

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 881
Commerce Committee Substitute Adopted 6/29/05

Short Title: Lapse in Liability Insurance.

(Public)

Sponsors:

Referred to:

March 23, 2005

A BILL TO BE ENTITLED

AN ACT TO REVISE THE PENALTIES FOR OPERATING A MOTOR VEHICLE WITHOUT HAVING IN FULL FORCE AND EFFECT A LIABILITY INSURANCE POLICY PROVIDING FINANCIAL RESPONSIBILITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-309(e) reads as rewritten:

"(e) ~~Upon termination by cancellation or otherwise of an insurance policy provided in subsection (b) of this section, the~~ An insurer ~~that, by cancellation or failure to renew, terminates a liability insurance policy shall~~ must notify the Division of the termination within 20 business days; ~~days. provided, no cancellation notice is required if the same insurer issues a replacement insurance policy complying with this Article at the same time the insurer cancels or otherwise terminates the old policy, This requirement does not apply when an insurer reinstates an existing policy or issues a new liability insurance policy to replace the terminated policy, and no lapse in coverage results, results. and the insurer sends the~~ The insurer must send a certificate of insurance form for the new policy to the Division. The insurer ~~shall~~ must notify the Division of any new policy for insurance within 20 working days of its issuance unless the new coverage is a replacement insurance policy for a policy terminated by the same insurer. Any ~~insurance company~~ insurer with twenty-five million dollars (\$25,000,000) or more in annual vehicle insurance premium volume must submit the notices required under this section by electronic means. All other ~~insurance companies~~ insurers may submit the notices required under this section by either paper or electronic means. The names of insureds and the beginning date and termination date of insurance coverage provided to the Division by the insurer pursuant to this ~~paragraph shall~~ subsection ~~constitute~~ constitutes a designated trade secret under G.S. 132-1.2. ~~The Commissioner of Insurance may assess a civil penalty of two hundred dollars (\$200.00) against an insurer that fails to notify the Division as required by this subsection, unless the insurer establishes good cause for the failure.~~

1 The Division, upon receiving notice of a lapse in insurance coverage, shall notify the
2 owner of the lapse in coverage, and the owner shall, to retain the registration plate for
3 the vehicle registered or required to be registered, within 10 days from date of notice
4 given by the Division either:

- 5 (1) Certify to the Division that he had financial responsibility effective on
6 or prior to the date of such termination; or
- 7 (2) In the case of a lapse in financial responsibility, pay a fifty dollar
8 (\$50.00) civil penalty; and certify to the Division that he now has
9 financial responsibility effective on the date of certification, that he did
10 not operate the vehicle in question during the period of no financial
11 responsibility with the knowledge that there was no financial
12 responsibility, and that the vehicle in question was not involved in a
13 motor vehicle crash during the period of no financial responsibility.

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

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

35 **SECTION 2.** G.S. 20-311 reads as rewritten:

36 "**§ 20-311. Revocation of registration when financial responsibility not in**
37 **effect. Action by the Division when notified of a lapse in financial**
38 **responsibility.**

39 Upon receipt of evidence that financial responsibility for the operation of any motor
40 vehicle registered or required to be registered in this State is not or was not in effect at
41 the time of operation or certification that insurance was in effect, the Division shall
42 revoke the owner's registration plate issued for the vehicle at the time of operation or
43 certification that insurance was in effect or the current registration plate for the vehicle
44 in the year registration has changed for 30 days.

1 ~~The vehicle for which registration has been revoked pursuant to this section may be~~
2 ~~registered at the end of the 30-day revocation period upon certification of financial~~
3 ~~responsibility and payment by the vehicle owner of a fifty dollar (\$50.00)~~
4 ~~administrative fee in addition to appropriate license fees. In no event may such vehicle~~
5 ~~be registered prior to payment of the fifty dollar (\$50.00) administrative fee.~~

6 (a) Action. – When the Division receives evidence, by a notice of termination of
7 a liability insurance policy or otherwise, that the owner of a motor vehicle registered or
8 required to be registered in this State does not have financial responsibility for the
9 operation of the vehicle, the Division must send the owner a letter. The letter must
10 notify the owner of the evidence and inform the owner that the owner must respond to
11 the letter within 10 days of the date on the letter and explain how the owner has met the
12 duty to have continuous financial responsibility for the vehicle. Based on the owner's
13 response, the Division must take the appropriate action listed:

14 (1) Division correction. – If the owner responds within the required time
15 and the response establishes that the owner has not had a lapse in
16 financial responsibility, the Division must correct its records.

17 (2) Penalty only. – If the owner responds within the required time and the
18 response establishes all of the following, the Division must assess the
19 owner a penalty in the amount set in subsection (b) of this section:

20 a. The owner had a lapse in financial responsibility, but the owner
21 now has financial responsibility.

22 b. The vehicle was not involved in an accident during the lapse in
23 financial responsibility.

24 c. The owner did not operate the vehicle during the lapse with
25 knowledge that the owner had no financial responsibility for the
26 vehicle.

27 (3) Penalty and revocation. – If the owner responds within the required
28 time and the response establishes any of the following, the Division
29 must assess the owner a penalty in the amount set in subsection (b) of
30 this section and revoke the registration of the owner's vehicle for the
31 period set in subsection (c) of this section:

32 a. The owner had a lapse in financial responsibility and still does
33 not have financial responsibility.

34 b. The owner now has financial responsibility even though the
35 owner had a lapse, but the vehicle was involved in an accident
36 during the lapse, the owner operated the vehicle during the
37 lapse with knowledge that the owner had no financial
38 responsibility for the vehicle, or both.

39 (4) Revocation pending response. – If the owner does not respond within
40 the required time, the Division must revoke the registration of the
41 owner's vehicle for the period set in subsection (c) of this section.
42 When the owner responds, the Division must take the appropriate
43 action listed in subdivisions (1) through (3) of this subsection as if the
44 response had been timely.

(b) Penalty Amount. – The following table determines the amount of a penalty payable under this section by an owner who has had a lapse in financial responsibility; the amount is based on the number of times the owner has been assessed a penalty under this section during the three-year period before the date the owner's current lapse began:

<u>Number of Lapses in Previous Three Years</u>	<u>Penalty Amount</u>
<u>None</u>	<u>\$75.00</u>
<u>One</u>	<u>\$150.00</u>
<u>Two or More</u>	<u>\$250.00</u>

(c) Revocation Period. – The revocation period for a revocation based on a response that establishes that a vehicle owner does not have financial responsibility is indefinite and ends when the owner obtains financial responsibility or transfers the vehicle to an owner who has financial responsibility. The revocation period for a revocation based on a response that establishes the occurrence of an accident during a lapse in financial responsibility or the knowing operation of a vehicle without financial responsibility is 30 days. The revocation period for a revocation based on failure of a vehicle owner to respond is indefinite and ends when the owner responds.

(d) Revocation Notice. – When the Division revokes the registration of an owner's vehicle, it must notify the owner of the revocation. The notice must inform the owner of the following:

- (1) That the owner must return the vehicle's registration plate and registration card to the Division, if the owner has not done so already, and that failure to do so is a Class 2 misdemeanor under G.S. 20-45.
- (2) That the vehicle's registration plate and registration card are subject to seizure by a law enforcement officer.
- (3) That the registration of the vehicle cannot be renewed while the registration is revoked.
- (4) That the owner must pay any penalties assessed, a restoration fee, and the fee for a registration plate when the owner applies to the Division to register a vehicle whose registration was revoked.

(e) Registration After Revocation. – A vehicle whose registration has been revoked may not be registered during the revocation period in the name of the owner, a child of the owner, the owner's spouse, or a child of the owner's spouse. This restriction does not apply to a spouse who is living separate and apart from the owner. At the end of a revocation period, a vehicle owner who has financial responsibility may apply to register a vehicle whose registration was revoked. The owner must pay any penalty assessed, a restoration fee of twenty-five dollars (\$25.00), and the fee for a registration plate."

SECTION 3. G.S. 20-316 reads as rewritten:

"§ 20-316. Divisional hearings upon lapse of liability insurance coverage.

Any person whose registration plate has been revoked under G.S. ~~20-309(e)~~ or 20-311 may request a hearing. Upon receipt of such request, the Division ~~shall~~, must, as early as practical, afford ~~him~~ an opportunity for hearing. ~~Upon such~~ At the hearing the

1 duly authorized agents of the Division may administer oaths and issue subpoenas for the
2 attendance of witnesses and the production of relevant books and documents. If it
3 appears that continuous financial responsibility existed for the vehicle involved, or if it
4 appears the lapse of financial responsibility is not reasonably attributable to the neglect
5 or fault of the person whose registration plate was revoked, the Division ~~shall~~must
6 withdraw its order of revocation and such person may retain the registration plate.
7 Otherwise, the order of revocation shall be affirmed and the registration plate
8 surrendered."

9 **SECTION 4.** G.S. 20-312 is repealed.

10 **SECTION 5.** G.S. 20-316.1 is repealed.

11 **SECTION 6.** This act becomes effective January 1, 2006, and applies to
12 lapses occurring on or after that date.