

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 402
Committee Substitute Favorable 4/14/21
PROPOSED COMMITTEE SUBSTITUTE H402-PCS40603-SU-16

Short Title: Begin Modernizing Ignition Interlock Laws.

(Public)

Sponsors:

Referred to:

March 25, 2021

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE MANDATORY WAITING PERIODS FOR DRIVERS
LICENSE RESTORATION OR LIMITED DRIVING PRIVILEGES IF THE PERSON IS
OPERATING A MOTOR VEHICLE THAT HAS A FUNCTIONING IGNITION
INTERLOCK SYSTEM INSTALLED ON IT; TO REQUIRE FOR THE RESTORATION
OF LICENSES AFTER CERTAIN DRIVING WHILE IMPAIRED CONVICTIONS, OR
THE ISSUANCE OF LIMITED DRIVING PRIVILEGES, AN IGNITION INTERLOCK
SYSTEM BE INSTALLED ON ONLY THE MOTOR VEHICLES THE PERSON WILL
DRIVE; TO ELIMINATE THE RESTRICTIONS ON THE PURPOSES FOR DRIVING
AND THE HOURS DURING WHICH A PERSON MAY OPERATE A MOTOR VEHICLE
IF THE PERSON IS OPERATING A MOTOR VEHICLE WITH A FUNCTIONING
IGNITION INTERLOCK SYSTEM INSTALLED ON IT; TO ALLOW THE WAIVER OR
REDUCTION OF COSTS FOR CERTAIN PERSONS REQUIRED TO INSTALL AN
IGNITION INTERLOCK SYSTEM; TO REVISE THE MAXIMUM BLOOD ALCOHOL
CONCENTRATION LEVEL FOR THE OPERATION OF A MOTOR VEHICLE IN
CERTAIN CIRCUMSTANCES TO THE IGNITION INTERLOCK SYSTEM PRE-SET
FAIL LEVEL; AND TO REQUIRE THE JOINT LEGISLATIVE OVERSIGHT
COMMITTEE ON JUSTICE AND PUBLIC SAFETY TO STUDY WHETHER TO
EXPAND THE USE OF IGNITION INTERLOCK SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-179.3 reads as rewritten:

"§ 20-179.3. **Limited driving privilege.**

...

(b) Eligibility. –

(1) A person convicted of the offense of impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege ~~if~~ if all of the following requirements are met:

- a. At the time of the offense the person held either a valid driver's license or a license that had been expired for less than one ~~year~~ year.
- b. At the time of the offense the person had not within the preceding seven years been convicted of an offense involving impaired ~~driving~~ driving.
- c. Punishment Level Three, Four, or Five was imposed for the offense of impaired ~~driving~~ driving.



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- d. Subsequent to the offense the person has not been convicted of, or had an unresolved charge lodged against the person for, an offense involving impaired driving; ~~and driving.~~
- e. The person has obtained and filed with the court a substance abuse assessment of the type required by G.S. 20-17.6 for the restoration of a drivers license.

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

- (2) Any person whose licensing privileges are forfeited pursuant to G.S. 15A-1331.1 is eligible for a limited driving privilege if the court finds that at the time of the forfeiture, the person held either a valid drivers license or a drivers license that had been expired for less than one year and either of the following requirements is met:
 - a. The person is supporting existing dependents or must have a drivers license to be gainfully ~~employed;~~ or employed.
 - b. The person has an existing dependent who requires serious medical treatment and the defendant is the only person able to provide transportation to the dependent to the health care facility where the dependent can receive the needed medical treatment.

The limited driving privilege granted under this subdivision must restrict the person to essential driving related to the purposes listed above, and any driving that is not related to those purposes is unlawful even though done at times and upon routes that may be authorized by the privilege.

...
~~(e1) Privilege Restrictions for High-Risk Drivers.— Notwithstanding any other provision of this section, any limited driving privilege issued to a person convicted of an impaired driving offense with an alcohol concentration of 0.15 or more at the time of the offense shall:~~

- ~~(1) Not become effective until at least 45 days after the final conviction under G.S. 20-138.1;~~
- ~~(2) Require the applicant to comply with the ignition interlock requirements of subsection (g5) of this section; and~~
- ~~(3) Restrict the applicant to driving only to and from the applicant's place of employment, the place the applicant is enrolled in school, the applicant's place of religious worship, any court ordered treatment or substance abuse education, and any ignition interlock service facility.~~

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

- ...
 (g3) Ignition Interlock Allowed. – A judge may include all of the following in a limited driving privilege order:
- (1) A restriction that the applicant may operate only a designated motor vehicle.
 - (2) A requirement that the designated motor vehicle be 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

1 and Contract in the Department of Administration to ensure that potential
2 vendors are not discriminated against.

- 3 (3) A requirement that the applicant personally activate the ignition interlock
4 system before driving the motor vehicle.

5 If the limited driving privilege order includes the restrictions set forth in this subsection, then
6 the limitations set forth in subsections (a), (f), (g), (g1), and (g2) of this section do not apply
7 when the person is operating the designated motor vehicle with a functioning ignition interlock
8 system.

9 ...

10 (g5) Ignition Interlock Required. – If a person's drivers license is revoked for a conviction
11 of G.S. 20-138.1, and the person had an alcohol concentration of 0.15 or more, a judge shall
12 include all of the following in a limited driving privilege order:

- 13 (1) A restriction that the applicant may operate only a designated motor vehicle.
14 (2) A requirement that the designated motor vehicle be equipped with a
15 functioning ignition interlock system of a type approved by the
16 Commissioner, which is set to prohibit driving with an alcohol concentration
17 of greater than ~~0.00~~0.02. The Commissioner shall not unreasonably withhold
18 approval of an ignition interlock system and shall consult with the Division of
19 Purchase and Contract in the Department of Administration to ensure that
20 potential vendors are not discriminated against.
21 (3) A requirement that the applicant personally activate the ignition interlock
22 system before driving the motor vehicle.

23 If the limited driving privilege order includes the restrictions set forth in this subsection, then
24 the limitations set forth in subsections (a), (f), (g), (g1), and (g2) of this section do not apply
25 when the person is operating the designated motor vehicle with a functioning ignition interlock
26 system. For purposes of this subsection, the results of a chemical analysis presented at trial or
27 sentencing shall be sufficient to prove a person's alcohol concentration, shall be conclusive, and
28 shall not be subject to modification by any party, with or without approval by the court.

29 ...

30 (l) Any judge granting limited driving privileges under this section shall, prior to
31 granting such privileges, be furnished proof and be satisfied that the person being granted such
32 privileges is financially responsible. Proof of financial responsibility shall be in one of the
33 following forms:

- 34 (1) A written certificate or electronically-transmitted facsimile thereof from any
35 insurance carrier duly authorized to do business in this State certifying that
36 there is in effect a nonfleet private passenger motor vehicle liability policy for
37 the benefit of the person required to furnish proof of financial responsibility.
38 The certificate or facsimile shall state the effective date and expiration date of
39 the nonfleet private passenger motor vehicle liability policy and shall state the
40 date that the certificate or facsimile is issued. The certificate or facsimile shall
41 remain effective proof of financial responsibility for a period of 30
42 consecutive days following the date the certificate or facsimile is issued but
43 shall not in and of itself constitute a binder or policy of ~~insurance or insurance.~~
44 (2) A binder for or policy of nonfleet private passenger motor vehicle liability
45 insurance under which the applicant is insured, provided that the binder or
46 policy states the effective date and expiration date of the nonfleet private
47 passenger motor vehicle liability policy.

48 The preceding provisions of this subsection do not apply to applicants who do not own
49 currently registered motor vehicles and who do not operate nonfleet private passenger motor
50 vehicles that are owned by other persons and that are not insured under commercial motor vehicle
51 liability insurance policies. In such cases, the applicant shall sign a written certificate to that

1 effect. Such certificate shall be furnished by the Division. Any material misrepresentation made
2 by such person on such certificate shall be grounds for suspension of that person's license for a
3 period of 90 days.

4 For the purpose of this subsection "nonfleet private passenger motor vehicle" has the
5 definition ascribed to it in Article 40 of General Statute Chapter 58.

6 The Commissioner may require that certificates required by this subsection be on a form
7 approved by the Commissioner. Such granting of limited driving privileges shall be conditioned
8 upon the maintenance of such financial responsibility during the period of the limited driving
9 privilege. Nothing in this subsection precludes any person from showing proof of financial
10 responsibility in any other manner authorized by Articles 9A and 13 of this Chapter."

11 **SECTION 2.** G.S. 20-17.8 reads as rewritten:

12 "**§ 20-17.8. Restoration of a license after certain driving while impaired convictions;**
13 **ignition interlock.**

14 (a) Scope. – This section applies to a person whose license was revoked as a result of a
15 conviction of driving while impaired, G.S. 20-138.1, ~~and~~and any of the following conditions is
16 met:

- 17 (1) The person had an alcohol concentration of 0.15 or ~~more;~~more.
18 (2) The person has been convicted of another offense involving impaired driving,
19 which offense occurred within seven years immediately preceding the date of
20 the offense for which the person's license has been ~~revoked;~~ or revoked.
21 (3) The person was sentenced pursuant to G.S. 20-179(f3).

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

25 ...

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

- 30 (1) A restriction that the person may operate only a vehicle that is equipped with
31 a functioning ignition interlock system of a type approved by the
32 Commissioner. The Commissioner shall not unreasonably withhold approval
33 of an ignition interlock system and shall consult with the Division of Purchase
34 and Contract in the Department of Administration to ensure that potential
35 vendors are not discriminated against.
36 (2) A requirement that the person personally activate the ignition interlock system
37 before driving the motor vehicle.
38 (3) ~~An alcohol concentration restriction as follows:~~A requirement that the person
39 not drive with an alcohol concentration of 0.02 or greater.

40 a. ~~If the ignition interlock system is required pursuant only to subdivision~~
41 ~~(a)(1) of this section, a requirement that the person not drive with an~~
42 ~~alcohol concentration of 0.04 or greater;~~

43 b. ~~If the ignition interlock system is required pursuant to subdivision~~
44 ~~(a)(2) or (a)(3) of this section, or subsection (a1) of this section, a~~
45 ~~requirement that the person not drive with an alcohol concentration of~~
46 ~~greater than 0.00; or~~

47 e. ~~If the ignition interlock system is required pursuant to subdivision~~
48 ~~(a)(1) of this section, and the person has also been convicted, based on~~
49 ~~the same set of circumstances, of: (i) driving while impaired in a~~
50 ~~commercial vehicle, G.S. 20-138.2, (ii) driving while less than 21~~
51 ~~years old after consuming alcohol or drugs, G.S. 20-138.3, (iii) a~~

1 violation of G.S. 20-141.4, or (iv) manslaughter or negligent homicide
2 resulting from the operation of a motor vehicle when the offense
3 involved impaired driving, a requirement that the person not drive with
4 an alcohol concentration of greater than 0.00.

5 (c) Length of Requirement. – The requirements of subsection (b) shall remain in effect
6 ~~for~~for one of the following:

- 7 (1) One year from the date of restoration if the original revocation period was one
8 ~~year~~year.
9 (2) Three years from the date of restoration if the original revocation period was
10 ~~four years~~or years.
11 (3) Seven years from the date of restoration if the original revocation was a
12 permanent revocation.

13 (c1) Vehicles Subject to Requirement. – A person subject to this section shall ~~have all~~
14 designate in accordance with the policies of the Division any registered vehicles owned by that
15 person that the person operates or intends to operate and have the designated vehicles equipped
16 with a functioning ignition interlock system of a type approved by the Commissioner. The
17 Commissioner shall not issue a license to a person subject to this section until presented with
18 proof of the installation of an ignition interlock system in ~~all registered vehicles owned by the~~
19 ~~person. In order to avoid an undue financial hardship, a person subject to this section may seek a~~
20 ~~waiver from the Division for any vehicle registered to that person that is relied upon by another~~
21 ~~member of that person's family for transportation and that the vehicle is not in the possession of~~
22 ~~the person subject to this section. The Division shall determine such waiver on a case-by-case~~
23 ~~basis following an assessment of financial hardship to the person subject to this restriction. At~~
24 least one of the person's designated vehicles. The Commissioner shall cancel the drivers license
25 of any person subject to this section for registration of a motor vehicle owned by the person
26 without an installed ignition interlock system operating a vehicle that has not been designated
27 and equipped with a functioning ignition interlock system in accordance with this subsection, or
28 removal of the ignition interlock system from a any designated motor vehicle owned by the
29 person, other than when changing ignition interlock providers or upon sale of the designated
30 vehicle.

31 ...

32 (j) Right to Hearing Before Division; Issues. – If the person's license is revoked pursuant
33 to subsection (g) of this section, before the effective date of the order issued under subsection (i)
34 of this section, the person may request in writing a hearing before the Division. Except for the
35 time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the Division that the
36 person's license was surrendered to the court and remained in the court's possession, then the
37 Division shall credit the amount of time for which the license was in the possession of the court
38 against the revocation period required by subsection (g) of this section. If the person properly
39 requests a hearing, the person retains the person's license, unless it is revoked under some other
40 provision of law, until the hearing is held, the person withdraws the request, or the person fails
41 to appear at a scheduled hearing. The hearing officer may subpoena any witnesses or documents
42 that the hearing officer deems necessary. The person may request the hearing officer to subpoena
43 the charging officer, the chemical analyst, or both to appear at the hearing if the person makes
44 the request in writing at least three days before the hearing. The person may subpoena any other
45 witness whom the person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to
46 the issuance and service of all subpoenas issued under the authority of this section. The hearing
47 officer is authorized to administer oaths to witnesses appearing at the hearing. The hearing must
48 be conducted in the county where the charge was brought, except when the evidence of the
49 violation is an alcohol concentration report from an ignition interlock system, the hearing may
50 be conducted in the county where the person resides. The hearing must be limited to consideration
51 of ~~whether~~whether both of the following conditions were met:

- 1 (1) The drivers license of the person had an ignition interlock ~~requirement;~~
2 ~~and requirement.~~
- 3 (2) ~~The person:~~ Any of the following conditions occurred:
4 a. ~~Was~~ The person was driving a vehicle that was not equipped with a
5 functioning ignition interlock ~~system; or system.~~
- 6 b. ~~Did~~ The person did not personally activate the ignition interlock
7 system before driving the ~~vehicle; or vehicle.~~
- 8 c. Drove the vehicle in violation of an applicable alcohol concentration
9 restriction prescribed by subdivision (b)(3) of this section.
- 10 d. The person was driving a vehicle that was not designated in
11 accordance with subsection (c1) of this section.

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

19"

20 **SECTION 3.** G.S. 20-19 reads as rewritten:

21 "**§ 20-19. Period of suspension or revocation; conditions of restoration.**

22 ...

23 (c3) Restriction; Revocations. – When the Division restores a person's drivers license
24 which was revoked pursuant to G.S. 20-13.2(a), G.S. 20-23 when the offense involved impaired
25 driving, G.S. 20-23.2, subdivision (2) of G.S. 20-17(a), subdivision (1) or (9) of G.S. 20-17(a)
26 when the offense involved impaired driving, G.S. 20-138.5(d), or this subsection, in addition to
27 any other restriction or condition, it shall place the applicable restriction on the person's drivers
28 license as follows:

- 29 (1) For the first restoration of a drivers license for a person convicted of driving
30 while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to
31 G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license
32 was revoked prohibits substantially similar conduct which if committed in this
33 State would result in a conviction of driving while impaired under
34 G.S. 20-138.1, that the person not operate a vehicle with an alcohol
35 concentration of 0.04 or more at any relevant time after the ~~driving;~~ driving.
- 36 (2) For the second or subsequent restoration of a drivers license for a person
37 convicted of driving while impaired, G.S. 20-138.1, or a drivers license
38 revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which
39 the person's license was revoked prohibits substantially similar conduct which
40 if committed in this State would result in a conviction of driving while
41 impaired under G.S. 20-138.1, that the person not operate a vehicle with an
42 alcohol concentration greater than 0.00 at any relevant time after the
43 ~~driving;~~ driving.
- 44 (3) For any restoration of a drivers license for a person convicted of driving while
45 impaired in a commercial motor vehicle, G.S. 20-138.2, habitual impaired
46 driving, G.S. 20-138.5, ~~driving while less than 21 years old after consuming~~
47 ~~alcohol or drugs,~~ G.S. 20-138.3, felony death by vehicle, G.S. 20-141.4(a1),
48 manslaughter or negligent homicide resulting from the operation of a motor
49 vehicle when the offense involved impaired driving, or a revocation under this
50 subsection, that the person not operate a vehicle with an alcohol concentration
51 of greater than ~~0.00~~ 0.02 at any relevant time after the ~~driving;~~ driving.

- 1 (3a) For any restoration of a drivers license (i) for a person convicted of driving
2 while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3,
3 or (ii) revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for
4 which the person's license was revoked prohibits substantially similar conduct
5 which if committed in this State would result in a conviction of driving while
6 less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, that
7 the person not operate a vehicle with an alcohol concentration of greater than
8 0.00 at any relevant time after the driving.
- 9 (4) For any restoration of a drivers license revoked pursuant to G.S. 20-23 or
10 G.S. 20-23.2 when the offense for which the person's license was revoked
11 prohibits substantially similar conduct which if committed in this State would
12 result in a conviction of driving while impaired in a commercial motor vehicle,
13 G.S. 20-138.2, driving while less than 21 years old after consuming alcohol
14 or drugs, G.S. 20-138.3, a violation of G.S. 20-141.4, or manslaughter or
15 negligent homicide resulting from the operation of a motor vehicle when the
16 offense involved impaired driving, that the person not operate a vehicle with
17 an alcohol concentration of greater than 0.00 at any relevant time after the
18 driving.
- 19 (5) For any restoration of a drivers license pursuant to G.S. 20-17.8 requiring an
20 ignition interlock system, that the person not operate a vehicle with an alcohol
21 concentration of 0.02 or more at any relevant time after the driving during the
22 period that the ignition interlock is required.

23 In addition, the person seeking restoration of a license must agree to submit to a chemical
24 analysis in accordance with G.S. 20-16.2 at the request of a law enforcement officer who has
25 reasonable grounds to believe the person is operating a motor vehicle on a highway or public
26 vehicular area ~~in violation of the restriction specified in this subsection, while consuming alcohol~~
27 or at any time while the person has remaining in the person's body any alcohol or controlled
28 substance previously consumed. The person must also agree that, when requested by a law
29 enforcement officer, the person will agree to be transported by the law enforcement officer to the
30 place where chemical analysis is to be administered.

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

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

46 ...

47 (c5) Right to Hearing Before Division; Issues. – Upon receipt of a properly executed
48 affidavit required by G.S. 20-16.2(c1), the Division must expeditiously notify the person charged
49 that the person's license to drive is revoked for the period of time specified in this section,
50 effective on the tenth calendar day after the mailing of the revocation order unless, before the
51 effective date of the order, the person requests in writing a hearing before the Division. Except

1 for the time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the Division
 2 that the person's license was surrendered to the court and remained in the court's possession, then
 3 the Division shall credit the amount of time for which the license was in the possession of the
 4 court against the revocation period required by this section. If the person properly requests a
 5 hearing, the person retains the person's license, unless it is revoked under some other provision
 6 of law, until the hearing is held, the person withdraws the request, or the person fails to appear
 7 at a scheduled hearing. The hearing officer may subpoena any witnesses or documents that the
 8 hearing officer deems necessary. The person may request the hearing officer to subpoena the
 9 charging officer, the chemical analyst, or both to appear at the hearing if the person makes the
 10 request in writing at least three days before the hearing. The person may subpoena any other
 11 witness whom the person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to
 12 the issuance and service of all subpoenas issued under the authority of this section. The hearing
 13 officer is authorized to administer oaths to witnesses appearing at the hearing. The hearing must
 14 be conducted in the county where the charge was brought, and must be limited to consideration
 15 of ~~whether~~whether all of the following conditions exist:

- 16 (1) The charging officer had reasonable grounds to believe that the person had
 17 violated the alcohol concentration ~~restriction~~restriction.
- 18 (2) The person was notified of the person's rights as required by
 19 ~~G.S. 20-16.2(a)~~G.S. 20-16.2(a).
- 20 (3) The drivers license of the person had an alcohol concentration ~~restriction~~and restriction.
- 21
 22 (4) The person submitted to a chemical analysis upon the request of the charging
 23 officer, and the analysis revealed an alcohol concentration in excess of the
 24 restriction on the person's drivers license.

25 If the Division finds that the conditions specified in this subsection are met, it must order the
 26 revocation sustained. If the Division finds that any of the conditions (1), (2), (3), or (4) is not
 27 met, it must rescind the revocation. If the revocation is sustained, the person must surrender the
 28 person's license immediately upon notification by the Division.

29 ...

30 (d) When a person's license is revoked under (i) G.S. 20-17(a)(2) and the person has
 31 another offense involving impaired driving for which ~~he the person~~ the person has been convicted, which
 32 offense occurred within three years immediately preceding the date of the offense for which ~~his~~
 33 the person's license is being revoked, or (ii) G.S. 20-17(a)(9) due to a violation of
 34 G.S. 20-141.4(a3), the period of revocation is four years, and this period may be reduced only as
 35 provided in this section. The Division may conditionally restore the person's license after it has
 36 been revoked for at least two years under this subsection if ~~he the person~~ the person provides the Division
 37 with satisfactory proof ~~that~~that both of the following requirements are met:

- 38 (1) ~~He~~ The person has not in the period of revocation been convicted in North
 39 Carolina or any other state or federal jurisdiction of a motor vehicle offense,
 40 an alcoholic beverage control law offense, a drug law offense, or any other
 41 criminal offense involving the possession or consumption of alcohol or ~~drugs~~
 42 and drugs.
- 43 (2) ~~He~~ The person is not currently an excessive user of alcohol, drugs, or
 44 prescription drugs, or unlawfully using any controlled substance. The person
 45 may voluntarily submit themselves to continuous alcohol monitoring for the
 46 purpose of proving abstinence from alcohol consumption during a period of
 47 revocation immediately prior to the restoration consideration. All of the
 48 following requirements apply when providing proof that the requirement set
 49 forth in this subdivision has been met:

- a. Monitoring periods of 120 days or longer shall be accepted by the
 51 Division as evidence of abstinence if the Division receives sufficient

1 documentation that reflects that the person abstained from alcohol use
2 during the monitoring period.
3 b. The continuous alcohol monitoring system shall be a system approved
4 under G.S. 15A-1343.3.
5 c. The Division may establish guidelines for the acceptance of evidence
6 of abstinence under this subdivision.

7 If the Division restores the person's license, it may place reasonable conditions or restrictions on
8 the person for the duration of the original revocation period.

9 ...

10 (e1) Notwithstanding subsection (e) of this section, the Division may conditionally restore
11 the license of a person to whom subsection (e) applies after it has been revoked for at least three
12 years under subsection (e) if the person provides the Division with satisfactory proof of all of the
13 following:

14 (1) In the three years immediately preceding the person's application for a restored
15 license, the person has not been convicted in North Carolina or in any other
16 state or federal court of a motor vehicle offense, an alcohol beverage control
17 law offense, a drug law offense, or any criminal offense involving the
18 consumption of alcohol or drugs.

19 (2) The person is not currently an excessive user of alcohol, drugs, or prescription
20 drugs, or unlawfully using any controlled substance. The person may
21 voluntarily submit themselves to continuous alcohol monitoring for the
22 purpose of proving abstinence from alcohol consumption during a period of
23 revocation immediately prior to the restoration consideration. All of the
24 following requirements apply when providing proof that the requirement set
25 forth in this subdivision has been met:

26 a. Monitoring periods of 120 days or longer shall be accepted by the
27 Division as evidence of abstinence if the Division receives sufficient
28 documentation that reflects that the person abstained from alcohol use
29 during the monitoring period.

30 b. The continuous alcohol monitoring system shall be a system approved
31 under G.S. 15A-1343.3.

32 c. The Division may establish guidelines for the acceptance of evidence
33 of abstinence under this subdivision.

34 ...

35 (i) When a person's license is revoked under G.S. 20-17(a)(1) or G.S. 20-17(a)(9), and
36 the offense is one involving impaired driving and a fatality, the revocation is permanent. The
37 Division may, however, conditionally restore the person's license after it has been revoked for at
38 least five years under this subsection if ~~he~~ the person provides the Division with satisfactory
39 proof ~~that~~ that both of the following requirements are met:

40 (1) In the five years immediately preceding the person's application for a restored
41 license, ~~he~~ the person has not been convicted in North Carolina or in any other
42 state or federal court of a motor vehicle offense, an alcohol beverage control
43 law offense, a drug law offense, or any criminal offense involving the
44 consumption of alcohol or ~~drugs;~~ and drugs.

45 (2) ~~He~~ The person is not currently an excessive user of alcohol or drugs.

46 If the Division restores the person's license, it may place reasonable conditions or restrictions on
47 the person for any period up to seven years from the date of restoration.

48 ...

49 (k) Before the Division restores a driver's license that has been suspended or revoked
50 under G.S. 20-138.5(d), or under any provision of this Article, other than G.S. 20-24.1, the
51 person seeking to have his driver's license restored shall submit to the Division proof that he has

1 notified his insurance agent or company of his seeking the restoration and that he is financially
2 responsible. Proof of financial responsibility shall be in one of the following forms:

- 3 (1) A written certificate or electronically-transmitted facsimile thereof from any
4 insurance carrier duly authorized to do business in this State certifying that
5 there is in effect a nonfleet private passenger motor vehicle liability policy for
6 the benefit of the person required to furnish proof of financial responsibility.
7 The certificate or facsimile shall state the effective date and expiration date of
8 the nonfleet private passenger motor vehicle liability policy and shall state the
9 date that the certificate or facsimile is issued. The certificate or facsimile shall
10 remain effective proof of financial responsibility for a period of 30
11 consecutive days following the date the certificate or facsimile is issued but
12 shall not in and of itself constitute a binder or policy of ~~insurance or~~ insurance.
- 13 (2) A binder for or policy of nonfleet private passenger motor vehicle liability
14 insurance under which the applicant is insured, provided that the binder or
15 policy states the effective date and expiration date of the nonfleet private
16 passenger motor vehicle liability policy.

17 ~~The preceding provisions~~ Subdivisions (1) and (2) of this subsection do not apply to
18 applicants who do not own currently registered motor vehicles and who do not operate nonfleet
19 private passenger motor vehicles that are owned by other persons and that are not insured under
20 commercial motor vehicle liability insurance policies. In such cases, the applicant shall sign a
21 written certificate to that effect. Such certificate shall be furnished by the Division and may be
22 incorporated into the restoration application form. Any material misrepresentation made by such
23 person on such certificate shall be grounds for suspension of that person's license for a period of
24 90 days.

25 For the purposes of this subsection, the term "nonfleet private passenger motor vehicle" has
26 the definition ascribed to it in Article 40 of General Statute Chapter 58.

27 The Commissioner may require that certificates required by this subsection be on a form
28 approved by the Commissioner. The financial responsibility required by this subsection shall be
29 kept in effect for not less than three years after the date that the license is restored. Failure to
30 maintain financial responsibility as required by this subsection shall be grounds for suspending
31 the restored driver's license for a period of ~~thirty (30)~~ 30 days. Nothing in this subsection
32 precludes any person from showing proof of financial responsibility in any other manner
33 authorized by Articles 9A and 13 of this Chapter."

34 **SECTION 4.(a)** Article 3 of Chapter 20 of the General Statutes is amended by adding
35 a new section to read:

36 **"§ 20-179.5. Affordability of ignition interlock system.**

37 (a) Payment of Costs. – The costs incurred in order to comply with the ignition interlock
38 requirements imposed by the court or the Division pursuant to this Chapter, including costs for
39 installation and monitoring of the ignition interlock system, shall be paid by the person ordered
40 to install the system. Costs for installation and monitoring of the ignition interlock system shall
41 be collected under terms agreed upon by the ignition interlock system vendor and the person
42 required to install the ignition interlock system.

43 (b) Waiver. – A person who is ordered by a court, or required by statute, to install an
44 ignition interlock system in order to lawfully operate a motor vehicle, but who is unable to afford
45 the cost of an ignition interlock system, may apply to an authorized vendor for a waiver of a
46 portion of the costs of an ignition interlock system.

47 (c) Affidavit. – A person who applies for a waiver of a portion of the costs of an ignition
48 interlock system under subsection (b) of this section shall provide to the vendor on a form
49 affidavit created by the Division a statement (i) that the person's income is at or below one
50 hundred fifty percent (150%) of the federal poverty line or (ii) that the person is enrolled in any
51 of the following public assistance programs:

- 1 (1) Temporary Assistance for Needy Families (TANF).
- 2 (2) Supplemental Security Income (SSI).
- 3 (3) Supplemental Nutrition Assistance Program (SNAP).
- 4 (4) Low Income Home Energy Assistance Program (LIHEAP).
- 5 (5) Medicaid.

6 (d) Supporting Documentation. – A person who submits an affidavit under subsection (c)
7 of this section shall provide to the vendor documentation confirming the statement set out in the
8 affidavit. A person may establish the person's income for purposes of this subsection by providing
9 any of the following:

- 10 (1) A copy of the person's federal tax return for the previous year.
- 11 (2) A copy of the person's IRS Form W-2 for the previous year.
- 12 (3) A copy of the person's pay stubs or monthly income statements for the three
13 months immediately preceding the date of application under subsection (b) of
14 this section.
- 15 (4) A verification of unemployment benefits paid to the person for the three
16 months immediately preceding the date of application under subsection (b) of
17 this section.

18 (e) Reduction of Costs. – A vendor who receives a waiver under subsection (b) of this
19 section that complies with the requirements of subsections (c) and (d) of this section shall install
20 the ignition interlock system in accordance with both of the following terms:

- 21 (1) The applicant shall not be required to pay for installation or removal of the
22 ignition interlock system or systems.
- 23 (2) The applicant shall receive a fifty percent (50%) discount on the monthly
24 service rate charged to persons who are not granted a waiver under this
25 section.

26 (f) Review of Denial. – An applicant denied a waiver of ignition interlock system costs
27 under this section may seek review by the Division of the vendor's determination. The Division
28 shall adopt rules to govern its review under this subsection."

29 **SECTION 4.(b)** The Division of Motor Vehicles shall adopt temporary rules to
30 implement the provisions of G.S. 20-179.5, as enacted by subsection (a) of this section.
31 Temporary rules adopted in accordance with this subsection shall remain in effect until
32 permanent rules that replace the temporary rules become effective.

33 **SECTION 4.(c)** By December 1, 2021, the Division of Motor Vehicles shall develop
34 the form required under G.S. 20-179.5(c), as enacted by subsection (a) of this section, and make
35 it available on the Division's website.

36 **SECTION 5.** The Joint Legislative Oversight Committee on Justice and Public
37 Safety (Committee) shall study whether the use of an ignition interlock system as a condition of
38 a limited driving privilege should be expanded to include additional convictions and whether
39 ignition interlock requirements should apply to limited driving privileges granted pretrial and
40 granted to permit driving during the period of a revocation for refusal to submit to chemical
41 testing. The Committee shall also study whether the Division of Motor Vehicles, rather than the
42 courts, should be authorized to grant limited driving privileges and to supervise the use of ignition
43 interlocks pursuant to that authority. The Committee shall report its findings, including any
44 proposed legislation, prior to the convening of the 2022 Regular Session of the 2021 General
45 Assembly.

46 **SECTION 6.** Prosecutions for offenses committed before the effective date of this
47 act are not abated or affected by this act, and the statutes that would be applicable but for this act
48 remain applicable to those prosecutions.

49 **SECTION 7.** Sections 4(c) through 7 of this act are effective when they become law.
50 The remainder of this act becomes effective December 1, 2021, and applies to limited driving
51 privileges issued on or after that date.