

HOUSE BILL NO. 1430

Introduced by

Representatives Mock, Dobervich, D. Ruby, Sukut

Senators Laffen, D. Larson

1 A BILL for an Act to create and enact a new section to chapter 39-08 of the North Dakota
2 Century Code, relating to ~~distracted driving~~failure to maintain control of a motor vehicle; to
3 amend and reenact subsection 2 of section 39-06.1-06 and ~~section~~sections 39-06.1-09 and
4 39-08-23 of the North Dakota Century Code, relating to fees for a moving violation; ~~to repeal~~
5 ~~section 39-08-23 of the North Dakota Century Code, relating to~~ and the use of a wireless
6 communication device while driving; and to provide a penalty.

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

8 **SECTION 1. AMENDMENT.** Subsection 2 of section 39-06.1-06 of the North Dakota
9 Century Code is amended and reenacted as follows:

- 10 2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except
11 for:
- 12 a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, or 39-10-42, a fee of fifty
13 dollars.
 - 14 b. A violation of section 39-10-05 involving failure to yield to a pedestrian or
15 subsection 1 of section 39-10-28, a fee of fifty dollars.
 - 16 c. A violation of section 39-21-41.2, a fee of twenty-five dollars.
 - 17 d. A violation of subsection 1 of section 39-12-02 ~~or~~, section 39-08-23~~3~~, or section 4
18 of this Act, a fee of one hundred dollars.
 - 19 e. A violation of subdivision d of subsection 1 of section 39-12-04, a fee of one
20 hundred dollars.
 - 21 f. A violation of subsection 1 of section 39-04-37 by an individual by becoming a
22 resident of this state, a fee of one hundred dollars.
 - 23 g. A violation of subsection 2 of section 39-10-21.1, a fee of two hundred fifty
24 dollars.

- 1 h. A violation of section 39-10-59, a fee of one hundred dollars.
- 2 i. A violation of section 39-09-01, a fee of thirty dollars.
- 3 j. A violation of section 39-09-01.1, a fee of thirty dollars.
- 4 k. A violation of section 39-10-46 or 39-10-46.1, a fee of one hundred dollars.
- 5 l. A violation of subsection 1 of section 39-08-20, one hundred fifty dollars for a first
6 violation and three hundred dollars for a second or subsequent violation in three
7 years.

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

10 **39-06.1-09. Moving violation defined.**

11 For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a
12 violation of section 39-04-22, subsection 1 of section 39-04-37, section 39-04-55, 39-06-01,
13 39-06-14, 39-06-14.1, 39-06-16, 39-08-20, ~~39-08-23~~section 3 of this Act, 39-08-24, section 4 of
14 this Act 39-09-01, 39-09-01.1, 39-09-04.1, or 39-09-09, subsection 1 of section 39-12-02,
15 section 39-12-04, 39-12-05, 39-12-06, 39-12-09, 39-21-45.1, 39-24-02, or 39-24-09, except
16 subdivisions b and c of subsection 5 of section 39-24-09, or equivalent ordinances; or a
17 violation of the provisions of chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except
18 subsection 5 of section 39-10-26, section 39-21-44, and subsections 2 and 3 of section
19 39-21-46, and those sections within those chapters which are specifically listed in subsection 1
20 of section 39-06.1-08.

21 ~~SECTION 3. A new section to chapter 39-08 of the North Dakota Century Code is created~~
22 ~~and enacted as follows:~~

23 ~~**Distracted driving:**~~

24 ~~The operator of a motor vehicle that is in motion or part of traffic may not engage in an~~
25 ~~activity that requires the use of the operator's sight unless that activity involves operating or~~
26 ~~using the whole motor vehicle or a built-in accessory. The operator may use:~~

27 ~~1. An electronic device that transmits data automatically and does not require direct~~
28 ~~initiation by the operator;~~

29 ~~2. A voice-operated device;~~

30 ~~3. A navigational system; or~~

1 ~~4. An electronic device to obtain emergency assistance; report a crime; or report a traffic~~
2 ~~offense, hazard, or accident.~~

3 ~~SECTION 4. REPEAL. Section 39-08-23 of the North Dakota Century Code is repealed.~~

4 **SECTION 4. AMENDMENT.** Section 39-08-23 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **39-08-23. Use of a wireless communications device prohibited.**

- 7 1. The operator of a motor vehicle that is part of traffic may not use a wireless
8 communications device to compose, read, or send an electronic message.
- 9 2. Under this section:
- 10 a. "Electronic message" means a self-contained piece of digital communication that
11 is designed or intended to be transmitted between physical devices. The term
12 includes electronic mail, a text message, an instant message, a command or
13 request to access a worldwide web page, or other data that uses a commonly
14 recognized electronic communications protocol. The term does not include:
- 15 (1) Reading, selecting, or entering a telephone number, an extension number,
16 or voice mail retrieval codes and commands into an electronic device for the
17 purpose of initiating or receiving a telephone or cellular phone call or using
18 voice commands to initiate or receive a telephone or cellular phone call;
- 19 (2) Inputting, selecting, or reading information on a global positioning system
20 device or other navigation system device;
- 21 (3) Using a device capable of performing multiple functions, such as fleet
22 management systems, dispatching devices, ~~smartphones~~phones, citizen
23 band radios, music players, or similar devices, for a purpose that is not
24 otherwise prohibited;
- 25 (4) Voice or other data transmitted as a result of making a telephone or cellular
26 phone call; ~~or~~
- 27 (5) Data transmitted automatically by a wireless communication device without
28 direct initiation by an individual; or
- 29 (6) A wireless communications device used in a voice-activated,
30 voice-operated, or any other hands-free manner.

1 b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of
2 travel on any street or highway and includes a temporary stop or halt of motion,
3 such as at an official traffic-control signal or sign. The term does not include a
4 motor vehicle that is lawfully parked.

5 3. This section does not apply if a wireless communications device is used for obtaining
6 emergency assistance to report a traffic accident, medical emergency, or serious traffic
7 hazard or to prevent a crime about to be committed, in the reasonable belief that an
8 individual's life or safety is in immediate danger, or in an authorized emergency vehicle
9 while in the performance of official duties.

10 **SECTION 5.** A new section to chapter 39-08 of the North Dakota Century Code is created
11 and enacted as follows:

12 **Failure to maintain control.**

13 1. An operator of a motor vehicle may not fail to maintain control of that motor vehicle. An
14 individual is in violation of this section if that individual:

15 a. Commits an offense under this title and, at the time of the offense, the individual
16 was engaged in the operation of a motor vehicle while distracted; or

17 b. Is determined to have been the operator of a motor vehicle that was involved in a
18 reportable accident as defined in section 39-08-09 which resulted in property
19 damage and, at the time the reportable accident occurred, the individual was
20 engaged in the operation of a motor vehicle while distracted.

21 2. An individual may be issued a citation or summons for any other traffic offense that
22 was committed by the individual in relation to the individual's commission of the traffic
23 offense of failure to maintain control of a motor vehicle.

24 3. As used in this section, "operation of a motor vehicle while distracted" means the
25 operation of a motor vehicle by an individual who, while operating the vehicle, is
26 engaged in an activity that:

27 a. Is not necessary to the operation of the vehicle; and

28 b. Actually impairs, or would reasonably be expected to impair, the ability of the
29 individual to safely operate the vehicle.