

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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HOUSE BILL 41

Short Title: 0.00 Alcohol Restriction - All DWI. (Public)

Sponsors: Representative Jackson (Primary Sponsor).

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

Referred to: Judiciary Subcommittee A.

February 4, 2013

A BILL TO BE ENTITLED

AN ACT TO REQUIRE A 0.00 ALCOHOL CONCENTRATION RESTRICTION ON ALL  
RESTORATION OF LICENSES REVOKED FOR AN IMPAIRED DRIVING OFFENSE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-17.8(b) reads as rewritten:

"(b) **(Effective until December 1, 2014)** Ignition Interlock Required. – Except as provided in subsection (l) of this section, when the Division restores the license of a person who is subject to this section, in addition to any other restriction or condition, it shall require the person to agree to and shall indicate on the person's drivers license the following restrictions for the period designated in subsection (c):

- (1) A restriction that the person may operate only a vehicle that is equipped with a functioning ignition interlock system of a type approved by the Commissioner. The Commissioner shall not unreasonably withhold approval of an ignition interlock system and shall consult with the Division of Purchase and Contract in the Department of Administration to ensure that potential vendors are not discriminated against.
- (2) A requirement that the person personally activate the ignition interlock system before driving the motor vehicle.
- (3) An alcohol concentration restriction as follows:
  - a. If the ignition interlock system is required pursuant only to subdivision (a)(1) of this section, a requirement that the person not drive with an alcohol concentration of ~~0.040.00~~ or greater;
  - b. If the ignition interlock system is required pursuant to subdivision (a)(2) or (a)(3) of this section, or subsection (a1) of this section, a requirement that the person not drive with an alcohol concentration of greater than 0.00; or
  - c. If the ignition interlock system is required pursuant to subdivision (a)(1) of this section, and the person has also been convicted, based on the same set of circumstances, of: (i) driving while impaired in a commercial vehicle, G.S. 20-138.2, (ii) driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, (iii) a violation of G.S. 20-141.4, or (iv) manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, a requirement that the person not drive with an alcohol concentration of greater than 0.00.



1 (b) (Effective December 1, 2014) Ignition Interlock Required. – Except as provided in  
2 subsection (l) of this section, when the Division restores the license of a person who is subject  
3 to this section, in addition to any other restriction or condition, it shall require the person to  
4 agree to and shall indicate on the person's drivers license the following restrictions for the  
5 period designated in subsection (c):

- 6 (1) A restriction that the person may operate only a vehicle that is equipped with  
7 a functioning ignition interlock system of a type approved by the  
8 Commissioner. The Commissioner shall not unreasonably withhold approval  
9 of an ignition interlock system and shall consult with the Division of  
10 Purchase and Contract in the Department of Administration to ensure that  
11 potential vendors are not discriminated against.
- 12 (2) A requirement that the person personally activate the ignition interlock  
13 system before driving the motor vehicle.
- 14 (3) An alcohol concentration restriction as follows:
- 15 a. If the ignition interlock system is required pursuant only to  
16 subdivision (a)(1) of this section, a requirement that the person not  
17 drive with an alcohol concentration of ~~0.040.00~~ or greater;
- 18 b. If the ignition interlock system is required pursuant to subdivision  
19 (a)(2) or (a)(3) of this section, a requirement that the person not drive  
20 with an alcohol concentration of greater than 0.00; or
- 21 c. If the ignition interlock system is required pursuant to subdivision  
22 (a)(1) of this section, and the person has also been convicted, based  
23 on the same set of circumstances, of: (i) driving while impaired in a  
24 commercial vehicle, G.S. 20-138.2, (ii) driving while less than 21  
25 years old after consuming alcohol or drugs, G.S. 20-138.3, (iii) a  
26 violation of G.S. 20-141.4, or (iv) manslaughter or negligent  
27 homicide resulting from the operation of a motor vehicle when the  
28 offense involved impaired driving, a requirement that the person not  
29 drive with an alcohol concentration of greater than 0.00."

30 **SECTION 2.** G.S. 20-19(c3) reads as rewritten:

31 "(c3) (Effective until December 1, 2014) Restriction; Revocations. – When the Division  
32 restores a person's drivers license which was revoked pursuant to G.S. 20-13.2 (a), G.S. 20-23  
33 when the offense involved impaired driving, G.S. 20-23.2, subdivision (2) of G.S. 20-17(a),  
34 subdivision (1) or (9) of G.S. 20-17(a) when the offense involved impaired driving,  
35 G.S. 20-138.5(d), or this subsection, in addition to any other restriction or condition, it shall  
36 place the applicable restriction on the person's drivers license as follows:

- 37 (1) For the first restoration of a drivers license for a person convicted of driving  
38 while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to  
39 G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license  
40 was revoked prohibits substantially similar conduct which if committed in  
41 this State would result in a conviction of driving while impaired under  
42 G.S. 20-138.1, that the person not operate a vehicle with an alcohol  
43 concentration of ~~0.040.00~~ or more at any relevant time after the driving;
- 44 (2) For the second or subsequent restoration of a drivers license for a person  
45 convicted of driving while impaired, G.S. 20-138.1, or a drivers license  
46 revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which  
47 the person's license was revoked prohibits substantially similar conduct  
48 which if committed in this State would result in a conviction of driving  
49 while impaired under G.S. 20-138.1, that the person not operate a vehicle  
50 with an alcohol concentration greater than 0.00 at any relevant time after the  
51 driving;

- 1           (3) For any restoration of a drivers license for a person convicted of driving  
2 while impaired in a commercial motor vehicle, G.S. 20-138.2, habitual  
3 impaired driving, G.S. 20-138.5, driving while less than 21 years old after  
4 consuming alcohol or drugs, G.S. 20-138.3, felony death by vehicle,  
5 G.S. 20-141.4(a1), manslaughter or negligent homicide resulting from the  
6 operation of a motor vehicle when the offense involved impaired driving, or  
7 a revocation under this subsection, that the person not operate a vehicle with  
8 an alcohol concentration of greater than 0.00 at any relevant time after the  
9 driving;
- 10          (4) For any restoration of a drivers license revoked pursuant to G.S. 20-23 or  
11 G.S. 20-23.2 when the offense for which the person's license was revoked  
12 prohibits substantially similar conduct which if committed in this State  
13 would result in a conviction of driving while impaired in a commercial  
14 motor vehicle, G.S. 20-138.2, driving while less than 21 years old after  
15 consuming alcohol or drugs, G.S. 20-138.3, a violation of G.S. 20-141.4, or  
16 manslaughter or negligent homicide resulting from the operation of a motor  
17 vehicle when the offense involved impaired driving, that the person not  
18 operate vehicle with an alcohol concentration of greater than 0.00 at any  
19 relevant time after the driving.

20           In addition, the person seeking restoration of a license must agree to submit to a chemical  
21 analysis in accordance with G.S. 20-16.2 at the request of a law enforcement officer who has  
22 reasonable grounds to believe the person is operating a motor vehicle on a highway or public  
23 vehicular area in violation of the restriction specified in this subsection. The person must also  
24 agree that, when requested by a law enforcement officer, the person will agree to be transported  
25 by the law enforcement officer to the place where chemical analysis is to be administered.

26           The restrictions placed on a license under this subsection shall be in effect (i) seven years  
27 from the date of restoration if the person's license was permanently revoked, (ii) until the  
28 person's twenty-first birthday if the revocation was for a conviction under G.S. 20-138.3, and  
29 (iii) three years in all other cases.

30           A law enforcement officer who has reasonable grounds to believe that a person has violated  
31 a restriction placed on the person's drivers license shall complete an affidavit pursuant to  
32 G.S. 20-16.2(c1). On the basis of information reported pursuant to G.S. 20-16.2, the Division  
33 shall revoke the drivers license of any person who violates a condition of reinstatement  
34 imposed under this subsection. An alcohol concentration report from an ignition interlock  
35 system shall not be used as the basis for revocation under this subsection. A violation of a  
36 restriction imposed under this subsection or the willful refusal to submit to a chemical analysis  
37 shall result in a one-year revocation. If the period of revocation was imposed pursuant to  
38 subsection (d) or (e), or G.S. 20-138.5(d), any remaining period of the original revocation, prior  
39 to its reduction, shall be reinstated and the one-year revocation begins after all other periods of  
40 revocation have terminated.

41          (c3) **(Effective December 1, 2014)** Restriction; Revocations. – When the Division  
42 restores a person's drivers license which was revoked pursuant to G.S. 20-13.2 (a), G.S. 20-23  
43 when the offense involved impaired driving, G.S. 20-23.2, subdivision (2) of G.S. 20-17(a),  
44 subdivision (1) or (9) of G.S. 20-17(a) when the offense involved impaired driving, or this  
45 subsection, in addition to any other restriction or condition, it shall place the applicable  
46 restriction on the person's drivers license as follows:

- 47           (1) For the first restoration of a drivers license for a person convicted of driving  
48 while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to  
49 G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license  
50 was revoked prohibits substantially similar conduct which if committed in  
51 this State would result in a conviction of driving while impaired under

- 1 G.S. 20-138.1, that the person not operate a vehicle with an alcohol  
2 concentration of ~~0.04~~0.00 or more at any relevant time after the driving;
- 3 (2) For the second or subsequent restoration of a drivers license for a person  
4 convicted of driving while impaired, G.S. 20-138.1, or a drivers license  
5 revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which  
6 the person's license was revoked prohibits substantially similar conduct  
7 which if committed in this State would result in a conviction of driving  
8 while impaired under G.S. 20-138.1, that the person not operate a vehicle  
9 with an alcohol concentration greater than 0.00 at any relevant time after the  
10 driving;
- 11 (3) For any restoration of a drivers license for a person convicted of driving  
12 while impaired in a commercial motor vehicle, G.S. 20-138.2, driving while  
13 less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3,  
14 felony death by vehicle, G.S. 20-141.4(a1), manslaughter or negligent  
15 homicide resulting from the operation of a motor vehicle when the offense  
16 involved impaired driving, or a revocation under this subsection, that the  
17 person not operate a vehicle with an alcohol concentration of greater than  
18 0.00 at any relevant time after the driving;
- 19 (4) For any restoration of a drivers license revoked pursuant to G.S. 20-23 or  
20 G.S. 20-23.2 when the offense for which the person's license was revoked  
21 prohibits substantially similar conduct which if committed in this State  
22 would result in a conviction of driving while impaired in a commercial  
23 motor vehicle, G.S. 20-138.2, driving while less than 21 years old after  
24 consuming alcohol or drugs, G.S. 20-138.3, a violation of G.S. 20-141.4, or  
25 manslaughter or negligent homicide resulting from the operation of a motor  
26 vehicle when the offense involved impaired driving, that the person not  
27 operate vehicle with an alcohol concentration of greater than 0.00 at any  
28 relevant time after the driving.

29 In addition, the person seeking restoration of a license must agree to submit to a chemical  
30 analysis in accordance with G.S. 20-16.2 at the request of a law enforcement officer who has  
31 reasonable grounds to believe the person is operating a motor vehicle on a highway or public  
32 vehicular area in violation of the restriction specified in this subsection. The person must also  
33 agree that, when requested by a law enforcement officer, the person will agree to be transported  
34 by the law enforcement officer to the place where chemical analysis is to be administered.

35 The restrictions placed on a license under this subsection shall be in effect (i) seven years  
36 from the date of restoration if the person's license was permanently revoked, (ii) until the  
37 person's twenty-first birthday if the revocation was for a conviction under G.S. 20-138.3, and  
38 (iii) three years in all other cases.

39 A law enforcement officer who has reasonable grounds to believe that a person has violated  
40 a restriction placed on the person's drivers license shall complete an affidavit pursuant to  
41 G.S. 20-16.2(c1). On the basis of information reported pursuant to G.S. 20-16.2, the Division  
42 shall revoke the drivers license of any person who violates a condition of reinstatement  
43 imposed under this subsection. An alcohol concentration report from an ignition interlock  
44 system shall not be used as the basis for revocation under this subsection. A violation of a  
45 restriction imposed under this subsection or the willful refusal to submit to a chemical analysis  
46 shall result in a one-year revocation. If the period of revocation was imposed pursuant to  
47 subsection (d) or (e), any remaining period of the original revocation, prior to its reduction,  
48 shall be reinstated and the one-year revocation begins after all other periods of revocation have  
49 terminated."

50 **SECTION 3.** This act becomes effective December 1, 2013, and applies to  
51 offenses committed on or after that date.