

March 31, 2005

H 1048. GOVERNOR'S DWI TASK FORCE RECOMMENDATIONS. TO IMPLEMENT THE RECOMMENDATIONS OF THE GOVERNOR'S TASK FORCE ON DRIVING WHILE IMPAIRED.

Amends numerous sections of GS Chapter 20 and other chapters to implement recommendations of the task force as follows, effective for offenses committed on and after December 1, 2005.

Permit for Malt Beverage Keg. Amends GS 18B-403 to require a permit to purchase a keg of malt beverage for off-premises consumption.

Pretrial Civil Revocation. Amends GS 20-16.5 (immediate, pretrial revocation for persons charged with DWI or related offenses, if those persons have certain alcohol concentrations or refuse to submit breath or blood or other sample for testing) to make license revocation under that section continue until the case that led to the revocations is disposed of; provides that hearings to contest the revocation are to be conducted by Division of Motor Vehicles (DMV); allows DMV to issue temporary license if hearing can't be held in five working days, and to issue limited driving privilege, subject to specified eligibility criteria; provides that interlock device may be required for specified drivers, as described below.

Seizure of Registration Plate/Interlock. Enacts new GS 20-16.6 to require seizure of registration plate of vehicle driven by person charged with an implied consent offense (DWI and several other alcohol related offenses) who had an alcohol concentration of 0.16 or higher (lower for minors and commercial drivers), or who refused to submit to a chemical analysis, or who has had a conviction in prior ten years and had an alcohol concentration of 0.08 or more (lower for minors and commercial drivers). If, after review, DMV determines that plate was properly seized, to obtain valid registration driver must equip that vehicle and all other vehicles he or she owns with ignition interlock devices which must remain on vehicles until the person's case is disposed of and he or she has completed alcohol treatment and is otherwise eligible to drive without interlock. Establishes procedure for owner who was not driving to obtain tag, upon payment of \$50 fee. Imposes \$50 fee for restoration of tag for drivers who are also registered owners. Enacts new GS 20-28.10 to make it a Class 1 misdemeanor to violate interlock restrictions. Conviction results in license revocation and mandatory punishment of either 7 days in jail or 30 days house arrest. Amends GS 20-28.3 to authorize seizure of vehicle when driver is charged with violation of interlock restrictions.

Checking Stations and Roadblocks. Amends GS 20-16.3A, which deals with impaired driving checkpoints, to make it more generally applicable to all "checking stations." Eliminates requirement that agency conducting check have a systematic or written plan and eliminates requirement for marking the area in which the check is to be conducted, but requires that at least one operating blue light on a police vehicle be used. Allows officer to request driver to submit to alcohol screening test if driver has consumed alcohol or has an open container of alcohol in vehicle. Permits other checking station operations as permitted by state and federal constitutions. Prohibits judges from suppressing evidence unless judge in a written ruling finds a substantial and willful violation of constitution and that the violation was not made in good faith.

Implied Consent. Adds new Article 2D of GS Chapter 20 specifying detailed procedures for disposition of implied consent cases in district court, including provisions specifying how magistrates make probable cause decisions, special requirements for facilities that house intoxilyzer instruments, motions in district court, standards judges must apply in making decisions to suppress evidence, and appellate review procedures to be followed by superior court. Amends GS 20-16.2 to revise written notice requirements and to provide that superior court review of a DMV decision to revoke a license under that section (for refusing an analysis) is not de novo, but limited to a review of the record. Authorizes the issuance of a limited driving privilege by DMV (was, a judge).

Drug Experts/Alcohol Screening. Amends Article 7 of GS Chapter 8C to add new Rule 707 to NC Evidence Code to make the testimony of drug recognition experts, horizontal gaze nystagmus test results, and opinions as to speed rendered by accident reconstruction experts admissible. Amends GS 20-16.3 to substitute the Dep't of Health and Human Services for the Commission for Health Services as the agency that approves alcohol screening tests and to expand the uses of a person's refusal to submit to a test.

Per Se Offenses and Felony Death/Injury by Vehicle. Amends GS 20-138.1 and 20-138.2 to specify that a person commits the offenses of impaired driving and driving while impaired in a commercial vehicle if the person has any amount of a Schedule I or II controlled substance in his or her blood or urine. Deletes provision in GS 20-138.1 exempting horses, bicycles, or lawnmowers from definition of vehicle. Enacts new GS 20-141.4(a3) to create new offense of felony serious injury by vehicle, a Class E felony defined as unintentionally causing serious injury to another person while engaged in the offense of impaired driving. Specifies methods of proving vehicle's gross weight.

Impaired Driving Offenses. Amends GS 20-138.3 to authorize deferred prosecutions for persons charged under that section, subject to certain mandatory conditions, including 90-day license revocation, 50 hours of community service, and substance abuse treatment. Amends GS 20-138.5 (habitual DWI) to make any offense in the previous ten years count for purposes of establishing that person has three or more prior convictions.

Admissibility of Chemical Analyses. Amends GS 20-139.1 to require courts to take judicial notice of permits and other facts involved in the administration of chemical analysis of driver's breath, blood, etc. Reduces from 0.02 to 0.01 the maximum variation allowed between two sequential breath tests. Allows admission of blood test results by affidavit, subject to objection by defendant before trial in superior or juvenile court. Establishes chain of custody requirements for blood or urine tested, and provides that a defendant may subpoena a chemical analyst only where the defendant files an affidavit listing specific objections to the chemical analysis procedure.

Medical Records/Prosecutor Reporting. Enacts new GS 90-21.20B to regulate access to medical information by law enforcement officers investigating vehicle crashes. Amends GS 20-138.4 to provide much more detailed requirements for prosecutors to follow in providing written documentation of a dismissal of an impaired driving or implied consent case.

Driving While License Revoked. Amends GS 20-48 to specify method of proof required to establish that a driver was notified of license revocation. Amends GS 20-28 to create offenses of driving with a revoked license and failing to appear for an impaired driving offense for two years. Offense is a Class 1 misdemeanor and extends license revocation. Provides for conditional restoration of license, which includes requirement of interlock in some cases.

Punishments. Amends GS 20-179 to provide that aggravating factors in impaired driving cases must be presented to jury unless defendant stipulates to the existence of the aggravating factor. Requires submission of aggravating factors after jury has determined the guilt of the defendant. Requires that any sentence of special probation of 48 hours or more be served continuously, and that jail credits against sentence must be measured in hours. Requires immediate service of any special probation sentence if court determines that person reported to jail to serve a portion of a weekend sentence with alcohol or a controlled substance in person's body unless taken in therapeutically appropriate amounts. Enacts new GS 7A-109.4 to require clerks of court to keep DWI records for at least ten years, and a permanent record of specified information.

Fines and Fees. Enacts new GS 20-179(u) to limit waiver of fees, fines, and costs in impaired driving cases. Amends GS 7A-108(c) to require clerks of court to report all persons back to court who are six months late in paying money ordered in criminal court, and to require Administrative Office of the Courts to report annually to legislature on amounts owed and collected. Enacts new GS 20-24.3 to add \$50 fee to be assessed for any person who fails to turn in license or registration plate within 10 days after being ordered to do so.

Early Release. Amends GS 15A-1371 (parole of convicted impaired drivers) to allow Parole Commission to release person to House Arrest Program as alternative to parole. Makes conforming and technical changes.

Intro. by Hackney.

Ref. to Judiciary I

GS 7A, 8C, 15A, 18B, 20, 90

June 8, 2005

H 1048. GOVERNOR'S DWI TASK FORCE RECOMMENDATIONS. Intro. 3/31/05. House committee substitute makes the following changes to 1st edition.

Permit for malt beverage keg. Makes technical changes to provisions regulating purchases of beer kegs. Amends GS 18B-403 to allow a retailer of a keg of malt beverage for off-premises consumption to issue a purchase-transportation permit and requires retailers to retain records of all permits issued for at least one year.

Pretrial civil revocation. Deletes proposed amendments regarding pretrial civil revocation.

Seizure of registration plate/interlock. Deletes proposed amendments regarding seizure of registration plates for certain people charged with impaired driving offenses and regarding interlock.

Checking stations and roadblocks. Revises proposed amendments to GS 20-16.3A (checking stations and roadblocks) as follows: (1) Requires pattern used by officers to determine which drivers are to be stopped to be either in writing or pursuant to a written policy of one of the law enforcement agencies conducting the checkpoint; (2) Requires Attorney General to develop model policy; (3) Prohibits law enforcement agencies from repeatedly conducting checks in same location if the location is near a business licensed to sell alcohol for on-premises consumption; (4) Deletes proposed amendment prohibiting judges from suppressing evidence without making a written finding that there was a substantial and willful violation of statute, not done in good faith, that also constituted a constitutional violation.

Implied consent case procedures. Rewrites proposed new GS 20-38.5, which establishes procedures applicable in district court prosecutions for implied consent offenses; (1) to provide that defendant may move to suppress evidence or dismiss charges (except based on insufficient evidence, which may be made after the trial) only before trial, unless new evidence is discovered during trial; (2) to provide that the state is entitled to a reasonable time to prepare response to these motions; (3) to allow judge to summarily deny the motion if the defendant failed to make motion before trial (unless covered by exceptions); (4) to require the judge to make written findings of fact and conclusions of law on motions and to preliminarily indicate whether motion should be granted or denied, but if judge indicates motion should be granted, judge may not enter a final judgment on the motion until after case is either appealed by the state or the state decides not to appeal. Deletes proposed GS 20-38.7 which would have specified standard of review of motions. Adds provision to GS 20-16.2 to require officers testing a defendant to report alcohol concentration results of 0.16 or more to DMV by affidavit; retains current provisions dealing with limited driving privileges and with prearrest tests under that section. Modifies the effective date of the requirement that the AOC electronically record explanation of dismissal forms.

Clarifying per se/impaired driving offenses. Retains current legal descriptions of *per se* offenses (crimes that are committed when a person drives a vehicle with a certain amount of alcohol in his or her body), in addition to language added by the bill (that the person, properly charged with an offense, submitted to a chemical analysis and the result was equal to or greater than the specified limits, which are 0.08 for most drivers, 0.04 for drivers of commercial vehicles, and 0.00 for certain other drivers). Provides that it is a defense to a charge of impaired driving committed by having certain illegal drugs in the body if those drugs were lawfully obtained and taken in therapeutically appropriate amounts. Deletes proposed amendment to GS 20-138.3 (d) which eliminated a judge's authority to issue limited driving privileges in some convictions under that section.

Admissibility of chemical test results. Revises proposed amendment to GS 20-139.1(b3), which establishes the requirements for admitting multiple breath tests into evidence, to retain the allowed amount of deviation between the two tests at 0.02. Adds amendment to GS 20-139.1 specifying that lab tests done pursuant to that section must be done in accordance with procedures adopted by SBI or certified crime lab, and deletes proposed amendment prohibiting judges from suppressing chemical analyses for violating statutory testing requirements.

Driving while license revoked. Rewrites provisions of proposed amendment to GS 20-28 (which punishes driving with a revoked license and would create a new offense of driving with a license revoked for an impaired driving offense) to specify when drivers may reapply for licenses revoked under that section. Requires drivers revoked under GS 20-16.5 who are convicted of driving during that revocation to obtain substance abuse assessment and show proof of financial responsibility in order to be relicensed, and specifies that a licensee revoked for a conviction of the new offense may not reapply for a license for at least one year, even if it is a first offense under that section. Adds new subsections (c3) and (c4) to limit the conditional restorations of

licenses of people convicted of any driving while license revoked offenses to those people convicted of the new offense created by this act; to require those drivers to obtain substance abuse assessments and show proof of financial responsibility; and, if the assessment shows the person abuses alcohol, to require the person to obtain an ignition interlock. Specifies grounds for revoking conditionally restored license.

Sentencing. Adds detailed provisions to GS 20-179 spelling out how jury will make decisions about the presence of aggravating factors. Requires new sentencing hearing in district court if there is an appeal of a conviction in district court followed by the case's being remanded back to that court, and while the case was on appeal, the defendant received additional convictions. Deletes requirement that jail maintain log of actual hours served by impaired driving defendants.

Fees and fines. Deletes proposed amendments regarding fees and fines.

Parole. Amends GS 15A-1374 to require that convicted impaired drivers who are paroled after completing treatment in prison or jail must be paroled to a residential treatment program, be placed on community service parole, or be subject to electronic house arrest. Deletes proposed amendments to GS 15A-1371(h) and (i), which would have allowed Parole Commission to release person to House Arrest Program as alternative to parole.

July 20, 2005

H 1048. GOVERNOR'S DWI TASK FORCE RECOMMENDATIONS. Intro. 3/31/05. House amendment makes the following changes to 2nd edition. Amends GS 20-138.2(a) to provide that it is unlawful for a person to drive a commercial motor vehicle while consuming alcohol or while alcohol or any controlled substance remains in person's body, except a controlled substance that was lawfully obtained and taken in therapeutically appropriate amounts (was, person prohibited from driving commercial vehicle while under influence, with an alcohol concentration of 0.04 of more, or with certain controlled substances in person's blood or urine). Repeals GS 20-138.2A (operating a commercial vehicle after consuming alcohol) and GS 20-138.2B (operating a school bus or child care vehicle after consuming alcohol). Transfers former GS 20-138.2B(b2) (alcohol screening test) to new GS 20-138.2(b2) and reinstates requirement that Comm'n for Health Services approve alcohol screening devices (2nd edition required that Dep't of Health and Human Services approve devices). Enacts new GS 20-138.2(b1) to provide that the odor of an alcoholic beverage on a driver's breath is insufficient to prove that alcohol remained in driver's body unless driver refused to take a alcohol screening test or chemical analysis. Deletes proposed provision in GS 20-138.2(d) that GS 20-139.1 (governing chemical analyses) applies to offense committed under section and instead reinstates GS 20-138.2(g), providing that GS 20-139.1 applies to impaired driving of a commercial motor vehicle. Makes technical and conforming changes.

June 27, 2006

H 1048. GOVERNOR'S DWI TASK FORCE RECOMMENDATIONS. Filed 3/30/05. Senate committee substitute makes the following changes to 3rd edition.

Part I. Regulating malt beverage kegs. (1) Adds new GS 18B-101(7b) defining "keg" as a container holding more than eight gallons of malt beverage. (2) Adds new GS 18B-403.1 to allow a person holding a keg permit to make sales of beer for off-premises consumption to issue a purchase-transportation permit to the purchaser of a keg. Requires that a copy of a purchase-transportation permit to be retained by seller for at least 30 days. Specifies that first violation will result in a warning to the permittee. Corrects statutory reference in GS 18B-303(a)(1).

Part II. Modifying the statutes on checking stations and roadblocks. (1) Incorporates provisions relating to the guidelines for patterns for stopping vehicles into new GS 20-163A(a)(2a) and adds requirement that those guidelines be included in a written policy, although provides that the policy may be either the

agency's own policy, or the policy of another law enforcement agency. Also requires that a law enforcement agency operating under another agency's policy announce that in writing.

Part III. Implied-consent pretrial and court proceedings. Makes following changes to proposed Article 2D of GS Chapter 20 (implied consent offense procedures). (1) Revises proposed GS 20-38.1 and GS 20-38.2(2) to delete references to an officer's authority to seek evidence out-of state or transport a person charged with an implied consent offense to an out-of-state location for chemical analyses. (2) Deletes provision in proposed GS 20-38.3(2) that required a magistrate to find probable cause to support an arrest for an implied consent offense if the evidence would lead a reasonable person to believe that a crime had been committed by the person charged. (3) Rewrites proposed GS 20-38.7(c) (which deals with sentencing of offenders charged with multiple offenses and the effect of appeals from district court on that process) to provide that in case of an appeal, the district court sentence is vacated and upon remand back to district court, a new sentencing hearing must be held.

Part IV. Admissibility of horizontal gaze nystagmus (HGN) and drug recognition expert testimony. (1) Deletes proposed new Evidence Rule 707 and instead incorporates similar provisions into amendments to Evidence Rule 702. (2) In new Rule 702(a1), in an impaired driving action, limits expert testimony solely on the issue of impairment and not on the issue of specific alcohol concentration relating to the results of a HGN Test to impaired driving actions, and to require that the expert be qualified under Rule 702.

Part V. Alcohol screening devices. Makes stylistic changes.

Part VI. Clarification of impaired driving offenses. (1) Revises amendment to GS 20-4.01(32)b. to restore requirement that a beach area must be used by the public for vehicular traffic to qualify as a public vehicular area (many offenses can be committed on public vehicular areas, even though the areas are not public highways). (2) Amends GS 20-4.01(45) (definition of "State") to include in the list of jurisdictions covered by that definition the tribal lands of the Eastern Band of the Cherokee Indians located within NC. (3) Revises amendments to GS 20-138.1 (impaired driving) to specify that the results of a chemical analysis (usually a breath test result) are sufficient to prove a person's alcohol concentration, and to limit to Schedule I drugs the zero tolerance portion of the impaired driving statute (under the zero tolerance portion of the impaired driving statute, a person commits the offense by driving with any amount of that drug in his or her body—the 3rd edition also applied that rule to Schedule II drugs). (4) Makes identical change to GS 20-138.2(a) concerning an impaired driving offense committed in a commercial vehicle. (5) Reinstates GS 20-138.1(e), deletes lawnmowers from the exception to the definition of "vehicle," and retains exception for a horse or bicycle. (6) Revises GS 20-138.2 (impaired driving in commercial vehicle) to reinstate original language of GS 20-138.2(a)(1) and (2). (7) Enacts new GS 20-138.1(a) and GS 20-138.2(a1) to clarify that a person who obtains his or her own blood test (in contrast to a test performed by the state for prosecution purposes) may introduce the test results to rebut evidence of an alcohol concentration above the applicable limit. Renumbers section. Deletes

repeal of GS 20-138.2A and GS 20-138.2B. (8) Deletes proposed amendment to GS 20-138.3(c) (zero alcohol tolerance for drivers under 21). Further amends GS 20-138.3(c) to make offense a Class 3 misdemeanor (was, a Class 2 misdemeanor). (9) Deletes GS 20-138.3(d)(limited driving privilege for persons under 21 (10) Amends GS 20-13(a) to require that the Division of Motor Vehicles revoke the license of a person who was under 18 years of age at the time of the offense and who was convicted of violating the provisions of GS 20-138.3 (was, all persons).

Part VII. Felony death by vehicle and injury by vehicle. Adds new GS 20-141.4(a4), (a5), and (a6) to create new offenses of aggravated felony serious injury involving impaired driving, aggravated felony death by vehicle, and repeat felony death by vehicle, punishable as Class E, D, and B2 offenses respectively.

Part VIII. Makes stylistic changes.

Part IX. Admissibility of chemical analyses. Revises proposed amendment to GS 20-139.1(c1) to delete language specifying the purposes for which the blood or urine test results may be used. Reorganizes GS 20-139.1(d1), (d2), and (d3).

Part X. Improved access to medical records in impaired driving cases. Adds new GS 8-53.1(b) to specify that notwithstanding the physician-patient or nurse privilege, a health care provider may disclose information concerning the abuse or neglect of a child under the age of 16 years or the illness of or injuries to a child to a law enforcement agency investigating a vehicle crash under new GS 90-21.20B (access to medical information for law enforcement purposes).

Part XI. Prosecutor reporting when implied-consent case is dismissed. (1) Reorganizes GS 20-138.4(b). (2) Adds new GS 7A-109.2(b) to require clerks of court to include in their electronic database specified information about impaired driving charges, alcohol-related vehicular charges, and driving with a revoked license charges that involve an alcohol-related revocation, including reasons for dismissals, evidence suppression, or continuances, alcohol concentrations, punishment imposed, dates of compliance, and any subsequent proceedings. (3) Enacts new GS 7A-346.3 to require the Administrative Office of the Courts to maintain that information in its database and to report to the legislature annually on the cases included in the database. New GS 7A-109.2(b) and GS 7A-346.3 are not effective until the Administrative Office of the courts revises its criminal information system.

Part XII. Notice procedures and driving while license revoked after failure to appear. (1) Reorganizes GS 20-28(c3) and makes stylistic changes to section. (2) Amends GS 20-17(a)(2) to delete the authority of the Division of Motor Vehicles to revoke a driver's license for a conviction of impaired driving in a commercial vehicle. (3) Enacts new GS 20-17.8(l) to allow a person subject to ignition interlock provisions of that section to be exempted upon proof of medical inability to use interlock device.

Part XIII. Modifying current punishments. (1) Amends GS 20-179(s) to require local jails to maintain a log showing the number of hours served by a person sentenced to a local jail for an impaired driving conviction. Makes stylistic

changes throughout GS 20-179 and reorganizes GS 20-179(s) and GS 20-179(a2).

Part XIV. Persons under age 21 Reorganizes proposed amendments to GS 18B-302.

Part XVI. Prohibiting switching of permits. Enacts new GS 18B-1003(c)(5) to prohibit an alcoholic beverage permittee from knowingly employing a permit holder whose permit has been revoked in the previous three years.

Part XVII. DWI training for judges. Adds new GS 7A-10.2 to require judges and justices of the General Court of Justice to attend continuing judicial education as prescribed by the NC Supreme Court, and to require every justice and judge to attend two hours of impaired driving instruction every two years.

Part XVIII. DA signature. (1) Enacts new GS 15A-1420(a)(4) to prohibit a district court from granting a motion for appropriate relief without the district attorney's (DA) signature indicating that the DA's office has had an opportunity to consent or object to the motion. (2) Enacts new GS 7A-304(f), effective October 1, 2006, to allow a district attorney to dismiss specified motor vehicle offenses in lieu of payment of fines or the making of court appearances upon the payment of court costs of \$50 and proof that defendant is "in compliance" with the statute in question. Makes conforming change to GS 7A-304(a). (3) Adds new GS 162-62 to require jailers to make a reasonable effort to determine the nationality of any person confined in jail on a felony or impaired driving charge; if defendant is a foreign national, requires the jailer to make a reasonable effort to verify that the person is lawfully admitted to the United States. After 48 hours, the jailer must contact the US Department of Homeland Security to determine the person's status. If the person confined is unlawfully present in the US, the jailer must notify the Department of Homeland Security. Specifies that the new procedure is not to be used to deny bond to a person charged.

June 30, 2006

H 1048. GOVERNOR'S DWI TASK FORCE RECOMMENDATIONS. Filed 3/30/05. Senate committee substitute makes the following changes to 4th edition. Rewrites title to provide more detailed description of bill's contents. Adds provision that act will be known as "The Motor Vehicle Driver Protection Act of 2006." Provides that new compliance dismissal provisions in GS 7A-304 apply to offenses committed on or after October 1, 2006. Rewrites GS 20-13.2(a) to require the Division of Motor Vehicles to revoke the license of a person who is convicted of GS 20-138.3 (driving by person less than 21 years old after consuming alcohol or drugs), if the person was less than 18 years of age at the time of the offense. Rewrites GS 20-13.2(b) and (c) to lower from 21 to 18 the age at the time of the offense below which a person's license must be revoked if the person is convicted of an offense involving impaired driving or refuses to submit to a chemical analysis pursuant to GS 20-16.2.

July 26, 2006

H 1048. GOVERNOR'S DWI TASK FORCE RECOMMENDATIONS. Filed 3/30/05. Conference report recommends the following changes to 5th edition to reconcile matters in controversy. Makes following changes to fifth edition: (1) Redefines the term "keg" in new GS 18B-101(7b) as a portable container designed to hold and dispense 7.75 gallons or more (was, more than 8 gallons) of malt beverage. (2) Rewrites new GS 18B-403.1(b) to require rather than allow a permittee to issue a purchase-transportation permit to a purchaser for kegs of malt beverage and require that a copy of the permit be maintained by the permittee for 90 (was, 30) days or longer upon request. (3) Rewrites proposed amendment to GS 20-16.3A to specify that the pattern of

stopping vehicles for a particular vehicle checkpoint need not be in writing, but retains provision requiring the policy that provides guidelines for establishing the pattern be in writing. Specifies that placement of checkpoints should be random or statistically indicated, and that failure of a law enforcement agency to follow that rule is not grounds for suppression of evidence or a defense to a charge arising out of a checkpoint's operation. (4) Amends proposed GS 20-38.2 to allow an investigating officer to seek evidence related to an implied-consent offense or a vehicle crash out of state, but not to make an arrest out of state. (5) Modifies proposed revision to Rule of Evidence #702 to remove a provision limiting the authorized impairment testimony to impaired driving actions. (6) Deletes "bicycle" from the list of conveyances exempted from DWI, thereby making bicycle riders subject to DWI charges under GS 20-138.1 (horse is only conveyance that remains excluded). (7) Except for an amendment to GS 20-138.3(b2), deletes proposed amendments to GS 20-138.3 (which makes it unlawful for underage drivers to drink any alcohol and drive). (8) Amends new GS 20-141.4(a6) to include as a qualifying previous conviction for repeat felony death by vehicle offender a first or second degree murder or voluntary manslaughter conviction where the basis for the former conviction, as determined from face of the indictment, was unintentional death of another person while engaged in the offense of impaired driving. (9) Deletes nine types of information the 5th edition required clerks to include in electronic records of impaired driving offenses; new GS 7A-109.2(b) as rewritten requires inclusion of only the following additional information: (a) the reasons for any pre-trial dismissal by the court; (b) the alcohol concentration reported to the charging officer or chemical analyst; and (c) the reasons for any suppression of evidence. (10) Amends new GS 20-28(c3) to specify that new (c4) provisions for conditional restoration of license apply to persons whose licenses are revoked for the offense of driving while license revoked (was, driving without reclaiming license). (11) Deletes from new GS 20-28(c5) a provision requiring cancellation of all registrations in a driver's name upon certain violations after a conditional license restoration. (12) Rewrites proposed amendment to GS 20-17(a)(2) to require license revocation for persons convicted of impaired driving in a commercial vehicle when those persons have alcohol concentrations of 0.06 or higher, and specifies that the results of a chemical analysis are conclusive for the purpose of making the determination of whether the license should be revoked. (13) Rewrites section 2a on continuing education for judges on impaired driving issues to request the Chief Justice of the North Carolina Supreme Court to encourage judges to obtain appropriate training on the subject and to adopt any rules necessary to ensure that judges receive adequate training on this issue. (14) Amends various portions of the impaired driving vehicle forfeiture laws (GS 20-28.2, et. seq.) to make those laws applicable to persons charged with impaired driving who, at the time of the offense, do not have a drivers license and are also driving a vehicle on which there is no insurance. (15) Rewrites proposed amendment to GS 18B-1003(c), which prohibits the hiring of certain employees by alcoholic beverage permit holders, to prohibit the hiring of a person who previously held a permit for the same location if the permit was revoked within the last 18 months (was, 3 years). (16) Deletes provision imposing \$50 compliance fee for certain specified traffic offenses, in which a person whose case is dismissed pays the fee. (17) Deletes provision requiring jailers to try to determine nationality of any person arrested and to determine legal status of any foreign national in custody. (18) Makes new provisions of GS 20-138.4 effective December 1, 2006, other than provisions requiring electronic recording of certain data by the Administrative Office of the Courts, which are effective after the next rewrite of the superior clerks court system. (19) Makes numerous technical changes to correct statutory citations or to make minor word changes and makes conforming changes to title.

August 22, 2006

SL 2006-253 (H 1048). GOVERNOR'S DWI TASK FORCE RECOMMENDATIONS. AN ACT TO PROVIDE: (1) IMPROVED DETECTION OF IMPAIRED DRIVERS ON THE STATE'S ROADS AND HIGHWAYS; (2) IMPROVED METHODS OF DETERMINING HOW UNDERAGE DRIVERS OBTAIN ALCOHOL; (3) PROCEDURES FOR INVESTIGATING, ARRESTING, CHARGING, AND JUDICIAL PROCESSING OF IMPAIRED DRIVING OFFENSES; (4) RULES FOR THE COURTROOM ADMISSION OF EVIDENCE THAT IS RELEVANT TO IMPAIRED DRIVING OFFENSES; (5) CLARIFICATION ON WHEN A DRIVER IS GUILTY OF DRIVING

WHILE IMPAIRED; (6) AGGRAVATED PENALTIES FOR OFFENDERS WHO SERIOUSLY INJURE OR KILL WHEN DRIVING WHILE IMPAIRED; (7) A SYSTEM OF REPORTING BY STATE PROSECUTORS AND THE COURTS ON THE DISPOSITION OF IMPAIRED DRIVING OFFENSES; (8) ELECTRONIC MONITORING AFTER AN IMPAIRED DRIVER HAS BEEN RELEASED FROM CONFINEMENT; (9) FOR THE SEIZURE AND FORFEITURE OF THE VEHICLE WHERE A PERSON IS DRIVING WHILE IMPAIRED WITHOUT A LICENSE OR INSURANCE; (10) OTHER MEASURES DESIGNED TO IMPROVE THE SAFETY OF THE MOTORING PUBLIC OF NORTH CAROLINA; AND TO PROVIDE THAT THE ACT SHALL BE KNOWN AS "THE MOTOR VEHICLE DRIVER PROTECTION ACT OF 2006." Summarized in *Daily Bulletin* 3/31/05, 6/8/05, 7/20/05, 6/27/06, 6/30/06, and 7/26/06. Enacted August 21, 2006. Sections 20.1, 20.2, and the requirement that the AOC electronically record certain data contained in subsection (c) of GS 20-138.4, as amended by Section 19, are effective after the next rewrite of the superior court clerks system by the AOC. The remainder is effective December 1, 2006.