

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 177

Short Title: Car Seized–Driving on Revoked D.L.

(Public)

Sponsors: Senators Carpenter; Clark and Ledbetter.

Referred to: Judiciary II/Election Laws.

February 13, 1995

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE SEIZURE OF A MOTOR VEHICLE USED BY A
PERSON DRIVING WITH A PERMANENTLY REVOKED DRIVERS LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 20 of the General Statutes is amended by adding a new
section to read:

**"§ 20-28.3. Forfeiture of motor vehicle for driving while license permanently
revoked.**

(a) If at a sentencing hearing for any moving violation the judge determines that
the defendant's drivers license was permanently revoked pursuant to G.S. 20-28(b), the
motor vehicle that was driven by the defendant at the time he committed the offense is
property subject to forfeiture.

(b) Duty of Prosecutor to Notify Possible Innocent Parties. – In any case in which
a prosecutor determines that a motor vehicle driven by a defendant may be subject to
forfeiture under this section, the prosecutor shall determine the identity of the vehicle
owner as shown on the certificate of title for the vehicle; and he shall also determine if
there are any security interests noted on the vehicle's certificate of title. The State shall
notify the holder of each security interest that the vehicle may be subject to forfeiture and
that he may intervene to protect his interest. If the defendant is not the owner, a similar
notice shall be served on the owner. The notice may be served by any means reasonably

1 likely to provide actual notice, and shall be served at least 14 days before the forfeiture
2 hearing.

3 (c) Duty of Judge. – The judge at sentencing shall hold a hearing to determine if
4 the vehicle should be forfeited. At the hearing the judge may order the forfeiture if he
5 finds that:

6 (1) The vehicle is subject to forfeiture;

7 (2) The vehicle is not primarily used by a member of the defendant's family
8 or household for a business purpose or for driving to and from work or
9 school;

10 (3) All potential innocent parties have been notified as required in
11 subsection (b) of this section; and

12 (4) No party has shown that he is an innocent party as described in
13 subsection (e) of this section.

14 If the owner or the holder of a security interest has not been notified, the judge may
15 continue the hearing to allow the State to serve the notice or he may decline to order
16 forfeiture. In any case in which a judge does not order the forfeiture of a vehicle subject
17 to forfeiture, he shall enter into the record detailed, written reasons for his decision.

18 (d) Sale of Forfeited Vehicle Required. – If the judge orders forfeiture of the
19 vehicle pursuant to this section, he shall order the sale of the vehicle. Proceeds of the sale
20 shall be paid to the school fund of the county in which the property was seized.

21 (e) Innocent Party May Intervene. – At any time before the forfeiture is ordered,
22 the property owner or holder of a security interest, other than the defendant, may apply to
23 protect his interest in the motor vehicle. The application may be made to a judge who has
24 jurisdiction to try the impaired driving offense with which the motor vehicle is
25 associated. The judge shall order the vehicle returned to the owner if he finds that either
26 the owner or the holder of a security interest is an innocent party. An owner or holder of a
27 security interest is an innocent party if he:

28 (1) Did not know and had no reason to know that the defendant's drivers
29 license was revoked; or

30 (2) Knew that the defendant's drivers license was revoked, but the
31 defendant drove the vehicle without his consent.

32 If an innocent party applies after the forfeited motor vehicle has been sold and the judge
33 finds no laches in the innocent party's delay, the judge may order a payment to the
34 innocent party from the net proceeds of the sale equal to his equity or security interest in
35 the vehicle.

36 (f) The Division of Motor Vehicles shall maintain a list of defendants who have
37 forfeited vehicles pursuant to this section, and those persons shall be permanently barred
38 from obtaining a drivers license or registering any motor vehicle in this state." Sec. 2.
39 This act becomes effective July 1, 1995.