

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH50151-LK-107 (3/8)

Short Title: License Suspension for Pending DWI Charge. (Public)

Sponsors: Representative Holloway.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT A LICENSE IMMEDIATELY SUSPENDED UNDER
IMPLIED CONSENT SHALL BE HELD UNTIL ALL PENDING IMPAIRED
DRIVING CHARGES ARE RESOLVED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-16.2(a) reads as rewritten:

"(a) Basis for Charging Officer to Require Chemical Analysis; Notification of Rights. – Any person who drives a vehicle on a highway or public vehicular area thereby gives consent to a chemical analysis if charged with an implied-consent offense. The charging officer shall designate the type of chemical analysis to be administered, and it may be administered when the officer has reasonable grounds to believe that the person charged has committed the implied-consent offense.

Except as provided in this subsection or subsection (b), before any type of chemical analysis is administered the person charged shall be taken before a chemical analyst authorized to administer a test of a person's breath, who shall inform the person orally and also give the person a notice in writing that:

- (1) The person has a right to refuse to be tested.
- (2) Refusal to take any required test or tests will result in an immediate revocation of the person's driving privilege for at least 30 days and an additional 12-month revocation by the Division of Motor Vehicles.
- (3) The test results, or the fact of the person's refusal, will be admissible in evidence at trial on the offense charged.
- (4) The person's driving privilege will be revoked immediately for at least 30 days if:
 - a. The test reveals an alcohol concentration of 0.08 or more;
 - b. The person was driving a commercial motor vehicle and the test reveals an alcohol concentration of 0.04 or more; or

1 c. The person is under 21 years of age and the test reveals any
2 alcohol concentration.

3 (4a) The person's driving privilege shall be revoked immediately, and the
4 revocation shall remain in effect until all impaired driving charges are
5 resolved if:

6 a. The test reveals an alcohol concentration of 0.08 or more; and

7 b. The person has one or more impaired driving charges pending
8 in any court in this State or another jurisdiction at the time the
9 test is administered.

10 (5) The person may choose a qualified person to administer a chemical
11 test or tests in addition to any test administered at the direction of the
12 charging officer.

13 (6) The person has the right to call an attorney and select a witness to view
14 for him or her the testing procedures, but the testing may not be
15 delayed for these purposes longer than 30 minutes from the time when
16 the person is notified of his or her rights.

17 If the charging officer or an arresting officer is authorized to administer a chemical
18 analysis of a person's breath, the charging officer or the arresting officer may give the
19 person charged the oral and written notice of rights required by this subsection. This
20 authority applies regardless of the type of chemical analysis designated."

21 **SECTION 2.** This act becomes effective October 1, 2005.