

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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**HOUSE BILL 31
PROPOSED COMMITTEE SUBSTITUTE H31-PCS40079-SA-2**

Short Title: 0.00 Alcohol Restriction-All DWI.

(Public)

Sponsors:

Referred to:

February 2, 2015

A BILL TO BE ENTITLED
AN ACT TO REQUIRE A 0.00 ALCOHOL CONCENTRATION RESTRICTION ON ALL
RESTORATION OF LICENSES REVOKED FOR AN IMPAIRED DRIVING OFFENSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-17.8(b) reads as rewritten:

"(b) **(Effective until December 1, 2016)** Ignition Interlock Required. – Except as provided in subsection (1) of this section, when the Division restores the license of a person who is subject to this section, in addition to any other restriction or condition, it shall require the person to agree to and shall indicate on the person's drivers license the following restrictions for the period designated in subsection (c):

- (1) A restriction that the person may operate only a vehicle that is equipped with a functioning ignition interlock system of a type approved by the Commissioner. The Commissioner shall not unreasonably withhold approval of an ignition interlock system and shall consult with the Division of Purchase and Contract in the Department of Administration to ensure that potential vendors are not discriminated against.
- (2) A requirement that the person personally activate the ignition interlock system before driving the motor vehicle.
- (3) An alcohol concentration restriction as follows:
 - a. If the ignition interlock system is required pursuant only to subdivision (a)(1) of this section, a requirement that the person not drive with an alcohol concentration of ~~0.04 or greater~~; greater than 0.00;
 - b. If the ignition interlock system is required pursuant to subdivision (a)(2) or (a)(3) of this section, or subsection (a1) of this section, a requirement that the person not drive with an alcohol concentration of greater than 0.00; or
 - c. If the ignition interlock system is required pursuant to subdivision (a)(1) of this section, and the person has also been convicted, based on the same set of circumstances, of: (i) driving while impaired in a commercial vehicle, G.S. 20-138.2, (ii) driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, (iii) a violation of G.S. 20-141.4, or (iv) manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, a requirement that the person not drive with an alcohol concentration of greater than 0.00.



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1 (b) **(Effective December 1, 2016)** 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 ~~0.04 or greater~~; greater than
18 0.00;
- 19 b. If the ignition interlock system is required pursuant to subdivision
20 (a)(2) or (a)(3) of this section, a requirement that the person not drive
21 with an alcohol concentration of greater than 0.00; or
- 22 c. If the ignition interlock system is required pursuant to subdivision
23 (a)(1) of this section, and the person has also been convicted, based
24 on the same set of circumstances, of: (i) driving while impaired in a
25 commercial vehicle, G.S. 20-138.2, (ii) driving while less than 21
26 years old after consuming alcohol or drugs, G.S. 20-138.3, (iii) a
27 violation of G.S. 20-141.4, or (iv) manslaughter or negligent
28 homicide resulting from the operation of a motor vehicle when the
29 offense involved impaired driving, a requirement that the person not
30 drive with an alcohol concentration of greater than 0.00."

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

32 "(c3) **(Effective until December 1, 2016)** Restriction; Revocations. – When the Division
33 restores a person's drivers license which was revoked pursuant to G.S. 20-13.2(a), G.S. 20-23
34 when the offense involved impaired driving, G.S. 20-23.2, subdivision (2) of G.S. 20-17(a),
35 subdivision (1) or (9) of G.S. 20-17(a) when the offense involved impaired driving,
36 G.S. 20-138.5(d), or this subsection, in addition to any other restriction or condition, it shall
37 place the applicable restriction on the person's drivers license as follows:

- 38 (1) For the first restoration of a drivers license for a person convicted of driving
39 while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to
40 G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license
41 was revoked prohibits substantially similar conduct which if committed in
42 this State would result in a conviction of driving while impaired under
43 G.S. 20-138.1, that the person not operate a vehicle with an alcohol
44 concentration of ~~0.04 or more~~; greater than 0.00 at any relevant time after the
45 driving;
- 46 (2) For the second or subsequent restoration of a drivers license for a person
47 convicted of driving while impaired, G.S. 20-138.1, or a drivers license
48 revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which
49 the person's license was revoked prohibits substantially similar conduct
50 which if committed in this State would result in a conviction of driving
51 while impaired under G.S. 20-138.1, that the person not operate a vehicle

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

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

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

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

43 (c3) **(Effective December 1, 2016)** Restriction; Revocations. – When the Division
44 restores a person's drivers license which was revoked pursuant to G.S. 20-13.2(a), G.S. 20-23
45 when the offense involved impaired driving, G.S. 20-23.2, subdivision (2) of G.S. 20-17(a),
46 subdivision (1) or (9) of G.S. 20-17(a) when the offense involved impaired driving, or this
47 subsection, in addition to any other restriction or condition, it shall place the applicable
48 restriction on the person's drivers license as follows:

- 49 (1) For the first restoration of a drivers license for a person convicted of driving
50 while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to
51 G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license

1 was revoked prohibits substantially similar conduct which if committed in
2 this State would result in a conviction of driving while impaired under
3 G.S. 20-138.1, that the person not operate a vehicle with an alcohol
4 concentration of ~~0.04 or more~~ greater than 0.00 at any relevant time after the
5 driving;

6 (2) For the second or subsequent restoration of a drivers license for a person
7 convicted of driving while impaired, G.S. 20-138.1, or a drivers license
8 revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which
9 the person's license was revoked prohibits substantially similar conduct
10 which if committed in this State would result in a conviction of driving
11 while impaired under G.S. 20-138.1, that the person not operate a vehicle
12 with an alcohol concentration greater than 0.00 at any relevant time after the
13 driving;

14 (3) For any restoration of a drivers license for a person convicted of driving
15 while impaired in a commercial motor vehicle, G.S. 20-138.2, driving while
16 less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3,
17 felony death by vehicle, G.S. 20-141.4(a1), manslaughter or negligent
18 homicide resulting from the operation of a motor vehicle when the offense
19 involved impaired driving, or a revocation under this subsection, that the
20 person not operate a vehicle with an alcohol concentration of greater than
21 0.00 at any relevant time after the driving;

22 (4) For any restoration of a drivers license revoked pursuant to G.S. 20-23 or
23 G.S. 20-23.2 when the offense for which the person's license was revoked
24 prohibits substantially similar conduct which if committed in this State
25 would result in a conviction of driving while impaired in a commercial
26 motor vehicle, G.S. 20-138.2, driving while less than 21 years old after
27 consuming alcohol or drugs, G.S. 20-138.3, a violation of G.S. 20-141.4, or
28 manslaughter or negligent homicide resulting from the operation of a motor
29 vehicle when the offense involved impaired driving, that the person not
30 operate vehicle with an alcohol concentration of greater than 0.00 at any
31 relevant time after the driving.

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

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

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

1 shall be reinstated and the one-year revocation begins after all other periods of revocation have
2 terminated."

3 **SECTION 3.** This act becomes effective July 1, 2016, and applies to offenses
4 committed on or after that date.