

DRIVING WHILE IMPAIRED.

NOTE WELL: This instruction replaces former N.C.P.I.—Civil 208.10, 208.10A, and 208.11, each of which is consolidated within this replacement instruction.

A law enacted for the safety of the public provides that it is unlawful to operate a motor vehicle upon any [highway] [street] [public vehicular area] while impaired.

[A person is impaired when *he* is under the influence of an impairing substance. A person is under the influence of an impairing substance when *he* has consumed a sufficient quantity of an impairing substance to cause *him* to lose the normal control of *his* physical or mental faculties, or both, to such an extent that there is an appreciable impairment of either or both of these faculties. (Name impairing substance) is an impairing substance.¹]

[A person is (also) impaired when *he* has consumed a sufficient quantity of alcohol² that at any relevant time after the driving *he* has an alcohol concentration of 0.08 or more grams of alcohol per [210 liters of breath] [100 milliliters of blood].³ A relevant time is any time after the driving in which the operator still has in *his* body alcohol consumed before or during the driving.⁴]

[A person is (also) impaired when *he* has any amount of [a Schedule I controlled

1. An impairing substance includes "[a]lcohol, a controlled substance under Chapter 90 of the General Statutes, or any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances." N.C. Gen. Stat. § 20-4.01(14a).

2. "Alcohol" is defined as "any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol." N.C. Gen. Stat. § 20-4.01(1a).

3. It should be noted that "the results of a defendant's alcohol concentration . . . shall be reported to the hundredths. Any result between hundredths shall be reported to the next lower hundredth." *Id.*

4. It should be noted that a person charged with driving while impaired cannot plead as a defense that he was legally entitled to use the impairing substance (e.g., "my doctor prescribed this medicine"). See N.C. Gen. Stat. § 20-138.1(b).

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substance] [metabolites⁵ of a Schedule I controlled substance] in *his* blood or urine].

(*Name substance*) is a Schedule I controlled substance or is a metabolite of a Schedule I controlled substance.⁶]

A violation of this safety law is negligence in and of itself.

5. A metabolite is any substance produced or used during metabolism (digestion). In drug use, the term usually refers to the end product that remains after metabolism.

6. Driving with any Schedule I controlled substance, or its metabolites in one's blood or urine is a *per se* violation of impaired driving offense, effective December 1, 2006.