

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

2

HOUSE BILL 183
Committee Substitute Favorable 3/14/13

Short Title: Allow Hospitals to Test Blood for DWI.

(Public)

Sponsors:

Referred to:

March 4, 2013

A BILL TO BE ENTITLED

AN ACT TO ALLOW HOSPITALS TO CONDUCT CHEMICAL ANALYSES OF BLOOD TO DETERMINE A PERSON'S BLOOD ALCOHOL CONCENTRATION OR THE PRESENCE OF ANY OTHER IMPAIRING SUBSTANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-139.1 reads as rewritten:

"§ 20-139.1. Procedures governing chemical analyses; admissibility; evidentiary provisions; controlled-drinking programs.

...

(c1) Admissibility. – The results of a chemical analysis of blood or urine reported by the North Carolina State Crime Laboratory, the Charlotte, North Carolina, Police Department Laboratory, or any other laboratory ~~approved for chemical analysis by the Department of Health and Human Services, employing a chemical analyst authorized by a permit issued by the Department of Health and Human Services to analyze blood or urine for alcohol or controlled substances, metabolites of a controlled substance, or any other impairing substance~~ are admissible as evidence in all administrative hearings, and in any court, without further authentication and without the testimony of the analyst. As used in this section, the term "laboratory" includes a public or private hospital. The results shall be certified by the ~~person~~analyst who performed the analysis. ~~The provisions of this subsection~~results may be utilized in any administrative hearing, but can only be utilized in cases tried in the district and superior court divisions, or in an adjudicatory hearing in juvenile court, if:

- (1) The State notifies the defendant at least 15 business days before the proceeding at which the evidence would be used of its intention to introduce the report into evidence under this subsection and provides a copy of the report to the defendant, and
- (2) The defendant fails to file a written objection with the court, with a copy to the State, at least five business days before the proceeding at which the report would be used that the defendant objects to the introduction of the report into evidence.

If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection as provided in this subsection, then the report may be admitted into evidence without the testimony of the analyst. Upon filing a timely objection, the admissibility of the report shall be determined and governed by the appropriate rules of evidence.

The report containing the results of any blood or urine test may be transmitted electronically or via facsimile. A copy of the affidavit sent electronically or via facsimile shall be admissible in any court or administrative hearing without further authentication. A copy of



1 the report shall be sent to the charging officer, the clerk of superior court in the county in which
2 the criminal charges are pending, the Division of Motor Vehicles, and the Department of
3 Health and Human Services.

4 Nothing in this subsection precludes the right of any party to call any witness or to
5 introduce any evidence supporting or contradicting the evidence contained in the report.

6 (c2) **(See note for applicability)** A chemical analysis of blood or urine, to be admissible
7 under this section, shall be performed by ~~a laboratory that is accredited by an accrediting body~~
8 ~~that requires conformance to forensic specific requirements and which is a signatory to the~~
9 ~~International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement~~
10 ~~For Testing for the submission, identification, analysis, and storage of forensic analyses.~~
11 a chemical analyst authorized by a permit issued by the Department of Health and Human
12 Services, on the basis of standards consistent with forensic specific requirements for
13 conformance with International Laboratory Accreditation Cooperation (ILAC) Mutual
14 Recognition Arrangement For Testing, to analyze blood or urine for alcohol or controlled
15 substances, metabolites of a controlled substance, or any other impairing substance.

16 ...

17 (c4) The results of a blood or urine test are admissible to prove a person's alcohol
18 concentration or the presence of controlled substances or metabolites or any other impairing
19 substance ~~if~~if the following requirements are met:

- 20 (1) A law enforcement officer or chemical analyst requested a blood and/or
21 urine sample from the person ~~charged; and~~charged.
- 22 (2) A chemical analysis of blood or urine, to be admissible under this section,
23 shall be performed by ~~a laboratory that is accredited by an accrediting body~~
24 ~~that requires conformance to forensic specific requirements and which is a~~
25 ~~signatory to the International Laboratory Accreditation Cooperation (ILAC)~~
26 ~~Mutual Recognition Arrangement For Testing for the submission,~~
27 ~~identification, analysis, and storage of forensic analyses.~~
28 a chemical analyst
29 authorized by a permit issued by the Department of Health and Human
30 Services, on the basis of standards consistent with forensic specific
31 requirements for conformance with International Laboratory Accreditation
32 Cooperation (ILAC) Mutual Recognition Arrangement For Testing, to
33 analyze blood or urine for alcohol or controlled substances, metabolites of a
34 controlled substance, or any other impairing substance.

35 For purposes of establishing compliance with subdivision (2) of this subsection, the court or
36 administrative agency shall take judicial notice of the list of persons possessing permits, the
37 type of instrument on which each person is authorized to perform tests of the blood and/or
38 urine, and the date the permit was issued and the date it expires.

39"

40 **SECTION 2.** This act becomes effective July 1, 2013, and applies to offenses
committed on or after that date.