

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 434

Short Title: Attempting to Elude Arrest/AB.

(Public)

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Sponsors: Representatives Kiser; Buchanan, Capps, Carpenter, Davis, Decker, Ives, McComas, McMahan, Rayfield, Sexton, Snowden, Sutton, and Thompson.

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Referred to: Judiciary II.

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March 9, 1995

A BILL TO BE ENTITLED

AN ACT TO LIMIT, TO MODIFY, AND ENHANCE THE ATTEMPTING TO ELUDE  
ARREST STATUTES.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

a. Consumption of an impairing substance; or

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

(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 any law enforcement officer, in the lawful performance of his duties, has  
25 probable cause to believe that a person has violated this section, and that the aggravating  
26 factors are present so that the violation would be punished as a felony, the officer shall  
27 seize or cause to be seized the vehicle and deliver it to the sheriff of the county where the  
28 violation was first observed. The vehicle shall be placed under the sheriff's constructive  
29 possession if delivery or actual possession is impractical. The vehicle shall be held by  
30 the sheriff pending the trial on the violation of this section. The provisions for bond,  
31 petition by lien holder, sale, and forfeiture found in G.S. 20-141.3 shall apply."

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 G.S. 20-141(j) and G.S. 20-17(10) are repealed.

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

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

- 38           (1) Gross impairment of the defendant's faculties while driving or an  
39 alcohol concentration of 0.20 or more within a relevant time after the  
40 driving.  
41           (2) Especially reckless or dangerous driving.  
42           (3) Negligent driving that led to an accident causing property damage in  
43 excess of five hundred dollars (\$500.00) or personal injury.

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

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

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

19 "(c) The subclassification plan promulgated pursuant to G.S. 58-36-65(b) shall  
 20 provide for facility recoupment surcharges pursuant to G.S. 58-37-40(f) and G.S. 58-37-  
 21 75, in addition to premium surcharges, for convictions for the following moving traffic  
 22 violations:

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

31 Sec. 5. G.S. 143-116.8(b) reads as rewritten:

32 "(b) (1) It shall be unlawful for a person to operate a vehicle in the

33 State parks and forests road system at a speed in excess of twenty-five

34 miles per hour (25 mph). When the Secretary of Environment,

35 Health, and Natural Resources determines that this speed is greater

36 than reasonable and safe under the conditions found to exist in the

37 State parks and forests road system, the Secretary may establish a

38 lower reasonable and safe speed limit. No speed limit established by

39 the Secretary pursuant to this provision shall be effective until posted

40 in the part of the system sought to be affected.

41 (2) Any person convicted of violating this subsection by operating a vehicle

42 on the State parks and forests road system ~~in excess of twenty-five miles~~

43 ~~per hour (25 mph) and at least fifteen miles per hour (15 mph) over the legal~~

1                    ~~limit~~ while fleeing or attempting to elude arrest or apprehension by a law  
2 enforcement officer with authority to enforce the motor vehicle laws,  
3 shall be punished as provided in ~~G.S. 20-141(j)~~. G.S. 20-141.5.

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

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

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

22            Sec. 6. This act becomes effective October 1, 1995.