

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S

2

SENATE BILL 131
Judiciary II Committee Substitute Adopted 3/30/09

Short Title: Penalty for DWI Conviction/BAC .20 or Higher. (Public)

Sponsors:

Referred to:

February 12, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THAT A PERSON CONVICTED OF DRIVING WHILE
3 IMPAIRED BE IMPRISONED FOR A PERIOD OF TWENTY-FOUR HOURS IN A
4 CONFINEMENT FACILITY.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 20-179(i) reads as rewritten:

7 "(i) Level Three Punishment. – A defendant subject to Level Three punishment may be
8 fined up to one thousand dollars (\$1,000) and shall be sentenced to a term of imprisonment that
9 includes a minimum term of not less than 72 hours and a maximum term of not more than six
10 months. The term of imprisonment may be suspended. However, the suspended sentence shall
11 include the condition that the defendant:

- 12 (1) Be imprisoned for a term of at least 72 hours as a condition of special
13 probation; or
14 (2) Perform community service for a term of at least 72 hours; or
15 (3) Repealed by Session Laws 2006-253, s. 23, effective December 1, 2006, and
16 applicable to offenses committed on or after that date.
17 (4) Any combination of these conditions.

18 If the defendant is placed on probation, the judge shall impose a requirement that the
19 defendant obtain a substance abuse assessment and the education or treatment required by
20 G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge
21 may impose any other lawful condition of probation.

22 If the judge, or a jury in superior court, determines that the defendant has an alcohol
23 concentration of 0.20 or more within a relevant time after the driving, any suspended sentence
24 imposed shall include a condition of special probation to require the defendant to serve a term
25 of imprisonment of at least 24 hours. For purposes of this subsection, the results of a chemical
26 analysis presented at trial or sentencing shall be sufficient to prove the person's alcohol
27 concentration, shall be conclusive, and shall not be subject to modification by any party, with
28 or without approval of the court."

29 SECTION 2. G.S. 20-179(j) reads as rewritten:

30 (j) Level Four Punishment. – A defendant subject to Level Four punishment may be
31 fined up to five hundred dollars (\$500.00) and shall be sentenced to a term of imprisonment
32 that includes a minimum term of not less than 48 hours and a maximum term of not more than
33 120 days. The term of imprisonment may be suspended. However, the suspended sentence shall
34 include the condition that the defendant:

- 35 (1) Be imprisoned for a term of 48 hours as a condition of special probation; or
36 (2) Perform community service for a term of 48 hours; or



1 (3) Repealed by Session Laws 2006-253, s. 23, effective December 1, 2006, and
2 applicable to offenses committed on or after that date.

3 (4) Any combination of these conditions.

4 If the defendant is placed on probation, the judge shall impose a requirement that the
5 defendant obtain a substance abuse assessment and the education or treatment required by
6 G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge
7 may impose any other lawful condition of probation.

8 If the judge, or a jury in superior court, determines that the defendant has an alcohol
9 concentration of 0.20 or more within a relevant time after the driving, any suspended sentence
10 imposed shall include a condition of special probation to require the defendant to serve a term
11 of imprisonment of at least 24 hours. For purposes of this subsection, the results of a chemical
12 analysis presented at trial or sentencing shall be sufficient to prove the person's alcohol
13 concentration, shall be conclusive, and shall not be subject to modification by any party, with
14 or without approval of the court."

15 **SECTION 3.** G.S. 20-179(k) reads as rewritten:

16 (k) Level Five Punishment. – A defendant subject to Level Five punishment may be
17 fined up to two hundred dollars (\$200.00) and shall be sentenced to a term of imprisonment
18 that includes a minimum term of not less than 24 hours and a maximum term of not more than
19 60 days. The term of imprisonment may be suspended. However, the suspended sentence shall
20 include the condition that the defendant:

21 (1) Be imprisoned for a term of 24 hours as a condition of special probation; or

22 (2) Perform community service for a term of 24 hours; or

23 (3) Repealed by Session Laws 2006-253, s. 23, effective December 1, 2006, and
24 applicable to offenses committed on or after that date.

25 (4) Any combination of these conditions.

26 If the defendant is placed on probation, the judge shall impose a requirement that the
27 defendant obtain a substance abuse assessment and the education or treatment required by
28 G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge
29 may impose any other lawful condition of probation.

30 If the judge, or a jury in superior court, determines that the defendant has an alcohol
31 concentration of 0.20 or more within a relevant time after the driving, any suspended sentence
32 imposed shall include a condition of special probation to require the defendant to serve a term
33 of imprisonment of 24 hours. For purposes of this subsection, the results of a chemical analysis
34 presented at trial or sentencing shall be sufficient to prove the person's alcohol concentration,
35 shall be conclusive, and shall not be subject to modification by any party, with or without
36 approval of the court."

37 **SECTION 4.** This act becomes effective December 1, 2009, and applies to
38 offenses committed on or after that date.