

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 468

Short Title: N.C. DA's M.V. Recommendations/AB.

(Public)

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Sponsors: Representatives Decker; Starnes and Wood.

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Referred to: Judiciary I.

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March 10, 1997

A BILL TO BE ENTITLED

1 AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE NORTH  
2 CAROLINA CONFERENCE OF DISTRICT ATTORNEYS WITH RESPECT TO  
3 THE OPERATION OF MOTOR VEHICLES.

4 The General Assembly of North Carolina enacts:

5 PART I. INCREASE THE PUNISHMENT FOR MISDEMEANOR DEATH BY  
6 VEHICLE FROM A CLASS 1 MISDEMEANOR TO A CLASS A1 MISDEMEANOR.

7 Section 1. G.S. 20-141.4(b) reads as rewritten:

8 "(b) Punishments. – Felony death by vehicle is a Class G felony. Misdemeanor  
9 death by vehicle is a ~~Class 1~~ Class A1 misdemeanor."

10 PART II. REQUIRE THAT A PERSON CONVICTED OF HABITUAL IMPAIRED  
11 DRIVING SHALL BE SENTENCED TO PRISON AND SHALL SERVE THE ENTIRE  
12 TERM OF IMPRISONMENT.

13 Section 2. G.S. 15A-1340.10 reads as rewritten:

14 "**§ 15A-1340.10. Applicability of structured sentencing.**

15 This Article applies to criminal offenses in North Carolina, other than impaired  
16 driving under ~~G.S. 20-138.4~~ G.S. 20-138.1, habitual impaired driving under G.S. 20-  
17 138.5, and failure to comply with control measures under G.S. 130A-25, that occur on or  
18 after October 1, 1994. This Article does not apply to violent habitual felons sentenced  
19 under Article 2B of Chapter 14 of the General Statutes."  
20

1 Section 3. G.S. 20-138.5(b) reads as rewritten:

2 "(b) A person convicted of violating this section shall be punished as a Class G  
3 ~~felon~~ felon as follows:

4 (1) For a first conviction of this offense, the court shall sentence the person  
5 to a term of imprisonment for not less than 12 months nor more than 18  
6 months and may impose a fine;

7 (2) For a second conviction of this offense, the court shall sentence the  
8 person to a term of imprisonment for not less than 24 months nor more  
9 than 36 months and may impose a fine;

10 (3) For a third conviction of this offense, the court shall sentence the person  
11 to a term of imprisonment for not less than 36 months nor more than 72  
12 months and may impose a fine;

13 (4) For a fourth and subsequent conviction of this offense, the court shall  
14 sentence the person to a term of imprisonment for not less than 72  
15 months nor more than 108 months and may impose a fine.

16 The court shall impose a single term of imprisonment that shall be both the minimum  
17 and maximum sentence, and the court may not suspend the sentence and may not place  
18 the person sentenced on probation. The sentence shall not be reduced by any credit for  
19 good behavior, gain time, and the like, except for credit for time served under G.S. 15-  
20 196.1. A person serving the sentence shall not be eligible for parole or post-release  
21 supervision. Sentences—A sentence imposed under this subsection shall run consecutively  
22 with and shall commence at the expiration of any sentence being served."

23 Section 4. G.S. 20-4.01(24a) reads as rewritten:

24 "(24a) Offense Involving Impaired Driving. – Any of the following offenses:

- 25 a. Impaired driving under ~~G.S. 20-138.1~~ G.S. 20-138.1 and habitual  
26 impaired driving under G.S. 20-138.5.
- 27 b. Death by vehicle under G.S. 20-141.4 when conviction is based  
28 upon impaired driving or a substantially equivalent offense under  
29 previous law.
- 30 c. Second degree murder under G.S. 14-17 or involuntary  
31 manslaughter under G.S. 14-18 when conviction is based upon  
32 impaired driving or a substantially equivalent offense under  
33 previous law.
- 34 d. An offense committed in another jurisdiction substantially  
35 equivalent to the offenses in subparagraphs a through c.
- 36 e. A repealed or superseded offense substantially equivalent to  
37 impaired driving, including offenses under former G.S. 20-138 or  
38 G.S. 20-139.
- 39 f. Impaired driving in a commercial motor vehicle under G.S. 20-  
40 138.2, except that convictions of impaired driving under G.S. 20-  
41 138.1 and G.S. 20-138.2 arising out of the same transaction shall  
42 be considered a single conviction of an offense involving  
43 impaired driving for any purpose under this Chapter.

1 A conviction under former G.S. 20-140(c) is not an offense  
2 involving impaired driving."

3 PART III. INCLUDE PRIOR IMPAIRED DRIVING CONVICTIONS IN THE  
4 CALCULATION OF PRIOR RECORD LEVEL FOR FELONY SENTENCING.

5 Section 5. G.S. 15A-1340.14(b) reads as rewritten:

6 "(b) Points. – Points are assigned as follows:

7 (1) For each prior felony Class A conviction, 10 points.

8 (1a) For each prior felony Class B1 conviction, 9 points.

9 (2) For each prior felony Class B2, C, or D conviction, 6 points.

10 (3) For each prior felony Class E, F, or G conviction, 4 points.

11 (4) For each prior felony Class H or I conviction, 2 points.

12 (5) For each prior Class A1 or Class 1 misdemeanor ~~conviction~~, conviction  
13 or impaired driving conviction under G.S. 20-138.1, 1 point, except that  
14 convictions for Class 1 misdemeanor offenses under Chapter 20 of the  
15 General Statutes, other than conviction for misdemeanor death by  
16 vehicle (~~G.S. 20-141.4(a2)~~), (~~G.S. 20-141.4(a2)~~) and conviction for  
17 impaired driving in a commercial vehicle (G.S. 20-138.2) shall not be  
18 assigned any points for purposes of determining a person's prior record  
19 for felony sentencing.

20 (6) If all the elements of the present offense are included in the prior  
21 offense, 1 point.

22 (7) If the offense was committed while the offender was on probation or  
23 parole, or while the offender was serving a sentence of imprisonment, or  
24 while the offender was on escape from a correctional institution while  
25 serving a sentence of imprisonment, 1 point.

26 For purposes of determining prior record points under this subsection, a conviction for  
27 a first degree rape or a first degree sexual offense committed prior to the effective date of  
28 this subsection shall be treated as a felony Class B1 conviction, and a conviction for any  
29 other felony Class B offense committed prior to the effective date of this subsection shall  
30 be treated as a felony Class B2 conviction."

31 PART IV. EFFECTIVE DATE.

32 Section 6. This act becomes effective December 1, 1997, and applies to  
33 offenses committed and sentencing for offenses committed on or after that date.