

## Drivers License Revocations and Limited Privileges

Shea Denning  
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### License Revocation and Issuance of Limited Privileges

- DMV has exclusive power to issue, suspend or revoke a driver's license.
  - Smith v. Walsh, 34 N.C. App. 287 (1977)
- Court must have statutory authorization to issued limited privilege.
- For limited privilege to be valid, it must negate all bases for DMV revocation




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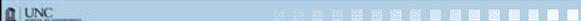
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### What is a limited privilege?

- A limited privilege is a judgment issued in the discretion of the court for good cause shown authorizing a person with a revoked drivers license to drive for essential purposes related to
  1. His employment
  2. The maintenance of his household
  3. His education
  4. His court-ordered treatment or assessment
  5. Community service ordered as a condition of the person's probation
  6. Emergency medical care
 G.S. 20-179.3(a)




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**Revocation for Speeding**  
**G.S. 20-16(a)(9), (a)(10), (a)(10a)**

- DMV authorized to suspend license, if within 12 months, person is convicted of
  - 2+ speeding >55 mph and not more than 80 mph
  - 1+ reckless driving and 1 speeding >55 mph and not more than 80 mph
  - 1+ aggressive driving and 1+ speeding >55 and not more than 80 mph
  - Speeding >75 when speed limit is <70 mph
  - Speeding >80 when max speed is <70 mph

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**Corresponding Limited Privilege**

- GS 20-16(e1): If DMV suspends license under (a)(9), (a)(10), or (a)(10a), a district court judge may issue a limited driving privilege for up to 12 months if
  - This is the defendant's first suspension under these subsections
  - The defendant has not been convicted of any other motor vehicle moving violations within the previous 12 months
- LP must restrict driving to purposes related to health, educational, and welfare of the defendant and the defendant's family
  - Judge may impose other restrictions
- If convictions were NC convictions, LP may be issued by any DCJ in the county of conviction
- If convictions were out of state, LP may be issued by a DCJ of the district where the defendant resides
- AOC-CR-306 (in-state); AOC-CV-350, -351 (out-of-state conv)

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**Revocation for Excessive Speeding**  
**GS 20-16.1(a)**

- DMV must suspend for 30 days license of any driver without a preliminary hearing upon receiving a record of the driver's conviction of either
  - Exceeding by +15 mph the speed limit, if driving >55 mph
  - Driving >80 mph

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### Corresponding Limited Privilege

- GS 20-16.1(b)(1) authorizes trial judge to issue limited privilege if
  - Defendant has not had another offense triggering suspension under G.S. 20-16.1(a) within the 7 years preceding the current offense
    - If out of state conviction, a DCJ of district where defendant resides may issue privilege
  - Defendant must furnish proof of financial responsibility or show that no financial responsibility is required
  - AOC-CR-306; AOC-CV-350, -351 (out-of-state)




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### Revocation for DWI

- GS 20-17(a)(2): DMV **must** revoke upon conviction for impaired driving under GS 20-138.1
  - First offense, 1 year revocation
  - Conviction for offense involving impaired driving, which offense occurred within 3 years of date of offense, 4 year revocation
  - 2+ previous offenses involving impaired driving, with most recent offense occurring within five years of date of offense for which license is revoked, permanent revocation




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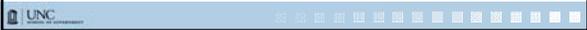
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### Corresponding Limited Privilege

- GS 20-179.3. A person convicted of impaired driving is eligible for an LP if
  - At the time of offense, he held a valid license or one that had been expired for < 1 year
  - No convictions involving impaired driving within 7 years before offense
  - Level 3, 4, or 5 DWI
  - Since offense, defendant has not been convicted of or had an unresolved charge for an offense involving impaired driving
  - Person has obtained and filed with the court a substance abuse assessment
  - Person is revoked solely under GS 20-17(a)(2) or as a result of an impaired driving conviction in another jurisdiction
  - Person furnishes proof of financial responsibility, or that none is required




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### Who may issue LP for impaired driving revocation?

- Judge who entered judgment of conviction if that judge is assigned to the district at the time of revocation
- Otherwise, the Senior Resident Superior Court Judge or the Chief District Court Judge, depending on where final disposition occurred
- If revocation based on non-NC conviction, Chief DCJ of district where defendant resides




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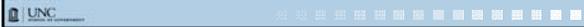
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### A. Is Ms. Jacobs eligible for a limited privilege?

1. Yes
2. No




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### How old was Ms. Jacobs at the time of the offense?

- GS 20-13.2(b): If a person is convicted of an offense involving impaired driving and the offense occurs while he is less than 21 years old, his license must be revoked under this section in addition to any other revocation required or authorized by law.
- So Ms. Jacobs is revoked under two statutes: GS 20-13.2 and GS 20-17.
- There is no corresponding LP for the 20-13.2(b) revocation.




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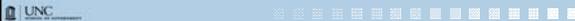
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### Revocation for Driving after Consuming < 21

- GS 20-13.2(a): The Division must revoke the license of a person convicted of violating the provisions of G.S. 20-138.3 upon receipt of a record of the licensee's conviction.



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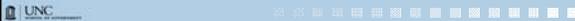
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### Is there a corresponding limited privilege?

- GS 20-138.3
- A person convicted of violating GS 20-138.3(a) and whose drivers license is revoked solely based on that conviction may apply for a limited privilege as provided in GS 20-179.3 if the person is
  - 18, 19, or 20 years old on the date of the offense, and
  - Does not have a prior conviction under GS 20-138.3



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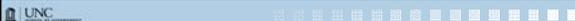
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### B. Is Ms. Cline eligible for a limited privilege?

1. Yes
2. No



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C. Is Mr. Dear eligible for a limited privilege?

1. Yes
2. No



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1(c). May Driver appeal the sentence in #08-CR-100?

1. Yes
2. No



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### Refusal Revocations

- GS 20-16.2(d): When DMV receives notice of refusal, it must notify person of 12 month license revocation
  - Revocation is effective on 10<sup>th</sup> calendar day after mailing of revocation order, unless person files written request for hearing before effective date
  - If person properly requests hearing, person retains license (unless revoked under another law) until hearing is held, person withdraws request for hearing, or person fails to appear

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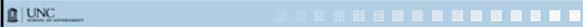
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### Corresponding Limited Privilege

- GS 20-16.2(e1): Person is eligible for a limited privilege after 6 months if
  - License is revoked solely under G.S. 20-16.2, or solely under G.S. 20-16.2 and G.S. 20-17(a)(2).
  - At the time of the refusal, the defendant had a valid drivers license or a license that had been expired for less than one year.
  - At the time of the refusal, the defendant had not been convicted of an offense involving impaired driving within the preceding seven years.
  - At the time of the refusal, the defendant had not willfully refused a chemical analysis within the preceding seven years.
  - The underlying offense did not involve death or critical injury to another person
  - The underlying charge has been disposed of (i) other than by conviction or (ii) at Level 3, 4 or 5 and the defendant has complied with at least one of the mandatory conditions of probation.
  - Since the refusal, the defendant has had no other unresolved pending charges for, or additional convictions of, an offense involving impaired driving.
  - The refusal revocation has been in effect for at least six months.
  - The defendant has obtained a substance abuse assessment and has successfully completed any recommended training or treatment.
  - Proof of financial responsibility (or a showing that proof of financial responsibility is not required).




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### What about pre-trial CVRs?

- Person subject to 30 or 45 day CVR eligible for LP if
  - at time of offense, person had a valid drivers license or a license that had been expired for less than one year.
  - Person does not have unresolved pending charge involving impaired driving except charge for which the license is currently revoked or additional convictions since being charged
  - Person's license has been revoked for 10 days if the revocation is for 30 days or 30 days if revocation is for 45 days
  - Person has obtained a substance abuse assessment and registers for and agrees to any recommended training or treatment
  - Person's license is revoked solely under GS 20-16.5
  - Person submits proof of financial responsibility or shows that non is required




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### D. Is Michael Mabe eligible for a limited privilege?

1. Yes
2. No




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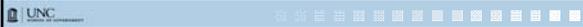
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### What about DWLRs? GS 20-20.1

- Persons convicted of some DWLR offenses may obtain limited privilege.
- NO LP if
  - Underlying offense (the offense for which the license was revoked when person was charged with DWLR) involved impaired driving; or
  - Person is revoked under GS 20-28.1 for committing a MV moving offense involving impaired driving while driving with a revoked license




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### What about DWLRs? GS 20-20.1

- Otherwise, person is eligible if
  - Driver's license was revoked under GS 20-28(a) or GS 20-28.1
  - Person complied with revocation for required period
    - One year revocation: 90 day compliance
    - Two year revocation: 1 year compliance
    - Permanent revocation: 2 year compliance
  - Revocation for underlying offense has expired
  - Revocation under GS 20-28(a) or 20-28.1 is only revocation in effect
  - Person is ineligible for LP under any other law
  - Person has not held LP under GS 20-20.1 at any time during the 3 years before the date the person files the current petition
  - Person has no pending charges for any MV offense in any state and no unpaid MV fines or penalties
  - Any DL issued by another state has not been revoked by that state
  - DMV is not prohibited from issuing the license under GS 20-9(e) (physical or mental disability), (f) (license suspension in another jurisdiction)
  - Proof of financial responsibility, or none required




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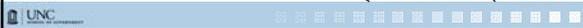
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### E. Is Sarah eligible for a limited privilege under G.S. 20-20.1?

1. Yes
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