March 24, 2005

S 1069. DWI TASK FORCE RECOMMENDATIONS. *TO AMEND VARIOUS STATUTES RELATED TO DRIVING WHILE IMPAIRED, AS RECOMMENDED BY THE GOVERNOR'S TASK FORCE ON DRIVING WHILE IMPAIRED*. Amends numerous sections of GS Chapter 20 and other chapters to implement recommendation of the cited task force. (1) Amends GS 7A-109 and 7A-346.3 to require Administrative Office of the Courts to develop integrated data system for DWI cases that includes numerous data fields specified in bill, including dispositions listed by county, judge, prosecutor, and defense attorney. (2) Amends GS 18B-900 to specify that manager of alcohol beverage permittee is anyone who has direct or indirect power to direct the management of an establishment. (3) Amends GS 20-16.3A, which deals with impaired driving checkpoints, to make it more generally applicable to all "checking stations". Eliminates requirement that agency conducting check have a systematic or written plan to stop drivers and eliminates requirement for marking the area in which the check is to be conducted, but requires that at least one operating blue light on a police vehicle be used. Allows officer to request driver to submit to alcohol screening test if driver has consumed alcohol or has open container of alcohol in vehicle. Permits other checking station operations as permitted by state and federal constitutions. Prohibits judges from suppressing evidence unless court rules in writing and finds substantial and willful violation of constitution and that is was not made in good faith.

(4) Amends GS 20-138.1 (impaired driving) to specify that person who submits to chemical analysis (of blood, breath, etc.) commits the offense if the result is .08 or more; makes similar change to offense of DWI in a commercial vehicle except impermissible level is .04. (5) Amends GS 20-141.4 to create new offenses of felony serious injury by vehicle, aggravated felony serious injury by vehicle, and aggravated death by vehicle. Aggravated offenses require that person committing offense have a previous conviction of impaired driving. Offenses of serious injury by vehicle require that driver commit the offense while driving while impaired. Aggravated death offense is Class D felony, aggravated injury offense is Class E felony, and injury offense is Class H felony.

(6) Enacts new GS 90-21.20B to regulate access to medical information by law enforcement officers investigating vehicle crashes. (7) Enacts new GS 7A-10.2 to require Supreme Court to require all judges in court system to attend at least two hours of continuing education relating to impaired driving every two years. (8) Amends GS 20-48 to specify method of proof required to establish that notice of a person's revoked license was provided. Makes clear that actual letter providing notice is not required to be offered as evidence to prove that fact. Amends GS 20-28 to create separate offense of failing to appear for an impaired driving offense for two years. Offense is Class 1 misdemeanor and carries additional license revocation. Provides for conditional restoration of license, which includes requirement of interlock in some cases.

(9) Amends GS 20-179 to provide that aggravating factors in impaired driving cases must be presented to jury unless defendant stipulates to the existence of the aggravating factor. Requires submission of aggravating factors after jury has determined the guilt of the defendant. (10) Amends GS 15A-1420 to require signature of district attorney on any motions for appropriate relief in district court. (11) Amends GS 18B-302 to make it a Class 1 misdemeanor for person under 21 to consume any alcoholic beverage; allows use of alcohol screening tests to establish that alcohol has been consumed. (12) Amends GS 20-179 (s) to require that any sentence of special probation of 48 or more be served continuously, and that jail credits against sentence must be measured in hours. Requires immediate service of any special probation sentence if court determines that person reported to jail to serve a portion of a weekend sentence and had alcohol or controlled substance in his or her body. (13) Enacts new GS 20-179 (m) to require any supervised probation judgment for DWI offender to require drug testing.

Generally effective December 1, 2005 for actions taken on or after that date. Amendments dealing with service of jail sentences and submission of aggravating factors are effective when bill becomes law. Section requiring continuing education for judges effective January 1, 2006.

Intro. by Rand.

Ref. to Judiciary I GS 7A, 15A, 18B, 20, 90