

N.D.A.G. Letter to Johnson (March 25, 1992)

March 25, 1992

Mr. Dennis Edward Johnson
McKenzie County State's Attorney
P.O. Box 1288
Watford City, ND 58854

Dear Mr. Johnson:

Thank you for your March 17, 1992, letter inquiring as to whether N.D.C.C. § 39-08-08 is classified as a criminal or non-criminal offense.

N.D.C.C. § 39-08-08 does not set forth, within that section, a criminal penalty. That section provides:

39-08-08. Duty upon striking highway fixtures or other property. The driver of any vehicle involved in an accident resulting only in damage to highway fixtures or other property shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his operator's or chauffeur's license and shall make report of such accident when and as required in section 39-08-09.

N.D.C.C. § 39-06.1-05(4) excepts from the non-criminal traffic administrative procedures a violation of N.D.C.C. § 39-08-08 or equivalent ordinance. In addition, N.D.C.C. § 39-06.1-10(3)(b)(3) classifies a conviction of a N.D.C.C. § 39-08-08 or equivalent ordinance offense as a criminal violation for which 14 points are assigned against the violator's operator's license.

N.D.C.C. § 39-07-06 sets forth the general penalty for violation of N.D.C.C. tit. 39 provisions. That section provides:

39-07-06. General penalty for violation of title. Any person violating any of the provisions of this title for which another criminal penalty is not provided specifically is guilty of an infraction. As used in this section, the phrase "another criminal penalty" includes provision for payment of a fixed fee for violating another section in this title, but does not include any other administrative sanction which may be imposed.

A violation of N.D.C.C. § 39-08-08 is a criminal violation classified as an infraction punishable by a fine of up to \$500 for a first offense. N.D.C.C. § 12.1-32-01(7).

I hope I have adequately responded to your inquiry.

Sincerely,

Nicholas J. Spaeth

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