



CHAPTER 20
ARTICLE 3 - MOTOR VEHICLE ACT OF 1937

N.C.G.S. § 20-138.2.

Impaired driving in commercial vehicle.

SOURCE General Statutes of North Carolina, as published by the General Assembly	LAST AMENDMENT IN THIS TEXT S.L. 2010-129, s. 1 — seventh act in the lineage	RETRIEVED 21 September 2026, 05:35 UTC	SOURCE FINGERPRINT 07656c96912387b11be6138d - 4f7987528a2daa20661d5036 - 2c1b6f8a46656d9c
--	---	---	--

§ 20-138.2(a) Offense. - A person commits the offense of impaired driving in a commercial motor vehicle if he drives a commercial motor vehicle upon any highway, any street, or any public vehicular area within the State:

- (1) While under the influence of an impairing substance; or
- (2) After having consumed sufficient alcohol that he has, at any relevant time after the driving, an alcohol concentration of 0.04 or more. The results of a chemical analysis shall be deemed sufficient evidence to prove a person's alcohol concentration; or
- (3) With any amount of a Schedule I controlled substance, as listed in G.S. 90-89, or its metabolites in his blood or urine.

§ 20-138.2(a1) A person who has submitted to a chemical analysis of a blood sample, pursuant to G.S. 20-139.1(d), may use the result in rebuttal as evidence that the person did not have, at a relevant time after driving, an alcohol concentration of 0.04 or more.

§ 20-138.2(a2) In order to prove the gross vehicle weight rating of a vehicle as defined in G.S. 20-4.01(12e), the opinion of a person who observed the vehicle as to the weight, the testimony of the gross vehicle weight rating affixed to the vehicle, the registered or declared weight shown on the Division's records pursuant to G.S. 20-26(b1), the gross vehicle weight rating as determined from the vehicle identification number, the listed gross weight publications from the manufacturer of the vehicle, or any other description or evidence shall be admissible.

- § 20-138.2(b)** Defense Precluded. - The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense to a charge under this section.
- § 20-138.2(b1)** Defense Allowed. - Nothing in this section shall preclude a person from asserting that a chemical analysis result is inadmissible pursuant to G.S. 20-139.1(b2).
- § 20-138.2(c)** Pleading. - To charge a violation of this section, the pleading is sufficient if it states the time and place of the alleged offense in the usual form and charges the defendant drove a commercial motor vehicle on a highway, street, or public vehicular area while subject to an impairing substance.
- § 20-138.2(d)** Implied Consent Offense. - An offense under this section is an implied consent offense subject to the provisions of G.S. 20-16.2.
- § 20-138.2(e)** Punishment. - The offense in this section is a misdemeanor and any defendant convicted under this section shall be sentenced under G.S. 20-179. This offense is not a lesser included offense of impaired driving under G.S. 20-138.1, and if a person is convicted under this section and of an offense involving impaired driving under G.S. 20-138.1 arising out of the same transaction, the aggregate punishment imposed by the Court may not exceed the maximum punishment applicable to the offense involving impaired driving under G.S. 20-138.1.
- § 20-138.2(f)** Repealed by Session Laws 1991, c. 726, s. 19.
- § 20-138.2(g)** Chemical Analysis Provisions. - The provisions of G.S. 20-139.1 shall apply to the offense of impaired driving in a commercial motor vehicle.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
7 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.

1989 2000 2010

TICK HEIGHT = ACTS IN THAT YEAR DASHED = RECODIFICATION, NOT AMENDMENT

Nº YEAR ACT CHARACTER

01	1989	c. 771, s. 12	ENACTED
02	1991	c. 726, s. 19	AMENDED
03	1993	c. 539, s. 363	AMENDED
04	1994	Ex. Sess., c. 24, s. 14(c)	AMENDED
05	1998	S.L. 1998-182, s. 24	AMENDED
06	2006	S.L. 2006-253, s. 10	AMENDED
07	2010	S.L. 2010-129, s. 1	AMENDED

APPARATUS II

9 AUTHORITIES

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 90-89	(a)(3)	<i>"I controlled substance, as listed in"</i>
G.S. 20-139.1(d)	(a1)	<i>"of a blood sample, pursuant to"</i>
G.S. 20-4.01(12e)	(a2)	<i>"of a vehicle as defined in"</i>
G.S. 20-26(b1)	(a2)	<i>"on the Division's records pursuant to"</i>
G.S. 20-139.1(b2)	(b1)	<i>"analysis result is inadmissible pursuant to"</i>
G.S. 20-16.2	(d)	<i>"offense subject to the provisions of"</i>
G.S. 20-179	(e)	<i>"this section shall be sentenced under"</i>
G.S. 20-138.1	(e)	<i>"included offense of impaired driving under"</i>
G.S. 20-139.1	(g)	<i>"Analysis Provisions. - The provisions of"</i>

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 20-138.2 (2010).

PINPOINT

N.C. Gen. Stat. § 20-138.2(a) (2010).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

This document reproduces the text of one section of the General Statutes of North Carolina from a source file whose SHA-256 digest is printed on every page. The digest fixes the bytes this export was made from; if the State's file changes, the digest will not match.

The text of the section is unaltered. Subsection designators have been moved from the run of text into the margin. The amendment history and the table of authorities are derived from the section by mechanical extraction — they add no characterization of the law.

This is not the official text. The official text is published by the General Assembly of North Carolina.

HISTORY PARENTHETICAL, AS PRINTED BY THE STATE

(1989, c. 771, s. 12; 1991, c. 726, s. 19; 1993, c. 539, s. 363; 1994, Ex. Sess., c. 24, s. 14(c); 1998-182, s. 24; 2006-253, s. 10; 2010-129, s. 1.)

SET IN SPECTRAL AND ARCHIVO
NORTH CAROLINA LAW — STATUTE EXPORT, FORMAT V1

