

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE PRINCIPAL CLERK

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HOUSE DRH30225-MLf-196 (03/23)

Short Title: Ignition Interlock/Expand Scope. (Public)

Sponsors: Representatives Jackson, Jordan, and Faircloth (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE NUMBER OF PERSONS SUBJECT TO AN IGNITION
3 INTERLOCK REQUIREMENT AND TO MAKE OTHER REVISIONS TO THE
4 IMPAIRED DRIVING LAWS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 20-16.2(c1) reads as rewritten:

7 "(c1) Procedure for Reporting Results and Refusal to Division. – Whenever a person
8 refuses to submit to a chemical analysis, a person has an alcohol concentration of ~~0.150~~0.13
9 or more, or a person's drivers license has an alcohol concentration restriction and the results of the
10 chemical analysis establish a violation of the restriction, the law enforcement officer and the
11 chemical analyst shall without unnecessary delay go before an official authorized to administer
12 oaths and execute an affidavit(s) stating ~~that~~all of the following:

- 13 (1) The person was charged with an implied-consent offense or had an alcohol
14 concentration restriction on the drivers ~~license~~license.
15 (2) A law enforcement officer had reasonable grounds to believe that the person
16 had committed an implied-consent offense or violated the alcohol
17 concentration restriction on the drivers ~~license~~license.
18 (3) Whether the implied-consent offense charged involved death or critical
19 injury to another person, if the person willfully refused to submit to chemical
20 ~~analysis~~analysis.
21 (4) The person was notified of the rights in subsection ~~(a)~~and(a).
22 (5) The results of any tests given or that the person willfully refused to submit to
23 a chemical analysis.

24 If the person's drivers license has an alcohol concentration restriction, pursuant to
25 G.S. 20-19(c3), and an officer has reasonable grounds to believe the person has violated a
26 provision of that restriction other than violation of the alcohol concentration level, the officer
27 and chemical analyst shall complete the applicable sections of the affidavit and indicate the
28 restriction which was violated. The officer shall immediately mail the affidavit(s) to the
29 Division. If the officer is also the chemical analyst who has notified the person of the rights
30 under subsection (a), the officer may perform alone the duties of this subsection."

31 **SECTION 2.** G.S. 20-17.8 reads as rewritten:

32 "**§ 20-17.8. Restoration of a license after certain driving while impaired convictions;
33 ignition interlock.**

34 (a) Scope. – This section applies to a person whose license was revoked as a result of a
35 conviction of driving while impaired, G.S. 20-138.1, and:

- 36 (1) The person had an alcohol concentration of ~~0.150~~0.13 or more;



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- 1 (2) The person has been convicted of another offense involving impaired
- 2 driving, which offense occurred within seven years immediately preceding
- 3 the date of the offense for which the person's license has been revoked; or
- 4 (3) The person was sentenced pursuant to G.S. 20-179(f3).

5 For purposes of subdivision (1) of this subsection, the results of a chemical analysis, as
6 shown by an affidavit or affidavits executed pursuant to G.S. 20-16.2(c1), shall be used by the
7 Division to determine that person's alcohol concentration.

8 ...
9 (e1) Disabling or Removing of Ignition Interlock System. – If an ignition interlock
10 system is disabled or removed from a vehicle in which it is required to be installed pursuant to
11 subsection (c1) of this section, the Division shall revoke the drivers license of the person
12 subject to the provisions of this section and shall provide notice in accordance with G.S. 20-48.

13 ...
14 (j) Right to Hearing Before Division; Issues. – If the person's license is revoked
15 pursuant to subsection (g) of this section, before the effective date of the order issued under
16 subsection (i) of this section, the person may request in writing a hearing before the Division.
17 Except for the time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the
18 Division that the person's license was surrendered to the court and remained in the court's
19 possession, then the Division shall credit the amount of time for which the license was in the
20 possession of the court against the revocation period required by subsection (g) of this section.
21 If the person properly requests a hearing, the person retains the person's license, unless it is
22 revoked under some other provision of law, until the hearing is held, the person withdraws the
23 request, or the person fails to appear at a scheduled hearing. The hearing officer may subpoena
24 any witnesses or documents that the hearing officer deems necessary. The person may request
25 the hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at
26 the hearing if the person makes the request in writing at least three days before the hearing. The
27 person may subpoena any other witness whom the person deems necessary, and the provisions
28 of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the
29 authority of this section. The hearing officer is authorized to administer oaths to witnesses
30 appearing at the hearing. The hearing must be conducted in the county where the charge was
31 brought, except when the evidence of the violation is an alcohol concentration report from an
32 ignition interlock system, the hearing may be conducted in the county where the person resides.
33 The hearing must be limited to consideration of whether:

- 34 (1) The drivers license of the person had an ignition interlock requirement; and
- 35 (2) The person:
 - 36 a. Was driving a vehicle that was not equipped with a functioning
 - 37 ignition interlock ~~system; or~~ system.
 - 38 b. Did not personally activate the ignition interlock system before
 - 39 driving the ~~vehiele; or~~ vehicle.
 - 40 c. Drove the vehicle in violation of an applicable alcohol concentration
 - 41 restriction prescribed by subdivision (b)(3) of this section.
 - 42 d. Allowed an ignition interlock system required by this section to be
 - 43 disabled or removed.

44 If the Division finds that the conditions specified in this subsection are
45 met, it must order the revocation sustained. If the Division finds that the
46 condition of subdivision (1) is not met, or that none of the conditions of
47 subdivision (2) are met, it must rescind the revocation. If the revocation is
48 sustained, the person must surrender the person's license immediately upon
49 notification by the Division. If the revocation is sustained, the person may
50 appeal the decision of the Division pursuant to G.S. 20-25.

51 "

SECTION 3. G.S. 20-179.3 reads as rewritten:

"§ 20-179.3. Limited driving privilege.

...
(b) Eligibility. –

(1) A person convicted of the offense of impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege ~~if~~ if all of the following requirements are met:

- a. At the time of the ~~offense~~ offense, the person held either a valid driver's license or a license that had been expired for less than one ~~year~~ year.
- b. At the time of the ~~offense~~ offense, the person had not within the preceding seven years been convicted of an offense involving impaired ~~driving~~ driving.
- c. Punishment Level Three, Four, or Five was imposed for the offense of impaired ~~driving~~ driving.
- d. Subsequent to the ~~offense~~ offense, the person has not been convicted of, or had an unresolved charge lodged against him or her for, an offense involving impaired ~~driving~~ and driving.
- e. The person has obtained and filed with the court a substance abuse assessment of the type required by G.S. 20-17.6 for the restoration of a drivers license.

A person whose North Carolina driver's license is revoked because of a conviction in another jurisdiction substantially similar to impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege if he would be eligible for it had the conviction occurred in North Carolina. Eligibility for a limited driving privilege following a revocation under G.S. 20-16.2(d) is governed by G.S. 20-16.2(e1).

...
(c1) Privilege Restrictions for High-Risk Drivers. – Notwithstanding any other provision of this section, any limited driving privilege issued to a person convicted of an impaired driving offense with an alcohol concentration of ~~0.15~~ 0.13 or more at the time of the offense ~~shall~~ shall include all of the following:

- (1) ~~Not become effective until at least 45 days after the final conviction under G.S. 20-138.1;~~
- (2) Require the applicant to comply with the ignition interlock requirements of subsection (g5) of this ~~section~~ and section.
- (3) Restrict the applicant to driving only to and from the applicant's place of employment, the place the applicant is enrolled in school, any court ordered treatment or substance abuse education, and any ignition interlock service facility.

For purposes of this subsection, the results of a chemical analysis presented at trial or sentencing shall be sufficient to prove a person's alcohol concentration, shall be conclusive, and shall not be subject to modification by any party, with or without approval by the court.

...
(f1) Definition of "Standard Working Hours". – Under this section, "standard working hours" are 6:00 A.M. to 8:00 P.M. on Monday through ~~Friday~~ Sunday.

...
(g5) Ignition Interlock Required. – If a person's drivers license is revoked for a conviction of G.S. 20-138.1, and the person had an alcohol concentration of ~~0.15~~ 0.13 or more, a judge shall include all of the following in a limited driving privilege order:

- (1) A restriction that the applicant may operate only a designated motor vehicle.

1 (2) A requirement that the designated motor vehicle be equipped with a
2 functioning ignition interlock system of a type approved by the
3 Commissioner, which is set to prohibit driving with an alcohol concentration
4 of greater than 0.00. The Commissioner shall not unreasonably withhold
5 approval of an ignition interlock system and shall consult with the Division
6 of Purchase and Contract in the Department of Administration to ensure that
7 potential vendors are not discriminated against.

8 (3) A requirement that the applicant personally activate the ignition interlock
9 system before driving the motor vehicle.

10 For purposes of this subsection, the results of a chemical analysis presented at trial or
11 sentencing shall be sufficient to prove a person's alcohol concentration, shall be conclusive, and
12 shall not be subject to modification by any party, with or without approval by the court.

13"

14 **SECTION 4.** This act becomes effective December 1, 2015, and applies to
15 offenses committed on or after that date and restorations for offenses committed on or after that
16 date. Prosecutions for offenses committed before the effective date of this act are not abated or
17 affected by this act, and the statutes that would be applicable but for this act remain applicable
18 to those prosecutions.