

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

1

HOUSE BILL 738

Short Title: Amend DWLR Law.

(Public)

Sponsors: Representatives Bryan and Schaffer (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary Subcommittee B.

April 11, 2013

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE PUNISHMENT OF REVOKING A PERSON'S DRIVERS LICENSE FOR COMMITTING CERTAIN DRIVING WHILE LICENSE REVOKED OFFENSES, TO MAKE DRIVING WHILE LICENSE REVOKED A NONMOVING VIOLATION FOR CERTAIN PURPOSES, AND TO MAKE OTHER CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-28 reads as rewritten:

"§ 20-28. Unlawful to drive while license revoked, after notification, or while disqualified.

(a) Driving While License Revoked. – ~~Except as provided in subsection (a1) of this section, any~~ Any person whose drivers license has been revoked who drives any motor vehicle upon the highways of the State while the license is revoked is guilty of a Class 1 ~~misdemeanor.~~ ~~Upon conviction, the person's license shall be revoked for an additional period of one year for the first offense, two years for the second offense, and permanently for a third or subsequent offense.~~ misdemeanor, except that any person (i) who satisfies subsection (a1) or (ii) whose drivers license has been revoked pursuant to G.S. 20-24.1, is guilty of an infraction. If the person's drivers license was revoked for an impaired driving license revocation as defined in G.S. 20-28.2(a), or pursuant to G.S. 20-16(a)(5), or the person was charged with violating this subsection based upon a violation of any restriction of G.S. 20-179.3, or any restriction relating to the installation or use of an ignition interlock pursuant to G.S. 20-17.8, upon conviction of violating this subsection, the person's license shall be revoked for an additional period of one year for the first offense, two years for the second offense, and permanently for a third or subsequent offense.

If the person's license was originally revoked for an impaired driving revocation, the court may order as a condition of probation that the offender abstain from alcohol consumption and verify compliance by use of a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety, for a minimum period of 90 days.

The restoree of a revoked drivers license who operates a motor vehicle upon the highways of the State without maintaining financial responsibility as provided by law shall be punished as for driving without a license.

(a1) Driving Without Reclaiming License. – A person convicted under subsection (a) shall be ~~punished as if the person had been convicted of driving without a license under G.S. 20-35~~ guilty of an infraction if the person demonstrates to the court that either subdivisions (1) and (2), or subdivision (3) of this subsection is true:



* H 7 3 8 - V - 1 *

- 1 (1) At the time of the offense, the person's license was revoked solely under
2 G.S. 20-16.5; and
- 3 (2) a. The offense occurred more than 45 days after the effective date of a
4 revocation order issued under G.S. 20-16.5(f) and the period of
5 revocation was 45 days as provided under subdivision (3) of that
6 subsection; or
7 b. The offense occurred more than 30 days after the effective date of the
8 revocation order issued under any other provision of G.S. 20-16.5; or
- 9 (3) At the time of the offense the person had met the requirements of
10 G.S. 50-13.12, or G.S. 110-142.2 and was eligible for reinstatement of the
11 person's drivers license privilege as provided therein.

12 In addition, a person punished under this subsection shall be treated for drivers license and
13 insurance rating purposes as if the person had been convicted of driving without a license under
14 G.S. 20-35, and the conviction report sent to the Division must indicate that the person is to be
15 so treated.

16 ...
17 (c) When Person May Apply for License. – A person whose license has been revoked
18 may apply for a license as follows:

- 19 (1) If revoked under subsection (a) of this section for one year, the person may
20 apply for a license after 90 days.
- 21 (2) If punished under subsection (a1) of this section and the original revocation
22 was pursuant to G.S. 20-16.5, in order to obtain reinstatement of a drivers
23 license, the person must obtain a substance abuse assessment and show proof
24 of financial responsibility to the Division. If the assessment recommends
25 education or treatment, the person must complete the education or treatment
26 within the time limits specified by the Division.
- 27 (3) If revoked under subsection (a2) of this section for one year, the person may
28 apply for a license after one year.
- 29 (4) If revoked under this section for two years, the person may apply for a
30 license after one year.
- 31 (5) If revoked under this section permanently, the person may apply for a
32 license after three years.

33 (c1) Upon the filing of an application the Division may, with or without a hearing, issue
34 a new license upon satisfactory proof that the former licensee has not been convicted of a
35 moving violation under this Chapter or the laws of another state, a violation of any provision of
36 the alcoholic beverage laws of this State or another state, or a violation of any provisions of the
37 drug laws of this State or another state when any of these violations occurred during the
38 revocation period. For purposes of this subsection, a violation of subsection (a) of this section
39 that does not require an additional period of license revocation shall not be considered a
40 moving violation.

41 ...
42 (c3) A person whose license is revoked for violation of subsection (a) of this section
43 where the person's license was originally revoked for an impaired driving ~~revocation~~, license
44 revocation as defined in G.S. 20-28.2(a), or the person was charged with violating subsection
45 (a) of this section based upon a violation of any restriction of G.S. 20-179.3, or any restriction
46 relating to the installation or use of an ignition interlock pursuant to G.S. 20-17.8, or a person
47 whose license is revoked for a violation of subsection (a2) of this section, may only have the
48 license conditionally restored by the Division pursuant to the provisions of subsection (c4) of
49 this section.

50"

51 **SECTION 2.** G.S. 20-28.1(a) reads as rewritten:

"(a) Upon receipt of notice of conviction of any person of a motor vehicle moving offense, ~~except a conviction punishable under G.S. 20-28(a1)~~, such offense having been committed while such person's driving privilege was in a state of suspension or revocation, the Division shall revoke such person's driving privilege for an additional period of time as set forth in subsection (b) ~~hereof~~. For purposes of this subsection, the following shall not be considered a "motor vehicle moving offense":

- (1) A violation of G.S. 20-28(a) that does not require an additional period of license revocation.
- (2) A violation of G.S. 20-28(a1).
- (3) A violation of G.S. 20-7 for operating a motor vehicle without an operator's license."

SECTION 3. G.S. 20-20.1(b) reads as rewritten:

"(b) Eligibility. – A person is eligible to apply for a limited driving privilege under this section if all of the following conditions apply:

- (1) The person's license is currently revoked under G.S. 20-28(a) or G.S. 20-28.1.
- (2) The person has complied with the revocation for the period required in subsection (c) of this section immediately preceding the date the person files a petition for a limited driving privilege under this section.
- (3) The person's underlying offense is not an ~~offense involving impaired driving~~ offense that would result in an impaired driving license revocation as defined in G.S. 20-28.2(a), or an offense involving a violation of any restriction of G.S. 20-179.3, or any restriction relating to the installation or use of an ignition interlock pursuant to G.S. 20-17.8, and, if the person's license is revoked under G.S. 20-28.1 for committing a motor vehicle moving offense while driving with a revoked license, the moving offense is not an offense involving impaired driving.
- (4) The revocation period for the underlying offense has expired.
- (5) The revocation under G.S. 20-28(a) or G.S. 20-28.1 is the only revocation in effect.
- (6) The person is not eligible to receive a limited driving privilege under any other law.
- (7) The person has not held a limited driving privilege issued under this section at anytime during the three years prior to the date the person files the current petition.
- (8) The person has no pending charges for any motor vehicle offense in this or in any other state and has no unpaid motor vehicle fines or penalties in this or in any other state.
- (9) The person's drivers license issued by another state has not been revoked by that state.
- (10) G.S. 20-9(e) or G.S. 20-9(f) does not prohibit the Division from issuing the person a license.

(c) Compliance Period. – The following table sets out the period during which a person must comply with a revocation under G.S. 20-28(a) or G.S. 20-28.1 to be eligible for a limited driving privilege under this section:

Revocation Period	Compliance Period
1 Year	90 Days
2 Years	1 Year
Permanent	2 Years

...."

1 **SECTION 4.** This act becomes effective December 1, 2013, and applies to
2 offenses committed on or after that date.