

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 338
Committee Substitute Favorable 4/21/15

Short Title: Fail to Obtain DL/Increase Punishment.

(Public)

Sponsors:

Referred to:

March 25, 2015

A BILL TO BE ENTITLED
AN ACT TO INCREASE THE PUNISHMENT FOR CERTAIN OFFENSES OF FAILING
TO OBTAIN A DRIVERS LICENSE BEFORE DRIVING A MOTOR VEHICLE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-35 reads as rewritten:

"§ 20-35. Penalties for violating Article; defense to driving without a license.

(a) Penalty. – Except as otherwise provided in ~~subsection (a1) or (a2)~~ subsections (a1) through (a3) of this section, a violation of this Article is a Class 2 misdemeanor unless a statute in the Article sets a different punishment for the violation. If a statute in this Article sets a different punishment for a violation of the Article, the different punishment applies.

(a1) The following offenses are Class 3 misdemeanors:

- (1) ~~Failure~~ Except as provided in subsection (a3) of this section, failure to obtain a license before driving a motor vehicle, in violation of G.S. 20-7(a).
- (2) Failure to comply with license restrictions, in violation of G.S. 20-7(e).
- (3) Permitting a motor vehicle owned by the person to be operated by an unlicensed person, in violation of G.S. 20-34.

...

(a3) A second or subsequent offense of failure to obtain a license before driving a motor vehicle in violation of G.S. 20-7(a) shall be a Class 2 misdemeanor if, at the time of each offense, the person was ineligible to receive a drivers license from the Division because the person did not meet the requirements set forth in G.S. 20-7. Punishment imposed for any offense under this subsection shall include a fine of four hundred dollars (\$400.00).

Notwithstanding G.S. 15A-1340.23, and unless the conduct is prohibited by another provision of law providing for greater punishment, a person convicted of a third or subsequent offense of failure to obtain a license before driving a motor vehicle in violation of G.S. 20-7(a), who at the time of each offense was ineligible to receive a drivers license from the Division because the person did not meet the requirements set forth in G.S. 20-7, (i) may be sentenced to an active sentence of not less than 20 days and not more than 60 days, and (ii) the vehicle that was driven by the person at the time the person committed the third or subsequent offense under this subsection shall become property subject to forfeiture in accordance with the procedure set out in G.S. 20-28.10.

Nothing in this subsection shall be construed as applying to (i) a person who commits an offense under G.S. 20-7(a) for failing to obtain a license before driving a motor vehicle, but is eligible to receive a drivers license from the Division at the time of the offense, or (ii) a person driving a motor vehicle with a revoked or suspended license.

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1 **SECTION 2.** Article 2 of Chapter 20 of the General Statutes is amended by adding
2 a new section to read:

3 "**§ 20-28.10. Seizure, impoundment, forfeiture of motor vehicles for certain offenses of**
4 **failing to obtain a license before driving a motor vehicle.**

5 (a) **Authority.** – If a person is convicted of a third or subsequent offense of failure to
6 obtain a license before driving a motor vehicle in violation of **G.S. 20-7(a)**, and that offense is
7 punishable under **G.S. 20-35(a3)**, the vehicle that was driven by the person at the time the
8 person committed offense shall become property subject to seizure, impoundment, and
9 forfeiture.

10 (b) **Governing Law and Procedures.** – The laws and procedures governing the seizure,
11 impoundment, and forfeiture of vehicles under this section shall be the same as those set forth
12 in **G.S. 20-28.2** through **G.S. 20-28.9** and **G.S. 20-54.1**. Wherever those statutes refer to a
13 particular underlying offense, they shall, for purposes of this section, be construed to refer to
14 the applicable violation of **G.S. 20-35(a3)**. Furthermore, for purposes of this section, an
15 innocent owner shall be a person who did not know and had no reason to know that the
16 defendant was engaging in a violation of **G.S. 20-35(a3)**."

17 **SECTION 3.** This act becomes effective December 1, 2015, and applies to
18 offenses committed on or after that date.