

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1175

Short Title: Drivers License Revocations.

(Public)

Sponsors: Representative Hayes.

Referred to: Judiciary I.

April 19, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR MANDATORY REVOCATIONS OF DRIVERS
3 LICENSES FOR CONTROLLED SUBSTANCE CONVICTIONS AND OTHER
4 RELATED PENALTIES.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 20-13.2(b) reads as rewritten:

7 "(b) If a person is convicted of an offense involving impaired driving or a
8 violation of the North Carolina Controlled Substances Act, and the offense occurs while
9 he is a provisional licensee, his license must be revoked under this section in addition to
10 any other revocation required or authorized by law."

11 Sec. 2. G.S. 20-13.2(d) reads as rewritten:

12 "(d) ~~A~~The length of revocation under this section ~~continues until the provisional~~
13 ~~licensee reaches 18 years of age or 45 days have elapsed, whichever occurs last. shall be six~~
14 months. Revocations under this section run concurrently with any other revocations,
15 but a limited driving privilege issued pursuant to law does not authorize a provisional
16 licensee to drive if his license is revoked under this section."

17 Sec. 3. G.S. 20-17 reads as rewritten:

18 "**§ 20-17. Mandatory revocation of license by Division.**

19 The Division shall forthwith revoke the license of any driver upon receiving a record
20 of the driver's conviction for any of the following offenses:

- 21 (1) Manslaughter (or negligent homicide) resulting from the operation of a
22 motor vehicle.
23 (2) Either of the following impaired driving offenses:
24 a. Impaired driving under G.S. 20-138.1.

1 b. Impaired driving under G.S. 20-138.2 when the person
2 convicted did not take a chemical test at the time of the offense
3 or the person took a chemical test at the time of the offense and
4 the test revealed that the person had an alcohol concentration at
5 any relevant time after driving of less than 0.04 or of 0.10 or
6 more.

7 (3) Any felony in the commission of which a motor vehicle is used.

8 (4) Failure to stop and render aid in violation of G.S. 20-166(a) or (b).

9 (5) Perjury or the making of a false affidavit or statement under oath to the
10 Division under this Article or under any other law relating to the
11 ownership of motor vehicles.

12 (6) Conviction upon two charges of reckless driving committed within a
13 period of 12 months.

14 (7) Conviction upon one charge of reckless driving while engaged in the
15 illegal transportation of intoxicants for the purpose of sale.

16 (8) Conviction of using a false or fictitious name or giving a false or
17 fictitious address in any application for a drivers license, or learner's
18 permit, or any renewal or duplicate thereof, or knowingly making a
19 false statement or knowingly concealing a material fact or otherwise
20 committing a fraud in any such application or procuring or knowingly
21 permitting or allowing another to commit any of the foregoing acts.

22 (9) Death by vehicle as defined in G.S. 20-141.4.

23 (10) Speeding in excess of 55 miles per hour and at least 15 miles per hour
24 over the legal limit in violation of G.S. 20-141(j).

25 (11) Conviction of assault with a motor vehicle.

26 (12) Conviction of a felony under the North Carolina Controlled
27 Substances Act.

28 (13) Any violation of the Federal Controlled Substances Act.

29 (14) Any other drug offense."

30 Sec. 4. G.S. 20-17.4 is amended by adding a new subsection to read:

31 "(a1) The Division shall revoke the commercial drivers license of any driver upon
32 receiving a record of the driver's conviction of a felony under the North Carolina
33 Controlled Substances Act. If a commercial license is revoked under this subsection,
34 the period of revocation and conditions of reissuance of the license shall be as set forth
35 in G.S. 20-19(e1) through G.S. 20-19(e5)."

36 Sec. 5. G.S. 20-19 is amended by adding new subsections to read:

37 "(e1) The Division shall not issue a drivers license to any person who has been
38 convicted of a drug offense as set forth in G.S. 20-17(12), 20-17(13), or 20-17(14) for at
39 least six months after application if the conviction occurred while the person was
40 unlicensed. The Division shall revoke, for an additional six months, the drivers license
41 of any person convicted of a drug offense as set forth in G.S. 20-17(12), 20-17(13), or
42 20-17(14) if the conviction occurred while the person's driving privilege was revoked.

43 (e2) When a person's license is revoked under G.S. 20-17(12) or G.S. 20-17.4(a1),
44 and the person is convicted of another offense involving controlled substances, and the

1 first offense occurred within the three years immediately preceding the date of the
2 offense for which the person's license is presently being revoked, the period of
3 revocation is one year, and this period may be reduced to no less than 183 days under
4 the provisions of subsection (e5) of this section.

5 (e3) When a person's license is revoked under G.S. 20-17(12) or G.S. 20-17.4(a1),
6 and the person has been convicted of two or more previous offenses involving
7 controlled substances, and the most recent offense occurred within the five years
8 immediately preceding the date of the offense for which the person's license is presently
9 being revoked, the period of revocation is three years, and this period may be reduced to
10 no less than 548 days under the provisions of subsection (e5) of this section.

11 (e4) When a person's license is revoked under G.S. 20-17(12) or G.S. 20-17.4(a1),
12 and the person has been convicted of three or more previous offenses involving
13 controlled substances, and the most recent offense occurred within the seven years
14 immediately preceding the date of the offense for which the person's license is presently
15 being revoked, the period of revocation is permanent, and this period may be reduced to
16 no less than five years under the provisions of subsection (e5) of this section.

17 (e5) The Division may conditionally restore the person's drivers license after it has
18 been revoked under subsections (e1) through (e4) of this section if the person does the
19 following and provides satisfactory proof to the Commissioner:

20 (1) The person shall obtain, during the period when the person's license
21 has been revoked, a substance abuse assessment from an area mental
22 health agency, its designated agent, or a private facility licensed by the
23 State for the treatment of alcoholism and substance abuse. If the
24 assessing agency recommends that the person participate in a treatment
25 program, the person shall do so, and the person shall execute a Release
26 of Information authorizing the treatment agency to report the person's
27 completion of the treatment program to the Division. If the assessment
28 does not identify a substance abuse handicap, the original finding shall
29 be filed with the Division and the person shall be required to attend an
30 alcohol and drug education traffic school. The Division shall not
31 reissue the drivers license of a person required to participate in a
32 treatment program or school unless it has received the original
33 certificate of completion from the assessing or treating agency or
34 school. Any fees charged by the assessing or treating agency or school
35 shall be paid by the person seeking to have his license restored;

36 (2) From the date the person's license was revoked, the person has not
37 been convicted, in North Carolina or any other state or federal
38 jurisdiction, for an offense involving the manufacture, sale,
39 distribution, or possession of a controlled substance; and

40 (3) The person shall undergo a random drug test, or a series of random
41 drug tests, during the period of license revocation, and the results of
42 these tests must be negative for the presence of controlled substances,
43 as defined in G.S. 90-87(5), or their metabolites, unless the person can
44 show that the substances were lawfully administered as part of

1 professional medical treatment. The Division shall notify the person
2 when the tests are required and the results of the tests shall be
3 submitted to the Division. The costs of testing shall be borne by the
4 person seeking to have his license restored.

5 (e6) As used in this section, the term 'conviction' shall include adjudications in
6 juvenile proceedings.

7 (e7) If the Division restores the person's license, it may place reasonable
8 conditions or restrictions on the person for any period up to three years from the date of
9 restoration. No person whose license is revoked under G.S. 20-17(12) shall be eligible
10 for limited driving privileges under G.S. 20-179.3 during the period of the revocation."

11 Sec. 6. G.S. 20-179(g) reads as rewritten:

12 "(g) Level One Punishment. – A defendant subject to Level One punishment may
13 be fined up to two thousand dollars ~~(\$2,000) and (\$2,000)~~, must be sentenced to a term
14 of imprisonment that includes a minimum term of not less than 14 days and a maximum
15 term of not more than 24 ~~months.~~ months, and must receive a mandatory minimum
16 period of nonoperation of a motor vehicle of at least 150 days. The term of
17 imprisonment may be suspended only if a condition of special probation is imposed (i)
18 to require the defendant to serve a term of imprisonment of at least 14 days, or (ii) to
19 require the defendant to serve a term of imprisonment of at least four consecutive days
20 and then be placed under house arrest for twice the length of time remaining in the
21 minimum term prescribed in (i) above. If the defendant is placed on probation, the
22 judge must, if required by subsection (m), impose the conditions relating to assessment,
23 treatment, and education described in that subsection. The judge may impose any other
24 lawful condition of probation. If the judge does not place on probation a defendant who
25 is otherwise subject to the mandatory assessment and treatment provisions of subsection
26 (m), he must include in the record of the case his reasons for not doing so."

27 Sec. 7. G.S. 20-179(h) reads as rewritten:

28 "(h) Level Two Punishment. – A defendant subject to Level Two punishment may
29 be fined up to one thousand dollars ~~(\$1,000) and (\$1,000)~~, must be sentenced to a term of
30 imprisonment that includes a minimum term of not less than seven days and a maximum
31 term of not more than 12 ~~months.~~ months, and must receive a mandatory minimum
32 period of nonoperation of a motor vehicle of at least 120 days. The term of
33 imprisonment may be suspended only if a condition of special probation is imposed (i)
34 to require the defendant to serve a term of imprisonment of at least seven days or, (ii) to
35 require the defendant to serve a term of imprisonment of at least two consecutive days
36 and then be placed under house arrest for twice the length of time remaining in the
37 minimum term prescribed in (i) above. If the defendant is placed on probation, the
38 judge must, if required by subsection (m), impose the conditions relating to assessment,
39 treatment, and education described in that subsection. The judge may impose any other
40 lawful condition of probation. If the judge does not place on probation a defendant who
41 is otherwise subject to the mandatory assessment and treatment provisions of subsection
42 (m), he must include in the record of the case his reasons for not doing so."

43 Sec. 8. G.S. 20-179(i) reads as rewritten:

1 "(i) Level Three Punishment. – A defendant subject to Level Three punishment
2 may be fined up to five hundred dollars ~~(\$500.00) and (\$500.00)~~, must be sentenced to a
3 term of imprisonment that includes a minimum term of not less than 72 hours and a
4 maximum term of not more than six ~~months~~ months, and must receive a mandatory
5 minimum period of nonoperation of a motor vehicle of at least 90 days. The term of
6 imprisonment must be suspended, on the condition that the defendant:

7 (1) Be imprisoned for a term of at least 72 hours as a condition of special
8 probation; or

9 (2) Perform community service for a term of at least 72 hours; or

10 ~~(3) Not operate a motor vehicle for a term of at least 90 days; or~~

11 ~~(4) Any combination of these conditions.~~

12 (3) Both (1) and (2).

13 The judge in his discretion may impose any other lawful condition of probation and, if
14 required by subsection (m), must impose the conditions relating to assessment,
15 treatment, and education described in that subsection. This subsection does not affect
16 the right of a defendant to elect to serve the suspended sentence of imprisonment as
17 provided in G.S. 15A-1341(c)."

18 Sec. 9. G.S. 20-179(j) reads as rewritten:

19 "(j) Level Four Punishment. – A defendant subject to Level Four punishment may
20 be fined up to two hundred fifty dollars ~~(\$250.00) and (\$250.00)~~, must be sentenced to a
21 term of imprisonment that includes a minimum term of not less than 48 hours and a
22 maximum term of not more than 120 ~~days~~ days, and must receive a mandatory
23 minimum period of nonoperation of a motor vehicle of at least 60 days. The term of
24 imprisonment must be suspended, on the condition that the defendant:

25 (1) Be imprisoned for a term of 48 hours as a condition of special
26 probation; or

27 (2) Perform community service for a term of 48 hours; or

28 ~~(3) Not operate a motor vehicle for a term of 60 days; or~~

29 ~~(4) Any combination of these conditions.~~

30 (3) Both (1) and (2).

31 The judge in his discretion may impose any other lawful condition of probation and, if
32 required by subsection (m), must impose the conditions relating to assessment,
33 treatment, and education described in that subsection. This subsection does not affect
34 the right of a defendant to elect to serve the suspended sentence of imprisonment as
35 provided in G.S. 15A-1341(c)."

36 Sec. 10. G.S. 20-179(k) reads as rewritten:

37 "(k) Level Five Punishment. – A defendant subject to Level Five punishment may
38 be fined up to one hundred dollars ~~(\$100.00) and (\$100.00)~~, must be sentenced to a term
39 of imprisonment that includes a minimum term of not less than 24 hours and a
40 maximum term of not more than 60 ~~days~~ days, and must receive a mandatory minimum
41 period of nonoperation of a motor vehicle of at least 30 days. The term of
42 imprisonment must be suspended, on the condition that the defendant:

43 (1) Be imprisoned for a term of 24 hours as a condition of special
44 probation; or

- 1 (2) Perform community service for a term of 24 hours; or
2 ~~(3) Not operate a motor vehicle for a term of 30 days; or~~
3 ~~(4) Any combination of these conditions.~~
4 (3) Both (1) and (2).

5 The judge may in his discretion impose any other lawful condition of probation and, if
6 required by subsection (m), must impose the conditions relating to assessment,
7 treatment, and education described in that subsection. This subsection does not affect
8 the right of a defendant to elect to serve the suspended sentence of imprisonment as
9 provided in G.S. 15A-1341(c)."

10 Sec. 11. G.S. 20-179.3(c) reads as rewritten:

11 "(c) Privilege Not Effective until after Compliance with Court-Ordered
12 Revocation. – A person convicted of an impaired driving offense may apply for a
13 limited driving privilege at the time the judgment is entered. ~~If the judgment does not~~
14 ~~require the person to complete a period of nonoperation pursuant to G.S. 20-179, the privilege~~
15 ~~may be issued at the time the judgment is issued. If the judgment requires the person to~~
16 ~~complete a period of nonoperation pursuant to G.S. 20-179, Although the limited driving~~
17 ~~privilege may be issued at the time the judgment is issued, it may not be effective until~~
18 ~~the person successfully completes ~~that the period of nonoperation.~~ nonoperation required~~
19 ~~under G.S. 20-179.~~ A person whose license is revoked because of a conviction in
20 another jurisdiction substantially equivalent to impaired driving under G.S. 20-138.1
21 may apply for a limited driving privilege only after having completed at least 60 days of
22 a court-imposed term of nonoperation of a motor vehicle, if the court in the other
23 jurisdiction imposed such a term of nonoperation."

24 Sec. 12. This act becomes effective January 1, 1994, and applies to offenses
25 committed on or after that date.