

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 930*

Short Title: DWI Sentencing. (Public)

Sponsors: Representatives Barnhart, Johnson, Steen (Primary Sponsors); Howard, Hurley, Justus, Killian, McGee, Moore, Pate, Tillis, and Underhill.

Referred to: Judiciary III, if favorable, Appropriations.

March 21, 2007

A BILL TO BE ENTITLED

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2 AN ACT TO ALLOW CONVICTIONS FOR NONDRIVING OFFENSES TO BE
3 CONSIDERED FOR THE PURPOSES OF SENTENCING UNDER THE DWI
4 SENTENCING GUIDELINES AND TO ELIMINATE A CONFLICT BETWEEN
5 AGGRAVATING AND MITIGATING FACTORS FOR TRAFFIC OFFENSES
6 CHARGED IN THE PREVIOUS FIVE YEARS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 20-179(d) is amended by adding a new subdivision to
9 read:

10 "**§ 20-179. Sentencing hearing after conviction for impaired driving;**
11 **determination of grossly aggravating and aggravating and mitigating**
12 **factors; punishments.**

13 ...

14 (d) Aggravating Factors to Be Weighed. – The judge, or the jury in superior
15 court, shall determine before sentencing under subsection (f) whether any of the
16 aggravating factors listed below apply to the defendant. The judge shall weigh the
17 seriousness of each aggravating factor in the light of the particular circumstances of the
18 case. The factors are:

- 19 (1) Gross impairment of the defendant's faculties while driving or an
20 alcohol concentration of 0.16 or more within a relevant time after the
21 driving.
22 (2) Especially reckless or dangerous driving.
23 (3) Negligent driving that led to a reportable accident.
24 (4) Driving by the defendant while his driver's license was revoked.
25 (5) Two or more prior convictions of a motor vehicle offense not
26 involving impaired driving for which at least three points are assigned
27 under G.S. 20-16 or for which the convicted person's license is subject
28 to revocation, if the convictions occurred within five years of the date

- 1 of the offense for which the defendant is being sentenced, or one or
2 more prior convictions of an offense involving impaired driving that
3 occurred more than seven years before the date of the offense for
4 which the defendant is being sentenced.
- 5 (6) Conviction under G.S. 20-141.5 of speeding by the defendant while
6 fleeing or attempting to elude apprehension.
- 7 (7) Conviction under G.S. 20-141 of speeding by the defendant by at least
8 30 miles per hour over the legal limit.
- 9 (8) Passing a stopped school bus in violation of G.S. 20-217.
- 10 (8a) One or more prior convictions as defined in G.S. 15A-1340.21 other
11 than misdemeanor traffic offenses under this statute.
- 12 (9) Any other factor that aggravates the seriousness of the offense.
- 13 Except for the factor in subdivision (5) the conduct constituting the aggravating factor
14 shall occur during the same transaction or occurrence as the impaired driving offense."
- 15 **SECTION 2.** This act becomes effective October 1, 2007, and applies to
16 offenses committed on or after that date.