

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 366

Short Title: 18-20 Yrs.-D.W.I. at 0.02.

(Public)

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Sponsors: Representatives Easterling; Gardner, McAllister, and Morgan.

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Referred to: Judiciary II.

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February 25, 1993

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE LEGAL LIMIT OF BLOOD ALCOHOL FROM 0.10 TO  
0.02 FOR PERSONS EIGHTEEN TO TWENTY YEARS OF AGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-138.1(a) reads as rewritten:

"(a) Offense. – A person commits the offense of impaired driving if he drives any  
vehicle upon any highway, any street, or any public vehicular area within this State:

(1) While under the influence of an impairing substance; ~~or~~

(2) After having consumed sufficient alcohol that he has, at any relevant  
time after the driving, an alcohol concentration of 0.10 or ~~more~~ more;

or

(3) After having consumed sufficient alcohol that he has, at any relevant  
time after the driving, an alcohol concentration of 0.02 or more if he is  
18 to 20 years of age."

Sec. 2. G.S. 20-12.1(a) reads as rewritten:

"(a) It is unlawful for any person to accompany another person driving a motor  
vehicle, in accordance with G.S. 20-11, or instruct another person driving a motor  
vehicle, in accordance with G.S. 20-7(1-1) and (m) or G.S. 20-12:

(1) While the person accompanying or instructing is under the influence of  
an impairing substance; ~~or~~

(2) After having consumed sufficient alcohol that he has, at any relevant  
time after the driving, an alcohol concentration of 0.10 or ~~more~~ more;

or

1           (3) After having consumed sufficient alcohol that he has, at any relevant  
2           time after the driving, an alcohol concentration of 0.02 or more if he is  
3           18 to 20 years of age."

4           Sec. 3. G.S. 20-16.2(a) reads as rewritten:

5           "(a) Basis for Charging Officer to Require Chemical Analysis; Notification of  
6 Rights. – Any person who drives a vehicle on a highway or public vehicular area  
7 thereby gives consent to a chemical analysis if he is charged with an implied-consent  
8 offense. The charging officer must designate the type of chemical analysis to be  
9 administered, and it may be administered when he has reasonable grounds to believe  
10 that the person charged has committed the implied-consent offense. Except as provided  
11 in subsection (b), the person charged must be taken before a chemical analyst authorized  
12 to administer a test of a person's breath, who must inform the person orally and also  
13 give him a notice in writing that:

14           (1) He has a right to refuse to be tested.

15           (2) Refusal to take any required test or tests will result in an immediate  
16 revocation of his driving privilege for at least 10 days and an  
17 additional 12-month revocation by the Division of Motor Vehicles.

18           (3) The test results, or the fact of his refusal, will be admissible in  
19 evidence at trial on the offense charged.

20           (4) His driving privilege will be revoked immediately for at least 10 days  
21 if:

22           a. The test reveals an alcohol concentration of 0.10 or more; ~~or~~

23           b. He was driving a commercial motor vehicle and the test reveals  
24 an alcohol concentration of 0.04 or ~~more~~ more; or

25           c. He is between the age of 18 and 20 years and the test reveals an  
26 alcohol concentration of 0.02 or more.

27           (5) He may have a qualified person of his own choosing administer a  
28 chemical test or tests in addition to any test administered at the  
29 direction of the charging officer.

30           (6) He has the right to call an attorney and select a witness to view for him  
31 the testing procedures, but the testing may not be delayed for these  
32 purposes longer than 30 minutes from the time he is notified of his  
33 rights."

34           Sec. 4. G.S. 20-16.2(i) reads as rewritten:

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

1 (1) That the test results will be admissible in evidence and may be used  
2 against him in any implied-consent offense that may arise;

3 (2) That his license will be revoked for at least 10 days if:

4 a. The test reveals an alcohol concentration of 0.10 or more; ~~or~~

5 b. He was driving a commercial motor vehicle and the test results  
6 reveal an alcohol concentration of 0.04 or ~~more-~~more; or

7 c. He is between the age of 18 and 20 years and the test reveals an  
8 alcohol concentration of 0.02 or more.

9 (3) That if he fails to comply fully with the test procedures, the officer  
10 may charge him with any offense for which the officer has probable  
11 cause, and if he is charged with an implied-consent offense, his refusal  
12 to submit to the testing required as a result of that charge would result  
13 in revocation of his driver's license. The results of the chemical  
14 analysis are admissible in evidence in any proceeding in which they  
15 are relevant."

16 Sec. 5. G.S. 20-16.5(b) reads as rewritten:

17 "(b) Revocations for Persons Who Refuse Chemical Analyses or Have Alcohol  
18 Concentrations of 0.10 or More After Driving a Motor ~~Vehicle or Vehicle~~, of 0.04 or  
19 More After Driving a Commercial ~~Vehicle~~.Vehicle, or of 0.02 or More After Driving a  
20 Motor Vehicle and Being Between 18 and 20 Years of Age. – A person's driver's license  
21 is subject to revocation under this section if:

22 (1) A charging officer has reasonable grounds to believe that the person  
23 has committed an offense subject to the implied-consent provisions of  
24 G.S. 20-16.2;

25 (2) The person is charged with that offense as provided in G.S. 20-16.2(a);

26 (3) The charging officer and the chemical analyst comply with the  
27 procedures of G.S. 20-16.2 and G.S. 20-139.1 in requiring the person's  
28 submission to or procuring a chemical analysis; and

29 (4) The person:

30 a. Willfully refuses to submit to the chemical analysis;

31 b. Has an alcohol concentration of 0.10 or more within a relevant  
32 time after the driving; ~~or~~

33 c. Has an alcohol concentration of 0.04 or more at any relevant  
34 time after the driving of a commercial ~~vehicle~~.vehicle; or

35 d. Has an alcohol concentration of 0.02 or more at any relevant  
36 time after the driving of a vehicle and he is between 18 and 20  
37 years of age."

38 Sec. 6. G.S. 20-16.5(b1) reads as rewritten:

39 "(b1) Precharge Test Results as Basis for Revocation. – Notwithstanding the  
40 provisions of subsection (b), a person's driver's license is subject to revocation under  
41 this section if:

42 (1) He requests a precharge chemical analysis pursuant to G.S. 20-16.2(i);  
43 and

44 (2) He has:

- 1                   a.     An alcohol concentration of 0.10 or more at any relevant time  
2                   after driving; ~~or~~
- 3                   b.     An alcohol concentration of 0.04 or more at any relevant time  
4                   after driving a commercial motor vehicle; ~~and or~~
- 5                   c.     An alcohol concentration of 0.02 or more at any relevant time  
6                   after driving and he is between 18 and 20 years of age; and
- 7                   (3)    He is charged with an implied-consent offense."
- 8                   Sec. 7. This act becomes effective October 1, 1993, and applies to offenses  
9 committed on or after that date.