

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S

1

SENATE BILL 1273

Short Title: DMV Audit Recommendations.

(Public)

Sponsors: Senators Hoyle; and Carpenter.

Referred to: Transportation.

May 23, 1996

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE PERFORMANCE
AUDIT OF THE DIVISION OF MOTOR VEHICLES OF THE DEPARTMENT OF
TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-1 reads as rewritten:

**"§ 20-1. Division of Motor Vehicles of the Department of ~~Transportation~~; powers and
duties. Transportation.**

The ~~Department of Motor Vehicles~~ is hereby redesignated the Division of Motor
Vehicles of the Department of Transportation. ~~The Division of Motor Vehicles shall have
the same powers and duties as were held by the Department of Motor Vehicles except as
otherwise provided in this Article. All powers, duties and functions relating to the
collection of motor fuel taxes and the collection of the gasoline and oil inspection taxes
shall continue to be vested in and exercised by the Secretary of Revenue, and wherever it
is now provided by law that reports shall be filed with the Secretary of Revenue, or
Department of Revenue, as a basis for collecting the motor fuel or gasoline and oil
inspection taxes, or enforcing any of the laws regarding the motor fuel or gasoline and oil
inspection taxes, such reports shall continue to be made to the Department of Revenue
and the Commissioner of Motor Vehicles shall make available to the Secretary of
Revenue all information from files of the Division of Motor Vehicles which the Secretary~~

1 of Revenue may request to enable him to better enforce the law with respect to the
2 collection of such taxes. Nothing in this Article shall deprive the Utilities Commission of
3 any of the duties or powers now vested in it with regard to the regulation of motor vehicle
4 carriers. Transportation is established. This Chapter sets out the powers and duties of the
5 Division."

6 Sec. 2. G.S. 20-2 reads as rewritten:

7 "**§ 20-2. Commissioner of Motor Vehicles; Authority to adopt rules.**

8 (a) ~~Commissioner and Assistants.~~ The Division of Motor Vehicles shall be
9 administered by the Commissioner of Motor Vehicles, who shall be appointed by and
10 serve at the pleasure of the Secretary of the Department of Transportation. The
11 Commissioner shall be paid an annual salary to be fixed by the General Assembly in the
12 Current Operations Appropriations Act and allowed his traveling expenses as allowed by
13 law.

14 In any action, proceeding, or matter of any kind, to which the Commissioner of Motor
15 Vehicles is a party or in which he may have an interest, all pleadings, legal notices, proof
16 of claim, warrants for collection, certificates of tax liability, executions, and other legal
17 documents, may be signed and verified on behalf of the Commissioner of Motor Vehicles
18 by the Assistant Commissioner of Motor Vehicles or by any director or assistant director
19 of any section of the Division of Motor Vehicles or by any other agent or employee of the
20 Division so authorized by the Commissioner of Motor Vehicles.

21 (b) ~~Rules.~~—The ~~Commissioner~~ Secretary may adopt rules to implement this
22 Chapter. Chapter 150B of the General Statutes governs the adoption of rules by the
23 ~~Commissioner~~ Secretary."

24 Sec. 3. G.S. 20-3 is repealed.

25 Sec. 4. G.S. 20-4.01(4) is repealed.

26 Sec. 5. G.S. 20-4.01 is amended by adding a new subdivision in the
27 appropriate alphabetical order to read:

28 "(39a) Secretary. – The Secretary of the North Carolina Department of
29 Transportation."

30 Sec. 6. The following statutes are amended by deleting the word
31 "Commissioner" each time it appears and substituting the word "Secretary" :

32 G.S. 20-4.2

33 G.S. 20-4.3

34 G.S. 20-4.4

35 G.S. 20-4.6

36 G.S. 20-4.10

37 G.S. 20-4.20

38 G.S. 20-4.22

39 G.S. 20-7

40 G.S. 20-9

41 G.S. 20-11

42 G.S. 20-13.2

43 G.S. 20-16.1

1	G.S. 20-17.1
2	G.S. 20-19
3	G.S. 20-24
4	G.S. 20-26
5	G.S. 20-29.1
6	G.S. 20-30
7	G.S. 20-37.12
8	G.S. 20-37.16
9	G.S. 20-37.23
10	G.S. 20-39
11	G.S. 20-40
12	G.S. 20-41
13	G.S. 20-42
14	G.S. 20-43
15	G.S. 20-43.4
16	G.S. 20-45
17	G.S. 20-47
18	G.S. 20-48
19	G.S. 20-49
20	G.S. 20-50
21	G.S. 20-56
22	G.S. 20-57
23	G.S. 20-61
24	G.S. 20-63
25	G.S. 20-64
26	G.S. 20-64.2
27	G.S. 20-66
28	G.S. 20-71.2
29	G.S. 20-71.3
30	G.S. 20-71.4
31	G.S. 20-78
32	G.S. 20-79.1
33	G.S. 20-83
34	G.S. 20-84
35	G.S. 20-84.2
36	G.S. 20-85.1
37	G.S. 20-86.1
38	G.S. 20-88.01
39	G.S. 20-91
40	G.S. 20-91.1
41	G.S. 20-91.2
42	G.S. 20-92
43	G.S. 20-94

1	G.S. 20-97
2	G.S. 20-99
3	G.S. 20-100
4	G.S. 20-108
5	G.S. 20-109.1
6	G.S. 20-114
7	G.S. 20-124
8	G.S. 20-125
9	G.S. 20-125.1
10	G.S. 20-126
11	G.S. 20-127
12	G.S. 20-128.2
13	G.S. 20-129
14	G.S. 20-129.2
15	G.S. 20-130
16	G.S. 20-133
17	G.S. 20-135.1
18	G.S. 20-135.2
19	G.S. 20-135.2A
20	G.S. 20-135.2B
21	G.S. 20-135.4
22	G.S. 20-140.4
23	G.S. 20-141.3
24	G.S. 20-179.3
25	G.S. 20-183.3
26	G.S. 20-183.8D
27	G.S. 20-183.8E
28	G.S. 20-218
29	G.S. 20-279.2
30	G.S. 20-279.3
31	G.S. 20-279.5
32	G.S. 20-279.6
33	G.S. 20-279.6A
34	G.S. 20-279.7
35	G.S. 20-279.8
36	G.S. 20-279.9
37	G.S. 20-279.10
38	G.S. 20-279.11
39	G.S. 20-279.12
40	G.S. 20-279.13
41	G.S. 20-279.16
42	G.S. 20-279.19
43	G.S. 20-279.20

1 G.S. 20-279.22

2 G.S. 20-279.24

3 G.S. 20-279.25

4 G.S. 20-279.26

5 G.S. 20-279.27

6 G.S. 20-279.28

7 G.S. 20-279.29

8 G.S. 20-279.30

9 G.S. 20-279.31

10 G.S. 20-279.32

11 G.S. 20-279.33

12 G.S. 20-281

13 G.S. 20-283

14 G.S. 20-288

15 G.S. 20-295

16 G.S. 20-296

17 G.S. 20-300

18 G.S. 20-301

19 G.S. 20-302

20 G.S. 20-305

21 G.S. 20-305.1

22 G.S. 20-305.2

23 G.S. 20-305.3

24 G.S. 20-305.4

25 G.S. 20-308.1

26 G.S. 20-315

27 G.S. 20-320

28 G.S. 20-321

29 G.S. 20-322

30 G.S. 20-323

31 G.S. 20-324

32 G.S. 20-325

33 G.S. 20-382

34 G.S. 20-382.2.

35 Sec. 7. G.S. 1-105 reads as rewritten:

36 **"§ 1-105. Service upon nonresident drivers of motor vehicles and upon the personal**
37 **representatives of deceased nonresident drivers of motor vehicles.**

38 The acceptance by a nonresident of the rights and privileges conferred by the laws
39 now or hereafter in force in this State permitting the operation of motor vehicles, as
40 evidenced by the operation of a motor vehicle by such nonresident on the public
41 highways of this State, or at any other place in this State, or the operation by such
42 nonresident of a motor vehicle on the public highways of this State or at any other place
43 in this State, other than as so permitted or regulated, shall be deemed equivalent to the

1 appointment by such nonresident of the ~~Commissioner of Motor Vehicles,~~ Secretary of the
2 Department of Transportation, or his successor in office, to be his true and lawful
3 attorney and the attorney of his executor or administrator, upon whom may be served all
4 summonses or other lawful process in any action or proceeding against him or his
5 executor or administrator, growing out of any accident or collision in which said
6 nonresident may be involved by reason of the operation by him, for him, or under his
7 control or direction, express or implied, of a motor vehicle on such public highways of
8 this State, or at any other place in this State, and said acceptance or operation shall be a
9 signification of his agreement that any such process against him or his executor or
10 administrator shall be of the same legal force and validity as if served on him personally,
11 or on his executor or administrator.

12 Service of such process shall be made in the following manner:

- 13 (1) By leaving a copy thereof, with a fee of ten dollars (\$10.00), in the
14 hands of the ~~Commissioner of Motor Vehicles,~~ Secretary of the
15 Department of Transportation, or in his office. Such service, upon
16 compliance with the other provisions of this section, shall be sufficient
17 service upon the said nonresident.
- 18 (2) Notice of such service of process and copy thereof must be forthwith
19 sent by certified or registered mail by plaintiff or the ~~Commissioner of~~
20 ~~Motor Vehicles~~ Secretary of the Department of Transportation to the
21 defendant, and the entries on the defendant's return receipt shall be
22 sufficient evidence of the date on which notice of service upon the
23 ~~Commissioner of Motor Vehicles~~ Secretary of the Department of
24 Transportation and copy of process were delivered to the defendant, on
25 which date service on said defendant shall be deemed completed. If the
26 defendant refuses to accept the certified or registered letter, service on
27 the defendant shall be deemed completed on the date of such refusal to
28 accept as determined by notations by the postal authorities on the
29 original envelope, and if such date cannot be so determined, then service
30 shall be deemed completed on the date that the certified or registered
31 letter is returned to the plaintiff or ~~Commissioner of Motor Vehicles,~~
32 Secretary of the Department of Transportation, as determined by postal
33 marks on the original envelope. If the certified or registered letter is not
34 delivered to the defendant because it is unclaimed, or because he has
35 removed himself from his last known address and has left no forwarding
36 address or is unknown at his last known address, service on the
37 defendant shall be deemed completed on the date that the certified or
38 registered letter is returned to the plaintiff or ~~Commissioner of Motor~~
39 ~~Vehicles~~ Secretary of the Department of Transportation.
- 40 (3) The defendant's return receipt, or the original envelope bearing a
41 notation by the postal authorities that receipt was refused, and an
42 affidavit by the plaintiff that notice of mailing the registered letter and
43 refusal to accept was forthwith sent to the defendant by ordinary mail,

1 together with the plaintiff's affidavit of compliance with the provisions
2 of this section, must be appended to the summons or other process and
3 filed with said summons, complaint and other papers in the cause.

4 Provided, that where the nonresident motorist has died prior to the commencement of
5 an action brought pursuant to this section, service of process shall be made on the
6 executor or administrator of such nonresident motorist in the same manner and on the
7 same notice as is provided in the case of a nonresident motorist.

8 The court in which the action is pending shall order such continuance as may be
9 necessary to afford the defendant reasonable opportunity to defend the action."

10 Sec. 8. G.S. 8-37 reads as rewritten:

11 **"§ 8-37. Certificate of ~~Commissioner~~ Division of Motor Vehicles as to ownership of**
12 **automobile.**

13 In any civil or criminal action in which the ownership of a motor vehicle is relevant,
14 evidence as to the letters and numbers appearing upon the registration plate attached to
15 such vehicle or of the motor vehicle identification number, together with certified copies
16 of records furnished pursuant to G.S. 20-42 by the ~~Commissioner~~ Division of Motor
17 Vehicles showing the name of the owner of the vehicle to which such registration plate or
18 vehicle identification number is assigned, or a certified copy of the certificate of title for
19 such motor vehicle on file with the ~~Commissioner~~ Division of Motor Vehicles, is prima
20 facie evidence of the ownership of such motor vehicle."

21 Sec. 9. G.S. 20-279.21(b)(3)b. reads as rewritten:

22 "b. Where the insured, under the uninsured motorist coverage,
23 claims that he has sustained bodily injury as the result of
24 collision between motor vehicles and asserts that the identity of
25 the operator or owner of a vehicle (other than a vehicle in which
26 the insured is a passenger) cannot be ascertained, the insured may
27 institute an action directly against the insurer: Provided, in that
28 event, the insured, or someone in his behalf, shall report the
29 accident within 24 hours or as soon thereafter as may be
30 practicable, to a police officer, peace officer, other judicial
31 officer, or to the ~~Commissioner of Motor Vehicles~~ Division. The
32 insured shall also within a reasonable time give notice to the
33 insurer of his injury, the extent thereof, and shall set forth in the
34 notice the time, date and place of the injury. Thereafter, on forms
35 to be mailed by the insurer within 15 days following receipt of
36 the notice of the accident to the insurer, the insured shall furnish
37 to insurer any further reasonable information concerning the
38 accident and the injury that the insurer requests. If the forms are
39 not furnished within 15 days, the insured is deemed to have
40 complied with the requirements for furnishing information to the
41 insurer. Suit may not be instituted against the insurer in less than
42 60 days from the posting of the first notice of the injury or
43 accident to the insurer at the address shown on the policy or after

1 personal delivery of the notice to the insurer or its agent. The
2 failure to post notice to the insurer 60 days before the initiation
3 of the suit shall not be grounds for dismissal of the action, but
4 shall automatically extend the time for filing of an answer or
5 other pleadings to 60 days after the time of service of the
6 summons, complaint, or other process on the insurer."

7 Sec. 10. G.S. 20-282 reads as rewritten:

8 **"§ 20-282. Cooperation in enforcement of Article.**

9 The provisions of this Article shall be enforced by the ~~Commissioner of Motor Vehicles~~
10 Division in cooperation with the Commissioner of Insurance, the North Carolina
11 Automobile Rate Administrative Office and with all law-enforcement officers and agents
12 and other agencies of the State and the political subdivisions thereof."

13 Sec. 11. G.S. 20-309 reads as rewritten:

14 **"§ 20-309. Financial responsibility prerequisite to registration; must be maintained**
15 **throughout registration period.**

16 (a) No self-propelled motor vehicle shall be registered in this State unless the
17 owner at the time of registration has financial responsibility for the operation of such
18 motor vehicle, as provided in this Article. The owner of each motor vehicle registered in
19 this State shall maintain financial responsibility continuously throughout the period of
20 registration.

21 (b) Financial responsibility shall be a liability insurance policy or a financial
22 security bond or a financial security deposit or by qualification as a self-insurer, as these
23 terms are defined and described in Article 9A, Chapter 20 of the General Statutes of
24 North Carolina, as amended.

25 (c) When it is certified that financial responsibility is a liability insurance policy,
26 the ~~Commissioner of Motor Vehicles~~ Division may require that the owner produce records
27 to prove the fact of such insurance, and failure to produce such records shall be prima
28 facie evidence that no financial responsibility exists with regard to the vehicle concerned.
29 It shall be the duty of insurance companies, upon request of the Division, to verify the
30 accuracy of any owner's certification.

31 (d) When liability insurance with regard to any motor vehicle is terminated by
32 cancellation or failure to renew, or the owner's financial responsibility for the operation
33 of any motor vehicle is otherwise terminated, the owner shall forthwith surrender the
34 registration certificate and plates of the vehicle to the Division of Motor Vehicles unless
35 financial responsibility is maintained in some other manner in compliance with this
36 Article.

37 (e) Upon termination by cancellation or otherwise of an insurance policy provided
38 in subsection (b) of this section, the insurer shall notify the Division of such termination;
39 provided, no cancellation notice is required if the insurer issues a new insurance policy
40 complying with this Article at the same time the insurer cancels or otherwise terminates
41 the old policy, no lapse in coverage results, and the insurer sends the certificate of
42 insurance form for the new policy to the Division. The Division, upon receiving notice of
43 cancellation or termination of an owner's financial responsibility as required by this

Article, shall notify such owner of such cancellation or termination, and such owner shall, to retain the registration plate for the vehicle registered or required to be registered, within 10 days from date of notice given by the Division either:

- (1) Certify to the Division that he had financial responsibility effective on or prior to the date of such termination; or
- (2) In the case of a lapse in financial responsibility, pay a fifty dollar (\$50.00) civil penalty; and certify to the Division that he now has financial responsibility effective on the date of certification, that he did not operate the vehicle in question during the period of no financial responsibility with the knowledge that there was no financial responsibility, and that the vehicle in question was not involved in a motor vehicle accident during the period of no financial responsibility.

Failure of the owner to certify that he has financial responsibility as herein required shall be prima facie evidence that no financial responsibility exists with regard to the vehicle concerned and unless the owner's registration plate has on or prior to the date of termination of insurance been surrendered to a representative of the Division ~~by surrender to an agent or representative of the Division designated by the Commissioner, or depositing the same deposited~~ in the United States ~~mail, mail and~~ addressed to the Division of Motor Vehicles, Raleigh, North Carolina, the Division shall revoke the vehicle's registration for 30 days.

In no case shall any vehicle, the registration of which has been revoked for failure to have financial responsibility, be reregistered in the name of the registered owner, spouse, or any child of the spouse, or any child of such owner within less than 30 days after the date of receipt of the registration plate by the Division of Motor Vehicles, except that a spouse living separate and apart from the registered owner may register such vehicle immediately in such spouse's name. Additionally, as a condition precedent to the reregistration of the vehicle by the registered owner, spouse, or any child of the spouse, or any child of such owner, except a spouse living separate and apart from the registered owner, the payment of a restoration fee of fifty dollars (\$50.00) and the appropriate fee for a new registration plate is required. Any person, firm or corporation failing to give notice of termination shall be subject to a civil penalty of two hundred dollars (\$200.00) to be assessed by the Commissioner of Insurance upon a finding by the Commissioner of Insurance that good cause is not shown for such failure to give notice of termination to the Division.

(f) ~~The Commissioner shall administer and enforce the provisions of this Article and may make rules and regulations necessary for its administration and~~ Secretary shall provide for hearings upon request of persons aggrieved by orders or acts of the ~~Commissioner~~ Secretary under the provisions of this Article."

Sec. 12. G.S. 44A-4(c) reads as rewritten:

"(c) Private Sale. – Sale by private sale may be made in any manner that is commercially reasonable. If the property upon which the lien is claimed is a motor vehicle, the sale may not be made until notice is given to the ~~Commissioner~~ Division of Motor Vehicles pursuant to G.S. 20-114(c). Not less than 30 days prior to the date of the

1 proposed private sale, the lienor shall cause notice to be mailed, as provided in subsection
2 (f) hereof, to the person having legal title to the property, if reasonably ascertainable, to
3 the person with whom the lienor dealt if different, and to each secured party or other
4 person claiming an interest in the property who is actually known to the lienor or can be
5 reasonably ascertained. Notices provided pursuant to subsection (b) hereof shall be
6 sufficient for these purposes if such notices contain the information required by
7 subsection (f) hereof. The lienor shall not purchase, directly or indirectly, the property at
8 private sale and such a sale to the lienor shall be voidable."

9 Sec. 13. G.S. 44A-4(e) reads as rewritten:

10 "(e) Public Sale. –

11 (1) Not less than 20 days prior to sale by public sale the lienor:

12 a. Shall notify the ~~Commissioner~~Division of Motor Vehicles as
13 provided in G.S. 20-114(c) if the property upon which the lien is
14 claimed is a motor vehicle; and

15 a1. Shall cause notice to be mailed to the person having legal title to
16 the property if reasonably ascertainable, to the person with whom
17 the lienor dealt if different, and to each secured party or other
18 person claiming an interest in the property who is actually known
19 to the lienor or can be reasonably ascertained, provided that
20 notices provided pursuant to subsection (b) hereof shall be
21 sufficient for these purposes if such notices contain the
22 information required by subsection (f) hereof; and

23 b. Shall advertise the sale by posting a copy of the notice of sale at
24 the courthouse door in the county where the sale is to be held;
25 and shall publish notice of sale once a week for two consecutive weeks
26 in a newspaper of general circulation in the same county, the date of the
27 last publication being not less than five days prior to the sale.

28 (2) A public sale must be held on a day other than Sunday and between the
29 hours of 10:00 A.M. and 4:00 P.M.:

30 a. In any county where any part of the contract giving rise to the
31 lien was performed, or

32 b. In the county where the obligation secured by the lien was
33 contracted for.

34 (3) A lienor may purchase at public sale."

35 Sec. 14. G.S. 66-58(b)(15) reads as rewritten:

36 "(15) The State Department of Correction is authorized to purchase and install
37 automobile license tag plant equipment for the purpose of
38 manufacturing license tags for the State and local governments and for
39 such other purposes as the Department may direct.

40 The ~~Commissioner~~Division of Motor Vehicles, ~~or such other authority~~
41 ~~as may exercise~~Vehicles and any other entity that exercises the authority
42 to purchase automobile license tags is hereby directed to purchase from,

and to contract with, the State Department of Correction for the State automobile license tag requirements from year to year.

The price to be paid to the State Department of Correction for such tags shall be fixed and agreed upon by the Governor, the State Department of Correction, and the ~~Motor Vehicle Commissioner, or such authority as may be authorized to purchase such supplies.~~ agency purchasing the tags."

Sec. 15. G.S. 105-187.1 reads as rewritten:

"§ 105-187.1. Definitions.

The following definitions and the definitions in G.S. 105-164.3 apply to this Article:

(1) ~~" Commissioner" means the Commissioner of Motor Vehicles.~~

(2) ~~" Division" means the Division.~~ – The Division of Motor Vehicles, Department of Transportation.

(3) ~~" Long-term Long-term lease or rental" means a rental.~~ – A lease or rental made under a written agreement to lease or rent property to the same person for a period of at least 365 continuous days.

(4) ~~" Short-term Short-term lease or rental" means a rental.~~ – A lease or rental that is not a long-term lease or rental."

Sec. 16. G.S. 105-187.3 reads as rewritten:

"§ 105-187.3. Rate of tax.

(a) Amount. – The rate of the use tax imposed by this Article is three percent (3%) of the retail value of a motor vehicle for which a certificate of title is issued. The tax is payable as provided in G.S. 105-187.4. The tax may not be more than one thousand dollars (\$1,000) for each certificate of title issued for a Class A or Class B motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. The tax may not be more than one thousand five hundred dollars (\$1,500) for each certificate of title issued for any other motor vehicle.

(b) Retail Value. – The retail value of a motor vehicle for which a certificate of title is issued because of a sale of the motor vehicle by a retailer is the sales price of the motor vehicle, including all accessories attached to the vehicle when it is delivered to the purchaser, less the amount of any allowance given by the retailer for a motor vehicle taken in trade as a full or partial payment for the purchased motor vehicle. The retail value of a motor vehicle for which a certificate of title is issued because of a sale of the motor vehicle by a seller who is not a retailer is the market value of the vehicle, less the amount of any allowance given by the seller for a motor vehicle taken in trade as a full or partial payment for the purchased motor vehicle. A transaction in which two parties exchange motor vehicles is considered a sale regardless of whether either party gives additional consideration as part of the transaction. The retail value of a motor vehicle for which a certificate of title is issued because of a reason other than the sale of the motor vehicle is the market value of the vehicle. The market value of a vehicle is presumed to be the value of the vehicle set in a schedule of values adopted by the ~~Commissioner.~~ Secretary of the Department of Transportation.

(c) Schedules. – In adopting a schedule of values for motor vehicles, the ~~Commissioner~~ Secretary of the Department of Transportation shall adopt a schedule whose values do not exceed the wholesale values of motor vehicles as published in a recognized automotive reference manual."

Sec. 17. G.S. 105-187.4 reads as rewritten:

"§ 105-187.4. Payment of tax.

(a) Method. – The tax imposed by this Article must be paid to the ~~Commissioner~~ Division when applying for a certificate of title for a motor vehicle. The ~~Commissioner~~ Division may not issue a certificate of title for a vehicle until the tax imposed by this Article has been paid. The tax may be paid in cash or by check.

(b) Sale by Retailer. – When a certificate of title for a motor vehicle is issued because of a sale of the motor vehicle by a retailer, the applicant for the certificate of title must attach a copy of the bill of sale for the motor vehicle to the application. A retailer who sells a motor vehicle may collect from the purchaser of the vehicle the tax payable upon the issuance of a certificate of title for the vehicle, apply for a certificate of title on behalf of the purchaser, and remit the tax due on behalf of the purchaser. If a check submitted by a retailer in payment of taxes collected under this section is not honored by the financial institution upon which it is drawn because the retailer's account did not have sufficient funds to pay the check or the retailer did not have an account at the institution, the Division may suspend or revoke the license issued to the retailer under Article 12 of Chapter 20 of the General Statutes."

Sec. 18. G.S. 105-187.8 reads as rewritten:

"§ 105-187.8. Refund for return of purchased motor vehicle.

When a purchaser of a motor vehicle returns the motor vehicle to the seller of the motor vehicle within 90 days after the purchase and receives a vehicle replacement for the returned vehicle or a refund of the price paid the seller, whether from the seller or the manufacturer of the vehicle, the purchaser may obtain a refund of the privilege tax paid on the certificate of title issued for the returned motor vehicle.

To obtain a refund, the purchaser must apply to the Division for a refund within 30 days after receiving the replacement vehicle or refund of the purchase price. The application must be made on a form prescribed by the ~~Commission~~ Division and must be supported by documentation from the seller of the returned vehicle."

Sec. 19. G.S. 105-187.10 reads as rewritten:

"§ 105-187.10. Penalties and remedies.

(a) Penalties. – The penalty for bad checks in G.S. 105-236(1) applies to a check offered in payment of the tax imposed by this Article. In addition, if a check offered to the Division in payment of the tax imposed by this Article is returned unpaid and the tax for which the check was offered, plus the penalty imposed under G.S. 105-236(1), is not paid within 30 days after the ~~Commissioner~~ Division demands its payment, the ~~Commissioner~~ Division may revoke the registration plate of the vehicle for which a certificate of title was issued when the check was offered.

(b) Unpaid Taxes. – The remedies for collection of taxes in G.S. 20-99 apply to the taxes levied by this Article and collected by the ~~Commissioner~~ Division.

(c) Appeals. — A taxpayer who disagrees with the presumed value of a motor vehicle must pay the tax based on the presumed value, but may appeal the value to the ~~Commissioner~~ Secretary of the Department of Transportation. A taxpayer who appeals the value must provide two estimates of the value of the ~~vehicle to the Commissioner~~ vehicle. If the ~~Commissioner~~ Secretary of the Department of Transportation finds that the value of the vehicle is less than the presumed value of the vehicle, the ~~Commissioner~~ Division shall refund any overpayment of tax made by the taxpayer with interest at the rate specified in G.S. 105-241.1 from the date of the overpayment."

Sec. 20. G.S. 105-449.54 reads as rewritten:

"§ 105-449.54. ~~Commissioner of Motor Vehicles~~ Secretary of Department of Transportation made process agent of nonresident motor carriers.

The acceptance by a nonresident motor carrier of the rights and privileges conferred by the laws now or hereafter in force in this State permitting the operation of motor vehicles, as evidenced by the operation of a motor vehicle by such nonresident, either personally or through an agent or employee, on the public highways of this State, or the operation by such nonresident, either personally or through an agent or employee, of a motor vehicle on the public highways of this State other than as so permitted or regulated, shall be deemed equivalent to the appointment by such nonresident motor carrier of the ~~Commissioner of Motor Vehicles, Secretary of the Department of Transportation,~~ or his successor in office, to be his true and lawful attorney and the attorney of his executor or administrator, upon whom may be served all summonses or other lawful process or notice in any action, assessment proceeding or other proceeding against him or his executor or administrator, arising out of or by reason of any provisions of this Article relating to such vehicle or relating to the liability for tax with respect to operation of such vehicle on the highways of this State. Said acceptance or operation shall be a signification by such nonresident motor carrier of his agreement that any such process against or notice to him or his executor or administrator shall be of the same legal force and validity as if served on him personally, or on his executor or administrator. All of the provisions of G.S. 1-105 following the first paragraph thereof shall be applicable with respect to the service of process or notice pursuant to this section."

Sec. 21. G.S. 110-91(a)(13) reads as rewritten:

"(13) Transportation. — All child day care facilities shall abide by North Carolina law regulating the use of seat belts and child passenger restraint devices. All vehicles operated by any facility staff person or volunteer to transport children shall be properly equipped with appropriate seat belts or child restraint devices as approved by the ~~Commissioner of Motor Vehicles~~ Secretary of the Department of Transportation. Each adult and child shall be restrained by an appropriate seat safety belt or restraint device when the vehicle is in motion. These restraint regulations do not apply to vehicles not required by federal law to be equipped with seat restraints. All vehicles used to transport children shall meet and maintain the safety inspection standards of the Division of Motor Vehicles of the Department of

1 Transportation and the facility shall comply with all other applicable
2 State and federal laws and regulations concerning the operation of a
3 motor vehicle. Children may never be left unattended in a vehicle.

4 The ratio of adults to children in child day care vehicles may not be
5 less than the staff/child ratios prescribed by G.S. 110-91(7). The
6 Commission shall adopt standards for transporting children under the
7 age of two, including standards addressing this particular age's
8 staff/child ratio during transportation."

9 Sec. 22. G.S. 143-166.13(a)(13) reads as rewritten:

10 "(13) Members of License and Theft Enforcement Section, Division of Motor
11 Vehicles, Department of Transportation, designated by the ~~Commissioner~~
12 ~~of Motor Vehicles~~ Secretary of the Department of Transportation as
13 either 'inspectors' or uniformed weigh station personnel;"

14 Sec. 23. G.S. 147-33.2(8) reads as rewritten:

15 "(8) At any time when the General Assembly is not in session, suspend, or
16 modify, in whole or in part, generally or in its application to certain
17 classes of persons, firms, corporations or circumstances, any law, rule or
18 regulation with reference to the subjects hereinafter enumerated, when
19 he shall find and proclaim after such study, investigation or hearings as
20 he may direct, make or conduct, that the operation, enforcement or
21 application of such law, or any part thereof, materially hinders, impedes,
22 delays or interferes with the proper conduct of the war; said subjects
23 being as follows:

24 a. The use of the roads, streets, and highways of the State, with
25 particular reference to speed limits, weights and sizes of motor
26 vehicles, regulations of automobile lights and signals,
27 transportation of munitions or explosives and parking or
28 assembling of automobiles on highways or any other public place
29 within the State; provided that any changes in the laws referred to
30 in this subdivision shall be first approved by the Board of
31 ~~Transportation and the Commissioner of Motor Vehicles of the State;~~
32 Transportation;

33 b. Public health, insofar as suspension or modification of the laws
34 in reference thereto may be stipulated by the United States Public
35 Health Service or other authoritative agency of the United States
36 government as being essential in the interest of national safety
37 and in the successful prosecution of the war effort; provided that
38 such suspension or modification of public health laws shall first
39 be submitted to and approved by the Commission for Health
40 Services;

41 c. Labor and industry; provided, however, that any suspension or
42 modification of laws regulating labor and industry shall be only
43 such as are certified by the Commissioner of Labor of the State

as being necessary in the interest of national safety and in the furtherance of the war program; and provided further that any such changes as may result in an increase in the hours of employment over and above the limits of the existing statutory provisions shall carry provision for adequate additional compensation; and provided, further, that no changes in such laws or regulations shall be made as affecting existing contracts between labor and management in this State except with the approval of the contracting parties;

d. Whenever it should be certified by the Adjutant General of the State that emergency conditions require such procedure, the Governor, with the approval of the Council of State, shall have the power to call up and mobilize State militia in addition to the existing units of the State guard; to provide transportation and facilities for mobilization and full utilization of the State guard, or other units of militia, in such emergency; and to allocate from the Contingency and Emergency Fund such amounts as may be necessary for such purposes during the period of such emergency;

e. Manufacture, sale, transportation, possession and use of explosives or fireworks, or articles in simulation thereof, and the sale, use and handling of firearms;"

Sec. 24. The Division of Motor Vehicles shall develop a plan to stagger the registration of commercial trucks on a quarterly basis. The plan shall ensure that all trucks registered in the same name shall expire at the same time. The Division shall report its plan to the Joint Legislative Transportation Oversight Committee by November 15, 1996.

Sec. 25. G.S. 20-45 reads as rewritten:

"§ 20-45. Seizure of documents and plates.

(a) The Division is hereby authorized to take possession of any certificate of title, registration card, permit, license, or registration plate issued by it upon expiration, revocation, cancellation, or suspension thereof, or which is fictitious, or which has been unlawfully or erroneously issued, or which has been unlawfully used.

(b) Nothing contained herein or elsewhere shall be construed to require the Division to take possession of any certificate of title, registration card permit, license, or registration plate which has expired, been revoked, canceled or suspended or which is fictitious or which has been unlawfully or erroneously issued, or which has been unlawfully used. The Division shall not use employees or law enforcement officers of the Division to take possession of a registration plate by means of personal service of a revocation order on the person whose plate is revoked. The Division may give notice to the owner, licensee or lessee of its authority to take possession of any ownership document, operator's license, or plate and require that person to surrender it to the Commissioner or his officers or agents. Any person who fails to surrender the ownership

1 document, operator's license, or plate, or any duplicate thereof upon personal service of
2 notice or within 10 days after receipt of notice by mail, as provided in G.S. 20-48, shall
3 be guilty of a Class 2 misdemeanor."

4 Sec. 26. G.S. 20-309(a) reads as rewritten:

5 "(a) No self-propelled motor vehicle shall be registered in this State unless the
6 owner at the time of registration has financial responsibility for the operation of such
7 motor vehicle, as provided in this Article. The owner of each motor vehicle registered in
8 this State shall maintain financial responsibility continuously throughout the period of
9 registration. An insurer shall notify the Division of each new liability insurance policy it
10 issues."

11 Sec. 27. Section 26 of this act becomes effective January 1, 1997. The
12 remaining sections of this act become effective July 1, 1996.