

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 223
Rules and Operations of the Senate Committee Substitute Adopted 3/23/17
PROPOSED HOUSE COMMITTEE SUBSTITUTE S223-PCS45444-SA-32

Short Title: Habitual Felons/Clarify Previous Convictions.

(Public)

Sponsors:

Referred to:

March 9, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE DEFINITION OF "FELONY OFFENSE" FOR PURPOSES OF
3 THE HABITUAL FELON LAW AND TO REMOVE THE SUNSET ON DRIVERS
4 LICENSE ELIGIBILITY FOR PERSONS CONVICTED OF HABITUAL IMPAIRED
5 DRIVING.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 14-7.1 reads as rewritten:

8 "**§ 14-7.1. Persons defined as habitual felons.**

9 (a) Any person who has been convicted of or pled guilty to three felony offenses in any
10 federal court or state court in the United States or combination thereof is declared to be an
11 habitual felon and may be charged as a status offender pursuant to this Article.

12 (b) For the purpose of this Article, a felony offense is defined ~~as an~~ to include all of the
13 following:

14 (1) An offense which that is a felony under the laws of the State or other
15 sovereign wherein a this State.

16 (2) An offense that is a felony under the laws of another state or sovereign that
17 is substantially similar to an offense that is a felony in North Carolina, and to
18 which a plea of guilty was entered, or a conviction was returned regardless
19 of the sentence actually imposed.

20 (3) An offense that is a crime under the laws of another state or sovereign that
21 does not classify any crimes as felonies if all of the following apply:

22 a. The offense is substantially similar to an offense that is a felony in
23 North Carolina.

24 b. The offense may be punishable by imprisonment for more than a
25 year in state prison.

26 c. A plea of guilty was entered or a conviction was returned regardless
27 of the sentence actually imposed.

28 (4) An offense that is a felony under federal law. Provided, however, that
29 federal offenses relating to the manufacture, possession, sale and kindred
30 offenses involving intoxicating liquors shall not be considered felonies for
31 the purposes of this Article.

32 (c) For the purposes of this Article, felonies committed before a person attains the age
33 of 18 years shall not constitute more than one felony. The commission of a second felony shall
34 not fall within the purview of this Article unless it is committed after the conviction of or plea
35 of guilty to the first felony. The commission of a third felony shall not fall within the purview



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1 of this Article unless it is committed after the conviction of or plea of guilty to the second
2 felony. Pleas of guilty to or convictions of felony offenses prior to July 6, 1967, shall not be
3 felony offenses within the meaning of this Article. Any felony offense to which a pardon has
4 been extended shall not for the purpose of this Article constitute a felony. The burden of
5 proving such pardon shall rest with the defendant and the State shall not be required to disprove
6 a pardon."

7 **SECTION 2.** Section 7 of S.L. 2009-369, as amended by Section 61.5 of S.L.
8 2014-115, reads as rewritten:

9 **"SECTION 7.** This act becomes effective December 1, 2009, and applies to applications
10 for reinstatement that occur on or after that date. ~~This act expires December 1, 2016.~~"

11 **SECTION 3.** Section 1 of this act becomes effective December 1, 2017, and
12 applies to any offense committed on or after that date and that is the principal felony offense
13 for a charge of a status offense of habitual felon. Section 2 of this act is retroactively effective
14 December 1, 2016. The remainder of this act is effective when it becomes law. Prosecutions for
15 offenses committed before the effective date of this act are not abated or affected by this act,
16 and the statutes that would be applicable but for this act remain applicable to those
17 prosecutions.