

GENERAL ASSEMBLY OF NORTH CAROLINA
EXTRA SESSION 1994

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SENATE BILL 46

Select Committee on Corrections/Punishment Committee Substitute Adopted 2/22/94

Short Title: Amend Habitual Felon Law.

(Public)

Sponsors:

Referred to: Rules and Operation of the Senate.

February 10, 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 MAY IMPOSE AN
3 ENHANCED SENTENCE ON A DEFENDANT WHO IS AN HABITUAL
4 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8 Article 2A of Chapter 14 of the General Statutes is repealed.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.~~

1 ~~Pleas of guilty to or convictions of felony offenses prior to July 6, 1967, shall not be~~
2 ~~felony offenses within the meaning of this Article. Any felony offense to which a~~
3 ~~pardon has been extended shall not for the purpose of this Article constitute a felony.~~
4 ~~The burden of proving such pardon shall rest with the defendant and the State shall not~~
5 ~~be required to disprove a pardon.~~

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

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

18 (2) Habitual felon. – An offender who (i) is convicted in this State of a
19 Class E, F, G, H, or I felony and (ii) was convicted on at least three
20 separate occasions, whether in this State or elsewhere, before that
21 conviction, of felonies, other than Class J felonies.

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

32 Sec. 3. This act becomes effective January 1, 1995, and applies to offenses
33 committed on or after that date.