

**FIRST ENGROSSMENT  
with Senate Amendments**

Sixty-first  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1534**

Introduced by

Representatives Griffin, Dahl

1 A BILL for an Act to amend and reenact subsection 2 of section 39-08-01 and section  
2 39-08-01.2 of the North Dakota Century Code, relating to special punishment for causing injury  
3 or death while under the influence of alcohol.

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

5 **SECTION 1. AMENDMENT.** Subsection 2 of section 39-08-01 of the North Dakota  
6 Century Code is amended and reenacted as follows:

7 2. ~~A person~~ Unless as otherwise provided in section 39-08-01.2, an individual  
8 violating this section or equivalent ordinance is guilty of a class B misdemeanor for  
9 the first or second offense in a five-year period, of a class A misdemeanor for a  
10 third offense in a five-year period, of a class A misdemeanor for the fourth offense  
11 in a seven-year period, and of a class C felony for a fifth or subsequent offense in  
12 a seven-year period. The minimum penalty for violating this section is as provided  
13 in subsection 4. The court shall take judicial notice of the fact that an offense  
14 would be a subsequent offense if indicated by the records of the director or may  
15 make a subsequent offense finding based on other evidence.

16 **SECTION 2. AMENDMENT.** Section 39-08-01.2 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **39-08-01.2. Special punishment for causing injury or death while operating a**  
19 **vehicle while under the influence of alcohol.**

20 1. ~~The penalty provided in this section applies when:~~  
21 a. ~~A person~~ If an individual is convicted of an offense under chapter 12.1-16 and  
22 the conviction is based in part on the evidence of the ~~person's~~ individual's  
23 operation of a motor vehicle while under the influence of alcohol or drugs;.

1                   the sentence imposed must include at least one year's imprisonment if the  
2                   individual was an adult at the time of the offense.

3       ~~b.~~ 2. ~~A person~~ If an individual is convicted of violating section 39-08-01, or section  
4                   39-08-03 based in part on the evidence of the ~~person's~~ individual's operation of a  
5                   motor vehicle while under the influence of alcohol or drugs, and the violation  
6                   caused serious bodily injury, as defined in section 12.1-01-04, to another ~~person;~~  
7                   ~~or~~

8                   ~~e.~~ A person is convicted of violating section 39-08-01 and the violation caused  
9                   serious bodily injury, as defined in section 12.1-01-04, to another person  
10                  individual, that individual is guilty of a class A misdemeanor and the sentence  
11                  must include at least ninety days' imprisonment if the individual was an adult  
12                  at the time of the offense.

13       ~~2.~~ 3. ~~If the defendant was at least eighteen years of age at the time of the offense under~~  
14                  ~~chapter 12.1-16, the sentence under that chapter must be at least one year's~~  
15                  ~~imprisonment. If the defendant was at least eighteen years of age at the time of~~  
16                  ~~the violation of section 39-08-01 or 39-08-03, the sentence under either section~~  
17                  ~~must be at least ninety days' imprisonment. The sentence under chapter 12.1-16~~  
18                  ~~or section 39-08-01 or 39-08-03~~ this section may not be suspended unless the  
19                  court finds that manifest injustice would result from imposition of the sentence.  
20                  ~~The sentence must be served in its entirety, without benefit of parole or pardon.~~

21       ~~3.~~ If the defendant was less than eighteen years of age at the time of the offense, the  
22                  punishment may be in accordance with subsection 2 or chapter 27-20. Before a  
23                  sentence under this section applies, a defendant must be notified of the minimum  
24                  mandatory sentence. If the finding of guilt is by jury verdict, the verdict form must  
25                  indicate that the jury found the elements that create the minimum sentence.