

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SENATE BILL 953
RATIFIED BILL

AN ACT TO ENACT THE AMBIENT AIR QUALITY IMPROVEMENT ACT OF 1999.

Whereas, the Constitution of North Carolina declares that the policy of this State is to conserve and protect State lands and waters for the benefit of all North Carolina citizens and to control and limit air pollution within the State; and

Whereas, the State has enacted comprehensive statutory and regulatory protections for reducing air pollution from stationary sources; and

Whereas, ozone air pollution adversely affects the health and welfare of the citizens of North Carolina through the impairment of lung function and exacerbation of asthma and other diseases of the lung; and

Whereas, visibility at some of the State's places of beauty, such as the Great Smoky Mountains National Park and the Blue Ridge Mountain range, has been impaired by ozone air pollution that is created by the reaction of nitrogen oxides (NOx) and other chemicals in sunlight; and

Whereas, the decentralized system of inspection stations effectively uses a public-private partnership to enforce motor vehicle pollution controls; and

Whereas, gains in motor vehicle pollution control technology have been offset by increased vehicle use, resulting in greater emissions of nitrogen oxides (NOx) and greater ozone air pollution; and

Whereas, the sulfur contained in gasoline impedes the effectiveness of catalytic converters, the devices that reduce the amount of pollution emitted from vehicle tailpipes, thereby degrading the emission control systems of vehicles; and

Whereas, new motor vehicle pollution control technology is more sensitive to the sulfur content of fuels and will require new emissions inspection methods; and

Whereas, reducing emissions of nitrogen oxides (NOx) from motor vehicles by twenty-five percent (25%) within the next 10 years will complement the State's stationary source control strategy; and

Whereas, reducing the growth of vehicle miles traveled in the State by twenty-five percent (25%) within the next 10 years will complement the State's controls of nitrogen oxide (NOx) emissions from stationary sources; and

Whereas, leaking underground storage tanks and tanker trucks release quantities of volatile organic compounds into the air, which mix with nitrogen oxides (NOx) to form ground level ozone; and

Whereas, clean burning fuels, alternative-fueled vehicles, and low emission vehicle usage should be encouraged statewide; and

Whereas, the State must lead the way in combating ground level ozone pollution from motor vehicles through its own purchases and policies; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. STATEWIDE GOALS

Section 1.1. It shall be the goal of the State to reduce emissions of nitrogen oxides (NOx) from all sources by at least twenty-five percent (25%) by 1 July 2009. It shall be the goal of the State to reduce the growth of vehicle miles traveled in the State by at least twenty-five percent (25%) of that growth that would otherwise occur by 1

July 2009. The Department of Environment and Natural Resources and the Department of Transportation shall evaluate progress toward achieving these goals in each fiscal year and shall report their findings and recommendations as to any measures that may be needed to achieve these goals to the Environmental Review Commission on or before 1 October of each year beginning 1 October 2000.

PART II. SULFUR CONTENT OF MOTOR FUELS

Section 2.1. Article 3 of Chapter 119 of the General Statutes is amended by adding a new section to read:

"§ 119-26.2. Sulfur content standards.

(a) No person shall manufacture, sell, or offer for sale gasoline that contains a concentration of sulfur greater than 30 parts per million except that a person may manufacture, sell, or offer for sale gasoline that contains a concentration of sulfur of not more than 80 parts per million if the average concentration of sulfur in the gasoline manufactured, sold, or offered for sale by that person is 30 parts per million or less. The average concentration of sulfur contained in gasoline shall be determined on the basis of a one-year period established by rule.

(b) The Gasoline and Oil Inspection Board shall adopt rules to implement this section."

Section 2.2. Section 2.1 of this act becomes effective as provided in this section. No later than 1 July 2000, the Governor shall determine whether the United States Environmental Protection Agency has adopted, pursuant to the Notice of Proposed Rulemaking published on 13 May 1999 in the Federal Register, Volume 64, Number 92, Page 26003 et seq., regulations applicable to gasoline manufactured, sold, and offered for sale in this State that limit the sulfur content of gasoline to a concentration equal to or less than the concentration set out in Section 2.1 of this act. If the Governor so determines, the Governor shall issue an Executive Order setting out the date on which Section 2.1 of this act becomes effective, which shall be the date on which the federal regulation becomes effective in this State. Otherwise, Section 2.1 of this act becomes effective 1 January 2004. If the United States Environmental Protection Agency promulgates a regulation that imposes a limit on the concentration of sulfur in gasoline other than that set out in G.S. 119-26.2, as enacted by Section 2.1 of this act, it is the intention of the General Assembly to review the limit established in G.S. 119-26.2. In that event, the Environmental Review Commission shall review the limit on the concentration of sulfur in gasoline and report its findings and recommendations, if any, to the General Assembly.

Section 2.3. G.S. 119-26.1 reads as rewritten:

"§ 119-26.1. ~~Oxygen content standards~~ Content of motor fuels and reformulated gasoline.

(a) Rules adopted pursuant to G.S. 143-215.107(a)(9) to regulate the ~~oxygen content of gasoline-motor fuels~~ or to require the use of reformulated gasoline shall be implemented by the Department of Agriculture and Consumer Services and the Gasoline and Oil Inspection Board. Such rules shall be implemented within any area specified by the Environmental Management Commission when the Commission certifies to the Commissioner of Agriculture that implementation:

- (1) Will improve the ambient air quality within the specified county or counties;
- (2) Is necessary to achieve attainment or preclude violations of the National Ambient Air Quality Standards; or
- (3) Is otherwise necessary to meet federal requirements.

(b) The Department of Agriculture and Consumer Services and the Gasoline and Oil Inspection Board may adopt rules to implement this section. Rules shall be consistent with the implementation schedule and rules adopted by the Environmental Management Commission.

(c) The Commissioner of Agriculture may assess and collect civil penalties for violations of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-215.114A. The Commissioner of Agriculture may institute a civil action for injunctive relief to restrain, abate, or prevent a violation or threatened violation of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-215.114C. The assessment of a civil penalty under this section and G.S. 143-215.114A or institution of a civil action under G.S. 143-215.114C and this section shall not relieve any person from any other penalty or remedy authorized under this Article.

(c1) The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) The Commissioner of Agriculture may delegate his powers and duties under this subsection to the Director of the Standards Division of the Department of Agriculture and Consumer Services."

PART III. MOTOR VEHICLE EMISSIONS INSPECTION AND MAINTENANCE

Section 3.1. Article 21B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-215.107A. Motor vehicle emissions testing and maintenance program.

(a) General Provisions. –

(1) G.S. 143-215.107(a)(6) shall be implemented as provided in this section.

(2) Motor vehicle emissions inspections shall be performed by a person who holds an emissions inspection mechanic license issued as provided in G.S. 20-183.4A(c) at a station that holds an emissions inspection station license issued under G.S. 20-183.4A(a) or at a place of business that holds an emissions self-inspector license issued as provided in G.S. 20-183.4A(d). Motor vehicle emissions inspections may be performed by a decentralized network of test-and-repair stations as described in 40 Code of Federal Regulations § 51.353 (1 July 1998 Edition). The Commission may not require that motor vehicle emissions inspections be performed by a network of centralized or decentralized test-only stations.

(b) Type of Test Required. – Motor vehicle emissions inspections shall be performed using the two-mode Acceleration Simulation Mode (ASM) test described in Federal Register, Volume 57, Number 215, (5 November 1992), Pages 52955 to 52996.

(c) Counties Covered. – Motor vehicle emissions inspections shall be performed only in the following counties: Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake.

(d) Additional Counties. – The Commission may require that motor vehicle emissions inspections be performed in counties in addition to those set out in subsection (c) of this section. In determining whether to require that motor vehicle emissions inspections be performed in a county, the Commission may consider the population of, and distribution of population in, the county; the projected change in population of, and distribution of population in, the county; the number of vehicles registered in the county; the projected change in the number of vehicles registered in the county; vehicle miles traveled in the county; the projected change in vehicle miles traveled in the county; current and projected commuting patterns in the county; and the current and projected impact of these factors on attainment of air quality standards in the county and in areas outside the county. The Commission may not require that motor vehicle emissions testing be performed in any county with a population of less than 40,000 based on the most recent population estimates prepared by the State Planning Officer. The Commission may not require that motor vehicle emissions testing be performed in

any county in which the number of vehicle miles traveled per day is less than 900,000, based on the most recent estimates prepared by the Department of Transportation. In order to disapprove a rule that requires that motor vehicle emissions inspections be performed in one or more additional counties, a bill introduced pursuant to G.S. 150B-21.3(b) must amend subsection (c) of this section to add one or more other counties in which the total population and vehicle miles traveled per day equal or exceed the total population and vehicle miles traveled in the county or counties listed in the rule that the bill would disapprove."

Section 3.2. The Environmental Management Commission shall adopt rules to implement G.S. 143-215.107A(b), as enacted by Section 3.1 of this act. These rules shall become effective on 1 July 2002. The Environmental Management Commission shall not require that motor vehicle emissions inspections be performed in any county pursuant to G.S. 143-215.107A(d), as enacted by Section 3.1 of this act, prior to 1 July 2006. The Environmental Management Commission shall not require motor vehicle emissions inspections for diesel powered vehicles prior to 1 July 2001.

Section 3.3. Effective 1 July 2003, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed ~~only~~ in the following counties: Cabarrus, Catawba, Cumberland, Davidson, Durham, Forsyth, Gaston, Guilford, Iredell, Johnston, Mecklenburg, Orange, Rowan, Union, and Wake."

Section 3.4. Effective 1 January 2004, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Section 3.3 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Cabarrus, Catawba, Chatham, Cumberland, Davidson, Durham, Forsyth, Franklin, Gaston, Guilford, Iredell, Johnston, Lee, Lincoln, Mecklenburg, Moore, Orange, Randolph, Rowan, Stanly, Union, and Wake."

Section 3.5. Effective 1 July 2004, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Sections 3.3 and 3.4 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Buncombe, Cabarrus, Catawba, Chatham, Cleveland, Cumberland, Davidson, Durham, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Iredell, Johnston, Lee, Lincoln, Mecklenburg, Moore, Orange, Randolph, Rockingham, Rowan, Stanly, Union, and Wake."

Section 3.6. Effective 1 January 2005, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Sections 3.3 through 3.5 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Buncombe, Cabarrus, Catawba, Chatham, Cleveland, Cumberland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Iredell, Johnston, Lee, Lenoir, Lincoln, Mecklenburg, Moore, Nash, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Stanly, Union, ~~and Wake~~, Wake, Wayne, and Wilson."

Section 3.7. Effective 1 July 2005, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Sections 3.3 through 3.6 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Chatham, Cleveland, Cumberland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Haywood, Henderson, Iredell, Johnston, Lee, Lenoir, Lincoln, Mecklenburg, Moore, Nash, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Rutherford, Stanly, Stokes, Surry, Union, Wake, Wayne, Wilkes, and Wilson."

Section 3.8. Effective 1 January 2006, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Sections 3.3 through 3.7 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret, Catawba, Chatham, Cleveland, Craven, Cumberland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Haywood, Henderson, Iredell, Johnston, Lee, Lenoir, Lincoln, Mecklenburg, Moore, Nash, New Hanover, Onslow, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Rutherford, Stanly, Stokes, Surry, Union, Wake, Wayne, Wilkes, and Wilson."

Section 3.9. Sections 3.3 through 3.8 of this act become effective only if G.S. 20-183.7 is amended to increase the fee for motor vehicle emissions inspections no later than 31 December 2000. G.S. 143-215.107A(b), as enacted by Section 3.1 of this act, and Section 3.2 of this act are repealed effective 1 January 2001 unless, prior to 1 January 2001, G.S. 20-183.7 has been amended to increase the fee for motor vehicle emissions inspection.

Section 3.10. The Department of Environment and Natural Resources, with the assistance of the Division of Motor Vehicles of the Department of Transportation and the affected parties, shall study issues related to costs associated with the motor vehicle emissions inspection and maintenance program. The Department shall determine what constitutes a reasonable fee for motor vehicle emissions inspections under the current program and under the enhanced program to be implemented pursuant to G.S. 143-215.107A(b), as enacted by Section 3.1 of this act. In determining what constitutes a reasonable fee, the Department shall consider the cost of emissions inspection equipment, the useful life of the equipment, the average period of time during which a purchaser of this equipment is able to amortize this cost, telephone charges incurred in connection with the registration denial program, whether a fee should be charged to reinspect a vehicle that fails an emissions test after repairs to the vehicle have been made, and whether the State should purchase emissions inspection equipment purchased prior to 10 June 1999 for use in the current program but that will be rendered obsolete by the enhanced program. The Department shall report its findings and recommendations to the Environmental Review Commission on or before 1 February 2000. The Environmental Review Commission, with the assistance of the Fiscal Research Division of the Legislative Services Office, shall evaluate these recommendations. The Environmental Review Commission shall recommend legislation to amend G.S. 20-183.7 to increase the fee for motor vehicle emissions inspections to the 2000 Regular Session of the 1999 General Assembly.

Section 3.11. G.S. 20-183.2 reads as rewritten:

"§ 20-183.2. Description of vehicles subject to safety or emissions inspection; definitions.

(a) Safety. – A motor vehicle is subject to a safety inspection in accordance with this Part if it meets all of the following requirements:

- (1) It is subject to registration with the Division under Article 3 of this Chapter.
- (2) It is not subject to inspection under 49 C.F.R. Part 396, the federal Motor Carrier Safety Regulations.
- (3) It is not a trailer whose gross weight is less than 4,000 pounds or a house trailer.

(b) Emissions. – A motor vehicle is subject to an emissions inspection in accordance with this Part if it meets all of the following requirements:

- (1) It is subject to registration with the Division under Article 3 of this Chapter.
- (2) It is not a trailer whose gross weight is less than 4,000 pounds, a house trailer, or a motorcycle.
- (3) It is a 1975 or later model.
- ~~(4) It is powered or designed so that it could be powered by gasoline.~~
- (5) It meets any of the following descriptions:
 - a. It is required to be registered in an emissions county.

- b. It is part of a fleet that is operated primarily in an emissions county.
 - c. It is offered for rent in an emissions county.
 - d. It is a used vehicle offered for sale by a dealer in an emissions county.
 - e. It is operated on a federal installation located in an emissions county and it is not a tactical military vehicle. Vehicles operated on a federal installation include those that are owned or leased by employees of the installation and are used to commute to the installation and those owned or operated by the federal agency that conducts business at the installation.
 - f. It is otherwise required by 40 C.F.R. Part 51 to be subject to an emissions inspection.
- (c) Definitions. – The following definitions apply in this Part:
- (1) Emissions county. – ~~A county in which the State either is required by federal law to conduct emissions testing or has agreed in its State Implementation Plan submitted to the federal Environmental Protection Agency to conduct emissions testing. The State listed in G.S. 143-215.107A(c) or designated by the Environmental Management Commission establishes the emissions counties pursuant to rules adopted under G.S. 143-215.107(a)(6), pursuant to G.S. 143-215.107A(d) and certified to the Commissioner of Motor Vehicles as a county in which the implementation of a motor vehicle emissions inspection program will improve ambient air quality.~~
 - (2) Federal installation. – An installation that is owned by, leased to, or otherwise regularly used as the place of business of a federal agency."

Section 3.12. G.S. 143-215.107 reads as rewritten:

"§ 143-215.107. Air quality standards and classifications.

- (a) Duty to Adopt Plans, Standards, etc. – The Commission is hereby directed and empowered, as rapidly as possible within the limits of funds and facilities available to it, and subject to the procedural requirements of this Article and Article 21:
 - (1) To prepare and develop, after proper study, a comprehensive plan or plans for the prevention, abatement and control of air pollution in the State or in any designated area of the State.
 - (2) To determine by means of field sampling and other studies, including the examination of available data collected by any local, State or federal agency or any person, the degree of air contamination and air pollution in the State and the several areas of the State.
 - (3) To develop and adopt, after proper study, air quality standards applicable to the State as a whole or to any designated area of the State as the Commission deems proper in order to promote the policies and purposes of this Article and Article 21 most effectively.
 - (4) To collect information or to require reporting from classes of sources which, in the judgment of the Environmental Management Commission, may cause or contribute to air pollution. Any person operating or responsible for the operation of air contaminant sources of any class for which the Commission requires reporting shall make reports containing such information as may be required by the Commission concerning location, size, and height of contaminant outlets, processes employed, fuels used, and the nature and time periods or duration of emissions, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.
 - (5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air

- pollution commensurate with established air quality standards. ~~The standards may be applied uniformly to the State as a whole or to any area of the State designated by the Commission.~~ This subdivision does not apply to that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 C.F.R. § 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).
- (6) ~~To adopt, when necessary and practicable, a program for testing emissions from motor vehicles and to adopt motor vehicle emission standards in compliance with applicable federal regulations.~~ adopt motor vehicle emissions standards; to adopt, when necessary and practicable, a motor vehicle emissions inspection and maintenance program to improve ambient air quality; to require that motor vehicle emissions be monitored while the vehicle is in operation by means of onboard diagnostic equipment (OBD) installed by the vehicle manufacturer; to require manufacturers of motor vehicles to furnish to the Equipment and Tool Institute and, upon request and at a reasonable charge, to any person who maintains or repairs a motor vehicle, all information necessary to fully make use of the onboard diagnostic equipment and the data compiled by that equipment; to certify to the Commissioner of Motor Vehicles that ambient air quality will be improved by the implementation of a motor vehicle emissions inspection and maintenance program in a county. The Commission shall implement this subdivision as provided in G.S. 143-215.107A.
 - (7) To develop and adopt standards and plans necessary to implement programs for the prevention of significant deterioration and for the attainment of air quality standards in nonattainment areas.
 - (8) To develop and adopt standards and plans necessary to implement programs to control acid deposition and to regulate the use of sulfur dioxide allowances and nitrogen oxides (NOx) emissions in accordance with Title IV and implementing regulations adopted by the United States Environmental Protection Agency.
 - (9) To regulate the ~~oxygen~~ content of ~~gasoline, motor fuels, as defined in G.S. 119-16,~~ to require use of reformulated gasoline as the Commission determines necessary, to implement the requirements of Title II and implementing regulations adopted by the United States Environmental Protection Agency, and to develop standards and plans to implement this subdivision. ~~Rules adopted under this subdivision may specify standards for a particular area of the State that differ from standards specified for other areas as may be necessary to improve ambient air quality within a particular area, achieve attainment or preclude violations of the National Ambient Air Quality Standards, or to meet other federal requirements.~~ Rules may authorize the use of marketable oxygen credits for gasoline as provided in federal requirements.
 - (10) To develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.
 - (11) To develop and adopt economically feasible standards and plans necessary to implement programs to control the emission of odors from animal operations, as defined in G.S. 143-215.10B.
 - (12) To develop and adopt a program of incentives to promote voluntary reductions of emissions of air contaminants, including, but not limited

- to, emissions banking and trading and credit for voluntary early reduction of emissions.
- (13) To develop and adopt rules governing the certification of persons who inspect vehicle-mounted tanks used to transport motor fuel and to require that inspection of these tanks be performed only by certified personnel.
- (14) To develop and adopt rules governing the sale and service of mobile source exhaust emissions analyzers and to require that vendors of these analyzers provide adequate surety to purchasers for the performance of the vendor's contractual or other obligations related to the sale and service of analyzers.

(b) Criteria for Standards. – In developing air quality and emission control standards, motor vehicle emissions standards, motor vehicle emissions inspection and maintenance requirements, rules governing the content of motor fuels or requiring the use of reformulated gasoline, and other standards and plans to improve ambient air quality, the Commission shall ~~recognize~~ consider varying local conditions and requirements and may prescribe uniform standards and plans throughout the State or different standards and plans for different counties or areas as may be necessary and appropriate to facilitate accomplishment of the stated improve ambient air quality in the State or within a particular county or area, achieve attainment or preclude violations of state or national ambient air quality standards, meet other federal requirements, or achieve the purposes of this Article and Article 21.

(c) Chapter 150B of the General Statutes governs the adoption and publication of rules under this Article."

Section 3.13. G.S. 20-183.8F reads as rewritten:

"§ 20-183.8F. Requirements for giving certain ~~emissions~~ license holders notice of violations and for taking summary action.

(a) Finding of Violation. – When an auditor of the Division finds that ~~an emissions~~ a violation has occurred that could result in the suspension or revocation of an ~~emissions~~ inspection station license, ~~an emissions~~ a self-inspector license, or ~~an emissions~~ a mechanic license, the auditor must give the affected license holder written notice of the finding. The notice must be given within five business days after the violation occurred. The notice must state the period of suspension or revocation that could apply to the violation and any monetary penalty that could apply to the violation. The notice must also inform the license holder of the right to a hearing if the Division charges the license holder with the violation.

(b) Notice of Charges. – When the Division decides to charge an ~~emissions~~ inspection station, ~~an emissions~~ a self-inspector, or ~~an emissions~~ a mechanic with a violation that could result in the suspension or revocation of the person's ~~emissions~~ license, an auditor of the Division must deliver a written statement of the charges to the affected license holder. The statement of charges must inform the license holder of this right, instruct the person on how to obtain a hearing, and inform the license holder of the effect of not requesting a hearing. The license holder has the right to a hearing before the license is suspended or revoked. G.S. 20-183.8E sets out the procedure for obtaining a hearing.

(c) Exception for Summary Action. – The right granted by subsection (b) of this section to have a hearing before ~~an emissions~~ a license is suspended or revoked does not apply if the Division summarily suspends or revokes the license after a judge has reviewed and authorized the proposed action. A license issued to an ~~emissions~~ inspection station, ~~an emissions~~ a self-inspector, or ~~an emissions~~ a mechanic is a substantial property interest that cannot be summarily suspended or revoked without judicial review."

Section 13.14. G.S. 20-183.8G reads as rewritten:

"§ 20-183.8G. Administrative and judicial review.

(a) Right to Hearing. – A person who applies for a license or registration under this Part or who has a license or registration issued under this Part has the right to a hearing when any of the following occurs:

- (1) The Division denies the person's application for a license or registration.
- (2) The Division delivers to the person a written statement of charges of ~~an emissions~~ a violation that could result in the suspension or revocation of the person's ~~emissions~~ license.
- (3) The Division summarily suspends or revokes the person's license following review and authorization of the proposed adverse action by a judge.
- (4) The Division assesses a civil penalty against the person.
- (5) The Division issues a warning letter to the person.
- (6) The Division cancels the person's registration.

(b) Hearing After Statement of Charges. – When ~~an emissions~~ a license holder receives a statement of charges of ~~an emissions~~ a violation that could result in the suspension or revocation of the person's license, the person can obtain a hearing by making a request for a hearing. The person must make the request to the Division within 10 days after receiving the statement of the charges. A person who does not request a hearing within this time limit waives the right to a hearing.

The Division must hold a hearing requested under this subsection within three business days after receiving the request unless the person requesting the hearing asks for additional time to prepare for the hearing. A person may ask for no more than seven additional business days to prepare. If the additional time requested is within this limit, the Division must grant a person the additional time requested. The hearing must be held at the location designated by the Division. Suspension or revocation of the license is stayed until a decision is made following the hearing.

If a person does not request a hearing within the time allowed for making the request, the proposed suspension or revocation becomes effective the day after the time for making the request ends. If a person requests a hearing but does not attend the hearing, the proposed suspension or revocation becomes effective the day after the date set for the hearing.

(c) Hearing After Summary Action. – When the Division summarily suspends a license issued under this Part after judicial review and authorization of the proposed action, the person whose license was suspended or revoked may obtain a hearing by filing with the Division a written request for a hearing. The request must be filed within 10 days after the person was notified of the summary action. The Division must hold a hearing requested under this subsection within 14 days after receiving the request.

(d) All Other Hearings. – When this section gives a person the right to a hearing and subsection (b) or (c) of this section does not apply to the hearing, the person may obtain a hearing by filing with the Division a written request for a hearing. The request must be filed within 10 days after the person receives written notice of the action for which a hearing is requested. The Division must hold a hearing within 90 days after the Division receives the request.

(e) Review by Commissioner. – The Commissioner may conduct a hearing required under this section or may designate a person to conduct the hearing. When a person designated by the Commissioner holds a hearing and makes a decision, the person who requested the hearing has the right to request the Commissioner to review the decision. The procedure set by the Division governs the review by the Commissioner of a decision made by a person designated by the Commissioner.

(f) Decision. – A decision made after a hearing on the imposition of a monetary penalty against a motorist for an emissions violation or on a Type I, II, or III emissions violation by an emissions license holder must uphold any monetary penalty, license suspension, license revocation, or warning required by G.S. 20-183.8A or G.S. 20-183.8B, respectively, if the decision contains a finding that the motorist or license

holder committed the act for which the monetary penalty, license suspension, license revocation, or warning was imposed. A decision made after a hearing on any other action may uphold or modify the action.

(g) Judicial Review. – Article 4 of Chapter 150B of the General Statutes governs judicial review of an administrative decision made under this section."

PART IV. STATE AGENCY GOALS, PLANS, DUTIES, AND REPORTS; OTHER PROVISIONS

Section 4.1. As used in this Part, alternative-fueled vehicle means a motor vehicle capable of operating on electricity; natural gas; propane; hydrogen; reformulated gasoline; ethanol; other alcohol fuels, separately or in mixtures of eighty-five percent (85%) or more of alcohol by volume; or fuels, other than alcohol, derived from biological materials. For purposes of this Part, a vehicle that has been converted to operate on a fuel other than the fuel for which it was originally designed is not a new or replacement vehicle.

Section 4.2. It shall be the goal of the State that on and after 1 January 2004 at least seventy-five percent (75%) of the new or replacement light duty cars and trucks purchased by the State will be alternative-fueled vehicles or low emission vehicles. The Department of Administration, the Department of Transportation, and the Department of Environment and Natural Resources shall jointly develop a plan to achieve this goal and to fuel and maintain these vehicles. The Department of Administration shall report on progress in developing and implementing this plan and achieving this goal to the Environmental Review Commission on 1 September of each year beginning 1 September 2000. For purposes of this section, a light duty car or truck is one that is rated at 8,500 pounds or less Gross Vehicle Weight Rating (GVWR).

Section 4.3. The Department of Public Instruction, the Department of Transportation, and the Department of Environment and Natural Resources shall jointly develop a draft plan for the purchase of school buses under which, beginning 1 January 2004, at least fifty percent (50%) of the new and replacement public school buses purchased for use in counties with a population of at least 100,000, based on the most recent population estimates prepared by the Office of State Planning, will be alternative-fueled or low emission vehicles. These departments shall invite interested parties to participate in the development of the draft plan. The draft plan will consider the infrastructure requirements that would be needed to fuel and maintain these buses and the costs and benefits of implementation of the plan, including the impact on ambient air quality. The Department of Public Instruction shall submit the draft plan to the Environmental Review Commission on or before 1 September 2000.

Section 4.4. The Department of Transportation and the Department of Environment and Natural Resources shall jointly develop a draft plan for the purchase of buses under which, beginning 1 January 2004, at least fifty percent (50%) of the new and replacement buses purchased to provide public transportation in counties in which motor vehicle emissions inspections are required to be performed under subsection (c) or (d) of G.S. 143-215.107A will be alternative-fueled or low emission vehicles. These departments shall invite interested parties to participate in the development of the draft plan. The draft plan will consider the infrastructure requirements that would be needed to fuel and maintain these buses and the costs and benefits of implementation of the plan, including the impact on ambient air quality. The Department of Transportation shall submit the draft plan to the Environmental Review Commission on or before 1 September 2000.

Section 4.5. The Department of Transportation, the Department of Commerce, and the Department of Environment and Natural Resources shall jointly develop recommendations for incentives to increase the use of alternative-fueled and low emission light duty cars and trucks in privately owned fleets. The Department of Environment and Natural Resources shall submit these recommendations to the

Environmental Review Commission on or before 1 February 2000. The Department of Environment and Natural Resources shall report on progress in increasing the use of alternative-fueled and low emission light duty cars and trucks in privately owned fleets to the Environmental Review Commission on or before 1 October of each year beginning 1 October 2001.

Section 4.6. The Department of Administration, the Office of State Personnel, the Department of Transportation, and the Department of Environment and Natural Resources shall jointly develop and periodically update a plan to reduce vehicle miles traveled by State employees and vehicle emissions resulting from job-related travel, including commuting to and from work. The plan shall consider the use of carpooling, vanpooling, public transportation, incentives, and other appropriate strategies. The Office of State Personnel shall report on the development and implementation of the plan to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission on or before 1 October of each year beginning 1 October 2000.

Section 4.7. The Department of Transportation, the Department of Commerce, and the Department of Environment and Natural Resources shall jointly develop and periodically update a plan to reduce vehicle miles traveled by private sector employees and vehicle emissions resulting from job-related travel, including commuting to and from work. The plan shall consider the use of incentives for both private sector employees and employers, carpooling, vanpooling, public transportation, and other appropriate strategies. The Department of Transportation shall report on the development and implementation of the plan to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission on or before 1 October of each year beginning 1 October 2000.

Section 4.8. The Office of State Personnel shall implement a policy that promotes telework/telecommuting for State employees as recommended by the report of the State Auditor entitled "Establishing a Formal Telework/Telecommuting Program for State Employees" and dated October 1997. It shall be the goal of the State to reduce State employee vehicle miles traveled in commuting by twenty percent (20%) without reducing total work hours or productivity. The Office of State Personnel shall report on progress in implementing this section to the Environmental Review Commission on or before 1 October of each year beginning 1 October 2000.

Section 4.9. The Environmental Management Commission shall initiate rule making to regulate the emissions of nitrogen oxides (NOx) from complex sources pursuant to G.S. 143-215.109 no later than 1 October 1999. The Environmental Management Commission shall report on the progress of this rule making as a part of each quarterly report the Commission makes to the Environmental Review Commission pursuant to G.S. 143B-282(b).

Section 4.10. Chapter 136 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 16.
"PLANNING.

"§ 136-200. Definitions.

As used in this Article:

- (1) 'Conformity' means the extent to which transportation plans, programs, and projects conform to federal air quality requirements as specified in 40 Code of Federal Regulations, Part 93, Subpart A (1 July 1998 Edition).
- (2) 'Department' means the Department of Transportation.
- (3) 'Interface' means a relationship between streams of traffic that efficiently and safely maximizes the mobility of people and goods within and through urbanized areas and minimizes transportation-related fuel consumption and air pollution.

- (4) 'Metropolitan Planning Organization' or 'MPO' means an agency that is designated as a Metropolitan Planning Organization in accordance with 23 U.S.C. § 134.
- (5) 'Regionally significant project' has the same meaning as under 40 Code of Federal Regulations 93.101 (1 July 1998 Edition).
- (6) 'Regional travel demand model' means a model of a region, defined in the model, that is approved by the Department and each Metropolitan Planning Organization whose boundaries include any part of the region and that uses socioeconomic data and projections to predict demands on a transportation network.

"§ 136-201. Plan for intermodal interface.

When planning a regionally significant transportation project, the Department shall consider design alternatives that will facilitate the cost-effective interface of the project with other existing or planned transportation projects, including highway, airport, rail, bus, bicycle, and pedestrian facilities. The Department of Transportation shall record its consideration of these design alternatives in the planning documents for the project.

"§ 136-202. Metropolitan planning organizations.

(a) Each Metropolitan Planning Organization shall base all transportation plans, metropolitan transportation improvement programs, and conformity determinations on the most recently completed regional travel demand model.

(b) Each Metropolitan Planning Organization shall update its transportation plans in accordance with the scheduling requirements stated in 23 Code of Federal Regulations 450.322 (1 April 1999 Edition).

(c) The Department, the metropolitan planning organizations, and the Department of Environment and Natural Resources shall jointly evaluate and adjust the regions defined in each regional travel demand model at least once every five years and no later than 1 October of the year following each decennial federal census. The evaluation and adjustment shall be based on decennial census data and the most recent populations estimates certified by the State Planning Officer. The adjustment of these boundaries shall reflect current and projected patterns of population, employment, travel, congestion, commuting, and public transportation use and the effects of these patterns on air quality.

(d) The Department shall report on the evaluation and adjustment of the boundaries of the area served by each Metropolitan Planning Organization to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission no later than 1 November of each year in which the regions are evaluated and adjusted.

"§ 136-203. Joint study groups.

The Department and the Department of Environment and Natural Resources shall convene a joint study group to examine options to maximize the positive impacts and minimize the adverse impacts on air quality of transportation investments. A joint study group shall be convened for each major travel corridor in which there has been air quality violations within the previous fiscal year or that affects an area in which there has been air quality violations within the previous fiscal year. Each joint study group shall include at least 10 members, half of whom shall be appointed by the Secretary of Transportation and half of whom shall be appointed by the Secretary of Environment and Natural Resources. Each group shall include representatives from the Department and the Department of Environment and Natural Resources, affected units of local government, private businesses, and nonprofit public interest organizations. The Department and the Department of Environment and Natural Resources shall jointly report on the work, findings, and recommendations of each joint study group to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission on or before 1 October of each year."

Section 4.11. The Department of Transportation and the Department of Environment and Natural Resources shall make the first joint report required by G.S. 136-203, as enacted by Section 4.10 of this act, on or before 1 October 2000.

Section 4.12. G.S. 143-215.94T(a) is amended by adding a new subdivision to read:

"(12) Tank tightness testing procedures and certification of persons who conduct tank tightness tests."

Section 4.13. G.S. 143B-282(a)(2)h. reads as rewritten:

"h. Governing underground tanks used for the storage of oil or hazardous substances ~~or oil~~ pursuant to ~~Article 21 or Article 21A~~ Articles 21, 21A, or 21B of Chapter 143 of the General Statutes. ~~Statutes, including inspection and testing of these tanks and certification of persons who inspect and test tanks.~~"

PART V. MISCELLANEOUS PROVISIONS

Section 5.1. This act shall not be construed to obligate the General Assembly to appropriate any funds to implement the provisions of this act. Every State agency to which this act applies shall implement the provisions of this act from funds otherwise appropriated or available to that agency.

Section 5.2. The headings to the Parts of this act are intended as a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

Section 5.3. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 5.4. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of July, 1999.

Dennis A. Wicker
President of the Senate

James B. Black
Speaker of the House of Representatives

James B. Hunt, Jr.
Governor

Approved _____ .m. this _____ day of _____ , 19