



CHAPTER 20

ARTICLE 3 - MOTOR VEHICLE ACT OF 1937

N.C.G.S. § 20-138.3.

Driving by person less than 21 years old after consuming alcohol or drugs.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 2006-253, s. 11 — ninth act in the lineage	21 September 2026, 02:12 UTC	d68771a3bfa5ccf40a113591 - 4319364ecf9e87cbb3addbc1 - 19bd0b0ddbd267f7

- § 20-138.3(a)** Offense. - It is unlawful for a person less than 21 years old to drive a motor vehicle on a highway or public vehicular area while consuming alcohol or at any time while he has remaining in his body any alcohol or controlled substance previously consumed, but a person less than 21 years old does not violate this section if he drives with a controlled substance in his body which was lawfully obtained and taken in therapeutically appropriate amounts.
- § 20-138.3(b)** Subject to Implied-Consent Law. - An offense under this section is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2.
- § 20-138.3(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 offered an alcohol screening test or chemical analysis and refused to provide all required samples of breath or blood for analysis.
- § 20-138.3(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.

§ 20-138.3(c)

Punishment; Effect When Impaired Driving Offense Also Charged. - The offense in this section is a Class 2 misdemeanor. It is not, in any circumstances, a lesser included offense of impaired driving under G.S. 20-138.1, but if a person is convicted under this section and of an offense involving impaired driving arising out of the same transaction, the aggregate punishment imposed by the court may not exceed the maximum applicable to the offense involving impaired driving, and any minimum punishment applicable shall be imposed.

§ 20-138.3(d)

Limited Driving Privilege. - A person who is convicted of violating subsection (a) of this section and whose drivers license is revoked solely based on that conviction may apply for a limited driving privilege as provided in G.S. 20-179.3. This subsection shall apply only if the person meets both of the following requirements:

- (1) Is 18, 19, or 20 years old on the date of the offense.
- (2) Has not previously been convicted of a violation of this section.

The judge may issue the limited driving privilege only if the person meets the eligibility requirements of G.S. 20-179.3, other than the requirement in G.S. 20-179.3(b)(1)c. G.S. 20-179.3(e) shall not apply. All other terms, conditions, and restrictions provided for in G.S. 20-179.3 shall apply. G.S. 20-179.3, rather than this subsection, governs the issuance of a limited driving privilege to a person who is convicted of violating subsection (a) of this section and of driving while impaired as a result of the same transaction.

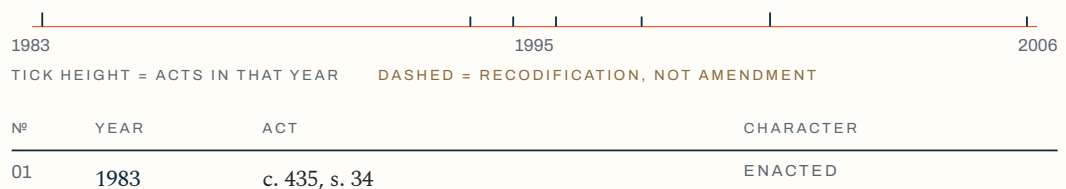
END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
9 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.



02	1983	1985 (Reg. Sess., 1986), c. 852, s. 11	AMENDED
03	1993	c. 539, s. 364	AMENDED
04	1994	Ex. Sess., c. 24, s. 14(c)	AMENDED
05	1995	c. 506, s. 6	AMENDED
06	1997	S.L. 1997-379, ss. 4, 5.2	AMENDED
07	2000	S.L. 2000-140, s. 7	AMENDED
08	2000	S.L. 2000-155, s. 18	AMENDED
09	2006	S.L. 2006-253, s. 11	AMENDED

APPARATUS II
5 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. 20-16.2	(b)	<i>"subject to the implied-consent provisions of"</i>
G.S. 20-138.1	(c)	<i>"included offense of impaired driving under"</i>
G.S. 20-179.3	(d)	<i>"limited driving privilege as provided in"</i>
G.S. 20-179.3(b)(1)	(d)	<i>"20-179.3, other than the requirement in"</i>
G.S. 20-179.3(e)	(d)	<i>"than the requirement in G.S. 20-179.3(b)(1)c."</i>

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 20-138.3 (2006).

PINPOINT

N.C. Gen. Stat. § 20-138.3(a) (2006).

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

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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

(1983, c. 435, s. 34; 1985 (Reg. Sess., 1986), c. 852, s. 11; 1993, c. 539, s. 364; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 506, s. 6; 1997-379, ss. 4, 5.2; 2000-140, s. 7; 2000-155, s. 18; 2006-253, s. 11.)

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