

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 434
Committee Substitute Favorable 5/3/95

Short Title: Attempting to Elude Arrest/AB.

(Public)

Sponsors:

Referred to:

March 9, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO LIMIT, TO MODIFY, AND ENHANCE THE ATTEMPTING TO ELUDE
3 ARREST STATUTES.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 20 of the General Statutes is amended by adding a new
6 section to read:

7 "**§ 20-141.5. Speeding to elude arrest; forfeiture of vehicle.**

8 (a) It shall be unlawful for any person to operate a motor vehicle or knowingly
9 allow a vehicle owned by him, or under his control, to be operated on a street, highway,
10 or public vehicular area while fleeing or attempting to elude a law enforcement officer
11 who is in the lawful performance of his duties.

12 (b) If two or more of the following aggravating factors are present at the time the
13 violation occurs, the person operating the vehicle shall be guilty of a Class H felony.

14 (1) Speeding in excess of 15 miles per hour over the legal speed limit.

15 (2) Gross impairment of the person's faculties while driving due to:

16 a. Consumption of an impairing substance; or

17 b. A blood alcohol concentration of 0.14 or more within a relevant
18 time after the driving.

19 (3) Especially reckless or dangerous driving.

- 1 (4) Negligent driving leading to an accident causing:
2 a. Property damage in excess of five hundred dollars (\$500.00); or
3 b. Personal injury.
4 (5) Driving when his drivers license is revoked.
5 (6) Driving through a marked school zone or work zone.
6 (7) Passing a stopped school bus.

7 Any other violation of this section shall be punished as a Class 1 misdemeanor.

8 (c) Whenever evidence is presented in any court or administrative hearing of the
9 fact that a vehicle was operated in violation of this section, it shall be prima facie
10 evidence that the vehicle was operated by the person in whose name the vehicle was
11 registered at the time of the violation, according to the Division's records. If the vehicle
12 is rented, then proof of that rental shall be prima facie evidence that the vehicle was
13 operated by the renter of the vehicle at the time of the violation.

14 (d) The Division shall revoke, for one year, the drivers license of any person
15 convicted of a misdemeanor under this section. The Division shall revoke, for three
16 years, the drivers license of any person convicted of a felony under this section. In the
17 case of a first felony conviction under this section, the licensee may apply to the
18 sentencing court for a limited driving privilege after a period of 18 months of revocation,
19 provided the operator's license has not also been revoked or suspended under any other
20 provision of law. A limited driving privilege issued under this subsection shall be valid
21 for the period of revocation remaining in the same manner and under the terms and
22 conditions prescribed in G.S. 20-16.1(b). If the person's license is revoked under any
23 other statute, the limited driving privilege issued pursuant to this subsection is invalid.

24 (e) When the probable cause of the law enforcement officer is based on the prima
25 facie evidence rule set forth in subsection (c) above, the officer shall make a reasonable
26 effort to contact the registered owner of the vehicle prior to initiating criminal process."

27 Sec. 2. G.S. 20-141(j) and G.S. 20-17(10) are repealed.

28 Sec. 3. G.S. 20-179(d) reads as rewritten:

29 "(d) Aggravating Factors to Be Weighed. – The judge must determine before
30 sentencing under subsection (f) whether any of the aggravating factors listed below apply
31 to the defendant. The judge must weigh the seriousness of each aggravating factor in the
32 light of the particular circumstances of the case. The factors are:

- 33 (1) Gross impairment of the defendant's faculties while driving or an
34 alcohol concentration of 0.20 or more within a relevant time after the
35 driving.
36 (2) Especially reckless or dangerous driving.
37 (3) Negligent driving that led to an accident causing property damage in
38 excess of five hundred dollars (\$500.00) or personal injury.
39 (4) Driving by the defendant while his driver's license was revoked.
40 (5) Two or more prior convictions of a motor vehicle offense not involving
41 impaired driving for which at least three points are assigned under G.S.
42 20-16 or for which the convicted person's license is subject to
43 revocation, if the convictions occurred within five years of the date of

1 the offense for which the defendant is being sentenced, or one or more
 2 prior convictions of an offense involving impaired driving that occurred
 3 more than seven years before the date of the offense for which the
 4 defendant is being sentenced.

5 (6) Conviction under ~~G.S. 20-141(j)~~ G.S. 20-141.5 of speeding by the
 6 defendant while fleeing or attempting to elude apprehension.

7 (7) Conviction under G.S. 20-141 of speeding by the defendant by at least
 8 30 miles per hour over the legal limit.

9 (8) Passing a stopped school bus in violation of G.S. 20-217.

10 (9) Any other factor that aggravates the seriousness of the offense.

11 Except for the factor in subdivision (5) the conduct constituting the aggravating factor
 12 must occur during the same transaction or occurrence as the impaired driving offense."

13 Sec. 4. G.S. 58-36-75(c) reads as rewritten:

14 "(c) The subclassification plan promulgated pursuant to G.S. 58-36-65(b) shall
 15 provide for facility recoupment surcharges pursuant to G.S. 58-37-40(f) and G.S. 58-37-
 16 75, in addition to premium surcharges, for convictions for the following moving traffic
 17 violations:

General Statute	Description of Offense
20-12.1	Being impaired while accompanying a permittee who is learning to drive
20-28	Driving while license is suspended or revoked
20-138.1	Driving a vehicle while impaired
20-138.2	Driving a commercial vehicle while impaired
20-138.3	Driving by provisional licensee after consuming alcohol or drugs
20-140(a)	Driving carelessly and heedlessly in willful or wanton disregard of the rights of others
20-140(b)	Driving without due caution in a manner so as to endanger other people or property
20-141(a)	Only driving at least 11 miles per hour over the posted speed limit
20-141(j)	Driving in excess of 55 mph and at least 15 mph over legal limit, while fleeing or attempting to elude arrest by a law enforcement officer
20-141(j1)	Driving more than 15 mph over legal limit
20-141.1	Speeding in a school zone
20-141.3(a)	Engaging in prearranged speed competition with another motor vehicle
20-141.3(b)	Willfully engaging in speed competition with another motor vehicle (not prearranged)
20-141.3(c)	Allowing or authorizing others to use one's motor vehicle in prearranged speed competition or

1		placing or receiving a bet or wager on a
2		prearranged speed competition
3	20-141.4(a1)	Death by vehicle (unintentionally causing death
4		of another while engaged in impaired driving)
5	20-141.4(a2)	Death by vehicle (unintentionally causing death
6		of another as a result of a violation of motor
7		vehicle law intended to regulate traffic or used to
8		control operation of a vehicle)
9	<u>20-141.5</u>	<u>Speeding while fleeing or attempting to elude</u>
10		<u>arrest</u>
11	20-166(a)	Failure to stop by driver who knew or should
12		have known he was involved in accident and that
13		accident caused death or injury to any person
14	20-166(c)	Failure of driver involved in accident causing
15		property damage or personal injury or death (if
16		driver did not know of injury or death) to stop at
17		scene of accident
18	20-175.2	Failure to yield right-of-way to blind person at
19		crossings, intersections, and traffic control signal
20		points
21	20-217	Failure to stop and remain stopped when
22		approaching a stopped school bus engaged in
23		receiving or discharging passengers and while
24		bus has mechanical stop signal displayed
25	14-18	Voluntary manslaughter
26	14-18	Involuntary manslaughter".
27	Sec. 5.	G.S. 143-116.8(b) reads as rewritten:
28	"(b)	(1) It shall be unlawful for a person to operate a vehicle in the
29		State parks and forests road system at a speed in excess of twenty-five
30		miles per hour (25 mph). When the Secretary of Environment,
31		Health, and Natural Resources determines that this speed is greater
32		than reasonable and safe under the conditions found to exist in the
33		State parks and forests road system, the Secretary may establish a
34		lower reasonable and safe speed limit. No speed limit established by
35		the Secretary pursuant to this provision shall be effective until posted
36		in the part of the system sought to be affected.
37	(2)	Any person convicted of violating this subsection by operating a vehicle
38		on the State parks and forests road system in excess of twenty-five miles
39		per hour (25 mph) and at least fifteen miles per hour (15 mph) over the legal
40		limit while fleeing or attempting to elude arrest or apprehension by a law
41		enforcement officer with authority to enforce the motor vehicle laws,
42		shall be punished as provided in G.S. 20-141(j) . <u>G.S. 20-141.5.</u>

- 1 (3) For the purposes of enforcement and administration of Chapter 20, the
2 speed limits stated and authorized to be adopted by this section are
3 speed limits under Chapter 20.
- 4 (4) The Secretary may designate any part of the State parks and forests road
5 system for one-way traffic and shall erect appropriate signs giving
6 notice thereof. It shall be a violation of G.S. 20-165.1 for any person to
7 willfully drive or operate any vehicle on any part of the State parks and
8 forests road system so designated except in the direction indicated.
- 9 (5) The Secretary shall have power, equal to the power of local authorities
10 under G.S. 20-158 and G.S. 20-158.1, to place vehicle control signs and
11 signals and yield-right-of-way signs in the State parks and forests road
12 system; the Secretary also shall have power to post such other signs and
13 markers and mark the roads in accordance with Chapter 20 as the
14 Secretary may determine appropriate for highway safety and traffic
15 control. The failure of any vehicle driver to obey any vehicle control
16 sign or signal, or any yield-right-of-way sign placed under the authority
17 of this section in the State parks and forests road system shall be an
18 infraction and shall be punished as provided in G.S. 20-176."
19 Sec. 6. This act becomes effective October 1, 1995.