

**FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED SENATE BILL NO. 2166**

Introduced by

Senators Oehlke, Armstrong

1 A BILL for an Act to create and enact paragraph 40 to subdivision a of subsection 3 of section
2 39-06.1-10 of the North Dakota Century Code, relating to entries against driving records; and to
3 amend and reenact sections 39-06.1-05 and 39-06.1-09, subdivision b of subsection 3 of
4 section 39-06.1-10, and sections 39-07-09 and 39-21-45.1 of the North Dakota Century Code,
5 relating to authorized procedures for traffic violations, definitions of moving violations, entries
6 against driving records, discretion for release upon promise to appear, and modified vehicles.

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.**

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

- 13 1. Driving or being in actual physical control of a vehicle in violation of section 39-08-01,
14 or an equivalent ordinance.
- 15 2. Reckless driving or aggravated reckless driving in violation of section 39-08-03, or an
16 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, 39-08-07,
19 or 39-08-08, or equivalent ordinances.
- 20 5. Driving while license or driving privilege is suspended or revoked in violation of section
21 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. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46.

1 ~~9-8.~~ Causing an accident with an authorized emergency vehicle or a vehicle operated by or
2 under the control of the director used for maintaining the state highway system in
3 violation of subsection 5 of section 39-10-26.

4 **SECTION 2. AMENDMENT.** Section 39-06.1-09 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **39-06.1-09. Moving violation defined.**

7 For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a
8 violation of section 39-04-22, subsection 1 of section 39-04-37, section 39-04-55, 39-06-01,
9 39-06-14, 39-06-14.1, 39-06-16, 39-08-20, 39-08-23, 39-08-24, 39-09-01, 39-09-01.1,
10 39-09-04.1, or 39-09-09, subsection 1 of section 39-12-02, section 39-12-04, 39-12-05,
11 39-12-06, 39-12-09, 39-21-45.1, 39-24-02, or 39-24-09, except subdivisions b and c of
12 subsection 5 of section 39-24-09, or equivalent ordinances; or a violation of the provisions of
13 chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except subsection 5 of section
14 39-10-26, ~~sections~~section 39-21-44, and ~~39-21-45.1~~, subsections 2 and 3 of section 39-21-46,
15 and those sections within those chapters which are specifically listed in subsection 1 of section
16 39-06.1-08.

17 **SECTION 3.** Paragraph 40 to subdivision a of subsection 3 of section 39-06.1-10 of the
18 North Dakota Century Code is created and enacted as follows:

19 (40) Driving a modified motor vehicle in violation of section 1 point
20 39-21-45.1, or equivalent ordinance

21 **SECTION 4. AMENDMENT.** Subdivision b of subsection 3 of section 39-06.1-10 of the
22 North Dakota Century Code is amended and reenacted as follows:

23 b. Criminal Violations	
24 Conviction of:	Points Assigned:
25 (1) Reckless driving in violation of section 39-08-03, or	8 points
26 equivalent ordinance	
27 (2) Aggravated reckless driving in violation of section	12 points
28 39-08-03, or equivalent ordinance	
29 (3) Leaving the scene of an accident involving property	14 points
30 damage in violation of section 39-08-05, 39-08-07,	
31 or 39-08-08, or equivalent ordinances	

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|----|----------|--|-----------|
| 1 | (4) | Leaving the scene of an accident involving personal | 18 points |
| 2 | | injury or death in violation of section 39-08-04, or | |
| 3 | | equivalent ordinance | |
| 4 | (5) | Violating restrictions in a restricted license issued | 3 points |
| 5 | | under section 39-06-17 and relating to the use of | |
| 6 | | eyeglasses or contact lenses while driving | |
| 7 | (6) | Violating any restrictions other than those listed in | 4 points |
| 8 | | paragraph 5, contained in a restricted license issued | |
| 9 | | under section 39-06-17 or 39-06.1-11 | |
| 10 | (7) | Knowingly driving a modified motor vehicle in violation | 2 points |
| 11 | | of section 39-21-45.1, or equivalent ordinance | |
| 12 | (8) | Except as provided in paragraph 9 of subdivision a, | 2 points |
| 13 | | knowingly operating an unsafe vehicle in violation of | |
| 14 | | section 39-21-46, or equivalent ordinance | |
| 15 | (9)(8) | Fleeing in a motor vehicle from a peace officer in | 24 points |
| 16 | | violation of section 39-10-71, or equivalent ordinance | |
| 17 | (10)(9) | Causing an accident with an authorized emergency | 2 points |
| 18 | | vehicle or a vehicle operated by or under the control | |
| 19 | | of the director used for maintaining the state highway | |
| 20 | | system in violation of subsection 5 of section 39-10-26, | |
| 21 | | or equivalent ordinance | |
| 22 | (11)(10) | Driving in violation of the conditions of an instruction | 2 points |
| 23 | | permit | |

24 **SECTION 5. AMENDMENT.** Section 39-07-09 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **39-07-09. Offenses under which person halted may not be entitled to release upon**
27 **promise to appear.**

28 Section 39-07-07 does not apply to a person if:

- 29 1. The halting officer has good reason to believe the person guilty of any felony or if the
30 person is halted and charged with an offense listed in section 39-06.1-05 but not listed
31 in subsection 2; or

- 1 2. The halting officer, acting within the officer's discretion, determines that it is
2 inadvisable to release the person upon a promise to appear and if the person has
3 been halted and charged with any of the following offenses:
- 4 a. Reckless driving.
 - 5 b. Driving in excess of speed limitations established by the state or by local
6 authorities in their respective jurisdictions.
 - 7 c. Driving while license or driving privilege is suspended or revoked for violation of
8 section 39-06-42, or an equivalent ordinance.
 - 9 d. ~~Operating a modified vehicle.~~
 - 10 e. Driving without liability insurance in violation of section 39-08-20.
 - 11 f.e. Failing to display a placard or flag, in violation of any rule implementing section
12 39-21-44, while transporting explosive or hazardous materials.
 - 13 g.f. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46.

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

16 **SECTION 6. AMENDMENT.** Section 39-21-45.1 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **39-21-45.1. Modification of motor vehicle.**

19 ~~1. Except as otherwise provided in this section, a person may not operate upon a public~~
20 ~~highway a motor vehicle of a type required to be registered under the laws of this state~~
21 ~~with a weight of seven thousand pounds [3175.14 kilograms] or less with alterations or~~
22 ~~changes from the manufacturer's original design of the suspension, steering, or~~
23 ~~braking system of the motor vehicle. The weight must be computed on the basis of the~~
24 ~~unmodified and unloaded weight of the motor vehicle and without regard to any ballast~~
25 ~~that may be placed in the vehicle.~~

26 ~~As to bumpers, motor vehicle height, and permitted modifications, the following~~
27 ~~requirements also apply:~~

- 28 ~~1. The motor vehicle must be equipped with front and rear bumpers.~~
- 29 ~~2. The maximum body height permitted for the motor vehicle is forty two inches [106.68~~
30 ~~centimeters]. Measurement of body height is made from a level ground surface to the~~
31 ~~floor of the cargo area.~~

- 1 3. ~~The maximum bumper height permitted is twenty-seven inches [68.58 centimeters].-~~
2 ~~Measurement of bumper height is made from a level ground surface to the highest-~~
3 ~~point on the bottom of the bumper.~~
- 4 4. ~~The~~An individual who operates a registered motor vehicle on a highway may not
5 ~~modify that~~ vehicle may be modified in accordance with the following unless the
6 ~~modification meets the following requirements:~~
- 7 a. ~~Any modifying equipment must meet specialty equipment marketing association-~~
8 ~~standards~~any other requirement applicable to a vehicle under chapter 39-21.
- 9 b. ~~If tires placed on a motor vehicle have a diameter greater than that of the tires on~~
10 ~~the motor vehicle as manufactured, those tires must comply~~be branded with
11 ~~department of transportation requirements~~a United States department of
12 ~~transportation tire identification number.~~
- 13 c. ~~The maximum outside diameter permitted for tires is forty-four inches [111.76-~~
14 ~~centimeters].~~The maximum body height permitted for a motor vehicle is forty-two
15 ~~The maximum body height permitted for a motor vehicle is forty-two~~
16 ~~inches [106.68 centimeters].~~ Measurement of body height is made from a level
17 ~~ground surface to the floor of the cargo area.~~
- 17 d. ~~A horizontal drop bumper may be used to comply with the bumper height-~~
18 ~~requirement of subsection 3. The horizontal bumper must:~~
- 19 (1) ~~Be at least three inches [7.62 centimeters] in vertical width;~~
20 (2) ~~Extend the entire horizontal body width; and~~
21 (3) ~~Be horizontal, load bearing, and attached to the vehicle frame to effectively-~~
22 ~~transfer impact when engaged.~~
- 23 e. ~~The maximum lift permitted in the suspension system is four inches [10.16-~~
24 ~~centimeters].~~
- 25 5. ~~A person charged with violating this section has the burden of proceeding to show that-~~
26 ~~the modifications are permitted under this section.~~
- 27 2. An individual may not operate a registered motor vehicle on a highway unless the
28 ~~motor vehicle is equipped with front and rear bumpers. The height of the bumper must~~
29 ~~not exceed twenty-seven inches [68.58 centimeters] and this measurement is made~~
30 ~~from a level ground surface to the highest point on the bottom of the bumper. A~~
31 ~~horizontal drop bumper may be used to comply with this subsection and must be at~~

1 least three inches [7.62 centimeters] in vertical width; extend the entire horizontal body
2 width; and be horizontal, load bearing, and attached to the vehicle frame to effectively
3 transfer impact when engaged.

4 ~~6.3.~~ Vehicles owned by law enforcement agencies, the military, firefighting agencies, and
5 ambulances may be modified without regard to this section.

6 ~~7.4.~~ The director may adopt rules to implement this section.