

Introduced by

Representatives Gruchalla, Dahl, Heilman, Guggisberg

Senators Olafson, Sorvaag

1 A BILL for an Act to amend and reenact section 39-06.1-05, subsections 12 and 13 of section
2 39-06.1-06, section 39-06.1-09, subsection 3 of section 39-06.1-10, and sections 39-09-02 and
3 39-10-21.1 of the North Dakota Century Code, relating to the penalty for driving on a closed
4 road, in a construction zone, and in a school zone; and to provide a penalty.

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

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

8 **39-06.1-05. Offenses excepted.**

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

- 11 1. Driving or being in actual physical control of a vehicle in violation of section 39-08-01,
12 or an equivalent ordinance.
- 13 2. Reckless driving or aggravated reckless driving in violation of section 39-08-03, or an
14 equivalent ordinance.
- 15 3. A violation of chapter 12.1-16 resulting from the operation of a motor vehicle.
- 16 4. Leaving the scene of an accident in violation of section 39-08-04, 39-08-05, 39-08-07,
17 or 39-08-08, or equivalent ordinances.
- 18 5. Driving while license or driving privilege is suspended or revoked in violation of section
19 39-06-42, or an equivalent ordinance.
- 20 6. Violating subdivision b or c of subsection 5 of section 39-24-09.
- 21 7. Operating a modified motor vehicle in violation of section 39-21-45.1.
- 22 8. Driving without liability insurance in violation of section 39-08-20.
- 23 9. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46.

1 10. 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 11. Knowingly entering a closed road under section 39-10-21.1.

5 12. Driving in excess of twenty miles per hour over a speed limit in a school zone or
6 construction zone in violation of subdivision b of subsection 1 or subsection 2 of
7 section 39-09-02.

8 **SECTION 2. AMENDMENT.** Subsections 12 and 13 of section 39-06.1-06 of the North
9 Dakota Century Code are amended and reenacted as follows:

10 12. For a violation of a school zone speed limit under subdivision b of subsection 1 of
11 section 39-09-02, or, notwithstanding subsection 2 of section 40-05-06 or section
12 40-05.1-06, of an ordinance in a city or home rule city for a violation of a speed limit
13 dependent upon being on or near a school, fees for a noncriminal disposition are forty
14 dollars for one through ten miles per hour over the posted speed; and forty dollars,
15 plus one dollar for each additional mile per hour over ten miles per hour over the limit
16 ~~unless a greater fee would be applicable under this section~~ to twenty miles per hour
17 over the limit.

18 13. For a violation of a highway construction zone speed limit under subsection 2 of
19 section 39-09-02, a fee of eighty dollars for one through ten miles per hour over the
20 posted speed; and eighty dollars plus two dollars for each mile per hour over ten miles
21 per hour over the limit, ~~unless a greater fee would be applicable under this section~~ to
22 twenty miles per hour over the limit. The fee in this subsection does not apply to a
23 highway construction zone unless individuals engaged in construction are present at
24 the time and place of the violation and the posted speed limit sign states "Minimum
25 Fee \$80".

26 **SECTION 3. AMENDMENT.** Section 39-06.1-09 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **39-06.1-09. Moving violation defined.**

29 For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a
30 violation of section 39-04-22, subsection 1 of section 39-04-37, section 39-04-55, 39-06-01,
31 39-06-14, 39-06-16, 39-09-04.1, 39-09-09, subsection 1 of section 39-12-02, sections 39-12-04,

1 39-12-05, 39-12-06, 39-12-09, 39-24-02, or 39-24-09, except subdivisions b and c of
2 subsection 5, or equivalent ordinances; or a violation of the provisions of chapter 39-10,
3 39-10.2, or 39-21, or equivalent ordinances, except section 39-10-21.1, subsection 5 of section
4 39-10-26, sections 39-21-44 and 39-21-45.1, subsections 2 and 3 of section 39-21-46, and
5 those sections within those chapters which are specifically listed in subsection 1 of section
6 39-06.1-08.

7 **SECTION 4. AMENDMENT.** Subsection 3 of section 39-06.1-10 of the North Dakota
8 Century Code is amended and reenacted as follows:

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

10 a. Noncriminal Violations

11	Noncriminal Adjudication or Admission of:	Points Assigned:
12	(1) Overtime and double parking in violation of city	0 points
13	ordinances	
14	(2) Failure to display license plates	1 point
15	(3) Permitting unauthorized minor to drive	2 points
16	(4) Permitting unauthorized person to drive	2 points
17	(5) Unlawful stopping, standing, or parking on open	2 points
18	highway in violation of section 39-10-47	
19	(6) Unlawful parking in prohibited place	1 point
20	(7) Leaving motor vehicle improperly unattended on	1 point
21	an open highway	
22	(8) Opening or leaving motor vehicle doors open when	1 point
23	unsafe to do so	
24	(9) Except as provided in sections 39-21-44 and	2 points
25	39-21-45.1, knowingly driving with defective,	
26	nonexistent, or unlawful equipment in violation of	
27	section 39-21-46, or equivalent ordinances	
28	(10) Careless driving in violation of section 39-09-01, or	6 points
29	equivalent ordinance	

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| 1 | (11) Violating or exceeding restrictions contained in | 4 points |
| 2 | a restricted certificate issued pursuant to section | |
| 3 | 39-06.1-03 | |
| 4 | (12) Racing or drag racing motor vehicles in violation | 10 points |
| 5 | of section 39-08-03.1, or equivalent ordinance | |
| 6 | (13) Exhibition driving in violation of section 39-08-03.1, or | 3 points |
| 7 | equivalent ordinance | |
| 8 | (14) Failing to yield right of way in violation of | 2 points |
| 9 | section 39-10-20, 39-10-22 through 39-10-26, | |
| 10 | 39-10-28, 39-10-33.3, 39-10-44, or 39-10-72, or | |
| 11 | equivalent ordinances | |
| 12 | (15) Disobeying an official traffic-control device | 2 points |
| 13 | in violation of section 39-10-04, 39-10-05, or | |
| 14 | 39-10-07, or equivalent ordinances | |
| 15 | (16) Driving on wrong side of | 2 points |
| 16 | road in violation of | |
| 17 | section 39-10-08, | |
| 18 | 39-10-14, or 39-10-16, or | |
| 19 | equivalent ordinances | |
| 20 | (17) Failing to dim headlights in violation of section | 1 point |
| 21 | 39-21-21, or equivalent ordinance | |
| 22 | (18) Failing to stop at railroad crossing in violation of section | 3 points |
| 23 | 39-10-41 or 39-10-42, or equivalent ordinances | |
| 24 | (19) Knowingly driving with defective brakes in violation of | 2 points |
| 25 | section 39-21-32 or 39-21-33, or equivalent ordinances | |
| 26 | (20) Disregarding the lawful commands of a police officer in | 2 points |
| 27 | violation of section 39-10-02, or equivalent ordinance | |
| 28 | (21) Overtaking where prohibited or in an unsafe manner in | 2 points |
| 29 | violation of section 39-10-11, 39-10-12, 39-10-13, or | |
| 30 | 39-10-15, or equivalent ordinances | |

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1	(22) Overtaking and passing a schoolbus in violation of	6 points
2	section 39-10-46, or equivalent ordinance	
3	(23) Operating a motor vehicle without a license in	4 points
4	violation of section 39-06-01, or equivalent ordinance	
5	(24) Improperly operating or unlawfully carrying	2 points
6	passengers or packages on a motorcycle in violation	
7	of section 39-10.2-02, or equivalent ordinance	
8	(25) Improperly operating a motorcycle in laned traffic in	2 points
9	violation of section 39-10.2-03, or equivalent ordinance	
10	(26) Clinging to other vehicles while riding a motorcycle in	4 points
11	violation of section 39-10.2-04, or equivalent ordinance	
12	(27) Carrying a passenger on a motorcycle not equipped	2 points
13	with passenger footrests in violation of section	
14	39-10.2-05, or equivalent ordinance	
15	(28) Operating a motorcycle without protective headgear	2 points
16	in violation of subsection 1 of section 39-10.2-06, or	
17	equivalent ordinance	
18	(29) Failing to use the care required in section 39-09-01.1,	2 points
19	or equivalent ordinance	
20	(30) Except as provided in paragraph 33, operating a motor	
21	vehicle in excess of speed limit in violation of section	
22	39-09-02 <u>except a violation of driving in excess of</u>	
23	<u>twenty miles per hour over a speed limit in a school or</u>	
24	<u>construction zone in violation of subdivision b of</u>	
25	<u>subsection 1 or subsection 2 of section 39-09-02, or</u>	
26	equivalent ordinance	
27	6 - 10 mph over limit	0 points
28	11 - 15 mph over limit	1 point
29	16 - 20 mph over limit	3 points
30	21 - 25 mph over limit	5 points
31	26 - 35 mph over limit	9 points

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1	36 - 45 mph over limit	12 points
2	46 + mph over limit	15 points
3	(31) Driving in violation of section 39-08-18	2 points
4	(32) Driving in violation of section 39-08-09	6 points
5	(33) On a highway on which the speed limit is posted in	
6	excess of sixty-five miles [104.61 kilometers] an hour,	
7	operating a motor vehicle in excess of the speed limit	
8	in violation of section 39-09-02, or equivalent ordinance	
9	Miles per hour over lawful speed limit	Points
10	1 - 5	0
11	6 - 10	1
12	11 - 15	3
13	16 - 20	5
14	21 - 25	7
15	26 - 30	10
16	31 - 35	12
17	36 +	15
18	(34) Failing to have a minor in a child restraint system	1 point
19	or seatbelt in violation of section 39-21-41.2	
20	(35) Failure or refusal to comply with rules of the	0 points
21	superintendent of the highway patrol in violation	
22	of subsection 3 of section 39-21-46	
23	(36) Violation of section 39-21-44 or any rule adopted	2 points
24	under that section	
25	b. Criminal Violations	
26	Conviction of:	Points Assigned:
27	(1) Reckless driving in violation of section 39-08-03, or	8 points
28	equivalent ordinance	
29	(2) Aggravated reckless driving in violation of section	12 points
30	39-08-03, or equivalent ordinance	

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| 1 | (3) Leaving the scene of an accident involving property | 14 points |
| 2 | damage in violation of section 39-08-05, 39-08-07, | |
| 3 | or 39-08-08, or equivalent ordinances | |
| 4 | (4) Leaving the scene of an accident involving personal | 18 points |
| 5 | injury or death in violation of section 39-08-04, or | |
| 6 | equivalent ordinance | |
| 7 | (5) Violating restrictions in a restricted license issued | 3 points |
| 8 | under section 39-06-17 and relating to the use of | |
| 9 | eyeglasses or contact lenses while driving | |
| 10 | (6) Violating any restrictions other than those listed in | 4 points |
| 11 | paragraph 5, contained in a restricted license issued | |
| 12 | under section 39-06-17 or 39-06.1-11 | |
| 13 | (7) Except as provided in paragraph 9, operating | 6 points |
| 14 | a motor vehicle without liability insurance, | |
| 15 | in violation of section 39-08-20 | |
| 16 | (8) Knowingly driving a modified motor vehicle in violation | 2 points |
| 17 | of section 39-21-45.1, or equivalent ordinance | |
| 18 | (9) Operating a motor vehicle without liability insurance, | 14 points |
| 19 | in violation of section 39-08-20, if the violation was | |
| 20 | discovered as the result of investigation of an accident | |
| 21 | in which the driver is the owner | |
| 22 | (10) Except as provided in paragraph 9 of subdivision a, | 2 points |
| 23 | knowingly operating an unsafe vehicle in violation of | |
| 24 | section 39-21-46, or equivalent ordinance | |
| 25 | (11) Fleeing in a motor vehicle from a peace officer in | 24 points |
| 26 | violation of section 39-10-71, or equivalent ordinance | |
| 27 | (12) Except as provided in paragraph 9, operating a motor | 12 points |
| 28 | vehicle without liability insurance, in violation of section | |
| 29 | 39-08-20, if the driving record shows that the licensee has | |
| 30 | within the eighteen months preceding the violation previously | |
| 31 | violated section 39-08-20 | |

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| 1 | (13) Causing an accident with an authorized emergency | 2 points |
| 2 | vehicle or a vehicle operated by or under the control | |
| 3 | of the director used for maintaining the state highway | |
| 4 | system in violation of subsection 5 of section 39-10-26, | |
| 5 | or equivalent ordinance | |
| 6 | (14) <u>Knowingly entering a closed road in violation of</u> | <u>6 points</u> |
| 7 | <u>section 39-10-21.1</u> | |
| 8 | (15) <u>Driving in excess of twenty miles per hour over the</u> | |
| 9 | <u>speed limit in a school or construction zone in</u> | |
| 10 | <u>violation of subdivision b of subsection 1 or subsection 2</u> | |
| 11 | <u>of section 39-09-02</u> | |
| 12 | <u>20 - 25 mph over limit</u> | <u>6 points</u> |
| 13 | <u>26 - 35 mph over limit</u> | <u>9 points</u> |
| 14 | <u>36 - 45 mph over limit</u> | <u>12 points</u> |
| 15 | <u>46 + mph over limit</u> | <u>15 points</u> |

16 **SECTION 5. AMENDMENT.** Section 39-09-02 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **39-09-02. Speed limitations - Penalty.**

- 19 1. Subject to the provisions of section 39-09-01 and except in those instances when a
20 lower speed is specified in this chapter, it presumably is lawful for the driver of a
21 vehicle to drive the same at a speed not exceeding:
- 22 a. Twenty miles [32.19 kilometers] an hour when approaching within fifty feet [15.24
23 meters] of a grade crossing of any steam, electric, or street railway when the
24 driver's view is obstructed. A driver's view is deemed to be obstructed when at
25 any time during the last two hundred feet [60.96 meters] of the driver's approach
26 to such crossing, the driver does not have a clear and uninterrupted view of such
27 railway crossing and of any traffic on such railway for a distance of four hundred
28 feet [121.92 meters] in each direction from such crossing.
- 29 b. Twenty miles [32.19 kilometers] an hour when passing a school during school
30 recess or while children are going to or leaving school during opening or closing
31 hours, unless a lower speed is designated or posted by local authorities. Driving

- 1 in excess of twenty miles [32.19 kilometers] per hour over the limit in violation of
2 this subdivision is an infraction.
- 3 c. Twenty miles [32.19 kilometers] an hour when approaching within fifty feet [15.24
4 meters] and in traversing an intersection of highways when the driver's view is
5 obstructed. A driver's view is deemed to be obstructed when at any time during
6 the last fifty feet [15.24 meters] of the driver's approach to such intersection, the
7 driver does not have a clear and uninterrupted view of such intersection and of
8 the traffic upon all of the highways entering such intersection for a distance of two
9 hundred feet [60.96 meters] from such intersection.
- 10 d. Twenty miles [32.19 kilometers] an hour when the driver's view of the highway
11 ahead is obstructed within a distance of one hundred feet [30.48 meters].
- 12 e. Twenty-five miles [40.23 kilometers] an hour on any highway in a business district
13 or in a residence district or in a public park, unless a different speed is designated
14 and posted by local authorities.
- 15 f. Fifty-five miles [88.51 kilometers] an hour on gravel, dirt, or loose surface
16 highways, and on paved two-lane county and township highways if there is no
17 speed limit posted, unless otherwise permitted, restricted, or required by
18 conditions.
- 19 g. Sixty-five miles [104.61 kilometers] an hour on paved two-lane highways if posted
20 for that speed, unless otherwise permitted, restricted, or required by conditions.
- 21 h. Seventy miles [112.65 kilometers] an hour on paved and divided multilane
22 highways, unless otherwise permitted, restricted, or required by conditions.
- 23 i. Seventy-five miles [120.70 kilometers] an hour on access-controlled, paved and
24 divided, multilane interstate highways, unless otherwise permitted, restricted, or
25 required by conditions.
- 26 2. The director may designate and post special areas of state highways where lower
27 speed limits apply. Differing limits may be established for different times of the day
28 within highway construction zones which are effective when posted upon appropriate
29 fixed or variable speed limit signs. Driving in excess of twenty miles [32.19 kilometers]
30 per hour over the posted speed limit in this section is an infraction if individuals are

1 engaged in construction and are present at the time and place of the violation and the
2 speed limit sign states "Minimum Fee \$80".

3 3. Except as provided by law, it is unlawful for any person to drive a vehicle upon a
4 highway at a speed that is unsafe or at a speed exceeding the speed limit prescribed
5 by law or established pursuant to law.

6 4. In charging a violation of the provisions of this section, the complaint must specify the
7 speed at which the defendant is alleged to have driven and the speed which this
8 section prescribes is prima facie lawful at the time and place of the alleged offense.

9 **SECTION 6. AMENDMENT.** Section 39-10-21.1 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **39-10-21.1. Closing road because of hazardous conditions - Posting of official**
12 **traffic-control devices - Entering closed road prohibited - Penalty.**

13 1. The highway patrol or local law enforcement authorities having jurisdiction over a road
14 may close a road temporarily due to hazardous conditions for the protection and safety
15 of the public. If such a closing is made, the authority ordering the closing shall make
16 every reasonable attempt to notify the public and, when practical, may post
17 appropriate official traffic-control devices to advise motorists of the closing. ~~No person,~~
18 ~~while operating~~

19 2. An operator of a motor vehicle, may not knowingly enter a road closed under this
20 section.

21 3. An operator who violates this section is guilty of an infraction.