

House Bill 1221

By: Representatives Buck of the 112th, Snow of the 1st, Crawford of the 91st, Jenkins of the 93rd, and Hill of the 81st

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated,
2 relating to serious traffic offenses, so as to revise the law and punishment relating to refusing
3 to stop or fleeing or attempting to elude a police officer; to define offenses and provide for
4 punishment; to provide for jurisdiction; to provide for related matters; to provide for an
5 effective date and applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to
9 serious traffic offenses, is amended by striking Code Section 40-6-395, relating to refusing
10 to stop or fleeing or attempting to elude a police officer, and inserting in its place a new Code
11 section to read as follows:

12 "40-6-395.

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

20 (b)(1) Any person violating the provisions of subsection (a) of this Code section shall be
21 guilty of a felony if during the course of the offense the driver exceeds the posted speed
22 limit by more than 20 miles per hour or commits any other violation of this chapter other
23 than a speeding violation. A person convicted under this paragraph shall be punished by
24 a fine not to exceed \$5,000.00 or by imprisonment for not more than five years or by both
25 such fine and imprisonment. ~~high and aggravated misdemeanor and:~~

1 ~~(A) Upon conviction shall be fined not less than \$500.00 nor more than \$5,000.00,~~
 2 ~~which fine shall not be subject to suspension, stay, or probation and imprisoned for not~~
 3 ~~less than ten days nor more than 12 months. Any period of such imprisonment in excess~~
 4 ~~of ten days may, in the sole discretion of the judge, be suspended, stayed, or probated;~~
 5 ~~(B) Upon the second conviction within a ten-year period of time, as measured from the~~
 6 ~~dates of previous arrests for which convictions were obtained to the date of the current~~
 7 ~~arrest for which a conviction is obtained, shall be fined not less than \$1,000.00 nor~~
 8 ~~more than \$5,000.00, which fine shall not be subject to suspension, stay, or probation~~
 9 ~~and imprisoned for not less than 30 days nor more than 12 months. Any period of such~~
 10 ~~imprisonment in excess of 30 days may, in the sole discretion of the judge, be~~
 11 ~~suspended, stayed, or probated; and for purposes of this paragraph, previous pleas of~~
 12 ~~nolo contendere accepted within such ten-year period shall constitute convictions; and~~
 13 ~~(C) Upon the third or subsequent conviction within a ten-year period of time, as~~
 14 ~~measured from the dates of previous arrests for which convictions were obtained to the~~
 15 ~~date of the current arrest for which a conviction is obtained, shall be fined not less than~~
 16 ~~\$2,500.00 nor more than \$5,000.00, which fine shall not be subject to suspension, stay,~~
 17 ~~or probation and imprisoned for not less than 90 days nor more than 12 months. Any~~
 18 ~~period of such imprisonment in excess of 90 days may, in the sole discretion of the~~
 19 ~~judge, be suspended, stayed, or probated; and for purposes of this paragraph, previous~~
 20 ~~pleas of nolo contendere accepted within such ten-year period shall constitute~~
 21 ~~convictions.~~

22 (2) A person who violates the provisions of subsection (a) of this Code section who does
 23 not in the course of the offense exceed the posted speed limit by more than 20 miles per
 24 hour or commit any other violation of this chapter shall be guilty of a high and aggravated
 25 misdemeanor, except that a second or subsequent violation under this paragraph within
 26 a ten-year period of time, as measured from the dates of previous arrests for which
 27 convictions were obtained to the date of the current arrest for which a conviction is
 28 obtained, shall constitute a felony and be punished as provided in paragraph (1) of this
 29 subsection.

30 ~~(2)(3)~~ For the purpose of imposing a sentence under this subsection, a plea of nolo
 31 contendere shall constitute a conviction.

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

1 (4) Notwithstanding the limits set forth in any municipal charter, any municipal court of
 2 any municipality shall be authorized to impose the ~~punishments provided for in this~~
 3 ~~subsection~~ punishment for a high and aggravated misdemeanor upon a conviction of
 4 violating this subsection or upon conviction of violating any ordinance adopting the
 5 provisions of this subsection, but a municipal court shall have no jurisdiction to try or
 6 dispose of a felony violation of this subsection.

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

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

19 (c) It shall be unlawful for a person:

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

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

27 SECTION 2.

28 This Act shall become effective on July 1, 2004, and shall apply with respect to offenses
 29 committed on or after that date. Offenses committed prior to that date shall continue to be
 30 governed by prior law.

31 SECTION 3.

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