

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 591  
PROPOSED COMMITTEE SUBSTITUTE H591-PCS30355-SA-38

Short Title: LDP/Ignition Interlock Changes.

(Public)

Sponsors:

Referred to:

April 5, 2011

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE A LIMITED DRIVING PRIVILEGE WITH AN IGNITION INTERLOCK REQUIREMENT FOR FIRST-TIME DWI OFFENDERS WITH A REFUSAL REVOCATION, TO AUTHORIZE A LIMITED DRIVING PRIVILEGE FOR CERTAIN EIGHTEEN-, NINETEEN-, AND TWENTY-YEAR-OLDS, TO MAKE TAMPERING WITH AN IGNITION INTERLOCK SYSTEM AN UNLAWFUL ACT, AND TO PROVIDE FOR THE PAYMENT OF AN ADMINISTRATIVE FEE AND COSTS ASSOCIATED WITH AN IGNITION INTERLOCK SYSTEM AND CREATE AN IGNITION INTERLOCK DEVICE FUND TO ASSIST INDIGENT PERSONS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-16.2(e1) reads as rewritten:

"(e1) Limited Driving Privilege after Six Months in Certain Instances. – A person whose driver's license has been revoked under this section may apply for and a judge authorized to do so by this subsection may issue a limited driving privilege if:

- (1) At the time of the refusal the person held either a valid drivers license or a license that had been expired for less than one year;
- (2) At the time of the refusal, the person had not within the preceding seven years been convicted of an offense involving impaired driving;
- (3) At the time of the refusal, the person had not in the preceding seven years willfully refused to submit to a chemical analysis under this section;
- (4) The implied consent offense charged did not involve death or critical injury to another person;
- (5) The underlying charge for which the defendant was requested to submit to a chemical analysis has been finally disposed of:
  - a. Other than by conviction; or
  - b. By a conviction of impaired driving under G.S. 20-138.1, at a punishment level authorizing issuance of a limited driving privilege under G.S. 20-179.3(b), and the defendant has complied with at least one of the mandatory conditions of probation listed for the punishment level under which the defendant was sentenced;
- (6) Subsequent to the refusal the person has had no unresolved pending charges for or additional convictions of an offense involving impaired driving;



\* H 5 9 1 - P C S 3 0 3 5 5 - S A - 3 8 \*

- 1 (7) The person's license has been revoked for at least six months for the  
2 ~~refusal;~~refusal or the person has been issued a limited driving privilege  
3 issued pursuant to subsection (e2) of this section; and  
4 (8) The person has obtained a substance abuse assessment from a mental health  
5 facility and successfully completed any recommended training or treatment  
6 program.

7 Except as modified in this subsection, the provisions of G.S. 20-179.3 relating to the procedure  
8 for application and conduct of the hearing and the restrictions required or authorized to be  
9 included in the limited driving privilege apply to applications under this subsection. If the case  
10 was finally disposed of in the district court, the hearing shall be conducted in the district court  
11 district as defined in G.S. 7A-133 in which the refusal occurred by a district court judge. If the  
12 case was finally disposed of in the superior court, the hearing shall be conducted in the superior  
13 court district or set of districts as defined in G.S. 7A-41.1 in which the refusal occurred by a  
14 superior court judge. A limited driving privilege issued under this section authorizes a person to  
15 drive if the person's license is revoked solely under this section or solely under this section and  
16 G.S. 20-17(2). If the person's license is revoked for any other reason, the limited driving  
17 privilege is invalid."

18 **SECTION 2.** G.S. 20-16.2 is amended by adding a new subsection to read:

19 "(e2) Limited Driving Privilege for First Offenders in Certain Instances. – A person  
20 whose drivers license has been revoked under this section may apply for, and a judge  
21 authorized to do so by this subsection may issue, a limited driving privilege if:

- 22 (1) At the time of the refusal, the person held either a valid drivers license or a  
23 license that had been expired for less than one year.  
24 (2) At the time of the refusal, the person had never been convicted of an offense  
25 involving impaired driving.  
26 (3) At the time of the refusal, the person had never willfully refused to submit to  
27 a chemical analysis under this section.  
28 (4) The implied consent offense charged did not involve death or critical injury  
29 to another person.  
30 (5) The underlying charge for which the defendant was requested to submit to a  
31 chemical analysis is still pending before the district or superior court.  
32 (6) Subsequent to the refusal, the person has had no unresolved pending charges  
33 for or additional convictions of an offense involving impaired driving.  
34 (7) The person has completed any period of revocation required pursuant to  
35 G.S. 20-16.5.  
36 (8) The person has obtained a substance abuse assessment from a mental health  
37 facility and successfully completed any recommended training or treatment  
38 program.  
39 (9) The limited driving privilege issued includes all of the following:  
40 a. A restriction that the applicant may operate only a designated motor  
41 vehicle.  
42 b. A requirement that the designated motor vehicle be equipped with a  
43 functioning ignition interlock system of a type approved by the  
44 Commissioner, which is set to prohibit driving with an alcohol  
45 concentration of greater than 0.00.  
46 c. A requirement that the applicant personally activate the ignition  
47 interlock system before driving the motor vehicle.

48 Except as modified in this subsection, the provisions of G.S. 20-179.3 relating to the procedure  
49 for application and conduct of the hearing and the restrictions required or authorized to be  
50 included in the limited driving privilege apply to applications under this subsection. If the  
51 underlying charge is pending in district court, the hearing shall be conducted by a district court

1 judge in the district court district in which the underlying charge is pending. If the underlying  
2 charge is pending in superior court, the hearing shall be conducted by a superior court judge in  
3 the superior court district in which the underlying charge is pending. A limited driving  
4 privilege issued under this subsection authorizes a person to drive if the person's license is  
5 revoked solely under this section. If the person's license is revoked for any other reason, the  
6 limited driving privilege is invalid. A limited driving privilege issued under this subsection  
7 terminates upon final disposition of the underlying charge for which the defendant was  
8 requested to submit to a chemical analysis."

9 **SECTION 3.** G.S. 20-179.3(b) reads as rewritten:

10 "(b) Eligibility. –

- 11 (1) A person convicted of the offense of impaired driving under G.S. 20-138.1 is  
12 eligible for a limited driving privilege if:
- 13 a. At the time of the offense he held either a valid driver's license or a  
14 license that had been expired for less than one year;
  - 15 b. At the time of the offense he had not within the preceding seven  
16 years been convicted of an offense involving impaired driving;
  - 17 c. Punishment Level Three, Four, or Five was imposed for the offense  
18 of impaired driving;
  - 19 d. Subsequent to the offense he has not been convicted of, or had an  
20 unresolved charge lodged against him for, an offense involving  
21 impaired driving; and
  - 22 e. The person has obtained and filed with the court a substance abuse  
23 assessment of the type required by G.S. 20-17.6 for the restoration of  
24 a drivers license.

25 A person whose North Carolina driver's license is revoked because of a conviction in  
26 another jurisdiction substantially similar to impaired driving under G.S. 20-138.1 is eligible for  
27 a limited driving privilege if he would be eligible for it had the conviction occurred in North  
28 Carolina. A person who is 18, 19, or 20 years of age is eligible for a limited driving privilege  
29 under this section unless the person has a prior conviction under G.S. 20-138.1. Eligibility for a  
30 limited driving privilege following a revocation under G.S. 20-16.2(d) is governed by  
31 G.S. 20-16.2(e1); G.S. 20-16.2(e1) and (e2)."

32 **SECTION 4.** G.S. 20-179.3(e) reads as rewritten:

33 "(e) Limited Basis for and Effect of Privilege. – A limited driving privilege issued under  
34 this section authorizes a person to drive if his license is revoked solely under  
35 G.S. 20-17(a)(2); G.S. 20-17(a)(2), solely under G.S. 20-17(a)(2) and G.S. 20-13.2(b), or as  
36 result of a conviction in another jurisdiction substantially similar to impaired driving under  
37 G.S. 20-138.1; if G.S. 20-138.1. If the person's license is revoked under any other statute, the  
38 limited driving privilege is invalid."

39 **SECTION 5.** Article 3 of Chapter 20 of the General Statutes is amended by adding  
40 a new section to read:

41 **§ 20-17.8B. Tampering with ignition interlock systems.**

42 Any person who tampers with, circumvents, or attempts to circumvent an ignition interlock  
43 device required to be installed on a motor vehicle pursuant to judicial order, statute, or as may  
44 be otherwise required as a condition for an individual to operate a motor vehicle, for the  
45 purpose of avoiding or altering testing on the ignition interlock device in the operation or  
46 attempted operation of a vehicle, or altering the testing results received or results in the process  
47 of being received on the ignition interlock device, is guilty of a Class 1 misdemeanor. Each act  
48 of tampering, circumvention, or attempted circumvention under this statute shall constitute a  
49 separate violation."

50 **SECTION 6.** Article 3 of Chapter 20 of the General Statutes is amended by adding  
51 a new section to read:

1 "§ 20-179.5. Ignition interlock; administrative fee and costs for installation and  
2 monitoring; Ignition Interlock Device Fund.

3 (a) The costs incurred in order to comply with the ignition interlock requirements  
4 imposed by the court pursuant to this Article, including costs for installation and monitoring of  
5 the ignition interlock system, shall be paid by the person ordered to install the system. The  
6 person also shall pay an ignition interlock administrative fee, in an amount which shall be  
7 determined by the Division and which shall be not less than thirty dollars (\$30.00) nor more  
8 than sixty dollars (\$60.00). The administrative fee shall be collected at the time of installation  
9 by the vendor installing the ignition interlock system. Costs for installation and monitoring of  
10 the ignition interlock system shall be collected under terms agreed upon by the vendor and the  
11 person required to install the ignition interlock system.

12 (b) The vendor shall remit fees collected pursuant to subsection (a) of this section to the  
13 Division on a quarterly basis. Fifty percent (50%) of the fees collected shall be used to pay  
14 costs incurred by the Division in administering the interlock program; the remaining fifty  
15 percent (50%) of the fees shall be deposited in the Ignition Interlock Device Fund.

16 (c) There is created in the Department of Transportation the Ignition Interlock Device  
17 Fund to be used for the purpose of installing and removing the ignition interlock systems of  
18 persons deemed by the court to be indigent. If the court determines that the convicted person is  
19 unable to pay for the installation of an ignition interlock system, the court may order that the  
20 Division pay the cost of installation out of the Ignition Interlock Device Fund, provided the  
21 person agrees to pay the required costs for monitoring the system."

22 **SECTION 7.** Section 6 of this act becomes effective December 1, 2012. The  
23 remainder of this act becomes effective December 1, 2012, and applies to offenses committed  
24 on or after that date and to limited driving privileges issued and drivers licenses restored on or  
25 after that date.