

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 758

Short Title: Limited Driving Privileges - DWLR. (Public)

Sponsors: Senators Kerr, Jones; Albertson, Berger of Rockingham, Clodfelter, Dorsett, Jenkins, Malone, Nesbitt, Stevens, and Weinstein.

Referred to: Judiciary II (Criminal).

March 14, 2007

A BILL TO BE ENTITLED
AN ACT TO ALLOW PERSONS WHO ARE CONVICTED OF CERTAIN DRIVING
WHILE LICENSE REVOKED OFFENSES TO OBTAIN A LIMITED DRIVING
PRIVILEGE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-20.1. Limited driving privileges for certain revocations.

(a) Definitions. – As used in this section, the following definitions apply:

- (1) Limited driving privilege. – A judgment issued by a court authorizing a person with a revoked drivers license to drive under the terms and conditions authorized under this section.
- (2) Nonfleet private passenger motor vehicle. – As defined in Article 40 of Chapter 58 of the General Statutes.
- (3) Nonstandard working hours. – Any time other than 6:00 A.M. until 8:00 P.M. on Monday through Friday.
- (4) Offense involving impaired driving. – As defined in G.S. 20-4.01(24a).
- (5) Standard working hours. – Any time from 6:00 A.M. until 8:00 P.M. on Monday through Friday.

(b) Eligibility. – The court, for good cause shown, may issue a limited driving privilege to a person whose North Carolina drivers license is permanently revoked under G.S. 20-28(a) or G.S. 20-28.1 if all of the following conditions apply:

- (1) The person has no other current drivers license revocations other than the revocation under G.S. 20-28(a) or G.S. 20-28.1.
- (2) The person has complied with the permanent revocation for at least two years immediately preceding the motion for a limited driving privilege.

1 (3) The person has no unresolved or outstanding motor vehicle offenses or
2 motor vehicle charges or unpaid motor vehicle fines or penalties in this
3 or any other state.

4 (4) The person has not held a limited driving privilege issued under this
5 section at any time during the three years prior to the filing of the
6 current action.

7 (c) Ineligibility. – A person shall not be eligible to receive a limited driving
8 privilege under this section if any of the following conditions apply:

9 (1) The person is eligible to receive a limited driving privilege under any
10 other provision of law.

11 (2) The person's drivers license was revoked for an offense involving
12 impaired driving at the time the person was charged under
13 G.S. 20-28(a) or G.S. 20-28.1.

14 (3) The person's drivers license is revoked under G.S. 20-17.1.

15 (4) The person is not eligible to receive a North Carolina drivers license
16 under G.S. 20-9(f).

17 (5) The Division has refused to issue a drivers license to the person under
18 G.S. 20-9(e).

19 (6) The person's drivers license issued by another state has been revoked
20 by that state for any reason or the person's North Carolina drivers
21 license has been revoked under any interstate compact or agreement.

22 (d) Scope of Privilege. – A limited driving privilege shall restrict the holder to
23 essential driving related to one or more of the purposes listed in this subsection. Any
24 driving that is not related to the purposes authorized in this subsection is unlawful even
25 though done at times and upon routes that may be authorized by the privilege. Except as
26 otherwise provided, all driving shall be for a purpose and done within the restrictions
27 specified in the privilege.

28 The permissible purposes for a limited driving privilege are: (i) travel to and from
29 the person's employment and in the course of employment; (ii) necessary maintenance
30 of the person's household; and (iii) emergency medical care for the person or for an
31 immediate family member of the person who resides in the same household with the
32 person. Driving related to emergency medical care is authorized at any time and without
33 restriction as to routes.

34 (e) Jurisdiction. – A motion for a limited driving privilege under this section is
35 separate from any action that resulted in the initial revocation and is a civil action filed
36 in district court in the county of the person's residence as reflected by the Division's
37 records. The costs required under G.S. 7A-305(a3) apply to this action.

38 (f) Motion. – A motion for a limited driving privilege requested under this
39 section shall include a copy of the person's driving history. The motion shall also
40 include a sworn statement that there are no outstanding or unresolved charges, no
41 unpaid fines, and no violations in this or any other state that could result in the
42 revocation of the person's drivers license, and that the person has complied with the
43 current revocation for the time period required under subdivision (b)(2) of this section

1 immediately preceding the person's motion for a limited driving privilege under this
2 section.

3 (g) Employment Driving in Standard Working Hours. – The court may authorize
4 driving for employment-related purposes during standard working hours without
5 specifying the times and routes in which the driving shall occur. If the person is not
6 required to drive for essential employment-related purposes except during standard
7 working hours, the limited driving privilege shall prohibit driving during nonstandard
8 working hours unless the driving is for emergency medical care or is authorized by
9 subsection (i) of this section. The limited driving privilege shall state the name and
10 address of the applicant's place of work or employer and may include other information
11 and restrictions applicable to work-related driving in the discretion of the court.

12 (h) Employment Driving in Nonstandard Working Hours. – If a person is
13 required to drive during nonstandard working hours for an essential employment-related
14 purpose and the person provides to the court documentation of that fact, the court may
15 authorize the person to drive for that purpose during those hours. If the person is
16 self-employed, the documentation shall be attached to or made a part of the limited
17 driving privilege. The limited driving privilege shall state the name and address of the
18 person's place of employment or employer and may include other information and
19 restrictions applicable to work-related driving, in the discretion of the court. If the court
20 determines that it is necessary for the person to drive during nonstandard working hours
21 for an employment-related purpose, the court may authorize the person to drive subject
22 to these limitations:

23 (1) If the person is required to drive to and from a specific place of
24 employment at regular times, the limited driving privilege shall specify
25 the general times and routes in which the person will be driving to and
26 from work and restrict driving to those times and routes.

27 (2) If the person is required to drive to and from work at a specific place
28 but is unable to specify the times during which the driving will occur,
29 the limited driving privilege shall specify the general routes which the
30 person will be driving to and from work and restrict the driving to
31 those general routes.

32 (3) If the person is required to drive to and from work at regular times but
33 is unable to specify the places at which work is to be performed, the
34 limited driving privilege shall specify the general times and geographic
35 boundaries in which the person will be driving and restrict driving to
36 those times and within those boundaries.

37 (4) If the person can specify neither the times nor places in which the
38 person will be driving to and from work, or if the person is required to
39 drive during these nonstandard working hours as a condition of
40 employment, the limited driving privilege shall specify the geographic
41 boundaries in which the person will drive and restrict driving to within
42 those boundaries.

43 (i) Household Maintenance. – A limited driving privilege may not allow driving
44 for maintenance of the household except during standard working hours. The limited

1 driving privilege may contain any additional restrictions on that driving, in the
2 discretion of the court.

3 (j) Proof of Financial Responsibility. – A person applying for a limited driving
4 privilege under this section shall provide to the court proof of financial responsibility,
5 and a limited driving privilege shall be conditioned upon the maintenance of financial
6 responsibility during the period of the limited driving privilege. The Commissioner may
7 require that certificates required by this subsection be on a form approved by the
8 Commissioner. Nothing in this subsection precludes any person from showing proof of
9 financial responsibility in any other manner authorized by Articles 9A and 13 of this
10 Chapter. This subsection does not apply to a person who does not own a currently
11 registered motor vehicle and who does not operate a nonfleet private passenger motor
12 vehicle that is owned by another person and that is not insured under a commercial
13 motor vehicle liability insurance policy. If this subsection applies, the person shall sign
14 a written certificate to that effect. The Division shall furnish the certificate. Any
15 material misrepresentation made by the person on the certificate shall be grounds for the
16 court to revoke the limited driving privilege granted under this section.

17 Proof of financial responsibility shall be in one of the following forms:

18 (1) A written certificate or electronically transmitted facsimile of the
19 certificate issued by an insurance carrier duly authorized to do
20 business in this State certifying that there is in effect a nonfleet private
21 passenger motor vehicle liability policy for the benefit of the person
22 required to furnish proof of financial responsibility. The certificate or
23 facsimile shall state the effective date and expiration date of the
24 nonfleet private passenger motor vehicle liability policy and shall state
25 the date that the certificate or facsimile is issued. The certificate or
26 facsimile shall remain effective proof of financial responsibility for a
27 period of 30 consecutive days following the date the certificate or
28 facsimile is issued but shall not in and of itself constitute a binder or
29 policy of insurance.

30 (2) A binder for or policy of nonfleet private passenger motor vehicle
31 liability insurance under which the applicant is insured, provided that
32 the binder or policy states the effective date and expiration date of the
33 nonfleet private passenger motor vehicle liability policy.

34 (k) Other Restrictions. – The court shall include in all limited driving privileges a
35 restriction that the holder of the privilege not consume alcohol while driving or drive at
36 any time while the holder has remaining in the holder's body any alcohol or controlled
37 substance previously consumed, unless the controlled substance was lawfully obtained
38 and taken in therapeutically appropriate amounts. The court may impose any other
39 reasonable restrictions or conditions necessary to achieve the purposes of this section.

40 (l) Term. – The term of a limited driving privilege issued under this section shall
41 be one year. Upon the expiration of the term of the limited driving privilege or after
42 three years from the date of the permanent revocation, the person may apply to the
43 Division for a license under G.S. 20-28(c) or G.S. 20-28.1(c).

1 (m) Notification. – The clerk of court shall send a copy of any limited driving
2 privilege issued in the county to the Division. A limited driving privilege that is not
3 authorized by this section or that does not contain the limitations required by law is
4 invalid.

5 (n) Modification. – A court may modify or revoke a person's limited driving
6 privilege issued under this section upon a showing that the circumstances have changed
7 sufficiently to justify modification or revocation. If the judge who issued the privilege is
8 not presiding in the court in which the privilege was issued, a presiding judge in that
9 court may modify or revoke the privilege. The judge shall indicate in the order of
10 modification or revocation the reasons for the order, or the judge shall make specific
11 findings indicating the reason for the order, and those findings shall be entered in the
12 record of the case. When a court issues an order of modification or revocation, the clerk
13 shall send a copy of the order to the Division.

14 (o) Effect of Violation. – A violation of a limited driving privilege issued under
15 this section constitutes the offense of driving while license revoked under G.S. 20-28.
16 Whenever a person is charged with operating a motor vehicle in violation of the limited
17 driving privilege, the limited driving privilege shall be suspended pending the final
18 disposition of the charge."

19 **SECTION 2.** G.S. 7A-305 is amended by adding a new subsection to read:

20 "(a3) In every motion to obtain a limited driving privilege filed under G.S. 20-20.1,
21 a cost of one hundred dollars (\$100.00) shall be assessed against the person filing the
22 motion. Costs collected by the clerk under this subsection shall be remitted to the State
23 Treasurer. The State Treasurer shall credit one-half of the assessed cost to the Highway
24 Fund and the remaining one-half of the assessed cost to the Court Information
25 Technology Fund established under G.S. 7A-343.2. Costs assessed under this subsection
26 are in addition to any other costs assessed under this section."

27 **SECTION 3.** This act becomes effective December 1, 2007, and applies to
28 permanent revocations that occur on or after that date.