

Senate Bill 297

By: Senators Seabaugh of the 28th, Hamrick of the 30th, Mullis of the 53rd and Smith of the 52nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 40-6-395 of the Official Code of Georgia Annotated, relating to
2 fleeing or attempting to elude a police officer and impersonating a law enforcement officer,
3 so as to provide that the offense of fleeing or attempting to elude a police officer shall be a
4 felony; to change the provisions relating to penalties; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 40-6-395 of the Official Code of Georgia Annotated, relating to fleeing or
9 attempting to elude a police officer and impersonating a law enforcement officer, is amended
10 by striking said Code section and inserting in its place the following:

11 "40-6-395.

12 (a) It shall be unlawful for any driver of a vehicle willfully to fail or refuse to bring his or
13 her vehicle to a stop or otherwise to flee or attempt to elude a pursuing police vehicle or
14 police officer when given a visual or an audible signal to bring the vehicle to a stop. The
15 signal given by the police officer may be by hand, voice, emergency light, or siren. The
16 officer giving such signal shall be in uniform prominently displaying his or her badge of
17 office, and his or her vehicle shall be appropriately marked showing it to be an official
18 police vehicle.

19 (b)(1) Any person violating the provisions of subsection (a) of this Code section shall be
20 guilty of a ~~high and aggravated misdemeanor~~ felony and:

21 (A) Upon conviction shall be fined not less than ~~\$500.00~~ \$1,000.00 nor more than
22 \$5,000.00, ~~which fine shall not be subject to suspension, stay, or probation and~~
23 ~~imprisoned for not less than ten days nor more than 12 months. Any period of such~~
24 ~~imprisonment in excess of ten days may, in the sole discretion of the judge, be~~
25 ~~suspended, stayed, or probated~~ or imprisoned for not less than one year nor more than
26 five years, or both; and

1 (B) Upon the second or subsequent conviction within a ten-year period of time, as
 2 measured from the dates of previous arrests for which convictions were obtained to the
 3 date of the current arrest for which a conviction is obtained, shall be fined not less than
 4 ~~\$1,000.00~~ \$2,500.00 nor more than \$5,000.00, ~~which fine shall not be subject to~~
 5 ~~suspension, stay, or probation and imprisoned for not less than 30 days nor more than~~
 6 ~~12 months. Any period of such imprisonment in excess of 30 days may, in the sole~~
 7 ~~discretion of the judge, be suspended, stayed, or probated, and for purposes of this~~
 8 ~~paragraph, previous pleas of nolo contendere accepted within such ten-year period shall~~
 9 ~~constitute convictions; and~~

10 ~~(C) Upon the third or subsequent conviction within a ten-year period of time, as~~
 11 ~~measured from the dates of previous arrests for which convictions were obtained to the~~
 12 ~~date of the current arrest for which a conviction is obtained, shall be fined not less than~~
 13 ~~\$2,500.00 nor more than \$5,000.00, which fine shall not be subject to suspension, stay,~~
 14 ~~or probation and imprisoned for not less than 90 days nor more than 12 months. Any~~
 15 ~~period of such imprisonment in excess of 90 days may, in the sole discretion of the~~
 16 ~~judge, be suspended, stayed, or probated; and for purposes of this paragraph, previous~~
 17 ~~pleas of nolo contendere accepted within such ten-year period shall constitute~~
 18 ~~convictions.~~

19 (2) For the purpose of imposing a sentence under this subsection, a plea of nolo
 20 contendere shall constitute a conviction.

21 ~~(3) If the payment of the fine required under paragraph (1) of this subsection will impose~~
 22 ~~an economic hardship on the defendant, the judge, at his or her sole discretion, may order~~
 23 ~~the defendant to pay such fine in installments and such order may be enforced through~~
 24 ~~a contempt proceeding or a revocation of any probation otherwise authorized by this~~
 25 ~~subsection.~~

26 ~~(4) Notwithstanding the limits set forth in any municipal charter, any municipal court of~~
 27 ~~any municipality shall be authorized to impose the punishments provided for in this~~
 28 ~~subsection upon a conviction of violating this subsection or upon conviction of violating~~
 29 ~~any ordinance adopting the provisions of this subsection.~~

30 ~~(5)(A)(c)(1)~~ Any person violating the provisions of subsection (a) of this Code section
 31 who, while fleeing or attempting to elude a pursuing police vehicle or police officer in
 32 an attempt to escape arrest for a felony offense other than a violation of this chapter,
 33 operates his or her vehicle in excess of 30 miles an hour above the posted speed limit,
 34 strikes or collides with another vehicle or a pedestrian, flees in traffic conditions which
 35 place the general public at risk of receiving serious injuries, or leaves the state shall be
 36 guilty of a felony punishable by a fine of \$5,000.00 and imprisonment for not less than
 37 one year nor more than five years.

1 ~~(B)~~(2) Following adjudication of guilt or imposition of sentence for a violation of
2 ~~subparagraph (A) paragraph (1) of this paragraph subsection,~~ the sentence shall not be
3 suspended, probated, deferred, or withheld, and the charge shall not be reduced to a lesser
4 offense, merged with any other offense, or served concurrently with any other offense.

5 ~~(c)~~(d) It shall be unlawful for a person:

6 (1) To impersonate a sheriff, deputy sheriff, state trooper, agent of the Georgia Bureau
7 of Investigation, agent of the Federal Bureau of Investigation, police officer, or any other
8 authorized law enforcement officer by using a motor vehicle or motorcycle designed,
9 equipped, or marked so as to resemble a motor vehicle or motorcycle belonging to any
10 federal, state, or local law enforcement agency; or

11 (2) Otherwise to impersonate any such law enforcement officer in order to direct, stop,
12 or otherwise control traffic."

13

SECTION 2.

14 All laws and parts of laws in conflict with this Act are repealed.