (2) Failure to display license plates | 1 point |
| 7 (3) Permitting unauthorized minor to drive | 2 points |
| 8 (4) Permitting unauthorized person to drive | 2 points |
| 9 (5) Unlawful stopping, standing, or parking on open | 2 points |
| 10 highway in violation of section 39-10-47 | |
| 11 (6) Unlawful parking in prohibited place | 1 point |
| 12 (7) Leaving motor vehicle improperly unattended on | 1 point |
| 13 an open highway | |
| 14 (8) Opening or leaving motor vehicle doors open when | 1 point |
| 15 unsafe to do so | |
| 16 (9) Except as provided in sections 39-21-44 and | 2 points |
| 17 39-21-45.1, knowingly driving with defective, | |
| 18 nonexistent, or unlawful equipment in violation of | |
| 19 section 39-21-46, or equivalent ordinances | |
| 20 (10) Careless driving in violation of section 39-09-01, or | 6 points |
| 21 equivalent ordinance | |
| 22 (11) Violating or exceeding restrictions contained in | 4 points |
| 23 a restricted certificate issued pursuant to section | |
| 24 39-06.1-03 | |
| 25 (12) Racing or drag racing motor vehicles in violation | 10 points |
| 26 of section 39-08-03.1, or equivalent ordinance | |
| 27 (13) Exhibition driving in violation of section 39-08-03.1, or | 3 points |
| 28 equivalent ordinance | |
| 29 (14) Failing to yield right of way in violation of | 2 points |
| 30 section 39-10-20, 39-10-22 through 39-10-26, | |

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- 1 39-10-28, 39-10-33.3, 39-10-44, or 39-10-72, or
2 equivalent ordinances
- 3 (15) Disobeying an official traffic-control device 2 points
4 in violation of section 39-10-04, 39-10-05, or
5 39-10-07, or equivalent ordinances
- 6 (16) Driving on wrong side of road in violation of 2 points
7 section 39-10-08, 39-10-14, or
8 subsection 1, 2, or 3 of section 39-10-16, or
9 equivalent ordinances
- 10 (17) Failing to dim headlights in violation of section 1 point
11 39-21-21, or equivalent ordinance
- 12 (18) Failing to stop at railroad crossing in violation of section 3 points
13 39-10-41 or 39-10-42, or equivalent ordinances
- 14 (19) Knowingly driving with defective brakes in violation of 2 points
15 section 39-21-32 or 39-21-33, or equivalent ordinances
- 16 (20) Disregarding the lawful commands of a police officer in 2 points
17 violation of section 39-10-02, or equivalent ordinance
- 18 (21) Overtaking where prohibited or in an unsafe manner in 2 points
19 violation of section 39-10-11, 39-10-12, 39-10-13, or
20 39-10-15, or equivalent ordinances
- 21 (22) Overtaking and passing a schoolbus in violation of 6 points
22 section 39-10-46, or equivalent ordinance
- 23 (23) Operating a motor vehicle without a license in 4 points
24 violation of section 39-06-01, or equivalent ordinance
- 25 (24) Improperly operating or unlawfully carrying 2 points
26 passengers or packages on a motorcycle in violation
27 of section 39-10.2-02, or equivalent ordinance
- 28 (25) Improperly operating a motorcycle in laned traffic in 2 points
29 violation of section 39-10.2-03, or equivalent ordinance
- 30 (26) Clinging to other vehicles while riding a motorcycle in 4 points
31 violation of section 39-10.2-04, or equivalent ordinance

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1	(27) Carrying a passenger on a motorcycle not equipped	2 points
2	with passenger footrests in violation of section	
3	39-10.2-05, or equivalent ordinance	
4	(28) Operating a motorcycle without protective headgear	2 points
5	in violation of subsection 1 of section 39-10.2-06, or	
6	equivalent ordinance	
7	(29) Failing to use the care required in section 39-09-01.1,	2 points
8	or equivalent ordinance	
9	(30) Except as provided in paragraph 33, operating a motor	
10	vehicle in excess of speed limit in violation of section	
11	39-09-02, or equivalent ordinance	
12	6 - 10 mph over limit	0 points
13	11 - 15 mph over limit	1 point
14	16 - 20 mph over limit	3 points
15	21 - 25 mph over limit	5 points
16	26 - 35 mph over limit	9 points
17	36 - 45 mph over limit	12 points
18	46 + mph over limit	15 points
19	(31) Driving in violation of section 39-08-18	2 points
20	(32) Driving in violation of section 39-08-09	6 points
21	(33)(<u>32</u>) On a highway on which the speed limit is posted in	
22	excess of sixty-five miles [104.61 kilometers] an hour,	
23	operating a motor vehicle in excess of the speed limit	
24	in violation of section 39-09-02, or equivalent ordinance	
25	Miles per hour over lawful speed limit	Points
26	1 - 5	0
27	6 - 10	<u>4</u>
28	11 - 15	3
29	16 - 20	5
30	21 - 25	7
31	26 - 30	10

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1	31 - 35	12
2	36 +	15
3	(34) <u>(33)</u> Failing to have a minor in a child restraint system	1 point
4	or seatbelt in violation of section 39-21-41.2	
5	(35) <u>(34)</u> Failure or refusal to comply with rules of the	0 points
6	superintendent of the highway patrol in violation	
7	of subsection 3 of section 39-21-46	
8	(36) <u>(35)</u> Violation of section 39-21-44 or any rule adopted	2 points
9	under that section	
10	(37) <u>(36)</u> Except as provided in paragraph 39, operating a motor	6 points
11	vehicle without liability insurance, in violation of	
12	section 39-08-20	
13	(38) <u>(37)</u> Except as provided in paragraph 39, operating a motor	12 points
14	vehicle without liability insurance, in violation of	
15	section 39-08-20, if the driving record shows that the	
16	licensee has within the eighteen months preceding the	
17	violation previously violated section 39-08-20	
18	(39) <u>(38)</u> Operating a motor vehicle without liability insurance,	14 points
19	in violation of section 39-08-20, if the violation was	
20	discovered as the result of investigation of an accident	
21	in which the driver is the owner	
22	(40) <u>(39)</u> Driving a modified motor vehicle in violation of section	1 point
23	39-21-45.1, or equivalent ordinance	
24	(41) <u>(40)</u> Driving in violation of the conditions of	2 points
25	an instructional permit-	
26	(43) <u>(41)</u> <u>Failure to maintain control of a motor vehicle while distracted</u>	<u>1 point</u>
27	<u>in violation of section 39-08-25</u>	
28	<u>(42) Following too close in violation of</u>	<u>1 point</u>
29	<u>subsection 1 of section 39-10-18, or</u>	
30	<u>equivalent ordinance which results in an accident involving</u>	
31	<u>another vehicle</u>	

	b. Criminal Violations		Points Assigned:
1			
2	Conviction of:		
3	(1) Reckless driving in violation of section 39-08-03, or		8 points
4	equivalent ordinance		
5	(2) Aggravated reckless driving in violation of section		12 points
6	39-08-03, or equivalent ordinance		
7	(3) Leaving the scene of an accident involving property		14 points
8	damage in violation of section 39-08-05, 39-08-07,		
9	or 39-08-08, or equivalent ordinances		
10	(4) Leaving the scene of an accident involving personal		18 points
11	injury or death in violation of section 39-08-04, or		
12	equivalent ordinance		
13	(5) Violating restrictions in a restricted license issued		3 points
14	under section 39-06-17 and relating to the use of		
15	eyeglasses or contact lenses while driving		
16	(6) Violating any restrictions other than those listed in		4 points
17	paragraph 5, contained in a restricted license issued		
18	under section 39-06-17 or 39-06.1-11		
19	(7) Except as provided in paragraph 9 of subdivision a,		2 points
20	knowingly operating an unsafe vehicle in violation of		
21	section 39-21-46, or equivalent ordinance		
22	(8) Fleeing in a motor vehicle from a peace officer in		24 points
23	violation of section 39-10-71, or equivalent ordinance		
24	(9) Causing an accident with an authorized emergency		2 points
25	vehicle or a vehicle operated by or under the control		
26	of the director used for maintaining the state highway		
27	system in violation of subsection 5 of section 39-10-26,		
28	or equivalent ordinance		

29 **SECTION 4. AMENDMENT.** Section 40-05-06 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **40-05-06. City fines and penalties limited.**

2 1. Except as provided in ~~subsection~~subsection 2 and ~~3~~, the fine or penalty for the
3 violation of any ordinance, resolution, or regulation of a city may not exceed one
4 thousand five hundred dollars, and the imprisonment may not exceed thirty days for
5 one offense.

6 2. ~~For every violation of a city ordinance that regulates the operation or equipment of a~~
7 ~~motor vehicle or which regulates traffic, except those ordinances listed in section~~
8 ~~39-06.1-05, a fee may be established, by ordinance, which may exceed, by up to one~~
9 ~~hundred percent, the limit, for an equivalent category of violation, set forth in section~~
10 ~~39-06.1-06.~~

11 3. For every violation of a city ordinance enforcing the requirements of title 40, Code of
12 Federal Regulations, section 403 relating to publicly owned treatment works, or
13 prohibiting shoplifting, vandalism, criminal mischief, or malicious mischief, the penalty
14 may not exceed a fine of one thousand five hundred dollars, imprisonment for thirty
15 days, or both such fine and imprisonment.

16 4.3. This section does not prohibit the use of the sentencing alternatives, other than a fine
17 or imprisonment, provided by section 12.1-32-02 for the violation of a city ordinance,
18 nor does this section limit the use of deferred or suspended sentences under
19 subsections 3 and 4 of section 12.1-32-02.

20 **SECTION 5. AMENDMENT.** Section 40-11-12 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **40-11-12. Commitment of guilty person for nonpayment of fines or costs.**

23 Any person upon whom any fine or costs, or both, has been imposed for violation of a
24 municipal ordinance may, after hearing, be committed upon order of the court to jail or other
25 place provided by the municipality for the incarceration of offenders until the fine or costs, or
26 both, are fully paid or discharged by labor as provided in section 40-18-12. The court may not
27 commit a person under this section when the sole reason for the person's nonpayment of fines
28 or costs, or both, is the person's indigency. An order of commitment under this section shall not
29 be for a period in excess of thirty days. ~~As used in this section, "fine" does not include a fee~~
30 ~~established pursuant to subsection 2 of section 40-05-06.~~