

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 621
HOUSE BILL 1619

AN ACT TO COMPLY WITH FEDERAL LAW BY REVISING THE BINGO STAMP METHOD OF ENSURING THAT FOR-HIRE VEHICLES OPERATED IN THIS STATE IN INTERSTATE COMMERCE ARE INSURED AND TO MAKE TECHNICAL CHANGES TO THE MOTOR CARRIER LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-382 reads as rewritten:

"§ 20-382. ~~Interstate carriers.~~ **Registration of for-hire interstate motor carriers and verification that their vehicles are insured.**

(a) ~~Registration.~~ This Article shall apply to persons and vehicles engaged in interstate commerce over the highways of this State, except insofar as the provisions of this Article may be inconsistent with, or shall contravene, the Constitution or laws of the United States, and the Division may, in its discretion, require such carriers to file with it copies of their respective interstate authority or register their exempt operation and registration of their vehicles operated in the State, and to observe such reasonable rules and regulations as the Division may deem advisable in the administration of this Article and for the protection of persons and property upon the highways of the State. A motor carrier may not operate a for-hire motor vehicle in interstate commerce in this State unless the motor carrier has complied with all of the following requirements:

- (1) Registered its operations with the Division by doing one of the following:
 - a. Filing a copy of the certificate of authority issued to it by the Interstate Commerce Commission allowing it to operate in this State and any amendments to that authority.
 - b. Certifying to the Division that it carries only items that are not regulated by the Interstate Commerce Commission.
- (2) Verified, in accordance with subsection (b) or (c) of this section, that it has insurance for each for-hire motor vehicle it operates.
- (3) Paid the fees set in G.S. 20-385.

(b) ~~Insurance Verification for ICC-Regulated Motor Carriers.~~ The Division or its authorized representative is authorized to confer with and to hold joint hearings with the authorities of other states or with the Interstate Commerce Commission or its representatives, or any other federal or State agency in connection with any matter arising under this Chapter, or under the Federal Motor Carrier Act, or under any other federal law which may directly or indirectly affect the interests of the people of this State or the policy declared by this Chapter or by the Interstate Commerce Act. A

motor carrier that operates a for-hire motor vehicle in interstate commerce in this State, is regulated by the Interstate Commerce Commission, and designates this State as its registration state must obtain a receipt from the Division verifying that each for-hire motor vehicle the motor carrier operates in any jurisdiction is insured. To obtain a receipt, the motor carrier must apply annually to the Division during the application period and state the number of for-hire motor vehicles the motor carrier intends to operate in each jurisdiction during the next calendar year. The certificate of authority issued to the motor carrier by the Interstate Commerce Commission is proof that the motor carrier has insurance for its for-hire motor vehicles.

The motor carrier must keep a copy of the receipt in each of its for-hire motor vehicles. The motor carrier may transfer the receipt from one for-hire motor vehicle to another as long as the total number of for-hire motor vehicles operated in any jurisdiction and in all jurisdictions does not exceed the number stated on the receipt.

A motor carrier may operate more for-hire motor vehicles in a jurisdiction than stated in its most recent annual application only if the motor carrier files another application with the Division and obtains a receipt stating the increased number. A motor carrier that obtains a receipt for an increased number of for-hire motor vehicles must put a copy of the new receipt in each of its for-hire motor vehicles. The new receipt replaces rather than supplements the previous receipt.

(c) Insurance Verification for Nonregulated Motor Carriers. ~~Any person operating a for hire motor vehicle in interstate commerce over the highways of this State without having properly registered with the Division its respective exempt operation or a copy of its interstate authority and each vehicle operated in this State shall be subject to a penalty of seventy five dollars (\$75.00), which shall be added to the registration fees provided in G.S. 20-385 and said penalty shall be collected with said registration fee from any carrier operating on the highways of North Carolina without registering his interstate authority by inspectors and officers of the Division in accordance with rules and regulations duly adopted by the Division before said vehicle shall be permitted to operate further upon the highways of North Carolina.~~ A motor carrier that operates a for-hire motor vehicle in interstate commerce in this State and is exempt from regulation by the Interstate Commerce Commission must verify to the Division that each for-hire motor vehicle the motor carrier operates in this State is insured. To do this, the motor carrier must obtain annually for each for-hire motor vehicle a cab card approved by the Commissioner and a North Carolina identification stamp issued by the Division. To obtain an identification stamp, the motor carrier must apply annually to the Division during the application period for an identification stamp for each for-hire motor vehicle the motor carrier intends to operate in this State during the next 12-month period beginning February 1.

The motor carrier must place the identification stamp on the cab card and keep the cab card in the for-hire motor vehicle for which it was issued. An identification stamp is issued for a specific for-hire motor vehicle and is not transferable from one for-hire motor vehicle to another.

A motor carrier may operate in this State a for-hire motor vehicle for which it did not obtain an identification stamp during the most recent annual application period only

if it obtains for that vehicle either a cab card and identification stamp or an emergency permit. A motor carrier may obtain an additional identification stamp after the close of the annual application period by filing an application for it with the Division. An identification stamp issued after the close of the annual application period expires the same date as one issued during the annual application period.

A motor carrier may obtain an emergency permit by filing an application for it with the Division. An emergency permit allows the motor carrier to operate a for-hire motor vehicle in this State without a cab card and identification stamp between the time the motor carrier has applied for an identification stamp and the time the Division issues the identification stamp.

~~(d) No motor carrier, whether operating as a regulated carrier or exempt for-hire carrier, shall operate or cause to be operated in interstate commerce in this State any vehicle until he has filed evidence of required insurance with the Division and has been issued an identification stamp for such vehicle, which stamp must be attached to the approved uniform cab card and carried in the vehicle at all times. The identification stamp herein provided for shall be issued on an annual basis as of January 1st each year and shall be valid through February 1st the next succeeding year. When any person is discovered in this State, operating a vehicle in violation of this section, it shall be unlawful for anyone thereafter to operate said vehicle on the streets or highways of this State, except to remove it from the street or highway for purposes of parking or storing said vehicle until he shall pay to the Division a penalty of seventy five dollars (\$75.00). No court of the State shall entertain a suit of any kind brought for the purpose of preventing the collection of any penalty imposed in this section. Whenever a person shall have a valid defense to the enforcement of the collection of a penalty assessed or charged against him, such person shall pay such penalty to the proper officer, and notify such officer in writing that he pays the same under protest. Such payment shall be without prejudice to any defense or rights he may have in the premises, and he may, at any time within 30 days after such payment, demand the same in writing from the Commissioner of Motor Vehicles; and if same shall not be refunded within 90 days thereafter, may sue such official in the courts of the State for the amount so demanded. Such suit must be brought in the Superior Court of Wake County, or in the county in which the person paying the penalty resides. No restraining order or injunction shall issue from any court of the State to restrain or enjoin the collection of the penalty or to permit the operation of said vehicle without payment of the penalty prescribed herein."~~

Sec. 2. Part 2 of Article 17 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-382.1. Registration of for-hire intrastate motor carriers and verification that their vehicles are insured.

(a) Registration. – A motor carrier may not operate a for-hire motor vehicle in intrastate commerce in this State unless the motor carrier has complied with all of the following requirements:

- (1) Registered its operations with the State by doing one of the following:
 - a. Obtaining a certificate or a permit from the North Carolina Utilities Commission, if the motor carrier hauls regulated items.

b. Obtaining a certificate of exemption from the Division, if the motor carrier hauls only items that are not regulated by the North Carolina Utilities Commission.

(2) Verified, in accordance with subsection (b) of this section, that it has insurance for each for-hire motor vehicle it operates in this State.

(3) Paid the fees set in G.S. 20-385.

(b) Insurance Verification. – A motor carrier that operates a for-hire vehicle in intrastate commerce in this State must verify to the Division that each for-hire motor vehicle it operates in this State is insured. To do this, the motor carrier must submit an insurance verification form to the Division and must file annually with the Division a list of the for-hire vehicles it operates in this State."

Sec. 3. Part 2 of Article 17 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-382.2. Penalty for failure to comply with registration or insurance verification requirements.

(a) Acts. – A motor carrier who does any of the following is subject to a civil penalty of seventy-five dollars (\$75.00):

(1) Operates a for-hire motor vehicle in this State without registering its operations, as required by this Part.

(2) Operates a for-hire motor vehicle in interstate commerce in this State that does not carry a copy of either an insurance registration receipt issued to the motor carrier or a cab card with an identification stamp issued for the vehicle, as required by G.S. 20-382.

(3) Operates a for-hire motor vehicle in intrastate commerce in this State for which it has not verified it has insurance, as required by G.S. 20-382.1.

(b) Payment. – When the Division finds that a for-hire motor vehicle is operated in this State in violation of the registration and insurance verification requirements of this Part, the motor vehicle may not be driven for a purpose other than to park the motor vehicle until the penalty imposed under this section is paid unless the officer that imposes the penalty determines that operation of the motor vehicle will not jeopardize collection of the penalty. A motor carrier that denies liability for a penalty imposed under this section may pay the penalty under protest and apply to the Division for a hearing.

(c) Hearing. – Upon receiving a request for a hearing, the Commissioner must schedule a hearing within 30 days after receipt of the request. If after the hearing the Commissioner determines that the motor carrier was not liable for the penalty, the amount collected must be refunded. If after the hearing the Commissioner determines that the motor carrier was liable for the penalty, the motor carrier may bring an action in the Superior Court of Wake County against the Division for refund of the penalty. A court of this State may not issue a restraining order or an injunction to restrain or enjoin the collection of the penalty or to permit the operation of the vehicle without payment of the penalty.

(d) Proceeds. – A penalty imposed under this section is payable to the Division. Penalties collected under this section shall be credited to the Highway Fund as nontax revenue."

Sec. 4. G.S. 20-385 reads as rewritten:

"§ 20-385. Particular fees and charges fixed; payment. Fee schedule.

(a) Amounts. – ~~The Divisions shall receive and collect the following fees and charges:~~

- ~~(1) One dollar (\$1.00) for the registration with the Division of each motor vehicle to be put in operation by a motor carrier operating under the jurisdiction of the North Carolina Utilities Commission, and a fee of one dollar (\$1.00) for the annual reregistration of each such motor vehicle.~~
- ~~(2) Twenty five dollars (\$25.00) for the filing with the Division of the interstate motor carrier operating authority or registration of interstate exempt operation of every motor carrier operating into, from, within, or through North Carolina and filed with the Division under the provisions of G.S. 20-382 and five dollars (\$5.00) for filing all subsequent amendments thereto to maintain said filing in a current status.~~
- ~~(3) One dollar (\$1.00) for the registration with the Division of each motor vehicle operated into, from, within, or through North Carolina by interstate carriers and registered with the Division under the provisions of G.S. 20-382, and a fee of one dollar (\$1.00) for the annual reregistration of each such motor vehicle.~~
- ~~(4) Twenty five dollars (\$25.00) for each Certificate of Exemption issued by the Division.~~
- ~~(5) Ten dollars (\$10.00) for each emergency permit issued by the Division in accordance with G.S. 20-382.~~
- (1) Verification by a for-hire motor carrier of insurance for each for-hire motor vehicle operated in this State \$ 1.00
- (2) Application by an intrastate motor carrier for a certificate of exemption 25.00
- (3) Certification by an interstate motor carrier that it is not regulated by the ICC 25.00
- (4) Application by an interstate motor carrier for an emergency permit 10.00.

(b) Reciprocal Agreements. – The fee set in subdivision (a)(1) of this section does not apply to the verification of insurance by an interstate motor carrier regulated by the Interstate Commerce Commission if the Division had a reciprocal agreement on November 15, 1991, with another state by which no fee is imposed. The Division had reciprocal agreements as of that date with the following states: California, Delaware, Indiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, Pennsylvania, Texas, and Vermont."

Sec. 5. G.S. 20-376(3), (6), (10), (11), (12), (17), (18), (20), and (22) are repealed.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of July, 1994.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives