



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

STATE OF NORTH CAROLINA

County _____ In The General Court Of Justice
District Court Division

NOTE: A "commercial motor vehicle" is as defined in G.S. 20-4.91(3d).

IN THE MATTER OF _____

AFFIDAVIT AND REVOCATION REPORT OF
 LAW ENFORCEMENT OFFICER
 CHEMICAL ANALYST

The charged offense is impaired supervision or instruction under G.S. 20-12.1. Accordingly, substitute "supervisor/instructor" wherever "driver" appears below.
 G.S. 20-16.2, 20-16.5, 20-17.8, 20-19(c3), 20-139.1

Name _____
 Address _____
 City _____ State _____ Zip _____
 Race _____ Sex _____ Date Of Birth _____ Drivers License No. _____ State _____ Vehicle Type _____ CMV _____ Haz. Mat. _____ Citation No. _____

The undersigned being first duly sworn says:

1. 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 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)

2. The driver has a drivers license restriction: alcohol concentration ignition interlock conditional restoration (refer to) _____

3. The driver violated a drivers license restriction by refusing to be transported for testing not having an operable ignition interlock on the vehicle being driven. failing to personally activate the ignition interlock on the vehicle being driven. exceeding the driver's alcohol concentration limitation. refusing a chemical analysis if refusal also complete items no. 14 and 15 below, as appropriate for the case.

4. The driver was charged with the implied-consent offense of G.S. 20-138.1. Other: _____

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 File No. _____

County _____ In The General Court Of Justice
District Court Division

IN THE MATTER OF _____

Name And Address _____

**REVOCAION 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 any 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?

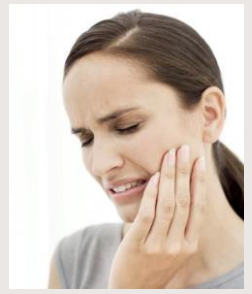
1. Deterrence: Laws

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. Edminston, 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

- 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.

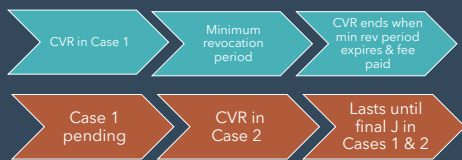
15

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



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
