

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 788*

Short Title: DWI Sentencing.

(Public)

Sponsors: Senator Hartsell.

Referred to: Judiciary I (Civil).

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO ALLOW CONVICTIONS FOR NONDRIVING OFFENSES TO BE
CONSIDERED FOR THE PURPOSES OF SENTENCING UNDER THE DWI
SENTENCING GUIDELINES AND TO ELIMINATE A CONFLICT BETWEEN
AGGRAVATING AND MITIGATING FACTORS FOR TRAFFIC OFFENSES
CHARGED IN THE PREVIOUS FIVE YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-179(d) is amended by adding a new subdivision to
read:

**"§ 20-179. Sentencing hearing after conviction for impaired driving;
determination of grossly aggravating and aggravating and mitigating
factors; punishments.**

...

(d) Aggravating Factors to Be Weighed. – The judge, or the jury in superior
court, shall determine before sentencing under subsection (f) whether any of the
aggravating factors listed below apply to the defendant. The judge shall weigh the
seriousness of each aggravating factor in the light of the particular circumstances of the
case. The factors are:

- (1) Gross impairment of the defendant's faculties while driving or an
alcohol concentration of 0.16 or more within a relevant time after the
driving.
- (2) Especially reckless or dangerous driving.
- (3) Negligent driving that led to a reportable accident.
- (4) Driving by the defendant while his driver's license was revoked.
- (5) Two or more prior convictions of a motor vehicle offense not
involving impaired driving for which at least three points are assigned
under G.S. 20-16 or for which the convicted person's license is subject
to revocation, if the convictions occurred within five years of the date
of the offense for which the defendant is being sentenced, or one or

- 1 more prior convictions of an offense involving impaired driving that
2 occurred more than seven years before the date of the offense for
3 which the defendant is being sentenced.
- 4 (6) Conviction under G.S. 20-141.5 of speeding by the defendant while
5 fleeing or attempting to elude apprehension.
- 6 (7) Conviction under G.S. 20-141 of speeding by the defendant by at least
7 30 miles per hour over the legal limit.
- 8 (8) Passing a stopped school bus in violation of G.S. 20-217.
- 9 (8a) One or more prior convictions as defined in G.S. 15A-1340.21 other
10 than misdemeanor traffic offenses under this statute.
- 11 (9) Any other factor that aggravates the seriousness of the offense.
- 12 Except for the factor in subdivision (5) the conduct constituting the aggravating factor
13 shall occur during the same transaction or occurrence as the impaired driving offense."
- 14 **SECTION 2.** This act becomes effective October 1, 2007, and applies to
15 offenses committed on or after that date.