

**SENATE BILL NO. 2088
with House Amendments**

Fifty-seventh
Legislative Assembly
of North Dakota

SENATE BILL NO. 2088

Introduced by

Transportation Committee

(At the request of the Highway Patrol)

1 A BILL for an Act to create and enact two new subsections to section 39-06.1-06 and a new
2 section to chapter 39-06.2 of the North Dakota Century Code, relating to fees for traffic
3 offenses and medical qualifications; to amend and reenact section 39-06.1-05, subsection 8 of
4 section 39-06.1-06, sections 39-06.1-07, 39-06.1-09, and 39-06.1-10, subdivision g of
5 subsection 2 of section 39-07-09, and subsections 1 and 2 of section 39-21-46 of the North
6 Dakota Century Code, relating to traffic offenses; and to provide penalties.

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

8 **SECTION 1. AMENDMENT.** Section 39-06.1-05 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **39-06.1-05. Offenses excepted.** The procedures authorized under sections
11 39-06.1-02 and 39-06.1-03 may not be utilized by a person charged with one of the following
12 offenses:

- 13 1. Driving or being in actual physical control of a vehicle in violation of section
14 39-08-01, or an equivalent ordinance.
- 15 2. Reckless driving or aggravated reckless driving in violation of section 39-08-03, or
16 an equivalent ordinance.
- 17 3. A violation of chapter 12.1-16 resulting from the operation of a motor vehicle.
- 18 4. Leaving the scene of an accident in violation of section 39-08-04, 39-08-05,
19 39-08-07, or 39-08-08, or equivalent ordinances.
- 20 5. Driving while license or driving privilege is suspended or revoked in violation of
21 section 39-06-42, or an equivalent ordinance.
- 22 6. Violating subdivision b or c of subsection 5 of section 39-24-09.
- 23 7. Operating a modified motor vehicle in violation of section 39-21-45.1.
- 24 8. Driving without liability insurance in violation of section 39-08-20.

- 1 9. ~~Failing to display a placard or flag, in violation of any rule implementing section~~
2 ~~39-21-44, while transporting explosive or hazardous materials.~~
3 ~~40.~~ Operating an unsafe vehicle in violation of subdivision b of subsection 1 of section
4 39-21-46.

5 **SECTION 2. AMENDMENT.** Subsection 8 of section 39-06.1-06 of the 1999
6 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 7 8. On a highway on which the speed limit is a speed higher than fifty-five miles [88.51
8 kilometers] an hour, for a violation of section 39-09-02, or an equivalent ordinance,
9 a fee established as follows:

10 Miles per hour over	
11 lawful speed limit	Fee
12 1 - 5	\$ 10 plus \$1/each mph over limit
13 6 - 10	\$ 15 plus \$2/each mph over 5 mph over limit
14 11 - 15	\$ 25 plus \$3/each mph over 10 mph over limit
15 <u>16 - 20</u>	<u>\$ 40 plus \$3/each mph over 15 mph over limit</u>
16 46 <u>21</u> - 25	\$ 40 <u>60</u> plus \$3/each mph over 15 mph over limit
17 26 - 35	\$ 70 <u>90</u> plus \$3/each mph over 25 mph over limit
18 36 + - <u>45</u>	\$400 <u>120</u> plus \$5/each mph over 35 mph over limit
19 <u>46 +</u>	<u>\$170 plus \$5/each mph over 45 mph over limit</u>

20 **SECTION 3.** A new subsection to section 39-06.1-06 of the 1999 Supplement to the
21 North Dakota Century Code is created and enacted as follows:

22 For a violation of section 39-21-44 or a rule adopted under that section, a fee of
23 two hundred fifty dollars.

24 **SECTION 4.** A new subsection to section 39-06.1-06 of the 1999 Supplement to the
25 North Dakota Century Code is created and enacted as follows:

26 For a violation of subsection 2 of section 39-21-46, a fee established as follows:

- 27 a. Driving more than ten hours since the last eight hours off duty, driving after
28 fifteen hours on duty since the last eight hours off duty, driving after sixty
29 hours on duty in seven days or seventy hours in eight days, no record of duty
30 status or log book in possession, failing to retain previous seven-day record of

- 1 duty status or log book, or operating a vehicle with four to six out-of-service
2 defects, one hundred dollars;
3 b. False record of duty status or log book or operating a vehicle with seven to
4 nine out-of-service defects, two hundred fifty dollars;
5 c. Operating a vehicle after driver placed out of service, operating a vehicle with
6 ten or more out-of-service defects, or operating a vehicle that has been
7 placed out of service prior to its repair, five hundred dollars; and
8 d. All other violations of motor carrier safety rules adopted under subsection 2 of
9 section 39-21-46, fifty dollars.

10 **SECTION 5. AMENDMENT.** Section 39-06.1-07 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **39-06.1-07. Notification to offenders - Duties of licensing authority.** The licensing
13 authority shall prepare notification forms and a temporary operator's permit as provided in
14 section 39-20-03.1 or 39-20-03.2 to be delivered to persons charged along with the uniform
15 traffic summons and complaint as provided in section 29-05-31. The notification forms must
16 contain language, approved by the attorney general, informing persons charged with traffic
17 violations, other than offenses listed in section 39-06.1-05, of the procedures available to them
18 under sections 39-06.1-02 and 39-06.1-03 and informing persons who refuse a chemical test or
19 onsite screening test under chapter 39-20 or who, on taking a chemical test, are found to be in
20 violation of subdivision a of subsection 1 of section 39-08-01, of the procedures available under
21 chapter 39-20. The notification must also contain a schedule of points to be charged against a
22 person's driving record or other operator's license penalties as provided by law and a schedule
23 of statutory fees and bond amounts as determined in accordance with sections 39-06.1-06 and
24 39-06.1-02. A notification form separate from the uniform traffic summons and complaint may
25 be delivered to a person charged with a violation of subsection 2 of section 39-21-46.

26 **SECTION 6. AMENDMENT.** Section 39-06.1-09 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **39-06.1-09. Moving violation defined.** For the purposes of sections 39-06.1-06 and
29 39-06.1-13, a "moving violation" means a violation of section 39-04-22; subsection 1 of section
30 39-04-37; section 39-04-55; 39-06-01; 39-06-14; 39-06-16; 39-09-04.1; 39-09-09; 39-12-04;
31 39-12-05; 39-12-06; 39-12-09; 39-24-02; or 39-24-09, except subdivisions b and c of

1 subsection 5, or equivalent ordinances; or a violation of the provisions of chapter 39-10,
2 39-10.2, or 39-21, or equivalent ordinances, except sections 39-21-44; and 39-21-45.1; and
3 subdivision b of subsection 1 and subsection 2 of section 39-21-46, and those sections within
4 those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

5 **SECTION 7. AMENDMENT.** Section 39-06.1-10 of the 1999 Supplement to the North
6 Dakota Century Code is amended and reenacted as follows:

7 **39-06.1-10. Entries against driving record - Licensing authority duties - Hearings**
8 **- Demerit schedule - Suspension.**

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

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

Accumulated Point Total:	Period of Suspension:
30 a. Twelve	7 days
31 b. Thirteen and above	7 days for each

point over eleven

Surrender and return of licenses suspended pursuant to this section must be governed by the provisions of section 39-06-37.

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

a. Noncriminal Violations

Noncriminal Adjudication

or Admission of:

Points Assigned:

(1) Overtime and double 0 points

parking in violation

of city ordinances

(2) Failure to display 1 point

license plates

(3) Permitting unauthorized 2 points

minor to drive

(4) Permitting unauthorized 2 points

person to drive

(5) Unlawful stopping, 2 points

standing, or parking on

open highway in violation

of section 39-10-47

(6) Unlawful parking in 1 point

prohibited place

(7) Leaving motor vehicle 1 point

improperly unattended on

an open highway

(8) Opening or leaving motor 1 point

vehicle doors open when

unsafe to do so

(9) Except as provided 2 points

in sections 39-21-44

and 39-21-45.1,

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- 1 knowingly driving with
2 defective, nonexistent, or
3 unlawful equipment
4 in violation of subdivision a of
5 subsection 1 of
6 section 39-21-46, or
7 equivalent ordinances
- 8 (10) Careless driving in 6 points
9 violation of section
10 39-09-01, or equivalent
11 ordinance
- 12 (11) Violating or exceeding 4 points
13 restrictions contained in
14 a restricted certificate
15 issued pursuant to section
16 39-06.1-03
- 17 (12) Racing or drag racing 10 points
18 motor vehicles in violation
19 of section 39-08-03.1, or
20 equivalent ordinance
- 21 (13) Exhibition driving in 3 points
22 violation of section
23 39-08-03.1, or equivalent
24 ordinance
- 25 (14) Failing to yield right of 2 points
26 way in violation of
27 section 39-10-20, 39-10-22
28 through 39-10-26, 39-10-28,
29 39-10-33.3, 39-10-44, or
30 39-10-72, or equivalent
31 ordinances

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- | | | | |
|----|------|-----------------------------|----------|
| 1 | (15) | Disobeying an official | 2 points |
| 2 | | traffic-control device | |
| 3 | | in violation of section | |
| 4 | | 39-10-04, 39-10-05, | |
| 5 | | or 39-10-07, or | |
| 6 | | equivalent ordinances | |
| 7 | (16) | Driving on wrong side of | 2 points |
| 8 | | road in violation of | |
| 9 | | section 39-10-08, | |
| 10 | | 39-10-14, or 39-10-16, or | |
| 11 | | equivalent ordinances | |
| 12 | (17) | Failing to dim headlights | 1 point |
| 13 | | in violation of section | |
| 14 | | 39-21-21, or equivalent | |
| 15 | | ordinance | |
| 16 | (18) | Failing to stop at railroad | 3 points |
| 17 | | crossing in violation of | |
| 18 | | section 39-10-41 or | |
| 19 | | 39-10-42, or equivalent | |
| 20 | | ordinances | |
| 21 | (19) | Knowingly driving with | 2 points |
| 22 | | defective brakes in | |
| 23 | | violation of section | |
| 24 | | 39-21-32 or 39-21-33, or | |
| 25 | | equivalent ordinances | |
| 26 | (20) | Disregarding the lawful | 2 points |
| 27 | | commands of a police | |
| 28 | | officer in violation of | |
| 29 | | section 39-10-02, or | |
| 30 | | equivalent ordinance | |
| 31 | (21) | Overtaking where prohibited | 2 points |

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- 1 or in an unsafe manner in
2 violation of section
3 39-10-11, 39-10-12,
4 39-10-13, or 39-10-15, or
5 equivalent ordinances
- 6 (22) Overtaking and passing a 6 points
7 schoolbus in violation of
8 section 39-10-46, or
9 equivalent ordinance
- 10 (23) Operating a motor vehicle 4 points
11 without a license in
12 violation of section
13 39-06-01, or equivalent
14 ordinance
- 15 (24) Improperly operating or 2 points
16 unlawfully carrying
17 passengers or packages on
18 a motorcycle in violation
19 of section 39-10.2-02,
20 or equivalent ordinance
- 21 (25) Improperly operating a 2 points
22 motorcycle in laned traffic
23 in violation of section
24 39-10.2-03, or equivalent
25 ordinance
- 26 (26) Clinging to other vehicles 4 points
27 while riding a motorcycle
28 in violation of section
29 39-10.2-04, or equivalent
30 ordinance
- 31 (27) Carrying a passenger on a 2 points

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1		motorcycle not equipped	
2		with passenger footrests	
3		in violation of section	
4		39-10.2-05, or equivalent	
5		ordinance	
6	(28)	Operating a motorcycle	2 points
7		without protective headgear	
8		in violation of subsection 1	
9		of section 39-10.2-06, or	
10		equivalent ordinance	
11	(29)	Failing to use the care	2 points
12		required in section	
13		39-09-01.1, or equivalent	
14		ordinance	
15	(30)	Except as provided in	
16		paragraphs 31 and 34 of this	
17		subdivision , operating a motor	
18		vehicle in excess of speed limit	
19		in violation of section 39-09-02,	
20		or equivalent ordinance	
21		16 - 20 mph over limit	3 points
22		21 - 25 mph over limit	4 points
23		26 - 35 mph over limit	6 points
24		36 - 45 mph over limit	8 points
25		46 + mph over limit	12 points
26	(31)	Within city limits on a	
27		noncontrolled access highway,	
28		operating a motor vehicle in	
29		excess of the speed limit in	
30		violation of section 39-09-02, or	
31		equivalent ordinance	

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1		6 - 10 mph over limit	1 point
2		11 - 15 mph over limit	2 points
3		16 - 20 mph over limit	3 points
4		21 - 25 mph over limit	4 points
5		26 - 35 mph over limit	6 points
6		36 - 45 mph over limit	8 points
7		46 + mph over limit	12 points
8	(32)	Driving in violation of	2 points
9		section 39-08-18	
10	(33)	Driving in violation of	6 points
11		section 39-08-09	
12	(34)	On a highway on which the	
13		speed limit is a speed higher	
14		than fifty-five miles [88.51	
15		kilometers] an hour, operating a	
16		motor vehicle in excess of the	
17		speed limit in violation of	
18		section 39-09-02, or equivalent	
19		ordinance	
20		Miles per hour over	
21		lawful speed limit	Points
22		6 —10	4
23		11 - 15	<u>4</u> <u>2</u>
24		16 - 25 <u>20</u>	<u>7</u> <u>4</u>
25		<u>21</u> - <u>25</u>	<u>6</u>
26		26 - 35	4 <u>9</u>
27		36 + - <u>45</u>	12
28		<u>46</u> +	<u>15</u>
29	(35)	Failing to have a minor in a child	1 point
30		restraint system or seatbelt in	
31		violation of section 39-21-41.2	

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1	(36)	<u>Failure or refusal to comply</u>	<u>0 points</u>
2		<u>with rules of the superintendent</u>	
3		<u>of the highway patrol in violation</u>	
4		<u>of subsection 2 of section 39-21-46</u>	
5	(37)	<u>Violation of section 39-21-44 or any</u>	<u>2 points</u>
6		<u>rule adopted under that section</u>	
7	b.	Criminal Violations	
8		Conviction of:	Points Assigned:
9	(1)	Reckless driving in	8 points
10		violation of section	
11		39-08-03, or equivalent	
12		ordinance	
13	(2)	Aggravated reckless	12 points
14		driving in violation of	
15		section 39-08-03, or	
16		equivalent ordinance	
17	(3)	Leaving the scene of an	14 points
18		accident involving	
19		property damage in	
20		violation of section	
21		39-08-05, 39-08-07, or	
22		39-08-08, or equivalent	
23		ordinances	
24	(4)	Leaving the scene of an	18 points
25		accident involving personal	
26		injury or death in	
27		violation of section	
28		39-08-04, or equivalent	
29		ordinance	
30	(5)	Violating restrictions in	3 points
31		a restricted license	

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- 1 issued under section
2 39-06-17 and relating
3 to the use of eyeglasses
4 or contact lenses while
5 driving
- 6 (6) Violating any restrictions 4 points
7 other than those listed in
8 paragraph 5, contained in
9 a restricted license issued
10 under section 39-06-17 or
11 39-06.1-11
- 12 (7) Except as provided in 6 points
13 paragraph 9, operating
14 a motor vehicle without
15 liability insurance,
16 in violation of section
17 39-08-20
- 18 (8) Knowingly driving a 2 points
19 modified motor vehicle in
20 violation of section
21 39-21-45.1, or equivalent
22 ordinance
- 23 (9) Operating a motor vehicle 14 points
24 without liability
25 insurance, in violation of
26 section 39-08-20, if the
27 violation was discovered as
28 the result of investigation
29 of an accident in which the
30 driver is the owner
- 31 (10) ~~Knowingly failing to~~ 2 points

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- 1 ~~display a placard or flag,~~
2 ~~in violation of any rule~~
3 ~~implementing section 39-21-44,~~
4 ~~while transporting explosive~~
5 ~~or hazardous materials~~
- 6 (44) Except as provided in 2 points
7 paragraph 9 of subdivision a,
8 knowingly operating an
9 unsafe vehicle in
10 violation of subdivision b of
11 subsection 1 of
12 section 39-21-46, or equivalent
13 ordinance
- 14 (42) (11) Fleeing in a motor 24 points
15 vehicle from a peace
16 officer in violation
17 of section 39-10-71,
18 or equivalent ordinance
- 19 (43) (12) Except as provided in 12 points
20 paragraph 9, operating a
21 motor vehicle without
22 liability insurance, in
23 violation of section 39-08-20,
24 if the driving record shows
25 that the licensee has within
26 the eighteen months preceding
27 the violation previously
28 violated section 39-08-20
- 29 3.1. a. If the director is informed by a court that a person has been convicted of
30 violating section 39-08-01, or equivalent ordinance, the director, subject to the
31 offender's opportunity for hearing under subsection 1, may not restore the

- 1 operator's license to the offender until the offender furnishes to the director
2 the written statement of the counselor or instructor of an appropriate licensed
3 addiction treatment program that the offender does not require either an
4 education or treatment program or that the offender has physically attended
5 the prescribed program and has complied with the attendance rules. The
6 director shall send notice to the offender informing the offender of the
7 provisions of this subsection.
- 8 b. If within the seven years preceding the most recent violation of section
9 39-08-01, or equivalent ordinance, the offender has previously violated
10 section 39-08-01, or equivalent ordinance, at least three times, the director
11 may restore driving privileges to the offender only after that person has
12 completed addiction treatment through an appropriate licensed addiction
13 treatment program and has had no alcohol-related or drug-related offense for
14 two consecutive years after completion of treatment.
- 15 4. If judicial disposition of a traffic violation includes an order or recommendation of
16 suspension or revocation of an operator's license, the suspension or revocation
17 runs concurrently with any suspension ordered under this section. After a
18 conviction of a person for violating section 39-08-01, the director shall, in
19 suspending the person's operator's license, give credit for the time in which license
20 suspension or revocation has been or is being imposed under chapter 39-20 in
21 connection with the same offense.
- 22 5. A suspension must be deemed to have commenced twenty days after the order of
23 suspension is delivered to the licensee at the licensee's address of record in the
24 department. Constructive delivery under this section must be considered as
25 occurring seventy-two hours after proper deposit in the mails.
- 26 6. Points assigned pursuant to this section must be recorded against an operator's
27 driving record regardless of whether the operator has ever had an operator's
28 license issued in this state, and the licensing authority shall maintain records on all
29 violators regardless of whether they are licensed. Upon the assignment of twelve
30 or more points, any unlicensed operator must be deemed to be driving under

- 1 suspension if the operator has never had an operator's license or if the operator
2 has failed to renew the operator's license.
- 3 7. The period of suspension imposed for a violation of section 39-08-01 or equivalent
4 ordinance is:
- 5 a. Ninety-one days if the operator's record shows the person has not violated
6 section 39-08-01 or equivalent ordinance within the five years preceding the
7 last violation.
- 8 b. Three hundred sixty-five days if the operator's record shows the person has
9 once violated section 39-08-01 or equivalent ordinance within the five years
10 preceding the last violation.
- 11 c. Two years if the operator's record shows the person has at least twice
12 violated section 39-08-01 or equivalent ordinance within the five years
13 preceding the last violation.

14 **SECTION 8.** A new section to chapter 39-06.2 of the North Dakota Century Code is
15 created and enacted as follows:

16 **Medical qualifications exemption.** If a motor vehicle operator is operating a
17 commercial motor vehicle and is not required to have a commercial driver's license, the motor
18 vehicle operator is exempt from 49 CFR 391.41.

19 **SECTION 9. AMENDMENT.** Subdivision g of subsection 2 of section 39-07-09 of the
20 North Dakota Century Code is amended and reenacted as follows:

- 21 g. Operating an unsafe vehicle in violation of subdivision b of subsection 1 of
22 section 39-21-46.

23 **SECTION 10. AMENDMENT.** Subsection 1 of section 39-21-46 of the North Dakota
24 Century Code is amended and reenacted as follows:

- 25 1. a. It is unlawful for any person to drive or move, or for the owner to cause or
26 knowingly permit to be driven or moved, on any highway any vehicle or
27 combination of vehicles which the actor knows ~~to be in such unsafe condition~~
28 ~~as to endanger any person, or which the actor knows~~ does not contain those
29 parts or is not at all times equipped with lamps and other equipment in proper
30 condition and adjustment as required in this chapter, or which the actor knows
31 is equipped in any manner in violation of this chapter, or for any person to do

1 any act forbidden or fail to perform any act required under this chapter for
2 which a fee or penalty for its violation is not otherwise provided.
3 **b.** ~~Unless otherwise specifically provided in this chapter or in section 39-06.1-08~~
4 ~~or 39-06.1-09, any~~ A person who, ~~in violation of this chapter,~~ drives or moves,
5 or any owner who causes or knowingly permits to be driven or moved upon a
6 highway, any vehicle or combination of vehicles which that person knows is in
7 such unsafe or improperly equipped condition as to endanger a person is
8 guilty of an infraction.

9 **SECTION 11. AMENDMENT.** Subsection 2 of section 39-21-46 of the North Dakota
10 Century Code is amended and reenacted as follows:

11 2. The superintendent of the state highway patrol shall, under chapter 28-32, adopt
12 necessary rules concerning the safe operation of motor vehicles and when and
13 how motor carrier audits or inspections will be conducted. The rules must
14 duplicate or be consistent with current motor carrier safety regulations of the
15 United States department of transportation. The superintendent of the state
16 highway patrol may adopt the motor carrier safety regulations by reference, and
17 any adoption must be construed to incorporate amendments as may be made from
18 time to time. ~~Any proceeding under this section for issuing or modifying rules and~~
19 ~~determining compliance with rules of the superintendent of the state highway patrol~~
20 ~~must be conducted in accordance with chapter 28-32 and appeals may be taken~~
21 ~~as provided in chapter 28-32.~~ A violation of rules adopted under this subsection is
22 a noncriminal violation. A person who fails or refuses to comply with these rules
23 must be assessed a fee in the amount set forth in section 3 of this Act for each
24 violation.