House Bill 827 (AS PASSED HOUSE AND SENATE)
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

To amend Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to serious traffic offenses, so as to modify and make more consistent the provisions relating to fleeing or attempting to elude a pursuing police vehicle or police officer; to modify penalties relating to traffic offenses so as to provide for consistency in penalties for violations regardless of the nature of the underlying criminal offense; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"40-6-395.

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

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

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

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

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

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

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

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

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

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

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

(ii) Strikes or collides with another vehicle or a pedestrian;

(iii) Flees in traffic conditions which place the general public at risk of receiving serious injuries;

(iv) Commits a violation of paragraph (5) of subsection (a) of Code Section 40-6-391; or

(v) Leaves the state

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

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

(c) It shall be unlawful for a person:

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

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

SECTION 2.

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

SECTION 3.

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