

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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SENATE BILL 123*

Short Title: Limit Privileges for Felons.

(Public)

Sponsors: Senator Cooper.

Referred to: Courts.

February 15, 1994

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE FORFEITURE OR RESTRICTION OF CERTAIN
CITIZENSHIP PRIVILEGES OF AN INDIVIDUAL CONVICTED OF A
FELONY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 13 of the General Statutes is amended by adding a new
section to read:

"§ 13-11. Privileges of citizenship; revocation and restoration.

(a) The purpose of this section and of G.S. 15A-1331A is to illuminate the principle that the rights and privileges of citizenship are interrelated with the responsibilities of citizenship and to establish the policy that conviction of a felony connotes such irresponsibility as to justify forfeiture of privileges as well as forfeiture of rights. Licensing by the State and its subdivisions for various activities, such as regular and commercial drivers licenses, business and occupational licenses, and hunting and fishing licenses, is a matter of privilege and not of right. Although constitutional standards apply to every citizen's opportunity for licensing, primarily through due process and equal protection considerations, the people of North Carolina may demand that every citizen demonstrate sufficient responsibility to retain licensing privileges. One who commits a felony does not demonstrate sufficient responsibility. Accordingly, the State may require forfeiture or restriction of any licensing privilege upon a person's conviction of a felony.

(b) The privileges of citizenship are subject to forfeiture or restriction upon conviction of a felony as provided in G.S. 15A-1331A. The privileges of citizenship include licensing of an individual by the State and its subdivisions for various activities

1 such as regular and commercial drivers licenses, business and occupational licenses, and
2 hunting and fishing licenses. Restoration of the privileges of citizenship shall occur in
3 the same manner as restoration of the rights of citizenship."

4 Sec. 2. The title of Chapter 13 of the General Statutes reads as rewritten:
5 "~~Citizenship Restored.~~ Forfeiture and Restoration of Citizenship."

6 Sec. 3. Article 81 of Chapter 15A of the General Statutes is amended by
7 adding a new section to read:

8 "**§ 15A-1331A. Forfeiture or restriction of licensing privileges upon conviction of a**
9 **felony.**

10 (a) The following definitions apply in this section:

11 (1) Licensing agency. – Any department, division, agency, board, or other
12 unit of State or local government that issues licenses for licensing
13 privileges.

14 (2) Licensing privilege. – The privilege of an individual to be authorized
15 to engage in an activity as evidenced by a license. The term includes
16 the privileges as evidenced by the following licenses: regular and
17 commercial drivers licenses, occupational licenses, hunting licenses,
18 and fishing licenses. The term does not include the privileges of
19 paying taxes as evidenced by a tax license issued under Chapter 105 of
20 the General Statutes, Article 7 of Chapter 153A of the General
21 Statutes, or Article 9 of Chapter 160A of the General Statutes. The
22 term does not include the privilege of marrying as evidenced by a
23 marriage license.

24 (3) Occupational license. – A licensure, permission, certification, or
25 similar authorization required by statute or rule to practice an
26 occupation or business.

27 (b) Upon conviction of a felony, an individual automatically forfeits the
28 individual's licensing privileges if any of the following occur:

29 (1) The individual is offered a suspended sentence on condition the
30 individual accepts probation and the individual refuses probation.

31 (2) The individual's probation is revoked or suspended.

32 (3) The individual's suspended sentence is activated.

33 (4) The individual's conditional discharge from prison is revoked.

34 (c) When an individual is convicted of a felony, the court may order the
35 forfeiture of an individual's licensing privileges or impose restrictions on an individual's
36 licensing privileges in the following circumstances:

37 (1) When an individual is sentenced to an active term of imprisonment of
38 24 months or less.

39 (2) As a condition of probation or of a suspended sentence.

40 (d) The clerk of court shall notify as appropriate every licensing agency
41 whenever an individual is convicted of a felony and the individual's licensing privileges
42 are forfeited as a result of a conviction. If the individual's licensing privileges are
43 restricted as a result of a conviction, the clerk shall notify only those licensing agencies
44 affected. A licensing agency, upon receiving notice from the clerk of court, shall

1 require the individual whose licensing privileges were forfeited or restricted to
2 surrender the forfeited license issued by the agency. If the individual's licensing
3 privileges were restricted only, then the licensing agency shall restrict or require
4 surrender of a license to the extent required by the restrictions. A restricted licensing
5 privilege may include a limited driving privilege.

6 (e) An individual whose licensing privileges are forfeited under this section is
7 not entitled to and shall not possess or have issued any license covered by this section
8 until the person's privileges of citizenship are restored in accordance with Chapter 13 of
9 the General Statutes unless the court provides otherwise. The court, at sentencing or at
10 any other time, including upon application by the individual while under any
11 conditional discharge from imprisonment or under work release, may order the earlier
12 restoration of an individual's forfeited or restricted licensing privileges."

13 Sec. 4. Chapter 20 of the General Statutes is amended by adding a new
14 section to read:

15 "**§ 20-15.1. Revocations when licensing privileges forfeited upon conviction of a**
16 **felony.**

17 The Division shall revoke the license of a person whose licensing privileges have
18 been forfeited under G.S. 15A-1331A. If a revocation period set by this Chapter is
19 longer than the revocation period resulting from the forfeiture of licensing privileges,
20 the revocation period in this Chapter applies."

21 Sec. 5. This act becomes effective July 1, 1994, and applies to offenses
22 committed on or after that date.