

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 437

Short Title: 1991 Safe Roads Act Amendments.

(Public)

Sponsors: Senator Smith.

Referred to: Transportation.

April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO AMEND THE SAFE ROADS ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-12.1(a) reads as rewritten:

"(a) It is unlawful for any person to accompany another person driving a motor vehicle, in accordance with G.S. 20-11, or instruct another person driving a motor vehicle, in accordance with G.S. 20-7(1-1) and (m) or G.S. 20-12:

(1) While the person accompanying or instructing is under the influence of an impairing substance; or

(2) After having consumed sufficient alcohol that he has, at any relevant time after the driving, an alcohol concentration of ~~0.10~~ 0.08 or more."

Sec. 2. G.S. 20-16.2(a) reads as rewritten:

"(a) Basis for Charging Officer to Require Chemical Analysis; Notification of Rights. – Any person who drives a vehicle on a highway or public vehicular area thereby gives consent to a chemical analysis if he is charged with an implied-consent offense. The charging officer must designate the type of chemical analysis to be administered, and it may be administered when he has reasonable grounds to believe that the person charged has committed the implied-consent offense. Except as provided in subsection (b), the person charged must be taken before a chemical analyst authorized to administer a test of a person's breath, who must inform the person orally and also give him a notice in writing that:

(1) He has a right to refuse to be tested.

- 1 (2) Refusal to take any required test or tests will result in an immediate
2 revocation of his driving privilege for at least 10 days and an
3 additional 12-month revocation by the Division of Motor Vehicles.
4 (3) The test results, or the fact of his refusal, will be admissible in
5 evidence at trial on the offense charged.
6 (4) His driving privilege will be revoked immediately for at least 10 days
7 if:
8 a. The test reveals an alcohol concentration of ~~0.10~~0.08 or more;
9 or
10 b. He was driving a commercial motor vehicle and the test reveals
11 an alcohol concentration of 0.04 or more.
12 (5) He may have a qualified person of his own choosing administer a
13 chemical test or tests in addition to any test administered at the
14 direction of the charging officer.
15 (6) He has the right to call an attorney and select a witness to view for him
16 the testing procedures, but the testing may not be delayed for these
17 purposes longer than 30 minutes from the time he is notified of his
18 rights."

19 Sec. 3. G.S. 20-16.2(i) reads as rewritten:

20 "(i) Right to Chemical Analysis before Arrest or Charge. – A person stopped or
21 questioned by a law-enforcement officer who is investigating whether the person may
22 have committed an implied-consent offense may request the administration of a
23 chemical analysis before any arrest or other charge is made for the offense. Upon this
24 request, the officer must afford the person the opportunity to have a chemical analysis
25 of his breath, if available, in accordance with the procedures required by G.S. 20-
26 139.1(b). The request constitutes the person's consent to be transported by the law-
27 enforcement officer to the place where the chemical analysis is to be administered.
28 Before the chemical analysis is made, the person must confirm his request in writing
29 and he must be notified:

- 30 (1) That the test results will be admissible in evidence and may be used
31 against him in any implied-consent offense that may arise;
32 (2) That his license will be revoked for at least 10 days if:
33 a. The test reveals an alcohol concentration of ~~0.10~~0.08 or more;
34 or
35 b. He was driving a commercial motor vehicle and the test results
36 reveal an alcohol concentration of 0.04 or more.
37 (3) That if he fails to comply fully with the test procedures, the officer
38 may charge him with any offense for which the officer has probable
39 cause, and if he is charged with an implied-consent offense, his refusal
40 to submit to the testing required as a result of that charge would result
41 in revocation of his driver's license. The results of the chemical
42 analysis are admissible in evidence in any proceeding in which they
43 are relevant."

44 Sec. 4. G.S. 20-16.5(b) reads as rewritten:

1 "(b) Revocations for Persons Who Refuse Chemical Analyses or Have Alcohol
2 Concentrations of ~~0.10-0.08~~ or More After Driving a Motor Vehicle or of 0.04 or More
3 After Driving a Commercial Vehicle. – A person's driver's license is subject to
4 revocation under this section if:

- 5 (1) A charging officer has reasonable grounds to believe that the person
6 has committed an offense subject to the implied-consent provisions of
7 G.S. 20-16.2;
- 8 (2) The person is charged with that offense as provided in G.S. 20-16.2(a);
- 9 (3) The charging officer and the chemical analyst comply with the
10 procedures of G.S. 20-16.2 and G.S. 20-139.1 in requiring the person's
11 submission to or procuring a chemical analysis; and
- 12 (4) The person:
 - 13 a. Willfully refuses to submit to the chemical analysis;
 - 14 b. Has an alcohol concentration of ~~0.10-0.08~~ or more within a
15 relevant time after the driving; or
 - 16 c. Has an alcohol concentration of 0.04 or more at any relevant
17 time after the driving of a commercial vehicle."

18 Sec. 5. G.S. 20-16.5(b1) reads as rewritten:

19 "(b1) Precharge Test Results as Basis for Revocation. – Notwithstanding the
20 provisions of subsection (b), a person's driver's license is subject to revocation under
21 this section if:

- 22 (1) He requests a precharge chemical analysis pursuant to G.S. 20-16.2(i);
23 and
- 24 (2) He has:
 - 25 a. An alcohol concentration of ~~0.10-0.08~~ or more at any relevant
26 time after driving; or
 - 27 b. An alcohol concentration of 0.04 or more at any relevant time
28 after driving a commercial motor vehicle; and
- 29 (3) He is charged with an implied-consent offense."

30 Sec. 6. G.S. 20-138.1(a) reads as rewritten:

31 "(a) Offense.–A person commits the offense of impaired driving if he drives any
32 vehicle upon any highway, any street, or any public vehicular area within this State:

- 33 (1) While under the influence of an impairing substance; or
- 34 (2) After having consumed sufficient alcohol that he has, at any relevant
35 time after the driving, an alcohol concentration of ~~0.10-0.08~~ or more."

36 Sec. 7. G.S. 20-179(g) reads as rewritten:

37 "(g) Level One Punishment. – A defendant subject to Level One punishment may
38 be fined up to ~~two thousand dollars (\$2,000)~~ five thousand dollars (\$5,000) and must be
39 sentenced to a term of imprisonment that includes a minimum term of not less than 14
40 days and a maximum term of not more than 24 months. The term of imprisonment may
41 be suspended only if a condition of special probation is imposed to require the
42 defendant to serve a term of imprisonment of at least 14 days. If the defendant is placed
43 on probation, the judge must, if required by subsections (l) or (m), impose the
44 conditions relating to treatment and education described in those subsections. The judge

1 may impose any other lawful condition of probation. If the judge does not place on
2 probation a defendant who is otherwise subject to the mandatory assessment and
3 treatment provisions of subsection (m), he must include in the record of the case his
4 reasons for not doing so."

5 Sec. 8. G.S. 20-179(h) reads as rewritten:

6 "(h) Level Two Punishment. – A defendant subject to Level Two punishment may
7 be fined up to ~~one thousand dollars (\$1,000)~~ four thousand dollars (\$4,000) and must be
8 sentenced to a term of imprisonment that includes a minimum term of not less than
9 seven days and a maximum term of not more than 12 months. The term of
10 imprisonment may be suspended only if a condition of special probation is imposed to
11 require the defendant to serve a term of imprisonment of at least seven days. If the
12 defendant is placed on probation, the judge must, if required by subsections (l) or (m),
13 impose the conditions relating to treatment and education described in those
14 subsections. The judge may impose any other lawful condition of probation. If the
15 judge does not place on probation a defendant who is otherwise subject to the
16 mandatory assessment and treatment provisions of subsection (m), he must include in
17 the record of the case his reasons for not doing so."

18 Sec. 9. G.S. 20-179(i) reads as rewritten:

19 "(i) Level Three Punishment. – A defendant subject to Level Three punishment
20 may be fined up to ~~five hundred dollars (\$500.00)~~ two thousand five hundred dollars
21 (\$2,500) and must be sentenced to a term of imprisonment that includes a minimum
22 term of not less than 72 hours and a maximum term of not more than six months. The
23 term of imprisonment must be suspended, on the condition that the defendant:

- 24 (1) Be imprisoned for a term of at least 72 hours as a condition of special
25 probation; or
- 26 (2) Perform community service for a term of at least 72 hours; or
- 27 (3) Not operate a motor vehicle for a term of at least 90 days; or
- 28 (4) Any combination of these conditions.

29 The judge in his discretion may impose any other lawful condition of probation and, if
30 required by subsections (l) or (m), must impose the conditions relating to treatment and
31 education described in those subsections. This subsection does not affect the right of a
32 defendant to elect to serve the suspended sentence of imprisonment as provided in G.S.
33 15A-1341(c)."

34 Sec. 10. G.S. 20-179(j) reads as rewritten:

35 "(j) Level Four Punishment. – A defendant subject to Level Four punishment may
36 be fined up to ~~two hundred fifty dollars (\$250.00)~~ two thousand dollars (\$2,000) and must
37 be sentenced to a term of imprisonment that includes a minimum term of not less than
38 48 hours and a maximum term of not more than 120 days. The term of imprisonment
39 must be suspended, on the condition that the defendant:

- 40 (1) Be imprisoned for a term of 48 hours as a condition of special
41 probation; or
- 42 (2) Perform community service for a term of 48 hours; or
- 43 (3) Not operate a motor vehicle for a term of 60 days; or
- 44 (4) Any combination of these conditions.

1 The judge in his discretion may impose any other lawful condition of probation and, if
2 required by subsections (l) or (m), must impose the conditions relating to treatment and
3 education described in those subsections. This subsection does not affect the right of a
4 defendant to elect to serve the suspended sentence of imprisonment as provided in G.S.
5 15A-1341(c)."

6 Sec. 11. G.S. 20-179(k) reads as rewritten:

7 "(k) Level Five Punishment. – A defendant subject to Level Five punishment may
8 be fined up to ~~one hundred dollars (\$100.00)~~ five hundred dollars (\$500.00) and must be
9 sentenced to a term of imprisonment that includes a minimum term of not less than 24
10 hours and a maximum term of not more than ~~60~~ 61 days. The term of imprisonment
11 must be suspended, on the condition that the defendant:

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

17 The judge may in his discretion impose any other lawful condition of probation and, if
18 required by subsections (l) or (m), must impose the conditions relating to treatment and
19 education described in those subsections. This subsection does not affect the right of a
20 defendant to elect to serve the suspended sentence of imprisonment as provided in G.S.
21 15A-1341(c)."

22 Sec. 12. G.S. 20-139.1(b3) reads as rewritten:

23 "(b3) Sequential Breath Tests Required. – By January 1, 1985, the regulations of
24 the Commission for Health Services governing the administration of chemical analyses
25 of the breath must require the testing of at least duplicate sequential breath samples.
26 Those regulations must provide:

- 27 (1) A specification as to the minimum observation period before collection
28 of the first breath sample and the time requirements as to collection of
29 second and subsequent samples.
- 30 (2) That the test results may only be used to prove a person's particular
31 alcohol concentration if:
 - 32 a. The pair of readings employed are from consecutively
33 administered tests; and
 - 34 b. The readings do not differ from each other by an alcohol
35 concentration greater than 0.02.
- 36 (3) That when a pair of analyses meets the requirements of subdivision
37 (2), only the lower of the two readings may be used by the State as
38 proof of a person's alcohol concentration in any court or administrative
39 proceeding.

40 A person's willful refusal to give the sequential breath samples necessary to constitute a
41 valid chemical analysis is a willful refusal under G.S. 20-16.2(c).

42 If a person willfully refuses to submit to a chemical analysis by refusing to provide a
43 second or subsequent breath sample, then (i) the result of the analysis of the sample
44 providing the lowest alcohol concentration, if more than one sample is provided; or (ii)

1 if a single sample is provided, the result of that sample may be used as evidence in any
2 judicial or administrative proceeding for any relevant purpose, including, but not limited
3 to the establishment of probable cause, corroboration of field sobriety tests, or evidence
4 of impairment; provided, however, the result may not be used to prove that a person had
5 a particular alcohol concentration to establish a violation of G.S. 20-138.1(a)(2)."

6 Sec. 13. G.S. 18B-401(a) reads as rewritten:

7 "(a) Opened Containers.—It shall be unlawful for a person to transport, possess, or
8 consume fortified wine or spirituous liquor alcoholic beverages in the passenger area of a
9 motor vehicle in other than the manufacturer's unopened original container, except that
10 it shall not be unlawful to transport, possess, or consume alcoholic beverages in the
11 passenger area of a for-hire bus or a for-hire limousine. It shall also not be unlawful to
12 transport, possess, or consume alcoholic beverages in the passenger area of a house
13 trailer or camper if the living or sleeping area is separated from the driving area.

14 Violation of this subsection shall constitute a misdemeanor punishable by a fine of
15 twenty-five dollars (\$25.00) to five hundred dollars (\$500.00), imprisonment for not more
16 than 30 days community service of not more than 24 hours, or both."

17 Sec. 14. G.S. 20-13.2(d) reads as rewritten:

18 "(d) ~~A~~—The length of revocation under this section continues until shall be equal to
19 the number of days from the date of the charge to the provisional licensee's eighteenth
20 birthday reaches 18 years of age or 45 days have elapsed, whichever occurs last is longer.
21 Revocations under this section run concurrently with any other revocations, but a
22 limited driving privilege issued pursuant to law does not authorize a provisional licensee
23 to drive if his license is revoked under this section."

24 Sec. 15. G.S. 20-141.4(a1) reads as rewritten:

25 "(a1) Felony Death by Vehicle.—A person commits the offense of felony death by
26 vehicle if he unintentionally causes the death of another person while engaged in the
27 offense of impaired driving under G.S. 20-138.1 and commission of that offense is the
28 proximate cause of the death. Involuntary manslaughter under G.S. 14-18 is a lesser
29 included offense."

30 Sec. 16. G.S. 20-141.4(b) reads as rewritten:

31 "(b) Punishments.—Felony death by vehicle is a Class ~~F~~G felony. Misdemeanor
32 death by vehicle is a misdemeanor punishable by a fine of not more than five hundred
33 dollars (\$500.00), imprisonment for not more than two years, or both, in the discretion
34 of the court."

35 Sec. 17. G.S. 20-16.2(a1) reads as rewritten:

36 "(a1) Meaning of Terms. — Under this section, an 'implied-consent offense' is an
37 offense involving impaired driving or an alcohol-related offense made subject to the
38 procedures of this section. A person is 'charged' with an offense if he is arrested for it,
39 ~~or if~~ criminal process for the offense has been issued, or, if the person is a juvenile, he
40 would have been arrested or criminal process would have been issued if he were an
41 adult. A 'charging officer' is a law-enforcement officer who arrests the person charged,
42 lodges the charges, takes the juvenile into protective custody, or assists the officer who
43 arrested the person, ~~or~~ lodged the charge, or took the juvenile into protective custody by

1 assuming custody of the person to make the request required by subsection (c) and, if
2 necessary, to present the person to a judicial official for an initial appearance."

3 Sec. 18. G.S. 20-138.4 reads as rewritten:

4 **"§ 20-138.4. Requirement that prosecutor explain reduction or dismissal of charge**
5 **involving impaired driving.**

6 In any case in which a person is charged with an offense involving impaired driving,
7 ~~A~~ any prosecutor must enter detailed facts in the record ~~of any case involving impaired~~
8 ~~driving~~ explaining the reasons for his action if he:

- 9 (1) Enters a voluntary dismissal; or
- 10 (2) Accepts a plea of guilty or no contest to a lesser included offense; or
- 11 (3) Substitutes another charge, by statement of charges or otherwise, if the
12 substitute charge carries a lesser mandatory minimum punishment or is
13 not an offense involving impaired driving; or
- 14 (4) Otherwise takes a discretionary action that effectively dismisses or
15 reduces the original charge in the case involving impaired driving.

16 General explanations such as 'interests of justice' or 'insufficient evidence' are not
17 sufficiently detailed to meet the requirements of this section."

18 Sec. 19. G.S. 20-179(e) reads as rewritten:

19 "(e) Mitigating Factors to Be Weighed. – The judge must also determine before
20 sentencing under subsection (f) whether any of the mitigating factors listed below apply
21 to the defendant. The judge must weigh the degree of mitigation of each factor in light
22 of the particular circumstances of the case. The factors are:

- 23 (1) Slight impairment of the defendant's faculties resulting solely from
24 alcohol, and an alcohol concentration that did not exceed ~~0.11~~ 0.09 at
25 any relevant time after the driving.
- 26 (2) Slight impairment of the defendant's faculties, resulting solely from
27 alcohol, with no chemical analysis having been available to the
28 defendant.
- 29 (3) Driving at the time of the offense that was safe and lawful except for
30 the impairment of the defendant's faculties.
- 31 (4) A safe driving record, with the defendant's having no conviction for
32 any motor vehicle offense for which at least four points are assigned
33 under G.S. 20-16 or for which the person's license is subject to
34 revocation within five years of the date of the offense for which the
35 defendant is being sentenced.
- 36 (5) Impairment of the defendant's faculties caused primarily by
37 a lawfully prescribed drug for an existing medical condition, and the
38 amount of the drug taken was within the prescribed dosage.
- 39 (6) The defendant's voluntary submission to a mental health facility for
40 assessment after he was charged with the impaired driving offense for
41 which he is being sentenced, and, if recommended by the facility, his
42 voluntary participation in the recommended treatment.
- 43 (7) Any other factor that mitigates the seriousness of the offense.

1 Except for the factors in subdivisions (4), (6) and (7), the conduct constituting the
2 mitigating factor must occur during the same transaction or occurrence as the impaired
3 driving offense."

4 Sec. 20. G.S. 20-179(c) reads as rewritten:

5 "(c) Determining Existence of Grossly Aggravating Factors.—At the sentencing
6 hearing, based upon the evidence presented at trial and in the hearing, the judge must
7 first determine whether there are any grossly aggravating factors in the case. If the
8 defendant has been convicted of two or more prior offenses involving impaired driving,
9 if the convictions occurred within seven years before the date of the offense for which
10 he is being sentenced, the judge must impose the Level One punishment under
11 subsection (g). The judge must also impose the Level One punishment if he determines
12 that two or more of the following grossly aggravating factors apply:

- 13 (1) A single conviction for an offense involving impaired driving, if the
14 conviction occurred within seven years before the date of the offense
15 for which the defendant is being sentenced.
- 16 (2) Driving by the defendant at the time of the offense while his driver's
17 license was revoked under G.S. 20-28, and the revocation was an
18 impaired driving revocation under G.S. 20-28.2(a).
- 19 (3) Serious injury to another person caused by the defendant's impaired
20 driving at the time of the offense.

21 If the judge determines that only one of the above grossly aggravating factors applies,
22 he must impose the Level Two punishment under subsection (h). In imposing a Level
23 One or Two punishment, the judge may consider the aggravating and mitigating factors
24 in subsections (d) and (e) in determining the appropriate sentence. If there are no
25 grossly aggravating factors in the case, the judge must weigh all aggravating and
26 mitigating factors and impose punishment as required by subsection (f).

27 A conviction for another offense involving impaired driving, for which the
28 conviction occurs after the date of the offense for which the defendant is presently being
29 sentenced, but prior to or contemporaneously with the present sentencing, shall also
30 constitute a prior conviction involving impaired driving for aggravation purposes of this
31 subsection."

32 Sec. 21. G.S. 20-16.5(e) reads as rewritten:

33 "(e) Procedure if Report Filed with Judicial Official When Person Is Present.—If a
34 properly executed revocation report concerning a person is filed with a judicial official
35 when the person is present before that official, the judicial official must, after
36 completing any other proceedings involving the person, determine whether there is
37 probable cause to believe that each of the conditions of subsection (b) has been met. If
38 he determines that there is such probable cause, he must enter an order revoking the
39 person's driver's license for the period required in this subsection. The judicial official
40 must order the person to surrender his license and if necessary may order a law-
41 enforcement officer to seize the license. The judicial official must give the person a
42 copy of the revocation order. In addition to setting it out in the order the judicial official
43 must personally inform the person of his right to a hearing as specified in subsection (g),
44 and that his license remains revoked pending the hearing. Unless the person is not

1 currently licensed, the revocation under this subsection begins at the time the revocation
2 order is issued and continues until the person's license has been surrendered for ~~10-30~~
3 days and the person has paid the applicable costs. If the person is not currently licensed,
4 the revocation continues until ~~10-30~~ days from the date the revocation order is issued
5 and the person has paid the applicable costs. If within five working days of the effective
6 date of the order, the person does not surrender his license or demonstrate that he is not
7 currently licensed, the clerk must immediately issue a pick-up order. The pick-up order
8 must be issued to a member of a local law-enforcement agency if the charging officer
9 was employed by the agency at the time of the charge and the person resides in or is
10 present in the agency's territorial jurisdiction. In all other cases, the pick-up order must
11 be issued to an officer or inspector of the Division. A pick-up order issued pursuant to
12 this section is to be served in accordance with G.S. 20-29 as if the order had been issued
13 by the Division."

14 Sec. 22. G.S. 20-16.5(f) reads as rewritten:

15 "(f) Procedure if Report Filed with Clerk of Court When Person Not Present.—
16 When a clerk receives a properly executed report under subdivision (d)(3) and the
17 person named in the revocation report is not present before the clerk, the clerk must
18 determine whether there is probable cause to believe that each of the conditions of
19 subsection (b) has been met. If he determines that there is such probable cause, he must
20 mail to the person a revocation order by first-class mail. The order must direct that the
21 person on or before the effective date of the order either surrender his license to the
22 clerk or appear before the clerk and demonstrate that he is not currently licensed, and
23 the order must inform the person of the time and effective date of the revocation and of
24 its duration, of his right to a hearing as specified in subsection (g), and that the
25 revocation remains in effect pending the hearing. Revocation orders mailed under this
26 subsection become effective on the fourth day after the order is deposited in the United
27 States mail. If within five working days of the effective date of the order, the person
28 does not surrender his license to the clerk or appear before the clerk to demonstrate that
29 he is not currently licensed, the clerk must immediately issue a pick-up order. The pick-
30 up order must be issued and served in the same manner as specified in subsection (e) for
31 pick-up orders issued pursuant to that subsection. A revocation under this subsection
32 begins at the date specified in the order and continues until the person's license has been
33 revoked for the period specified in this subsection and the person has paid the applicable
34 costs. The period of revocation under this subsection is:

35 (1) ~~Ten-Thirty~~ days from the time the person surrenders his
36 license to the court, if the surrender occurs within five working days
37 of the effective date of the order; or

38 (2) ~~Ten-Thirty~~ days after the person appears before the clerk and
39 demonstrates that he is not currently licensed to drive, if the
40 appearance occurs within five working days of the effective date of
41 the revocation order; or

42 (3) ~~Thirty-Sixty~~ days from the time:

43 a. The person's driver's license is picked up by a law-
44 enforcement officer following service of a pick-up order; or

1 b. The person demonstrates to a law-enforcement
2 officer who has a pick-up order for his license that he is not
3 currently licensed; or

4 c. The person's driver's license is surrendered to the
5 court if the surrender occurs more than five working days
6 after the effective date of the revocation order; or

7 d. The person appears before the clerk to demonstrate
8 that he is not currently licensed, if he appears more than five
9 working days after the effective date of the revocation order.

10 When a pick-up order is issued, it must inform the person of his right to a hearing as
11 specified in subsection (g), and that the revocation remains in effect pending the
12 hearing. An officer serving a pick-up order under this subsection must return the order
13 to the court indicating the date it was served or that he was unable to serve the order. If
14 the license was surrendered, the officer serving the order must deposit it with the clerk
15 within three days of the surrender."

16 Sec. 23. G.S. 20-28(a1) reads as rewritten:

17 "(a1) A person convicted under subsection (a) shall be punished as if he had been
18 convicted of driving without a driver's license under G.S. 20-7 if he demonstrates to the
19 court that:

20 (1) At the time of the offense, his license was revoked solely
21 under G.S. 20-16.5; and

22 (2) a. The offense occurred more than ~~30~~60 days
23 after the effective date of a revocation order issued under G.S.
24 20-16.5(f) and the period of revocation was 30 days as
25 provided under subdivision (3) of that subsection; or

26 b. The offense occurred more than ~~40~~30 days after the
27 effective date of the revocation order issued under any other
28 provision of G.S. 20-16.5.

29 In addition, a person punished under this subsection shall be treated for driver's license
30 and insurance rating purposes as if he had been convicted of driving without a license
31 under G.S. 20-7, and the conviction report sent to the Division must indicate that the
32 person is to be so treated."

33 Sec. 24. G.S. 20-16.2(a) reads as rewritten:

34 "(a) Basis for Charging Officer to Require Chemical Analysis; Notification of
35 Rights.—Any person who drives a vehicle on a highway or public vehicular area thereby
36 gives consent to a chemical analysis if he is charged with an implied-consent offense.
37 The charging officer must designate the type of chemical analysis to be administered,
38 and it may be administered when he has reasonable grounds to believe that the person
39 charged has committed the implied-consent offense. Except as provided in subsection
40 (b), the person charged must be taken before a chemical analyst authorized to administer
41 a test of a person's breath, who must inform the person orally and also give him a notice
42 in writing that:

43 (1) He has a right to refuse to be tested.

1 (2) Refusal to take any required test or tests will result in an
2 immediate revocation of his driving privilege for at least ~~10-30~~ days
3 and an additional 12-month revocation by the Division of Motor
4 Vehicles.

5 (3) The test results, or the fact of his refusal, will be admissible
6 in evidence at trial on the offense charged.

7 (4) If any test reveals an alcohol concentration of ~~0-10~~ 0.08 or
8 more, his driving privilege will be revoked immediately for at least
9 ~~10-30~~ days.

10 (5) He may have a qualified person of his own choosing
11 administer a chemical test or tests in addition to any test
12 administered at the direction of the charging officer.

13 (6) He has the right to call an attorney and select a witness to
14 view for him the testing procedures, but the testing may not be
15 delayed for these purposes longer than 30 minutes from the time he
16 is notified of his rights."

17 Sec. 25. G.S. 20-16.2(i) reads as rewritten:

18 "(i) Right to Chemical Analysis before Arrest or Charge.—A person stopped or
19 questioned by a law-enforcement officer who is investigating whether the person may
20 have committed an implied-consent offense may request the administration of a
21 chemical analysis before any arrest or other charge is made for the offense. Upon this
22 request, the officer must afford the person the opportunity to have a chemical analysis
23 of his breath, if available, in accordance with the procedures required by G.S. 20-
24 139.1(b). The request constitutes the person's consent to be transported by the law-
25 enforcement officer to the place where the chemical analysis is to be administered.
26 Before the chemical analysis is made, the person must confirm his request in writing
27 and he must be notified:

28 (1) That the test results will be admissible in evidence and may
29 be used against him in any implied-consent offense that may arise;

30 (2) That his license will be revoked for at least ~~10-30~~ days if the
31 test reveals an alcohol concentration of ~~0-10~~ 0.08 or more; and

32 (3) That if he fails to comply fully with the test procedures, the
33 officer may charge him with any offense for which the officer has
34 probable cause, and if he is charged with an implied-consent offense,
35 his refusal to submit to the testing required as a result of that charge
36 would result in revocation of his driver's license. The results of the
37 chemical analysis are admissible in evidence in any proceeding in
38 which they are relevant."

39 Sec. 26. G.S. 20-16.5(k) reads as rewritten:

40 "(k) Report to Division.—Except as provided below, the clerk must mail a report to
41 the Division within 10 working days of the return of a license under this section or of
42 the termination of a revocation of the driving privilege of a person not currently
43 licensed. The report must identify the person whose license has been revoked and
44 specify the dates on which his license was revoked. No report need be made to the

1 Division, however, if there was a surrender of the driver's license issued by the
2 Division, a ~~ten-day~~ 30-day minimum revocation was imposed, and the license was
3 properly returned to the person under subsection (h) within five working days after the
4 10-day period had elapsed."

5 Sec. 27. This act becomes effective October 1, 1991.