

Motor Vehicle Forfeitures

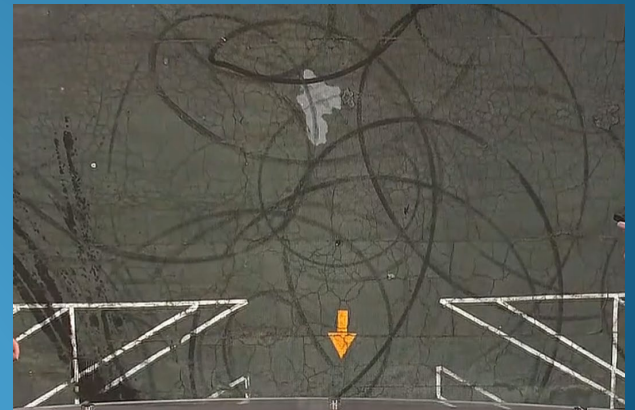
DWLR & DWI

NOL & No Insurance & DWI

Speeding to Elude Arrest – even if not impaired

Prearranged Speed Competition

Street Takeover



DWI & DWLR **OR** DWI & NOL & No Insurance

FY2024	FY2025	FY2026
1,506	1,668	1,819



Vehicle Seizure: Purpose?

“[K]eeping impaired drivers and their cars off the roads”

State v. Chisholm, 135 N.C. App. 578, 584 (1999)

Vehicle impoundment for DWI offenders “reduces recidivism while the vehicle is in custody and to a lesser extent after the vehicle has been released.”

NHTSA, 2011 Highway Safety Countermeasure Guide at 1-34.

DWI Seizure of **MOTOR VEHICLES**: G.S. § 20-28.2 *et. seq.*

- Seizure & pre-trial release procedures – G.S. § 20-28.3
- Definitions & Forfeiture procedures – G.S. § 20-28.2
- **Seizure:**
 - Charged with “offense involving impaired driving” G.S. 20-4.01(24a) **AND**
 - (1) DWLR for impaired driving license revocation- G.S. § 20-28.2(a) **OR**
 - (2) NOL & No insurance
- **Not Seized if:**
- reported stolen prior to seizure **OR**
- a rental car (even if driven by someone not listed on contract)

Offenses involving impaired driving

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III. OFFENSES INVOLVING IMPAIRED DRIVING

G.S. 20-4.01(24a) defines "offense involving impaired driving" to include the following:

- impaired driving under G.S. 20-138.1;*
- any offense set forth under G.S. 20-141.4 based on impaired driving;*
- first or second degree murder under G.S. 14-17 or involuntary manslaughter under G.S. 14-18 when the charge is based on impaired driving;*
- impaired driving in a commercial vehicle under G.S. 20-138.2;*
- habitual impaired driving under G.S. 20-138.5.*

Prior impaired driving license revocation

Remember: Revocations are extended sometimes

IV. IMPAIRED DRIVING LICENSE REVOCATIONS - G.S. 20-28.2(a)

Under G.S. 20-28.2(a), the revocation of a person's drivers license is an impaired driving license revocation if the revocation is pursuant to any of the following statutes:

- | | | |
|--------------------|--|--|
| G.S. 20-13.2 | - Driving After Consuming Alcohol/Drugs While Less Than 21 | |
| G.S. 20-16(a)(8b) | - Military Driving While Impaired | |
| G.S. 20-16.2 | - Refused Chemical Test | |
| G.S. 20-16.5 | - Civil Revocation | → Has not paid \$100 fee |
| G.S. 20-17(a)(2) | - Driving While Impaired | → DMV has not received cert. of completion |
| | Driving While Impaired In Commercial Motor Vehicle | |
| G.S. 20-138.5 | - Habitual Driving While Impaired | |
| G.S. 20-17(a)(12) | - Transporting Open Container - 2nd Or Subsequent | |
| G.S. 20-16(a)(7) | - Out-Of-State Offense Similar To Driving While Impaired Resulting In NC Revocation | |
| G.S. 20-17(a)(1) | - Manslaughter Involving Driving While Impaired | |
| G.S. 20-17(a)(3) | - Any Felony In The Commission Of Which A Motor Vehicle Is Used, If The Offense Involves Impaired Driving | |
| G.S. 20-17(a)(9) | - Any Offense Set Forth Under G.S. 20-141.4 Based On Impaired Driving | |
| G.S. 20-17(a)(11) | - Conviction Of Assault With A Motor Vehicle If Offense Involves Impaired Driving | |
| G.S. 20-28.2(a)(3) | - Laws of another state when the offense for which the person's drivers license is revoked prohibits substantially similar conduct that if committed in this state would result in a revocation based on one of the offenses listed above. | |

Filed when have seized or have not seized motor vehicle

Can use order to seize MV in public place or on Defendant's property but need search warrant if on private property –G.S. §20-28.3(c1)

LEO notifies DMV within 24 hrs & DMV notifies lienholder & registered owner & places hold on title Clerk notifies DA & Bd of Education

(TYPE OR PRINT IN BLACK INK) STATE OF NORTH CAROLINA County				File No.	
Name And Address Of Defendant			OFFICER'S AFFIDAVIT FOR SEIZURE AND IMPOUNDMENT AND MAGISTRATE'S ORDER - IMPAIRED DRIVING G.S. 20-28.3		
Defendant's Drivers License No.		State	Name And Address Of Vehicle Owner		
Vehicle Identification No.		Vehicle License No.		Present Location Of Motor Vehicle	
State	Year	Make	Model		Body Style
Date Of Offense		Date Of Seizure	Time Of Seizure ☐ AM ☐ PM		
I. OFFICER'S AFFIDAVIT					
The undersigned being first duly sworn says:					
1. I am a law enforcement officer. On or about the date of offense shown above, I had probable cause to believe that the defendant named above drove the motor vehicle described above in the above county upon (Give street, highway or public vehicular area.) _____ while committing an offense involving impaired driving in violation of ☐ G.S. 20-138.1 ☐ G.S. 20-138.5 ☐ G.S. _____ (See Section III on reverse for a list of offenses involving impaired driving.) in that: (List sufficient facts to constitute probable cause.) _____					
☐ (Check if defendant charged under G.S. 20-138.5.) and a check of the Division of Motor Vehicles' records or other reliable information indicates that the defendant has been convicted of three (3) or more offenses involving impaired driving as defined in G.S. 20-4.01(24a) within ten (10) years of the date of offense shown above.					
2. I charged the defendant with an offense in violation of the statute cited above.					
3. A check of the records of the Division of Motor Vehicles or other reliable information indicates that, at the time of the above offense, ☐ the defendant's drivers license was revoked as a result of a prior impaired driving license revocation as defined in G.S. 20-28.2(a). (See Section IV on reverse for a list of impaired driving license revocations.) ☐ the defendant was driving without a valid drivers license and was not covered by an automobile liability insurance policy.					
4. A check of law enforcement records or other reliable information indicates that the motor vehicle described above has not been reported stolen.					
5. The motor vehicle described above is not a rental vehicle, or if it is a rental vehicle, the defendant is listed as an authorized driver on the rental contract.					
6. ☐ (a) On the date of seizure shown above, I seized the vehicle described above and it is presently at the location shown above.					
☐ (b) The motor vehicle has not yet been seized.					
SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME				Signature Of Seizing Officer	
Date	Signature Of Official Authorized To Administer Oaths			Name Of Seizing Officer (type or print)	
☐ Magistrate ☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court	Date My Commission Expires			Name Of Department Or Agency Of Officer	
☐ Notary	SEAL				
II. MAGISTRATE'S ORDER					
On the basis of the facts set forth in the above Affidavit and any additional information furnished under oath, the undersigned finds that the requirements of G.S. 20-28.3 for the seizure and impoundment of the motor vehicle described above ☐ have ☐ have not been met.					
1. ☐ a. It is ORDERED that the above described motor vehicle be impounded and held pending further orders of the court.					
☐ b. It is ORDERED that any officer with authority and jurisdiction seize the above described motor vehicle and that it be impounded and held pending further orders of the court.					
☐ 2. It is ORDERED that the above described motor vehicle be released to the motor vehicle owner upon payment of all towing and storage charges incurred as a result of the seizure of that vehicle.					
Date	Name Of Magistrate (type or print)			Signature Of Magistrate	
NOTE TO OFFICER: The seizing officer shall notify the Division of Motor Vehicles (DMV) of the seizure as soon as practical, but not later than 24 hours after the seizure of the motor vehicle. G.S. 20-28.3(b). The seizing officer should complete form LT-176 and forward it to the officer's DCI terminal operator. The terminal operator will then transmit the information to DMV via DCI. This Order authorizes any officer with jurisdiction to enter the property of the defendant to seize the motor vehicle. Consent or a search warrant is required to enter the private property of another. G.S. 20-28.3(c1).					
NOTE TO MAGISTRATE: The magistrate shall provide the original of this form to the Clerk. G.S. 20-28.3(c). The magistrate should provide copies to the defendant and to the seizing officer.					
NOTE TO CLERK: If a seizure is ordered, the Clerk shall provide copies of this form to the district attorney and the attorney for the county board of education. G.S. 20-28.3(c).					

MV seized prior to trial

- LEO has vehicle towed by local tow company with contract with Statewide Contractors – NC Dept of Admin – Surplus Property handles contracts
- Vehicle Usually stays locally for at least 3 days – then moved to Contractor's facility
- Can remove personal property
- Must pay towing & storage to obtain release- even if found not guilty – G.S. § 20-28.3(n)



Mount Airy, Statesville, Fancy Gap, and Conover



**Martin
Edwards
Auctions**
Linden, NC

Pretrial Release

Defendant CR-333A

- Petitions Clerk of Superior Court & shows criteria for seizure not met
- Registered/Titled owner
- **Not revoked for Impaired Driving revocation (statute does not provide for NOL & No Insurance Hearing)**
- Was not NOL or had insurance
- DA's office can consent
- **If no consent, hearing before judge & Board of Education notified**
- Def must pay towing & storage w/n 30 days even if win

Lienholder - CR-334A

- Petitions Clerk of Superior Court
- Had security interest on title
- Default has occurred & is entitled to possession
- Agrees to sell vehicle but not to Def or anyone acting on his behalf
- Vehicle not previously released to Lienholder
- **Owner, DA & School Bd. Atty must consent or have hearing**
- Lienholder pays towing & storage

Wrecked Vehicles

G.S. 20-28.3(h)

- County board of education is authorized to negotiate with the insurance company and to compromise and accept settlement of any claim for damages.
- Property insurance proceeds are paid directly to the clerk of superior court in the county where the motor vehicle driver was charged.
- If the motor vehicle is declared a total loss by the insurance company, upon application of the county board of education, the clerk of court shall enter an order:
 - that the motor vehicle be released to the insurance company
 - upon payment into the court of all insurance proceeds for damage to the motor vehicle **AND**
 - after payment of towing and storage costs and all valid liens.
- Objections to amounts or settlement by owner or lienholder are made by independent claim to the insurance company

Pretrial Release Non-defendant Innocent Owner

CR-330A G.S. 20-28.2(a1)(2)

- Innocent Owner –Petitions Clerk of Superior Court for vehicle or insurance proceeds
- Owner is person “in whose name a registration card or certificate of title for a motor vehicle is issued at the time of seizure”
- Did not know Def revoked or NOL & No insurance
- Knew revoked but did not give permission to drive & filed unauthorized use report with PD & agree to prosecute
- Vehicle reported stolen
- In business of renting or leasing vehicles & did not know DL revoked

Pretrial Release Innocent Owner CR – 330A, p 2

Acknowledgement must be signed

5. I acknowledge that:

- a. The motor vehicle described above was operated by the defendant named above who was charged with an offense involving impaired driving and it is alleged that at the time of the violation ☐ the defendant's license was revoked as a result of a prior impaired drivers license revocation. ☐ the defendant did not have a valid drivers license and did not have liability insurance.
- b. If the vehicle is again operated by the defendant and the defendant is charged with an offense involving impaired driving, then the vehicle is subject to impoundment and forfeiture if at the time of the violation (i) the defendant's drivers license is revoked as a result of a prior impaired driving license revocation or (ii) the defendant does not have a valid drivers license and does not have liability insurance.
- c. A lack of knowledge or consent to the operation will not be a defense in the future, unless I have taken all reasonable precautions to prevent the use of the vehicle by the defendant and immediately report, upon discovery, any unauthorized use to the appropriate law enforcement agency.

6. (check applicable box) (NOTE: This item does not apply to temporary release petitions.)

- ☐ a. I have not previously executed an acknowledgment naming the defendant named on the reverse side as operator of the vehicle described on the reverse side.
- ☐ b. I have previously executed an acknowledgment naming the defendant named on the reverse side as operator of the vehicle described on the reverse side and have taken all reasonable precautions to prevent the use of the vehicle by the defendant named on the reverse side and immediately reported, upon discovery, any unauthorized use to the appropriate law enforcement agency.

- ☐ 7. (check if you are a lessor) I agree not to sell, give, or otherwise transfer possession of the motor vehicle to the defendant or to any person acting on the defendant's behalf. NOTE: "A lessor who refuses to sell, give, or transfer possession of a seized motor vehicle to the defendant or any person acting on the behalf of the defendant shall not be liable for damages arising out of the refusal." G.S. 20-28 2(a)

Consent of DA **not required**, Clerk of Superior Court decides (CR-332A) & sends copies to DA & School Bd

If Clerk **denies** release, Owner can raise issue again at forfeiture hearing

Owner can Bond out vehicle

- Any owner- other than Defendant- can post a bond
- Temporary release until hearing
- Bond payable to local school fund
- CR-331A

Disposition of vehicle prior to trial

- Towing company can sell vehicle:
 - If worth \$1500 or less, after 90 days
 - When towing & storage (\$10.00/day) fees reach 85% of value
- Proceeds after pay towing & storage fees paid to Clerk of Court



Trial Procedures

- DWI trial must be set on the arresting officer's next court date **OR within 30 days of the offense** – which ever comes first – “compelling reasons” for continuance (CR-337)
- Forfeiture hearing after offense involving impaired driving conviction – Notice must be sent at **least 10 days** prior to hearing to interested parties (CR-324A)
- Court determines if criteria for forfeiture met.- need only be convicted of an offense involving impaired driving (Not DWLR) but show license revoked at time **Or** NOL & no insurance at the time. (CR-335A)
- **Forfeit to the State: Burden of Proof by State is greater weight of the evidence**
- **Innocent owner: motor vehicle owner must establish, by the greater weight of the evidence that he/she is innocent owner– G.S. 20-28.2(d)**
- If MV not ordered forfeited, person obtaining release [or who obtains proceeds] must pay towing & storage fees within 30 days (CR-336A)

Felony Speeding to Elude Arrest

FY2024

FY2025

FY2026

1,382

1,310

1,240



Felony Speeding to Elude Arrest- G.S. 20-141.5(b) or (b1)

- Driver charge with **Felony** Speeding to elude arrest because of 2 or more aggravators or killed someone Vehicle subject to seizure
- **If reduced to misdemeanor speeding to elude arrest, defendant gets vehicle back –**
- GS 20-28.3(L): If the underlying offense resulting in the seizure is felony speeding to elude arrest pursuant to G.S. 20-141.5(b) or (b1) and the **defendant's conviction is for misdemeanor speeding to elude arrest pursuant to G.S. 20-141.5(a), whether or not the reduced charge is by plea agreement**, the defendant shall be ordered to pay as restitution to the county board of education, the motor vehicle owner, or the lienholder the cost paid or owing for the towing and storage of the motor vehicle.

Forfeit Registration (Tag) -- GS §20-54.1

- Conviction of a violation of an offense involving impaired driving while the person's license is revoked as a result of a prior impaired driving license revocation as defined in G.S. 20-28.2
- **OR** felony speeding to elude arrest
- DMV revokes registration until drivers license restored
- **Note:** Repeat offenders register their vehicle in another person's name
- GS §20-45(c) Officers can seize tags if revoked by DMV

Prearranged Speed Competition

GS 20-141.3(a) – Statewide Cases

- FY 2024 Filed: 70 Disposed of: 88
- FY 2025 Filed: 65 Disposed of: 68
- FY 2026 Filed: 54 Disposed of: 60



Prearranged Speed Competition

GS 20-141.3(a)

- Unlawful for any person to operate a motor vehicle on a street or highway willfully in prearranged speed competition with another motor vehicle.
- Class 1 misdemeanor (unless injury or death then felony)
- Motor Vehicle is seized
- Delivered to the Sheriff of the county or placed under sheriff's constructive possession if delivery of actual possession is impractical,
- Held pending the trial of the person or persons arrested

Street Takeover – G.S. 20-141.10

Effective Date: **12-1-2023**

- **Street Takeover.** The unauthorized taking over of a portion of highway, street, or public vehicular area by blocking or impeding the regular flow of traffic with a motor vehicle to perform a motor vehicle **stunt, contest, or exhibition**
- Class A1 misdemeanor Must pay minimum fine of \$1000.00
- 2nd offense w/in 24 months Class H felony

Steet Takeover



Burn outs



Doughnuts



Drifting



Wheelie

Stunt. - A burnout, doughnut, wheelie, drifting, or other dangerous motor vehicle activity.

Vehicles to be seized

- G.S. 20-141.10(f): Any vehicle **involved** in a street takeover may be seized
- G.S. 20-141.3(g)(1): When any officer of the law discovers that any person **has operated or is operating** a motor vehicle in violation of G.S. 20-141.10, the officer may seize the vehicle.
- Delivered to Sheriff – same as “prearranged speed competition” G.S. 20-141.3
- Sept. 19, 2026: **DURHAM**, N.C. ([WNCN](#)) — Police in Durham said they confronted a planned car gathering of an estimated 600 vehicles with many careless and reckless “stunts” in one area Saturday night.
- March 17, 2026 - **Raleigh** police confiscate six cars connected to dangerous street racing as apart of their street takeover measures
- **Charlotte-Mecklenburg** PD seized 20 vehicles in street takeover

Steet Takeover

G.S. 20-141.10 – Statewide Cases

- **Misdemeanor:**

- FY 2024 Filed: 45 Disposed of: 6
- FY 2025 Filed: 94 Disposed of: 61
- FY 2026 Filed: 169 Disposed of: 107

- **Felony** (2nd offense within 24 Months):

- FY2024 Filed: 6 Disposed of: 0
- FY 2025 Filed: 2 Disposed of: 4
- FY 2026 Filed: 3 Disposed of: 4

Preadarranged or Street Takeover

- The sheriff restores the seized motor vehicle to the owner upon execution by the owner of a **good and valid bond**, with sufficient sureties, in an amount **double the value**



Prearranged or Street Takeover

G.S. 20-141.3(g)(1) &(3)

- Upon conviction vehicle is sold by Sheriff
- Upon sale, after deducting the expenses of keeping the motor vehicle, the fee for the seizure, and the costs of the sale, shall pay all liens, according to their priorities
- Balance of proceeds paid to county school fund
- Upon acquittal (**OR** if convicted of wilful speed competition) vehicle is returned to owner
- **Issue:** Who pays towing & storage fees when return vehicle to owner?

Prearranged or Street Takeover Lienholder Hearing

G.S. 20-141.3(g)(2)

- On petition by a lienholder,
- The court, in its **discretion** and upon such terms and conditions as it may prescribe, may allow reclamation of the vehicle by the lienholder.
- The lienholder shall file with the court an accounting of the proceeds of any subsequent sale of the vehicle
- Pay into the court any proceeds received in excess of the amount of the lien
- No mention of school board or DA

Innocent Owner

G.S. 20-141.3(g)(3)

- If, at the time of **hearing, or other proceeding** in which the matter is considered,
- the owner of the vehicle can establish to the **satisfaction of the court** [preponderance of evidence?] that said motor vehicle was used
 - without the knowledge or consent of the owner, **and**
 - that the owner had no reasonable grounds to believe that the motor vehicle would be used for such purpose,
- The court shall not order a sale of the vehicle but shall restore it to the owner
- The owner shall, upon request, be **entitled to a trial by jury** upon such issues.
- Who pays towing & storage fees????
- No mention of school board or DA

Modified Vehicle

G.S. 20-141.3(g)(5)

- When any vehicle is found to be specially equipped or modified from its original manufactured condition so as to increase its speed,
- Court shall, prior to sale, order that the special equipment or modification be removed and destroyed and the vehicle restored to its original manufactured condition.
- If the court should find that such equipment and modifications are so extensive that it would be impractical to restore said vehicle to its original manufactured condition, then the court may order that the vehicle be turned over to such **governmental agency or public official within the territorial jurisdiction of the court as the court shall see fit**, to be used in the performance of official duties only, and not for resale, transfer, or disposition other than as junk:
- Provided, that nothing herein contained shall affect the rights of lienholders and other claimants to said vehicles as set out in this section.
- No mention of school board



Contact Info

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