

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 536

Short Title: Ignition Interlock Req'd/All DWIs. (Public)

Sponsors: Representatives Faircloth, Jordan, and Jackson (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary, if favorable, Finance, if favorable, Appropriations.

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ANYONE WHO IS CONVICTED OF DRIVING WHILE
IMPAIRED, DRIVING AFTER CONSUMING ALCOHOL BEING LESS THAN
TWENTY-ONE YEARS OF AGE, OR ANY OTHER IMPAIRED DRIVING OFFENSE,
OR ANY PERSON WHO REFUSES A CHEMICAL ANALYSIS, TO HAVE AN
IGNITION INTERLOCK SYSTEM INSTALLED ON EVERY VEHICLE THAT
PERSON MAY DRIVE BEFORE THAT PERSON CAN GET A LIMITED DRIVING
PRIVILEGE; TO PROVIDE THAT A PERSON WHO APPLIES FOR LIMITED
DRIVING PRIVILEGES WAIVES HIS OR HER RIGHT TO CERTAIN HEARINGS TO
CONTEST THE VALIDITY OF THE REVOCATION; AND TO PROVIDE FOR THE
PAYMENT OF AN ADMINISTRATIVE FEE AND COSTS ASSOCIATED WITH AN
IGNITION INTERLOCK SYSTEM AND CREATE AN IGNITION INTERLOCK
DEVICE FUND TO ASSIST INDIGENT PERSONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-16.2(c1) reads as rewritten:

"(c1) Procedure for Reporting Results and Refusal to Division. – Whenever a person
refuses to submit to a chemical analysis, a person has an alcohol concentration of ~~0.150.08~~ or
more, or a person's drivers license has an alcohol concentration restriction and the results of the
chemical analysis establish a violation of the restriction, the law enforcement officer and the
chemical analyst shall without unnecessary delay go before an official authorized to administer
oaths and execute an affidavit(s) stating that:

- (1) The person was charged with an implied-consent offense or had an alcohol
concentration restriction on the drivers license;
- (2) A law enforcement officer had reasonable grounds to believe that the person
had committed an implied-consent offense or violated the alcohol
concentration restriction on the drivers license;
- (3) Whether the implied-consent offense charged involved death or critical
injury to another person, if the person willfully refused to submit to chemical
analysis;
- (4) The person was notified of the rights in subsection (a); and
- (5) The results of any tests given or that the person willfully refused to submit to
a chemical analysis.

If the person's drivers license has an alcohol concentration restriction, pursuant to
G.S. 20-19(c3), and an officer has reasonable grounds to believe the person has violated a
provision of that restriction other than violation of the alcohol concentration level, the officer



1 and chemical analyst shall complete the applicable sections of the affidavit and indicate the
2 restriction which was violated. The officer shall immediately mail the affidavit(s) to the
3 Division. If the officer is also the chemical analyst who has notified the person of the rights
4 under subsection (a), the officer may perform alone the duties of this subsection."

5 **SECTION 2.** G.S. 20-16.2(d) reads as rewritten:

6 "(d) Consequences of Refusal; Right to Hearing before Division; Issues. – Upon receipt
7 of a properly executed affidavit required by subsection (c1), the Division shall expeditiously
8 notify the person charged that the person's license to drive is revoked for 12 months, effective
9 on the tenth calendar day after the mailing of the revocation order unless, before the effective
10 date of the order, the person requests in writing a hearing before the ~~Division~~ Division or
11 applies for limited driving privileges pursuant to subsection (e1) of this section. A person who
12 chooses to apply for limited driving privileges pursuant to subsection (e1) of this section
13 instead of requesting a hearing before the Division waives his or her right to a hearing before
14 the Division. Except for the time referred to in G.S. 20-16.5, if the person requests in writing a
15 hearing before the Division and shows to the satisfaction of the Division that his or her license
16 was surrendered to the court, and remained in the court's possession, then the Division shall
17 credit the amount of time for which the license was in the possession of the court against the
18 12-month revocation period required by this subsection. If the person properly requests a
19 hearing, hearing or applies for limited driving privileges pursuant to subsection (e1) of this
20 section before the effective date of the order, the person retains his or her license, unless it is
21 revoked under some other provision of law, until the hearing is held, the person withdraws the
22 request, or the person fails to appear at a scheduled hearing, hearing, or the person withdraws
23 his or her application for limited driving privileges. The hearing officer may subpoena any
24 witnesses or documents that the hearing officer deems necessary. The person may request the
25 hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at the
26 hearing if the person makes the request in writing at least three days before the hearing. The
27 person may subpoena any other witness whom the person deems necessary, and the provisions
28 of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the
29 authority of this section. The hearing officer is authorized to administer oaths to witnesses
30 appearing at the hearing. The hearing shall be conducted in the county where the charge was
31 brought, and shall be limited to consideration of whether:

- 32 (1) The person was charged with an implied-consent offense or the driver had an
33 alcohol concentration restriction on the drivers license pursuant to
34 G.S. 20-19;
- 35 (2) A law enforcement officer had reasonable grounds to believe that the person
36 had committed an implied-consent offense or violated the alcohol
37 concentration restriction on the drivers license;
- 38 (3) The implied-consent offense charged involved death or critical injury to
39 another person, if this allegation is in the affidavit;
- 40 (4) The person was notified of the person's rights as required by subsection (a);
41 and
- 42 (5) The person willfully refused to submit to a chemical analysis.

43 If the Division finds that the conditions specified in this subsection are met, it shall order the
44 revocation sustained. If the Division finds that any of the conditions (1), (2), (4), or (5) is not
45 met, it shall rescind the revocation. If it finds that condition (3) is alleged in the affidavit but is
46 not met, it shall order the revocation sustained if that is the only condition that is not met; in
47 this instance subsection (d1) does not apply to that revocation. If the revocation is sustained,
48 the person shall surrender his or her license immediately upon notification by the Division."

49 **SECTION 3.** G.S. 20-16.2(e1) reads as rewritten:

50 "(e1) Limited Driving Privilege ~~after Six Months~~ in Certain Instances. – A person whose
51 driver's license has been revoked under this section may apply for and a judge authorized to do

1 so by this subsection may issue a limited driving privilege ~~if~~ if all of the following
 2 requirements are met:

- 3 (1) At the time of the refusal the person held either a valid drivers license or a
 4 license that had been expired for less than one ~~year;~~ year.
 5 (2) ~~At the time of the refusal, the person had not within the preceding seven~~
 6 ~~years been convicted of an offense involving impaired driving;~~
 7 (3) ~~At the time of the refusal, the person had not in the preceding seven years~~
 8 ~~willfully refused to submit to a chemical analysis under this section;~~
 9 (4) The implied consent offense charged did not involve death or critical injury
 10 to another ~~person;~~ person.
 11 (5) The underlying charge for which the defendant was requested to submit to a
 12 chemical analysis has been finally disposed of:
 13 a. Other than by conviction; or
 14 b. By a conviction of impaired driving under G.S. 20-138.1, at a
 15 punishment level authorizing issuance of a limited driving privilege
 16 under G.S. 20-179.3(b), and the defendant has complied with at least
 17 one of the mandatory conditions of probation listed for the
 18 punishment level under which the defendant was sentenced;
 19 (6) Subsequent to the refusal the person has had no unresolved pending charges
 20 for or additional convictions of an offense involving impaired
 21 ~~driving;~~ driving.
 22 (7) ~~The person's license has been revoked for at least six months for the refusal;~~
 23 ~~and~~
 24 (8) The person has obtained a substance abuse assessment from a mental health
 25 facility and successfully completed any recommended training or treatment
 26 program.
 27 (9) All vehicles that the person will be authorized to drive have been equipped
 28 with a type of ignition interlock system approved by the Commissioner.
 29 (10) The person applied for limited driving privileges under this subsection
 30 before the effective date of the revocation order issued pursuant to this
 31 section.

32 Except as modified in this subsection, the provisions of G.S. 20-179.3 relating to the procedure
 33 for application and conduct of the hearing and the restrictions required or authorized to be
 34 included in the limited driving privilege apply to applications under this subsection. If the case
 35 was finally disposed of in the district court, the hearing shall be conducted in the district court
 36 district as defined in G.S. 7A-133 in which the refusal occurred by a district court judge. If the
 37 case was finally disposed of in the superior court, the hearing shall be conducted in the superior
 38 court district or set of districts as defined in G.S. 7A-41.1 in which the refusal occurred by a
 39 superior court judge. A limited driving privilege issued under this section authorizes a person to
 40 drive if the person's license is revoked solely under this section or solely under this section and
 41 G.S. 20-17(2). If the person's license is revoked for any other reason, the limited driving
 42 privilege is invalid."

43 **SECTION 4.** G.S. 20-16.5 reads as rewritten:

44 "**§ 20-16.5. Immediate civil license revocation for certain persons charged with**
 45 **implied-consent offenses.**

46 ...

47 (g) Hearing before Magistrate or Judge if Person Contests Validity of Revocation. – A
 48 person whose license is revoked under this section may request in writing a hearing to contest
 49 the validity of the ~~revocation~~ revocation or apply for limited driving privileges pursuant to
 50 subsection (p) of this section. A person who chooses to apply for limited driving privileges
 51 pursuant to subsection (p) of this section instead of requesting a hearing under this subsection

1 (i) must apply for limited driving privileges within 10 days of the effective date of the
2 revocation and (ii) waives his or her right to a hearing under this subsection to contest the
3 validity of the revocation. The request for a hearing to contest the validity of the revocation
4 may be made at the time of the person's initial appearance, or within 10 days of the effective
5 date of the revocation to the clerk or a magistrate designated by the clerk, and may specifically
6 request that the hearing be conducted by a district court judge. The Administrative Office of the
7 Courts must develop a hearing request form for any person requesting a hearing. Unless a
8 district court judge is requested, the hearing must be conducted within the county by a
9 magistrate assigned by the chief district court judge to conduct such hearings. If the person
10 requests that a district court judge hold the hearing, the hearing must be conducted within the
11 district court district as defined in G.S. 7A-133 by a district court judge assigned to conduct
12 such hearings. The revocation remains in effect pending the hearing, but the hearing must be
13 held within three working days following the request if the hearing is before a magistrate or
14 within five working days if the hearing is before a district court judge. The request for the
15 hearing must specify the grounds upon which the validity of the revocation is challenged and
16 the hearing must be limited to the grounds specified in the request. A witness may submit his
17 evidence by affidavit unless he is subpoenaed to appear. Any person who appears and testifies
18 is subject to questioning by the judicial official conducting the hearing, and the judicial official
19 may adjourn the hearing to seek additional evidence if he is not satisfied with the accuracy or
20 completeness of evidence. The person contesting the validity of the revocation may, but is not
21 required to, testify in his own behalf. Unless contested by the person requesting the hearing, the
22 judicial official may accept as true any matter stated in the revocation report. If any relevant
23 condition under subsection (b) is contested, the judicial official must find by the greater weight
24 of the evidence that the condition was met in order to sustain the revocation. At the conclusion
25 of the hearing the judicial official must enter an order sustaining or rescinding the revocation.
26 The judicial official's findings are without prejudice to the person contesting the revocation and
27 to any other potential party as to any other proceedings, civil or criminal, that may involve facts
28 bearing upon the conditions in subsection (b) considered by the judicial official. The decision
29 of the judicial official is final and may not be appealed in the General Court of Justice. If the
30 hearing is not held and completed within three working days of the written request for a hearing
31 before a magistrate or within five working days of the written request for a hearing before a
32 district court judge, the judicial official must enter an order rescinding the revocation, unless
33 the person contesting the revocation contributed to the delay in completing the hearing. If the
34 person requesting the hearing fails to appear at the hearing or any rescheduling thereof after
35 having been properly notified, he forfeits his right to a hearing.

36 ...

37 (p) Limited Driving Privilege. – A person whose drivers license has been revoked for a
38 specified period of 30 or 45 days under this section may apply for a limited driving privilege
39 if all of the following requirements are met:

- 40 (1) At the time of the alleged offense the person held either a valid drivers
41 license or a license that had been expired for less than one ~~year;~~year.
- 42 (2) Does not have an unresolved pending charge involving impaired driving
43 except the charge for which the license is currently revoked under this
44 section or additional convictions of an offense involving impaired driving
45 since being charged for the violation for which the license is currently
46 revoked under this ~~section;~~section.
- 47 (3) ~~The person's license has been revoked for at least 10 days if the revocation is~~
48 ~~for 30 days or 30 days if the revocation is for 45 days; and~~
- 49 (4) The person has obtained a substance abuse assessment from a mental health
50 facility and registers for and agrees to participate in any recommended
51 training or treatment program.

- 1 (5) All vehicles that the person will be authorized to drive have been equipped
2 with a type of ignition interlock system approved by the Commissioner.
3 (6) The person applied for limited driving privileges under this subsection
4 within 10 days of the effective date of the revocation order issued pursuant
5 to this section.

6 A person whose license has been indefinitely revoked under this section may, after
7 completion of 30 days under subsection (e) or the applicable period of time under subdivision
8 (1), (2), or (3) of subsection (f), apply for a limited driving privilege. In the case of an indefinite
9 revocation, a judge of the division in which the current offense is pending may issue the limited
10 driving privilege only if ~~the privilege is necessary to overcome undue hardship and~~ the person
11 meets the eligibility requirements of G.S. 20-179.3, except that the requirements in
12 G.S. 20-179.3(b)(1)c. and G.S. 20-179.3(e) shall not apply. Except as modified in this
13 subsection, the provisions of G.S. 20-179.3 relating to the procedure for application and
14 conduct of the hearing and the restrictions required or authorized to be included in the limited
15 driving privilege apply to applications under this subsection. Any district court judge
16 authorized to hold court in the judicial district is authorized to issue such a limited driving
17 privilege. A limited driving privilege issued under this section authorizes a person to drive if
18 the person's license is revoked solely under this section. If the person's license is revoked for
19 any other reason, the limited driving privilege is invalid."

20 **SECTION 5.** G.S. 20-17.8 reads as rewritten:

21 **"§ 20-17.8. Restoration of a license after certain driving while impaired convictions;**
22 **ignition interlock.**

23 (a) Scope. – This section applies to a person whose license was revoked as a result of a
24 conviction of driving while impaired, G.S. 20-138.1, and:

- 25 (1) The person had an alcohol concentration of ~~0.15 or more;~~0.08 or more or
26 refused to submit to a chemical analysis;
27 (2) The person has been convicted of another offense involving impaired
28 driving, which offense occurred within seven years immediately preceding
29 the date of the offense for which the person's license has been revoked; or
30 (3) The person was sentenced pursuant to G.S. 20-179(f3).

31 For purposes of subdivision (1) of this subsection, the results of a chemical analysis, as
32 shown by an affidavit or affidavits executed pursuant to G.S. 20-16.2(c1), shall be used by the
33 Division to determine that person's alcohol concentration.

34 (a1) Additional Scope. – This section applies to a person whose license was revoked as a
35 result of a conviction of habitual impaired driving, G.S. 20-138.5.

36 (a2) Under Age 21. – The provisions of this section apply to a person whose license was
37 revoked as the result of a conviction of driving by a person less than 21 years old after
38 consuming alcohol pursuant to G.S. 20-138.3.

39 (b) Ignition Interlock Required. – Except as provided in subsection (l) of this section,
40 when the Division restores the license of a person who is subject to this section, in addition to
41 any other restriction or condition, it shall require the person to agree to and shall indicate on the
42 person's drivers license the following restrictions for the period designated in subsection (c):

- 43 (1) A restriction that the person may operate only a vehicle that is equipped with
44 a functioning ignition interlock system of a type approved by the
45 Commissioner. The Commissioner shall not unreasonably withhold approval
46 of an ignition interlock system and shall consult with the Division of
47 Purchase and Contract in the Department of Administration to ensure that
48 potential vendors are not discriminated against.
49 (2) A requirement that the person personally activate the ignition interlock
50 system before driving the motor vehicle.
51 (3) An alcohol concentration restriction as follows:

- 1 a. If the ignition interlock system is required pursuant only to
2 subdivision (a)(1) of this section, a requirement that the person not
3 drive with an alcohol concentration of 0.04 or greater;
- 4 b. If the ignition interlock system is required pursuant to subdivision
5 (a)(2) or (a)(3) of this section, or subsection (a1) of this section, a
6 requirement that the person not drive with an alcohol concentration
7 of greater than ~~0.00~~; ~~or~~ 0.02;
- 8 c. If the ignition interlock system is required pursuant to subdivision
9 (a)(1) of this section, and the person has also been convicted, based
10 on the same set of circumstances, of: (i) driving while impaired in a
11 commercial vehicle, G.S. 20-138.2, (ii) driving while less than 21
12 years old after consuming alcohol or drugs, G.S. 20-138.3, (iii) a
13 violation of G.S. 20-141.4, or (iv) manslaughter or negligent
14 homicide resulting from the operation of a motor vehicle when the
15 offense involved impaired driving, a requirement that the person not
16 drive with an alcohol concentration of greater than ~~0.00~~ 0.02; or
- 17 d. If the ignition interlock system is required pursuant to subsection (a2)
18 of this section, a requirement that the person not drive with an
19 alcohol concentration greater than 0.02.
- 20 (c) Length of Requirement. – The requirements of subsection (b) shall remain in effect
21 for:
- 22 (1) One year from the date of restoration if the original revocation period was
23 one year;
- 24 (2) Three years from the date of restoration if the original revocation period was
25 four years; or
- 26 (3) Seven years from the date of restoration if the original revocation was a
27 permanent revocation.
- 28 (c1) Vehicles Subject to Requirement. – A person subject to this section shall have all
29 registered vehicles owned by that person equipped with a functioning ignition interlock system
30 of a type approved by the Commissioner, unless the Division determines that one or more
31 specific registered vehicles owned by that person are relied upon by another member of that
32 person's family for transportation and that the vehicle is not in the possession of the person
33 subject to this section.
- 34 (d) Effect of Limited Driving Privileges. – If the person was eligible for and received a
35 limited driving privilege under G.S. 20-179.3, with the ignition interlock requirement contained
36 in G.S. 20-179.3(g5), the period of time for which that limited driving privilege was held shall
37 be applied towards the requirements of subsection (c).
- 38 (e) Notice of Requirement. – When a court reports to the Division a conviction of a
39 person who is subject to this section, the Division must send the person written notice of the
40 requirements of this section and of the consequences of failing to comply with these
41 requirements. The notification must include a statement that the person may contact the
42 Division for information on obtaining and having installed an ignition interlock system of a
43 type approved by the Commissioner.
- 44 (e1) Installation of Ignition Interlock System. – The Division shall not issue a drivers
45 license with an ignition interlock restriction unless the applicant presents proof, satisfactory to
46 the Division, that an approved ignition interlock system has been installed on all vehicles
47 subject to the ignition interlock requirements of subsection (c1) of this section.
- 48 (e2) Disabling or Removing of Ignition Interlock System. – If an ignition interlock
49 system is disabled or removed from a vehicle in which it is required to be installed pursuant to
50 subsection (c1) of this section, the Division shall revoke the drivers license of the person
51 subject to the provisions of this section and shall provide notice in accordance with G.S. 20-48.

1 (f) Effect of Violation of Restriction. – A person subject to this section who violates
2 any of the restrictions of this section commits the offense of driving while license revoked
3 under G.S. 20-28(a) and is subject to punishment and license revocation as provided in that
4 section. If a law enforcement officer has reasonable grounds to believe that a person subject to
5 this section has consumed alcohol while driving or has driven while he has remaining in his
6 body any alcohol previously consumed, the suspected offense of driving while license is
7 revoked is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2.
8 If a person subject to this section is charged with driving while license revoked by violating a
9 condition of subsection (b) of this section, and a judicial official determines that there is
10 probable cause for the charge, the person's license is suspended pending the resolution of the
11 case, and the judicial official must require the person to surrender the license. The judicial
12 official must also notify the person that he is not entitled to drive until his case is resolved. An
13 alcohol concentration report from the ignition interlock system shall not be admissible as
14 evidence of driving while license revoked, nor shall it be admissible in an administrative
15 revocation proceeding as provided in subsection (g) of this section, unless the person operated a
16 vehicle when the ignition interlock system indicated an alcohol concentration in violation of the
17 restriction placed upon the person by subdivision (b)(3) of this section. If a person subject to
18 this section is charged with driving while license revoked by violating the requirements of
19 subsection (c1) of this section, and no other violation of this section is alleged, the court may
20 make a determination at the hearing of the case that the vehicle, on which the ignition interlock
21 system was not installed, was relied upon by another member of that person's family for
22 transportation and that the vehicle was not in the possession of the person subject to this
23 section, and therefore the vehicle was not required to be equipped with a functioning ignition
24 interlock system. If the court determines that the vehicle was not required to be equipped with a
25 functioning ignition interlock system and the person subject to this section has committed no
26 other violation of this section, the court shall find the person not guilty of driving while license
27 revoked.

28 (g) Effect of Violation of Restriction When Driving While License Revoked Not
29 Charged. – A person subject to this section who violates any of the restrictions of this section,
30 or who disables or removes an ignition interlock system required by this section, but is not
31 charged or convicted of driving while license revoked pursuant to G.S. 20-28(a), shall have the
32 person's license revoked by the Division for a period of one year.

33 (h) Beginning of Revocation Period. – If the original period of revocation was imposed
34 pursuant to G.S. 20-19(d) or (e), any remaining period of the original revocation, prior to its
35 reduction, shall be reinstated and the revocation required by subsection (f) or (g) of this section
36 begins after all other periods of revocation have terminated.

37 (i) Notification of Revocation. – If the person's license has not already been
38 surrendered to the court, the Division must expeditiously notify the person that the person's
39 license to drive is revoked pursuant to subsection (f) or (g) of this section effective on the tenth
40 calendar day after the mailing of the revocation order.

41 (j) Right to Hearing Before Division; Issues. – If the person's license is revoked
42 pursuant to subsection (g) of this section, before the effective date of the order issued under
43 subsection (i) of this section, the person may request in writing a hearing before the Division.
44 Except for the time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the
45 Division that the person's license was surrendered to the court and remained in the court's
46 possession, then the Division shall credit the amount of time for which the license was in the
47 possession of the court against the revocation period required by subsection (g) of this section.
48 If the person properly requests a hearing, the person retains the person's license, unless it is
49 revoked under some other provision of law, until the hearing is held, the person withdraws the
50 request, or the person fails to appear at a scheduled hearing. The hearing officer may subpoena
51 any witnesses or documents that the hearing officer deems necessary. The person may request

1 the hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at
2 the hearing if the person makes the request in writing at least three days before the hearing. The
3 person may subpoena any other witness whom the person deems necessary, and the provisions
4 of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the
5 authority of this section. The hearing officer is authorized to administer oaths to witnesses
6 appearing at the hearing. The hearing must be conducted in the county where the charge was
7 brought, and must be limited to consideration of whether:

8 (1) The drivers license of the person had an ignition interlock requirement; and

9 (2) The person:

10 a. Was driving a vehicle that was not equipped with a functioning
11 ignition interlock ~~system; or system;~~

12 b. Did not personally activate the ignition interlock system before
13 driving the ~~vehicle; or vehicle;~~

14 c. Drove the vehicle in violation of an applicable alcohol concentration
15 restriction prescribed by subdivision (b)(3) of this ~~section; or~~

16 d. Allowed an ignition interlock system required by this section to be
17 disabled or removed.

18 If the Division finds that the conditions specified in this subsection are
19 met, it must order the revocation sustained. If the Division finds that the
20 condition of subdivision (1) is not met, or that none of the conditions of
21 subdivision (2) are met, it must rescind the revocation. If the revocation is
22 sustained, the person must surrender the person's license immediately upon
23 notification by the Division. If the revocation is sustained, the person may
24 appeal the decision of the Division pursuant to G.S. 20-25.

25 (k) Restoration After Violation. – When the Division restores the license of a person
26 whose license was revoked pursuant to subsection (f) or (g) of this section and the revocation
27 occurred prior to completion of time period required by subsection (c) of this section, in
28 addition to any other restriction or condition, it shall require the person to comply with the
29 conditions of subsection (b) of this section until the person has complied with those conditions
30 for the cumulative period of time as set forth in subsection (c) of this section. The period of
31 time for which the person successfully complied with subsection (b) of this section prior to
32 revocation pursuant to subsection (f) or (g) of this section shall be applied towards the
33 requirements of subsection (c) of this section.

34 (l) Medical Exception to Requirement. – A person subject to this section who has a
35 medically diagnosed physical condition that makes the person incapable of personally
36 activating an ignition interlock system may request an exception to the requirements of this
37 section from the Division. The Division shall not issue an exception to this section unless the
38 person has submitted to a physical examination by two or more physicians or surgeons duly
39 licensed to practice medicine in this State or in any other state of the United States and unless
40 such examining physicians or surgeons have completed and signed a certificate in the form
41 prescribed by the Division. Such certificate shall be devised by the Commissioner with the
42 advice of those qualified experts in the field of diagnosing and treating physical disorders that
43 the Commissioner may select and shall be designed to elicit the maximum medical information
44 necessary to aid in determining whether or not the person is capable of personally activating an
45 ignition interlock system. The certificate shall contain a waiver of privilege and the
46 recommendation of the examining physician to the Commissioner as to whether the person is
47 capable of personally activating an ignition interlock system.

48 The Commissioner is not bound by the recommendations of the examining physicians but
49 shall give fair consideration to such recommendations in acting upon the request for medical
50 exception, the criterion being whether or not, upon all the evidence, it appears that the person is

1 in fact incapable of personally activating an ignition interlock system. The burden of proof of
2 such fact is upon the person seeking the exception.

3 Whenever an exception is denied by the Commissioner, such denial may be
4 reviewed by a reviewing board upon written request of the person seeking the exception filed
5 with the Division within 10 days after receipt of such denial. The composition, procedures, and
6 review of the reviewing board shall be as provided in G.S. 20-9(g)(4)."

7 **SECTION 6.** G.S. 20-138.3(d) is amended by adding a new subdivision to read:

8 "(d) Limited Driving Privilege. – A person who is convicted of violating subsection (a)
9 of this section and whose drivers license is revoked solely based on that conviction may apply
10 for a limited driving privilege as provided in G.S. 20-179.3. This subsection shall apply only if
11 the person meets both of the following requirements:

- 12 (1) Is 18, 19, or 20 years old on the date of the offense.
- 13 (2) Has not previously been convicted of a violation of this section.
- 14 (3) Has equipped all vehicles to be operated under a limited driving privilege
15 with approved ignition interlock systems.

16 The judge may issue the limited driving privilege only if the person meets the eligibility
17 requirements of G.S. 20-179.3, other than the requirement in G.S. 20-179.3(b)(1)c.
18 G.S. 20-179.3(e) shall not apply. All other terms, conditions, and restrictions provided for in
19 G.S. 20-179.3 shall apply. G.S. 20-179.3, rather than this subsection, governs the issuance of a
20 limited driving privilege to a person who is convicted of violating subsection (a) of this section
21 and of driving while impaired as a result of the same transaction."

22 **SECTION 7.** G.S. 20-179.3(b) reads as rewritten:

23 "(b) Eligibility. –

- 24 (1) A person convicted of the offense of impaired driving under G.S. 20-138.1 is
25 eligible for a limited driving privilege if:
 - 26 a. At the time of the offense he held either a valid driver's license or a
27 license that had been expired for less than one ~~year~~year.
 - 28 b. At the time of the offense he had not within the preceding seven
29 years been convicted of an offense involving impaired
30 ~~driving~~driving.
 - 31 c. Punishment Level Three, Four, or Five was imposed for the offense
32 of impaired ~~driving~~driving.
 - 33 d. Subsequent to the offense he has not been convicted of, or had an
34 unresolved charge lodged against him for, an offense involving
35 impaired ~~driving~~and driving.
 - 36 e. The person has obtained and filed with the court a substance abuse
37 assessment of the type required by G.S. 20-17.6 for the restoration of
38 a drivers license.
 - 39 f. The person has installed an approved ignition interlock system on all
40 vehicles subject to ignition interlock requirements to be operated by
41 the applicant under a limited driving privilege.

42 A person whose North Carolina driver's license is revoked because of a
43 conviction in another jurisdiction substantially similar to impaired driving
44 under G.S. 20-138.1 is eligible for a limited driving privilege if he would be
45 eligible for it had the conviction occurred in North Carolina. Eligibility for a
46 limited driving privilege following a revocation under G.S. 20-16.2(d) is
47 governed by G.S. 20-16.2(e1)."

48 **SECTION 8.** G.S. 20-179.3(g5) reads as rewritten:

49 "(g5) Ignition Interlock Required. – If a person's drivers license is revoked for a
50 conviction of G.S. 20-138.1, and the person had an alcohol concentration of ~~0.150~~0.08 or more,

1 or refused to submit to a chemical analysis, a judge shall include all of the following in a
2 limited driving privilege order:

- 3 (1) A restriction that the applicant may operate only a designated motor vehicle.
4 (2) A requirement that the designated motor vehicle be equipped with a
5 functioning ignition interlock system of a type approved by the
6 Commissioner, which is set to prohibit driving with an alcohol concentration
7 of greater than ~~0.00~~0.02. The Commissioner shall not unreasonably
8 withhold approval of an ignition interlock system and shall consult with the
9 Division of Purchase and Contract in the Department of Administration to
10 ensure that potential vendors are not discriminated against.
11 (3) A requirement that the applicant personally activate the ignition interlock
12 system before driving the motor vehicle.

13 For purposes of this subsection, the results of a chemical analysis presented at trial or
14 sentencing shall be sufficient to prove a person's alcohol concentration, shall be conclusive, and
15 shall not be subject to modification by any party, with or without approval by the court."

16 **SECTION 9.** Article 3 of Chapter 20 of the General Statutes is amended by adding
17 a new section to read:

18 **"§ 20-179.5. Ignition interlock; administrative fee and costs for installation and**
19 **monitoring; Ignition Interlock Device Fund.**

20 (a) The costs incurred in order to comply with the ignition interlock requirements
21 imposed by the court pursuant to this Article, including costs for installation and monitoring of
22 the ignition interlock system, shall be paid by the person ordered to install the system. The
23 person also shall pay an ignition interlock administrative fee, in an amount which shall be
24 determined by the Division and which shall be not less than thirty dollars (\$30.00) nor more
25 than sixty dollars (\$60.00). The administrative fee shall be collected at the time of installation
26 by the vendor installing the ignition interlock system. Costs for installation and monitoring of
27 the ignition interlock system shall be collected under terms agreed upon by the vendor and the
28 person required to install the ignition interlock system.

29 (b) The vendor shall remit fees collected pursuant to subsection (a) of this section to the
30 Division on a quarterly basis. Fifty percent (50%) of the fees collected shall be used to pay
31 costs incurred by the Division in administering the interlock program; the remaining fifty
32 percent (50%) of the fees shall be deposited in the Ignition Interlock Device Fund.

33 (c) There is created in the Department of Transportation the Ignition Interlock Device
34 Fund to be used for the purpose of installing and removing the ignition interlock systems of
35 persons deemed by the court to be indigent. If the court determines that the convicted person is
36 unable to pay for the installation of an ignition interlock system, the court may order that the
37 Division pay the cost of installation out of the Ignition Interlock Device Fund, provided the
38 person agrees to pay the required costs for monitoring the system."

39 **SECTION 10.** This act becomes effective December 1, 2013, and applies to
40 offenses committed on or after that date.