

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE BILL 1087  
Judiciary II Committee Substitute Adopted 4/19/05  
Finance Committee Substitute Adopted 8/10/05

Short Title: Limited Driving Privileges - DWLR.

(Public)

Sponsors:

Referred to:

March 24, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW PERSONS WHO ARE CONVICTED OF CERTAIN DRIVING  
3 WHILE LICENSE REVOKED OFFENSES TO OBTAIN A LIMITED DRIVING  
4 PRIVILEGE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 3 of Chapter 20 is amended by adding a new section to  
7 read:

8 **"§ 20-20.1. Limited driving privilege for certain revocations.**

9 (a) Definitions. – As used in this section, the following definitions apply:

- 10 (1) Limited driving privilege. – A judgment issued by a court authorizing  
11 a person with a revoked drivers license to drive under the terms and  
12 conditions authorized under this section.  
13 (2) Nonfleet private passenger motor vehicle. – As defined in Article 40 of  
14 Chapter 58 of the General Statutes.  
15 (3) Nonstandard working hours. – Any time other than 6 A.M. until 8  
16 P.M. on Monday through Friday.  
17 (4) Offense involving impaired driving. – As defined in  
18 G.S. 20-4.01(24a).  
19 (5) Standard working hours. – Any time from 6 A.M. until 8 P.M. on  
20 Monday through Friday.

21 (b) Eligibility. – The court for good cause shown may issue a limited driving  
22 privilege to a person whose North Carolina drivers license is currently revoked for one  
23 year under G.S. 20-28(a) or G.S. 20-28.1 if all of the following conditions apply:

- 24 (1) The person has no other current drivers license revocations other than  
25 the revocation under G.S. 20-28(a) or G.S. 20-28.1.  
26 (2) The person has complied with the one-year revocation for at least 90  
27 days immediately preceding the motion for a limited driving privilege.

1           (3)    The person has no unresolved or outstanding motor vehicle offenses or  
2           motor vehicle charges or unpaid motor vehicle fines or penalties in this  
3           or any other state.

4           (4)    The person has not held a limited driving privilege issued under this  
5           section at any time during the three years prior to the filing of the  
6           current action.

7           (c)    Ineligibility. – A person is not eligible to receive a limited driving privilege  
8           under this section if any of the following conditions apply:

9           (1)    The person is eligible to receive a limited driving privilege under any  
10           other provision of law.

11           (2)    The person's drivers license was revoked for an offense involving  
12           impaired driving at the time the person was charged under  
13           G.S. 20-28(a) or G.S. 20-28.1.

14           (3)    The person's drivers license is revoked under G.S. 20-17.1.

15           (4)    The person is not eligible to receive a North Carolina drivers license  
16           under G.S. 20-9(f).

17           (5)    The Division has refused to issue a drivers license to the person under  
18           G.S. 20-9(e).

19           (6)    The person's drivers license issued by another state has been revoked  
20           by that state for any reason or the person's North Carolina drivers  
21           license has been revoked under any interstate compact or agreement.

22           (7)    The person's drivers license is revoked for two years or permanently  
23           revoked under G.S. 20-28(a) or G.S. 20-28.1.

24           (d)    Scope of Privilege. – A limited driving privilege must restrict the holder to  
25           essential driving related to one or more of the purposes listed in this subsection. Any  
26           driving that is not related to the purposes authorized in this subsection is unlawful even  
27           though done at times and upon routes that may be authorized by the privilege. Except as  
28           otherwise provided, all driving must be for a purpose and done within the restrictions  
29           specified in the privilege.

30           The permissible purposes for a limited driving privilege are: (i) travel to and from  
31           the person's employment; (ii) necessary maintenance of the person's household; and (iii)  
32           emergency medical care for the person or for an immediate family member of the  
33           person who resides in the same household with the person. Driving related to  
34           emergency medical care is authorized at any time and without restriction as to routes.

35           (e)    Jurisdiction. – A motion for a limited driving privilege under this section is  
36           separate from any action that resulted in the initial revocation and is a civil action filed  
37           in district court in the county of the person's residence as reflected by the Division's  
38           records. The costs required under G.S. 7A-305(a3) apply to this action.

39           (f)    Motion. – A motion for a limited driving privilege requested under this  
40           section must include a copy of the person's driving history. The motion must also  
41           include a sworn statement that there are no outstanding or unresolved charges, no  
42           unpaid fines, and no violations in this or any other state that could result in the  
43           revocation of the person's drivers license, and that the person has complied with the  
44           current revocation for the time period required under subdivision (b)(2) of this section

1 immediately preceding the person's motion for a limited driving privilege under this  
2 section.

3 (g) Employment Driving in Standard Working Hours. – The court may authorize  
4 driving for employment-related purposes during standard working hours without  
5 specifying the times and routes in which the driving must occur. If the person is not  
6 required to drive for essential employment-related purposes except during standard  
7 working hours, the limited driving privilege must prohibit driving during nonstandard  
8 working hours unless the driving is for emergency medical care or is authorized by  
9 subsection (i) of this section. The limited driving privilege must state the name and  
10 address of the applicant's place of work or employer and may include other information  
11 and restrictions applicable to work-related driving in the discretion of the court.

12 (h) Employment Driving in Nonstandard Working Hours. – If a person is  
13 required to drive during nonstandard working hours for an essential employment-related  
14 purpose and the person provides to the court documentation of that fact, the court may  
15 authorize the person to drive for that purpose during those hours. If the person is  
16 self-employed, the documentation must be attached to or made a part of the limited  
17 driving privilege. The limited driving privilege must state the name and address of the  
18 person's place of employment or employer and may include other information and  
19 restrictions applicable to work-related driving, in the discretion of the court. If the court  
20 determines that it is necessary for the person to drive during nonstandard working hours  
21 for an employment-related purpose, the court may authorize the person to drive subject  
22 to these limitations:

23 (1) If the person is required to drive to and from a specific place of  
24 employment at regular times, the limited driving privilege must  
25 specify the general times and routes in which the person will be  
26 driving to and from work and restrict driving to those times and routes.

27 (2) If the person is required to drive to and from work at a specific place  
28 but is unable to specify the times during which the driving will occur,  
29 the limited driving privilege must specify the general routes which the  
30 person will be driving to and from work and restrict the driving to  
31 those general routes.

32 (3) If the person is required to drive to and from work at regular times but  
33 is unable to specify the places at which work is to be performed, the  
34 limited driving privilege must specify the general times and  
35 geographic boundaries in which the person will be driving and restrict  
36 driving to those times and within those boundaries.

37 (4) If the person can specify neither the times nor places in which the  
38 person will be driving to and from work, or if the person is required to  
39 drive during these nonstandard working hours as a condition of  
40 employment, the limited driving privilege must specify the geographic  
41 boundaries in which the person will drive and restrict driving to within  
42 those boundaries.

43 (i) Household Maintenance. – A limited driving privilege may not allow driving  
44 for maintenance of the household except during standard working hours. The limited

1 driving privilege may contain any additional restrictions on that driving, in the  
2 discretion of the court.

3 (j) Proof of Financial Responsibility. – A person applying for a limited driving  
4 privilege under this section must provide to the court proof of financial responsibility,  
5 and a limited driving privilege must be conditioned upon the maintenance of financial  
6 responsibility during the period of the limited driving privilege. The Commissioner may  
7 require that certificates required by this subsection be on a form approved by the  
8 Commissioner. Nothing in this subsection precludes any person from showing proof of  
9 financial responsibility in any other manner authorized by Articles 9A and 13 of this  
10 Chapter. This subsection does not apply to a person who does not own a currently  
11 registered motor vehicle and who does not operate a nonfleet private passenger motor  
12 vehicle that is owned by another person and that is not insured under a commercial  
13 motor vehicle liability insurance policy. If this subsection applies, the person must sign  
14 a written certificate to that effect. The Division shall furnish the certificate. Any  
15 material misrepresentation made by the person on the certificate shall be grounds for the  
16 court to revoke the limited driving privilege granted under this section.

17 Proof of financial responsibility shall be in one of the following forms:

18 (1) A written certificate or electronically transmitted facsimile of the  
19 certificate issued by an insurance carrier duly authorized to do  
20 business in this State certifying that there is in effect a nonfleet private  
21 passenger motor vehicle liability policy for the benefit of the person  
22 required to furnish proof of financial responsibility. The certificate or  
23 facsimile shall state the effective date and expiration date of the  
24 nonfleet private passenger motor vehicle liability policy and must state  
25 the date that the certificate or facsimile is issued. The certificate or  
26 facsimile must remain effective proof of financial responsibility for a  
27 period of 30 consecutive days following the date the certificate or  
28 facsimile is issued but must not in and of itself constitute a binder or  
29 policy of insurance.

30 (2) A binder for or policy of nonfleet private passenger motor vehicle  
31 liability insurance under which the applicant is insured, provided that  
32 the binder or policy states the effective date and expiration date of the  
33 nonfleet private passenger motor vehicle liability policy.

34 (k) Other Restrictions. – The court must include in all limited driving privileges a  
35 restriction that the holder of the privilege not consume alcohol while driving or drive at  
36 any time while the holder has remaining in the holder's body any alcohol or controlled  
37 substance previously consumed, unless the controlled substance was lawfully obtained  
38 and taken in therapeutically appropriate amounts. The court may impose any other  
39 reasonable restrictions or conditions necessary to achieve the purposes of this section.

40 (l) Term. – The term of a limited driving privilege issued under this section shall  
41 be equal to the length of the revocation under G.S. 20-28(a) or G.S. 20-28.1.

42 (m) Notification. – The clerk of court must send a copy of any limited driving  
43 privilege issued in the county to the Division. A limited driving privilege that is not

1 authorized by this section or that does not contain the limitations required by law is  
2 invalid.

3 (n) Modification. – A court may modify or revoke a person's limited driving  
4 privilege issued under this section upon a showing that the circumstances have changed  
5 sufficiently to justify modification or revocation. If the judge who issued the privilege is  
6 not presiding in the court in which the privilege was issued, a presiding judge in that  
7 court may modify or revoke the privilege. The judge must indicate in the order of  
8 modification or revocation the reasons for the order, or the judge must make specific  
9 findings indicating the reason for the order and those findings must be entered in the  
10 record of the case. When a court issues an order of modification or revocation, the clerk  
11 must send a copy of the order to the Division.

12 (o) Effect of Violation. – A violation of a limited driving privilege issued under  
13 this subsection constitutes the offense of driving while license revoked under  
14 G.S. 20-28. Whenever a person is charged with operating a motor vehicle in violation of  
15 the limited driving privilege, the limited driving privilege must be suspended pending  
16 the final disposition of the charge."

17 **SECTION 2.** G.S. 20-28 is amended by adding a new subsection to read:

18 "(c1) Application for License Under Limited Driving Privilege. – A person who  
19 holds a limited driving privilege under G.S. 20-20.1 is eligible to apply for a license 90  
20 days after the limited privilege is issued if the person's license is revoked for one year.  
21 The Division must, with or without a hearing, issue a new license upon satisfactory  
22 proof that the person has complied with the conditions of the limited driving privilege  
23 and if the person also meets all the other eligibility requirements for obtaining a drivers  
24 license."

25 **SECTION 3.** G.S. 20-28.1 is amended by adding a new subsection to read:

26 "(c1) A person who holds a limited driving privilege under G.S. 20-20.1 is eligible  
27 to apply for a license 90 days after the limited privilege is issued if the person's license  
28 is revoked for one year. The Division must, with or without a hearing, issue a new  
29 license upon satisfactory proof that the person has complied with the conditions of the  
30 limited driving privilege and if the person also meets all the other eligibility  
31 requirements for obtaining a drivers license."

32 **SECTION 4.** G.S. 7A-305 is amended by adding a new subsection to read:

33 "(a3) In every motion to obtain a limited driving privilege filed under G.S. 20-20.1,  
34 a cost of one hundred dollars (\$100.00) shall be assessed against the person filing the  
35 motion. Costs collected by the clerk under this subsection shall be remitted to the State  
36 Treasurer. The State Treasurer must credit one-half of the assessed cost to the Highway  
37 Fund and the remaining one-half of the assessed cost to the Court Information  
38 Technology Fund established under G.S. 7A-343.2. Costs assessed under this subsection  
39 are in addition to any other costs assessed under this section."

40 **SECTION 5.** This act becomes effective December 1, 2005.