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SENATE DRS35242-MLxf-35A (01/22)

Short Title: Grey's Law.

(Public)

Sponsors: Senators Rabon, Stein, and Newton (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE A 0.02 ALCOHOL CONCENTRATION RESTRICTION ON ALL RESTORATION OF LICENSES REVOKED FOR AN IMPAIRED DRIVING OFFENSE OR REFUSAL TO SUBMIT TO A CHEMICAL ANALYSIS; TO PROVIDE THAT WHERE A PERSON HAS COMMITTED AN IMPLIED-CONSENT OFFENSE AND APPLICABLE LAW REQUIRES A MANDATORY REVOCATION OF THE PERSON'S DRIVERS LICENSE, A REQUEST FOR A HEARING DOES NOT STAY THE REVOCATION; TO REQUIRE IGNITION INTERLOCK SYSTEM RESTRICTIONS ON A LIMITED DRIVING PRIVILEGE ISSUED TO ANYONE WHO IS CONVICTED OF AN ALCOHOL-RELATED OFFENSE OF DRIVING WHILE IMPAIRED, DRIVING AFTER CONSUMING ALCOHOL AND BEING LESS THAN TWENTY-ONE YEARS OF AGE, OR ANY PERSON WHO REFUSES A CHEMICAL ANALYSIS; TO REQUIRE AN EXTENSION OF THE IGNITION INTERLOCK REQUIREMENT PERIOD FOR ANY PERSON WHO VIOLATES THE CONDITIONS FOR RESTORING THE PERSON'S DRIVERS LICENSE AFTER CERTAIN DRIVING WHILE IMPAIRED CONVICTIONS; TO PROVIDE FOR THE PAYMENT OF AN ADMINISTRATIVE FEE AND COSTS ASSOCIATED WITH AN IGNITION INTERLOCK SYSTEM; TO MODIFY THE HABITUAL IMPAIRED DRIVING STATUTE; AND TO MAKE VARIOUS OTHER CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as "Grey's Law."

SECTION 2. G.S. 20-16.2 reads as rewritten:

"§ 20-16.2. Implied consent to chemical analysis; mandatory revocation of license in event of refusal; right of driver to request analysis.

...

(c1) Procedure for Reporting Results and Refusal to Division. – Whenever a person refuses to submit to a chemical analysis, a person has an alcohol concentration of ~~0.150.08~~ or more, or a person's drivers license has an alcohol concentration restriction and the results of the chemical analysis establish a violation of the restriction, the law enforcement officer and the chemical analyst shall without unnecessary delay go before an official authorized to administer oaths and execute an affidavit(s) stating that:

- (1) The person was charged with an implied-consent offense or had an alcohol concentration restriction on the drivers license;
- (2) A law enforcement officer had reasonable grounds to believe that the person had committed an implied-consent offense or violated the alcohol concentration restriction on the drivers license;



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- 1 (3) Whether the implied-consent offense charged involved death or critical
2 injury to another person, if the person willfully refused to submit to chemical
3 analysis;
4 (4) The person was notified of the rights in subsection (a); and
5 (5) The results of any tests given or that the person willfully refused to submit to
6 a chemical analysis.

7 If the person's drivers license has an alcohol concentration restriction, pursuant to
8 G.S. 20-19(c3), and an officer has reasonable grounds to believe the person has violated a
9 provision of that restriction other than violation of the alcohol concentration level, the officer
10 and chemical analyst shall complete the applicable sections of the affidavit and indicate the
11 restriction which was violated. The officer shall immediately mail the affidavit(s) to the
12 Division. If the officer is also the chemical analyst who has notified the person of the rights
13 under subsection (a), the officer may perform alone the duties of this subsection.

14 (d) Consequences of Refusal; Right to Hearing before Division; Issues. – Upon receipt
15 of a properly executed affidavit required by subsection (c1), the Division shall expeditiously
16 notify the person charged that the person's license to drive is revoked for 12 months, effective
17 on the tenth calendar day after the mailing of the revocation ~~order unless, before the effective~~
18 ~~date of the order, the person requests in writing a hearing before the Division order.~~ The person
19 may request in writing a hearing before the Division to contest the revocation, but the request
20 shall not stay the revocation of the person's license to drive if either of the following apply: (i)
21 the matter is heard by a judicial official pursuant to the procedures in G.S. 20-16.5(e), and the
22 judicial official determines that there is probable cause to believe that the conditions of
23 G.S. 20-16.5(b)(1) through (3) and G.S. 20-16.5(b)(4)a. have been met, or (ii) the matter is
24 presented to a clerk pursuant to the procedures in G.S. 20-16.5(f), and the clerk determines that
25 there is probable cause to believe that the conditions of G.S. 20-16.5(b)(1) through (3) and
26 G.S. 20-16.5(b)(4)a. have been met. Except for the time referred to in G.S. 20-16.5, if the
27 person shows to the satisfaction of the Division that his or her license was surrendered to the
28 court, and remained in the court's possession, then the Division shall credit the amount of time
29 for which the license was in the possession of the court against the 12-month revocation period
30 required by this subsection. ~~If the person properly requests a hearing, the person retains his or~~
31 ~~her license, unless it is revoked under some other provision of law, until the hearing is held, the~~
32 ~~person withdraws the request, or the person fails to appear at a scheduled hearing.~~

33 The hearing officer may subpoena any witnesses or documents that the hearing officer
34 deems necessary. The person may request the hearing officer to subpoena the charging officer,
35 the chemical analyst, or both to appear at the hearing if the person makes the request in writing
36 at least three days before the hearing. The person may subpoena any other witness whom the
37 person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to the issuance and
38 service of all subpoenas issued under the authority of this section. The hearing officer is
39 authorized to administer oaths to witnesses appearing at the hearing. The hearing shall be
40 conducted in the county where the charge was brought, and shall be limited to consideration of
41 whether:

- 42 (1) The person was charged with an implied-consent offense or the driver had an
43 alcohol concentration restriction on the drivers license pursuant to
44 G.S. 20-19;
45 (2) A law enforcement officer had reasonable grounds to believe that the person
46 had committed an implied-consent offense or violated the alcohol
47 concentration restriction on the drivers license;
48 (3) The implied-consent offense charged involved death or critical injury to
49 another person, if this allegation is in the affidavit;
50 (4) The person was notified of the person's rights as required by subsection (a);
51 and

1 (5) The person willfully refused to submit to a chemical analysis.
2 If the Division finds that the conditions specified in this subsection are met, it shall order the
3 revocation sustained. If the Division finds that any of the conditions (1), (2), (4), or (5) is not
4 met, it shall rescind the revocation. If it finds that condition (3) is alleged in the affidavit but is
5 not met, it shall order the revocation sustained if that is the only condition that is not met; in
6 this instance subsection (d1) does not apply to that revocation. ~~If the revocation is sustained,~~
7 ~~the person shall surrender his or her license immediately upon notification by the Division.~~ The
8 proceedings and revocation under this subsection originate from the notice sent to the person by
9 the Division and are not vacated by any deficiency in an affidavit executed under subsection
10 (c1) of this section that is not a material deficiency.

11 (d1) Consequences of Refusal in Case Involving Death or Critical Injury. – If the refusal
12 occurred in a case involving death or critical injury to another person, no limited driving
13 privilege may be issued. The 12-month revocation begins only after all other periods of
14 revocation have terminated unless the person's license is revoked under G.S. 20-28, 20-28.1,
15 20-19(d), or 20-19(e). If the revocation is based on those sections, the revocation under this
16 subsection begins at the time and in the manner specified in subsection (d) for revocations
17 under this section. However, the person's eligibility for a hearing to determine if the revocation
18 under those sections should be rescinded is postponed for one year from the date on which the
19 person would otherwise have been eligible for the hearing. If the person's driver's license is
20 again revoked while the 12-month revocation under this subsection is in effect, that revocation,
21 whether imposed by a court or by the Division, may only take effect after the period of
22 revocation under this subsection has terminated.

23 ...

24 (e1) Limited Driving Privilege after Six Months in Certain Instances. – A person whose
25 driver's license has been revoked under this section may apply for and a judge authorized to do
26 so by this subsection may issue a limited driving privilege ~~if~~ if the following requirements are
27 met:

- 28 (1) At the time of the refusal the person held either a valid drivers license or a
29 license that had been expired for less than one ~~year;~~ year.
- 30 (2) At the time of the refusal, the person had not within the preceding seven
31 years been convicted of an offense involving impaired ~~driving;~~ driving.
- 32 (3) At the time of the refusal, the person had not in the preceding seven years
33 willfully refused to submit to a chemical analysis under this ~~section;~~ section.
- 34 (4) The implied consent offense charged did not involve death or critical injury
35 to another ~~person;~~ person.
- 36 (5) The underlying charge for which the defendant was requested to submit to a
37 chemical analysis has been finally disposed ~~of;~~ by either of the following:
 - 38 a. Other than by ~~conviction;~~ conviction.
 - 39 b. By a conviction of impaired driving under G.S. 20-138.1, at a
40 punishment level authorizing issuance of a limited driving privilege
41 under G.S. 20-179.3(b), and the defendant has complied with at least
42 one of the mandatory conditions of probation listed for the
43 punishment level under which the defendant was
44 ~~sentenced;~~ sentenced.
- 45 (6) Subsequent to the refusal the person has had no unresolved pending charges
46 for or additional convictions of an offense involving impaired
47 ~~driving;~~ driving.
- 48 (7) The person's license has been revoked for at least six months for the ~~refusal;~~
49 ~~and~~ refusal.

- 1 (8) The person has obtained a substance abuse assessment from a mental health
2 facility and successfully completed any recommended training or treatment
3 program.
- 4 (9) The limited driving privilege issued has an ignition interlock requirement
5 that includes all of the following:
- 6 a. A restriction that the applicant may operate only a designated motor
7 vehicle.
- 8 b. A requirement that the designated motor vehicle be equipped with a
9 functioning ignition interlock system of a type approved by the
10 Commissioner, which is set to prohibit driving with an alcohol
11 concentration of 0.02 or greater. Nothing in this sub-subdivision shall
12 be construed as authorizing a person to operate a motor vehicle while
13 having an alcohol concentration in excess of the limit set by
14 applicable State or federal law.
- 15 c. A requirement that the applicant personally activate the ignition
16 interlock system before driving the motor vehicle.

17 Except as modified in this subsection, the provisions of G.S. 20-179.3 relating to the procedure
18 for application and conduct of the hearing and the restrictions required or authorized to be
19 included in the limited driving privilege apply to applications under this subsection. If the case
20 was finally disposed of in the district court, the hearing shall be conducted in the district court
21 district as defined in G.S. 7A-133 in which the refusal occurred by a district court judge. If the
22 case was finally disposed of in the superior court, the hearing shall be conducted in the superior
23 court district or set of districts as defined in G.S. 7A-41.1 in which the refusal occurred by a
24 superior court judge. A limited driving privilege issued under this section authorizes a person to
25 drive if the person's license is revoked solely under this section or solely under this section and
26 G.S. 20-17(2). If the person's license is revoked for any other reason, the limited driving
27 privilege is invalid.

28"

29 **SECTION 3.(a)** G.S. 20-17.8 reads as rewritten:

30 "**§ 20-17.8. Restoration of a license after certain driving while impaired convictions;**
31 **ignition interlock.**

32 (a) Scope. – This section applies to a person whose license was revoked as a result of a
33 conviction of driving while impaired, G.S. 20-138.1, and:

- 34 (1) The person had an alcohol concentration of ~~0.15~~0.08 or more;
- 35 (2) The person has been convicted of another offense involving impaired
36 driving, which offense occurred within seven years immediately preceding
37 the date of the offense for which the person's license has been revoked; or
- 38 (3) The person was sentenced pursuant to G.S. 20-179(f3).

39 For purposes of subdivision (1) of this subsection, the results of a chemical analysis, as
40 shown by an affidavit or affidavits executed pursuant to G.S. 20-16.2(c1), shall be used by the
41 Division to determine that person's alcohol concentration.

42 (a1) Additional Scope. – This section applies to a person whose license was revoked as a
43 result of a conviction of habitual impaired driving, G.S. 20-138.5.

44 (a2) Under Age 21. – The provisions of this section apply to a person whose license was
45 revoked as the result of a conviction of driving by a person less than 21 years old after
46 consuming alcohol pursuant to G.S. 20-138.3.

47 (a3) Refusal to Submit to Chemical Analysis. – The provisions of this section apply to a
48 person whose license was revoked as the result of a refusal to submit to a chemical analysis
49 pursuant to G.S. 20-16.2.

50 (b) Ignition Interlock Required. – Except as provided in subsection (1) of this section,
51 when the Division restores the license of a person who is subject to this section, in addition to

1 any other restriction or condition, it shall require the person to agree to and shall indicate on the
2 person's drivers license the following restrictions for the period designated in subsection (c):

- 3 (1) A restriction that the person may operate only a vehicle that is equipped with
4 a functioning ignition interlock system of a type approved by the
5 ~~Commissioner~~ Commissioner, which is set to prohibit driving with an
6 alcohol concentration of 0.02 or greater. Nothing in this subdivision shall be
7 construed as authorizing a person to operate a motor vehicle while having an
8 alcohol concentration in excess of the limit set by applicable State or federal
9 law. The Commissioner shall not unreasonably withhold approval of an
10 ignition interlock system and shall consult with the Division of Purchase and
11 Contract in the Department of Administration to ensure that potential
12 vendors are not discriminated against.
- 13 (2) A requirement that the person personally activate the ignition interlock
14 system before driving the motor vehicle.
- 15 (3) ~~An alcohol concentration restriction as follows:~~
- 16 a. ~~If the ignition interlock system is required pursuant only to~~
17 ~~subdivision (a)(1) of this section, a requirement that the person not~~
18 ~~drive with an alcohol concentration of 0.04 or greater;~~
- 19 b. ~~If the ignition interlock system is required pursuant to subdivision~~
20 ~~(a)(2) or (a)(3) of this section, or subsection (a1) of this section, a~~
21 ~~requirement that the person not drive with an alcohol concentration~~
22 ~~of greater than 0.00; or~~
- 23 c. ~~If the ignition interlock system is required pursuant to subdivision~~
24 ~~(a)(1) of this section, and the person has also been convicted, based~~
25 ~~on the same set of circumstances, of: (i) driving while impaired in a~~
26 ~~commercial vehicle, G.S. 20-138.2, (ii) driving while less than 21~~
27 ~~years old after consuming alcohol or drugs, G.S. 20-138.3, (iii) a~~
28 ~~violation of G.S. 20-141.4, or (iv) manslaughter or negligent~~
29 ~~homicide resulting from the operation of a motor vehicle when the~~
30 ~~offense involved impaired driving, a requirement that the person not~~
31 ~~drive with an alcohol concentration of greater than 0.00.~~

32 ...

33 (c2) Multiple Offenses Requiring Ignition Interlock System. – If a person is convicted of
34 multiple offenses as a result of a single series of events, and each offense requires the
35 installation of an ignition interlock system pursuant to this section, the periods of time specified
36 in subsection (c) of this section for each offense shall run consecutively.

37 (d) Effect of Limited Driving Privileges. – If the person was eligible for and received a
38 limited driving privilege under ~~G.S. 20-179.3~~, G.S. 20-179.3 with ~~thean~~ an ignition interlock
39 ~~requirement contained in G.S. 20-179.3(g5);~~ requirement, the period of time for which that
40 limited driving privilege was held shall be applied towards the requirements of subsection (c).

41 (e) Notice of Requirement. – When a court reports to the Division a conviction of a
42 person who is subject to this section, the Division must send the person written notice of the
43 requirements of this section and of the consequences of failing to comply with these
44 requirements. The notification must include a statement that the person may contact the
45 Division for information on obtaining and having installed an ignition interlock system of a
46 type approved by the Commissioner.

47 (e1) Disabling or Removing of Ignition Interlock System. – A person subject to this
48 section shall not disable or remove, or allow the disabling or removal, of an ignition interlock
49 system from a vehicle in which it is required to be installed pursuant to subsection (c1) of this
50 section.

51 ...

1 (g) ~~Effect of Violation of Restriction When Driving While License Revoked Not~~
2 ~~Charged.—Restriction.~~ — A person subject to this section who violates any of the restrictions of
3 this section, ~~but is not charged or convicted of driving while license revoked pursuant to~~
4 ~~G.S. 20-28(a), section,~~ shall have the person's license revoked by the Division for a period
5 ~~of applicable period designated in subsection (c) of this section extended by one year.~~

6 (h) ~~Beginning of Revocation Period.~~ — If the original period of revocation was imposed
7 pursuant to G.S. 20-19(d) or (e), any remaining period of the original revocation, prior to its
8 reduction, shall be reinstated and the revocation required by subsection (f) or (g) of this section
9 begins after all other periods of revocation have terminated.

10 (i) ~~Notification of Revocation.~~ — If the person's license has not already been
11 surrendered to the court, the Division must expeditiously notify the person that the person's
12 license to drive is revoked pursuant to subsection (f) or (g) of this section effective on the tenth
13 calendar day after the mailing of the revocation order.

14 (j) ~~Right to Hearing Before Division; Issues.~~ — If the person's license is revoked ignition
15 interlock requirement period is extended pursuant to subsection (g) of this section, ~~before the~~
16 ~~effective date of the order issued under subsection (i) of this section, section,~~ the person may
17 request in writing a hearing before the Division. ~~Except for the time referred to in G.S. 20-16.5,~~
18 ~~if the person shows to the satisfaction of the Division that the person's license was surrendered~~
19 ~~to the court and remained in the court's possession, then the Division shall credit the amount of~~
20 ~~time for which the license was in the possession of the court against the revocation period~~
21 ~~required by subsection (g) of this section. If the person properly requests a hearing, the person~~
22 ~~retains the person's license, unless it is revoked under some other provision of law, until the~~
23 ~~hearing is held, the person withdraws the request, or the person fails to appear at a scheduled~~
24 ~~hearing.~~ The hearing officer may subpoena any witnesses or documents that the hearing officer
25 deems necessary. The person may request the hearing officer to subpoena the charging officer,
26 the chemical analyst, or both to appear at the hearing if the person makes the request in writing
27 at least three days before the hearing. The person may subpoena any other witness whom the
28 person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to the issuance and
29 service of all subpoenas issued under the authority of this section. The hearing must be
30 conducted in the county where the charge was brought, ~~except when the evidence of the~~
31 ~~violation is an alcohol concentration report from an ignition interlock system, the hearing may~~
32 ~~be conducted brought or~~ in the county where the person resides. The hearing must be limited to
33 consideration of whether:

- 34 (1) The drivers license of the person had an ignition interlock requirement; and
35 (2) The person:
36 a. Was driving a vehicle that was not equipped with a functioning
37 ignition interlock system; ~~or system;~~
38 b. Did not personally activate the ignition interlock system before
39 driving the ~~vehiele; or~~ vehicle;
40 c. Drove the vehicle in violation of an applicable alcohol concentration
41 restriction prescribed by subdivision (b)(3) of this ~~section.~~ section; or
42 d. Disabled or removed, or allowed the disabling or removal, of an
43 ignition interlock system required by this section.

44 If the Division finds that the conditions specified in this subsection are
45 met, it must order the ~~revocation~~ extension sustained. If the Division finds
46 that the condition of subdivision (1) is not met, or that none of the conditions
47 of subdivision (2) are met, it must rescind the ~~revocation.~~ ~~If the revocation is~~
48 ~~sustained, the person must surrender the person's license immediately upon~~
49 ~~notification by the Division. If the revocation is sustained, the person may~~
50 ~~appeal the decision of the Division pursuant to G.S. 20-25.~~ extension.

1 (j1) Right to Hearing in Superior Court. – If an extension is sustained after a hearing
2 conducted pursuant to subsection (j) of this section, the person whose ignition interlock
3 requirement period is extended shall have a right to file a petition within 30 days thereafter for
4 a hearing in the matter in the superior court of the county where the hearing was conducted
5 pursuant to subsection (j) of this section. The review under this subsection shall be limited to
6 determining whether there is sufficient evidence in the record to support the Division's findings
7 of fact, whether the conclusions of law are supported by the findings of fact, and whether the
8 Commissioner committed an error of law in extending the person's ignition interlock
9 requirement period.

10 (k) ~~Restoration After Violation.~~—When the Division restores the license of a person
11 whose license was revoked pursuant to subsection (f) or (g) of this section and the revocation
12 occurred prior to completion of time period required by subsection (e) of this section, in
13 addition to any other restriction or condition, it shall require the person to comply with the
14 conditions of subsection (b) of this section until the person has complied with those conditions
15 for the cumulative period of time as set forth in subsection (e) of this section. The period of
16 time for which the person successfully complied with subsection (b) of this section prior to
17 revocation pursuant to subsection (f) or (g) of this section shall be applied towards the
18 requirements of subsection (e) of this section.

19 "

20 **SECTION 3.(b)** G.S. 20-17.8(f) is repealed.

21 **SECTION 3.(c)** Section 6 of S.L. 2009-369 is repealed.

22 **SECTION 4.** G.S. 20-19(c3) reads as rewritten:

23 "(c3) Restriction; Revocations. – When the Division restores a person's drivers license
24 which was revoked pursuant to ~~G.S. 20-13.2 (a);~~G.S. 20-13.2(a), G.S. 20-23 when the offense
25 involved impaired driving, G.S. 20-23.2, subdivision (2) of G.S. 20-17(a), subdivision (1) or
26 (9) of G.S. 20-17(a) when the offense involved impaired driving, G.S. 20-138.5(d), or this
27 subsection, in addition to any other restriction or condition, it shall place the applicable
28 restriction on the person's drivers license as follows:

- 29 (1) ~~For the first restoration of a drivers license for a person convicted of driving~~
30 ~~while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to~~
31 ~~G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license~~
32 ~~was revoked prohibits substantially similar conduct which if committed in~~
33 ~~this State would result in a conviction of driving while impaired under~~
34 ~~G.S. 20-138.1, that the person not operate a vehicle with an alcohol~~
35 ~~concentration of 0.04 or more at any relevant time after the driving;~~
36 (2) ~~For the second or subsequent restoration of a drivers license for a person~~
37 ~~convicted of driving while impaired, G.S. 20-138.1, or a drivers license~~
38 ~~revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which~~
39 ~~the person's license was revoked prohibits substantially similar conduct~~
40 ~~which if committed in this State would result in a conviction of driving~~
41 ~~while impaired under G.S. 20-138.1, that the person not operate a vehicle~~
42 ~~with an alcohol concentration greater than 0.00 at any relevant time after the~~
43 ~~driving;~~
44 (3) ~~For any restoration of a drivers license for a person convicted of driving~~
45 ~~while impaired in a commercial motor vehicle, G.S. 20-138.2, habitual~~
46 ~~impaired driving, G.S. 20-138.5, driving while less than 21 years old after~~
47 ~~consuming alcohol or drugs, G.S. 20-138.3, felony death by vehicle,~~
48 ~~G.S. 20-141.4(a1), manslaughter or negligent homicide resulting from the~~
49 ~~operation of a motor vehicle when the offense involved impaired driving, or~~
50 ~~a revocation under this subsection, that the person not operate a vehicle with~~

- 1 an alcohol concentration of greater than 0.00 at any relevant time after the
 2 driving;
- 3 (4) ~~For any restoration of a drivers license revoked pursuant to G.S. 20-23 or~~
 4 ~~G.S. 20-23.2 when the offense for which the person's license was revoked~~
 5 ~~prohibits substantially similar conduct which if committed in this State~~
 6 ~~would result in a conviction of driving while impaired in a commercial~~
 7 ~~motor vehicle, G.S. 20-138.2, driving while less than 21 years old after~~
 8 ~~consuming alcohol or drugs, G.S. 20-138.3, a violation of G.S. 20-141.4, or~~
 9 ~~manslaughter or negligent homicide resulting from the operation of a motor~~
 10 ~~vehicle when the offense involved impaired driving, that the person not~~
 11 ~~operate vehicle with an alcohol concentration of greater than 0.00 at any~~
 12 ~~relevant time after the driving.~~ a restriction on the person's drivers license
 13 requiring that the person not operate a vehicle with an alcohol concentration
 14 of 0.02 or more at any relevant time after the driving.

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

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

25"

26 **SECTION 5.** G.S. 20-138.3(d) is amended by adding a new subdivision to read:

27 "(d) Limited Driving Privilege. – A person who is convicted of violating subsection (a)
 28 of this section and whose drivers license is revoked solely based on that conviction may apply
 29 for a limited driving privilege as provided in G.S. 20-179.3. This subsection shall apply only if
 30 ~~the person meets both of the following requirements:~~ requirements are met:

- 31 (1) ~~Is~~ The person is 18, 19, or 20 years old on the date of the offense.
- 32 (2) ~~Has~~ The person has not previously been convicted of a violation of this
 33 section.
- 34 (3) If convicted of driving by a person less than 21 years old after consuming
 35 alcohol pursuant to subsection (a) of this section, the limited driving
 36 privilege issued has an ignition interlock requirement that includes all of the
 37 following:
- 38 a. A restriction that the applicant may operate only a designated motor
 39 vehicle.
- 40 b. A requirement that the designated motor vehicle be equipped with a
 41 functioning ignition interlock system of a type approved by the
 42 Commissioner, which is set to prohibit driving with an alcohol
 43 concentration of 0.02 or greater. Nothing in this sub-subdivision shall
 44 be construed as authorizing a person to operate a motor vehicle while
 45 having an alcohol concentration in excess of the limit set by
 46 applicable State or federal law.
- 47 c. A requirement that the applicant personally activate the ignition
 48 interlock system before driving the motor vehicle.

49 The judge may issue the limited driving privilege only if the person meets the eligibility
 50 requirements of G.S. 20-179.3, other than the requirement in G.S. 20-179.3(b)(1)c.
 51 G.S. 20-179.3(e) shall not apply. All other terms, conditions, and restrictions provided for in

1 G.S. 20-179.3 shall apply. G.S. 20-179.3, rather than this subsection, governs the issuance of a
2 limited driving privilege to a person who is convicted of violating subsection (a) of this section
3 and of driving while impaired as a result of the same transaction."

4 **SECTION 6.(a)** G.S. 20-138.5(a) reads as rewritten:

5 "(a) A person commits the offense of habitual impaired driving if ~~he~~the person drives
6 while impaired as defined in G.S. 20-138.1 and has been convicted of three or more offenses
7 involving impaired driving as defined in ~~G.S. 20-4.01(24a)~~ within 10 years of the date of this
8 offense.G.S. 20-4.01(24a)."

9 **SECTION 6.(b)** G.S. 7A-109.4 reads as rewritten:

10 "**§ 7A-109.4. Records of offenses involving impaired driving.**

11 The clerk of superior court shall maintain all records relating to an offense involving
12 impaired driving as defined in ~~G.S. 20-4.01(24a)~~ for a minimum of 10 years from the date of
13 conviction. ~~Prior to destroying the record, the clerk shall record the name of the defendant, the~~
14 ~~judge, the prosecutor, and the attorney or whether there was a waiver of attorney, the alcohol~~
15 ~~concentration or the fact of refusal, the sentence imposed, and whether the case was appealed to~~
16 ~~superior court and its disposition.~~G.S. 20-4.01(24a)."

17 **SECTION 7.** G.S. 20-179.3 reads as rewritten:

18 "**§ 20-179.3. Limited driving privilege.**

19 (a) Definition of Limited Driving Privilege. – A limited driving privilege is a judgment
20 issued in the discretion of a court for good cause shown authorizing a person with a revoked
21 driver's license to drive for essential purposes related to any of the following:

- 22 (1) His employment.
- 23 (2) The maintenance of his household.
- 24 (3) His education.
- 25 (4) His court-ordered treatment or assessment.
- 26 (5) Community service ordered as a condition of the person's probation.
- 27 (6) Emergency medical care.

28 (b) Eligibility. –

- 29 (1) A person convicted of the offense of impaired driving under G.S. 20-138.1 is
30 eligible for a limited driving privilege ~~if~~if the following requirements are
31 met:
 - 32 a. At the time of the ~~offense~~offense, the person held either a valid
33 driver's license or a license that had been expired for less than one
34 ~~year;~~year.
 - 35 b. At the time of the ~~offense~~offense, the person had not within the
36 preceding seven years been convicted of an offense involving
37 impaired ~~driving;~~driving.
 - 38 c. Punishment Level Three, Four, or Five was imposed for the offense
39 of impaired ~~driving;~~driving.
 - 40 d. Subsequent to the ~~offense~~offense, the person has not been
41 convicted of, or had an unresolved charge lodged against him or her
42 for, an offense involving impaired ~~driving;~~ and driving.
 - 43 e. The person has obtained and filed with the court a substance abuse
44 assessment of the type required by G.S. 20-17.6 for the restoration of
45 a drivers license.
 - 46 f. If the person is convicted of an alcohol-related offense of impaired
47 driving under G.S. 20-138.1, the limited driving privilege issued has
48 an ignition interlock requirement that includes all of the following:
 - 49 1. A restriction that the applicant may operate only a designated
50 motor vehicle.

1 2. A requirement that the designated motor vehicle be equipped
 2 with a functioning ignition interlock system of a type
 3 approved by the Commissioner, which is set to prohibit
 4 driving with an alcohol concentration of 0.02 or greater.
 5 Nothing in this sub-sub-subdivision shall be construed as
 6 authorizing a person to operate a motor vehicle with an
 7 alcohol concentration in excess of the limit set by applicable
 8 State or federal law.

9 3. A requirement that the applicant personally activate the
 10 ignition interlock system before driving the motor vehicle.

11 A person whose North Carolina driver's license is revoked because of a
 12 conviction in another jurisdiction substantially similar to impaired driving
 13 under G.S. 20-138.1 is eligible for a limited driving privilege if he would be
 14 eligible for it had the conviction occurred in North Carolina. Eligibility for a
 15 limited driving privilege following a revocation under G.S. 20-16.2(d) is
 16 governed by G.S. 20-16.2(e1).

17 ...

18 ...

19 ~~(e1) Privilege Restrictions for High-Risk Drivers.— Notwithstanding any other provision~~
 20 ~~of this section, any limited driving privilege issued to a person convicted of an impaired driving~~
 21 ~~offense with an alcohol concentration of 0.15 or more at the time of the offense shall:~~

- 22 ~~(1) Not become effective until at least 45 days after the final conviction under~~
 23 ~~G.S. 20-138.1;~~
- 24 ~~(2) Require the applicant to comply with the ignition interlock requirements of~~
 25 ~~subsection (g5) of this section; and~~
- 26 ~~(3) Restrict the applicant to driving only to and from the applicant's place of~~
 27 ~~employment, the place the applicant is enrolled in school, any court ordered~~
 28 ~~treatment or substance abuse education, and any ignition interlock service~~
 29 ~~facility.~~

30 ~~For purposes of this subsection, the results of a chemical analysis presented at trial or~~
 31 ~~sentencing shall be sufficient to prove a person's alcohol concentration, shall be conclusive, and~~
 32 ~~shall not be subject to modification by any party, with or without approval by the court.~~

33 ...

34 ~~(g4) The restrictions set forth in subsection (g3) and (g5) of this section and~~
 35 ~~sub-subdivision f. of subdivision (1) of subsection (b) of this section do not apply to a motor~~
 36 ~~vehicle that meets all of the following requirements:~~

- 37 (1) Is owned by the applicant's employer.
- 38 (2) Is operated by the applicant solely for work-related ~~purposes.~~ purposes in
 39 accordance with subsections (g) and (g1) of this section, except that the
 40 applicant shall not be allowed to drive the motor vehicle to or from the
 41 applicant's residence.
- 42 (3) Its owner has filed with the court a written document authorizing the
 43 applicant to drive the vehicle, for work-related purposes, under the authority
 44 of a limited driving privilege.

45 ~~(g5) Ignition Interlock Required.— If a person's drivers license is revoked for a~~
 46 ~~conviction of G.S. 20-138.1, and the person had an alcohol concentration of 0.15 or more, a~~
 47 ~~judge shall include all of the following in a limited driving privilege order:~~

- 48 (1) ~~A restriction that the applicant may operate only a designated motor vehicle.~~
- 49 (2) ~~A requirement that the designated motor vehicle be equipped with a~~
 50 ~~functioning ignition interlock system of a type approved by the~~
 51 ~~Commissioner, which is set to prohibit driving with an alcohol concentration~~

~~of greater than 0.00. 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.~~

(3) ~~A requirement that the applicant personally activate the ignition interlock system before driving the motor vehicle.~~

~~For purposes of this subsection, the results of a chemical analysis presented at trial or sentencing shall be sufficient to prove a person's alcohol concentration, shall be conclusive, and shall not be subject to modification by any party, with or without approval by the court.~~

...."

SECTION 8. Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-179.5. Ignition interlock; administrative fee and costs for installation and monitoring.

(a) The costs incurred in order to comply with the ignition interlock requirements imposed pursuant to Article 2 of this Chapter or pursuant to this Article, including costs for installation and monitoring of the ignition interlock system, shall be paid by the person ordered to install the system. The person also shall pay an ignition interlock administrative fee of one hundred dollars (\$100.00) for each ignition interlock system installed. After consultation with the Joint Legislative Transportation Oversight Committee, the Division may increase the ignition interlock administrative fee required by this subsection to an amount not to exceed one hundred fifty dollars (\$150.00). The administrative fee shall be collected at the time of installation by the vendor. Costs for installation and monitoring of the ignition interlock system shall be collected under terms agreed upon by the vendor and the person required to install the ignition interlock system.

(b) The vendor shall remit fees collected pursuant to subsection (a) of this section to the Division on a quarterly basis. The fees collected shall be used to pay costs incurred by the Division in administering the ignition interlock program."

SECTION 9. This act becomes effective December 1, 2015, and applies to offenses committed on or after that date and restorations for offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.