

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 338

Short Title: Fail to Obtain DL/Increase Punishment. (Public)

Sponsors: Representative Millis (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary II.

March 25, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE PUNISHMENT FOR CERTAIN OFFENSES OF FAILING
3 TO OBTAIN A DRIVERS LICENSE BEFORE DRIVING A MOTOR VEHICLE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 20-35 reads as rewritten:

6 "**§ 20-35. Penalties for violating Article; defense to driving without a license.**

7 (a) Penalty. – Except as otherwise provided in ~~subsection (a1) or (a2)~~ subsections (a1)
8 through (a3) of this section, a violation of this Article is a Class 2 misdemeanor unless a statute
9 in the Article sets a different punishment for the violation. If a statute in this Article sets a
10 different punishment for a violation of the Article, the different punishment applies.

11 (a1) The following offenses are Class 3 misdemeanors:

- 12 (1) ~~Failure~~ Except as provided in subsection (a3) of this section, failure to obtain
13 a license before driving a motor vehicle, in violation of G.S. 20-7(a).
14 (2) Failure to comply with license restrictions, in violation of G.S. 20-7(e).
15 (3) Permitting a motor vehicle owned by the person to be operated by an
16 unlicensed person, in violation of G.S. 20-34.

17 ...

18 (a3) A second or subsequent offense under G.S. 20-7(a) for failing to obtain a license
19 before driving a motor vehicle shall be a Class 2 misdemeanor if, at the time of each offense,
20 the person was ineligible to receive a drivers license from the Division because he or she did
21 not meet the requirements set forth in G.S. 20-7. Punishment imposed for any offense under
22 this subsection shall include a fine of four hundred dollars (\$400.00). Notwithstanding
23 G.S. 15A-1340.23, and unless the conduct is prohibited by another provision of law providing
24 for greater punishment, a person convicted of a third or subsequent offense under this
25 subsection (i) may be sentenced to an active sentence of not less than 20 days and not more
26 than 60 days and (ii) the vehicle that was driven by the person at the time the person committed
27 the third or subsequent offense under this subsection shall become property subject to forfeiture
28 in accordance with the procedure set out in G.S. 20-28.10. Nothing in this subsection shall be
29 construed as applying to (i) a person who commits an offense under G.S. 20-7(a) for failing to
30 obtain a license before driving a motor vehicle, but is eligible to receive a drivers license from
31 the Division at the time of the offense, or (ii) a person driving a motor vehicle with a revoked
32 or suspended license.

33"

34 SECTION 2. Article 2 of Chapter 20 of the General Statutes is amended by adding
35 a new section to read:



1 "§ 20-28.10. Seizure, impoundment, forfeiture of motor vehicles for certain offenses of
2 failing to obtain a license before driving a motor vehicle.

3 (a) Authority. – If a person is convicted of a third or subsequent offense under
4 G.S. 20-35(a3) for failing to obtain a license before driving a motor vehicle, the vehicle that
5 was driven by the person at the time the person committed the third or subsequent offense
6 under G.S. 20-35(a3) shall become property subject to seizure, impoundment, and forfeiture.

7 (b) Governing Law and Procedures. – The laws and procedures governing the seizure,
8 impoundment, and forfeiture of vehicles under this section shall be the same as those set forth
9 in G.S. 20-28.2 through G.S. 20-28.9 and G.S. 20-54.1. Wherever those statutes refer to a
10 particular underlying offense, they shall, for purposes of this section, be construed to refer to
11 the applicable violation of G.S. 20-35(a3). Furthermore, for purposes of this section, an
12 innocent owner shall be a person who did not know and had no reason to know that the
13 defendant was engaging in a violation of G.S. 20-35(a3)."

14 **SECTION 3.** This act becomes effective December 1, 2015, and applies to
15 offenses committed on or after that date.