

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1279
Committee Substitute Favorable 5/16/05

Short Title: Speeding to Elude Arrest.

(Public)

Sponsors:

Referred to:

April 19, 2005

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

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

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

2 (c) When a violation of subsection (a) of this section is the proximate cause of
3 the death of any person, the person violating subsection (a) of this section shall be guilty
4 of a Class H felony. When a violation of subsection (b) of this section is the proximate
5 cause of the death of any person, the person violating subsection (b) of this section shall
6 be guilty of a Class E felony.

7 ~~(e)~~(d) Whenever evidence is presented in any court or administrative hearing of the
8 fact that a vehicle was operated in violation of this section, it shall be prima facie
9 evidence that the vehicle was operated by the person in whose name the vehicle was
10 registered at the time of the violation, according to the Division's records. If the vehicle
11 is rented, then proof of that rental shall be prima facie evidence that the vehicle was
12 operated by the renter of the vehicle at the time of the violation.

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23 revocation, provided the operator's license has not also been revoked or suspended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

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

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

39 **SECTION 2.** This act becomes effective December 1, 2005, and applies to
40 offenses committed on or after that date.