

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 211

Short Title: DWI Sentencing/Mitigating Factors. (Public)

Sponsors: Representative Clampitt.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 2, if favorable, Rules, Calendar, and Operations of the House

February 28, 2023

A BILL TO BE ENTITLED

AN ACT TO AMEND THE MITIGATING FACTORS CONSIDERED IN IMPAIRED DRIVING SENTENCING TO PROVIDE THAT IMPAIRED DRIVING RESULTING FROM CONSUMPTION OF ALCOHOL IS JUST AS DANGEROUS AS IMPAIRED DRIVING RESULTING FROM OTHER IMPAIRED SUBSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-179(e) reads as rewritten:

"(e) Mitigating Factors to Be Weighed. – The judge shall also determine before sentencing under subsection (f) of this section whether any of the mitigating factors listed below apply to the defendant. The judge shall weigh the degree of mitigation of each factor in light of the particular circumstances of the case. The factors are:

- (1) ~~Slight impairment of the defendant's faculties resulting solely from alcohol, and an alcohol concentration that did not exceed 0.09 at any relevant time after the driving.~~
- (2) ~~Slight impairment of the defendant's faculties, resulting solely from alcohol, with no chemical analysis having been available to the defendant.~~
- (3) Driving at the time of the offense that was safe and lawful except for the impairment of the defendant's faculties.
- (4) A safe driving record, with the defendant's having no conviction for any motor vehicle offense for which at least four points are assigned under G.S. 20-16 or for which the person's license is subject to revocation within five years of the date of the offense for which the defendant is being sentenced.
- (5) Impairment of the defendant's faculties caused primarily by a lawfully prescribed drug for an existing medical condition, and the amount of the drug taken was within the prescribed dosage.
- (6) The defendant's voluntary submission to a mental health facility for assessment after being charged with the impaired driving offense for which the defendant is being sentenced, and, if recommended by the facility, voluntary participation in the recommended treatment.
- (6a) Completion of a substance abuse assessment, compliance with its recommendations, and simultaneously maintaining 60 days of continuous abstinence from alcohol consumption, as proven by a continuous alcohol monitoring system. The continuous alcohol monitoring system shall be of a type approved by the Division of Community Supervision and Reentry of the Department of Adult Correction.



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1 (7) Any other factor that mitigates the seriousness of the offense.
2 Except for the factors in subdivisions (4), (6), (6a), and (7) of this subsection, the conduct
3 constituting the mitigating factor shall occur during the same transaction or occurrence as the
4 impaired driving offense."

5 **SECTION 2.** This act becomes effective December 1, 2023, and applies to offenses
6 committed on or after that date.