

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1279

Short Title: Speeding to Elude Arrest.

(Public)

Sponsors: Representative Hill.

Referred to: Judiciary III.

April 19, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE SPEEDING TO ELUDE ARREST STATUTES TO
3 CLARIFY THE PROXIMATE CAUSE REQUIREMENT WHEN THE OFFENSE
4 RESULTS IN DEATH.

5 The General Assembly of North Carolina enacts:

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

7 "**§ 20-141.5. Speeding to elude arrest.**

8 (a) It shall be unlawful for any person to operate a motor vehicle on a street,
9 highway, or public vehicular area while fleeing or attempting to elude a law
10 enforcement officer who is in the lawful performance of his duties. Except as provided
11 in subsection (b) of this section, violation of this section shall be a Class 1
12 misdemeanor.

13 (b) If two or more of the following aggravating factors are present at the time the
14 violation occurs, violation of this section shall be a Class H felony.

- 15 (1) Speeding in excess of 15 miles per hour over the legal speed limit.
16 (2) Gross impairment of the person's faculties while driving due to:
17 a. Consumption of an impairing substance; or
18 b. A blood alcohol concentration of 0.14 or more within a relevant
19 time after the driving.
20 (3) Reckless driving as proscribed by G.S. 20-140.
21 (4) Negligent driving leading to an accident causing:
22 a. Property damage in excess of one thousand dollars (\$1,000); or
23 b. Personal injury.
24 (5) Driving when the person's drivers license is revoked.
25 (6) Driving in excess of the posted speed limit, during the days and hours
26 when the posted limit is in effect, on school property or in an area
27 designated as a school zone pursuant to G.S. 20-141.1, or in a highway
28 work zone as defined in G.S. 20-141(j2).
29 (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) If any person dies during or as the result of injuries sustained during a
3 violation of subsection (a) of this section, then the person operating the vehicle in
4 violation of subsection (a) of this section shall be guilty of a Class H felony. If a death
5 occurs during violation of subsection (b) of this section, the person shall be guilty of a
6 Class E felony. The fact of the death resulting from the violation of subsection (a) or
7 subsection (b) of this section shall be prima facie evidence that the violation was the
8 proximate cause of death.

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

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

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

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

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