§ 20-19. Period of suspension or revocation; conditions of restoration.

(a) When a license is suspended under subdivision (8) or (9) of G.S. 20-16(a), the period of suspension shall be in the discretion of the Division and for such time as it deems best for public safety but shall not exceed six months.

(b) When a license is suspended under subdivision (10) of G.S. 20-16(a), the period of suspension shall be in the discretion of the Division and for such time as it deems best for public safety but shall not exceed a period of 12 months.

(c) When a license is suspended under any other provision of this Article which does not specifically provide a period of suspension, the period of suspension shall be not more than one year.

(c1) When a license is revoked under subdivision (2) of G.S. 20-17, and the period of revocation is not determined by subsection (d) or (e) of this section, the period of revocation is one year.

(c2) When a license is suspended under G.S. 20-17(a)(14), the period of revocation for a first conviction shall be for 10 days. For a second or subsequent conviction as defined in G.S. 20-138.2B(d), the period of revocation shall be one year.

(c3) Restriction; Revocations. - When the Division restores a person's drivers license which was revoked pursuant to G.S. 20-13.2(a), G.S. 20-23 when the offense involved impaired driving, G.S. 20-23.2, subdivision (2) of G.S. 20-17(a), subdivision (1) or (9) of G.S. 20-17(a) when the offense involved impaired driving, G.S. 20-138.5(d), or this subsection, in addition to any other restriction or condition, it shall place the applicable restriction on the person's drivers license as follows:

(1) For the first restoration of a drivers license for a person convicted of driving while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired under G.S. 20-138.1, that the person not operate a vehicle with an alcohol concentration of 0.04 or more at any relevant time after the driving.

(2) For the second or subsequent restoration of a drivers license for a person convicted of driving while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired under G.S. 20-138.1, that the person not operate a vehicle with an alcohol concentration greater than 0.00 at any relevant time after the driving.

(3) For any restoration of a drivers license for a person convicted of driving while impaired in a commercial motor vehicle, G.S. 20-138.2, habitual impaired driving, G.S. 20-138.5, felony death by vehicle, G.S. 20-141.4(a1), manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, or a revocation under this subsection, that the person not operate a vehicle with an alcohol concentration of greater than 0.02 at any relevant time after the driving.

(3a) For any restoration of a drivers license (i) for a person convicted of driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, or (ii) revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, that the person not operate a vehicle with an alcohol concentration of greater than 0.00 at any relevant time after the driving.

(4) For any restoration of a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired in a commercial motor vehicle, G.S. 20-138.2, driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, a violation of G.S. 20-141.4, or manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, that the person not operate a vehicle with an alcohol concentration of greater than 0.00 at any relevant time after the driving.

(5) For any restoration of a drivers license pursuant to G.S. 20-17.8 requiring an ignition interlock system, that the person not operate a vehicle with an alcohol concentration of 0.02 or more at

any relevant time after the driving during the period that the ignition interlock is required.

In addition, the person seeking restoration of a license must agree to submit to a chemical analysis in accordance with G.S. 20-16.2 at the request of a law enforcement officer who has reasonable grounds to believe the person is operating a motor vehicle on a highway or public vehicular area while consuming alcohol or at any time while the person has remaining in the person's body any alcohol or controlled substance previously consumed. The person must also agree that, when requested by a law enforcement officer, the person will agree to be transported by the law enforcement officer to the place where chemical analysis is to be administered.

The restrictions placed on a license under this subsection shall be in effect (i) seven years from the date of restoration if the person's license was permanently revoked, (ii) until the person's twenty-first birthday if the revocation was for a conviction under G.S. 20-138.3, and (iii) three years in all other cases.

A law enforcement officer who has reasonable grounds to believe that a person has violated a restriction placed on the person's drivers license shall complete an affidavit pursuant to G.S. 20-16.2(c1). On the basis of information reported pursuant to G.S. 20-16.2, the Division shall revoke the drivers license of any person who violates a condition of reinstatement imposed under this subsection. An alcohol concentration report from an ignition interlock system shall not be used as the basis for revocation under this subsection. A violation of a restriction imposed under this subsection or the willful refusal to submit to a chemical analysis shall result in a one-year revocation. If the period of revocation was imposed pursuant to subsection (d) or (e), or G.S. 20-138.5(d), any remaining period of the original revocation, prior to its reduction, shall be reinstated and the one-year revocation begins after all other periods of revocation have terminated.

(c4) Applicable Procedures. - When a person has violated a condition of restoration by refusing a chemical analysis, the notice and hearing procedures of G.S. 20-16.2 apply. When a person has submitted to a chemical analysis and the results show a violation of the alcohol concentration restriction, the notification and hearing procedures of this section apply.

(c5) Right to Hearing Before Division; Issues. - Upon receipt of a properly executed affidavit required by G.S. 20-16.2(c1), the Division must expeditiously notify the person charged that the person's license to drive is revoked for the period of time specified in this section, effective on the thirtieth calendar day after the mailing of the revocation order unless, before the effective date of the order, the person requests in writing a hearing before the Division. Except for the time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the Division that the person's license was surrendered to the court and remained in the court's possession, then the Division shall credit the amount of time for which the license was in the possession of the court against the revocation period required by this section. If the person properly requests a hearing, the person retains the person's license, unless it is revoked under some other provision of law, until the hearing is held, the person withdraws the request, or the person fails to appear at a scheduled hearing. The hearing officer may subpoena any witnesses or documents that the hearing officer deems necessary. The person may request the hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at the hearing if the person makes the request in writing at least three days before the hearing. The person may subpoena any other witness whom the person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the authority of this section. The hearing officer is authorized to administer oaths to witnesses appearing at the hearing. The hearing must be conducted in the county where the charge was brought, and must be limited to consideration of whether all of the following conditions exist:

(1) The charging officer had reasonable grounds to believe that the person had violated the alcohol concentration restriction.
(2) The person was notified of the person's rights as required by G.S. 20-16.2(a).
(3) The drivers license of the person had an alcohol concentration restriction.
(4) The person submitted to a chemical analysis upon the request of the charging officer, and the analysis revealed an alcohol concentration in excess of the restriction on the person's drivers license.

If the Division finds that the conditions specified in this subsection are met, it must order the revocation sustained. If the Division finds that any of the conditions (1), (2), (3), or (4) is not met, it must rescind the revocation. If the revocation is sustained, the person must surrender the person's license immediately upon notification by the Division.

(c6) Appeal to Court. - There is no right to appeal the decision of the Division. However, if the person properly requested a hearing before the Division under subsection (c5) and the Division held such a hearing, the person may within 30 days of the date the Division's decision is mailed to the person, petition the superior court

of the county in which the hearing took place for discretionary review on the record of the revocation. The superior court may stay the imposition of the revocation only if the court finds that the person is likely to succeed on the merits of the case and will suffer irreparable harm if such a stay is not granted. The stay shall not exceed 30 days. The reviewing court shall review the record only and shall be limited to determining if the Division hearing officer followed proper procedures and if the hearing officer made sufficient findings of fact to support the revocation. There shall be no further appeal.

(d) When a person's license is revoked under (i) G.S. 20-17(a)(2) and the person has another offense involving impaired driving for which the person has been convicted, which offense occurred within three years immediately preceding the date of the offense for which the person's license is being revoked, or (ii) G.S. 20-17(a)(9) due to a violation of G.S. 20-141.4(a3), the period of revocation is four years, and this period may be reduced only as provided in this section. The Division may conditionally restore the person's license after it has been revoked for at least two years under this subsection if the person provides the Division with satisfactory proof that both of the following requirements are met:

(1) The person has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs.

(2) The person is not currently an excessive user of alcohol, drugs, or prescription drugs, or unlawfully using any controlled substance. The person may voluntarily submit themselves to continuous alcohol monitoring for the purpose of proving abstinence from alcohol consumption during a period of revocation immediately prior to the restoration consideration. All of the following requirements apply when providing proof that the requirement set forth in this subdivision has been met:

a. Monitoring periods of 120 days or longer shall be accepted by the Division as evidence of abstinence if the Division receives sufficient documentation that reflects that the person abstained from alcohol use during the monitoring period.

b. The continuous alcohol monitoring system shall be a system approved under G.S. 15A-1343.3.

c. The Division may establish guidelines for the acceptance of evidence of abstinence under this subdivision.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for the duration of the original revocation period.

(e) When a person's license is revoked under (i) G.S. 20-17(a)(2) and the person has two or more previous offenses involving impaired driving for which the person has been convicted, and the most recent offense occurred within the five years immediately preceding the date of the offense for which the person's license is being revoked, (ii) G.S. 20-17(a)(2) and the person was sentenced pursuant to G.S. 20-179(f3) for the offense resulting in the revocation, or (iii) G.S. 20-17(a)(9) due to a violation of G.S. 20-141.4(a4), the revocation is permanent.

(e1) Notwithstanding subsection (e) of this section, the Division may conditionally restore the license of a person to whom subsection (e) applies after it has been revoked for at least three years under subsection (e) if the person provides the Division with satisfactory proof of all of the following:

(1) In the three years immediately preceding the person's application for a restored license, the person has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs.

(2) The person is not currently an excessive user of alcohol, drugs, or prescription drugs, or unlawfully using any controlled substance. The person may voluntarily submit themselves to continuous alcohol monitoring for the purpose of proving abstinence from alcohol consumption during a period of revocation immediately prior to the restoration consideration. All of the following requirements apply when providing proof that the requirement set forth in this subdivision has been met:

a. Monitoring periods of 120 days or longer shall be accepted by the Division as evidence of abstinence if the Division receives sufficient documentation that reflects that the person abstained from alcohol use during the monitoring period.

b. The continuous alcohol monitoring system shall be a system approved under G.S. 15A-1343.3.

c. The Division may establish guidelines for the acceptance of evidence of abstinence under this subdivision.

(e2) Notwithstanding subsection (e) of this section, the Division may conditionally restore the license of a person to whom subsection (e) applies after it has been revoked for at least 24 months under G.S. 20-17(a)(2) if the person provides the Division with satisfactory proof of all of the following:

(1) The person has not consumed any alcohol for the 12 months preceding the restoration while being monitored by a continuous alcohol monitoring device of a type approved by the Division of Community Supervision and Reentry of the Department of Adult Correction.

(2) The person has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs.

(3) The person is not currently an excessive user of drugs or prescription drugs.

(4) The person is not unlawfully using any controlled substance.

(e3) If the Division restores a person's license under subsection (e1), (e2), or (e4) of this section, it may place reasonable conditions or restrictions on the person for any period up to five years from the date of restoration.

(e4) When a person's license is revoked under G.S. 20-138.5(d), the Division may conditionally restore the license of that person after it has been revoked for at least 10 years after the completion of any sentence imposed by the court, if the person provides the Division with satisfactory proof of all of the following:

(1) In the 10 years immediately preceding the person's application for a restored license, the person has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any other criminal offense.

(2) The person is not currently a user of alcohol, unlawfully using any controlled substance, or an excessive user of prescription drugs.

(f) When a license is revoked under any other provision of this Article which does not specifically provide a period of revocation, the period of revocation shall be one year.

(g) When a license is suspended under subdivision (11) of G.S. 20-16(a), the period of suspension shall be for a period of time not in excess of the period of nonoperation imposed by the court as a condition of the suspended sentence; further, in such case, it shall not be necessary to comply with the Motor Vehicle Safety and Financial Responsibility Act in order to have such license returned at the expiration of the suspension period.

(g1) When a license is revoked under subdivision (12) of G.S. 20-17, the period of revocation is six months for conviction of a second offense and one year for conviction of a third or subsequent offense.

(g2) When a license is revoked under G.S. 20-17(a)(16), the period of revocation is 90 days for a second conviction and six months for a third or subsequent conviction. The term "second or subsequent conviction" shall have the same meaning as found in G.S. 20-17(a)(16).

(g3) When a license is revoked under G.S. 20-17(a)(17), the period of revocation shall be not less than one year.

(h) Repealed by Session Laws 1983, c. 435, s. 17.

(i) When a person's license is revoked under G.S. 20-17(a)(1) or G.S. 20-17(a)(9), and the offense is one involving impaired driving and a fatality, the revocation is permanent. The Division may, however, conditionally restore the person's license after it has been revoked for at least five years under this subsection if the person provides the Division with satisfactory proof that both of the following requirements are met:

(1) In the five years immediately preceding the person's application for a restored license, the person has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs.

(2) The person is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for any period up to seven years from the date of restoration.

(j) The Division is authorized to issue amended revocation orders issued under subsections (d) and (e), if necessary because convictions do not respectively occur in the same order as offenses for which the license may

be revoked under those subsections.

(k) Before the Division restores a driver's license that has been suspended or revoked under G.S. 20-138.5(d), or under any provision of this Article, other than G.S. 20-24.1, the person seeking to have the person's driver's license restored shall submit to the Division proof that the person has notified the person's insurance agent or company that the person is seeking the restoration and that the person 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.

(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.

Subdivisions (1) and (2) 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 and may be incorporated into the restoration application form. 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 purposes of this subsection, the term "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. The financial responsibility required by this subsection shall be kept in effect for not less than three years after the date that the license is restored. Failure to maintain financial responsibility as required by this subsection shall be grounds for suspending the restored driver's license for a period of 30 days. 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. (1935, c. 52, s. 13; 1947, c. 1067, s. 15; 1951, c. 1202, ss. 2-4; 1953, c. 1138; 1955, c. 1187, ss. 13, 17, 18; 1957, c. 499, s. 2; c. 515, s. 1; 1959, c. 1264, s. 11A; 1969, c. 242; 1971, c. 619, ss. 8-10; 1973, c. 1445, ss. 1-4; 1975, c. 716, s. 5; 1979, c. 903, ss. 4-6; 1981, c. 412, s. 4; c. 747, ss. 34, 66; 1983, c. 435, s. 17; 1983 (Reg. Sess., 1984), c. 1101, s. 18; 1987, c. 869, s. 12; 1987 (Reg. Sess., 1988), c. 1112; 1989, c. 436, s. 5; c. 771, s. 18; 1995, c. 506, s. 8; 1998-182, s. 21; 1999-406, s. 2; 1999-452, ss. 11, 12; 2000-140, ss. 3, 4; 2000-155, s. 6; 2001-352, s. 4; 2007-165, ss. 1(a), (b); 2007-493, ss. 11-14; 2008-187, s. 9; 2009-99, s. 1; 2009-369, ss. 1-4; 2009-500, ss. 1, 2; 2011-145, s. 19.1(h); 2011-191, s. 2; 2014-115, s. 61.5; 2017-176, s. 2(b); 2017-186, s. 2(jjjj); 2021-128, s. 3; 2021-134, s. 9(c); 2021-180, s. 19C.9(t); 2021-182, s. 1(d); 2021-185, s. 11.)