

## The Safe Roads Act

This act, effective October 1, 1983, repeals the present laws on drunk driving in North Carolina and replaces them with the single offense of "driving while impaired—DWI."

- DWI can be proven in one of two ways:
- By proving the driver's physical or mental faculties are appreciably impaired by alcohol, drugs, or a combination of both; or
- By proving the driver's alcohol concentration (AC) is 0.10 or more at any relevant time after driving.

### Plea Bargaining

If a person is charged with DWI, the charge cannot be reduced to a lesser included offense.

### Automatic 10-Day Revocation

A driver charged with DWI who refuses to be tested or who has an alcohol concentration of 0.10 faces an automatic and immediate 10-day revocation of his license. He may not obtain a limited driving privilege for this period.

### Sentencing Hearing

After a DWI conviction, the trial judge must hold a sentencing hearing to determine punishment. The new law establishes five (5) levels of punishment determined by evidence of grossly aggravating, aggravating, and mitigating factors.

#### Grossly Aggravating Factors Are:

- Two or more convictions for an impaired driving offense within 7 years;
- A prior conviction for an impaired driving offense within 7 years;
- Driving while license is revoked under an impaired driving revocation;
- Serious injury to another caused by defendant's impaired driving.

#### Aggravating Factors Are:

- Gross impairment or an alcohol concentration of 0.20 or more;
- Especially reckless driving;
- Negligent driving leading to an accident causing over \$500 damage or personal injury;
- Driving while license revoked;

- Two or more prior convictions of a non-impaired driving offense carrying 3 driver's license points within 5 years, or one or more prior convictions of an impaired driving offense more than 7 years old;
- Speeding to elude arrest;
- Speeding more than 39 mph over the posted limit;
- Passing a stopped school bus;
- Any other aggravating factor.

#### Mitigating Factors Are:

- Slight impairment, solely from alcohol, with an AC not exceeding 0.11;
- Slight impairment, solely from alcohol, and no chemical test available to the defendant;
- Safe and lawful driving except for impairment of defendant's faculties;
- Safe driving record—no serious traffic violations within 5 years of the offense;
- Impairment primarily from lawfully prescribed drug;
- Voluntary submission for assessment and treatment before trial;
- Any other mitigating factor.

## Levels of Punishment

### Where grossly aggravating factors are present:

#### Level 1:

If two or more impaired driving offenses within 7 years, or any other two grossly aggravating factors are present, punishment is a mandatory minimum of 14 days and up to 2 years in jail. A fine of up to \$2,000 may be imposed.

#### Level 2:

If one grossly aggravating factor (other than two or more impaired driving offenses within 7 years) is present, punishment is a mandatory minimum of 7 days and up to 1 year in jail. A fine of \$1,000 may be imposed.

### Where no grossly aggravating factors are present:

#### Level 3:

If aggravating factors outweigh mitigating factors, punishment is a minimum of 72 hours in jail, or 72 hours of community service, or a 90-day revocation of driving privileges, or any combination of the three. A fine of up to \$500 may be imposed.

#### Level 4:

If neither set of factors outweighs the other, punishment is 48 hours in jail, or 48 hours of community service, or a 60-day revocation of driving privileges, or any combination of the three. A fine of up to \$250 may be imposed.

#### Level 5:

If mitigating factors outweigh aggravating factors, punishment is 24 hours in jail, or 24 hours of community service, or a 30-day loss of driving privileges, or any combination of the three. A fine of up to \$100 may be imposed.

## Drinking Age

The law raises the age to buy and possess beer and unfortified wine to 19. The legal age to buy or possess fortified wine or spirituous liquor remains 21.

## Youthful Offender

If a provisional licensee (16 or 17) is convicted of DWI, or refuses to submit to chemical analysis, or is caught driving with any amount of alcohol or drugs (excluding prescriptions taken in a lawful amount), his license will be revoked until he is 18, or for 45 days, whichever is longer.

The statute provides a one-year license revocation if:

- an underage person attempts to purchase or purchases an alcoholic beverage;
- an underage person aids or abets another to attempt to purchase or purchase an alcoholic beverage;
- an underage person attempts to purchase, purchases, or possesses alcoholic beverages by using or attempting to use a fraudulent driver's license or other I.D., or by lending his driver's license or any other I.D. for that purpose.

## Limited Driving Privileges

Limited driving privileges (LDP) after conviction of a DWI offense have been curtailed severely. LDP is only available under non-grossly aggravating punishment levels. In some instances, a person must complete a period of court-ordered non-operation prior to obtaining LDP. The privilege extends only to driving for employment, education, treatment, community service, household maintenance, and emergency health needs.

## Roadblocks

Law enforcement agencies may set up roadblocks to check for impaired drivers.