

CHAPTER 78
SB 20 - FINAL VERSION

04/27/2017 1546EBA

2017 SESSION

17-0770
03/10

SENATE BILL **20**

AN ACT relative to liquid chromatograph tests for intoxication.

SPONSORS: Sen. D'Allesandro, Dist 20

COMMITTEE: Judiciary

ANALYSIS

This bill authorizes the use of liquid chromatograph tests as evidence of intoxication under certain fish and game, motor vehicle, and aeronautics laws.

This bill was requested by the department of safety.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struck through.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Seventeen

AN ACT relative to liquid chromatograph tests for intoxication.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 78:1 Fish and Game; Licenses. Amend RSA 214:20-d, I to read as follows:

2 I. Any person who target practices, takes, or attempts to take wildlife in this state by use of
3 a firearm, bow and arrow, crossbow and bolt, or any other weapon, shall be deemed to have given
4 consent to physical tests and examinations for the purpose of determining whether that person is
5 under the influence of intoxicating liquor or any controlled drug or any combination of intoxicating
6 liquor and controlled drug, and to chemical, infrared molecular absorption, or **liquid or** gas
7 chromatograph test or tests of any or any combination of the following: blood, urine, or breath, for
8 the purposes of determining the controlled drug content of the person's blood or alcohol
9 concentration if arrested for any offense arising out of acts alleged to have been committed while
10 the person was target practicing, hunting, taking, or attempting to take wildlife, while under the
11 influence of intoxicating liquor or controlled drugs or any combination of alcohol or controlled drugs
12 or while having an alcohol concentration of 0.08 or more, or in the case of a person under the age of
13 21, 0.02 or more. The test or tests shall be administered at the direction of a law enforcement
14 officer having reasonable grounds to believe the person to have been hunting, taking, or attempting
15 to take wildlife while under the influence of intoxicating liquor or any controlled drug, or any
16 combination of intoxicating liquor and controlled drug.

17 78:2 Implied Consent. Amend RSA 265-A:4 to read as follows:

18 265-A:4 Implied Consent of Driver or Operator to Submit to Testing to Determine Alcohol
19 Concentration. Any person who drives, operates, or attempts to operate an OHRV, drives or
20 attempts to drive a vehicle upon the ways of this state, or operates or attempts to operate a boat
21 upon the public waters of the state shall be deemed to have given consent to physical tests and
22 examinations for the purpose of determining whether such person is under the influence of
23 intoxicating liquor or controlled drugs, prescription drugs, over-the-counter drugs, or any other
24 chemical substances, natural or synthetic, which impair a person's ability to drive and to a
25 chemical, infrared molecular absorption, or **liquid or** gas chromatograph test or tests of any or all
26 of any combination of the following: blood, urine, or breath, for the purpose of determining the
27 controlled drug, prescription drug, over-the-counter drug, or any other chemical substance, natural
28 or synthetic, which impairs a person's ability to drive content of such person's blood or alcohol
29 concentration if arrested for any offense arising out of acts alleged to have been committed while
30 the person was driving, operating, attempting to operate, or in actual physical control of an OHRV,

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driving, attempting to drive, or in actual physical control of a vehicle, or operating, attempting to operate, or in actual physical control of a boat while under the influence of intoxicating liquor or controlled drugs, prescription drugs, over-the-counter drugs, or any other chemical substances, natural or synthetic, which impair a person's ability to drive or while having an alcohol concentration in excess of the statutory limits contained in RSA 265-A:2 or RSA 265-A:3. The test or tests shall be administered at the direction of a law enforcement officer, peace officer, or authorized agent having reasonable grounds to believe the person to have been driving, operating, attempting to operate, or in actual physical control of an OHRV, driving or in actual physical control of a vehicle, or operating or in actual physical control of a boat while under the influence of intoxicating liquor or controlled drugs, prescription drugs, over-the-counter drugs, or any other chemical substances, natural or synthetic, which impair a person's ability to drive or while having an alcohol concentration of 0.08 or more, or in the case of a person under the age of 21, 0.02 or more. A copy of the report of any such test shall be furnished by the law enforcement agency to the person tested within 48 hours of receipt of the report by the agency by certified mail directed to the address shown on such person's license or other identification furnished by the person. Results of a test of the breath shall be furnished immediately in writing to the person tested by the certified breath testing operator conducting the test. When the incident involves an accident resulting in death or serious bodily injury to any person as provided in RSA 265-A:16, the prerequisites of RSA 265-A:8 shall not apply. Properly trained personnel of the United States Coast Guard may arrest and conduct tests on persons who are believed to be under the influence of intoxicating liquor or controlled drugs, prescription drugs, over-the-counter drugs, or any other chemical substances, natural or synthetic, which impair a person's ability to drive or a combination thereof, and who are in physical control of a boat operating upon the public coastal waters of this state.

78:3 Evidence. Amend RSA 265-A:11, II to read as follows:

II. Upon complaint, information, indictment, or trial of any person charged with a violation of the provisions of RSA 265-A:2, II relative to the operation of boats by a person under the influence of intoxicating liquor or a controlled drug, prescription drug, over-the-counter drug, or any other chemical substance, natural or synthetic, which impairs a person's ability to drive the court may admit evidence of the defendant's alcohol concentration at the time alleged, as shown by a chemical, infrared molecular absorption, or **liquid or** gas chromatograph test or tests of his or her breath, urine, or blood. Evidence that there was, at the time alleged, an alcohol concentration of 0.08 or more, is prima facie evidence that the defendant was under the influence of intoxicating liquor. Evidence that the defendant had, at the time alleged, an alcohol concentration of more than 0.03 and less than 0.08 is relevant evidence and may be considered with other competent evidence in determining whether or not the defendant was under the influence of intoxicating liquor. Evidence that the defendant had, at the time alleged, an alcohol concentration of 0.03 or less is prima facie evidence that the defendant was not under the influence of intoxicating liquor.

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1 78:4 Aeronautics. Amend RSA 422:28-a to read as follows:

2 422:28-a Implied Consent of Operator of Aircraft to Submit to Testing to Determine Alcohol
3 Concentration. Any person who operates or attempts to operate an aircraft on the ground, on the
4 public waters, or in the air in this state shall be deemed to have given consent to physical tests and
5 examinations for the purpose of determining whether the person is under the influence of
6 intoxicating liquor or controlled drugs, and to a chemical, infrared molecular absorption, or ***liquid***
7 ***or*** gas chromatograph test or tests of any or all of any combination of the following: blood, urine, or
8 breath for the purpose of determining the controlled drug content of the person's blood or alcohol
9 concentration if arrested for any offense arising out of acts alleged to have been committed while
10 the person was operating, attempting to operate, or in actual physical control of an aircraft while
11 under the influence of intoxicating liquor or controlled drugs or while having an alcohol
12 concentration of 0.04 or more. The test or tests shall be administrated at the direction of a peace
13 officer having reasonable grounds to believe the person to have been operating, attempting to
14 operate, or in actual physical control of an aircraft in this state while under the influence of
15 intoxicating liquor or controlled drugs or while having an alcohol concentration of 0.04 or more. A
16 copy of the report of any such test shall be furnished by the law enforcement agency to the person
17 tested within 48 hours of receipt of the report by the agency by certified mail directed to the address
18 shown on identification furnished by the person. Results of a test of the breath shall be furnished
19 immediately in writing to the person tested by the law enforcement officer conducting the test.

 78:5 Effective Date. This act shall take effect July 1, 2017.

Approved: June 02, 2017

Effective Date: July 01, 2017