

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

HOUSE BILL 303
RATIFIED BILL

AN ACT TO AMEND THE LAWS RELATING TO COMMERCIAL VEHICLE
HIGHWAY SAFETY AND WORK ZONE SAFETY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-17.7. Commercial motor vehicle out-of-service fines authorized.

The Commissioner may adopt rules implementing fines for violation of out-of-service criteria as defined in 49 C.F.R. § 390.5. These fines may not exceed the schedule of fines adopted by the Commercial Motor Vehicle Safety Alliance that is in effect on the date of the violations."

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

"§ 20-138.2C. Possession of alcoholic beverages while operating a commercial motor vehicle.

A person commits the offense of operating a commercial motor vehicle while possessing alcoholic beverages if the person drives a commercial motor vehicle, as defined in G.S. 20-4.01(3d), upon any highway, any street, or any public vehicular area within the State while having an open or closed alcoholic beverage in the passenger area of the commercial motor vehicle. This section shall not apply to the driver of a commercial motor vehicle that is also an excursion passenger vehicle, a for-hire passenger vehicle, a common carrier of passengers, or a motor home, if the alcoholic beverage is in possession of a passenger or is in the passenger area of the vehicle."

Section 3. G.S. 20-141(j2) reads as rewritten:

"(j2) A person who drives a motor vehicle in a highway work zone at a speed greater than the speed limit set and posted under G.S. 20-141 is ~~responsible for an infraction of "Speeding in a Highway Work Zone"~~ and this section shall be required to pay a penalty of ~~not less than one hundred dollars (\$100.00), but not more than two hundred fifty dollars (\$250.00).~~ This penalty shall be imposed in addition to those penalties established in this Chapter. A "highway work zone" is the area between the first sign that informs motorists of the existence of a work zone on a highway and the last sign that informs motorists of the end of the work zone. This subsection applies only if a sign posted at the beginning of the highway work zone states the penalty for speeding in the work zone. The Secretary shall ensure that work zones shall only be posted with penalty signs if the Secretary determines, after engineering review, that the posting is necessary to ensure the safety of the traveling public due to a hazardous condition.

A law enforcement officer issuing a citation for a violation of this section while in a highway work zone shall indicate the vehicle speed and speed limit posted in the work zone. Upon an individual's conviction of a violation of this section while in a highway work zone, the clerk of court shall report that the vehicle was in a work zone at the time of the violation, the vehicle speed, and the speed limit of the work zone to the Division of Motor Vehicles."

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

"(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.

An owner of a commercial motor vehicle, as defined in G.S. 20-4.01(3d), shall have financial responsibility for the operation of the motor vehicle as required by this section. The financial responsibility for a commercial motor vehicle shall be equal to that required in 49 C.F.R. §§ 387.3, 387.5, 387.7, and 387.11 for for-hire or private motor vehicles transporting property in interstate or intrastate commerce."

Section 4.1. G.S. 20-279.32 reads as rewritten:

"§ 20-279.32. Exceptions.

This Article does not apply to a motor vehicle registered under G.S. 20-382 ~~or G.S. 20-382.1~~ by a for-hire motor carrier. This Article does not apply to any motor vehicle owned by the State of North Carolina, nor does it apply to the operator of a vehicle owned by the State of North Carolina who becomes involved in an accident while operating the state-owned vehicle if the Commissioner determines that the vehicle at the time of the accident was probably being operated in the course of the operator's employment as an employee or officer of the State. This Article does not apply to any motor vehicle owned by a county or municipality of the State of North Carolina, nor does it apply to the operator of a vehicle owned by a county or municipality of the State of North Carolina who becomes involved in an accident while operating such vehicle in the course of the operator's employment as an employee or officer of the county or municipality. This Article does not apply to the operator of a vehicle owned by a political subdivision, other than a county or municipality, of the State of North Carolina who becomes involved in an accident while operating such vehicle if the Commissioner determines that the vehicle at the time of the accident was probably being operated in the course of the operator's employment as an employee or officer of the subdivision providing that the Commissioner finds that the political subdivision has waived any immunity it has with respect to such accidents and has in force an insurance policy or other method of satisfying claims which may arise out of the accident. This Article does not apply to any motor vehicle owned by the federal government, nor does it apply to the operator of a motor vehicle owned by the federal government who becomes involved in an accident while operating the government-owned vehicle if the Commissioner determines that the vehicle at the time of the accident was probably being operated in the course of the operator's employment as an employee or officer of the federal government."

Section 5. G.S. 20-140.3 reads as rewritten:

"§ 20-140.3. Unlawful use of National System of Interstate and Defense Highways and other controlled-access highways.

On those sections of highways which are or become a part of the National System of Interstate and Defense Highways and other controlled-access highways, it shall be unlawful for any person:

- (1) To drive a vehicle over, upon, or across any curb, central dividing section or other separation or dividing line on said highways.
- (2) To make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb, separation section, or line on said highways.
- (3) To drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation section, or line on said highways.
- (4) To drive a vehicle onto or from any controlled-access highway except at such entrances and exits as are established by public authority.
- (5) To stop, park, or leave standing any vehicle, whether attended or unattended, on any part or portion of the right-of-way of said highways, except in the case of an emergency or as directed by a peace officer, or at designated parking areas.

- (6) To fail to yield the right-of-way when entering the highway to any vehicle already travelling on the highway.
- (7) Notwithstanding any other subdivision of this section, a ~~member of the State Highway Patrol law enforcement officer~~ may cross the median of a divided highway when ~~he~~ the officer has reasonable grounds to believe that a felony is being or has been committed, has personal knowledge that a vehicle is being operated at a speed or in a manner which is likely to endanger persons or property, or the ~~patrol member officer~~ officer has reasonable grounds to believe that ~~his~~ the officer's presence is immediately required at a location which would necessitate ~~his~~ crossing a median of a divided highway for this purpose. Fire department vehicles and public or private ambulances and rescue squad emergency service vehicles traveling in response to a fire alarm or other emergency call may cross the median of a divided highway when assistance is immediately required at a location which would necessitate the vehicle crossing a median of a divided highway for this purpose."

Section 6. G.S. 136-89.58 reads as rewritten:

"§ 136-89.58. Unlawful use of National System of Interstate and Defense Highways and other controlled-access facilities.

On those sections of highways which are or become a part of the National System of Interstate and Defense Highways and other controlled-access facilities it shall be unlawful for any person:

- (1) To drive a vehicle over, upon or across any curb, central dividing section or other separation or dividing line on said highways.
- (2) To make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation, or line on said highways.
- (3) To drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation section, or line on said highways.
- (4) To drive any vehicle into the main travel lanes or lanes of connecting ramps or interchanges except through an opening or connection provided for that purpose by the Department of Transportation.
- (5) To stop, park, or leave standing any vehicle, whether attended or unattended, on any part or portion of the right-of-way of said highways, except in the case of an emergency or as directed by a peace officer, or as designated parking areas.
- (6) To willfully damage, remove, climb, cross or breach any fence erected within the rights-of-way of said highways.
- (7) ~~Notwithstanding any other subdivision of this section, a member of the State Highway Patrol may cross the median of a divided highway when he has reasonable grounds to believe that a felony is being or has been committed, has personal knowledge that a vehicle is being operated at a speed or in a manner which is likely to endanger persons or property, or the patrol member has reasonable grounds to believe that his presence is immediately required at a location which would necessitate his crossing a median of a divided highway for this purpose.~~

Any person who violates any of the provisions of this section shall be guilty of a Class 2 misdemeanor."

Section 7. G.S. 20-16(c) reads as rewritten:

"(c) The Division shall maintain a record of convictions of every person licensed or required to be licensed under the provisions of this Article as an operator and shall enter therein records of all convictions of such persons for any violation of the motor

vehicle laws of this State and shall assign to the record of such person, as of the date of commission of the offense, a number of points for every such conviction in accordance with the following schedule of convictions and points, except that points shall not be assessed for convictions resulting in suspensions or revocations under other provisions of laws: Further, any points heretofore charged for violation of the motor vehicle inspection laws shall not be considered by the Division of Motor Vehicles as a basis for suspension or revocation of driver's license:

SCHEDULE OF POINT VALUES

Passing stopped school bus	5
Reckless driving	4
Hit and run, property damage only	4
Following too close	4
Driving on wrong side of road	4
Illegal passing	4
Running through stop sign	3
Speeding in excess of 55 miles per hour	3
Failing to yield right-of-way	3
Running through red light	3
No driver's license or license expired more than one year	3
Failure to stop for siren	3
Driving through safety zone	3
No liability insurance	3
Failure to report accident where such report is required	3
Speeding in a school zone in excess of the posted school zone speed limit	3
All other moving violations	2
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle	1

SCHEDULE OF POINT VALUES FOR VIOLATIONS WHILE OPERATING A COMMERCIAL MOTOR VEHICLE

<u>Passing stopped school bus</u>	<u>8</u>
<u>Rail-highway crossing violation</u>	<u>6</u>
<u>Reckless driving</u>	<u>5</u>
<u>Hit and run, property damage only</u>	<u>5</u>
<u>Following too close</u>	<u>5</u>
<u>Driving on wrong side of road</u>	<u>5</u>
<u>Illegal passing</u>	<u>5</u>
<u>Running through stop sign</u>	<u>4</u>
<u>Speeding in excess of 55 miles per hour</u>	<u>4</u>
<u>Failing to yield right-of-way</u>	<u>4</u>
<u>Running through red light</u>	<u>4</u>
<u>No driver's license or license expired more than one year</u>	<u>4</u>
<u>Failure to stop for siren</u>	<u>4</u>
<u>Driving through safety zone</u>	<u>4</u>
<u>No liability insurance</u>	<u>4</u>
<u>Failure to report accident where such report is required</u>	<u>4</u>
<u>Speeding in a school zone in excess of the posted school zone speed limit</u>	<u>4</u>
<u>Possessing alcoholic beverages in the passenger area of a commercial motor vehicle</u>	<u>4</u>
<u>All other moving violations</u>	<u>3</u>

Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle 1

The above provisions of this subsection shall only apply to violations and convictions which take place within the State of North Carolina. The Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle shall not apply to any commercial motor vehicle known as an "aerial lift truck" having a hydraulic arm and bucket station, and to any commercial motor vehicle known as a "line truck" having a hydraulic lift for cable, if the vehicle is owned, operated by or under contract to a public utility, electric or telephone membership corporation or municipality and used in connection with installation, restoration or maintenance of utility services.

No points shall be assessed for conviction of the following offenses:

- Overloads
- Over length
- Over width
- Over height
- Illegal parking
- Carrying concealed weapon
- Improper plates
- Improper registration
- Improper muffler
- ~~Public drunk within a vehicle~~
- ~~Possession of alcoholic beverages~~
- Improper display of license plates or dealers' tags
- Unlawful display of emblems and insignia
- Failure to display current inspection certificate.

In case of the conviction of a licensee of two or more traffic offenses committed on a single occasion, such licensee shall be assessed points for one offense only and if the offenses involved have a different point value, such licensee shall be assessed for the offense having the greater point value.

Upon the restoration of the license or driving privilege of such person whose license or driving privilege has been suspended or revoked because of conviction for a traffic offense, any points that might previously have been accumulated in the driver's record shall be cancelled.

Whenever any licensee accumulates as many as seven points or accumulates as many as four points during a three-year period immediately following reinstatement of his license after a period of suspension or revocation, the Division may request the licensee to attend a conference regarding such licensee's driving record. The Division may also afford any licensee who has accumulated as many as seven points or any licensee who has accumulated as many as four points within a three-year period immediately following reinstatement of his license after a period of suspension or revocation an opportunity to attend a driver improvement clinic operated by the Division and, upon the successful completion of the course taken at the clinic, three points shall be deducted from the licensee's conviction record; provided, that only one deduction of points shall be made on behalf of any licensee within any five-year period.

When a license is suspended under the point system provided for herein, the first such suspension shall be for not more than 60 days; the second such suspension shall not exceed six months and any subsequent suspension shall not exceed one year.

Whenever the driver's license of any person is subject to suspension under this subsection and at the same time also subject to suspension or revocation under other provisions of laws, such suspensions or revocations shall run concurrently.

In the discretion of the Division, a period of probation not to exceed one year may be substituted for suspension or for any unexpired period of suspension under

subsections (a)(1) through (a)(10a) of this section. Any violation of probation during the probation period shall result in a suspension for the unexpired remainder of the suspension period. Any accumulation of three or more points under this subsection during a period of probation shall constitute a violation of the condition of probation."

Section 8. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-16A. Double penalties for offenses committed while operating a commercial motor vehicle.

Any person who commits an offense for which points may be assessed pursuant to the Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle as provided in G.S. 20-16(c) may be assessed double the amount of any fine or penalty authorized by statute."

Section 9. G.S. 20-4.01(3d) reads as rewritten:

"(3d) Commercial Motor Vehicle. – Any of the following motor vehicles that are designed or used to transport passengers or property:

- a. A Class A motor vehicle that has a combined GVWR of at least 26,001 pounds and includes as part of the combination a towed unit that has a GVWR of at least 10,001 pounds.
- b. A Class B motor vehicle.
- c. A Class C motor vehicle that meets either of the following descriptions:
 - 1. Is designed to transport 16 or more passengers, including the driver.
 - 2. Is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.
- d. ~~Any other motor vehicle included by federal regulation in the definition of commercial motor vehicle pursuant to 49 U.S.C. Appdx. § 2716."~~

Section 10. This act becomes effective December 1, 1999, and applies to violations occurring on or after that date.

In the General Assembly read three times and ratified this the 20th day of July, 1999.

Dennis A. Wicker
President of the Senate

James B. Black
Speaker of the House of Representatives

James B. Hunt, Jr.
Governor

Approved _____ .m. this _____ day of _____ , 19