

**§ 20-9. What persons shall not be licensed.**

(a) To obtain a regular drivers license, a person must have reached the minimum age set in the following table for the class of license sought:

| Class of Regular License | Minimum Age |
|--------------------------|-------------|
| Class A                  | 18          |
| Class B                  | 18          |
| Class C                  | 16          |

G.S. 20-37.13 sets the age qualifications for a commercial drivers license.

(b) The Division shall not issue a drivers license to any person whose license has been suspended or revoked during the period for which the license was suspended or revoked.

(b1) The Division shall not issue a drivers license to any person whose permit or license has been suspended or revoked under G.S. 20-13.2(c1) during the suspension or revocation period, unless the Division has restored the person's permit or license under G.S. 20-13.2(c1).

(c) The Division shall not issue a drivers license to any person who is an habitual drunkard or is an habitual user of narcotic drugs or barbiturates, whether or not the use is in accordance with the prescription of a physician.

(d) Repealed by Session Laws 2012-194, s. 8, effective July 17, 2012.

(e) The Division shall not issue a drivers license to any person when in the opinion of the Division the person is unable to exercise reasonable and ordinary control over a motor vehicle while operating the vehicle upon the highways, nor shall a license be issued to any person who is unable to understand highway warnings or direction signs.

(f) The Division shall not issue a drivers license to any person whose license or driving privilege is in a state of cancellation, suspension, or revocation in any jurisdiction, if the acts or things upon which the cancellation, suspension, or revocation in the other jurisdiction was based would constitute lawful grounds for cancellation, suspension, or revocation in this State had those acts or things been done or committed in this State. However, any such cancellation shall not prohibit issuance for a period in excess of 18 months.

(g) The Division may issue a restricted or unrestricted drivers license under the following conditions to an otherwise eligible applicant suffering from a physical or mental disability or disease that affects his or her ability to exercise reasonable and ordinary control of a motor vehicle:

- (1) The applicant submits to the Division a certificate in the form prescribed in subdivision (2) of this subsection. The Division may request the certificate at the applicant's initial application, at any time following the issuance of the license, or at the initial application and any time following the issuance of the license. Until a license issued under this subdivision expires, is cancelled, or is revoked, the license continues in force as long as the licensee presents to the Division a certificate in the form prescribed in subdivision (2) of this subsection at the intervals determined by the Division to be in the best interests of public safety.
- (2) The Division may request a signed certificate from a health care provider duly licensed to practice medicine in the United States that the applicant or licensee has submitted to a physical examination by the health care provider. The certificate shall be devised by the Commissioner with the advice of qualified experts in the field of diagnosing and treating physical and mental disabilities and diseases as the Commissioner may select to assist him or her and shall be designed to elicit the maximum medical information necessary to aid in determining whether or not it would be a hazard to public safety to permit the applicant or licensee to operate a motor vehicle, including, if such is the fact, the examining provider's statement that the applicant or licensee is under

medication and treatment and that the applicant's or licensee's physical or mental disability or disease is controlled. The certificate shall contain a waiver of privilege and the recommendation of the examining provider to the Commissioner as to whether a license should be issued to the applicant or licensee and whether the applicant or licensee can safely operate a motor vehicle.

- (3) The Commissioner is not bound by the recommendation of the examining health care provider but shall give fair consideration to the recommendation in exercising his or her discretion in making licensing decisions, the criterion being whether or not, upon all the evidence, it appears that it is safe to permit the applicant or licensee to operate a motor vehicle. The burden of proof of this fact is upon the applicant or licensee. In deciding whether to issue, restrict, cancel, or deny a license, the Commissioner may be guided by the opinion of experts in the field of diagnosing and treating the specific physical or mental disability or disease suffered by an applicant or licensee and the experts may be compensated for their services on an equitable basis. The Commissioner may also take into consideration any other factors which bear on the issue of public safety.
- (4) Whenever a license is restricted, cancelled, or denied by the Commissioner on the basis of a physical or mental disability or disease, the action may be reviewed by a reviewing board upon written request of the applicant or licensee filed with the Division within 10 days after receipt of notice given in accordance with G.S. 20-48 of the action taken. The reviewing board shall consist of the Commissioner or the Commissioner's authorized representative and at least two medical professionals selected by the Commissioner and duly licensed to practice medicine by the appropriate licensing authority in the State. The medical professionals selected by the Commissioner may be compensated for their services on an equitable basis, including reimbursement for ordinary and necessary travel expenses. The Commissioner or the Commissioner's authorized representative, plus any two medical professionals selected by the Commissioner, shall constitute a quorum. The procedure for hearings authorized by this section shall be as follows:
  - a. Applicants shall be afforded an opportunity for hearing, after reasonable notice of not less than 10 days, before the review board established by this subdivision. The notice shall be in writing and shall be delivered to the applicant in person or sent by certified mail, with return receipt requested. The notice shall state the time, place, and subject of the hearing. If a hearing is requested under this subdivision to contest a restriction placed on a license under subdivision (3) of this subsection, the restriction shall be stayed unless the Division determines there is an imminent threat to public safety if continued unrestricted driving is permitted. No stay shall be granted if a hearing is requested under this subdivision to contest a denial or cancellation of a license under subdivision (3) of this subsection. Nothing in this sub-subdivision authorizes the stay of a restriction placed on a license pursuant to another provision of law.
  - b. The review board may compel the attendance of witnesses and the production of such books, records, and papers as it desires at a hearing authorized by this section. Upon request of an applicant or licensee, a subpoena to compel the attendance of any witness or a subpoena duces

tecum to compel the production of any books, records, or papers shall be issued by the board. Subpoenas shall be directed to the sheriff of the county where the witness resides or is found and shall be served and returned in the same manner as a subpoena in a criminal case. Fees of the sheriff and witnesses shall be the same as that allowed in the district court in cases before that court and shall be paid in the same manner as other expenses of the Division of Motor Vehicles are paid. In any case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matters regarding which the witness may be lawfully interrogated, the district court or superior court where the disobedience, neglect, or refusal occurs, or any judge thereof, on application by the board, shall compel obedience or punish as for contempt.

- c. A hearing may be continued upon motion of the applicant or licensee for good cause shown with approval of the board or upon order of the board.
- d. The board shall pass upon the admissibility of evidence at a hearing but the applicant or licensee affected may at the time object to the board's ruling, and, if evidence offered by an applicant or licensee is rejected, the party may proffer the evidence, and the proffer shall be made a part of the record. The board shall not be bound by common law or statutory rules of evidence which prevail in courts of law or equity and may admit and give probative value to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. It may exclude incompetent, immaterial, irrelevant, and unduly repetitious evidence. Uncontested facts may be stipulated by agreement between an applicant or licensee and the board, and evidence relating to stipulated facts may be excluded. All evidence, including records and documents in the possession of the Division of Motor Vehicles or the board, of which the board desires to avail itself shall be made a part of the record. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. The board shall prepare an official record, which shall include testimony and exhibits. A record of the testimony and other evidence submitted shall be taken, but it shall not be necessary to transcribe shorthand notes or electronic recordings unless requested for purposes of court review.
- e. Every decision and order adverse to an applicant or licensee shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the board's conclusions on each contested issue of fact. The applicant or licensee shall be notified of the board's decision in person or by registered mail with return receipt requested. A copy of the board's decision with accompanying findings and conclusions shall be delivered or mailed upon request to the applicant's or licensee's attorney of record or to the applicant or licensee, if he or she has no attorney.
- f. Actions of the reviewing board are subject to judicial review as provided under Chapter 150B of the General Statutes.
- g. Repealed by Session Laws 1977, c. 840.

h. All records and evidence collected and compiled by the Division and the reviewing board shall not be considered public records within the meaning of Chapter 132 of the General Statutes and may be made available to the public only upon an order of a court of competent jurisdiction. An applicant or licensee may obtain, without a court order, a copy of records and evidence collected and compiled under this subdivision about the applicant or licensee by submitting a written request to the Division, signing any release forms required by the Division, and remitting the required fee set by the Division. All information furnished by, about, or on behalf of an applicant or licensee under this section shall be without prejudice and shall be for the use of the Division, the reviewing board, or the court in administering this section and shall not be used in any manner as evidence, or for any other purposes in any trial, civil or criminal. The prohibition on release and use under this sub-subdivision applies without regard to who authored or produced the information collected, compiled, and used by the Division under this subdivision.

(h) The Division shall not issue a drivers license to an applicant who currently holds a license to drive issued by another state unless the applicant surrenders the license.

(i) The Division shall not issue a drivers license to an applicant who has resided in this State for less than 12 months until the Division has searched the National Sex Offender Public Registry to determine if the person is currently registered as a sex offender in another state. The following applies in this subsection:

- (1) If the Division finds that the person is currently registered as a sex offender in another state, the Division shall not issue a drivers license to the person until the person submits proof of registration pursuant to Article 27A of Chapter 14 of the General Statutes issued by the sheriff of the county where the person resides.
- (2) If the person does not appear on the National Sex Offender Public Registry, the Division shall issue a drivers license but shall require the person to sign an affidavit acknowledging that the person has been notified that if the person is a sex offender, then the person is required to register pursuant to Article 27A of Chapter 14 of the General Statutes.
- (3) If the Division is unable to access all states' information contained in the National Sex Offender Public Registry, but the person is otherwise qualified to obtain a drivers license, then the Division shall issue the drivers license but shall first require the person to sign an affidavit stating that: (i) the person does not appear on the National Sex Offender Public Registry and (ii) acknowledging that the person has been notified that if the person is a sex offender, then the person is required to register pursuant to Article 27A of Chapter 14 of the General Statutes. The Division shall search the National Sex Offender Public Registry for the person within a reasonable time after access to the Registry is restored. If the person does appear in the National Sex Offender Public Registry, the person is in violation of G.S. 20-30, and the Division shall immediately revoke the drivers license and shall promptly notify the sheriff of the county where the person resides of the offense.
- (4) Any person denied a license or whose license has been revoked by the Division pursuant to this subsection has a right to file a petition within 30 days thereafter for a hearing in the matter in the superior court of the county where the person resides, or to petition the resident judge of the district or judge

holding the court of that district, or special or emergency judge holding a court in the district, and the court or judge is hereby vested with jurisdiction. The court or judge shall set the matter for hearing upon 30 days' written notice to the Division. At the hearing, the court or judge shall take testimony and examine the facts of the case and shall determine whether the petitioner is entitled to a license under this subsection and whether the petitioner is in violation of G.S. 20-30. (1935, c. 52, s. 4; 1951, c. 542, s. 3; 1953, c. 773; 1955, c. 118, s. 7; 1967, cc. 961, 966; 1971, c. 152; c. 528, s. 11; 1973, cc. 135, 441; c. 476, s. 128; c. 1331, s. 3; 1975, c. 716, s. 5; 1979, c. 667, ss. 14, 41; 1983, c. 545; 1987, c. 827, s. 1; 1989, c. 771, s. 7; 1991, c. 726, s. 6; 1993, c. 368, s. 2; c. 533, s. 4; 1999-243, s. 4; 1999-452, s. 8; 2003-14, s. 1; 2006-247, s. 19(c); 2007-182, s. 2; 2012-194, s. 8; 2016-94, s. 35.20(c); 2018-74, s. 10(b); 2018-142, s. 3(a).)