

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

1

HOUSE BILL 670\*

Short Title: Commercial Drivers License Changes.-AB

(Public)

---

Sponsors: Representative Cole.

---

Referred to: Transportation.

---

March 16, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE LAWS GOVERNING COMMERCIAL DRIVERS  
3 LICENSES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 20-4.01(4a) reads as rewritten:

6 "(4a) Conviction. – A conviction for an offense committed in North Carolina or  
7 another state:

8 a. In-State. When referring to an offense committed in North  
9 Carolina, the term means any of the following:

- 10 1. A final conviction of a criminal offense, including a no  
11 contest plea.  
12 2. A determination that a person is responsible for an  
13 infraction, including a no contest plea.  
14 3. An unvacated forfeiture of cash in the full amount of a  
15 bond required by Article 26 of Chapter 15A of the  
16 General Statutes.  
17 4. A third or subsequent prayer for judgment continued  
18 within any five-year period.  
19 5. For purposes of disqualification of a commercial drivers  
20 license only, any prayer for judgment continued if the  
21 offender holds a commercial drivers license or if the  
22 offense occurs in a commercial motor vehicle.

23 b. Out-of-State. When referring to an offense committed outside  
24 North Carolina, the term means any of the following:

- 25 1. An unvacated adjudication of guilt.  
26 2. A determination that a person has violated or failed to  
27 comply with the law in a court of original jurisdiction or  
28 an authorized administrative tribunal.

- 3. An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.
- 4. A violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.
- 5. A final conviction of a criminal offense, including a no contest plea when the offense occurs in a commercial motor vehicle or the offender holds a commercial drivers license.

**SECTION 2.** G.S. 20-4.01(12b) reads as rewritten:

"(12b) Gross Vehicle Weight Rating (GVWR). – The value specified by the manufacturer as the maximum loaded weight a vehicle is capable of safely hauling. The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units. When a vehicle is determined by an enforcement officer to be structurally altered in any way from the manufacturer's original design in an attempt to increase the hauling capacity of the vehicle, the GVWR of that vehicle shall be deemed to be the greater of the license weight or the total weight of the vehicle or combination of vehicles for the purpose of enforcing this Chapter. For the purpose of classification of commercial drivers license and skills testing, the manufacturer's GVWR shall be used."

**SECTION 3.** G.S. 20-15 reads as rewritten:

**"§ 20-15. Authority of Division to cancel license.**

(a) The Division shall have authority to cancel any driver's license upon determining that the licensee was not entitled to the issuance thereof hereunder, or that said licensee failed to give the required or correct information in his application, or committed fraud in making such application.

(b) Upon such cancellation, the licensee must surrender the license so cancelled to the Division.

(c) Any person whose license is canceled under this section for failure to give the required or correct information, or for committing fraud, in an application for a commercial drivers license shall be prohibited from reapplying for a commercial drivers license for a period of 60 days from the date of cancellation.

**SECTION 4.** G.S. 20-17.4 reads as rewritten:

**"§ 20-17.4. Disqualification to drive a commercial motor vehicle.**

(a) One Year. – Any of the following disqualifies a person from driving a commercial motor vehicle for one year if committed by a person holding a commercial drivers license, or, when applicable, committed while operating a commercial motor vehicle by a person who does not hold a commercial drivers license:

- (1) A first conviction of G.S. 20-138.1, driving while impaired, for a holder of a commercial drivers license that occurred while the person was driving a motor vehicle that is not a commercial motor vehicle.

- 1 (2) A first conviction of G.S. 20-138.2, driving a commercial motor  
2 vehicle while impaired.
- 3 (3) A first conviction of G.S. 20-166. ~~G.S. 20-166, hit and run, involving a~~  
4 ~~commercial motor vehicle driven by the person.~~
- 5 (4) A first conviction of a felony in the commission of which a  
6 commercial motor vehicle was used or the first conviction of a felony  
7 in which any motor vehicle is used by a holder of a commercial drivers  
8 license.
- 9 (5) Refusal to submit to a chemical test when charged with an  
10 implied-consent offense, as defined in G.S. 20-16.2. ~~G.S. 20-16.2, that~~  
11 ~~occurred while the person was driving a commercial motor vehicle.~~
- 12 (6) A second or subsequent conviction, as defined in G.S. 20-138.2A(d),  
13 of driving a commercial motor vehicle after consuming alcohol under  
14 G.S. 20-138.2A.
- 15 (7) A civil license revocation under G.S. 20-16.5, or a substantially similar  
16 revocation obtained in another jurisdiction, arising out of a charge that  
17 occurred while the person was operating a commercial motor vehicle.
- 18 (8) A first conviction of vehicular homicide under G.S. 20-141.4 or  
19 vehicular manslaughter under G.S. 14-1.8 occurring while the person  
20 was operating a commercial motor vehicle.
- 21 (9) Driving a commercial motor vehicle during a period when the person's  
22 commercial drivers license is revoked, suspended, cancelled, or the  
23 driver is otherwise disqualified from operating a commercial motor  
24 vehicle.

25 (a1) Ten-Day Disqualification. – A person who is convicted for a first offense of  
26 driving a commercial motor vehicle after consuming alcohol under G.S. 20-138.2A is  
27 disqualified from driving a commercial motor vehicle for 10 days.

28 (b) Modified Life. – A person who has been disqualified from driving a  
29 commercial motor vehicle for a conviction or refusal described in subsection (a) who, as  
30 the result of a separate incident, is subsequently convicted of an offense or commits an  
31 act requiring disqualification under subsection (a) is disqualified for life. The Division  
32 may adopt guidelines, including conditions, under which a disqualification for life under  
33 this subsection may be reduced to 10 years.

34 (b1) Life Without Reduction. – A person is disqualified from driving a  
35 commercial motor vehicle for life, without the possibility of reinstatement after 10  
36 years, if that person is convicted of a third or subsequent violation of G.S. 20-138.2, a  
37 fourth or subsequent violation of G.S. 20-138.2A, or if the person refuses to submit to a  
38 chemical test a third time when charged with an implied-consent offense, as defined in  
39 G.S. 20-16.2, that occurred while the person was driving a commercial motor vehicle.

40 (c) Life. – A person is disqualified from driving a commercial motor vehicle for  
41 life if that person uses a commercial motor vehicle in the commission of any felony  
42 involving the manufacture, distribution, or dispensing of a controlled substance, or  
43 possession with intent to manufacture, distribute, or dispense a controlled substance.

1 (d) Less Than a Year. – A person is disqualified from driving a commercial  
2 motor vehicle for 60 days if that person is convicted of two serious traffic violations, or  
3 120 days if convicted of three or more serious traffic violations, committed in a  
4 commercial motor vehicle arising from separate incidents occurring within a three-year  
5 period. This disqualification shall be in addition to, and shall be served at the end of,  
6 any other prior disqualification. For purposes of this subsection, a "serious violation"  
7 includes violations of G.S. 20-140(f) and G.S. 20-141(j3).

8 (e) Three Years. – A person is disqualified from driving a commercial motor  
9 vehicle for three years if that person is convicted of an offense or commits an act  
10 requiring disqualification under subsection (a) and the offense or act occurred while the  
11 person was transporting a hazardous material that required the motor vehicle driven to  
12 be placarded.

13 (f) Revocation Period. – A person is disqualified from driving a commercial  
14 motor vehicle for the period during which the person's regular or commercial drivers  
15 license is ~~revoked~~, revoked, suspended or cancelled.

16 (g) Violation of Out-of-Service Order. – Any person convicted for violating an  
17 out-of-service order, except as described in subsection (h) of this section, shall be  
18 disqualified as follows:

19 (1) A person is disqualified from driving a commercial vehicle for a  
20 period of 90 days if convicted of a first violation of an out-of-service  
21 order.

22 (2) A person is disqualified for a period of one year if convicted of a  
23 second violation of an out-of-service order during any 10-year period,  
24 arising from separate incidents.

25 (3) A person is disqualified for a period of three years if convicted of a  
26 third or subsequent violation of an out-of-service order during any  
27 10-year period, arising from separate incidents.

28 (h) Violation of Out-of-Service Order; Special Rule for Hazardous Materials and  
29 Passenger Offenses. – Any person convicted for violating an out-of-service order while  
30 transporting hazardous materials or while operating a commercial vehicle designed or  
31 used to transport more than 15 passengers, including the driver, shall be disqualified as  
32 follows:

33 (1) A person is disqualified for a period of 180 days if convicted of a first  
34 violation of an out-of-service order.

35 (2) A person is disqualified for a period of three years if convicted of a  
36 second or subsequent violation of an out-of-service order during any  
37 10-year period, arising from separate incidents.

38 (i) Disqualification for Out-of-State Violations. – The Division shall withdraw  
39 the privilege to operate a commercial vehicle of any resident of this State or person  
40 transferring to this State upon receiving notice of the person's conviction or  
41 Administrative Per Se Notice in another state for an offense that, if committed in this  
42 State, would be grounds for ~~disqualification~~, disqualification, even if the offense  
43 occurred in another jurisdiction prior to being licensed in this State where no action had  
44 been taken at that time in the other jurisdiction. The period of disqualification shall be

1 the same as if the offense occurred in this State. The period of disqualification shall be  
2 the same as if the offense occurred in this State.

3 (j) Disqualification of Persons Without Commercial Drivers Licenses. – Any  
4 person convicted of an offense that requires disqualification under this section, but who  
5 does not hold a commercial drivers license, shall be disqualified from operating a  
6 commercial vehicle in the same manner as if the person held a valid commercial drivers  
7 license.

8 (k) Disqualification for Railroad Grade Crossing Offenses. – Any person  
9 convicted of a violation of G.S. 20-142.1 through G.S. 20-142.5, when the driver is  
10 operating a commercial motor vehicle, shall be disqualified from driving a commercial  
11 motor vehicle as follows:

- 12 (1) A person is disqualified for a period of 60 days if convicted of a first  
13 violation of a railroad grade crossing offense listed in this subsection.
- 14 (2) A person is disqualified for a period of 120 days if convicted during  
15 any three-year period of a second violation of any combination of  
16 railroad grade crossing offenses listed in this subsection.
- 17 (3) A person is disqualified for a period of one year if convicted during  
18 any three-year period of a third or subsequent violation of any  
19 combination of railroad grade crossing offenses listed in this  
20 subsection.

21 (l) Disqualifications of Drivers to Constitute an Imminent Hazard. – The  
22 division shall withdraw the privilege to operate a commercial motor vehicle for any  
23 resident of this State for a period of 30 days in accordance with 49 C.F.R. § 383.52."

24 **SECTION 5.** G.S. 20-36 reads as rewritten:

25 **"§ 20-36. Ten-year-old convictions not considered.**

26 ~~Except for a second or subsequent conviction for violating G.S. 20-138.2, a third or~~  
27 ~~subsequent violation of G.S. 20-138.2A, or a second failure to submit to a chemical test~~  
28 ~~when charged with an implied consent offense, as defined in G.S. 20-16.2, that occurred~~  
29 ~~while the person was driving a commercial motor vehicle, Except for offenses occurring~~  
30 in a commercial motor vehicle, or a second failure to submit to a chemical test when  
31 charged with an implied-consent offense, as defined in G.S. 20-16.2, that occurred  
32 while the person was driving a commercial motor vehicle, no conviction of any other  
33 violation of the motor vehicle laws shall be considered by the Division in determining  
34 whether any person's driving privilege shall be suspended or revoked or in determining  
35 the appropriate period of suspension or revocation after 10 years has elapsed from the  
36 date of that conviction. conviction, except for offenses occurring in a commercial motor  
37 vehicle."

38 **SECTION 6.** G.S. 20-37.13 reads as rewritten:

39 **"§ 20-37.13. Commercial drivers license qualification standards.**

40 (a) No person shall be issued a commercial drivers license unless he:

- 41 (1) Is a resident of this State;
- 42 (2) Is 21 years of age;
- 43 (3) Has passed a knowledge test and a skills test for driving a commercial  
44 motor vehicle that comply with minimum federal standards established

1 by federal regulation enumerated in 49 C.F.R., Part 383, Subparts F, G  
2 and H; and

3 (4) Has satisfied all other requirements of the Commercial Motor Vehicle  
4 Safety Act in addition to other requirements of this Chapter or federal  
5 regulation.

6 (5) For the purpose of skills testing and determining commercial drivers  
7 license classification only the manufacturer's GVWR shall be used.

8 The tests shall be prescribed and conducted by the Division. Provided, a person who  
9 is at least 18 years of age may be issued a commercial drivers license if he is exempt  
10 from, or not subject to, the age requirements of the federal Motor Carrier Safety  
11 Regulations contained in 49 C.F.R., Part 391, as adopted by the Division.

12 (b) The Division may permit a person, including an agency of this or another  
13 state, an employer, a private driver training facility, or an agency of local government,  
14 to administer the skills test specified by this section, provided:

15 (1) The test is the same as that administered by the Division; and

16 (2) The third party has entered into an agreement with the Division which  
17 complies with the requirements of 49 C.F.R. § 383.75. The Division  
18 may charge a fee to applicants for third-party testing authority in order  
19 to investigate the applicants' qualifications and to monitor their  
20 program as required by federal law.

21 (c) Prior to October 1, 1992, the Division may waive the skills test for applicants  
22 licensed at the time they apply for a commercial drivers license if:

23 (1) For an application submitted by April 1, 1992, the applicant has not,  
24 and certifies that he has not, at any time during the two years  
25 immediately preceding the date of application done any of the  
26 following and for an application submitted after April 1, 1992, the  
27 applicant has not, and certifies that he has not, at any time during the  
28 two years preceding April 1, 1992:

29 a. Had more than one drivers license, except during the 10-day  
30 period beginning on the date he is issued a drivers license, or  
31 unless, prior to December 31, 1989, he was required to have  
32 more than one license by a State law enacted prior to June 1,  
33 1986;

34 b. Had any drivers license or driving privilege suspended,  
35 revoked, or cancelled;

36 c. Had any convictions involving any kind of motor vehicle for  
37 the offenses listed in G.S. 20-17 or had any convictions for the  
38 offenses listed in G.S. 20-17.4;

39 d. Been convicted of a violation of State or local laws relating to  
40 motor vehicle traffic control, other than a parking violation,  
41 which violation arose in connection with any reportable traffic  
42 accident; or

43 e. Refused to take a chemical test when charged with an implied  
44 consent offense, as defined in G.S. 20-16.2; and

(2) The applicant certifies, and provides satisfactory evidence, that he is regularly employed in a job requiring the operation of a commercial motor vehicle, and he either:

a. Has previously taken and successfully completed a skills test that was administered by a state with a classified licensing and testing system and the test was behind the wheel in a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed; or

b. Has operated for the relevant two-year period under subpart (1)a. of this subsection, a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed.

(d) A commercial drivers license or learner's permit shall not be issued to a person while he is subject to a disqualification from driving a commercial motor vehicle, or while his drivers license is suspended, revoked, or cancelled in any state; nor shall a commercial drivers license be issued unless the person who has applied for the license first surrenders all other drivers licenses issued by the Division or by another state. If a person surrenders a drivers license issued by another state, the Division must return the license to the issuing state for cancellation.

(e) A commercial driver learner's permit may be issued to an individual who holds a regular Class C drivers license and has passed the knowledge test for the class and type of commercial motor vehicle the individual will be driving. The permit is valid for a period not to exceed six months and may be renewed or reissued only once within a two-year period. The fee for a commercial driver learner's permit is the same as the fee set by G.S. 20-7 for a regular learner's permit. G.S. 20-7(m) governs the issuance of a restricted instruction permit for a prospective school bus driver."

**SECTION 7.** G.S. 20-37.16 reads as rewritten:

**"§ 20-37.16. Content of license; classifications and endorsements; fees.**

(a) A commercial drivers license must be marked "Commercial Drivers License" or "CDL" and must contain the information required by G.S. 20-7 for a regular drivers license.

(b) The classes of commercial drivers licenses are:

(1) Class A CDL – A Class A commercial drivers license authorizes the holder to drive any Class A motor vehicle.

(2) Class B CDL – A Class B commercial drivers license authorizes the holder to drive any Class B motor vehicle.

(3) Class C CDL – A Class C commercial drivers license authorizes the holder to drive any Class C motor vehicle.

(c) Endorsements. – The endorsements required to drive certain motor vehicles are as follows:

<u>Endorsement</u>	<u>Vehicles That Can Be Driven</u>
H	Vehicles, regardless of size or class, except tank vehicles, when transporting hazardous materials that require the

1		vehicle to be placarded
2	M	Motorcycles
3	N	Tank vehicles not carrying hazardous materials
4	P	Vehicles carrying passengers
5	S	School bus
6	T	Double trailers
7	X	Tank vehicles carrying hazardous materials

8 To qualify for any of the above endorsements, an applicant shall pass a knowledge  
9 test. To obtain an H or an X endorsement, an applicant must take a test. This  
10 requirement applies when a person first obtains an H or an X endorsement and each  
11 time a person renews an H or an X endorsement. An applicant who has an H or an X  
12 endorsement issued by another state who applies for an H or an X endorsement must  
13 take a test unless the person has passed a test that covers the information set out in 49  
14 C.F.R. § 383.121 within the preceding two years.

15 (c1) The test for an S endorsement shall be waived by the Division for an  
16 applicant who is currently licensed, has experience driving a school bus, has a good  
17 driving record, and meets the requirements of this subsection. An applicant for a waiver  
18 under this subsection shall verify that, during the two-year period immediately prior to  
19 application for an S endorsement, the applicant met all of the following requirements:

- 20 (1) The applicant held a valid commercial drivers license with a passenger  
21 vehicle endorsement to operate a school bus representative of the  
22 group the applicant will be driving.
- 23 (2) The applicant did not have the applicant's drivers license or  
24 commercial drivers license suspended, revoked, or cancelled, or the  
25 applicant was not disqualified from operating a commercial motor  
26 vehicle.
- 27 (3) The applicant was not convicted of a State law offense that  
28 corresponds to the list of disqualifying offenses in 49 C.F.R. §  
29 383.51(b) while operating a commercial motor vehicle or of any  
30 offense in a noncommercial motor vehicle that would be a  
31 disqualifying offense under 49 C.F.R. § 383.51(b) if committed in a  
32 commercial motor vehicle.
- 33 (4) The applicant was not convicted of more than one of the serious traffic  
34 violations listed and defined in G.S. 20-4.01(41a) while operating any  
35 type of motor vehicle.
- 36 (5) The applicant was not convicted of a violation of State or local law  
37 relating to motor vehicle traffic control, other than a parking violation,  
38 arising in connection with any traffic accident.
- 39 (6) The applicant was not convicted of any motor vehicle traffic violation  
40 that resulted in an accident.
- 41 (7) The applicant was regularly employed as a school bus driver, operated  
42 a school bus representative of the group the applicant seeks to drive,  
43 and provides evidence of that employment.



1 (d) The fee for a Class A, B, or C commercial drivers license is ten dollars  
2 (\$10.00) for each year of the period for which the license is issued. The fee for each  
3 endorsement is one dollar and twenty-five cents (\$1.25) for each year of the period for  
4 which the endorsement is issued. The fees required under this section do not apply to  
5 employees of the Driver License Section of the Division who are designated by the  
6 Commissioner.

7 (e) The requirements for a commercial drivers license do not apply to vehicles  
8 used for personal use such as recreational vehicles. A commercial drivers license is also  
9 waived for the following classes of vehicles as permitted by regulation of the United  
10 States Department of Transportation:

11 (1) Vehicles owned or operated by the Department of Defense, including  
12 the National Guard, while they are driven by active duty military  
13 personnel, or members of the National Guard when on active duty, in  
14 the pursuit of military purposes.

15 (2) Any vehicle when used as firefighting or emergency equipment for the  
16 purpose of preserving life or property or to execute emergency  
17 governmental functions.

18 (3) A farm vehicle that meets all of the following criteria:

19 a. Is controlled and operated by the farmer or the farmer's  
20 employee and used exclusively for farm use.

21 b. Is used to transport either agricultural products, farm  
22 machinery, or farm supplies, both to or from a farm.

23 c. Is not used in the operations of a for-hire motor carrier.

24 d. Is used within 150 miles of the farmer's farm.

25 A farm vehicle includes a forestry vehicle that meets the listed criteria  
26 when applied to the forestry operation.

27 (f) For the purposes of this section, the term "school bus" has the same meaning  
28 as in 49 C.F.R. § 383.5."

29 **SECTION 8.** G.S. 20-37.21 reads as rewritten:

30 **"§ 20-37.21. Penalties.**

31 (a) Any person who drives a commercial motor vehicle in violation of  
32 G.S. 20-37.12 shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be  
33 fined not less than two hundred fifty dollars (\$250.00) for a first offense and not less  
34 than five hundred dollars (\$500.00) for a second or subsequent offense. In addition,  
35 upon conviction, the person shall be subject to a civil penalty of not less than one  
36 thousand one hundred dollars (\$1,100) for the first offense and not more than two  
37 thousand seven hundred fifty dollars (\$2,750) for a second or subsequent offense.

38 (b) Any person who violates G.S. 20-37.18 shall have committed an infraction  
39 and, upon being found responsible, shall pay a penalty of not less than one hundred  
40 dollars (\$100.00) nor more than five hundred dollars (\$500.00).

41 (c) Any employer who violates G.S. 20-37.19 shall have committed an infraction  
42 and, upon being found responsible, shall pay a penalty of not less than five hundred  
43 dollars (\$500.00) nor more than one thousand dollars (\$1,000). In addition, upon

1 conviction, the employer shall be subject to a civil penalty of not less than two thousand  
2 seven hundred fifty dollars (\$2,750) nor more than eleven thousand dollars (\$11,000).

3 (d) An employer who knowingly allows, requires, permits, or otherwise  
4 authorizes an employee to violate any railroad grade requirements contained in  
5 G.S. 20-142.1 through G.S. 20-142.5 shall pay a civil penalty of not more than ten  
6 thousand dollars (\$10,000)."

7 **SECTION 9.** G.S. 20-142.1 reads as rewritten:

8 **"§ 20-142.1. Obedience to railroad signal.**

9 (a) Whenever any person driving a vehicle approaches a railroad grade crossing  
10 under any of the circumstances stated in this section, the driver of the vehicle shall stop  
11 within 50 feet, but not less than 15 feet from the nearest rail of the railroad and shall not  
12 proceed until he can do so safely. These requirements apply when:

13 (1) A clearly visible electrical or mechanical signal device gives warning  
14 of the immediate approach of a railroad train;

15 (2) A crossing gate is lowered or when a human flagman gives or  
16 continues to give a signal of the approach or passage of a railroad  
17 train;

18 (3) A railroad train approaching within approximately 1500 feet of the  
19 highway crossing emits a signal audible from that distance, and the  
20 railroad train is an immediate hazard because of its speed or nearness  
21 to the crossing; or

22 (4) An approaching railroad train is plainly visible and is in hazardous  
23 proximity to the crossing.

24 (b) No person shall drive any vehicle through, around, or under any crossing gate  
25 or barrier at a railroad crossing while the gate or barrier is closed or is being opened or  
26 closed, nor shall any pedestrian pass through, around, over, or under any crossing gate  
27 or barrier at a railroad crossing while the gate or barrier is closed or is being opened or  
28 closed.

29 (c) When stopping as required at a railroad crossing, the driver shall keep as far  
30 to the right of the highway as possible and shall not form two lanes of traffic unless the  
31 roadway is marked for four or more lanes of traffic.

32 (d) Any person who violates any provisions of this section shall be guilty of an  
33 infraction and punished in accordance with G.S. 20-176. Violation of this section shall  
34 not constitute negligence per se.

35 (e) An employer who knowingly allows, requires, permits, or otherwise  
36 authorizes a driver to violate this section shall be guilty of an infraction. Such employer  
37 will also be subject to a civil penalty under G.S. 20-37.21."

38 **SECTION 10.** G.S. 20-142.2 reads as rewritten:

39 **"§ 20-142.2. Vehicles stop at certain grade crossing.**

40 The Department of Transportation may designate particularly dangerous highway  
41 crossings of railroads and erect stop signs at those crossings. When a stop sign is erected  
42 at a highway crossing of a railroad, the driver of any vehicle shall stop within 50 feet  
43 but not less than 15 feet from the nearest rail of such grade crossing and shall proceed  
44 only upon exercising due care. Any person who violates this section shall be guilty of an

1 infraction and punished in accordance with G.S. 20-176. Violation of this section shall  
2 not constitute negligence per se. An employer who knowingly allows, requires, permits,  
3 or otherwise authorizes a driver to violate this section shall be guilty of an infraction.  
4 Such employer will also be subject to a civil penalty under G.S. 20-37.21."

5 **SECTION 11.** G.S. 20-142.3 reads as rewritten:

6 **"§ 20-142.3. Certain vehicles must stop at railroad grade crossing.**

7 (a) Before crossing at grade any track or tracks of a railroad, the driver of any  
8 school bus, any activity bus, any motor vehicle carrying passengers for compensation,  
9 any commercial motor vehicle listed in 49 C.F.R. § 392.10, and any motor vehicle with  
10 a capacity of 16 or more persons shall stop the vehicle within 50 feet but not less than  
11 15 feet from the nearest rail of the railroad. While stopped, the driver shall listen and  
12 look in both directions along the track for any approaching train and shall not proceed  
13 until the driver can do so safely. Upon proceeding, the driver of the vehicle shall cross  
14 the track in a gear that allows the driver to cross the track without changing gears and  
15 the driver shall not change gears while crossing the track or tracks.

16 (b) Except for school buses and activity buses, the provisions of this section shall  
17 not require the driver of a vehicle to stop:

- 18 (1) At railroad tracks used exclusively for industrial switching purposes  
19 within a business district.
- 20 (2) At a railroad grade crossing which a police officer or crossing flagman  
21 directs traffic to proceed.
- 22 (3) At a railroad grade crossing protected by a gate or flashing signal  
23 designed to stop traffic upon the approach of a train, when the gate or  
24 flashing signal does not indicate the approach of a train.
- 25 (4) At an abandoned railroad grade crossing which is marked with a sign  
26 indicating that the rail line is abandoned.
- 27 (5) At an industrial or spur line railroad grade crossing marked with a sign  
28 reading "Exempt" erected by or with the consent of the appropriate  
29 State or local authority.

30 (c) A person violating the provisions of this section shall be guilty of an  
31 infraction and punished in accordance with G.S. 20-176. Violation of this section shall  
32 not constitute negligence per se.

33 (d), (e) Repealed by Session Laws 2001-487, s. 50(g).

34 (e) An employer who knowingly allows, requires, permits, or otherwise  
35 authorizes a driver to violate this section shall be guilty of an infraction. Such employer  
36 will also be subject to a civil penalty under G.S. 20-37.21."

37 **SECTION 12.** G.S. 20-142.4 reads as rewritten:

38 **"§ 20-142.4. Moving heavy equipment at railroad grade crossing.**

39 (a) No person shall operate or move any crawler-type tractor, crane, or roller or  
40 any equipment or structure having a normal operating speed of five or less miles per  
41 hour upon or across any tracks at a railroad crossing without first complying with this  
42 section.

1 (b) Notice of any intended crossing described in subsection (a) of this section  
2 shall be given to a superintendent of the railroad and a reasonable time be given to the  
3 railroad to provide protection at the crossing.

4 (c) Before making any crossing described in subsection (a) of this section, the  
5 person operating or moving the vehicle or equipment shall:

6 (1) Stop the vehicle or equipment not less than 15 feet nor more than 50  
7 feet from the nearest rail of the railroad;

8 (2) While stopped, shall listen and look both directions along the track for  
9 any approaching train and for signals indicating the approach of a  
10 train; and

11 (3) Shall not proceed until the crossing can be made safely.

12 (d) No crossing described in subsection (a) of this section shall be made when  
13 warning is given by automatic signal or crossing gates or a flagman or otherwise of the  
14 immediate approach of a railroad train or car.

15 (e) Subsection (c) of this section shall not apply at any railroad crossing where  
16 State or local authorities have determined that trains are not operating during certain  
17 periods or seasons of the year and have erected an official sign carrying the legend  
18 "Exempt".

19 (f) Any person who violates any provision of this section shall be guilty of an  
20 infraction and punished in accordance with G.S. 20-176. Violation of this section shall  
21 not constitute negligence per se.

22 (g) An employer who knowingly allows, requires, permits, or otherwise  
23 authorizes a driver to violate this section shall be guilty of an infraction. Such employer  
24 will also be subject to a civil penalty under G.S. 20-37.21."

25 **SECTION 13.** G.S. 20-142.5 reads as rewritten:

26 **"§ 20-142.5. Stop when traffic obstructed.**

27 No driver shall enter an intersection or a marked crosswalk or drive onto any  
28 railroad grade crossing unless there is sufficient space on the other side of the  
29 intersection, crosswalk, or railroad grade crossing to accommodate the vehicle he is  
30 operating without obstructing the passage of other vehicles, pedestrians, or railroad  
31 trains, notwithstanding the indication of any traffic control signal to proceed. Any  
32 person who violates any provision of this section shall be guilty of an infraction and  
33 punished in accordance with G.S. 20-176. Violation of this section shall not constitute  
34 negligence per se.

35 An employer who knowingly allows, requires, permits, or otherwise authorizes a  
36 driver to violate this section shall be guilty of an infraction. Such employer will also be  
37 subject to a civil penalty under G.S. 20-37.21."

38 **SECTION 14.** This act becomes effective December 1, 2005, and applies to  
39 offenses committed on or after that date.