

1-1-1988

MOTOR VEHICLES AND TRAFFIC Hit and Run: Increase Penalty

J. Shirley

Follow this and additional works at: <https://readingroom.law.gsu.edu/gsulr>

 Part of the [Law Commons](#)

Recommended Citation

J. Shirley, *MOTOR VEHICLES AND TRAFFIC Hit and Run: Increase Penalty*, 5 GA. ST. U. L. REV. (1988).

Available at: <https://readingroom.law.gsu.edu/gsulr/vol5/iss1/42>

This Peach Sheet is brought to you for free and open access by the Publications at Reading Room. It has been accepted for inclusion in Georgia State University Law Review by an authorized editor of Reading Room. For more information, please contact mbutler@gsu.edu.

MOTOR VEHICLES AND TRAFFIC

Hit and Run: Increase Penalty

CODE SECTION: O.C.G.A. § 40-6-270 (amended)
BILL NUMBER: HB 1263
ACT NUMBER: 1383
SUMMARY: The Act increases the penalty from a misdemeanor to a felony for drivers who leave the scene of an accident in which serious bodily injury or death occurs. It also provides that a violation of this Code section constitutes a state violation, rather than a violation of a local ordinance.
EFFECTIVE DATE: July 1, 1988

History

O.C.G.A. § 40-6-270 was first enacted in 1953.¹ The 1953 version required a driver involved in an accident which resulted in death, injury, or property damage to remain at the scene of the accident.² Failure to do so was a misdemeanor.³ The Code was amended in 1985 providing misdemeanor penalties for repeat offenders.⁴

The introduction of the bill was prompted in part by a hit and run accident which injured two of the sponsor's constituents.⁵ The two, while crossing the street, were struck by a car with a Florida license plate. Extraditing the Florida driver for a misdemeanor proved difficult.⁶ Although extradition of a person is possible regardless of the classification of the offense charged, as a practical matter extradition of a person charged with a misdemeanor is difficult. Thus, the Georgia Legislature saw a need to change the penalty for leaving the scene of an accident which results in death or serious personal injury from a misdemeanor to a felony.⁷

1. 1953 Ga. Laws 573.

2. *Id.*

3. *Id.*

4. 1985 Ga. Laws 775.

5. Telephone interview with Representative Luther Colbert, House District No. 23 (Apr. 7, 1988) [hereinafter Colbert Interview].

6. *Id.*

7. *Id.*

HB 1263

The Act amends O.C.G.A. § 40-6-270 by making it a felony to leave the scene of an accident in which death or serious bodily injury occurs.⁸ Initially, HB 1263 provided for the felony penalty in the event of death or injury.⁹ The House Committee on Motor Vehicles, concerned that the term "injury" was too vague,¹⁰ offered a committee substitute.¹¹ The committee substitute defined "serious injury" as it is defined in O.C.G.A. § 33-34-2(13).¹² In addition, the House Committee changed the classification of the crime to a "misdemeanor of a high and aggravated nature," rather than to a felony.¹³ The Senate Committee on Special Judiciary, however, reclassified the crime as a felony.¹⁴ The House accepted the bill with the felony penalty reinstated.¹⁵

The Act also amends O.C.G.A. § 40-6-376¹⁶ to provide that a driver who leaves the scene of an accident in which serious bodily injury or death occurs must be charged with violation of a state law, rather than a local ordinance.¹⁷ The Act does not change the requirement that homicide by vehicle also must be charged as a state offense.¹⁸ Local law enforcement officials still have discretion in charging other offenses as either a violation of a statute or a local ordinance.¹⁹

J. Shirley

8. O.C.G.A. § 40-6-270 (Supp. 1988).

9. HB 1263, as introduced, 1988 Ga. Gen. Assem.

10. Colbert Interview, *supra* note 5.

11. HB 1263 (HCS), 1988 Ga. Gen. Assem.

12. O.C.G.A. § 33-34-2(13) (Supp. 1988). The Georgia Motor Vehicle Accident Reparations Act defines "serious injury" as:

an accidental bodily injury which results in death, a fractured bone, permanent disfigurement, dismemberment, permanent loss of a bodily function, permanent partial or total loss of sight or hearing, injury resulting in reasonably incurred medical expenses exceeding \$500.00, or injury resulting in disability for not less than ten consecutive days.

Id.

13. HB 1263 (HCS), 1988 Ga. Gen. Assem.

14. HB 1263 (SCS), 1988 Ga. Gen. Assem.

15. Colbert Interview, *supra* note 5. Leaving the scene when no injuries or minor injuries result remains chargeable as a misdemeanor. O.C.G.A. § 40-6-270(c) (Supp. 1988).

16. Prior to this amendment, O.C.G.A. § 40-6-376 allowed local law enforcement officials discretion in charging offenses involving motor vehicles or other homicide by vehicle offenses as either a violation of state law or local ordinance. 1982 Ga. Laws 1694.

17. O.C.G.A. § 40-6-376(a) (Supp. 1988).

18. O.C.G.A. § 40-6-393 (1985).

19. O.C.G.A. § 40-6-376(a) (Supp. 1988).