



1

What Is a CVR?

- License revocation that is entered by the magistrate at the person's initial appearance for an implied consent offense
- Lasts for at least 30 days
- Process begins with an affidavit and revocation report filed by the officer and chemical analyst

2

County		In The General Court Of Justice District Court Division	
NOTE: A "commercial motor vehicle" is as defined in G.S. 20-4.01(3d).			
IN THE MATTER OF		AFFIDAVIT AND REVOCATION REPORT OF	
Name		<input type="checkbox"/> LAW ENFORCEMENT OFFICER	
Address		<input type="checkbox"/> CHEMICAL ANALYST	
City		<input type="checkbox"/> The charged offense is impaired supervision or instruction under G.S. 20-12.1. Accordingly, substitute "supervisor/instructor" wherever "driver" appears below.	
State	Zip	G.S. 20-16.2, 20-16.5, 20-17.8, 20-19(c3), 20-139.1	
Race	Sex	Date Of Birth	Drivers License No. State Vehicle Type CMV Haz. Mat. Citation No.
The undersigned being first duly sworn says:			
<input type="checkbox"/> I am a law enforcement officer. On the _____ day of _____, at _____ (a)(p)(m), a law enforcement officer had reasonable grounds to believe the above named person, hereinafter referred to as driver, operated a vehicle (<input type="checkbox"/> commercial motor vehicle) in the above named county upon _____ (Give Street, Highway, Or Public Vehicular Area) while committing an implied-consent offense in that _____			
(List Sufficient Facts To Establish Probable Cause)			
<input type="checkbox"/> 2. The driver has a drivers license restriction: <input type="checkbox"/> alcohol concentration. <input type="checkbox"/> ignition interlock. <input type="checkbox"/> conditional restoration (Restr: '9).			
<input type="checkbox"/> 3. The driver violated a drivers license restriction by: <input type="checkbox"/> refusing to be transported for testing. <input type="checkbox"/> not having an operable ignition interlock on the vehicle being driven. <input type="checkbox"/> failing to personally activate the ignition interlock on the vehicle being driven. <input type="checkbox"/> exceeding the driver's alcohol concentration limitation. <input type="checkbox"/> refusing a chemical analysis (if refusal, also complete items no. 14 and 19 below, as appropriate for this case).			
<input type="checkbox"/> 4. The driver was charged with the implied-consent offense of: <input type="checkbox"/> G.S. 20-138.1. <input type="checkbox"/> Other: _____			
<input type="checkbox"/> 4a. The driver has one or more pending offenses in the following county(ies) for which the drivers license had been or is revoked under G.S. 20-16.5.			

3

STATE OF NORTH CAROLINA

County _____ In The General Court Of Justice
District Court Division

IN THE MATTER OF

Name And Address _____

**REVOCATION ORDER
WHEN PERSON PRESENT**

G.S. 20-16.5

FINDINGS FOR PROBABLE CAUSE

The undersigned judicial official finds probable cause to believe that:

1. A law enforcement officer had reasonable grounds to believe that the above-named person committed an offense subject to the implied-consent provisions of G.S. 20-16.2;
2. The above-named person has been charged with that offense as provided in G.S. 20-16.2(a);
3. Both the law enforcement officer and the chemical analyst(s) complied with the provisions of G.S. 20-16.2 and 20-139.1 in requiring the above-named person's submission to or procuring a chemical analysis; and
4. The above-named person:
 - a. willfully refused to submit to a chemical analysis.
 - b. had an alcohol concentration of 0.08 or more at any relevant time after the driving.
 - c. had an alcohol concentration of 0.04 or more at any relevant time after the driving of a commercial motor vehicle.
 - d. had an alcohol concentration at any relevant time after the driving, and at the time of the offense, was under 21 years of age.
5. The above-named person has one or more pending offenses in the following county(ies) _____ for which the person's drivers license had been or is revoked under G.S. 20-16.5.

ORDER

It is ORDERED that the above-named person's drivers license or privilege to drive be revoked. The above-named person is prohibited from operating a motor vehicle on the highways of North Carolina during the period of revocation. The revocation remains in effect at least **thirty (30) days** from:
 1. this date

4

Why impose a CVR?


I. Deterrence: Laws

Countermeasure	Effectiveness	Cost	Use	Time
1.1 Administrative License Revocation or Suspension (ALR/ALS)	★★★★★	\$\$\$	High	Medium
1.2 Open Container	★★★	\$	High	Short
1.3 High-BAC Sanctions	★★★	\$	Medium	Short
1.4 BAC Test Refusal Penalties	★★★	\$	Unknown	Short
1.5 Alcohol-Impaired Driving Law Review	☆☆	\$\$	Unknown	Medium

5

CVRs in Implied Consent Cases

- CVRs "provide for swift and certain penalties for DWI, rather than the lengthy and uncertain outcomes of criminal courts"
- (NHTSA 2020 Highway Safety Countermeasure Guide at 1-16)



6

Why is it a *civil* license revocation?

7

Henry v. Edmiston, 315 NC 474 (1986)

- Remedial highway safety measure - not punishment

8

State v. Oliver, 343 NC 202 (1996)

- "Any deterrent effect" "merely incidental to overriding purpose of protecting the public's safety"

9

Four Conditions

1. LEO had reasonable grounds to believe person committed implied consent offense.
2. Person was charged with offense.
3. Statutory procedures for chemical analysis were followed.
4. Person
 - a. Willfully refused;
 - b. Had AC of 0.08 or more;
 - c. Had AC of 0.04 or more if commercial motor vehicle; or
 - d. Had any AC if under 21.

10

1. Probable Cause?

Evidence of _____
+

or

=
Probable cause

11

2. Charged?

- A person is charged with an offense if the person has been arrested for it or if criminal process has been issued.
- G.S. 20-16.2(a1)

12

3. Statutory procedures followed

- Taken before chemical analyst who designates type of test
- Advised of rights orally and in writing
- If breath test, observed for 15 minutes
- Request to submit to testing
- If breath test, test results from two consecutively collected samples that do not differ by more than 0.02
 - Lower of two results is the alcohol concentration

13

Chemical Analysis of Blood or Urine

- If the defendant is asked to consent to the withdrawal of blood after being asked to provide breath sample, the defendant must first be readvised of his/her implied consent rights. G.S. 20-139.1(b5).

14

4. Willfully refused or BAC

Person

- Willfully refused;
- Had AC of 0.08 or more;
- Had AC of 0.04 or more if commercial motor vehicle; or
- Had any AC if under 21.

15

Keep in Mind

- When you issue a CVR, it is effective immediately
- CVR will last for at least 30 days and does not end until person pays \$100 fee to clerk.
- Countdown of days begins upon license surrender
- If the person has a pending offense for which the person's license is or was revoked under G.S. 20-16.5, then the revocation lasts for at least 30 days and until final judgment in both cases

16

Revocation period if pending offense

```

    graph LR
      A1[CVR in Case 1] --> B1[Minimum revocation period]
      B1 --> C1[CVR ends when min rev period expires & fee paid]
      A2[Case 1 pending] --> B2[CVR in Case 2]
      B2 --> C2[Lasts until final J in Cases 1 & 2]
  
```

17

The magistrate must require the person to surrender his or her driver's license, including a license from another jurisdiction.

18

License Surrender

- One of the following will happen:
 1. Person may turn over license and accomplish surrender
 2. Person may demonstrate that he or she has no license (because it is revoked or because the person lost it) and accomplish surrender
 - If license is lost, person must file affidavit
 3. Person may not be able to surrender because person does not have the license on hand
 - Such a person must surrender the license later to the clerk
- Magistrate must note on AOC-CVR-2 which of the above occurred

19

Let's Practice


1. Dane
 - A/C: 0.12; 0.11
 - Has license on person
2. Diane
 - A/C: 0.14; 0.15
 - Does not have a license (revoked)
3. Dan
 - A/C: 0.06; 0.07
 - Has license on person

20

Right to Review

- The magistrate must tell person that they have the right to ask for a hearing to review the revocation.
- Person may make request at initial appearance or within 10 days using AOC-CVR-5.
- Hearing must be held
 - in 3 working days if before magistrate
 - in 5 working days if before district court judge


21



Review Hearing


- Witness may submit evidence via affidavit unless subpoenaed
- Judicial official may question witnesses
- Unless contested, statements in revocation report may be accepted as true
- Judicial official may adjourn to seek additional evidence
 - But hearing still must be completed in 3 or 5 days
 - Unless person contesting revocation contributed to delay

22



Seizure & Impoundment

23



Five Step Protocol

1. Determine probable cause.
2. Set conditions of release.
3. Does person's impairment pose a danger?
4. Is the motor vehicle subject to seizure?
5. Must person's license be revoked?

24

Motor Vehicle Seizure & Impoundment

- A motor vehicle driven by a person charged with **an offense involving impaired driving** is subject to seizure if, at the time of the violation.
 - The person's license was revoked as a result of a **prior impaired driving license revocation** or
 - The person was driving without a valid driver's license *and* was not covered by an automobile insurance policy

25

(TYPE OR PRINT IN BLACK INK)		File No.
STATE OF NORTH CAROLINA		In The General Court Of Justice
County		District Court Division
Name And Address Of Defendant		OFFICER'S AFFIDAVIT FOR SEIZURE AND IMPOUNDMENT AND MAGISTRATE'S ORDER - IMPAIRED DRIVING
AOC CR-323A		G.S. 20-28.3
Defendant's State	Name And Address Of Vehicle Owner	
Vehicle Identification No.	Vehicle License No.	
State	Year	Make
		Model
		Body Style
Date Of Offense	Date Of Seizure	Time Of Seizure <input type="checkbox"/> AM <input type="checkbox"/> PM
Present Location Of Motor Vehicle		
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 <input type="checkbox"/> G.S. 20-138.1 <input type="checkbox"/> G.S. 20-138.5 <input type="checkbox"/> G.S. _____ (See Section III on reverse for a list of offenses involving impaired driving) in that: (List sufficient facts to constitute probable cause)		

26

III. OFFENSES INVOLVING IMPAIRED DRIVING
G.S. 20-4-01(24a) defines "offense involving impaired driving" to include the following: <ul style="list-style-type: none"> - 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.
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: <ul style="list-style-type: none"> G.S. 20-13.2 - Driving After Consuming Alcohol/Drugs While Less Than 21 G.S. 20-18(a)(8b) - Military Driving While Impaired G.S. 20-16.2 - Refused Chemical Test G.S. 20-18.5 - Civil Revocation G.S. 20-17(a)(2) - Driving While Impaired G.S. 20-138.5 - Driving While Impaired In Commercial Motor Vehicle G.S. 20-17(a)(3) - Habitual Driving While Impaired G.S. 20-17(a)(12) - Transporting Open Containers - 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.
V. GROUNDS FOR SEIZURE - G.S. 20-28.3(a)
A motor vehicle is subject to seizure if the driver is charged with an offense involving impaired driving as listed in Section III above and at the time of the offense <ul style="list-style-type: none"> - the driver's license is revoked for one of the reasons listed in Section II above or

27

Exceptions

A motor vehicle may not be seized if:

1. It has been reported stolen; or
2. It is a rental vehicle and the driver is not listed as an authorized driver on the rental contract

28

DWI Seizure & Impoundment	No waiver of towing and storage fees!
	G.S. 20-28.3(c): if requirements for seizure not met, the magistrate must order motor vehicle released to owner "upon payment of towing and storage fees"

29
