

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE BILL 338  
Committee Substitute Favorable 4/21/15  
Committee Substitute #2 Favorable 7/22/15

Short Title: Fail to Obtain DL/Increase Punishment.

(Public)

Sponsors:

Referred to:

March 25, 2015

1 A BILL TO BE ENTITLED  
2 AN ACT TO INCREASE THE PUNISHMENT FOR CERTAIN OFFENSES OF FAILING  
3 TO OBTAIN A DRIVERS LICENSE BEFORE DRIVING A MOTOR VEHICLE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 20-35 reads as rewritten:

6 "§ 20-35. Penalties for violating Article; defense to driving without a license.

7 (a) Penalty. – Except as otherwise provided in ~~subsection (a1) or (a2)~~ subsections (a1)  
8 through (a3) of this section, a violation of this Article is a Class 2 misdemeanor unless a statute  
9 in the Article sets a different punishment for the violation. If a statute in this Article sets a  
10 different punishment for a violation of the Article, the different punishment applies.

11 (a1) The following offenses are Class 3 misdemeanors:

- 12 (1) ~~Failure~~ Except as provided in subsection (a3) of this section, failure to obtain  
13 a license before driving a motor vehicle, in violation of G.S. 20-7(a).  
14 (2) Failure to comply with license restrictions, in violation of G.S. 20-7(e).  
15 (3) Permitting a motor vehicle owned by the person to be operated by an  
16 unlicensed person, in violation of G.S. 20-34.

17 ...

18 (a3) A second or subsequent offense of failure to obtain a license before driving a motor  
19 vehicle in violation of G.S. 20-7(a) shall be a Class 2 misdemeanor if, at the time of each  
20 offense, the person was ineligible to receive a drivers license from the Division because the  
21 person did not meet the requirements set forth in G.S. 20-7. Punishment imposed for any  
22 offense under this subsection shall include a fine of four hundred dollars (\$400.00).

23 (a4) Notwithstanding G.S. 15A-1340.23, and unless the conduct is prohibited by another  
24 provision of law providing for greater punishment, a person convicted of a third or subsequent  
25 offense of failure to obtain a license before driving a motor vehicle in violation of G.S. 20-7(a),  
26 who at the time of each offense was ineligible to receive a drivers license from the Division  
27 because the person did not meet the requirements set forth in G.S. 20-7, (i) may be sentenced to  
28 an active sentence of not less than 20 days and not more than 60 days and (ii) the vehicle that  
29 was driven by the person at the time the person committed the third or subsequent offense  
30 under this subsection shall become property subject to forfeiture in accordance with the  
31 procedure set out in G.S. 20-28.2, 20-28.3, 20-28.4, and 20-28.5.

32 (a5) Nothing in subsection (a3) or (a4) of this section shall be construed as applying to  
33 (i) a person who commits an offense under G.S. 20-7(a) for failing to obtain a license before  
34 driving a motor vehicle, but is eligible to receive a drivers license from the Division at the time  
35 of the offense or (ii) a person driving a motor vehicle with a revoked or suspended license.



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...."

SECTION 2. G.S. 20-28.2 reads as rewritten:

"§ 20-28.2. **Forfeiture of motor vehicle for impaired driving after impaired driving license revocation; ~~forfeiture for~~revocation, felony speeding to elude ~~arrest.~~arrest, or certain offenses of failure to obtain a license before driving a motor vehicle.**

(a) Meaning of "Impaired Driving License Revocation". – The revocation of a person's drivers license is an impaired driving license revocation if the revocation is pursuant to:

- (1) G.S. 20-13.2, 20-16(a)(8b), 20-16.2, 20-16.5, 20-17(a)(2), 20-17(a)(12), or 20-138.5; or
- (2) G.S. 20-16(a)(7), 20-17(a)(1), 20-17(a)(3), 20-17(a)(9), or 20-17(a)(11), if the offense involves impaired driving; or
- (3) The laws of another state and the offense for which the person's license is revoked prohibits substantially similar conduct which if committed in this State would result in a revocation listed in subdivisions (1) or (2).

(a1) Definitions. – As used in this section and in G.S. 20-28.3, 20-28.4, 20-28.5, 20-28.7, 20-28.8, 20-28.9, 20-35(a4), 20-54.1, and 20-141.5, the following terms mean:

(1) Fair Market Value. – The value of the seized motor vehicle, as determined in accordance with the schedule of values adopted by the Commissioner pursuant to G.S. 105-187.3.

(1a) Impaired Driving Acknowledgment. – A written document acknowledging that:

- a. The motor vehicle was operated by a person charged with an offense involving impaired driving, and:
  1. That person's drivers license was revoked as a result of a prior impaired drivers license revocation; or
  2. That person did not have a valid drivers license, and did not have liability insurance.
- b. If the motor vehicle is again operated by this particular person, and the person is charged with an offense involving impaired driving, then the vehicle is subject to impoundment and forfeiture if (i) the offense occurs while that person's drivers license is revoked, or (ii) the offense occurs while the person has no valid drivers license, and has no liability insurance.
- c. A lack of knowledge or consent to the operation will not be a defense in the future, unless the motor vehicle owner has taken all reasonable precautions to prevent the use of the motor vehicle by this particular person and immediately reports, upon discovery, any unauthorized use to the appropriate law enforcement agency.

(2) Innocent Owner. – A motor vehicle owner:

- a. Who, if the offense resulting in seizure was an impaired driving offense, did not know and had no reason to know that (i) the defendant's drivers license was revoked, or (ii) that the defendant did not have a valid drivers license, and that the defendant had no liability insurance; or
- b. Who, if the offense resulting in seizure was an impaired driving offense, knew that (i) the defendant's drivers license was revoked, or (ii) that the defendant had no valid drivers license, and that the defendant had no liability insurance, but the defendant drove the vehicle without the person's expressed or implied permission, and the owner files a police report for unauthorized use of the motor vehicle

- 1 and agrees to prosecute the unauthorized operator of the motor  
2 vehicle, or who, if the offense resulting in seizure was a felony  
3 speeding to elude arrest offense, did not give the defendant express  
4 or implied permission to drive the vehicle, and the owner files a  
5 police report for unauthorized use of the motor vehicle and agrees to  
6 prosecute the unauthorized operator of the motor vehicle; or  
7 c. Whose vehicle was reported stolen; or  
8 d. Repealed by Session Laws 1999-406, s. 17.  
9 e. Who is (i) a rental car company as defined in G.S. 66-201(a) and the  
10 vehicle was driven by a person who is not listed as an authorized  
11 driver on the rental agreement as defined in G.S. 66-201; or (ii) a  
12 rental car company as defined in G.S. 66-201(a) and the vehicle was  
13 driven by a person who is listed as an authorized driver on the rental  
14 agreement as defined in G.S. 66-201 and if the offense resulting in  
15 seizure was an impaired driving offense, the rental car company has  
16 no actual knowledge of the revocation of the renter's drivers' license  
17 at the time the rental agreement is entered, or if the offense resulting  
18 in seizure was a felony speeding to elude arrest offense, the rental  
19 agreement expressly prohibits use of the vehicle while committing a  
20 felony; or  
21 f. Who is in the business of leasing motor vehicles, who holds legal  
22 title to the motor vehicle as a lessor at the time of seizure and, if the  
23 offense resulting in seizure was an impaired driving offense, who has  
24 no actual knowledge of the revocation of the lessee's drivers license  
25 at the time the lease is ~~entered~~ entered; or  
26 g. Who, if the offense resulting in seizure was a failure to obtain a  
27 license before driving a motor vehicle punishable by G.S. 20-35(a4),  
28 did not know and had no reason to know that the defendant did not  
29 have a drivers license and was ineligible to receive a drivers license  
30 because the defendant did not meet the requirements set forth in  
31 G.S. 20-7; or  
32 h. Who, if the offense resulting in seizure was a failure to obtain a  
33 license before driving a motor vehicle punishable by G.S. 20-35(a4),  
34 knew that the defendant did not have a drivers license and was  
35 ineligible to receive a drivers license because the defendant did not  
36 meet the requirements set forth in G.S. 20-7, but the defendant drove  
37 the vehicle without the person's expressed or implied permission, and  
38 the owner files a police report for unauthorized operation of the  
39 motor vehicle and agrees to prosecute the unauthorized operator of  
40 the motor vehicle.  
41 (2a) Insurance Company. – Any insurance company that has coverage on or is  
42 otherwise liable for repairs or damages to the motor vehicle at the time of the  
43 seizure.  
44 (2b) Insurance Proceeds. – Proceeds paid under an insurance policy for damage  
45 to a seized motor vehicle less any payments actually paid to valid lienholders  
46 and for towing and storage costs incurred for the motor vehicle after the time  
47 the motor vehicle became subject to seizure.  
48 (3) Lienholder. – A person who holds a perfected security interest in a motor  
49 vehicle at the time of seizure.  
50 (3a) Motor Vehicle Owner. – A person in whose name a registration card or  
51 certificate of title for a motor vehicle is issued at the time of seizure.

- 1           (3b) No Drivers License Acknowledgment. – A written document acknowledging  
2           that:  
3           a.     The motor vehicle was operated by a person charged with an offense  
4           of failure to obtain a license before driving a motor vehicle in  
5           violation of G.S. 20-7(a) and both of the following conditions exist:  
6           1.     That person is ineligible to receive a drivers license because  
7           the person did not meet the requirements set forth in  
8           G.S. 20-7.  
9           2.     That person has at least two prior convictions for the same  
10           offense and at the time of each offense was ineligible to  
11           receive a drivers license because the person did not meet the  
12           requirements set forth in G.S. 20-7.  
13           b.     If the motor vehicle is again operated by this particular person, the  
14           person is charged with an offense of failure to obtain a license before  
15           driving a motor vehicle in violation of G.S. 20-7(a), and the person is  
16           ineligible to receive a drivers license because the person does not  
17           meet the requirements set forth in G.S. 20-7, then the vehicle is  
18           subject to impoundment and forfeiture.  
19           c.     A lack of knowledge or consent to the operation will not be a defense  
20           in the future, unless the motor vehicle owner has taken all reasonable  
21           precautions to prevent the use of the motor vehicle by this particular  
22           person and immediately reports, upon discovery, any unauthorized  
23           use to the appropriate law enforcement agency.  
24           (4)     Order of Forfeiture. – An order by the court which terminates the rights and  
25           ownership interest of a motor vehicle owner in a motor vehicle and any  
26           insurance proceeds or proceeds of sale in accordance with G.S. 20-28.2.  
27           (5)     Repealed by Session Laws 1998-182, s. 2.  
28           (6)     Registered Owner. – A person in whose name a registration card for a motor  
29           vehicle is issued at the time of seizure.  
30           (7)     Repealed by Session Laws 1998-182, s. 2.  
31           (8)     Speeding to Elude Arrest Acknowledgment. – A written document  
32           acknowledging that:  
33           a.     The motor vehicle was operated by a person charged with felony  
34           speeding to elude arrest pursuant to G.S. 20-141.5(b) or (b1).  
35           b.     If the motor vehicle is again operated by this particular person and  
36           the person is charged with felony speeding to elude arrest pursuant to  
37           G.S. 20-141.5(b) or (b1), then the vehicle is subject to impoundment  
38           and forfeiture.  
39           c.     A lack of knowledge or consent to the operation will not be a defense  
40           in the future unless the motor vehicle owner has taken all reasonable  
41           precautions to prevent the use of the motor vehicle by this particular  
42           person and immediately reports upon discovery any unauthorized use  
43           to the appropriate law enforcement agency.

44           ...  
45           **(b3) When a Motor Vehicle Becomes Property Subject to Order of Forfeiture; Failure to**  
46           **Obtain a License before Driving a Motor Vehicle. – A judge may determine whether the**  
47           **vehicle driven by a person without a license at the time of the offense becomes subject to an**  
48           **order of forfeiture. The determination may be made at any of the following times:**

- 49           (1)     A sentencing hearing for the offense of failure to obtain a license before  
50           driving a motor vehicle.  
51           (2)     A separate hearing after conviction of the defendant.

- 1           (3)    A forfeiture hearing held at least 60 days after the defendant failed to appear  
 2                   at the scheduled trial for the underlying offense, and the defendant's order of  
 3                   arrest for failing to appear has not been set aside.

4   The vehicle shall become subject to an order of forfeiture if the greater weight of the evidence  
 5   shows that the defendant is guilty of failure to obtain a license before driving a motor vehicle in  
 6   violation of G.S. 20-7(a) and is punishable pursuant to G.S. 20-35(a4).

7    ...

8       (e)    Release of Vehicle to Innocent Motor Vehicle Owner. – At a forfeiture hearing, if a  
 9   nondefendant motor vehicle owner establishes by the greater weight of the evidence that: (i) the  
 10   motor vehicle was being driven by a person who was not the only motor vehicle owner or had  
 11   no ownership interest in the motor vehicle at the time of the underlying offense and (ii) the  
 12   petitioner is an "innocent owner", as defined by this section, a judge shall order the motor  
 13   vehicle released to that owner, conditioned upon payment of all towing and storage charges  
 14   incurred as a result of the seizure and impoundment of the motor vehicle.

15       Release to an innocent owner shall only be ordered upon satisfactory proof of:

- 16           (1)    The identity of the person as a motor vehicle owner;  
 17           (2)    The existence of financial responsibility to the extent required by Article 13  
 18                   of this Chapter or by the laws of the state in which the vehicle is registered;  
 19                   and  
 20           (3)    Repealed by Session Laws 1998-182, s. 2, effective December 1, 1998.  
 21           (4)    The execution of one of the following:  
 22                   a.    An impaired driving acknowledgment as defined in subdivision  
 23                   (a1)(1a) of this section if the seizure was for an offense involving  
 24                   impaired ~~driving~~; or driving.  
 25                   b.    A speeding to elude arrest acknowledgment as defined in subdivision  
 26                   (a1)(8) of this section if the seizure was for violation of  
 27                   G.S. 20-141.5(b) or (b1).  
 28                   c.    A no drivers license acknowledgment as defined in subdivision (3b)  
 29                   of subsection (a1) of this section if the seizure was for a violation of  
 30                   G.S. 20-7(a) punishable by G.S. 20-35(a4).

31       If the nondefendant owner is a lessor, the release shall also be conditioned upon the lessor  
 32   agreeing not to sell, give, or otherwise transfer possession of the forfeited motor vehicle to the  
 33   defendant or any person acting on the defendant's behalf. A lessor who refuses to sell, give, or  
 34   transfer possession of a seized motor vehicle to the defendant or any person acting on the  
 35   behalf of the defendant shall not be liable for damages arising out of the refusal.

36       No motor vehicle subject to forfeiture under this section shall be released to a nondefendant  
 37   motor vehicle owner if the records of the Division indicate the motor vehicle owner had  
 38   previously signed an impaired driving ~~acknowledgment~~ or acknowledgment, a speeding to  
 39   elude arrest acknowledgment, or a no drivers license acknowledgment, as required by this  
 40   section, and the same person was operating the motor vehicle at the time of the current seizure  
 41   unless the innocent owner shows by the greater weight of the evidence that the motor vehicle  
 42   owner has taken all reasonable precautions to prevent the use of the motor vehicle by this  
 43   particular person and immediately reports, upon discovery, any unauthorized use to the  
 44   appropriate law enforcement agency. A determination by the court at the forfeiture hearing held  
 45   pursuant to subsection (d) of this section that the petitioner is not an innocent owner is a final  
 46   judgment and is immediately appealable to the Court of Appeals.

47    ...."

48       **SECTION 3.** G.S. 20-28.3 reads as rewritten:

49       "**§ 20-28.3. Seizure, impoundment, forfeiture of motor vehicles for offenses involving**  
 50       **impaired driving while license revoked or without license and insurance, and**

1           **for felony speeding to elude ~~arrest~~, ~~arrest~~, and for certain offenses of failure to**  
2           **obtain a license before driving a motor vehicle.**

3           (a) Motor Vehicles Subject to Seizure for Impaired Driving Offenses. –

4 A motor vehicle that is driven by a person who is charged with an offense involving impaired  
5 driving is subject to seizure if:

6           (1) At the time of the violation, the drivers license of the person driving the  
7           motor vehicle was revoked as a result of a prior impaired driving license  
8           revocation as defined in G.S. 20-28.2(a); or

9           (2) At the time of the violation:

10           a. The person was driving without a valid drivers license, and

11           b. The driver was not covered by an automobile liability policy.

12 For the purposes of this subsection, a person who has a complete defense, pursuant to  
13 G.S. 20-35, to a charge of driving without a drivers license, shall be considered to have had a  
14 valid drivers license at the time of the violation.

15           (a1) Motor Vehicles Subject to Seizure for Felony Speeding to Elude Arrest. – A motor  
16 vehicle is subject to seizure if it is driven by a person who is charged with the offense of felony  
17 speeding to elude arrest pursuant to G.S. 20-141.5(b) or (b1).

18           (a2) Motor Vehicles Subject to Seizure for Certain Offenses of Failure to Obtain a  
19 License before Driving a Motor Vehicle. – A motor vehicle is subject to seizure if it is driven  
20 by a person who is charged with a third or subsequent offense of failure to obtain a license  
21 before driving a motor vehicle that is punishable by G.S. 20-35(a4).

22           ...

23           (e) Release of Motor Vehicle Pending Trial. – A motor vehicle owner, other than the  
24 driver at the time of the underlying offense resulting in the seizure, may apply to the clerk of  
25 superior court in the county where the charges are pending for pretrial release of the motor  
26 vehicle.

27           The clerk shall release the motor vehicle to a nondefendant motor vehicle owner  
28 conditioned upon payment of all towing and storage charges incurred as a result of seizure and  
29 impoundment of the motor vehicle under the following conditions:

30           (1) The motor vehicle has been seized for not less than 24 hours;

31           (2) Repealed by Session Laws 1998-182, s. 3, effective December 1, 1998.

32           (3) A bond in an amount equal to the fair market value of the motor vehicle as  
33 defined by G.S. 20-28.2 has been executed and is secured by a cash deposit  
34 in the full amount of the bond, by a recordable deed of trust to real property  
35 in the full amount of the bond, by a bail bond under G.S. 58-71-1(2), or by at  
36 least one solvent surety, payable to the county school fund and conditioned  
37 on return of the motor vehicle, in substantially the same condition as it was  
38 at the time of seizure and without any new or additional liens or  
39 encumbrances, on the day of any hearing scheduled and noticed by the  
40 district attorney under G.S. 20-28.2(c), unless the motor vehicle has been  
41 permanently released;

42           (4) Execution of ~~either~~one of the following:

43           a. An impaired driving acknowledgment as described in  
44 G.S. 20-28.2(a1)(1a) if the seizure was for an offense involving  
45 impaired ~~driving~~or driving.

46           b. A speeding to elude arrest acknowledgment as defined in  
47 G.S. 20-28.2(a1)(8) if the seizure was for violation of  
48 G.S. 20-141.5(b) or (b1).

49           c. A no drivers license acknowledgment as defined in subdivision (3b)  
50 of subsection (a1) of this section if the seizure was for a violation of  
51 G.S. 20-7(a) punishable by G.S. 20-35(a4).

- 1 (5) A check of the records of the Division indicates that the requesting motor  
2 vehicle owner has not previously executed an acknowledgment naming the  
3 operator of the seized motor vehicle; and  
4 (6) A bond posted to secure the release of this motor vehicle under this  
5 subsection has not been previously ordered forfeited under G.S. 20-28.5.

6 In the event a nondefendant motor vehicle owner who obtains temporary possession of a  
7 seized motor vehicle pursuant to this subsection does not return the motor vehicle on the day of  
8 the forfeiture hearing as noticed by the district attorney under G.S. 20-28.2(c) or otherwise  
9 violates a condition of pretrial release of the seized motor vehicle as set forth in this subsection,  
10 the bond posted shall be ordered forfeited and an order of seizure shall be issued by the court.  
11 Additionally, a nondefendant motor vehicle owner or lienholder who willfully violates any  
12 condition of pretrial release may be held in civil or criminal contempt.

13 ...  
14 (e2) Pretrial Release of Motor Vehicle to Defendant Owner. –

- 15 (1) If the seizure was for an offense involving impaired driving, a defendant  
16 motor vehicle owner may file a petition with the clerk of court seeking a  
17 pretrial determination that the defendant's license was not revoked pursuant  
18 to an impaired driving license revocation as defined in G.S. 20-28.2(a). The  
19 clerk shall schedule a hearing before a judge of the division in which the  
20 underlying criminal charge is pending for a hearing to be held within 10  
21 business days or as soon thereafter as may be feasible. Notice of the hearing  
22 shall be given to the defendant, the district attorney, and the attorney for the  
23 county board of education. The clerk shall forward a copy of the petition to  
24 the district attorney for the district attorney's review. If, based on available  
25 information, the district attorney determines that the defendant's motor  
26 vehicle is not subject to forfeiture, the district attorney may note the State's  
27 consent to the release of the motor vehicle on the petition and return the  
28 petition to the clerk of court who shall enter an order releasing the motor  
29 vehicle to the defendant upon payment of all towing and storage charges  
30 incurred as a result of the seizure and impoundment of the motor vehicle,  
31 subject to the satisfactory proof of the identity of the defendant as a motor  
32 vehicle owner and the existence of financial responsibility to the extent  
33 required by Article 13 of this Chapter, and no hearing shall be held. The  
34 clerk shall send a copy of the order of release to the attorney for the county  
35 board of education. At any pretrial hearing conducted pursuant to this  
36 subdivision, the court is not required to determine the issue of the underlying  
37 offense of impaired driving only the existence of a prior drivers license  
38 revocation as an impaired driving license revocation. Accordingly, the State  
39 shall not be required to prove the underlying offense of impaired driving. An  
40 order issued under this subdivision finding that the defendant failed to  
41 establish that the defendant's license was not revoked pursuant to an  
42 impaired driving license revocation as defined in G.S. 20-28.2(a) may be  
43 reconsidered by the court as part of the forfeiture hearing conducted  
44 pursuant to G.S. 20-28.2(d).  
45 (2) If the seizure was for a felony speeding to elude arrest offense, a defendant  
46 motor vehicle owner may apply to the clerk of superior court in the county  
47 where the charges are pending for pretrial release of the motor vehicle. The  
48 clerk shall release the motor vehicle to the defendant motor vehicle owner  
49 conditioned upon payment of all towing and storage charges incurred as a  
50 result of seizure and impoundment of the motor vehicle under the following  
51 conditions:

- 1 a. The motor vehicle has been seized for not less than 24 hours;
- 2 b. A bond in an amount equal to the fair market value of the motor
- 3 vehicle as defined by G.S. 20-28.2 has been executed and is secured
- 4 by a cash deposit in the full amount of the bond, by a recordable deed
- 5 of trust to real property in the full amount of the bond, by a bail bond
- 6 under G.S. 58-71-1(2), or by at least one solvent surety, payable to
- 7 the county school fund and conditioned on return of the motor
- 8 vehicle, in substantially the same condition as it was at the time of
- 9 seizure and without any new or additional liens or encumbrances, on
- 10 the day of any hearing scheduled and noticed by the district attorney
- 11 under G.S. 20-28.2(c), unless the motor vehicle has been
- 12 permanently released;
- 13 c. A bond posted to secure the release of this motor vehicle under this
- 14 subdivision has not been previously ordered forfeited under
- 15 G.S. 20-28.5.

16 In the event a defendant motor vehicle owner who obtains temporary

17 possession of a seized motor vehicle pursuant to this subdivision does not

18 return the motor vehicle on the day of the forfeiture hearing as noticed by the

19 district attorney under G.S. 20-28.2(c) or otherwise violates a condition of

20 pretrial release of the seized motor vehicle as set forth in this subdivision,

21 the bond posted shall be ordered forfeited, and an order of seizure shall be

22 issued by the court. Additionally, a defendant motor vehicle owner who

23 willfully violates any condition of pretrial release may be held in civil or

24 criminal contempt.

- 25 (3) If the seizure was for an offense of failure to obtain a license before
- 26 operating a motor vehicle, a defendant motor vehicle owner may file a
- 27 petition with the clerk of court seeking a pretrial determination that the
- 28 defendant does not have at least two prior convictions of failure to obtain a
- 29 license before operating a motor vehicle. The clerk shall schedule a hearing
- 30 before a judge of the division in which the underlying criminal charge is
- 31 pending for a hearing to be held within 10 business days or as soon
- 32 thereafter as may be feasible. Notice of the hearing shall be given to the
- 33 defendant, the district attorney, and the attorney for the county board of
- 34 education. The clerk shall forward a copy of the petition to the district
- 35 attorney for the district attorney's review. If, based on available information,
- 36 the district attorney determines that the defendant's motor vehicle is not
- 37 subject to forfeiture, the district attorney may note the State's consent to the
- 38 release of the motor vehicle on the petition and return the petition to the
- 39 clerk of court who shall enter an order releasing the motor vehicle to the
- 40 defendant upon payment of all towing and storage charges incurred as a
- 41 result of the seizure and impoundment of the motor vehicle, subject to the
- 42 satisfactory proof of the identity of the defendant as a motor vehicle owner
- 43 and the existence of financial responsibility to the extent required by Article
- 44 13 of this Chapter, and no hearing shall be held. The clerk shall send a copy
- 45 of the order of release to the attorney for the county board of education. At
- 46 any pretrial hearing conducted pursuant to this subdivision, the court is not
- 47 required to determine the issue of the underlying offense of failure to obtain
- 48 a license before driving a motor vehicle, only the existence of two or more
- 49 prior convictions of failure to obtain a license before operating a motor
- 50 vehicle. Accordingly, the State shall not be required to prove the underlying
- 51 offense of failure to obtain a license before operating a motor vehicle. An



1 order issued under this subdivision finding that the defendant failed to  
2 establish that the defendant did not have two or more prior convictions for  
3 failure to obtain a license before operating a motor vehicle may be  
4 reconsidered by the court as part of the forfeiture hearing conducted  
5 pursuant to G.S. 20-28.2(d).

6 ...."

7 **SECTION 4.** G.S. 20-28.8 reads as rewritten:

8 **"§ 20-28.8. Reports to the Division.**

9 In any case in which a vehicle has been seized pursuant to G.S. 20-28.3, in addition to any  
10 other information that must be reported pursuant to this Chapter, the clerk of superior court  
11 shall report to the Division by electronic means the execution of an impaired driving  
12 acknowledgment as defined in G.S. 20-28.2(a1)(1a), a speeding to elude arrest  
13 acknowledgment as defined in G.S. 20-28.2(a1)(8), a no drivers license acknowledgment as  
14 defined in G.S. 20-28.2(a1)(3b), the entry of an order of forfeiture as defined in  
15 G.S. 20-28.2(a1)(4), and the entry of an order of release as defined in G.S. 20-28.3 and  
16 G.S. 20-28.4. Each report shall include any of the following information that has not previously  
17 been reported to the Division in the case: the name, address, and drivers license number of the  
18 defendant; the name, address, and drivers license number of the nondefendant motor vehicle  
19 owner, if known; and the make, model, year, vehicle identification number, state of  
20 registration, and vehicle registration plate number of the seized vehicle, if known."

21 **SECTION 5.** G.S. 20-54.1 reads as rewritten:

22 **"§ 20-54.1. Forfeiture of right of registration.**

23 (a) Upon receipt of notice of conviction of a violation of an offense involving impaired  
24 driving while the person's license is revoked as a result of a prior impaired driving license  
25 revocation as defined in G.S. 20-28.2, the Division shall revoke the registration of all motor  
26 vehicles registered in the convicted person's name and shall not register a motor vehicle in the  
27 convicted person's name until the convicted person's license is restored, except in such cases to  
28 abide by the ignition interlock installation requirements of G.S. 20-17.8. Upon receipt of notice  
29 of revocation of registration from the Division, the convicted person shall surrender the  
30 registration on all motor vehicles registered in the convicted person's name to the Division  
31 within 10 days of the date of the notice.

32 (a1) Upon receipt of notice of conviction of a felony speeding to elude arrest offense  
33 under G.S. 20-141.5(b) or (b1), the Division shall revoke the registration of all motor vehicles  
34 registered in the convicted person's name and shall not register a motor vehicle in the convicted  
35 person's name until the convicted person's license is restored. Upon receipt of notice of  
36 revocation of registration from the Division, the convicted person shall surrender the  
37 registration on all motor vehicles registered in the convicted person's name to the Division  
38 within 10 days of the date of the notice.

39 (a2) Upon receipt of notice of conviction of failure to obtain a license before driving a  
40 motor vehicle in violation of G.S. 20-7(a) and notice the convicted person was punished  
41 pursuant to G.S. 20-35(a4), the Division shall revoke the registration of all motor vehicles  
42 registered in the convicted person's name and shall not register a motor vehicle in the convicted  
43 person's name until the convicted person's license is restored. Upon receipt of notice of  
44 revocation of registration from the Division, the convicted person shall surrender the  
45 registration on all motor vehicles registered in the convicted person's name to the Division  
46 within 10 days of the date of the notice.

47 (b) Upon receipt of a notice of conviction under subsection ~~(a) or (a1)(a)~~, (a1), or (a2)  
48 of this section, the Division shall revoke the registration of the motor vehicle seized, and the  
49 owner shall not be allowed to register the motor vehicle seized until the convicted operator's  
50 drivers license has been restored. The Division shall not revoke the registration of the owner of  
51 the seized motor vehicle if the owner is determined to be an innocent owner. The Division shall

1 revoke the owner's registration only after the owner is given an opportunity for a hearing to  
2 demonstrate that the owner is an innocent owner as defined in G.S. 20-28.2. Upon receipt of  
3 notice of revocation of registration from the Division, the owner shall surrender the registration  
4 on the motor vehicle seized to the Division within 10 days of the date of the notice."

5           **SECTION 6.** This act becomes effective December 1, 2015, and applies to  
6 offenses committed on or after that date.