

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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HOUSE BILL 261

Short Title: Sent. Enhancement/Immigration-Related Crimes. (Public)

Sponsors: Representatives N. Jackson, Balkcom, Biggs, and Ward (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 2, if favorable, Rules, Calendar, and Operations of the House

March 4, 2025

A BILL TO BE ENTITLED

AN ACT TO CREATE A SENTENCE ENHANCEMENT FOR A PERSON CONVICTED OF A FELONY OTHER THAN A CLASS A FELONY WHILE BEING UNLAWFULLY IN THE UNITED STATES AND TO CREATE A SENTENCE ENHANCEMENT FOR A PERSON CONVICTED OF A MISDEMEANOR OR FELONY COMMITTED WHILE CONSPIRING WITH ONE OR MORE PERSONS FOR THE PURPOSE OF BENEFITTING, PROMOTING, OR FURTHERING CRIMINAL ACTIVITY.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2 of Article 81B of Chapter 15A of the General Statutes is amended by adding two new sections to read:

"§ 15A-1340.16H. Enhanced sentence for felony committed by person unlawfully in the United States.

(a) Sentence Enhancement with No Prior Federal Conviction. – If a person is convicted of a felony other than a Class A felony and it is found as provided in this section that the person had been previously denied admission to, or excluded, deported, or removed from, the United States, then the person is guilty of a felony that is one class higher than the underlying felony for which the person was convicted.

(b) Sentence Enhancement with Prior Federal Conviction. – If a person is convicted of a felony other than a Class A felony and it is found as provided in this section that the person had been previously convicted of a crime relating to the reentry of removed aliens under 8 U.S.C. § 1326, then the person is guilty of a felony that is two classes higher than the underlying felony for which the person was convicted.

(c) Indictment or Information. – An indictment or information for the felony shall allege in that indictment or information or in a separate indictment or information the applicable facts set out in subsection (a) or (b) of this section. The pleading for an offense subject to enhancement under subsection (a) of this section is sufficient if it alleges that the defendant committed the felony while having been previously denied admission to, or excluded, deported, or removed from, the United States. The pleading for an offense subject to enhancement under subsection (b) of this section is sufficient if it alleges that the defendant committed the felony while having a prior conviction of a crime relating to the reentry of removed aliens under 8 U.S.C. § 1326. One pleading is sufficient for all felonies that are tried at a single trial.

(d) Burden of Proof. – The State shall prove the issue set out in subsection (a) or (b) of this section beyond a reasonable doubt during the same trial in which the defendant is tried for the felony unless the defendant pleads guilty or no contest to that issue. If the defendant pleads



1 guilty or no contest to the felony but pleads not guilty to the issue set out in subsection (a) or (b)
2 of this section, then a jury shall be impaneled to determine that issue.

3 **"§ 15A-1340.16I. Enhanced sentence for felony committed for the purpose of benefitting,**
4 **promoting, or furthering criminal activity.**

5 (a) Definition. – For purposes of this section, the term "criminal activity" is as defined in
6 G.S. 14-118.8.

7 (b) Sentence Enhancement. – If a person is convicted of a felony other than a Class A
8 felony and it is found as provided in this section that the felony was committed by a person
9 conspiring with one or more persons for the purpose of benefitting, promoting, or furthering
10 criminal activity, then the person is guilty of a felony that is one class higher than the underlying
11 felony for which the person was convicted.

12 (c) Indictment or Information. – An indictment or information for the felony shall allege
13 in that indictment or information or in a separate indictment or information the facts set out in
14 subsection (b) of this section. The pleading is sufficient if it alleges that the defendant committed
15 the felony while conspiring with one or more persons for the purpose of benefitting, promoting,
16 or furthering the interests of criminal activity. One pleading is sufficient for all felonies that are
17 tried at a single trial.

18 (d) Burden of Proof. – The State shall prove the issue set out in subsection (b) of this
19 section beyond a reasonable doubt during the same trial in which the defendant is tried for the
20 felony unless the defendant pleads guilty or no contest to that issue. If the defendant pleads guilty
21 or no contest to the felony but pleads not guilty to the issue set out in subsection (b) of this
22 section, then a jury shall be impaneled to determine that issue."

23 **SECTION 2.** Part 3 of Article 81B of Chapter 15A of the General Statutes is
24 amended by adding a new section to read:

25 **"§ 15A-1340.24. Enhanced sentence for misdemeanor committed for the purpose of**
26 **benefitting, promoting, or furthering criminal activity.**

27 (a) Definition. – For purposes of this section, the term "criminal activity" is as defined in
28 G.S. 14-118.8.

29 (b) Sentence Enhancement. – If a person is convicted of a misdemeanor other than a Class
30 A1 misdemeanor and it is found as provided in this section that the misdemeanor was committed
31 by a person conspiring with one or more persons for the purpose of benefitting, promoting, or
32 furthering criminal activity, then the person is guilty of a misdemeanor that is one class higher
33 than the underlying misdemeanor for which the person was convicted. If a person is convicted of
34 a Class A1 misdemeanor and it is found as provided in this section that the misdemeanor was
35 committed by a person conspiring with one or more persons for the purpose of benefitting,
36 promoting, or furthering criminal activity, then the person is guilty of a Class I felony.

37 (c) Pleading. – The pleading charging the person for the misdemeanor shall allege in that
38 pleading or in a separate pleading the facts set out in subsection (b) of this section. The pleading
39 is sufficient if it alleges that the defendant committed the misdemeanor while conspiring with
40 one or more persons for the purpose of benefitting, promoting, or furthering the interests of
41 criminal activity. One pleading is sufficient for all felonies that are tried at a single trial.

42 (d) Burden of Proof. – The State shall prove the issue set out in subsection (b) of this
43 section beyond a reasonable doubt during the same trial in which the defendant is tried for the
44 misdemeanor unless the defendant pleads guilty or no contest to that issue. If the defendant pleads
45 guilty or no contest to the misdemeanor but pleads not guilty to the issue set out in subsection (b)
46 of this section, then a jury shall be impaneled to determine that issue."

47 **SECTION 3.** This act becomes effective December 1, 2025, and applies to offenses
48 committed on or after that date.