

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE DRH30251-LK-175 (3/31)

Short Title: Criminal Record Considered in DWI Sentencing. (Public)

Sponsors: Representative Johnson.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE SENTENCING COURT TO CONSIDER MORE OF A
DEFENDANT'S CRIMINAL RECORD IN DETERMINING AGGRAVATING
FACTORS TO BE WEIGHED WHEN SENTENCING AN OFFENDER FOR
DRIVING WHILE IMPAIRED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-179(d) reads as rewritten:

"(d) Aggravating Factors to Be Weighed. – The judge must determine before sentencing under subsection (f) whether any of the aggravating factors listed below apply to the defendant. The judge must 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- (4) Driving by the defendant while his driver's license was revoked.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 more prior convictions of an offense involving impaired driving that occurred more than seven years before the date of the offense for which the defendant is being sentenced.

(5a) One or more prior convictions as defined in G.S. 15A-1340.21 other than misdemeanor traffic offenses under this Chapter.

- 1 (6) Conviction under G.S. 20-141.5 of speeding by the defendant while
- 2 fleeing or attempting to elude apprehension.
- 3 (7) Conviction under G.S. 20-141 of speeding by the defendant by at least
- 4 30 miles per hour over the legal limit.
- 5 (8) Passing a stopped school bus in violation of G.S. 20-217.
- 6 (9) Any other factor that aggravates the seriousness of the offense.

7 Except for the ~~factor~~factors in ~~subdivision~~subdivisions (5) and (5a) of this subsection,

8 the conduct constituting the aggravating factor must occur during the same transaction

9 or occurrence as the impaired driving offense."

10 **SECTION 2.** This act becomes effective December 1, 2005, and applies to

11 offenses committed on or after that date.