

# North Carolina Criminal Law

A UNC School of Government Blog

## Ignition Interlock Changes Effective June 1

Posted on [Jun. 8, 2022, 11:11 am](#) by [Shea Denning](#)



Last year, the General Assembly enacted [significant changes to the state’s ignition interlock laws](#). See [S.L. 2021-182](#). Some of those changes became effective June 1 and are reflected in revised limited privilege order and application forms published by the Administrative Office of the Courts (AOC). This post reviews those changes and links to the revised forms.

**Ignition interlock, generally.** Ignition interlock is a device attached to a vehicle that permits the vehicle’s engine to start only after a person has submitted a breath sample that registers below the programmed alcohol concentration limit. These devices are among the leading countermeasures recommended by experts to reduce [impaired driving generally](#) and [alcohol-related crash deaths specifically](#). The North Carolina Department of Motor Vehicles (NC DMV) [has authorized three private companies](#), Smart Start, Alcolock NC, and Monitech, to provide ignition interlock services to satisfy driving and licensure requirements under State law. To have ignition interlock installed and monitored, the person must pay the vendor an installation fee (nationally [the cost for installation ranges between \\$70 to \\$100](#)) and a monthly fee (ranging nationally from \$60 to \$100).

**Ignition interlock may be required in two circumstances.** First, ignition interlock may be ordered — and indeed is sometimes required — as a condition of a limited driving privilege issued by a court. G.S. 20-179.3(g3), (g5). A limited driving privilege authorizes driving by a person whose license otherwise is revoked. Traditionally, driving pursuant to a limited driving privilege may only occur during specified times and for specified purposes.

Second, ignition interlock may be imposed as a condition of driving pursuant to a driver’s license that has been restored following license revocation. G.S. 20-17.8.

**Changes effective June 1, 2022.** Four significant changes to North Carolina’s ignition interlock law became effective June 1, 2022:

**#1.** The time and purpose limitations for a limited driving privilege granted pursuant to G.S. 20-179.3 are eliminated if ignition interlock is ordered as a driving condition and the person is driving a designated vehicle equipped with ignition interlock.

This means that a person issued a limited driving privilege pursuant to G.S. 20-179.3 that contains an ignition interlock restriction may, pursuant to that privilege, drive a designated vehicle equipped with ignition interlock at all hours of the day and for any purpose.

**#2.** A person subject to ignition interlock is required to designate any registered vehicle that she owns and intends to operate and to have that vehicle or those vehicles (and only that vehicle or those vehicles, as opposed to the former requirement for interlock on all the vehicles the person owns) equipped with ignition interlock.

**#3.** The universal alcohol concentration restriction standard for a person required to have ignition interlock as a condition of having his license restored is 0.02. G.S. 20-19(c3)(5).

**#4.** Ignition interlock vendors must waive a portion of ignition interlock costs for persons who are unable to afford the cost of the system. G.S. 20-179.5(c).

To qualify, the person must have an income at or below 150 percent of the federal poverty line or be enrolled in one of several specified public assistance programs.

To obtain the waiver, an applicant must submit to the vendor an affidavit of financial hardship and supporting documentation. A vendor that receives a supported waiver application must install ignition interlock without charging for installation and removal and must reduce the monthly service rate by 50 percent.

**Revised forms.** The following AOC forms have been amended to account for these changes.

**AOC-CR-340.** This is the form used to grant a limited driving privilege requiring ignition interlock following a person's conviction (and ensuing license revocation) for impaired driving, impaired driving in a commercial vehicle, driving after consuming, and other specified alcohol-related offenses. AOC has revised the form to reflect the fewer driving restrictions that apply to a person whose privilege requires ignition interlock.

**AOC-CR-313 (new A and B versions).** These are the limited driving privilege forms for a person who is revoked under G.S. 20-16.2 for willfully refusing a chemical analysis. AOC-CR-313A is the form for a privilege that does not order ignition interlock, and AOC-CR-313B is the form for a privilege that does order ignition interlock.

**AOC-CVR-10 (new A and B versions).** These are the limited driving privilege forms for a person with a 30-day or 45-day civil license revocation. [AOC-CVR-10A](#) is the form for a privilege that does not order ignition interlock. [AOC-CVR-10B](#) is the form for a privilege that does order ignition interlock.

**AOC-CVR-11 (new A and B versions).** These are the limited driving privilege forms for a person with an indefinite civil license revocation. [AOC-CVR-11A](#) is the form for a privilege that does not order ignition interlock. [AOC-CVR-11B](#) is the form for a privilege that does order ignition interlock.

**AOC-CV-352 (new A and B versions).** These are the limited driving privilege forms for a North Carolina resident with a conviction in another jurisdiction of an offense substantially similar to driving while impaired under G.S. 20-138.1. [AOC-CV-352A](#) is the form for a privilege that does not order ignition interlock. [AOC-CV-352B](#) is the form for a privilege that does order ignition interlock.

The AOC made technical and conforming changes to the following additional forms:

- [AOC-CR-312](#) (limited driving form for revocations following conviction of impaired driving and related offenses; for use when court does not order ignition interlock)
- [AOC-CVR-9](#) (form petition for limited driving privilege for person who has a civil license revocation under G.S. 20-16.5)
- [AOC-CV-350](#) (form petition for limited driving privilege for North Carolina resident revoked for an out-of-state or federal conviction)

**AOC Guidance.** Matt Osborne, Deputy Legal Counsel for AOC, described these legislative changes and form amendments in detail in [this May 23, 2022 memorandum](#).

Category: [Motor Vehicles](#) | Tags: [2021-182](#), [aoc forms](#), [ignition interlock](#), [license restoration](#), [limited driving privilege](#)

This blog post is published and posted online by the School of Government to address issues of interest to government officials. This blog post is for educational and informational purposes. Copyright © 2009 to present School of Government at the University of North Carolina. All rights reserved. use and may be used for those purposes without permission by providing acknowledgment of its source. Use of this blog post for commercial purposes

## Report a Digital Access Issue

© 2022 Copyright,  
North Carolina Criminal Law  
at the School of Government with the  
University of North Carolina at Chapel Hill

is prohibited. To browse a complete catalog of School of Government publications, please visit the School's website at [www.sog.unc.edu](http://www.sog.unc.edu) or contact the Bookstore, School of Government, CB# 3330 Knapp-Sanders Building, UNC Chapel Hill, Chapel Hill, NC 27599-3330; e-mail [sales@sog.unc.edu](mailto:sales@sog.unc.edu); telephone 919-966-4119; or fax 919-962-2707.

# North Carolina Criminal Law

A UNC School of Government Blog

## S.L. 2021-182 Amends Ignition Interlock Requirements

Posted on [Dec. 13, 2021, 8:13 pm](#) by [Shea Denning](#)



S.L. 2021-182 (S 183) enacted significant changes to the laws that require certain persons convicted of driving while impaired to have ignition interlock installed on their vehicles. Those changes include: (1) eliminating the 45-day delay for a limited driving privilege to become effective, (2) requiring that ignition interlock be installed only on the vehicle or vehicles the person drives rather than all the vehicles the person owns, (3) requiring that ignition interlock vendors waive a portion of ignition interlock costs for qualified persons, (4) removing the time and purpose restrictions on a limited driving privilege if a person has ignition interlock, (5) changing the alcohol concentration restrictions for ignition interlock from 0.04 and 0.00 to a universal standard of 0.02; and (6) directing a legislative committee to study ignition interlock expansion and related issues.

**Background.** Ignition interlock is a device attached to a vehicle that permits a vehicle to start only after a person has submitted a breath sample that registers below the programmed limit. Kaufan, Elinore J. & Wiebe, Douglas J., *Impact of State Ignition Interlock Laws on Alcohol-Involves Crash Deaths in the United States*, 106 AM. J. PUB. Health, No. 5, 865 (2016). The North Carolina Department of Motor Vehicles (NC DMV) authorizes private vendors to provide ignition interlock services (including equipment, installation, and monitoring) to satisfy driving and licensure requirements under State law.

Ignition interlock may be required in two circumstances. First, ignition interlock is sometimes required as a condition of a limited driving privilege issued by a court. Limited driving privileges authorize a person whose license is revoked to lawfully drive subject to the restrictions set forth in the privilege. Second, ignition interlock may be imposed as a condition of driving pursuant to a driver's license that is restored following revocation.

### Limited Driving Privilege Amendments

Two of the changes enacted by S.L. 2021-182 relate to ignition interlock requirements for limited driving privileges. A person whose license is revoked for a conviction of impaired driving under G.S. 20-138.1 may obtain a limited driving privilege if the person is sentenced at Levels Three, Four or Five and meets other requirements. See G.S. 20-179.3. If the person was convicted based on an alcohol concentration of 0.15 or more, the limited privilege **must** restrict the person to driving only a vehicle equipped with a functioning ignition interlock system that the person must personally activate. See G.S. 20-179.3(g5). (There is an exception for employer-owned vehicles that is beyond the scope of this post. See G.S. 20-179.3(g4).) For any other limited driving privilege issued to an eligible person whose license is revoked upon conviction of impaired driving, a judge **may**, but is not required to, impose an ignition interlock restriction. See G.S. 20-179.3(g3).

**45-day delay for limited driving privileges eliminated, effective December 1, 2021.** Before enactment of S.L. 2021-182, a limited driving privilege issued to a person convicted of impaired driving based on an alcohol concentration of 0.15 or more could not become effective until at least 45 days after final conviction. S.L. 2021-182 repealed G.S. 20-179.3(c1), the statutory provision imposing this 45-day delay, effective December 1, 2021 for limited driving privileges issued on or after that date. Now, a person convicted of impaired driving based on an alcohol restriction of 0.15 or more (termed a “High-Risk Driver”) who satisfies the criteria for receiving such a privilege may be granted a limited driving privilege at sentencing that is immediately effective. As before, any limited driving privilege issued to such a person must require that the person drive only a vehicle equipped with ignition interlock. The repeal of G.S. 20-179.3(c1) also eliminated the heightened restrictions on driving that applied to limited privileges issued to high-risk drivers. These drivers are, at least for the time being, subject to the general time and purpose restrictions set forth in G.S. 20-179.3.

**Time and purpose restrictions on a limited driving privilege eliminated if a person has ignition interlock, effective June 1, 2022.** S.L. 2021-182 amends G.S. 20-179.3(g3) and (g5) to eliminate the time and purpose restrictions that otherwise apply to driving pursuant to a limited privilege for limited privileges that require ignition interlock. These amendments are effective June 1, 2022 for limited driving privileges issued on or after that date. Once effective, these provisions will mean that a person issued a limited driving privilege with an ignition interlock restriction may drive at all hours of the day for any purpose.

### Driver’s License Restoration Amendments

G.S. 20-17.8 imposes ignition interlock requirements upon a driver’s license that is restored after it was revoked for a conviction of driving while impaired if (1) the person had an alcohol concentration of 0.15 or more; (2) the person had been convicted of another offense involving impaired driving within seven years; or (3) the person was sentenced at Aggravated Level One. These restrictions also apply to a driver’s license

restored following revocation for conviction of habitual impaired driving under G.S. 20-138.5.

S.L. 2021-182 makes several changes to these requirements, effective June 1, 2022 for licenses restored on or after that date.

**Ignition interlock will be required only on vehicles driven.** Current G.S. 20-17.8(c1) requires that a person subject to its requirements have all registered vehicles that he or she owns equipped with ignition interlock. A person may seek a waiver for any vehicle that he or she relies upon by another member of that person's family and that is not in possession of the person subject to the ignition interlock requirement (such as a vehicle possessed by an adult son or daughter who possesses the vehicle at his or her temporary university residence). S.L. 2021-182 amends G.S. 20-17.8(c1) to require that the person designate any registered vehicle that he or she owns and intends to operate and have that vehicle equipped with ignition interlock. A corresponding amendment to G.S. 20-17.8(j) makes clear that driving a vehicle that was not designated is a violation that may result in license revocation.

**Universal ignition interlock standard to be 0.02.** Current G.S. 20-17.8(b)(3) imposes different alcohol concentration restrictions (0.04 or 0.01) depending upon the reason ignition interlock is required. S.L. 2021-182 amends G.S. 20-17.8(b)(3) to require that a person subject to ignition interlock not drive with an alcohol concentration of .02 or greater – regardless of the reason for the ignition interlock requirement. The legislation makes conforming changes to G.S. 20-19(c3) to clarify that the alcohol concentration restriction for a person convicted of driving while less than 21 years old after consuming alcohol or drugs remains 0.00 – even if the person also is subject to ignition interlock. G.S. 20-19(c3) is further amended to impose an alcohol concentration restriction of 0.02 for certain drivers subject to ignition interlock. Finally, G.S. 20-19(c3) is amended to require that a person seeking restoration of a license agree to submit to a chemical analysis at the request of a law enforcement officer who has reasonable grounds to believe the person has driven a vehicle on a highway or public vehicular area while consuming alcohol or while the person has remaining in his or her body any alcohol or controlled substance previously consumed. The current version of the statute requires that the person agree to testing if the law enforcement officer has reasonable grounds to believe the person has so driven ***in violation of the applicable alcohol concentration restriction***. The amendment avoids the difficulty an officer might encounter in establishing reasonable grounds that a person had exceeded an alcohol concentration as low as 0.02 by requiring testing if the officer has reasonable grounds to believe the person has remaining in his or her body any alcohol at all.

#### Affordability

**Vendors will be required to waive a portion of ignition interlock costs for qualified persons.** New G.S. 20-179.5 allows a person required to install ignition

interlock who is unable to afford the cost of the system to apply to an authorized vendor for a waiver of the portion of the costs. The person must complete an affidavit stating that the person's income is at or below 150 percent of the federal poverty line or that the person is enrolled in specified public assistance programs. The person also must submit supporting documentation. A vendor that receives a supported waiver application must install ignition interlock without charging for installation and removal and must reduce the monthly service rate by 50 percent. An applicant denied a waiver may seek review of the vendor's determination by NC DMV. NC DMV must adopt rules to govern its review. These provisions are effective June 1, 2022 for driver's licenses restored on or after that date. In addition, by June 1, 2022, DMV must create a form affidavit for a waiver of ignition interlock costs and make it available on its website.

### Further Study

#### **Legislative committee to study ignition interlock expansion and other issues.**

S.L. 2021-182 requires the Joint Legislative Oversight Committee on Justice and Public Safety to study whether the use of an ignition interlock system as a condition of a limited driving privilege should be expanded and whether ignition interlock requirements should apply to limited driving privileges granted pretrial and granted to permit driving during the period of a revocation for refusal to submit to chemical testing. The committee is also directed to study whether NC DMV, rather than the courts, should be authorized to grant limited driving privileges and to supervise the use of ignition interlocks pursuant to that authority. The committee must report its findings, including any proposed legislation, prior to the convening of the 2022 Regular Session.

Category: [Motor Vehicles](#) | Tags: [G.S. 14-51.2\(e\)](#), [G.S. 20-17.8](#), [G.S. 20-179.3](#), [ignition interlock](#), [impaired driving](#), [license restoration](#), [limited driving privilege](#), [S 183](#), [sl 2021-182](#)

This blog post is published and posted online by the School of Government to address issues of interest to government officials. This blog post is for educational and informational purposes. Copyright © 2009 to present School of Government at the University of North Carolina. All rights reserved. use and may be used for those purposes without permission by providing acknowledgment of its source. Use of this blog post for commercial purposes is prohibited. To browse a complete catalog of School of Government publications, please visit the School's

---

### **Report a Digital Access Issue**

© 2022 Copyright,  
North Carolina Criminal Law  
at the School of Government with the  
University of North Carolina at Chapel Hill





ADMINISTRATIVE OFFICE OF THE COURTS

TREY ALLEN  
GENERAL COUNSEL

PO BOX 2448, RALEIGH, NC 27602  
O 919-890-1300  
F 919-890-1914  
TREY.ALLEN@NCCOURTS.ORG

**MEMORANDUM**

TO: Trial Court Officials  
FROM: Matt Osborne  
Deputy Counsel  
DATE: 23 May 2022  
SUBJECT: S.L. 2021-182 (SB 183) – June 2022 Limited Driving Privilege and License Restoration Changes<sup>1</sup>

On 18 November 2021 the Governor signed into law S.L. 2021-182 (SB 183, Ignition Interlock/Various Changes) (hereinafter “SB 183”).<sup>2</sup> This memorandum is the second of two memoranda addressing the motor vehicle law changes contained in SB 183.<sup>3</sup>

A previous memorandum, entitled “S.L. 2021-182 (SB 183) – December 2021 Limited Driving Privilege Change” was released on 30 November 2021,<sup>4</sup> and addressed the portions of SB 183 that (i) repealed G.S. 20-179.3(c1), which had imposed special limited driving privilege restrictions on “high-risk drivers,” and (ii) mandated a study of certain issues relating to limited driving privileges. The repeal of G.S. 20-179.3(c1) took effect for limited driving privileges issued on or after 1 December 2021. The study provision took effect when the bill became law on 18 November 2021.

This new memorandum addresses the additional motor vehicle law provisions in SB 183. These provisions (i) lift several of the standard limited driving privilege restrictions in G.S. 20-179.3 when the privilege contains an ignition interlock condition, (ii) amend the restrictions placed on licenses restored by the Division of Motor Vehicles under G.S. 20-17.8 and G.S. 20-19, and (iii) enact a new G.S. 20-179.5 to assist persons who are unable to afford the costs of an ignition interlock system. These changes apply to limited driving privileges issued and drivers licenses restored on or after 1 June 2022, and are discussed in turn below.

**I. Imposition of Fewer Driving Restrictions when Privilege Contains an Ignition Interlock Condition; Related Forms Changes – 1 June 2022**

---

<sup>1</sup> For future reference, a copy of this memorandum will be available on the Administrative Office of the Courts (NCAOC)’s Juno site for Judicial Branch users at <http://juno.nccourts.org/legal-memos>, under the memo categories for Criminal Memos and DMV & DWI Memos.

<sup>2</sup> The full text of the bill is available at the following link: <https://www.ncleg.gov/Sessions/2021/Bills/Senate/PDF/S183v6.pdf>

<sup>3</sup> SB 183 also contains provisions addressing sex offender satellite-based monitoring and criminal first appearances. The NCAOC has addressed these provisions in other memoranda.

<sup>4</sup> The 30 November 2021 memorandum is available on the NCAOC’s Juno site for Judicial Branch users at <http://juno.nccourts.org/legal-memos>, under the memo categories for Criminal Memos and DMV & DWI Memos. Judicial officials also are encouraged to review the summary of the motor vehicle provisions in SB 183 prepared by Professor Shea Denning and published on the School of Government’s *North Carolina Criminal Law* blog. Professor Denning’s summary is available here: <https://nccriminallaw.sog.unc.edu/s-l-2021-182-amends-ignition-interlock-requirements/>

Under current law, a limited driving privilege issued under G.S. 20-179.3 is subject to a number of restrictions on the purposes and times of driving. These include the following:

- subsection (a) (recitation of essential driving purposes);
- subsection (f) (general restriction to driving for essential purposes as listed in subsection (a));
- subsection (g) (restrictions governing work-related driving during standard working hours);
- subsection (g1) (restrictions governing work-related driving during non-standard working hours);
- and
- subsection (g2) (restrictions governing driving for the purposes of household maintenance, community service, Alcohol and Drug Education Traffic School, substance abuse assessment or treatment, education, and religious worship).

Section 1.(b) of SB 183 amends G.S. 20-179.3(g3) (which authorizes the court to impose an interlock condition in its discretion) and G.S. 20-179.3(g5) (which mandates an interlock condition for a person convicted under G.S. 20-138.1 who had an alcohol concentration of 0.15 or more) to provide that when the limited driving privilege contains an ignition interlock condition, the limitations set forth in subsections (a), (f), (g), (g1), and (g2) do not apply so long as the person is operating the designated vehicle with a functioning interlock device. Accordingly, for privileges issued under G.S. 20-179.3 on or after 1 June 2022, a person whose privilege contains an interlock condition will have greater driving freedom than a person whose privilege does not contain an interlock condition.

This change will apply not only to privileges issued under G.S. 20-179.3 for persons convicted of impaired driving, but also to other limited driving privilege authorizations that feed into G.S. 20-179.3. These include privileges for revocations arising from the following:

- a conviction in another state or federal court for an offense substantially similar to G.S. 20-138.1 (see G.S. 20-179.3(b)(1));
- a conviction of an underage alcohol offense (see G.S. 18B-302(g) and G.S. 20-17.3);
- a conviction of the offense of driving after consuming while under age 21 (see G.S. 20-13.2(a) and G.S. 20-138.3(d));
- a chemical analysis willful refusal (see G.S. 20-16.2(d) and (e1));
- a pretrial civil revocation (see G.S. 20-16.5(e), (f), and (p)); and
- a second or subsequent conviction of an open container violation (see G.S. 20-17(a)(12) and G.S. 20-138.7(h)).<sup>5</sup>

To account for this change, the NCAOC has revised several limited driving privilege forms for privileges issued on or after 1 June 2022. These forms are as follows:

---

<sup>5</sup> The court also may impose an interlock condition under G.S. 20-179.3(g3) in a limited driving privilege for a felony probationer (see G.S. 15A-1331.1(b) & (d), G.S. 20-15.1, and G.S. 20-179.3(b)(2); see also form AOC-CR-318), but it does not appear that this would afford the defendant any greater freedom to drive. This is because SB 183 does not amend the last sentence of G.S. 20-179.3(b)(2), which will continue to provide that a limited privilege granted to a felony probationer whose license has been revoked under G.S. 15A-1331.1(b) “must restrict the person to essential driving related to the purposes listed [in G.S. 20-179.3(b)(2)].” Accordingly, it appears that even if the court were to impose an interlock condition in a privilege for a person revoked under G.S. 15A-1331.1(b), the person still would be limited to the essential driving purposes specified in G.S. 20-179.3(b)(2) – namely, driving to support dependents, to remain gainfully employed, and to provide transportation to a health care facility for a dependent who requires serious medical treatment. For this reason, the NCAOC has not revised form AOC-CR-318. Relatedly, G.S. 20-166(e) authorizes a limited driving privilege for a person with a first conviction under G.S. 20-166(a1) (failing to stop when the driver’s vehicle is involved in a crash resulting in injury), and this privilege feeds into G.S. 20-179.3(b)(2), which is the provision that addresses limited driving privileges for felony probationers. So, it appears that an interlock condition also would not afford greater driving freedom for a G.S. 20-166(e) privilege holder. There currently is no NCAOC form for this G.S. 20-166(e) privilege.

- **AOC-CR-312** – This is the limited driving privilege form for revocations arising from convictions for the following:
  - driving while impaired under G.S. 20-138.1;
  - commercial driving while impaired under G.S. 20-138.2;
  - driving after consuming while under the age of 21 under G.S. 20-138.3;
  - a second or subsequent offense of transporting an open container of alcohol under G.S. 20-138.7(a);
  - providing alcohol to an underage person under G.S. 18B-302(a1); and
  - aiding or abetting an underage alcohol violation under G.S. 18B-302(c).

This form is designed for use when the court does not impose an ignition interlock restriction. The NCAOC has made technical and conforming changes to the form.

- **AOC-CR-340** – This is the companion form to the CR-312. It is designed for use when the court does impose an ignition interlock condition. The NCAOC has revised the form to reflect the fewer driving restrictions that apply to a person whose privilege requires the installation and use of an interlock device.
- **AOC-CR-313 (new A and B versions)** – This is the limited driving privilege form for a person who is revoked under G.S. 20-16.2 for willfully refusing a chemical analysis. For privileges issued on or after 1 June 2022, the NCAOC has separated this form into a CR-313A version for use when the court does not impose an ignition interlock condition, and a CR-313B version for use when the court does impose an ignition interlock condition.
- **AOC-CVR-9** – This is the limited driving privilege application for use by a person who has a civil revocation under G.S. 20-16.5. The NCAOC has made only technical changes to this form.
- **AOC-CVR-10 (new A and B versions)** – This form covers a person with a standard 30-day or 45-day civil revocation. For privileges issued on or after 1 June 2022, the NCAOC has separated this form into a CVR-10A version for use when the court does not impose an ignition interlock condition, and a CVR-10B version for use when the court does impose an ignition interlock condition.
- **AOC-CVR-11 (new A and B versions)** – This form covers a person with an indefinite civil revocation. For privileges issued on or after 1 June 2022, the NCAOC has separated this form into a CVR-11A version for use when the court does not impose an ignition interlock condition, and a CVR-11B version for use when the court does impose an ignition interlock condition.
- **AOC-CV-350** – This is the limited driving privilege application used by North Carolina residents revoked as the result of a conviction in the courts of another state or in federal court. The NCAOC has made only clarifying changes to this form.
- **AOC-CV-352 (new A and B versions)** – This form covers a North Carolina resident with a conviction in another jurisdiction of an offense substantially similar to driving while impaired under G.S. 20-138.1. For privileges issued on or after 1 June 2022, the NCAOC has separated this form into a CV-352A version for use when the court does not impose an ignition interlock condition, and a CV-352B version for use when the court does impose an ignition interlock condition.

A final change that SB 183 makes in the limited driving privilege context is an amendment to G.S. 20-179.3(g5) (the mandatory interlock provision) to require that the interlock device be set to prohibit driving with an alcohol concentration greater than 0.02. Under current law, this setting is 0.00. This change will apply to limited privileges issued on or after 1 June 2022. The revised CR-340 and the new CR-313B will account for this change by referencing a restriction of 0.02 in a new option specific to mandatory ignition interlocks under G.S. 20-179.3(g5) that will appear on side two of both forms.

The NCAOC will release these new and amended forms shortly before 1 June 2022. The NCAOC's Business Analysis and Process Management Division will provide notice via email once it has posted the forms for use.

## II. **G.S. 20-17.8 and G.S. 20-19 Restored License Changes; Related Change to Form AOC-CVR-1A – 1 June 2022**

Sections 1.(c) and 1.(d) of SB 183 amend G.S. 20-17.8 ("Restoration of a license after certain driving while impaired convictions; ignition interlock") and G.S. 20-19 ("Period of suspension or revocation; conditions of restoration"), respectively, to amend the conditions that are imposed on licenses restored under these statutes.

These changes, which are discussed below, apply to licenses restored under G.S. 20-17.8 and G.S. 20-19 on or after 1 June 2022.

### Changes for Licenses Restored Pursuant to G.S. 20-17.8

G.S. 20-17.8 applies to a person whose license is revoked as the result of a conviction of impaired driving under G.S. 20-138.1, and for whom any of the following is true:

- the person had an alcohol concentration of 0.15 or more;
- the person has been convicted of a prior offense involving impaired driving, and this prior offense occurred within seven years immediately preceding the date of the offense for which the person's license currently has been revoked; or
- the person was sentenced to Aggravated Level One punishment under G.S. 20-179(f3).

The statute also applies to a person whose license is revoked as the result of a conviction of habitual impaired driving under G.S. 20-138.5.

G.S. 20-17.8(b) provides that when DMV restores the license of a person who is subject to G.S. 20-17.8, the restored license must contain an ignition interlock requirement. G.S. 20-17.8(b) also imposes an alcohol concentration restriction on the restored license. SB 183 amends G.S. 20-17.8 to address (i) the vehicles on which the person must have an ignition interlock installed and (ii) the alcohol concentration restriction imposed:

- **interlock installation on designated vehicles:** Under current law, a person to whom G.S. 20-17.8 applies "shall have all registered vehicles owned by that person equipped with a functioning ignition interlock system." SB 183 amends G.S. 20-17.8(c1) to provide instead that a person subject to G.S. 20-17.8 "shall designate in accordance with the policies of the Division [of Motor Vehicles] any registered vehicles owned by that person that the person operates or intends to operate and have the designated vehicles equipped with a functioning ignition interlock system." The bill makes conforming changes to other portions of G.S. 20-17.8(c1) and to G.S. 20-17.8(j).
- **uniform alcohol concentration restriction:** Under current G.S. 20-17.8(b)(3), the person may not drive with an alcohol concentration of 0.04 or greater, or greater than 0.00, depending on the particular factors that apply to the person whose license is being restored. SB 183 amends G.S. 20-17.8(b)(3) to mandate a uniform restriction of 0.02 for all licenses restored under G.S. 20-17.8. Accordingly, a person whose license is restored under G.S. 20-17.8 may not drive with an alcohol concentration of 0.02 or greater.

## Changes for Licenses Restored Pursuant to G.S. 20-19

G.S. 20-19 governs the duration of license suspensions and revocations, and the conditions imposed on licenses restored by DMV. G.S. 20-19(c3) applies to persons whose licenses are revoked pursuant to the following:

- G.S. 20-13.2(a) (*i.e.*, a conviction of driving after consuming while less than 21 years of age pursuant to G.S. 20-138.3);
- G.S. 20-23 when the offense involved impaired driving (*i.e.*, a conviction in another state of an impaired driving offense);
- G.S. 20-23.2 (*i.e.*, a conviction in federal court of an impaired driving offense);
- G.S. 20-17(a)(2) (*i.e.*, a conviction of impaired driving under G.S. 20-138.1, or a conviction of impaired driving in a commercial motor vehicle under G.S. 20-138.2 where the person's alcohol concentration was 0.06 or greater);
- G.S. 20-17(a)(1) when the offense involved impaired driving (*i.e.*, a conviction of manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving);
- G.S. 20-17(a)(9) when the offense involved impaired driving (*i.e.*, a conviction of death by vehicle or serious injury by vehicle under G.S. 20-141.4 when the offense involved impaired driving);
- G.S. 20-138.5 (*i.e.*, a conviction of habitual impaired driving); and
- G.S. 20-19(c3) itself (*i.e.*, a situation where the person is revoked for violating a restriction on a license previously restored under subsection (c3)).

SB 183 amends G.S. 20-19(c3) to address (i) the alcohol concentration restrictions that apply to licenses restored under G.S. 20-19(c3) and (ii) the person's agreement to submit to a chemical analysis as a condition of restoration.

### *a. G.S. 20-19(c3) alcohol concentration restriction changes*

G.S. 20-19(c3)(3) currently requires a license restriction prohibiting driving with an alcohol concentration of greater than 0.00 when DMV restores the license of a person to which one of the following applies:

- The person was convicted of driving while impaired in a commercial motor vehicle (G.S. 20-138.2), habitual impaired driving (G.S. 20-138.5), driving after consuming while less than 21 years of age (G.S. 20-138.3), felony death by vehicle (G.S. 20-141.4(a1)), or manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving; or
- DMV previously restored the person's license under G.S. 20-19(c3), and the person has been revoked under G.S. 20-19(c3) for violating a restriction of the restored license.

Section 1.(d) of SB 183 makes two changes to G.S. 20-19(c3)(3). First, SB 183 removes from the coverage of (c3)(3) persons convicted of driving after consuming while less than 21 years of age under G.S. 20-138.3. (SB 183 addresses these persons in a new G.S. 20-19(c3)(3a), discussed below.) Second, SB 183 increases the alcohol concentration limit to 0.02 (*i.e.*, the person is prohibited from driving with an alcohol concentration of greater than 0.02) for licenses that DMV restores under (c3)(3).

As noted in the preceding paragraph, SB 183 enacts a new G.S. 20-19(c3)(3a) covering the restoration of the drivers license of a person convicted of driving after consuming alcohol or drugs while

under 21 years of age pursuant to G.S. 20-138.3 (or revoked under G.S. 20-23 or G.S. 20-23.2 due to a conviction in another state or federal court of an offense substantially similar to G.S. 20-138.3). The new (c3)(3a) requires that the restored license contain a restriction that prohibits driving with an alcohol concentration of greater than 0.00.

SB 183 also adds a new G.S. 20-19(c3)(5) providing that when DMV restores a drivers license under G.S. 20-17.8 requiring installation of an ignition interlock system, the restored license must prohibit driving with an alcohol concentration of 0.02 or more. This provision tracks the changes to G.S. 20-17.8 discussed earlier in this memorandum.

*b. G.S. 20-19(c3) agreement to submit to chemical analysis*

Under current law, a person seeking restoration under G.S. 20-19(c3) “must agree to submit to a chemical analysis in accordance with G.S. 20-16.2 at the request of a law enforcement officer who has reasonable grounds to believe the person is operating a motor vehicle on a highway or public vehicular area *in violation of the restriction specified in this subsection.*” (Emphasis added.) SB 183 amends this language to read as follows: “[T]he person seeking restoration of a license must agree to submit to a chemical analysis in accordance with G.S. 20-16.2 at the request of a law enforcement officer who has reasonable grounds to believe the person is operating a motor vehicle on a highway or public vehicular area *while consuming alcohol or at any time while the person has remaining in the person's body any alcohol or controlled substance previously consumed.*” (Emphasis added.)<sup>6</sup>

Change to Form AOC-CVR-1A

To account for the changes for restored licenses described above, DMV has established two new license restriction codes – restriction code 25 (alcohol concentration of 0.02) and restriction code 26 (alcohol concentration of 0.02 plus ignition interlock). The NCAOC has added these two new restrictions to the list in instruction no. 4 on side two of form AOC-CVR-1A. The NCAOC will make this new version of the form available shortly before 1 June 2022, and the NCAOC’s Business Analysis and Process Management Division will provide notice via email once it has posted the form for use.

**III. New G.S. 20-179.5 Ignition Interlock Affordability Provision – 1 June 2022**

Section 1.(e) of SB 183 enacts a new G.S. 20-179.5 to address persons who are unable to afford the costs associated with an ignition interlock device. The new statute provides as a general rule that the costs associated with an ignition interlock condition imposed by the court system or DMV “shall be paid by the person ordered to install the system,” and that the interlock vendor will collect these costs “under terms agreed upon by the ignition interlock system vendor and the person required to install the ignition interlock system.”

Notwithstanding this general rule, the new G.S. 20-179.5 provides that a person who is ordered by the court or DMV to install an ignition interlock device, but who is unable to afford the associated costs, may apply to the interlock vendor for a waiver of a portion of these costs.<sup>7</sup> In order to request a waiver, the person must complete and submit to the vendor an affidavit form promulgated by DMV. The person

---

<sup>6</sup> SB 183 also makes technical and clarifying changes to G.S. 20-19(c5), (d), (e1), (i), and (k).

<sup>7</sup> Note that the application is presented to the interlock vendor. The court system is not involved in the interlock costs waiver process.

must aver that either (i) the person’s income is at or below 150% of the federal poverty line or (ii) the person is enrolled in any of five public assistance programs listed in the new G.S. 20-179.5. The person seeking the waiver must provide documentation to support the assertions in the affidavit.

If the waiver request complies with these requirements, the vendor “shall install the ignition interlock system in accordance with both of the following terms: (1) The applicant shall not be required to pay for installation or removal of the ignition interlock system or systems. (2) The applicant shall receive a fifty percent (50%) discount on the monthly service rate charged to persons who are not granted a waiver under this section.” If the vendor denies the waiver request, the person may seek a review by DMV of the denial.

This new waiver process for interlock costs applies to limited privileges issued and drivers licenses restored on or after 1 June 2022. The bill requires DMV to adopt rules to implement the new G.S. 20-179.5.

#### **IV. Conclusion**

Court officials with legal questions about the changes described above may contact me at [matt.e.osborne@nccourts.org](mailto:matt.e.osborne@nccourts.org).

Questions about the use of the NCAOC’s automated systems, forms, and recordkeeping procedures should be directed to the field support analyst for the court official’s county from the NCAOC’s Business Analysis and Process Management Division. A map is available on Juno here: <https://juno.nccourts.org/resources/references/bapm-field-support-staff-assignments-map>

Law enforcement officers, officials of other agencies external to the Judicial Branch, and other interested parties with questions about the effect of the legislation discussed above should consult their respective counsel. The NCAOC Office of General Counsel cannot provide legal advice to entities outside the Judicial Branch.