



CHAPTER 20

ARTICLE 3 - MOTOR VEHICLE ACT OF 1937

N.C.G.S. § 20-138.4.

Requirement that prosecutor explain reduction or dismissal of charge in implied-consent case.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 2007-493, s. 16 — fifth act in the lineage	21 September 2026, 02:12 UTC	a8113cf592801edb8fde2e46 - 50b460cec4e0f90b2e42fd56 - cb021d011793301d

§ 20-138.4(a)

Any prosecutor shall enter detailed facts in the record of any case subject to the implied-consent law or involving driving while license revoked for impaired driving as defined in G.S. 20-28.2 explaining orally in open court and in writing the reasons for his action if he:

- (1) Enters a voluntary dismissal; or
- (2) Accepts a plea of guilty or no contest to a lesser included offense; or
- (3) Substitutes another charge, by statement of charges or otherwise, if the substitute charge carries a lesser mandatory minimum punishment or is not a case subject to the implied-consent law; or
- (4) Otherwise takes a discretionary action that effectively dismisses or reduces the original charge in a case subject to the implied-consent law.

General explanations such as "interests of justice" or "insufficient evidence" are not sufficiently detailed to meet the requirements of this section.

§ 20-138.4(b)

The written explanation shall be signed by the prosecutor taking the action on a form approved by the Administrative Office of the Courts and shall contain, at a minimum:

- (1) The alcohol concentration or the fact that the driver refused.

- (2) A list of all prior convictions of implied-consent offenses or driving while license revoked.
- (3) Whether the driver had a valid drivers license or privilege to drive in this State as indicated by the Division's records.
- (4) A statement that a check of the database of the Administrative Office of the Courts revealed whether any other charges against the defendant were pending.
- (5) The elements that the prosecutor believes in good faith can be proved, and a list of those elements that the prosecutor cannot prove and why.
- (6) The name and agency of the charging officer and whether the officer is available.
- (7) Any reason why the charges are dismissed.

§ 20-138.4(c) (See Editor's note on effective date) A copy of the form required in subsection (b) of this section shall be sent to the head of the law enforcement agency that employed the charging officer, to the district attorney who employs the prosecutor, and filed in the court file. The Administrative Office of the Courts shall electronically record this data in its database and make it available upon request.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
5 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.

1983		1995		2007
TICK HEIGHT = ACTS IN THAT YEAR		DASHED = RECODIFICATION, NOT AMENDMENT		
Nº	YEAR	ACT	CHARACTER	
01	1983	c. 435, s. 25	ENACTED	
02	1983	1987 (Reg. Sess., 1988), c. 1112	AMENDED	
03	1989	c. 771, s. 18	AMENDED	
04	2006	S.L. 2006-253, s. 19	AMENDED	
05	2007	S.L. 2007-493, s. 16	AMENDED	

APPARATUS II
1 AUTHORITY

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. 20-28.2	(a)	"for impaired driving as defined in"

APPARATUS III

Citation

FULL SECTION
N.C. Gen. Stat. § 20-138.4 (2007).

PINPOINT
N.C. Gen. Stat. § 20-138.4(a) (2007).

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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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
(1983, c. 435, s. 25; 1987 (Reg. Sess., 1988), c. 1112; 1989, c. 771, s. 18; 2006-253, s. 19; 2007-493, s. 16.)

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