

North Carolina Criminal Law

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Enforcing Ignition Interlock Requirements

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I wrote [last week](#) about changes to North Carolina's ignition interlock statutes that were effective June 1, 2022. As I noted in that post, one of those changes was to eliminate the time and purpose restrictions that otherwise apply to limited driving privileges if ignition interlock is required as a condition and the person is driving a designated vehicle equipped with ignition interlock. Another was to require vendors to waive a portion of ignition interlock costs for a person ordered by a court or required by statute to install ignition interlock but who is unable to afford the system. These changes and others enacted by [S.L. 2021-82](#) were recommended by the Ignition Interlock Subcommittee of the Statewide Impaired Driving Task Force as part of a package of reforms designed to expand the use of ignition interlock and, in turn, to improve traffic safety. It remains to be seen whether the legislation will have that effect.

One determinant may be whether drivers see the benefit of broader driving privileges as being worth the cost of ignition interlock. A judge may be more likely to impose the condition when it is sought by an applicant. Another factor may be whether judges believe that ignition interlock is an effective countermeasure to impaired driving (researchers in fact [identify interlock](#) as among the leading countermeasures) and whether ignition interlock requirements in limited driving privileges are enforced in practice. This post addresses this last issue by reviewing the mechanisms for enforcing ignition interlock requirements and the sanctions for violation of ignition interlock conditions imposed by a court as part of a limited driving privilege.

First, let's take a brief detour into the world of driver's licenses that are restored with an ignition interlock condition. As I mentioned last week, ignition interlock is, in certain circumstances, required by statute as a condition of having one's license restored. G.S. 20-17.8(b). When that is the case, the person subject to the requirement must have ignition interlock installed for the requisite period on any registered vehicle that she owns and intends to operate. The person must personally activate the ignition interlock system before driving and may not drive in violation of the applicable alcohol concentration license restriction.

Vendor-detected violations. If the vendor who installed ignition interlock and monitors compliance with its use detects a violation (such as tampering with the device or violating the alcohol restriction requirement), the vendor reports that violation to DMV. DMV then notifies the person that his license will be revoked for one year, effective on the thirtieth day after the mailing of the revocation notice. G.S. 20-17.8(g). (These consequences only apply to a person who is not also charged with or convicted of driving while license revoked for the violation.)

Violations detected by law enforcement. Sometimes a law enforcement officer encounters a driver and develops probable cause to believe that the person has violated the ignition interlock requirements of a restored license. When that occurs, the person may be charged with driving while license revoked for impaired driving under G.S. 20-28(a1). G.S. 20-17.8(f). If a judicial official finds probable cause for this charge based on a violation of ignition interlock requirements, then the person must surrender her license, which is suspended pending the resolution of the case. *Id.*

In addition, if the law enforcement officer has reasonable grounds to believe that the person has consumed alcohol while driving or has driven while he has remaining in his body alcohol previously consumed, the law enforcement officer may request that the person submit to a chemical analysis. G.S. 20-17.8(f); 20-19(c3). A law enforcement officer who has reasonable grounds to believe that a person has violated an alcohol concentration restriction placed on the person's driver's license must complete an affidavit and revocation report and submit it to DMV. G.S. 20-16.2(c1). Upon receiving a properly executed affidavit, DMV must expeditiously notify the person that her license is revoked for 12 months. G.S. 20-16.2(d).

So what happens when a person violates ignition interlock requirements imposed as a condition of a limited driving privilege?

Vendor-detected violations. When a vendor detects a violation, it may be like the sound made by a proverbial tree falling in the woods. Vendors do not report violations directly to the court, and it does not appear that they uniformly refer them to any other official, such as a probation officer or district attorney, who might bring the violation to the court's attention. (If readers are aware of a different prevailing practice, please email me at denning@sog.unc.edu to let me know.)

Violations detected by law enforcement. A law enforcement officer may detect a violation of ignition interlock requirements by the holder of a limited driving privilege just as they may detect violations by license-holders. A person holding a limited driving privilege who violates any of its restrictions commits the offense of driving while license revoked for impaired driving under G.S. 20-28(a1). G.S. 20-179.3(j). If a judicial official determines that there is probable cause for this charge, the limited driving privilege is suspended pending the resolution of the case, and the judicial official must

require the person to surrender his limited driving privilege, which is suspended pending resolution of the case. *Id.*

Punishment for driving while license revoked for impaired driving under G.S. 20-28(a1). As noted above, ignition interlock violations may result in charges of driving while license revoked for impaired driving under G.S. 20-28(a1), a Class 1 misdemeanor. DMV must revoke the license of a person convicted under G.S. 20-28(a1) for an additional period of one year for the first offense, two years for the second offense, and permanently for a third or subsequent offense. G.S. 20-28(a1).

The upshot. Enforcement of ignition interlock requirements that are imposed as a condition of a limited driving privilege is not systematic in the way that it is for restored licenses requiring ignition interlock. Instead, enforcement depends somewhat on whether the person subject to the requirement encounters a law enforcement officer who checks for compliance. That is not to suggest that such requirements are meaningless. An installed, functioning ignition interlock system will prevent the vehicle from starting if the device detects alcohol at a concentration above the programmed limit. That feature by itself operates to enforce the requirement.

Future standard equipment? I've been writing about interlock – the darling countermeasure of traffic safety advocates — for more than a decade. I have previously mentioned the Driver Alcohol Detection System for Safety (DADSS) program, a collaborative research partnership between motor vehicle manufacturers and the National Highway Traffic Safety Administration (NHTSA) to identify in-vehicle approaches to prevent alcohol-impaired driving as well as Volvo's manufacturing of cars beginning in 2008 with integrated alcohol lock. In 2022, the vision of ignition interlock becoming standard equipment in new vehicles appears a bit closer to becoming a reality.

The federal Infrastructure Investment and Jobs Act enacted last fall orders NHTSA to issue a final rule by November 2024 prescribing a federal motor vehicle safety standard that requires passenger motor vehicles to be equipped with advanced impaired driving prevention technology. Manufacturers must comply with the rule within three years of its issuance. Just yesterday, Automotive News reported that an independent group of experts and consumer advocates were part of a technical working group that was assisting with efforts “to ensure the requirement is fulfilled as soon as possible.” Audrey LaForest, Group forms to advance impair-driving prevention tech in new vehicles, Automotive News (June 14, 2022). The article quotes Stephanie Manning, chief government affairs officer for Mothers Against Drunk Driving and co-chair of the group: “We understand that this is a very significant regulatory undertaking, but it is also a necessary one since there is the potential to save so many lives and essentially eliminate impaired driving, the leading cause of traffic deaths.”

Category: Motor Vehicles | Tags: DWI, ignition interlock, impaired driving, limited driving privileges

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