

## Table of Contents

<b>CHAPTER 1 — IMPAIRED DRIVING OFFENSES.....</b>	<b>17</b>
Impaired Driving (N.C.G.S. 20-138.1).....	32
Habitual Impaired Driving (N.C.G.S. 20-138.5).....	33
Impaired Driving in a Commercial Vehicle (N.C.G.S. 20-138.2).....	35
Operating a Commercial Motor Vehicle after Consuming (N.C.G.S. 20-138.2A).....	37
Operating a School Bus, School Activity Bus, or Child Care Vehicle after Consuming (N.C.G.S. 20-138.2B).....	39
Operating a Motor Vehicle after Consuming Under 21 (N.C.G.S. 20-138.3).....	41
Felony Death by Motor Vehicle (N.C.G.S. 20-141.4(a1)).....	43
Felony Serious Injury by Motor Vehicle (N.C.G.S. 20-141.4(a3)).....	44
Aggravated Felony Serious Injury by Motor Vehicle (N.C.G.S. 20-141.4(a4)).....	45
Aggravated Felony Death by Motor Vehicle	

(N.C.G.S. 20-141.4(a5)).....	46
Repeat Felony Death by Vehicle Offender (N.C.G.S. 20-141.4(a6)).....	47
Involuntary Manslaughter (N.C.G.S. 14-18).....	48
Second Degree Murder (N.C.G.S. 14-17).....	49
<b>CHAPTER 2 — SENTENCING.....</b>	<b>51</b>
Grossly Aggravating Factors (N.C.G.S. 20-179(c)).....	55
Aggravating Factors (N.C.G.S. 20-179(d)).....	60
Mitigating Factors (N.C.G.S. 20-179(e)).....	63
<b>CHAPTER 3 — PUNISHMENT.....</b>	<b>67</b>
Aggravated Level 1 Punishment (Laura’s Law) (N.C.G.S. 20-179 (f3)).....	67
Level 1 Punishment (N.C.G.S. 20-179(g)).....	70
Level 2 Punishment (N.C.G.S. 20-179(h)).....	72

Level 3 Punishment (N.C.G.S. 20-179(i)).....	74
Level 4 Punishment (N.C.G.S. 20-179(j)).....	77
Level 5 Punishment (N.C.G.S. 20-179(k)).....	80
Punishment Issues.....	83

<b>CHAPTER 4 — LICENSE REVOCATIONS AND DRIVING PRIVILEGES.....</b>	<b>101</b>
Implied Consent Law (N.C.G.S. 20-16.2).....	101
Limited Driving Privilege (N.C.G.S. 20-179.3).....	106
Refusal.....	111
Assessments.....	114
Ignition Interlock (N.C.G.S. 20-179.3 (g3)(g4)(g5)).....	117
Civil Revocation (N.C.G.S. 20-16.5).....	125
Driving While Impaired (N.C.G.S. 20-138.1) – 1st Offense; BAC .14 or Less.....	128

Driving While Impaired (N.C.G.S. 20-138.1) – 1st Offense; BAC .15 or More.....	131
Driving While Impaired (N.C.G.S. 20-138.1) – 1st Offense; Refusal.....	133
Driving While Impaired (N.C.G.S. 20-138.1) – 2nd Offense Within Three Years.....	135
Driving While Impaired (N.C.G.S. 20-138.1) – 3rd or Subsequent Offense (With Most Recent Within Five Years).....	137
Driving While Impaired (N.C.G.S. 20-138.1) – Aggravated Level 1 Punishment.....	139
Habitual Impaired Driving (N.C.G.S. 20-138.5).....	141
Impaired Driving in a Commercial Vehicle (N.C.G.S. 20-138.5).....	143
Felony Involving Impaired Driving (N.C.G.S. 20-141; 14-17; 14-18).....	145
Operating a Commercial Vehicle after Consuming (N.C.G.S. 20-138.2A).....	147
Operating a Commercial School or	

Activity Bus or Child Care Vehicle after Consuming (N.C.G.S. 20-138.2B).....	148
Driving by Person Less Than 21 Years Old after Consuming Alcohol or Drugs (N.C.G.S. 20-138.3).....	149

**CHAPTER 5 — TRIABLE ISSUES....151**

Outline of Triable Issues in Impaired	
Driving Cases.....	152
Elements.....	152
Contact.....	152
Contact with Person.....	153
Arrest.....	154
Charge.....	155
Sentencing.....	155
Driving While Impaired.....	157
Challenging Checking Stations/ Road Blocks.....	176
A. Primary Programmatic Purpose.....	182
B. The Reasonableness of the Checkpoint.....	183
C. Primary Programmatic Purpose (2).....	189

D. Reasonableness (2).....	193
Probable Cause for Arrest.....	198
<i>Knoll</i> and <i>Ferguson</i> Motions.....	204
<i>Knoll</i> Motion.....	210
15a-534. Procedure for Determining Conditions of Pretrial Release.....	211
<i>Ferguson</i> Motion.....	217
Using <i>Knoll</i> and <i>Ferguson</i> .....	219

<b>CHAPTER 6 — IMPAIRED DRIVING CONSULTATION OUTLINE AND CHECKLIST.....</b>	<b>225</b>
Consultation Outline.....	225
Consultation.....	234
Aggravated Level 1 Punishment – (N.C.G.S. 20-179(f3)).....	247
Level 1 Punishment (N.C.G.S. 20-179(g)).....	249
Level 2 Punishment (N.C.G.S. 20-179(h)).....	251
Level 3 Punishment (N.C.G.S. 20-179(i)).....	259

Level 4 Punishment (N.C.G.S. 20-179(j)).....	261
Level 5 Punishment (N.C.G.S. 20-179(k)).....	263

**CHAPTER 7 — RELEVANT  
STATUTORY AUTHORITY.....281**

**CHAPTER 8 — QUICK  
REFERENCE.....289**

Sentencing.....	289
Level A1 – Three Grossly Aggravating Factors.....	289
Level 1 – Two Grossly Aggravating Factors, or One Grossly Aggravating Factor Under N.C.G.S. 20-179(c)(4).....	291
Level 2 – One Grossly Aggravating Factor.....	292
Level 3 – Aggravating Factors > Mitigating Factors.....	293
Level 4 – Aggravating Factors – Mitigating Factors, or No Factors Present.....	294

Level 5 – Mitigating Factors >	
Aggravating Factors.....	295
Further Potential Impaired Driving	
Sentencing Issues.....	296
Sentencing Factors.....	299
Grossly Aggravating Factors.....	299
Aggravating Factors.....	300
Mitigating Factors.....	301
License and Privileges.....	302
Civil Revocation (Fee - \$100).....	303
Pre-Trial Privilege.....	304
Final Privilege.....	306
.15 BAC (Ignition Interlock)	
Privilege.....	308
Refusal.....	309
2nd Offense (Within Three Years).....	311
3rd Offense (With Most Recent Within	
Five Years).....	312
Aggravated Level 1.....	314
INDEX.....	315