

New G.S. 20-13.3: Civil License Revocations for Provisional Licensees

Some Questions and Answers

Prepared by Shea Denning, School of Government

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New G.S. 20-13.3, effective January 1, 2012, provides for the immediate civil revocation of the permit or license of a provisional licensee charged with a misdemeanor or felony motor vehicle offense that is defined as a criminal moving violation. Set forth below in a question and answer format is additional information about the new law.

Which drivers may be subjected to the new civil license revocation?

Drivers who are 16 or 17 years old who have a limited learner's permit or a provisional license issued by NC DMV pursuant to G.S. 20-11. These drivers are defined as "provisional licensee[s]." G.S. 20-13.3(a)(4).

Persons who are 15 years old who have a limited learner's permit issued by NC DMV also are considered provisional licensees. Such persons are not, however, subject to civil license revocation under G.S. 20-13.3 because, pursuant to the Juvenile Code, Chapter 7B of the North Carolina General Statutes, persons under 16 may not be arrested. Furthermore, there is no initial appearance for a juvenile alleged to be delinquent.

Which offenses trigger this license revocation?

The revocation is triggered by commission of a criminal moving violation, defined as a violation of Part 9 or 10 of Article 3 of Chapter 20 that is punishable as a misdemeanor or felony offense. G.S. 20-13.3(a)(2). Offenses listed in G.S. 20-16(c) for which no points are assessed are not included. Equipment violations codified in Part 9 of Article 3 of Chapter 20 likewise are not included.

The following offenses are criminal moving violations:

- G.S. 20-137.4: Operating a school bus while using a mobile phone
- G.S. 20-137.4A: Operating a school bus while using a mobile phone to text or access electronic email
- **G.S. 20-138.1: Driving while impaired**
- **G.S. 20-138.2: Driving while impaired in a commercial vehicle**
- **G.S. 20-138.2A: Operating a commercial vehicle after consuming**
- **G.S. 20-138.2B: Operating a school bus, school activity bus, or child care vehicle after consuming alcohol**
- **G.S. 20-138.3: Operating a motor vehicle by person less than 21 after consuming alcohol or drugs**
- **G.S. 20-138.5: Habitual impaired driving**

- **G.S. 20-138.7(a): Operating a motor vehicle while there is an open container of alcohol in the passenger area and while the driver is consuming or has consumed alcohol**
- G.S. 20-140: Reckless driving
- G.S. 20-141(j1): Speeding more than 15 mph over limit or more than 80 mph
- G.S. 20-141(j3): Speeding in a commercial motor vehicle carrying a load that is subject to the permitting requirements of G.S. 20-119 and (i) driving 15 mph or more over the posted speed, or (ii) driving 15 mph or more over the permit speed
- G.S. 20-141.3: Operating a motor vehicle willfully in a prearranged speed competition, or operating a motor vehicle willfully in speed competition, or allowing one's vehicle to be operated in a prearranged speed competition, or wagering on a prearranged speed competition
- **G.S. 20-141.4: Felony death by vehicle, misdemeanor death by vehicle, felony serious injury by vehicle, aggravated felony serious injury by vehicle, aggravated felony death by vehicle, repeat felony death by vehicle**
- G.S. 20-141.5: Speeding to elude arrest
- G.S. 20-141.6: Aggressive driving
- G.S. 20-149(b): Improper operation by an overtaken driver causing a collision resulting in serious bodily injury, bodily injury, or property damage
- G.S. 20-157(a), (h), (i): Failing to move over for law enforcement or emergency vehicle giving warning signal, or violating G.S. 20-157 and causing damage to property or injury, or violating G.S. 20-157 and causing serious injury or death
- G.S. 20-166(a), (a1), (b), (c), (c1): Failing to stop and remain after a crash resulting in serious bodily injury or death, or failing to stop and remain after a crash resulting in injury, or failing to provide information or render assistance following a crash, or failing to stop and remain after a crash resulting in damage to property or non-apparent injury
- G.S. 20-166.1: Failing to notify law enforcement or other owner following crash, or failing to provide proof of insurance to DMV upon request
- G.S. 20-166.2: Failing, when a passenger in a vehicle involved in a crash, to remain at the scene, or provide information, or render assistance
- G.S. 20-167.1: Transporting spent nuclear fuel without notifying NCSHP in advance

(Note: The offenses in bold type are implied consent offenses that trigger a separate civil license revocation pursuant to G.S. 20-16.5. A judicial official may not enter a G.S. 20-13.3 revocation if the provisional licensee is subject to a G.S. 20-16.5 civil revocation for the same underlying conduct. The offense of misdemeanor death by vehicle is classified as an implied consent offense for offenses committed on or after December 1, 2011. See S.L. 2011-119.)

When is a provisional licensee's license subject to civil revocation?

A provisional licensee's permit or license is subject to revocation under G.S. 13-3 if: (1) a law enforcement officer has reasonable grounds to believe that the provisional licensee has committed a criminal moving violation, (2) the provisional licensee is charged with that offense, and (3) the provisional licensee is not subject to a civil revocation pursuant to G.S. 20-16.5 for the same underlying conduct.

What is the procedure for ordering the civil revocation of a provisional licensee's license?

If a provisional licensee's permit or license is subject to revocation under G.S. 20-13.3, the law enforcement officer must execute a revocation report (new AOC-CVR-12) and take the provisional licensee before a judicial official for an initial appearance. The law enforcement officer must expeditiously file the revocation report with the judicial official conducting the initial appearance.

If a properly executed revocation report concerning a provisional licensee is filed before a judicial official when that person is present before that official, the judicial official must, after completing any other proceedings involving the provisional licensee, determine whether there is probable cause to believe the conditions requiring civil license revocation are met. If the judicial official finds probable cause that the conditions in G.S. 20-13.3(b) are met, he or she must enter an order (new AOC-CVR-13) revoking the provisional licensee's permit or license.

What happens if a provisional licensee's permit or license also is subject to revocation under G.S. 20-16.5?

If the provisional licensee's permit or license also is subject to civil revocation under G.S. 20-16.5, then only the G.S. 20-16.5 revocation may be imposed. G.S. 20-13.3(b). For example, if a 17-year-old with a full provisional license is charged with driving after consuming alcohol or drugs in violation of G.S. 20-138.3 and the requirements for a G.S. 20-16.5 civil revocation are satisfied at the initial appearance, only the G.S. 20-16.5 revocation may be imposed.

What if a G.S. 20-16.5 civil license revocation is imposed after the initial appearance but while the provisional licensee civil revocation still is in effect?

When a defendant's blood is withdrawn for analysis in an implied consent case, the results of that analysis necessarily will be reported after the defendant's initial appearance. In such a case, the conditions for civil license revocation under G.S. 20-16.5 may not exist at the time of the initial appearance. If the defendant is under 18, and the other requirements for G.S. 20-13.3 revocation are satisfied, a provisional licensee civil revocation may issue.

A civil revocation subsequently ordered pursuant to G.S. 20-16.5 for the same underlying conduct terminates any earlier-issued G.S. 20-13.3 revocation. G.S. 20-13.3(f).

Suppose a provisional licensee whose license is revoked under G.S. 20-16.5 drives during the revocation period and is charged with a criminal moving violation that is not an implied consent offense. Is the person's license subject to civil revocation pursuant to G.S. 20-13.3(f)?

Yes. This driver is subject to the G.S. 20-13.3 civil license revocation since it is premised on different conduct than that giving rise to the earlier-imposed G.S. 20-16.5 civil license revocation. G.S. 20-13.3(f) provides that "[r]evocations under this section are independent of and run concurrently with any other revocations, except for a revocation pursuant to G.S. 20-16.5." The G.S. 20-16.5 exception to the concurrent rule reflects that both types of civil revocations may not be simultaneously imposed for a single occurrence. In the scenario described above, the G.S. 20-13.3 revocation is premised on different conduct than the G.S. 20-16.5 revocation; thus, it appears that the G.S. 20-13.3 revocation may run concurrently with the previously imposed G.S. 20-16.5 civil license revocation.

How long does the provisional licensee civil revocation last?

The period of revocation is 30 days. G.S. 20-13.3(d). Since the civil license revocation is a civil action, see G.S. 20-13.3(g), the civil counting rules of G.S. 1A-1, Rule 6(a) apply. Pursuant to Rule 6(a), the revocation ends at 12:01 a.m. on the thirtieth day after the revocation order is entered unless that date falls on a Saturday, Sunday, or a legal holiday when the courthouse is closed for transactions, in which case the revocation remains in effect until the next day that the courthouse is open for transactions.

Is a written revocation order required?

Yes. The judicial official must give the provisional licensee a copy of the revocation order (new AOC-CVR-13). G.S. 20-13.3(d). The order must state the date on which the provisional licensee's permit or license again becomes valid.

Is the provisional licensee required to surrender his or her license or permit?

No. The provisional licensee keeps his or her license or permit. G.S. 20-13.3(d). The provisional licensee is not, however, authorized to drive during the revocation period.

Must the court inform DMV of the revocation?

Yes. The clerk must notify DMV of the issuance of a provisional licensee civil revocation within two business days of the issuance of the revocation order. G.S. 20-13.3(e). The notice must specify the beginning and end date of the revocation period.

May a provisional licensee be awarded a limited driving privilege?

No. G.S. 20-13.3(f) provides that a person whose license is revoked pursuant to G.S. 20-13.3 is not eligible for a limited driving privilege.

Must the licensee pay a fee to end the civil revocation?

No. The person's permit or license becomes valid by operation of law at the conclusion of the revocation period. Payment of a fee is not required.

Are driver's license or insurance points assessed for such revocations?

No. G.S. 20-13.3(h) provides that no driver's license or insurance surcharge may be assessed for a G.S. 20-13.3 revocation.

May a provisional licensee appeal from the entry of a G.S. 20-13.3 civil revocation order?

No. No direct appeal from the entry of such an order is provided by statute.

What is the effective date of G.S. 20-13.3?

[S.L. 2011-385](#) (S 636) enacted new G.S. 20-13.3, effective for offenses committed on or after October 1, 2011. The effective date was amended by H 335, ratified by the General Assembly on September 14,

2011 and presented to the governor on September 15, 2011. The bill, chaptered as [S.L. 2011-412](#), became law without the governor's signature on October 15, 2011. S.L. 2011-412 made new G.S. 20-13.3 effective January 1, 2012 for offenses committed on or after that date.

To carry out the legislature's intent as reflected in H 335 and to avoid the confusion that would be caused by implementing the provisional licensee civil revocation as of October 1, 2011 and, shortly thereafter suspending it until January 1, 2012, the Administrative Office of the Courts elected not to implement S.L. 2011-385 on October 1, 2011, instead delaying its implementation until January 1, 2012.