

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

SESSION LAW 1997-507
HOUSE BILL 769

AN ACT TO PROVIDE THAT CERTAIN STUDENTS WHO DROP OUT OF SCHOOL OR DO NOT MAKE PROGRESS TOWARD GRADUATION SHALL NOT BE ELIGIBLE FOR DRIVERS PERMITS OR LICENSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-11, as amended by Chapter 16 of the 1997 Session Laws, reads as rewritten:

"§ 20-11. Issuance of limited learner's permit and provisional drivers license to person who is less than 18 years old.

(a) Process. -- Safe driving requires instruction in driving and experience. To ensure that a person who is less than 18 years old has both instruction and experience before obtaining a drivers license, driving privileges are granted first on a limited basis and are then expanded in accordance with the following process:

- (1) Level 1. -- Driving with a limited learner's permit.
- (2) Level 2. -- Driving with a limited provisional license.
- (3) Level 3. -- Driving with a full provisional license.

A permit or license issued under this section must have a color background or border that indicates the level of driving privileges granted by the permit or license.

(b) Level 1. -- A person who is at least 15 years old but less than 18 years old may obtain a limited learner's permit if the person meets all of the following requirements:

- (1) Passes a course of driver education prescribed in G.S. 20-88.1 or a course of driver instruction at a licensed commercial driver training school.
- (2) Passes a written test administered by the Division.
- (3) Has a driving eligibility certificate or a high school diploma or its equivalent.

(c) Level 1 Restrictions. -- A limited learner's permit authorizes the permit holder to drive a specified type or class of motor vehicle only under the following conditions:

- (1) The permit holder must be in possession of the permit.
- (2) A supervising driver must be seated beside the permit holder in the front seat of the vehicle when it is in motion. No person other than the supervising driver can be in the front seat.

- (3) For the first six months after issuance, the permit holder may drive only between the hours of 5:00 a.m. and 9:00 p.m.
- (4) After the first six months after issuance, the permit holder may drive at any time.
- (5) Every person occupying the vehicle being driven by the permit holder must have a safety belt properly fastened about his or her body, or be restrained by a child passenger restraint system as provided in G.S. 20-137.1(a), when the vehicle is in motion.

(d) Level 2. -- A person who is at least 16 years old but less than 18 years old may obtain a limited provisional license if the person meets all of the following requirements:

- (1) Has held a limited learner's permit issued by the Division for at least 12 months.
- (2) Has not been convicted of a motor vehicle moving violation or seat belt infraction during the preceding six months.
- (3) Passes a road test administered by the Division.
- (4) Has a driving eligibility certificate or a high school diploma or its equivalent.

(e) Level 2 Restrictions. -- A limited provisional license authorizes the license holder to drive a specified type or class of motor vehicle only under the following conditions:

- (1) The license holder must be in possession of the license.
- (2) The license holder may drive without supervision in any of the following circumstances:
 - a. From 5:00 a.m. to 9:00 p.m.
 - b. When driving to or from work.
 - c. When driving to or from an activity of a volunteer fire department, volunteer rescue squad, or volunteer emergency medical service, if the driver is a member of the organization.
- (3) The license holder may drive with supervision at any time. When the license holder is driving with supervision, the supervising driver must be seated beside the license holder in the front seat of the vehicle when it is in motion. The supervising driver need not be the only other occupant of the front seat, but must be the person seated next to the license holder.
- (4) Every person occupying the vehicle being driven by the license holder must have a safety belt properly fastened about his or her body, or be restrained by a child passenger restraint system as provided in G.S. 20-137.1(a), when the vehicle is in motion.

(f) Level 3. -- A person who is at least 16 years old but less than 18 years old may obtain a full provisional license if the person meets all of the following requirements:

- (1) Has held a limited provisional license issued by the Division for at least six months.
- (2) Has not been convicted of a motor vehicle moving violation or seat belt infraction during the preceding six months.
- (3) Has a driving eligibility certificate or a high school diploma or its equivalent.

A person who meets these requirements may obtain a full provisional license by mail.

(g) Level 3 Restrictions. -- The restrictions on Level 1 and Level 2 drivers concerning time of driving, supervision, and passenger limitations do not apply to a full provisional license.

(h) Out-of-State Exceptions. -- A person who is at least 16 years old but less than 18 years old, who was a resident of another state and has an unrestricted drivers license issued by that state, and who becomes a resident of this State may obtain one of the ~~following:~~ following upon the submission of a driving eligibility certificate or a high school diploma or its equivalent:

- (1) A temporary permit, if the person has not completed a drivers education program that meets the requirements of the Superintendent of Public Instruction but is currently enrolled in a drivers education program that meets these requirements. A temporary permit is valid for the period specified in the permit and authorizes the holder of the permit to drive a specified type or class of motor vehicle when in possession of the permit, subject to any restrictions imposed by the Division concerning time of driving, supervision, and passenger limitations. The period must end within 10 days after the expected completion date of the drivers education program in which the applicant is enrolled.
- (2) A full provisional license, if the person has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction, has held the license issued by the other state for at least 12 months, and has not been convicted during the preceding six months of a motor vehicle moving violation, a seat belt infraction, or an offense committed in another jurisdiction that would be a motor vehicle moving violation or seat belt infraction if committed in this State.
- (3) A limited provisional license, if the person has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction but either did not hold the license issued by the other state for at least 12 months or was convicted during the preceding six months of a motor vehicle moving violation, a seat belt infraction, or an offense committed in another jurisdiction that would be a motor vehicle moving violation or seat belt infraction if committed in this State.

(i) Application. -- An application for a permit or license authorized by this section must be signed by both the applicant and another person. That person must be the applicant's parent or guardian if the parent or guardian resides in this State and is qualified to be a supervising driver. In all other circumstances, that person must be an adult approved by the Division.

(j) Duration and Fee. -- A limited learner's permit expires on the eighteenth birthday of the permit holder. A limited provisional license expires on the eighteenth birthday of the license holder. A full provisional license expires on the date set under G.S. 20-7(f). The fee for a limited learner's permit or a limited provisional license is ten dollars (\$10.00). The fee for a full provisional license is the amount set under G.S. 20-7(i).

(k) Supervising Driver. -- A supervising driver must be a parent or guardian of the permit holder or license holder if a parent or guardian signed the application for the permit or license. If a parent or guardian did not sign the application, the supervising driver must be the adult who signed the application. A supervising driver must be a licensed driver who has been licensed to drive for at least five years.

(l) Violations. -- It is unlawful for the holder of a limited learner's permit, a temporary permit, or a limited provisional license to drive a motor vehicle in violation of the restrictions that apply to the permit or license. Failure to comply with a restriction concerning the time of driving or the presence of a supervising driver in the vehicle constitutes operating a motor vehicle without a license. Failure to comply with any other restriction, including seating and passenger limitations, is an infraction punishable by a monetary penalty as provided in G.S. 20-176.

(m) Insurance Status. -- The holder of a limited learner's permit is not considered a licensed driver for the purpose of determining the inexperienced operator premium surcharge under automobile insurance policies.

(n) Driving Eligibility Certificate. -- A person who desires to obtain a permit or license issued under this section and who does not have a high school diploma or its equivalent must have a driving eligibility certificate. A driving eligibility certificate must meet the following conditions:

- (1) The person who is required to sign the certificate under subdivision (4) of this subsection must show that he or she has determined that one of the following requirements is met:
 - a. The person is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent.
 - b. A substantial hardship would be placed on the person or the person's family if the person does not receive a certificate.
 - c. The person cannot make progress toward obtaining a high school diploma or its equivalent.
- (2) It must be on a form approved by the Division.
- (3) It must be dated within 30 days of the date the person applies for a permit or license issuable under this section.

- (4) It must be signed by the applicable person named below:
- a. The principal, or the principal's designee, of the public school in which the person is enrolled.
 - b. The administrator, or the administrator's designee, of the nonpublic school in which the person is enrolled.
 - c. The person who provides the academic instruction in the home school in which the person is enrolled.
 - d. The designee of the board of directors of the charter school in which the person is enrolled.
 - e. The president, or the president's designee, of the community college in which the person is enrolled.

Notwithstanding any other law, the decision concerning whether a driving eligibility certificate was properly issued or improperly denied shall be appealed only as provided under the rules adopted in accordance with G.S. 115C-12(27), G.S. 115D-5(a3), or G.S. 115C-566, whichever is applicable, and may not be appealed under this Chapter."

Section 2. G.S. 20-13.2 is amended by adding a new subsection to read:

"(c1) The Division must revoke the permit or license of a person under the age of 18 if the proper school authority notifies the Division that the person no longer meets the requirements for a driving eligibility certificate under G.S. 20-11(n). Notwithstanding subsection (d) of this section, the length of revocation must last until the person's eighteenth birthday or until the Division restores the permit or license under this subsection. The Division must restore a person's permit or license before the person's eighteenth birthday, if the person submits to the Division one of the following:

- (1) A high school diploma or its equivalent.
- (2) A driving eligibility certificate as required under G.S. 20-11(n).

Notwithstanding any other law, the decision concerning whether a driving eligibility certificate was properly issued or improperly denied shall be appealed only as provided under the rules adopted in accordance with G.S. 115C-12(27), G.S. 115D-5(a3), or G.S. 115C-566, whichever is applicable, and may not be appealed under this Chapter."

Section 3. G.S. 115C-12 is amended by adding a new subdivision to read:

"(27) Duty to Develop Rules for Issuance of Driving Eligibility Certificates.
-- The State Board of Education shall issue rules defining what is equivalent to a high school diploma for the purposes of G.S. 20-11 and G.S. 20-13.2. These rules shall apply to all educational programs offered in the State by public schools, charter schools, nonpublic schools, or community colleges.

The State Board also shall issue rules for the procedures a person who is or was enrolled in a public school, in a charter school, or in a nonpublic school accredited by the Board must follow and the requirements that person must meet to obtain a driving eligibility certificate. The person required under G.S. 20-11(n) to sign the driving eligibility certificate must provide the certificate if he or she determines that one of the following requirements is met:

- a. The person seeking the certificate is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent.
- b. A substantial hardship would be placed on the person seeking the certificate or the person's family if the person does not receive the certificate.
- c. The person seeking the certificate cannot make progress toward obtaining a high school diploma or its equivalent.

These rules shall provide for an appeal to an appropriate education authority by a person who is denied a driving eligibility certificate. The State Board also shall develop policies as to when it is appropriate to notify the Division of Motor Vehicles that a person who is or was enrolled in a public school, in a charter school, or in a nonpublic school accredited by the Board no longer meets the requirements for a driving eligibility certificate."

Section 4. G.S. 115D-5 is amended by adding the following new subsection to read:

"(a3) The State Board of Community Colleges shall issue rules for the procedures a person who is or was enrolled in a community college must follow and the requirements that person must meet to obtain a driving eligibility certificate. The person required under G.S. 20-11(n) to sign the driving eligibility certificate must provide the certificate if he or she determines that one of the following requirements is met:

- (1) The person seeking the certificate is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent.
- (2) A substantial hardship would be placed on the person seeking the certificate or the person's family if the person does not receive the certificate.
- (3) The person seeking the certificate cannot make progress toward obtaining a high school diploma or its equivalent.

The rules shall provide for an appeal through the grievance procedures established by the board of trustees of each community college by a person who is denied a driving eligibility certificate. The State Board also shall develop policies as to when it is appropriate to notify the Division of Motor Vehicles that a person who is or was enrolled in a community college no longer meets the requirements for a driving eligibility certificate. The State Board also shall adopt guidelines to assist the presidents of community colleges in their designation of representatives to sign driving eligibility certificates."

Section 5. Article 39 of Chapter 115C of the General Statutes is amended by adding the following new Part:

"Part 4. Miscellaneous Requirements.

"§ 115C-566. Driving eligibility certificates; requirements.

The Secretary of Administration, upon consideration of the advice of the Division of Nonpublic Education in the Office of the Governor and representatives of nonpublic

schools, shall issue rules for the procedures a person who is or was enrolled in a home school or in a nonpublic school that is not accredited by the State Board of Education must follow and the requirements that person must meet to obtain a driving eligibility certificate. The person required under G.S. 20-11(n) to sign the driving eligibility certificate must provide the certificate if he or she determines that one of the following requirements is met:

- (1) The person seeking the certificate is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent.
- (2) A substantial hardship would be placed on the person seeking the certificate or the person's family if the person does not receive the certificate.
- (3) The person seeking the certificate cannot make progress toward obtaining a high school diploma or its equivalent.

The rules shall provide for an appeal to an appropriate educational entity by a person who is denied a driving eligibility certificate. The Division of Nonpublic Education also shall develop policies as to when it is appropriate to notify the Division of Motor Vehicles that a person who is or was enrolled in a home school or in a nonpublic school that is not accredited by the State Board of Education no longer meets the requirements for a driving eligibility certificate."

Section 6. The State Board of Education shall initiate and coordinate meetings with the Division of Nonpublic Education in the Office of the Governor, with representatives of nonpublic schools, and with the State Board of Community Colleges in order to develop coordinated rules, policies, and guidelines needed to implement this act. Before defining what is equivalent to a high school diploma for purposes of G.S. 115C-12(27), as amended in Section 3 of this act, the State Board of Education shall consult with the State Board of Community Colleges and with representatives of nonpublic schools as designated by the Division of Nonpublic Education in the Office of the Governor.

Section 7. The State Board of Education shall study the effectiveness of this act on the dropout rates and progress toward graduation of students under the age of 18 and shall report the results of this study to the Joint Legislative Education Oversight Committee and the Fiscal Research Division by November 15, 2002.

Section 8. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies that is authorized to adopt rules to implement this act may adopt temporary rules to implement this act. This section shall continue in effect until all rules necessary to implement this act have become effective as either temporary or permanent rules.

Section 9. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 10. Sections 1 and 2 of this act become effective August 1, 1998. The remainder of this act is effective when it becomes law. Sections 1 and 2 of this act do not apply to any person who holds a valid North Carolina limited learner's permit issued before December 1, 1997, who holds a valid North Carolina learner's permit issued before December 1, 1997, or who is a provisional licensee and holds a valid North Carolina drivers license issued before December 1, 1997.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 10:20 a.m. this 17th day of September, 1997