

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 1081
SENATE BILL 89

AN ACT TO AMEND G.S. 20-138 RELATIVE TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR AND G.S. 20-139.1 RELATIVE TO THE ADMISSIBILITY OF CHEMICAL ANALYSIS FOR BLOOD ALCOHOL IN EVIDENCE IN TRIAL FOR DRIVING UNDER THE INFLUENCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-138 as same appears in the 1973 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by designating the existing section as subsection "(a)" and by adding a new subsection to be designated subsection "(b)" and to read as follows:

"(b) It is unlawful for any person to operate any vehicle upon any highway or any public vehicular area within this State when the amount of alcohol in such person's blood is 0.10 percent or more by weight and upon conviction if such conviction is a first conviction under this section, he shall be eligible for consideration for limited driving privileges pursuant to the provisions of G.S. 20-179(b); provided that second and subsequent convictions under this section shall be punishable as provided in G.S. 20-179(a)(2) and (3). An offense under this subsection shall be treated as a lesser- included offense of the offense of driving under the influence."

Sec. 2. G.S. 20-139.1 as same appears in the 1971 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by rewriting subsection "(a)" to read as follows:

"(a) In any criminal action arising out of acts alleged to have been committed by any person while driving or operating a vehicle while under the influence of intoxicating liquor or with a blood alcohol content of 0.10 percent or more by weight, the amount of alcohol in the person's blood at the time alleged as shown by chemical analysis of the person's breath or blood shall be admissible in evidence. The percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per 100 cubic centimeters of blood. The provisions of this section shall not be construed as limiting the introduction of any other competent evidence, including other types of chemical analyses."

Sec. 3. G. S. 20-17(2) is hereby amended by striking the period appearing at the end thereof and adding the following "; or driving or operating a vehicle within this State with a blood alcohol level of 0.10 percent or more."

Sec. 4. This act shall become effective January 1, 1975.

In the General Assembly read three times and ratified, this the 2nd day of April, 1974.