

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 131
PROPOSED COMMITTEE SUBSTITUTE S131-PCS85185-RC-1

Short Title: Penalty for DWI Conviction/BAC .20 or Higher.

(Public)

Sponsors:

Referred to:

February 12, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT A PERSON CONVICTED OF DRIVING WHILE
IMPAIRED BE IMPRISONED FOR A PERIOD OF TWENTY-FOUR HOURS IN A
CONFINEMENT FACILITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-179(i) reads as rewritten:

"(i) Level Three Punishment. – A defendant subject to Level Three punishment may be fined up to one thousand dollars (\$1,000) and shall be sentenced to a term of imprisonment that includes a minimum term of not less than 72 hours and a maximum term of not more than six months. The term of imprisonment may be suspended. However, the suspended sentence shall include the condition that the defendant:

- (1) Be imprisoned for a term of at least 72 hours as a condition of special probation; or
- (2) Perform community service for a term of at least 72 hours; or
- (3) Repealed by Session Laws 2006-253, s. 23, effective December 1, 2006, and applicable to offenses committed on or after that date.
- (4) Any combination of these conditions.

If the defendant is placed on probation, the judge shall impose a requirement that the defendant obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation.

If the judge, or a jury in superior court, determines that the defendant has an alcohol concentration of 0.20 or more within a relevant time after the driving, any suspended sentence imposed shall include a condition of special probation to require the defendant to serve a term of imprisonment of at least 24 hours. For purposes of this subsection, the results of a chemical analysis presented at trial or sentencing shall be sufficient to prove the person's alcohol concentration, shall be conclusive, and shall not be subject to modification by any party, with or without approval of the court."

SECTION 2. G.S. 20-179(j) reads as rewritten:

(j) Level Four Punishment. – A defendant subject to Level Four punishment may be fined up to five hundred dollars (\$500.00) and shall be sentenced to a term of imprisonment that includes a minimum term of not less than 48 hours and a maximum term of not more than 120 days. The term of imprisonment may be suspended. However, the suspended sentence shall include the condition that the defendant:



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- 1 (1) Be imprisoned for a term of 48 hours as a condition of special probation; or
- 2 (2) Perform community service for a term of 48 hours; or
- 3 (3) Repealed by Session Laws 2006-253, s. 23, effective December 1, 2006, and
- 4 applicable to offenses committed on or after that date.
- 5 (4) Any combination of these conditions.

6 If the defendant is placed on probation, the judge shall impose a requirement that the
7 defendant obtain a substance abuse assessment and the education or treatment required by
8 G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge
9 may impose any other lawful condition of probation.

10 If the judge, or a jury in superior court, determines that the defendant has an alcohol
11 concentration of 0.20 or more within a relevant time after the driving, any suspended sentence
12 imposed shall include a condition of special probation to require the defendant to serve a term
13 of imprisonment of at least 24 hours. For purposes of this subsection, the results of a chemical
14 analysis presented at trial or sentencing shall be sufficient to prove the person's alcohol
15 concentration, shall be conclusive, and shall not be subject to modification by any party, with
16 or without approval of the court."

17 **SECTION 3.** G.S. 20-179(k) reads as rewritten:

18 (k) Level Five Punishment. – A defendant subject to Level Five punishment may be
19 fined up to two hundred dollars (\$200.00) and shall be sentenced to a term of imprisonment
20 that includes a minimum term of not less than 24 hours and a maximum term of not more than
21 60 days. The term of imprisonment may be suspended. However, the suspended sentence shall
22 include the condition that the defendant:

- 23 (1) Be imprisoned for a term of 24 hours as a condition of special probation; or
- 24 (2) Perform community service for a term of 24 hours; or
- 25 (3) Repealed by Session Laws 2006-253, s. 23, effective December 1, 2006, and
- 26 applicable to offenses committed on or after that date.
- 27 (4) Any combination of these conditions.

28 If the defendant is placed on probation, the judge shall impose a requirement that the
29 defendant obtain a substance abuse assessment and the education or treatment required by
30 G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge
31 may impose any other lawful condition of probation.

32 If the judge, or a jury in superior court, determines that the defendant has an alcohol
33 concentration of 0.20 or more within a relevant time after the driving, any suspended sentence
34 imposed shall include a condition of special probation to require the defendant to serve a term
35 of imprisonment of 24 hours. For purposes of this subsection, the results of a chemical analysis
36 presented at trial or sentencing shall be sufficient to prove the person's alcohol concentration,
37 shall be conclusive, and shall not be subject to modification by any party, with or without
38 approval of the court."

39 **SECTION 4.** This act becomes effective December 1, 2009, and applies to
40 offenses committed on or after that date.