

Introduced by

Representatives Griffin, Dahl

1 A BILL for an Act to amend and reenact subsection 2 of section 39-08-01 and section
2 39-08-01.2 of the North Dakota Century Code, relating to special punishment for causing injury
3 or death while under the influence of alcohol.

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

5 **SECTION 1. AMENDMENT.** Subsection 2 of section 39-08-01 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 2. ~~A person~~ Unless as otherwise provided in section 39-08-01.2, an individual
8 violating this section or equivalent ordinance is guilty of a class B misdemeanor for
9 the first or second offense in a five-year period, of a class A misdemeanor for a
10 third offense in a five-year period, of a class A misdemeanor for the fourth offense
11 in a seven-year period, and of a class C felony for a fifth or subsequent offense in
12 a seven-year period. The minimum penalty for violating this section is as provided
13 in subsection 4. The court shall take judicial notice of the fact that an offense
14 would be a subsequent offense if indicated by the records of the director or may
15 make a subsequent offense finding based on other evidence.

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

18 **39-08-01.2. Special punishment for causing injury or death while operating a**
19 **vehicle while under the influence of alcohol.**

20 1. ~~The penalty provided in this section applies when:~~
21 a. ~~A person~~ If an individual is convicted of an offense under chapter 12.1-16 and
22 the conviction is based in part on the evidence of the ~~person's~~ individual's
23 operation of a motor vehicle while under the influence of alcohol or drugs;.

1 the sentence imposed must include at least one year's imprisonment if the
2 individual was an adult at the time of the offense.

- 3 ~~b.~~ 2. ~~A person~~ If an individual is convicted of violating section 39-08-01, or section
4 39-08-03 based in part on the evidence of the ~~person's~~ individual's operation of a
5 motor vehicle while under the influence of alcohol or drugs, and the violation
6 caused serious bodily injury, as defined in section 12.1-01-04, to another ~~person~~;
7 or
8 ~~e.~~ ~~A person is convicted of violating section 39-08-01 and the violation caused~~
9 ~~serious bodily injury, as defined in section 12.1-01-04, to another person~~
10 individual, that individual is guilty of a class A misdemeanor and the sentence
11 must include at least ninety days' imprisonment if the individual was an adult
12 at the time of the offense.

- 13 ~~2.~~ 3. ~~If the defendant was at least eighteen years of age at the time of the offense under~~
14 ~~chapter 12.1-16, the sentence under that chapter must be at least one year's~~
15 ~~imprisonment. If the defendant was at least eighteen years of age at the time of~~
16 ~~the violation of section 39-08-01 or 39-08-03, the sentence under either section~~
17 ~~must be at least ninety days' imprisonment. The sentence under chapter 12.1-16~~
18 ~~or section 39-08-01 or 39-08-03 this section~~ may not be suspended unless the
19 court finds that manifest injustice would result from imposition of the sentence.
20 ~~The sentence must be served in its entirety, without benefit of parole or pardon.~~
21 ~~3.~~ ~~If the defendant was less than eighteen years of age at the time of the offense, the~~
22 ~~punishment may be in accordance with subsection 2 or chapter 27-20. Before a~~
23 sentence under this section applies, a defendant must be notified of the minimum
24 mandatory sentence. If the finding of guilt is by jury verdict, the verdict form must
25 indicate that the jury found the elements that create the minimum sentence.