

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**EXTRA SESSION 1994**

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SENATE BILL 123\*

Select Committee on Courts Committee Substitute Adopted 2/24/94

Appropriations Committee Substitute No. 2 Adopted 3/2/94

Short Title: Limit Privileges for Felons.

(Public)

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Sponsors:

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Referred to:

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February 15, 1994

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR THE FORFEITURE OR RESTRICTION OF CERTAIN  
2 CITIZENSHIP PRIVILEGES OF AN INDIVIDUAL CONVICTED OF A  
3 FELONY.  
4

5 Whereas, the rights and privileges of citizenship are interrelated with the  
6 responsibilities of citizenship; and

7 Whereas, it is the policy of this State that conviction of a felony connotes  
8 such irresponsibility as to justify forfeiture of privileges as well as forfeiture of rights;  
9 and

10 Whereas, licensing by the State and its subdivisions for various activities,  
11 such as regular and commercial drivers licenses, business and occupational licenses, and  
12 hunting and fishing licenses, is a matter of privilege and not of right; and

13 Whereas, although constitutional standards apply to every citizen's  
14 opportunity for licensing, primarily through due process and equal protection  
15 considerations, the people of North Carolina demand that every citizen demonstrate  
16 sufficient responsibility to retain licensing privileges; and

17 Whereas, one who commits a felony does not demonstrate sufficient  
18 responsibility; and

19 Whereas, the State may require forfeiture or restriction of any licensing  
20 privilege upon a person's conviction of a felony; and

21 Whereas, to further the purposes of suspended sentences and probation and  
22 provide incentive for persons convicted of a felony to complete such sentences and

1 accept responsibility for their conduct, trial courts particularly should be authorized to  
2 order forfeiture or restriction as a condition of a suspended sentence or probation and  
3 require forfeiture as to persons who do not consent to a suspended sentence or  
4 probation; and

5           Whereas, restoration of the privileges of citizenship should occur in the same  
6 manner as restoration of the rights of citizenship; Now, therefore,  
7 The General Assembly of North Carolina enacts:

8           Section 1. Article 81 of Chapter 15A of the General Statutes is amended by  
9 adding a new section to read:

10 **"§ 15A-1331A. Forfeiture or restriction of licensing privileges upon conviction of a**  
11 **felony.**

12 (a) The following definitions apply in this section:

13 (1) Licensing agency. – Any department, division, agency, board, or other  
14 unit of State or local government that issues licenses for licensing  
15 privileges.

16 (2) Licensing privilege. – The privilege of an individual to be authorized  
17 to engage in an activity as evidenced by a license. The term includes  
18 the privileges as evidenced by the following licenses: regular and  
19 commercial drivers licenses, occupational licenses, hunting licenses,  
20 and fishing licenses. The term does not include the privileges of  
21 paying taxes as evidenced by a tax license issued under Chapter 105 of  
22 the General Statutes, Article 7 of Chapter 153A of the General  
23 Statutes, or Article 9 of Chapter 160A of the General Statutes. The  
24 term does not include the privilege of marrying as evidenced by a  
25 marriage license.

26 (3) Occupational license. – A licensure, permission, certification, or  
27 similar authorization required by statute or rule to practice an  
28 occupation or business.

29 (b) Upon conviction of a felony, an individual automatically forfeits the  
30 individual's licensing privileges for the full term of any active sentence received if:

31 (1) The individual is offered a suspended sentence on condition the  
32 individual accepts probation and the individual refuses probation.

33 (2) The individual's probation is revoked or suspended.

34 (c) Whenever an individual's licensing privileges are forfeited under this section,  
35 the clerk of court shall notify electronically or by any other appropriate means, the  
36 Division of Motor Vehicles, the Department of Revenue, and every licensing agency  
37 identified in the judge's order that the individual's licensing privileges are forfeited and  
38 the length of time of the forfeiture. Upon receipt of the notice from the clerk of court,  
39 the Department of Revenue shall give notice of the forfeiture electronically or by any  
40 other appropriate means to any licensing agency that its records indicate has issued a  
41 licensing privilege or occupational license to the person identified in the notice. A  
42 licensing agency, upon receiving notice from the clerk of court or the Department of  
43 Revenue, shall require the individual whose licensing privileges were forfeited to  
44 surrender the forfeited license issued by the agency and shall not reissue a license to that

1 individual during the period of forfeiture as stated in the notice. Licensing agencies are  
2 authorized to establish procedures to implement this section.

3 (d) Notwithstanding any other provision of this section, the court may order that  
4 an individual whose licensing privileges are forfeited under this section be granted a  
5 limited driving privilege if the court makes any of the following specific findings:

6 (1) The defendant is supporting existing dependents and must have a  
7 drivers license to be gainfully employed.

8 (2) The defendant has an existing dependent who requires serious medical  
9 treatment and the defendant is the only person able to provide  
10 transportation to the dependent to the health care facility where the  
11 dependent can receive the needed medical treatment."

12 Sec. 2. G.S. 15A-1344 is amended by adding a new subsection to read:

13 "(d2) License Forfeiture in Response to Violation. – Upon a finding that a person  
14 sentenced to community punishment or intermediate punishment under Article 81B of  
15 this Chapter has violated one or more conditions of probation, the court may order the  
16 forfeiture of any regular or commercial drivers licenses issued to the person or of any  
17 license or permit issued by the Wildlife Resources Commission to the person.  
18 Forfeiture under this subsection may be for up to three years, but in no event shall the  
19 time of forfeiture be less than the term of community punishment or intermediate  
20 punishment given. The clerk of court shall notify the appropriate licensing agency of  
21 the court's order."

22 Sec. 3. Chapter 20 of the General Statutes is amended by adding a new  
23 section to read:

24 "**§ 20-15.1. Revocations when licensing privileges forfeited upon conviction of a**  
25 **felony.**

26 The Division shall revoke the license of a person whose licensing privileges have  
27 been forfeited under G.S. 15A-1331A or G.S. 15A-1344(d2). If a revocation period set  
28 by this Chapter is longer than the revocation period resulting from the forfeiture of  
29 licensing privileges, the revocation period in this Chapter applies."

30 Sec. 4. G.S. 113-277 is amended by adding a new subsection to read:

31 "(a4) The Wildlife Resources Commission shall order the surrender of any license  
32 or permit issued under this Article to a person whose licensing privileges have been  
33 forfeited under G.S. 15A-1331A or G.S. 15A-1344(d2) for the period specified by the  
34 court."

35 Sec. 5. Section 2 of this act becomes effective on the same date that Section  
36 56 of Chapter 538 of the 1993 Session Laws provides that that act becomes effective.  
37 The remainder of this act becomes effective May 1, 1994, and applies to offenses  
38 committed on or after that date.