

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H.B. 183
Feb 27, 2013
HOUSE PRINCIPAL CLERK

H

D

HOUSE DRH30060-ML-17A (12/14)

Short Title: Allow Hospitals to Test Blood for DWI.

(Public)

Sponsors: Representative T. Moore.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW HOSPITALS TO CONDUCT CHEMICAL ANALYSES OF BLOOD
3 TO DETERMINE A PERSON'S BLOOD ALCOHOL CONCENTRATION OR THE
4 PRESENCE OF ANY OTHER IMPAIRING SUBSTANCE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 20-139.1 reads as rewritten:

7 "§ 20-139.1. Procedures governing chemical analyses; admissibility; evidentiary
8 provisions; controlled-drinking programs.

9 ...

10 (c1) Admissibility. – The results of a chemical analysis of blood or urine reported by the
11 North Carolina State Crime Laboratory, the Charlotte, North Carolina, Police Department
12 Laboratory, or any other laboratory ~~approved for chemical analysis by the Department of~~
13 ~~Health and Human Services, employing a chemical analyst authorized by a permit issued by the~~
14 Department of Health and Human Services to analyze blood or urine for alcohol or controlled
15 substances, metabolites of a controlled substance, or any other impairing substance are
16 admissible as evidence in all administrative hearings, and in any court, without further
17 authentication and without the testimony of the analyst. As used in this section, the term
18 "laboratory" includes a public or private hospital. The results shall be certified by the
19 ~~person~~analyst who performed the analysis. ~~The provisions of this subsection~~results may be
20 utilized in any administrative hearing, but can only be utilized in cases tried in the district and
21 superior court divisions, or in an adjudicatory hearing in juvenile court, if:

- 22 (1) The State notifies the defendant at least 15 business days before the
23 proceeding at which the evidence would be used of its intention to introduce
24 the report into evidence under this subsection and provides a copy of the
25 report to the defendant, and
26 (2) The defendant fails to file a written objection with the court, with a copy to
27 the State, at least five business days before the proceeding at which the
28 report would be used that the defendant objects to the introduction of the
29 report into evidence.

30 If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file
31 a written objection as provided in this subsection, then the report may be admitted into
32 evidence without the testimony of the analyst. Upon filing a timely objection, the admissibility
33 of the report shall be determined and governed by the appropriate rules of evidence.

34 The report containing the results of any blood or urine test may be transmitted
35 electronically or via facsimile. A copy of the affidavit sent electronically or via facsimile shall
36 be admissible in any court or administrative hearing without further authentication. A copy of



1 the report shall be sent to the charging officer, the clerk of superior court in the county in which
2 the criminal charges are pending, the Division of Motor Vehicles, and the Department of
3 Health and Human Services.

4 Nothing in this subsection precludes the right of any party to call any witness or to
5 introduce any evidence supporting or contradicting the evidence contained in the report.

6 (c2) **(See note for applicability)** A chemical analysis of blood or urine, to be admissible
7 under this section, shall be performed by a ~~laboratory that is accredited by an accrediting body~~
8 ~~that requires conformance to forensic specific requirements and which is a signatory to the~~
9 ~~International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement~~
10 ~~For Testing for the submission, identification, analysis, and storage of forensic analyses.~~
11 a chemical analyst authorized by a permit issued by the Department of Health and Human
12 Services to analyze blood or urine for alcohol or controlled substances, metabolites of a
13 controlled substance, or any other impairing substance.

14 ...

15 (c4) The results of a blood or urine test are admissible to prove a person's alcohol
16 concentration or the presence of controlled substances or metabolites or any other impairing
17 substance ~~if~~ if the following requirements are met:

18 (1) A law enforcement officer or chemical analyst requested a blood and/or
19 urine sample from the person ~~charged; and~~ charged.

20 (2) A chemical analysis of blood or urine, to be admissible under this section,
21 shall be performed by a ~~laboratory that is accredited by an accrediting body~~
22 ~~that requires conformance to forensic specific requirements and which is a~~
23 ~~signatory to the International Laboratory Accreditation Cooperation (ILAC)~~
24 ~~Mutual Recognition Arrangement For Testing for the submission,~~
25 ~~identification, analysis, and storage of forensic analyses.~~
26 a chemical analyst
27 authorized by a permit issued by the Department of Health and Human
28 Services to analyze blood or urine for alcohol or controlled substances,
29 metabolites of a controlled substance, or any other impairing substance.

30 For purposes of establishing compliance with subdivision (2) of this subsection, the court or
31 administrative agency shall take judicial notice of the list of persons possessing permits, the
32 type of instrument on which each person is authorized to perform tests of the blood and/or
33 urine, and the date the permit was issued and the date it expires.

34"

35 **SECTION 2.** This act becomes effective December 1, 2013, and applies to
offenses committed on or after that date.