

Sixty-first  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO.**

Introduced by

Representative Klemin

1 A BILL for an Act to create and enact a three new paragraphs to subdivision a of subsection 3  
2 of section 39-06.1-10 and a new section to chapter 39-08 of the North Dakota Century Code,  
3 relating to the use of a wireless communication device and demerit points; to amend and  
4 reenact subsection 2 of section 38-06.1-06 and section 39-06.1-09, relating to fees for a moving  
5 violation; and to create a penalty.

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

7 **SECTION 1. AMENDMENT.** Section 39-06.1-09 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **39-06.1-09. Moving violation defined.** For the purposes of sections 39-06.1-06 and  
10 39-06.1-13, a "moving violation" means a violation of section 39-04-22, subsection 1 of section  
11 39-04-37, section 39-04-55, 39-06-01, 39-06-14, 39-06-16, 39-09-04.1, 39-09-09, subsection 1  
12 of section 39-12-02, sections 39-12-04, 39-12-05, 39-12-06, 39-12-09, 39-24-02, or 39-24-09,  
13 except subdivisions b and c of subsection 5, or equivalent ordinances; or a violation of the  
14 provisions of chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except subsection 4 of  
15 section 39-10-26, sections 39-21-44 and 39-21-45.1, subsections 2 and 3 of section 39-21-46,  
16 and those sections within those chapters which are specifically listed in subsection 1 of section  
17 39-06.1-08.

18 **SECTION 2.** Three new paragraphs to subdivision a of subsection 3 of section  
19 39-06.1-10 of the North Dakota Century Code are created and enacted as follows:

20 Using a wireless 2 points  
21 communications device  
22 in violation of section 3  
23 of this Act.

1                            Using a wireless                            4 points  
2                            communications device in  
3                            violation of section 3  
4                            of this Act for the second time  
5                            in five years.

6                            Using a wireless                            63 points  
7                            communications device  
8                            in violation of section 3  
9                            of this Act for the third  
10                           or subsequent time in five years.

11                    **SECTION 3.** A new section to chapter 39-08 of the North Dakota Century Code is  
12 created and enacted as follows:

13                    **Use of a wireless communications device prohibited.**

- 14                    1. When a motor vehicle is in motion or part of traffic, an individual may not operate  
15                    the motor vehicle while using a wireless communications device to compose, read,  
16                    or send an electronic message.
- 17                    2. Under this section, "electronic message" means a self-contained piece of digital  
18                    communication that is designed or intended to be transmitted between physical  
19                    devices. The term includes e-mail, a text message, an instant message, a  
20                    command or request to access a world wide web page, or other data that uses a  
21                    commonly recognized electronic communications protocol. The term does not  
22                    include voice or other data transmitted as a result of making a phone call or data  
23                    transmitted automatically by a wireless communications device without direct  
24                    initiation by an individual.
- 25                    3. This section does not apply if a wireless communications device is used solely in a  
26                    voice-activated or other hands-free mode; for making a cellular phone call; for  
27                    obtaining emergency assistance to report a traffic accident, medical emergency, or  
28                    serious traffic hazard or prevent a crime about to be committed; in the reasonable  
29                    belief that an individual's life or safety is immediate danger; or in an authorized  
30                    emergency vehicle while in the performance of official duties.