



NORTH CAROLINA  
ADMINISTRATIVE OFFICE  
*of the COURTS*

Legal and Legislative  
Services Division

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## **MEMORANDUM**

(via E-Mail)

TO: Clerks of Superior Court<sup>1</sup>  
Magistrates  
Superior Court Judges  
District Court Judges  
District Attorneys  
Public Defenders

FROM: Troy Page, Associate Legal Counsel

DATE: November 21, 2011

RE: Court Costs - New Impaired Driving Fee  
Effective for offenses committed on or after December 1 2011

In Section 4 of S.L. 2011-191 (HB 49, Laura's Law), the General Assembly has enacted a new, additional court cost specific to impaired driving offenses, which will take effect on December 1, 2011. The fee of \$100.00 is codified in G.S. 7A-304(a)(10) and is to be assessed for conviction of the following offenses:

- Impaired driving, G.S. 20-138.1;
- Impaired driving in commercial vehicle, G.S. 20-138.2;
- Operating a commercial vehicle after consuming alcohol (second or subsequent convictions, only), G.S. 20-138.2A; and
- Operating a school bus, activity bus, or child care vehicle after consuming alcohol (second or subsequent convictions, only), G.S. 20-138.2B.

The new cost is codified in G.S. 7A-304(a), so it is a court cost. However, unlike most changes to court costs, which typically take effect for costs assessed or collected on or after the effective date of the enacting legislation, this cost applies only to convictions for offenses committed on or after December 1, 2011. The fee may not be assessed for offenses committed prior to that date.

The new fee is to be assessed in addition to all other costs applicable to the case; it does not replace any other costs. *E.g.*, it is assessed in addition to the Chapter 20 fee of G.S. 7A-304(a)(4b), not in lieu of it. The cost is to be assessed only upon conviction, so the fee should not be assessed unless the defendant is convicted of one of the four offenses specified above. The new cost is subject to the cumulative assessment of G.S. 7A-304(b) for conviction in Superior Court after an appeal from a conviction in District Court. Finally, because it is a court cost under G.S. 7A-304, waiver of this fee requires that the court make a finding of just cause for the waiver, pursuant to G.S. 7A-304(a).

Distributed with this memo is an updated cost and fee chart, effective December 1, 2011. The only substantive change to the chart is the addition of this new fee for impaired driving.<sup>2</sup> So that all of the costs

<sup>1</sup> We ask that clerks provide a copy of this memo to personnel in your offices and to other agencies as needed.

<sup>2</sup> For clarity and future reference, additional notes have been inserted to identify the effective dates of each of the changes in the chart for 2011.

and fees will be found in one place, this cost chart **replaces** the cost chart that was effective August 1, 2011. The updated cost charts and an electronic copy of this memo are available online on the same web pages as the previous court cost documentation: on the Administrative Office of the Courts' (NCAOC) website at <http://www.nccourts.org/Courts/Trial/Costs> and on the NCAOC intranet site at <https://cis1.nccourts.org/intranet/aoc/legalservices/legalmemos/costs.jsp>.

**This is not the final cost memo for the year.** Cost changes thus far have been effective July 1, August 1, and December 1. Unless further amended by other legislation,<sup>3</sup> the next changes to court costs will take effect January 1, 2012.<sup>4</sup> A **supplemental costs memo and updated cost chart** will be distributed in advance of the effective date of those changes.

The criminal bills of costs will be updated to reflect the new impaired driving fee and will be made available electronically by December 1, 2011. PDF versions of updated bill of costs will be available on the NCAOC's web site at <http://www.nccourts.org/forms/FormSearch.asp>.

**FMS** and **Cash Receipting** will be updated overnight when the new fee takes effect. The new account numbers will be posted in the FMS Message Center at the appropriate time. Update instructions for **CourtFlow** will be distributed via e-mail.

The **eCITATION®** and **payNCticket.org** applications will not be updated with this fee, because none of the offenses to which the fee applies is waivable.

If you have any questions about the new cost, please contact NCAOC's Court Services Analyst (CSA) or Financial Management Analyst (FMA) for your county.

cc Judge John W. Smith, Director  
Gregg Stahl, Senior Deputy Director  
Basil McVey, Deputy Director  
McKinley Wooten, Deputy Director  
Sharon Gladwell, Communications Director  
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Ann Anderson, SOG  
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Dona Lewandowski, SOG  
Jamie Markham, SOG  
John Rubin, SOG  
Jessie Smith, SOG  
Jeff Welty, SOG

/Attachments (Court Costs and Fees Chart)

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<sup>3</sup> The General Assembly has decided to adjourn its session only for brief periods this year, so it is possible that further legislation affecting court costs could be enacted prior to the traditional short session that will begin in spring 2012. In the event any such legislation is enacted, the NCAOC will notify court officials in advance of the effective date(s).

<sup>4</sup> The next set of changes will apply only to costs in estate proceedings. See S.L. 2011-344 (SB 432, Revise Probate Code).