

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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SENATE BILL 619  
PROPOSED COMMITTEE SUBSTITUTE S619-CSSAxf-63 [v.4]

5/11/2015 3:45:42 PM

Short Title: Grey's Law.

(Public)

Sponsors:

Referred to:

March 30, 2015

1 A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE A 0.02 ALCOHOL CONCENTRATION RESTRICTION ON ALL  
3 RESTORATION OF LICENSES REVOKED FOR AN IMPAIRED DRIVING OFFENSE  
4 OR REFUSAL TO SUBMIT TO A CHEMICAL ANALYSIS; TO PROVIDE THAT  
5 WHERE A PERSON HAS COMMITTED AN IMPLIED-CONSENT OFFENSE AND  
6 APPLICABLE LAW REQUIRES A MANDATORY REVOCATION OF THE PERSON'S  
7 DRIVERS LICENSE, A REQUEST FOR A HEARING DOES NOT STAY THE  
8 REVOCATION UNDER CERTAIN CIRCUMSTANCES; TO INCREASE THE  
9 NUMBER OF PERSONS SUBJECT TO AN IGNITION INTERLOCK REQUIREMENT;  
10 TO PROVIDE FOR THE PAYMENT OF AN ADMINISTRATIVE FEE AND COSTS  
11 ASSOCIATED WITH AN IGNITION INTERLOCK SYSTEM; TO MODIFY THE  
12 HABITUAL IMPAIRED DRIVING STATUTE; AND TO MAKE VARIOUS OTHER  
13 CHANGES.

14 The General Assembly of North Carolina enacts:

15 **SECTION 1.** This act is adopted in honor of William "Grey" Bailey and shall be  
16 known as "Grey's Law."

17 **SECTION 2.** G.S. 20-16.2 reads as rewritten:

18 **"§ 20-16.2. Implied consent to chemical analysis; mandatory revocation of license in event**  
19 **of refusal; right of driver to request analysis.**

20 ...

21 (c1) Procedure for Reporting Results and Refusal to Division. – Whenever a person  
22 refuses to submit to a chemical analysis, a person has an alcohol concentration of 0.15 or more,  
23 or a person's drivers license has an alcohol concentration restriction and the results of the  
24 chemical analysis establish a violation of the restriction, the law enforcement officer and the  
25 chemical analyst shall without unnecessary delay go before an official authorized to administer  
26 oaths and execute an affidavit(s) stating that all of the following:

- 27 (1) The person was charged with an implied-consent offense or had an alcohol  
28 concentration restriction on the drivers ~~license;~~license.  
29 (2) A law enforcement officer had reasonable grounds to believe that the person  
30 had committed an implied-consent offense or violated the alcohol  
31 concentration restriction on the drivers ~~license;~~license.  
32 (3) Whether the implied-consent offense charged involved death or critical  
33 injury to another person, if the person willfully refused to submit to chemical  
34 ~~analysis;~~analysis.  
35 (4) The person was notified of the rights in subsection ~~(a); and~~(a).



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

(d) Consequences of Refusal; Right to Hearing before Division; Issues. – Upon receipt of a properly executed affidavit required by subsection (c1), the Division shall expeditiously notify the person charged that the person's license to drive is revoked for 12 months, effective on the tenth calendar day after the mailing of the revocation ~~order unless, before the effective date of the order, the person requests in writing a hearing before the Division order.~~ Before the effective date of the order, the person may request in writing a hearing before the Division to contest the revocation, and the person shall retain his or her license until the hearing is held unless either of the following apply: (i) the matter is heard by a judicial official pursuant to the procedures in G.S. 20-16.5(e), and the judicial official determines that there is probable cause to believe that the conditions of G.S. 20-16.5(b)(1) through (3) and G.S. 20-16.5(b)(4)a. or a1. have been met, or (ii) the matter is presented to a clerk pursuant to the procedures in G.S. 20-16.5(f), and the clerk determines that there is probable cause to believe that the conditions of G.S. 20-16.5(b)(1) through (3) and G.S. 20-16.5(b)(4)a. or a1. have been met. Except for the time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the Division that his or her license was surrendered to the court, and remained in the court's possession, then the Division shall credit the amount of time for which the license was in the possession of the court against the 12-month revocation period required by this subsection. ~~If the person properly requests a hearing, the person retains his or her license, unless it is revoked under some other provision of law, until the hearing is held, the person withdraws the request, or the person fails to appear at a scheduled hearing.~~

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

- (1) The person was charged with an implied-consent offense or the driver had an alcohol concentration restriction on the drivers license pursuant to G.S. 20-19;
- (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) The implied-consent offense charged involved death or critical injury to another person, if this allegation is in the affidavit;
- (4) The person was notified of the person's rights as required by subsection (a); and
- (5) The person willfully refused to submit to a chemical analysis.

If the Division finds that the conditions specified in this subsection are met, it shall order the revocation sustained. If the Division finds that any of the conditions (1), (2), (4), or (5) is not

met, it shall rescind the revocation. If it finds that condition (3) is alleged in the affidavit but is not met, it shall order the revocation sustained if that is the only condition that is not met; in this instance subsection (d1) does not apply to that revocation. ~~If the revocation is sustained, the person shall surrender his or her license immediately upon notification by the Division. The proceedings and revocation under this subsection originate from the notice sent to the person by the Division and are not vacated by any deficiency in an affidavit executed under subsection (c1) of this section that is not a material deficiency.~~

...

(e1) Limited Driving Privilege after Six Months in Certain Instances. – A person whose driver's license has been revoked under this section may apply for and a judge authorized to do so by this subsection may issue a limited driving privilege ~~if~~ if all of the following requirements are met:

- (1) At the time of the refusal the person held either a valid drivers license or a license that had been expired for less than one ~~year;~~ year.
- (2) At the time of the refusal, the person had not within the preceding seven years been convicted of an offense involving impaired ~~driving;~~ driving.
- (3) At the time of the refusal, the person had not in the preceding seven years willfully refused to submit to a chemical analysis under this ~~section;~~ section.
- (4) The implied consent offense charged did not involve death or critical injury to another ~~person;~~ person.
- (5) The underlying charge for which the defendant was requested to submit to a chemical analysis has been finally disposed ~~of;~~ by either of the following:
  - a. Other than by ~~conviction;~~ conviction.
  - b. By a conviction of impaired driving under G.S. 20-138.1, at a punishment level authorizing issuance of a limited driving privilege under G.S. 20-179.3(b), and the defendant has complied with at least one of the mandatory conditions of probation listed for the punishment level under which the defendant was ~~sentenced;~~ sentenced.
- (6) Subsequent to the refusal the person has had no unresolved pending charges for or additional convictions of an offense involving impaired ~~driving;~~ driving.
- (7) The person's license has been revoked for at least six months for the ~~refusal;~~ and refusal.
- (8) The person has obtained a substance abuse assessment from a mental health facility and successfully completed any recommended training or treatment program.
- (9) The limited driving privilege issued has an ignition interlock requirement that includes all of the following:
  - a. A restriction that the applicant may operate only a designated motor vehicle.
  - b. A requirement that the designated motor vehicle be equipped with a functioning ignition interlock system of a type approved by the Commissioner, which is set to prohibit driving with an alcohol concentration of 0.02 or greater. Nothing in this sub-subdivision shall be construed as authorizing a person to operate a motor vehicle with an alcohol concentration in excess of the limit set by applicable State or federal law.
  - c. A requirement that the applicant personally activate the ignition interlock system before driving the motor vehicle.

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

...."

**SECTION 3.** G.S. 20-16.5 reads as rewritten:

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

...

(b) Revocations for Persons Who Refuse Chemical Analyses or Who Are Charged With Certain Implied-Consent Offenses. – A person's driver's license is subject to revocation under this section ~~if~~ if all of the following requirements are met:

- (1) A law enforcement officer has reasonable grounds to believe that the person has committed an offense subject to the implied-consent provisions of ~~G.S. 20-16.2;~~ G.S. 20-16.2.
- (2) The person is charged with that offense as provided in ~~G.S. 20-16.2(a);~~ G.S. 20-16.2(a).
- (3) The law enforcement officer and the chemical analyst comply with the procedures of G.S. 20-16.2 and G.S. 20-139.1 in requiring the person's submission to or procuring a chemical ~~analysis;~~ analysis.
- (4) ~~The person;~~ person meets one of the following conditions:
  - a. Willfully refuses to submit to the chemical ~~analysis;~~ analysis.
  - a1. Has an alcohol concentration of 0.15 or more within a relevant time after the driving.
  - b. Has an alcohol concentration of 0.08 or more but less than 0.15 within a relevant time after the ~~driving;~~ driving.
  - c. Has an alcohol concentration of 0.04 or more at any relevant time after the driving of a commercial motor ~~vehicle;~~ or vehicle.
  - d. Has any alcohol concentration at any relevant time after the driving and the person is under 21 years of age.

(b1) Precharge Test Results as Basis for Revocation. – Notwithstanding the provisions of subsection (b), a person's driver's license is subject to revocation under this section ~~if~~ if all of the following requirements are met:

- (1) The person requests a precharge chemical analysis pursuant to ~~G.S. 20-16.2(i); and~~ G.S. 20-16.2(i).
- (2) The person ~~has;~~ has one of the following:
  - a. An alcohol concentration of 0.15 or more at any relevant time after driving.
  - a1. An alcohol concentration of 0.08 or more but less than 0.15 at any relevant time after driving; driving.
  - b. An alcohol concentration of 0.04 or more at any relevant time after driving a commercial motor ~~vehicle;~~ or vehicle.
  - c. Any alcohol concentration at any relevant time after driving and the person is under 21 years of ~~age;~~ and age.

(3) The person is charged with an implied-consent offense.

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

(1) At the time of the alleged offense the person held either a valid drivers license or a license that had been expired for less than one ~~year~~ year.

(2) ~~Does~~ The person does not have an unresolved pending charge involving impaired driving except the charge for which the license is currently revoked under this section or additional convictions of an offense involving impaired driving since being charged for the violation for which the license is currently revoked under this ~~section~~ section.

~~(3) The person's license has been revoked for at least 10 days if the revocation is for 30 days or 30 days if the revocation is for 45 days; and~~

(4) The person has obtained a substance abuse assessment from a mental health facility and registers for and agrees to participate in any recommended training or treatment program.

(5) If the person meets a condition in sub-subdivision a. or a1. of subdivision (4) of subsection (b) of this section, or the condition in sub-subdivision a. of subdivision (2) of subsection (b1) of this section, the limited driving privilege issued has an ignition interlock requirement that includes all of the following:

a. A restriction that the applicant may operate only a designated motor vehicle.

b. A requirement that the designated motor vehicle be equipped with a functioning ignition interlock system of a type approved by the Commissioner, which is set to prohibit driving with an alcohol concentration of 0.02 or greater. Nothing in this sub-subdivision shall be construed as authorizing a person to operate a motor vehicle with an alcohol concentration in excess of the limit set by applicable State or federal law.

c. A requirement that the applicant personally activate the ignition interlock system before driving the motor vehicle.

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

**SECTION 4.(a)** G.S. 20-17.8 reads as rewritten:

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

(a) Scope. – This section applies to a person whose license was revoked as a result of a conviction of driving while impaired, G.S. 20-138.1, ~~and; and any of the following apply:~~

(1) The person had an alcohol concentration of ~~0.150.08~~ or ~~more; more.~~

(2) The person has been convicted of another offense involving impaired driving, which offense occurred within seven years immediately preceding the date of the offense for which the person's license has been ~~revoked;~~  
~~orrevoked.~~

(3) The person was sentenced pursuant to G.S. 20-179(f3).

For purposes of subdivision (1) of this subsection, the results of a chemical analysis, as shown by an affidavit or affidavits executed pursuant to G.S. 20-16.2(c1), or the alcohol concentration found by the court pursuant to G.S. 20-138.1(d1) shall be used by the Division to determine that person's alcohol concentration.

...  
(a2) Refusal to Submit to Chemical Analysis. – The provisions of this section apply to a person whose license was revoked as the result of a refusal to submit to a chemical analysis pursuant to G.S. 20-16.2.

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

(1) A restriction that the person may operate only a vehicle that is equipped with a functioning ignition interlock system of a type approved by the Commissioner. The Commissioner shall not unreasonably withhold approval of an ignition interlock system and shall consult with the Division of Purchase and Contract in the Department of Administration to ensure that potential vendors are not discriminated against.

(2) A requirement that the person personally activate the ignition interlock system before driving the motor vehicle.

(3) ~~An alcohol concentration restriction as follows:~~

a. ~~If the ignition interlock system is required pursuant only to subdivision (a)(1) of this section, a requirement that the person not drive with an alcohol concentration of 0.04 or greater;~~

b. ~~If the ignition interlock system is required pursuant to subdivision (a)(2) or (a)(3) of this section, a requirement that the person not drive with an alcohol concentration of greater than 0.00; or~~

c. ~~If the ignition interlock system is required pursuant to subdivision (a)(1) of this section, and the person has also been convicted, based on the same set of circumstances, of: (i) driving while impaired in a commercial vehicle, G.S. 20-138.2, (ii) driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, (iii) a violation of G.S. 20-141.4, or (iv) manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, a requirement that the person not drive with an alcohol concentration of greater than 0.00.~~  
A requirement that the person not drive with an alcohol concentration of 0.02 or greater.

...  
(c2) Multiple Offenses Requiring Ignition Interlock System. – If a person is convicted of multiple offenses as a result of a single series of events, and each offense requires the installation of an ignition interlock system pursuant to this section, the periods of time specified in subsection (c) of this section for each offense shall run consecutively.

1       ...  
2       (e1) Disabling or Removing of Ignition Interlock System. – A person subject to this  
3 section shall not disable or remove, or allow the disabling or removal, of an ignition interlock  
4 system from a vehicle in which it is required to be installed pursuant to subsection (c1) of this  
5 section.

6       ...  
7       (j) Right to Hearing Before Division; Issues. – If the person's license is revoked  
8 pursuant to subsection (g) of this section, before the effective date of the order issued under  
9 subsection (i) of this section, the person may request in writing a hearing before the Division.  
10 Except for the time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the  
11 Division that the person's license was surrendered to the court and remained in the court's  
12 possession, then the Division shall credit the amount of time for which the license was in the  
13 possession of the court against the revocation period required by subsection (g) of this section.  
14 If the person properly requests a hearing, the person retains the person's license, unless it is  
15 revoked under some other provision of law, until the hearing is held, the person withdraws the  
16 request, or the person fails to appear at a scheduled hearing. The hearing officer may subpoena  
17 any witnesses or documents that the hearing officer deems necessary. The person may request  
18 the hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at  
19 the hearing if the person makes the request in writing at least three days before the hearing. The  
20 person may subpoena any other witness whom the person deems necessary, and the provisions  
21 of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the  
22 authority of this section. The hearing must be conducted in the county where the charge was  
23 brought, except when the evidence of the violation is an alcohol concentration report from an  
24 ignition interlock system, the hearing may be conducted in the county where the person resides.  
25 The hearing must be limited to consideration of ~~whether:~~whether the following conditions are  
26 met:

- 27       (1) The drivers license of the person had an ignition interlock ~~requirement;~~  
28 ~~and requirement.~~  
29       (2) ~~The person:~~person engaged in any of the following conduct:  
30       a. Was driving a vehicle that was not equipped with a functioning  
31 ignition interlock ~~system; or system.~~  
32       b. Did not personally activate the ignition interlock system before  
33 driving the ~~vehicle; or vehicle.~~  
34       c. Drove the vehicle in violation of an applicable alcohol concentration  
35 restriction prescribed by subdivision (b)(3) of this ~~section.~~section.  
36       d. Disabled or removed, or allowed the disabling or removal, of an  
37 ignition interlock system required by this section.

38       If the Division finds that the conditions specified in this subsection are  
39 met, it must order the revocation sustained. If the Division finds that the  
40 condition of subdivision (1) is not met, or that none of the conditions of  
41 subdivision (2) are met, it must rescind the revocation. If the revocation is  
42 sustained, the person must surrender the person's license immediately upon  
43 notification by the Division. If the revocation is sustained, the person may  
44 appeal the decision of the Division pursuant to G.S. 20-25.

45       ...."

46       **SECTION 4.(b)** G.S. 20-138.1 is amended by adding a new subsection to read:

47       "(d1) Record of finding. – If a person is convicted of impaired driving pursuant to  
48 subdivision (2) of subsection (a) of this section, the presiding judge shall record the alcohol  
49 concentration found by the court. The alcohol concentration shall be forwarded to the Division  
50 as part of the record of conviction.

51       **SECTION 5.** G.S. 20-19(c3) reads as rewritten:

"(c3) Restriction; Revocations. – When the Division restores a person's drivers license which was revoked pursuant to G.S. 20-13.2(a), G.S. 20-23 when the offense involved impaired driving, G.S. 20-23.2, subdivision (2) of G.S. 20-17(a), subdivision (1) or (9) of G.S. 20-17(a) when the offense involved impaired driving, or this subsection, in addition to any other restriction or condition, it shall place ~~the applicable restriction on the person's drivers license as follows:~~

- (1) ~~For the first restoration of a drivers license for a person convicted of driving while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired under G.S. 20-138.1, that the person not operate a vehicle with an alcohol concentration of 0.04 or more at any relevant time after the driving;~~
- (2) ~~For the second or subsequent restoration of a drivers license for a person convicted of driving while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired under G.S. 20-138.1, that the person not operate a vehicle with an alcohol concentration greater than 0.00 at any relevant time after the driving;~~
- (3) ~~For any restoration of a drivers license for a person convicted of driving while impaired in a commercial motor vehicle, G.S. 20-138.2, driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, felony death by vehicle, G.S. 20-141.4(a1), manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, or a revocation under this subsection, that the person not operate a vehicle with an alcohol concentration of greater than 0.00 at any relevant time after the driving;~~
- (4) ~~For any restoration of a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired in a commercial motor vehicle, G.S. 20-138.2, driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, a violation of G.S. 20-141.4, or manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, that the person not operate vehicle with an alcohol concentration of greater than 0.00 at any relevant time after the driving.~~  
a restriction on the person's drivers license requiring that the person not operate a vehicle with an alcohol concentration of 0.02 or more at any relevant time after the driving.

In addition, the person seeking restoration of a license must agree to submit to a chemical analysis in accordance with G.S. 20-16.2 at the request of a law enforcement officer who has reasonable grounds to believe the person is operating a motor vehicle on a highway or public vehicular area in violation of the restriction specified in this subsection. The person must also agree that, when requested by a law enforcement officer, the person will agree to be transported by the law enforcement officer to the place where chemical analysis is to be administered.

The ~~restrictions~~restriction placed on a license under this subsection shall be in effect (i) seven years from the date of restoration if the person's license was permanently revoked, (ii) until the person's twenty-first birthday if the revocation was for a conviction under G.S. 20-138.3, and (iii) three years in all other cases.



A law enforcement officer who has reasonable grounds to believe that a person has violated a restriction placed on the person's drivers license shall complete an affidavit pursuant to G.S. 20-16.2(c1). On the basis of information reported pursuant to G.S. 20-16.2, the Division shall revoke the drivers license of any person who violates a condition of reinstatement imposed under this subsection. An alcohol concentration report from an ignition interlock system shall not be used as the basis for revocation under this subsection. A violation of a restriction imposed under this subsection or the willful refusal to submit to a chemical analysis shall result in a one-year revocation. If the period of revocation was imposed pursuant to subsection (d) or (e), any remaining period of the original revocation, prior to its reduction, shall be reinstated and the one-year revocation begins after all other periods of revocation have terminated."

**SECTION 6.(a)** G.S. 20-138.5(a) reads as rewritten:

"(a) A person commits the offense of habitual impaired driving if ~~he~~the person drives while impaired as defined in G.S. 20-138.1 and has been convicted of ~~three~~two or more offenses involving impaired driving as defined in G.S. 20-4.01(24a) within ~~four~~two years of the date of this ~~offense~~offense or (ii) has been previously convicted of the offense of habitual impaired driving."

**SECTION 6.(b)** G.S. 20-36 reads as rewritten:

**"§ 20-36. Ten-year-old convictions not ~~considered~~considered; exceptions.**

~~Except for offenses occurring in a commercial motor vehicle, offenses by the holder of a commercial drivers license involving a noncommercial motor vehicle, or a second failure to submit to a chemical test when charged with an implied consent offense, as defined in G.S. 20-16.2, that occurred while the person was driving a commercial motor vehicle, no~~No conviction of any ~~other~~ violation of the motor vehicle laws shall be considered by the Division in determining whether any person's driving privilege shall be suspended or revoked or in determining the appropriate period of suspension or revocation after 10 years has elapsed from the date of that ~~conviction~~conviction, except for any of the following:

(1) Offenses occurring in a commercial motor vehicle.

(2) Offenses by the holder of a commercial drivers license involving a noncommercial motor vehicle.

(3) A second failure to submit to a chemical test when charged with an implied consent offense, as defined in G.S. 20-16.2, that occurred while the person was driving a commercial motor vehicle.

(4) Offenses involving impaired driving as defined in G.S. 20-4.01(24a)."

**SECTION 6.(c)** G.S. 7A-109.4 reads as rewritten:

**"§ 7A-109.4. Records of offenses involving impaired driving.**

The clerk of superior court shall maintain all records relating to an offense involving impaired driving as defined in G.S. 20-4.01(24a) for a minimum of ~~four~~two years from the date of conviction. Prior to destroying the record, the clerk shall record the name of the defendant, the judge, the prosecutor, and the attorney or whether there was a waiver of attorney, the alcohol concentration or the fact of refusal, any offense for which the defendant was convicted, the any sentence imposed, and whether the case was appealed to superior court and its disposition."

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

**"§ 20-179.3. Limited driving privilege.**

(a) Definition of Limited Driving Privilege. – A limited driving privilege is a judgment issued in the discretion of a court for good cause shown authorizing a person with a revoked driver's license to drive for essential purposes related to any of the following:

(1) ~~His~~The person's employment.

(2) ~~The maintenance~~Maintenance of ~~his~~the person's household.

(3) ~~His~~The person's education.

(4) ~~His~~The person's court-ordered treatment or assessment.

- 1 (5) Community service ordered as a condition of the person's probation.  
 2 (6) Emergency medical care.  
 3 ~~(7) To participate in religious worship.~~  
 4 (b) Eligibility. –  
 5 (1) A person convicted of the offense of impaired driving under G.S. 20-138.1 is  
 6 eligible for a limited driving privilege ~~if~~ if the following requirements are  
 7 met:  
 8 a. At the time of the ~~offense~~ he offense, the person held either a valid  
 9 driver's license or a license that had been expired for less than one  
 10 ~~year~~ year.  
 11 b. At the time of the ~~offense~~ he offense, the person had not within the  
 12 preceding seven years been convicted of an offense involving  
 13 impaired ~~driving~~ driving.  
 14 c. Punishment Level Three, Four, or Five was imposed for the offense  
 15 of impaired ~~driving~~ driving.  
 16 d. Subsequent to the ~~offense~~ he offense, the person has not been  
 17 convicted of, or had an unresolved charge lodged against him or her  
 18 for, an offense involving impaired ~~driving~~ and driving.  
 19 e. The person has obtained and filed with the court a substance abuse  
 20 assessment of the type required by G.S. 20-17.6 for the restoration of  
 21 a drivers license.  
 22 f. If the person is convicted of an alcohol-related offense of impaired  
 23 driving under G.S. 20-138.1, the limited driving privilege issued has  
 24 an ignition interlock requirement that includes all of the following:  
 25 1. A restriction that the applicant may operate only a designated  
 26 motor vehicle.  
 27 2. A requirement that the designated motor vehicle be equipped  
 28 with a functioning ignition interlock system of a type  
 29 approved by the Commissioner, which is set to prohibit  
 30 driving with an alcohol concentration of 0.02 or greater.  
 31 Nothing in this sub-sub-division shall be construed as  
 32 authorizing a person to operate a motor vehicle with an  
 33 alcohol concentration in excess of the limit set by applicable  
 34 State or federal law.  
 35 3. A requirement that the applicant personally activate the  
 36 ignition interlock system before driving the motor vehicle.  
 37 A person whose North Carolina driver's license is revoked because of a  
 38 conviction in another jurisdiction substantially similar to impaired driving  
 39 under G.S. 20-138.1 is eligible for a limited driving privilege if he would be  
 40 eligible for it had the conviction occurred in North Carolina. Eligibility for a  
 41 limited driving privilege following a revocation under G.S. 20-16.2(d) is  
 42 governed by G.S. 20-16.2(e1).  
 43 ...  
 44 ...  
 45 ~~(c1) Privilege Restrictions for High Risk Drivers. — Notwithstanding any other provision~~  
 46 ~~of this section, any limited driving privilege issued to a person convicted of an impaired driving~~  
 47 ~~offense with an alcohol concentration of 0.15 or more at the time of the offense shall:~~  
 48 ~~(1) Not become effective until at least 45 days after the final conviction under~~  
 49 ~~G.S. 20-138.1;~~  
 50 ~~(2) Require the applicant to comply with the ignition interlock requirements of~~  
 51 ~~subsection (g5) of this section; and~~

- ~~(3) Restrict the applicant to driving only to and from the applicant's place of employment, the place the applicant is enrolled in school, any court ordered treatment or substance abuse education, and any ignition interlock service facility.~~

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

...

(g2) Driving for Other than Work-Related Purposes. – A limited driving privilege may not allow driving for maintenance of the household except during standard working hours, and the limited driving privilege may contain any additional restrictions on that driving, in the discretion of the court. The limited driving privilege must authorize driving essential to the completion of any community work assignments, course of instruction at an Alcohol and Drug Education Traffic School, or substance abuse assessment or treatment, to which the applicant is ordered by the court as a condition of probation for the impaired driving conviction. If this driving will occur during nonstandard working hours, the limited driving privilege must specify the same limitations required by subsection (g1) for work-related driving during those hours, and it must include or have attached to it the name and address of the Alcohol and Drug Education Traffic School, the community service coordinator, or mental health treatment facility to which the applicant is assigned. Driving for educational purposes other than the course of instruction at an Alcohol and Drug Education Traffic School is subject to the same limitations applicable to ~~work-related~~work-related driving under subsections (g) and (g1). Driving to and from the applicant's place of religious worship is subject to the same limitations applicable to work-related driving under subsections (g) and (g1).

...

(g4) The restrictions set forth in subsection (g3)~~–and (g5)~~ of this section and sub-subdivision f. of subdivision (1) of subsection (b) of this section do not apply to a motor vehicle that meets all of the following requirements:

- (1) Is owned by the applicant's employer.
- (2) Is operated by the applicant solely for work-related ~~purposes~~purposes in accordance with subsections (g) and (g1) of this section, except that the applicant shall not be allowed to drive the motor vehicle to or from the applicant's residence.
- (3) Its owner has filed with the court a written document authorizing the applicant to drive the vehicle, for work-related purposes, under the authority of a limited driving privilege.

~~(g5) Ignition Interlock Required. — If a person's drivers license is revoked for a conviction of G.S. 20-138.1, and the person had an alcohol concentration of 0.15 or more, a judge shall include all of the following in a limited driving privilege order:~~

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

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

...."

**SECTION 7.(b)** G.S. 20-138.3(d) reads as rewritten:

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

(1) Is 18, 19, or 20 years old on the date of the offense.

(2) Has not previously been convicted of a violation of this section.

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

**SECTION 8.** Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

**"§ 20-179.5. Ignition interlock; administrative fee and costs for installation and monitoring.**

(a) The costs incurred in order to comply with the ignition interlock requirements imposed pursuant to Article 2 of this Chapter or pursuant to this Article, including costs for installation and monitoring of the ignition interlock system, shall be paid by the person ordered to install the system. The person also shall pay an ignition interlock administrative fee of one hundred dollars (\$100.00) for each ignition interlock system installed. After consultation with the Joint Legislative Transportation Oversight Committee, the Division may increase the ignition interlock administrative fee required by this subsection to an amount not to exceed one hundred fifty dollars (\$150.00). The administrative fee shall be collected at the time of installation by the vendor. Costs for installation and monitoring of the ignition interlock system shall be collected under terms agreed upon by the vendor and the person required to install the ignition interlock system.

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

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

**SECTION 9.** The Division of Motor Vehicles shall study the feasibility and advisability of expanding the list of ignition interlock service providers certified to provide ignition interlock device installation and service in this State. Included in this study shall be a review of the criteria required to be met by a service provider for certification and a comparison of this criteria to criteria utilized in other states. The Division of Motor Vehicles shall report its findings and recommendations, including any legislative proposals, to the Joint Legislative Transportation Oversight Committee no later than February 1, 2016.

1           **SECTION 10.** Sections 9 and 10 of this act are effective when this act becomes  
2 law. Section 6 of this act becomes effective December 1, 2015, and subsection (a) of that  
3 section applies to offenses committed on or after that date. The remainder of this act becomes  
4 effective August 1, 2017, and applies to offenses committed on or after that date and  
5 restorations for offenses committed on or after that date. Prosecutions for offenses committed  
6 before the effective date of this act are not abated or affected by this act, and the statutes that  
7 would be applicable but for this act remain applicable to those prosecutions.