

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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HOUSE DRH30002-SA-2 (10/04)

Short Title: Amend Habitual DWI.

(Public)

Sponsors: Representatives Hurley, Brandon, McNeill, and Baskerville (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE OFFENSE OF HABITUAL DWI TO INCLUDE ANY DWI  
3 OFFENSE OCCURRING AFTER CONVICTION FOR THE OFFENSE OF HABITUAL  
4 DWI.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 20-138.5 reads as rewritten:

7 "**§ 20-138.5. Habitual impaired driving.**

8 (a) A person commits the offense of habitual impaired driving if he drives while  
9 impaired as defined in G.S. 20-138.1 and (i) has been convicted of three or more offenses  
10 involving impaired driving as defined in G.S. 20-4.01(24a) within 10 years of the date of this  
11 ~~offense~~offense; or (ii) has been previously convicted of the offense of habitual impaired  
12 driving.

13 (b) A person convicted of violating this section shall be punished as a Class F felon and  
14 shall be sentenced to a minimum active term of not less than 12 months of imprisonment,  
15 which shall not be suspended. Sentences imposed under this subsection shall run consecutively  
16 with and shall commence at the expiration of any sentence being served.

17 (c) An offense under this section is an implied consent offense subject to the provisions  
18 of G.S. 20-16.2. The provisions of G.S. 20-139.1 shall apply to an offense committed under this  
19 section.

20 (d) A person convicted under this section shall have his license permanently revoked.

21 (e) If a person is convicted under this section, the motor vehicle that was driven by the  
22 defendant at the time the defendant committed the offense of impaired driving becomes  
23 property subject to forfeiture in accordance with the procedure set out in G.S. 20-28.2. In  
24 applying the procedure set out in that statute, an owner or a holder of a security interest is  
25 considered an innocent party with respect to a motor vehicle subject to forfeiture under this  
26 subsection if ~~any~~either of the following applies:

27 (1) The owner or holder of the security interest did not know and had no reason  
28 to know that the defendant had been convicted within the previous seven  
29 years of three or more offenses involving impaired ~~driving~~driving; and, if  
30 applicable, did not know and had no reason to know that the defendant had  
31 been previously convicted of the offense of habitual impaired driving.

32 (2) The defendant drove the motor vehicle without the consent of the owner or  
33 the holder of the security interest."

34 **SECTION 2.** This act becomes effective July 1, 2013, and applies to offenses  
35 committed on or after that date.



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