

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH70347-LK-180 (4/7)

Short Title: Speeding to Elude Arrest.

(Public)

Sponsors: Representative Hill.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE SPEEDING TO ELUDE ARREST STATUTES TO
CLARIFY THE PROXIMATE CAUSE REQUIREMENT WHEN THE OFFENSE
RESULTS IN DEATH.

The General Assembly of North Carolina enacts:

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

"§ 20-141.5. Speeding to elude arrest.

(a) It shall be unlawful for any person to operate a motor vehicle 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. Except as provided in subsection (b) of this section, violation of this section shall be a Class 1 misdemeanor.

(b) If two or more of the following aggravating factors are present at the time the violation occurs, violation of this section shall be 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) Reckless driving as proscribed by G.S. 20-140.

(4) Negligent driving leading to an accident causing:

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

b. Personal injury.

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

(6) Driving in excess of the posted speed limit, during the days and hours when the posted limit is in effect, on school property or in an area

1 designated as a school zone pursuant to G.S. 20-141.1, or in a highway
2 work zone as defined in G.S. 20-141(j2).

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

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

5 (c) If any person dies during or as the result of injuries sustained during a
6 violation of subsection (a) of this section, then the person operating the vehicle in
7 violation of subsection (a) of this section shall be guilty of a Class H felony. If a death
8 occurs during violation of subsection (b) of this section, the person shall be guilty of a
9 Class E felony. The fact of the death resulting from the violation of subsection (a) or
10 subsection (b) of this section shall be prima facie evidence that the violation was the
11 proximate cause of death.

12 (e)(d) 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)(e) The Division shall suspend, for up to one year, the drivers license of any
19 person convicted of a misdemeanor under this section. The Division shall revoke, for
20 two years, the drivers license of any person convicted of a felony under this section if
21 the person was convicted on the basis of the presence of two of the aggravating factors
22 listed in subsection (b) of this section. The Division shall revoke, for three years, the
23 drivers license of any person convicted of a felony under this section if the person was
24 convicted on the basis of the presence of three or more aggravating factors listed in
25 subsection (b) of this section. In the case of a first felony conviction under this section
26 where only two aggravating factors were present, the licensee may apply to the
27 sentencing court for a limited driving privilege after a period of 12 months of
28 revocation, provided the operator's license has not also been revoked or suspended
29 under any other provision of law. A limited driving privilege issued under this
30 subsection shall be valid for the period of revocation remaining in the same manner and
31 under the terms and conditions prescribed in G.S. 20-16.1(b). If the person's license is
32 revoked under any other statute, the limited driving privilege issued pursuant to this
33 subsection is invalid.

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

37 (f)(g) The Attorney General shall develop policies applicable to the pursuit of
38 fleeing or eluding motorists for use by law enforcement agencies. Each law enforcement
39 agency in North Carolina shall adopt a policy-policies that are the same or more
40 restrictive than those adopted by the Attorney General in allowing the initiation or
41 participation in a pursuit. applicable to the pursuit of fleeing or eluding motorists. Each
42 Any policy adopted pursuant to this subsection shall specifically include factors to be
43 considered by an officer in determining when it is advisable to break off a chase to stop

1 and apprehend a suspect. ~~The Attorney General shall develop a model policy or policies~~
2 ~~to be considered for use by law enforcement agencies.~~"

3 **SECTION 2.** This act becomes effective December 1, 2005, and applies to
4 offenses committed on or after that date and after the adoption of the policies mandated
5 by G.S. 20-141.5(g) as amended by this act.