

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 427

Short Title: Run and You're Done. (Public)

Sponsors: Representatives Faircloth, Folwell, H. Warren, and Shepard (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Judiciary Subcommittee B.

March 23, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE SEIZURE, FORFEITURE, AND SALE OF MOTOR
VEHICLES USED BY DEFENDANTS IN FELONY CASES INVOLVING SPEEDING
TO ELUDE ARREST.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-28.3 reads as rewritten:

**"§ 20-28.3. Seizure, impoundment, forfeiture of motor vehicles for offenses involving
impaired driving while license revoked or without license and
insurance. ~~insurance, and for felony speeding to elude arrest.~~**

(a) Motor Vehicles Subject to ~~Seizure.~~ Seizure for Impaired Driving Offenses. – A
motor vehicle that is driven by a person who is charged with an offense involving impaired
driving is subject to seizure if:

(1) At the time of the violation, the drivers license of the person driving the
motor vehicle was revoked as a result of a prior impaired driving license
revocation as defined in G.S. 20-28.2(a); or

(2) At the time of the violation:

a. The person was driving without a valid drivers license, and

b. The driver was not covered by an automobile liability policy.

For the purposes of this subsection, a person who has a complete defense, pursuant to
G.S. 20-35, to a charge of driving without a drivers license, shall be considered to have had a
valid drivers license at the time of the violation.

(a1) Motor Vehicles Subject to Seizure for Felony Speeding to Elude Arrest. – A motor
vehicle is subject to seizure if it is driven by a person who is charged with the offense of felony
speeding to elude arrest pursuant to G.S. 20-141.5(b).

(b) Duty of Officer. – If the charging officer has probable cause to believe that a motor
vehicle driven by the defendant may be subject to forfeiture under this section, the officer shall
seize the motor vehicle and have it impounded. If the officer determines prior to seizure that the
motor vehicle had been reported stolen, the officer shall not seize the motor vehicle pursuant to
this section. If the officer determines prior to seizure that the motor vehicle was a rental vehicle
driven by a person not listed as an authorized driver on the rental contract, the officer shall not
seize the motor vehicle pursuant to this section, but shall make a reasonable effort to notify the
owner of the rental vehicle that the vehicle was stopped and that the driver of the vehicle was
not listed as an authorized driver on the rental contract. Probable cause may be based on the
officer's personal knowledge, reliable information conveyed by another officer, records of the
Division, or other reliable ~~source.~~ sources. The seizing officer shall notify the ~~executive agency~~



1 ~~designated under subsection (b1) of this section~~ Division as soon as practical but no later than
2 24 hours after seizure of the motor vehicle of the seizure in accordance with procedures
3 established by the executive agency designated under subsection (b1) of this section.

4 (b1) Written Notification of Impoundment. – Within 48 hours of receipt within regular
5 business hours of the notice of seizure, ~~an executive agency designated by the Governor shall~~
6 ~~issue written notification of impoundment to the Division,~~ the Division shall issue written
7 notification of impoundment to any lienholder of record and to any motor vehicle owner who
8 was not operating the motor vehicle at the time of the offense. A notice of seizure received
9 outside regular business hours shall be considered to have been received at the start of the next
10 business day. The notification of impoundment shall be sent by first-class mail to the most
11 recent address contained in the Division's records. If the motor vehicle is registered in another
12 state, notice shall be sent to the address shown on the records of the state where the motor
13 vehicle is registered. This written notification shall provide notice that the motor vehicle has
14 been seized, state the reason for the seizure and the procedure for requesting release of the
15 motor vehicle. Additionally, if the motor vehicle was damaged ~~while the defendant operator~~
16 ~~was committing an offense involving impaired driving while the operator was committing an~~
17 offense resulting in seizure or incident to the seizure, the ~~agency~~ Division shall issue written
18 notification of the seizure to the owner's insurance company of record and to any other
19 insurance companies that may be insuring other motor vehicles involved in the accident. The
20 Division shall prohibit title to a seized motor vehicle from being transferred by a motor vehicle
21 owner unless authorized by court order.

22 ...

23 (k) County Board of Education Right to Appear and Participate in Proceedings. – The
24 attorney for the county board of education shall be given notice of all proceedings regarding
25 offenses ~~involving impaired driving~~ related to a motor vehicle subject to ~~forfeiture~~ forfeiture
26 under this section. However, the notice requirement under this subsection does not apply to
27 proceedings conducted under G.S. 20-28.3(e1). The attorney for the county board of education
28 shall also have the right to appear and to be heard on all issues relating to the seizure,
29 possession, release, forfeiture, sale, and other matters related to the seized vehicle under this
30 section. With the prior consent of the county board of education, the district attorney may
31 delegate to the attorney for the county board of education any or all of the duties of the district
32 attorney under this section. Clerks of superior court, law enforcement agencies, and all other
33 agencies with information relevant to the seizure, impoundment, release, or forfeiture of motor
34 vehicles are authorized and directed to provide county boards of education with access to that
35 information and to do so by electronic means when existing technology makes this type of
36 transmission possible.

37 (l) Payment of Fees Upon Conviction. – If the driver of a motor vehicle seized pursuant
38 to this section is convicted ~~of an offense involving impaired driving,~~ of the underlying offense
39 leading to the seizure of a motor vehicle pursuant to this section, the defendant shall be ordered
40 to pay as restitution to the county board of education, the motor vehicle owner, or the
41 lienholder the cost paid or owing for the towing, storage, and sale of the motor vehicle to the
42 extent the costs were not covered by the proceeds from the forfeiture and sale of the motor
43 vehicle. If the underlying offense is for felony speeding to elude arrest pursuant to
44 G.S. 20-141.5(b), and the conviction is based on a plea agreement or a reduced charge to
45 misdemeanor speeding to elude arrest pursuant to G.S. 20-141.5(a), the defendant shall be
46 ordered to pay as restitution to the county board of education, the motor vehicle owner, or the
47 lienholder the cost paid or owing for the towing and storage of the motor vehicle. In addition, a
48 civil judgment for the costs under this section in favor of the party to whom the restitution is
49 owed shall be docketed by the clerk of superior court. If the defendant is sentenced to an active
50 term of imprisonment, the civil judgment shall become effective and be docketed when the
51 defendant's conviction becomes final. If the defendant is placed on probation, the civil

1 judgment in the amount found by a judge during the probation revocation or termination
2 hearing to be due shall become effective and be docketed by the clerk when the defendant's
3 probation is revoked or terminated.

4"

5 **SECTION 2.** G.S. 20-141.5 reads as rewritten:

6 "**§ 20-141.5. Speeding to elude arrest.**

7 ...

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

13 (g) If a person is convicted of a violation of subsection (b) of this section, the motor
14 vehicle that was driven by the defendant at the time the defendant committed the offense of
15 felony speeding to elude arrest becomes property subject to forfeiture in accordance with the
16 procedure set out in G.S. 20-28.3. In applying the procedure set out in G.S. 20-28.3, an owner
17 or a holder of a security interest is considered an innocent party with respect to a motor vehicle
18 subject to forfeiture under this subsection if the defendant drove the motor vehicle without the
19 consent of the owner or the holder of the security interest."

20 **SECTION 3.** This act becomes effective October 1, 2011, and applies to offenses
21 committed on or after that date.