

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

1

HOUSE BILL 298

Short Title: Drivers License Revocations.

(Public)

---

Sponsors: Representatives Buchanan; and Flaherty.

---

Referred to: Judiciary II.

---

March 25, 1991

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR MANDATORY REVOCATION OF DRIVERS  
LICENSES FOR CONTROLLED SUBSTANCE CONVICTIONS AND OTHER  
RELATED PENALTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-13.2(b) reads as rewritten:

"(b) If a person is convicted of an offense involving impaired driving or a violation of the North Carolina Controlled Substances Act, and the offense occurs while he is a provisional licensee, his license must be revoked under this section in addition to any other revocation required or authorized by law."

Sec. 2. G.S. 20-13.2(d) reads as rewritten:

"(d) ~~A~~The length of revocation under this section ~~continues until the provisional licensee reaches 18 years of age or 45 days have elapsed, whichever occurs last. shall be six months.~~ Revocations under this section run concurrently with any other revocations, but a limited driving privilege issued pursuant to law does not authorize a provisional licensee to drive if his license is revoked under this section."

Sec. 3. G.S. 20-17 is amended by adding new subdivisions to read:

"(12) Conviction of a felony under the North Carolina Controlled Substances Act.

(13) Any violation of the Federal Controlled Substances Act.

(14) Any other drug offense."

Sec. 4. G.S. 20-17.4 is amended by adding a new subsection to read:

"(a1) The Division shall revoke the commercial driver license of any driver upon receiving a record of the driver's conviction of a felony under the North Carolina

1 Controlled Substances Act. If a commercial license is revoked under this subsection,  
2 the period of revocation and conditions of reissuance of the license shall be as set forth  
3 in G.S. 20-19(e1) through G.S. 20-19(e5)."

4 Sec. 5. G.S. 20-19 is amended by adding new subsections to read:

5 "(e1) The Division shall not issue a drivers license to any person who has been  
6 convicted of a drug offense as set forth in G.S. 20-17(12), 20-17(13), or 20-17(14) for at  
7 least six months after application if the conviction occurred while the person was  
8 unlicensed. The Division shall revoke, for an additional six months, the drivers license  
9 of any person convicted of a drug offense as set forth in G.S. 20-17(12), 20-17(13), or  
10 20-17(14) if the conviction occurred while the person's driving privilege was revoked.

11 (e2) When a person's license is revoked under G.S. 20-17(12) or G.S. 20-17.4(a1),  
12 and the person is convicted of another offense involving controlled substances, and the  
13 first offense occurred within the three years immediately preceding the date of the  
14 offense for which the person's license is presently being revoked, the period of  
15 revocation is one year, and this period may be reduced to no less than 183 days under  
16 the provisions of subsection (e5) of this section.

17 (e3) When a person's license is revoked under G.S. 20-17(12) or G.S. 20-17.4(a1),  
18 and the person has been convicted of two or more previous offenses involving  
19 controlled substances, and the most recent offense occurred within the five years  
20 immediately preceding the date of the offense for which the person's license is presently  
21 being revoked, the period of revocation is three years, and this period may be reduced to  
22 no less than 548 days under the provisions of subsection (e5) of this section.

23 (e4) When a person's license is revoked under G.S. 20-17(12) or G.S. 20-17.4(a1),  
24 and the person has been convicted of three or more previous offenses involving  
25 controlled substances, and the most recent offense occurred within the seven years  
26 immediately preceding the date of the offense for which the person's license is presently  
27 being revoked, the period of revocation is permanent, and this period may be reduced to  
28 no less than five years under the provisions of subsection (e5) of this section.

29 (e5) The Division may conditionally restore the person's drivers license after it has  
30 been revoked under subsections (e1) through (e4) of this section if the person does the  
31 following and provides satisfactory proof to the Commissioner:

32 (1) The person shall obtain, during the period when the person's license  
33 has been revoked, a substance abuse assessment from an area mental  
34 health agency, its designated agent, of a private facility licensed by the  
35 State for the treatment of alcoholism and substance abuse. If the  
36 assessing agency recommends that the person participate in a treatment  
37 program, the person shall do so, and the person shall execute a Release  
38 of Information authorizing the treatment agency to report the person's  
39 completion of the treatment program to the Division. If the assessment  
40 does not identify a substance abuse handicap, the original finding shall  
41 be filed with the Division and the person shall be required to attend an  
42 alcohol and drug education traffic school. The Division shall not  
43 reissue the drivers license of a person required to participate in a  
44 treatment program or school unless it has received the original

1 certificate of completion from the assessment or treating agency or  
2 school. Any fees charged by the assessing or treating agency or school  
3 shall be paid by the person seeking to have his license restored;

4 (2) From the date the person's license was revoked, the person has not  
5 been convicted, in North Carolina or any other state or federal  
6 jurisdiction, for an offense involving the manufacture, sale,  
7 distribution, or possession of a controlled substance; and

8 (3) The person shall undergo a random drug test, or a series of random  
9 drug tests, during the period of license revocation, and the results of  
10 these tests must be negative for the presence of controlled substances,  
11 as defined in G.S. 90-87(5), or their metabolites, unless the person can  
12 show that the substances were lawfully administered as part of  
13 professional medical treatment. The Division shall notify the person  
14 when the tests are required and the results of the tests shall be  
15 submitted to the Division. The costs of testing shall be borne by the  
16 person seeking to have his license restored.

17 (e6) As used in this section, the term 'conviction' shall include adjudications in  
18 juvenile proceedings.

19 (e7) If the Division restores the person's license, it may place reasonable  
20 conditions or restrictions on the person for any period up to three years from the date of  
21 restoration. No person whose license is revoked under G.S. 20-17(12) shall be eligible  
22 for limited driving privileges under G.S. 20-179.3 during the period of the revocation."

23 Sec. 6. G.S. 20-179(g) reads as rewritten:

24 "(g) Level One Punishment. – A defendant subject to Level One punishment may  
25 be fined up to two thousand dollars (~~\$2,000~~) and (~~\$2,000~~), must be sentenced to a term  
26 of imprisonment that includes a minimum term of not less than 14 days and a maximum  
27 term of not more than 24 ~~months~~-months, and must receive a mandatory minimum  
28 period of nonoperation of a motor vehicle of at least 150 days. The term of  
29 imprisonment may be suspended only if a condition of special probation is imposed (i)  
30 to require the defendant to serve a term of imprisonment of at least 14 days, or (ii) to  
31 require the defendant to serve a term of imprisonment of at least four consecutive days  
32 and then be placed under house arrest for twice the length of time remaining in the  
33 minimum term prescribed in (i) above. If the defendant is placed on probation, the  
34 judge must, if required by subsection (m), impose the conditions relating to assessment,  
35 treatment, and education described in that subsection. The judge may impose any other  
36 lawful condition of probation. If the judge does not place on probation a defendant who  
37 is otherwise subject to the mandatory assessment and treatment provisions of subsection  
38 (m), he must include in the record of the case his reasons for not doing so."

39 Sec. 7. G.S. 20-179(h) reads as rewritten:

40 "(h) Level Two Punishment. – A defendant subject to Level Two punishment may  
41 be fined up to one thousand dollars (~~\$1,000~~) and (~~\$1,000~~), must be sentenced to a term of  
42 imprisonment that includes a minimum term of not less than seven days and a maximum  
43 term of not more than 12 ~~months~~-months, and must receive a mandatory minimum  
44 period of nonoperation of a motor vehicle of at least 120 days. The term of

1 imprisonment may be suspended only if a condition of special probation is imposed (i)  
2 to require the defendant to serve a term of imprisonment of at least seven days or, (ii) to  
3 require the defendant to serve a term of imprisonment of at least two consecutive days  
4 and then be placed under house arrest for twice the length of time remaining in the  
5 minimum term prescribed in (i) above. If the defendant is placed on probation, the  
6 judge must, if required by subsection (m), impose the conditions relating to assessment,  
7 treatment, and education described in that subsection. The judge may impose any other  
8 lawful condition of probation. If the judge does not place on probation a defendant who  
9 is otherwise subject to the mandatory assessment and treatment provisions of subsection  
10 (m), he must include in the record of the case his reasons for not doing so."

11 Sec. 8. G.S. 20-179(i) reads as rewritten:

12 "(i) Level Three Punishment. – A defendant subject to Level Three punishment  
13 may be fined up to five hundred dollars ~~(\$500.00) and (\$500.00)~~, must be sentenced to a  
14 term of imprisonment that includes a minimum term of not less than 72 hours and a  
15 maximum term of not more than six ~~months~~ months, and must receive a mandatory  
16 minimum period of nonoperation of a motor vehicle of at least 90 days. The term of  
17 imprisonment must be suspended, on the condition that the defendant:

- 18 (1) Be imprisoned for a term of at least 72 hours as a condition of special  
19 probation; or  
20 (2) Perform community service for a term of at least 72 hours; or  
21 ~~(3) Not operate a motor vehicle for a term of at least 90 days; or~~  
22 ~~(4) Any combination of these conditions.~~  
23 (3) Both (1) and (2).

24 The judge in his discretion may impose any other lawful condition of probation and, if  
25 required by subsection (m), must impose the conditions relating to assessment,  
26 treatment, and education described in that subsection. This subsection does not affect  
27 the right of a defendant to elect to serve the suspended sentence of imprisonment as  
28 provided in G.S. 15A-1341(c)."

29 Sec. 9. G.S. 20-179(j) reads as rewritten:

30 "(j) Level Four Punishment. – A defendant subject to Level Four punishment may  
31 be fined up to two hundred fifty dollars ~~(\$250.00) and (\$250.00)~~, must be sentenced to a  
32 term of imprisonment that includes a minimum term of not less than 48 hours and a  
33 maximum term of not more than 120 ~~days~~ days, and must receive a mandatory  
34 minimum period of nonoperation of a motor vehicle of at least 60 days. The term of  
35 imprisonment must be suspended, on the condition that the defendant:

- 36 (1) Be imprisoned for a term of 48 hours as a condition of special  
37 probation; or  
38 (2) Perform community service for a term of 48 hours; or  
39 ~~(3) Not operate a motor vehicle for a term of 60 days; or~~  
40 ~~(4) Any combination of these conditions.~~  
41 (3) Both (1) and (2).

42 The judge in his discretion may impose any other lawful condition of probation and, if  
43 required by subsection (m), must impose the conditions relating to assessment,  
44 treatment, and education described in that subsection. This subsection does not affect

1 the right of a defendant to elect to serve the suspended sentence of imprisonment as  
2 provided in G.S. 15A-1341(c)."

3 Sec. 10. G.S. 20-179(k) reads as rewritten:

4 "(k) Level Five Punishment. – A defendant subject to Level Five punishment may  
5 be fined up to one hundred dollars ~~(\$100.00) and (\$100.00),~~ must be sentenced to a term  
6 of imprisonment that includes a minimum term of not less than 24 hours and a  
7 maximum term of not more than 60 ~~days.~~ days, and must receive a mandatory minimum  
8 period of nonoperation of a motor vehicle of at least 30 days. The term of  
9 imprisonment must be suspended, on the condition that the defendant:

- 10 (1) Be imprisoned for a term of 24 hours as a condition of special  
11 probation; or  
12 (2) Perform community service for a term of 24 hours; or  
13 ~~(3) Not operate a motor vehicle for a term of 30 days; or~~  
14 ~~(4) Any combination of these conditions.~~  
15 (3) Both (1) and (2).

16 The judge may in his discretion impose any other lawful condition of probation and, if  
17 required by subsection (m), must impose the conditions relating to assessment,  
18 treatment, and education described in that subsection. This subsection does not affect  
19 the right of a defendant to elect to serve the suspended sentence of imprisonment as  
20 provided in G.S. 15A-1341(c)."

21 Sec. 11. G.S. 20-179.3(c) reads as rewritten:

22 "(c) Privilege Not Effective until after Compliance with Court-Ordered  
23 Revocation. – A person convicted of an impaired driving offense may apply for a  
24 limited driving privilege at the time the judgment is entered. ~~If the judgment does not~~  
25 ~~require the person to complete a period of nonoperation pursuant to G.S. 20-179, the privilege~~  
26 ~~may be issued at the time the judgment is issued. If the judgment requires the person to~~  
27 ~~complete a period of nonoperation pursuant to G.S. 20-179, Although the limited driving~~  
28 privilege may be issued at the time the judgment is issued, it may not be effective until  
29 the person successfully completes ~~that the~~ period of ~~nonoperation.~~ nonoperation required  
30 under G.S. 20-179. A person whose license is revoked because of a conviction in  
31 another jurisdiction substantially equivalent to impaired driving under G.S. 20-138.1  
32 may apply for a limited driving privilege only after having completed at least 60 days of  
33 a court-imposed term of nonoperation of a motor vehicle, if the court in the other  
34 jurisdiction imposed such a term of nonoperation."

35 Sec. 12. This act becomes effective January 1, 1992, and applies to offenses  
36 committed on or after that date.