

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 158  
Committee Substitute Favorable 5/13/91

Short Title: 18-21 Automatic DWI Revocation.

(Public)

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Sponsors:

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Referred to:

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February 25, 1991

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A 45-DAY REVOCATION OF THE DRIVERS  
LICENSE OF A PERSON AT LEAST 18 YEARS OLD AND UNDER 21 YEARS  
WHO IS CONVICTED OF DRIVING A MOTOR VEHICLE AFTER  
CONSUMING ANY ALCOHOL OR DRUGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-138.3 reads as rewritten:

**"§ 20-138.3. Driving by ~~provisional licensee~~ persons under age 21 after consuming alcohol or drugs.**

(a) Offense. – It is unlawful for a ~~provisional licensee~~ person under 21 years of age to drive a motor vehicle on a highway or public vehicular area while consuming alcohol or at any time while he has remaining in his body any alcohol or in his blood a controlled substance previously consumed, but a ~~provisional licensee~~ person under 21 years of age does not violate this section if he drives with a controlled substance in his blood which was lawfully obtained and taken in therapeutically appropriate amounts.

(b) Subject to Implied-Consent Law. – An offense under this section is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2.

(c) Punishment; Effect When Impaired Driving Offense Also Charged. – The offense in this section is a misdemeanor punishable under G.S. 20-176(c). It is not, in any circumstances, a lesser included offense of impaired driving under G.S. 20-138.1, but if a person is convicted under this section and of an offense involving impaired driving arising out of the same transaction, the aggregate punishment imposed by the

1 court may not exceed the maximum applicable to the offense involving impaired  
2 driving, and any minimum punishment applicable must be imposed."

3 Sec. 2. G.S. 20-13.2 reads as rewritten:

4 "**§ 20-13.2. Grounds for revoking provisional license****License revocations of persons**  
5 **under 21 years of age.**

6 (a) The Division must revoke the license of a person convicted of violating the  
7 provisions of G.S. 20-138.3 upon receipt of a record of the licensee's conviction.

8 (b) If a person is convicted of an offense involving impaired driving and the  
9 offense occurs while he is a ~~provisional licensee~~under 21 years of age, his license must be  
10 revoked under this section in addition to any other revocation required or authorized by  
11 law.

12 (c) If a person willfully refuses to submit to a chemical analysis pursuant to G.S.  
13 20-16.2 while he is a ~~provisional licensee~~under 21 years of age, his license must be  
14 revoked under this section, in addition to any other revocation required or authorized by  
15 law. A revocation order entered under authority of this subsection becomes effective at  
16 the same time as a revocation order issued under G.S. 20-16.2 for the same willful  
17 refusal.

18 (d) ~~A~~For persons who are provisional licensees at the time of the offense or  
19 willful refusal, a revocation under this section continues until the provisional licensee  
20 reaches 18 years of age or 45 days have elapsed, whichever occurs last. For persons at  
21 least 18 years old and under 21 years at the time of the offense or willful refusal, a  
22 revocation under this section shall be for 45 days. Revocations under this section run  
23 concurrently with any other revocations, but a limited driving privilege issued pursuant  
24 to law does not authorize a ~~provisional licensee~~person to drive if his license is revoked  
25 under this section. Upon petition to the court and a showing that the petitioners present,  
26 full time gainful employment requires the use of a drivers license as a condition of  
27 employment, the court may substitute in lieu of the 45 days revocation 24 hours of  
28 community service within the 45 day period, provided the same shall not be used to  
29 reduce any revocation imposed due to refusal to submit to chemical analysis.

30 (e) Before the Division restores a driver's license that has been suspended or  
31 revoked under any provision of this Article, other than G.S. 20-24.1, the person seeking  
32 to have his driver's license restored shall submit to the Division proof that he has  
33 notified his insurance agent or company of his seeking the restoration and that he is  
34 financially responsible. Proof of financial responsibility shall be in one of the following  
35 ~~forms;~~forms:

- 36 (1) A written certificate or electronically-transmitted facsimile thereof  
37 from any insurance carrier duly authorized to do business in this State  
38 certifying that there is in effect a nonfleet private passenger motor  
39 vehicle liability policy for the benefit of the person required to furnish  
40 proof of financial responsibility. The certificate or facsimile shall state  
41 the effective date and expiration date of the nonfleet private passenger  
42 motor vehicle liability policy and shall state the date that the certificate  
43 or facsimile is issued. The certificate or facsimile shall remain  
44 effective proof of financial responsibility for a period of 30

1 consecutive days following the date the certificate or facsimile is  
2 issued but shall not in and of itself constitute a binder or policy of  
3 ~~insurance~~insurance; or

- 4 (2) A binder for or policy of nonfleet private passenger motor vehicle  
5 liability insurance under which the applicant is insured, provided that  
6 the binder or policy states the effective date and expiration date of the  
7 nonfleet private passenger motor vehicle liability policy.

8 The preceding provisions of this subsection do not apply to applicants who do not  
9 own currently registered motor vehicles and who do not operate nonfleet private  
10 passenger motor vehicles that are owned by other persons and that are not insured under  
11 commercial motor vehicle liability insurance policies. In such cases, the applicant shall  
12 sign a written certificate to that effect. Such certificate shall be furnished by the  
13 Division and may be incorporated into the restoration application form. Any material  
14 misrepresentation made by such person on such certificate shall be grounds for  
15 suspension of that person's license for a period of 90 days.

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

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

26 Sec. 2. This act becomes effective October 1, 1991, and applies to offenses  
27 committed on or after that date.