



HOUSE BILL 273: Clarify Conditional Discharge Law

2015-2016 General Assembly

Committee:	House Judiciary II	Date:	March 31, 2015
Introduced by:	Reps. Jackson, Glazier	Prepared by:	Susan Sitze
Analysis of:	PCS to First Edition H273-CSSA-18		Committee Counsel

SUMMARY: *The Proposed Committee Substitute (PCS) for House Bill 273 would clarify that the provisions regarding deferred prosecution and conditional discharge for convictions of H and I felonies and misdemeanors under Structured Sentencing do not apply to convictions of impaired driving and would clarify that offenses involving impaired driving cannot be expunged.*

BILL ANALYSIS:

Section 1 of the PCS would clarify that although a person convicted of impaired driving under G.S. 20-138.1 may be placed on probation, they are not eligible for deferred prosecution or a conditional discharge.

Sections 2, 3 & 4 would clarify that an offense involving impaired driving, as defined in G.S. 20-4.01(24a), is not eligible to be expunged.

EFFECTIVE DATE: Section 1 of this act becomes effective December 1, 2015, and applies to any order placing a person on probation on or after that date. Sections 2 through 4 of this act become effective July 1, 2015, and apply to petitions filed and petitions pending on or after that date. The remainder of this act is effective when it becomes law.

BACKGROUND:

- (24a) Offense Involving Impaired Driving. – Any of the following offenses:
 - a. Impaired driving under G.S. 20-138.1.
 - b. Any offense set forth under G.S. 20-141.4 when conviction is based upon impaired driving or a substantially 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 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 - e. A repealed or superseded offense substantially similar to impaired driving, including offenses under former G.S. 20-138 or G.S. 20-139.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.

