

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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SENATE BILL 758  
Judiciary II (Criminal) Committee Substitute Adopted 4/2/07  
Finance Committee Substitute Adopted 5/8/07

Short Title: Limited Driving Privilege - DWLR.

(Public)

Sponsors:

Referred to:

March 14, 2007

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW PERSONS WHO ARE CONVICTED OF CERTAIN DRIVING  
3 WHILE LICENSE REVOKED OFFENSES TO OBTAIN A LIMITED DRIVING  
4 PRIVILEGE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 2 of Chapter 20 of the General Statutes is amended by  
7 adding a new section to read:

8 **"§ 20-20.1. Limited driving privilege for certain revocations.**

9 (a) Definitions. – The following definitions apply in this section:

10 (1) Limited driving privilege. – A judgment issued by a court authorizing  
11 a person with a revoked drivers license to drive under specified terms  
12 and conditions.

13 (2) Nonstandard working hours. – Anytime other than 6:00 A.M. until  
14 8:00 P.M. on Monday through Friday.

15 (3) Standard working hours. – Anytime from 6:00 A.M. until 8:00 P.M. on  
16 Monday through Friday.

17 (4) Underlying offense. – The offense for which a person's drivers license  
18 was revoked when the person was charged under G.S. 20-28(a),  
19 driving with a revoked license, or under G.S. 20-28.1, committing a  
20 motor vehicle moving offense while driving with a revoked license.

21 (b) Eligibility. – A person is eligible to apply for a limited driving privilege under  
22 this section if all of the following conditions apply:

23 (1) The person's license is currently revoked under G.S. 20-28(a) or  
24 G.S. 20-28.1.

25 (2) The person has complied with the revocation for the period required in  
26 subsection (c) of this section immediately preceding the date the  
27 person files a petition for a limited driving privilege under this section.

- 1           (3)    The person's underlying offense is not an offense involving impaired  
2           driving and, if the person's license is revoked under G.S. 20-28.1 for  
3           committing a motor vehicle moving offense while driving with a  
4           revoked license, the moving offense is not an offense involving  
5           impaired driving.
- 6           (4)    The revocation period for the underlying offense has expired.
- 7           (5)    The revocation under G.S. 20-28(a) or G.S. 20-28.1 is the only  
8           revocation in effect.
- 9           (6)    The person is not eligible to receive a limited driving privilege under  
10          any other law.
- 11          (7)    The person has not held a limited driving privilege issued under this  
12          section at anytime during the three years prior to the date the person  
13          files the current petition.
- 14          (8)    The person has no pending charges for any motor vehicle offense in  
15          this or in any other state and has no unpaid motor vehicle fines or  
16          penalties in this or in any other state.
- 17          (9)    The person's drivers license issued by another state has not been  
18          revoked by that state.
- 19          (10) G.S. 20-9(e) or G.S. 20-9(f) does not prohibit the Division from  
20          issuing the person a license.

21          (c)    Compliance Period. – The following table sets out the period during which a  
22          person must comply with a revocation under G.S. 20-28(a) or G.S. 20-28.1 to be  
23          eligible for a limited driving privilege under this section:

<u>Revocation Period</u>	<u>Compliance Period</u>
1 Year	90 Days
2 Years	1 Year
Permanent	2 Years

24          (d)    Petition. – A person may apply for a limited driving privilege under this  
25          section by filing a petition. A petition filed under this section is separate from the action  
26          that resulted in the initial revocation and is a civil action. A petition must be filed in  
27          district court in the county of the person's residence as reflected by the Division's  
28          records or, if the Division's records are inaccurate, in the county of the person's actual  
29          residence. A person must attach to a petition a copy of the person's motor vehicle  
30          record. A petition must include a sworn statement that the person filing the petition is  
31          eligible for a limited driving privilege under this section.

32          A court, for good cause shown, may issue a limited driving privilege to an eligible  
33          person in accordance with this section. The costs required under G.S. 7A-305(a) and  
34          (a3) apply to a petition filed under this section. The clerk of court for the court that  
35          issues a limited driving privilege under this section must send a copy of the limited  
36          driving privilege to the Division.

37          (e)    Scope of Privilege. – A limited driving privilege restricts the person to  
38          essential driving related to one or more of the purposes listed in this subsection. Any  
39          driving that is not related to the purposes authorized in this subsection is unlawful even  
40          though done at times and upon routes that may be authorized by the privilege. Except as  
41            
42            
43            
44

1 otherwise provided, all driving must be for a purpose and done within the restrictions  
2 specified in the privilege.

3 The permissible purposes for a limited driving privilege are:

- 4 (1) Travel to and from the person's place of employment and in the course  
5 of employment.
- 6 (2) Travel necessary for maintenance of the person's household.
- 7 (3) Travel to provide emergency medical care for the person or for an  
8 immediate family member of the person who resides in the same  
9 household with the person. Driving related to emergency medical care  
10 is authorized at anytime and without restriction as to routes.

11 (f) Employment Driving in Standard Working Hours. – The court may authorize  
12 driving for employment-related purposes during standard working hours without  
13 specifying times and routes for the driving. If the person is required to drive for  
14 essential employment-related purposes only during standard working hours, the limited  
15 driving privilege must prohibit driving during nonstandard working hours unless the  
16 driving is for emergency medical care or for authorized household maintenance. The  
17 limited driving privilege must state the name and address of the person's employer and  
18 may, in the discretion of the court, include other information and restrictions applicable  
19 to employment-related driving.

20 (g) Employment Driving in Nonstandard Working Hours. – If a person is  
21 required to drive during nonstandard working hours for an essential employment-related  
22 purpose and the person provides documentation of that fact to the court, the court may  
23 authorize the person to drive for that purpose during those hours. If the person is  
24 self-employed, the documentation must be attached to or made a part of the limited  
25 driving privilege. If the person is employed by another, the limited driving privilege  
26 must state the name and address of the person's employer and may, in the discretion of  
27 the court, include other information and restrictions applicable to employment-related  
28 driving. If the court determines that it is necessary for the person to drive during  
29 nonstandard working hours for an employment-related purpose, the court may authorize  
30 the person to drive subject to these limitations:

- 31 (1) If the person is required to drive to and from a specific place of  
32 employment at regular times, the limited driving privilege must  
33 specify the general times and routes by which the person may drive to  
34 and from work and must restrict driving to those times and routes.
- 35 (2) If the person is required to drive to and from work at a specific place  
36 but is unable to specify the times during which the driving will occur,  
37 the limited driving privilege must specify the general routes by which  
38 the person may drive to and from work and must restrict driving to  
39 those general routes.
- 40 (3) If the person is required to drive to and from work at regular times but  
41 is unable to specify the places at which work is to be performed, the  
42 limited driving privilege must specify the general times and  
43 geographic boundaries within which the person may drive and must  
44 restrict driving to those times and boundaries.

1           (4) If the person can specify neither the times nor places in which the  
2           person will be driving to and from work, the limited driving privilege  
3           must specify the geographic boundaries within which the person may  
4           drive and must restrict driving to those boundaries.

5           (h) Household Maintenance. – A limited driving privilege may allow driving for  
6           maintenance of the household only during standard working hours. The court, at its  
7           discretion, may impose additional restrictions on driving for the maintenance of the  
8           household.

9           (i) Restrictions. – A limited driving privilege that is not authorized by this  
10          section or that does not contain the restrictions required by law is invalid. A limited  
11          driving privilege issued under this section is subject to the following conditions:

12           (1) Financial responsibility. – A person applying for a limited driving  
13           privilege under this section must provide the court proof of financial  
14           responsibility acceptable under G.S. 20-16.1(g) and must maintain the  
15           financial responsibility during the period of the limited driving  
16           privilege.

17           (2) Alcohol restrictions. – A person who received a limited driving  
18           privilege under this section may not consume alcohol while driving or  
19           drive at anytime while the person has remaining in the person's body  
20           any alcohol or controlled substance previously consumed, unless the  
21           controlled substance was lawfully obtained and taken in  
22           therapeutically appropriate amounts.

23           (3) Others. – The court may impose any other reasonable restrictions or  
24           conditions necessary to achieve the purposes of this section.

25          (j) Term and Reinstatement. – The term of a limited driving privilege issued  
26          under this section is the shorter of one year or the length of time remaining in the  
27          revocation period imposed under G.S. 20-28(a) or G.S. 20-28.1. When the term of the  
28          limited driving privilege expires, the Division must reinstate the person's license if the  
29          person meets all of the conditions listed in this subsection. The Division may impose  
30          restrictions or conditions on the new license in accordance with G.S. 20-7(e). The  
31          conditions are:

32           (1) Payment of the restoration fee as required under G.S. 20-7(i1).

33           (2) Providing proof of financial responsibility as required under  
34           G.S. 20-7(c1).

35           (3) Providing the proof required for reinstatement of a license under  
36           G.S. 20-28(c1).

37          (k) Modification. – A court may modify or revoke a person's limited driving  
38          privilege issued under this section upon a showing that the circumstances have changed  
39          sufficiently to justify modification or revocation. If the judge who issued the privilege is  
40          not presiding in the court in which the privilege was issued, a presiding judge in that  
41          court may modify or revoke the privilege. The judge must indicate in the order of  
42          modification or revocation the reasons for the order or make specific findings indicating  
43          the reason for the order and enter those findings in the record of the case. When a court

1 issues an order of modification or revocation, the clerk of court must send a copy of the  
2 order to the Division.

3 (l) Effect of Violation. – A violation of a limited driving privilege issued under  
4 this section constitutes the offense of driving while license revoked under G.S. 20-28.  
5 When a person is charged with operating a motor vehicle in violation of the limited  
6 driving privilege, the limited driving privilege is suspended pending the final disposition  
7 of the charge."

8 **SECTION 2.** G.S. 7A-305 is amended by adding a new subsection to read:

9 "(a3) A petition for a limited driving privilege under G.S. 20-20.1 is subject to the  
10 court costs assessed under subsection (a) of this section plus an additional filing fee of  
11 one hundred dollars (\$100.00). The additional filing fee must be remitted to the State  
12 Treasurer and used for support of the General Court of Justice."

13 **SECTION 3.** This act becomes effective December 1, 2007, and applies to  
14 revocations that occur before, on, or after that date.