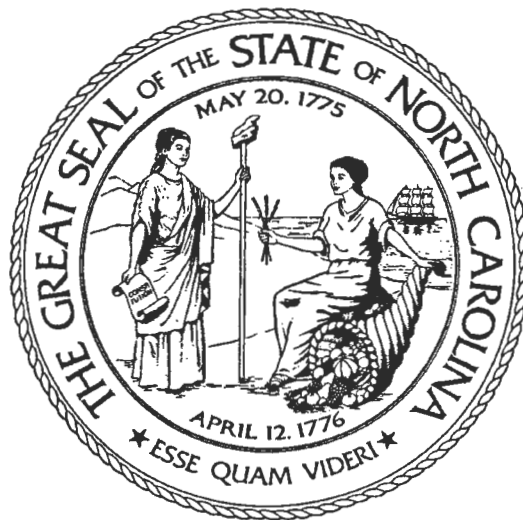


**LEGISLATIVE
RESEARCH COMMISSION**

MOTOR VEHICLE TOWING AND STORAGE



**REPORT TO THE
1993 GENERAL ASSEMBLY
OF NORTH CAROLINA**

A LIMITED NUMBER OF COPIES OF THIS REPORT IS AVAILABLE
FOR DISTRIBUTION THROUGH THE LEGISLATIVE LIBRARY.

ROOMS 2126, 2226
STATE LEGISLATIVE BUILDING
RALEIGH, NORTH CAROLINA 27611
TELEPHONE: (919) 733-7778

OR

ROOM 500
LEGISLATIVE OFFICE BUILDING
RALEIGH, NORTH CAROLINA 27603-5925
TELEPHONE: (919) 733-9390

TABLE OF CONTENTS

Letter of Transmittal..... i
Legislative Research Commission Membership..... ii
PREFACE..... 1
COMMITTEE PROCEEDINGS..... 3
FINDINGS AND RECOMMENDATIONS..... 5

APPENDICES

Relevant portions of Chapter 754 of the 1991
Session Laws authorizing the study and
Senate Bill 687 of the 1991
SessionAPPENDIX A

Membership of the LRC Committee on
Motor Vehicle Towing and Storage.....APPENDIX B

Legislative Proposal -- A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE
SECRETARY OF CRIME CONTROL AND PUBLIC SAFETY TO ESTABLISH A
WRECKER SERVICE SYSTEM
and a Section-by-Section
Analysis of the Bill.....APPENDIX C

STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611

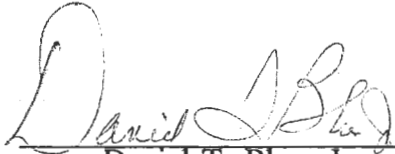


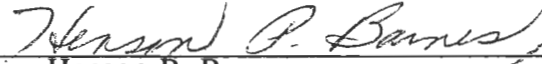
January 15, 1993

TO THE MEMBERS OF THE 1993 GENERAL ASSEMBLY:

The Legislative Research Commission herewith submits to you for your consideration its final report on motor vehicle towing and storage. The report was prepared by the Legislative Research Commission's Committee on Motor Vehicle Towing and Storage pursuant to Section 2.1(54) of Chapter 754 of the 1991 Session Laws (SB 917).

Respectfully submitted,


Daniel T. Blue, Jr.
Speaker of the House


Henson P. Barnes
President Pro Tempore

Cochairmen
Legislative Research Commission

1991-1992

LEGISLATIVE RESEARCH COMMISSION

MEMBERSHIP

President Pro Tempore of
the Senate
Henson P. Barnes, Cochair

Senator Frank W. Ballance, Jr.
Senator Howard F. Bryan
Senator J. K. Sherron, Jr.
Senator Lura Tally
Senator Russell G. Walker

Speaker of the House of
Representatives
Daniel T. Blue, Jr., Cochair

Rep. Marie W. Colton
Rep. W. Pete Cunningham
Rep. E. David Redwine
Rep. Frank E. Rhodes
Rep. Peggy M. Stamey

PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

At the direction of the 1991 General Assembly and the cochairs of the Legislative Research Commission, the Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Cochairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairs, one from each house of the General Assembly, were designated for each committee.

The study of Motor Vehicle Towing and Storage was authorized by Section 2.1(54) of Chapter 754 of the 1991 Session Laws. That act states that the Commission may consider Senate Bill 687 in determining the nature, scope and aspects of the study. Section 3 of Senate Bill 687 reads in part: "The Commission may study: (1) The method by which towing companies, used by the State and local governments, are chosen for particular service, including mandating a rotation system; (2) Establishing qualifications for a towing company to meet before being placed on the rotation system; (3) Methods of reimbursing a towing company for removing and storing

abandoned vehicles; and (4) Other issues involving towing and storage of vehicles at the request of State and local governments." The relevant portions of Chapter 754 and Senate Bill 687 are included in Appendix A. The Legislative Research Commission grouped this study in its Transportation area under the direction of Representative E. David Redwine. The Committee was chaired by Senator Alexander P. Sands, III and Representative R. Donald Beard. The full membership of the Committee is listed in Appendix B of this report. A committee notebook containing the committee minutes and all information presented to the committee is filed in the Legislative Library.

COMMITTEE PROCEEDINGS

Meeting on March 12, 1992

The first meeting of the Committee was held on March 12, 1992 in room 1228 of the Legislative Building. Senator Sands opened the meeting by emphasizing his interest in establishing a wrecker rotation system in North Carolina, and by recounting his work on this issue over the last several years. Following Senator Sands remarks, and comments by cochairman Beard, the Committee heard from Belinda Harris, representing the Towing and Recovery Professionals of North Carolina, Ms. Harris discussed the two main legislative goals of her organization: establishment of a wrecker rotation system, and revision of the abandoned car disposal system in N.C. Mr. Michael McGovern, an attorney and towing system expert from Longwood, Florida, and Major C.V. Parks of the Highway Patrol also participated in the discussion. Mr. McGovern submitted to the Committee comprehensive information on wrecker rotation laws and regulation from all over the nation. The Committee also heard from Mr. Gene Hafer and Eddie Caldwell concerning lien enforcement, and from Mr. Julian Philpott concerning "on-hook" insurance coverage for towers.

Meeting on April 7, 1992

The second meeting of the Committee was held on April 7, 1992 at 10:00 a.m. in room 1228 of the Legislative Building. The Committee's primary discussion centered on two proposals to establish a wrecker rotation system: one from the towing industry,

the other from the Highway Patrol. The Committee heard comments on the proposals from the following persons: Belinda Harris, Towing and Recovery Professional of N.C.; Major C.V. Parks, Highway Patrol; Ike Avery, Attorney General's Office, Eddie Caldwell, N.C. Service Station Association; Jim Blackburn of the N.C. Association of County Commissioners; and Ellis Hankins of the N.C. League of Municipalities. The Committee also briefly discussed a revision to the abandoned vehicle disposal process, and decided to continue discussion on these issues after the short session.

Meeting on December 29, 1992

The third meeting of the Committee was held on December 18, 1992 at 10:00 a.m. in room 1124 of the Legislative Building. The Committee discussed the draft wrecker service system bill, and decided to recommend it to the 1993 General Assembly. A draft report presented to the committee was approved, and the Committee adjourned.

FINDINGS AND RECOMMENDATIONS

Finding

The committee finds that a statewide wrecker service system, to be utilized by the State Highway Patrol, would benefit all citizens by providing a reliable, safe, and fair system of service for those in need along the State's Highways

Recommendation

The Committee recommends that the General Assembly authorize the Secretary of Crime Control and Public Safety to establish a wrecker service system, to be used by the Highway Patrol along the State's highways. The text of this recommendation is found in APPENDIX C.

APPENDIX A
CHAPTER 754
SENATE BILL 917

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE AND CONTINUE VARIOUS COMMITTEES AND COMMISSIONS, TO MAKE APPROPRIATIONS THEREFOR, TO DIRECT VARIOUS STATE AGENCIES TO STUDY SPECIFIED ISSUES, AND TO MAKE OTHER AMENDMENTS TO THE LAW.

PART I.-----TITLE

Section 1. This act shall be known as "The Studies Act of 1991."

.....

PART II.-----LEGISLATIVE RESEARCH COMMISSION

Sec. 2.1. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1991 bill or resolution that originally proposed the issue or study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study. The topics are:

.....

(54) Motor Vehicle Towing and Storage (S.B. 687 - Sands),

.....

Sec. 2.7. Committee Membership. For each Legislative Research Commission Committee created during the 1991-93 biennium, the cochairs of the Commission shall appoint the Committee membership.

Sec. 2.8. Reporting Dates. For each of the topics the Legislative Research Commission decides to study under this act or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 1992 Regular Session of the 1991 General Assembly or the 1993 General Assembly, or both.

Sec. 2.9. Bills and Resolution References. The listing of the original bill or resolution in this Part is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

Sec. 2.10. Funding. From the funds available to the General Assembly, the Legislative Services Commission may allocate additional monies to fund the work of the Legislative Research Commission.

.....

PART XXI.-----EFFECTIVE DATE

Sec. 21.1. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 16th day of July, 1991.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

1

SENATE BILL 687

Short Title: Motor Vehicle Towing Study.

(Public)

Sponsors: Senator Sands.

Referred to: Appropriations.

April 18, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE THE MOTOR VEHICLE TOWING AND STORAGE
3 AT THE REQUEST OF STATE AND LOCAL GOVERNMENTS STUDY
4 COMMISSION.

5 The General Assembly of North Carolina enacts:

6 Section 1. The Towing and Storage at the Request of State and
7 Local Governments Study Commission is created. The Commission shall
8 consist of six members. Three Senators appointed by the President Pro
9 Tempore of the Senate, and three Representatives appointed by the Speaker of
10 the House of Representatives.

11 Sec. 2. The President Pro Tempore of the Senate shall designate
12 one Senator as cochairman and the Speaker of the House of Representatives
13 shall designate one Representative as cochairman.

14 Sec. 3. The Commission shall study:

- 15 (1) The method by which towing companies, used by the State
16 and local governments, are chosen for the particular service,
17 including mandating a rotation system;
18 (2) Establishing qualifications for a towing company to meet
19 before being placed on the rotation system;
20 (3) Methods of reimbursing a towing company for removing and
21 storing abandoned vehicles; and
22 (4) Other issues involving towing and storage of vehicles at the
23 request of the State and local governments.

24 Sec. 4. The Commission may submit an interim report of its
25 findings and recommendations to the General Assembly on or before the first

1 day of the 1992 Session of the General Assembly and shall submit a final
2 report of its findings and recommendations to the General Assembly on or
3 before the first day of the 1993 Session of the General Assembly by filing the
4 report with the President Pro Tempore of the Senate and the Speaker of the
5 House of Representatives. Upon filing its final report, the Commission shall
6 terminate.

7 Sec. 5. The Commission, while in the discharge of official duties,
8 may exercise all the powers provided for under the provisions of G.S. 120-19
9 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any
10 time upon the joint call of the cochairmen. The Commission may meet in the
11 Legislative Building or the Legislative Office Building.

12 Sec. 6. Members of the Commission shall receive subsistence and
13 travel expenses at the rates set forth in G.S. 120-3.1.

14 Sec. 7. The Commission may contract for professional, clerical, or
15 consultant services as provided by G.S. 120-32.02. The Legislative Services
16 Commission, through the Legislative Administrative Officer, shall assign
17 professional staff to assist in the work of the Commission. The House of
18 Representatives' Supervisor of Clerks or the Senate's Supervisor of Clerks shall
19 assign clerical staff to the Commission, upon the direction of the Legislative
20 Services Commission. The expenses relating to clerical employees shall be
21 borne by the Commission.

22 Sec. 8. When a vacancy occurs in the membership of the
23 Commission, the vacancy shall be filled by the same appointing officer who
24 made the initial appointment.

25 Sec. 9. All State departments and agencies and all local
26 governments and their subdivisions shall furnish the Commission with any
27 information required by the Commission that is in their possession or available
28 to them.

29 Sec. 10. There is appropriated from the General Fund to the
30 General Assembly the sum of \$50,000 for the 1991-92 fiscal year and the sum
31 of \$50,000 for the 1992-93 fiscal year for the expenses of the Commission.

32 Sec. 11. This act becomes effective July 1, 1991.

APPENDIX B

MOTOR VEHICLE TOWING AND STORAGE 1991-1992

LRC Member: Rep. E. David Redwine
P.O. Box 238
Shallotte, NC 28459
(919) 579-2169

Members:

President Pro Tempore's Appointments

Sen. Alexander P. Sands, III, Cochair
P.O. Box 449
Reidsville, NC 27323-0449
(919) 349-7041

Sen. Frank W. Ballance, Jr.
P.O. Box 616
Warrenton, NC 27589
(919) 257-1012

Mr. Gary Bevell
Wayne Auto Salvage
S. US 117 Highway
Goldsboro, NC 27530

Mr. Harvey L. Davis
Davis Garage & Body Shop
300 Martin Luther King Road
Winston-Salem, NC 27101

Sen. William D. Goldston, Jr.
P.O. Box 307
Eden, NC 27288
(919) 627-1495

Sen. Ralph A. Hunt
1005 Crete Street
Durham, NC 27707
(919) 682-5259

Sen. B. Tommy Pollard
1014 Richlands Highway
Jacksonville, NC 28540
(919) 455-3180

Staff:

Mr. Giles Perry
(919) 733-2578

Speaker's Appointments

Rep. R. Donald Beard, Cochair
2918 Skye Drive
Fayetteville, NC 28303
(919) 484-9935

Rep. Joanne W. Bowie
106 Nut Bush Dr. E.
Greensboro, NC 27410
(919) 294-2587

Rep. C. Robert Brawley
P.O. Box 1322
Mooresville, NC 28115
(704) 664-1502

Rep. Edward L. McGee
3708 Hawthorne Road
Rocky Mount, NC 27804
(919) 937-4282

Rep. Leo Mercer
115 Miller Street
Chadbourn, NC 28431
(919) 654-3084

Rep. Raymond M. Thompson
P.O. Box 351
Edenton, NC 27932
(919) 482-2226

Rep. E. Alexander Warner
3610 Frierson Street
Hope Mills, NC 28348
(919) 424-0030

Clerk:

Ms. Mandy Boyette
(919) 556-7976
Room 1217

APPENDIX C

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

D

92d-RW-208

THIS IS A DRAFT 4-DEC-92 09:44:52

Short Title: Wrecker Service System.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE SECRETARY OF CRIME CONTROL AND PUBLIC
3 SAFETY TO ESTABLISH A WRECKER SERVICE SYSTEM.
4 The General Assembly of North Carolina enacts:
5 Section 1. Chapter 20 of the General Statutes is amended
6 by adding a new section to read:
7 "§ 20-196.4. Wrecker service system authorized.
8 (a) The Secretary of Crime Control and Public Safety shall
9 establish a wrecker service system for utilizing qualified,
10 reputable 24-hour wrecker services to remove or store vehicles
11 from highways, roads, right-of-ways, and adjacent areas. The
12 State Highway Patrol shall use the wrecker service system
13 established by the Secretary for the removal or storage of:
14 (1) a wrecked or disabled vehicle;
15 (2) an abandoned or derelict vehicle; or
16 (3) a vehicle whose owner, operator, or person in
17 apparent control is arrested, incapacitated, or
18 authorizes procurement of a wrecker to the State
19 Highway Patrol.

1 (b) The Secretary shall establish minimum wrecker service
2 system standards for safety, equipment, financial responsibility,
3 experience, and reliability. Any wrecker service included in the
4 system must be in substantial compliance with all applicable
5 federal, state, and local laws. Any wrecker service that makes
6 application and meets the minimum standards shall be utilized in
7 the wrecker service system.

8 (c) The State Highway Patrol may deviate from the wrecker
9 service system, and call the closest wrecker on the system, when
10 a member of the State Highway Patrol determines that public
11 safety requires deviation from the system. The State Highway
12 Patrol may also deviate from the wrecker service system when:

- 13 (1) no wrecker service on the system is available;
14 (2) a municipal or county government has established a
15 zone or other wrecker system, and the State Highway
16 Patrol determines that use of the zone or other
17 system is in the best interest of the public; or
18 (3) the owner, operator, or person in apparent control
19 of the vehicle requests a specific wrecker service.

20 (d) The Secretary may remove a wrecker service from the system
21 if the wrecker service:

- 22 (1) Fails to comply with the wrecker service system
23 rules; or
24 (2) Arrives at a the location of a vehicle described in
25 subsection (a)(1), (2) or (3) for the purpose of
26 soliciting towing business and without being
27 requested by the State Highway Patrol or another
28 person to provide wrecker service.

29 (e) In accordance with G.S. 150B-22, the Secretary shall
30 establish an informal settlement committee composed of two
31 representatives of the towing industry and three representatives
32 of the State Highway Patrol to hear any dispute concerning the
33 wrecker service system. No wrecker service may be removed from
34 the wrecker service system until the completion of the informal
35 settlement procedure. No person may file a contested case under
36 Chapter 150B of the General Statutes without first utilizing the
37 informal settlement procedure. The time for filing a contested
38 case provided in G.S. 150B-23(f) shall not begin to run until
39 after completion of the informal settlement procedure.

1 (f) Any wrecker service called pursuant to this section must
2 enter in to a contract with the owner, operator, or person in
3 apparent control of the vehicle for payment of services. Nothing
4 in this section shall be construed as creating a contract between
5 the State Highway Patrol or its employees and the wrecker
6 service, or between the State Highway Patrol or its employees and
7 the owner, operator, or person in apparent control of any vehicle
8 towed. Neither the Secretary of Crime Control and Public Safety,
9 the State Highway Patrol, nor any employee performing any act
10 pursuant to this section shall be subject to monetary liability
11 nor shall they be named as a defendant in any civil action
12 between the wrecker service or its agents or employees and the
13 owner, operator or person in apparent control of any vehicle
14 towed, stored, or subject to be towed or stored under this
15 section.

16 (g) The Secretary shall adopt rules to implement this section,
17 in accordance with Chapter 150B."

18 Sec. 2. Chapter 20 of the General Statutes is amended
19 by adding a new section to read:

20 "§ G.S. 20-196.5. Unauthorized Towing Solicitation.

21 No operator of a wrecker or person acting on behalf of a towing
22 service shall stop, park, or leave standing a vehicle on a
23 highway right-of-way at an accident scene for the purpose of
24 soliciting towing business unless previously contacted by a
25 vehicle operator or someone acting on behalf of the operator or
26 by a law enforcement agency. This section applies regardless of
27 participation in a wrecker service system established pursuant to
28 G.S. 20-196.4. A violation of this section is a misdemeanor
29 punishable only by a penalty of not more than five hundred
30 dollars (\$500.00)."

31 Sec. 3. This act becomes effective October 1, 1993.

EXPLANATION OF LEGISLATIVE PROPOSAL

AN ACT TO AUTHORIZE THE SECRETARY OF CRIME CONTROL AND PUBLIC SAFETY TO ESTABLISH A WRECKER SERVICE SYSTEM.

This proposal would amend Article 4 (Highway Patrol) of Chapter 20 (Motor Vehicles) of the General Statutes by adding two new sections to authorize the establishment of a wrecker service system, and to provide a penalty for unauthorized towing solicitation.

Specifically, **Section 1** of the proposal adds a new section, G.S. 20-196.4, to authorize the Secretary of Crime Control and Public Safety to establish by rule a wrecker service system. This system would be used only by the Highway Patrol to remove or store wrecked, abandoned, etc., vehicles from the state highways.

The proposal provides that the Secretary by rule establish minimum standards for wreckers included in the system, authorizes the Highway Patrol to deviate from the system in certain circumstances, and provides a system for removal of wreckers from the system.

The proposal also provides a method for resolution of disputes that may arise under the wrecker service system. In order to reduce the number of contested cases that may arise, the proposal provides that any person with a complaint about the system must first go to an informal settlement committee established by the Secretary.

Section 2 of the proposal establishes the misdemeanor of unauthorized towing solicitation, punishable by a penalty not to exceed \$500.

Section 3 of the proposal provides an effective date of October 1, 1993.