

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 16
Judiciary II Committee Substitute Adopted 3/21/11

Short Title: Obtain Blood Sample/Implied-Consent Laws.

(Public)

Sponsors:

Referred to:

February 1, 2011

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT LAW ENFORCEMENT REQUEST A BLOOD SAMPLE UNDER THE STATE IMPLIED-CONSENT LAWS FROM ANY PERSON CRIMINALLY CHARGED IN ANY CASE INVOLVING DEATH BY VEHICLE AND CERTAIN OTHER OFFENSES AND TO SEEK A WARRANT IF THE DRIVER REFUSES AND THERE IS PROBABLE CAUSE TO BELIEVE THE OFFENSE INVOLVED IMPAIRED DRIVING OR IS ALCOHOL-RELATED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-16.2(a1) reads as rewritten:

"(a1) Meaning of Terms. – Under this section, an "implied-consent offense" is an offense involving impaired driving, an alcohol-related offense, or charged as a violation of G.S. 20-141.4(a2), and is ~~driving or an alcohol-related offense made~~ subject to the procedures of this section. A person is "charged" with an offense if the person is arrested for it or if criminal process for the offense has been issued."

SECTION 2. G.S. 20-139.1(b5) reads as rewritten:

"(b5) Subsequent Tests Allowed. – A person may be requested, pursuant to G.S. 20-16.2, to submit to a chemical analysis of the person's blood or other bodily fluid or substance in addition to or in lieu of a chemical analysis of the breath, in the discretion of a law enforcement ~~officer.~~ officer; except that a person charged with a violation of G.S. 20-141.4 shall be requested to provide a blood sample in addition to or in lieu of a chemical analysis of the breath. However, if a breath sample shows an alcohol concentration of .08 or more, then requesting a blood sample shall be in the discretion of a law enforcement officer. If a subsequent chemical analysis is requested pursuant to this subsection, the person shall again be advised of the implied consent rights in accordance with G.S. 20-16.2(a). A person's willful refusal to submit to a chemical analysis of the blood or other bodily fluid or substance is a willful refusal under G.S. 20-16.2. If a person willfully refuses to provide a blood sample under this subsection, and the person is charged with a violation of G.S. 20-141.4, then a law enforcement officer with probable cause to believe that the offense involved impaired driving or was alcohol-related shall seek a warrant to obtain a blood sample. The failure to obtain a blood sample pursuant to this subsection shall not be grounds for the dismissal of a charge and is not assignable as error on appeal."

SECTION 3. This act becomes effective December 1, 2011, and applies to offenses committed on or after that date.

