

House Bill 1216 (COMMITTEE SUBSTITUTE)

By: Representatives McDonald of the 26th, Collins of the 68th, Powell of the 32nd, Hitchens of the 161st, Burns of the 159th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated,
2 relating to serious traffic offenses, so as to provide for enhanced penalties for violations of
3 fleeing or attempting to elude a police officer; to provide for enhanced penalties for fleeing
4 or eluding a police officer during the commission of certain crimes or under certain
5 circumstances; to prohibit the use of a blue light to impersonate a law enforcement officer;
6 to provide for related matters; to provide for an effective date and applicability; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to
11 serious traffic offenses, is amended by revising Code Section 40-6-395, relating to fleeing
12 or attempting to elude police officer and impersonating law enforcement officer, as follows:
13 "40-6-395.

14 (a) It shall be unlawful for any driver of a vehicle willfully to fail or refuse to bring his or
15 her vehicle to a stop or otherwise to flee or attempt to elude a pursuing police vehicle or
16 police officer when given a visual or an audible signal to bring the vehicle to a stop. The

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17 signal given by the police officer may be by hand, voice, emergency light, or siren. The
18 officer giving such signal shall be in uniform prominently displaying his or her badge of
19 office, and his or her vehicle shall be appropriately marked showing it to be an official
20 police vehicle.

21 (b)(1) Any person convicted of violating the provisions of subsection (a) of this Code
22 section upon a first, second, or third conviction thereof shall be guilty of a high and
23 aggravated misdemeanor and upon a fourth or subsequent conviction thereof shall be
24 guilty of a felony and shall be punished as follows:

25 (A) Upon the first conviction shall be fined not less than ~~\$500.00~~ \$1,000.00 nor more
26 than \$5,000.00, and the fine shall not be subject to suspension, stay, or probation, and
27 imprisoned for not less than ~~ten~~ 30 days nor more than 12 months. Any period of such
28 imprisonment in excess of ~~ten~~ 30 days may, in the sole discretion of the judge, be
29 suspended, stayed, or probated;

30 (B) Upon the second conviction within a ten-year period of time, as measured from the
31 dates of previous arrests for which convictions were obtained to the date of the current
32 arrest for which a conviction is obtained, shall be fined not less than ~~\$1,000.00~~
33 \$2,500.00 nor more than \$5,000.00, and the fine shall not be subject to suspension, stay,
34 or probation, and imprisoned for not less than ~~30~~ 90 days nor more than 12 months.
35 Any period of such imprisonment in excess of ~~30~~ 90 days may, in the sole discretion
36 of the judge, be suspended, stayed, or probated; and for purposes of this paragraph,
37 previous pleas of nolo contendere accepted within such ten-year period shall constitute
38 convictions; ~~and~~

39 (C) Upon the third ~~or subsequent~~ conviction within a ten-year period of time, as
40 measured from the dates of previous arrests for which convictions were obtained to the
41 date of the current arrest for which a conviction is obtained, shall be fined not less than
42 ~~\$2,500.00~~ \$4,000.00 nor more than \$5,000.00, and the fine shall not be subject to
43 suspension, stay, or probation, and imprisoned for not less than ~~90~~ 180 days nor more

44 than 12 months. Any period of such imprisonment in excess of ~~90~~ 180 days may, in the
 45 sole discretion of the judge, be suspended, stayed, or probated; and for purposes of this
 46 paragraph, previous pleas of nolo contendere accepted within such ten-year period shall
 47 constitute convictions; and

48 (D) Upon the fourth or subsequent conviction within a ten-year period of time, as
 49 measured from the dates of previous arrests for which convictions were obtained to the
 50 date of the current arrest for which a conviction is obtained, shall be fined not less than
 51 \$5,000.00 nor more than \$10,000.00 and imprisoned for not less than 12 months nor
 52 more than ten years.

53 (2) For the purpose of imposing a sentence under this subsection, a plea of nolo
 54 contendere shall constitute a conviction.

55 (3) If the payment of the fine required under subparagraphs (A) through (C) of
 56 paragraph (1) of this subsection will impose an economic hardship on the defendant, the
 57 judge, at his or her sole discretion, may order the defendant to pay such fine in
 58 installments and such order may be enforced through a contempt proceeding or a
 59 revocation of any probation otherwise authorized by this subsection.

60 (4) Notwithstanding the limits set forth in any municipal charter, any municipal court of
 61 any municipality shall be authorized to impose the punishments provided for in
 62 subparagraphs (A) through (C) of paragraph (1) of this subsection upon a conviction of
 63 ~~violating this subsection~~ such subparagraphs or upon conviction of violating any
 64 ordinance adopting the provisions of ~~this subsection~~ such subparagraphs.

65 ~~(5)(A)(c)~~ Any person violating the provisions of subsection (a) of this Code section who,
 66 while fleeing or attempting to elude a pursuing police vehicle or police officer:

67 ~~(i)~~(1) Operates his or her vehicle in excess of 20 miles an hour above the posted speed
 68 limit;

69 ~~(ii)~~(2) Strikes or collides with another vehicle or a pedestrian;

70 (3) Is the proximate cause of an accident;

71 ~~(iii)~~(4) Flees in traffic conditions which place the general public at risk of receiving
72 serious injuries;

73 ~~(iv)~~(5) Commits a violation of:

74 (A) Code Section 40-6-144;

75 (B) Subsection (a) of Code Section 40-6-163;

76 (C) Subsection (a) of Code Section 40-6-251;

77 (D) Subsection (a) of Code Section 40-6-390;

78 (E) Subsection (a) of Code Section 40-6-390.1; or

79 (F) Subsection paragraph (5) of subsection (a) of Code Section 40-6-391; or

80 ~~(v)~~(6) Leaves the state

81 shall be guilty of a felony punishable by a fine of not less than \$5,000.00 or nor more than
82 \$10,000.00 and imprisonment for not less than ~~one year~~ 12 months nor more than ~~five ten~~
83 years ~~or both~~.

84 ~~(B)~~(d) Following adjudication of guilt or imposition of sentence for a violation of
85 subparagraph (A) ~~of this paragraph~~ (b)(1)(D) or subsection (c) of this Code section, the
86 sentence shall not be suspended, probated, deferred, or withheld, and the charge shall not
87 be reduced to a lesser offense, merged with any other offense, or served concurrently with
88 any other offense.

89 ~~(e)~~(e) It shall be unlawful for a person:

90 (1) To impersonate a sheriff, deputy sheriff, state trooper, agent of the Georgia Bureau
91 of Investigation, agent of the Federal Bureau of Investigation, police officer, or any other
92 authorized law enforcement officer by using a motor vehicle, ~~or motorcycle, or blue light~~
93 designed, equipped, or marked so as to resemble a motor vehicle, ~~or motorcycle, or blue~~
94 light belonging to any federal, state, or local law enforcement agency; or

95 (2) Otherwise to impersonate any such law enforcement officer in order to direct, stop,
96 or otherwise control traffic."

97 **SECTION 2.**

98 This Act shall become effective on July 1, 2022, and shall apply to offenses committed on
99 or after that date.

100 **SECTION 3.**

101 All laws and parts of laws in conflict with this Act are repealed.