

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 756
SENATE BILL 1294

AN ACT TO CONFORM THE MOTOR VEHICLE LAWS TO THE FEDERAL DEREGULATION OF TRUCKING AND TO MAKE TECHNICAL CHANGES TO THE MOTOR VEHICLE LAWS.

The General Assembly of North Carolina enacts:

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

"§ 20-1. Division of Motor Vehicles of the Department of Transportation; powers and duties. established.

~~The Department of Motor Vehicles is hereby redesignated the Division of Motor Vehicles of the Department of Transportation. The Division of Motor Vehicles shall have the same powers and duties as were held by the Department of Motor Vehicles except as otherwise provided in this Article. All powers, duties and functions relating to the collection of motor fuel taxes and the collection of the gasoline and oil inspection taxes shall continue to be vested in and exercised by the Secretary of Revenue, and wherever it is now provided by law that reports shall be filed with the Secretary of Revenue, or Department of Revenue, as a basis for collecting the motor fuel or gasoline and oil inspection taxes, or enforcing any of the laws regarding the motor fuel or gasoline and oil inspection taxes, such reports shall continue to be made to the Department of Revenue and the Commissioner of Motor Vehicles shall make available to the Secretary of Revenue all information from files of the Division of Motor Vehicles which the Secretary of Revenue may request to enable him to better enforce the law with respect to the collection of such taxes. Nothing in this Article shall deprive the Utilities Commission of any of the duties or powers now vested in it with regard to the regulation of motor vehicle carriers. Transportation is established. This Chapter sets out the powers and duties of the Division."~~

Sec. 2. G.S. 20-4.01(27)c. reads as rewritten:

"c. Common carriers of passengers. – Vehicles operated under a ~~franchise~~ certificate of authority issued by the Utilities Commission for operation on the highways of this State between fixed termini or over a regular route for the transportation of persons ~~or property~~ for compensation."

Sec. 3. G.S. 20-4.01 is amended by adding the following subdivisions in the appropriate alphabetical order to read:

"(11a) For-Hire Motor Carrier. – A person who transports passengers or property by motor vehicle for compensation.

(21b) Motor Carrier. – A for-hire motor carrier or a private motor carrier.

(29a) Private Motor Carrier. – A person who transports passengers or property by motor vehicle in interstate commerce and is not a for-hire motor carrier."

Sec. 4. G.S. 20-4.01(31) reads as rewritten:

"(31) Property-Hauling Vehicles. –

a. ~~Exempt for hire vehicles.— Vehicles used for the transportation of property for hire but not licensed as common carriers or contract carriers of property under franchise certificates or permits issued by the Utilities Commission or by the Interstate Commerce Commission; provided, that the term "for hire" shall include every arrangement by which the owner of a vehicle uses, or permits such vehicle to be used, for the transportation of the property of another for compensation, subject to the following exemptions:~~

- ~~1. The transportation of farm crops or products, including logs, bark, pulp, and tannic acid wood delivered from farms and forest to the first or primary market, and the transportation of wood chips from the place where wood has been converted into chips to their first or primary market.~~
- ~~2. The transportation of perishable foods which are still owned by the grower while being delivered to the first or primary market by an operator who has not more than one truck, truck tractor, or trailer in a for hire operation.~~
- ~~3. The transportation of merchandise hauled for neighborhood farmers incidentally and not as a regular business in going to and from farms and primary markets.~~
- ~~4. The transportation of T.V.A. or A.A.A. phosphate and/or agricultural limestone in bulk which is furnished as a grant of aid under the United States Agricultural Adjustment Administration.~~
- ~~5. The transportation of fuel for the exclusive use of the public schools of the State.~~
- ~~6. Vehicles whose sole operation in carrying the property of others is limited to the transportation of the United States mail pursuant to a contract, or the extension or renewal of such contract.~~
- ~~7. Vehicles leased for a term of one year or more to the same person when used exclusively by such person in transporting his own property.~~

b. ~~Common carrier of property vehicles.— Vehicles used for the transportation of property certified by the Utilities Commission or the Interstate Commerce Commission as common carriers.~~

- e. ~~Private hauler vehicles. — Vehicles used for the transportation of property not falling within one of the above defined classifications; provided, self propelled vehicles equipped with permanent living and sleeping facilities used for camping activities shall be classified as private passenger vehicles.~~
- d. Semitrailers. — Vehicles without motive power designed for carrying property or persons and for being drawn by a motor vehicle, and so constructed that part of their weight or their load rests upon or is carried by the pulling vehicle.
- e. Trailers. — Vehicles without motive power designed for carrying property or persons wholly on their own structure and to be drawn by a motor vehicle, including "pole trailers" or a pair of wheels used primarily to balance a load rather than for purposes of transportation.
- f. ~~Contract carrier of property vehicles. — Vehicles used for the transportation of property under a franchise permit of a regulated contract carrier issued by the Utilities Commission or the Interstate Commerce Commission."~~

Sec. 5. G.S. 20-37.16(e) reads as rewritten:

"(e) The requirements for a commercial drivers license do not apply to vehicles used for personal use such as recreational vehicles. A commercial drivers license is also waived for the following classes of vehicles as permitted by regulation of the United States Department of Transportation:

- (1) Vehicles owned or operated by the Department of Defense, including the National Guard, while they are driven by active duty military personnel, or members of the National Guard when on active duty, in the pursuit of military ~~purposes;~~ purposes.
- (2) Any vehicle when used as firefighting or emergency equipment for the purpose of preserving life or property or to execute emergency governmental ~~functions;~~ and functions.
- (3) ~~Farm vehicles that meet~~ A farm vehicle that meets all of the following criteria:
 - a. ~~Controlled~~ Is controlled and operated by the farmer or the farmer's employee and used exclusively for farm ~~use;~~ use.
 - b. ~~Used~~ Is used to transport either agricultural products, farm machinery, or farm supplies, both to or from a ~~farm;~~ farm.
 - c. ~~Not~~ Is not used in the operations of a ~~common or contract for-hire motor carrier;~~ and carrier.
 - d. ~~Used~~ Is used within 150 miles of the farmer's farm.

A farm vehicle includes a forestry vehicle that meets the listed criteria when applied to the forestry operation."

Sec. 6. G.S. 20-64.1 is repealed.

Sec. 7. G.S. 20-87(1) reads as rewritten:

"(1) ~~Common Carrier, Contract Carriers and Exempt For-Hire Passenger Carrier Vehicles. —For hire passenger vehicles shall be taxed at the rate of~~ The fee for a passenger vehicle that is operated for compensation and has a capacity of 15 passengers or less is seventy-eight dollars (\$78.00) per year for each vehicle of fifteen passenger capacity or less and vehicles of over fifteen passenger capacity shall be classified as buses and shall be taxed at a rate of (\$78.00). The fee for a passenger vehicle that is operated for compensation and has a capacity of more than 15 passengers is one dollar and forty cents (\$1.40) per hundred pounds of empty weight per year for each vehicle; provided, however, no license shall be issued for the operation of any taxicab until the governing body of the city or town in which such taxicab is principally operated, if the principal operation is in a city or town, has issued a certificate showing:

- a. ~~That the operator of such taxicab has provided liability insurance or other form of indemnity for injury to person or damage to property resulting from the operation of such taxicab, in such amount as required by the city or town, and~~
- b. ~~That the convenience and necessity of the public requires the operation of such taxicab.~~

~~All persons operating taxicabs on January 1, 1945, shall be entitled to a certificate of necessity and convenience for the number of taxicabs operated by them on such date, unless since said date the license of such person or persons to operate a taxicab or taxicabs has been revoked or their right to operate has been withdrawn or revoked; provided that all persons operating taxicabs in Edgecombe, Lee, Nash and Union Counties on January 1, 1945, shall be entitled to certificates of necessity and convenience only with the approval of the governing authority of the town or city involved.~~

~~A taxicab shall be defined as any motor vehicle, seating nine or fewer passengers, operated upon any street or highway on call or demand, accepting or soliciting passengers indiscriminately for hire between such points along streets or highways as may be directed by the passenger or passengers so being transported, and shall not include motor vehicles or motor vehicle carriers as defined in Article 17 of this Chapter. Such taxicab shall not be construed to be a common carrier nor its operator a public service corporation of the vehicle.~~"

Sec. 8. G.S. 20-88(b) reads as rewritten:

"(b) The following fees are imposed on the annual registration of self-propelled property-hauling vehicles; the fees are based on the type of vehicle and its weight:

SCHEDULE OF WEIGHTS AND RATES

Rates Per Hundred Pound Gross Weight

	<u>Farmer Rate</u>
Not over 4,000 pounds	\$0.23
4,001 to 9,000 pounds inclusive	.29
9,001 to 13,000 pounds inclusive	.37
13,001 to 17,000 pounds inclusive	.51
Over 17,000 pounds	.58

SCHEDULE OF WEIGHTS AND RATES

Rates Per Hundred Pound Gross Weight

	Private Hauler, Contract Carriers, Flat Rate Common Carriers and Exempt for Hire Carriers <u>General Rate</u>
Not over 4,000 pounds	\$0.46
4,001 to 9,000 pounds inclusive	.63
9,001 to 13,000 pounds inclusive	.78
13,001 to 17,000 pounds inclusive	1.06
Over 17,000 pounds	1.20

- (1) The minimum fee for a vehicle licensed under this subsection is seventeen dollars and fifty cents (\$17.50) at the farmer rate and twenty-one dollars and fifty cents (\$21.50) at the ~~private hauler, contract carrier, and common carrier rates.~~ general rate.
- (2) The term 'farmer' as used in this subsection means any person engaged in the raising and growing of farm products on a farm in North Carolina not less than 10 acres in area, and who does not engage in the business of buying products for resale.
- (3) License plates issued at the farmer rate shall be placed upon trucks and truck-tractors that are operated exclusively in the carrying or transportation of applicant's farm products, raised or produced on his farm, and farm supplies and not operated in hauling for hire.
- (4) 'Farm products' means any food crop, livestock, poultry, dairy products, flower bulbs, or other nursery products and other agricultural products designed to be used for food purposes, including in the term 'farm products' also cotton, tobacco, logs, bark, pulpwood, tannic acid wood and other forest products grown, produced, or processed by the farmer.
- (5) The Division shall issue necessary rules and regulations providing for the recall, transfer, exchange or cancellation of "'farmer' plates, when vehicle bearing such plates shall be sold or transferred.
- (5a) Notwithstanding any other provision of this Chapter, license plates issued pursuant to this subsection at the farmer rate may be purchased for any three-month period at one fourth of the annual fee.

- (6) There shall be paid to the Division annually as of the first of January, the following fees for 'wreckers' as defined under G.S. 20-4.01(50): a wrecker fully equipped weighing 7,000 pounds or less, seventy-five dollars (\$75.00); wreckers weighing in excess of 7,000 pounds shall pay one hundred forty-eight dollars (\$148.00). Fees to be prorated quarterly. Provided, further, that nothing herein shall prohibit a licensed dealer from using a dealer's license plate to tow a vehicle for a customer."

Sec. 9. G.S. 20-91 reads as rewritten:

"§ 20-91. ~~Records, applications, reports or returns required of carriers of passengers and property.~~ Audit of vehicle registrations under the International Registration Plan.

(a) ~~Individual motor vehicle mileage records, motor vehicle equipment records, motor vehicle inventory records and motor vehicle revenue records shall be prepared and maintained in accordance with rules and regulations issued by the Commissioner.~~

~~Applications for licensing or registering motor vehicles in North Carolina shall be applied for on forms approved by the Commissioner and filed in accordance with rules and regulations issued by the Commissioner. Applications for licensing or registering motor vehicles in North Carolina are accepted subject to audit.~~

(b) ~~It shall be the duty of the Commissioner, by competent auditors, to have the books, records, tax returns, applications, and any and all other pertinent records or documents of any registrant licensing or registering motor vehicles, or that are required to license or register motor vehicles, under the provisions of this Article, audited for the purpose of determining whether such registrant is maintaining acceptable records, filing correct applications and paying correct registration fees or taxes as required.~~

~~Every registrant subject to licensing or registration and audit under the provisions of this Article shall retain all pertinent licensing and registration documents, books, records, tax returns, applications and all supporting records and documents on which an application for licensing or registration is based for a period of three full registration years. These records shall at all times during the business hours of the day be subject to audit. The Division may audit a person who registers or is required to register a vehicle under the International Registration Plan to determine if the person has paid the registration fees due under this Article. A person who registers a vehicle under the International Registration Plan must keep any records used to determine the information provided to the Division when registering the vehicle. The records must be kept for three years after the date of the registration to which the records apply. The Division may examine these records during business hours. If it is determined these the records are not located in North Carolina and it becomes necessary for the auditors to travel to the place where such records are normally kept, an auditor must travel to the location of the records, the registrant shall reimburse North Carolina for per diem and travel expense incurred in the performance of ~~such the~~ audit. ~~Where~~ If more than one registrant is audited on the same out-of-state trip, the per diem and travel expense may be prorated.~~

The Commissioner may enter into reciprocal audit agreements with other agencies of this State or agencies of another ~~state or states, jurisdiction~~ for the purpose of conducting joint audits of any registrant subject to audit under this ~~Article, section~~.

(c) If an audit is conducted and it becomes necessary to assess the registrant for deficiencies in registration fees or taxes due based on the audit, the assessment will be determined based on the schedule of rates prescribed for that registration year, adding thereto and as a part thereof an amount equal to five percent (5%) of the tax to be collected. If, during an audit, it is determined that:

- (1) A registrant failed or refused to make acceptable records available for audit as provided by law; or
- (2) A registrant misrepresented, falsified or concealed ~~his~~ records, then all plates and cab cards shall be deemed to have been issued erroneously and are subject to cancellation. The Commissioner may assess the registrant for an additional percentage up to one hundred percent (100%) North Carolina registration fees at the rate prescribed for that registration year, adding thereto and as a part thereof an amount equal to five percent (5%) of the tax to be collected. The Commissioner may cancel all registration and reciprocal privileges.

As a result of an audit, no assessment shall be issued and no claim for refund shall be allowed which is in an amount of less than ten dollars (\$10.00).

The notice of any assessments will be sent to the registrant by registered or certified mail at the address of the registrant as it appears in the records of the Division of Motor Vehicles in Raleigh. The notice, when sent in accordance with the requirements indicated above, will be sufficient regardless of whether or not it was ever received.

The failure of any registrant to pay any additional registration fees or tax within 30 days after the billing date, shall constitute cause for revocation of registration license plates, cab cards and reciprocal privileges.

~~(d) Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the Commissioner of Motor Vehicles, any deputy, assistant, agent, clerk, other officer, employee, or former officer or employee, to divulge or make known in any manner the amount of tax paid by any carrier of passengers or carrier of property as set forth or disclosed in any application, report or return required in remitting said tax, or as otherwise disclosed. Nothing in this section shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular applications, reports or returns, and the items thereof; the inspection of such applications, reports or returns by the Governor, Attorney General, Utilities Commissioner, or their or its duly authorized representatives; or the inspection by a legal representative of the State of the application, report or return of any carrier of passengers or carrier of property which shall bring an action to set aside or review the tax based thereon, or against which action or proceeding has been instituted to recover any tax or penalty imposed by this Article. Any person, officer, agent, clerk, employee, or former officer or employee violating the provisions of this section shall be guilty of a misdemeanor. Nothing in this subsection or in any other law shall prevent the exchange of information between the Division of Motor Vehicles and the Department of Revenue~~

~~when such information is needed by either or both of said departments for the purposes of properly enforcing the laws with the administration of which either or both of said departments is charged."~~

Sec. 10. G.S. 20-92 is repealed.

Sec. 11. G.S. 20-99(a) reads as rewritten:

"(a) If any tax imposed by this Chapter, or any other tax levied by the State and payable to the Commissioner of Motor Vehicles, or any portion of such tax, be not paid within 30 days after the same becomes due and payable, and after the same has been assessed, the Commissioner of Motor Vehicles shall issue an order under his hand and official seal, directed to the sheriff of any county of the State, commanding him to levy upon and sell the real and personal property of the taxpayer found within his county for the payment of the amount thereof, with the added penalties, additional taxes, interest, and cost of executing the same, and to return to the Commissioner of Motor Vehicles the money collected by virtue thereof within a time to be therein specified, not less than 60 days from the date of the order. The said sheriff shall, thereupon, proceed upon the same in all respects with like effect and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of record, and shall be entitled to the same fees for his services in executing the order, to be collected in the same manner. ~~Upon the issuance of said order to the sheriff, in the event the delinquent taxpayer shall be the operator of any common carrier of passengers or common carrier of property vehicle, the franchise certificate issued to such operator shall become null and void and shall be canceled by the Utilities Commissioner, and it shall be unlawful for any such common carrier of passengers or the operator of any common carrier of property vehicle to continue the operation under said franchise."~~

Sec. 12. G.S. 20-101 reads as rewritten:

"§ 20-101. ~~For-hire~~ Certain business vehicles to be marked.

~~All motor vehicles licensed as common carriers or contract carriers of passengers or property, exempt for hire motor carriers, and for hire passenger-carrying motor carriers of greater than fifteen passenger capacity shall have printed on each side of the vehicle in letters not less than three inches in height the name and home address of the owner, the certificate number, permit number, or exemption number under which said vehicle is operated, and such other identification as may be required and approved by the Utilities Commission. A motor vehicle that is subject to 49 U.S.C. Part 390, the federal motor carrier safety regulations, must be marked as required by that Part. A motor vehicle that is not subject to those regulations, has a gross vehicle weight rating of more than 10,000 pounds, and is used in intrastate commerce must have the name of the owner printed on the side of the vehicle in letters not less than three inches in height. A motor vehicle that is subject to regulation by the North Carolina Utilities Commission must be marked as required by that Commission and as otherwise required by this section."~~

Sec. 13. G.S. 20-113 is repealed.

Sec. 14. G.S. 20-116(e) reads as rewritten:

"(e) Except as provided by G.S. 20-115.1, no combination of vehicles coupled together shall consist of more than two units and no such combination of vehicles shall exceed a total length of 60 feet inclusive of front and rear bumpers, subject to the

following exceptions: Said length limitation shall not apply to vehicles operated in the daytime when transporting poles, pipe, machinery or other objects of a structural nature which cannot readily be dismembered, nor to such vehicles transporting such objects operated at nighttime by a public utility when required for emergency repair of public service facilities or properties, but in respect to such night transportation every such vehicle and the load thereon shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of said projecting load to clearly mark the dimensions of such load: Provided that vehicles designed and used exclusively for the transportation of motor vehicles shall be permitted an overhang tolerance front or rear not to exceed five feet. Provided, that wreckers in an emergency may tow a combination tractor and trailer to the nearest feasible point for repair and/or storage: Provided, however, that a combination of a house trailer used as a mobile home, together with its towing vehicle, shall not exceed a total length of 55 feet exclusive of front and rear bumpers. Provided further, that the said limitation that no combination of vehicles coupled together shall consist of more than two units shall not apply to trailers not exceeding three in number drawn by a motor vehicle used by municipalities for the removal of domestic and commercial refuse and street rubbish, but such combination of vehicles shall not exceed a total length of 50 feet inclusive of front and rear bumpers. Provided further, that the said limitation that no combination of vehicles coupled together shall consist of more than two units shall not apply to a combination of vehicles coupled together by a saddle mount device used to transport motor vehicles in a driveway service when no more than three saddle mounts are used and provided further, that equipment used in said combination is approved by the safety regulations of the ~~Interstate Commerce Commission~~ Federal Highway Administration and the safety regulations of the ~~North Carolina Division of Motor Vehicles and the Department of Transportation~~ rules of the Division."

Sec. 15. G.S. 20-123(a) reads as rewritten:

~~"(a) No motor vehicle shall be driven upon any highway drawing or having attached thereto more than one trailer or semitrailer: Provided that this provision shall not apply to trailers not exceeding three in number drawn by a motor vehicle used by municipalities for the removal of domestic and commercial refuse and street rubbish, but such combination of vehicles shall not exceed a total length of 50 feet inclusive of front and rear bumpers: Provided that this provision shall not apply to a combination of vehicles coupled together by a saddle mount device used to transport motor vehicles in a driveway service when no more than two saddle mounts are used and provided further that equipment used in said combination is approved by the safety regulations of the Interstate Commerce Commission and the safety regulations of the North Carolina Division of Motor Vehicles and the Department of Transportation. Nothing herein shall~~ The limitations in G.S. 20-116 on combination vehicles do not prohibit the towing of farm trailers not exceeding three in number nor exceeding a total length of 50 feet during the period from one-half hour before sunrise until one-half hour after sunset ~~provided that when a red flag of at least 12 inches square shall be~~ is prominently displayed on the last vehicle. The towing of farm trailers and equipment as herein

~~permitted shall not be applicable~~ allowed by this subsection does not apply to interstate or federal numbered highways."

Sec. 16. G.S. 20-130.1(b)(13) reads as rewritten:

~~"(13) Any lights that may be prescribed by the Interstate Commerce Commission;—A light required by the Federal Highway Administration;"~~.

Sec. 17. G.S. 20-215.1 reads as rewritten:

"§ 20-215.1. Definitions.

~~Unless the context otherwise requires, the following terms and phrases shall have, for the purpose of this Article, the following meaning: The following definitions apply in this Article:~~

- (1) ~~'Migratory Migratory farm worker' means any worker. — An individual being transported by motor carrier to or from employment who is employed in agriculture.~~
- (2) ~~'Motor Motor carrier of migratory farm workers' means any person, firm or corporation workers. — A person who or which for compensation transports at any one time in North Carolina five or more migratory farm workers to or from their employment by any motor vehicle, other than a passenger automobile or station wagon, except a wagon. The term does not include any of the following:~~
 - a. ~~A migratory farm worker who is transporting himself or his or her immediate family, but does not include any "common carrier" certified family.~~
 - b. ~~A carrier of passengers regulated by the North Carolina Utilities Commission or the Interstate Commerce Commission; provided, the provisions of this Article shall not apply to the United States Department of Transportation.~~
 - c. ~~The transportation of migratory farm workers on a vehicle owned by a farmer when such the migratory farm workers are employed or to be employed by the farmer to work on his own a farm or farm owned or controlled by him the farmer.~~
- (3) Repealed by Session Laws 1973, c. 1330, s. 39."

Sec. 18. G.S. 20-279.32 reads as rewritten:

"§ 20-279.32. Exceptions.

~~This Article, except its provisions as to the filing of proof of financial responsibility by a common carrier and its drivers, does not apply to any vehicle operated under a permit or certificate of convenience or necessity issued by the North Carolina Utilities Commission, or by the Interstate Commerce Commission, if public liability and property damage insurance for the protection of the public is required to be carried upon it. Article does not apply to a motor vehicle registered under G.S. 20-382 or G.S. 20-382.1 by a for-hire motor carrier. This Article does not apply to any motor vehicle owned by the State of North Carolina, nor does it apply to the operator of a vehicle owned by the State of North Carolina who becomes involved in an accident while operating the state-owned vehicle if the Commissioner determines that the vehicle at the~~

time of the accident was probably being operated in the course of the operator's employment as an employee or officer of the State. This Article does not apply to any motor vehicle owned by a county or municipality of the State of North Carolina, nor does it apply to the operator of a vehicle owned by a county or municipality of the State of North Carolina who becomes involved in an accident while operating such vehicle in the course of the operator's employment as an employee or officer of the county or municipality. This Article does not apply to the operator of a vehicle owned by a political subdivision, other than a county or municipality, of the State of North Carolina who becomes involved in an accident while operating such vehicle if the Commissioner determines that the vehicle at the time of the accident was probably being operated in the course of the operator's employment as an employee or officer of the subdivision providing that the Commissioner finds that the political subdivision has waived any immunity it has with respect to such accidents and has in force an insurance policy or other method of satisfying claims which may arise out of the accident. This Article does not apply to any motor vehicle owned by the federal government, nor does it apply to the operator of a motor vehicle owned by the federal government who becomes involved in an accident while operating the government-owned vehicle if the Commissioner determines that the vehicle at the time of the accident was probably being operated in the course of the operator's employment as an employee or officer of the federal government."

Sec. 19. G.S. 20-317 reads as rewritten:

"§ 20-317. Insurance required by any other law; certain operators not affected.

This Article shall not be held to apply to or affect policies of automobile insurance against liability which may now or hereafter be required by any other law of this State, and such policies, if they contain an agreement or are endorsed to conform to the requirements of this Article, may be certified as proof of financial responsibility under this Article; ~~provided, however, that nothing contained in this Article shall affect operators of motor vehicles that are now or hereafter required to furnish evidence of insurance or financial responsibility to the North Carolina Utilities Commission or the Interstate Commerce Commission or both, but to the extent that any insurance policy, bond or other agreement filed with or certified to the North Carolina Utilities Commission or Interstate Commerce Commission as evidence of financial responsibility affords less protection to the public than the financial responsibility required to be certified to the Division of Motor Vehicles under this Article as a condition precedent to registration of motor vehicles, the amounts, provisions and terms of such policy, bond or other agreement so certified shall be deemed to be modified to conform to the financial responsibility required to be proved under this Article as a condition precedent to registration of motor vehicles in this State. It is the intention of this section to require owners of self-propelled motor vehicles registered in this State and operated under permits from the North Carolina Utilities Commission or the Interstate Commerce Commission to show and maintain proof of financial responsibility which is at least equal to the proof of financial responsibility required of other owners of self-propelled motor vehicles registered in this State.~~ Article. This Article applies to vehicles of motor carriers required to register with the Division under G.S. 20-382 or

G.S. 20-382.1 only to the extent that the amount of financial responsibility required by this Article exceeds the amount required by the United States Department of Transportation."

Sec. 20. G.S. 20-376 reads as rewritten:

"§ 20-376. Definitions.

~~As used in this Article, The following definitions apply in this Article:~~

- ~~(1) "Certificate" means a certificate of public convenience and necessity issued by the North Carolina Utilities Commission pursuant to the provisions of Chapter 62 to a common carrier by motor vehicle.~~
- ~~(2) "Certificate of Exemption" means a certificate issued by the Division authorizing transportation services which are exempt from economic regulations under the Public Utilities Act.~~
- ~~(3) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 621, s. 5.~~
- ~~(4) "Common carrier by motor vehicle" means any person which holds itself out to the general public to engage in the transportation by motor vehicle in intrastate commerce of persons or property or any class or classes thereof for compensation, whether over regular or irregular routes, except as exempted in G.S. 62-260.~~
- ~~(5) "Contract carrier by motor vehicle" means any person which, under an individual contract or agreement with another person and with such additional persons as may be approved by the North Carolina Utilities Commission, engages in the transportation other than the transportation referred to in subdivision (4) of this section, by motor vehicle of persons or property in intrastate commerce for compensation, except as exempted in G.S. 62-260.~~
- ~~(6) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 621, s. 5.~~
- ~~(7) "Exempt carrier" means any person providing transportation by motor vehicle for compensation which is declared to be exempt from economic regulation by the North Carolina Utilities Commission or the Interstate Commerce Commission.~~
- ~~(8) "For hire carrier" means any person engaged in the transportation of persons or property by motor vehicle for compensation.~~
- ~~(9) "Foreign commerce" means commerce between any place in the United States and any place in a foreign country, or between places in the United States through any foreign country.~~
- ~~(10) through (12) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 621, s. 5.~~
- ~~(13) "Interstate commerce" means commerce between any place in a state and any place in another state or between places in the same state through another state.~~
- ~~(14) "Intrastate commerce" means commerce between points and over a route or within a territory wholly within this State, which commerce is not a part of a prior or subsequent movement to or from points outside of this State in interstate or foreign commerce, and includes all~~

transportation within this State for compensation in interstate or foreign commerce which has been exempted by Congress from federal regulation.

- (15) ~~"Intrastate operations" means the transportation of persons or property for compensation in intrastate commerce.~~
- (16) ~~"Motor carrier" means both a for hire carrier by motor vehicle and a private carrier by motor vehicle.~~
- (17), (18) ~~Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 621, s. 5.~~
- (19) ~~"Permit" means a permit issued by the North Carolina Utilities Commission pursuant to the provisions of Chapter 62 to a contract carrier by motor vehicle.~~
- (20) ~~Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 621, s. 5.~~
- (21) ~~"Private carrier" means any person not included in the definitions of common carrier or contract carrier, which transports in intrastate commerce in its own vehicle or vehicles property of which such person is the owner, lessee, or bailee, when such transportation is for the purpose of sale, lease, rent or bailment, or when such transportation is purely an incidental adjunct to some other established private business owned and operated by such person other than the transportation of property for compensation.~~
- (22) ~~Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 621, s. 5.~~
- (1) Federal safety regulations. – The federal motor carrier safety regulations contained in 49 U.S.C. Subchapter B, Parts 350 through 399.
- (2) Foreign commerce. – Commerce between any of the following:
 - a. A place in the United States and a place in a foreign country.
 - b. Places in the United States through any foreign country.
- (3) Interstate commerce. – Commerce between any of the following:
 - a. A place in a state and a place in another state.
 - b. Places in the same state through another state.
- (4) Intrastate commerce. – Commerce that is between points and over a route wholly within this State and is not part of a prior or subsequent movement to or from points outside of this State in interstate or foreign commerce."

Sec. 21. G.S. 20-378 is repealed.

Sec. 22. G.S. 20-379 reads as rewritten:

"§ 20-379. ~~To investigate motor carriers under its control; visitation and inspection.~~ Division to audit motor carriers for compliance.

(a) ~~The Division shall from time to time visit the places of business and investigate the books and papers of all motor carriers to ascertain if all the orders, rules and regulations of the North Carolina Utilities Commission and the Division have been complied with, and shall have full power and authority to examine all officers, agents and employees of such motor carriers, and all other persons, under oath or otherwise, and to compel the production of papers and the attendance of witnesses to obtain the~~

information necessary for carrying into effect and otherwise enforcing the provisions of this Article and Chapter 62 of the General Statutes.

(b) ~~Officers of the Division may during all reasonable hours enter upon any premises occupied by any motor carrier for the purpose of making the examinations and tests and exercising any power provided for in this Article and in Chapter 62 of the General Statutes, and may set up and use on such premises any apparatus and appliances necessary therefor. Such motor carrier shall have the right to be represented at the making of such examinations, tests and inspections.~~

The Division must periodically audit each motor carrier to determine if the carrier is complying with this Article and, if the motor carrier is subject to regulation by the North Carolina Utilities Commission, with Chapter 62 of the General Statutes. In conducting the audit, the Division may examine a person under oath, compel the production of papers and the attendance of witnesses, and copy a paper for use in the audit. An employee of the Division may enter the premises of a motor carrier during reasonable hours to enforce this Article. When on the premises of a motor carrier, an employee of the Division may set up and use equipment needed to make the tests required by this Article."

Sec. 23. G.S. 20-380 reads as rewritten:

"§ 20-380. ~~To~~ Division may investigate accidents involving motor carriers; to carriers and promote general safety program.

The Division may conduct a program of accident prevention and public safety covering all motor carriers with special emphasis on highway safety and transport safety and may investigate the causes of any accident on a highway involving a motor carrier. Any information obtained ~~upon such in an~~ investigation shall be reduced to writing and a report thereof filed in the office of the Division, which shall be subject to public inspection but such report shall not be admissible in evidence in any civil or criminal proceeding arising from such accident. The Division may adopt rules ~~and regulations~~ for the safety of the public as affected by motor carriers and the safety of motor carrier employees. The Division shall cooperate with and coordinate its activities for motor carriers with other ~~programs of the North Carolina Utilities Commission, the North Carolina Insurance Department, the North Carolina Industrial Commission and other agencies and~~ organizations engaged in the promotion of highway safety and employee safety."

Sec. 24. G.S. 20-381 reads as rewritten:

"§ 20-381. ~~Additional~~ Specific powers and duties of Division applicable to motor vehicles, carriers.

The Division is ~~hereby vested with~~ has the following powers and ~~duties; duties~~ concerning motor carriers:

- (1) To prescribe qualifications and maximum hours of service of drivers and their ~~helpers, and rules regulating safety of~~ helpers.
- (1a) To set safety standards for operation and equipment; and in the interest of uniformity of intrastate and interstate rules and regulations applicable within the State with respect to maximum hours of service of vehicle drivers and their helpers, and safety of operation and

~~equipment, the Division may adopt and enforce the rules and regulations adopted and promulgated by the United States Department of Transportation with respect thereto, insofar as it finds the same to be practical and advantageous for application in this State and not in conflict with this Article. In order to promote safety of operation of motor carriers, the Division may avail itself of the assistance of any other agency of the State having special knowledge of such matters and it may make such vehicles of motor carriers engaged in foreign, interstate, or intrastate commerce over the highways of this State and for the safe operation of these vehicles. The Division may stop and inspect a vehicle to determine if it is in compliance with these standards and may conduct any investigations and tests as may be deemed it finds necessary to promote the safety of equipment and the safe operation on the highway of vehicles upon the highways. these vehicles.~~

- ~~(1b) To enforce this Article, rules adopted under this Article, and the federal safety regulations.~~
- ~~(2) The Division and its duly authorized inspectors and agents shall have authority at any time to To enter upon the premises of any a motor carrier, subject to the provisions of this Article, for the purpose of inspecting any carrier to inspect a motor vehicle and or any equipment used by such the motor carriers in the transportation of carrier in transporting passengers and property, or property and property.~~
- ~~(2a) To prohibit the use by any a motor carrier of any motor vehicle or parts thereof or motor vehicle equipment thereon adjudged by such agents and inspectors to be the Division finds to be unsafe for use in the transportation of passengers and or property upon the public highways of this State; and when such agents or inspectors shall discover any motor vehicle of such motor carrier on a highway. If an agent of the Division finds a motor vehicle of a motor carrier in actual use upon the highways in the transportation of passengers and or property to be unsafe or any parts thereof or any equipment thereon to be unsafe, such agents or inspectors may, if they are unsafe and is of the opinion that further use of such vehicle, parts or equipment are imminently dangerous, the agent may stop such vehicle and require the operator thereof to discontinue its use and to substitute therefor a safe vehicle, parts or equipment at the earliest possible time and place, having regard for both the convenience and the safety of the passengers and or property. When an inspector or agent stops a motor vehicle on the highway, under authority of this section, and the motor vehicle is in operative condition and its further movement is not dangerous to the passengers and or property and or to the users of the highways, it shall be the duty of the inspector or agent to guide the vehicle to the nearest point of substitution or correction of the defect.~~

Such agents or inspectors shall also have the right to stop any motor vehicle which is being used upon the public highways for the transportation of passengers ~~and or~~ property by a motor carrier subject to the provisions of this Article and to eject therefrom any driver or operator who shall be operating or be in charge of such motor vehicle while under the influence of ~~intoxicating liquors, alcoholic beverages.~~ It shall be the duty of all inspectors and agents of the Division to make a written report, upon a form prescribed by the Division, of inspections of all motor equipment and a copy of each such written report, disclosing defects in such equipment, shall be served promptly upon the motor carrier operating the same, either in person by the inspector or agent or by mail. Such agents and inspectors shall also make and serve a similar written report in cases where a motor vehicle is operated in violation of ~~the laws of this State or of the orders, rules and regulations of the North Carolina Utilities Commission or Division.~~ this Chapter or, if the motor vehicle is subject to regulation by the North Carolina Utilities Commission, of Chapter 62 of the General Statutes.

- (3) To relieve the highways of all undue burdens and safeguard traffic thereon by ~~promulgating~~ adopting and enforcing ~~reasonable rules, regulations~~ rules and orders designed and calculated to minimize the dangers attending transportation on ~~the highways of all commodities including explosives or highway flammable or combustible liquids, substances or gases.~~ the highways of all hazardous materials."

Sec. 25. G.S. 20-382 reads as rewritten:

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

(a) Registration. – A for-hire 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~~ United States Department of Transportation 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.~~ United States Department of Transportation.
- (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~~ Federally Regulated Motor Carriers. – A for-hire motor carrier that operates a for-hire motor vehicle in interstate

commerce in this State, is regulated by the ~~Interstate Commerce Commission~~, United States Department of Transportation, 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~~ United States Department of Transportation 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. – A for-hire 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~~ United States Department of Transportation 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."

Sec. 26. G.S. 20-382.1 reads as rewritten:

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

(a) Registration. – A for-hire 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~~ For a motor carrier that hauls household goods, registered its operations with the State by doing one of the following:
 - a. ~~Obtaining a certificate or a permit of authority from the North Carolina Utilities Commission, if the motor carrier hauls regulated items.~~ Commission.
 - 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.~~ Division.

(1a) For a motor carrier that does not haul household goods, registered its operations with the Division.

(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 for-hire 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. 27. G.S. 20-384 reads as rewritten:

"§ 20-384. ~~Carriers must comply with safety rules and regulations.~~ Penalty for certain violations.

(a) ~~Scope.~~ The Division may adopt highway safety rules for all for-hire motor carrier vehicles and all private carrier vehicles engaged in interstate commerce and intrastate commerce over the highways of North Carolina whether common carriers, contract carriers, exempt carriers, or private carriers.

(b) ~~Infraction.~~ A motor carrier who fails to conduct a safety inspection of a vehicle as required by 49 C.F.R. Part 396, 396 of the federal Motor Carrier Safety Regulations, safety regulations or who fails to mark a vehicle that has been inspected as required by that Part commits an infraction and, if found responsible, is liable for a penalty of up to fifty dollars (\$50.00)."

Sec. 28. G.S. 20-385 reads as rewritten:

"§ 20-385. Fee schedule.

(a) Amounts. –

- (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~~United States Department of Transportation 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~~United States Department of Transportation 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. 29. G.S. 20-118(b)(3) reads as rewritten:

"(3) The gross weight imposed upon the highway by any axle group of a vehicle or combination of vehicles shall not exceed the maximum weight given for the respective distance between the first and last axle of the group of axles measured longitudinally to the nearest foot as set forth in the following table:

Distance Between Axles*	Maximum Weight in Pounds for any Group of Two or More Consecutive Axles					
	2 Axles	3 Axles	4 Axles	5 Axles	6 Axles	7 Axles
4	38000					
5	38000					
6	38000					
7	38000					
8 or less	38000	38000				
more than 8	38000	42000				
9	39000	42500				
10	40000	43500				
11		44000				
12		45000	50000			
13		45500	50500			
14		46500	51500			
15		47000	52000			
16		48000	52500	58000		
17		48500	53500	58500		
18		49500	54000	59000		
19		50000	54500	60000		
20		51000	55500	60500	66000	
21		51500	56000	61000	66500	

22	52500	56500	61500	67000	
23	53000	57500	62500	68000	
24	54000	58000	63000	68500	74000
25	54500	58500	63500	69000	74500
26	55500	59500	64000	69500	75000
27	56000	60000	65000	70000	75500
28	57000	60500	65500	71000	76500
29	57500	61500	66000	71500	77000
30	58500	62000**	66500	72000	77500
31	59000	62500**	67500	72500	78000
32	60000	63500**	68000	73000	78500
33		64000**	68500	74000	79000
34		64500**	69000	74500	80000
35		65500**	70000	75000	
36		66000**	70500	75500	
37		66500**	71000	76000	
38		67500**	72000	77000	
39		68000	72500	77500	
40		68500	73000	78000	
41		69500	73500	78500	
42		70000	74000	79000	
43		70500	75000	80000	
44		71500	75500		
45		72000	76000		
46		72500	76500		
47		73500	77500		
48		74000	78000		
49		74500	78500		
50		75500	79000		
51		76000	80000		
52		76500			
53		77500			
54		78000			
55		78500			
56		79500			
57		80000			

*Distance in Feet Between the Extremes of any Group of Two or More Consecutive Axles.

**See exception in G.S. 20-118(c)(1)."

Sec. 30. G.S. 20-135.1 is repealed.

Sec. 31. G.S. 20-179.3(b)(1) reads as rewritten:

"(1) A person convicted of the offense of impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege if:

- a. At the time of the offense he held either a valid driver's license or a license that had been expired for less than one year;
- b. At the time of the offense he had not within the preceding seven years been convicted of an offense involving impaired driving;
- c. Punishment Level Three, Four, or Five was imposed for the offense of impaired driving;
- d. Subsequent to the offense he has not been convicted of, or had an unresolved charge lodged against him for, an offense involving impaired driving; and
- e. The person has obtained and filed with the court a substance abuse assessment of the type ~~specified in G.S. 20-179(m)~~ required by G.S. 20-17.6 for the restoration of a drivers license.

A person whose North Carolina driver's license is revoked because of a conviction in another jurisdiction substantially equivalent to impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege if he would be eligible for it had the conviction occurred in North Carolina. Eligibility for a limited driving privilege following a revocation under G.S. 20-16.2(d) is governed by G.S. 20-16.2(e1)."

Sec. 32. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of June, 1996.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives