

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 115

Short Title: Amend Habitual Felon Law.

(Public)

Sponsors: Representatives Hightower; Bowman and Gardner.

Referred to: Judiciary III.

February 14, 1994

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE HABITUAL FELON LAW BY REDEFINING
2 HABITUAL FELON AND PROVIDING THAT THE COURT SHALL
3 AUTOMATICALLY IMPOSE AN ENHANCED SENTENCE ON A
4 DEFENDANT WHO IS AN HABITUAL FELON.
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6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 14-7.1 is recodified as G.S. 15A-1340.13A; the remainder of
8 Article 2A of Chapter 14 of the General Statutes is repealed.

9 Sec. 2. G.S. 14-7.1, as recodified by Section 1 of this act, reads as rewritten:

10 "**§ 15A-1340.13A. Persons defined as habitual Habitual felons.**

11 ~~Any person who has been convicted of or pled guilty to three felony offenses in any~~
12 ~~federal court or state court in the United States or combination thereof is declared to be~~
13 ~~an habitual felon. For the purpose of this Article, a felony offense is defined as an~~
14 ~~offense which is a felony under the laws of the State or other sovereign wherein a plea~~
15 ~~of guilty was entered or a conviction was returned regardless of the sentence actually~~
16 ~~imposed. Provided, however, that federal offenses relating to the manufacture,~~
17 ~~possession, sale and kindred offenses involving intoxicating liquors shall not be~~
18 ~~considered felonies for the purposes of this Article. For the purposes of this Article,~~
19 ~~felonies committed before a person attains the age of 18 years shall not constitute more~~
20 ~~than one felony. The commission of a second felony shall not fall within the purview of~~
21 ~~this Article unless it is committed after the conviction of or plea of guilty to the first~~
22 ~~felony. The commission of a third felony shall not fall within the purview of this Article~~
23 ~~unless it is committed after the conviction of or plea of guilty to the second felony.~~
24 ~~Pleas of guilty to or convictions of felony offenses prior to July 6, 1967, shall not be~~

1 ~~felony offenses within the meaning of this Article. Any felony offense to which a~~
2 ~~pardon has been extended shall not for the purpose of this Article constitute a felony.~~
3 ~~The burden of proving such pardon shall rest with the defendant and the State shall not~~
4 ~~be required to disprove a pardon.~~

5 (a) Definitions. – The following definitions apply in this section:

6 (1) Felony. – An offense that is a felony under the laws of this State or is
7 classified as a felony under G.S. 15A-1340.14(e). The term does not
8 include, however, federal offenses relating to the manufacture,
9 possession, sale of, and kindred offenses involving intoxicating
10 liquors. For the purposes of this section, felonies committed before a
11 person attains the age of 18 years shall not constitute more than one
12 felony. Convictions of felonies before July 6, 1967, are not felonies
13 for the purposes of this section. A felony offense to which a pardon
14 has been extended is not a felony for the purposes of this Article. The
15 burden of proving the pardon shall rest with the defendant; the State is
16 not required to disprove a pardon.

17 (2) Habitual felon. – An offender who (i) is convicted in this State of a
18 Class E, F, G, H, or I felony and (ii) was convicted on at least three
19 separate occasions, whether in this State or elsewhere, before that
20 conviction, of felonies, no more than one of which was for an offense
21 that under the law of this State would be considered a Class I or J
22 felony.

23 (b) Sentencing of Habitual Felons. – Before sentencing a person who is
24 convicted of a Class E, F, G, H, or I felony, the court shall determine whether the person
25 is an habitual felon. Proof of prior convictions shall be as provided by G.S. 15A-
26 1340.14. If the court finds that the person is an habitual felon, the court shall sentence
27 the person as a Class D felon under G.S. 15A-1340.13. However, in determining the
28 prior record level of the person, the convictions used to establish the person's status as
29 an habitual felon shall not be used. A sentence imposed on an habitual felon pursuant to
30 this section shall run consecutively with and shall begin at the expiration of any
31 sentence being served by the habitual felon."

32 Sec. 3. G.S. 15A-1340.13 is amended by adding a new subsection to read:

33 "(a1) Habitual Felons. – Before sentencing a person who is convicted of a Class E,
34 F, G, H, or I felony, the court shall determine whether the person is an habitual felon to
35 be sentenced as a Class D felon pursuant to G.S. 15A-1340.13A. In determining the
36 prior record level of an habitual felon being sentenced as a Class D felon, the
37 convictions used to establish the habitual felon status shall not be used."

38 Sec. 4. This act becomes effective January 1, 1995, and applies to offenses
39 committed on or after that date.