

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

H

1

HOUSE BILL 1027*

Short Title: DWI Interlock Violation/DMV Hearing Site. (Public)

Sponsors: Representative Torbett (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary Subcommittee B.

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE DIVISION OF MOTOR VEHICLES HEARING ON A LICENSE REVOCATION AS A RESULT OF A DRIVING WHILE IMPAIRED IGNITION INTERLOCK VIOLATION BE HELD IN THE LICENSEE'S COUNTY OF RESIDENCE, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-17.8(j) reads as rewritten:

"(j) Right to Hearing Before Division; Issues. – If the person's license is revoked pursuant to subsection (g) of this section, before the effective date of the order issued under subsection (i) of this section, the person may request in writing a hearing before the Division. Except for the time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the Division that the person's license was surrendered to the court and remained in the court's possession, then the Division shall credit the amount of time for which the license was in the possession of the court against the revocation period required by subsection (g) of this section. If the person properly requests a hearing, the person retains the person's license, unless it is revoked under some other provision of law, until the hearing is held, the person withdraws the request, or the person fails to appear at a scheduled hearing. The hearing officer may subpoena any witnesses or documents that the hearing officer deems necessary. The person may request the hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at the hearing if the person makes the request in writing at least three days before the hearing. The person may subpoena any other witness whom the person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the authority of this section. The hearing officer is authorized to administer oaths to witnesses appearing at the hearing. The hearing must be conducted in the county where the charge was brought, except when the evidence of the violation is an alcohol concentration report from an ignition interlock system, the hearing shall be conducted in the county where the person resides. ~~and~~ The hearing must be limited to consideration of whether:

- (1) The drivers license of the person had an ignition interlock requirement; and
- (2) The person:
 - a. Was driving a vehicle that was not equipped with a functioning ignition interlock system; or
 - b. Did not personally activate the ignition interlock system before driving the vehicle; or



1 c. Drove the vehicle in violation of an applicable alcohol concentration
2 restriction prescribed by subdivision (b)(3) of this section.

3 If the Division finds that the conditions specified in this subsection are
4 met, it must order the revocation sustained. If the Division finds that the
5 condition of subdivision (1) is not met, or that none of the conditions of
6 subdivision (2) are met, it must rescind the revocation. If the revocation is
7 sustained, the person must surrender the person's license immediately upon
8 notification by the Division. If the revocation is sustained, the person may
9 appeal the decision of the Division pursuant to G.S. 20-25."

10 **SECTION 2.** This act becomes effective October 1, 2014, and applies to hearings
11 requested on or after that date.