

SENATE BILL 43

By Bunch

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 13, Part 1, relative to certain alcohol-
related offenses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 13 , Part 1, is amended by
adding the following as a new section:

Section 39-13-115.

(a) Aggravated vehicular assault is vehicular assault, as defined in § 39-
13-106, where:

(1) The defendant has two (2) or more prior convictions for:

- (A) Driving under the influence of an intoxicant;
- (B) Vehicular assault; or
- (C) Any combination of such offenses;

(2) The defendant has one (1) or more prior convictions for the
offense of vehicular homicide or aggravated vehicular homicide; or

(3) There was, at the time of the offense, twenty-hundredths of
one percent (.20%), or more, by weight of alcohol in the defendant's blood
and the defendant has one (1) prior conviction for:

- (A) Driving under the influence of an intoxicant; or
- (B) Vehicular assault.

(b)

(1) As used in this section, unless the context otherwise requires,
“prior conviction” means an offense for which the defendant was

convicted prior to the commission of the instant vehicular assault and includes convictions occurring prior to July 1, 2009.

(2) "Prior conviction" includes convictions under the laws of any other state, government, or country that, if committed in this state, would have constituted one (1) of the three (3) offenses enumerated in subdivision (a)(1) or (a)(2). In the event that a conviction from a jurisdiction other than Tennessee is not specifically named the same as one (1) of the three (3) offenses enumerated in subdivision (a)(1) or (a)(2), the elements of the offense in the other jurisdiction shall be used by the Tennessee court to determine if the offense constitutes one (1) of the prior convictions required by subsection (a).

(c) If the defendant is charged with aggravated vehicular homicide, the indictment, in a separate count, shall specify, charge and give notice of the required prior conviction or convictions. If the defendant is convicted of vehicular assault under § 39-13-106, the jury shall then separately consider whether the defendant has the requisite number and types of prior offenses or level of blood alcohol concentration necessary to constitute the offense of aggravated vehicular assault. If the jury convicts the defendant of aggravated vehicular assault, the court shall pronounce judgment and sentence the defendant from within the felony classification set out in subsection (d).

(d) Aggravated vehicular homicide is a Class C felony.

SECTION 2. This act shall take effect July 1, 2009, the public welfare requiring it.