



# HOUSE BILL 273: Clarify Conditional Discharge Law/No Driving While Impaired Expunction

2015-2016 General Assembly

**Committee:**

**Introduced by:**

**Analysis of:** S.L. 2015-150

**Date:**

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Staff Attorney

**SUMMARY:** *S.L. 2015-150, as amended by Sec. 39 of S.L. 2015-264, clarifies 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 that offenses involving impaired driving cannot be expunged.*

*The provision relating to deferred prosecution and conditional discharge became effective December 1, 2015, and applies to any order placing a person on probation on or after that date. The provisions pertaining to expunctions became effective July 1, 2015, and apply to petitions filed and pending on or after that date.*

**BILL ANALYSIS:**

**Section 1** of S.L. 2015-150 clarifies that a person convicted of impaired driving under G.S. 20-138.1 may be placed on probation but is not eligible for deferred prosecution or a conditional discharge.

**Sections 2, 3 & 4** specify that an offense involving impaired driving, as defined in G.S. 20-4.01(24a), is not eligible to be expunged.<sup>1</sup>

**EFFECTIVE DATE:** Section 1 of this act became 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 became

<sup>1</sup> **G.S. 20-4.01. Definitions.**

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- (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  - e. A repealed or superseded offense substantially similar to impaired driving, including offenses under former G.S. 20-138 or G.S. 20-139.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.



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effective July 1, 2015, and apply to petitions filed and petitions pending on or after that date. The remainder of this act became effective when the Governor signed it into law on July 16, 2015.