

NCDOT Short Session Proposed Statutory Changes

Exclusion of Federal Lands Access Program Funds (STI amendment)

Exclusion of Federal Catastrophic Relief Funds (STI amendment)

Contract Title Closings

Partnership with Private Developers

Minority Owned/ Women Owned Businesses

Driver's License Card Technical Corrections

Turnpike Authority Reporting

Mobility and Safety-AGTOURISM Legislation Revision

Defining an Intersection in Statute

Removing the Requirement to Report Annually on Right Turn on Red Pedestrian Crashes

MAP-21 Compliance (State Safety Program)

DIVISION OF MOTOR VEHICLES (DMV) Statutory Changes

**Pilot programs are ongoing and may result in additional reform initiatives.*

Driver Services

Commercial Driver License (CDL) –CDL Appointment Reservation Fee

Vehicle Services

Single Registration Sticker

ELT Related Fees, Session Law 2013-341, Senate Bill 407

Hearings

DMV Alcohol Hearings Held in Petitioner's County

Inspection/Emissions Station Cases Continuances

Serve Hearing Order to Motor Vehicle Dealer or Salesman

Updates to Medical Review Program

Exclusion of Federal Land Access Program (Flap) Funds

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2014

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STRATEGIC INVESTMENT FUND PROVISIONS IN ORDER TO PROVIDE PROGRAM STABILITY AND TO CLARIFY FUNDING CRITERIA.

The General Assembly of North Carolina enacts:

Section 1. North Carolina General Statute § 136-189.11(b) is amended as follows:

"(b) Funds Excluded From Formula. – The following funds are not subject to this section:

- (1) Federal congestion mitigation and air quality improvement program funds appropriated to the State by the United States pursuant to 23 U.S.C. § 104(b)(2) and 23 U.S.C. § 149.
- (2) Funds received through competitive awards or discretionary grants through federal appropriations either for local governments, transportation authorities, transit authorities, or the Department.
- (3) Funds received from the federal government that under federal law may only be used for Appalachian Development Highway System projects.
- (4) Funds used in repayment of "GARVEE" bonds related to Phase I of the Yadkin River Veterans Memorial Bridge project.
- (5) Funds committed to gap funding for toll roads funded with bonds issued pursuant to G.S. 136-176.
- (6) Funds obligated for projects in the State Transportation Improvement Program that are scheduled for construction as of October 1, 2013, in State fiscal year 2012-2013, 2013-2014, or 2014-2015.
- (7) Toll collections from a turnpike project under Article 6H of this Chapter and other revenue from the sale of the Authority's bonds or notes or project loans, in accordance with G.S. 136-89.192.
- (8) Toll collections from the State-maintained ferry system collected under the authority of G.S. 136-82.
- (9) Federal State Planning and Research Program funds (23 U.S.C. § 505) and Metropolitan Planning funds (23 U.S.C. §§ 104 and 134).
- (10) Funds received for the Federal Lands Access Program (FLAP) as established in 23 USC § 204.

Exclusion of Federal Catastrophic Relief Funds (STI amendment)

Section 2. North Carolina General Statute § 136-189.11(c) is amended as follows:

(c) Funds With Alternate Criteria. - The following federal program activities shall be included in the applicable category of the Transportation Investment Strategy Formula set forth in subsection (d) of this section but shall not be subject to the prioritization criteria set forth in that subsection:

- (1) Bridge replacement.
- (2) Interstate maintenance.
- (3) Highway safety improvement.
- (4) Funds obligated in support of emergency repair work necessary to restore essential travel, minimize the extent of damage, or protect the remaining facilities where natural events have significantly damaged the state maintained transportation system such that safe passage is jeopardized, and are either a repair for which federal Emergency Relief Funds are available under 23 U.S.C. § 125 or are part of an event legally declared as an emergency by the state or federal government.

Section 4. This Act is effective when it becomes law.

Contract Title Closings

Partnership with Private Developers

Amend § 136-28.6A. Partnerships with private developers.

(a) When in the best interest of the State, the Department may enter into a contract with a private developer to accomplish the engineering, design, or construction of improvements to the State highway system.

(b) The Department is authorized to establish policies and promulgate rules providing for its participation in contracts for projects performed on or abutting a state highway or on a facility planned to be added to the State highway system for purposes of completing incidental work on the State highway system.

(c) Any project funded or constructed under this section shall be subject to the following restrictions:

(1) The Department's participation shall be limited to the lesser of ten percent (10%) of the amount of the engineering contract and any construction contract let by the developer for the project or two hundred fifty thousand dollars (\$250,000). However, under no circumstances shall participation in the contracts by the Department exceed costs associated with normal practices of the Department.

(2) Plans for the project must meet established standards and shall be approved by the Department.

(3) Projects shall be constructed in accordance with the plans and specifications approved by the Department.

(d) The Secretary shall report annually, not later than March 1, in writing to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Transportation Oversight Committee on all agreements entered into between the Department and a private developer for participation in private engineering and construction contracts under this section."

SECTION 2. This act is effective when it becomes law. This act shall expire on ~~December 31, 2011~~
December 31, 2016

Minority Owned/Women Owned Businesses

Amend G.S. 136-28.4

§ 136-28.4. (~~Expires August 31, 2014~~)(Expires August 31, 2015) State policy concerning participation by disadvantaged minority-owned and women-owned businesses in transportation contracts.

(a) It is the policy of this State, based on a compelling governmental interest, to encourage and promote participation by disadvantaged minority-owned and women-owned businesses in contracts let by the Department pursuant to this Chapter for the planning, design, preconstruction, construction, alteration, or maintenance of State transportation infrastructure and in the procurement of materials for these projects. All State agencies, institutions, and political subdivisions shall cooperate with the Department of Transportation and among themselves in all efforts to conduct outreach and to encourage and promote the use of disadvantaged minority-owned and women-owned businesses in these contracts.

(b) At least every five years, the Department shall conduct a study on the availability and utilization of disadvantaged minority-owned and women-owned business enterprises and examine relevant evidence of the effects of race-based or gender-based discrimination upon the utilization of such business enterprises in contracts for planning, design, preconstruction, construction, alteration, or maintenance of State transportation infrastructure and in the procurement of materials for these projects. Should the study show a strong basis in evidence of ongoing effects of past or present discrimination that prevents or limits disadvantaged minority-owned and women-owned businesses from participating in the above contracts at a level which would have existed absent such discrimination, such evidence shall constitute a basis for the State's continued compelling governmental interest in remedying such race and gender discrimination in transportation contracting. Under such circumstances, the Department shall, in conformity with State and federal law, adopt by rule and contract provisions a specific program to remedy such discrimination. This specific program shall, to the extent reasonably practicable, address each barrier identified in such study that adversely affects contract participation by disadvantaged minority-owned and women-owned businesses.

(b1) Based upon the findings of the Department's 2009 study entitled "Measuring Business Opportunity: A Disparity Study of NCDOT's State and Federal Programs" hereinafter referred to as "Study", the program design shall, to the extent reasonably practicable, incorporate narrowly tailored remedies identified in the Study, and the Department shall implement a comprehensive antidiscrimination enforcement policy. As appropriate, the program design shall be modified by rules adopted by the Department that are consistent with findings made in the Study and in subsequent studies conducted in accordance with subsection (b) of this section. As part of this program, the Department shall review its budget and establish aspirational goals every three years, not mandatory goals, in percentages, for the overall participation in contracts by disadvantaged minority-owned and women-owned businesses. These aspirational goals for disadvantaged minority-owned and women-owned businesses shall be established consistent with federal methodology, and they shall not be applied rigidly on specific contracts or projects. Instead, the Department shall establish contract-specific goals or project-specific goals for the participation of such firms in a manner consistent with availability of disadvantaged

minority-owned and women-owned businesses, as appropriately defined by its most recent Study, for each disadvantaged minority-owned and women-owned business category that has demonstrated significant disparity in contract utilization. Nothing in this section shall authorize the use of quotas. Any program implemented as a result of the Study conducted in accordance with this section shall be narrowly tailored to eliminate the effects of historical and continuing discrimination and its impacts on such disadvantaged minority-owned and women-owned businesses without any undue burden on other contractors. The Department shall give equal opportunity for contracts it lets without regard to race, religion, color, creed, G.S. 136-28.4 national origin, sex, age, or handicapping condition, as defined in G.S. 168A-3, to all contractors and businesses otherwise qualified.

(c) The following definitions apply in this section:

(1) "Disadvantaged Business" has the same meaning as "disadvantaged business enterprise" in 49 C.F.R. § 26.5 Subpart A or any subsequently promulgated replacement regulation.

(2) "Minority" includes only those racial or ethnicity classifications identified by a study conducted in accordance with this section that have been subjected to discrimination in the relevant marketplace and that have been adversely affected in their ability to obtain contracts with the Department.

(3) "Women" means a nonminority person born of the female sex.

(d) The Department shall report annually to the Joint Legislative Transportation Oversight Committee on the utilization of disadvantaged minority-owned businesses and women-owned businesses and any program adopted to promote contracting opportunities for those businesses. Following each study of availability and utilization, the Department shall report to the Joint Legislative Transportation Oversight Committee on the results of the study for the purpose of determining whether the provisions of this section should continue in force and effect.

(e) ~~This section expires August 31, 2014.~~ This section expires August 31, 2015.

Driver's License Card Technical Corrections

Amend NCGS 20-7(n) (4)

(4) ~~A color photograph, or a properly applied laser engraved picture on polycarbonate material, of the license holder, taken by the Division.~~ A color or black and white photograph applied to card material that is measured by the ~~highest level~~ industry standard of security and durability and is resistant to tampering and reproduction.

Turnpike Authority Reporting

Amend § 136-89.193. Annual plan of work; annual and quarterly reports.

(a) Annual Plan of Work. - The Authority shall annually develop a plan of work for the fiscal year, describing the activities and projects to be undertaken, accompanied by a budget. This annual plan of work shall be subject to the concurrence of the Board of Transportation.

(b) Annual Reports. - The Authority shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the Governor, the General Assembly, and the Department of Transportation. ~~Each report shall be accompanied by The annual~~ an audit of its books and accounts shall be released when completed in October of each year.

(c) Semiannual Reports. - The Authority shall submit semiannual reports to the Joint Legislative Transportation Oversight Committee, and more frequent reports if requested. The reports shall summarize the Authority's activities during the preceding six months, and shall contain any information about the Authority's activities that is requested by the Committee.

(d) Report Prior to Let of Contracts. - The Authority shall consult with and report to the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations prior to the letting of any contract for Turnpike Project construction authorized under G.S. 136-183(a)(2).

(e) Repealed by Session Laws 2011-145, s. 28.35(a), effective July 1, 2011. (2002-133, s. 1; 2011-145, s. 28.35(a).)

Mobility and Safety-AGTOURISM Legislation Revision

Amend § 106-22.5. Agricultural tourism signs.

(a) The Department of Agriculture and Consumer Services shall work with the Department of Transportation to provide directional signs on major highways at or in reasonable proximity to the nearest interchange following the sign location and placement rules of the Department of Transportation's Tourist-Oriented Directional Signing and Logo Signing programs leading to an agricultural facility that promotes tourism by providing tours and on-site sales or samples of North Carolina agricultural products to area tourists.

Defining an Intersection in Statute

Amend § 20-4.01

Ramp Meter. – A traffic control device that consist of a circular red and circular green display placed at a point along an interchange entrance ramp.

Add to § 20-158(c)

(6) When a ramp meter is displaying a circular red display, vehicles facing the red light must stop. When the ramp meter is displaying a circular green display, then one vehicle may proceed for each lane of traffic facing the meter. When the display is dark or not emitting a red or green display, then traffic may proceed without stopping. A ramp meter violation is an infraction and shall not have any insurance or driver's license points.

Removing the Requirement to Report Annually on Right Turn on Red Pedestrian Crashes

Amend § 20-158. Vehicle control signs and signals.

(a) The Department of Transportation, with reference to State highways, and local authorities, with reference to highways under their jurisdiction, are hereby authorized to control vehicles:

- (1) At intersections, by erecting or installing stop signs requiring vehicles to come to a complete stop at the entrance to that portion of the intersection designated as the main traveled or through highway. Stop signs may also be erected at three or more entrances to an intersection.
- (2) At appropriate places other than intersections, by erecting or installing stop signs requiring vehicles to come to a complete stop.
- (3) At intersections and other appropriate places, by erecting or installing steady-beam traffic signals and other traffic control devices, signs, or signals. All steady-beam traffic signals emitting alternate red and green lights shall be arranged so that the red light in vertical-arranged signal faces shall appear above, and in horizontal-arranged signal faces shall appear to the left of all yellow and green lights.
- (4) At intersections and other appropriate places, by erecting or installing flashing red or yellow lights.

(b) Control of Vehicles at Intersections. -

- (1) When a stop sign has been erected or installed at an intersection, it shall be unlawful for the driver of any vehicle to fail to stop in obedience thereto and yield the right-of-way to vehicles operating on the designated main-traveled or through highway. When stop signs have been erected at three or more entrances to an intersection, the driver, after stopping in obedience thereto, may proceed with caution.
- (2) a. When a traffic signal is emitting a steady red circular light controlling traffic approaching an intersection, an approaching vehicle facing the red light shall come to a stop and shall not enter the intersection. After coming to a complete stop and unless prohibited by an appropriate sign, that approaching vehicle may make a right turn.
- b. Any vehicle that turns right under this subdivision shall yield the right-of-way to:
 1. Other traffic and pedestrians using the intersection; and
 2. Pedestrians who are moving towards the intersection, who are in reasonably close proximity to the intersection, and who are preparing to cross in front of the traffic that is required to stop at the red light.
- c. Failure to yield to a pedestrian under this subdivision shall be an infraction, and the court may assess a penalty of not more than five hundred dollars (\$500.00) and not less than one hundred dollars (\$100.00).
- d. ~~The Department of Transportation shall collect data regarding the number of individuals who are found responsible for violations of sub-~~

~~subdivision b. of this subdivision and the number of pedestrians who are involved in accidents at intersections because of a driver's failure to yield the right of way while turning right at a red light. The data shall include information regarding the number of disabled pedestrians, including individuals with visual or mobility-related disabilities, who are involved in right turn on red accidents. The Department shall report the data annually to the Joint Legislative Transportation Oversight Committee beginning January 1, 2006.~~

MAP-21 Compliance (State Safety Program)

Amend § 136-18.36

- (36) To oversee the safety of fixed guideway transit systems in the State not regulated by the Federal Railroad Administration, pursuant to the ~~Intermodal Surface Transportation Efficiency Act of 1991 (49 U.S.C. § 5330)~~ MAP 21, Moving Ahead for Progress in the 21st Century (P.L. 112-114), or reauthorizations of and amendments to that legislation. The Department shall adopt rules in conformance with 49 U.S.C. § 5330 concerning its oversight of the safety of fixed guideway transit systems.

DMV Statutory Changes

DRIVER SERVICES - CDL APPOINTMENT RESERVATION FEE

Amend GS. §20-37.01

The Driver's License Technology Fund is established in the Department of Transportation as a nonreverting, interest-bearing special revenue account. The revenue in the Fund at the end of a fiscal year does not revert, and earnings on the Fund shall be credited to the Fund annually. All money collected by the Commissioner pursuant to G.S. §20-37.02 shall be remitted to the State Treasurer and held in the Fund. Money held in the Fund shall be used to supplement funds otherwise available to the Division for information technology and office automation needs. All monies collected by the Division for a commercial driver license appointment reservation fee pursuant to this statute shall revert to the Driver's License Technology Fund, N.C.G.S. § 20-37.01.

Single Registration Sticker

Amend GS. § 20-66 (c)

(c) Renewal Stickers. - A single registration renewal sticker issued by the Division must be displayed on the registration plate that it renews in the place prescribed by the Commissioner and must indicate the period for which it ~~and the registration plate on which it is displayed are~~ is valid. Except where physical differences between a registration renewal sticker and a registration plate render a provision of this Chapter inapplicable, the provisions of this Chapter relating to registration plates apply to registration renewal stickers.

ELT related fees

Amend G.S. § 20-54.4

- (l) The Division may allow primary lien holders to convert existing paper titles to electronic lien title at a charge of \$3.00.

DMV Alcohol Hearings held in petitioner's county

Amend N.C.G.S. §20-17.8(j)

(j) Right to Hearing before Division; Issues. - If the person's license is revoked pursuant to subsection (g) of this section, before the effective date of the order issued under subsection (i) of this section, the person may request in writing a hearing before the Division. Except for the time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the Division that the person's license was surrendered to the court and remained in the court's possession, then the Division shall credit the amount of time for which the license was in the possession of the court against the revocation period required by subsection (g) of this section. If the person properly requests a hearing, the person retains the person's license, unless it is revoked under some other provision of law, until the hearing is held, the person withdraws the request, or the person fails to appear at a scheduled hearing. The hearing officer may subpoena any witnesses or documents that the hearing officer deems necessary. The person may request the hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at the hearing if the person makes the request in writing at least three days before the hearing. The person may subpoena any other witness whom the person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the authority of this section. The hearing officer is authorized to administer oaths to witnesses appearing at the hearing. The hearing must be conducted in the county where the charge was brought or where the person resides, and must be limited to consideration of whether:

- (1) The driver's license of the person had an ignition interlock requirement; and
- (2) The person:
 - a. Was driving a vehicle that was not equipped with a functioning ignition interlock system; or
 - b. Did not personally activate the ignition interlock system before driving the vehicle; or
 - c. Drove the vehicle in violation of an applicable alcohol concentration restriction prescribed by subdivision (b) (3) of this section.

If the Division finds that the conditions specified in this subsection are met, it must order the revocation sustained. If the Division finds that the condition of subdivision (1) is not met, or that none of the conditions of subdivision (2) are met, it must rescind the revocation. If the revocation is sustained, the person must surrender the person's license immediately upon notification by the Division. If the revocation is sustained, the person may appeal the decision of the Division pursuant to G.S. 20-25.

Inspection/Emissions Station cases continuances

Amend N.C.G.S. §20-183.8G

(b) Hearing after Statement of Charges. - When a license holder receives a statement of charges of a violation that could result in the suspension or revocation of the person's license, the person can obtain a hearing by making a request for a hearing. The person must make the request to the Division within 10 days after receiving the statement of the charges. A person who does not request a hearing within this time limit waives the right to a hearing.

The Division must hold a hearing requested under this subsection within 30 days after receiving the request unless the matter is continued for good cause. The hearing must be held at the location designated by the Division. Suspension or revocation of the license is stayed until a decision is made following the hearing.

If a person does not request a hearing within the time allowed for making the request, the proposed suspension or revocation becomes effective the day after the time for making the request ends. If a person requests a hearing but does not attend the hearing, the proposed suspension or revocation becomes effective the day after the date set for the hearing.

.....

(d) All Other Hearings. - When this section gives a person the right to a hearing and subsection (b) or (c) of this section does not apply to the hearing, the person may obtain a hearing by filing with the Division a written request for a hearing. The request must be filed within 10 days after the person receives written notice of the action for which a hearing is requested. The Division must hold a hearing within 90 days after the Division receives the request unless the matter is continued for good cause.

Serve Hearing Order to Motor Vehicle Dealer or Salesman

Amend N.C.G.S. §20-296

No license shall be suspended or revoked or denied, or renewal thereof refused, until a written notice of the complaint made has been furnished to the licensee against whom the same is directed, and a hearing thereon has been had before the Commissioner, or a person designated by him. At least 10 days' written notice of the time and place of such hearing shall be given to the licensee by certified mail with return receipt requested to his last known address as shown on his license or other record of information in possession of the Division. At any such hearing, the licensee shall have the right to be heard personally or by counsel. After hearing, the Division shall have power to suspend, revoke or refuse to renew the license in question. Immediate notice of any such action shall be given to the licensee in the manner herein provided in the case of notices of hearing as set forth in Rule 4 of the North Carolina Rules of Civil Procedure.

Updates to Medical Review Program

Amend N.C.G.S. §20-9(g) (4)

- (g) The Division may issue a driver's license to any applicant covered by subsection (e) of this section under the following conditions:
- (2) Whenever a license is denied, cancelled, or restricted by the Commissioner based upon information received and reviewed in accordance with subdivisions (2) and (3), such denial adverse action may be reviewed by a reviewing board upon written request of the applicant filed with the Division within 10 days after receipt of such denial notice of the adverse action. The reviewing board shall consist of the Commissioner or his authorized representative and two medical professionals, duly licensed to practice medicine in the state of North Carolina, selected by the Commissioner of Motor Vehicles. The medical professionals so selected by the Commissioner may be compensated for their services on an equitable basis to include reimbursement for ordinary and necessary travel expenses. Four persons designated by the chairman of the Commission for Public Health. The persons designated by the chairman of the Commission for Public Health shall be either members of the Commission for Public Health or physicians duly licensed to practice medicine in this State. The members so designated by the chairman of the Commission for Public Health shall receive the same per diem and expenses as provided by law for members of the Commission for Public Health, which per diem and expenses shall be charged to the same appropriation as per diems and expenses for members of the Commission for Public Health. The Commissioner or his authorized representative, plus any two of the members designated by the chairman of the Commission for Public Health, constitute a quorum. The procedure for hearings authorized by this section shall be as follows:
- a. Applicants shall be afforded an opportunity for hearing, after reasonable notice of not less than 10 days, before the review board established by subdivision (4). The notice shall be in writing and shall be delivered to the applicant in person or sent by certified mail, with return receipt requested. The notice shall state the time, place, and subject of the hearing. Requesting a hearing shall not stay any adverse action pending against the applicant that the Division deemed appropriate following the review set forth in subdivisions (2) and (3).
- b. Every decision and order adverse to an applicant shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the board's conclusions on each contested issue of fact. Counsel for applicant, or applicant, if he has no counsel, shall be notified of the board's decision in person or by registered certified mail

with return receipt requested. In all other cases, a A copy of the board's decision with accompanying findings and conclusions shall be delivered or mailed upon request to applicant's attorney of record or to applicant, if he has no attorney.