

Legislation - GHSP

Legislation which is critical to improving highway safety

The Governor's Statewide Impaired Driving Task Force is making one legislative recommendation that will have the most significant impact on highway safety. The Task Force recommends enacting an administrative drivers license revocation imposed by DMV based upon having an alcohol concentration at or above a 0.08 for all drivers or a 0.01 for commercial motor vehicle operators, for hire drivers when transporting passengers and persons underage 21 or for refusing an implied consent test. During the revocation, DMV may issue a limited drivers license requiring an ignition interlock be installed on all vehicles owned by the driver. The revocation lasts until the driver has driven alcohol free for 120 consecutive days.

The revocation will replace the 30 day pretrial revocation currently in effect. Upon arrest and submission to or refusal of a test, the charging officer will take the driver before the magistrate as is the current procedure. The magistrate will review the test papers and if the driver has the required alcohol concentration or refused the test, the magistrate will issue a revocation order as is the current procedure. [Approximately 10 percent of the person's arrested submit to blood tests. When the test results are received, DMV can notify the driver by mail, as is currently done for refusals. DMV will perform this function which is currently performed by the clerk of superior court.]

After 10 days of hard revocation, the driver can apply with DMV for a limited drivers license. In order to be eligible for limited drivers license, DMV will determine, (1) the person had a valid license at the time of the offense, (2) the driver has installed on all vehicles registered to the driver an ignition interlock device, and (3) the person pays the required fee. [The current fee, G.S.20-16.5(j) will need to be maintained because it is used to support the breath testing program of the Forensic Tests for Alcohol in the Department of Health and Human Resources.]

The limited drivers license restricts the driver to driving vehicles equipped with an ignition interlock. The driver will be required to drive only ignition interlock equipped vehicles until the ignition interlock provider's records show 120 consecutive days of not attempting to start the vehicle or having a running test result showing any alcohol on the driver's breath. At the time, the driver can pay a fee to DMV and obtain a full drivers license. Any attempt to start the vehicle with alcohol on the driver's breath or any test showing alcohol will not result in a revocation of the limited drivers license but will extend the pretrial revocation until the driver has 120 consecutive days of no alcohol when starting and driving.

Driver who wants to contest the revocation has a right to hearing before a DMV hearing officer. The driver must request the hearing within 10 days of the revocation or waive it. DMV must hold the hearing within 30 days of the request. The hearing can be held by telephone, video or in person. DMV can rely on the documents filed in the record and the test result. If the driver wants the officer present, the driver must pay for the officer's time and has the burden of obtaining the officer. The officer can testify by telephone. Any appeal from the hearing officer will be to the Commissioner of Motor Vehicles. Any further appeal will be to superior court on the record. No stays of the revocation are allowed since the driver can drive with an ignition interlock.

Failure to obtain a limited drivers license or to install an ignition interlock on all vehicles within 30 days results in a revocation of all registration plates. DMV will issue pick up orders which can be enforced by any officer.

This revocation is separate from any revocation imposed for a wilful refusal or a conviction of DWI. No court has jurisdiction over this revocation except through an appeal.

Amend: G.S. 20-16.2, 20-16.5, 20-17, 20-17.8, 20-29.1, 20-50, 20-54, and 20-179.3.