

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-341
HOUSE BILL 1279**

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

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

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

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for a limited driving privilege after a period of 12 months of revocation, provided the operator's license has not also been revoked or suspended under any other provision of law.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

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

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

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

In the General Assembly read three times and ratified this the 16th day of August, 2005.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 3:00 p.m. this 26th day of August, 2005