

§ 20-179.3. Limited driving privilege.

(a) **Definition of Limited Driving Privilege.** - A limited driving privilege is a judgment issued in the discretion of a court for good cause shown authorizing a person with a revoked driver's license to drive for essential purposes related to any of the following:

- (1) His employment.
- (2) The maintenance of his household.
- (3) His education.
- (4) His court-ordered treatment or assessment.
- (5) Community service ordered as a condition of the person's probation.
- (6) Emergency medical care.

(b) **Eligibility.** -

- (1) A person convicted of the offense of impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege if:
 - a. At the time of the offense he held either a valid driver's license or a license that had been expired for less than one year;
 - b. At the time of the offense he had not within the preceding seven years been convicted of an offense involving impaired driving;
 - c. Punishment Level Three, Four, or Five was imposed for the offense of impaired driving;
 - d. Subsequent to the offense he has not been convicted of, or had an unresolved charge lodged against him for, an offense involving impaired driving; and
 - e. The person has obtained and filed with the court a substance abuse assessment of the type required by G.S. 20-17.6 for the restoration of a drivers license.

A person whose North Carolina driver's license is revoked because of a conviction in another jurisdiction substantially similar to impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege if he would be eligible for it had the conviction occurred in North Carolina. Eligibility for a limited driving privilege following a revocation under G.S. 20-16.2(d) is governed by G.S. 20-16.2(e1).

- (2) Any person whose licensing privileges are forfeited pursuant to G.S. 15A-1331.1 is eligible for a limited driving privilege if the court finds that at the time of the forfeiture, the person held either a valid drivers license or a drivers license that had been expired for less than one year and
 - a. The person is supporting existing dependents or must have a drivers license to be gainfully employed; or
 - b. The person has an existing dependent who requires serious medical treatment and the defendant is the only person able to provide transportation to the dependent to the health care facility where the dependent can receive the needed medical treatment.

The limited driving privilege granted under this subdivision must restrict the person to essential driving related to the purposes listed above, and any driving that is not related to those purposes is unlawful even though done at times and upon routes that may be authorized by the privilege.

(c) **Privilege Not Effective until after Compliance with Court-Ordered Revocation.** - A person convicted of an impaired driving offense may apply for a limited driving privilege at the time the judgment is entered. A person whose license is revoked because of a conviction in another jurisdiction substantially similar to impaired

driving under G.S. 20-138.1 may apply for a limited driving privilege only after having completed at least 60 days of a court-imposed term of nonoperation of a motor vehicle, if the court in the other jurisdiction imposed such a term of nonoperation.

(c1) Privilege Restrictions for High-Risk Drivers. - Notwithstanding any other provision of this section, any limited driving privilege issued to a person convicted of an impaired driving offense with an alcohol concentration of 0.15 or more at the time of the offense shall:

- (1) Not become effective until at least 45 days after the final conviction under G.S. 20-138.1;
- (2) Require the applicant to comply with the ignition interlock requirements of subsection (g5) of this section; and
- (3) Restrict the applicant to driving only to and from the applicant's place of employment, the place the applicant is enrolled in school, any court ordered treatment or substance abuse education, and any ignition interlock service facility.

For purposes of this subsection, the results of a chemical analysis presented at trial or sentencing shall be sufficient to prove a person's alcohol concentration, shall be conclusive, and shall not be subject to modification by any party, with or without approval by the court.

(d) Application for and Scheduling of Subsequent Hearing. - The application for a limited driving privilege made at any time after the day of sentencing must be filed with the clerk in duplicate, and no hearing scheduled may be held until a reasonable time after the clerk files a copy of the application with the district attorney's office. The hearing must be scheduled before:

- (1) The presiding judge at the applicant's trial if that judge is assigned to a court in the district court district as defined in G.S. 7A-133 or superior court district or set of districts as defined in G.S. 7A-41.1, as the case may be, in which the conviction for impaired driving was imposed.
- (2) The senior regular resident superior court judge of the superior court district or set of districts as defined in G.S. 7A-41.1 in which the conviction for impaired driving was imposed, if the presiding judge is not available within the district and the conviction was imposed in superior court.
- (3) The chief district court judge of the district court district as defined in G.S. 7A-133 in which the conviction for impaired driving was imposed, if the presiding judge is not available within the district and the conviction was imposed in district court.

If the applicant was convicted of an offense in another jurisdiction, the hearing must be scheduled before the chief district court judge of the district court district as defined in G.S. 7A-133 in which he resides. G.S. 20-16.2(e1) governs the judge before whom a hearing is scheduled if the revocation was under G.S. 20-16.2(d). The hearing may be scheduled in any county within the district court district as defined in G.S. 7A-133 or superior court district or set of districts as defined in G.S. 7A-41.1, as the case may be.

(e) Limited Basis for and Effect of Privilege. - A limited driving privilege issued under this section authorizes a person to drive if his license is revoked solely under G.S. 20-17(a)(2) or as a result of a conviction in another jurisdiction substantially similar to impaired driving under G.S. 20-138.1; if the person's license is revoked under any other statute, the limited driving privilege is invalid.

(f) Overall Provisions on Use of Privilege. - Every limited driving privilege must restrict the applicant to essential driving related to the purposes listed in subsection (a), and any driving that is not related to those purposes is unlawful even though done at times and upon routes that may be authorized by the privilege. If the privilege is granted, driving related to emergency medical care is authorized at any time and without restriction as to routes, but all other driving must be for a purpose and done within the restrictions specified in the privilege.

(f1) Definition of "Standard Working Hours". - Under this section, "standard working hours" are 6:00

A.M. to 8:00 P.M. on Monday through Friday.

(g) Driving for Work-Related Purposes in Standard Working Hours. - In a limited driving privilege, the court may authorize driving for work-related purposes during standard working hours without specifying the times and routes in which the driving must occur. If the applicant is not required to drive for essential work-related purposes except during standard working hours, the limited driving privilege must prohibit driving during nonstandard working hours unless the driving is for emergency medical care or is authorized by subsection (g2). The limited driving privilege must state the name and address of the applicant's place of work or employer, and may include other information and restrictions applicable to work-related driving in the discretion of the court.

(g1) Driving for Work-Related Purposes in Nonstandard Hours. - If the applicant is required to drive during nonstandard working hours for an essential work-related purpose, he must present documentation of that fact before the judge may authorize him to drive for this purpose during those hours. If the applicant is self-employed, the documentation must be attached to or made a part of the limited driving privilege. If the judge determines that it is necessary for the applicant to drive during nonstandard hours for a work-related purpose, he may authorize the applicant to drive subject to these limitations:

- (1) If the applicant is required to drive to and from a specific place of work at regular times, the limited driving privilege must specify the general times and routes in which the applicant will be driving to and from work, and restrict driving to those times and routes.
- (2) If the applicant is required to drive to and from work at a specific place, but is unable to specify the times at which that driving will occur, the limited driving privilege must specify the general routes in which the applicant will be driving to and from work, and restrict the driving to those general routes.
- (3) If the applicant is required to drive to and from work at regular times but is unable to specify the places at which work is to be performed, the limited driving privilege must specify the general times and geographic boundaries in which the applicant will be driving, and restrict driving to those times and within those boundaries.
- (4) If the applicant can specify neither the times nor places in which he will be driving to and from work, or if he is required to drive during these nonstandard working hours as a condition of employment, the limited driving privilege must specify the geographic boundaries in which he will drive and restrict driving to that within those boundaries.

The limited driving privilege must state the name and address of the applicant's place of work or employer, and may include other information and restrictions applicable to work-related driving, in the discretion of the court.

(g2) Driving for Other than Work-Related Purposes. - A limited driving privilege may not allow driving for maintenance of the household except during standard working hours, and the limited driving privilege may contain any additional restrictions on that driving, in the discretion of the court. The limited driving privilege must authorize driving essential to the completion of any community work assignments, course of instruction at an Alcohol and Drug Education Traffic School, or substance abuse assessment or treatment, to which the applicant is ordered by the court as a condition of probation for the impaired driving conviction. If this driving will occur during nonstandard working hours, the limited driving privilege must specify the same limitations required by subsection (g1) for work-related driving during those hours, and it must include or have attached to it the name and address of the Alcohol and Drug Education Traffic School, the community service coordinator, or mental health treatment facility to which the applicant is assigned. Driving for educational purposes other than the course of instruction at an Alcohol and Drug Education Traffic School is subject to the same limitations applicable to work related driving under subsections (g) and (g1).

(g3) Ignition Interlock Allowed. - A judge may include all of the following in a limited driving privilege order:

- (1) A restriction that the applicant may operate only a designated motor vehicle.
- (2) A requirement that the designated motor vehicle be equipped with a functioning ignition interlock system of a type approved by the Commissioner. The Commissioner shall not unreasonably withhold approval of an ignition interlock system and shall consult with the Division of Purchase and Contract in the Department of Administration to ensure that potential vendors are not discriminated against.
- (3) A requirement that the applicant personally activate the ignition interlock system before driving the motor vehicle.

(g4) The restrictions set forth in subsection (g3) and (g5) of this section do not apply to a motor vehicle that meets all of the following requirements:

- (1) Is owned by the applicant's employer.
- (2) Is operated by the applicant solely for work-related purposes.
- (3) Its owner has filed with the court a written document authorizing the applicant to drive the vehicle, for work-related purposes, under the authority of a limited driving privilege.

(g5) Ignition Interlock Required. - If a person's drivers license is revoked for a conviction of G.S. 20-138.1, and the person had an alcohol concentration of 0.15 or more, a judge shall include all of the following in a limited driving privilege order:

- (1) A restriction that the applicant may operate only a designated motor vehicle.
- (2) A requirement that the designated motor vehicle be equipped with a functioning ignition interlock system of a type approved by the Commissioner, which is set to prohibit driving with an alcohol concentration of greater than 0.00. The Commissioner shall not unreasonably withhold approval of an ignition interlock system and shall consult with the Division of Purchase and Contract in the Department of Administration to ensure that potential vendors are not discriminated against.
- (3) A requirement that the applicant personally activate the ignition interlock system before driving the motor vehicle.

For purposes of this subsection, the results of a chemical analysis presented at trial or sentencing shall be sufficient to prove a person's alcohol concentration, shall be conclusive, and shall not be subject to modification by any party, with or without approval by the court.

(h) Other Mandatory and Permissive Conditions or Restrictions. - In all limited driving privileges the judge shall also include a restriction that the applicant not consume alcohol while driving or drive at any time while he has remaining in his body any alcohol or controlled substance previously consumed, unless the controlled substance was lawfully obtained and taken in therapeutically appropriate amounts. The judge may impose any other reasonable restrictions or conditions necessary to achieve the purposes of this section.

(i) Modification or Revocation of Privilege. - A judge who issues a limited driving privilege is authorized to modify or revoke the limited driving privilege upon a showing that the circumstances have changed sufficiently to justify modification or revocation. If the judge who issued the privilege is not presiding in the court in which the privilege was issued, a presiding judge in that court may modify or revoke a privilege in accordance with this subsection. The judge must indicate in the order of modification or revocation the reasons for the order, or he must make specific findings indicating the reason for the order and those findings must be entered in the record of the case.

(j) Effect of Violation of Restriction. - A holder of a limited driving privilege who violates any of its restrictions commits the offense of driving while his license is revoked under G.S. 20-28(a) and is subject to punishment and license revocation as provided in that section. If a law-enforcement officer has reasonable grounds to believe that the holder of a limited driving privilege has consumed alcohol while driving or has driven

while he has remaining in his body any alcohol previously consumed, the suspected offense of driving while license is revoked is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2. If a holder of a limited driving privilege is charged with driving while license revoked by violating a restriction contained in his limited driving privilege, and a judicial official determines that there is probable cause for the charge, the limited driving privilege is suspended pending the resolution of the case, and the judicial official must require the holder to surrender the limited driving privilege. The judicial official must also notify the holder that he is not entitled to drive until his case is resolved.

Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violating this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the Department of Health and Human Services, and the screening test is conducted in accordance with the applicable regulations of the Department as to the manner of its use.

(j1) Effect of Violation of Community Service Requirement. - Section of Community Corrections of the Division of Adult Correction staff shall report significant violations of the terms of a probation judgment related to community service to the court that ordered the community service. The court shall then conduct a hearing to determine if there was a willful failure to comply. The hearing may be held in the district where the requirement was imposed, where the alleged violation occurred, or where the probationer resides. If the court determines that there was a willful failure to pay the prescribed fee or to complete the work as ordered within the applicable time limits, the court shall revoke any limited driving privilege issued in the impaired driving case until community service requirements have been met. In addition, the court may take any further action authorized by Article 82 of Chapter 15A of the General Statutes for violation of a condition of probation.

(k) Copy of Limited Driving Privilege to Division; Action Taken if Privilege Invalid. - The clerk of court or the child support enforcement agency must send a copy of any limited driving privilege issued in the county to the Division. A limited driving privilege that is not authorized by this section, G.S. 20-16.2(e1), 20-16.1, 50-13.12, or 110-142.2, or that does not contain the limitations required by law, is invalid. If the limited driving privilege is invalid on its face, the Division must immediately notify the court and the holder of the privilege that it considers the privilege void and that the Division records will not indicate that the holder has a limited driving privilege.

(l) Any judge granting limited driving privileges under this section shall, prior to granting such privileges, be furnished proof and be satisfied that the person being granted such privileges is financially responsible. Proof of financial responsibility shall be in one of the following forms:

- (1) A written certificate or electronically-transmitted facsimile thereof from any insurance carrier duly authorized to do business in this State certifying that there is in effect a nonfleet private passenger motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. The certificate or facsimile shall state the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy and shall state the date that the certificate or facsimile is issued. The certificate or facsimile shall remain effective proof of financial responsibility for a period of 30 consecutive days following the date the certificate or facsimile is issued but shall not in and of itself constitute a binder or policy of insurance or
- (2) A binder for or policy of nonfleet private passenger motor vehicle liability insurance under which the applicant is insured, provided that the binder or policy states the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy.

The preceding provisions of this subsection do not apply to applicants who do not own currently registered

motor vehicles and who do not operate nonfleet private passenger motor vehicles that are owned by other persons and that are not insured under commercial motor vehicle liability insurance policies. In such cases, the applicant shall sign a written certificate to that effect. Such certificate shall be furnished by the Division. Any material misrepresentation made by such person on such certificate shall be grounds for suspension of that person's license for a period of 90 days.

For the purpose of this subsection "nonfleet private passenger motor vehicle" has the definition ascribed to it in Article 40 of General Statute Chapter 58.

The Commissioner may require that certificates required by this subsection be on a form approved by the Commissioner. Such granting of limited driving privileges shall be conditioned upon the maintenance of such financial responsibility during the period of the limited driving privilege. Nothing in this subsection precludes any person from showing proof of financial responsibility in any other manner authorized by Articles 9A and 13 of this Chapter. (1983, c. 435, s. 31; 1983 (Reg. Sess., 1984), c. 1101, ss. 30-33; 1985, c. 706, s. 2; 1987, c. 869, s. 13; 1987 (Reg. Sess., 1988), c. 1037, s. 78; 1989, c. 436, s. 6; 1994, Ex. Sess., c. 20, s. 3; 1995, c. 506, ss. 1, 2; c. 538, s. 2(h); 1995 (Reg. Sess., 1996), c. 756, s. 31; 1997-379, s. 5.6; 1999-406, ss. 4-6; 2000-155, ss. 7, 11-13; 2001-487, s. 55; 2007-182, s. 2; 2007-493, ss. 24, 29, 30; 2008-187, s. 36(c); 2009-372, s. 15; 2011-145, s. 19.1(k); 2012-194, s. 45(c).)