

SHORT TITLE: Eluding a peace officer; specifying attempting to elude, eluding and aggravated eluding; setting penalty; emergency.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 542

By: Helton

AS INTRODUCED

An Act relating to eluding a peace officer; amending 21 O.S. 1991, Section 540A, as amended by Section 1, Chapter 110, O.S. Supp. 1996 (21 O.S. Supp. 1996, Section 540A), which relates to eluding a peace officer; modifying language; deleting language; removing mandatory minimum penalties; defining certain offenses; setting penalties; providing for restitution in certain instance; making certain offense charging mutually exclusive; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 1991, Section 540A, as amended by Section 1, Chapter 110, O.S. Supp. 1996 (21 O.S. Supp. 1996, Section 540A), is amended to read as follows:

Section 540A. A. 1. Any operator of person operating a motor vehicle upon any street, road, highway or public place in this state who has received receives a visual and audible signal, in the form of a flashing red light and a siren from a peace officer driving an officially marked motor vehicle showing the same to be an official police, sheriff, highway patrol or state game ranger vehicle, or from a peace officer driving an unmarked vehicle and using a flashing red light and an auditory system of either a siren or loud speaker, is required directing the said operator to bring

his or her vehicle to a stop. ~~and~~ Any person who willfully fails to stop his or her vehicle, increases ~~his~~ the speed of the vehicle and continuously maintains an increased speed above the posted speed limits, ~~or~~ extinguishes his the lights of the vehicle, or takes any other evasive action to avoid the directive to stop the vehicle shall be guilty of attempting to elude a peace officer. The offense of attempting to elude a peace officer is a misdemeanor and the violator, upon conviction, shall be punished by imprisonment in the county jail for a term not to exceed one (1) year, by a fine of not more than Two Thousand Dollars (\$2,000.00), or by both such fine and imprisonment. In addition to any fine or imprisonment imposed, when property has been damaged as a direct result of the offense of attempting to elude a peace officer, the violator shall pay restitution in an amount determined by the court to the property owners, the state, or both. ~~in an attempt to elude such peace officer, or willfully attempts in any other manner to elude the peace officer, or~~

2. Any person ~~who does elude such~~ while attempting to elude a peace officer in violation of paragraph 1 of this subsection, who successfully avoids stopping as directed by the peace officer and is later apprehended shall be guilty of eluding a peace officer. Eluding a peace officer is a misdemeanor offense and the violator, ~~is~~ shall, upon conviction, be guilty of a misdemeanor punished by imprisonment in the county jail for a term not to exceed one (1) year, by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. In addition to any fine or imprisonment imposed for eluding a peace officer, when property has been damaged as a direct result of the offense, the violator shall pay restitution in an amount determined by the court to the property owners, the state, or both.

3. The peace officer, while attempting to stop ~~a violator~~ any person in violation of the provisions of this ~~section~~ subsection or

subsection B of this section, may communicate a request for the assistance of other peace officers from any office, department or agency. Any peace officer within this state having knowledge of ~~such~~ the request for assistance is authorized to render ~~such~~ assistance in stopping the violator and may effect an arrest ~~under~~ pursuant to the provisions of this section subsection upon probable cause. ~~Violation of this subsection shall constitute a misdemeanor and shall be punishable by not more than one (1) year imprisonment in the county jail or by a fine of not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00) or by both such fine and imprisonment.~~ A

4. Any second or subsequent violation within ten (10) years of a prior violation of the provisions of this subsection shall be a felony offense and the violator shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections for a term punishable by not more than one (1) year in the county jail exceeding five (5) years, or by a fine of not less than ~~Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00)~~, or by both such fine and imprisonment.

B. ~~1. Any person who causes an accident, while~~ When an accident occurs during the commission of the act of eluding or attempting to elude an a peace officer in violation of any provision of subsection A of this section, and the accident resulting in great results in bodily injury to any person other than ~~himself while driving or operating a motor vehicle within this state and who is in violation of the provisions of subsection A of this section may be charged with a violation of the provisions of this subsection the person in violation of subsection A of this section, or the person commits an act which is imminently dangerous to another person and shows reckless disregard for human life while attempting to elude a peace officer, the offense is aggravated eluding a peace officer. Any person ~~who is convicted of a violation of the provisions of this~~~~

~~subsection~~ aggravated eluding a peace officer shall be deemed guilty of a felony punishable by imprisonment in a state correctional institution the custody of the Department of Corrections for a term not less than one (1) year and not more than to exceed five (5) years, and by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. In addition to any fine or imprisonment imposed, the violator shall pay restitution for both property damages and medical expenses to victims, the state, or both, in an amount determined by the court.

~~2. As used in this subsection, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.~~

C. The offenses of attempting to elude a peace officer, eluding a peace officer, and aggravated eluding a peace officer shall be mutually exclusive charges. The district attorney shall charge only one offense pursuant to the provisions of this section for a singular act, even where the violator proceeds into multiple jurisdictions.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-1-0161

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