



Revocations

- Revocations and suspensions
 - Discretionary/Mandatory
 - Conviction based/administrative
 - Definition of conviction/PJC
 - Definition section—GS 20-4.01
 - Limited driving privileges if authorized by statute
 - Commercial vehicle license actions



Conviction

■ In-state

- Final conviction
- No contest plea
- Forfeiture of cash bond
- Third PJC in five years, except for commercial drivers, where first one counts

■ Out-of-state

- Determination of guilt, inc. no contest pleas
- Bond forfeiture, or pretrial release violation



Mandatory Revocations

- DWI, including commercial and felony DWI
- Underage drinking/driving
- Some open container law violations
- Underage purchase of alcohol
- Manslaughter and death by vehicle



Mandatory Revocations

- Speeding (over 15 over limit and over 55, or over 80)
- Speeding to elude arrest
- Driving while license revoked
- Moving violations while revoked
- Prearranged racing
- Combinations involving reckless driving
- Failure to yield, personal injury



Discretionary Revocations

- Speeding charges
 - Two over 55
 - One over 75 or 80, depending on limit
- Point system
- Illegal transportation of alcohol
- Impaired instruction
- “Move over” violations causing serious injury or death (July 1, 2006)



Limited Driving Privileges

- DWI, after assessment
- CVR
- Refusals
- Some underage drinking and driving
- Transporting open container, second offense
- Hit and Run



Limited Driving Privileges

- Speeding (some offenses only)
- Speeding to elude arrest
- Child support revocations
- Stealing gas
- Probation violations
- “Move over” violations resulting in injury or death (July 1, 2006)



Impaired Driving

- Defendant, age 17, is charged with DWI and underage drinking and driving. He pleads guilty to DWI.
 - What are the license consequences?
 - What if he pleads to both offenses?
 - What if he pleads to the underage offense only?
 - What if he were 20?



Underage Drinkers

- If convicted of impaired driving alone, or in combination with GS 20-138.3, and under age 21, no limited privilege
- If convicted of GS 20-138.3 alone, and over 18, limited privilege authorized



Impaired Driving

- A professional driver (commercial licensee) is convicted of impaired driving while on vacation in his private vehicle.
 - What is the effect on his license?
 - Can he get a limited privilege? What vehicles does it cover?
 - If he refused a chemical test and that revocation has been in effect for six months, what are the license implications if he decides to appeal?



Impaired Driving Revocations

- CVR—begins when order issued, lasts 30 days to ???
- DWI conviction—begins on conviction date or DMV notice date; lasts from one year to permanent
 - Commercial, felony DWI
- Refusal—begins on notice date; one year
- Court ordered non operation—negates LDP



Impaired Driving

- Defendant convicted of impaired driving had an intoxilyzer test result of .18 on first test and refused second. How does interlock statute apply to him? He has no priors.



Impaired Driving Revocations

■ Interlock

- Applies if alcohol concentration of 0.16 or more, or priors in past seven years
- Applies to limited privilege and on reinstatements
- If have interlock are not revoked, but violation is DWLR



Impaired Driving

- What if a convicted impaired driver declines to get an assessment since he thinks they are just out to get his money and don't have anything to offer him?



Assessment and Treatment— GS 20-17.6

- Applicable to DWI, Commercial DWI, underage drinking/driving, zero tolerance offenses
- Can't get license until treatment completed
- Failure to complete continues revocation but LDP expires



Assessment and Treatment— GS 20-17.6

- Assessment only required for
 - Mitigating factor
 - LDP for conviction
 - CVR LDP
- Treatment (or education) also required for
 - Restoration of license
 - Parole
 - Refusal LDP



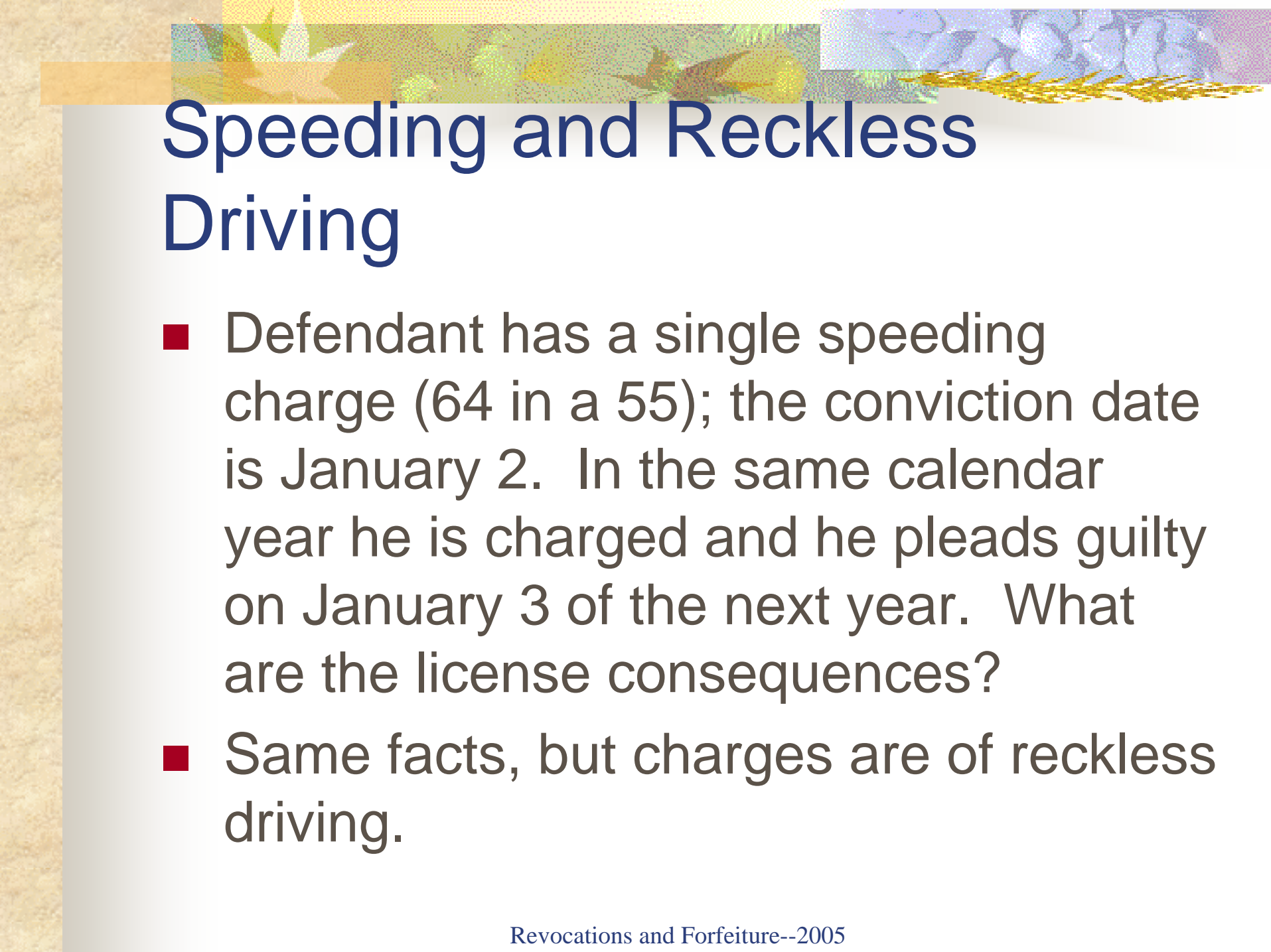
Driving While License Revoked

- Defendant with a revoked license is charged with running a red light. His attorney asks to plead to DWLR instead. Why would he do that?
- GS 20-28 and GS 20-28.1 have separate tracks to determine if multiple offenses carry longer revocations



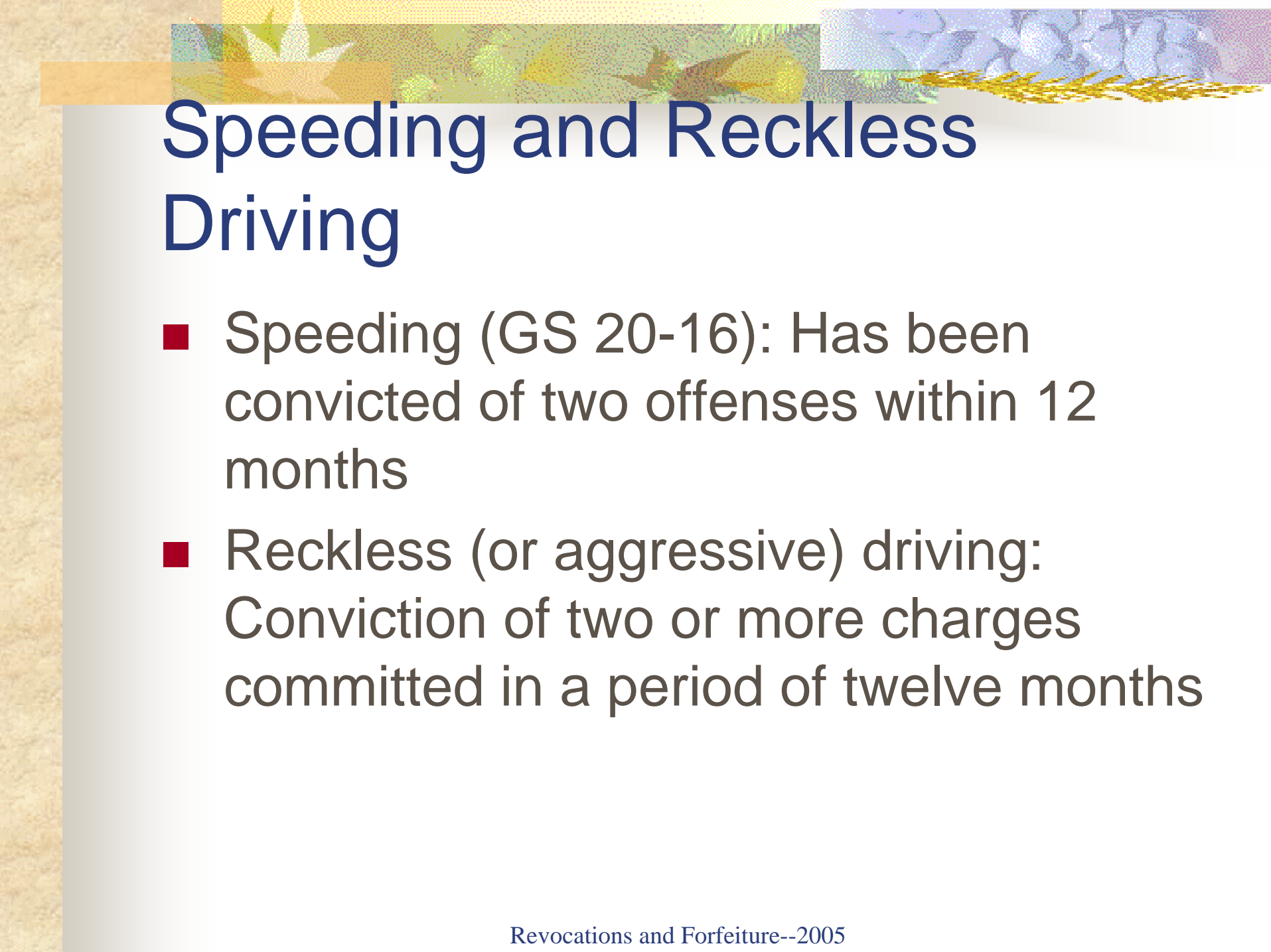
Speeding

- Defendant is charged with driving 75 in a 55 zone and impaired driving. If the second charge is reduced to reckless driving, what are the license consequences?
- Mandatory revocation of 60 days and discretionary revocation of 6 months



Speeding and Reckless Driving

- Defendant has a single speeding charge (64 in a 55); the conviction date is January 2. In the same calendar year he is charged and he pleads guilty on January 3 of the next year. What are the license consequences?
- Same facts, but charges are of reckless driving.



Speeding and Reckless Driving

- Speeding (GS 20-16): Has been convicted of two offenses within 12 months
- Reckless (or aggressive) driving: Conviction of two or more charges committed in a period of twelve months



Underage Purchase

- A 17 year old is charged with with illegal purchase of hard liquor. She pleads guilty. What is the effect on her license?
- What if she were 20?
- What if she pleads to possession?
- What if the beverage were beer?



Underage Purchase

- Revocation is for purchase or attempt to purchase, not possession
- Revocation applies to all forms of alcohol
- Revocation applies to all underage persons
- Similar revocation for false ID, or aiding and abetting if underage age
- No LDP, and runs consecutive to other revocations



Commercial Licensees

- Disqualification (loss of privilege to operate commercial vehicle) for certain offenses, *even if committed in noncommercial vehicle*
- DWI, Commercial DWI, Commercial zero tolerance infraction, Hit and run, Felony using vehicle, Refusal, CVR, Homicide, and Driving commercial vehicle while license revoked or disqualified



Seizure of Vehicle

- Must be covered charge—Impaired driving, felony DWI, Commercial DWI or homicide
- Must be covered revocation—DWI related revocations listed in GS 20-28.2



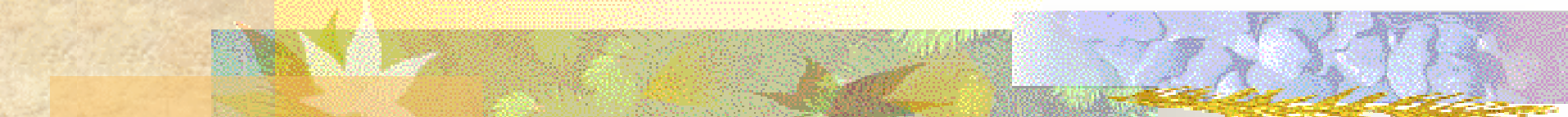
DA Duty

- Determine if pretrial release proper
- Speedy trial requirement
- Notice to parties when hearing scheduled



Release of Vehicle Before Trial

- Pretrial release
- Innocent owner (clerk)
- Owner-defendant (DA consent or judge hearing)
- Lienholder (DA consent or judge hearing)



Court's Duty to Process Cases

- In cases in which vehicle seized, trials must be scheduled on sooner of “arresting officer’s next court date, or within 30 days of the offense”
- Once scheduled, can’t be continued except for “compelling reason” finding made by judge and put in file
 - Must have written motion for continuance
- If found guilty, forfeiture hearing to take place immediately or “as soon thereafter as feasible