



SENATE BILL 183: Ignition Interlock/Various changes.

2021-2022 General Assembly

Committee:		Date:	November 1, 2021
Introduced by:	Sens. Britt, Sawyer, Daniel	Prepared by:	Brian Gwyn* Staff Attorney
Analysis of:	Conference Committee Substitute (S183-CCSBE-4)		

OVERVIEW: *The 4th edition of Senate Bill 183 would do the following:*

- *Amend certain driving privilege restrictions.*
- *Allow an individual who owns multiple vehicles to designate certain vehicles for operation with an ignition interlock system.*
- *Expand the current waiver for undue financial hardship to equip a vehicle with a required ignition interlock system.*
- *Create a study focused on expanded uses and supervision of ignition interlock systems.*

The Conference Committee Substitute would add the following changes to the 4th edition:

- *Modify the effective date of the repeal of privilege restrictions for high-risk drivers from June 1, 2022, to December 1, 2021.*
- *Make technical and conforming changes related to S.L. 2021-138.*
- *Change "sheriff's department" to "sheriff's office" in various General Statutes.*

PART I. MODIFICATIONS TO IGNITION INTERLOCK LAWS

CURRENT LAW: G.S. 20-17.8(b) requires an ignition interlock device for drivers whose licenses are restored following a conviction for impaired driving under G.S. 20-138.1 if any of the following is true:

- The person had an alcohol concentration of 0.15 or more.
- The person has been convicted of another offense involving impaired driving, which occurred within seven years of the offense for which the person's license is revoked.
- The person was sentenced at Aggravated Level One.

Additionally, G.S. 20-179.3(g5) requires an ignition interlock device as part of a limited driving privilege if a person's drivers license is revoked for a conviction of impaired driving under G.S. 20-138.1 and the person had an alcohol concentration of .15 or more.

G.S. 20-17.8(b)(3) prohibits drivers with a required ignition interlock device from driving with the following alcohol concentrations:

- An alcohol concentration of 0.04 or greater if the ignition interlock is required only because of a 0.15 alcohol concentration.

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- An alcohol concentration of 0.00 or greater if the ignition interlock is required because of one of the following:
 - The person was convicted of another impaired driving offense within the past seven years.
 - The person was sentenced at Aggravated Level One.
 - The person was convicted of habitual impaired driving under G.S. 20-138.5.
 - The person had an alcohol concentration of 0.15 and was convicted of another specified alcohol-related offense based on the same circumstances.

G.S. 20-17.8(c1) requires individuals who must have an ignition interlock device to install a functioning device on all registered vehicles owned by that individual. An individual can seek an undue financial hardship waiver if a registered vehicle is not in the possession of the individual and is relied upon for transportation by another member of the individual's family.

BILL ANALYSIS: Effective December 1, 2021, Section 1.(a) would repeal some of the existing restrictions on a limited driving privilege for a person convicted of an impaired driving offense with an alcohol concentration of 0.15 or higher.

Section 1.(b) would make the following changes to the limited driving privilege in G.S. 20-179.3:

- Allow a functioning ignition interlock system to replace some of the restrictions placed on a limited driving privilege.
- Make technical changes.

Section 1.(c) would make the following changes to the restoration of a license under G.S. 20-17.8 after certain impaired driving convictions:

- For individuals whose license is restored after an impaired driving conviction, replace the current alcohol concentration restrictions to drive, which vary from 0.00-0.04, to a standard 0.02 for individuals over 21.
- Allow an individual who owns multiple vehicles to designate certain vehicles for operation with an ignition interlock system.
- Make technical changes.

Section 1.(d) would make the following changes to the conditions for restoration of a license under G.S. 20-19:

- Make changes to conform with the alcohol concentration restriction of 0.02 created by Section 2, except that individuals convicted of driving while less than 21 years old after consuming alcohol or drugs could not operate a vehicle with an alcohol concentration greater than 0.00.
- Clarify that individuals seeking restoration of their drivers license must agree to submit to a chemical analysis at the request of law enforcement upon reasonable grounds to believe that the person is consuming or has recently consumed alcohol or a controlled substance while operating a motor vehicle.
- Clarify that *all of* the listed requirements apply when a person voluntarily submits to continuous alcohol monitoring.
- Make conforming and technical changes.

Sections 1.(e) – (g) would do the following:

- Require the person required to install the ignition interlock system to pay for costs of installation and monitoring.

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- Allow an applicant who can provide the vendor with documentation showing (i) an income at or below 150% of the poverty line or (ii) enrollment in certain public assistance programs, to receive free installation and removal of the ignition interlock system and a 50% discount on the monthly service rate.
- Direct the Division of Motor Vehicles (DMV) to adopt temporary rules to implement this section.
- Direct the DMV to develop required forms and make them available by June 1, 2022.

Section 1.(h) would create a study by the Joint Legislative Oversight Committee on Justice and Public Safety, to determine the effectiveness of expanded ignition interlock uses and whether the DMV or the courts should grant limited driving privileges and supervise the use of ignition interlocks.

Section 1.(i) would make the section inapplicable to prosecutions for offenses committed before the effective date.

Section 1.(j) would make the following provisions effective when they become law:

- Requirement that the DMV develop forms.
- Requirement that the Joint Legislative Oversight Committee on Justice and Public Safety study expanded ignition interlock uses.
- Exemption of prosecutions for offenses committed before the effective date.
- Effective date clause.

The repeal of some of the existing restrictions on a limited driving privilege for a person convicted of an impaired driving offense would become effective December 1, 2021.

The remainder of the section would become effective June 1, 2022.

Subsections of this section would apply to limited driving privileges issued and drivers licenses restored on or after that date.

BACKGROUND: An ignition interlock device can be connected to a vehicle's ignition system and requires an individual to breathe into the equipment before starting the vehicle. The vehicle is prevented from starting if the individual's breath alcohol concentration is outside the acceptable range.

PART II. TECHNICAL AND CONFORMING CHANGES RELATED TO S.L. 2021-138 BILL ANALYSIS:

Section 2 would do the following:

- Make conforming changes to G.S. 14-27.23 and 14-27.28 to reflect the new process and period of satellite-based monitoring (SBM).
- Provide equity to sex offenders who were excluded from the petition process for modification or termination.
- Specify that the new petition for individuals ordered to enroll in SBM prior to December 1, 2021, is only for individuals ordered to enroll for a period longer than 10 years. (No relief would be provided for those individuals ordered to enroll for a shorter period.)
- Make changes that reflect case law and clarify that a judge determines the need for satellite-based monitoring based on all relevant evidence, not just a risk assessment.
- Eliminate language in G.S. 14-208.40B which duplicates provisions in G.S. 14-208.40A.

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Section 2.5 would provide up to 96 hours for a first appearance after arrest if the court is closed for transactions for a period of longer than 72 hours or the first regular session of court, which occurs first. (Prior to December 1, 2021, 96 hours was the maximum period for a person in custody to go before going in front of a judge. Senate Bill 300 amended this requirement to provide a first appearance within 72 hours.)

PART III. CHANGE "SHERIFF'S DEPARTMENT" TO "SHERIFF'S OFFICE" IN VARIOUS SECTIONS OF THE GENERAL STATUTES

PART IV. EFFECTIVE DATE

Except as otherwise provided, the bill would be effective when it becomes law.

** Jennifer Bedford, Staff Attorney with the Legislative Analysis Division, substantially contributed to this summary.*