

Criminal Violations from Chapters 39-08 through 39-13

The chart below lists all criminal violations from Chapter 39-08 through Chapter 39-13. I have listed all offenses, including those arguably only applicable to a “motor vehicle.” I have also included the penalty provision. Finally, I have identified potential counterpart criminal statutes which would allow a prosecutor to prosecute the conduct at issue under the criminal code.

Violation	Statute	Applicable	Penalty	Alternative Criminal Offenses
DUI or APC	39-08-01	Yes	B misdemeanor through C felony	Reckless Endangerment, N.D.C.C. § 12.1-17-03 ¹
Criminal Vehicular Homicide or Injury	39-08-01.2	Yes	C felony or A felony (mandatory prison of 1, 3 or 10 years)	Reckless Endangerment; Assault ² ; Aggravated Assault; ³ Manslaughter; ⁴ Negligent Homicide ⁵

¹ “A person is guilty of an offense if he creates a substantial risk of serious bodily injury or death to another. The offense is a class C felony if the circumstances manifest his extreme indifference to the value of human life. Otherwise it is a class A misdemeanor. There is risk within the meaning of this section if the potential for harm exists, whether or not a particular person's safety is actually jeopardized.”

² Under N.D.C.C. § 12.1-17-01.1, “A person is guilty of a class A misdemeanor, except if the victim is under the age of twelve years in which case the offense is a class C felony, if that person” willfully causes substantial bodily injury to another human being.

³ Under N.D.C.C. § 12.1-17-02, it a class C felony to “willfully cause serious bodily injury” to another human being.

⁴ Under N.D.C.C. § 12.1-16-02, “A person is guilty of manslaughter, a class B felony, if he recklessly causes the death of another human being.”

⁵ Under N.D.C.C. § 12.1-16-03, “A person is guilty of a class C felony if he negligently causes the death of another human being.”

DUI or APC While Accompanied by a Minor	39-08-01.4	No (applies to “motor vehicle”)	A misdemeanor or C felony	Reckless Endangerment; Deprivation of a minor; ⁶ Neglect of a child; ⁷
Person conveying passengers not to engage drivers addicted to intoxicants	39-08-02	Yes	Infraction	
Reckless Driving	39-08-03	Yes	B misdemeanor or A misdemeanor	Reckless endangerment
Accidents involving death or personal injury	39-08-04	Yes	A misdemeanor, B misdemeanor, or C felony	Criminal mischief ⁸
Accidents involving damage to vehicle	39-08-05	Yes	B misdemeanor	Criminal mischief
Duty upon striking unattended vehicle	39-08-07	Yes	A misdemeanor	Criminal mischief
Duty upon striking highway fixtures or property	39-08-08	Yes	Infraction	Criminal mischief
Penalty for harassment of domestic animals	39-08-19	No (applies to “motor vehicles”)	B misdemeanor	N/A
Driving without liability insurance	39-08-20	No (applies to “motor vehicles”)	B misdemeanor	N/A
Operation of motor vehicle, tractor, or	39-10-65	Yes	B misdemeanor	

⁶ N.D.C.C. § 14-10-06 (1) provides: “Any individual who by any act willfully encourages, causes, or contributes to the delinquency or deprivation of any minor is guilty of a class A misdemeanor.”

⁷ N.D.C.C. § 14-09-22.1 provides that a parent, guardian, or custodian who fails to provide proper parental control or care necessary for the child’s physical, mental, or emotional health or morals is guilty of an offense.

⁸ N.D.C.C. § 12.1-21-05 provides it is an offense to willfully damage tangible property of another. “Willfully” includes intentional, knowing, or reckless conduct. N.D.C.C. § 12.1-02-02(1)(e).

other vehicle prohibited on flood protective works				
Fleeing or attempting to elude a peace officer	39-10-71	No (applies to “motor vehicles”)	B misdemeanor	Refusing to halt ⁹
Assault while fleeing ¹⁰	12.1-17-12	Yes	A felony	

⁹ N.D.C.C. § 12.1-08-11 provides: “Any person, other than the driver of a motor vehicle under section 39-10-71, who willfully fails or refuses to stop or who otherwise flees or attempts to elude, in any manner, a pursuing peace officer, when given a visual or audible signal to stop, is guilty of” an offense.

¹⁰ It is a class A or class B felony to negligently cause death or injury to a police officer “while in violation of section 39-10-71.”