

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H.B. 41
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HOUSE PRINCIPAL CLERK

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HOUSE DRH70014-SA-4 (10/16)

Short Title: 0.00 Alcohol Restriction - All DWI. (Public)

Sponsors: Representative Jackson.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE A 0.00 ALCOHOL CONCENTRATION RESTRICTION ON ALL
3 RESTORATION OF LICENSES REVOKED FOR AN IMPAIRED DRIVING OFFENSE.
4 The General Assembly of North Carolina enacts:
5 SECTION 1. G.S. 20-17.8(b) reads as rewritten:
6 "(b) (Effective until December 1, 2014) Ignition Interlock Required. – Except as
7 provided in subsection (l) of this section, when the Division restores the license of a person
8 who is subject to this section, in addition to any other restriction or condition, it shall require
9 the person to agree to and shall indicate on the person's drivers license the following
10 restrictions for the period designated in subsection (c):
11 (1) A restriction that the person may operate only a vehicle that is equipped with
12 a functioning ignition interlock system of a type approved by the
13 Commissioner. The Commissioner shall not unreasonably withhold approval
14 of an ignition interlock system and shall consult with the Division of
15 Purchase and Contract in the Department of Administration to ensure that
16 potential vendors are not discriminated against.
17 (2) A requirement that the person personally activate the ignition interlock
18 system before driving the motor vehicle.
19 (3) An alcohol concentration restriction as follows:
20 a. If the ignition interlock system is required pursuant only to
21 subdivision (a)(1) of this section, a requirement that the person not
22 drive with an alcohol concentration of ~~0.040.00~~ or greater;
23 b. If the ignition interlock system is required pursuant to subdivision
24 (a)(2) or (a)(3) of this section, or subsection (a1) of this section, a
25 requirement that the person not drive with an alcohol concentration
26 of greater than 0.00; or
27 c. If the ignition interlock system is required pursuant to subdivision
28 (a)(1) of this section, and the person has also been convicted, based
29 on the same set of circumstances, of: (i) driving while impaired in a
30 commercial vehicle, G.S. 20-138.2, (ii) driving while less than 21
31 years old after consuming alcohol or drugs, G.S. 20-138.3, (iii) a
32 violation of G.S. 20-141.4, or (iv) manslaughter or negligent
33 homicide resulting from the operation of a motor vehicle when the
34 offense involved impaired driving, a requirement that the person not
35 drive with an alcohol concentration of greater than 0.00.



1 (b) **(Effective December 1, 2014)** Ignition Interlock Required. – Except as provided in
2 subsection (l) of this section, when the Division restores the license of a person who is subject
3 to this section, in addition to any other restriction or condition, it shall require the person to
4 agree to and shall indicate on the person's drivers license the following restrictions for the
5 period designated in subsection (c):

- 6 (1) A restriction that the person may operate only a vehicle that is equipped with
7 a functioning ignition interlock system of a type approved by the
8 Commissioner. The Commissioner shall not unreasonably withhold approval
9 of an ignition interlock system and shall consult with the Division of
10 Purchase and Contract in the Department of Administration to ensure that
11 potential vendors are not discriminated against.
- 12 (2) A requirement that the person personally activate the ignition interlock
13 system before driving the motor vehicle.
- 14 (3) An alcohol concentration restriction as follows:
- 15 a. If the ignition interlock system is required pursuant only to
16 subdivision (a)(1) of this section, a requirement that the person not
17 drive with an alcohol concentration of ~~0.040.00~~ or greater;
- 18 b. If the ignition interlock system is required pursuant to subdivision
19 (a)(2) or (a)(3) of this section, a requirement that the person not drive
20 with an alcohol concentration of greater than 0.00; or
- 21 c. If the ignition interlock system is required pursuant to subdivision
22 (a)(1) of this section, and the person has also been convicted, based
23 on the same set of circumstances, of: (i) driving while impaired in a
24 commercial vehicle, G.S. 20-138.2, (ii) driving while less than 21
25 years old after consuming alcohol or drugs, G.S. 20-138.3, (iii) a
26 violation of G.S. 20-141.4, or (iv) manslaughter or negligent
27 homicide resulting from the operation of a motor vehicle when the
28 offense involved impaired driving, a requirement that the person not
29 drive with an alcohol concentration of greater than 0.00."

30 **SECTION 2.** G.S. 20-19(c3) reads as rewritten:

31 "(c3) **(Effective until December 1, 2014)** Restriction; Revocations. – When the Division
32 restores a person's drivers license which was revoked pursuant to G.S. 20-13.2 (a), G.S. 20-23
33 when the offense involved impaired driving, G.S. 20-23.2, subdivision (2) of G.S. 20-17(a),
34 subdivision (1) or (9) of G.S. 20-17(a) when the offense involved impaired driving,
35 G.S. 20-138.5(d), or this subsection, in addition to any other restriction or condition, it shall
36 place the applicable restriction on the person's drivers license as follows:

- 37 (1) For the first restoration of a drivers license for a person convicted of driving
38 while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to
39 G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license
40 was revoked prohibits substantially similar conduct which if committed in
41 this State would result in a conviction of driving while impaired under
42 G.S. 20-138.1, that the person not operate a vehicle with an alcohol
43 concentration of ~~0.040.00~~ or more at any relevant time after the driving;
- 44 (2) For the second or subsequent restoration of a drivers license for a person
45 convicted of driving while impaired, G.S. 20-138.1, or a drivers license
46 revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which
47 the person's license was revoked prohibits substantially similar conduct
48 which if committed in this State would result in a conviction of driving
49 while impaired under G.S. 20-138.1, that the person not operate a vehicle
50 with an alcohol concentration greater than 0.00 at any relevant time after the
51 driving;

- 1 (3) For any restoration of a drivers license for a person convicted of driving
2 while impaired in a commercial motor vehicle, G.S. 20-138.2, habitual
3 impaired driving, G.S. 20-138.5, driving while less than 21 years old after
4 consuming alcohol or drugs, G.S. 20-138.3, felony death by vehicle,
5 G.S. 20-141.4(a1), manslaughter or negligent homicide resulting from the
6 operation of a motor vehicle when the offense involved impaired driving, or
7 a revocation under this subsection, that the person not operate a vehicle with
8 an alcohol concentration of greater than 0.00 at any relevant time after the
9 driving;
- 10 (4) For any restoration of a drivers license revoked pursuant to G.S. 20-23 or
11 G.S. 20-23.2 when the offense for which the person's license was revoked
12 prohibits substantially similar conduct which if committed in this State
13 would result in a conviction of driving while impaired in a commercial
14 motor vehicle, G.S. 20-138.2, driving while less than 21 years old after
15 consuming alcohol or drugs, G.S. 20-138.3, a violation of G.S. 20-141.4, or
16 manslaughter or negligent homicide resulting from the operation of a motor
17 vehicle when the offense involved impaired driving, that the person not
18 operate vehicle with an alcohol concentration of greater than 0.00 at any
19 relevant time after the driving.

20 In addition, the person seeking restoration of a license must agree to submit to a chemical
21 analysis in accordance with G.S. 20-16.2 at the request of a law enforcement officer who has
22 reasonable grounds to believe the person is operating a motor vehicle on a highway or public
23 vehicular area in violation of the restriction specified in this subsection. The person must also
24 agree that, when requested by a law enforcement officer, the person will agree to be transported
25 by the law enforcement officer to the place where chemical analysis is to be administered.

26 The restrictions placed on a license under this subsection shall be in effect (i) seven years
27 from the date of restoration if the person's license was permanently revoked, (ii) until the
28 person's twenty-first birthday if the revocation was for a conviction under G.S. 20-138.3, and
29 (iii) three years in all other cases.

30 A law enforcement officer who has reasonable grounds to believe that a person has violated
31 a restriction placed on the person's drivers license shall complete an affidavit pursuant to
32 G.S. 20-16.2(c1). On the basis of information reported pursuant to G.S. 20-16.2, the Division
33 shall revoke the drivers license of any person who violates a condition of reinstatement
34 imposed under this subsection. An alcohol concentration report from an ignition interlock
35 system shall not be used as the basis for revocation under this subsection. A violation of a
36 restriction imposed under this subsection or the willful refusal to submit to a chemical analysis
37 shall result in a one-year revocation. If the period of revocation was imposed pursuant to
38 subsection (d) or (e), or G.S. 20-138.5(d), any remaining period of the original revocation, prior
39 to its reduction, shall be reinstated and the one-year revocation begins after all other periods of
40 revocation have terminated.

41 (c3) **(Effective December 1, 2014)** Restriction; Revocations. – When the Division
42 restores a person's drivers license which was revoked pursuant to G.S. 20-13.2 (a), G.S. 20-23
43 when the offense involved impaired driving, G.S. 20-23.2, subdivision (2) of G.S. 20-17(a),
44 subdivision (1) or (9) of G.S. 20-17(a) when the offense involved impaired driving, or this
45 subsection, in addition to any other restriction or condition, it shall place the applicable
46 restriction on the person's drivers license as follows:

- 47 (1) For the first restoration of a drivers license for a person convicted of driving
48 while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to
49 G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license
50 was revoked prohibits substantially similar conduct which if committed in
51 this State would result in a conviction of driving while impaired under

- 1 G.S. 20-138.1, that the person not operate a vehicle with an alcohol
2 concentration of ~~0.04~~0.00 or more at any relevant time after the driving;
- 3 (2) For the second or subsequent restoration of a drivers license for a person
4 convicted of driving while impaired, G.S. 20-138.1, or a drivers license
5 revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which
6 the person's license was revoked prohibits substantially similar conduct
7 which if committed in this State would result in a conviction of driving
8 while impaired under G.S. 20-138.1, that the person not operate a vehicle
9 with an alcohol concentration greater than 0.00 at any relevant time after the
10 driving;
- 11 (3) For any restoration of a drivers license for a person convicted of driving
12 while impaired in a commercial motor vehicle, G.S. 20-138.2, driving while
13 less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3,
14 felony death by vehicle, G.S. 20-141.4(a1), manslaughter or negligent
15 homicide resulting from the operation of a motor vehicle when the offense
16 involved impaired driving, or a revocation under this subsection, that the
17 person not operate a vehicle with an alcohol concentration of greater than
18 0.00 at any relevant time after the driving;
- 19 (4) For any restoration of a drivers license revoked pursuant to G.S. 20-23 or
20 G.S. 20-23.2 when the offense for which the person's license was revoked
21 prohibits substantially similar conduct which if committed in this State
22 would result in a conviction of driving while impaired in a commercial
23 motor vehicle, G.S. 20-138.2, driving while less than 21 years old after
24 consuming alcohol or drugs, G.S. 20-138.3, a violation of G.S. 20-141.4, or
25 manslaughter or negligent homicide resulting from the operation of a motor
26 vehicle when the offense involved impaired driving, that the person not
27 operate vehicle with an alcohol concentration of greater than 0.00 at any
28 relevant time after the driving.

29 In addition, the person seeking restoration of a license must agree to submit to a chemical
30 analysis in accordance with G.S. 20-16.2 at the request of a law enforcement officer who has
31 reasonable grounds to believe the person is operating a motor vehicle on a highway or public
32 vehicular area in violation of the restriction specified in this subsection. The person must also
33 agree that, when requested by a law enforcement officer, the person will agree to be transported
34 by the law enforcement officer to the place where chemical analysis is to be administered.

35 The restrictions placed on a license under this subsection shall be in effect (i) seven years
36 from the date of restoration if the person's license was permanently revoked, (ii) until the
37 person's twenty-first birthday if the revocation was for a conviction under G.S. 20-138.3, and
38 (iii) three years in all other cases.

39 A law enforcement officer who has reasonable grounds to believe that a person has violated
40 a restriction placed on the person's drivers license shall complete an affidavit pursuant to
41 G.S. 20-16.2(c1). On the basis of information reported pursuant to G.S. 20-16.2, the Division
42 shall revoke the drivers license of any person who violates a condition of reinstatement
43 imposed under this subsection. An alcohol concentration report from an ignition interlock
44 system shall not be used as the basis for revocation under this subsection. A violation of a
45 restriction imposed under this subsection or the willful refusal to submit to a chemical analysis
46 shall result in a one-year revocation. If the period of revocation was imposed pursuant to
47 subsection (d) or (e), any remaining period of the original revocation, prior to its reduction,
48 shall be reinstated and the one-year revocation begins after all other periods of revocation have
49 terminated."

50 **SECTION 3.** This act becomes effective December 1, 2013, and applies to
51 offenses committed on or after that date.