

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

SENATE BILL 758
RATIFIED BILL

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 privilege for certain revocations.

- (a) Definitions. – The following definitions apply in this section:
- (1) Limited driving privilege. – A judgment issued by a court authorizing a person with a revoked drivers license to drive under specified terms and conditions.
 - (2) Nonstandard working hours. – Anytime other than 6:00 A.M. until 8:00 P.M. on Monday through Friday.
 - (3) Standard working hours. – Anytime from 6:00 A.M. until 8:00 P.M. on Monday through Friday.
 - (4) Underlying offense. – The offense for which a person's drivers license was revoked when the person was charged under G.S. 20-28(a), driving with a revoked license, or under G.S. 20-28.1, committing a motor vehicle moving offense while driving with a revoked license.
- (b) Eligibility. – A person is eligible to apply for a limited driving privilege under this section if all of the following conditions apply:
- (1) The person's license is currently revoked under G.S. 20-28(a) or G.S. 20-28.1.
 - (2) The person has complied with the revocation for the period required in subsection (c) of this section immediately preceding the date the person files a petition for a limited driving privilege under this section.
 - (3) The person's underlying offense is not an offense involving impaired driving and, if the person's license is revoked under G.S. 20-28.1 for committing a motor vehicle moving offense while driving with a revoked license, the moving offense is not an offense involving impaired driving.
 - (4) The revocation period for the underlying offense has expired.
 - (5) The revocation under G.S. 20-28(a) or G.S. 20-28.1 is the only revocation in effect.
 - (6) The person is not eligible to receive a limited driving privilege under any other law.
 - (7) The person has not held a limited driving privilege issued under this section at anytime during the three years prior to the date the person files the current petition.
 - (8) The person has no pending charges for any motor vehicle offense in this or in any other state and has no unpaid motor vehicle fines or penalties in this or in any other state.
 - (9) The person's drivers license issued by another state has not been revoked by that state.

(10) G.S. 20-9(e) or G.S. 20-9(f) does not prohibit the Division from issuing the person a license.

(c) Compliance Period. – The following table sets out the period during which a person must comply with a revocation under G.S. 20-28(a) or G.S. 20-28.1 to be eligible for a limited driving privilege under this section:

<u>Revocation Period</u>	<u>Compliance Period</u>
<u>1 Year</u>	<u>90 Days</u>
<u>2 Years</u>	<u>1 Year</u>
<u>Permanent</u>	<u>2 Years</u>

(d) Petition. – A person may apply for a limited driving privilege under this section by filing a petition. A petition filed under this section is separate from the action that resulted in the initial revocation and is a civil action. A petition must be filed in district court in the county of the person's residence as reflected by the Division's records or, if the Division's records are inaccurate, in the county of the person's actual residence. A person must attach to a petition a copy of the person's motor vehicle record. A petition must include a sworn statement that the person filing the petition is eligible for a limited driving privilege under this section.

A court, for good cause shown, may issue a limited driving privilege to an eligible person in accordance with this section. The costs required under G.S. 7A-305(a) and (a3) apply to a petition filed under this section. The clerk of court for the court that issues a limited driving privilege under this section must send a copy of the limited driving privilege to the Division.

(e) Scope of Privilege. – A limited driving privilege restricts the person to essential driving related to one or more of the purposes listed in this subsection. Any driving that is not related to the purposes authorized in this subsection is unlawful even though done at times and upon routes that may be authorized by the privilege. Except as otherwise provided, all driving must be for a purpose and done within the restrictions specified in the privilege.

The permissible purposes for a limited driving privilege are:

- (1) Travel to and from the person's place of employment and in the course of employment.
- (2) Travel necessary for maintenance of the person's household.
- (3) Travel to provide emergency medical care for the person or for an immediate family member of the person who resides in the same household with the person. Driving related to emergency medical care is authorized at anytime and without restriction as to routes.

(f) Employment Driving in Standard Working Hours. – The court may authorize driving for employment-related purposes during standard working hours without specifying times and routes for the driving. If the person is required to drive for essential employment-related purposes only during standard working hours, the limited driving privilege must prohibit driving during nonstandard working hours unless the driving is for emergency medical care or for authorized household maintenance. The limited driving privilege must state the name and address of the person's employer and may, in the discretion of the court, include other information and restrictions applicable to employment-related driving.

(g) Employment Driving in Nonstandard Working Hours. – If a person is required to drive during nonstandard working hours for an essential employment-related purpose and the person provides documentation of that fact to the court, the court may authorize the person to drive for that purpose during those hours. If the person is self-employed, the documentation must be attached to or made a part of the limited driving privilege. If the person is employed by another, the limited driving privilege must state the name and address of the person's employer and may, in the discretion of the court, include other information and restrictions applicable to employment-related driving. If the court determines that it is necessary for the person to drive during

nonstandard working hours for an employment-related purpose, the court may authorize the person to drive subject to these limitations:

- (1) If the person is required to drive to and from a specific place of employment at regular times, the limited driving privilege must specify the general times and routes by which the person may drive to and from work and must restrict driving to those times and routes.
- (2) If the person is required to drive to and from work at a specific place but is unable to specify the times during which the driving will occur, the limited driving privilege must specify the general routes by which the person may drive to and from work and must restrict driving to those general routes.
- (3) If the person is required to drive to and from work at regular times but is unable to specify the places at which work is to be performed, the limited driving privilege must specify the general times and geographic boundaries within which the person may drive and must restrict driving to those times and boundaries.
- (4) If the person can specify neither the times nor places in which the person will be driving to and from work, the limited driving privilege must specify the geographic boundaries within which the person may drive and must restrict driving to those boundaries.

(h) Household Maintenance. – A limited driving privilege may allow driving for maintenance of the household only during standard working hours. The court, at its discretion, may impose additional restrictions on driving for the maintenance of the household.

(i) Restrictions. – A limited driving privilege that is not authorized by this section or that does not contain the restrictions required by law is invalid. A limited driving privilege issued under this section is subject to the following conditions:

- (1) Financial responsibility. – A person applying for a limited driving privilege under this section must provide the court proof of financial responsibility acceptable under G.S. 20-16.1(g) and must maintain the financial responsibility during the period of the limited driving privilege.
- (2) Alcohol restrictions. – A person who received a limited driving privilege under this section may not consume alcohol while driving or drive at anytime while the person has remaining in the person's body any alcohol or controlled substance previously consumed, unless the controlled substance was lawfully obtained and taken in therapeutically appropriate amounts.
- (3) Others. – The court may impose any other reasonable restrictions or conditions necessary to achieve the purposes of this section.

(j) Term and Reinstatement. – The term of a limited driving privilege issued under this section is the shorter of one year or the length of time remaining in the revocation period imposed under G.S. 20-28(a) or G.S. 20-28.1. When the term of the limited driving privilege expires, the Division must reinstate the person's license if the person meets all of the conditions listed in this subsection. The Division may impose restrictions or conditions on the new license in accordance with G.S. 20-7(e). The conditions are:

- (1) Payment of the restoration fee as required under G.S. 20-7(i1).
- (2) Providing proof of financial responsibility as required under G.S. 20-7(c1).
- (3) Providing the proof required for reinstatement of a license under G.S. 20-28(c1).

(k) Modification. – A court may modify or revoke a person's limited driving privilege issued under this section upon a showing that the circumstances have changed sufficiently to justify modification or revocation. If the judge who issued the privilege is

not presiding in the court in which the privilege was issued, a presiding judge in that court may modify or revoke the privilege. The judge must indicate in the order of modification or revocation the reasons for the order or make specific findings indicating the reason for the order and enter those findings in the record of the case. When a court issues an order of modification or revocation, the clerk of court must send a copy of the order to the Division.

(l) Effect of Violation. – A violation of a limited driving privilege issued under this section constitutes the offense of driving while license revoked under G.S. 20-28. When a person is charged with operating a motor vehicle in violation of the limited driving privilege, the limited driving privilege is suspended pending the final disposition of the charge."

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

"(a3) A petition for a limited driving privilege under G.S. 20-20.1 is subject to the court costs assessed under subsection (a) of this section plus an additional filing fee of one hundred dollars (\$100.00). The additional filing fee must be remitted to the State Treasurer and used for support of the General Court of Justice."

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

In the General Assembly read three times and ratified this the 19th day of July, 2007.

Beverly E. Perdue
President of the Senate

Joe Hackney
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____ .m. this _____ day of _____, 2007