

**§ 63-27. Operation of aircraft while impaired.**

(a) Offense. – A person commits the offense of operation of an aircraft while impaired if he operates an aircraft, whether on the ground or in the air or on water, within this State:

- (1) While under the influence of an impairing substance; or
- (2) After having consumed sufficient alcohol that he has, at any relevant time after the operating of an aircraft, an alcohol concentration of 0.04 or more.

The relevant definitions contained in G.S. 20-4.01 shall apply to this section.

(b) Defense precluded. – The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense to a charge under this section.

(c) Pleading. – In any prosecution for operating an aircraft while impaired, the pleading is sufficient if it states the time and place of the alleged offense in the usual form and charges that the defendant operated the aircraft within this State while subject to an impairing substance.

(d) Chemical Analysis. – Any person who operates an airplane or other aircraft, whether on the ground or in the air or on the water within the territorial limits of this State gives consent to chemical analysis if he is charged with the offense of operating an aircraft while impaired. The charging officer must designate the type of chemical analysis to be administered, and it may be administered when he has reasonable grounds to believe that the person charged has committed the specified crime. The chemical analysis shall be performed pursuant to the procedures established under Chapter 20 of the General Statutes applying to motor vehicle violations with the exception that if the person charged refuses to be tested, the charging officer shall, in writing, notify the local office of the Federal Aviation Administration of the individual's refusal. The results of any chemical tests administered pursuant to this section will be admissible into evidence at trial on the offense charged and a written report of the test results shall be made available to the local office of the Federal Aviation Administration.

(e) Punishment. – A person violating this section shall be guilty of a Class 1 misdemeanor. Provided, however, for a second and all subsequent convictions of this section, a person shall be guilty of a Class I felony. (1929, c. 90, s. 3; 1953, c. 675, s. 8; 1987, c. 818, s. 1; 1993, c. 539, ss. 497, 1279; 1994, Ex. Sess., c. 24, s. 14(c).)