

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 427
Committee Substitute Favorable 4/7/11
Third Edition Engrossed 4/19/11
Senate Judiciary II Committee Substitute Adopted 6/9/11

Short Title: Run and You're Done.

(Public)

Sponsors:

Referred to:

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. 20-141.5 reads as rewritten:

"§ 20-141.5. Speeding to elude arrest.

...

(f) 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.~~ to initiate or terminate a pursuit. The Attorney General shall develop a model policy or policies to be considered for use by law enforcement agencies.

(g) If a person is arrested for a felony violation under this section, then the law enforcement agency shall seize the motor vehicle and deliver the same to the sheriff of the county in which such offense is committed, or the same shall be placed under said sheriff's constructive possession if delivery of actual possession is impractical, and the vehicle shall be held by the sheriff pending the trial of the person or persons operating such motor vehicle and charged with a felony offense under this section.

(1) The sheriff shall restore the seized motor vehicle to the owner upon execution by the owner of a good and valid bond, with sufficient sureties, in an amount double the value of the property, which bond shall be approved by said sheriff and shall be conditioned on the return of the motor vehicle to the custody of the sheriff on the day of trial of the person or persons accused. Upon an acquittal or dismissal of any felony charge under this section, the sheriff shall return the motor vehicle to the owner thereof.

(2) Notwithstanding the provisions for sale set out in subsection (h) of this section, on petition by a lienholder, the court, in its discretion and upon such terms and conditions as it may prescribe, may allow reclamation of the vehicle by the lienholder. The lienholder shall file with the court an accounting of the proceeds of any subsequent sale of the vehicle and pay into the court any proceeds received in excess of the amount of the lien.

(h) Upon conviction of the operator of said motor vehicle of a felony offense under this section, the court shall order a sale at public auction of said motor vehicle.



1 (1) The officer making the sale shall make the following deductions from the
2 sale proceeds:

3 a. The expenses of keeping the motor vehicle.

4 b. The fee for the seizure.

5 c. The costs of the sale.

6 The officer shall then pay, from the net proceeds, all liens, according to their
7 priorities, which are established by intervention or otherwise at the hearing
8 or in other proceeding brought for said purpose as being bona fide. The
9 officer shall pay the balance of the proceeds to the proper officer of the
10 county who receives fines and forfeitures to be used for the school fund of
11 the county.

12 (2) All liens against a motor vehicle sold under the provisions of this section
13 shall be transferred from the motor vehicle to the proceeds of its sale.

14 (3) If, at the time of hearing, or other proceeding in which the matter is
15 considered, the owner of the vehicle can establish to the satisfaction of the
16 court that the provisions of sub-subdivisions a. through c. of this subdivision
17 apply, then the court shall not order a sale of the vehicle but shall restore it
18 to the owner. The owner shall be entitled to a trial by jury upon the issues in
19 this subdivision.

20 a. The defendant was an immediate member of the owner's family at
21 the time of the offense.

22 b. The defendant had no previous felony or misdemeanor convictions at
23 the time of the offense and had no previous or pending violations of
24 any provision in Chapter 20 of the General Statutes for the three
25 years previous to the time of the offense.

26 c. The defendant was under the age of 19 at the time of the offense.

27 (i) If the owner of a motor vehicle seized pursuant to this section cannot be found, the
28 taking of the same, with a description thereof, shall be advertised in some newspaper published
29 in the city or county where taken, or, if there be no newspaper published in such city or county,
30 in a newspaper having circulation in the county, once a week for two weeks and by handbills
31 posted in three public places near the place of seizure, and if said owner shall not appear within
32 10 days after the last publication of the advertisement, the property shall be sold, or otherwise
33 disposed of in the manner set forth in this section.

34 (j) When any vehicle confiscated under the provisions of this section is found to be
35 specially equipped or modified from its original manufactured condition so as to increase its
36 speed, the court shall, prior to sale, order that the special equipment or modification be
37 removed and destroyed and the vehicle restored to its original manufactured condition.
38 However, if the court should find that such equipment and modifications are so extensive that it
39 would be impractical to restore said vehicle to its original manufactured condition, then the
40 court may order that the vehicle be turned over to such governmental agency or public official
41 within the territorial jurisdiction of the court as the court shall see fit, to be used in the
42 performance of official duties only, and not for resale, transfer, or disposition other than as
43 junk: Provided, that nothing herein contained shall affect the rights of lienholders and other
44 claimants to said vehicles as set out in this section."

45 **SECTION 2.** This act becomes effective December 1, 2011, and applies to
46 offenses committed on or after that date.