

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 34

Short Title: Lose Control Lose Your License.

(Public)

Sponsors: Representatives Hurley; Allen, Baddour, Barefoot, Church, Cole, Cox, Dedmon, Fox, Gibson, Goodwin, Hill, Jarrell, McAllister, Melton, Morris, Mosley, Nye, Oldham, Rayfield, Tucker, Warner, C. Wilson, and Yongue.

Referred to: Rules, Calendar and Operations of the House.

February 4, 1999

A BILL TO BE ENTITLED
AN ACT PROVIDING FOR LOSS OF DRIVERS LICENSE WHEN CERTAIN
PROVISIONAL LICENSEES COMMIT DESIGNATED ACTS.

The General Assembly of North Carolina enacts:

Section 1. Subsection (n) of G.S. 20-11 reads as rewritten:

"(n) Driving Eligibility Certificate. – A person who desires to obtain a permit or license issued under this section and who does not have a high school diploma or its equivalent ~~must~~shall have a driving eligibility certificate. A driving eligibility certificate ~~must~~shall meet the following conditions:

(1) The person who is required to sign the certificate under subdivision (4) of this subsection ~~must~~shall show that he or she has determined that one of the following requirements is met:

- a. The person is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent.
- b. A substantial hardship would be placed on the person or the person's family if the person does not receive a certificate.
- c. The person cannot make progress toward obtaining a high school diploma or its equivalent.

1 (1a) If the person who desires to obtain a permit or license under this section
2 was either: (i) expelled, (ii) suspended for more than 10 consecutive
3 days, or (iii) assigned to an alternative educational setting for an
4 incident that occurred either after the July 1 before the school year in
5 which the person enrolled in the eighth grade or after the person's
6 fourteenth birthday, whichever event occurred first, and this disciplinary
7 action was for (i) the possession or sale of alcohol or an illegal
8 controlled substance on school property or at a school-sponsored or
9 school-related activity on or off school property, (ii) the possession or
10 use of a weapon or firearm on school property in accordance with G.S.
11 115C-391(d1), or (iii) the physical assault on and serious injury to a
12 teacher or other school personnel on school property or at a school-
13 sponsored or school-related activity on or off school property in
14 accordance with G.S. 115C-391(d2)(1), then the person who is required
15 under subdivision (4) of this subsection to sign the certificate shall show
16 that he or she has determined that the person has exhausted all
17 administrative appeals connected to the disciplinary action and that one
18 of the following conditions is met:

19 a. The person has returned to school following the period of
20 expulsion or suspension and has displayed exemplary student
21 behavior, in accordance with rules adopted by the State Board of
22 Education under G.S. 115C-12(28), the Secretary of
23 Administration under G.S. 115C-566, or the State Board of
24 Community Colleges under G.S. 115D-5(a3), as applicable.

25 b. The person was placed in an alternative educational setting and
26 has displayed exemplary student behavior, in accordance with
27 rules adopted by the State Board of Education under G.S. 115C-
28 12(28), the Secretary of Administration under G.S. 115C-566, or
29 the State Board of Community Colleges under G.S. 115D-5(a3),
30 as applicable.

31 c. The expulsion, suspension, or alternative placement was for the
32 possession or sale of alcohol or an illegal controlled substance on
33 school property or at a school-sponsored or school-related
34 activity on or off school property, and the person subsequently
35 attended and successfully completed a drug or alcohol treatment
36 counseling program, as appropriate. The determination as to
37 whether the person successfully completed this program shall be
38 made in accordance with rules adopted by the State Board of
39 Education under G.S. 115C-12(28), the Secretary of
40 Administration under G.S. 115C-566, or the State Board of
41 Community Colleges, as applicable.

42 d. The person needs the certificate in order to drive to and from
43 school, a drug or alcohol treatment counseling program, as

1 appropriate, or a mental health treatment program, and no other
2 transportation is available.

3 (2) It ~~must~~shall be on a form approved by the Division.

4 (3) It ~~must~~shall be dated within 30 days of the date the person applies for a
5 permit or license issuable under this section.

6 (4) It ~~must~~shall be signed by the applicable person named below:

7 a. The principal, or the principal's designee, of the public school in
8 which the person is enrolled.

9 b. The administrator, or the administrator's designee, of the
10 nonpublic school in which the person is enrolled.

11 c. The person who provides the academic instruction in the home
12 school in which the person is enrolled.

13 d. The designee of the board of directors of the charter school in
14 which the person is enrolled.

15 e. The president, or the president's designee, of the community
16 college in which the person is enrolled.

17 Notwithstanding any other law, the decision concerning whether a driving eligibility
18 certificate was properly issued or improperly denied shall be appealed only as provided
19 under the rules adopted in accordance with ~~G.S. 115C-12(27)~~, G.S. 115C-12(28), G.S.
20 115D-5(a3), or G.S. 115C-566, whichever is applicable, and may not be appealed under
21 this Chapter."

22 Section 2. G.S. 20-13.2 reads as rewritten:

23 "(c1) The Division ~~must~~shall revoke the permit or license of a person under the age
24 of 18 if the proper school authority notifies the Division that the person no longer meets
25 the requirements for a driving eligibility certificate under G.S. 20-11(n).
26 Notwithstanding subsection (d) of this section, the length of revocations ~~must~~shall last
27 for the following periods:

28 (1) If the revocation is because of ineligibility for a driving eligibility
29 certificate under G.S. 20-11(n)(1), then the revocation shall last until the
30 person's eighteenth birthday.

31 (2) If the revocation is because of ineligibility for a driving eligibility
32 certificate under G.S. 20-11(n)(1a), then the revocation shall be for a
33 period of one year.

34 ~~until the division restores the permit or license under this subsection.~~

35 ~~The~~ For a person whose permit or license was revoked due to ineligibility for a
36 driving eligibility certificate under G.S. 20-11(n)(1), the Division ~~must~~shall restore a
37 person's permit or license before the person's eighteenth birthday, if the person submits to
38 the Division one of the following:

39 (1) A high school diploma or its equivalent.

40 (2) A driving eligibility certificate as required under G.S. 20-11(n).

41 For a person whose permit or license was revoked due to ineligibility for a driving
42 eligibility certificate under G.S. 20-11(n)(1a), the Division shall restore a person's permit

1 or license before the end of the revocation period, if the person submits to the Division a
2 driving eligibility certificate as required under G.S. 20-11(n).

3 Notwithstanding any other law, the decision concerning whether a driving eligibility
4 certificate was properly issued or improperly denied shall be appealed only as provided
5 under the rules adopted in accordance with ~~G.S. 115C-12(27)~~, G.S. 115C-12(28), G.S.
6 115D-5(a3), or G.S. 115C-566, whichever is applicable, and may not be appealed under
7 this Chapter."

8 Section 3. G.S. 115C-12(28) reads as rewritten:

9 "(28) Duty to Develop Rules for Issuance of Driving Eligibility Certificates. –

10 The State Board of Education shall issue ~~rules defining the following~~
11 rules to assist schools in their administration of procedures necessary to
12 implement G.S. 20-11 and G.S. 20-13.2:

13 a. To define what is equivalent to a high school diploma for the
14 purposes of G.S. 20-11 and G.S. 20-13.2. These rules shall apply
15 to all educational programs offered in the State by public schools,
16 charter schools, nonpublic schools, or community colleges.

17 b. To establish ~~The State Board also shall issue rules for the~~
18 procedures a person who is or was enrolled in a public school, in
19 a charter school, or in a nonpublic school accredited by the Board
20 must shall follow and the requirements that person must shall
21 meet to obtain a driving eligibility certificate.

22 c. To require the ~~The person who is~~ required under G.S. 20-11(n) to
23 sign the driving eligibility certificate must to provide the
24 certificate if he or she determines that one of the following
25 requirements is are met:

26 a.1. The person seeking the certificate is currently
27 enrolled in school and is making progress toward
28 obtaining a high school diploma or its equivalent.

29 b. ~~A~~ equivalent; a substantial hardship would be placed on
30 the person seeking the certificate or the person's family if
31 the person does not receive the certificate.

32 e. ~~The certificate; or the person seeking the certificate cannot~~
33 make progress toward obtaining a high school diploma or
34 its equivalent.

35 2. If the person who desires to obtain a permit or license
36 under G.S. 20-11 was expelled, suspended for more than
37 10 consecutive days, or assigned to an alternative
38 educational setting, for an incident that occurred after the
39 July 1 before the school year in which the person enrolled
40 in the eighth grade or after the person's fourteenth
41 birthday, whichever event occurred first, and this
42 disciplinary action was for the possession or sale of
43 alcohol or an illegal controlled substance on school

1 property or at a school-sponsored or school-related
2 activity on or off school property, for the possession or
3 use of a weapon or firearm on school property in
4 accordance with G.S. 115C-391(d1), or for the physical
5 assault on and serious injury to a teacher or other school
6 personnel on school property or at a school-sponsored or
7 school-related activity on or off school property in
8 accordance with G.S. 115C-391(d2)(1), then the person
9 who is required under G.S. 20-11(n)(4) to sign the
10 certificate shall show that he or she has determined that
11 the person has exhausted all administrative appeals
12 connected to the disciplinary action and that one of the
13 following conditions is met:

14 I. The person has returned to school following the
15 period of expulsion or suspension and has
16 displayed exemplary student behavior.

17 II. The person was placed in an alternative educational
18 setting and has displayed exemplary student
19 behavior.

20 III. The expulsion, suspension, or alternative placement
21 was for the possession or sale of alcohol or an
22 illegal controlled substance, and the person
23 subsequently attended and successfully completed
24 a drug or alcohol treatment counseling program, as
25 appropriate.

26 IV. The person needs the certificate in order to drive to
27 and from school, a drug or alcohol treatment
28 counseling program, as appropriate, or a mental
29 health treatment program, and no other
30 transportation is available.

31 These rules shall apply to public schools, charter schools, and
32 nonpublic schools accredited by the State Board.

33 d. To provide for an appeal to an appropriate education authority by
34 a person who is denied a driving eligibility certificate. These
35 rules shall apply to public schools, charter schools, and nonpublic
36 schools accredited by the State Board.

37 e. For a person whose permit or license was denied or revoked due
38 to ineligibility for a driving eligibility certificate under G.S. 20-
39 11(n)(1a), to provide for the optional issuance of a driving
40 eligibility certificate, after six months from the date the person
41 would otherwise be eligible for a driving eligibility certificate, if
42 the person meets one of the following:

43 1. Displays exemplary student behavior.

1 2. Attends and successfully completes a drug or alcohol
2 treatment counseling program, as appropriate.

3 These rules shall apply to public schools, charter schools, and
4 nonpublic schools accredited by the State Board.

5 f. To define exemplary student behavior. These rules shall apply to
6 public schools, charter schools, and nonpublic schools accredited
7 by the State Board.

8 The State Board also shall develop policies as to when it is
9 appropriate to notify the Division of Motor Vehicles that a person who
10 is or was enrolled in a public school, in a charter school, or in a
11 nonpublic school accredited by the Board no longer meets the
12 requirements for a driving eligibility certificate.

13 The State Board shall develop a form for parents, guardians, or
14 emancipated juveniles, as appropriate, to provide their written,
15 irrevocable consent for a school to disclose to the Division of Motor
16 Vehicles any information necessary to comply with G.S. 20-11 or G.S.
17 20-13.2 in the event that this disclosure is necessary. This form shall be
18 used for students enrolled in public schools, charter schools, or
19 nonpublic schools accredited by the Board."

20 Section 4. G.S. 115C-566 reads as rewritten:

21 "**§ 115C-566. Driving eligibility certificates; requirements.**

22 (a) The Secretary of Administration, upon consideration of the advice of the
23 Division of Nonpublic Education in the Office of the Governor and representatives of
24 nonpublic schools, shall issue rules for the procedures a person who is or was enrolled in
25 a home school or in a nonpublic school that is not accredited by the State Board of
26 Education ~~must~~ shall follow and the requirements that person must meet to obtain a
27 driving eligibility certificate. ~~The person~~ The procedures shall provide that the person who
28 is required under G.S. 20-11(n) to sign the driving eligibility certificate must shall provide
29 the certificate if ~~he or she determines that one of the following requirements is~~ are met:

30 (1) He or she determines that:

31 a. The person seeking the certificate is currently enrolled in school
32 and is making progress toward obtaining a high school diploma
33 or its ~~equivalent.~~ equivalent;

34 ~~(2)~~ b. A substantial hardship would be placed on the person seeking the
35 certificate or the person's family if the person does not receive the
36 ~~certificate.~~ certificate; or

37 ~~(3)~~ c. The person seeking the certificate cannot make progress toward
38 obtaining a high school diploma or its ~~equivalent.~~ equivalent; and

39 (2) If the person who desires to obtain a permit or license under G.S. 20-11
40 was expelled, suspended for more than 10 consecutive days, or assigned
41 to an alternative educational setting, for an incident that occurred after
42 the July 1 before the school year in which the person enrolled in the
43 eighth grade or after the person's fourteenth birthday, whichever event

1 occurred first, and this disciplinary action was for the possession or sale
2 of alcohol or an illegal controlled substance on school property or at a
3 school-sponsored or school-related activity on or off school property,
4 for the possession or use of a weapon or firearm on school property in
5 accordance with G.S. 115C-391(d1), or for the physical assault on and
6 serious injury to a teacher or other school personnel on school property
7 or at a school-sponsored or school-related activity on or off school
8 property in accordance with G.S. 115C-391(d2)(1), then the person
9 who is required under G.S. 20-11(n)(4) to sign the certificate shall show
10 that he or she has determined that the person has exhausted all
11 administrative appeals connected to the disciplinary action and that one
12 of the following conditions is met:

- 13 a. The person has returned to school following the period of
14 expulsion or suspension and has displayed exemplary student
15 behavior.
16 b. The person was placed in an alternative educational setting and
17 has displayed exemplary student behavior.
18 c. The expulsion, suspension, or alternative placement was for the
19 possession or sale of alcohol or an illegal controlled substance,
20 and the person subsequently attended and successfully completed
21 a drug or alcohol treatment counseling program, as appropriate.
22 d. The person needs the certificate in order to drive to and from
23 school, a drug or alcohol treatment counseling program, as
24 appropriate, or a mental health treatment program, and no other
25 transportation is available.

26 The rules shall define exemplary student behavior and shall provide for an
27 appeal to an appropriate educational entity by a person who is denied a driving eligibility
28 certificate. The Division of Nonpublic Education also shall develop policies as to when it
29 is appropriate to notify the Division of Motor Vehicles that a person who is or was
30 enrolled in a home school or in a nonpublic school that is not accredited by the State
31 Board of Education no longer meets the requirements for a driving eligibility certificate.

32 For a person whose permit or license was denied or revoked due to ineligibility for a
33 driving eligibility certificate under G.S. 20-11(n)(1a), these rules shall provide for the
34 optional issuance of a driving eligibility certificate, after six months from the date the
35 person would otherwise be eligible for a driving eligibility certificate, if the person meets
36 one of the following:

- 37 (1) Displays exemplary student behavior.
38 (2) Attends and successfully completes a drug or alcohol treatment
39 counseling program, as appropriate.

40 (b) The Secretary of Administration shall develop a form for parents, guardians, or
41 emancipated juveniles, as appropriate, to provide their written, irrevocable consent for a
42 school to disclose to the Division of Motor Vehicles any information necessary to comply

1 with G.S. 20-11 or G.S. 20-13.2 in the event that this disclosure is necessary. This form
2 shall be used for students enrolled in home schools or nonpublic schools.

3 (c) In accordance with rules adopted by the Secretary under this section, persons
4 who are required to sign driving eligibility certificates that meet the conditions
5 established in G.S. 20-11 shall obtain the necessary written, irrevocable consent from
6 parents, guardians, or emancipated juveniles, as appropriate, in order to disclose
7 information to the Division of Motor Vehicles and shall notify the Division of Motor
8 Vehicles when a student who holds a driving eligibility certificate no longer meets its
9 conditions."

10 Section 5. G.S. 115C-288 is amended by adding the following new subsection
11 to read:

12 "(i) To Sign Driving Eligibility Certificates and to Notify the Division of Motor
13 Vehicles. – In accordance with rules adopted by the State Board of Education, the
14 principal or the principal's designee shall do all of the following:

- 15 (1) Sign driving eligibility certificates that meet the conditions established
16 in G.S. 20-11.
- 17 (2) Obtain the necessary written irrevocable consent from parents,
18 guardians, or emancipated juveniles, as appropriate, in order to disclose
19 information to the Division of Motor Vehicles.
- 20 (3) Shall notify the Division of Motor Vehicles when a student who holds a
21 driving eligibility certificate no longer meets its conditions."

22 Section 6. G.S. 115C-238.29F is amended by adding the following new
23 subsection to read:

24 "(j) Driving Eligibility Certificates. – In accordance with rules adopted by the State
25 Board of Education, the designee of the school's board of directors shall do all of the
26 following:

- 27 (1) Sign driving eligibility certificates that meet the conditions established
28 in G.S. 20-11.
- 29 (2) Shall obtain the necessary written, irrevocable consent from parents,
30 guardians, or emancipated juveniles, as appropriate, in order to disclose
31 information to the Division of Motor Vehicles.
- 32 (3) Shall notify the Division of Motor Vehicles when a student who holds a
33 driving eligibility certificate no longer meets its conditions."

34 Section 7. G.S. 115D-5(a3) reads as rewritten:

35 "(a3) The State Board of Community Colleges shall issue the following rules ~~for~~ to
36 assist community colleges in their administration of procedures necessary to implement
37 G.S. 20-11 and G.S. 20-13.2:

- 38 (1) To establish the procedures a person who is or was enrolled in a
39 community college ~~must~~ shall follow and the requirements that person
40 ~~must~~ shall meet to obtain a driving eligibility certificate. The
- 41 (2) To require the person who is required under G.S. 20-11(n) to sign the
42 driving eligibility certificate ~~must~~ to provide the certificate if he or she
43 determines that ~~one of~~ the following requirements ~~is~~ are met:

- 1 (1) a. The person seeking the certificate is currently enrolled in school and
2 is making progress toward obtaining a high school diploma or its
3 equivalent.
- 4 (2) ~~A~~ equivalent; a substantial hardship would be placed on the person
5 seeking the certificate or the person's family if the person does not
6 receive the certificate.
- 7 (3) ~~The~~ certificate; or the person seeking the certificate cannot make
8 progress toward obtaining a high school diploma or its equivalent.
- 9 b. If the person who desires to obtain a permit or license under G.S.
10 20-11 was expelled, suspended for more than 10 consecutive
11 days, or assigned to an alternative educational setting, for an
12 incident that occurred after the July 1 before the school year in
13 which the person enrolled in the eighth grade or after the person's
14 fourteenth birthday, whichever event occurred first, and this
15 disciplinary action was for the possession or sale of alcohol or an
16 illegal controlled substance on school property or at a school-
17 sponsored or school-related activity on or off school property, for
18 the possession or use of a weapon or firearm on school property
19 in accordance with G.S. 115C-391(d1), or for the physical assault
20 on and serious injury to a teacher or other school personnel on
21 school property or at a school-sponsored or school-related
22 activity on or off school property in accordance with G.S. 115C-
23 391(d2)(1), then the person who is required under G.S. 20-
24 11(n)(4) to sign the certificate shall show that he or she has
25 determined that the person has exhausted all administrative
26 appeals connected to the disciplinary action and that one of the
27 following conditions is met:
- 28 1. The person has returned to school following the period of
29 expulsion or suspension and has displayed exemplary
30 student behavior.
- 31 2. The person was placed in an alternative educational
32 setting and has displayed exemplary student behavior.
- 33 3. The expulsion, suspension, or alternative placement was
34 for the possession or sale of alcohol or an illegal
35 controlled substance, and the person subsequently
36 attended and successfully completed a drug or alcohol
37 treatment counseling program, as appropriate.
- 38 4. The person needs the certificate in order to drive to and
39 from a community college, a drug or alcohol treatment
40 counseling program, as appropriate, or a mental health
41 treatment program, and no other transportation is
42 available.

1 (3) ~~The rules shall~~ To provide for an appeal through the grievance
2 procedures established by the board of trustees of each community
3 college by a person who is denied a driving eligibility certificate.

4 (4) For a person whose permit or license was denied or revoked due to
5 ineligibility for a driving eligibility certificate under G.S. 20-11(n)(1a),
6 to provide for the optional issuance of a driving eligibility certificate,
7 after six months from the date the person would otherwise be eligible
8 for a driving eligibility certificate, if the person meets one of the
9 following:

10 a. Displays exemplary student behavior.

11 b. Attends and successfully completes a drug or alcohol treatment
12 counseling program, as appropriate.

13 (5) To define exemplary student behavior.

14 The State Board also shall develop policies as to when it is
15 appropriate to notify the Division of Motor Vehicles that a person who
16 is or was enrolled in a community college no longer meets the
17 requirements for a driving eligibility certificate. The State Board also
18 shall adopt guidelines to assist the presidents of community colleges in
19 their designation of representatives to sign driving eligibility
20 certificates.

21 The State Board shall develop a form for the appropriate individuals to
22 provide their written, irrevocable consent for a community college to
23 disclose to the Division of Motor Vehicles any information necessary to
24 comply with G.S. 20-11 or G.S. 20-13.2 in the event that this disclosure
25 is necessary."

26 Section 8. Sections 3, 4, and 7 of this act are effective when they become law.
27 The remainder of this act becomes effective July 1, 2000. This act does not apply to any
28 person who held a valid North Carolina limited learner's permit issued before December
29 1, 1998, who held a valid North Carolina learner's permit issued before December 1,
30 1998, or who was a provisional licensee and held a valid North Carolina drivers license
31 issued before December 1, 1998. This act shall only apply to conduct committed on or
32 after the effective date by a person who is expelled, suspended, or placed in an alternative
33 educational setting as a result of that conduct.