

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 427
Committee Substitute Favorable 4/7/11
Third Edition Engrossed 4/19/11
Senate Judiciary II Committee Substitute Adopted 6/9/11
Fifth Edition Engrossed 6/14/11

Short Title: Run and You're Done.

(Public)

Sponsors:

Referred to:

March 23, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE SEIZURE, FORFEITURE, AND SALE OF MOTOR
3 VEHICLES USED BY DEFENDANTS IN FELONY CASES INVOLVING SPEEDING
4 TO ELUDE ARREST.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 20-141.5 reads as rewritten:

7 "§ 20-141.5. Speeding to elude arrest.

8 ...
9 (f) Each law enforcement agency shall adopt a policy applicable to the pursuit of
10 fleeing or eluding motorists. Each policy adopted pursuant to this subsection shall specifically
11 include factors to be considered by an officer in determining when ~~it is advisable to break off a~~
12 ~~chase to stop and apprehend a suspect.~~ to initiate or terminate a pursuit. The Attorney General
13 shall develop a model policy or policies to be considered for use by law enforcement agencies.

14 (g) If a person is arrested for a felony violation under this section, then the law
15 enforcement agency shall seize the motor vehicle and deliver the same to the sheriff of the
16 county in which such offense is committed, or the same shall be placed under said sheriff's
17 constructive possession if delivery of actual possession is impractical, and the vehicle shall be
18 held by the sheriff pending the trial of the person or persons operating such motor vehicle and
19 charged with a felony offense under this section.

20 (1) The sheriff shall restore the seized motor vehicle to the owner upon
21 execution by the owner of a good and valid bond, with sufficient sureties, in
22 an amount double the value of the property, which bond shall be approved
23 by said sheriff and shall be conditioned on the return of the motor vehicle to
24 the custody of the sheriff on the day of trial of the person or persons accused.
25 Upon an acquittal or dismissal of any felony charge under this section, the
26 sheriff shall return the motor vehicle to the owner thereof.

27 (2) Notwithstanding the provisions for sale set out in subsection (h) of this
28 section, on petition by a lienholder, the court, in its discretion and upon such
29 terms and conditions as it may prescribe, may allow reclamation of the
30 vehicle by the lienholder. The lienholder shall file with the court an
31 accounting of the proceeds of any subsequent sale of the vehicle and pay
32 into the court any proceeds received in excess of the amount of the lien.



- 1 (h) Upon conviction of the operator of said motor vehicle of a felony offense under this
2 section, the court shall order a sale at public auction of said motor vehicle.
- 3 (1) The officer making the sale shall make the following deductions from the
4 sale proceeds:
- 5 a. The expenses of keeping the motor vehicle.
6 b. The fee for the seizure.
7 c. The costs of the sale.
- 8 The officer shall then pay, from the net proceeds, all liens, according to their
9 priorities, which are established by intervention or otherwise at the hearing
10 or in other proceeding brought for said purpose as being bona fide. The
11 officer shall pay the balance of the proceeds to the proper officer of the
12 county who receives fines and forfeitures to be used for the school fund of
13 the county.
- 14 (2) All liens against a motor vehicle sold under the provisions of this section
15 shall be transferred from the motor vehicle to the proceeds of its sale.
- 16 (3) If, at the time of hearing, or other proceeding in which the matter is
17 considered, the owner of the vehicle can establish to the satisfaction of the
18 court that the provisions of sub-subdivisions a. through c. of this subdivision
19 apply, then the court shall not order a sale of the vehicle but shall restore it
20 to the owner. The owner shall be entitled to a trial by jury upon the issues in
21 this subdivision.
- 22 a. The defendant was an immediate member of the owner's family at
23 the time of the offense.
- 24 b. The defendant had no previous felony or misdemeanor convictions at
25 the time of the offense and had no previous or pending violations of
26 any provision in Chapter 20 of the General Statutes for the three
27 years previous to the time of the offense.
- 28 c. The defendant was under the age of 19 at the time of the offense.
- 29 (4) A nondefendant motor vehicle owner may file a petition with the clerk of
30 court seeking a pretrial determination that the petitioner is an innocent
31 owner. The clerk shall consider the petition and make a determination as
32 soon as may be feasible. At any proceeding conducted pursuant to this
33 subdivision, the clerk is not required to determine the issue of forfeiture,
34 only the issue of whether the petitioner is an innocent owner. If the clerk
35 determines that the petitioner is an innocent owner, the clerk shall release the
36 motor vehicle to the petitioner. The clerk shall send a copy of the order
37 authorizing or denying release of the vehicle to the district attorney and the
38 sheriff. An order issued under this subdivision finding that the petitioner
39 failed to establish that the petitioner is an innocent owner may be
40 reconsidered by the court as part of the forfeiture hearing under this section.
- 41 (i) If the owner of a motor vehicle seized pursuant to this section cannot be found, the
42 taking of the same, with a description thereof, shall be advertised in some newspaper published
43 in the city or county where taken, or, if there be no newspaper published in such city or county,
44 in a newspaper having circulation in the county, once a week for two weeks and by handbills
45 posted in three public places near the place of seizure, and if said owner shall not appear within
46 10 days after the last publication of the advertisement, the property shall be sold, or otherwise
47 disposed of in the manner set forth in this section.
- 48 (j) When any vehicle confiscated under the provisions of this section is found to be
49 specially equipped or modified from its original manufactured condition so as to increase its
50 speed, the court shall, prior to sale, order that the special equipment or modification be
51 removed and destroyed and the vehicle restored to its original manufactured condition.

1 However, if the court should find that such equipment and modifications are so extensive that it
2 would be impractical to restore said vehicle to its original manufactured condition, then the
3 court may order that the vehicle be turned over to such governmental agency or public official
4 within the territorial jurisdiction of the court as the court shall see fit, to be used in the
5 performance of official duties only, and not for resale, transfer, or disposition other than as
6 junk: Provided, that nothing herein contained shall affect the rights of lienholders and other
7 claimants to said vehicles as set out in this section."

8 **SECTION 2.** This act becomes effective December 1, 2011, and applies to
9 offenses committed on or after that date.