



CHAPTER 20

ARTICLE 3 - MOTOR VEHICLE ACT OF 1937

N.C.G.S. § 20-138.2A.

Operating a commercial vehicle after consuming alcohol.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	No amendment history on record	21 September 2026, 02:20 UTC	01dd110cf339f73081e9ef31 - 34c2f29d0b17828c7237b5e3 - 63c40a9e6cc2d34f

- § 20-138.2A(a)** Offense. - A person commits the offense of operating a commercial motor vehicle after consuming alcohol if the person drives a commercial motor vehicle, as defined in G.S. 20-4.01(3d)a. and b., upon any highway, any street, or any public vehicular area within the State while consuming alcohol or while alcohol remains in the person's body.
- § 20-138.2A(b)** Implied-Consent Offense. - An offense under this section is an implied-consent of - fense subject to the provisions of G.S. 20-16.2. The provisions of G.S. 20-139.1 shall apply to an offense committed under this section.
- § 20-138.2A(b1)** Odor Insufficient. - The odor of an alcoholic beverage on the breath of the driver is insufficient evidence by itself to prove beyond a reasonable doubt that alcohol was remaining in the driver's body in violation of this section unless the driver was of - fered an alcohol screening test or chemical analysis and refused to provide all required samples of breath or blood for analysis.
- § 20-138.2A(b2)** Alcohol Screening Test. - Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violation of subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the Department of Health and Human Services, and the screening test is conducted in accordance with the applicable regulations of the Department as to its manner and use.

§ 20-138.2A(c) **Punishment.** - Except as otherwise provided in this subsection, a violation of the offense described in subsection (a) of this section is a Class 3 misdemeanor and, notwithstanding G.S. 15A-1340.23, is punishable by a penalty of one hundred dollars (\$100.00). A second or subsequent violation of this section is a misdemeanor punishable under G.S. 20-179. This offense is a lesser included offense of impaired driving of a commercial vehicle under G.S. 20-138.2.

§ 20-138.2A(d) **Second or Subsequent Conviction Defined.** - A conviction for violating this offense is a second or subsequent conviction if at the time of the current offense the person has a previous conviction under this section, and the previous conviction occurred in the seven years immediately preceding the date of the current offense. This definition of second or subsequent conviction also applies to G.S. 20-17(a)(13) and G.S. 20-17.4(a)(6)- . (1998-182, s. 23; 1999-406, s. 15; 2000-140, s. 5; 2000-155, s. 16; 2007-182, s. 2; 2008-187, s. 36(a).)

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS II
8 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. 20-4.01(3d)	(a)	"commercial motor vehicle, as defined in"
G.S. 20-16.2	(b)	"offense subject to the provisions of"
G.S. 20-139.1	(b)	"of G.S. 20-16.2. The provisions of"
G.S. 15A-1340.23	(c)	"a Class 3 misdemeanor and, notwithstanding"
G.S. 20-179	(c)	"section is a misdemeanor punishable under"
G.S. 20-138.2	(c)	"driving of a commercial vehicle under"
G.S. 20-17(a)(13)	(d)	"or subsequent conviction also applies to"
G.S. 20-17.4(a)(6)	(d)	"also applies to G.S. 20-17(a)(13) and"

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 20-138.2A (2026).

PINPOINT

N.C. Gen. Stat. § 20-138.2A(a) (2026).

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

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