

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**EXTRA SESSION 1994**

**S**

**2**

**SENATE BILL 123\***

Select Committee on Courts Committee Substitute Adopted 2/24/94

Short Title: Limit Privileges for Criminals.

(Public)

---

Sponsors:

---

Referred to: Finance; re-referred to Appropriations.

---

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 CRIME.

Whereas, the rights and privileges of citizenship are interrelated with the responsibilities of citizenship; and

Whereas, it is the policy of this State that conviction of a crime connotes such irresponsibility as to justify forfeiture of privileges as well as forfeiture of rights; and

Whereas, 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; and

Whereas, although constitutional standards apply to every citizen's opportunity for licensing, primarily through due process and equal protection considerations, the people of North Carolina demand that every citizen demonstrate sufficient responsibility to retain licensing privileges; and

Whereas, one who commits a crime does not demonstrate sufficient responsibility; and

Whereas, the State may require forfeiture or restriction of any licensing privilege upon a person's conviction of a crime; and

Whereas, to further the purposes of suspended sentences and probation and provide incentive for persons convicted of a crime to complete such sentences and accept responsibility for their conduct, trial courts particularly should be authorized to order forfeiture or restriction as a condition of a suspended sentence or probation and

1 require forfeiture as to persons who do not consent to a suspended sentence or  
2 probation; and

3         Whereas, restoration of the privileges of citizenship should occur in the same  
4 manner as restoration of the rights of citizenship; Now, therefore,  
5 The General Assembly of North Carolina enacts:

6         Section 1. 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 **crime.**

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 crime, 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.

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

35 (1) When an individual is sentenced to an active term of imprisonment.

36 (2) As a condition of probation.

37 (d) The clerk of court shall notify as appropriate every licensing agency  
38 whenever an individual is convicted of a crime and the individual's licensing privileges  
39 are forfeited as a result of a conviction. If the individual's licensing privileges are  
40 restricted as a result of a conviction, the clerk shall notify only those licensing agencies  
41 affected. A licensing agency, upon receiving notice from the clerk of court, shall  
42 require the individual whose licensing privileges were forfeited or restricted to  
43 surrender the forfeited license issued by the agency. If the individual's licensing  
44 privileges were restricted only, then the licensing agency shall restrict or require

1 surrender of a license to the extent required by the restrictions. A restricted licensing  
2 privilege may include a limited driving privilege.

3 (e) An individual whose licensing privileges are forfeited under this section is  
4 not entitled to and shall not possess or have issued any license covered by this section  
5 until the individual's privileges of citizenship are restored in accordance with Chapter  
6 13 of the General Statutes in the case of a felony, or the expiration of the forfeiture time  
7 period as specified in the court order in the case of a misdemeanor, except the court  
8 may, for good cause shown, allow earlier restoration, or restriction in place of forfeiture,  
9 upon application of an individual who is not serving an active sentence or who is on  
10 work release or postrelease supervision or parole. Nothing in this section diminishes the  
11 authority of any licensing agency to determine the qualifications or fitness of any person  
12 licensed by the agency or applying to be licensed by the agency."

13 Sec. 2. G.S. 15A-1344 is amended by adding a new subsection to read:

14 "(d2) License Forfeiture in Response to Violation. – Upon a finding that a person  
15 sentenced to community punishment or intermediate punishment under Article 81B of  
16 this Chapter has violated one or more conditions of probation, the court may order the  
17 forfeiture of any regular or commercial drivers licenses issued to the person or of any  
18 license or permit issued by the Wildlife Resources Commission to the person.  
19 Forfeiture under this subsection may be for up to three years. The clerk of court shall  
20 notify the appropriate licensing agency of the court's order."

21 Sec. 3. Chapter 20 of the General Statutes is amended by adding a new  
22 section to read:

23 **"§ 20-15.1. Revocations when licensing privileges forfeited upon conviction of a**  
24 **crime.**

25 The Division shall revoke the license of a person whose licensing privileges have  
26 been forfeited under G.S. 15A-1331A or G.S. 15A-1344(d2). If a revocation period set  
27 by this Chapter is longer than the revocation period resulting from the forfeiture of  
28 licensing privileges, the revocation period in this Chapter applies."

29 Sec. 4. G.S. 113-277 is amended by adding a new subsection to read:

30 "(a4) The Wildlife Resources Commission shall order the surrender of any license  
31 or permit issued under this Article to a person whose licensing privileges have been  
32 forfeited under G.S. 15A-1331A or G.S. 15A-1344(d2) for the period specified by the  
33 court."

34 Sec. 5. Section 2 of this act becomes effective on the same date that Section  
35 56 of Chapter 538 of the 1993 Session Laws provides that that act becomes effective.  
36 The remainder of this act becomes effective May 1, 1994, and applies to offenses  
37 committed on or after that date.