

2009 SENATE JUDICIARY

SB 2112

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2112

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 13, 2009

Recorder Job Number: 6908

Committee Clerk Signature



Minutes:

Senator Nething opened up the hearing for SB 2112, relating to operation of a vehicle on approach of department of transportation vehicles, and to provide a penalty.

All committee members were present.

Francis Ziegler, director of the North Dakota Department of Transportation, appeared in support of SB 2112 (see attached testimony #1).

Senator Nething asks what will happen if this situation occurs on a two lane road, because there is no move over lane.

Francis Ziegler responded that on a two lane that is where the intent is to have them slow down and take precaution as they move around the vehicle.

Senator Nelson commented on how difficult it is to tell whether a vehicle belongs to DOT or is a state vehicle etc. Why don't we go off of South Dakota's law and include all vehicles?

Francis Zielger replied we did this as a department issue, certainly this can be offered to include any emergency vehicles out there. With my previous job, I have spent a lot of time on the road with a research crew and we did experience this situation. My hard hat flew off due to the suction from a semi going by at 75 mph.

Michael Gerhart, Safety & Education Officer, NDHP, I am here to represent the Highway Patrol in support of SB 2112 (see attached testimony #2).

Senator Olafson asked if this included the highway and the interstate.

Michael Gerhart responded that under the current statute it does apply to the interstate system no matter where you are at. However, on other four lane roads it does not apply within city limits.

Senator Olafson states that we have a subsection that covers when there is an accident. Where do we have the penalty if there is not an accident? The violation can still be charged without an accident happening.

Michael Gerhart responded yes; as long as we are stopping with official lights on the people passing have to move over to the open lane.

Senator Olafson repeats that he does not see the language in the bill where it includes a penalty for violations when there is not an accident. So we should either change the current wording or add words to include when there is not an accident.

Michael Gerhart replied I will check into it and get back to you.

Senator Nething closed the hearing on SB 2112.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. Committee Work on

SB 2112

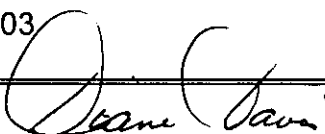
Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 19, 2009

Recorder Job Number: 7203

Committee Clerk Signature



Minutes: **Senator Nething, Chairman**

**Relating to operation of a vehicle on approach of department of transportation vehicles,
and to provide a penalty.**

Senator Olafson – Mentions a violation can only be incurred when an accident occurs

Committee reads through a letter from Francis Ziegler, Director of ND of Transportation.

They discuss changes to the summary.

Senator Olafson will work on this.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2112

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/27/09

Recorder Job Number: 7894

Committee Clerk Signature

Deane Davis

Minutes: **Senator Nething, Chairman**

Committee Work

Senator Olafson motioned do pass, seconded by Senator Fiebiger

Vote 6-0

Senator Olafson will carry

PROPOSED AMENDMENTS TO SENATE BILL NO. 2112

Page 2, line 24, after "stopped" insert "on the interstate system or"

Page 2, line 25, overstrike "unless the highway is part of the"

Page 2, line 26, overstrike "interstate system"

Page 3, line 4, after "stopped" insert "on the interstate system or"

Page 3, line 5, remove "unless the highway is part of the interstate system,"

Renumber accordingly

Amendment

Date: *1/27/09*
Roll Call Vote #: *1*

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

2112

Senate JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By *Sen. Olafson* Seconded By *Sen. Schneider*

Senators	Yes	No	Senators	Yes	No
Sen. Dave Nething - Chairman	<i>Y</i>		Sen. Tom Fiebiger	<i>Y</i>	
Sen. Curtis Olafson - V. Chair.	<i>X</i>		Sen. Carolyn Nelson	<i>Y</i>	
Sen. Stanley W. Lyson	<i>X</i>		Sen. Mac Schneider	<i>X</i>	

Total (Yes) _____ (N) _____

Absent _____

Floor Assignment _____

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

Amendments - Pass - Verbal

Date: 11/27/09
Roll Call Vote #: 2
2112

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Sen. Olafson Seconded By Sen. Lubiger

Senators	Yes	No	Senators	Yes	No
Sen. Dave Nething - Chairman	X		Sen. Tom Fiebiger	X	
Sen. Curtis Olafson - V. Chair.	X		Sen. Carolyn Nelson	X	
Sen. Stanley W. Lyson	X		Sen. Mac Schneider	X	

Total (Yes) 6 (N) 0

Absent _____

Floor Assignment Sen. Olafson

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

Verbal pass on amendments

REPORT OF STANDING COMMITTEE

SB 2112: Judiciary Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2112 was placed on the Sixth order on the calendar.

Page 2, line 24, after "stopped" insert "on the interstate system or"

Page 2, line 25, overstrike "unless the highway is part of the"

Page 2, line 26, overstrike "interstate system"

Page 3, line 4, after "stopped" insert "on the interstate system or"

Page 3, line 5, remove "unless the highway is part of the interstate system."

Renumber accordingly

2009 HOUSE TRANSPORTATION

SB 2112

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2112

House Transportation Committee

Check here for Conference Committee

Hearing Date: 02/26/09

Recorder Job Number: 9765

Committee Clerk Signature

Jeannette Cook

Minutes:

Chairman Ruby opened the hearing on SB 2112.

Francis Ziegler, Director of the North Dakota Department of Transportation, introduced and spoke in support of SB 2112. See attachment #1. He repeated that it is dangerous out on the road, and the DOT wants to do all it can to ensure the safety of its workers.

Representative R. Kelsch questioned why it wouldn't be good to have traffic move over for ANY stopped vehicle, not just department vehicles.

Francis Ziegler: That is a good point. I am here today to protect the DOT workers, but we would certainly respect an amendment to include all parked vehicles.

Chairman Ruby: Does a vehicle that is operated by you as the director have flashing lights that would identify it, so people would know if they were supposed to pull over?

Francis Ziegler: Yes, all the plows have a full array of lights. The maintenance vehicles also have the same equipment.

Chairman Ruby: So, people know if it has any flashing lights on it, there is a requirement to pull over.

Representative Gruchalla: Is the intent here to include all emergency vehicles?

Francis Ziegler: This simply took the current statute and included maintenance vehicles.

Representative Gruchalla: Does someone have to stop for a DOT pick-up without a flashing light?

Francis Ziegler: No, it has to have a flashing light. If you have a regular fleet car and have to pull over for a flat tire, the law would not apply unless the car had emergency lights.

Representative R. Kelsch: Is the issue here pulling around the stopped parked vehicle, or meeting an emergency vehicle and pulling off the road when you meet it? Is this in the correct section of code?

Francis Ziegler: The language that we added is simply for the parked vehicles with the proper flashing, revolving, rotating amber white lights. Then the driver of an approaching vehicle should proceed with caution and yield the right-of-way by moving to the adjacent lane. I didn't bring the Century Code with me. Eric Pederson from Highway Patrol could probably answer the question as to how it relates to that Code.

Representative Weisz: Are you strictly looking at multilane roads and want the other vehicle to pull into the opposite lane?

Francis Ziegler: That is correct.

Representative Weiler: On page 3, line 19, says that an individual that violates Subsection 3 and causes an accident. Does that mean that in order to be guilty of an infraction, you have to cause an accident, or is that to mean if you just don't move over?

Francis Ziegler: That is correct; if there is an accident. We worked with the Highway Patrol on that language.

Representative Weiler: So, you are only guilty of an infraction if you cause an accident. So, you don't really have to move over, as long as you don't cause an accident. Wouldn't it be better to say, "You are guilty of an infraction, if you don't move over."?

Francis Ziegler: I would like to yield the floor to Eric Pederson who can explain this better.

We simply wanted to be a part of the whole emergency vehicle package.

Representative Potter: What does it mean when it says, "A vehicle under the control of the director"?

Francis Ziegler: Fundamentally, that is the language we use because the director has the responsibility for all the employees.

Captain Eric Pederson, Administrative Commander of the Highway Patrol's Southwest Region, spoke in support of SB 2112. See attachment #2.

Representative Delmore: What if I am driving in white out conditions, can't see the plow until I hit it, would I get a violation?

Eric Pederson: If you don't move over, it is a \$50 traffic fine and two points. If you do not move over and cause an accident, then it moves up to an infraction. That is already addressed. It is not an infraction if you rear end a snow plow, it is careless driving. With an infraction the judges can set their own fee and you may have to appear in court. An infraction is half way in between a traffic ticket and a criminal charge. It is a little bit more serious.

Representative Frantsvog: Section 4, line 3, it talks about the vehicle has to be in a lane not adjacent to a stopped vehicle. So, if they are doing maintenance on the right hand lane, does that mean that you have to pass on the shoulder on the left?

Eric Pederson: No, there is nothing in the law that requires you to go on to the shoulder. Further down in the law it says that if this move cannot be made because of traffic safety or other considerations, you are required to slow down. So, if the maintenance vehicle is taking up the entire left lane, the passing vehicle is just required to slow down.

Representative Delmore: If that maintenance vehicle is coming towards me with its lights flashing, do I still have to slow down?

Eric Pederson: You are not required to slow down. This is strictly if the vehicle is parked on the side of the road with its lights on.

There was no opposition to SB 2112.

The hearing was closed on SB 2112.

The committee will hold SB 2112.

I asked for both options but they thought that clearing the title was sufficient in their mind. I wanted to bring both options to the table so we could see what the committee's thoughts were on it.

Rep Kelsch: I do like that they have put it into separate section of code. It has its only section so it is not confusing. My problem is I am not very big on Hog House Amendments. They make me a little nervous. It is more comforting with option two but our better choice is option one.

Chairman Ruby: They did think that it was clearly separated well enough and that people using the codes to enforce it.

Rep Kelsch: I do know that is what they think but that is not always agree with what the Legislatures think.

Rep Weisz: We could also let the conference committee discuss it and win that battle if that is what the committee wants. (Inaudible)

Chairman Ruby: Should we take a voice vote. We will take a roll call vote

Rep Weisz: Made a motion to adopt the option 2 amendment.

Rep Gruchella: Seconded the motion.

Motion failed with a 6 yes and 8 no and 0 absent.

Rep Griffin: Made a motion for option 1 and seconded by **Rep Kelsch**.

A voice vote was taken and it was all yes.

Rep Griffin: Made a motion to Do Pass with amendment.

Rep Sukut: Seconded the motion.

Do Pass with amendment 13 yes, 1 no and 0 absent.

Rep Griffin: Is the carrier of the bill.

Date: 3/12/09

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2112

House TRANSPORTATION Committee

*Amendment
Option 2*

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass Don't Pass Amended

Motion Made By Weisz Seconded By Gruchalla

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman		✓	Representative Delmore	✓	
Rep. Weiler - Vice Chairman		✓	Representative Griffin		✓
Representative Frantsvog		✓	Representative Gruchalla	✓	
Representative Heller	✓		Representative Potter		✓
Representative R. Kelsch	✓		Representative Schmidt	✓	
Representative Sukut		✓	Representative Thorpe		✓
Representative Vigasaa		✓			
Representative Weisz	✓				

Total Yes 6 No 8

Absent 0

Bill Carrier _____

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

Failed

[Handwritten Signature]
3/13/09

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2112

Page 2, line 10, overstrike "**Operation of vehicle on approach of**" and insert immediately thereafter "**Vehicle to stop or yield the right of way for**"

Renumber accordingly

Date: 3/12/09

Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 212 *Voice Vote*

House TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass Don't Pass Amended

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman			Representative Delmore		
Rep. Weiler - Vice Chairman			Representative Griffin		
Representative Frantsvog			Representative Gruchalla		
Representative Heller			Representative Potter		
Representative R. Kelsch			Representative Schmidt		
Representative Sukut			Representative Thorpe		
Representative Vigasaa					
Representative Weisz					

Total Yes _____ No _____

Absent _____

Bill Carrier _____

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

Voice Vote
Optim

Date: 3/12

Roll Call Vote #: 3

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2112

House TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass Don't Pass Amended

Motion Made By Griffin Seconded By Sukut

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman	✓		Representative Delmore	✓	
Rep. Weiler - Vice Chairman	✓		Representative Griffin	✓	
Representative Frantsvog	✓		Representative Gruchalla	✓	
Representative Heller	✓		Representative Potter	✓	
Representative R. Kelsch	✓		Representative Schmidt	✓	
Representative Sukut	✓		Representative Thorpe	✓	
Representative Vigasaa	✓				
Representative Weisz		✓			

Total Yes 13 No 1

Absent _____

Bill Carrier Griffin

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

REPORT OF STANDING COMMITTEE

SB 2112, as engrossed: Transportation Committee (Rep. Ruby, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed SB 2112 was placed on the Sixth order on the calendar.

Page 2, line 10, overstrike "**Operation of vehicle on approach of**" and insert immediately thereafter "**Vehicle to stop or yield the right of way for**"

Renumber accordingly

2009 TESTIMONY

SB 2112

Attachment 1
SB 2112

Same given
to House
2-26-09.

SENATE JUDICIARY COMMITTEE
January 13, 2009 - 9:15 a.m. – Fort Lincoln Room

North Dakota Department of Transportation
Francis G. Ziegler, P.E., Director

SB 2112

Mr. Chairman and members of the committee, my name is Francis Ziegler, Director of the North Dakota Department of Transportation (NDDOT). I'm here today in support of SB 2112. NDDOT pre-filed SB 2112 as an agency bill. This bill amends and re-enacts areas of Title 39 of the North Dakota Century Code to include NDDOT vehicles that are used for maintaining the state highway system.

Current law, NDCC Section 39-10-26, requires vehicles – when approaching an authorized emergency vehicle on a multi-lane highway outside city limits – to move to a lane not adjacent to the authorized emergency vehicle. This maneuver must be made with due regard to safety and other traffic. If it cannot be done, the driver must proceed with due caution, reduce the speed of the vehicle, and maintain a safe speed for existing road conditions. The Highway Patrol issued 125 citations in 2007 and 122 citations in 2008, for failure to comply with this law. The fine is \$50. Under the current law, NDDOT vehicles are not included in the definition of emergency vehicles.

Many states have a “move-over” law that includes maintenance vehicles. In this region, both South Dakota and Minnesota have such “move-over” laws. South Dakota requires vehicles to move over into the open lane for any stopped vehicle.

NDDOT has many operations that require maintenance vehicles to be stopped or driven on the shoulder. Operators have reported numerous close calls when vehicles have come close to hitting our equipment or workers, and in fact an employee *was* hit in 2004 – by a motorist – while working on the Interstate.

Legislation that is being recommended in SB 2112 would provide a tool to help improve safety for our employees as they provide a service for the traveling public.

Mr. Chairman, this concludes my testimony and I would be happy to answer any questions the committee has at this time.

Attachment 2
SB 2112



North Dakota Department of Transportation

Francis G. Ziegler, P.E.
Director

John Hoeven
Governor

MEMO TO: Senator Dave Nething
Chairman, Senate Judiciary Committee

FROM: Francis G. Ziegler, P.E.
Director

DATE: January 15, 2009

SUBJECT: NDDOT proposed amendments to SB 2112

The North Dakota Department of Transportation (NDDOT) emulated the language of the current statute in its request to add the NDDOT on to the current "move over" law.

The questions that ensued during the testimony caused some concern that the current law isn't as clear as it could be regarding the Interstate.

Attached is an amendment that clears this up. We've discussed this with Lieutenant Mike Gerhardt of the North Dakota Highway Patrol and he concurs.

Please let me know if you have any questions.

01/dk/jam
Attachment

PROPOSED AMENDMENTS TO SENATE BILL NO. 2112

Page 2, line 24, after "stopped" insert "on the interstate system or"

Page 2, line 25, overstrike "unless the highway is part of the"

Page 2, line 26, overstrike "interstate system"

Page 3, line 4, after "stopped" insert "on the interstate system or"

Page 3, line 5, remove "unless the highway is part of the interstate system."

Renumber accordingly

SB 2112 With NDDOT Amendments

39-10-26(2):

2. If an authorized emergency vehicle is parked or stopped at the scene of an emergency and is displaying a flashing, revolving, or rotating blue, white, or red light, approaching traffic shall move to the right-hand edge or curb of the roadway and shall stop, but once having stopped, traffic may proceed past the scene at its own risk when the roadway is clear, except when otherwise directed by a police officer. If an authorized emergency vehicle is otherwise parked or stopped on the interstate system or on a multilane highway outside the limits of a city ~~unless the highway is part of the interstate system~~, and the authorized emergency vehicle is displaying a flashing, revolving, or rotating amber, blue, white, or red light, the driver of an approaching vehicle shall proceed with caution and yield the right of way by moving to a lane that is not adjacent to the authorized emergency vehicle if the move may be made with due regard to safety and traffic conditions or if not, the driver shall proceed with due caution, reduce the speed of the vehicle, and maintain a safe speed for the road conditions.

Proposed New 39-10-26(3):

3. If a vehicle operated by or under the control of the director used for maintaining the state highway system is parked or stopped on the interstate system or on a multilane highway outside the limits of a city, unless the highway is part of the interstate system, and the vehicle is displaying a flashing, revolving, or rotating amber or white light, the driver of an approaching vehicle shall proceed with caution and yield the right of way by moving to a lane that is not adjacent to the vehicle if the move may be made with due regard to safety and traffic conditions or if not, the driver shall proceed with due caution, reduce the speed of the vehicle, and maintain a safe speed for the road conditions.

Senate Bill 2112

Submitted by

Lieutenant Michael Gerhart, Jr., Safety & Education Officer, NDHP

January 13, 2009

Good morning, Mr. Chairman and members of the Senate Judiciary Committee. My name is Lieutenant Michael Gerhart and I'm the Safety and Education Officer for the North Dakota Highway Patrol.

I'm here today representing the Highway Patrol in support of Senate Bill 2112. The proposed amendment to this bill includes North Dakota Department of Transportation vehicles that are used to maintain the highway system. This change will not only provide safety to the operators of Department of Transportation's vehicles but also to the traveling public.

There are inherent risks for emergency personnel as well as Department of Transportation operators while performing their duties on a daily basis, and at times these dangers can be extreme. This bill has enhanced the safety of emergency personnel and will provide the same coverage to employees operating Department of Transportation vehicles. The Highway Patrol stands in support of Senate Bill 2112 and we ask for a vote of DO PASS.

Mr. Chairman, this concludes my remarks. I would be happy to answer any questions you or the committee may have.

Attachment # 2

Senate Bill 2112

Submitted by

Captain Eric Pederson, Administrative Commander, NDHP

February 26, 2009

Good morning, Mr. Chairman and members of the House Transportation Committee. My name is Captain Eric Pederson and I'm the Administrative Commander of the Highway Patrol's Southwest Region.

I'm here today representing the Highway Patrol in support of Senate Bill 2112. The proposed amendment to this bill includes North Dakota Department of Transportation vehicles that are used to maintain the highway system. This change will not only provide safety to the operators of Department of Transportation's vehicles but also to the traveling public.

There are inherent risks for emergency personnel as well as Department of Transportation operators while performing their duties on a daily basis, and at times these dangers can be extreme. This bill has enhanced the safety of emergency personnel and will provide the same coverage to employees operating Department of Transportation vehicles. The Highway Patrol stands in support of Senate Bill 2112 and we ask for a vote of DO PASS.

Mr. Chairman, this concludes my remarks. I would be happy to answer any questions you or the committee may have.



North Dakota Department of Transportation

Francis G. Ziegler, P.E.
Director

John Hoeven
Governor

March 9, 2009

The Honorable Dan Ruby
Chair
Transportation Committee
600 East Boulevard Avenue
Bismarck, ND 58505

Dear Chair Ruby:

Subject: Amendment Options for SB 2112--Move Over Law

As per your request from last Thursday, March 5, attached are two options for your consideration to amend Engrossed SB 2112.

Option one makes a simple change to the current title of NDCC Section 39-10-26. Option two creates a new section of law (39-10-26.3) that addresses moving over for stopped or parked vehicles, on certain roads, that are operated by or under the control of the Director of Transportation. Please note that Option two also keeps a clean-up change to 39-10-26(2) that was done by the Senate when they considered this bill (Section 7 of amendment Option two).

Option two was done as a "hog house" type amendment because we believe that it will be easier to follow as opposed to doing it another way. Please let us know if you have any questions or concerns. I can be reached at 701-328-4406. Thank you.

Sincerely,

Tim Horner
Deputy Director for Business Support

01/jam
Attachments

Option 1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2112

Page 2, line 10, overstrike "Operation of vehicle on approach of" and insert immediately thereafter "Vehicle to stop or yield the right of way for"

Renumber accordingly

Option 2

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2112

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact subsection 11 of section 39-06.1-05, paragraph 14 of subdivision b of subsection 3 of section 39-06.1-10, and section 39-10-26.3; to amend and reenact subdivision a of subsection 2 of section 39-06.1-06, section 39-06.1-09, paragraph 14 of subdivision a of subsection 3 of section 39-06.1-10, subsection 2 of section 39-10-26, and section 39-10-26.2 of the North Dakota Century Code relating to yielding to vehicles operated by the director for maintaining the state highway system, and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Subsection 11 of section 39-06.1-05 of the North Dakota Century Code is created and enacted as follows:

11. Causing an accident with a vehicle operated by or under the control of the director used for maintaining the state highway system in violation of subsection 3 of section 39-10-26.3.

SECTION 2. Paragraph 14 of subdivision b of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

- (14) Causing an accident with 2 points
a vehicle operated by or
under the control of the director
used for maintaining the state
highway system in violation of
subsection 3 of section 39-10-26.3,
or equivalent ordinance.

SECTION 3. Section 39-10-26.3 of the North Dakota Century Code is created and enacted as follows:

39-10-26.3. Vehicle to yield the right of way for vehicle operated by the director for maintaining the state highway system -- Penalty.

1. If a vehicle operated by or under the control of the director used for maintaining the state highway system is parked or stopped on the interstate system or on a multilane highway outside the limits of a city, and the vehicle is displaying a flashing, revolving, or rotating amber or white light, the driver of an approaching vehicle shall proceed with caution and yield the right of way by moving to a lane that is not adjacent to the vehicle if the move may be made with due regard to safety and traffic

conditions or if not, the driver shall proceed with due caution, reduce the speed of the vehicle, and maintain a safe speed for the road conditions.

2. This section does not operate to relieve the driver of a vehicle operated by or under the control of the director used for maintaining the state highway system from the duty to drive with due regard for the safety of all persons using the highway.

3. An individual who violates subsection 1 and causes an accident with a vehicle operated by or under the control of the director used for maintaining the state highway system while the vehicle is displaying a visible flashing, revolving, or rotating amber or white light is guilty of an infraction.

SECTION 4. AMENDMENT. Subdivision a of subsection 2 of section 39-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

- a. A violation of section 39-10-26, 39-10-26.2, 39-10-26.3, 39-10-41, 39-10-42, 39-10-46, or 39-10-46.1, a fee of fifty dollars.

SECTION 5. 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, 39-09-04.1, 39-09-09, subsection 1 of section 39-12-02, sections 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 4 of section 39-10-26, subsection 3 of section 39-10-26.3, 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.

SECTION 6. AMENDMENT. Paragraph 14 of subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

- | | | |
|------|---|----------|
| (14) | Failing to yield right of way in violation of section 39-10-20, 39-10-22 through 39-10-26, <u>39-10-26.3</u> , 39-10-28, 39-10-33.3, 39-10-44, or 39-10-72, or equivalent | 2 points |
|------|---|----------|

Ordinances

SECTION 7. AMENDMENT. Subsection 2 of section 39-10-26 of the North Dakota Century Code is amended and reenacted as follows:

2. If an authorized emergency vehicle is parked or stopped at the scene of an emergency and is displaying a flashing, revolving, or rotating blue, white, or red light, approaching traffic shall move to the right-hand edge or curb of the roadway and shall stop, but once having stopped, traffic may proceed past the scene at its own risk when the roadway is clear, except when otherwise directed by a police officer. If an authorized emergency vehicle is otherwise parked or stopped on the interstate system or on a multilane highway outside the limits of a city ~~unless the highway is part of the interstate system~~, and the authorized emergency vehicle is displaying a flashing, revolving, or rotating amber, blue, white, or red light, the driver of an approaching vehicle shall proceed with caution and yield the right of way by moving to a lane that is not adjacent to the authorized emergency vehicle if the move may be made with due regard to safety and traffic conditions or if not, the driver shall proceed with due caution, reduce the speed of the vehicle, and maintain a safe speed for the road conditions.

SECTION 8. AMENDMENT. Section 39-10-26.2 of the North Dakota Century Code is amended and reenacted as follows:

39-10-26.2. Permitting use of vehicle to violate section 39-10-26 or section 39-10-26.3 prohibited--Presumption of permission--Defense--Dual prosecution prohibited. The registered owner of a motor vehicle may not permit that motor vehicle to be operated in violation of section 39-10-26 or section 39-10-26.3. If a motor vehicle is seen violating section 39-10-26 or section 39-10-26.3, it is a disputable presumption that the registered owner of the motor vehicle permitted that violation. It is a defense to a charge of violating this section that the registered owner of the vehicle was not operating the vehicle, if that registered owner identifies the person authorized by that owner to operate the motor vehicle at the time of the violation of section 39-10-26 or section 39-10-26.3, or if that motor vehicle had been taken without the registered owner's permission. A person may not be charged both with violating this section and with violating section 39-10-26 or section 39-10-26.3. Violation of this section is not a lesser included offense of violation of section 39-10-26 or section 39-10-26.3.

Renumber accordingly