

House Bill 827 (AM)

By: Representatives Hembree of the 67th, Talton of the 145th, Purcell of the 159th, Hanner of the 148th, Neal of the 1st, and others

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 modify and make more consistent the provisions
3 relating to fleeing or attempting to elude a pursuing police vehicle or police officer; to
4 modify penalties relating to traffic offenses so as to provide for consistency in penalties for
5 violations regardless of the nature of the underlying criminal offense; to provide for related
6 matters; to provide for an effective date and applicability; to repeal conflicting laws; and for
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to
11 serious traffic offenses, is amended by revising Code Section 40-6-395, relating to fleeing
12 or attempting to elude a police officer and impersonating law enforcement officer, as follows:
13 "40-6-395.

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

21 (b)(1) Any person violating the provisions of subsection (a) of this Code section shall be
22 guilty of a high and aggravated misdemeanor and:

23 (A) Upon conviction shall be fined not less than \$500.00 nor more than \$5,000.00,
24 ~~which and the~~ fine shall not be subject to suspension, stay, or probation, and imprisoned
25 for not less than ten days nor more than 12 months. Any period of such imprisonment

26 in excess of ten days may, in the sole discretion of the judge, be suspended, stayed, or
 27 probated;

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

37 (C) Upon the third or subsequent conviction within a ten-year period of time, as
 38 measured from the dates of previous arrests for which convictions were obtained to the
 39 date of the current arrest for which a conviction is obtained, shall be fined not less than
 40 \$2,500.00 nor more than \$5,000.00, ~~which and the~~ fine shall not be subject to
 41 suspension, stay, or probation, and imprisoned for not less than 90 days nor more than
 42 12 months. Any period of such imprisonment in excess of 90 days may, in the sole
 43 discretion of the judge, be suspended, stayed, or probated; and for purposes of this
 44 paragraph, previous pleas of nolo contendere accepted within such ten-year period shall
 45 constitute convictions.

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

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

53 (4) Notwithstanding the limits set forth in any municipal charter, any municipal court of
 54 any municipality shall be authorized to impose the punishments provided for in this
 55 subsection upon a conviction of violating this subsection or upon conviction of violating
 56 any ordinance adopting the provisions of this subsection.

57 (5)(A) Any person violating the provisions of subsection (a) of this Code section who,
 58 while fleeing or attempting to elude a pursuing police vehicle or police officer ~~in an~~
 59 ~~attempt to escape arrest for any offense, other than a violation of this chapter not~~
 60 ~~expressly provided for in this paragraph:~~

61 (i) Operates his or her vehicle in excess of 20 miles an hour above the posted speed
 62 limit;

- 63 (ii) Strikes or collides with another vehicle or a pedestrian;
64 (iii) Flees in traffic conditions which place the general public at risk of receiving
65 serious injuries;
66 (iv) Commits a violation of paragraph (5) of subsection (a) of Code Section
67 40-6-391; or
68 (v) Leaves the state

69 shall be guilty of a felony punishable by a fine of \$5,000.00 or imprisonment for not
70 less than one year nor more than five years or both.

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

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

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

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

83 **SECTION 2.**

84 This Act shall become effective on July 1, 2012, and shall apply to offenses committed on
85 or after such date.

86 **SECTION 3.**

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