

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1352

Short Title: Toll Violation Enforcement.

(Public)

Sponsors: Senator Hoyle.

Referred to: Finance.

March 26, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE ENFORCEMENT OF TOLLS AT TOLL
3 FACILITIES OPERATED BY THE NORTH CAROLINA TURNPIKE
4 AUTHORITY.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Chapter 20 of the General Statutes is amended by adding a
7 new Article to read:

8 "Article 18.

9 "Toll Violation Enforcement.

10 **"§ 20-400. Definitions.**

11 Unless the context requires otherwise, the following definitions apply to this Article
12 to the defined words and phrases and their cognates:

13 (1) Authority. – The North Carolina Turnpike Authority acting directly or
14 through its duly authorized officers or agents to collect tolls or fees for
15 the use of any road, bridge, or tunnel.

16 (2) Toll facility. – Any road, bridge, or tunnel for which tolls or fees are
17 charged for the use thereof.

18 (3) Processing agency. – A toll enforcement agent, designated by the
19 Authority, responsible for the processing of the notices of toll evasions
20 and notices of delinquent toll evasions. A processing agency may
21 include a public agency or private vendor that the Authority contracts
22 with for the processing of notices of toll evasions and notices of
23 delinquent toll evasions.

24 **"§ 20-401. Payment of toll on toll facilities required.**

25 (a) A person may not use any toll facility without payment of tolls, except as
26 provided by statute, ordinance, or rule of the Authority.

27 (b) If a vehicle is found by automated devices, visual observation, or otherwise to
28 have evaded tolls on any toll facility, the Authority, or a processing agency, shall,
29 within 30 days of the violation, forward to the registered owner of the vehicle a notice

1 of toll evasion violation setting forth the violation, including reference to the section
2 violated, the approximate time, and the location of the violation. If accurate information
3 concerning the identity and address of the registered owner of the vehicle is not
4 available to the processing agency within 30 days of the violation, the processing
5 agency shall have an additional 45 calendar days to obtain such information and
6 forward the notice of toll evasion violation. Where the registered owner is a repeat
7 violation, the processing agency shall forward the notice of toll evasion violation within
8 90 calendar days of the violation. "Repeat violator" means any registered owner that has
9 had more than five violations issued pursuant to this section in any 30-day period within
10 the preceding 12-month period. The notice of toll evasion violation shall also set forth
11 the following:

12 (1) The vehicle license plate number.

13 (2) If practicable, the registration expiration date and the make of the
14 vehicle.

15 (3) A clear and concise explanation of the procedures for contesting the
16 violation and appealing an adverse decision.

17 (c) A violation of subsection (a) of this section is an infraction subject to a
18 penalty established pursuant to G.S. 20-404(b). The collection of penalties assessed
19 pursuant to the section shall be governed by the administrative procedures established
20 by the Authority pursuant to G.S. 20-402.

21 **"§ 20-402. Administrative adjudication.**

22 The Authority shall establish a system of administrative adjudication to adjudicate
23 alleged instances of a vehicle's operation on a toll facility without the required toll
24 having been paid. The provisions of Chapter 150B of the General Statutes shall not
25 apply to the Authority or its processing agents.

26 **"§ 20-403. Judicial review.**

27 (a) The contestant may seek judicial review of the processing agency's final
28 decision by filing a written notice of appeal to the superior court, in the county where
29 the alleged violation took place, within 20 days after the mailing of the final decision by
30 the processing agency. The appeal shall be heard by a judge, with no right to a jury trial,
31 and the standard of review shall be de novo. The contents of the processing agency's file
32 in the case on appeal shall be received in evidence if the contents can be shown not to
33 create an unfair prejudice toward the alleged violator. A copy of the notice of toll
34 evasion violation shall be prima facie evidence of the facts stated therein. A copy of the
35 written notice of appeal shall be served upon the Authority or the processing agency in a
36 manner consistent with Rule 4 of the North Carolina Rules of Civil Procedure.

37 (b) If no written notice of appeal of the processing agency's decision is filed
38 within the period set forth in subsection (a) of this section, the decision shall be deemed
39 final.

40 (c) If the toll evasion penalty has not been deposited and the decision is adverse
41 to the contestant, the processing agency may, promptly after the decision becomes final,
42 proceed to collect the penalty under G.S. 20-407.

43 **"§ 20-404. Toll evasion penalties.**

1 (a) The notice of toll evasion violation shall be accompanied by a written notice
2 of the toll evasion penalty due for that violation and the address of the person authorized
3 to receive a deposit of the toll evasion penalty, to whom payments may be sent, and a
4 statement, in bold print, that payments of the toll evasion penalty for the toll evasion
5 violation may be sent through the mail.

6 (b) A schedule of toll evasion penalties for toll evasion violations shall be
7 established by the Authority, but shall not exceed the amount of the unpaid toll plus one
8 hundred dollars (\$100.00) per violation.

9 (c) Toll evasion penalties under this Article shall be collected as civil penalties.

10 (d) If the toll evasion penalty is received by the person authorized to receive the
11 deposit of the toll evasion penalty and there is no contest as to that toll evasion
12 violation, the proceedings under this Article shall terminate.

13 (e) The amount of the unpaid toll shall be retained by or remitted to the
14 Authority. The Authority shall remit all penalties assessed pursuant to this Article to the
15 Civil Penalty and Forfeiture Fund established pursuant to G.S. 115C-457.1.

16 **"§ 20-405. Notice of delinquent toll evasion violation.**

17 (a) If the payment of the toll evasion penalty is not received by the person
18 authorized to receive a deposit of the toll evasion penalty by the time and date fixed for
19 appearance on the notice of toll evasion violation, the processing agency shall serve or
20 mail to the registered owner a notice of the delinquent toll evasion violation.

21 (b) Delivery of a notice of delinquent toll evasion violation under this section
22 may be made by personal service or by first-class mail addressed to the registered
23 owner.

24 (c) The notice of delinquent toll evasion violation shall contain the information
25 specified in G.S. 20-401(b) and shall also contain a notice to the registered owner that,
26 unless the registered owner pays the toll evasion penalty or contests the notice within 15
27 days after the date postmarked on the mailing of the notice of delinquent toll evasion
28 violation or completes and files an affidavit of non-liability which complies with
29 G.S. 20-406(a) or (b), the renewal of the vehicle registration shall be blocked by the
30 Division until all tolls, penalties, and fees assessed pursuant to this Article are paid in
31 full. If the registered owner, by appearance or by mail, makes payment to the processing
32 agency within 15 days of the mailing of the notice of the delinquent toll evasion
33 violation, the toll evasion penalty shall consist of the amount of the original penalty
34 without any additional administrative fees or charges.

35 (d) If the registered owner fails to pay the toll evasion penalty, as required, or
36 fails to contest the violation, as provided in G.S. 20-401(b)(3), the registered owner
37 shall be deemed responsible for the violation and the toll evasion penalty and any
38 administrative fees or charges shall be due to the Authority by the registered owner.

39 (e) The notice of the delinquent toll evasion violation shall contain, or be
40 accompanied with, an affidavit of non-liability and information of what constitutes
41 non-liability, information as to the effect of executing the affidavit, and instructions for
42 returning the affidavit to the Authority.

43 **"§ 20-406. Rentals and leases; evidence of sale.**

1 (a) If the affidavit of non-liability is returned to the agency within 30 days of the
2 mailing of the notice of the toll evasion violation together with the proof of a written
3 rental agreement or lease between a bona fide renting or leasing company and its
4 customer which identifies the rentee or lessee and provides the drivers license number,
5 name, and address of the rentee or lessee, the processing agency shall personally serve
6 or mail, by first-class mail, to the rentee or lessee, identified in the affidavit of
7 non-liability, a notice of the delinquent toll evasion violation. If payment is not received
8 within 15 days of the mailing of the notice of the delinquent toll evasion violation, the
9 processing agency may proceed against the rentee or lessee pursuant to G.S. 20-407.

10 (b) If the affidavit of non-liability is returned with evidence that the registered
11 owner served has made a bona fide sale or transfer of the vehicle and has delivered
12 possession thereof to the purchaser prior to the date of the alleged violation, the
13 processing agency shall cancel the notice of the toll evasion violation with respect to the
14 registered owner.

15 **"§ 20-407. Collection of unpaid toll evasion penalties.**

16 The processing agency shall proceed under one or more of the following options to
17 collect an unpaid toll evasion penalty:

18 (a) The processing agency may file an itemization of unpaid toll evasion
19 penalties and administrative and service fees with the Division.

20 (b) If more than four hundred dollars (\$400.00) in unpaid penalties and fees have
21 been accrued by any person or registered owner, the processing agency may file proof
22 of unpaid penalties with the court that shall have the same effect as a civil judgment
23 entered pursuant to Article 23 of Chapter 1 of the General Statutes. Execution may be
24 levied and other measures may be taken for the collection of the judgment as are
25 authorized for the collection of an unpaid civil judgment entered against a defendant in
26 an action on a debtor. The court may assess costs against a judgment debtor to be paid
27 upon satisfaction of the judgment. The processing agency shall send a notice by
28 first-class mail to the person or registered owner indicating that a judgment shall be
29 entered for the unpaid penalties, fees, and costs and that, after 30 days from the date of
30 the mailing of the notice, the judgment shall have the same effect as an entry of
31 judgment against a judgment debtor. The person or registered owner shall also be
32 notified at that time that execution may be levied against his or her assets, liens may be
33 placed against his or her property, his or her wages may be garnished, and other steps
34 may be taken to satisfy the judgment. The filing fee plus any costs of collection shall be
35 added to the judgment amount.

36 (c) If the registration of the vehicle has not been renewed for 60 days beyond the
37 renewal date, and the notice has not been collected by the Division, the processing
38 agency may file proof of unpaid penalties and fees with the court that shall have the
39 same effect as a civil judgment entered pursuant to Article 23 of Chapter 1 of the
40 General Statutes.

41 (d) The Authority may contract with a collection agency to collect unpaid toll
42 evasion penalties, fees, and charges.

43 **"§ 20-408. Use of information.**

1 Any information obtained pursuant to this Article, through the use of automated
2 devices, shall not be used for any purpose other than to identify and obtain the mailing
3 address information of toll evasion violators and to facilitate the serving of notices of
4 toll evasion violations and notices of delinquent toll evasion violations."

5 **SECTION 2.** G.S. 20-54 is amended by adding a new subdivision to read:

6 "(10) The Division has been notified that the vehicle has unpaid toll evasion
7 penalties, including administrative fees and the toll evasion penalty
8 and administrative fee have not been paid."

9 **SECTION 3.** This act becomes effective December 1, 2007, and applies to
10 offenses committed on or after that date.