

**Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015**

SENATE BILL NO. 2166
(Senators Oehlke, Armstrong)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

39-06.1-05. Offenses excepted.

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

1. Driving or being in actual physical control of a vehicle in violation of section 39-08-01, or an equivalent ordinance.
2. Reckless driving or aggravated reckless driving in violation of section 39-08-03, or an equivalent ordinance.
3. A violation of chapter 12.1-16 resulting from the operation of a motor vehicle.
4. Leaving the scene of an accident in violation of section 39-08-04, 39-08-05, 39-08-07, or 39-08-08, or equivalent ordinances.
5. Driving while license or driving privilege is suspended or revoked in violation of section 39-06-42, or an equivalent ordinance.
6. Violating subdivision b or c of subsection 5 of section 39-24-09.
7. ~~Operating a modified motor vehicle in violation of section 39-21-45.1.~~
8. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46.
- 9.8. Causing an accident with an authorized emergency vehicle or a vehicle operated by or under the control of the director used for maintaining the state highway system in violation of subsection 5 of section 39-10-26.

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

39-06.1-09. Moving violation defined.

For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a violation of section 39-04-22, subsection 1 of section 39-04-37, section 39-04-55, 39-06-01, 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, 39-09-04.1, or 39-09-09, subsection 1 of section 39-12-02, section 39-12-04, 39-12-05, 39-12-06, 39-12-09, 39-21-45.1, 39-24-02, or 39-24-09, except subdivisions b and c of subsection 5 of section 39-24-09, or equivalent ordinances; or a violation of the provisions of chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except

subsection 5 of section 39-10-26, ~~sections~~section 39-21-44, and ~~39-21-45.1~~, subsections 2 and 3 of section 39-21-46, and those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

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

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| (40) | <u>Driving a modified motor vehicle in violation of section 39-21-45.1, or equivalent ordinance</u> | <u>1 point</u> |
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SECTION 4. AMENDMENT. Subdivision b of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

b. Criminal Violations Conviction of:	Points Assigned:
(1) Reckless driving in violation of section 39-08-03, or equivalent ordinance	8 points
(2) Aggravated reckless driving in violation of section 39-08-03, or equivalent ordinance	12 points
(3) Leaving the scene of an accident involving property damage in violation of section 39-08-05, 39-08-07, or 39-08-08, or equivalent ordinances	14 points
(4) Leaving the scene of an accident involving personal injury or death in violation of section 39-08-04, or equivalent ordinance	18 points
(5) Violating restrictions in a restricted license issued under section 39-06-17 and relating to the use of eyeglasses or contact lenses while driving	3 points
(6) Violating any restrictions other than those listed in paragraph 5, contained in a restricted license issued under section 39-06-17 or 39-06.1-11	4 points
(7) Knowingly driving a modified motor vehicle in violation of section 39-21-45.1, or equivalent ordinance	2 points
(8) Except as provided in paragraph 9 of subdivision a, knowingly operating an unsafe vehicle in violation of section 39-21-46, or equivalent ordinance	2 points
(9) (8) Fleeing in a motor vehicle from a peace officer in violation of section 39-10-71, or equivalent ordinance	24 points
(10) (9) Causing an accident with an authorized emergency vehicle or a vehicle operated by or under the control of the director used for maintaining the state highway system in violation of subsection 5 of section 39-10-26, or equivalent ordinance	2 points
(11) (10) Driving in violation of the conditions of an instruction permit	2 points

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

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

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

1. The halting officer has good reason to believe the person guilty of any felony or if the person is halted and charged with an offense listed in section 39-06.1-05 but not listed in subsection 2; or
2. The halting officer, acting within the officer's discretion, determines that it is inadvisable to release the person upon a promise to appear and if the person has been halted and charged with any of the following offenses:
 - a. Reckless driving.
 - b. Driving in excess of speed limitations established by the state or by local authorities in their respective jurisdictions.
 - c. Driving while license or driving privilege is suspended or revoked for violation of section 39-06-42, or an equivalent ordinance.
 - d. ~~Operating a modified vehicle.~~
 - e. Driving without liability insurance in violation of section 39-08-20.
 - f.e. Failing to display a placard or flag, in violation of any rule implementing section 39-21-44, while transporting explosive or hazardous materials.
 - g.f. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46.

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

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

39-21-45.1. Modification of motor vehicle.

1. ~~Except as otherwise provided in this section, a person may not operate upon a public highway a motor vehicle of a type required to be registered under the laws of this state with a weight of seven thousand pounds [3175.14 kilograms] or less with alterations or changes from the manufacturer's original design of the suspension, steering, or braking system of the motor vehicle. The weight must be computed on the basis of the unmodified and unloaded weight of the motor vehicle and without regard to any ballast that may be placed in the vehicle.~~
~~As to bumpers, motor vehicle height, and permitted modifications, the following requirements also apply:~~
 1. ~~The motor vehicle must be equipped with front and rear bumpers.~~
 2. ~~The maximum body height permitted for the motor vehicle is forty-two inches [106.68 centimeters]. Measurement of body height is made from a level ground surface to the floor of the cargo area.~~
 3. ~~The maximum bumper height permitted is twenty-seven inches [68.58 centimeters]. Measurement of bumper height is made from a level ground surface to the highest point on the bottom of the bumper.~~

4. ~~The~~An individual who operates a registered motor vehicle on a highway may not modify that vehicle may be modified in accordance with the following unless the modification meets the following requirements:
 - a. ~~Any modifying equipment must meet specialty equipment marketing association standards~~any other requirement applicable to a vehicle under chapter 39-21.
 - b. ~~If tires placed on a motor vehicle have a diameter greater than that of the tires on the motor vehicle as manufactured, those tires must comply~~be branded with department of transportation requirements~~a United States department of transportation tire identification number.~~
 - c. ~~The maximum outside diameter permitted for tires is forty-four inches [111.76 centimeters].~~The maximum body height permitted for a motor vehicle is forty-two inches [106.68 centimeters]. Measurement of body height is made from a level ground surface to the floor of the cargo area.
 - d. ~~A horizontal drop bumper may be used to comply with the bumper height requirement of subsection 3. The horizontal bumper must:~~
 - (1) ~~Be at least three inches [7.62 centimeters] in vertical width;~~
 - (2) ~~Extend the entire horizontal body width; and~~
 - (3) ~~Be horizontal, load bearing, and attached to the vehicle frame to effectively transfer impact when engaged.~~
 - e. ~~The maximum lift permitted in the suspension system is four inches [10.16 centimeters].~~
5. ~~A person charged with violating this section has the burden of proceeding to show that the modifications are permitted under this section.~~
2. An individual may not operate a registered motor vehicle on a highway unless the motor vehicle is equipped with front and rear bumpers. The height of the bumper must not exceed twenty-seven inches [68.58 centimeters] and this measurement is made from a level ground surface to the highest point on the bottom of the bumper. A horizontal drop bumper may be used to comply with this subsection and must be at least three inches [7.62 centimeters] in vertical width; extend the entire horizontal body width; and be horizontal, load bearing, and attached to the vehicle frame to effectively transfer impact when engaged.
- 6.3. Vehicles owned by law enforcement agencies, the military, firefighting agencies, and ambulances may be modified without regard to this section.
- 7.4. The director may adopt rules to implement this section.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2166.

Senate Vote: Yeas 43 Nays 3 Absent 1

House Vote: Yeas 91 Nays 0 Absent 3

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2015.

Approved at _____ M. on _____, 2015.

Governor

Filed in this office this _____ day of _____, 2015,

at _____ o'clock _____ M.

Secretary of State