

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 356

Short Title: Revoke Limited Driving.

(Public)

Sponsors: Representatives Stam; and Privette.

Referred to: Judiciary.

February 23, 1989

A BILL TO BE ENTITLED

AN ACT TO MANDATE REVOCATION OF A LIMITED DRIVING PRIVILEGE IN
CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-179.3(i) reads as rewritten:

"(i) Modification or Revocation of Privilege. – A judge who issues a limited driving privilege is authorized to modify or revoke the limited driving privilege upon a showing that the circumstances have changed sufficiently to justify modification or revocation. The judge must revoke the limited driving privilege if he determines that the holder thereof has violated any of its restrictions or has been convicted of any violation of law involving the operation or use of a motor vehicle except equipment or inspection or parking violations. If the judge who issued the privilege is not presiding in the court in which the privilege was issued, a presiding judge in that court may modify or revoke a privilege in accordance with this subsection. The judge must indicate in the order of modification or revocation the reasons for the order, or he must make specific findings indicating the reason for the order and those findings must be entered in the record of the case."

Sec. 2. G.S. 20-179.3(j) reads as rewritten:

"(j) Effect of Violation of Restriction. – A holder of a limited driving privilege who violates any of its restrictions commits the offense of driving while his license is revoked under ~~G.S. 20-28(a)~~ G.S. 20-28(a). Upon conviction, his limited driving privilege shall be revoked; and is he shall be subject to punishment and the additional license revocation period as provided in that section. If a law-enforcement officer has reasonable grounds to believe that the holder of a limited driving privilege has

1 consumed alcohol while driving or has driven while he has remaining in his body any
2 alcohol previously consumed, the suspected offense of driving while license is revoked
3 is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2.
4 If a holder of a limited driving privilege is charged with driving while license revoked
5 by violating a restriction contained in his limited driving privilege, and a judicial official
6 determines that there is probable cause for the charge, the limited driving privilege is
7 suspended pending the resolution of the case, and the judicial official must require the
8 holder to surrender the limited driving privilege. The judicial official must also notify
9 the holder that he is not entitled to drive until his case is resolved."

10 Sec. 3. G.S. 20-16.2(e1) reads as rewritten:

11 "(e1) Limited Driving Privilege after Six Months in Certain Instances. – A person
12 whose driver's license has been revoked under this section may apply for and a judge
13 authorized to do so by this subsection may issue a limited driving privilege if:

- 14 (1) At the time of the refusal he held either a valid driver's license or a
15 license that had been expired for less than one year;
- 16 (2) At the time of the refusal, he had not within the preceding seven years
17 been convicted of an offense involving impaired driving;
- 18 (3) At the time of the refusal, he had not in the preceding seven years
19 willfully refused to submit to a chemical analysis under this section;
- 20 (4) The implied-consent offense charged did not involve death or critical
21 injury to another person;
- 22 (5) The underlying charge for which the defendant was requested to
23 submit to a chemical analysis has been finally disposed of:
 - 24 a. Other than by conviction; or
 - 25 b. By a conviction of impaired driving under G.S. 20-138.1, at a
26 punishment level authorizing issuance of a limited driving
27 privilege under G.S. 20-179.3(b), and he has complied with at
28 least one of the mandatory conditions of probation listed for the
29 punishment level under which he was sentenced;
- 30 (6) Subsequent to the refusal he has had no unresolved pending charges
31 for or additional convictions of an offense involving impaired driving;
32 and
- 33 (7) His license has been revoked for at least six months for the refusal.

34 Except as modified in this subsection, the provisions of G.S. 20-179.3 relating to the
35 procedure for application and conduct of the hearing and the restrictions required or
36 authorized to be included in the limited driving privilege apply to applications under
37 this subsection. If the case was finally disposed of in the district court, the hearing must
38 be conducted in the district court district as defined in G.S. 7A-133 in which the refusal
39 occurred by a district court judge. If the case was finally disposed of in the superior
40 court, the hearing must be conducted in the superior court district or set of districts as
41 defined in G.S. 7A-41.1 in which the refusal occurred by a superior court judge. A
42 limited driving privilege issued under this section authorizes a person to drive if his
43 license is revoked solely under this section or solely under this section and G.S. 20-
44 17(2). If the person's license is revoked for any other reason, the limited driving

1 privilege is invalid. The limited driving privilege granted pursuant to this section is
2 subject to the provisions of G.S. 20-179.3(j)."

3 Sec. 4. This act shall become effective October 1, 1989.