

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 709

Short Title: Impaired Driv.-Auto. Chem. Tests.

(Public)

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Sponsors: Representatives Robinson; Abernethy, Albertson, Anderson, Balmer, Barbee, Black, Bowie, Bowman, Brawley, Brown, Brubaker, Buchanan, Chapin, J.W. Crawford, N.J. Crawford, Creech, Culp, Cunningham, DeVane, Diamont, Dickson, Dockham, Easterling, Esposito, Ethridge, Fitch, Flaherty, Foster, Fussell, Gamble, Gardner, Gist, Gottovi, Gray, Greenwood, Grimmer, Hasty, Hege, Hightower, Holmes, Howard, H. Hunter, Hurley, Isenhower, James, Jarrell, Jerals, Jones, Jordan, Justus, Kahl, Kerr, Kimsey, Ligon, Lilley, Lineberry, Loflin, Lutz, McLaughlin, McLawhorn, Mavretic, Mercer, Morgan, Nesbitt, Oldham, Payne, Pope, Privette, Redwine, Rhodes, Rhyne, Rogers, Thompson, Wicker, Wilmoth, Wilson, Withrow, and Wood.

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Referred to: Judiciary I.

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April 11, 1991

A BILL TO BE ENTITLED

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2 AN ACT TO PROVIDE A MECHANISM TO ESTABLISH A STATEWIDE,  
3 AUTOMATED PROGRAM FOR THE CHEMICAL TESTING FOR ALCOHOL  
4 IN IMPAIRED DRIVERS AND TO MAKE THE ADMINISTRATION OF THAT  
5 PROGRAM MORE EFFECTIVE.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 20-16.5(j) reads as rewritten:

8 "(j) Costs. – Unless the magistrate or judge orders the revocation rescinded, a  
9 person whose license is revoked under this section must pay a fee of ~~twenty five dollars~~  
10 ~~(\$25.00)~~ fifty dollars (\$50.00) as costs for the action before his license may be returned  
11 under subsection (h). The costs collected under this section go to the ~~State~~ State, and  
12 fifty percent (50%) of the amounts collected shall be used to fund a statewide chemical  
13 testing for alcohol program in the Injury Control Section of the Department of  
14 Environment, Health, and Natural Resources."

15 Sec. 2. G.S. 20-139.1(b1) reads as rewritten:

1       "(b1) Arresting or Charging Officer May Not Perform Chemical ~~Analysis~~.Analysis;  
2 Exception for Automated Instruments. —~~A~~Except as provided in this subsection, a  
3 chemical analysis is not valid in any case in which it is performed by an arresting officer  
4 or by a charging officer under the terms of G.S. 20-16.2. A chemical analysis of the  
5 breath may be performed by an arresting or charging officer if:

6           (1) The officer possesses a current permit issued by the Department of  
7 Environment, Health, and Natural Resources for the type of chemical  
8 analysis to be performed; and

9           (2) The instrument used to conduct the analysis is automated and reports  
10 the results in a printed form.

11 In addition, if an arresting or charging officer is authorized to administer a test of a  
12 person's breath and the officer designates a test of the person's blood pursuant to G.S.  
13 20-16.2(a), the arresting or charging officer may provide the oral and written notice  
14 required under that subsection of the rights and consequences of taking or refusing the  
15 test."

16           Sec. 3. Section 1 of this act becomes effective July 1, 1991, and applies to  
17 revocation orders issued under G.S. 20-16.5 on or after that date. Funds appropriated  
18 from the Highway Fund to operate the Chemical Tests for Alcohol Branch in the Injury  
19 Control Section of the Department of Environment, Health, and Natural Resources shall  
20 revert to the Highway Fund on July 1, 1994, and the Chemical Tests for Alcohol Branch  
21 shall become receipt-supported on that date.

22           Funds in excess of the Branch's annual estimated operation and capital costs  
23 shall be transferred quarterly to the Governor's Highway Safety Program for grants to  
24 local law enforcement agencies and shall be expended by the Governor's Highway  
25 Safety Program in the fiscal year in which they are received, except that fourth quarter  
26 excess receipts, if any, may be carried over until September 30 of the ensuing fiscal  
27 year.

28           Section 2 of this act becomes effective January 1, 1993, and applies to  
29 chemical analyses performed on or after that date.