

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 551

Short Title: Substance Abuse Rehab.

(Public)

Sponsors: Representatives Richardson; Bowman, Cummings, Gardner, Hensley, and Kuczmariski.

Referred to: Judiciary I.

March 25, 1993

A BILL TO BE ENTITLED

1 AN ACT TO INCORPORATE INTO STATUTE POLICIES AND PROCEDURES TO
2 INCREASE COMPLIANCE WITH SUBSTANCE ABUSE REHABILITATION
3 SANCTIONS AND TO INCREASE PENALTIES FOR WILLFUL REFUSAL TO
4 COMPLY.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 20-17.2 reads as rewritten:

8 "**§ 20-17.2. Court-ordered revocations for offenses involving impaired driving;
9 procedure for notice.**

10 When a person convicted of an offense involving impaired driving is ordered by a
11 court not to operate a motor vehicle for a specified period of time as a condition of
12 probation, the Division, upon receiving a copy of the judgment, ~~must~~ shall revoke the
13 person's driver's license for the period and dates specified in the order of the court. The
14 entry of probationary judgment by the court is notice to the person that ~~his~~ the license is
15 revoked, and the Division need not notify the person of ~~his~~ the revocation. However,
16 the Division shall notify the area mental health, developmental disabilities, and
17 substance abuse authority for the defendant's county of residence of the conviction and
18 shall forward to the area authority a copy of the defendant's driving record. In judgment
19 forms for use in impaired driving cases under G.S. 20-138.1 the Administrative Office
20 of the Courts ~~must~~ shall provide for inclusion of a notice provision, when applicable, of
21 the terms of this section."

22 Sec. 2. Article 2 of Chapter 20 of the General Statutes is amended by adding
23 the following new sections to read:

1 "§ 20-17.6. Assessment, alcohol and drug education traffic school and treatment
2 requirements for persons convicted of certain alcohol and drug related
3 offenses.

4 (a) Before the Division restores a person's license that has been revoked as a
5 result of a conviction under G.S. 20-138.1, 20-138.2, or 20-138.3, the Division must
6 have received an original certificate of completion showing that the person has obtained
7 a substance abuse assessment and has completed the recommended intervention.

8 Upon notification that a person has been convicted under G.S. 20-138.1, 20-138.2,
9 or 20-138.3, the Division shall notify the area mental health, developmental disabilities,
10 and substance abuse authority for the county in which the conviction occurs. The area
11 mental health, developmental disabilities, and substance abuse authority shall provide to
12 the individual notification of the requirements for obtaining a substance abuse
13 assessment as well as a list of all licensed facilities or agencies located within the
14 catchment area that provide substance abuse assessments.

15 The individual shall schedule the assessment within 60 days from the date of the
16 conviction. All assessments shall be initiated through the area mental health authority.
17 Any agency performing assessments shall give written notification of its intention to do
18 so to the area mental health authority for the catchment area in which it is located and to
19 the Department of Human Resources. The Commission of Mental Health,
20 Developmental Disabilities, and Substance Abuse Services shall adopt rules to
21 implement the provisions of this subsection, and these rules may allow the individual to
22 obtain assessments and treatment from agencies not located in North Carolina. The
23 assessing agency shall give the client a standardized test approved by the Department of
24 Human Resources to determine chemical dependency. A clinical interview concerning
25 the general status of the individual with respect to chemical dependency shall be
26 conducted by the assessing agency before making any recommendation for further
27 treatment. A recommendation made by the assessing agency shall be reviewed and
28 signed by a 'Certified Alcoholism, Drug Abuse, or Substance Abuse Counselor,' as
29 defined by the Department of Human Resources or a physician who has been certified
30 by the American Society of Addiction Medicine (ASAM).

31 In those cases in which no substance abuse handicap is identified, the individual
32 shall be required to successfully complete an alcohol and drug education traffic school.
33 Upon completion of the school, the school shall give the area authority the original
34 certificate of completion.

35 If a substance abuse handicap is identified, the individual shall complete a treatment
36 program that is consistent with accepted medical standards. If the individual is required
37 to participate in a treatment program and completes the recommended treatment, the
38 individual does not have to attend the alcohol and drug education traffic school. Upon
39 completion of the assessment and treatment, the agency or program shall give the area
40 mental health authority the original certification of completion and shall provide the
41 individual with a copy of that certificate.

42 Upon a receipt of the original certification of completion of the alcohol and drug
43 education traffic school or treatment program, the area mental health authority shall
44 forward the original of the certificate of completion to the Department of Human

1 Resources. The Department of Human Resources shall review the certificate for
2 accuracy and completeness and then forward the original certificate to the Division of
3 Motor Vehicles.

4 (b) Fees for Services. The individual shall pay the following fees for services:
5 (i) twenty-five dollars (\$25.00) to the area authority for administrative costs, which
6 includes all case supervision and transfer fees, (ii) fifty dollars (\$50.00) to the assessing
7 agency, and (iii) seventy-five dollars (\$75.00) to either a treatment facility or to an
8 alcohol and drug education traffic school, depending upon the recommendation made by
9 the assessing agency. Fees received by the area mental health, developmental
10 disabilities, and substance abuse authority under this section shall be administered
11 pursuant to G.S. 20-179.2(e) except that the provisions of G.S. 20-17-.2(c) shall not
12 apply to monies received under this section. If the individual is treated by an area
13 mental health facility, G.S. 122C-146 applies after receipt of the seventy-five dollar
14 (\$75.00) fee. Any facility providing assessment, alcohol and drug education traffic
15 school, or treatment to an individual pursuant to this section may require that the
16 individual pay the fees prescribed by law for the services before it certifies that the
17 individual has completed the recommended treatment or educational program.

18 (c) The Department of Human Resources may approve programs offered in
19 another state if they are substantially similar to programs approved in this State, and if
20 that state recognizes North Carolina programs for similar purposes. The individual shall
21 be responsible for the fees at the approved program.

22 **"§ 20-17.7. Failure to complete assessment, alcohol and drug education traffic**
23 **school or treatment program.**

24 (a) If, within six months after the date of notification to the individual by the area
25 mental health authority, the individual has failed to comply with any of the requirements
26 of G.S. 20-17.6, the area mental health authority shall report that individual's
27 noncompliance to the Division of Motor Vehicles.

28 (b) Upon receipt of notice from the area mental health authority that the
29 defendant has willfully failed to complete an assessment, the alcohol and drug education
30 traffic school, or a treatment program, the Division shall revoke the person's drivers
31 license for an indefinite period. A limited driving privilege does not authorize the
32 person to drive while the license is revoked pursuant to the provisions of this section.
33 When the individual whose license has been revoked for an indefinite period does
34 satisfactorily complete all the requirements of G.S. 20-17.6, the individual's license
35 shall be restored.

36 (c) After the mandatory period of revocation required by G.S. 20-19(d) or G.S.
37 20-19(f) has expired, the individual may request a hearing before the Division. If the
38 mandatory revocation is determined by G.S. 20-19(e) or G.S. 20-19(i), the individual is
39 eligible for a hearing under this subsection after three years from the effective date of
40 the revocation. The individual may request the hearing officer to subpoena the
41 appropriate agency or program personnel to appear in person at the hearing by making
42 the request in writing at least three days before the hearing. The individual may
43 subpoena any other witness, and the provisions of G.S. 1A-1, Rule 45, apply to the
44 issuance and service of all subpoenas issued under authority of this section.

1 (d) The hearing shall be conducted in the county in which the reporting agency or
2 program is located, under the provisions for hearings held under G.S. 20-16(d), except
3 that the hearing is limited to consideration of whether:

4 (1) The individual was convicted under G.S. 20-138.1, 20-138.2, or 20-
5 138.3;

6 (2) The individual failed to obtain an assessment or complete the alcohol
7 and drug education traffic school or a treatment program successfully;
8 and

9 (3) The failure was willful.

10 If the Division finds that the conditions specified in this subsection are met, it shall
11 order the revocation sustained. If the Division finds that any of the conditions is not
12 met, it shall rescind the revocation. If the revocation is sustained, the individual shall
13 present a certificate of compliance before the revocation can be rescinded. The
14 individual may file a petition in superior court for a **de novo** review of the issues listed
15 in this section, in the same manner and under the same conditions as provided in G.S.
16 20-25, except that the hearing shall be held in the judicial district in which the reporting
17 agency or program is located.

18 (e) A failure to obtain the required assessment or complete the alcohol and drug
19 education traffic school or a treatment program is not willful if it is based solely in a
20 failure:

21 (1) To pay the prescribed fee and the person was unable to pay after
22 making reasonable efforts to secure funds to pay the fee; or

23 (2) To obtain the assessment or attend the classes or treatment because of
24 reasons over which the individual had no control other than alcoholism
25 or drug abuse."

26 Sec. 3. G.S. 20-179(e)(6), 20-179(m), and 20-179(t) are repealed.

27 Sec. 4. This act becomes effective December 1, 1993, and applies to
28 convictions for offenses involving impaired driving occurring on or after that date.