WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1997

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ENROLLED

HOUSE BILL No. 2221

Faircloth, Trump, Staton,
Amores, Hunt and Douglas

(By Delegate Faircloth, Trump, Staton,
Amores, Hunt and Douglas)

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Passed __________________________ April 12, 1997

In Effect __________ Ninety Days From __________ Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 2221

(BY DELEGATES FAIRCLOTH, TRUMP, STATON, AMORES, HUNT AND DOUGLAS)

[Passed April 12, 1997; in effect ninety days from passage.]

AN ACT to amend and reenact section seventeen, article five, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to obstructing and fleeing from an officer; removing the penalty for counseling, advising or inviting another to obstruct an officer; establishing various offenses relating to fleeing from an officer in a vehicle and providing penalties therefor; and defining terms for purposes of this section.

Be it enacted by the Legislature of West Virginia:

That section seventeen, article five, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.

§61-5-17. Obstructing officer; fleeing from officer; fleeing from officer in a vehicle; penalties; definitions.

1 (a) Any person who by threats, menaces, acts or otherwise, forcibly or illegally hinders or obstructs, or attempts to hinder or obstruct, law-enforcement officer acting in his or her official capacity is guilty of a
misdemeanor and, upon conviction thereof, shall be fined not less than fifty nor more than five hundred dollars, and may, in the discretion of the court, be confined in the county or regional jail not more than one year.

(b) Any person who intentionally flees or attempts to flee by any means other than the use of a vehicle from any law-enforcement officer acting in his or her official capacity who is attempting to make a lawful arrest of the person, and who knows or reasonably believes that the officer is attempting to arrest him or her, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than fifty nor more than five hundred dollars, and may, in the discretion of the court, be confined in the county or regional jail not more than one year.

(c) Any person who intentionally flees or attempts to flee in a vehicle from any law-enforcement officer acting in his or her official capacity, after the officer has given a clear visual or audible signal directing the person to stop, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than one thousand dollars, and shall be confined in the county or regional jail not more than one year.

(d) Any person who intentionally flees or attempts to flee in a vehicle from any law-enforcement officer acting in his or her official capacity, after the officer has given a clear visual or audible signal directing the person to stop, and who causes damage to the real or personal property of any person during or resulting from his or her flight, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one thousand nor more than three thousand dollars, and shall be confined in the county or regional jail for not less than six months nor more than one year.

(e) Any person who intentionally flees or attempts to flee in a vehicle from any law-enforcement officer acting in his or her official capacity, after the officer has given a clear visual or audible signal directing the person to stop, and who causes bodily injury to any person during or resulting from his or her flight, is guilty of a felony and, upon conviction thereof, shall be imprisoned in the state
correctional facility not less than one nor more than five years.

(f) Any person who intentionally flees or attempts to flee in a vehicle from any law-enforcement officer acting in his or her official capacity, after the officer has given a clear visual or audible signal directing the person to stop, and who causes death to any person during or resulting from his or her flight, is guilty of a felony and, upon conviction thereof, shall be punished by a definite term of imprisonment in the state correctional facility which is not less than three nor more than fifteen years. A person imprisoned pursuant to the provisions of this subsection is not eligible for parole prior to having served a minimum of three years of his or her sentence or the minimum period required by the provisions of section thirteen, article twelve, chapter sixty-two, whichever is greater.

(g) Any person who intentionally flees or attempts to flee in a vehicle from any law-enforcement officer acting in his or her official capacity, after the officer has given a clear visual or audible signal directing the person to stop, and who is under the influence of alcohol, controlled substances or drugs at the time, is guilty of a felony and, upon conviction thereof, shall be imprisoned in the state correctional facility not less than one nor more than five years.

(h) For purposes of this section, the term "vehicle" includes any motor vehicle, motorcycle, motorboat, all-terrain vehicle or snowmobile, as those terms are defined in section one, article one, chapter seventeen-a of this code, whether or not it is being operated on a public highway at the time and whether or not it is licensed by the state.

(i) For purposes of this section, the terms "flee," "fleeing," and "flight" shall not include any person's reasonable attempt to travel to a safe place, allowing the pursuing law-enforcement officer to maintain appropriate surveillance, for the purpose of complying with the officer's direction to stop.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 25th day of April, 1997.

Governor