

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

S

4

SENATE BILL 123*

Select Committee on Courts Committee Substitute Adopted 2/24/94

Appropriations Committee Substitute No. 2 Adopted 3/2/94

Select Committee on Courts Committee Substitute No. 3 Adopted 3/9/94

Short Title: Limit Privileges for Crimes.

(Public)

Sponsors:

Referred to:

February 15, 1994

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR THE FORFEITURE OR RESTRICTION OF CERTAIN
2 CITIZENSHIP PRIVILEGES OF AN INDIVIDUAL CONVICTED OF A
3 FELONY OR SENTENCED TO COMMUNITY PUNISHMENT OR
4 INTERMEDIATE PUNISHMENT.
5

6 Whereas, the rights and privileges of citizenship are interrelated with the
7 responsibilities of citizenship; and

8 Whereas, it is the policy of this State that conviction of a felony connotes
9 such irresponsibility as to justify forfeiture of privileges as well as forfeiture of rights;
10 and

11 Whereas, licensing by the State and its subdivisions for various activities,
12 such as regular and commercial drivers licenses, business and occupational licenses, and
13 hunting and fishing licenses, is a matter of privilege and not of right; and

14 Whereas, although constitutional standards apply to every citizen's
15 opportunity for licensing, primarily through due process and equal protection
16 considerations, the people of North Carolina demand that every citizen demonstrate
17 sufficient responsibility to retain licensing privileges; and

18 Whereas, one who commits a felony does not demonstrate sufficient
19 responsibility; and

20 Whereas, the State may require forfeiture or restriction of any licensing
21 privilege upon a person's conviction of a felony; and

1 Whereas, to further the purposes of suspended sentences and probation and
2 provide incentive for persons convicted of a felony to complete such sentences and
3 accept responsibility for their conduct, trial courts particularly should be authorized to
4 order forfeiture or restriction as a condition of a suspended sentence or probation and
5 require forfeiture as to persons who do not consent to a suspended sentence or
6 probation; and

7 Whereas, restoration of the privileges of citizenship should occur in the same
8 manner as restoration of the rights of citizenship; Now, therefore,
9 The General Assembly of North Carolina enacts:

10 Section 1. Article 81 of Chapter 15A of the General Statutes is amended by
11 adding a new section to read:

12 **"§ 15A-1331A. Forfeiture or restriction of licensing privileges upon conviction of a**
13 **felony.**

14 (a) The following definitions apply in this section:

15 (1) Licensing agency. – Any department, division, agency, board, or other
16 unit of State or local government that issues licenses for licensing
17 privileges.

18 (2) Licensing privilege. – The privilege of an individual to be authorized
19 to engage in an activity as evidenced by a license. The term includes
20 the privileges as evidenced by the following licenses: regular and
21 commercial drivers licenses, occupational licenses, hunting licenses,
22 and fishing licenses. The term does not include the privileges of
23 paying taxes as evidenced by a tax license issued under Chapter 105 of
24 the General Statutes, Article 7 of Chapter 153A of the General
25 Statutes, or Article 9 of Chapter 160A of the General Statutes. The
26 term does not include the privilege of marrying as evidenced by a
27 marriage license.

28 (3) Occupational license. – A licensure, permission, certification, or
29 similar authorization required by statute or rule to practice an
30 occupation or business.

31 (b) Upon conviction of a felony, an individual automatically forfeits the
32 individual's licensing privileges for the full term of the maximum active sentence for the
33 offense class and level if:

34 (1) The individual is offered a suspended sentence on condition the
35 individual accepts probation and the individual refuses probation, or

36 (2) The individual's probation is revoked or suspended.

37 (c) Whenever an individual's licensing privileges are forfeited under this section,
38 the judge shall make findings in the judgment of the licensing privileges held by the
39 individual known to the court at that time, the drivers license number and social security
40 number of the individual, and the beginning and ending date of the period of time of the
41 forfeiture. The terms and conditions of the forfeiture shall be transmitted by the clerk of
42 court to the Division of Motor Vehicles, in accordance with G.S. 20-24 and to the
43 licensing agencies specified by the judge in the judgment. A licensing agency, upon
44 receiving notice from the clerk of court, shall require the individual whose licensing

1 privileges were forfeited to surrender the forfeited license issued by the agency and
2 shall not reissue a license to that individual during the period of forfeiture as stated in
3 the notice. Licensing agencies are authorized to establish procedures to implement this
4 section.

5 (d) Notwithstanding any other provision of this section, the court may order that
6 an individual whose licensing privileges are forfeited under this section be granted a
7 limited driving privilege in accordance with the provisions of G.S. 20-179.3."

8 Sec. 2. G.S. 15A-1344 is amended by adding a new subsection to read:

9 "(d2) License Forfeiture in Response to Violation. – Upon a finding that a person
10 sentenced to community punishment or intermediate punishment under Article 81B of
11 this Chapter has violated one or more conditions of probation, the court may order the
12 forfeiture of any regular or commercial drivers licenses issued to the person or of any
13 license or permit issued by the Wildlife Resources Commission to the person.
14 Forfeiture under this subsection may be for up to three years, but in no event shall the
15 time of forfeiture be less than the term of community punishment or intermediate
16 punishment given."

17 Sec. 3. Chapter 20 of the General Statutes is amended by adding a new
18 section to read:

19 **"§ 20-15.1. Revocations when licensing privileges forfeited upon conviction of a**
20 **crime.**

21 The Division shall revoke the license of a person whose licensing privileges have
22 been forfeited under G.S. 15A-1331A or G.S. 15A-1344(d2). If a revocation period set
23 by this Chapter is longer than the revocation period resulting from the forfeiture of
24 licensing privileges, the revocation period in this Chapter applies."

25 Sec. 4. G.S. 20-179.3(b) is rewritten to read:

26 "(b) Eligibility. –

27 (1) A person convicted of the offense of impaired driving under G.S. 20-
28 138.1 is eligible for a limited driving privilege if:

29 ~~(1)~~a. At the time of the offense he held either a valid driver's
30 license or a license that had been expired for less than
31 one year;

32 ~~(2)~~b. At the time of the offense he had not within
33 the preceding seven years been convicted of an offense
34 involving impaired driving;

35 ~~(3)~~c. Punishment Level Three, Four, or Five was imposed
36 for the offense of impaired driving; and

37 ~~(4)~~d. Subsequent to the offense he has not been convicted
38 of, or had an unresolved charge lodged against him for,
39 an offense involving impaired driving.

40 A person whose North Carolina driver's license is revoked because of
41 a conviction in another jurisdiction substantially equivalent to
42 impaired driving under G.S. 20-138.1 is eligible for a limited driving
43 privilege if he would be eligible for it had the conviction occurred in

1 North Carolina. Eligibility for a limited driving privilege following a
2 revocation under G.S. 20-16.2(d) is governed by G.S. 20-16.2(e1).

3 (2) Any person whose licensing privileges are forfeited pursuant to G.S.
4 15A-1331A is eligible for a limited driving privilege if the court finds
5 that at the time of the forfeiture, the person held either a valid drivers
6 license or a license that had been expired for less than one year and

7 a. The person is supporting existing dependents and must have a
8 drivers license to be gainfully employed; or

9 b. The person has an existing dependent who requires serious
10 medical treatment and the defendant is the only person able to
11 provide transportation to the dependent to the health care
12 facility where the dependent can receive the needed medical
13 treatment.

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

19 Sec. 5. G.S. 113-277 is amended by adding a new subsection to read:

20 "(a4) The Wildlife Resources Commission shall order the surrender of any license
21 or permit issued under this Article to a person whose licensing privileges have been
22 forfeited under G.S. 15A-1331A or G.S. 15A-1344(d2) for the period specified by the
23 court."

24 Sec. 6. Section 2 of this act becomes effective on the same date that Section
25 56 of Chapter 538 of the 1993 Session Laws provides that that act becomes effective.
26 The remainder of this act becomes effective May 1, 1994, and applies to offenses
27 committed on or after that date.