GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 864
PROPOSED COMMITTEE SUBSTITUTE H864-CSBGf-52 [v.5]
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Short Title: Require Driver Retraining Course. (Public)

Sponsors:

Referred to:

April 22, 2019

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DIVISION OF MOTOR VEHICLES TO ESTABLISH AND CONDUCT DRIVER RETRAINING COURSES FOR PERSONS WHO HAVE HAD THEIR DRIVERS LICENSE SUSPENDED PURSUANT TO CERTAIN LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 20-16 reads as rewritten:

"**§ 20-16. Authority of Division to suspend license.**

(a) The Division shall have authority to suspend the license of any operator with or without a preliminary hearing upon a showing by its records or other satisfactory evidence that the licensee:

…

(6) Has made or permitted an unlawful or fraudulent use of ~~such~~ the license or a learner's permit, or has displayed or represented as his or her own, a license or learner's permit not issued to ~~him;~~him or her;

…

(8b) Has violated on a military installation a regulation of that installation prohibiting conduct substantially similar to conduct that constitutes impaired driving under G.S. 20-138.1 and, as a result of that violation, has had his or her privilege to drive on that installation revoked or suspended after an administrative hearing authorized by the commanding officer of the installation and that commanding officer has general court martial jurisdiction;

…

However, if the Division ~~revokes~~ suspends a license without a preliminary hearing and the person whose license is being ~~revoked~~ suspended requests a hearing before the effective date of the ~~revocation,~~suspension, the licensee retains his or her license unless it is revoked or suspended under some other provision of the law, until the hearing is held, the person withdraws his or her request, or he or she fails to appear at a scheduled hearing.

(b) Pending an appeal from a conviction of any violation of the motor vehicle laws of this State, no driver's license shall be suspended by the Division ~~of Motor Vehicles~~ because of ~~such~~ the conviction or because of evidence of the commission of the offense for which the conviction has been had.

(c) The Division shall maintain a record of convictions of every person licensed or required to be licensed under the provisions of this Article as an operator and shall enter therein records of all convictions of such persons for any violation of the motor vehicle laws of this State and shall assign to the record of ~~such~~ the person, as of the date of commission of the offense, a

number of points for every ~~such~~ conviction in accordance with the following schedule of convictions and points, except that points shall not be assessed for convictions resulting in suspensions or revocations under other provisions of laws: Further, any points heretofore charged for violation of the motor vehicle inspection laws shall not be considered by the Division ~~of Motor Vehicles~~ as a basis for suspension or revocation of driver's license:

Schedule of Point Values

Passing stopped school bus	5
Aggressive driving	5
Reckless driving	4
Hit and run, property damage only	4
Following too close	4
Driving on wrong side of road	4
Illegal passing	4
Failure to yield right-of-way to pedestrian pursuant to G.S. 20-158(b)(2)b.	4
Failure to yield right-of-way to bicycle, motor scooter, or motorcycle	4
Running through stop sign	3
Speeding in excess of 55 miles per hour	3
Failing to yield right-of-way	3
Running through red light	3
No driver's license or license expired more than one year	3
Failure to stop for siren	3
Driving through safety zone	3
No liability insurance	3
Failure to report accident where such report is required	3
Speeding in a school zone in excess of the posted school zone speed limit	3
Failure to properly restrain a child in a restraint or seat belt	2
All other moving violations	2
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle	1

Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle

Passing stopped school bus	8
Rail-highway crossing violation	6
Careless and reckless driving in violation of G.S. 20-140(f)	6
Speeding in violation of G.S. 20-141(j3)	6
Aggressive driving	6
Reckless driving	5
Hit and run, property damage only	5
Following too close	5
Driving on wrong side of road	5
Illegal passing	5
Failure to yield right-of-way to pedestrian pursuant to G.S. 20-158(b)(2)b.	5
Failure to yield right-of-way to bicycle, motor scooter, or motorcycle	5
Running through stop sign	4

Speeding in excess of 55 miles per hour 4
Failing to yield right-of-way 4
Running through red light 4
No driver's license or license expired more than one year 4
Failure to stop for siren 4
Driving through safety zone 4
No liability insurance 4
Failure to report accident where such report is required 4
Speeding in a school zone in excess of the posted school zone speed limit 4
Possessing alcoholic beverages in the passenger area of a commercial motor vehicle 4
All other moving violations 3
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle 1

The above provisions of this subsection shall only apply to violations and convictions which take place within the State of North Carolina. The Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle shall not apply to any commercial motor vehicle known as an "aerial lift truck" having a hydraulic arm and bucket station, and to any commercial motor vehicle known as a "line truck" having a hydraulic lift for cable, if the vehicle is owned, operated by or under contract to a public utility, electric or telephone membership corporation or municipality and used in connection with installation, restoration or maintenance of utility services.

No points shall be assessed for conviction of the following offenses:

Overloads
Over length
Over width
Over height
Illegal parking
Carrying concealed weapon
Improper plates
Improper registration
Improper muffler
Improper display of license plates or dealers' tags
Unlawful display of emblems and insignia
Failure to display current inspection certificate.

In case of the conviction of a licensee of two or more traffic offenses committed on a single occasion, ~~such~~ the licensee shall be assessed points for one offense only and if the offenses involved have a different point value, ~~such~~ the licensee shall be assessed for the offense having the greater point value.

Upon the restoration of the license or driving privilege of ~~such~~ the person whose license or driving privilege has been suspended or revoked because of conviction for a traffic offense, or upon completion of the driver retraining course established in accordance with subsection (d1) of this section within the 90-day presuspension notice period required under subsection (d) of this section, any points that might previously have been accumulated in the driver's record shall be cancelled.

Whenever any licensee accumulates as many as seven points or accumulates as many as four points during a three-year period immediately following reinstatement of his license after a period of suspension or revocation, the Division may request the licensee to attend a conference regarding ~~such~~ the licensee's driving record. The Division may also afford any licensee who has accumulated as many as seven points or any licensee who has accumulated as many as four points

within a three-year period immediately following reinstatement of his license after a period of suspension or revocation an opportunity to attend a driver improvement clinic operated by the Division and, upon the successful completion of the course taken at the clinic, three points shall be deducted from the licensee's conviction record; provided, that only one deduction of points shall be made on behalf of any licensee within any five-year period.

~~When a license is suspended under the point system provided for herein, the first such suspension shall be for not more than 60 days; the second such suspension shall not exceed six months and any subsequent suspension shall not exceed one year.~~A license suspended pursuant to subdivision (5), (9), (10), or (10a) of subsection (a) of this section shall be indefinite until the person completes the driver retraining course established in accordance with subsection (d1) of this section. The effective date of the suspension for a license suspended pursuant to subdivision (5), (9), (10), or (10a) of subsection (a) of this section shall be 90 days from the date set forth on the notice required under subsection (d) of this section. If the licensee completes the driver retraining course within the 90-day presuspension notice period, and no other provision of law suspends or revokes the license, the Division shall cancel the suspension and the licensee may retain the license. If the licensee completes the driver retraining course after the 90-day presuspension notice period, and no other provision of law suspends or revokes the license, the suspension shall be terminated and the licensee may apply for restoration of the licensee's driving privilege.

Whenever the driver's license of any person is subject to suspension under this subsection and at the same time also subject to suspension or revocation under other provisions of laws, such suspensions or revocations shall run concurrently.

In the discretion of the Division, a period of probation not to exceed one year may be substituted for suspension or for any unexpired period of suspension under ~~subsections~~ subdivisions ~~(a)(1)~~(a)(6) through ~~(a)(10a)~~(a)(8b) of this section. For a license suspended pursuant to subdivision (5), (9), (10), or (10a) of subsection (a) of this section, the Division may not substitute a period of probation for suspension or for any unexpired period of suspension. Any violation of probation during the probation period shall result in a suspension for the unexpired remainder of the suspension period. Any accumulation of three or more points under this subsection during a period of probation shall constitute a violation of the condition of probation.

(d) Upon suspending the license of any person as authorized in this section, the Division shall immediately notify the licensee in ~~writing and upon his request~~ writing. Upon a licensee's request, the Division shall afford ~~him~~ the licensee an opportunity for a hearing, not to exceed 60 days after receipt of the request, unless a preliminary hearing was held before ~~his~~ the licensee's license was suspended. Upon ~~such~~ the hearing the duly authorized agents of the Division may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon ~~such~~ the hearing the Division shall either rescind its order of suspension for a license suspended pursuant to this section, or good cause appearing therefor, may extend the suspension of ~~such license.~~ a license suspended pursuant to subdivisions (a)(6) through (a)(8b) of this section. Provided further upon ~~such~~ the hearing, preliminary or otherwise, involving ~~subsections~~ subdivisions ~~(a)(1)~~(a)(6) through ~~(a)(10a)~~(a)(8b) of this section, the Division may for good cause appearing in its discretion substitute a period of probation not to exceed one year for the suspension or for any unexpired period of suspension. For a license suspended pursuant to subdivision (5), (9), (10), or (10a) of subsection (a) of this section, the Division may not substitute a period of probation for suspension or for any unexpired period of suspension. Probation shall mean any written agreement between the suspended driver and a duly authorized representative of the Division and ~~such~~ the period of probation shall not exceed one year, and any violation of the probation agreement during the probation period shall result in a suspension for the unexpired remainder of the suspension period. The authorized agents of the Division shall have the same powers in connection with a preliminary hearing prior to suspension as this subsection provided in

connection with hearings held after suspension. These agents shall also have the authority to take possession of a surrendered license on behalf of the Division if the suspension is upheld and the licensee requests that the suspension begin immediately.

(d1) The Division shall establish and conduct, or utilize a third-party vendor to establish and conduct, driver retraining courses for the benefit of persons who have had their licenses suspended pursuant to subdivision (5), (9), (10), or (10a) of subsection (a) of this section. If the Division utilizes a third-party vendor, the Division shall maintain oversight of the driver retraining course established and conducted by the third-party vendor. Except as otherwise provided in this subsection, each driver attending a driver retraining course shall pay a fee in an amount set by the Division, not to exceed one hundred seventy-five dollars ($175.00) of which twenty-five dollars ($25.00) shall be retained by the Division. Upon request of the driver, the course provider shall waive the fee required under this subsection if the driver provides documentation satisfactory to the course provider establishing that the driver receives public assistance. Each driver attending a driver retraining course shall do so in person, and the course may not be completed remotely. The driver retraining course shall be at least eight hours in total duration and shall maintain a student-to-instructor ratio deemed appropriate by the Division. The driver retraining course shall be behavioral-based, interactive, and demonstrated scientifically to be associated with decreases in traffic violations. The driver retraining course shall teach the driver that poor behavioral choices made behind the wheel often result in unintended consequences and shall help the driver understand the responsibility placed upon each driver to conform his or her behavior and conduct for the benefit of the driver, other drivers, and pedestrians. The driver retraining course shall include all of the following:

(1) An examination of the driver's own behavior in various driving situations to help the driver understand the behavioral driving characteristics that have resulted in the driver's poor driving record.

(2) Psychology-based principles or methodologies, as they relate to behind-the-wheel driving behavior.

(3) An examination of why drivers do or do not choose to obey traffic laws, with the primary focus on behaviors rather than excuses.

(4) A review of the four components of human behavior, doing, thinking, feeling, and physiology, and the connection between the concepts of needs and wants to behaviors and the human ability to choose behaviors.

(5) A consideration of additional problem driver behaviors, including all of the following:

a. Dangers associated with prescription and over-the-counter drugs.

b. Dangers of driving at excessive speeds.

c. Dangers of right-of-way violations.

d. Dangers of distracted driving.

e. Dangers of improper passing and following other vehicles too closely.

f. Dangers of aggressive driving.

g. Dangers of fatigued driving.

…

~~(e1) Notwithstanding any other provision of this Chapter, if the Division suspends the license of an operator pursuant to subdivisions (a)(9), (a)(10), or (a)(10a) of this section, upon the first suspension only, a district court judge may allow the licensee a limited driving privilege or license for a period not to exceed 12 months, provided he has not been convicted of any other motor vehicle moving violation within the previous 12 months. The limited driving privilege shall be issued in the same manner and under the terms and conditions prescribed in G.S. 20-16.1(b)(1), (2), (3), (4), and (5).~~

…."

SECTION 1.(b) G.S. 20-19 reads as rewritten:

"**§ 20-19. Period of suspension or revocation; conditions of restoration.**

(a) When a license is suspended under subdivision (8) ~~or (9)~~ of G.S. 20-16(a), the period of suspension shall be in the discretion of the Division and for such time as it deems best for public safety but shall not exceed six months.

~~(b) When a license is suspended under subdivision (10) of G.S. 20-16(a), the period of suspension shall be in the discretion of the Division and for such time as it deems best for public safety but shall not exceed a period of 12 months.~~

…."

SECTION 2. Section 1 of this act becomes effective January 1, 2020, and applies to licenses suspended on or after that date. The remainder of this act is effective when it becomes law.