

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

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. 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.

Notwithstanding the provisions for sale set out below, 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.

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 and the officer making the sale, after deducting the expenses of keeping the motor vehicle, the fee for the seizure, and the costs of the sale, shall pay all liens, according to their priorities, which are established, by intervention or otherwise, at said hearing or in other proceeding brought for said purpose, as being bona fide, and shall pay the balance of the proceeds to the proper officer of the county



1 who receives fines and forfeitures to be used for the school fund of the county. All liens against  
2 a motor vehicle sold under the provisions of this section shall be transferred from the motor  
3 vehicle to the proceeds of its sale. If, at the time of hearing, or other proceeding in which the  
4 matter is considered, the owner of the vehicle can establish to the satisfaction of the court that  
5 said motor vehicle was used at the time of the offense without the knowledge or consent of the  
6 owner, and that the owner had no reasonable grounds to believe that the motor vehicle would  
7 be used by the person charged, the court shall not order a sale of the vehicle but shall restore it  
8 to the owner, and the said owner shall, at his request, be entitled to a trial by jury upon such  
9 issues.

10 If the owner of said motor vehicle cannot be found, the taking of the same, with a  
11 description thereof, shall be advertised in some newspaper published in the city or county  
12 where taken, or, if there be no newspaper published in such city or county, in a newspaper  
13 having circulation in the county, once a week for two weeks and by handbills posted in three  
14 public places near the place of seizure, and if said owner shall not appear within 10 days after  
15 the last publication of the advertisement, the property shall be sold, or otherwise disposed of in  
16 the manner set forth in this section.

17 When any vehicle confiscated under the provisions of this section is found to be specially  
18 equipped or modified from its original manufactured condition so as to increase its speed, the  
19 court shall, prior to sale, order that the special equipment or modification be removed and  
20 destroyed and the vehicle restored to its original manufactured condition. However, if the court  
21 should find that such equipment and modifications are so extensive that it would be impractical  
22 to restore said vehicle to its original manufactured condition, then the court may order that the  
23 vehicle be turned over to such governmental agency or public official within the territorial  
24 jurisdiction of the court as the court shall see fit, to be used in the performance of official duties  
25 only, and not for resale, transfer, or disposition other than as junk: Provided, that nothing herein  
26 contained shall affect the rights of lienholders and other claimants to said vehicles as set out in  
27 this section."

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