

Senate Bill 490

By: Senators Cowser of the 46th, Albers of the 56th, Kennedy of the 18th, Robertson of the 29th, Gooch of the 51st and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and
2 traffic, so as to provide for the felony offense of fleeing or attempting to elude a police
3 officer; to provide for penalties; to provide for related matters; to provide for an effective
4 date and applicability; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
8 amended by revising Code Section 40-6-395, relating to fleeing or attempting to elude police
9 officer and impersonating law enforcement officer, as follows:

10 "40-6-395.

11 (a) It shall be unlawful for any driver of a vehicle willfully to fail or refuse to bring his or
12 her vehicle to a stop or otherwise to flee or attempt to elude a pursuing police vehicle or
13 police officer when given a visual or an audible signal to bring the vehicle to a stop. The
14 signal given by the police officer may be by hand, voice, emergency light, or siren. The
15 officer giving such signal shall be in uniform prominently displaying his or her badge of

16 office, and his or her vehicle shall be appropriately marked showing it to be an official
17 police vehicle.

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

22 (A) Upon the first conviction shall be fined not less than \$1,000.00 nor more than
23 \$5,000.00, and the fine shall not be subject to suspension, stay, or probation, and
24 imprisoned for not less than 30 days nor more than 12 months. Any period of such
25 imprisonment in excess of 30 days may, in the sole discretion of the judge, be
26 suspended, stayed, or probated; and

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

35 ~~(C) Upon the third conviction within a ten-year period of time, as measured from the~~
36 ~~dates of previous arrests for which convictions were obtained to the date of the current~~
37 ~~arrest for which a conviction is obtained, shall be fined not less than \$4,000.00 nor~~
38 ~~more than \$5,000.00, and the fine shall not be subject to suspension, stay, or probation,~~
39 ~~and imprisoned for not less than 180 days nor more than 12 months. Any period of~~
40 ~~such imprisonment in excess of 180 days may, in the sole discretion of the judge, be~~
41 ~~suspended, stayed, or probated; and for purposes of this paragraph, previous pleas of~~
42 ~~nolo contendere accepted within such ten-year period shall constitute convictions; and~~

43 ~~(D)~~(C) Upon the ~~fourth~~ third or subsequent conviction within a ten-year period of time,
 44 as measured from the ~~dates~~ date of any previous arrests for which convictions were
 45 obtained to the date of the current arrest for which a conviction is obtained, shall be
 46 fined not less than \$5,000.00 nor more than \$10,000.00 and imprisoned for not less than
 47 12 months nor more than ten years.

48 (2) For the purpose of imposing a sentence under this subsection, a plea of guilty or nolo
 49 contendere shall constitute a conviction.

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

55 (4) Notwithstanding the limits set forth in any municipal charter, any municipal court of
 56 any municipality shall be authorized to impose the punishments provided for in
 57 subparagraphs (A) ~~through (C)~~ and B of paragraph (1) of this subsection upon a
 58 conviction of violating such subparagraphs or upon conviction of violating any ordinance
 59 adopting the provisions of such subparagraphs.

60 (c) Notwithstanding subparagraph (b)(1)(A) of this Code section, any ~~Any~~ person violating
 61 the provisions of subsection (a) of this Code section who, while fleeing or attempting to
 62 elude a pursuing police vehicle or police officer:

63 (1) Operates his or her vehicle in excess of 20 miles an per hour above the posted speed
 64 limit;

65 (2) Strikes or collides with another vehicle or a pedestrian;

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

67 (4) Flees in traffic conditions which place the general public at risk of receiving serious
 68 injuries;

69 (5) Commits a violation of:

- 70 (A) Code Section 40-6-144;
- 71 (B) Subsection (a) of Code Section 40-6-163;
- 72 (C) Subsection (a) of Code Section 40-6-251;
- 73 (D) Subsection (a) of Code Section 40-6-390;
- 74 (E) Subsection (a) of Code Section 40-6-390.1; or
- 75 (F) Subsection (a) of Code Section 40-6-391; or
- 76 (6) Leaves the state
- 77 shall be guilty of a felony punishable by a fine of not less than \$5,000.00 nor more than
- 78 \$10,000.00 and imprisonment for not less than 12 months nor more than ten years.
- 79 (d) Following adjudication of guilt or imposition of sentence for a violation of
- 80 subparagraph ~~(b)(1)(D)~~ (b)(1)(C) or subsection (c) of this Code section, the sentence shall
- 81 not be suspended, probated, deferred, or withheld, and the charge shall not be reduced to
- 82 a lesser offense, merged with any other offense, or served concurrently with any other
- 83 offense.
- 84 (e) It shall be unlawful for a person:
- 85 (1) To impersonate a sheriff, deputy sheriff, state trooper, agent of the Georgia Bureau
- 86 of Investigation, agent of the Federal Bureau of Investigation, police officer, or any other
- 87 authorized law enforcement officer by using a motor vehicle, motorcycle, or blue light
- 88 designed, equipped, or marked so as to resemble a motor vehicle, motorcycle, or blue
- 89 light belonging to any federal, state, or local law enforcement agency; or
- 90 (2) Otherwise to impersonate any such law enforcement officer in order to direct, stop,
- 91 or otherwise control traffic."

92 **SECTION 2.**

93 This Act shall become effective on July 1, 2024, and shall apply to all offenses committed

94 on or after such date.

95

SECTION 3.

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