

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 134

Short Title: DMV/DOT Technical Changes.

(Public)

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Sponsors: Representatives McLaughlin; Bowie, McAllister, Yongue, and Sutton.

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Referred to: Transportation, if favorable, Judiciary I.

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February 8, 1995

A BILL TO BE ENTITLED

1 AN ACT TO MAKE TECHNICAL CHANGES TO THE MOTOR VEHICLE LAWS  
2 AND OTHER LAWS CONCERNING THE DEPARTMENT OF  
3 TRANSPORTATION.  
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 20-16.2(a) reads as rewritten:

7 "(a) Basis for Charging Officer to Require Chemical Analysis; Notification of  
8 Rights. – Any person who drives a vehicle on a highway or public vehicular area thereby  
9 gives consent to a chemical analysis if charged with an implied-consent offense. The  
10 charging officer must designate the type of chemical analysis to be administered, and it  
11 may be administered when the officer has reasonable grounds to believe that the person  
12 charged has committed the implied-consent offense.

13 Except as provided in this subsection or subsection (b), before any type of chemical  
14 analysis is administered the person charged must be taken before a chemical analyst  
15 authorized to administer a test of a person's breath, who must inform the person orally  
16 and also give the person a notice in writing that:

17 (1) He has a right to refuse to be tested.

18 (2) Refusal to take any required test or tests will result in an immediate  
19 revocation of his driving privilege for at least 10 days and an additional  
20 12-month revocation by the Division of Motor Vehicles.

- 1 (3) The test results, or the fact of his refusal, will be admissible in evidence
- 2 at trial on the offense charged.
- 3 (4) His driving privilege will be revoked immediately for at least 10 days if:
- 4 a. The test reveals an alcohol concentration of 0.08 or more; or
- 5 b. He was driving a commercial motor vehicle and the test reveals
- 6 an alcohol concentration of 0.04 or more.
- 7 (5) He may have a qualified person of his own choosing administer a
- 8 chemical test or tests in addition to any test administered at the direction
- 9 of the charging officer.
- 10 (6) He has the right to call an attorney and select a witness to view for him
- 11 the testing procedures, but the testing may not be delayed for these
- 12 purposes longer than 30 minutes from the time he is notified of his
- 13 rights.

14 If the charging officer or an arresting officer is authorized to administer a chemical  
 15 analysis of a person's ~~breath and the charging officer designates a chemical analysis of the~~  
 16 ~~blood of the person charged, breath,~~ the charging officer or the arresting officer may give  
 17 the person charged the oral and written notice of rights required by this subsection. This  
 18 authority applies regardless of the type of chemical analysis designated."

19 Sec. 2. G.S. 20-79.7(b) reads as rewritten:

20 "(b) Distribution of Fees. – The Special Registration Plate Account and the  
 21 Collegiate and Cultural Attraction Plate Account are established within the Highway  
 22 Fund. The Division must credit the additional fee imposed for the special registration  
 23 plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the  
 24 Collegiate and Cultural Attraction Plate Account (CCAPA), and the ~~Recreation and~~  
 25 ~~Natural Heritage Trust Fund (RNHTF), (NHTF),~~ which is established under G.S. 113-  
 26 77.7, as follows:

<u>Special Plate</u>	<u>SRPA</u>	<u>CCAPA</u>	<u>Historical</u>
27 Attraction \$10 \$20 0			
28 In-State Collegiate Insignia	\$10	\$15	0
29 Out-of-state Collegiate Insignia		\$10	0 \$15
30 Personalized	\$10	0	\$10
31 Special Olympics	\$10	\$15	0
32 State Attraction	\$10	\$20	0
33 Wildlife Resources	\$10	\$10	0
34 All other Special Plates	\$10	0	0."

36 Sec. 3. G.S. 20-82 is repealed.

37 Sec. 4. G.S. 20-297 reads as rewritten:

38 "**§ 20-297. Inspection of records, etc. Retention and inspection of certain records.**

39 (a) Vehicles. – A dealer must keep a record of all vehicles received by the dealer  
 40 and all vehicles sold by the dealer. The records must contain the information the  
 41 Division requires.

1 (b) Inspection. – The Division may inspect the pertinent books, records, ~~letters~~  
2 ~~letters~~, and contracts of a licensee relating to any written complaint made to ~~him~~ against  
3 ~~such the Division against the licensee.~~"

4 Sec. 5. G.S. 20-88(f) is repealed.

5 Sec. 6. G.S. 20-135.2B(b) reads as rewritten:

6 "(b) Subsection (a) of this section ~~shall not apply when:~~ does not apply in any of the  
7 following circumstances:

8 (1) An adult is present in the bed or cargo area of the vehicle and is  
9 supervising the ~~child;~~ child.

10 (2) The child is secured or restrained by a seat belt manufactured in  
11 compliance with Federal Motor Vehicle Safety Standard No. 208,  
12 installed to support a load strength of not less than 5,000 pounds for  
13 each belt, and of a type approved by the ~~Commissioner;~~ Commissioner.

14 (3) An emergency situation ~~exists;~~ exists.

15 (4) The vehicle is being operated in a parade pursuant to a valid permit.

16 (5) The vehicle is being operated in an agricultural ~~enterprise;~~ or enterprise.

17 (6) ~~the~~ The vehicle is being operated in a county ~~which~~ that has no  
18 incorporated area with a population in excess of 3,500."

19 Sec. 7. G.S. 20-141.3(a) reads as rewritten:

20 "(a) It shall be unlawful for any person to operate a motor vehicle on a street or  
21 highway willfully in prearranged speed competition with another motor vehicle. Any  
22 person violating the provisions of this subsection shall be guilty of a Class ~~2-1~~  
23 misdemeanor."

24 Sec. 8. G.S. 20-141.3(b) reads as rewritten:

25 "(b) It shall be unlawful for any person to operate a motor vehicle on a street or  
26 highway willfully in speed competition with another motor vehicle. Any person willfully  
27 violating the provisions of this subsection shall be guilty of a Class ~~4-2~~ 2 misdemeanor."

28 Sec. 9. G.S. 20-183.2(b)(5) reads as rewritten:

29 "(5) It meets any of the following descriptions:

30 a. It is required to be registered in an emissions county.

31 b. It is part of a fleet that is operated primarily in an emissions  
32 county.

33 c. It is offered for rent in an emissions county.

34 d. It is offered for sale by a dealer in an emissions ~~county;~~ county  
35 and is not a new vehicle that has not been titled.

36 e. It is operated on a federal installation located in an emissions  
37 county and it is not a tactical military vehicle. Vehicles operated  
38 on a federal installation include those that are owned or leased by  
39 employees of the installation and are used to commute to the  
40 installation and those owned or operated by the federal agency  
41 that conducts business at the installation.

42 f. It is otherwise required by 40 C.F.R. Part 51 to be subject to an  
43 emissions inspection."

1           Sec. 10. G.S. 20-183.8C(c) reads as rewritten:

2           "(c) Type III. – It is a Type III violation for an emissions self-inspector, an  
3 emissions inspection station, or an emissions inspection mechanic to do any of the  
4 following:

5           (1) Fail to post an emissions license issued by the Division.

6           (2) Fail to send information on emissions inspections to the Division at the  
7 time or in the form required by the Division."

8           Sec. 11. G.S. 20-183.11 is repealed.

9           Sec. 12. G.S. 20-183.12 is repealed.

10          Sec. 13. G.S. 20-305(5)b.6. reads as rewritten:

11                       "6. Whether the establishment of an additional new  
12 motor vehicle dealer or relocation of an existing new  
13 motor vehicle dealer in the relevant market area would  
14 increase competition in a manner such as to be in the  
15 long-term public interest; and".

16          Sec. 14. G.S. 136-66.1(4) reads as rewritten:

17          "(4) If the governing body of any municipality ~~shall determine~~ determines that  
18 it is in the best interest of its citizens to do so, it may expend its funds  
19 for the purpose of making any of the following improvements on streets  
20 that are within its corporate limits ~~which~~ and form a part of the State  
21 highway system:

22           a. Construction of curbing and ~~guttering~~; guttering.

23           b. Adding of lanes for automobile ~~parking~~; parking.

24           c. Constructing street drainage facilities which may by reasonable  
25 engineering estimates be attributable to that amount of surface  
26 water collected upon and flowing from municipal streets which  
27 do not form a part of the State highway ~~system~~; system.

28           d. Constructing sidewalks.

29           e. Intersection improvements, if the governing body determines that  
30 such improvements will decrease traffic congestion, improve  
31 safety conditions, and improve air quality.

32           In exercising the authority granted herein, the municipality may,  
33 with the consent of the Department of Transportation, perform the work  
34 itself, or it may enter into a contract with the Department of  
35 Transportation to perform such work. Any work authorized by this  
36 subdivision shall be financed entirely by the municipality and be  
37 approved by the Department of Transportation.

38           The cost of any work financed by a municipality pursuant to this  
39 subdivision may be assessed against the properties abutting the street or  
40 highway upon which such work was performed in accordance with the  
41 procedures of either Article 10 of Chapter 160A of the General Statutes  
42 or any charter provisions or local acts applicable to the particular  
43 municipality."

1           Sec. 15. G.S. 136-92 reads as rewritten:

2 **"§ 136-92. Obstructing highway drains misdemeanor. prohibited.**

3           ~~Any person who shall obstruct any drains~~ It is unlawful to obstruct a drain along or  
4 leading from any public road in the State shall be guilty of a Class 3 misdemeanor, and  
5 punished only by a fine of not less than ten (\$10.00) nor more than one hundred dollars  
6 (\$100.00). State. A person who violates this section is responsible for an infraction."

7           Sec. 16. Sections 7, 8, and 15 of this act become effective July 1, 1995, and  
8 apply to offenses occurring on or after that date. The remainder of this act is effective  
9 upon ratification.