

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S

D

SENATE DRS35152-MAf-52A (1/24)

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

Sponsors: Senators Kerr, and Jones.

Referred to:

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

5 The General Assembly of North Carolina enacts:

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

8 "**§ 20-20.1. Limited driving privileges for certain revocations.**

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

10 (1) Limited driving privilege. – A judgment issued by a court authorizing
11 a person with a revoked drivers license to drive under the terms and
12 conditions authorized under this section.

13 (2) Nonfleet private passenger motor vehicle. – As defined in Article 40 of
14 Chapter 58 of the General Statutes.

15 (3) Nonstandard working hours. – Any time other than 6:00 A.M. until
16 8:00 P.M. on Monday through Friday.

17 (4) Offense involving impaired driving. – As defined in
18 G.S. 20-4.01(24a).

19 (5) Standard working hours. – Any time from 6:00 A.M. until 8:00 P.M.
20 on Monday through Friday.

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

24 (1) The person has no other current drivers license revocations other than
25 the revocation under G.S. 20-28(a) or G.S. 20-28.1.

1 (2) The person has complied with the permanent revocation for at least
2 two years immediately preceding the motion for a limited driving
3 privilege.

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

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

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

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

14 (2) The person's drivers license was revoked for an offense involving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

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

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

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

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

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

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

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

41 (f) Motion. – A motion for a limited driving privilege requested under this
42 section shall include a copy of the person's driving history. The motion shall also
43 include a sworn statement that there are no outstanding or unresolved charges, no
44 unpaid fines, and no violations in this or any other state that could result in the

1 revocation of the person's drivers license, and that the person has complied with the
2 current revocation for the time period required under subdivision (b)(2) of this section
3 immediately preceding the person's motion for a limited driving privilege under this
4 section.

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

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

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

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

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

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

1 (i) Household Maintenance. – A limited driving privilege may not allow driving
2 for maintenance of the household except during standard working hours. The limited
3 driving privilege may contain any additional restrictions on that driving, in the
4 discretion of the court.

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

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

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

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

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

42 (l) Term. – The term of a limited driving privilege issued under this section shall
43 be one year. Upon the expiration of the term of the limited driving privilege or after

1 three years from the date of the permanent revocation, the person may apply to the
2 Division for a license under G.S. 20-28(c) or G.S. 20-28.1(c).

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

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

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

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

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

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