

DWI Convictions in North Carolina: Employment and Professional Licensing Collateral Consequences

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This document summarizes collateral consequences triggered by a DWI¹ conviction² that (1) are required or authorized under the North Carolina General Statutes and Administrative Code, and (2) affect an individual’s employment or professional license or certification.

Mandatory Collateral Consequences Following a DWI

The North Carolina Administrative Code sets out several mandatory, or required, collateral consequences of a driving while impaired (DWI) charge or conviction that relate to certain types of employment and professional licenses or certifications. These collateral consequences are organized in the table below in the order they appear in the Administrative Code, labeled by type of employment or professional license affected along with the accompanying important attributes of each, such as the type of action³ mandated by the rule and the person, entity, or body responsible for implementing the action, as well as the duration of the consequence. Additionally, the table links to the applicable index card in the School of Government’s Collateral Consequences Assessment Tool ([C-CAT](#)), which displays more details of the collateral consequence and triggering offense.

Employment or Professional License ⁴	Legal Source	Decision Maker	Action	Duration	C-CAT Index Cards
Serving as transportation provider for licensed family child care home	10A NCAC 09 .1723(9)	Licensed operator	Bar Disqualify	Three years	1717

¹ Driving while impaired offenses include violations of G.S. 20-138.1 through G.S. 138.5 unless otherwise noted in the statute or rule cited.

² Most collateral consequences discussed are triggered by convictions. However, some collateral consequences are triggered by other dispositions, including the commission of, or arrest/charge or indictment for, a driving while impaired offense. An effort has been made to place an “*” where dispositions other than convictions can be considered. Individuals should review the linked C-CAT index cards and legal sources cited to determine dispositions that can trigger the particular consequence of interest.

³ Actions listed track statutory or rule language as closely as possible. For collateral consequences that appear as employment or licensing qualifications rather than explicit actions of a board or entity, common action terms are inserted for consistency to represent the statutory or administrative criteria, such as “Bar” or “Disqualify.”

⁴ Unless stated as a collateral consequence limited to applications for the employment or professional license or certification listed, consequences listed are applicable to both applications for employment or professional licenses and certifications as well as currently employed or licensed and certified individuals.

Serving as transportation provider as licensed child care center	10A NCAC 09 .1003(e)(3)	Licensed center	Bar Disqualify	Three years	1719
Placement of wrecker service on State Highway Patrol's Rotation List*, or employment as wrecker service driver for wrecker service on SHP's Rotation List	14B NCAC 07A .0118(c), (d) 14B NCAC 07A .0116(a)(21)	State Highway Patrol or wrecker service owner	Bar Remove	Five years for first offense; 10 years for two or more offenses in 10 year period; permanent bar for G.S. 20-138.5 conviction (habitual impaired driving)	Owner: (conviction), 2278 , 2280 , 2285 ; (charge) 8857 , 8858 , 8863 Driver: (conviction) 2300 , 2304 , 2309
Oversize/overweight load escort vehicle operator certificate*	19A NCAC 02D .0644(b), (d)	DOT	Disqualify Revoke	Disqualify for 12 months preceding application; Revoke for period of certificate's effectiveness	8923 , 8789
CDL Third Party Examiner qualification	19A NCAC 03B .0704(b)(6)	DMV	Disqualify	10 years	2347
School bus driver certification	19A NCAC 03G .0205(1)(d)(iii), (1)(e) 19A NCAC 03G .0209(a)(3)(A) ; 19A NCAC 03G .0213(c)	DMV	Disqualify Cancel	Five years for first offense; Permanent bar for subsequent convictions	2343

Discretionary Collateral Consequences Following a DWI

DWI as Explicit Triggering Offense

Similar to the mandatory collateral consequences described above, a few administrative rules authorize, rather than require, collateral consequences that can affect an individual's employment or professional license following a DWI conviction. These discretionary collateral consequences are set forth in the table below in the order they appear in the Administrative Code, mirroring the format used in the mandatory collateral consequence table above.

Employment or Professional License	Legal Source	Decision Maker	Action	Duration	C-CAT Index Cards
CDL Third Party Examiner certification	19A NCAC 03B .0716(c)(5)	DMV	Revoke	Until individual meets certification criteria under 19A NCAC 03B .0704 – discussed above – subdivision (b)(6) requires no DWI conviction within 10 years preceding application	2352
Substance use disorder professional credential	21 NCAC 68 .0601(5)(b) 21 NCAC 68 .0605 (authorized actions) 21 NCAC 68 .0607 (Board discretion)	Addiction Specialist Professional Practice Board	Deny Revoke Suspend Discipline	Indefinite	1296

DWI Encompassed in Criminal History Checks

DWI convictions, or in some cases commission of a driving while impaired offense, are incorporated as triggering offenses in many statutory employment and professional licensing collateral consequences. Many laws require or authorize criminal history checks for professional employment or licenses and include DWI offenses in the crimes boards and agencies can consider in making their employment or licensing determinations. These criminal history reports can be used for a vast array of employment collateral consequences ranging from disqualification from certain types of employment to denial or revocation of a professional license or certification.

Generally, these statutes:

1. provide for a criminal history check of an applicant, employee, contractor, or volunteer;
2. define a term related to the authorized or required criminal history check (i.e. “criminal history, or “relevant offense”), often focusing on the relationship of an individual’s criminal history to the individual’s fitness to practice in the field in question;
3. explicitly include a list of crimes that are covered within the defined term, including DWI offenses; and
4. authorize the agency or occupational licensing board to consider the individual’s criminal history (including DWI offenses) in employment or licensing determinations, with most statutes including enumerated factors the agency or board must consider in making their determination.

Statutes vary as to required findings that must be made before making a determination based on an individual’s criminal history. Other shared attributes of criminal history check statutes include authorizing denial or disqualification based on an individual’s refusal to submit to a criminal history

check; requiring a licensee or employee to self-report changes in criminal history within a short time frame; and granting immunity for the boards and employees making determinations based on an individual’s criminal history check.

The tables below summarize the statutory employment and professional collateral consequences that utilize this described structure for criminal history checks. The tables organize these collateral consequences by the order in which they appear in the General Statutes, labeled by the employment or professional license affected, with distinctions to identify the agency or body charged with conducting and considering the criminal history check, whether the board or agency must consider enumerated factors in its determination, and the required findings for an agency or board’s determination (if any). Additionally the table links to the applicable index card in the School of Government’s Collateral Consequences Assessment Tool ([C-CAT](#)), which holds more details of the collateral consequence and triggering offense. The tables are distinguished by the different defined terms used by criminal history check statutes – “criminal history” and “relevant offense.”

DWI Included in the Definition of “Criminal History”

Employment or Professional License	Legal Source	Decision Maker	Required to Consider Factors	Determination Context	C-CAT Index Cards
License to conduct archaeological investigation	G.S. 70-13.1	Department of Natural and Cultural Resources	Yes	N/A	208
Locksmith license or apprenticeship designation	G.S. 74F-15(a)(2) G.S. 74F-18	Locksmith Licensing Board	Yes	Board must determine that the applicant's criminal history disqualifies the individual for licensure	172
Application for substance use disorder professional registration, certification, or licensure	G.S. 90-113.46A G.S. 90-113.31A(14)	Addictions Specialist Professional Practice Board	Yes	Board must determine that the disciplinary grounds set forth in G.S. 90-113.44 exist, which includes criminal convictions	1626

				other than traffic laws	
Application for certification as a Certified Alcohol and Drug Counselor or Certified Prevention Specialist	G.S. 90-113.40(a)(5a) G.S. 90-113.46A G.S. 90-113.31A(14)	Addictions Specialist Professional Practice Board	Yes	Presumably follows requirements of G.S. 90-113.46A , above	248
Application for license as registered nurse or licensed practical nurse	G.S. 90-171.48	Board of Nursing	Yes	Board must find that disciplinary grounds set forth in G.S. 90-171.37 exist, which includes criminal convictions that indicate the nurse is unfit or incompetent to practice	1454
License for marriage and family therapist or therapy associate	G.S. 90-270.63	Marriage and Family Therapy Licensure Board	Yes	Board must determine that the applicant's or licensee's criminal history disqualifies the individual for licensure	910
Nursing home administrator license	G.S. 90-288.01	State Board of Examiners for Nursing Home Administrators	Yes	N/A	8926

License as clinical mental health counselor or counselor associate	G.S. 90-345	Board of Licensed Clinical Mental Health Counselors	Yes	Board must determine that the applicant or licensee's criminal history disqualifies the individual for licensure	8925
Registration as real estate appraisal management company	G.S. 93E-2-11	Appraisal Board	Yes	Board must determine that the applicant's or registrant's criminal history disqualifies the individual for registration	8924
Employment or eligibility to volunteer at a child care facility*	G.S. 110-90.2(b)	Division of Child Development, DHHS	No	Department must check criminal history prior to employment and every three years thereafter and determine individual's fitness to have responsibility for the safety and well-being of children	559
Employment as school personnel at public school, laboratory school, or regional school	G.S. 115C-332 G.S. 116-239.12 G.S. 115C-238.73	As appropriate: Local Board of Education; Chancellor; or Board of Directors	No	Local board, chancellor, or board of directors must determine whether the results indicate that the applicant or employee	8912

				(i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties and use the information when making employment decisions	
Application for license to conduct exploration, recovery or salvage operations below the sea	G.S. 121-25.1	Department of Natural and Cultural Resources	Yes	N/A	1088
Manufactured home dealer, sales person, or set-up contractor license	G.S. 143-143.13(a)(12) G.S. 143-143.10A	Manufactured Housing Board	Yes	Board must determine the applicant's criminal history disqualifies the individual for licensure	420
Employment as residential school personnel	G.S. 143B-146.16	DHHS	No	Secretary must determine whether the results indicate that the employee or contractor (i) poses a threat to the physical safety of students or personnel, or (ii) has	408

				demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties, and use the information in making employment decisions	
Employment or eligibility to volunteer with either the Division of Juvenile Justice of the Department of Public Safety, or the Department of Health and Human Services	G.S. 143B-935	DPS or DHHS	Yes	N/A	567
Employment or eligibility to volunteer at local fire department or emergency medical services	G.S. 143B-943	Local Homeland Security director, local fire chief, county fire marshal, emergency services director, or local law enforcement agency	Yes	N/A	897
Employment with Department of Public Instruction	G.S. 143B-954	DPI	Yes	N/A	405

DWI Included in the Definition of “Relevant Offense”

Employment or Professional License	Legal Source	Decision Maker	Required to Consider Factors	Determination Context	C-CAT Index Cards
Employment or eligibility to volunteer with child care institution*	G.S. 108A-150	DHHS, Criminal Records Check Unit	Yes	DHHS, Criminal Records Check Unit must consider the offense and factors listed, and then inform the child care institution, or a contract agency of a child care institution, whether an applicant should be hired, or an individual should be allowed to volunteer	8927
Employment with mental health, developmental disability, or substance abuse services provider for position that does not require occupational license*	G.S. 122C-80	Area authority/county program or provider of mental health, developmental disability, and substance abuse services	Yes	N/A	813
Employment with licensed adult care home or contract agency of licensee*	G.S. 131D-40	Licensed home	Yes	N/A	415
Application for employment with a licensed nursing home or home care agency, or contract agency of licensee*	G.S. 131E-265 G.S. 131D-40	Licensed home or agency	Yes	N/A	1526

DWI Encompassed in “Misdemeanor” Triggers Applicable to Criminal Justice Professionals

“Misdemeanor” Triggers under 12 NCAC 09G

Specific to corrections officers, corrections instructors, and probation and parole officers certified by the Criminal Justice Education and Training Standards Commission (Commission), Chapter 9, Title 12 of the

Administrative Code authorizes the Commission to deny, suspend, or revoke certifications following an individual’s “misdemeanor” conviction, with the term “misdemeanor” defined to include driving while impaired offenses under G.S. 20-138.1 or G.S. 20-138.2. These collateral consequence are analyzed in the table below, mirroring the format used for summarizing the discretionary collateral consequences for explicit DWI triggers, above.

Employment or Professional License	Legal Source	Decision Maker	Action	Duration	C-CAT Index Cards
Correctional officer certification and employment*	12 NCAC 09G .0504(d)(3) 12 NCAC 09G .0102(10) 12 NCAC 09G .0206	Criminal Justice Education and Training Standards Commission (certification); DPS, Division of Adult Correction and Juvenile Justice (employment)	Deny Suspend Revoke Bar	At least three years, with Commission given discretion to reduce, suspend, or order probation	1376
Correction instructor certification*	12 NCAC 09G .0307(e)(5)(B), (e)(10) 12 NCAC 09G .0504	Criminal Justice Education and Training Standards Commission	Deny Suspend Revoke	Indefinite	1371 1372
Probation/parole officer certification and employment*	12 NCAC 09G .0504(d)(4) 12 NCAC 09G .0102(10) 12 NCAC 09G .0206	Criminal Justice Education and Training Standards Commission (certification); DPS, Division of Adult Correction and Juvenile Justice (employment)	Deny Suspend Revoke Bar	At least three years, with Commission given discretion to reduce, suspend, or order probation	8846

“Class A” and “Class B” Misdemeanors under 12 NCAC 09A, 09B, and 10B

Chapters 9 and 10 of Title 12 of the Administrative Code contain several collateral consequences relating to other criminal justice professionals that use a unique classification of offenses in implementing employment or certification determinations. The Chapters authorize or require licensing commissions to deny, suspend, or revoke certifications, and employing agencies to bar employment or training admission, if an individual has a criminal history that includes convictions classified as “Class B misdemeanors,” or a certain number of a combination of convictions classified as “Class A misdemeanors,” or a certain number of a combination of “Class A misdemeanors” and “Class B misdemeanors.”

“Class A misdemeanor” and “Class B misdemeanor” are terms of art defined in the Subchapters of Chapters 10 and 11, Title 12. These terms are each defined in a way that a DWI conviction can fall under

either term’s definition depending on the length of the sentence that can be imposed for the offense. A DWI offense with a maximum allowable punishment for a term of more than six months but not more than two years is classified as a “Class B misdemeanor,” but if the offender could have been sentenced for a term of not more than six months, the offense is classified as a “Class A misdemeanor.” For a full explanation of these terms as used by the licensing commissions and the Department of Justice, see the *Class B Misdemeanor Manual* published by the North Carolina Department of Justice, [here](#).

The following table identifies the attributes of authorized collateral consequences that can affect criminal justice professionals or individuals wishing to enter the criminal justice field following convictions of offenses classified as “Class B misdemeanors” and “Class A misdemeanors,” as defined. The table is organized in the order in which the consequences appear in the Administrative Code along with the relevant decision maker charged with implementing the consequence, the authorized or required actions of the decision maker, and duration of the consequence. For a breakdown of the triggering offenses or their combinations specific to each rule, see the [C-CAT](#) index cards linked in the table.

Employment or Professional License	Legal Source	Decision Maker	Action	Duration	C-CAT Index Cards
Criminal justice officer certification*	12 NCAC 09A .0204(b)(3) 12 NCAC 09A .0205(b)(1)	Criminal Justice Education and Training Standards Commission	Deny Suspend Revoke	At least five years, with Commission given discretion to reduce, suspend, or order probation	1175 1176
Employment as a certified criminal justice officer*	12 NCAC 09B .0101(10) 12 NCAC 09B .0111	Employing agency	Bar	Ranges from two to five years based on Class A or B, or permanent based on combination of offenses	8698 8929 8930 8939
Employment or certification as law enforcement officer*	12 NCAC 09B .0111(a)	Criminal Justice Education and Training Standards Commission or Employing agency	Bar	Ranges from two to five years based on Class A or B, or permanent based on combination of offenses	1186 1187 1188 8940
Employment as officer, supervisor, or administrator at local confinement facility*	12 NCAC 09B .0114(a)(10) 12 NCAC 09B .0111(a)	Employing facility	Bar	Ranges from two to five years based on Class A or B, or permanent based on combination of offenses	1192 1193 1194 8942
Employment as juvenile court counselor or chief court counselor*	12 NCAC 09B .0116(a)(10) 12 NCAC 09B .0111(a)	Department of Juvenile Justice and Delinquency Prevention	Bar	Ranges from two to five years based on Class A or B, or permanent based	1198 1199 1200 8941

				on combination of offenses	
Employment as juvenile justice officer*	12 NCAC 09B .0117(a)(10) 12 NCAC 09B .0111(a)	Department of Juvenile Justice and Delinquency Prevention	Bar	Ranges from two to five years based on Class A or B, or permanent based on combination of offenses	1208 1209 1210 8943
Admission as Trainee in Basic Law Enforcement Training Course	12 NCAC 09B .0203(j)	School offering Criminal Justice Education and Training Standards Commission-certified basic training course	Bar	Ranges from two to five years based on Class A or B, or permanent based on combination of offenses	1214 1215 1216 1217
Criminal justice instructor certification*	12 NCAC 09B .0301(e)(5)(B), (12) 12 NCAC 09A .0204 12 NCAC 09G .0504	Criminal Justice Education and Training Standards Commission	Deny Suspend Revoke	Indefinite	1369 8840
Certification as a justice officer*	12 NCAC 10B .0204(d) 12 NCAC 10B .0205	Sheriffs' Education and Training Standards Commission	Deny Suspend Revoke	Ranges from at least five years with Commission discretion to reduce, suspend, or order probation; for some offenses, indefinite	1228 1229 1230 1231
Employment or certification as justice officer*	12 NCAC 10B .0307(b) 12 NCAC 10B .0301(10)	Sheriffs' Education and Training Standards Commission or Employing agency	Bar	Ranges from two to five years based on Class A or B, or permanent based on combination of offenses	8933 8934 8935 8936
Admission as trainee in commission certified basic training course	12 NCAC 10B.0713(g)	School offering Sheriffs' Education and Training Standards Commission-	Bar	Ranges from two to five years based on Class A or B, or permanent based on combination of offenses	1221 1222 1223 1224

		certified basic training course			
Detention Officer Instructor Certification*	12 NCAC 10B .0911(c)(5) 12 NCAC 10B .0103(21) 12 NCAC 10B .0204(d) 12 NCAC 10B .0912	Sheriffs' Education and Training Standards Commission	Deny Suspend Revoke	Ranges from one year to indefinite based on the offense	8937
Telecommunicator Instructor Certification*	12 NCAC 10B .0919(c)(5) 12 NCAC 10B .0103(21) 12 NCAC 10B .0204(d) 12 NCAC 10B .0920	Sheriffs' Education and Training Standards Commission	Deny Suspend Revoke	Ranges from one year to indefinite based on the offense	8938

Research Notes and Limitations

This research only analyzes collateral consequences related to employment and professional licensure, and only consequences that are triggered by driving while impaired offenses – either directly by explicit identification or indirectly through the explicit incorporation of DWI offenses in a defined term’s definition relating to authorized or required collateral consequences. Broad language is often used in collateral consequence laws to describe triggering offenses, such as “any misdemeanor offense,” which can include driving while impaired offenses. Additionally, some occupational licensing boards are granted authority to take action based on a licensee’s substance abuse impairment, which certain convictions may evidence. These broad triggers are not covered in this research. Individuals should identify and analyze the employment or professional licensing statutes or rules relevant to their employment or license to determine if a DWI commission, charge, or conviction may affect that employment or license, as well as to understand mandatory notice requirements following a DWI charge.