# 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" means an ordinance of a city, state, or other jurisdiction which is comparable to the cited statute and defines essentially the same offense, even if the language of the ordinance differs or procedural points or methods of proof differ.
3. "Official" means a municipal judge or a magistrate or other qualified individual appointed by the presiding judge of the judicial district to serve for all or part of the judicial district.
4. "Points" means the number of demerits assigned to particular types of traffic violations.

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

1. An individual 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.
   a. The individual may appear before the designated official and pay the statutory fee for the violation charged at or before the time scheduled for a hearing.
   b. If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.
2. If the individual 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 and the individual cited shall indicate on the envelope or citation whether a hearing is requested. If the individual 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 individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual requesting the hearing notifying the individual of the date of the hearing before the designated official in accordance with section 39-06.1-03.
3. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the individual's request, the individual may make a statement in explanation of the individual's action. The official may at that time waive, reduce, or suspend the statutory fee or bond, or both. If the individual cited follows the foregoing procedures, the individual is deemed to have admitted the violation and to have waived the right to a hearing on the issue of commission of the violation.
4. The bond required to secure appearance must be identical to the statutory fee established by section 39-06.1-06.
5. Within ten days after forfeiture of bond or payment of the statutory fee, the official having jurisdiction over the violation shall certify to the director:
   a. Admission of the violation; and
   b. 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.
6. Under this section a citing police officer may not receive the statutory fee or bond.

**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. An individual cited for a traffic violation, other than an offense listed in section 39-06.1-05, who does not follow one of the procedures in section 39-06.1-02, may

request a hearing on the issue of commission of the charged violation. The hearing must be held at the time scheduled in the citation, at the time scheduled in response to the individual'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 individual charged shall deposit with the official having jurisdiction an appearance bond equal to the statutory fee for the charged violation.
3. If an individual 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 charged violation and appears at the time scheduled for the hearing, and the prosecution 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 individual had committed the traffic violation, the official shall notify the director of that fact, and whether the individual 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 an individual 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 individual's operator's license.
5. a. An individual may not appeal a finding from a district judge or magistrate that the individual committed the violation. If an individual is aggrieved by a finding in the municipal court that the individual committed the violation, the individual 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 individual is again found to have committed the violation, there is 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 director upon receipt of that report.

   b. The appellate court upon application by the appellant may:
      (1) Order a stay of any action by the director 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 director 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 director may charge a fee of three dollars. Any order granting a stay or a temporary certificate must be immediately forwarded by the clerk of court to the director, who 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. An individual who violates or exceeds the restrictions contained in any temporary restricted driving certificate issued under this subdivision is guilty of a traffic violation and must be assessed a fee of twenty dollars.

   c. If the individual charged is found not to have committed the violation by the appellate court, the clerk of court shall report that fact to the director 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 appropriate, must prove the commission of a charged violation at the hearing or appeal under this section by a 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.

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

If an individual fails to choose one of the methods of proceeding in section 39-06.1-02 or 39-06.1-03, the individual is deemed to have admitted to commission of the charged violation, and the official having jurisdiction shall report the admission to the director 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 is deemed an admission of commission of the charged violation.

**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 an unsafe vehicle in violation of subsection 2 of section 39-21-46.
8. 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 under 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 twenty dollars except for a violation of any traffic parking regulation on any state charitable or penal institution property or on the state capitol grounds, a fee in the amount of five dollars, excluding a violation of subsection 10 of section 39-01-15.
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, or 39-10-42, 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.
i. A violation of section 39-09-01, a fee of thirty dollars.
j. A violation of section 39-09-01.1, a fee of thirty dollars.
k. A violation of section 39-10-46 or 39-10-46.1, a fee of one hundred dollars.
l. A violation of subsection 1 of section 39-08-20, one hundred fifty dollars for a first violation and three hundred dollars for a second or subsequent violation in three years.

3. For a violation of section 39-21-44 or a rule adopted under that section, a fee of two hundred fifty dollars.
4. 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 |

5. 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 |

6. 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.
7. 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.
8. For a violation of a school zone speed limit under subdivision b of subsection 1 of section 39-09-02, a fee of 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.

9. 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 director.**

The director shall prepare notification forms and a temporary operator's permit under section 39-20-03.1 or 39-20-03.2 to be delivered to the charged individual with the uniform traffic summons and complaint under section 29-05-31. The notification forms must contain language, approved by the attorney general, informing an individual charged with a traffic violation, other than offenses listed in section 39-06.1-05, of the procedures available to that individual under sections 39-06.1-02 and 39-06.1-03 and informing an individual who refuses a chemical test or onsite screening test under chapter 39-20 or who, on taking a chemical test, is 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 contain a schedule of points to be charged against an individual'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 this chapter. A notification form separate from the uniform traffic summons and complaint may be delivered to an individual 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 4 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, 39-06-14.1, 39-06-16, 39-08-20, 39-08-23, 39-08-24, 39-09-01, 39-09-01.1, 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, 39-21-45.1, 39-24-02, or 39-24-09, except subdivisions b and c of subsection 5 of section 39-24-09, 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, section 39-21-44, and 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 - Director duties - Hearings - Demerit schedule - Suspension.**

1. If a report of a conviction of a traffic offense, or admission or adjudication of a traffic violation is received by the director, the director shall proceed to enter the proper points on the licensee's driving record, unless the points assigned to the violation are two or less. If the 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 is not available to the public. Points from a violation in which the points are two or less are considered a part of the driving record for the sole purpose

of point reduction under section 39-06.1-13 and for purposes of license suspension. If the driving record shows that the licensee has accumulated a total of twelve or more points, assigned on the basis of the schedule contained in subsection 3, the director shall notify the licensee of the director's intention to suspend the operator's license under section 39-06-33. For the purposes of this chapter, the director also may receive and act on reports of traffic offense convictions forwarded by federal, military, and tribal courts in this state.

2. If the director confirms, after hearing or opportunity for hearing, that the licensee's driving record has an accumulated point total of twelve or more points, the director 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 a license suspended under this section is governed by 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 |
| (37) | Except as provided in paragraph 39, operating a motor vehicle without liability insurance, in violation of section 39-08-20 | 6 points |
| (38) | Except as provided in paragraph 39, 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 |
| (39) | 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 |
| (40) | Driving a modified motor vehicle in violation of section 39-21-45.1, or equivalent ordinance | 1 point |

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 of subdivision a, knowingly operating an unsafe vehicle in violation of section 39-21-46, or equivalent ordinance | 2 points |
| (8) | Fleeing in a motor vehicle from a peace officer in violation of section 39-10-71, or equivalent ordinance | 24 points |
| (9) | 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 |
| (10) | Driving in violation of the conditions of an instruction permit | 2 points |

4. a. If the director is informed by a court that an individual 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 individual's operator's license 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 must be suspended and may be restored only after that individual 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.

5. 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 an individual for violating section 39-08-01, the director, in suspending the individual's operator's license, shall 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.

6. 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.

7. Points assigned under 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 director shall maintain records on all violators regardless of licensure. 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.

8. The period of suspension imposed for a violation of section 39-08-01, 39-08-01.2, or 39-08-01.4 or equivalent ordinance is:

   a. Ninety-one days if the operator's record shows the individual has not violated section 39-08-01 or equivalent ordinance within the seven years preceding the last violation.

   b. One hundred eighty days if the operator's record shows the individual has not violated section 39-08-01 or equivalent ordinance within the seven 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 individual has once violated section 39-08-01 or equivalent ordinance within the seven years preceding the last violation.

   d. Two years if the operator's record shows the individual has at least once violated section 39-08-01 or equivalent ordinance within the seven 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 individual has at least twice violated section 39-08-01 or equivalent ordinance within the seven years preceding the last violation.

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

9. If an individual has a temporary restricted driver's license with the restriction the individual participates in the twenty-four seven sobriety program under chapter 54-12, the individual may operate a motor vehicle during the suspension periods under this section.

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

1. An individual 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. An individual 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 individual who makes the election shall pay the driver training course fee to the driver training course sponsor. If an individual elects to attend the course, the point penalty of five points or fewer for the violation by section 39-06.1-10 may not be assessed if proof of completion of the course is presented to the department within thirty days after the individual notifies the court of the election. An individual may not make an election under this section if:
   a. That individual has made an election under this section within the twelve months preceding the date of issuance of the summons or notice to appear;
   b. The offense is assigned six or more points; or
   c. The offense is an offense listed in section 39-06.1-05.
2. An individual 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 or 3, 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 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, but if the offender is participating in the twenty-four seven sobriety program under chapter 54-12, the director may issue a temporary restricted license that takes effect after fourteen days of the suspension have been served if the driver is not subject to any unrelated suspension or revocation.
3. 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 in accordance with subsection 7 if the offender is participating in the twenty-four seven sobriety program under chapter 54-12 or if the offender has not committed an offense for a period of one year before the date of the filing of a written application. The application must be accompanied by:
   a. Proof of financial responsibility and a report from an appropriate licensed addiction treatment program and, if prescribed, proof of compliance with attendance rules in an appropriate licensed addiction treatment program; or
   b. If the offender is participating in the drug court program or other court-ordered treatment or sobriety program, a recommendation from the district court.
4. For a temporary restricted license under subsection 3, 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 require that an ignition interlock device be installed in the offender's vehicle and may require the applicant to submit proof of attendance at a driver training course approved by the director.
5. The director may not issue a temporary restricted license for a period of license revocation or suspension imposed under section 39-06-31. A temporary restricted license may be issued for suspensions ordered under subsection 4 of section

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

6. a. In addition to any restrictions authorized under section 39-06-17, the director may impose any of the following conditions upon the use of a temporary restricted license issued under this section for the use of a motor vehicle by the offender:
   (1) To use during the licensee's normal working hours;
   (2) To use for attendance at an appropriate licensed addiction treatment program or a treatment program ordered by a court; or
   (3) To use as necessary to prevent the substantial deprivation of the educational, medical, or nutritional needs of the offender or an immediate family member of the offender.
   b. Violation of a restriction imposed according to this section is deemed a violation of section 39-06-17.
7. If an offender has been charged with, or convicted of, a second or subsequent violation of section 39-08-01 or equivalent ordinance, or if the offender's license is subject to suspension under chapter 39-20 and the offender's operator's license is not subject to an unrelated suspension or revocation, the director shall issue a temporary restricted license to the offender upon the restriction the offender participate in the twenty-four seven sobriety program under chapter 54-12. The offender shall submit an application to the director for a temporary restricted license along with submission of proof of financial responsibility and proof of participation in the twenty-four seven sobriety program to receive a temporary restricted license.

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

If a licensee completes a period of suspension ordered under section 39-06.1-10 or as ordered or recommended by a court of competent jurisdiction, the director shall reduce the point total shown on the licensee's driving record to eleven points. A suspension must be ordered if that licensee's point total again reaches twelve or more points.

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

1. The director shall reduce the point total shown on any licensee's driving record by one point for each three-month period during which points are not 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 director indicating successful completion of instruction in a driver training course approved by the director. Successful completion of instruction must be certified to by the sponsoring agency or organization of the driver training course. The reduction in points under this subsection must be solely from a point total accumulated before 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 individual's driving record. If on the date the director 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 under this subsection must be applied after serving the period of suspension or cancellation required by the number of points on the licensee's record.

**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, if the individual whose operator's license has been revoked fails to surrender the operator's license within forty-eight hours after delivery of the order of revocation. The period of

revocation must be extended by one day for each day the individual fails to surrender the operator's license. Delivery of the order is 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 an operator's license issued by the United States department of state to a police 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 police officer who has probable cause to believe that the driver has committed a violation, the police officer shall record all relevant information from any operator's license or identification card, including an operator'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.