

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1273

Transportation Committee Substitute Adopted 6/20/96

Short Title: No DMV Commissioner Position.

(Public)

Sponsors:

Referred to:

May 23, 1996

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE PERFORMANCE
AUDIT OF THE DIVISION OF MOTOR VEHICLES OF THE DEPARTMENT OF
TRANSPORTATION TO ELIMINATE THE POSITION OF COMMISSIONER OF
MOTOR VEHICLES.

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

1 and the Commissioner of Motor Vehicles shall make available to the Secretary of
2 Revenue all information from files of the Division of Motor Vehicles which the Secretary
3 of Revenue may request to enable him to better enforce the law with respect to the
4 collection of such taxes. Nothing in this Article shall deprive the Utilities Commission of
5 any of the duties or powers now vested in it with regard to the regulation of motor vehicle
6 carriers. Transportation is established. This Chapter sets out the powers and duties of the
7 Division. The Secretary of Transportation shall administer the Division. The Secretary
8 may delegate to an assistant secretary or another employee of the Department of
9 Transportation any duty of the Secretary concerning the administration of the Division."

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

11 "**§ 20-2. Commissioner of Motor Vehicles; Authority to adopt rules.**

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

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

25 (b) ~~Rules.~~ The ~~Commissioner~~ Secretary may adopt rules to implement this
26 Chapter. Chapter 150B of the General Statutes governs the adoption of rules by the
27 ~~Commissioner.~~ Secretary."

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

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

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

32 "(39a) Secretary. – The Secretary of the North Carolina Department of
33 Transportation."

34 Sec. 6. G.S. 20-4.2(2) is repealed.

35 Sec. 7. The following statutes are amended by deleting the word
36 "Commissioner", the phrase "Commissioner of Motor Vehicles", the phrase "State
37 Commissioner of Motor Vehicles", or the phrase "Commissioner of the Division of
38 Motor Vehicles" each time they appear and substituting the word "Secretary" :

39 G.S. 20-4.3

40 G.S. 20-4.4

41 G.S. 20-4.6

42 G.S. 20-4.10

43 G.S. 20-4.20

1	G.S. 20-4.22
2	G.S. 20-7
3	G.S. 20-9
4	G.S. 20-11
5	G.S. 20-13.2
6	G.S. 20-16.1
7	G.S. 20-17.1
8	G.S. 20-19
9	G.S. 20-24
10	G.S. 20-26
11	G.S. 20-29.1
12	G.S. 20-30
13	G.S. 20-37.12
14	G.S. 20-37.16
15	G.S. 20-37.23
16	G.S. 20-39
17	G.S. 20-40
18	G.S. 20-41
19	G.S. 20-42
20	G.S. 20-43
21	G.S. 20-43.4
22	G.S. 20-45
23	G.S. 20-47
24	G.S. 20-48
25	G.S. 20-50
26	G.S. 20-56
27	G.S. 20-57
28	G.S. 20-61
29	G.S. 20-63
30	G.S. 20-64
31	G.S. 20-64.2
32	G.S. 20-66
33	G.S. 20-71.2
34	G.S. 20-71.3
35	G.S. 20-71.4
36	G.S. 20-78
37	G.S. 20-83
38	G.S. 20-84
39	G.S. 20-84.2
40	G.S. 20-85.1
41	G.S. 20-86.1
42	G.S. 20-91(a), (b), and (c)
43	G.S. 20-91.1

1	G.S. 20-91.2
2	G.S. 20-92
3	G.S. 20-94
4	G.S. 20-97
5	G.S. 20-99(b)
6	G.S. 20-100
7	G.S. 20-108
8	G.S. 20-109.1
9	G.S. 20-114
10	G.S. 20-124
11	G.S. 20-125
12	G.S. 20-125.1
13	G.S. 20-126
14	G.S. 20-127
15	G.S. 20-128.2
16	G.S. 20-129
17	G.S. 20-129.2
18	G.S. 20-130
19	G.S. 20-133
20	G.S. 20-135.1
21	G.S. 20-135.2
22	G.S. 20-135.2A
23	G.S. 20-135.2B
24	G.S. 20-135.4
25	G.S. 20-140.4
26	G.S. 20-141.3
27	G.S. 20-179.3
28	G.S. 20-183.3
29	G.S. 20-183.8D
30	G.S. 20-183.8E
31	G.S. 20-218
32	G.S. 20-279.2
33	G.S. 20-279.3
34	G.S. 20-279.5
35	G.S. 20-279.6
36	G.S. 20-279.6A
37	G.S. 20-279.7
38	G.S. 20-279.8
39	G.S. 20-279.9
40	G.S. 20-279.10
41	G.S. 20-279.11
42	G.S. 20-279.12
43	G.S. 20-279.13

1 G.S. 20-279.16
2 G.S. 20-279.19
3 G.S. 20-279.20
4 G.S. 20-279.22
5 G.S. 20-279.24
6 G.S. 20-279.25
7 G.S. 20-279.26
8 G.S. 20-279.27
9 G.S. 20-279.28
10 G.S. 20-279.29
11 G.S. 20-279.30
12 G.S. 20-279.31
13 G.S. 20-279.32
14 G.S. 20-279.33
15 G.S. 20-281
16 G.S. 20-283
17 G.S. 20-288
18 G.S. 20-295
19 G.S. 20-296
20 G.S. 20-300
21 G.S. 20-301
22 G.S. 20-302
23 G.S. 20-305
24 G.S. 20-305.1
25 G.S. 20-305.2
26 G.S. 20-305.3
27 G.S. 20-305.4
28 G.S. 20-308.1
29 G.S. 20-321
30 G.S. 20-322
31 G.S. 20-323
32 G.S. 20-324
33 G.S. 20-325
34 G.S. 20-382
35 G.S. 20-382.2.

36 Sec. 8. G.S. 20-49 reads as rewritten:

37 **"§ 20-49. Police authority of Division.**

38 ~~The Commissioner and such officers~~ Officers and inspectors of the Division as he shall
39 ~~designate~~ designated by the Secretary and all members of the Highway Patrol shall have
40 the power:

- 41 (1) Of peace officers for the purpose of enforcing the provisions of this
42 Article and of any other law regulating the operation of vehicles or the
43 use of the highways.

- 1 (2) To make arrests upon view and without warrant for any violation
2 committed in their presence of any of the provisions of this Article or
3 other laws regulating the operation of vehicles or the use of the
4 highways.
- 5 (3) At all time to direct all traffic in conformance with law, and in the event
6 of a fire or other emergency or to expedite traffic or to insure safety, to
7 direct traffic as conditions may require, notwithstanding the provisions
8 of law.
- 9 (4) When on duty, upon reasonable belief that any vehicle is being operated
10 in violation of any provision of this Article or of any other law
11 regulating the operation of vehicles to require the driver thereof to stop
12 and exhibit his driver's license and the registration card issued for the
13 vehicle, and submit to an inspection of such vehicle, the registration
14 plates and registration card thereon or to an inspection and test of the
15 equipment of such vehicle.
- 16 (5) To inspect any vehicle of a type required to be registered hereunder in
17 any public garage or repair shop or in any place where such vehicles are
18 held for sale or wrecking, for the purpose of locating stolen vehicles and
19 investigating the title and registration thereof.
- 20 (6) To serve all warrants relating to the enforcement of the laws regulating
21 the operation of vehicles or the use of the highways.
- 22 (7) To investigate traffic accidents and secure testimony of witnesses or of
23 persons involved.
- 24 (8) To investigate reported thefts of motor vehicles, trailers and semitrailers
25 and make arrest for thefts thereof.
- 26 (9) For the purpose of determining compliance with the provisions of this
27 Chapter, to inspect all files and records of the persons hereinafter
28 designated and required to be kept under the provisions of this Chapter
29 or of the registrations of the Division:
- 30 a. Persons dealing in or selling and buying new, used or junked
31 motor vehicles and motor vehicle parts; and
- 32 b. Persons operating garages or other places where motor vehicles
33 are repaired, dismantled, or stored."
- 34 Sec. 9. G.S. 20-79.1(j) is repealed.
- 35 Sec. 10. G.S. 20-84.2 is amended by deleting the word "Commissioner's" each
36 time it appears and substituting the word "Secretary's".
- 37 Sec. 11. G.S. 20-88.01 reads as rewritten:
- 38 **"§ 20-88.01. Revocation of registration for failure to register for or comply with**
39 **road tax or pay civil penalty for buying or selling non-tax-paid fuel.**
- 40 (a) Road Tax. – The Secretary of Revenue may notify the ~~Commissioner~~Division
41 of those motor vehicles that are registered or are required to be registered under Article
42 36B of Chapter 105 and whose owners or lessees, as appropriate, are not in compliance

1 with Article 36B, 36C, or 36D of Chapter 105. When notified, the ~~Commissioner~~ Division
2 shall withhold or revoke the registration plate for the vehicle.

3 (b) Non-tax-paid Fuel. – The Secretary of Revenue may notify the ~~Commissioner~~
4 Division of those motor vehicles for which a civil penalty imposed under G.S. 105-
5 449.118 has not been paid. When notified, the ~~Commissioner~~ Division shall withhold or
6 revoke the registration plate of the vehicle."

7 Sec. 12. G.S. 20-279.21(b)(3)b. reads as rewritten:

8 "b. Where the insured, under the uninsured motorist coverage,
9 claims that he has sustained bodily injury as the result of
10 collision between motor vehicles and asserts that the identity of
11 the operator or owner of a vehicle (other than a vehicle in which
12 the insured is a passenger) cannot be ascertained, the insured may
13 institute an action directly against the insurer: Provided, in that
14 event, the insured, or someone in his behalf, shall report the
15 accident within 24 hours or as soon thereafter as may be
16 practicable, to a police officer, peace officer, other judicial
17 officer, or to the ~~Commissioner of Motor Vehicles~~ Division. The
18 insured shall also within a reasonable time give notice to the
19 insurer of his injury, the extent thereof, and shall set forth in the
20 notice the time, date and place of the injury. Thereafter, on
21 forms to be mailed by the insurer within 15 days following
22 receipt of the notice of the accident to the insurer, the insured
23 shall furnish to insurer any further reasonable information
24 concerning the accident and the injury that the insurer requests.
25 If the forms are not furnished within 15 days, the insured is
26 deemed to have complied with the requirements for furnishing
27 information to the insurer. Suit may not be instituted against the
28 insurer in less than 60 days from the posting of the first notice of
29 the injury or accident to the insurer at the address shown on the
30 policy or after personal delivery of the notice to the insurer or its
31 agent. The failure to post notice to the insurer 60 days before the
32 initiation of the suit shall not be grounds for dismissal of the
33 action, but shall automatically extend the time for filing of an
34 answer or other pleadings to 60 days after the time of service of
35 the summons, complaint, or other process on the insurer."

36 Sec. 13. G.S. 20-282 reads as rewritten:

37 **"§ 20-282. Cooperation in enforcement of Article.**

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

42 Sec. 14. G.S. 20-309 reads as rewritten:

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

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

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

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

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

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

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

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

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

26 Sec. 15. G.S. 20-315 is repealed.

27 Sec. 16. G.S. 20-320(2) is repealed.

28 Sec. 17. G.S. 1-105 reads as rewritten:

29 **"§ 1-105. Service upon nonresident drivers of motor vehicles and upon the personal**
30 **representatives of deceased nonresident drivers of motor vehicles.**

31 The acceptance by a nonresident of the rights and privileges conferred by the laws
32 now or hereafter in force in this State permitting the operation of motor vehicles, as
33 evidenced by the operation of a motor vehicle by such nonresident on the public
34 highways of this State, or at any other place in this State, or the operation by such
35 nonresident of a motor vehicle on the public highways of this State or at any other place
36 in this State, other than as so permitted or regulated, shall be deemed equivalent to the
37 appointment by such nonresident of the ~~Commissioner of Motor Vehicles, Secretary of the~~
38 Department of Transportation, or his successor in office, to be his true and lawful
39 attorney and the attorney of his executor or administrator, upon whom may be served all
40 summonses or other lawful process in any action or proceeding against him or his
41 executor or administrator, growing out of any accident or collision in which said
42 nonresident may be involved by reason of the operation by him, for him, or under his
43 control or direction, express or implied, of a motor vehicle on such public highways of

1 this State, or at any other place in this State, and said acceptance or operation shall be a
2 signification of his agreement that any such process against him or his executor or
3 administrator shall be of the same legal force and validity as if served on him personally,
4 or on his executor or administrator.

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

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

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

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

3 Sec. 18. G.S. 8-37 reads as rewritten:

4 **"§ 8-37. Certificate of ~~Commissioner~~-Division of Motor Vehicles as to ownership of**
5 **automobile.**

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

14 Sec. 19. G.S. 20-279.21(b)(3)b. reads as rewritten:

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

43 Sec. 20. G.S. 20-282 reads as rewritten:

1 **"§ 20-282. Cooperation in enforcement of Article.**

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

6 Sec. 21. G.S. 20-309 reads as rewritten:

7 **"§ 20-309. Financial responsibility prerequisite to registration; must be maintained**
8 **throughout registration period.**

9 (a) No self-propelled motor vehicle shall be registered in this State unless the
10 owner at the time of registration has financial responsibility for the operation of such
11 motor vehicle, as provided in this Article. The owner of each motor vehicle registered in
12 this State shall maintain financial responsibility continuously throughout the period of
13 registration.

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

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

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

30 (e) Upon termination by cancellation or otherwise of an insurance policy provided
31 in subsection (b) of this section, the insurer shall notify the Division of such termination;
32 provided, no cancellation notice is required if the insurer issues a new insurance policy
33 complying with this Article at the same time the insurer cancels or otherwise terminates
34 the old policy, no lapse in coverage results, and the insurer sends the certificate of
35 insurance form for the new policy to the Division. The Division, upon receiving notice
36 of cancellation or termination of an owner's financial responsibility as required by this
37 Article, shall notify such owner of such cancellation or termination, and such owner shall,
38 to retain the registration plate for the vehicle registered or required to be registered,
39 within 10 days from date of notice given by the Division either:

40 (1) Certify to the Division that he had financial responsibility effective on
41 or prior to the date of such termination; or

42 (2) In the case of a lapse in financial responsibility, pay a fifty dollar
43 (\$50.00) civil penalty; and certify to the Division that he now has

1 financial responsibility effective on the date of certification, that he did
2 not operate the vehicle in question during the period of no financial
3 responsibility with the knowledge that there was no financial
4 responsibility, and that the vehicle in question was not involved in a
5 motor vehicle accident during the period of no financial responsibility.

6 Failure of the owner to certify that he has financial responsibility as herein required
7 shall be prima facie evidence that no financial responsibility exists with regard to the
8 vehicle concerned and unless the owner's registration plate has on or prior to the date of
9 termination of insurance been surrendered to a representative of the Division ~~by surrender~~
10 ~~to an agent or representative of the Division designated by the Commissioner, or depositing the~~
11 ~~same~~ deposited in the United States ~~mail, mail and~~ addressed to the Division of Motor
12 Vehicles, Raleigh, North Carolina, the Division shall revoke the vehicle's registration for
13 30 days.

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

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

32 Sec. 22. G.S. 44A-4(c) reads as rewritten:

33 "(c) Private Sale. – Sale by private sale may be made in any manner that is
34 commercially reasonable. If the property upon which the lien is claimed is a motor
35 vehicle, the sale may not be made until notice is given to the ~~Commissioner~~ Division of
36 Motor Vehicles pursuant to G.S. 20-114(c). Not less than 30 days prior to the date of the
37 proposed private sale, the lienor shall cause notice to be mailed, as provided in subsection
38 (f) hereof, to the person having legal title to the property, if reasonably ascertainable, to
39 the person with whom the lienor dealt if different, and to each secured party or other
40 person claiming an interest in the property who is actually known to the lienor or can be
41 reasonably ascertained. Notices provided pursuant to subsection (b) hereof shall be
42 sufficient for these purposes if such notices contain the information required by

1 subsection (f) hereof. The lienor shall not purchase, directly or indirectly, the property at
2 private sale and such a sale to the lienor shall be voidable."

3 Sec. 23. G.S. 44A-4(e) reads as rewritten:

4 "(e) Public Sale. –

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

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

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

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

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

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

26 b. In the county where the obligation secured by the lien was
27 contracted for.

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

29 Sec. 24. G.S. 66-58(b)(15) reads as rewritten:

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

34 The ~~Commissioner~~Division of Motor ~~Vehicles, or such other authority~~
35 ~~as may exercise~~Vehicles and any other entity that exercises the authority
36 to purchase automobile license tags is hereby directed to purchase from,
37 and to contract with, the State Department of Correction for the State
38 automobile license tag requirements from year to year.

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

1 Sec. 25. G.S. 105-187.1 reads as rewritten:

2 **"§ 105-187.1. Definitions.**

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

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

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

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

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

12 Sec. 26. G.S. 105-187.3 reads as rewritten:

13 **"§ 105-187.3. Rate of tax.**

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

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

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

40 Sec. 27. G.S. 105-187.4 reads as rewritten:

41 **"§ 105-187.4. Payment of tax.**

42 (a) Method. – The tax imposed by this Article must be paid to the ~~Commissioner~~
43 Division when applying for a certificate of title for a motor vehicle. The ~~Commissioner~~

1 Division may not issue a certificate of title for a vehicle until the tax imposed by this
2 Article has been paid. The tax may be paid in cash or by check.

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

14 Sec. 28. G.S. 105-187.8 reads as rewritten:

15 **"§ 105-187.8. Refund for return of purchased motor vehicle.**

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

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

25 Sec. 29. G.S. 105-187.10 reads as rewritten:

26 **"§ 105-187.10. Penalties and remedies.**

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

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

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

1 Sec. 30. G.S. 105-449.54 reads as rewritten:

2 "**§ 105-449.54. ~~Commissioner of Motor Vehicles~~ Secretary of the Department of**
3 **Transportation made process agent of nonresident motor carriers.**

4 The acceptance by a nonresident motor carrier of the rights and privileges conferred
5 by the laws now or hereafter in force in this State permitting the operation of motor
6 vehicles, as evidenced by the operation of a motor vehicle by such nonresident, either
7 personally or through an agent or employee, on the public highways of this State, or the
8 operation by such nonresident, either personally or through an agent or employee, of a
9 motor vehicle on the public highways of this State other than as so permitted or regulated,
10 shall be deemed equivalent to the appointment by such nonresident motor carrier of the
11 ~~Commissioner of Motor Vehicles, Secretary of the Department of Transportation,~~ or his
12 successor in office, to be his true and lawful attorney and the attorney of his executor or
13 administrator, upon whom may be served all summonses or other lawful process or notice
14 in any action, assessment proceeding or other proceeding against him or his executor or
15 administrator, arising out of or by reason of any provisions of this Article relating to such
16 vehicle or relating to the liability for tax with respect to operation of such vehicle on the
17 highways of this State. Said acceptance or operation shall be a signification by such
18 nonresident motor carrier of his agreement that any such process against or notice to him
19 or his executor or administrator shall be of the same legal force and validity as if served
20 on him personally, or on his executor or administrator. All of the provisions of G.S. 1-
21 105 following the first paragraph thereof shall be applicable with respect to the service of
22 process or notice pursuant to this section."

23 Sec. 31. G.S. 110-91(a)(13) reads as rewritten:

24 "(13) Transportation. – All child day care facilities shall abide by North
25 Carolina law regulating the use of seat belts and child passenger
26 restraint devices. All vehicles operated by any facility staff person or
27 volunteer to transport children shall be properly equipped with
28 appropriate seat belts or child restraint devices as approved by the
29 ~~Commissioner of Motor Vehicles, Secretary of the Department of~~
30 Transportation. Each adult and child shall be restrained by an
31 appropriate seat safety belt or restraint device when the vehicle is in
32 motion. These restraint regulations do not apply to vehicles not
33 required by federal law to be equipped with seat restraints. All vehicles
34 used to transport children shall meet and maintain the safety inspection
35 standards of the Division of Motor Vehicles of the Department of
36 Transportation and the facility shall comply with all other applicable
37 State and federal laws and regulations concerning the operation of a
38 motor vehicle. Children may never be left unattended in a vehicle.

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

1 Sec. 32. G.S. 143-166.13(a)(13) reads as rewritten:

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

6 Sec. 33. G.S. 147-33.2(8) reads as rewritten:

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

- 16 a. The use of the roads, streets, and highways of the State, with
17 particular reference to speed limits, weights and sizes of motor
18 vehicles, regulations of automobile lights and signals,
19 transportation of munitions or explosives and parking or
20 assembling of automobiles on highways or any other public place
21 within the State; provided that any changes in the laws referred to
22 in this subdivision shall be first approved by the Board of
23 ~~Transportation and the Commissioner of Motor Vehicles of the State;~~
24 Transportation;
- 25 b. Public health, insofar as suspension or modification of the laws
26 in reference thereto may be stipulated by the United States Public
27 Health Service or other authoritative agency of the United States
28 government as being essential in the interest of national safety
29 and in the successful prosecution of the war effort; provided that
30 such suspension or modification of public health laws shall first
31 be submitted to and approved by the Commission for Health
32 Services;
- 33 c. Labor and industry; provided, however, that any suspension or
34 modification of laws regulating labor and industry shall be only
35 such as are certified by the Commissioner of Labor of the State
36 as being necessary in the interest of national safety and in the
37 furtherance of the war program; and provided further that any
38 such changes as may result in an increase in the hours of
39 employment over and above the limits of the existing statutory
40 provisions shall carry provision for adequate additional
41 compensation; and provided, further, that no changes in such
42 laws or regulations shall be made as affecting existing contracts

1 between labor and management in this State except with the
2 approval of the contracting parties;

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

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

16 Sec. 34. This act becomes effective July 1, 1996.