

GENERAL ASSEMBLY OF NORTH CAROLINA
EXTRA SESSION 1994

CHAPTER 20
SENATE BILL 123

AN ACT TO PROVIDE FOR THE FORFEITURE OF CERTAIN CITIZENSHIP PRIVILEGES OF AN INDIVIDUAL CONVICTED OF A FELONY WHO REFUSES PROBATION OR WHOSE PROBATION IS REVOKED OR SUSPENDED.

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

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

Whereas, licensing by the State and its subdivisions for regular and commercial drivers licenses, business and occupational licenses, and hunting and fishing licenses, is a matter of privilege and not of right; and

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

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

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

Whereas, to further the purposes of suspended sentences and probation and provide incentive for persons convicted of a felony to complete such sentences and accept responsibility for their conduct, the State should require forfeiture of a person's licensing privileges if the person does not consent to a suspended sentence or probation or if the person's probation is revoked or suspended; Now, therefore,

The General Assembly of North Carolina enacts:

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

"§ 15A-1331A. Forfeiture of licensing privileges after conviction of a felony.

(a) The following definitions apply in this section:

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

- (2) Licensing privilege. – The privilege of an individual to be authorized to engage in an activity as evidenced by the following licenses: regular and commercial drivers licenses, occupational licenses, hunting licenses and permits, and fishing licenses and permits.
- (3) Occupational license. – A licensure, permission, certification, or similar authorization required by statute or rule to practice an occupation or business. The term does not include a tax license issued under Chapter 105 of the General Statutes, Article 7 of Chapter 153A of the General Statutes, or Article 9 of Chapter 160A of the General Statutes.

(b) Upon conviction of a felony, an individual automatically forfeits the individual's licensing privileges for the full term of the maximum sentence of imprisonment imposed on the individual by the sentencing court at the time of conviction for the offense, if:

- (1) The individual is offered a suspended sentence on condition the individual accepts probation and the individual refuses probation, or
- (2) The individual's probation is revoked or suspended, and the judge makes findings in the judgment that the individual failed to make reasonable efforts to comply with the conditions of probation.

(c) Whenever an individual's licensing privileges are forfeited under this section, the judge shall make findings in the judgment of the licensing privileges held by the individual known to the court at that time, the drivers license number and social security number of the individual, and the beginning and ending date of the period of time of the forfeiture. The terms and conditions of the forfeiture shall be transmitted by the clerk of court to the Division of Motor Vehicles, in accordance with G.S. 20-24 and to the licensing agencies specified by the judge in the judgment. A licensing agency, upon receiving notice from the clerk of court, shall require the individual whose licensing privileges were forfeited to surrender the forfeited license issued by the agency and shall not reissue a license to that individual during the period of forfeiture as stated in the notice. Licensing agencies are authorized to establish procedures to implement this section.

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

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

"§ 20-15.1. Revocations when licensing privileges forfeited after conviction of a crime.

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

Sec. 3. G.S. 20-179.3(b) is rewritten to read:

"(b) Eligibility. –

- (1) A person convicted of the offense of impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege if:
- (1)a. At the time of the offense he held either a valid driver's license or a license that had been expired for less than one year;
 - (2)b. At the time of the offense he had not within the preceding seven years been convicted of an offense involving impaired driving;
 - (3)c. Punishment Level Three, Four, or Five was imposed for the offense of impaired driving; and
 - (4)d. Subsequent to the offense he has not been convicted of, or had an unresolved charge lodged against him for, an offense involving impaired driving.

A person whose North Carolina driver's license is revoked because of a conviction in another jurisdiction substantially equivalent to impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege if he would be eligible for it had the conviction occurred in North Carolina. Eligibility for a limited driving privilege following a revocation under G.S. 20-16.2(d) is governed by G.S. 20-16.2(e1).

- (2) Any person whose licensing privileges are forfeited pursuant to G.S. 15A-1331A is eligible for a limited driving privilege if the court finds that at the time of the forfeiture, the person held either a valid drivers license or a drivers license that had been expired for less than one year and
- a. The person is supporting existing dependents or must have a drivers license to be gainfully employed; or
 - b. The person has an existing dependent who requires serious medical treatment and the defendant is the only person able to provide transportation to the dependent to the health care facility where the dependent can receive the needed medical treatment.

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

Sec. 4. G.S. 113-277 is amended by adding a new subsection to read:

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

Sec. 5. G.S. 15A-1331A(b), as enacted by this act, reads as rewritten:

"(b) Upon conviction of a felony, an individual automatically forfeits the individual's licensing privileges for the full term of the ~~maximum sentence of imprisonment imposed on the individual~~ period the individual is placed on probation by the sentencing court at the time of conviction for the offense, if:

- (1) The individual is offered a suspended sentence on condition the individual accepts probation and the individual refuses probation, or
- (2) The individual's probation is revoked or suspended."

Sec. 6. Section 5 of this act becomes effective on the date that Chapter 538 of the 1993 Session Laws becomes effective and applies to offenses committed on or after that date. The remainder of this act becomes effective May 1, 1994, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 18th day of March, 1994.

Marc Basnight
President Pro Tempore of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives