

2013 HOUSE TRANSPORTATION

HB 1263

2013 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

HB 1263
01-25-13
Job # 17760

Conference Committee

Committee Clerk Signature

Jeanette Cook

Explanation or reason for introduction of bill/resolution: A bill relating to procedures and demerit points for driving without liability insurance.

Minutes:

Attachments 1-3

Chairman Ruby opened the hearing on HB 1263.

Representative Gruchella introduced and spoke in support of HB 1263. See attachment # 1.

Mike Reitan, Assistant Chief, West Fargo Police Department, spoke in support of HB 1263. He provided written testimony and included e-mails from other Chiefs stating their support. There is also a sheet that shows the time line for the current actions necessary for this citation, and what it would be if this bill passes. See attachment #2. (10:00)

Representative Drovdal: Is it necessary to go to court after the driver gets a citation, or can the driver just provide the proof of insurance?

Mike Reitan: If the citation is issued as an infraction, the individual would have three options: pay the statutory fee, provide the insurance information prior to the court date, and the citation would be dismissed, or appear in court on the date that is on the citation. In court they could plead guilty or not guilty or provide proof of insurance at that time.

Representative Fransvog: If I get a citation, go out and buy insurance during the twenty day period, and then bring that in. Would I get the citation dropped?

Mike Reitan: That is hard to answer. We do face that currently. Some individuals under the current law will go to an insurance agent and ask to have the insurance back-dated. As the statute is written, the driver is to have the policy in effect on the date that the offense occurred.

Representative Delmore: If I get insurance, where do I go to provide the proof of insurance if I obtain it before the court date?

Mike Reitan: The way the statute is written, the information would have to be provided to the court of jurisdiction. A copy of the insurance could be mailed or dropped off at the court.

Representative Delmore: I always have proof of liability insurance in my car, but I might not have the latest version. Is that going to be a problem, if I get stopped?

Mike Reitan: Officer discretion could be used in that case. An officer may even call the insurance company. If he suspects that the driver doesn't have insurance, a citation will be issued. Technically you could still be issued a citation, but it would be dismissed when you offered proof of insurance.

Chairman Ruby: If the proof is questionable, do you currently write the violation?

Mike Reitan: There are three different ways that it is handled. If the individual says that he doesn't have insurance, they are being arrested for a class B misdemeanor for operating without liability insurance. If they are able to answer the questions about the insurance company and have an old card, they are typically given a warning. If they give vague answers, we are giving a warning with the 20 day waiting period to produce proof of insurance.

Chairman Ruby: Does the first violation jump from \$150 to \$300 in this bill?

Mike Reitan: Yes, I believe all the fees would be \$300.

Representative Gruchella: Last session did you have an approximate cost of what it would cost to go through the current process?

Mike Reitan: The information provided by Chief Thorsteinson from Wahpeton indicated \$30 to \$50 of city attorney staff time, police department staff time of \$30 to \$50. That is all I have as far as dollar amounts.

Vice Chairman Owens: Do you any idea that other states are doing this in a more involved method? I am used to the proof being provided to the courts. Once the citation is issued it becomes a court matter. Are there any other states doing this, other than North Dakota?

Mike Reitan: I have not looked at the way other states do this. We purposely modeled this bill after the driver's license and the registration card. In North Dakota you are required to have your driver's license and registration card in your vehicle. You can be cited at the time of the stop if you don't have them. They may be later dismissed with proof, as in this case.

Vice Chairman Owens: I thought that the change in fee from \$100 to \$300 is a lot. Is it because of the change from misdemeanor to infraction, or was it a choice? Liability insurance doesn't cost very much, but most people who don't have it are low income, and they don't think they can afford it?

Mike Reitan: The previous bill had a graduated step. The first one was \$150, and the subsequent one was \$300. Being that the person will now be cited for an infraction; they will be cited with a specific fee that they can pay prior to the court date. The decision was made to raise the fee to \$300, and that will hopefully be an incentive for individuals to become insured.

Chairman Ruby: What is the highest fine for an infraction?

Mike Reitan: It is \$1000. (22:36)

Steve Becher, Executive Director of Professional Insurance Agents of North Dakota spoke to support HB 1263. He provided written testimony. See attachment #3. (26:56)

Chairman Ruby: How much responsibility is there for the insurance company to provide proof for liability to the consumer?

Steve Becher: It is very easy for an agent to provide new cards for the customer. You can request them.

Chairman Ruby: Chief Reitan, I have another question. In the testimony you show that they still have twenty days to appear in court or show proof to the court. Is that correct?

Mike Reitan: The twenty days would be from the time of issuance to their first appearance in court.

Chairman Ruby: Is it always twenty days after? I don't see where it says twenty days in the bill.

Mike Reitan: You are correct. It is prior to the date of appearance. It would be twenty days by practice. I would have to refer to other portions of the Century Code that explain the different time periods. (31:30)

There was no further support for HB 1263.
There was no opposition to HB 1263.

Vice Chairman Owens: How many points before you lose your license?

Glen Jackson, Director of Driver's License Division: Twelve points if you are an adult.

The hearing was closed on HB 1263.

Representative Drovdal: Would you explain why this bill was defeated in the past sessions?

Steve Becher: Because in the past there was no twenty day grace period to show proof. We didn't think that was fair to those who actually had insurance. This gives you time, if you have insurance, to get the infraction dismissed.

**Representative Drovdal moved a DO PASS on HB 1263.
Representative Sukut seconded the motion.**

Mike Reitan: Chairman Ruby, in reference to the time period that you asked about earlier, under 3906.102, if a person is cited for a traffic violation under state law and posts bond by mail, the bond must be submitted within fourteen days of the citation.

Representative Fransvog: If I am driving in your city and get charged with no liability insurance. Then I appear in your court twenty days later, am fined, and lose the points. Is there anything that requires me to have liability insurance? Can you stop me from driving?

Mike Reitan: You are required by law to have liability insurance, so you could be cited at that point.

Representative Fransvog: Would we be better off requiring the violator to buy the insurance in lieu of the fine?

Mike Reitan: I would imagine that the court could make a court order to request the suspension of a portion of the fine upon proof of liability insurance.

Representative Delmore: When I get a citation, will the number be provided so my insurance agent can fax a copy of my insurance to them?

Mike Reitan: That information is on the bond and the citation.

Representative Becker: You are not required to have liability insurance, but you are required to have liability insurance **to drive**. There is an option.

Representative Drovdal: I am assuming that many of the violators that get picked up without insurance are either individuals that don't have a license or have been picked up for a DUI. They can't afford insurance; therefore, the \$300 fine is probably just a small matter compared to all of their other troubles. Am I assuming correctly?

Mike Reitan: Some people just elect not to have insurance. They think that they may not get stopped and run that risk. There are also a number of people that have bad driving records, and their insurance does cost them a lot, so they elect not to pay for the insurance.

**Representative Drovdal withdrew his motion in order to propose an amendment.
Representative Sukut withdrew the second to the motion.**

Vice Chairman Owens: I think that \$300 is excessive because of the people that we are dealing with, in many cases, are low income or can't afford it. I would like to amend it back to its original \$150 from \$300.

Chairman Ruby: Do you want the subsequent violation be \$300?

Vice Chairman Owens: I am recommending that we only amend the first offense.

Vice Chairman Owens moved the amendment.
Representative Weisz seconded the motion.

Representative Weisz explained another example that would be covered by this bill. He stated that often people just forget, especially someone who has multiple vehicles. He feels that the \$150 fine for the first offense is best.

Representative Becker: If someone bumps into me and gives me a fender bender, my penalty is the \$500 deductible.

Representative Kreun: I disagree. Who is going to be liable if the vehicle that you forget to insure kills someone? Are we going to give a \$150 fine to a guy who could potentially kill someone?

Representative Weisz: I don't think it changes, I am still liable, whether I kill someone or not. Even if there is a \$1000 fine, my memory won't increase, if it wasn't intentional. The point of a fine is a deterrent. That wouldn't be affected in this case.

Representative Kreun: It appears to be affecting it, because we have someone who wants to lower it because they forgot about it. It is a deterrent.

Representative Weisz: It isn't lowering it. It is leaving it where it is today.

Representative Kreun: It is lowering it from the proposed bill. I have had a lot of vehicles that I used too. You just have to tell the insurance company when you want the coverage to be reinstated, and it will be done automatically. You don't have to remember.

Representative Kreun: This is liability. This is a responsibility that one has to be driving on the road that protects other people. Why should I have to sue you if we get into an accident, when you should have insurance?

Representative Gruchella: There is a step left out of Representative Weisz's scenario. The violator has to go to court, and the judge has the discretion. If someone explains that he usually puts insurance on a certain vehicle because of spraying, and he can explain the oversight to the judge, the judge still has the leeway to dismiss the charge.

A roll call vote was taken on the amendment. Aye 7 Nay 6 Absent 0
The motion passed.

Representative Becker moved a DO PASS as amended on HB 1263.
Representative Oversen seconded the motion.
A roll call vote was taken on HB 1263. Aye 14 Nay 0 Absent 0
The motion carried.

Representative Becker will carry HB 1263.

2013 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

HB 1263
01-31-13
Job # 18102

Conference Committee

Committee Clerk Signature

Jeanette Cook

Minutes:

Chairman Ruby brought back HB 1263 from the floor to reconsider our actions and remove the civil penalty from the bill if the committee chooses.

Representative Gruchella moved to reconsider our actions.
Representative Delmore seconded the motion.
A voice vote was taken. All aye. Motion carried.

Representative Vigesaa moved the amendment.
Representative Becker seconded the motion.

The amendment was clarified. Remove Section 2, lines 5-8, and renumber accordingly.

Representative Kreun: I have a problem with taking almost all of the financial deterrent out of this bill. This violation is very serious. Driving without liability insurance creates a potentially large problem for someone. A person who is in an accident with someone without liability insurance should not have to sue to be compensated. I think we are relieving too much of the responsibility from these individuals. I would put the \$300 back in and still have the \$150 penalty. I would vote no on the amendment.

Representative Becker: For my taste it is light as well. I would have voted to keep it at \$300 for the first offense. My understanding was that what we had voted on was a total of \$150 for the first offense. That is why I brought it to your attention.

Representative Gruchella: Frank Wald argued to have this penalty at \$300 or higher. I would like to keep it at that.

A roll call vote was taken. Aye 11 Nay 2 Absent 1 The motion carried.

Representative Weisz moved a DO PASS AS AMENDED on HB 1263.
Representative Vigesaa seconded the motion.
A roll call vote was taken. Aye 12 Nay 1 Absent 1
The motion carried.
Representative Becker will carry HB 1263.

January 25, 2013

105/1
DNC

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1263

Page 5, line 13, remove the overstrike over "one"

Page 5, line 13, remove "three"

Page 5, line 13, remove the overstrike over "~~five~~"

Page 5, line 14, remove the overstrike over "~~A person convicted for a second or subsequent violation of driving without~~"

Page 5, remove the overstrike over line 15

Page 5, line 16, remove the overstrike over "~~dollars which may not be suspended.~~"

Renumber accordingly

January 31, 2013

1/31/13
TM

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1263

Page 1, line 1, remove "a new subsection to section 39-06.1-06 and"

Page 1, line 3, remove "procedures and"

Page 2, remove lines 5 through 8

Page 2, line 9, replace "A new paragraph" with "Paragraph 37"

Page 2, line 14, replace "A new paragraph" with "Paragraph 38"

Page 2, line 21, replace "A new paragraph" with "Paragraph 39"

Re-number accordingly

Date: 1-25-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1263

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider

Motion Made By Drovdal Seconded By Sukat

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby			Rep. Lois Delmore		
Vice Chairman Mark Owens			Rep. Edmund Gruchalla		
Rep. Rick Becker			Rep. Kylie Oversen		
Rep. David Drovdal					
Rep. Robert Frantsvog					
Rep. Brenda Heller					
Rep. Curtiss Kreun					
Rep. Mike Schatz					
Rep. Gary Sukut					
Rep. Don Vigesaa					
Rep. Robin Weisz					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 1-25-13
 Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1263

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0516.01001

Action Taken: Do Pass Do Not Pass Amended Adopt
 Amendment

Rerefer to Appropriations Reconsider

Motion Made By Owens Seconded By Weisz
Amendment.

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby	✓		Rep. Lois Delmore	✓	
Vice Chairman Mark Owens	✓		Rep. Edmund Gruchalla		✓
Rep. Rick Becker		✓	Rep. Kylie Oversen		✓
Rep. David Drovdal		✓			
Rep. Robert Frantsvog	✓				
Rep. Brenda Heller	A				
Rep. Curtiss Kreun		✓			
Rep. Mike Schatz	✓				
Rep. Gary Sukut		✓			
Rep. Don Vigesaa	✓				
Rep. Robin Weisz	✓				

Total (Yes) 7 No 6

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

126#
#17762

Date: 1-25-13
Roll Call Vote #: 3

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1263

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0516.01001

Action Taken: Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider

Motion Made By Becker Seconded By Oversen

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby	✓		Rep. Lois Delmore	✓	
Vice Chairman Mark Owens	✓		Rep. Edmund Gruchalla	✓	
Rep. Rick Becker	✓		Rep. Kylie Oversen	✓	
Rep. David Drovdal	✓				
Rep. Robert Frantsvog	✓				
Rep. Brenda Heller	✓				
Rep. Curtiss Kreun	✓				
Rep. Mike Schatz	✓				
Rep. Gary Sukut	✓				
Rep. Don Vigesaa	✓				
Rep. Robin Weisz	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Becker

If the vote is on an amendment, briefly indicate intent:

Date: 1-31-13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1263**

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt
 Amendment

Rerefer to Appropriations Reconsider

Motion Made By Gruchalla Seconded By Delmore
Reconsider

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby			Rep. Lois Delmore		
Vice Chairman Mark Owens			Rep. Edmund Gruchalla		
Rep. Rick Becker			Rep. Kylie Oversen		
Rep. David Drovdal					
Rep. Robert Frantsovog					
Rep. Brenda Heller					
Rep. Curtiss Kreun					
Rep. Mike Schatz					
Rep. Gary Sukut					
Rep. Don Vigesaa					
Rep. Robin Weisz					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 1-31-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1263

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0516.02001

Action Taken: Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider

Motion Made By Vigesaa Seconded By Becker
Amendment

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby	X		Rep. Lois Delmore	X	
Vice Chairman Mark Owens	X		Rep. Edmund Gruchalla		X
Rep. Rick Becker	X		Rep. Kylie Oversen	X	
Rep. David Drovdal	A				
Rep. Robert Frantsovog	X				
Rep. Brenda Heller	X				
Rep. Curtiss Kreun		X			
Rep. Mike Schatz	X				
Rep. Gary Sukut	X				
Rep. Don Vigesaa	X				
Rep. Robin Weisz	X				

Total (Yes) 11 No 2

Absent 1

Floor Assignment N/A

If the vote is on an amendment, briefly indicate intent:

Section 2
Lines 5-8
Remove Civil Penalty

Date: 1-31-13
Roll Call Vote #: 3

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1263

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt
Amendment

Rerefer to Appropriations Reconsider

Motion Made By Weisz Seconded By Vigesaa

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby	✓		Rep. Lois Delmore	✓	
Vice Chairman Mark Owens	✓		Rep. Edmund Gruchalla	✓	
Rep. Rick Becker	✓		Rep. Kylie Oversen	✓	
Rep. David Drovdal	A				
Rep. Robert Frantsovog	✓				
Rep. Brenda Heller	✓				
Rep. Curtiss Kreun		✓			
Rep. Mike Schatz	✓				
Rep. Gary Sukut	✓				
Rep. Don Vigesaa	✓				
Rep. Robin Weisz	✓				

Total (Yes) 12 No 1

Absent 1

Floor Assignment Becker

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1263: Transportation Committee (Rep. Ruby, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1263 was placed on the Sixth order on the calendar.

Page 5, line 13, remove the overstrike over "one"

Page 5, line 13, remove "three"

Page 5, line 13, remove the overstrike over "fifty"

Page 5, line 14, remove the overstrike over "~~A person convicted for a second or subsequent violation of driving without~~"

Page 5, remove the overstrike over line 15

Page 5, line 16, remove the overstrike over "~~dollars which may not be suspended.~~"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1263, as engrossed: Transportation Committee (Rep. Ruby, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1263 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "a new subsection to section 39-06.1-06 and"

Page 1, line 3, remove "procedures and"

Page 2, remove lines 5 through 8

Page 2, line 9, replace "A new paragraph" with "Paragraph 37"

Page 2, line 14, replace "A new paragraph" with "Paragraph 38"

Page 2, line 21, replace "A new paragraph" with "Paragraph 39"

Renumber accordingly

2013 SENATE TRANSPORTATION

HB 1263

2013 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

HB 1263

3/14/2013

Recording job number 19900

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to procedures and demerit points for driving without liability insurance.

Minutes:

Attached testimony: 4

Chairman Oehlke opened the hearing on HB 1263

Representative Ed Gruchalla District 45 sponsor of this bill. The purpose of this bill is to change driving without insurance from a criminal offense to an infraction. Attached testimony #1

Chairman Oehlke: Having a driver's license doesn't require you to have insurance the vehicle you are driving is the one you are required to have insurance on.

Mike Reitan, Assistant Chief of the West Fargo Police Department. In support of HB 1263, The proposed change of moving driving without liability insurance from a class B misdemeanor to a non-criminal offense will allow a law enforcement officer to issue a traffic citation at the time of the traffic stop. HB 1263 not only simplifies the process by which someone is cited for driving without liability insurance it provides an easy mechanism to have the citation dismissed, written testimony #2, which includes comments from Fargo Chief of Police Keith Ternes and Wahpeton Chief of Police Scott Thorsteinson; an Insurance Research Council Study regarding percentage of uninsured motorists; a comparison chart (right hand is how it would work be, left hand shows the current process); copy of the original bill; portion of the Century Code dealing with disposition of traffic offenses; definition of moving violation. A portion of the original bill was struck that I think is important to reinstate, page 2 lines 5 to 8 that allows individual to either post the bond or forfeit it or to appear in court and request a hearing. If we don't have that language it appears to me that the individual would have to appear in court when they are issued the citation as opposed to other noncriminal traffic citations where you can either send your money in or appear in court. The House was concerned about the \$300 fee, reduced it to \$150, because of the many people who have limited funds.

Chairman Oehlke: who gets cited the vehicle operator or the owner of the vehicle? Will you take my proof of insurance on my personal auto policy?

Mike Reitan: The operator, once you begin to drive the vehicle you take the responsibility for it. My understanding is that if you prove that you were covered by insurance at the time you were driving the citation would be dismissed.

Committee members discussed \$150 fee is not much of a deterrent.

Steve Becher: Executive Director of Professional Insurance Agents of North Dakota supports this bill, testimony # 3, summarizing the bill and how it will affect law enforcement. (Recording segment 27:43 - 30:57)

Kara Johnson, attorney, on behalf of State Farm Insurance Companies, supports this bill, testimony #4 with amendment that clarifies what constitutes satisfactory evidence that there is liability insurance on the vehicle.

Chairman Oehlke: do you think it is wise to have that information on your phone?

Kara Johnson: you need protections like a password. The insurance company has an application you can download/access on your phone.

Senator Flakoll: do you need cell phone connectivity; is it downloaded and embedded on your smart phone?

Kara Johnson: you need connectivity in order to make the app work.

No additional testimony hearing closed

2013 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

HB 1263

4/04/2013

Recording job number 20868

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to procedures and demerit points for driving without liability insurance

Minutes:

Attached testimony:

Chairman Oehlke opened the discussion on HB 1263

Senator Flakoll moved to adopt amendment that would include electronic proof of insurance on page 4 lines 17 and 24

Vice Chairman Armstrong second

Voice vote: all in favor

Senator Sinner moved to adopt amendment moving violation defined

Senator Axness second

Voice vote: all in favor

Senator Sinner moved DO PASS as twice amended

Vice Chairman Armstrong second

No further discussion

Roll call vote Yes 7 No 0 Absent not voting 0

Carrier: Senator Sinner

April 4, 2013

3/4/13
TD

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1263

Page 1, line 3, replace "section" with "sections"

Page 1, line 3, after "39-06.1-05" insert "and 39-06.1-09"

Page 2, after line 3, insert:

"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, 39-06-16, 39-08-20, 39-08-23, 39-08-24, 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, 39-24-02, or 39-24-09, except subdivisions b and c of subsection 5, 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 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."

Page 4, line 17, after "evidence" insert "which includes written or electronic proof of insurance."

Page 4, line 24, after "evidence" insert "which includes written or electronic proof of insurance."

Renumber accordingly

Date: 4/04/13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1263

Senate TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number Page 4 Lines 17+24 insert: "which includes electronic proof of insurance"

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Flakoll Seconded By Senator Armstrong

Senators	Yes	No	Senator	Yes	No
Chairman Dave Oehlke			Senator Tyler Axness		
Vice Chairman Kelly Armstrong			Senator George Sinner		
Senator Margaret Sitte					
Senator Tim Flakoll					
Senator Tom Campbell					
<u>VOICE VOTE</u>					

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 4/04/13
 Roll Call Vote #: 2

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1263**

Senate TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number to include moving violation definition

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Sumner Seconded By Senator Armstrong

Senators	Yes	No	Senator	Yes	No
Chairman Dave Oehlke			Senator Tyler Axness		
Vice Chairman Kelly Armstrong			Senator George Sinner		
Senator Margaret Sitte					
Senator Tim Flakoll					
Senator Tom Campbell					
<i>Voice Vote</i>					

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 4/04/13
Roll Call Vote #: 3

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1263

Senate TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0516.03001

Action Taken: Do Pass Do Not Pass Amended ^{twice} Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Sinner Seconded By Senator Armstrong

Senators	Yes	No	Senator	Yes	No
Chairman Dave Oehlke	✓		Senator Tyler Axness	✓	
Vice Chairman Kelly Armstrong	✓		Senator George Sinner	✓	
Senator Margaret Sitte	✓				
Senator Tim Flakoll	✓				
Senator Tom Campbell	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment Senator Sinner

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1263, as reengrossed: Transportation Committee (Sen. Oehlke, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1263 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "section" with "sections"

Page 1, line 3, after "39-06.1-05" insert "and 39-06.1-09"

Page 2, after line 3, insert:

"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, 39-06-16, 39-08-20, 39-08-23, 39-08-24, 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, 39-24-02, or 39-24-09, except subdivisions b and c of subsection 5, 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 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."

Page 4, line 17, after "evidence" insert ", including written or electronic proof of insurance,"

Page 4, line 24, after "evidence" insert ", including written or electronic proof of insurance,"

Renumber accordingly

2013 TESTIMONY

HB 1263

1



January 24, 2013

Transportation Committee Testimony on HB1263.

Representative Ed Gruchalla

Dist. 45 Fargo

Mr. Chairman and members of the Committee.



This bill seeks to correct a longstanding problem that has been addressed every session since I have been here. Everyone in this State is required to carry liability insurance on their vehicle.

Presently the process to insure a violator of this law is prosecuted is very costly and time consuming.

This bill will address the problem by changing Driving without Insurance from a criminal offence to an infraction. This change will allow a simple traffic summons to be issued and streamline the process.

Mr. Chairman and members of the committee, there are some people here to explain the changes to the process so with your permission I will defer to them to explain the intricacies of the process.

Thank you Mr. Chairman



#2

Transportation Committee
House Bill 1263
Testimony of Mike Reitan, Assistant Chief, West Fargo Police Department

Good Morning

Chairman Ruby, Vice Chair Owens and members of the Committee, for the record my name is Mike Reitan, Assistant Chief of the West Fargo Police Department. I am testifying today in support of House Bill 1263.

The bill before you today is meant to increase compliance with the requirement of motor vehicle operators and owners to maintain motor vehicle liability insurance through a more efficient means of enforcement. House Bill 1263 will move driving without liability from a class B Misdemeanor to a non-criminal offense. The proposed change will allow a law enforcement officer to issue a traffic citation at the time of the traffic stop. The person cited will also be allowed the opportunity to have the citation dismissed upon the simple act of providing proof of insurance coverage to the court of jurisdiction.

Currently, under the legal opinion of the West Fargo Prosecutor subsection 2 of section 39-08-20 of the North Dakota Century Code requires a driver be given up to 20 days to provide proof of insurance before they may be charged with driving without liability insurance. The time between the driving offense and the lapse of 20 days creates a situation where the individual has had an extended period to continue driving without insurance.

During a vehicle stop an officer will typically ask for the driver's license, the registration card and proof of insurance. If the person does not have their driver's license or registration card they may be issued a citation. The citation is dismissed if the driver later provides proof of the driver's license or registration card to the officer or to the court. Not so with the proof of insurance under current law.

If the driver does not have proof of insurance they are asked a series of questions to determine if in fact they have insurance. It could be as simple as do you have insurance? A no response can result in an arrest for driving without liability insurance. A yes response and information about the agent and insurance company typically ends with a warning to make sure the insurance information is in the vehicle. A yes response and vague information about insurance company and agent has the potential to begin the 20 waiting period.

If it is suspected the operator does not have insurance the officer will issue a warning ticket or other paperwork instructing the driver to produce the insurance information within 20 days. The paperwork will have an address to which the information should be sent. The officer or agency must then track the warning ticket and wait for the receipt of the insurance information.

If no insurance information is received within 20 days the officer is required to submit a report to the prosecutor for a drafting of the complaint. The officer will spend 30 minutes to an hour gathering the data and completing the report. The prosecutor spends 15 to 30 minutes reviewing the report and drafting the complaint. Once drafted, the complaint must be served upon the driver and a warrant issued for their arrest. When the offender

Transportation Committee
House Bill 1263
Testimony of Mike Reitan, Assistant Chief, West Fargo Police Department

lives in the community an officer will go to the home to deliver the complaint. If the offender lives elsewhere the complaint may be sent to the local jurisdiction for service. When the person is arrested and held in a jail outside our jurisdiction we are required to have the person transported to appear before our Municipal Judge. At times this has involved sending a squad car and officer to as far away as Minot. From the time of the traffic stop until the driver actually appears in court a substantial amount of time can pass.

Reviewing our records less than half of my patrol officers have issued a warning ticket to show proof of insurance. When asked why they indicate the extra steps required to issue and track the warning ticket; write a report and submit it to the prosecutor; locate the driver and serve the complaint; and ultimately arrest the person on a warrant is not a good use of their time. I have enclosed comments from three other Chiefs.

From Fargo Chief of Police

From: Keith Ternes **Sent:** Thursday, January 06, 2011 1:15 PM
To: Michael D. Reitan
Subject: RE: Financial Note for current driving without liability insurance

Mike,

I wholeheartedly support the change you are suggesting to the "liability insurance" statute. It seems to me the law should require people to carry proof of insurance in their vehicle in the same manner as having your vehicle's registration card. This "20-day" issue makes enforcement of the statute much harder than it needs to be – to the point of discouraging officers from pursuing this violation – which isn't ideal especially in the aftermath of a traffic crash.

I'll be happy to provide you with the necessary numbers if you (or the other chief's you included in your e-mail) want to pursue what you're proposing.

Keith

From Keith Witt, Bismarck Chief of Police

From: Witt, Keith A.
Sent: Thursday, January 06, 2011 9:49 AM
To: Michael D. Reitan
Subject: RE: Financial Note for current driving without liability insurance

Mike,

I did run this by some of our resident experts. They expressed a concern that if someone simply doesn't have their insurance card with them, does that establish probable cause that they don't have liability insurance and are in violation of a criminal traffic offense? The person may have insurance, just not have the proof present at the time. Maybe an amendment to the effect of

Transportation Committee
House Bill 1263
Testimony of Mike Reitan, Assistant Chief, West Fargo Police Department

“that a twenty day period is to be given unless probable cause exists that the person does not have liability insurance at the time of driving”. Then, if the person admits to the officer they don’t have insurance, there would be probable cause of a violation.

Maybe another alternative would be to have a separate non-criminal statute simply requiring the carrying a current card. I don’t know if it is procedurally possible, but if someone has a card to present the officer, the person could be cited with this statute and at the end of 20 days if they don’t provide proof, it upgrades to a criminal violation.

Just some thoughts on this.

In terms of the cost analysis, we don’t seem to have that much problem here the way our system on this is working that we could show that much cost.

Thanks for working on this.

Keith

From Scott Thorsteinson, Chief of Police Wahpeton

From: Scott Thorsteinson **Sent:** Thursday, January 06, 2011 3:28 PM
To: Michael D. Reitan
Subject: Re: Financial Note for current driving without liability insurance

Mike,

In my opinion, the current part of the statute that allows 20 days to provide proof of liability insurance makes the verification process very unwieldy and time-consuming. It puts the burden on law enforcement to track down those people that (inevitably) fail to show up with the required proof because they simply have none to provide and hope to avoid negative legal consequences through the time-honored technique of avoidance. If a motorist unable to provide proof of insurance is immediately cited at the scene of a traffic stop or crash, they are then sufficiently motivated to take the steps necessary to get the charge dismissed.

As far as actual costs go, each long form complaint issued by the city attorney costs the citizens approximately \$30-\$50 for city attorney staff time, with the expense for PD staff time likely in this same \$30-\$50 range, depending on how easy it is to locate and serve the miscreant.

Scott T.

Searching for some national statistics I found a news release from 2006 that was put out by the Insurance Research Council. According to a recent Insurance Research Council (IRC) Study, the estimated percentage of uninsured motorists increased nationally from 12.7 percent in 1999 to 14.6 percent in 2004. However, the magnitude of the uninsured motorists problem varied widely from state to state.

Transportation Committee
House Bill 1263
Testimony of Mike Reitan, Assistant Chief, West Fargo Police Department

I have also had the opportunity to speak with the lobbyist for the independent insurance agents, Steve Becher, who indicated their association would be in favor of House Bill 1263.

House Bill 1263 not only simplifies the process by which someone is cited for driving without liability insurance it provides an easy mechanism for a person to have the citation dismissed. The cost of vehicle crashes associated with uninsured drivers comes back to all of us through higher premiums. The goal of law enforcement and the insurance industry is to reduce the number of vehicles being operated without liability insurance. I respectfully request your passage of House Bill 1263. Thank you for your time today and I will answer any questions you may have.

day 1 Traffic stop warning issued

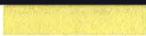


Driver can provide information at anytime and case will be closed. Only record will be of a car stop. Applies to both warning and citation.

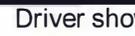
Traffic stop citation issued



day 20 officer gathers data and begins report



driver appears in court



day 22 report forwarded to prosecutor



Driver shows proof and case is dismissed
Pleads guilty and sentenced.
Pleads not guilty/ set for trial

day 27 complaint authorized/ signed

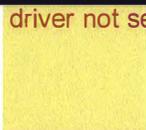


if driver can be found they are served complaint and given court date



END

day 41 driver appears in court/



driver appears for trial/ found guilty or not guilty

driver not served or does not appear and warrant is issued

day ?? driver arrested and brought to court/ pleads guilty or not guilty



day 62 driver who appeared day 41 shows for trial/ found guilty or not guilty



driver fails to show for court and warrant is issued

END

day ?? driver appears in court found guilty or not guilty (21 days following arrest)

Testimony for House Bill 1263 – House Transportation Committee

Chairman Ruby and members of the House Transportation Committee my name is Steve Becher, Executive Director of Professional Insurance Agents of North Dakota (PIAND) and I am here today in support of House Bill 1263. PIAND is a trade association representing 305 main street insurance agencies across the state of North Dakota with over 1,000 independent insurance agents.

In the interest of protecting everyone who uses the highways and roads of North Dakota it is good public policy to require that all drivers carry liability insurance. Drivers that don't carry insurance put all other insured drivers on the road at risk of having a financial loss even when the insured driver is not at fault. The insured driver will have uninsured motorist coverage, but that only covers injuries that the insured driver may incur due to the fault of an uninsured driver (not damage to their vehicle). If the insured driver carries collision coverage the vehicle damage would be covered under their own policy, but they would have to pay a deductible even though the accident was not their fault. If the insured driver only carries liability coverage, the damage to their vehicle would not be covered under any insurance policy and they would be stuck with paying for it themselves and possibly taking the uninsured driver to court to recover their loss.

House Bill 1263 does not drastically change the driving without insurance laws that are currently on the books, but the bill makes it much easier for law enforcement to enforce these laws. The current law is cumbersome to law enforcement as it puts additional time and paperwork burdens on them while the officer waits 20 days for the driver to provide them proof of insurance when it was not readily available in the vehicle. If the proof is not provided in this timeframe, they must then complete paperwork that is forwarded to the prosecutor so charges may be filed. House Bill 1263 will put the burden of proof squarely on the shoulders of the driver that failed to have proof of insurance in the vehicle and the officer can go on to other matters. Those drivers that do actually have insurance will have ample time until the court

date on the citation to show proof to the court and the citation will be dismissed. Those that don't have insurance will already have the court process started on the date of the traffic stop without further time or effort expended by the officer or the prosecutor's office.

The fine provided for in House Bill 1263 should provide an incentive for drivers to carry insurance as the \$300 fine is higher than the average adult driver with minimum limits would pay for liability insurance for a year. It should also give a sense of urgency to the already insured driver that fails to have proof in their vehicle at a traffic stop to provide that proof to the court so the matter can be dismissed. The point system that goes against a driver's license remains unchanged from current law.

It is in the interests of all the citizens of North Dakota as well as the insurance industry that drivers on our roads have insurance coverage that protects the innocent party. It is also in everyone's interest to have driving without insurance laws that are fair to those that are following the law (but fail to have a piece of paper in their vehicle) as well as easy to administer by law enforcement to make sure that drivers are in compliance. For these reasons I would encourage a Do Pass recommendation on House Bill 1263 and would be happy to answer any questions that you may have.

March 14, 2013

Transportation Committee Testimony on HB1263.

Representative Ed Gruchalla

Dist. 45 Fargo

Mr. Chairman and members of the Committee.

This bill seeks to correct a longstanding problem that has been addressed every session since I have been here. Everyone in this State is required to carry liability insurance on their vehicle.

Presently the process to insure a violator of this law is prosecuted is very costly and time consuming.

This bill will address the problem by changing Driving without Insurance from a criminal offence to an infraction. This change will allow a simple traffic summons to be issued and streamline the process.

Mr. Chairman and members of the committee, there are some people here to explain the changes to the process so with your permission I will defer to them to explain the intricacies of the process.

Thank you Mr. Chairman

Senate Transportation Committee
House Bill 1263
Testimony of Mike Reitan, Assistant Chief, West Fargo Police Department

Good Morning

Chairman Oehlke, Vice Chair Armstrong and members of the Committee, for the record my name is Mike Reitan, Assistant Chief of the West Fargo Police Department. I am testifying today in support of House Bill 1263.

The bill before you today is meant to increase compliance with the requirement of motor vehicle operators and owners to maintain motor vehicle liability insurance through a more efficient means of enforcement. House Bill 1263 will move driving without liability from a class B Misdemeanor to a non-criminal offense. The proposed change will allow a law enforcement officer to issue a traffic citation at the time of the traffic stop. The person cited will also be allowed the opportunity to have the citation dismissed upon the simple act of providing proof of insurance coverage to the court of jurisdiction.

Currently, under the legal opinion of the West Fargo Prosecutor subsection 2 of section 39-08-20 of the North Dakota Century Code requires a driver be given up to 20 days to provide proof of insurance before they may be charged with driving without liability insurance. The time between the driving offense and the lapse of 20 days creates a situation where the individual has had an extended period to continue driving without insurance.

During a vehicle stop an officer will typically ask for the driver's license, the registration card and proof of insurance. If the person does not have their driver's license or registration card they may be issued a citation. The citation is dismissed if the driver later provides proof of the driver's license or registration card to the officer or to the court. Not so with the proof of insurance under current law.

If the driver does not have proof of insurance they are asked a series of questions to determine if in fact they have insurance. It could be as simple as do you have insurance. A no response can result in an arrest for driving without liability insurance. A yes response and information about the agent and insurance company typically ends with a warning to make sure the insurance information is in the vehicle. A yes response and vague information about insurance company and agent has the potential to begin the 20 waiting period.

If it is suspected the operator does not have insurance the officer will issue a warning ticket or other paperwork instructing the driver to produce the insurance information within 20 days. The paperwork will have an address to which the information should be sent. The officer or agency must then track the warning ticket and wait for the receipt of the insurance information.

If no insurance information is received within 20 days the officer is required to submit a report to the prosecutor for a drafting of the complaint. The officer will spend 30 minutes to an hour gathering the data and completing the report. The prosecutor spends 15 to 30 minutes reviewing the report and drafting the complaint. Once drafted, the complaint must be served upon the driver and a warrant issued for their arrest. When the offender

Senate Transportation Committee

House Bill 1263

Testimony of Mike Reitan, Assistant Chief, West Fargo Police Department

lives in the community an officer will go to the home to deliver the complaint. If the offender lives elsewhere the complaint may be sent to the local jurisdiction for service. When the person is arrested and held in a jail outside our jurisdiction we are required to have the person transported to appear before our Municipal Judge. At times this has involved sending a squad car and officer to as far away as Minot. From the time of the traffic stop until the driver actually appears in court a substantial amount of time can pass.

Reviewing our records less than half of my patrol officers have issued a warning ticket to show proof of insurance. When asked why they indicate the extra steps required to issue and track the warning ticket; write a report and submit it to the prosecutor; locate the driver and serve the complaint; and ultimately arrest the person on a warrant is not an efficient use of their time. I have enclosed comments from two other Chiefs.

From Fargo Chief of Police Keith Ternes

Mike,

I wholeheartedly support the change you are suggesting to the "liability insurance" statute. It seems to me the law should require people to carry proof of insurance in their vehicle in the same manner as having your vehicle's registration card. This "20-day" issue makes enforcement of the statute much harder than it needs to be – to the point of discouraging officers from pursuing this violation – which isn't ideal especially in the aftermath of a traffic crash.

I'll be happy to provide you with the necessary numbers if you (or the other chief's you included in your e-mail) want to pursue what you're proposing.

Keith

From Keith Witt, Bismarck Chief of Police

From Scott Thorsteinson, Chief of Police Wahpeton

Mike,

In my opinion, the current part of the statute that allows 20 days to provide proof of liability insurance makes the verification process very unwieldy and time-consuming. It puts the burden on law enforcement to track down those people that (inevitably) fail to show up with the required proof because they simply have none to provide and hope to avoid negative legal consequences through the time-honored technique of avoidance. If a motorist unable to provide proof of insurance is immediately cited at the scene of a traffic stop or crash, they are then sufficiently motivated to take the steps necessary to get the charge dismissed.

As far as actual costs go, each long form complaint issued by the city attorney costs the citizens approximately \$30-\$50 for city attorney staff time, with the expense for PD staff time likely in this same \$30-\$50 range, depending on how easy it is to locate and serve the miscreant.

Scott T.

Senate Transportation Committee

House Bill 1263

Testimony of Mike Reitan, Assistant Chief, West Fargo Police Department

Searching for some national statistics I found a news release from 2006 that was put out by the Insurance Research Council. According to a recent Insurance Research Council (IRC) Study, the estimated percentage of uninsured motorists increased nationally from 12.7 percent in 1999 to 14.6 percent in 2004. However, the magnitude of the uninsured motorists problem varied widely from state to state.

I have also had the opportunity to speak with the lobbyist for the independent insurance agents, Steve Becher, who indicated their association would be in favor of House Bill 1263.

House Bill 1263 not only simplifies the process by which someone is cited for driving without liability insurance it provides an easy mechanism for a person to have the citation dismissed. The cost of vehicle crashes associated with uninsured drivers comes back to all of us through higher premiums. The goal of law enforcement and the insurance industry is to reduce the number of vehicles being operated without liability insurance. I respectfully request your passage of House Bill 1263. Thank you for your time today and I will answer any questions you may have.

day 1 Traffic stop
warning issued

Traffic stop
citation issued

Driver can provide information at
anytime and case will be closed.
Only record will be of a car stop.
Applies to both warning and citation.

driver can post bond at anytime

day 14

driver appears in court/pleads guilty or not guilty
or shows proof of insurance/ case is dismissed

day 20 officer gathers data and begins report

Guilty plea results in sentence

day 22 report forwarded to prosecutor

Pleads not guilty/ set for trial

day 27 complaint authorized/ signed

driver appears for trial/ found guilty or not guilty

if driver can be found
they are served complaint and given court date

END

day 41 driver appears in court/

driver not served or does not appear and warrant is issued

day ?? driver arrested and brought to court/ pleads guilty or not guilty

day 62 driver who appeared day 41 shows for trial/ found guilty or not guilty
driver fails to show for court and warrant is issued

END

day ?? driver appears in court found guilty or not guilty
(21 days following arrest)

13.0516.01000

Sixty-third
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1263

Introduced by

Representatives Gruchalla, Keiser, Kempenich, Larson, Silbernagel, Mock

Senators G. Lee, J. Lee, Sinner

1 A BILL for an Act to create and enact a new subsection to section 39-06.1-06 and
2 paragraphs 37, 38, and 39 to subdivision a of subsection 3 of section 39-06.1-10 of the North
3 Dakota Century Code, relating to procedures and demerit points for driving without liability
4 insurance; and to amend and reenact section 39-06.1-05, subdivision b subsection 3 of section
5 39-06.1-10, and section 39-08-20 of the North Dakota Century Code, relating to procedures and
6 demerit points for driving without liability insurance.

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. ~~Driving without liability insurance in violation of section 39-08-20.~~

Sixty-third
Legislative Assembly

- 1 9. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46.
- 2 ~~10-9.~~ Causing an accident with an authorized emergency vehicle or a vehicle operated by or
- 3 under the control of the director used for maintaining the state highway system in
- 4 violation of subsection 5 of section 39-10-26.

5 **SECTION 2.** A new subsection to section 39-06.1-06 of the North Dakota Century Code is
6 created and enacted as follows:

7 For a violation of driving without liability insurance under subsection 1 of section
8 39-08-20, a fee of three hundred dollars.

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

11 (37) Except as provided in paragraph 39, operating a motor 6 points
12 vehicle without liability insurance, in violation of
13 section 39-08-20

14 **SECTION 4.** A new paragraph to subdivision a of subsection 3 of section 39-06.1-10 of the
15 North Dakota Century Code is created and enacted as follows:

16 (38) Except as provided in paragraph 39, operating a motor 12 points
17 vehicle without liability insurance, in violation of
18 section 39-08-20, if the driving record shows that the
19 licensee has within the eighteen months preceding the
20 violation previously violated section 39-08-20

21 **SECTION 5.** A new paragraph to subdivision a of subsection 3 of section 39-06.1-10 of the
22 North Dakota Century Code is created and enacted as follows:

23 (39) Operating a motor vehicle without liability insurance, 14 points
24 in violation of section 39-08-20, if the violation was
25 discovered as the result of investigation of an accident
26 in which the driver is the owner

27 **SECTION 6. AMENDMENT.** Subdivision b of subsection 3 of section 39-06.1-10 of the North
28 Dakota Century Code is amended and reenacted as follows:

29 b. Criminal Violations

30 Conviction of:

Points Assigned:

Sixty-third
Legislative Assembly

- | | | |
|----|---|----------------------|
| 1 | (1) Reckless driving in violation of section 39-08-03, or | 8 points |
| 2 | equivalent ordinance | |
| 3 | (2) Aggravated reckless driving in violation of section | 12 points |
| 4 | 39-08-03, or equivalent ordinance | |
| 5 | (3) Leaving the scene of an accident involving property | 14 points |
| 6 | damage in violation of section 39-08-05, 39-08-07, | |
| 7 | or 39-08-08, or equivalent ordinances | |
| 8 | (4) Leaving the scene of an accident involving personal | 18 points |
| 9 | injury or death in violation of section 39-08-04, or | |
| 10 | equivalent ordinance | |
| 11 | (5) Violating restrictions in a restricted license issued | 3 points |
| 12 | under section 39-06-17 and relating to the use of | |
| 13 | eyeglasses or contact lenses while driving | |
| 14 | (6) Violating any restrictions other than those listed in | 4 points |
| 15 | paragraph 5, contained in a restricted license issued | |
| 16 | under section 39-06-17 or 39-06.1-11 | |
| 17 | (7) Except as provided in paragraph 9, operating | 6 points |
| 18 | a motor vehicle without liability insurance, | |
| 19 | in violation of section 39-08-20 | |
| 20 | (8) Knowingly driving a modified motor vehicle in violation | 2 points |
| 21 | of section 39-21-45.1, or equivalent ordinance | |
| 22 | (9) Operating a motor vehicle without liability insurance, | 14 points |
| 23 | in violation of section 39-08-20, if the violation was | |
| 24 | discovered as the result of investigation of an accident | |
| 25 | in which the driver is the owner | |
| 26 | (10) (8) Except as provided in paragraph 9 of subdivision a, | 2 points |
| 27 | knowingly operating an unsafe vehicle in violation of | |
| 28 | section 39-21-46, or equivalent ordinance | |
| 29 | (11) (9) Fleeing in a motor vehicle from a peace officer in | 24 points |
| 30 | violation of section 39-10-71, or equivalent ordinance | |

Sixty-third
Legislative Assembly

1 (12) ~~Except as provided in paragraph 9, operating a motor~~ 42 points-
2 vehicle without liability insurance, in violation of section
3 39-08-20, if the driving record shows that the licensee has
4 within the eighteen months preceding the violation previously
5 violated section 39-08-20

6 (13)(10) Causing an accident with an authorized emergency 2 points
7 vehicle or a vehicle operated by or under the control
8 of the director used for maintaining the state highway
9 system in violation of subsection 5 of section 39-10-26,
10 or equivalent ordinance

11 (14)(11) Driving in violation of the conditions of an instruction 2 points
12 permit

13 **SECTION 7. AMENDMENT.** Section 39-08-20 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **39-08-20. Driving without liability insurance prohibited - Penalty.**

16 1. A person may not drive, or the owner may not cause or knowingly permit to be driven,
17 a motor vehicle in this state without a valid policy of liability insurance in effect in order
18 to respond in damages for liability arising out of the ownership, maintenance, or use of
19 that motor vehicle in the amount required by chapter 39-16.1.

20 2. Upon being stopped by a law enforcement officer for the purpose of enforcing or
21 investigating the possible violation of an ordinance or state law, the person driving the
22 motor vehicle shall provide to the officer upon request satisfactory evidence of the
23 policy required under this section. If unable to comply with the request, that person
24 may be charged with a violation of this section if ~~that person fails to submit satisfactory~~
25 evidence of the policy to the officer or the officer's agency within twenty days from the
26 date of the request; ~~however, during the investigation of an accident, the person may~~
27 be charged with a violation of this section if that person fails to provide the satisfactory
28 evidence within three business days from the date of the request. If that person
29 produces satisfactory evidence of a valid policy of liability insurance in effect at the
30 time of the alleged violation of this section to the officer, the officer's agency, or office

Sixty-third
Legislative Assembly

1 of the court under which the matter will be heard, that person may not be convicted or
2 assessed any administration fee for violation of subsection 1.

3 3. Notwithstanding section 26.1-30-18, a person may be convicted for failure to have a
4 valid policy of liability insurance in effect under this section if the time of acquisition of
5 the policy was after the time of the alleged incidence of driving without liability
6 insurance. If the time of acquisition of the policy comes into question, the driver or
7 owner has the burden of establishing the time of acquisition. If the driver is not an
8 owner of the motor vehicle, the driver does not violate this section if the driver provides
9 the court with evidence identifying the owner of the motor vehicle and describing
10 circumstances under which the owner caused or permitted the driver to drive the
11 motor vehicle.

12 4. Violation of subsection 1 is a ~~class B misdemeanor~~ infraction and the sentence
13 imposed must include a fine of at least ~~one~~ three hundred ~~and fifty~~ dollars which may not be
14 suspended. ~~A person convicted for a second or subsequent violation of driving without~~
15 ~~liability insurance within a three-year period must be fined at least three hundred~~
16 ~~dollars which may not be suspended.~~ For a second or subsequent conviction for a
17 violation of subsection 1 or equivalent ordinance, the court shall ~~impound~~ order the
18 motor vehicle number plates of the motor vehicle owned and operated by the person
19 at the time of the violation to be impounded until that person provides proof of
20 insurance and a twenty dollar fee to the ~~department~~ court. The person shall deliver the
21 number plates to the court without delay at a time certain as ordered by the court
22 following the conviction. The court shall deliver the number plates to the
23 ~~department~~ office of the police officer that made the arrest and notify the department of
24 the order. A person who does not provide the number plates to the court at the
25 appropriate time is guilty of a class B misdemeanor.

26 5. Upon conviction for a violation of subsection 1 or equivalent ordinance, the person
27 who has been convicted shall provide proof of motor vehicle liability insurance to the
28 department in the form of a written or electronically transmitted certificate from an
29 insurance carrier authorized to do business in this state. This proof must be provided
30 for a period of three years and kept on file with the department. If the person fails to
31 provide this information, the department shall suspend that person's driving privileges

Sixty-third
Legislative Assembly

- 1 and may not issue or renew that person's operator's license unless that person
2 provides proof of insurance.
- 3 6. A person who has been convicted for violation of subsection 1 or equivalent ordinance
4 shall surrender that person's operator's license and purchase a duplicate operator's
5 license with a notation requiring that person to keep proof of liability insurance on file
6 with the department. The fee for this license is fifty dollars and the fee to remove this
7 notation is fifty dollars.
- 8 7. When an insurance carrier has certified a motor vehicle liability policy, the insurance
9 carrier shall notify the director no later than ten days after cancellation or termination
10 of the certified insurance policy by filing a notice of cancellation or termination of the
11 certified insurance policy; except that a policy subsequently procured and certified
12 shall, on the effective date of its certification, terminate the insurance previously
13 certified with respect to any motor vehicle designated in both certificates.

CHAPTER 39-06.1
DISPOSITION OF TRAFFIC OFFENSES

39-06.1-01. Definitions.

As used in this title:

1. "Adjudication" and "admission" means an official determination, in the manner provided by law, that a traffic violation has been committed by a named driver.
2. "Equivalent ordinance" or "equivalent ordinances" means city, state, or other jurisdiction ordinances which are comparable to the cited statute, and define essentially the same offense, despite the fact that the language of the ordinance may differ, or differing procedural points or methods of proof may be provided.
3. "Halting officer" means a law enforcement officer charged with and acting under the officer's authority to halt and, if appropriate, arrest persons suspected or known to be violating statutes or ordinances regulating the operation or equipment of vehicles, or the regulation of traffic.
4. "Licensing authority" means the state agency authorized to issue operators' licenses.
5. "Point" or "points" refers to the number of demerits assigned to particular types of traffic violations, the accumulation of which will, at a stated level, result in suspension of the offender's operator's license.

39-06.1-02. Traffic violations noncriminal - Exceptions - Procedures.

Any person cited, in accordance with sections 39-07-07 and 39-07-08, for a traffic violation under state law or municipal ordinance, other than an offense listed in section 39-06.1-05, is deemed to be charged with a noncriminal offense. The person may appear before the designated official and pay the statutory fee for the violation charged at or before the time scheduled for a hearing. If the person has posted bond in person or by mail, the person may forfeit bond by not appearing at the designated time. If the person is cited for a traffic violation under state law and posts bond by mail, the bond must be submitted within fourteen days of the date of the citation. When posting bond by mail, the person cited shall indicate on the envelope or citation whether a hearing is requested. If the person does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the violation admitted. If the person requests a hearing, the court for the county in which the citation is issued shall issue a summons to the person requesting the hearing notifying the person of the date of the hearing before the designated official in accordance with section 39-06.1-03. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the person's request, the person may make a statement in explanation of the person's action. The official may at that time waive, reduce, or suspend the statutory fee or bond, or both. If the person cited follows the foregoing procedures, the person is deemed to have admitted the violation and to have waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance must be identical to the statutory fee established by section 39-06.1-06. Within ten days after forfeiture of bond or payment of the statutory fee, the official having jurisdiction over the violation shall certify to the licensing authority:

1. Admission of the violation; and
2. In speeding violations, whether the speed charged was in excess of the lawful speed limit by more than nine miles [14.48 kilometers] per hour and the miles [kilometers] per hour by which the speed limit was exceeded.

This section does not allow a halting officer to receive the statutory fee or bond, unless the officer is otherwise authorized by law to do so.

39-06.1-02.1. Notification of parents or guardians of juvenile traffic offenders.

The clerk of court shall notify the parent or guardian of any juvenile appearing before the court on a traffic offense of the charge as contained in the citation, the penalty attached to the offense, and the time and place of any court hearing on the matter.

39-06.1-03. Administrative hearing - Procedures - Appeals - Stay orders.

1. A person cited for a traffic violation, other than an offense listed in section 39-06.1-05, who does not follow one of the procedures set forth in section 39-06.1-02, may request a hearing on the issue of commission of the violation charged. The hearing must be held at the time scheduled in the citation, at the time scheduled in response to the person's request, or at some future time, not to exceed ninety days later, set at that first appearance.
2. At the time of a request for a hearing on the issue of commission of the violation, the person charged shall deposit with the official having jurisdiction an appearance bond equal to the statutory fee for the violation charged.
3. If a person cited for a traffic violation, other than an offense listed in section 39-06.1-05, has requested a hearing on the issue of the commission of the violation charged and appears at the time scheduled for the hearing, and the state or city, as the case may be, does not appear or is not ready to prove the commission of a charged violation at the hearing, the official shall dismiss the charge.
4. If the official finds that the person had committed the traffic violation, the official shall notify the licensing authority of that fact, and whether the person was driving more than nine miles [14.48 kilometers] per hour in excess of the lawful limit, stating specifically the miles [kilometers] per hour in excess of the lawful limit, if charged with a speeding violation, within ten days of the date of the hearing. The fact that a person has admitted a violation, or has, in any proceeding, been found to have committed a violation, may not be referred to in any way, nor be admissible as evidence in any court, civil, equity, or criminal, except in an action or proceeding involving that person's driving license or privilege.
5.
 - a. A person may not appeal a finding from a district judge or magistrate that the person committed the violation. If a person is aggrieved by a finding in the municipal court that the person committed the violation, the person may, without payment of a filing fee, appeal that finding to the district court for trial anew. If, after trial in the appellate court, the person is again found to have committed the violation, there may be no further appeal. Notice of appeal under this subsection must be given within thirty days after a finding of commission of a violation is entered by the official. Oral notice of appeal may be given to the official at the time that the official adjudges that a violation has been committed. Otherwise, notice of appeal must be in writing and filed with the official, and a copy of the notice must be served upon the prosecuting attorney. An appeal taken under this subsection may not operate to stay the reporting requirement of subsection 4, nor to stay appropriate action by the licensing authority upon receipt of that report.
 - b. The appellate court upon application by the appellant may:
 - (1) Order a stay of any action by the licensing authority during pendency of the appeal, but not to exceed a period of one hundred twenty days;
 - (2) Order a stay and that the appellant be issued a temporary restricted driving certificate by the licensing authority to be effective for no more than one hundred twenty days; or
 - (3) Deny the application.An application for a stay or temporary certificate under this subdivision must be accompanied by a certified copy of the appellant's driving record, for the furnishing of which the licensing authority may charge a fee of three dollars. Any order granting a stay or a temporary certificate must be forwarded forthwith by the clerk of court to the licensing authority, which immediately shall issue a temporary certificate in accordance with the order in the manner provided by law. A court may not make a determination on an application under this subdivision without notice to the appropriate prosecuting attorney. A person who violates or exceeds the restrictions contained in any temporary restricted driving certificate issued pursuant to this subdivision is guilty of a traffic violation and must be assessed a fee of twenty dollars.

- c. If the person charged is found not to have committed the violation by the appellate court, the clerk of court shall report that fact to the licensing authority immediately. Unless the appropriate state's attorney consents to prosecute the appeal, if an appeal under this subsection is from a violation of a city ordinance, the city attorney for the city wherein the alleged violation occurred shall prosecute the appeal. In all other cases, the appropriate state's attorney shall prosecute the appeal.
6. The state or the city, as the case may be, must prove the commission of a charged violation at the hearing or appeal under this section by a fair preponderance of the evidence. Upon an appeal under subsection 5, the court and parties shall follow, to the extent applicable, the North Dakota Rules of Civil Procedure. If on the appeal from the finding of the official the finding is affirmed, costs may be assessed at the discretion of the trial judge.
7. As used in sections 39-06.1-02, 39-06.1-03, and 39-06.1-04, the word "official" means a municipal judge, or a magistrate or other qualified person appointed by the presiding judge of the judicial district, to serve as such official for all or a specified part of the judicial district.

39-06.1-04. Failure to appear, pay statutory fee, post bond - Procedure - Penalty.

If a person fails to choose one of the methods of proceeding set forth in section 39-06.1-02 or 39-06.1-03, the person must be deemed to have admitted to commission of the violation charged, and the official having jurisdiction shall report such fact to the licensing authority within ten days after the date set for the hearing. Failure to appear at the time designated, after signing a promise to appear, if signing is required by law, or failure to appear without paying the statutory fee or posting and forfeiting bond is a class B misdemeanor. Failure to appear without just cause at the hearing must also be deemed an admission of commission of the violation charged.

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. Driving without liability insurance in violation of section 39-08-20.
9. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46.
10. 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.

39-06.1-06. Amount of statutory fees.

The fees required for a noncriminal disposition pursuant to either section 39-06.1-02 or 39-06.1-03 must be as follows:

1. For a nonmoving violation as defined in section 39-06.1-08, a fee of any amount not to exceed twenty dollars.
2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except for:

- a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, 39-10-42, 39-10-46, or 39-10-46.1, a fee of fifty dollars.
- b. A violation of section 39-10-05 involving failure to yield to a pedestrian or subsection 1 of section 39-10-28, a fee of fifty dollars.
- c. A violation of section 39-21-41.2, a fee of twenty-five dollars.
- d. A violation of subsection 1 of section 39-12-02 or section 39-08-23, a fee of one hundred dollars.
- e. A violation of subdivision d of subsection 1 of section 39-12-04, a fee of one hundred dollars.
- f. A violation of subsection 1 of section 39-04-37 by an individual by becoming a resident of this state, a fee of one hundred dollars.
- g. A violation of subsection 2 of section 39-10-21.1, a fee of two hundred fifty dollars.
- h. A violation of section 39-10-59, a fee of one hundred dollars.

3. Except as provided in subsections 7 and 11, for a violation of section 39-09-02, or an equivalent ordinance, a fee established as follows:

Miles per hour over lawful speed limit	Fee
1 - 5	\$ 5
6 - 10	\$ 5 plus \$1/each mph over 5 mph over limit
11 - 15	\$ 10 plus \$1/each mph over 10 mph over limit
16 - 20	\$ 15 plus \$2/each mph over 15 mph over limit
21 - 25	\$ 25 plus \$3/each mph over 20 mph over limit
26 - 35	\$ 40 plus \$3/each mph over 25 mph over limit
36 - 45	\$ 70 plus \$3/each mph over 35 mph over limit
46 +	\$100 plus \$5/each mph over 45 mph over limit

- 4. For a violation of section 39-09-01, or an ordinance defining careless driving, a fee of thirty dollars.
- 5. For a violation of section 39-09-01.1, or an ordinance defining care required in driving, a fee of not less than ten dollars nor more than thirty dollars.
- 6. For a violation of any traffic parking regulations, except a violation of subsection 10 of section 39-01-15, on any state charitable or penal institution property or on the state capitol grounds, a fee in the amount of five dollars.
- 7. On a highway on which the speed limit is a speed higher than fifty-five miles [88.51 kilometers] an hour, for a violation of section 39-09-02, or an equivalent ordinance, a fee established as follows:

Miles per hour over lawful speed limit	Fee
1 - 10	\$2/each mph over limit
11 +	\$20 plus \$5/each mph over 10 mph over limit

- 8. For a violation of section 39-21-41.4, a fee not to exceed twenty dollars.
- 9. For a violation of section 39-21-44 or a rule adopted under that section, a fee of two hundred fifty dollars.
- 10. For a violation of subsection 3 of section 39-21-46, a fee established as follows:
 - a. Driving more than eleven hours since the last ten hours off duty, driving after fourteen hours on duty since the last ten hours off duty, driving after sixty hours on duty in seven days or seventy hours in eight days, no record of duty status or log book in possession, failing to retain previous seven-day record of duty status or log book, or operating a vehicle with four to six out-of-service defects, one hundred dollars;
 - b. False record of duty status or log book or operating a vehicle with seven to nine out-of-service defects, two hundred fifty dollars;
 - c. Operating a vehicle after driver placed out of service, operating a vehicle with ten or more out-of-service defects, or operating a vehicle that has been placed out of service prior to its repair, five hundred dollars; and

- d. All other violations of motor carrier safety rules adopted under subsection 3 of section 39-21-46, fifty dollars.
11. On a highway on which the speed limit is posted in excess of sixty-five miles [104.61 kilometers] an hour, for a violation of section 39-09-02, or equivalent ordinance, a fee of five dollars for each mile per hour over the limit.
12. For a violation of a school zone speed limit under subdivision b of subsection 1 of section 39-09-02, or, notwithstanding subsection 2 of section 40-05-06 or section 40-05.1-06, of an ordinance in a city or home rule city for a violation of a speed limit dependent upon being on or near a school, fees for a noncriminal disposition are forty dollars for one through ten miles per hour over the posted speed; and forty dollars, plus one dollar for each additional mile per hour over ten miles per hour over the limit unless a greater fee would be applicable under this section.
13. For a violation of a highway construction zone speed limit under subsection 2 of section 39-09-02, a fee of eighty dollars for one through ten miles per hour over the posted speed; and eighty dollars plus two dollars for each mile per hour over ten miles per hour over the limit, unless a greater fee would be applicable under this section. The fee in this subsection does not apply to a highway construction zone unless individuals engaged in construction are present at the time and place of the violation and the posted speed limit sign states "Minimum Fee \$80".

39-06.1-07. Notification to offenders - Duties of licensing authority.

The licensing authority shall prepare notification forms and a temporary operator's permit as provided in section 39-20-03.1 or 39-20-03.2 to be delivered to persons charged along with the uniform traffic summons and complaint as provided in section 29-05-31. The notification forms must contain language, approved by the attorney general, informing persons charged with traffic violations, other than offenses listed in section 39-06.1-05, of the procedures available to them under sections 39-06.1-02 and 39-06.1-03 and informing persons who refuse a chemical test or onsite screening test under chapter 39-20 or who, on taking a chemical test, are found to be in violation of subdivision a of subsection 1 of section 39-08-01, of the procedures available under chapter 39-20. The notification must also contain a schedule of points to be charged against a person's driving record or other operator's license penalties as provided by law and a schedule of statutory fees and bond amounts as determined in accordance with sections 39-06.1-06 and 39-06.1-02. A notification form separate from the uniform traffic summons and complaint may be delivered to a person charged with a violation of subsection 3 of section 39-21-46.

39-06.1-08. Nonmoving violation defined.

For the purposes of section 39-06.1-06, a "nonmoving violation" means:

1. A violation of section 39-04-11, subsection 1 of section 39-04-37 by an individual by becoming a resident of this state, subsection 6 of section 39-06-17, and section 39-06-44, 39-06-45, 39-10-47, 39-10-49, 39-10-50, 39-10-51, 39-10-54.1, 39-21-08, 39-21-10, 39-21-11, or 39-21-14, or a violation of any municipal ordinance equivalent to the foregoing sections.
2. A violation, discovered at a time when the vehicle is not actually being operated, of section 39-21-03, 39-21-05, 39-21-13, 39-21-19, 39-21-32, 39-21-37, 39-21-39, or 39-21-44.2, or a violation of any municipal ordinance equivalent to the foregoing sections.

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, 39-06-16, 39-08-23, 39-08-24, 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, 39-24-02, or 39-24-09, except subdivisions b and c of subsection 5, 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 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.

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

1. When a report of a conviction of a traffic offense, or admission or adjudication of a traffic violation is received by the licensing authority, the licensing authority shall proceed to enter the proper number of points on the licensee's driving record, unless the number points assigned to the violation are two or less. If the number points assigned to the violation are two or less, the violation and points may not be entered on the driving record but must be recorded separately, and the separate record shall not be available to the public. Points from violations in which the assigned number points are two or less shall be considered a part of the driving record only for purposes of point reduction pursuant to section 39-06.1-13 and for purposes of license suspension. When the driving record shows that the licensee has an accumulated point total of twelve or more points, assigned on the basis of the schedule contained in subsection 3, the authority shall notify the licensee of its intention to suspend the operator's license according to the provisions of section 39-06-33. For the purposes of this chapter, the licensing authority may also receive and act on reports of traffic offense convictions forwarded by federal, military, and tribal courts in this state.
2. If the licensing authority confirms, after hearing or opportunity for hearing, that the licensee's driving record has an accumulated point total of twelve or more points, the licensing authority shall suspend the licensee's operator's license according to the following schedule:

Accumulated Point Total:	Period of Suspension:
a. Twelve	7 days
b. Thirteen and above	7 days for each point over eleven

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

3. Points must be assigned and accumulated on the basis of the following schedule:
 - a. Noncriminal Violations

Noncriminal Adjudication or Admission of:	Points Assigned:
(1) Overtime and double parking in violation of city ordinances	0 points
(2) Failure to display license plates	1 point
(3) Permitting unauthorized minor to drive	2 points
(4) Permitting unauthorized person to drive	2 points
(5) Unlawful stopping, standing, or parking on open highway in violation of section 39-10-47	2 points
(6) Unlawful parking in prohibited place	1 point
(7) Leaving motor vehicle improperly unattended on an open highway	1 point
(8) Opening or leaving motor vehicle doors open when unsafe to do so	1 point
(9) Except as provided in sections 39-21-44 and 39-21-45.1, knowingly driving with defective, nonexistent, or unlawful equipment in violation of section 39-21-46, or equivalent ordinances	2 points
(10) Careless driving in violation of section 39-09-01, or equivalent ordinance	6 points
(11) Violating or exceeding restrictions contained in a restricted certificate issued pursuant to section 39-06.1-03	4 points
(12) Racing or drag racing motor vehicles in violation of section 39-08-03.1, or equivalent ordinance	10 points

- | | | |
|------|--|-----------|
| (13) | Exhibition driving in violation of section 39-08-03.1, or equivalent ordinance | 3 points |
| (14) | Failing to yield right of way in violation of section 39-10-20, 39-10-22 through 39-10-26, 39-10-28, 39-10-33.3, 39-10-44, or 39-10-72, or equivalent ordinances | 2 points |
| (15) | Disobeying an official traffic-control device in violation of section 39-10-04, 39-10-05, or 39-10-07, or equivalent ordinances | 2 points |
| (16) | Driving on wrong side of road in violation of section 39-10-08, 39-10-14, or 39-10-16, or equivalent ordinances | 2 points |
| (17) | Failing to dim headlights in violation of section 39-21-21, or equivalent ordinance | 1 point |
| (18) | Failing to stop at railroad crossing in violation of section 39-10-41 or 39-10-42, or equivalent ordinances | 3 points |
| (19) | Knowingly driving with defective brakes in violation of section 39-21-32 or 39-21-33, or equivalent ordinances | 2 points |
| (20) | Disregarding the lawful commands of a police officer in violation of section 39-10-02, or equivalent ordinance | 2 points |
| (21) | Overtaking where prohibited or in an unsafe manner in violation of section 39-10-11, 39-10-12, 39-10-13, or 39-10-15, or equivalent ordinances | 2 points |
| (22) | Overtaking and passing a schoolbus in violation of section 39-10-46, or equivalent ordinance | 6 points |
| (23) | Operating a motor vehicle without a license in violation of section 39-06-01, or equivalent ordinance | 4 points |
| (24) | Improperly operating or unlawfully carrying passengers or packages on a motorcycle in violation of section 39-10.2-02, or equivalent ordinance | 2 points |
| (25) | Improperly operating a motorcycle in laned traffic in violation of section 39-10.2-03, or equivalent ordinance | 2 points |
| (26) | Clinging to other vehicles while riding a motorcycle in violation of section 39-10.2-04, or equivalent ordinance | 4 points |
| (27) | Carrying a passenger on a motorcycle not equipped with passenger footrests in violation of section 39-10.2-05, or equivalent ordinance | 2 points |
| (28) | Operating a motorcycle without protective headgear in violation of subsection 1 of section 39-10.2-06, or equivalent ordinance | 2 points |
| (29) | Failing to use the care required in section 39-09-01.1, or equivalent ordinance | 2 points |
| (30) | Except as provided in paragraph 33, operating a motor vehicle in excess of speed limit in violation of section 39-09-02, or equivalent ordinance | |
| | 6 - 10 mph over limit | 0 points |
| | 11 - 15 mph over limit | 1 point |
| | 16 - 20 mph over limit | 3 points |
| | 21 - 25 mph over limit | 5 points |
| | 26 - 35 mph over limit | 9 points |
| | 36 - 45 mph over limit | 12 points |
| | 46 + mph over limit | 15 points |
| (31) | Driving in violation of section 39-08-18 | 2 points |
| (32) | Driving in violation of section 39-08-09 | 6 points |
| (33) | On a highway on which the speed limit is posted in excess of sixty-five miles [104.61 kilometers] an hour, | |

	operating a motor vehicle in excess of the speed limit in violation of section 39-09-02, or equivalent ordinance	
	Miles per hour over lawful speed limit	Points
	1 - 5	0
	6 - 10	1
	11 - 15	3
	16 - 20	5
	21 - 25	7
	26 - 30	10
	31 - 35	12
	36 +	15
(34)	Failing to have a minor in a child restraint system or seatbelt in violation of section 39-21-41.2	1 point
(35)	Failure or refusal to comply with rules of the superintendent of the highway patrol in violation of subsection 3 of section 39-21-46	0 points
(36)	Violation of section 39-21-44 or any rule adopted under that section	2 points
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)	Except as provided in paragraph 9, operating a motor vehicle without liability insurance, in violation of section 39-08-20	6 points
(8)	Knowingly driving a modified motor vehicle in violation of section 39-21-45.1, or equivalent ordinance	2 points
(9)	Operating a motor vehicle without liability insurance, in violation of section 39-08-20, if the violation was discovered as the result of investigation of an accident in which the driver is the owner	14 points
(10)	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
(11)	Fleeing in a motor vehicle from a peace officer in violation of section 39-10-71, or equivalent ordinance	24 points
(12)	Except as provided in paragraph 9, operating a motor vehicle without liability insurance, in violation of section 39-08-20, if the driving record shows that the licensee has within the eighteen months preceding the violation previously violated section 39-08-20	12 points

- (13) 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
- (14) Driving in violation of the conditions of an instruction permit 2 points
- 3.1. a. If the director is informed by a court that a person has been convicted of violating section 39-08-01, or equivalent ordinance, the director, subject to the offender's opportunity for hearing under subsection 1, shall suspend that person's driving privileges until the offender furnishes to the director the written statement of the counselor or instructor of an appropriate licensed addiction treatment program that the offender does not require either an education or treatment program or that the offender has physically attended the prescribed program and has complied with the attendance rules. The director shall send notice to the offender informing the offender of the provisions of this subsection.
- b. If within the seven years preceding the most recent violation of section 39-08-01, or equivalent ordinance, the offender has previously violated section 39-08-01, or equivalent ordinance, at least three times, the driving privileges shall be suspended and can be restored only after that person has completed addiction treatment through an appropriate licensed addiction treatment program and has had no alcohol-related or drug-related offense for two consecutive years after completion of treatment.
4. If judicial disposition of a traffic violation includes an order or recommendation of suspension or revocation of an operator's license, the suspension or revocation runs concurrently with any suspension ordered under this section. After a conviction of a person for violating section 39-08-01, the director shall, in suspending the person's operator's license, give credit for the time in which license suspension or revocation has been or is being imposed under chapter 39-20 in connection with the same offense.
5. A suspension must be deemed to have commenced twenty days after the order of suspension is delivered to the licensee at the licensee's address of record in the department. Constructive delivery under this section must be considered as occurring seventy-two hours after proper deposit in the mails.
6. Points assigned pursuant to this section must be recorded against an operator's driving record regardless of whether the operator has ever had an operator's license issued in this state, and the licensing authority shall maintain records on all violators regardless of whether they are licensed. Upon the assignment of twelve or more points, any unlicensed operator must be deemed to be driving under suspension if the operator has never had an operator's license or if the operator has failed to renew the operator's license.
7. The period of suspension imposed for a violation of section 39-08-01 or equivalent ordinance is:
- a. Ninety-one days if the operator's record shows the person has not violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation.
- b. One hundred eighty days if the operator's record shows the person has not violated section 39-08-01 or equivalent ordinance within five years preceding the last violation and the violation was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.
- c. Three hundred sixty-five days if the operator's record shows the person has once violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation.
- d. Two years if the operator's record shows the person has at least once violated section 39-08-01 or equivalent ordinance within the five years preceding the last

violation and the violation was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.

- e. Two years if the operator's record shows the person has at least twice violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation.
- f. Three years if the operator's record shows the person has at least twice violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation and the violation is for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.

39-06.1-10.1. Alternative disposition - Driver training course - Exceptions.

A person issued a summons or notice to appear under section 39-07-07 may appear before the court and elect to attend a driver training course approved by the director in lieu of entry of points on the licensee's driving record. A person who elects to attend the course must so notify the court at the time of posting the bond, which is forfeited even though an election is made under this section. The person who makes the election shall pay the driver training course fee to the driver training course sponsor. When a person elects to attend the course, the point penalty of five points or fewer as provided for the violation by section 39-06.1-10 may not be assessed; provided, that proof of completion of the course is presented to the department within thirty days after the person notifies the court of the election. A person may not make an election under this section if:

1. That person has made an election under this section within the twelve months preceding the date of issuance of the summons or notice to appear;
2. The offense is assigned six or more points; or
3. The offense is an offense listed in section 39-06.1-05.

A person making an election under this section forfeits any point reduction option under section 39-06.1-13.

39-06.1-11. Temporary restricted license - Ignition interlock device.

1. Except as provided under subsection 2, if the director has suspended a license under section 39-06.1-10 or has extended a suspension or revocation under section 39-06-43, upon receiving written application from the offender affected, the director may for good cause issue a temporary restricted operator's license valid for the remainder of the suspension period after seven days of the suspension period have passed.
2. If the director has suspended a license under chapter 39-20, or after a violation of section 39-08-01 or equivalent ordinance, upon written application of the offender the director may issue for good cause a temporary restricted license that takes effect after thirty days of the suspension have been served after a first offense under section 39-08-01 or chapter 39-20. The director may not issue a temporary restricted license to any offender whose operator's license has been revoked under section 39-20-04 or suspended upon a second or subsequent offense under section 39-08-01 or chapter 39-20, except that a temporary restricted license may be issued for good cause if the offender has not committed an offense for a period of two years before the date of the filing of a written application that must be accompanied by a report from an appropriate licensed addiction treatment program or if the offender is participating in the drug court program and has not committed an offense for a period of three hundred sixty-five days before the date of the filing of a written application that must be accompanied by a recommendation from the district court. The director may conduct a hearing for the purposes of obtaining information, reports, and evaluations from courts, law enforcement, and citizens to determine the offender's conduct and driving behavior during the prerequisite period of time. The director may also require that an ignition interlock device be installed in the offender's vehicle.
3. The director may not issue a temporary restricted license for a period of license revocation or suspension imposed under subsection 5 of section 39-06-17 or section 39-06-31. A temporary restricted license may be issued for suspensions ordered under

subsection 7 of section 39-06-32 if it could have been issued had the suspension resulted from in-state conduct.

4. A restricted license issued under this section is solely for the use of a motor vehicle during the licensee's normal working hours and may contain any other restrictions authorized by section 39-06-17. Violation of a restriction imposed according to this section is deemed a violation of section 39-06-17.
5. If an offender has been charged with, or convicted of, a second or subsequent violation of section 39-08-01 or equivalent ordinance and the offender's driver's license is not subject to an unrelated suspension or revocation, the director shall issue a temporary restricted driver's permit to the offender only for the purpose of participation in the twenty-four seven sobriety program upon submission of proof of financial responsibility and proof of participation in the program by the offender. If a court or the parole board finds that an offender has violated a condition of the twenty-four seven sobriety program, the court or parole board may order the temporary restricted driver's permit be revoked and take possession of the temporary restricted driver's permit. The court or the parole board shall send a copy of the order to the director who shall record the revocation of the temporary restricted driver's permit. Revocation of a temporary restricted driver's permit for violation of a condition of the twenty-four seven sobriety program does not preclude the offender's eligibility for a temporary restricted driver's license under any other provisions of this section.

39-06.1-12. Completion of suspension - Reduction of point total.

When a licensee completes a period of suspension ordered pursuant to section 39-06.1-10 or as ordered or recommended by a court of competent jurisdiction, the licensing authority shall reduce the point total shown on the licensee's driving record to eleven points. Thereafter, suspension must be ordered when that licensee's point total again reaches twelve or more points.

39-06.1-13. Reduction of point total - Other methods.

1. The licensing authority shall reduce the point total shown on any licensee's driving record by one point for each three-month period during which no points are recorded against the licensee's driving record for a moving violation or a violation listed in paragraphs 12 through 16 of subdivision a of subsection 3 of section 39-06.1-10. The three-month period must be calculated from the date of entry of the last points against that licensee's driving record.
2. The point total shown on a licensee's driving record must, during any twelve-month period, be reduced by three points when the licensee mails or delivers a certificate to the licensing authority indicating successful completion of instruction in a driver training course approved by the licensing authority. Successful completion of instruction must be certified to by the sponsoring agency or organization of the driver training course. The reduction in points authorized by this subsection must only be from a point total accumulated prior to completion of the necessary hours of driver training instruction, and may not exceed nine points during any three-year period commencing on the date of entry of the last points against the person's driving record. If on the date the licensing authority receives the certificate of completion of the driver training course from the licensee, that licensee's driving record contains twelve or more points or, as a minor, the licensee's driving record contains six points or more, the point reduction authorized by this subsection must be applied only after the period of suspension or cancellation required by the number of points then on the driver's record has been served.

39-06.1-14. Failure to surrender license.

The director shall extend the period of revocation in all cases that involve a time period, within this title, when the person whose license or permit has been revoked fails to surrender such license or permit within forty-eight hours after delivery of the order of revocation. Such

period of revocation must be extended by one day for each day such person fails to surrender such license. Delivery of the order must be deemed to have occurred seventy-two hours after the order is mailed by regular mail to the address of record in the department under section 39-06-20.

39-06.1-15. Diplomatic immunities and privileges.

1. This section applies only to an individual who displays a driver's license issued by the United States department of state to a law enforcement officer or who otherwise claims immunities or privileges under chapter 6 of title 22 of the United States Code with respect to the individual's violation of any law or ordinance that relates to the operation of a motor vehicle.
2. If a driver who is subject to this section is stopped by a law enforcement officer who has probable cause to believe that the driver has committed a violation, the law enforcement officer shall record all relevant information from any driver's license or identification card, including a driver's license or identification card issued by the United States department of state; as soon as practicable contact the United States department of state office in order to verify the driver's status and immunity, if any; and forward the following to the bureau of diplomatic security office of foreign missions of the United States department of state:
 - a. A vehicle accident report, if the driver was involved in a vehicle accident;
 - b. A copy of the citation or other charging document if a citation or other charging document was issued to the driver; and
 - c. A written report of the incident if a citation or other charging document was not issued to the driver.
3. This section does not prohibit or limit the application of any law to a criminal or motor vehicle violation by an individual who has or claims immunities or privileges under title 22 of the United States Code.

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, 39-06-16, 39-08-20, 39-08-23, 39-08-24, 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, 39-24-02, or 39-24-09, except subdivisions b and c of subsection 5, 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 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.

Testimony for House Bill 1263 – House Transportation Committee

Chairman Oehlke and members of the Senate Transportation Committee my name is Steve Becher, Executive Director of Professional Insurance Agents of North Dakota (PIAND) and I am here today in support of House Bill 1263. PIAND is a trade association representing 305 main street insurance agencies across the state of North Dakota with over 1,000 independent insurance agents.

In the interest of protecting everyone who uses the highways and roads of North Dakota it is good public policy to require that all drivers carry liability insurance. Drivers that don't carry insurance put all other insured drivers on the road at risk of having a financial loss even when the insured driver is not at fault. The insured driver will have uninsured motorist coverage, but that only covers injuries that the insured driver may incur due to the fault of an uninsured driver (not damage to their vehicle). If the insured driver carries collision coverage the vehicle damage would be covered under their own policy, but they would have to pay a deductible even though the accident was not their fault. If the insured driver only carries liability coverage, the damage to their vehicle would not be covered under any insurance policy and they would be stuck with paying for it themselves and possibly taking the uninsured driver to court to recover their loss.

House Bill 1263 does not drastically change the driving without insurance laws that are currently on the books, but the bill makes it much easier for law enforcement to enforce these laws. The current law is cumbersome to law enforcement as it puts additional time and paperwork burdens on them while the officer waits 20 days for the driver to provide them proof of insurance when it was not readily available in the vehicle. If the proof is not provided in this timeframe, they must then complete paperwork that is forwarded to the prosecutor so charges may be filed. House Bill 1263 will put the burden of proof squarely on the shoulders of the driver that failed to have proof of insurance in the vehicle and the officer can go on to other matters. Those drivers that do actually have insurance will have ample time until the court

HB 1263 Testimony – Steve Becher
Page 2 of 2

date on the citation to show proof to the court and the citation will be dismissed. Those that don't have insurance will already have the court process started on the date of the traffic stop without further time or effort expended by the officer or the prosecutor's office.

The fine provided for in House Bill 1263 should provide an incentive for drivers to carry insurance as the \$150 fine is almost as much as the average adult driver with minimum limits would pay for liability insurance for a year. It should also give a sense of urgency to the already insured driver that fails to have proof in their vehicle at a traffic stop to provide that proof to the court so the matter can be dismissed. The point system that goes against a driver's license remains unchanged from current law.

It is in the interests of all the citizens of North Dakota as well as the insurance industry that drivers on our roads have insurance coverage that protects the innocent party. It is also in everyone's interest to have driving without insurance laws that are fair to those that are following the law (but fail to have a piece of paper in their vehicle) as well as easy to administer by law enforcement to make sure that drivers are in compliance. For these reasons I would encourage a Do Pass recommendation on House Bill 1263 and would be happy to answer any questions that you may have.

Testimony in Support of House Bill 1263
Senate Transportation Committee
March 15, 2013

Good morning Chairman Oehlke and Committee Members. My name is Kara Johnson. I am an attorney at Zuger Kirmis & Smith here in Bismarck where I work with Pat Ward. I am here today on behalf of State Farm Insurance Companies in support of House Bill 1263, relating to driving without liability insurance.

State Farm would like to offer a friendly amendment that I will pass out. The amendment simply adds clarification on what constitutes satisfactory evidence that there is liability insurance on the vehicle. State Farm and other insurance companies have developed applications for your smartphone that can be used to show that you have liability insurance. We would like to insert a little language into the bill to clarify that this would be considered "satisfactory evidence" under the language of the bill.

If you look at page 4 of the bill, under Section 6, the amendment to N.D.C.C. § 39-08-20, it discusses what happens when you are stopped by an officer and asked to show proof of liability insurance. In subsection 2, after the language on lines 17 and 24 where it says "satisfactory evidence," we would like to add in a little explanatory clause that identifies that "satisfactory evidence" includes both written and electronic proof of insurance.

In talking to the Highway Patrol regarding the language of this proposed amendment, they did not have any problem with it. In fact, based off the language as it is currently written, officers can and do accept electronic proof of insurance. State Farm simply wants to clarify to officers that accepting proof of insurance from a smartphone application is okay. This will clarification will also help to reduce discrepancies between officers on what constitutes "satisfactory evidence."

By allowing the use of electronic proof of insurance, it should help to reduce administrative processing with the courts because there will be fewer cases where a person has to send in a copy of their proof of insurance cards. Given the current burden on some of the courts in the state right now, any reduction in administrative processing would be a welcome relief.

Other states including Minnesota, Arizona, California, Idaho, and Louisiana have already passed bills that clearly allow for electronic proof of insurance. Bills regarding this issue are currently pending in 17 other states: Alaska, Arkansas, Colorado, Florida, Georgia, Indiana, Iowa, Maine, Missouri, Ohio, Oregon, South Carolina, Tennessee, Texas, Washington, Wisconsin, and Wyoming.

PROPOSED AMENDMENTS TO SECOND ENGROSSED HOUSE BILL 1263

Page 4, line 17, after "evidence" insert ", which includes written or electronic proof of insurance,"

Page 4, line 24, after "evidence" insert ", which includes written or electronic proof of insurance,"

Re-number accordingly