

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 584
Committee Substitute Favorable 4/23/97
Senate Judiciary Committee Substitute Adopted 8/12/97

Short Title: Attempting to Elude Arrest.

(Public)

Sponsors:

Referred to: Appropriations.

March 24, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO LIMIT, TO MODIFY, AND ENHANCE 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.**

8 (a) It shall be unlawful for any person to operate a motor vehicle on a street,
9 highway, or public vehicular area while fleeing or attempting to elude a law enforcement
10 officer who is in the lawful performance of his duties. Except as provided in subsection
11 (b) of this section, violation of this section shall be a Class 1 misdemeanor.

12 (b) If two or more of the following aggravating factors are present at the time the
13 violation occurs, violation of this section shall be 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.

1 (3) Reckless driving as proscribed by G.S. 20-140.

2 (4) Negligent driving leading to an accident causing:

3 a. Property damage in excess of one thousand dollars (\$1,000); or

4 b. Personal injury.

5 (5) Driving when the person's drivers license is revoked.

6 (6) Driving in excess of the posted speed limit, during the days and hours
7 when the posted limit is in effect, on school property or in an area
8 designated as a school zone pursuant to G.S. 20-141.1, or in a highway
9 work zone as defined in G.S. 20-141(j2).

10 (7) Passing a stopped school bus as proscribed by G.S. 20-217.

11 (8) Driving with a child under 12 years of age in the vehicle.

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

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

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

31 (f) Each law enforcement agency shall adopt a policy applicable to the pursuit of
32 fleeing or eluding motorists. Each policy adopted pursuant to this subsection shall
33 specifically include factors to be considered by an officer in determining when it is
34 advisable to break off a chase to stop and apprehend a suspect. The Attorney General
35 shall develop a model policy or policies to be considered for use by law enforcement
36 agencies."

37 Section 2. G.S. 20-141(j) and G.S. 20-17(a)(10) are repealed.

38 Section 3. G.S. 20-179(d) reads as rewritten:

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

- 1 (1) Gross impairment of the defendant's faculties while driving or an
- 2 alcohol concentration of 0.16 or more within a relevant time after the
- 3 driving.
- 4 (2) Especially reckless or dangerous driving.
- 5 (3) Negligent driving that led to a reportable accident.
- 6 (4) Driving by the defendant while his driver's license was revoked.
- 7 (5) Two or more prior convictions of a motor vehicle offense not involving
- 8 impaired driving for which at least three points are assigned under G.S.
- 9 20-16 or for which the convicted person's license is subject to
- 10 revocation, if the convictions occurred within five years of the date of
- 11 the offense for which the defendant is being sentenced, or one or more
- 12 prior convictions of an offense involving impaired driving that occurred
- 13 more than seven years before the date of the offense for which the
- 14 defendant is being sentenced.
- 15 (6) Conviction under ~~G.S. 20-141(j)~~ G.S. 20-141.5 of speeding by the
- 16 defendant while fleeing or attempting to elude apprehension.
- 17 (7) Conviction under G.S. 20-141 of speeding by the defendant by at least
- 18 30 miles per hour over the legal limit.
- 19 (8) Passing a stopped school bus in violation of G.S. 20-217.
- 20 (9) Any other factor that aggravates the seriousness of the offense.

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

23 Section 4. G.S. 58-36-75(c) reads as rewritten:

24 "(c) The subclassification plan promulgated pursuant to G.S. 58-36-65(b) shall
 25 provide for facility recoupment surcharges pursuant to G.S. 58-37-40(f) and G.S. 58-37-
 26 75, in addition to premium surcharges, for convictions for the following moving traffic
 27 violations:

28 General Statute	Description of Offense
29 20-12.1	Being impaired while accompanying a permittee who is learning to drive
30 20-28	Driving while license is suspended or revoked
31 20-138.1	Driving a vehicle while impaired
32 20-138.2	Driving a commercial vehicle while impaired
33 20-138.3	Driving by provisional licensee after consuming alcohol or drugs
34 20-140(a)	Driving carelessly and heedlessly in willful or wanton disregard of the rights of others
35 20-140(b)	Driving without due caution in a manner so as to endanger other people or property
36 20-141(a)	Only driving at least 11 miles per hour over the posted speed limit
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1	20-141(j)	Driving in excess of 55 mph and at least 15 mph
2		over legal limit, while fleeing or attempting to
3		elude arrest by a law enforcement officer
4	20-141(j1)	Driving more than 15 mph over legal limit
5	20-141.1	Speeding in a school zone
6	20-141.3(a)	Engaging in prearranged speed competition with
7		another motor vehicle
8	20-141.3(b)	Willfully engaging in speed competition with
9		another motor vehicle (not prearranged)
10	20-141.3(c)	Allowing or authorizing others to use one's motor
11		vehicle in prearranged speed competition or
12		placing or receiving a bet or wager on a
13		prearranged speed competition
14	20-141.4(a1)	Death by vehicle (unintentionally causing death
15		of another while engaged in impaired driving)
16	20-141.4(a2)	Death by vehicle (unintentionally causing death
17		of another as a result of a violation of motor
18		vehicle law intended to regulate traffic or used to
19		control operation of a vehicle)
20	<u>20-141.5</u>	<u>Speeding while fleeing or attempting to elude</u>
21		<u>arrest</u>
22	20-166(a)	Failure to stop by driver who knew or should
23		have known he was involved in accident and that
24		accident caused death or injury to any person
25	20-166(c)	Failure of driver involved in accident causing
26		property damage or personal injury or death (if
27		driver did not know of injury or death) to stop at
28		scene of accident
29	20-175.2	Failure to yield right-of-way to blind person at
30		crossings, intersections, and traffic control signal
31		points
32	20-217	Failure to stop and remain stopped when
33		approaching a stopped school bus engaged in
34		receiving or discharging passengers and while
35		bus has mechanical stop signal displayed
36	14-18	Voluntary manslaughter
37	14-18	Involuntary manslaughter".
38		Section 5. G.S. 143-116.8(b) reads as rewritten:
39	"(b) (1)	It shall be unlawful for a person to operate a vehicle in the State parks
40		and forests road system at a speed in excess of twenty-five miles per
41		hour (25 mph). When the Secretary of Environment, Health, and
42		Natural Resources determines that this speed is greater than reasonable
43		and safe under the conditions found to exist in the State parks and

1 forests road system, the Secretary may establish a lower reasonable and
2 safe speed limit. No speed limit established by the Secretary pursuant to
3 this provision shall be effective until posted in the part of the system
4 sought to be affected.

5 (2) Any person convicted of violating this subsection by operating a vehicle
6 on the State parks and forests road system ~~in excess of twenty-five miles~~
7 ~~per hour (25 mph) and at least fifteen miles per hour (15 mph) over the legal~~
8 ~~limit~~ while fleeing or attempting to elude arrest or apprehension by a law
9 enforcement officer with authority to enforce the motor vehicle laws,
10 shall be punished as provided in ~~G.S. 20-141(j)~~. G.S. 20-141.5.

11 (3) For the purposes of enforcement and administration of Chapter 20, the
12 speed limits stated and authorized to be adopted by this section are
13 speed limits under Chapter 20.

14 (4) The Secretary may designate any part of the State parks and forests road
15 system for one-way traffic and shall erect appropriate signs giving
16 notice thereof. It shall be a violation of G.S. 20-165.1 for any person to
17 willfully drive or operate any vehicle on any part of the State parks and
18 forests road system so designated except in the direction indicated.

19 (5) The Secretary shall have power, equal to the power of local authorities
20 under G.S. 20-158 and G.S. 20-158.1, to place vehicle control signs and
21 signals and yield-right-of-way signs in the State parks and forests road
22 system; the Secretary also shall have power to post such other signs and
23 markers and mark the roads in accordance with Chapter 20 as the
24 Secretary may determine appropriate for highway safety and traffic
25 control. The failure of any vehicle driver to obey any vehicle control
26 sign or signal, or any yield-right-of-way sign placed under the authority
27 of this section in the State parks and forests road system shall be an
28 infraction and shall be punished as provided in G.S. 20-176."

29 Section 6. This act becomes effective December 1, 1997.