

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

H.B. 536  
Apr 3, 2013  
HOUSE PRINCIPAL CLERK

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HOUSE DRH10189-MLf-109D (03/05)

Short Title: Ignition Interlock Req'd/All DWIs.

(Public)

Sponsors: Representative Faircloth.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ANYONE WHO IS CONVICTED OF DRIVING WHILE IMPAIRED, DRIVING AFTER CONSUMING ALCOHOL BEING LESS THAN TWENTY-ONE YEARS OF AGE, OR ANY OTHER IMPAIRED DRIVING OFFENSE, OR ANY PERSON WHO REFUSES A CHEMICAL ANALYSIS, TO HAVE AN IGNITION INTERLOCK SYSTEM INSTALLED ON EVERY VEHICLE THAT PERSON MAY DRIVE BEFORE THAT PERSON CAN GET A LIMITED DRIVING PRIVILEGE; TO PROVIDE THAT A PERSON WHO APPLIES FOR LIMITED DRIVING PRIVILEGES WAIVES HIS OR HER RIGHT TO CERTAIN HEARINGS TO CONTEST THE VALIDITY OF THE REVOCATION; 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(c1) reads as rewritten:

"(c1) Procedure for Reporting Results and Refusal to Division. – Whenever a person refuses to submit to a chemical analysis, a person has an alcohol concentration of ~~0.15~~0.08 or more, or a person's drivers license has an alcohol concentration restriction and the results of the chemical analysis establish a violation of the restriction, the law enforcement officer and the chemical analyst shall without unnecessary delay go before an official authorized to administer oaths and execute an affidavit(s) stating that:

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

If the person's drivers license has an alcohol concentration restriction, pursuant to G.S. 20-19(c3), and an officer has reasonable grounds to believe the person has violated a provision of that restriction other than violation of the alcohol concentration level, the officer and chemical analyst shall complete the applicable sections of the affidavit and indicate the



1 restriction which was violated. The officer shall immediately mail the affidavit(s) to the  
2 Division. If the officer is also the chemical analyst who has notified the person of the rights  
3 under subsection (a), the officer may perform alone the duties of this subsection."

4 **SECTION 2.** G.S. 20-16.2(d) reads as rewritten:

5 "(d) Consequences of Refusal; Right to Hearing before Division; Issues. – Upon receipt  
6 of a properly executed affidavit required by subsection (c1), the Division shall expeditiously  
7 notify the person charged that the person's license to drive is revoked for 12 months, effective  
8 on the tenth calendar day after the mailing of the revocation order unless, before the effective  
9 date of the order, the person requests in writing a hearing before the ~~Division~~Division or  
10 applies for limited driving privileges pursuant to subsection (e1) of this section. A person who  
11 chooses to apply for limited driving privileges pursuant to subsection (e1) of this section  
12 instead of requesting a hearing before the Division waives his or her right to a hearing before  
13 the Division. Except for the time referred to in G.S. 20-16.5, if the person requests in writing a  
14 hearing before the Division and shows to the satisfaction of the Division that his or her license  
15 was surrendered to the court, and remained in the court's possession, then the Division shall  
16 credit the amount of time for which the license was in the possession of the court against the  
17 12-month revocation period required by this subsection. If the person properly requests a  
18 ~~hearing,~~hearing or applies for limited driving privileges pursuant to subsection (e1) of this  
19 section before the effective date of the order, the person retains his or her license, unless it is  
20 revoked under some other provision of law, until the hearing is held, the person withdraws the  
21 request, ~~or~~ the person fails to appear at a scheduled ~~hearing,~~hearing, or the person withdraws  
22 his or her application for limited driving privileges. The hearing officer may subpoena any  
23 witnesses or documents that the hearing officer deems necessary. The person may request the  
24 hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at the  
25 hearing if the person makes the request in writing at least three days before the hearing. The  
26 person may subpoena any other witness whom the person deems necessary, and the provisions  
27 of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the  
28 authority of this section. The hearing officer is authorized to administer oaths to witnesses  
29 appearing at the hearing. The hearing shall be conducted in the county where the charge was  
30 brought, and shall be limited to consideration of whether:

- 31 (1) The person was charged with an implied-consent offense or the driver had an  
32 alcohol concentration restriction on the drivers license pursuant to  
33 G.S. 20-19;
- 34 (2) A law enforcement officer had reasonable grounds to believe that the person  
35 had committed an implied-consent offense or violated the alcohol  
36 concentration restriction on the drivers license;
- 37 (3) The implied-consent offense charged involved death or critical injury to  
38 another person, if this allegation is in the affidavit;
- 39 (4) The person was notified of the person's rights as required by subsection (a);  
40 and
- 41 (5) The person willfully refused to submit to a chemical analysis.

42 If the Division finds that the conditions specified in this subsection are met, it shall order the  
43 revocation sustained. If the Division finds that any of the conditions (1), (2), (4), or (5) is not  
44 met, it shall rescind the revocation. If it finds that condition (3) is alleged in the affidavit but is  
45 not met, it shall order the revocation sustained if that is the only condition that is not met; in  
46 this instance subsection (d1) does not apply to that revocation. If the revocation is sustained,  
47 the person shall surrender his or her license immediately upon notification by the Division."

48 **SECTION 3.** G.S. 20-16.2(e1) reads as rewritten:

49 "(e1) Limited Driving Privilege ~~after Six Months~~ in Certain Instances. – A person whose  
50 driver's license has been revoked under this section may apply for and a judge authorized to do

1 so by this subsection may issue a limited driving privilege ~~if~~ if all of the following  
 2 requirements are met:

- 3 (1) At the time of the refusal the person held either a valid drivers license or a  
 4 license that had been expired for less than one ~~year;~~ year.  
 5 (2) ~~At the time of the refusal, the person had not within the preceding seven~~  
 6 ~~years been convicted of an offense involving impaired driving;~~  
 7 (3) ~~At the time of the refusal, the person had not in the preceding seven years~~  
 8 ~~willfully refused to submit to a chemical analysis under this section;~~  
 9 (4) The implied consent offense charged did not involve death or critical injury  
 10 to another ~~person;~~ person.  
 11 (5) The underlying charge for which the defendant was requested to submit to a  
 12 chemical analysis has been finally disposed of:  
 13 a. Other than by conviction; or  
 14 b. By a conviction of impaired driving under G.S. 20-138.1, at a  
 15 punishment level authorizing issuance of a limited driving privilege  
 16 under G.S. 20-179.3(b), and the defendant has complied with at least  
 17 one of the mandatory conditions of probation listed for the  
 18 punishment level under which the defendant was sentenced;  
 19 (6) Subsequent to the refusal the person has had no unresolved pending charges  
 20 for or additional convictions of an offense involving impaired  
 21 ~~driving;~~ driving.  
 22 (7) ~~The person's license has been revoked for at least six months for the refusal;~~  
 23 ~~and~~  
 24 (8) The person has obtained a substance abuse assessment from a mental health  
 25 facility and successfully completed any recommended training or treatment  
 26 program.  
 27 (9) All vehicles that the person will be authorized to drive have been equipped  
 28 with a type of ignition interlock system approved by the Commissioner.  
 29 (10) The person applied for limited driving privileges under this subsection  
 30 before the effective date of the revocation order issued pursuant to this  
 31 section.

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

43 **SECTION 4.** G.S. 20-16.5 reads as rewritten:

44 "**§ 20-16.5. Immediate civil license revocation for certain persons charged with**  
 45 **implied-consent offenses.**

46 ...

47 (g) Hearing before Magistrate or Judge if Person Contests Validity of Revocation. – A  
 48 person whose license is revoked under this section may request in writing a hearing to contest  
 49 the validity of the ~~revocation~~ revocation or apply for limited driving privileges pursuant to  
 50 subsection (p) of this section. A person who chooses to apply for limited driving privileges  
 51 pursuant to subsection (p) of this section instead of requesting a hearing under this subsection

1 (i) must apply for limited driving privileges within 10 days of the effective date of the  
2 revocation and (ii) waives his or her right to a hearing under this subsection to contest the  
3 validity of the revocation. The request for a hearing to contest the validity of the revocation  
4 may be made at the time of the person's initial appearance, or within 10 days of the effective  
5 date of the revocation to the clerk or a magistrate designated by the clerk, and may specifically  
6 request that the hearing be conducted by a district court judge. The Administrative Office of the  
7 Courts must develop a hearing request form for any person requesting a hearing. Unless a  
8 district court judge is requested, the hearing must be conducted within the county by a  
9 magistrate assigned by the chief district court judge to conduct such hearings. If the person  
10 requests that a district court judge hold the hearing, the hearing must be conducted within the  
11 district court district as defined in G.S. 7A-133 by a district court judge assigned to conduct  
12 such hearings. The revocation remains in effect pending the hearing, but the hearing must be  
13 held within three working days following the request if the hearing is before a magistrate or  
14 within five working days if the hearing is before a district court judge. The request for the  
15 hearing must specify the grounds upon which the validity of the revocation is challenged and  
16 the hearing must be limited to the grounds specified in the request. A witness may submit his  
17 evidence by affidavit unless he is subpoenaed to appear. Any person who appears and testifies  
18 is subject to questioning by the judicial official conducting the hearing, and the judicial official  
19 may adjourn the hearing to seek additional evidence if he is not satisfied with the accuracy or  
20 completeness of evidence. The person contesting the validity of the revocation may, but is not  
21 required to, testify in his own behalf. Unless contested by the person requesting the hearing, the  
22 judicial official may accept as true any matter stated in the revocation report. If any relevant  
23 condition under subsection (b) is contested, the judicial official must find by the greater weight  
24 of the evidence that the condition was met in order to sustain the revocation. At the conclusion  
25 of the hearing the judicial official must enter an order sustaining or rescinding the revocation.  
26 The judicial official's findings are without prejudice to the person contesting the revocation and  
27 to any other potential party as to any other proceedings, civil or criminal, that may involve facts  
28 bearing upon the conditions in subsection (b) considered by the judicial official. The decision  
29 of the judicial official is final and may not be appealed in the General Court of Justice. If the  
30 hearing is not held and completed within three working days of the written request for a hearing  
31 before a magistrate or within five working days of the written request for a hearing before a  
32 district court judge, the judicial official must enter an order rescinding the revocation, unless  
33 the person contesting the revocation contributed to the delay in completing the hearing. If the  
34 person requesting the hearing fails to appear at the hearing or any rescheduling thereof after  
35 having been properly notified, he forfeits his right to a hearing.

36 ...

37 (p) Limited Driving Privilege. – A person whose drivers license has been revoked for a  
38 specified period of 30 or 45 days under this section may apply for a limited driving privilege  
39 if all of the following requirements are met:

- 40 (1) At the time of the alleged offense the person held either a valid drivers  
41 license or a license that had been expired for less than one ~~year;~~year.
- 42 (2) Does not have an unresolved pending charge involving impaired driving  
43 except the charge for which the license is currently revoked under this  
44 section or additional convictions of an offense involving impaired driving  
45 since being charged for the violation for which the license is currently  
46 revoked under this ~~section;~~section.
- 47 (3) ~~The person's license has been revoked for at least 10 days if the revocation is~~  
48 ~~for 30 days or 30 days if the revocation is for 45 days; and~~
- 49 (4) The person has obtained a substance abuse assessment from a mental health  
50 facility and registers for and agrees to participate in any recommended  
51 training or treatment program.

- 1           (5) All vehicles that the person will be authorized to drive have been equipped  
2           with a type of ignition interlock system approved by the Commissioner.  
3           (6) The person applied for limited driving privileges under this subsection  
4           within 10 days of the effective date of the revocation order issued pursuant  
5           to this section.

6           A person whose license has been indefinitely revoked under this section may, after  
7 completion of 30 days under subsection (e) or the applicable period of time under subdivision  
8 (1), (2), or (3) of subsection (f), apply for a limited driving privilege. In the case of an indefinite  
9 revocation, a judge of the division in which the current offense is pending may issue the limited  
10 driving privilege only if ~~the privilege is necessary to overcome undue hardship and~~ the person  
11 meets the eligibility requirements of G.S. 20-179.3, except that the requirements in  
12 G.S. 20-179.3(b)(1)c. and G.S. 20-179.3(e) shall not apply. Except as modified in this  
13 subsection, the provisions of G.S. 20-179.3 relating to the procedure for application and  
14 conduct of the hearing and the restrictions required or authorized to be included in the limited  
15 driving privilege apply to applications under this subsection. Any district court judge  
16 authorized to hold court in the judicial district is authorized to issue such a limited driving  
17 privilege. A limited driving privilege issued under this section authorizes a person to drive if  
18 the person's license is revoked solely under this section. If the person's license is revoked for  
19 any other reason, the limited driving privilege is invalid."

20           **SECTION 5.** G.S. 20-17.8 reads as rewritten:

21 **"§ 20-17.8. Restoration of a license after certain driving while impaired convictions;**  
22 **ignition interlock.**

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

- 25           (1) The person had an alcohol concentration of ~~0.15 or more;~~ 0.08 or more or  
26           refused to submit to a chemical analysis;  
27           (2) The person has been convicted of another offense involving impaired  
28 driving, which offense occurred within seven years immediately preceding  
29 the date of the offense for which the person's license has been revoked; or  
30           (3) The person was sentenced pursuant to G.S. 20-179(f3).

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

34           (a1) Additional Scope. – This section applies to a person whose license was revoked as a  
35 result of a conviction of habitual impaired driving, G.S. 20-138.5.

36           (a2) Under Age 21. – The provisions of this section apply to a person whose license was  
37 revoked as the result of a conviction of driving by a person less than 21 years old after  
38 consuming alcohol pursuant to G.S. 20-138.3.

39           (b) Ignition Interlock Required. – Except as provided in subsection (l) of this section,  
40 when the Division restores the license of a person who is subject to this section, in addition to  
41 any other restriction or condition, it shall require the person to agree to and shall indicate on the  
42 person's drivers license the following restrictions for the period designated in subsection (c):

- 43           (1) A restriction that the person may operate only a vehicle that is equipped with  
44 a functioning ignition interlock system of a type approved by the  
45 Commissioner. The Commissioner shall not unreasonably withhold approval  
46 of an ignition interlock system and shall consult with the Division of  
47 Purchase and Contract in the Department of Administration to ensure that  
48 potential vendors are not discriminated against.  
49           (2) A requirement that the person personally activate the ignition interlock  
50 system before driving the motor vehicle.  
51           (3) An alcohol concentration restriction as follows:

- 1 a. If the ignition interlock system is required pursuant only to  
2 subdivision (a)(1) of this section, a requirement that the person not  
3 drive with an alcohol concentration of 0.04 or greater;
- 4 b. If the ignition interlock system is required pursuant to subdivision  
5 (a)(2) or (a)(3) of this section, or subsection (a1) of this section, a  
6 requirement that the person not drive with an alcohol concentration  
7 of greater than ~~0.00~~; ~~or~~ 0.02;
- 8 c. If the ignition interlock system is required pursuant to subdivision  
9 (a)(1) of this section, and the person has also been convicted, based  
10 on the same set of circumstances, of: (i) driving while impaired in a  
11 commercial vehicle, G.S. 20-138.2, (ii) driving while less than 21  
12 years old after consuming alcohol or drugs, G.S. 20-138.3, (iii) a  
13 violation of G.S. 20-141.4, or (iv) manslaughter or negligent  
14 homicide resulting from the operation of a motor vehicle when the  
15 offense involved impaired driving, a requirement that the person not  
16 drive with an alcohol concentration of greater than ~~0.00~~ 0.02; or
- 17 d. If the ignition interlock system is required pursuant to subsection (a2)  
18 of this section, a requirement that the person not drive with an  
19 alcohol concentration greater than 0.02.
- 20 (c) Length of Requirement. – The requirements of subsection (b) shall remain in effect  
21 for:
- 22 (1) One year from the date of restoration if the original revocation period was  
23 one year;
- 24 (2) Three years from the date of restoration if the original revocation period was  
25 four years; or
- 26 (3) Seven years from the date of restoration if the original revocation was a  
27 permanent revocation.
- 28 (c1) Vehicles Subject to Requirement. – A person subject to this section shall have all  
29 registered vehicles owned by that person equipped with a functioning ignition interlock system  
30 of a type approved by the Commissioner, unless the Division determines that one or more  
31 specific registered vehicles owned by that person are relied upon by another member of that  
32 person's family for transportation and that the vehicle is not in the possession of the person  
33 subject to this section.
- 34 (d) Effect of Limited Driving Privileges. – If the person was eligible for and received a  
35 limited driving privilege under G.S. 20-179.3, with the ignition interlock requirement contained  
36 in G.S. 20-179.3(g5), the period of time for which that limited driving privilege was held shall  
37 be applied towards the requirements of subsection (c).
- 38 (e) Notice of Requirement. – When a court reports to the Division a conviction of a  
39 person who is subject to this section, the Division must send the person written notice of the  
40 requirements of this section and of the consequences of failing to comply with these  
41 requirements. The notification must include a statement that the person may contact the  
42 Division for information on obtaining and having installed an ignition interlock system of a  
43 type approved by the Commissioner.
- 44 (e1) Installation of Ignition Interlock System. – The Division shall not issue a drivers  
45 license with an ignition interlock restriction unless the applicant presents proof, satisfactory to  
46 the Division, that an approved ignition interlock system has been installed on all vehicles  
47 subject to the ignition interlock requirements of subsection (c1) of this section.
- 48 (e2) Disabling or Removing of Ignition Interlock System. – If an ignition interlock  
49 system is disabled or removed from a vehicle in which it is required to be installed pursuant to  
50 subsection (c1) of this section, the Division shall revoke the drivers license of the person  
51 subject to the provisions of this section and shall provide notice in accordance with G.S. 20-48.

1 (f) Effect of Violation of Restriction. – A person subject to this section who violates  
2 any of the restrictions of this section commits the offense of driving while license revoked  
3 under G.S. 20-28(a) and is subject to punishment and license revocation as provided in that  
4 section. If a law enforcement officer has reasonable grounds to believe that a person subject to  
5 this section has consumed alcohol while driving or has driven while he has remaining in his  
6 body any alcohol previously consumed, the suspected offense of driving while license is  
7 revoked is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2.  
8 If a person subject to this section is charged with driving while license revoked by violating a  
9 condition of subsection (b) of this section, and a judicial official determines that there is  
10 probable cause for the charge, the person's license is suspended pending the resolution of the  
11 case, and the judicial official must require the person to surrender the license. The judicial  
12 official must also notify the person that he is not entitled to drive until his case is resolved. An  
13 alcohol concentration report from the ignition interlock system shall not be admissible as  
14 evidence of driving while license revoked, nor shall it be admissible in an administrative  
15 revocation proceeding as provided in subsection (g) of this section, unless the person operated a  
16 vehicle when the ignition interlock system indicated an alcohol concentration in violation of the  
17 restriction placed upon the person by subdivision (b)(3) of this section. If a person subject to  
18 this section is charged with driving while license revoked by violating the requirements of  
19 subsection (c1) of this section, and no other violation of this section is alleged, the court may  
20 make a determination at the hearing of the case that the vehicle, on which the ignition interlock  
21 system was not installed, was relied upon by another member of that person's family for  
22 transportation and that the vehicle was not in the possession of the person subject to this  
23 section, and therefore the vehicle was not required to be equipped with a functioning ignition  
24 interlock system. If the court determines that the vehicle was not required to be equipped with a  
25 functioning ignition interlock system and the person subject to this section has committed no  
26 other violation of this section, the court shall find the person not guilty of driving while license  
27 revoked.

28 (g) Effect of Violation of Restriction When Driving While License Revoked Not  
29 Charged. – A person subject to this section who violates any of the restrictions of this section,  
30 or who disables or removes an ignition interlock system required by this section, but is not  
31 charged or convicted of driving while license revoked pursuant to G.S. 20-28(a), shall have the  
32 person's license revoked by the Division for a period of one year.

33 (h) Beginning of Revocation Period. – If the original period of revocation was imposed  
34 pursuant to G.S. 20-19(d) or (e), any remaining period of the original revocation, prior to its  
35 reduction, shall be reinstated and the revocation required by subsection (f) or (g) of this section  
36 begins after all other periods of revocation have terminated.

37 (i) Notification of Revocation. – If the person's license has not already been  
38 surrendered to the court, the Division must expeditiously notify the person that the person's  
39 license to drive is revoked pursuant to subsection (f) or (g) of this section effective on the tenth  
40 calendar day after the mailing of the revocation order.

41 (j) Right to Hearing Before Division; Issues. – If the person's license is revoked  
42 pursuant to subsection (g) of this section, before the effective date of the order issued under  
43 subsection (i) of this section, the person may request in writing a hearing before the Division.  
44 Except for the time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the  
45 Division that the person's license was surrendered to the court and remained in the court's  
46 possession, then the Division shall credit the amount of time for which the license was in the  
47 possession of the court against the revocation period required by subsection (g) of this section.  
48 If the person properly requests a hearing, the person retains the person's license, unless it is  
49 revoked under some other provision of law, until the hearing is held, the person withdraws the  
50 request, or the person fails to appear at a scheduled hearing. The hearing officer may subpoena  
51 any witnesses or documents that the hearing officer deems necessary. The person may request

1 the hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at  
2 the hearing if the person makes the request in writing at least three days before the hearing. The  
3 person may subpoena any other witness whom the person deems necessary, and the provisions  
4 of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the  
5 authority of this section. The hearing officer is authorized to administer oaths to witnesses  
6 appearing at the hearing. The hearing must be conducted in the county where the charge was  
7 brought, and must be limited to consideration of whether:

8 (1) The drivers license of the person had an ignition interlock requirement; and

9 (2) The person:

10 a. Was driving a vehicle that was not equipped with a functioning  
11 ignition interlock ~~system; or system;~~

12 b. Did not personally activate the ignition interlock system before  
13 driving the ~~vehicle; or vehicle;~~

14 c. Drove the vehicle in violation of an applicable alcohol concentration  
15 restriction prescribed by subdivision (b)(3) of this ~~section; or~~

16 d. Allowed an ignition interlock system required by this section to be  
17 disabled or removed.

18 If the Division finds that the conditions specified in this subsection are  
19 met, it must order the revocation sustained. If the Division finds that the  
20 condition of subdivision (1) is not met, or that none of the conditions of  
21 subdivision (2) are met, it must rescind the revocation. If the revocation is  
22 sustained, the person must surrender the person's license immediately upon  
23 notification by the Division. If the revocation is sustained, the person may  
24 appeal the decision of the Division pursuant to G.S. 20-25.

25 (k) Restoration After Violation. – When the Division restores the license of a person  
26 whose license was revoked pursuant to subsection (f) or (g) of this section and the revocation  
27 occurred prior to completion of time period required by subsection (c) of this section, in  
28 addition to any other restriction or condition, it shall require the person to comply with the  
29 conditions of subsection (b) of this section until the person has complied with those conditions  
30 for the cumulative period of time as set forth in subsection (c) of this section. The period of  
31 time for which the person successfully complied with subsection (b) of this section prior to  
32 revocation pursuant to subsection (f) or (g) of this section shall be applied towards the  
33 requirements of subsection (c) of this section.

34 (l) Medical Exception to Requirement. – A person subject to this section who has a  
35 medically diagnosed physical condition that makes the person incapable of personally  
36 activating an ignition interlock system may request an exception to the requirements of this  
37 section from the Division. The Division shall not issue an exception to this section unless the  
38 person has submitted to a physical examination by two or more physicians or surgeons duly  
39 licensed to practice medicine in this State or in any other state of the United States and unless  
40 such examining physicians or surgeons have completed and signed a certificate in the form  
41 prescribed by the Division. Such certificate shall be devised by the Commissioner with the  
42 advice of those qualified experts in the field of diagnosing and treating physical disorders that  
43 the Commissioner may select and shall be designed to elicit the maximum medical information  
44 necessary to aid in determining whether or not the person is capable of personally activating an  
45 ignition interlock system. The certificate shall contain a waiver of privilege and the  
46 recommendation of the examining physician to the Commissioner as to whether the person is  
47 capable of personally activating an ignition interlock system.

48 The Commissioner is not bound by the recommendations of the examining physicians but  
49 shall give fair consideration to such recommendations in acting upon the request for medical  
50 exception, the criterion being whether or not, upon all the evidence, it appears that the person is



1 in fact incapable of personally activating an ignition interlock system. The burden of proof of  
2 such fact is upon the person seeking the exception.

3 Whenever an exception is denied by the Commissioner, such denial may be  
4 reviewed by a reviewing board upon written request of the person seeking the exception filed  
5 with the Division within 10 days after receipt of such denial. The composition, procedures, and  
6 review of the reviewing board shall be as provided in G.S. 20-9(g)(4)."

7 **SECTION 6.** G.S. 20-138.3(d) is amended by adding a new subdivision to read:

8 "(d) Limited Driving Privilege. – A person who is convicted of violating subsection (a)  
9 of this section and whose drivers license is revoked solely based on that conviction may apply  
10 for a limited driving privilege as provided in G.S. 20-179.3. This subsection shall apply only if  
11 the person meets both of the following requirements:

- 12 (1) Is 18, 19, or 20 years old on the date of the offense.
- 13 (2) Has not previously been convicted of a violation of this section.
- 14 (3) Has equipped all vehicles to be operated under a limited driving privilege  
15 with approved ignition interlock systems.

16 The judge may issue the limited driving privilege only if the person meets the eligibility  
17 requirements of G.S. 20-179.3, other than the requirement in G.S. 20-179.3(b)(1)c.  
18 G.S. 20-179.3(e) shall not apply. All other terms, conditions, and restrictions provided for in  
19 G.S. 20-179.3 shall apply. G.S. 20-179.3, rather than this subsection, governs the issuance of a  
20 limited driving privilege to a person who is convicted of violating subsection (a) of this section  
21 and of driving while impaired as a result of the same transaction."

22 **SECTION 7.** G.S. 20-179.3(b) reads as rewritten:

23 "(b) Eligibility. –

- 24 (1) A person convicted of the offense of impaired driving under G.S. 20-138.1 is  
25 eligible for a limited driving privilege if:
  - 26 a. At the time of the offense he held either a valid driver's license or a  
27 license that had been expired for less than one ~~year~~year.
  - 28 b. At the time of the offense he had not within the preceding seven  
29 years been convicted of an offense involving impaired  
30 ~~driving~~driving.
  - 31 c. Punishment Level Three, Four, or Five was imposed for the offense  
32 of impaired ~~driving~~driving.
  - 33 d. Subsequent to the offense he has not been convicted of, or had an  
34 unresolved charge lodged against him for, an offense involving  
35 impaired ~~driving~~and driving.
  - 36 e. The person has obtained and filed with the court a substance abuse  
37 assessment of the type required by G.S. 20-17.6 for the restoration of  
38 a drivers license.
  - 39 f. The person has installed an approved ignition interlock system on all  
40 vehicles subject to ignition interlock requirements to be operated by  
41 the applicant under a limited driving privilege.

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

48 **SECTION 8.** G.S. 20-179.3(g5) reads as rewritten:

49 "(g5) Ignition Interlock Required. – If a person's drivers license is revoked for a  
50 conviction of G.S. 20-138.1, and the person had an alcohol concentration of ~~0.150~~0.08 or more,

1 or refused to submit to a chemical analysis, a judge shall include all of the following in a  
2 limited driving privilege order:

- 3 (1) A restriction that the applicant may operate only a designated motor vehicle.  
4 (2) A requirement that the designated motor vehicle be equipped with a  
5 functioning ignition interlock system of a type approved by the  
6 Commissioner, which is set to prohibit driving with an alcohol concentration  
7 of greater than ~~0.00~~0.02. The Commissioner shall not unreasonably  
8 withhold approval of an ignition interlock system and shall consult with the  
9 Division of Purchase and Contract in the Department of Administration to  
10 ensure that potential vendors are not discriminated against.  
11 (3) A requirement that the applicant personally activate the ignition interlock  
12 system before driving the motor vehicle.

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

16 **SECTION 9.** Article 3 of Chapter 20 of the General Statutes is amended by adding  
17 a new section to read:

18 **"§ 20-179.5. Ignition interlock; administrative fee and costs for installation and**  
19 **monitoring; Ignition Interlock Device Fund.**

20 (a) The costs incurred in order to comply with the ignition interlock requirements  
21 imposed by the court pursuant to this Article, including costs for installation and monitoring of  
22 the ignition interlock system, shall be paid by the person ordered to install the system. The  
23 person also shall pay an ignition interlock administrative fee, in an amount which shall be  
24 determined by the Division and which shall be not less than thirty dollars (\$30.00) nor more  
25 than sixty dollars (\$60.00). The administrative fee shall be collected at the time of installation  
26 by the vendor installing the ignition interlock system. Costs for installation and monitoring of  
27 the ignition interlock system shall be collected under terms agreed upon by the vendor and the  
28 person required to install the ignition interlock system.

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

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

39 **SECTION 10.** This act becomes effective December 1, 2013, and applies to  
40 offenses committed on or after that date.