

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 61
House Committee Substitute Favorable 7/28/05

Short Title: Felony Death/Serious Injury by Vehicle.

(Public)

Sponsors:

Referred to:

February 7, 2005

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE LAWS AGAINST IMPAIRED DRIVING BY
INCREASING THE PUNISHMENT FOR FELONY DEATH BY VEHICLE AND
CREATING THE OFFENSE OF FELONY SERIOUS INJURY BY VEHICLE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-141.4 reads as rewritten:

"§ **20-141.4. Felony and misdemeanor death by ~~vehicle.~~vehicle; serious injury by vehicle.**

(a) Repealed by Session Laws 1983, c. 435, s. 27.

(a1) Felony Death by Vehicle. – A person commits the offense of felony death by vehicle if he unintentionally causes the death of another person while engaged in the offense of impaired driving under G.S. 20-138.1 or G.S. 20-138.2 and commission of that offense is the proximate cause of the death.

(a2) Misdemeanor Death by Vehicle. – A person commits the offense of misdemeanor death by vehicle if he unintentionally causes the death of another person while engaged in the violation of any State law or local ordinance applying to the operation or use of a vehicle or to the regulation of traffic, other than impaired driving under G.S. 20-138.1, and commission of that violation is the proximate cause of the death.

(a3) Felony Serious Injury by Vehicle. – A person commits the offense of felony serious injury by vehicle if he unintentionally causes serious injury to another person while engaged in the offense of impaired driving under G.S. 20-138.1 or G.S. 20-138.2, and commission of that offense is the proximate cause of the serious injury.

(b) Punishments. – Felony death by vehicle is a Class ~~G-D~~ felony. Felony serious injury by vehicle is a Class E felony. Misdemeanor death by vehicle is a Class 1 misdemeanor.

(c) No Double Prosecutions. – No person who has been placed in jeopardy upon a charge of death by vehicle may be prosecuted for the offense of manslaughter arising

1 out of the same death; and no person who has been placed in jeopardy upon a charge of
2 manslaughter may be prosecuted for death by vehicle arising out of the same death."

3 **SECTION 2.** G.S. 20-4.01 reads as rewritten:

4 "...

5 (24a) Offense Involving Impaired Driving. – Any of the following offenses:

- 6 a. Impaired driving under G.S. 20-138.1.
7 b. Death or serious injury by vehicle under G.S. 20-141.4 when
8 conviction is based upon impaired driving or a substantially
9 similar offense under previous law.
10 c. First or second degree murder under G.S. 14-17 or involuntary
11 manslaughter under G.S. 14-18 when conviction is based upon
12 impaired driving or a substantially similar offense under
13 previous law.
14 d. An offense committed in another jurisdiction which prohibits
15 substantially similar conduct prohibited by the offenses in this
16 subsection.
17 e. A repealed or superseded offense substantially similar to
18 impaired driving, including offenses under former G.S. 20-138
19 or G.S. 20-139.
20 f. Impaired driving in a commercial motor vehicle under
21 G.S. 20-138.2, except that convictions of impaired driving
22 under G.S. 20-138.1 and G.S. 20-138.2 arising out of the same
23 transaction shall be considered a single conviction of an offense
24 involving impaired driving for any purpose under this Chapter.
25 g. Habitual impaired driving under G.S. 20-138.5.

26 A conviction under former G.S. 20-140(c) is not an offense
27 involving impaired driving.

28 "..."

29 **SECTION 3.** G.S. 20-19(c3) reads as rewritten:

30 "(c3) Restriction; Revocations. – When the Division restores a person's drivers
31 license which was revoked pursuant to G.S. 20-13.2 (a), G.S. 20-23 when the offense
32 involved impaired driving, G.S. 20-23.2, subdivision (2) of G.S. 20-17(a), subdivision
33 ~~(1) or (9)~~(1), (3), or (9) of G.S. 20-17(a) when the offense involved impaired driving, or
34 this subsection, in addition to any other restriction or condition, it shall place the
35 applicable restriction on the person's drivers license as follows:

- 36 (1) For the first restoration of a drivers license for a person convicted of
37 driving while impaired, G.S. 20-138.1, or a drivers license revoked
38 pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the
39 person's license was revoked prohibits substantially similar conduct
40 which if committed in this State would result in a conviction of driving
41 while impaired under G.S. 20-138.1, that the person not operate a
42 vehicle with an alcohol concentration of 0.04 or more at any relevant
43 time after the driving;

- 1 (2) For the second or subsequent restoration of a drivers license for a
2 person convicted of driving while impaired, G.S. 20-138.1, or a drivers
3 license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the
4 offense for which the person's license was revoked prohibits
5 substantially similar conduct which if committed in this State would
6 result in a conviction of driving while impaired under G.S. 20-138.1,
7 that the person not operate a vehicle with an alcohol concentration
8 greater than 0.00 at any relevant time after the driving;
- 9 (3) For any restoration of a drivers license for a person convicted of
10 driving while impaired in a commercial motor vehicle, G.S. 20-138.2,
11 driving while less than 21 years old after consuming alcohol or drugs,
12 G.S. 20-138.3, felony death by vehicle, G.S. 20-141.4(a1), felony
13 serious injury by vehicle, G.S. 20-141.4(a3), manslaughter or negligent
14 homicide resulting from the operation of a motor vehicle when the
15 offense involved impaired driving, or a revocation under this
16 subsection, that the person not operate a vehicle with an alcohol
17 concentration of greater than 0.00 at any relevant time after the
18 driving;
- 19 (4) For any restoration of a drivers license revoked pursuant to G.S. 20-23
20 or G.S. 20-23.2 when the offense for which the person's license was
21 revoked prohibits substantially similar conduct which if committed in
22 this State would result in a conviction of driving while impaired in a
23 commercial motor vehicle, G.S. 20-138.2, driving while less than 21
24 years old after consuming alcohol or drugs, G.S. 20-138.3, felony
25 death by vehicle, G.S. 20-141.4(a1), or manslaughter or negligent
26 homicide resulting from the operation of a motor vehicle when the
27 offense involved impaired driving, that the person not operate a
28 vehicle with an alcohol concentration of greater than 0.00 at any
29 relevant time after the driving.

30 In addition, the person seeking restoration of a license must agree to submit to a
31 chemical analysis in accordance with G.S. 20-16.2 at the request of a law enforcement
32 officer who has reasonable grounds to believe the person is operating a motor vehicle on
33 a highway or public vehicular area in violation of the restriction specified in this
34 subsection. The person must also agree that, when requested by a law enforcement
35 officer, the person will agree to be transported by the law enforcement officer to the
36 place where chemical analysis is to be administered.

37 The restrictions placed on a license under this subsection shall be in effect (i) seven
38 years from the date of restoration if the person's license was permanently revoked, (ii)
39 until the person's twenty-first birthday if the revocation was for a conviction under
40 G.S. 20-138.3, and (iii) three years in all other cases.

41 A law enforcement officer who has reasonable grounds to believe that a person has
42 violated a restriction placed on the person's drivers license shall complete an affidavit
43 pursuant to G.S. 20-16.2(c1). On the basis of information reported pursuant to
44 G.S. 20-16.2, the Division shall revoke the drivers license of any person who violates a

1 condition of reinstatement imposed under this subsection. An alcohol concentration
2 report from an ignition interlock system shall not be used as the basis for revocation
3 under this subsection. A violation of a restriction imposed under this subsection or the
4 willful refusal to submit to a chemical analysis shall result in a one-year revocation. If
5 the period of revocation was imposed pursuant to subsection (d) or (e), any remaining
6 period of the original revocation, prior to its reduction, shall be reinstated and the
7 one-year revocation begins after all other periods of revocation have terminated."

8 **SECTION 4.** G.S. 20-168(b) reads as rewritten:

9 "(b) While actually engaged in maintenance or construction work on the
10 highways, but not while traveling to or from such work, drivers of vehicles owned or
11 operated by the State or any political subdivision thereof are exempt from all provisions
12 of this Article except:

- 13 (1) G.S. 20-138.1. Impaired driving.
- 14 (2) Repealed by Session Laws 1983, c. 435, s. 28.
- 15 (3) G.S. 20-139.1. Procedures governing chemical analyses;
16 admissibility; evidentiary provisions; controlled-drinking programs.
- 17 (4) G.S. 20-140. Reckless driving.
- 18 (5) Repealed by Session Laws 1983, c. 435, s. 38.
- 19 (6) G.S. 20-141. Speed restrictions.
- 20 (7) G.S. 20-141.3. Unlawful racing on streets and highways.
- 21 (8) G.S. 20-141.4. Felony and misdemeanor death by ~~vehicle-vehicle~~;
22 serious injury by vehicle."

23 **SECTION 5.** G.S. 15A-830(a) reads as rewritten:

24 "(a) The following definitions apply in this Article:

25 ...

- 26 (7) Victim. – A person against whom there is probable cause to believe
27 one of the following crimes was committed:
 - 28 a. A Class A, B1, B2, C, D, or E felony.
 - 29 b. A Class F felony if it is a violation of one of the following:
30 G.S. 14-16.6(b); 14-16.6(c); 14-18; 14-32.1(e); 14-32.2(b)(3);
31 14-32.3(a); 14-32.4; 14-34.2; 14-34.6(c); 14-41; 14-43.2;
32 14-43.3; 14-190.17; 14-190.19; 14-202.1; 14-277.3; 14-288.9;
33 or 20-138.5.
 - 34 c. A Class G felony if it is a violation of one of the following:
35 G.S. 14-32.3(b); 14-51; 14-58; ~~14-87.1; or 20-141.4.~~ or 14-87.1.
 - 36 d. A Class H felony if it is a violation of one of the following:
37 G.S. 14-32.3(a); 14-32.3(c); 14-33.2, or 14-277.3.
 - 38 e. A Class I felony if it is a violation of one of the following:
39 G.S. 14-32.3(b); 14-34.6(b); or 14-190.17A.
 - 40 f. An attempt of any of the felonies listed in this subdivision if the
41 attempted felony is punishable as a felony.
 - 42 g. Any of the following misdemeanor offenses when the offense is
43 committed between persons who have a personal relationship as

1 defined in G.S. 50B-1(b): G.S. 14-33(c)(1); 14-33(c)(2);
2 14-33(a); 14-34; 14-134.3; or 14-277.3."

3 **SECTION 6.** This act becomes effective December 1, 2005, and applies to
4 offenses committed on or after that date.