

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 of the North
2 Dakota Century Code, relating to fees for traffic offenses; to amend and reenact
3 sections 39-06.1-05, 39-06.1-07, 39-06.1-09, and 39-06.1-10, subdivision g of subsection 2 of
4 section 39-07-09, and subsections 1 and 2 of section 39-21-46 of the North Dakota Century
5 Code, relating to traffic offenses; and to provide penalties.

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

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

9 **39-06.1-05. Offenses excepted.** The procedures authorized under sections
10 39-06.1-02 and 39-06.1-03 may not be utilized by a person charged with one of the following
11 offenses:

- 12 1. Driving or being in actual physical control of a vehicle in violation of section
13 39-08-01, or an equivalent ordinance.
- 14 2. Reckless driving or aggravated reckless driving in violation of section 39-08-03, or
15 an equivalent ordinance.
- 16 3. A violation of chapter 12.1-16 resulting from the operation of a motor vehicle.
- 17 4. Leaving the scene of an accident in violation of section 39-08-04, 39-08-05,
18 39-08-07, or 39-08-08, or equivalent ordinances.
- 19 5. Driving while license or driving privilege is suspended or revoked in violation of
20 section 39-06-42, or an equivalent ordinance.
- 21 6. Violating subdivision b or c of subsection 5 of section 39-24-09.
- 22 7. Operating a modified motor vehicle in violation of section 39-21-45.1.
- 23 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.** A new subsection to section 39-06.1-06 of the 1999 Supplement to the
6 North Dakota Century Code is created and enacted as follows:

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

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

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

12 a. Driving more than ten hours since the last eight hours off duty, driving after
13 fifteen hours on duty since the last eight hours off duty, driving after sixty
14 hours on duty in seven days or seventy hours in eight days, no record of duty
15 status or log book in possession, failing to retain previous seven-day record of
16 duty status or log book, or operating a vehicle with four to six out-of-service
17 defects, one hundred dollars;

18 b. False record of duty status or log book or operating a vehicle with seven to
19 nine out-of-service defects, two hundred fifty dollars;

20 c. Operating a vehicle after driver placed out of service, operating a vehicle with
21 ten or more out-of-service defects, or operating a vehicle that has been
22 placed out of service prior to its repair, five hundred dollars; and

23 d. All other violations of motor carrier safety rules adopted under subsection 2 of
24 section 39-21-46, fifty dollars.

25 **SECTION 4. AMENDMENT.** Section 39-06.1-07 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **39-06.1-07. Notification to offenders - Duties of licensing authority.** The licensing
28 authority shall prepare notification forms and a temporary operator's permit as provided in
29 section 39-20-03.1 or 39-20-03.2 to be delivered to persons charged along with the uniform
30 traffic summons and complaint as provided in section 29-05-31. The notification forms must
31 contain language, approved by the attorney general, informing persons charged with traffic

1 violations, other than offenses listed in section 39-06.1-05, of the procedures available to them
2 under sections 39-06.1-02 and 39-06.1-03 and informing persons who refuse a chemical test or
3 onsite screening test under chapter 39-20 or who, on taking a chemical test, are found to be in
4 violation of subdivision a of subsection 1 of section 39-08-01, of the procedures available under
5 chapter 39-20. The notification must also contain a schedule of points to be charged against a
6 person's driving record or other operator's license penalties as provided by law and a schedule
7 of statutory fees and bond amounts as determined in accordance with sections 39-06.1-06 and
8 39-06.1-02. A notification form separate from the uniform traffic summons and complaint may
9 be delivered to a person charged with a violation of subsection 2 of section 39-21-46.

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

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

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

22 **39-06.1-10. Entries against driving record - Licensing authority duties - Hearings -**
23 **Demerit schedule - Suspension.**

24 1. When a report of a conviction of a traffic offense, or admission or adjudication of a
25 traffic violation is received by the licensing authority, the licensing authority shall
26 proceed to enter the proper number of points on the licensee's driving record,
27 unless the number points assigned to the violation are two or less. If the number
28 points assigned to the violation are two or less, the violation and points may not be
29 entered on the driving record but must be recorded separately, and the separate
30 record shall not be available to the public. Points from violations in which the
31 assigned number points are two or less shall be considered a part of the driving

1 record only for purposes of point reduction pursuant to section 39-06.1-13 and for
2 purposes of license suspension. When the driving record shows that the licensee
3 has an accumulated point total of twelve or more points, assigned on the basis of
4 the schedule contained in subsection 3, the authority shall notify the licensee of its
5 intention to suspend the operator's license according to the provisions of section
6 39-06-33. For the purposes of this chapter, the licensing authority may also
7 receive and act on reports of traffic offense convictions forwarded by federal,
8 military, and tribal courts in this state.

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

| 13 | Accumulated Point Total: | Period of Suspension: |
|----|--------------------------|-----------------------|
| 14 | a. Twelve | 7 days |
| 15 | b. Thirteen and above | 7 days for each |
| 16 | | point over eleven |

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

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

| | | |
|----|-----------------------------|------------------|
| 20 | a. Noncriminal Violations | |
| 21 | Noncriminal Adjudication | |
| 22 | or Admission of: | Points Assigned: |
| 23 | (1) Overtime and double | 0 points |
| 24 | parking in violation | |
| 25 | of city ordinances | |
| 26 | (2) Failure to display | 1 point |
| 27 | license plates | |
| 28 | (3) Permitting unauthorized | 2 points |
| 29 | minor to drive | |
| 30 | (4) Permitting unauthorized | 2 points |
| 31 | person to drive | |

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|----|------|---|----------|
| 1 | (5) | Unlawful stopping, | 2 points |
| 2 | | standing, or parking on | |
| 3 | | open highway in violation | |
| 4 | | of section 39-10-47 | |
| 5 | (6) | Unlawful parking in | 1 point |
| 6 | | prohibited place | |
| 7 | (7) | Leaving motor vehicle | 1 point |
| 8 | | improperly unattended on | |
| 9 | | an open highway | |
| 10 | (8) | Opening or leaving motor | 1 point |
| 11 | | vehicle doors open when | |
| 12 | | unsafe to do so | |
| 13 | (9) | Except as provided | 2 points |
| 14 | | in sections 39-21-44 | |
| 15 | | and 39-21-45.1, | |
| 16 | | knowingly driving with | |
| 17 | | defective, nonexistent, or | |
| 18 | | unlawful equipment | |
| 19 | | in violation of <u>subdivision a of</u> | |
| 20 | | subsection 1 of | |
| 21 | | section 39-21-46, or | |
| 22 | | equivalent ordinances | |
| 23 | (10) | Careless driving in | 6 points |
| 24 | | violation of section | |
| 25 | | 39-09-01, or equivalent | |
| 26 | | ordinance | |
| 27 | (11) | Violating or exceeding | 4 points |
| 28 | | restrictions contained in | |
| 29 | | a restricted certificate | |
| 30 | | issued pursuant to section | |
| 31 | | 39-06.1-03 | |

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|----|------|-----------------------------|-----------|
| 1 | (12) | Racing or drag racing | 10 points |
| 2 | | motor vehicles in violation | |
| 3 | | of section 39-08-03.1, or | |
| 4 | | equivalent ordinance | |
| 5 | (13) | Exhibition driving in | 3 points |
| 6 | | violation of section | |
| 7 | | 39-08-03.1, or equivalent | |
| 8 | | ordinance | |
| 9 | (14) | Failing to yield right of | 2 points |
| 10 | | way in violation of | |
| 11 | | section 39-10-20, 39-10-22 | |
| 12 | | through 39-10-26, 39-10-28, | |
| 13 | | 39-10-33.3, 39-10-44, or | |
| 14 | | 39-10-72, or equivalent | |
| 15 | | ordinances | |
| 16 | (15) | Disobeying an official | 2 points |
| 17 | | traffic-control device | |
| 18 | | in violation of section | |
| 19 | | 39-10-04, 39-10-05, | |
| 20 | | or 39-10-07, or | |
| 21 | | equivalent ordinances | |
| 22 | (16) | Driving on wrong side of | 2 points |
| 23 | | road in violation of | |
| 24 | | section 39-10-08, | |
| 25 | | 39-10-14, or 39-10-16, or | |
| 26 | | equivalent ordinances | |
| 27 | (17) | Failing to dim headlights | 1 point |
| 28 | | in violation of section | |
| 29 | | 39-21-21, or equivalent | |
| 30 | | ordinance | |
| 31 | (18) | Failing to stop at railroad | 3 points |

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- 1 crossing in violation of
2 section 39-10-41 or
3 39-10-42, or equivalent
4 ordinances
- 5 (19) Knowingly driving with 2 points
6 defective brakes in
7 violation of section
8 39-21-32 or 39-21-33, or
9 equivalent ordinances
- 10 (20) Disregarding the lawful 2 points
11 commands of a police
12 officer in violation of
13 section 39-10-02, or
14 equivalent ordinance
- 15 (21) Overtaking where prohibited 2 points
16 or in an unsafe manner in
17 violation of section
18 39-10-11, 39-10-12,
19 39-10-13, or 39-10-15, or
20 equivalent ordinances
- 21 (22) Overtaking and passing a 6 points
22 schoolbus in violation of
23 section 39-10-46, or
24 equivalent ordinance
- 25 (23) Operating a motor vehicle 4 points
26 without a license in
27 violation of section
28 39-06-01, or equivalent
29 ordinance
- 30 (24) Improperly operating or 2 points
31 unlawfully carrying

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- 1 passengers or packages on
2 a motorcycle in violation
3 of section 39-10.2-02,
4 or equivalent ordinance
- 5 (25) Improperly operating a 2 points
6 motorcycle in laned traffic
7 in violation of section
8 39-10.2-03, or equivalent
9 ordinance
- 10 (26) Clinging to other vehicles 4 points
11 while riding a motorcycle
12 in violation of section
13 39-10.2-04, or equivalent
14 ordinance
- 15 (27) Carrying a passenger on a 2 points
16 motorcycle not equipped
17 with passenger footrests
18 in violation of section
19 39-10.2-05, or equivalent
20 ordinance
- 21 (28) Operating a motorcycle 2 points
22 without protective headgear
23 in violation of subsection 1
24 of section 39-10.2-06, or
25 equivalent ordinance
- 26 (29) Failing to use the care 2 points
27 required in section
28 39-09-01.1, or equivalent
29 ordinance
- 30 (30) Except as provided in
31 paragraphs 31 and 34 of this

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| 1 | | subdivision , operating a motor | |
| 2 | | vehicle in excess of speed limit | |
| 3 | | in violation of section 39-09-02, | |
| 4 | | or equivalent ordinance | |
| 5 | | 16 - 20 mph over limit | 3 points |
| 6 | | 21 - 25 mph over limit | 4 points |
| 7 | | 26 - 35 mph over limit | 6 points |
| 8 | | 36 - 45 mph over limit | 8 points |
| 9 | | 46 + mph over limit | 12 points |
| 10 | (31) | Within city limits on a | |
| 11 | | noncontrolled access highway, | |
| 12 | | operating a motor vehicle in | |
| 13 | | excess of the speed limit in | |
| 14 | | violation of section 39-09-02, or | |
| 15 | | equivalent ordinance | |
| 16 | | 6 - 10 mph over limit | 1 point |
| 17 | | 11 - 15 mph over limit | 2 points |
| 18 | | 16 - 20 mph over limit | 3 points |
| 19 | | 21 - 25 mph over limit | 4 points |
| 20 | | 26 - 35 mph over limit | 6 points |
| 21 | | 36 - 45 mph over limit | 8 points |
| 22 | | 46 + mph over limit | 12 points |
| 23 | (32) | Driving in violation of | 2 points |
| 24 | | section 39-08-18 | |
| 25 | (33) | Driving in violation of | 6 points |
| 26 | | section 39-08-09 | |
| 27 | (34) | On a highway on which the | |
| 28 | | speed limit is a speed higher | |
| 29 | | than fifty-five miles [88.51 | |
| 30 | | kilometers] an hour, operating a | |
| 31 | | motor vehicle in excess of the | |

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|----|--|------------------|
| 1 | speed limit in violation of | |
| 2 | section 39-09-02, or equivalent | |
| 3 | ordinance | |
| 4 | Miles per hour over | |
| 5 | lawful speed limit | Points |
| 6 | 6 - 10 | 1 |
| 7 | 11 - 15 | 4 |
| 8 | 16 - 25 | 7 |
| 9 | 26 - 35 | 10 |
| 10 | 36 + | 12 |
| 11 | (35) Failing to have a minor in a child | 1 point |
| 12 | restraint system or seatbelt in | |
| 13 | violation of section 39-21-41.2 | |
| 14 | (36) <u>Failure or refusal to comply</u> | <u>0 points</u> |
| 15 | <u>with rules of the superintendent</u> | |
| 16 | <u>of the highway patrol in violation</u> | |
| 17 | <u>of subsection 2 of section 39-21-46</u> | |
| 18 | (37) <u>Violation of section 39-21-44 or any</u> | <u>2 points</u> |
| 19 | <u>rule adopted under that section</u> | |
| 20 | b. Criminal Violations | |
| 21 | Conviction of: | Points Assigned: |
| 22 | (1) Reckless driving in | 8 points |
| 23 | violation of section | |
| 24 | 39-08-03, or equivalent | |
| 25 | ordinance | |
| 26 | (2) Aggravated reckless | 12 points |
| 27 | driving in violation of | |
| 28 | section 39-08-03, or | |
| 29 | equivalent ordinance | |
| 30 | (3) Leaving the scene of an | 14 points |
| 31 | accident involving | |

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- 1 property damage in
2 violation of section
3 39-08-05, 39-08-07, or
4 39-08-08, or equivalent
5 ordinances
- 6 (4) Leaving the scene of an 18 points
7 accident involving personal
8 injury or death in
9 violation of section
10 39-08-04, or equivalent
11 ordinance
- 12 (5) Violating restrictions in 3 points
13 a restricted license
14 issued under section
15 39-06-17 and relating
16 to the use of eyeglasses
17 or contact lenses while
18 driving
- 19 (6) Violating any restrictions 4 points
20 other than those listed in
21 paragraph 5, contained in
22 a restricted license issued
23 under section 39-06-17 or
24 39-06.1-11
- 25 (7) Except as provided in 6 points
26 paragraph 9, operating
27 a motor vehicle without
28 liability insurance,
29 in violation of section
30 39-08-20
- 31 (8) Knowingly driving a 2 points

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- 1 modified motor vehicle in
2 violation of section
3 39-21-45.1, or equivalent
4 ordinance
- 5 (9) Operating a motor vehicle 14 points
6 without liability
7 insurance, in violation of
8 section 39-08-20, if the
9 violation was discovered as
10 the result of investigation
11 of an accident in which the
12 driver is the owner
- 13 (10) ~~Knowingly failing to~~ 2 points
14 ~~display a placard or flag,~~
15 ~~in violation of any rule~~
16 ~~implementing section 39-21-44,~~
17 ~~while transporting explosive~~
18 ~~or hazardous materials~~
- 19 (11) Except as provided in 2 points
20 paragraph 9 of subdivision a,
21 knowingly operating an
22 unsafe vehicle in
23 violation of subdivision b of
24 subsection 1 of
25 section 39-21-46, or equivalent
26 ordinance
- 27 (11) Fleeing in a motor 24 points
28 vehicle from a peace
29 officer in violation
30 of section 39-10-71,
31 or equivalent ordinance

1 suspending the person's operator's license, give credit for the time in which license
2 suspension or revocation has been or is being imposed under chapter 39-20 in
3 connection with the same offense.

4 5. A suspension must be deemed to have commenced twenty days after the order of
5 suspension is delivered to the licensee at the licensee's address of record in the
6 department. Constructive delivery under this section must be considered as
7 occurring seventy-two hours after proper deposit in the mails.

8 6. Points assigned pursuant to this section must be recorded against an operator's
9 driving record regardless of whether the operator has ever had an operator's
10 license issued in this state, and the licensing authority shall maintain records on all
11 violators regardless of whether they are licensed. Upon the assignment of twelve
12 or more points, any unlicensed operator must be deemed to be driving under
13 suspension if the operator has never had an operator's license or if the operator
14 has failed to renew the operator's license.

15 7. The period of suspension imposed for a violation of section 39-08-01 or equivalent
16 ordinance is:

17 a. Ninety-one days if the operator's record shows the person has not violated
18 section 39-08-01 or equivalent ordinance within the five years preceding the
19 last violation.

20 b. Three hundred sixty-five days if the operator's record shows the person has
21 once violated section 39-08-01 or equivalent ordinance within the five years
22 preceding the last violation.

23 c. Two years if the operator's record shows the person has at least twice
24 violated section 39-08-01 or equivalent ordinance within the five years
25 preceding the last violation.

26 **SECTION 7. AMENDMENT.** Subdivision g of subsection 2 of section 39-07-09 of the
27 North Dakota Century Code is amended and reenacted as follows:

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

30 **SECTION 8. AMENDMENT.** Subsection 1 of section 39-21-46 of the North Dakota
31 Century Code is amended and reenacted as follows:

