

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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HOUSE BILL 147

Short Title: Impaired Driving Law Revisions. (Public)

Sponsors: Representative Clampitt.

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Judiciary 2, if favorable, Transportation, if favorable, Rules, Calendar, and Operations of the House

February 21, 2023

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE RESTORATION FEE FOR DRIVERS LICENSES REVOKED FOR CERTAIN OFFENSES INVOLVING ALCOHOL, TO AMEND THE CRITERIA THAT MUST BE MET FOR A PERSON'S DRIVERS LICENSE TO BE IMMEDIATELY REVOKED FOR AN IMPLIED-CONSENT OFFENSE CHARGE, AND TO INCREASE THE AMOUNT OF THE FEE A PERSON MUST PAY IF THE PERSON'S DRIVERS LICENSE IS IMMEDIATELY REVOKED FOR AN IMPLIED-CONSENT OFFENSE CHARGE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-7(i1) reads as rewritten:

"(i1) Restoration Fee. – Any person whose drivers license has been revoked pursuant to the provisions of this Chapter, other than ~~G.S. 20-17(a)(2) subdivision (2), (12), (13), or (14) of subsection (a) of G.S. 20-17,~~ shall pay a restoration fee of seventy dollars (\$70.00). A person whose drivers license has been revoked under ~~G.S. 20-17(a)(2) subdivision (2), (12), (13), or (14) of subsection (a) of G.S. 20-17~~ shall pay a restoration fee of ~~one two hundred forty five~~ seventy dollars ~~and twenty five cents (\$140.25).~~ (\$70.00). The fee shall be paid to the Division prior to the issuance to such person of a new drivers license or the restoration of the drivers license. The restoration fee shall be paid to the Division in addition to any and all fees which may be provided by law. This restoration fee shall not be required from any licensee whose license was revoked or voluntarily surrendered for medical or health reasons whether or not a medical evaluation was conducted pursuant to this Chapter. The ~~seventy dollar (\$70.00) fee, and the first one hundred five twenty dollars (\$105.00)~~ seventy dollar (\$70.00) fee, and the ~~first one hundred fifty dollar and twenty five cent (\$140.25)~~ first one hundred fifty dollar (\$120.00) of the ~~one two hundred forty five dollar and twenty five cent (\$140.25)~~ one hundred fifty dollar (\$120.00) fee, shall be deposited in the Highway Fund. ~~Twenty five~~ Sixty-five dollars ~~(\$25.00)~~ (\$65.00) of the ~~one two hundred forty five dollar and twenty five cent (\$140.25)~~ one hundred fifty dollar (\$120.00) fee shall be used to fund a statewide chemical alcohol testing program administered by the Forensic Tests for Alcohol Branch of the Chronic Disease and Injury Section of the Department of Health and Human Services. The remaining sixty-five dollars (\$65.00) of the two hundred fifty dollar (\$120.00) fee shall be remitted to the county for the sole purpose of reimbursing the county for jail expenses incurred due to enforcement of the impaired driving laws. Notwithstanding any other provision of law, a restoration fee assessed pursuant to this subsection may be waived by the Division when (i) the restoration fee remains unpaid for more than 10 years from the date of assessment and (ii) the person responsible for payment of the restoration fee has been issued a drivers license by the Division after the effective date of the revocation for which the restoration fee is owed. The Office of State Budget and Management



1 shall annually report to the General Assembly the amount of fees deposited in the General Fund  
2 and transferred to the Forensic Tests for Alcohol Branch of the Chronic Disease and Injury  
3 Section of the Department of Health and Human Services under this subsection."

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

5 **"§ 20-16.2. Implied consent to chemical analysis; mandatory revocation of license in event**  
6 **of refusal; right of driver to request analysis.**

7 (a) Basis for Officer to Require Chemical Analysis; Notification of Rights. – Any person  
8 who drives a vehicle on a highway or public vehicular area thereby gives consent to a chemical  
9 analysis if charged with an implied-consent offense. Any law enforcement officer who has  
10 reasonable grounds to believe that the person charged has committed the implied-consent offense  
11 may obtain a chemical analysis of the person.

12 Before any type of chemical analysis is administered the person charged shall be taken before  
13 a chemical analyst authorized to administer a test of a person's breath or a law enforcement officer  
14 who is authorized to administer chemical analysis of the breath, who shall inform the person  
15 orally and also give the person a notice in writing that:

- 16 (1) You have been charged with an implied-consent offense. Under the  
17 implied-consent law, you can refuse any test, but your drivers license will be  
18 revoked for one year and could be revoked for a longer period of time under  
19 certain circumstances, and an officer can compel you to be tested under other  
20 laws.
- 21 (2) Repealed by Session Laws 2006-253, s. 15, effective December 1, 2006, and  
22 applicable to offenses committed on or after that date.
- 23 (3) The test results, or the fact of your refusal, will be admissible in evidence at  
24 trial.
- 25 (4) Your driving privilege will be revoked immediately for at least 30 days if ~~you~~  
26 ~~refuse any test or the test result is 0.08 or more, 0.04 or more if you were~~  
27 ~~driving a commercial vehicle, or 0.01 or more if you are under the age of 21.~~  
28 a judicial official determines there is probable cause for the charge.
- 29 (5) After you are released, you may seek your own test in addition to this test.
- 30 (6) You may call an attorney for advice and select a witness to view the testing  
31 procedures remaining after the witness arrives, but the testing may not be  
32 delayed for these purposes longer than 30 minutes from the time you are  
33 notified of these rights. You must take the test at the end of 30 minutes even  
34 if you have not contacted an attorney or your witness has not arrived.

35 ...

36 (i) Right to Chemical Analysis before Arrest or Charge. – A person stopped or  
37 questioned by a law enforcement officer who is investigating whether the person may have  
38 committed an implied consent offense may request the administration of a chemical analysis  
39 before any arrest or other charge is made for the offense. Upon this request, the officer shall  
40 afford the person the opportunity to have a chemical analysis of his or her breath, if available, in  
41 accordance with the procedures required by G.S. 20-139.1(b). The request constitutes the  
42 person's consent to be transported by the law enforcement officer to the place where the chemical  
43 analysis is to be administered. Before the chemical analysis is made, the person shall confirm the  
44 request in writing and shall be ~~notified~~notified of all of the following:

- 45 (1) That the test results will be admissible in evidence and may be used against  
46 you in any implied consent offense that may ~~arise~~arise.
- 47 (2) Your driving privilege will be revoked immediately for at least 30 days if ~~the~~  
48 ~~test result is 0.08 or more, 0.04 or more if you were driving a commercial~~  
49 ~~vehicle, or 0.01 or more if you are under the age of 21.~~you are charged with  
50 an implied-consent offense and a judicial official determines there is probable  
51 cause for the charge.

- 1 (3) That if you fail to comply fully with the test procedures, the officer may charge  
 2 you with any offense for which the officer has probable cause, and if you are  
 3 charged with an implied consent offense, your refusal to submit to the testing  
 4 required as a result of that charge would result in revocation of your driving  
 5 privilege. The results of the chemical analysis are admissible in evidence in  
 6 any proceeding in which they are relevant."

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

8 "**§ 20-16.5. Immediate civil license revocation for certain persons charged with**  
 9 **implied-consent offenses.**

10 ...

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

- 14 (1) A law enforcement officer has reasonable grounds to believe that the person  
 15 has committed an offense subject to the implied-consent provisions of ~~G.S.~~  
 16 ~~20-16.2;G.S. 20-16.2.~~  
 17 (2) The person is charged with that offense as provided in ~~G.S.~~  
 18 ~~20-16.2(a);G.S. 20-16.2(a).~~  
 19 (3) The law enforcement officer and the chemical analyst comply with the  
 20 procedures of G.S. 20-16.2 and G.S. 20-139.1 in requiring the person's  
 21 submission to or procuring a chemical ~~analysis;~~analysis.  
 22 (4) ~~The person;~~Either of the following criteria is met:  
 23 a. ~~Willfully~~The person willfully refuses to submit to the chemical  
 24 ~~analysis;~~analysis.  
 25 b. ~~Has an alcohol concentration of 0.08 or more within a relevant time~~  
 26 ~~after the driving;~~  
 27 c. ~~Has an alcohol concentration of 0.04 or more at any relevant time after~~  
 28 ~~the driving of a commercial motor vehicle; or~~  
 29 d. ~~Has any alcohol concentration at any relevant time after the driving~~  
 30 ~~and the person is under 21 years of age.~~  
 31 e. A judicial official determines there is probable cause for the charge.

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

- 35 (1) The person requests a precharge chemical analysis pursuant to ~~G.S. 20-16.2(i);~~  
 36 ~~and~~G.S. 20-16.2(i).  
 37 (2) ~~The person has:~~  
 38 a. ~~An alcohol concentration of 0.08 or more at any relevant time after~~  
 39 ~~driving;~~  
 40 b. ~~An alcohol concentration of 0.04 or more at any relevant time after~~  
 41 ~~driving a commercial motor vehicle; or~~  
 42 c. ~~Any alcohol concentration at any relevant time after driving and the~~  
 43 ~~person is under 21 years of age; and~~  
 44 (3) The person is charged with an implied-consent offense.  
 45 (4) A judicial official determines there is probable cause for the charge.

46 ...

47 (j) Costs. – Unless the magistrate or judge orders the revocation rescinded, a person  
 48 whose license is revoked under this section must pay a fee of ~~one two hundred fifty~~two hundred fifty dollars  
 49 ~~(\$100.00)-(\$250.00)~~ as costs for the action before the person's license may be returned under  
 50 subsection (h) of this section. Fifty percent (50%) of the costs collected under this section shall  
 51 be credited to the General Fund. Twenty-five percent (25%) of the costs collected under this

1 section shall be used to fund a statewide chemical alcohol testing program administered by the  
2 Injury Control Section of the Department of Health and Human Services. The remaining  
3 twenty-five percent (25%) of the costs collected under this section shall be remitted to the county  
4 for the sole purpose of reimbursing the county for jail expenses incurred due to enforcement of  
5 the impaired driving laws.

6 ...."

7 **SECTION 4.** This act becomes effective December 1, 2023, and applies to offenses  
8 committed on or after that date.