

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

HOUSE BILL 1499
RATIFIED BILL

AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE GOVERNOR'S DWI TASK FORCE, TO PROVIDE FOR A CHALLENGE TO THE TRANSFER OF FEDERAL FUNDS, AND TO CLARIFY THE EFFECTIVE DATE FOR COMMERCIAL MOTOR VEHICLE INSURANCE PROVISIONS OF SESSION LAW 330 OF THE 1999 GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-17.8(b) reads as rewritten:

"(b) Ignition Interlock Required. – When the Division restores the license of a person who is subject to this section, in addition to any other restriction or condition, it shall require the person to agree to and shall indicate on the person's drivers license the following restrictions for the period designated in subsection (c):

- (1) A restriction that the person may operate only a vehicle that is equipped with a functioning ignition interlock system of a type approved by the Commissioner. The Commissioner shall not unreasonably withhold approval of an ignition interlock system and shall consult with the Division of Purchase and Contract in the Department of Administration to ensure that potential vendors are not discriminated against.
- (2) A requirement that the person personally activate the ignition interlock system before driving the motor vehicle.
- (3) ~~A requirement that the person not drive with an alcohol concentration of 0.04 or greater.~~ An alcohol concentration restriction as follows:
 - a. If the ignition interlock system is required pursuant only to subdivision (a)(1) of this section, a requirement that the person not drive with an alcohol concentration of 0.04 or greater;
 - b. If the ignition interlock system is required pursuant to subdivision (a)(2) of this section, a requirement that the person not drive with an alcohol concentration of greater than 0.00; or
 - c. If the ignition interlock system is required pursuant to subdivision (a)(1) of this section, and the person has also been convicted, based on the same set of circumstances, of: (i) driving while impaired in a commercial vehicle, G.S. 20-138.2, (ii) driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, (iii) felony death by vehicle, G.S. 20-141.4(a1), or (iv) manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, a requirement that the person not drive with an alcohol concentration of greater than 0.00."

Section 2. G.S. 20-17.8 is amended by adding a new subsection to read:

"(c1) Vehicles Subject to Requirement. – A person subject to this section shall have all registered vehicles owned by that person equipped with a functioning ignition interlock system of a type approved by the Commissioner, unless the Division determines that one or more specific registered vehicles owned by that person are relied upon by another member of that person's family for transportation and that the vehicle is not in the possession of the person subject to this section."

Section 3. G.S. 20-17.8(f) reads as rewritten:

"(f) Effect of Violation of Restriction. – A person subject to this section who violates any of the restrictions of this section commits the offense of driving while license revoked under G.S. 20-28(a) and is subject to punishment and license revocation as provided in that section. If a law enforcement officer has reasonable grounds to believe that a person subject to this section has consumed alcohol while driving or has driven while he has remaining in his body any alcohol previously consumed, the suspected offense of driving while license is revoked is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2. If a person subject to this section is charged with driving while license revoked by violating a condition of subsection (b) of this section, and a judicial official determines that there is probable cause for the charge, the person's license is suspended pending the resolution of the case, and the judicial official must require the person to surrender the license. The judicial official must also notify the person that he is not entitled to drive until his case is resolved. An alcohol concentration report from the ignition interlock system shall not be admissible as evidence of driving while license revoked, nor shall it be admissible in an administrative revocation proceeding as provided in subsection (g) of this section; ~~provided that the person did not operate a vehicle until the ignition interlock system indicated an alcohol concentration of less than 0.04.~~ section, unless the person operated a vehicle when the ignition interlock system indicated an alcohol concentration in violation of the restriction placed upon the person by subdivision (b)(3) of this section. If a person subject to this section is charged with driving while license revoked by violating the requirements of subsection (c1) of this section, and no other violation of this section is alleged, the court may make a determination at the hearing of the case that the vehicle, on which the ignition interlock system was not installed, was relied upon by another member of that person's family for transportation and that the vehicle was not in the possession of the person subject to this section, and therefore the vehicle was not required to be equipped with a functioning ignition interlock system. If the court determines that the vehicle was not required to be equipped with a functioning ignition interlock system and the person subject to this section has committed no other violation of this section, the court shall find the person not guilty of driving while license revoked."

Section 4. G.S. 20-138.7 reads as rewritten:

"§ 20-138.7. ~~Transporting an open container of alcoholic beverage after consuming alcohol.~~ Transporting an open container of alcoholic beverage after consuming alcohol.

(a) Offense. – No person shall drive a motor vehicle on a highway or ~~public vehicular area~~ the right-of-way of a highway:

- (1) While there is an alcoholic beverage in the passenger area in other than in the unopened manufacturer's original container in the passenger area; ~~container;~~ and
- (2) While the driver is consuming alcohol or while alcohol remains in the driver's body.

(a1) Offense. – No person shall possess an alcoholic beverage other than in the unopened manufacturer's original container, or consume an alcoholic beverage, in the passenger area of a motor vehicle while the motor vehicle is on a highway or the right-of-way of a highway. For purposes of this subsection, only the person who possesses or consumes an alcoholic beverage in violation of this subsection shall be charged with this offense.

(a2) Exception. – It shall not be a violation of subsection (a1) of this section for a passenger to possess an alcoholic beverage other than in the unopened manufacturer's original container, or for a passenger to consume an alcoholic beverage, if the container is:

- (1) In the passenger area of a motor vehicle that is designed, maintained, or used primarily for the transportation of persons for compensation;

(2) In the living quarters of a motor home or house car as defined in G.S. 20-4.01(27)d2.; or

(3) In a house trailer as defined in G.S. 20-4.01(14).

(a3) Meaning of Terms. – Under this section, the term 'motor vehicle' means only those types of motor vehicles which North Carolina law requires to be registered, whether the motor vehicle is registered in North Carolina or another jurisdiction.

(b) Subject to Implied-Consent Law. – An offense under this section is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2.

(c) Odor Insufficient. – The odor of an alcoholic beverage on the breath of the driver is insufficient evidence to prove beyond a reasonable doubt that alcohol was remaining in the driver's body in violation of this section, unless the driver was offered an alcohol screening test or chemical analysis and refused to provide all required samples of breath or blood for analysis.

(d) Alcohol Screening Test. – Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violating subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the Commission for Health Services, and the screening test is conducted in accordance with the applicable regulations of the Commission as to the manner of its use.

(e) Punishment; Effect When Impaired Driving Offense Also Charged. – Violation of ~~this section~~ subsection (a) of this section shall be ~~punished as a~~ Class 3 misdemeanor for the first offense and shall be ~~punished as a~~ Class 2 misdemeanor for a second or subsequent offense. ~~A fine imposed for a second or subsequent offense may not exceed one thousand dollars (\$1,000).~~ Violation of ~~this section~~ subsection (a) of this section is not a lesser included offense of impaired driving under G.S. 20-138.1, but if a person is convicted under ~~this section~~ subsection (a) of this section and of an offense involving impaired driving arising out of the same transaction, the punishment imposed by the court shall not exceed the maximum applicable to the offense involving impaired driving, and any minimum applicable punishment shall be imposed. Violation of subsection (a1) of this section by the driver of the motor vehicle is a lesser-included offense of subsection (a) of this section. A violation of ~~this section~~ subsection (a) shall be considered a moving violation for purposes of G.S. 20-16(c).

Violation of subsection (a1) of this section shall be an infraction and shall not be considered a moving violation for purposes of G.S. 20-16(c).

(f) Definitions. – If the seal on a container of alcoholic beverages has been broken, it is opened within the meaning of this section. For purposes of this section, "passenger area of a motor vehicle" means the area designed to seat the driver and passengers and any area within the reach of a seated driver or passenger, including the glove compartment. The area of the trunk or the area behind the last upright back seat of a station wagon, hatchback, or similar vehicle shall not be considered part of the passenger area. The term "alcoholic beverage" is as defined in G.S. 18B-101(4).

(g) Pleading. – In any prosecution for a violation of ~~this section~~, subsection (a) of this section, the pleading is sufficient if it states the time and place of the alleged offense in the usual form and charges that the defendant drove a motor vehicle on a highway or ~~public vehicular area~~ the right-of-way of a highway with an open container of alcoholic beverage after drinking.

In any prosecution for a violation of subsection (a1) of this section, the pleading is sufficient if it states the time and place of the alleged offense in the usual form and charges that (i) the defendant possessed an open container of alcoholic beverage in the passenger area of a motor vehicle while the motor vehicle was on a highway or the right-of-way of a highway, or (ii) the defendant consumed an alcoholic beverage in the passenger area of a motor vehicle while the motor vehicle was on a highway or the right-of-way of a highway.

(h) Limited Driving Privilege. – A person who is convicted of violating subsection (a) of this section and whose drivers license is revoked solely based on that conviction may apply for a limited driving privilege as provided for in G.S. 20-179.3. The judge may issue the limited driving privilege only if the driver meets the eligibility requirements of G.S. 20-179.3, other than the requirement in G.S. 20-179.3(b)(1)c. G.S. 20-179.3(e) shall not apply. All other terms, conditions, and restrictions provided for in G.S. 20-179.3 shall apply. G.S. 20-179.3, rather than this subsection, governs the issuance of a limited driving privilege to a person who is convicted of violating subsection (a) of this section and of driving while impaired as a result of the same transaction."

Section 5. G.S. 20-16.2(c1) reads as rewritten:

"(c1) Procedure for Reporting Results and Refusal to Division. – Whenever a person refuses to submit to a chemical analysis or a person's drivers license has an alcohol concentration restriction and the results of the chemical analysis establish a violation of the restriction, the charging officer and the chemical analyst must without unnecessary delay go before an official authorized to administer oaths and execute an affidavit(s) stating that:

- (1) The person was charged with an implied-consent offense or had an alcohol concentration restriction on the drivers license;
- (2) The charging officer had reasonable grounds to believe that the person had committed an implied-consent offense or violated the alcohol concentration restriction on the drivers license;
- (3) Whether the implied-consent offense charged involved death or critical injury to another person, if the person willfully refused to submit to chemical analysis;
- (4) The person was notified of the rights in subsection (a); and
- (5) The results of any tests given or that the person willfully refused to submit to a chemical analysis upon the request of the charging officer.

If the person's drivers license has an alcohol concentration restriction, pursuant to G.S. 20-19(c3), and an officer has reasonable grounds to believe the person has violated a provision of that restriction other than violation of the alcohol concentration level, the charging officer and chemical analyst shall complete the applicable sections of the affidavit and indicate the restriction which was violated. The charging officer must immediately mail the affidavit(s) to the Division. If the charging officer is also the chemical analyst who has notified the person of the rights under subsection (a), the charging officer may perform alone the duties of this subsection."

Section 6. G.S. 20-19(c3) reads as rewritten:

"(c3) Restriction; Revocations. – When the Division restores a person's drivers license which was revoked pursuant to G.S. 20-13.2(a), G.S. 20-23 when the offense involved impaired driving, G.S. 20-23.2, subdivision (2) of G.S. 20-17(a), subdivision (1) or (9) of G.S. 20-17(a) when the offense involved impaired driving, or this subsection, in addition to any other restriction or condition, it shall place the applicable restriction on the person's drivers license as follows:

- (1) For the first restoration of a drivers license for a person convicted of driving while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired under G.S. 20-138.1, that the person not operate a vehicle with an alcohol concentration of 0.04 or more at any relevant time after the driving;
- (2) For the second or subsequent restoration of a drivers license for a person convicted of driving while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits

- substantially similar conduct which if committed in this State would result in a conviction of driving while impaired under G.S. 20-138.1, that the person not operate a vehicle with an alcohol concentration greater than 0.00 at any relevant time after the driving;
- (3) For any restoration of a drivers license for a person convicted of driving while impaired in a commercial motor vehicle, G.S. 20-138.2, driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, felony death by vehicle, G.S. 20-141.4(a1), manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, or a revocation under this subsection, that the person not operate a vehicle with an alcohol concentration of 0.00 or more at any relevant time after the driving;
- (4) For any restoration of a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired in a commercial motor vehicle, G.S. 20-138.2, driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, felony death by vehicle, G.S. 20-141.4(a1), or manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, that the person not operate a vehicle with an alcohol concentration of 0.00 or more at any relevant time after the driving.

In addition, the person seeking restoration of a license must agree to submit to a chemical analysis in accordance with G.S. 20-16.2 at the request of a law enforcement officer who has reasonable grounds to believe the person is operating a motor vehicle on a highway or public vehicular area in violation of the restriction specified in this subsection. The person must also agree that, when requested by a law enforcement officer, the person will agree to be transported by the law enforcement officer to the place where chemical analysis is to be administered.

The restrictions placed on a license under this subsection shall be in effect (i) seven years from the date of restoration if the person's license was permanently revoked, (ii) until the person's twenty-first birthday if the revocation was for a conviction under G.S. 20-138.3, and (iii) three years in all other cases.

A law enforcement officer who has reasonable grounds to believe that a person has violated a restriction placed on the person's drivers license shall complete an affidavit pursuant to G.S. 20-16.2(c1). On the basis of information reported pursuant to G.S. 20-16.2, the Division shall revoke the drivers license of any person who violates a condition of reinstatement imposed under this subsection. An alcohol concentration report from an ignition interlock system shall not be used as the basis for revocation under this subsection. A violation of a restriction imposed under this subsection or the willful refusal to submit to a chemical analysis shall result in a one-year revocation. If the period of revocation was imposed pursuant to subsection (d) or (e), any remaining period of the original revocation, prior to its reduction, shall be reinstated and the one-year revocation begins after all other periods of revocation have terminated."

Section 7. G.S. 20-179.3(g5) reads as rewritten:

"(g5) Ignition Interlock Required. – If a person's drivers license is revoked for a conviction of G.S. 20-138.1, and the person had an alcohol concentration of 0.16 or more, a judge shall include all of the following in a limited driving privilege order:

- (1) A restriction that the applicant may operate only a designated motor vehicle.
- (2) A requirement that the designated motor vehicle be equipped with a functioning ignition interlock system of a type approved by the ~~Commissioner~~ Commissioner, which is set to prohibit driving with an

alcohol concentration of greater than 0.00. The Commissioner shall not unreasonably withhold approval of an ignition interlock system and shall consult with the Division of Purchase and Contract in the Department of Administration to ensure that potential vendors are not discriminated against.

- (3) A requirement that the applicant personally activate the ignition interlock system before driving the motor vehicle."

Section 8. G.S. 20-139.1(b3) reads as rewritten:

"(b3) Sequential Breath Tests Required. – By January 1, 1985, the regulations of the Commission for Health Services governing the administration of chemical analyses of the breath shall require the testing of at least duplicate sequential breath samples. Those regulations must provide:

- (1) A specification as to the minimum observation period before collection of the first breath sample and the time requirements as to collection of second and subsequent samples.
- (2) That the test results may only be used to prove a person's particular alcohol concentration if:
 - a. The pair of readings employed are from consecutively administered tests; and
 - b. The readings do not differ from each other by an alcohol concentration greater than 0.02.
- (3) That when a pair of analyses meets the requirements of subdivision (2), only the lower of the two readings may be used by the State as proof of a person's alcohol concentration in any court or administrative proceeding.

A person's ~~willful~~ refusal to give the sequential breath samples necessary to constitute a valid chemical analysis is a ~~willful~~ refusal under G.S. 20-16.2(c).

A person's ~~willful~~ refusal to give the second or subsequent breath sample shall make the result of the first breath sample, or the result of the sample providing the lowest alcohol concentration if more than one breath sample is provided, admissible in any judicial or administrative hearing for any relevant purpose, including the establishment that a person had a particular alcohol concentration for conviction of an offense involving impaired driving."

Section 9. G.S. 20-4.01(24a) reads as rewritten:

"(24a) Offense Involving Impaired Driving. – Any of the following offenses:

- a. Impaired driving under G.S. 20-138.1.
- b. Death by vehicle under G.S. 20-141.4 when conviction is based upon impaired driving or a substantially ~~equivalent~~ similar offense under previous law.
- c. First or second degree murder under G.S. 14-17 or involuntary manslaughter under G.S. 14-18 when conviction is based upon impaired driving or a substantially ~~equivalent~~ similar offense under previous law.
- d. An offense committed in another jurisdiction which prohibits substantially similar conduct prohibited by the offenses in this subsection.
- e. A repealed or superseded offense substantially ~~equivalent~~ similar to impaired driving, including offenses under former G.S. 20-138 or G.S. 20-139.
- f. Impaired driving in a commercial motor vehicle under G.S. 20-138.2, except that convictions of impaired driving under G.S. 20-138.1 and G.S. 20-138.2 arising out of the same transaction shall be considered a single conviction of an offense involving impaired driving for any purpose under this Chapter.
- g. Habitual impaired driving under G.S. 20-138.5.

A conviction under former G.S. 20-140(c) is not an offense involving impaired driving."

Section 10. G.S. 20-16(a) reads as rewritten:

"(a) The Division shall have authority to suspend the license of any operator with or without a preliminary hearing upon a showing by its records or other satisfactory evidence that the licensee:

- (1) through (4) Repealed by Session Laws 1979, c. 36;
- (5) Has, under the provisions of subsection (c) of this section, within a three-year period, accumulated 12 or more points, or eight or more points in the three-year period immediately following the reinstatement of a license which has been suspended or revoked because of a conviction for one or more traffic offenses;
- (6) Has made or permitted an unlawful or fraudulent use of such license or a learner's permit, or has displayed or represented as his own, a license or learner's permit not issued to him;
- (7) Has committed an offense in another state, which if committed in this State would be grounds for suspension or revocation;
- (8) Has been convicted of illegal transportation of alcoholic beverages;
- (8a) Has been convicted of impaired instruction under G.S. 20-12.1;
- (8b) Has violated on a military installation a regulation of that installation prohibiting conduct substantially ~~equivalent~~ similar to conduct that constitutes impaired driving under G.S. 20-138.1 and, as a result of that violation, has had his privilege to drive on that installation revoked or suspended after an administrative hearing authorized by the commanding officer of the installation and that commanding officer has general court martial jurisdiction;
- (9) Has, within a period of 12 months, been convicted of two or more charges of speeding in excess of 55 and not more than 80 miles per hour, or of one or more charges of reckless driving and one or more charges of speeding in excess of 55 and not more than 80 miles per hour;
- (10) Has been convicted of operating a motor vehicle at a speed in excess of 75 miles per hour on a public road or highway where the maximum speed is less than 70 miles per hour;
- (10a) Has been convicted of operating a motor vehicle at a speed in excess of 80 miles per hour on a public highway where the maximum speed is 70 miles per hour; or
- (11) Has been sentenced by a court of record and all or a part of the sentence has been suspended and a condition of suspension of the sentence is that the operator not operate a motor vehicle for a period of time.

However, if the Division revokes without a preliminary hearing and the person whose license is being revoked requests a hearing before the effective date of the revocation, the licensee retains his license unless it is revoked under some other provision of the law, until the hearing is held, the person withdraws his request, or he fails to appear at a scheduled hearing."

Section 11. G.S. 20-179.3(b) reads as rewritten:

"(b) Eligibility. –

- (1) A person convicted of the offense of impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege if:
 - a. At the time of the offense he held either a valid driver's license or a license that had been expired for less than one year;
 - b. At the time of the offense he had not within the preceding seven years been convicted of an offense involving impaired driving;

- c. Punishment Level Three, Four, or Five was imposed for the offense of impaired driving;
- d. Subsequent to the offense he has not been convicted of, or had an unresolved charge lodged against him for, an offense involving impaired driving; and
- e. The person has obtained and filed with the court a substance abuse assessment of the type required by G.S. 20-17.6 for the restoration of a drivers license.

A person whose North Carolina driver's license is revoked because of a conviction in another jurisdiction substantially ~~equivalent~~ similar to impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege if he would be eligible for it had the conviction occurred in North Carolina. Eligibility for a limited driving privilege following a revocation under G.S. 20-16.2(d) is governed by G.S. 20-16.2(e1).

- (2) Any person whose licensing privileges are forfeited pursuant to G.S. 15A-1331A is eligible for a limited driving privilege if the court finds that at the time of the forfeiture, the person held either a valid drivers license or a drivers license that had been expired for less than one year and
 - a. The person is supporting existing dependents or must have a drivers license to be gainfully employed; or
 - b. The person has an existing dependent who requires serious medical treatment and the defendant is the only person able to provide transportation to the dependent to the health care facility where the dependent can receive the needed medical treatment.

The limited driving privilege granted under this subdivision must restrict the person to essential driving related to the purposes listed above, and any driving that is not related to those purposes is unlawful even though done at times and upon routes that may be authorized by the privilege."

Section 12. G.S. 20-179.3(c) reads as rewritten:

"(c) Privilege Not Effective until after Compliance with Court-Ordered Revocation. – A person convicted of an impaired driving offense may apply for a limited driving privilege at the time the judgment is entered. If the judgment does not require the person to complete a period of nonoperation pursuant to G.S. 20-179, the privilege may be issued at the time the judgment is issued. If the judgment requires the person to complete a period of nonoperation pursuant to G.S. 20-179, the limited driving privilege may not be effective until the person successfully completes that period of nonoperation. A person whose license is revoked because of a conviction in another jurisdiction substantially ~~equivalent~~ similar to impaired driving under G.S. 20-138.1 may apply for a limited driving privilege only after having completed at least 60 days of a court-imposed term of nonoperation of a motor vehicle, if the court in the other jurisdiction imposed such a term of nonoperation."

Section 13. G.S. 20-179.3(e) reads as rewritten:

"(e) Limited Basis for and Effect of Privilege. – A limited driving privilege issued under this section authorizes a person to drive if his license is revoked solely under G.S. 20-17(2) or as a result of a conviction in another jurisdiction substantially ~~equivalent~~ similar to impaired driving under G.S. 20-138.1; if the person's license is revoked under any other statute, the limited driving privilege is invalid."

Section 14. G.S. 14-7.7(b) reads as rewritten:

- "(b) For purposes of this Article, "violent felony" includes the following offenses:
 - (1) All Class A through E felonies.

- (2) Any repealed or superseded offense substantially equivalent to the offenses listed in subdivision (1).
- (3) Any offense committed in another jurisdiction substantially ~~equivalent~~ similar to the offenses set forth in subdivision (1) or (2)."

Section 15. G.S. 16.5(b) reads as rewritten:

"(b) Revocations for Persons Who Refuse Chemical Analyses or Who Are Charged With Certain Implied-Consent Offenses. – A person's driver's license is subject to revocation under this section if:

- (1) A charging officer has reasonable grounds to believe that the person has committed an offense subject to the implied-consent provisions of G.S. 20-16.2;
- (2) The person is charged with that offense as provided in G.S. 20-16.2(a);
- (3) The charging officer and the chemical analyst comply with the procedures of G.S. 20-16.2 and G.S. 20-139.1 in requiring the person's submission to or procuring a chemical analysis; and
- (4) The person:
 - a. Willfully refuses to submit to the chemical analysis;
 - b. Has an alcohol concentration of 0.08 or more within a relevant time after the driving;
 - c. Has an alcohol concentration of 0.04 or more at any relevant time after the driving of a commercial motor vehicle; or
 - d. Has any alcohol concentration at any relevant time after the driving and the person is under 21 years of age."

Section 16. G.S. 20-138.2A(b2) reads as rewritten:

"(b2) Alcohol Screening Test. – Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violation of subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the Commission ~~on~~ for Health Services, and the screening test is conducted in accordance with the applicable regulations of the Commission as to its manner and use."

Section 17. G.S. 20-138.2B(b2) reads as rewritten:

"(b2) Alcohol Screening Test. – Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violation of subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the Commission ~~on~~ for Health Services, and the screening test is conducted in accordance with the applicable regulations of the Commission as to its manner and use."

Section 18. G.S. 20-138.3(b2) reads as rewritten:

"(b2) Alcohol Screening Test. – Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violation of subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the Commission ~~on~~ for Health Services, and the screening test is conducted in accordance with the applicable regulations of the Commission as to its manner and use."

Section 19. The General Assembly requests that the Attorney General initiate litigation to challenge the federal government's unconstitutional intrusion into the State's

authority to enact and enforce its own laws regarding motor vehicles and traffic safety, and particularly regarding section 154 of Title 23 of the United States Code.

Section 20. Section 10 of Session Law 1999-330 reads as rewritten:

"Section 10. Section 4 of this act becomes effective September 1, 2000, and applies to new or renewal policies written to become effective on or after that date. The remainder of this ~~This~~ act becomes effective December 1, 1999, and applies to violations occurring on or after that date."

Section 21. Section 4 of this act is effective September 1, 2000, and expires September 30, 2002. Sections 19 and 20 of this act are effective when those sections become law. The remainder of this act becomes effective September 1, 2000, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Marc Basnight
President Pro Tempore of the Senate

James B. Black
Speaker of the House of Representatives

James B. Hunt, Jr.
Governor

Approved _____ .m. this _____ day of _____ , 2000