

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 591

Short Title: LDP Changes/Ignition Interlock Exemption. (Public)

Sponsors: Representatives Ingle, Faircloth, and Stevens (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Transportation, if favorable, Judiciary Subcommittee B.

April 5, 2011

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE A LIMITED DRIVING PRIVILEGE WITH AN IGNITION INTERLOCK REQUIREMENT FOR FIRST-TIME DWI OFFENDERS WITH A REFUSAL REVOCATION, TO AUTHORIZE A LIMITED DRIVING PRIVILEGE FOR CERTAIN EIGHTEEN-, NINETEEN-, AND TWENTY-YEAR OLDS, AND TO PROVIDE AN EXCLUSION FROM THE IGNITION INTERLOCK REQUIREMENT AFTER TWO YEARS OF NONOPERATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-16.2(e1) reads as rewritten:

"(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 – A person whose driver's license has been revoked under this section may apply for and a judge authorized to do so by this subsection may issue a limited driving privilege if:

- (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;
- (2) At the time of the refusal, the person had not within the preceding seven years been convicted of an offense involving impaired 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;
- (4) The implied consent offense charged did not involve death or critical injury to another person;
- (5) The underlying charge for which the defendant was requested to submit to a chemical analysis has been finally disposed of:
 - a. Other than by conviction; or
 - 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;
- (6) Subsequent to the refusal the person has had no unresolved pending charges for or additional convictions of an offense involving impaired driving;
- (7) The person's license has been revoked for at least six months for the ~~refusal~~ refusal or the person currently has a limited driving privilege issued pursuant to subsection (e2) of this section; and



- 1 (8) The person has obtained a substance abuse assessment from a mental health
2 facility and successfully completed any recommended training or treatment
3 program.

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

15 **SECTION 2.** G.S. 20-16.2 is amended by adding a new subsection to read:

16 "(e2) Limited Driving Privilege for First Offenders in Certain Instances. – A person
17 whose drivers license has been revoked under this section may apply for, and a judge
18 authorized to do so by this subsection may issue, a limited driving privilege if:

- 19 (1) At the time of the refusal, the person held either a valid drivers license or a
20 license that had been expired for less than one year.
21 (2) At the time of the refusal, the person had never been convicted of an offense
22 involving impaired driving.
23 (3) At the time of the refusal, the person had never willfully refused to submit to
24 a chemical analysis under this section.
25 (4) The implied consent offense charged did not involve death or critical injury
26 to another person.
27 (5) The underlying charge for which the defendant was requested to submit to a
28 chemical analysis is still pending before the district or superior court.
29 (6) Subsequent to the refusal, the person has had no unresolved pending charges
30 for or additional convictions of an offense involving impaired driving.
31 (7) The person has completed any period of revocation required pursuant to
32 G.S. 20-16.5.
33 (8) The person has obtained a substance abuse assessment from a mental health
34 facility and successfully completed any recommended training or treatment
35 program.
36 (9) The limited driving privilege issued includes all of the following:
37 a. A restriction that the applicant may operate only a designated motor
38 vehicle.
39 b. A requirement that the designated motor vehicle be equipped with a
40 functioning ignition interlock system of a type approved by the
41 Commissioner, which is set to prohibit driving with an alcohol
42 concentration of greater than 0.00.
43 c. A requirement that the applicant personally activate the ignition
44 interlock system before driving the motor vehicle.

45 Except as modified in this subsection, the provisions of G.S. 20-179.3 relating to the procedure
46 for application and conduct of the hearing and the restrictions required or authorized to be
47 included in the limited driving privilege apply to applications under this subsection. If the
48 underlying charge is pending in district court, the hearing shall be conducted by a district court
49 judge in the district court district in which the underlying charge is pending. If the underlying
50 charge is pending in superior court, the hearing shall be conducted by a superior court judge in
51 the superior court district in which the underlying charge is pending. A limited driving

1 privilege issued under this subsection authorizes a person to drive if the person's license is
2 revoked solely under this section or solely under this section and G.S. 20-17(a)(2). If the
3 person's license is revoked for any other reason, the limited driving privilege is invalid."

4 **SECTION 3.** G.S. 20-179.3(b) reads as rewritten:

5 "(b) Eligibility. –

6 (1) A person convicted of the offense of impaired driving under G.S. 20-138.1 is
7 eligible for a limited driving privilege if:

- 8 a. At the time of the offense he held either a valid driver's license or a
9 license that had been expired for less than one year;
- 10 b. At the time of the offense he had not within the preceding seven
11 years been convicted of an offense involving impaired driving;
- 12 c. Punishment Level Three, Four, or Five was imposed for the offense
13 of impaired driving;
- 14 d. Subsequent to the offense he has not been convicted of, or had an
15 unresolved charge lodged against him for, an offense involving
16 impaired driving; and
- 17 e. The person has obtained and filed with the court a substance abuse
18 assessment of the type required by G.S. 20-17.6 for the restoration of
19 a drivers license.

20 A person whose North Carolina driver's license is revoked because of a conviction in
21 another jurisdiction substantially similar to impaired driving under G.S. 20-138.1 is eligible for
22 a limited driving privilege if he would be eligible for it had the conviction occurred in North
23 Carolina. A person who is 18, 19, or 20 years of age is eligible for a limited driving privilege
24 under this section unless the person has a prior conviction under G.S. 20-138.1 or is convicted
25 of violating G.S. 20-138.1 and G.S. 20-138.3 contemporaneously. Eligibility for a limited
26 driving privilege following a revocation under G.S. 20-16.2(d) is governed by
27 G.S. 20-16.2(e1)-G.S. 20-16.2(e1) and (e2)."

28 **SECTION 4.** G.S. 20-179.3(e) reads as rewritten:

29 "(e) Limited Basis for and Effect of Privilege. – A limited driving privilege issued under
30 this section authorizes a person to drive if his license is revoked solely under
31 ~~G.S. 20-17(a)(2)~~G.S. 20-17(a)(2), solely under G.S. 20-17(a)(2) and G.S. 20-13.2(b), or as
32 a result of a conviction in another jurisdiction substantially similar to impaired driving under
33 ~~G.S. 20-138.1;~~ G.S. 20-138.1. If the person's license is revoked under any other statute, the
34 limited driving privilege is invalid."

35 **SECTION 5.** Article 2 of Chapter 20 of the General Statutes is amended by adding
36 a new section to read:

37 "**§ 20-17.8A. Exclusion from ignition interlock requirements.**

38 Notwithstanding the provisions of G.S. 20-17.8, a person who would be subject to the
39 provisions of G.S. 20-17.8 who does not operate a vehicle on a public street or highway or
40 public vehicular area for a period of not less than two years and has not made an application for
41 the restoration of any driving privileges under any provision in this Chapter prior to the
42 expiration of two years from the date of conviction shall be eligible for a restoration of the
43 person's drivers license by the Division which does not require as a condition of restoration the
44 use of an ignition interlock system."

45 **SECTION 6.** This act becomes effective December 1, 2011, and applies to limited
46 driving privileges issued and licenses restored on or after that date.