

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL DRS15142-ML-147 (03/16)

Short Title: Impaired Driving Punishment/Use of CAM. (Public)

Sponsors: Senators Lee, Sanderson, and Bishop (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO EXPAND THE USE OF CONTINUOUS ALCOHOL MONITORING
3 SYSTEMS IN PUNISHMENTS IMPOSED FOR CERTAIN IMPAIRED DRIVING
4 CONVICTIONS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 20-179 reads as rewritten:
7 "§ 20-179. Sentencing hearing after conviction for impaired driving; determination of
8 grossly aggravating and aggravating and mitigating factors; punishments.

9 ...
10 (g) Level One Punishment. – A defendant subject to Level One punishment may be
11 fined up to four thousand dollars (\$4,000) and shall be sentenced to a term of imprisonment
12 that includes a minimum term of not less than 30 days and a maximum term of not more than
13 24 months. The term of imprisonment may be suspended only if a condition of special
14 probation is imposed to require the defendant to abstain from alcohol consumption and be
15 monitored by a continuous alcohol monitoring system, of a type approved by the Division of
16 Adult Correction of the Department of Public Safety, for a period of not less than 60 days, and
17 serve a term of imprisonment of at least 30 days. A judge may reduce the minimum term of
18 imprisonment required to a term of not less than 10 days if a condition of special probation is
19 imposed to require that a defendant abstain from alcohol consumption and be monitored by a
20 continuous alcohol monitoring system, of a type approved by the Division of Adult Correction
21 of the Department of Public Safety, for a period of not less than 120 days. If the defendant is
22 monitored on an approved continuous alcohol monitoring system during the pretrial period, up
23 to ~~60~~90 days of pretrial monitoring may be credited against the 120-day monitoring
24 requirement for probation. If the defendant is placed on probation, the judge shall impose a
25 requirement that the defendant obtain a substance abuse assessment and the education or
26 treatment required by G.S. 20-17.6 for the restoration of a drivers license and as a condition of
27 probation. The judge may impose any other lawful condition of probation.

28 (h) Level Two Punishment. – A defendant subject to Level Two punishment may be
29 fined up to two thousand dollars (\$2,000) and shall be sentenced to a term of imprisonment that
30 includes a minimum term of not less than seven days and a maximum term of not more than 12
31 months. The term of imprisonment may be suspended only if a condition of special probation is
32 imposed to require the defendant (i) to abstain from alcohol consumption and be monitored by
33 a continuous alcohol monitoring system, of a type approved by the Division of Adult
34 Correction of the Department of Public Safety, for a period of not less than 60 days, and serve a
35 term of imprisonment of at least seven days or (ii) to abstain from consuming alcohol for at
36 least 90 consecutive days, as verified by a continuous alcohol monitoring system, of a type



1 approved by the Division of Adult Correction of the Department of Public Safety. If the
2 defendant is subject to Level Two punishment based on a finding that the grossly aggravating
3 factor in subdivision (1) or (2) of subsection (c) of this section applies, the conviction for a
4 prior offense involving impaired driving occurred within five years before the date of the
5 offense for which the defendant is being sentenced and the judge suspends all active terms of
6 imprisonment and imposes abstention from alcohol as verified by a continuous alcohol
7 monitoring system, then the judge must also impose as an additional condition of special
8 probation that the defendant must complete 240 hours of community service. If the defendant is
9 monitored on an approved continuous alcohol monitoring system during the pretrial period, up
10 to ~~60~~90 days of pretrial monitoring may be credited against the 90-day monitoring requirement
11 for probation. If the defendant is placed on probation, the judge shall impose a requirement that
12 the defendant obtain a substance abuse assessment and the education or treatment required by
13 G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge
14 may impose any other lawful condition of probation.

15 (h1) The judge may impose, as a condition of probation for defendants subject to Level
16 One or Level Two punishments, that the defendant abstain from alcohol consumption for ~~a~~
17 ~~minimum of 30 days, to a maximum of~~ the term of probation, as verified by a continuous
18 alcohol monitoring system. The defendant's abstinence from alcohol shall be verified by a
19 continuous alcohol monitoring system of a type approved by the Division of Adult Correction
20 of the Department of Public Safety.

21 ...

22 (r) Supervised Probation Terminated. – Unless a judge in his or her discretion
23 determines that supervised probation is necessary, and includes in the record that he or she has
24 received evidence and finds as a fact that supervised probation is necessary, and states in his or
25 her judgment that supervised probation is necessary, a defendant convicted of an offense of
26 impaired driving shall be placed on unsupervised probation if he or she meets three conditions.
27 These conditions are that he or she has not been convicted of an offense of impaired driving
28 within the seven years preceding the date of this offense for which he or she is sentenced, that
29 the defendant is sentenced under subsections (i), (j), and (k) of this section, and has obtained
30 any necessary substance abuse assessment and completed any recommended treatment or
31 training ~~program-program, including any requirement that the defendant abstain from alcohol~~
32 consumption and be monitored by a continuous alcohol monitoring system approved by the
33 Division of Adult Correction of the Department of Public Safety.

34 When a judge determines in accordance with the above procedures that a defendant should
35 be placed on supervised probation, the judge shall authorize the probation officer to modify the
36 defendant's probation by placing the defendant on unsupervised probation upon the completion
37 by the defendant of any of the following conditions of his or her suspended sentence:

38 (1) Community ~~service; or~~ service.

39 ...

40 (3) Payment of any fines, court costs, and ~~fees; or~~ fees.

41 (4) Any combination of these conditions.

42"

43 **SECTION 2.** This act becomes effective December 1, 2017, and applies to
44 offenses committed on or after that date.