



HOUSE PCS 49: Laura's Law

2011-2012 General Assembly

Committee:	House Finance	Date:	March 9, 2011
Introduced by:	Reps. T. Moore, Hastings, Torbett, H. Warren	Prepared by:	Susan Sitze
Analysis of:	PCS to Second Edition		Staff Attorney
	H49-CSSVx-1		

SUMMARY: *House Bill 49¹ would increase the punishment for DWI offenders with three or more grossly aggravating factors, would authorize the court to require continuous alcohol monitoring for certain offenders, and would impose an additional \$100 in court costs for DWI offenders.*

BILL ANALYSIS:

Section 1 would amend subsections (c), (g), and (k1) of G.S. 20-179 to create a new, higher, Aggravated Level One punishment for DWI offenders with 3 or more grossly aggravating factors. The punishment would allow a fine up to \$10,000 and a term of imprisonment of 12 months to 36 months. A defendant would not be eligible for parole on any term of imprisonment under this level of sentencing. However, the defendant would be released 4 months prior to the maximum prison term for a period of supervision including continuous alcohol monitoring.

The term of imprisonment could be suspended if a special condition of probation is imposed to require the defendant to serve a term of imprisonment of at least 120 days. The defendant would not be able to receive credit for inpatient treatment towards the term of imprisonment. The defendant would be required to comply with continuous alcohol monitoring for a minimum of 120 days to a maximum of the term of probation.

This section would also amend subsections (h1), (h2), and (h3) of G.S. 20-179 to make the following changes to the current provisions relating to the use of continuous alcohol monitoring:

- Would remove the current limitation of 60 days on the use of continuous alcohol monitoring, and allow the court to require the use for the full term of probation
- Would remove the current restriction that the total cost to the defendant for continuous alcohol monitoring not be more than \$1,000
- Would remove the provision in current law that allows the court to find that the defendant should not be required to pay the costs of continuous alcohol monitoring, and in that case to not impose the requirement unless the local government entity responsible for the incarceration of the defendant in the local confinement facility agrees to pay the cost of the system

Section 2 would provide for a permanent revocation for persons sentenced as an Aggravated Level One offender. This particular "permanent" revocation authorizes a person to apply for conditional license restoration after 3 years.

¹As introduced, this bill was identical to S86, as introduced by Sens. Harrington, Clary, Forrester, which is currently in Senate Judiciary I.

House PCS 49

Page 2

Section 3 would require a person sentenced as an Aggravated Level One offender to have an ignition interlock system installed on their vehicle for a period of 7 years after license restoration, and that they not drive with an alcohol concentration (BAC) of greater than 0.00.

Section 4 would impose an additional court cost of \$100 on all persons convicted of a driving while impaired offense. This fee would be in addition to the current fees, which total approximately \$141, plus any fines, restitution, attorneys' fees, or other fees, such as probation supervision or lab fees, that may be imposed.

Section 5 would authorize that a person charged with an offense involving impaired driving be required to comply with continuous alcohol monitoring as a condition of pre-trial release if they have a prior conviction of an offense involving impaired driving that occurred within 7 years.

EFFECTIVE DATE: This act becomes effective December 1, 2011, and applies to offenses committed on or after that date.

BACKGROUND:

There are currently 5 levels of DWI sentencing described briefly as follows:

Level One – 2 or more grossly aggravating factors, fine up to \$4,000, imprisonment of 30 days to 24 months, with mandatory 30 days active

Level Two – 1 grossly aggravating factor, fine up to \$2,000, imprisonment of 7 days to 12 months, with mandatory 7 days active

Level Three – no grossly aggravating factors, but the aggravating factors outweigh the mitigating factors, fine up to \$1,000, imprisonment of 72 hours to 6 months, with mandatory 72 hours active or 72 hours community service or both

Level Four – no aggravating and mitigating factors, or aggravating factors are substantially counterbalanced by mitigating factors, fine up to \$500, imprisonment of 48 hours to 120 days, with mandatory 48 hours active or 48 hours community service or both

Level Five – mitigating factors substantially outweigh any aggravating factors, fine up to \$200, imprisonment of 24 hours to 60 days, with mandatory 24 hours active or 24 hours community service or both

Grossly aggravating factors are:

- Prior DWI conviction within 7 years
- Driving while license revoked for an impaired driving conviction
- Serious injury to another person caused by the impaired driving
- Driving while impaired with a child under 16 in the vehicle

Aggravating factors include factors such as: a BAC level of 0.15 or more, reckless driving, driving while license revoked, an accident resulting from the impaired driving, and some previous motor vehicle convictions.

Mitigating factors include factors such as: a BAC level of less than 0.09, safe driving except for the impairment, a safe driving record, impairment caused by lawfully prescribed drug for an existing medical condition, and voluntary submission to substance abuse assessment.