

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 867
SENATE BILL 388

1 AN ACT TO PROVIDE MAXIMUM SAFETY FOR THE TRAVELING PUBLIC BY
2 REMOVING HABITUAL TRAFFIC OFFENDERS FROM THE HIGHWAYS.

3
4 The General Assembly of North Carolina do enact:

5
6 **Section 1.** Chapter 20 of the General Statutes of North Carolina is amended by
7 inserting therein a new Article 8 to read as follows:

8 "ARTICLE 8
9 Habitual Offenders

10 **G.S. 20-220. Declaration of Policy.** It is hereby declared to be the policy of North Carolina:

11 (1) To provide maximum safety for all persons who travel or otherwise use the public highways
12 of this State; and

13 (2) To deny the privilege of operating motor vehicles on such highways to persons who
14 by their conduct and record have demonstrated their indifference to the safety and welfare of
15 others and their disrespect for the laws of this State, the orders of its Courts, and the statutorily
16 required acts of its administrative agencies; and

17 (3) To discourage repetition of criminal acts by individuals against the peace and
18 dignity of this State and her political subdivisions and to impose increased and added
19 deprivation of the privilege to operate motor vehicles upon habitual offenders who have been
20 convicted repeatedly of violations of the traffic laws.

21 **G.S. 20-221. Habitual offender defined.** An habitual offender shall be any person, resident or
22 nonresident, whose record, as maintained in the office of the Department of Motor Vehicles,
23 shows that such person has accumulated the convictions for separate and distinct offenses
24 described in subsections (a), (b), or (c), of this Section, committed after the effective date of
25 this Act and within a seven year period. Provided, that where multiple convictions result from a
26 series of offenses committed within a six hour period, only one conviction shall be recorded for
27 the purposes of this Article, as follows:

28 (a) Three or more convictions arising from separate acts of any one or more of the
29 following offenses, either singularly or in combination:

- 30 (1) Voluntary and involuntary manslaughter resulting from the operation of a
31 motor vehicle;
- 32 (2) Driving a motor vehicle while under the influence of intoxicating liquor or a
33 narcotic drug;
- 34 (3) Driving a motor vehicle while operator's or chauffeur's license is suspended
35 or revoked;
- 36 (4) Any offense punishable as a felony under the motor vehicle laws of North
37 Carolina or any felony in the commission of which a motor vehicle is used;
- 38 (5) Failure to stop and render aid as required under the laws of this State in the
39 event of a motor vehicle accident;
- 40 (6) Failure of the driver of a motor vehicle involved in an accident resulting
41 only in damage to an attended or unattended vehicle or other property in
42 excess of one hundred dollars (\$100.00) to stop close to the scene of such

1 accident and report his identity or otherwise report such accident in violation
2 of law.

3 (7) Any motor vehicle moving violation committed during a period of
4 suspension or revocation.

5 (b) Twelve or more convictions of any separate and distinct offenses in the operation of
6 a motor vehicle which are required to be reported to the Department of Motor Vehicles and the
7 conviction whereof authorizes or requires the Department of Motor Vehicles to suspend or
8 revoke the privilege to operate motor vehicles on the highways of this State for a period of
9 thirty days or more and such convictions shall include those offenses enumerated in subsection
10 (a) above when taken with and added to those offenses described herein.

11 (c) The offenses included in subsections (a) and (b) hereof shall be deemed to include
12 offenses under any valid town, city or county ordinance paralleling and substantially
13 conforming to the State's statutory provisions concerning such offenses and all changes in or
14 amendments thereto and any Federal law, any law of another State or any valid town, city or
15 county ordinance of another State substantially conforming to the aforesaid State's statutory
16 provisions.

17 (d) For the purpose of this Article, the term "conviction" shall mean a final conviction.
18 Also for the purposes of this Article a forfeiture of bail or collateral deposited to secure a
19 defendant's appearance in Court in North Carolina, which forfeiture has not been vacated, shall
20 be equivalent to a conviction.

21 **G.S. 20-222. Commissioner to certify record to Superior Court.** The Commissioner of
22 Motor Vehicles shall certify, substantially in the manner provided for in G.S. 20-42(b) three
23 abstracts of the conviction record as maintained in his office of any person whose record
24 appears to bring him within the definition of an habitual offender, as defined in G.S. 20-221, to
25 the Superior Court solicitor of the judicial district in which such person resides according to the
26 records of the Department of Motor Vehicles or to the Superior Court solicitor for the County
27 of Wake if such person is not a resident of this State. Such abstract may be admitted as
28 evidence as provided in G.S. 20-42(b). Such abstract shall be competent evidence that the
29 person named therein was duly convicted by the Court wherein such conviction or holding was
30 made of each offense shown by such abstract.

31 **G.S. 20-223. Solicitor to initiate court proceeding, petition.** The solicitor, upon receiving
32 the aforesaid abstract from the Commissioner, shall forthwith file a petition against the person
33 named therein in the Superior Court Division of the county wherein such person resides or, in
34 the case of a nonresident, in the Superior Court Division of Wake County. The petition shall
35 request the Court to determine whether or not the person named therein is an habitual offender.

36 **G.S. 20-224. Service of petition, order to show cause.** Upon the filing of the petition, any
37 Superior Court judge having jurisdiction over criminal cases within the county shall enter an
38 order incorporating by attachment the aforesaid abstract and directed to the person named
39 therein to appear at the next Criminal Session of the Court and show cause why he should not
40 be barred from operating a motor vehicle on the highways of this State. A copy of the petition,
41 the show cause order and the abstract shall be served upon the person named therein in the
42 manner prescribed by law for the service of process. Service thereof on any nonresident of this
43 State may be made in the same manner as in any action or proceeding arising out of a collision
44 on the highways in this State in the manner provided in G.S. 1-105 which is hereby made
45 applicable to these proceedings except that any fee for such service shall be taxed against the
46 person named in the petition as a part of the cost of such proceeding.

47 **G.S. 20-225. Hearing, procedure.** The matter shall be heard at the Criminal Session of the
48 Court by the judge without a jury. If such person denies that he was convicted of any offense
49 shown in the abstract and necessary for a holding that he is an habitual offender, and if the
50 Court cannot, on the evidence available to it, determine the issue, the Court may require of the
51 Department of Motor Vehicles certified copies of such records respecting the matter as it may

1 have in its possession. If, upon an examination of such records, the Court is still unable to make
2 such determination, it shall certify the decision of such issue to the Court in which such
3 conviction was reportedly made. The Court to which such certification is made shall forthwith
4 conduct a hearing to determine such issue and send a certified copy of its final order
5 determining such issue to the Court in which the petition was filed.

6 **G.S. 20-226. Court's Findings, Judgment.** If the Court finds that such person is not the same
7 person named in the aforesaid abstract, or that he is not an habitual offender under this Article,
8 the proceeding shall be dismissed, but if the Court finds that such person is the same person
9 named in the abstract and that such person is an habitual offender, the Court shall so find and
10 by appropriate judgment shall direct that such person not operate a motor vehicle on the
11 highways of the State of North Carolina and to surrender to the Court all licenses or permits to
12 operate a motor vehicle upon the highways of this State. The Clerk of the Court shall forthwith
13 transmit a copy of such judgment together with any licenses or permits surrendered to the
14 Department of Motor Vehicles.

15 **G.S. 20-227. No new license issued for five years.** No license to operate a motor vehicle in
16 North Carolina shall be issued to an habitual offender, (1) For a period of five years from the
17 date of the judgement of the Court finding such person to be an habitual offender and (2) Until
18 the privilege of such person to operate a motor vehicle in this State has been restored by
19 judgment of the Superior Court Division.

20 **G.S. 20-228. Driving after judgment prohibited.** It shall be unlawful for any person to
21 operate any motor vehicle in this State while the judgment of the Court prohibiting the
22 operation remains in effect. Any person found to be an habitual offender under the provisions
23 of this Article who is thereafter convicted of operating a motor vehicle in this State while the
24 judgment of the Court prohibiting such operation is in effect, shall be guilty of a misdemeanor
25 and imprisoned for not less than one year nor more than five years or by fine or imprisonment
26 in the discretion of the Court.

27 For the purpose of enforcing this Section, in any case in which the accused is charged with
28 driving a motor vehicle while his license, permit or privilege to drive is suspended or revoked
29 or is charged with driving without a license, the Court before hearing such charge shall require
30 the Solicitor to determine whether such person has been adjudged an habitual offender and by
31 reason of such judgment is barred from operating a motor vehicle on the highways of this State.
32 If the Solicitor determines that the accused has been so held, he shall cause the appropriate
33 criminal charges to be lodged against the accused.

34 **G.S. 20-229. Restoration of driving privilege.** At the expiration of five years from the date of
35 any final judgment of the Court entered under the provisions of this Article finding a person to
36 be an habitual offender and directing him not to operate a motor vehicle in this State, such
37 person may petition the Court in which he was found to be an habitual offender, or the Superior
38 Court Division of any county in this State having criminal jurisdiction over the place in which
39 such person then resides, for restoration of his privilege to operate a motor vehicle in this State.
40 Upon such petition, the court shall restore to such person the privilege to operate a motor
41 vehicle in this State.

42 **G.S. 20-230. Appeals.** An appeal may be taken from any final action or judgment entered
43 under the provisions of this Article in the same manner and form as appeals in civil actions.

44 **G.S. 20-231. No existing law modified.** Nothing in this Article shall be construed as
45 amending, modifying or repealing any existing law of North Carolina or any existing ordinance
46 of any political subdivision relating to the operation of motor vehicles, the licensing of persons
47 to operate motor vehicles or providing penalties for the violation thereof; or shall be construed
48 so as to preclude the exercise of the regulatory powers of any division, agency, department or
49 political subdivision of this State having the statutory authority to regulate such operation and
50 licensing.

51 **Sec. 2.** This Act shall become effective upon its ratification.

1 In the General Assembly read three times and ratified, this the 19th day of June,
2 1969.