

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S

1

SENATE BILL 1261*

Short Title: DWI-Indefinite Civil Suspension.

(Public)

Sponsors: Senators Ballantine; McDaniel and Page.

Referred to: Judiciary I/Constitution.

May 22, 1996

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR AN INDEFINITE CIVIL SUSPENSION OF A DRIVERS LICENSE WHEN A DRIVER IS CHARGED WITH AN IMPAIRED DRIVING OFFENSE WHILE ANOTHER IMPAIRED DRIVING OFFENSE IS PENDING DISPOSITION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-16.5(f) reads as rewritten:

"(f) Procedure if Report Filed with Clerk of Court When Person Not Present. – When a clerk receives a properly executed report under subdivision (d)(3) and the person named in the revocation report is not present before the clerk, the clerk must determine whether there is probable cause to believe that each of the conditions of subsection (b) has been met. If he determines that there is such probable cause, he must mail to the person a revocation order by first-class mail. The order must direct that the person on or before the effective date of the order either surrender his license to the clerk or appear before the clerk and demonstrate that he is not currently licensed, and the order must inform the person of the time and effective date of the revocation and of its duration, of his right to a hearing as specified in subsection (g), and that the revocation remains in effect pending the hearing. Revocation orders mailed under this subsection become effective on the fourth day after the order is deposited in the United States mail. If within five working days of the effective date of the order, the person does not surrender his

1 license to the clerk or appear before the clerk to demonstrate that he is not currently
2 licensed, the clerk must immediately issue a pick-up order. The pick-up order must be
3 issued and served in the same manner as specified in subsection (e) for pick-up orders
4 issued pursuant to that subsection. A revocation under this subsection begins at the date
5 specified in the order and continues until the person's license has been revoked for the
6 period specified in this subsection and the person has paid the applicable costs. The
7 period of revocation under this subsection is:

- 8 (1) Ten days from the time the person surrenders his license to the court, if
9 the surrender occurs within five working days of the effective date of
10 the order; or
- 11 (2) Ten days after the person appears before the clerk and demonstrates that
12 he is not currently licensed to drive, if the appearance occurs within five
13 working days of the effective date of the revocation order; or
- 14 (3) Thirty days from the time:
 - 15 a. The person's driver's license is picked up by a law-enforcement
16 officer following service of a pick-up order; or
 - 17 b. The person demonstrates to a law-enforcement officer who has a
18 pick-up order for his license that he is not currently licensed; or
 - 19 c. The person's driver's license is surrendered to the court if the
20 surrender occurs more than five working days after the effective
21 date of the revocation order; or
 - 22 d. The person appears before the clerk to demonstrate that he is not
23 currently licensed, if he appears more than five working days
24 after the effective date of the revocation order.
- 25 (4) Indefinite from the time of the charge of the impaired driving offense, if
26 at the time the person is charged with the current impaired driving
27 offense the person has:
 - 28 a. Another impaired driving offense pending and that offense has
29 not been finally resolved; and
 - 30 b. Had an alcohol concentration of 0.08 percent or more at any
31 relevant time after driving or refused to submit to chemical
32 analysis in the pending impaired driving offense.

33 The suspension shall remain in effect until all pending impaired
34 driving offenses have been finally resolved. At that time the person
35 may have the license restored upon the payment of an appropriate
36 restoration fee, if the person is otherwise eligible for restoration of the
37 license.

38 A person whose license has been indefinitely suspended under the
39 provisions of this subdivision may apply to a District Court Judge for
40 issuance of a limited driving privilege which shall be valid during the
41 period of this suspension if:

- 1 a. The person had a valid drivers license at the time of the impaired
2 driving offense which caused the indefinite suspension under the
3 provisions of this subdivision;
4 b. The person has had a substance abuse assessment; and
5 c. The court finds that a limited driving privilege should be
6 issued to overcome undue hardship.
- 7 When a pick-up order is issued, it must inform the person of his right to a hearing as
8 specified in subsection (g), and that the revocation remains in effect pending the hearing.
9 An officer serving a pick-up order under this subsection must return the order to the court
10 indicating the date it was served or that he was unable to serve the order. If the license
11 was surrendered, the officer serving the order must deposit it with the clerk within three
12 days of the surrender."
13 Sec. 2. This act becomes effective October 1, 1996.