

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

**SESSION LAW 2021-185
HOUSE BILL 165**

AN ACT TO MAKE VARIOUS CHANGES TO THE TRANSPORTATION AND MOTOR
VEHICLE LAWS OF THE STATE.

The General Assembly of North Carolina enacts:

PART I. DEPARTMENT OF TRANSPORTATION

**STUDY RIGHT-OF-WAY ACQUISITION AND CONDEMNATION PROCEDURES TO
IMPROVE COLLABORATION**

SECTION 1. In order to more accurately reflect projected costs and improve communication among impacted persons and entities, the North Carolina Department of Transportation shall study right-of-way acquisition planning and procedures, including condemnation, for State highway system projects. This study shall examine current planning and acquisition procedures and evaluate the feasibility and associated costs with potential alternative procedural options to improve collaboration and address the concerns of impacted persons and entities, with a focus on projects that impact businesses or commercial properties. The Department shall report the findings of this study, including any legislative recommendations, to the North Carolina General Assembly, the chairs of the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division no later than 180 days after this act becomes law.

MAP ACT SETTLEMENT COST CAP REPEAL

SECTION 2. Section 1.4(a) of S.L. 2019-251 is repealed.

STI CHANGES

SECTION 3.(a) G.S. 136-189.11(e) reads as rewritten:

"(e) Authorized Formula Variance. – The Department may vary from the Formula set forth in this section if it complies with the following:

- (1) Limitation on variance. – The Department, in obligating funds in accordance with this section, shall ensure that the percentage amount obligated to Statewide Strategic Mobility Projects, Regional Impact Projects, and Division Need Projects does not vary by more than fifteen percent (15%) over any five-year period and ten percent (10%) over any 10-year period from the percentage required to be allocated to each of those categories by this section. Funds obligated among distribution regions or divisions pursuant to this section may vary up to fifteen percent (15%) over any five-year period and ten percent (10%) over any 10-year period.
- (2) Calculation of Variance. – Each year, the Secretary shall calculate the amount of Regional Impact and Division Need funds allocated in that year to each division and region, the amount of funds obligated, and the amount the obligations exceeded or were below the allocation. In calculating the amount of funds obligated, the Secretary shall include any amount used as repayment



for funds advanced pursuant to G.S. 136-186. The target amounts obtained according to the Formula set forth in this section shall be adjusted to account for any differences between allocations and obligations reported for the previous ~~five~~ fiscal years. The new target amounts shall be used to fulfill the requirements of subdivision (1) of this subsection for the next update of the Transportation Improvement Program. The adjustment to the target amount shall be allocated by Distribution Region or Division, as applicable."

SECTION 3.(b) This section is effective when it becomes law and applies to State Transportation Improvement Program plan updates on or after that date.

EXPAND APPLICATION OF DIVISION NEED PROJECT ALTERNATE CRITERIA FOR TIME-CRITICAL JOB CREATION OPPORTUNITIES

SECTION 3.5. G.S. 136-189.11(d)(3)b. reads as rewritten:

"b. Alternate criteria. – Funding from the following programs shall be included in the computation of each of the Department division equal shares but shall be subject to alternate quantitative criteria:

1. Federal Surface Transportation Program-Direct Attributable funds expended on eligible projects in the Division Need Projects category.
2. Federal Transportation Alternatives funds appropriated to the State.
3. Federal Railway-Highway Crossings Program funds appropriated to the State.
4. Projects requested from the Department in support of a time-critical job creation opportunity, ~~when the opportunity would be classified as transformative under the Job Development Investment Grant program established pursuant to G.S. 143B-437.52,~~ provided that (i) the State-Department investment for all projects funded under this sub-sub-subdivision in any five-year period shall not exceed one hundred million dollars (\$100,000,000) in the aggregate and aggregate, (ii) the amount of funding associated with a project under this sub-sub-subdivision does not exceed the lesser of ten million dollars (\$10,000,000) per project, and the greater of ten thousand dollars (\$10,000) per job created or ten percent (10%) of the amount of private investment associated with the project, (iii) the Department ensures that funding under this sub-sub-subdivision, when combined with any other grants, does not result in the costs of the project to the State outweighing its total benefits and determines that the funding is necessary for completion of the project in this State. Upon the release of a State Transportation Improvement Program, the Department shall submit a report to the Joint Legislative Transportation Oversight Committee detailing the projects funded under this sub-sub-subdivision.
5. Federal funds for municipal road projects."

SMALL PROJECT BIDDING INCREASE AND EXPANSION

SECTION 4.(a) G.S. 136-28.10 reads as rewritten:

"§ 136-28.10. Highway Fund and Highway Trust Fund Small Project Bidding.

(a) Notwithstanding the provisions of G.S. 136-28.4(b), for Highway Fund or Highway Trust Fund construction and repair projects of ~~five hundred thousand dollars (\$500,000)~~ one million dollars (\$1,000,000) or less, and maintenance projects of ~~five hundred thousand dollars (\$500,000)~~ one million dollars (\$1,000,000) or less per year, the Board of Transportation may, after soliciting and receiving at least three informal bids in writing from Small Business Enterprises, award contracts to the lowest responsible bidder. The Department of Transportation may identify projects likely to attract increased participation by Small Business Enterprises, and restrict the solicitation and award to those bidders. The Board of Transportation may delegate full authority to award contracts, adopt necessary rules, and administer the provisions of this section to the Secretary of Transportation.

...."

SECTION 4.(b) This section is effective when it becomes law and applies to solicitations for bids issued by the Department of Transportation on or after that date.

CLARIFY FERRY CHANNEL DREDGE COST-SHARE EXEMPTION

SECTION 5. G.S. 143-215.73F(c1), as enacted by S.L. 2021-108, reads as rewritten:

"(c1) Cost-Share Exemption for DOT Ferry Channel Projects. – Notwithstanding the cost-share requirements of subdivision (1) of subsection (c) of this section, no cost-share shall be required for dredging projects located, in whole or part, in a development tier one area for a ferry channel ~~maintained~~ used by the North Carolina Department of Transportation."

LITTER CLEANUP

SECTION 6.(a) G.S. 136-28.12 reads as rewritten:

"§ 136-28.12. Litter removal coordinated with mowing of highway rights-of-way.

~~The Department of Transportation shall, to the extent practicable, schedule the removal of debris, trash, and litter from highways and highway rights of way prior to the mowing of highway rights of way. The Department of Transportation shall include as a term of any contract that it enters into for the mowing of a highway right of way that the contracting party shall, to the extent practicable, coordinate with the scheduled removal of debris, trash, and litter from the highway and highway right of way prior to the mowing of the highway right of way.~~

(a) For State-maintained roads, the Department of Transportation shall coordinate litter removal and mowing as follows:

(1) If the highway right-of-way to be mowed is part of the primary road system, the Department shall schedule the removal of litter before the right-of-way is mowed.

(2) If the highway right-of-way to be mowed is part of the secondary road system, the Department shall schedule, to the extent practicable, the removal of litter before the right-of-way is mowed.

(b) The Department shall require as a term of any contract to mow or remove litter that the contracting party agree to the provisions in subsection (a) of this section."

SECTION 6.(b) Report on Litter Management System. – On or before January 15, 2022, the Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division on the effectiveness of the Department's Litter Management System website and interactive map, including impacts on participation in litter management programs.

SECTION 6.(c) This section is effective when it becomes law. Subsection (a) of this section applies to contracts entered into on or after January 1, 2022.

PART II. DIVISION OF MOTOR VEHICLES

INSURANCE COMPANIES TO SUBMIT POLICY NOTIFICATIONS TO DIVISION ELECTRONICALLY

SECTION 7. G.S. 20-309.2(c) reads as rewritten:

"(c) Form of Notice. – ~~Any insurer with twenty-five million dollars (\$25,000,000) or more in annual vehicle insurance premium volume shall submit the notices required under this section by electronic means. All other insurers may~~ shall submit the notices required under this section by ~~either paper or~~ electronic means."

HANDICAPPED PLACARD ONLINE RENEWAL

SECTION 8. G.S. 20-37.6(c1) reads as rewritten:

"(c1) Application and Renewal; Medical Certification. – The initial application for a distinguishing license plate, removable windshield placard, or temporary removable windshield placard shall be accompanied by a certification of a licensed physician, a licensed ophthalmologist, a licensed optometrist, a licensed physician assistant, a licensed nurse practitioner, or the Division of Services for the Blind that the applicant or person in the applicant's custody or care is handicapped or by a disability determination by the United States Department of Veterans Affairs that the applicant or person in the applicant's custody or care is handicapped. For an initial application for a temporary removable windshield placard only, the certification that the applicant is handicapped may be made by a licensed certified nurse midwife. The application for a temporary removable windshield placard shall contain additional certification to include the period of time the certifying authority determines the applicant will have the disability. Distinguishing license plates shall be renewed annually, but subsequent applications shall not require a medical certification that the applicant is handicapped, except that a registered owner that certified pursuant to subsection (b) of this section that the registered owner is the guardian or parent of a handicapped person must recertify every five years. Removable windshield placards shall be renewed every five years, and, except for a person certified as totally and permanently disabled at the time of the initial application or a prior renewal under this subsection, the renewal shall require a medical recertification that the person is handicapped; provided that a medical certification shall not be required to renew any placard that expires after the person to whom it is issued is 80 years of age. Temporary removable windshield placards shall expire no later than six months after issuance. The Division shall offer renewal of handicapped credentials in person and online on the Division's website."

DISQUALIFICATION FOR LIFE FROM DRIVING A CMV FOR CERTAIN CONVICTIONS OF SEVERE FORMS OF TRAFFICKING IN PERSONS

SECTION 9. G.S. 20-17.4 is amended by adding a new subsection to read:

"(c2) Life. – A person shall be disqualified from driving a commercial motor vehicle for life, without the possibility of reinstatement, if convicted of a major disqualifying offense as defined in 49 C.F.R. § 383.51(b)(10)."

CLARIFY STUDY TRANSFER OF DMV HEARINGS

SECTION 10.(a) Section 2(a) of S.L. 2021-134 reads as rewritten:

"**SECTION 2.(a)** The Division of Motor ~~Vehicles, Vehicles and the Office of Administrative Hearings,~~ Vehicles and the Office of Administrative Hearings, in consultation with ~~the Office of Administrative Hearings and the~~ Attorney General, shall study the feasibility of transferring (i) dealer license hearings pursuant to G.S. 20-296 and (ii) safety and emissions inspection hearings pursuant to Article 3A of Chapter 20 of the General Statutes from the Division of Motor Vehicles to the Office of Administrative Hearings. The study shall:

...."

SECTION 10.(b) Section 2(b) of S.L. 2021-134 reads as rewritten:

"SECTION 2.(b) By ~~January 31, 2022,~~ March 31, 2022, the Division of Motor Vehicles shall submit the findings of the study to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division."

DELAY AMENDMENT OF EFFECTIVE DATE FOR CERTAIN LICENSE REVOCATIONS

SECTION 11. Section 9(d) of S.L. 2021-134 reads as rewritten:

"SECTION 9.(d) This section becomes effective ~~October 1, 2021,~~ February 1, 2022, and applies to notifications of revocations mailed by the Division of Motor Vehicles on or after that date."

DMV EMERGENCY RULE EXTENSION FOR ROAD TESTS

SECTION 11.5.(a) The Division of Motor Vehicles may amend, extend, or adopt emergency rules to modify road test requirements, including 19A NCAC 03B .0201, Driver's License Examination and Online Renewal (emergency amendment effective July 22, 2020), implemented by the Division in accordance with subsection (g) of Section 3.20 of S.L. 2020-97, as enacted by Section 3 of S.L. 2021-13. Notwithstanding the expiration dates in G.S. 150B-21.1A(d)(4) or subsection (g) of Section 3.20 of S.L. 2020-97, as enacted by Section 3 of S.L. 2021-13, emergency rules amended, extended, or adopted in accordance with this section shall expire 30 days after Executive Order No. 116 is rescinded or December 31, 2022, whichever is earlier.

SECTION 11.5.(b) This section is effective September 30, 2021.

PART III. MISCELLANEOUS

LAPSE IN FINANCIAL RESPONSIBILITY

SECTION 12.(a) G.S. 20-309.2 is amended by adding a new subsection to read:

"(a1) Division Records. – The Division shall ensure that its records accurately reflect the insurance coverage status of each owner of a motor vehicle registered or required to be registered in this State by reconciling all notices received under this section pertaining to that motor vehicle owner. A termination notice received under subdivision (2) of subsection (a) of this section shall not be recorded as a lapse in financial responsibility or initiate action by the Division under G.S. 20-311 if an earlier notice received by the Division under this section establishes that the owner of the motor vehicle has met the duty to have continuous financial responsibility for the vehicle, as required under G.S. 20-309, through a motor vehicle liability policy that is not the subject of the later termination notice."

SECTION 12.(b) G.S. 20-311(a) reads as rewritten:

"(a) Action. – When the Division receives evidence, by a notice of termination of a motor vehicle liability policy or otherwise, that the owner of a motor vehicle registered or required to be registered in this State does not have financial responsibility for the operation of the vehicle, the Division shall ~~send~~ notify the owner ~~a letter.~~ electronically or by mail. ~~The letter shall notify~~ notice shall inform the owner of the evidence demonstrating lapse and ~~inform the owner~~ that the owner ~~shall~~ must respond to the ~~letter~~ notice within 10 days of the date ~~on the letter and the notice was sent.~~ The owner's response must explain how the owner has met the duty to have continuous financial responsibility for the vehicle. Based on the owner's response, the Division shall take the appropriate action listed:

...

(5) No penalty. – If the owner responds within the required time and the response establishes all of the following, the Division shall not assess the owner a penalty:

- a. The owner sold the vehicle under G.S. 20-62.1 or transferred title under G.S. 20-72 or G.S. 20-109.1 within 10 days of the termination of financial responsibility for the vehicle.
- b. The owner did not operate or allow the vehicle to be operated during the lapse because the vehicle was either (i) unable to be driven due to damage or mechanical defect or (ii) no longer in the possession of the owner as a result of a sale or transfer for which there was a delay between physical transfer of the vehicle and completion of the paperwork required under G.S. 20-62.1, 20-72, or 20-109.1.
- c. The owner has returned the North Carolina registration plate or has submitted an affidavit indicating that the North Carolina registration plate has been lost, stolen, or destroyed."

SECTION 12.(c) The Division of Motor Vehicles shall develop a plan to implement a system for accepting documentation from insurers required under G.S. 20-309.2 in an electronic format that allows for immediate transmission of insurance coverage status for owners of motor vehicles registered or required to be registered in this State. The plan shall also provide for electronic submission of all documentation required to be submitted by insurers to the Division in order to license an individual or register a motor vehicle in this State. The Division shall report to the chairs of the House of Representatives and Senate Transportation Committees, the House of Representatives Insurance Committee, and the Senate Commerce and Insurance Committee on or before March 1, 2022, detailing the plan developed in accordance with this section.

MANAGED LANE RESTRICTION ENFORCEMENT

SECTION 13.(a) G.S. 136-89.199 reads as rewritten:

"§ 136-89.199. Designation of high-occupancy toll and managed lanes.

(a) Authority. – Notwithstanding any other provision of this Article, the Authority may designate one or more lanes of any highway, or portion thereof, within the State, including lanes that may previously have been designated as HOV lanes under G.S. 20-146.2, as high-occupancy toll (HOT) or other type of managed lanes; provided, however, that such designation shall not reduce the number of existing non-toll general purpose lanes. In making such designations, the Authority shall specify the high-occupancy requirement or other conditions for use of such lanes, which may include restricting vehicle types, access controls, or the payment of tolls for vehicles that do not meet the high-occupancy requirements or conditions for use.

(b) Reporting. – At least 90 days prior to the letting of a contract for the designation of a HOT lane or other type of managed lane under subsection (a) of this section, the Authority shall submit a report to the Joint Legislative Transportation Oversight Committee detailing (i) the reasoning for the designation of the HOT lane or other type of managed lane and (ii) the terms of the contract that will be let. The reporting requirement in this subsection does not apply to any project proposed by the Authority that is subject to the reporting requirement set forth in G.S. 136-89.183(a)(2).

(c) Penalty. – Violation of a use requirement or use condition for lanes designated under subsection (a) of this section is an infraction."

SECTION 13.(b) G.S. 20-176(a1) reads as rewritten:

"(a1) A person who does any of the following is responsible for an infraction:

- (1) Fails to carry the registration card in the vehicle, in violation of G.S. 20-57(c).
- (2) Repealed by Session Laws 2016-90, s. 12(b), effective December 1, 2016, and applicable to registration cards issued on or after that date.
- (3) Fails to notify the Division of an address change for a vehicle registration card within 60 days after the change occurs, in violation of G.S. 20-67.
- (4) Operates a motor vehicle in violation of G.S. 20-146.2."

SECTION 13.(c) This section becomes effective December 1, 2021, and applies to offenses committed on or after that date.

MAXIMUM BUS LENGTH

SECTION 14. G.S. 20-116(l) reads as rewritten:

~~"(l)~~ Nothing in this section shall be construed to prevent the operation of passenger buses that are owned and operated by units of local government, operated as a single vehicle ~~only~~ and having an overall length of 45 feet or ~~less,~~ less or as an articulated vehicle and having an overall length of 65 feet or less, on public streets or highways. The Department of Transportation may prevent the operation of buses that are authorized under this subsection if the operation of such buses on a street or highway presents a hazard to passengers of the buses or to the motoring public."

COMMERCIAL DRIVER TRAINING SCHOOL ROAD TEST AUTHORIZATION

SECTION 15.(a) G.S. 20-11(d)(3), as amended by S.L. 2021-24, reads as rewritten:

"(3) Passes a road test administered by the ~~Division~~ Division or by a commercial driver training school certified by the Division to administer road tests."

SECTION 15.(b) G.S. 20-320 reads as rewritten:

"§ 20-320. Definitions.

As used in this Article:

- (1) "Commercial driver training school" or "school" means a business enterprise conducted by an individual, association, partnership or corporation which educates or trains persons to operate or drive motor ~~vehicles~~ vehicles, administers road tests pursuant to G.S. 20-329, or which furnishes educational materials to prepare an applicant for an examination given by the State for a driver's license or learner's permit, and charges a consideration or tuition for such service or materials.
- (2) "Commissioner" means the Commissioner of Motor Vehicles.
- (3) "Instructor" means any person who operates a commercial driver training school or who teaches, conducts classes, gives demonstrations, administers road tests, or supervises practical training of persons learning to operate or drive motor vehicles in connection with operation of a commercial driver training school."

SECTION 15.(c) Article 14 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-329. Commercial driver training school road test certification.

(a) A licensed commercial driver training school is authorized to administer road tests required for licensure under G.S. 20-11(d)(3) only when certified under this section by the Division.

(b) A person that successfully passes a road test required for licensure administered by a commercial driver training school may submit proof to the Division that the person passed the road test, in a format specified by the Division, for the purpose of meeting the requirement of G.S. 20-11(d)(3).

(c) The Commissioner may adopt rules for school certification to administer road tests, including requirements concerning location, equipment, instructors, schedule of fees and charges, insurance, bond or other security in such sum and with such provisions as the Commissioner deems necessary to protect adequately the interests of the public, and such other matters as the Commissioner may prescribe."

DURHAM CHARTER SCHOOL AUTHORIZATION FOR ON-STREET VEHICLE STACKING TO LOAD AND UNLOAD STUDENTS

SECTION 15.5.(a) Notwithstanding any provision of law or development ordinance to the contrary, the City of Durham or the North Carolina Department of Transportation, as applicable, shall authorize and allow a charter school to utilize on-street right-of-way for the purpose of temporary motor vehicle stacking or queuing to load or unload students that attend the charter school. This authorization and allowance only applies to a charter school that meets all of the following conditions: (i) the charter school is located in the City of Durham, was chartered prior to 2005, operates more than one campus within the city limits, and operates on a year-round school schedule and (ii) the charter school is relocating, renovating, or expanding a campus at or to a location within one-half mile of the existing location.

SECTION 15.5.(b) Nothing in this section shall be construed to allow for motor vehicle stacking or queuing that would block driveway access or the movement of through traffic on streets adjacent to the charter school location.

SECTION 15.5.(c) This section becomes effective December 1, 2021.

E-SALVAGE EXPRESS

SECTION 16. G.S. 20-109.1 reads as rewritten:

"§ 20-109.1. Surrender of titles to salvage vehicles.

...

(c) Owner Keeps Vehicle. – If a salvage vehicle owner wants to keep the vehicle, the insurer must give the owner an owner-retained salvage form. The owner must complete the owner-retained salvage form and give it to the insurer when the insurer pays the claim. ~~The owner's signature on the owner-retained salvage form must be notarized.~~ The owner shall execute the owner-retained salvage form with either a manual signature or an electronic signature. An electronic signature must comply with Article 40 of Chapter 66 of the General Statutes. The owner's signature is not required to be notarized. The insurer must send the completed form to the Division within 10 days after receiving it from the vehicle owner. The Division must then note in its vehicle registration records that the vehicle listed on the form is a salvage vehicle.

...

(h) Claims. – The Division shall not be subject to a claim under Article 31 of Chapter 143 of the General Statutes related to the cancellation of a title pursuant to this section if the claim is based on reliance by the Division on any proof of payment or proof of notice submitted to the Division by a third party pursuant to subdivision (b)(2) or subsection (e1) of this section. The Division shall not be subject to a claim arising from an owner-retained salvage form submitted to the Division with an unverified manual signature or an electronic signature pursuant to subsection (c) of this section."

PART IV. EFFECTIVE DATE

SECTION 17. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of November, 2021.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 10:23 a.m. this 23rd day of November, 2021