

NORTH CAROLINA GENERAL ASSEMBLY
1963 SESSION

CHAPTER 966
HOUSE BILL 527

1 AN ACT TO AMEND CHAPTER 20 OF THE GENERAL STATUTES OF NORTH
2 CAROLINA TO PROVIDE FOR BREATH TESTS FOR INTOXICATION IN
3 CRIMINAL CASES INVOLVING DRUNKEN DRIVING.
4

5 The General Assembly of North Carolina do enact:
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7 **Section 1.** Article 2 of Chapter 20 of the General Statutes is hereby amended by
8 adding thereto a new Section to be designated G.S. 20-16.2 and to read as follows:

9 **"G.S. 20-16.2. Operation of Motor Vehicle Deemed Consent to Alcohol Test; Manner of**
10 **Administering; Refusal to Undergo.** (a) Any person who operates a motor vehicle upon the
11 public highways of this State or any area enumerated in G.S. 20-139 shall be deemed to have
12 given consent, subject to the provisions of G.S. 20-139.1, to a chemical test of his breath for the
13 purpose of determining the alcoholic content of his blood for any offense arising out of acts
14 alleged to have been committed while the person was driving a motor vehicle while under the
15 influence of intoxicating liquor. The test or tests shall be administered upon request of a law
16 enforcement officer having reasonable grounds to believe the person to have been driving a
17 motor vehicle upon the public highways of this State or any area enumerated in G.S. 20-139
18 while under the influence of intoxicating liquor.

19 (b) If a person under arrest refuses to submit to a chemical test under the provisions of
20 G.S. 20-16.2, evidence of refusal shall be admissible in any criminal action growing out of an
21 alleged violation of driving a motor vehicle upon the public highways of this State or any area
22 enumerated in G.S. 20-139 while under the influence of intoxicating liquor."

23 **Sec. 2.** Article 3 of Chapter 20 of the General Statutes is hereby amended by adding
24 thereto a new Section to be designated G.S. 20-139.1 and to read as follows:

25 **"G.S. 20-139.1. Results of Chemical Analysis Admissible in Evidence; Presumptions.** (a)
26 In any criminal action arising out of acts alleged to have been committed by any person while
27 driving a vehicle while under the influence of intoxicating liquor, the amount of alcohol in the
28 person's blood at the time alleged as shown by chemical analysis of the person's breath shall be
29 admissible in evidence and shall give rise to the following presumptions:

30 (1) If there was at that time 0.10 per cent or more by weight of alcohol in the
31 person's blood, it shall be presumed that the person was under the influence
32 of intoxicating liquor.

33 Per cent by weight of alcohol in the blood shall be based upon milligrams of alcohol per
34 one hundred cubic centimeters of blood.

35 The foregoing provisions of paragraph (a) of this Section shall not be construed as limiting
36 the introduction of any other competent evidence, including other types of chemical analyses,
37 bearing upon the question whether the person was under the influence of intoxicating liquors.

38 (b) Chemical analyses of the person's breath, to be considered valid under the
39 provisions of this Section, shall have been performed according to methods approved by the
40 State Board of Health and by an individual possessing a valid permit issued by the State Board
41 of Health for this purpose. The State Board of Health is authorized to approve satisfactory
42 techniques or methods, to ascertain the qualifications and competence of individuals to conduct
43 such analyses, and to issue permits which shall be subject to termination or revocation at the

1 discretion of the State Board of Health; provided that in no case shall the arresting officer or
2 officers administer said test.

3 (c) The person tested may have a physician, or a qualified technician, chemist,
4 registered nurse, or other qualified person of his own choosing administer a chemical test or
5 tests in addition to any test administered at the discretion of a law enforcement officer. The
6 person whose breath is being analyzed shall be furnished the results of such analysis at the time
7 of taking the test. The failure or inability of the person tested to obtain an additional test shall
8 not preclude the admission of evidence relating to the test or tests taken at the direction of a law
9 enforcement officer.

10 Any law enforcement officer having in his charge any person who has submitted to the
11 chemical test under the provisions of G.S. 20-16.2 shall assist such person in contacting a
12 qualified person as set forth above for the purpose of administering such additional test.

13 (d) The individual making such chemical analysis of a person's breath shall record in
14 writing the time of arrest, the time and results of such analysis, a copy of which record shall be
15 furnished to the person submitting to said test or to his attorney prior to any trial or proceeding
16 where the results of the test may be used."

17 **Sec. 3.** If any part of this Act or the application thereof to any person or condition is
18 held invalid, such invalidity shall not affect other parts of this Act or their application to any
19 other person or condition, and to this end the provisions of this Act are hereby declared to be
20 separable.

21 **Sec. 4.** All laws and clauses of laws in conflict with this Act are hereby repealed.

22 **Sec. 5.** This Act shall be in full force and effect on and after January 1, 1964.

23 In the General Assembly read three times and ratified, this the 18th day of June,
24 1963.