

**FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED SENATE BILL NO. 2169**

Introduced by

Senators Rummel, Kessel, Sickler

Representatives Klemin, Lefor, Steiner

1 A BILL for an Act to create and enact a new section to chapter 39-09 of the North Dakota
2 Century Code, relating to temporary alteration of the maximum speed limit; to amend and
3 reenact sections 39-08-01.2 and 39-08-01.4 of the North Dakota Century Code, section
4 39-10-21.1 of the North Dakota Century Code, as amended by Senate Bill No. 2189, as
5 approved by the sixty-eighth legislative assembly, and section 39-21-13 of the North Dakota
6 Century Code, relating to the special punishment for causing injury or death while operating a
7 vehicle while under the influence of alcohol or any other drugs or substances, driving while
8 under the influence of alcohol or any other drugs or substances while being accompanied by a
9 minor, entering a closed road, and a lamp or flag on a projecting load; to provide for a legislative
10 management study; to provide for a legislative management report; and to provide a penalty.

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

12 **SECTION 1. AMENDMENT.** Section 39-08-01.2 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **39-08-01.2. Special punishment for causing injury or death while operating a vehicle**
15 **while under the influence of alcohol or any other drugs or substances - Penalty.**

16 1. An individual is guilty of criminal vehicular homicide if the individual commits an
17 offense under section 39-08-01 or equivalent ordinance and as a result the individual
18 causes a death of another individual to occur, including the death of an unborn child,
19 unless the individual who causes the death of the unborn child is the mother. A
20 violation of this subsection is a class A felony. If an individual commits a violation
21 under this subsection, the court shall impose at least three years' imprisonment. If the
22 individual violates this section after having been previously convicted of a violation of
23 section 39-08-01 or 39-08-03, or equivalent ordinance, the court shall impose at least

1 ten years' imprisonment. An individual may not be prosecuted and found guilty of this
2 and an offense under chapter 12.1-16 if the conduct arises out of the same incident.

3 2. An individual is guilty of criminal vehicular injury if the individual violates section
4 39-08-01 or equivalent ordinance and as a result that individual causes substantial
5 bodily or serious bodily injury to another individual. Violation of this subsection is a
6 class C felony. If an individual violates this subsection, the court shall impose at least
7 one year's imprisonment. If the individual violates this section after having been
8 previously convicted of a violation of section 39-08-01 or 39-08-03 or equivalent
9 ordinance, the court shall impose at least two years' imprisonment.

10 3. The sentence under this section may not be suspended unless the court finds that
11 manifest injustice would result from the imposition of the sentence. Before a sentence
12 under this section applies, a defendant must be notified of the minimum mandatory
13 sentence. The elements of an offense under this section are the elements of an
14 offense for a violation of section 39-08-01 and the additional elements that create an
15 offense in each subsection of this section. Whether an individual caused death or
16 substantial or serious bodily injury must be determined in accordance with section
17 12.1-02-05.

18 **SECTION 2. AMENDMENT.** Section 39-08-01.4 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **39-08-01.4. Driving while under the influence of alcohol or any other drugs or**
21 **substances while being accompanied by a minor - Penalty.**

22 1. It is a class A misdemeanor for an individual who is at least twenty-one years of age to
23 violate section 39-08-01 if the violation occurred while a minor was accompanying the
24 individual in a motor vehicle. If an individual has a previous conviction for a violation of
25 section 39-08-01.4, a violation of this section is a class C felony. ~~An individual~~
26 ~~convicted under this section must be sentenced in accordance with subsection 5 of~~
27 ~~section 39-08-01.~~

28 2. The minimum sentence for an individual convicted of violating this section must
29 include:

30 a. For a first offense, a fine of seven hundred fifty dollars, at least two days'
31 imprisonment, an order for a substance abuse evaluation by an appropriate

1 licensed addiction treatment program, at least three hundred sixty days of
2 unsupervised probation, and at least three hundred sixty days' participation in the
3 twenty-four seven sobriety program under chapter 54-12 as a mandatory
4 condition of probation.

5 b. For a second or subsequent offense within fifteen years, at least thirty days'
6 imprisonment, a fine of two thousand dollars, an order for a substance abuse
7 evaluation by an appropriate licensed addiction treatment program, at least two
8 years' supervised probation, and at least three hundred sixty days' participation in
9 the twenty-four seven sobriety program under chapter 54-12 as a mandatory
10 condition of probation.

11 **SECTION 3.** A new section to chapter 39-09 of the North Dakota Century Code is created
12 and enacted as follows:

13 **Temporary alteration of maximum speed limit on state highway due to hazardous**
14 **road conditions.**

15 The maximum speed limit as provided under section 39-09-02 may be altered temporarily
16 on all or any part of the state highway system by the director and the superintendent when
17 jointly determined that road conditions are too hazardous for the posted speed limit. The
18 duration of any maximum speed limit altered under this section may not exceed five days. A
19 maximum speed limit altered under this section is effective when posted on an appropriately
20 fixed or variable sign.

21 **SECTION 4. AMENDMENT.** Section 39-10-21.1 of the North Dakota Century Code, as
22 amended by Senate Bill No. 2189, as approved by the sixty-eighth legislative assembly, is
23 amended and reenacted as follows:

24 **39-10-21.1. Closing road because of hazardous road conditions - Road closure notice**
25 **- Entering closed road prohibited.**

26 1. The highway patrol or local law enforcement authorities having jurisdiction over a road
27 may close a road temporarily due to hazardous conditions for the protection and safety
28 of the public. If a closing is made, the authority ordering the closing shall make every
29 reasonable attempt to notify the public and, when practical, may post appropriate
30 official traffic-control devices to advise motorists of the closing.

- 1 2. If a road closure under subsection 1 has been announced to the public and the road
2 has been closed with an appropriate traffic control device in use at two points of entry,
3 an individual may not drive on the road between the two closed points of entry.
- 4 3. If an individual is operating a vehicle on a road before the road has been closed under
5 subsection 1, the individual is allowed to drive to the nearest safe location to leave the
6 closed road to seek shelter.
- 7 4. The highway patrol or local law enforcement authorities having jurisdiction over a road
8 may close a road temporarily from use by commercial motor vehicles due to
9 hazardous conditions for the protection and safety of the public.
- 10 5. The driver of a motor vehicle who operates the vehicle on a closed road in violation of
11 this section who becomes stranded and requires assistance from law enforcement or
12 whose vehicle obstructs the road may be assessed a fee of:
- 13 a. Five hundred dollars for a driver of a noncommercial motor vehicle; or
14 b. One thousand dollars for a driver of a commercial motor vehicle.

15 **SECTION 5. AMENDMENT.** Section 39-21-13 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **39-21-13. Lamp or flag on projecting load.**

18 Whenever the load upon any vehicle extends to the rear four feet [121.92 centimeters] or
19 more beyond the bed or body of the vehicle there must be displayed at the extreme rear end of
20 the load, at the times specified in section 39-21-01, a red light or lantern plainly visible from a
21 distance of at least six hundred feet [182.88 meters] to the sides and rear. The red light or
22 lantern required under this section must be in addition to the red rear light required upon every
23 vehicle. At any other time there must be displayed at the extreme rear end of a load a red or
24 bright orange flag or cloth not less than twelve inches [30.48 centimeters] square and so hung
25 that the entire area is visible to the driver of a vehicle approaching from the rear.

26 **SECTION 6. LEGISLATIVE MANAGEMENT STUDY - TRAFFIC FEES.** During the
27 2023-24 interim, the legislative management shall consider studying the traffic fines imposed by
28 state and local governments and conduct an analysis of the fee structure provided under
29 title 39. The study must include a comprehensive assessment and review of North Dakota's
30 traffic fines, fees, and penalty statutes in comparison to the fines, fees, and penalties of other
31 states. The legislative management shall report its findings and recommendations, together with

1 any legislation required to implement the recommendations, to the sixty-ninth legislative
2 assembly.

3 **SECTION 7. STUDY OF SEAT BELTS - DEPARTMENT OF TRANSPORTATION -**
4 **REPORT TO THE LEGISLATIVE MANAGEMENT.** During the 2023-24 interim, the department
5 of transportation shall study seat belt usage in the state. The study must include an evaluation
6 of the effects of seat belt use on driving behavior and traffic fatalities and injuries and a
7 statistical examination of the effects of seat belt usage in various speed zones and while on
8 different highways. The department shall report its findings to the legislative management by
9 June 1, 2024.

10 **SECTION 8. STUDY ON HIGHWAY SAFETY - DEPARTMENT OF TRANSPORTATION -**
11 **REPORT TO THE LEGISLATIVE MANAGEMENT.** During the 2023-24 interim, the department
12 of transportation, in consultation with the highway patrol, shall study highway safety. The study
13 must include an assessment of crash data, speed differentials on the interstate, the use of
14 variable speed limits, and the ability to close roads to commercial vehicle traffic. The
15 department shall report its findings to the legislative management by June 1, 2024.