

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 602

Short Title: Impounding Vehicles with Lapsed/No Insurance. (Public)

Sponsors: Representative Cleveland (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Transportation, if favorable, Judiciary Subcommittee B, if favorable, Finance.

April 9, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE VEHICLE BEING OPERATED BY A DRIVER WHO HAS
3 FAILED TO MAINTAIN FINANCIAL RESPONSIBILITY TO BE SEIZED AND
4 FORFEITED TO THE STATE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article 2 of Chapter 20 of the General Statutes is amended by adding
7 a new section to read:

8 "**§ 20-28.10. Seizure, impoundment, forfeiture of motor vehicles for driving without**
9 **insurance.**

10 (a) Seizure of Vehicle Required. – In addition to any other penalties that may apply,
11 upon being charged with a violation of G.S. 20-313 for operating or permitting a motor vehicle
12 to be operated in this State without having in full force and effect the financial responsibility
13 required by Article 13 of this Chapter, the law enforcement agency shall seize the motor
14 vehicle and deliver the same to the sheriff of the county in which such offense is committed, or
15 the same shall be placed under said sheriff's constructive possession if delivery of actual
16 possession is impractical, and the vehicle shall be held by the sheriff pending the trial of the
17 person.

18 (b) Return to Owner of Seized Vehicle. – The sheriff shall restore a motor vehicle
19 seized pursuant to subsection (a) of this section to the owner if the owner pays the costs
20 actually incurred by the sheriff for towing, processing, and storing the vehicle and if any of the
21 following occur:

22 (1) The owner executes a good and valid bond, with sufficient sureties, in an
23 amount double the value of the property, which bond shall be approved by
24 said sheriff and shall be conditioned on the return of the motor vehicle to the
25 custody of the sheriff on the day of trial of the person or persons accused.

26 (2) The charge that led to the motor vehicle's seizure is dismissed or the person
27 charged is acquitted.

28 (3) The owner of the vehicle presents proof of financial responsibility to the
29 sheriff or the owner demonstrates that the violation of that section was the
30 result of a mistake, clerical error, or other inadvertence.

31 (c) Sale of Seized Vehicle Upon Conviction. – Upon conviction of the operator of a
32 motor vehicle for the violation listed in subsection (a) of this section, the court shall order a sale
33 at public auction of the seized motor vehicle in accordance with the following conditions:

34 (1) The officer making the sale shall make the following deductions from the
35 sale proceeds:



- 1 a. The expenses of keeping the motor vehicle.
2 b. The fee for the seizure.
3 c. The costs of the sale.
4 The officer shall then pay from the net proceeds, all liens, according to their
5 priorities, which are established by intervention or otherwise at the hearing
6 or in other proceeding brought for said purpose as being bona fide. The
7 officer shall pay the balance of the proceeds to the proper officer of the
8 county who receives fines and forfeitures to be used for the school fund of
9 the county.
- 10 (2) All liens against a motor vehicle sold under the provisions of this section
11 shall be transferred from the motor vehicle to the proceeds of its sale.
- 12 (d) Exceptions. – A vehicle shall not be sold pursuant to subsection (c) of this section in
13 the following circumstances:
- 14 (1) If, at the time of hearing, or other proceeding in which the matter is
15 considered, the owner of the vehicle can establish to the satisfaction of the
16 court that the provisions of sub-subdivisions a. through c. of this subdivision
17 apply, then the court shall not order a sale of the vehicle but shall restore it
18 to the owner. The owner shall be entitled to a trial by jury upon the issues in
19 this subdivision.
- 20 a. The defendant was an immediate member of the owner's family at
21 the time of the offense.
- 22 b. The defendant had no previous felony or misdemeanor convictions at
23 the time of the offense and had no previous or pending violations of
24 any provision in Chapter 20 of the General Statutes for the three
25 years prior to the time of the offense.
- 26 c. The defendant was under the age of 19 at the time of the offense.
- 27 (2) A nondefendant motor vehicle owner may file a petition with the clerk of
28 court seeking a pretrial determination that the petitioner is an innocent
29 owner. The clerk shall consider the petition and make a determination as
30 soon as may be feasible. At any proceeding conducted pursuant to this
31 subdivision, the clerk is not required to determine the issue of forfeiture,
32 only the issue of whether the petitioner is an innocent owner. If the clerk
33 determines that the petitioner is an innocent owner, the clerk shall release the
34 motor vehicle to the petitioner. The clerk shall send a copy of the order
35 authorizing or denying release of the vehicle to the district attorney and the
36 sheriff. An order issued under this subdivision finding that the petitioner
37 failed to establish that the petitioner is an innocent owner may be
38 reconsidered by the court as part of the forfeiture hearing under this section.
- 39 (3) On petition by a lienholder, the court, in its discretion and upon such terms
40 and conditions as it may prescribe, may allow reclamation of the vehicle by
41 the lienholder. The lienholder shall file with the court an accounting of the
42 proceeds of any subsequent sale of the vehicle and pay into the court any
43 proceeds received in excess of the amount of the lien.
- 44 (4) The vehicle was restored to the owner pursuant to subdivisions (b)(2) or
45 (b)(3) of this section.
- 46 (e) Scope of Section. – This section shall not apply if G.S. 20-28.2 or any other law of
47 this State that requires the seizure, impoundment, and forfeiture of a motor vehicle is
48 applicable."

49 **SECTION 2.** G.S. 20-313(a) reads as rewritten:

50 "(a) On or after July 1, 1963, any owner of a motor vehicle registered or required to be
51 registered in this State who shall operate or permit such motor vehicle to be operated in this

1 State without having in full force and effect the financial responsibility required by this Article
2 shall be guilty of a Class 1 ~~misdemeanor~~ misdemeanor and the motor vehicle that was operated
3 in violation of this section becomes property subject to forfeiture in accordance with the
4 procedure set out in G.S. 20-28.10."

5 **SECTION 3.** This act becomes effective December 1, 2013, and applies to
6 offenses committed on or after that date.