

(TYPE OR PRINT IN BLACK INK)
STATE OF NORTH CAROLINA
County

File No.

In The General Court Of Justice
District Court Division

Name And Address Of Defendant

**OFFICER'S AFFIDAVIT FOR SEIZURE AND
IMPOUNDMENT AND MAGISTRATE'S ORDER -
IMPAIRED DRIVING**

G.S. 20-28.3

Name And Address Of Vehicle Owner

Vehicle Identification No.

Vehicle License No.

State

Year

Make

Model

Body Style

Present Location Of Motor Vehicle

Date Of Offense

Date Of Seizure

Time Of Seizure

AM

PM

I. OFFICER'S AFFIDAVIT

The undersigned being first duly sworn says:

1. I am a law enforcement officer. On or about the date of offense shown above, I had probable cause to believe that the defendant named above drove the motor vehicle described above in the above county upon (Give street, highway or public vehicular area.) _____ while committing an offense involving impaired driving in violation of G.S. 20-138.1 G.S. 20-138.5 G.S. _____ (See Section III on reverse for a list of offenses involving impaired driving.) in that: (List sufficient facts to constitute probable cause.) _____

(Check if defendant charged under G.S. 20-138.5.) and a check of the Division of Motor Vehicles' records or other reliable information indicates that the defendant has been convicted of three (3) or more offenses involving impaired driving as defined in G.S. 20-4.01(24a) within ten (10) years of the date of offense shown above.

2. I charged the defendant with an offense in violation of the statute cited above.

3. A check of the records of the Division of Motor Vehicles or other reliable information indicates that, at the time of the above offense, the defendant's drivers license was revoked as a result of a prior impaired driving license revocation as defined in G.S. 20-28.2(a). (See Section IV on reverse for a list of impaired driving license revocations.) the defendant was driving without a valid drivers license and was not covered by an automobile liability insurance policy.

4. A check of law enforcement records or other reliable information indicates that the motor vehicle described above has not been reported stolen.

5. The motor vehicle described above is not a rental vehicle, or if it is a rental vehicle, the defendant is listed as an authorized driver on the rental contract.

6. (a) On the date of seizure shown above, I seized the vehicle described above and it is presently at the location shown above.

(b) The motor vehicle has not yet been seized.

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Signature Of Seizing Officer

Date

Signature Of Official Authorized To Administer Oaths

Name Of Seizing Officer (type or print)

Magistrate Deputy CSC Assistant CSC Clerk Of Superior Court

Name Of Department Or Agency Of Officer

Notary

Date My Commission Expires

SEAL

County Where Notarized

II. MAGISTRATE'S ORDER

On the basis of the facts set forth in the above Affidavit and any additional information furnished under oath, the undersigned finds that the requirements of G.S. 20-28.3 for the seizure and impoundment of the motor vehicle described above have have not been met.

1. a. It is ORDERED that the above described motor vehicle be impounded and held pending further orders of the court.

b. It is ORDERED that any officer with authority and jurisdiction seize the above described motor vehicle and that it be impounded and held pending further orders of the court.

2. It is ORDERED that the above described motor vehicle be released to the motor vehicle owner upon payment of all towing and storage charges incurred as a result of the seizure of that vehicle.

Date

Name Of Magistrate (type or print)

Signature Of Magistrate

NOTE TO OFFICER:

The seizing officer shall notify the Division of Motor Vehicles (DMV) of the seizure as soon as practical, but not later than 24 hours after the seizure of the motor vehicle. G.S. 20-28.3(b). The seizing officer should complete form LT-176 and forward it to the officer's DCI terminal operator. The terminal operator will then transmit the information to DMV via DCI. This Order authorizes any officer with jurisdiction to enter the property of the defendant to seize the motor vehicle. Consent or a search warrant is required to enter the private property of another. G.S. 20-28.3(c1).

NOTE TO MAGISTRATE:

The magistrate shall provide the original of this form to the Clerk. G.S. 20-28.3(c). The magistrate should provide copies to the defendant and to the seizing officer.

NOTE TO CLERK:

If a seizure is ordered, the Clerk shall provide copies of this form to the district attorney and the attorney for the county board of education. G.S. 20-28.3(c).

(Over)

III. OFFENSES INVOLVING IMPAIRED DRIVING

G.S. 20-4.01(24a) defines "offense involving impaired driving" to include the following:

- impaired driving under G.S. 20-138.1;
- any offense set forth under G.S. 20-141.4 based on impaired driving;
- first or second degree murder under G.S. 14-17 or involuntary manslaughter under G.S. 14-18 when the charge is based on impaired driving;
- impaired driving in a commercial vehicle under G.S. 20-138.2;
- habitual impaired driving under G.S. 20-138.5.

IV. IMPAIRED DRIVING LICENSE REVOCATIONS - G.S. 20-28.2(a)

Under G.S. 20-28.2(a), the revocation of a person's drivers license is an impaired driving license revocation if the revocation is pursuant to any of the following statutes:

- G.S. 20-13.2 - Driving After Consuming Alcohol/Drugs While Less Than 21
- G.S. 20-16(a)(8b) - Military Driving While Impaired
- G.S. 20-16.2 - Refused Chemical Test
- G.S. 20-16.5 - Civil Revocation
- G.S. 20-17(a)(2) - Driving While Impaired
- Driving While Impaired In Commercial Motor Vehicle
- G.S. 20-138.5 - Habitual Driving While Impaired
- G.S. 20-17(a)(12) - Transporting Open Container - 2nd Or Subsequent
- G.S. 20-16(a)(7) - Out-Of-State Offense Similar To Driving While Impaired Resulting In NC Revocation
- G.S. 20-17(a)(1) - Manslaughter Involving Driving While Impaired
- G.S. 20-17(a)(3) - Any Felony In The Commission Of Which A Motor Vehicle Is Used, If The Offense Involves Impaired Driving
- G.S. 20-17(a)(9) - Any Offense Set Forth Under G.S. 20-141.4 Based On Impaired Driving
- G.S. 20-17(a)(11) - Conviction Of Assault With A Motor Vehicle If Offense Involves Impaired Driving
- G.S. 20-28.2(a)(3) - Laws of another state when the offense for which the person's drivers license is revoked prohibits substantially similar conduct that if committed in this state would result in a revocation based on one of the offenses listed above.

V. GROUNDS FOR SEIZURE - G.S. 20-28.3(a)

A motor vehicle is subject to seizure if the driver is charged with an offense involving impaired driving as listed in Section III above and at the time of the offense

- the driver's license is revoked for one of the reasons listed in Section IV above or
- the driver does not have a valid drivers license and is not covered by an automobile liability insurance policy.