



HOUSE BILL 165: DOT Legislative Changes.

2021-2022 General Assembly

Committee:	Senate Transportation. If favorable, re-refer to Rules and Operations of the Senate	Date:	September 21, 2021
Introduced by:	Reps. B. Jones, Iler, Shepard	Prepared by:	Howard Marsilio
Analysis of:	PCS to Third Edition H165-CSSU-24		Staff Attorney

OVERVIEW: *The Proposed Committee Substitute (PCS) for House Bill 165 would make various changes to the transportation laws of this State, and more specifically would:*

- *Modify the agreement cap on certain public private partnerships.*
- *Modify the Map Act claim settlement monetary cap.*
- *Modify the fiscal-year look back period for STI formula variance.*
- *Modify and expand the Department of Transportation (DOT) small project bidding authority.*
- *Clarify ferry channel project cost-share exemption.*
- *Modify and add requirements for litter removal coordination with rights-of-way (ROW) mowing.*
- *Require all insurers to submit all motor vehicle liability policy notifications to the Division of Motor Vehicles (DMV) electronically.*
- *Require the DMV to offer in person and online renewals for handicapped credentials.*
- *Require the DMV to disqualify persons from operating a commercial motor vehicle for certain convictions of severe forms of trafficking in persons to comply with federal law.*
- *Clarify DMV dealer and inspection license hearing feasibility study requirements.*
- *Amend the implementation date of certain implied consent offense revocation timing modifications.*
- *Modify DMV procedures that relate to motor vehicle insurance lapses, and would require the DMV to submit a plan for creation of a system to allow electronic submission of certain insurance documentation.*
- *Clarify DOT and Turnpike Authority designated managed lane use violations would be punishable as infractions.*
- *Amend passenger bus length restriction exemption to include longer articulated buses.*
- *Authorize commercial driver training schools to administer Level 2 provisional license road tests.*

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CURRENT LAW/BILL ANALYSIS:

Section 1 – Current law authorizes the DOT to enter into partnership agreements with private entities, and others, to finance transportation infrastructure projects in this State. G.S. 136-18(39a) limits the Department and Turnpike Authority to a total of 3 partnership agreements for Turnpike Authority projects. This section would modify the cap on public private partnership agreements for Turnpike Authority projects so the DOT and the Turnpike Authority would be able to enter into up to 3 agreements each.

Section 2 – Section 1.4(a) of S.L. 2019-251 limited the DOT to \$150 million per fiscal year to pay compensation for damages for Map Act claims. This section would modify the cap to a \$300 million limit from enactment through FY 2021/2022, and would reduce the cap to \$5 million from FY 2022/2023 onward. Subsection (b) of this section would become effective July 1, 2022. The remainder of this section would become effective when it becomes law.

Section 3 – Article 14B of Chapter 136 sets out various laws that relate to the State Transportation Investments (STI) formula which is utilized by NCDOT for transportation project planning using certain funds. Current law authorizes the DOT to vary the formula in accordance with statutory limits. This section expands the prior fiscal year variance consideration window by removing the 5-year look back period limitation. This section would become effective when it becomes law, and would apply to State Transportation Improvement Program plan updates on or after that date.

Section 4 – Current law authorizes the DOT to utilize informal bidding to contract for construction and repair projects less than \$500K with Small Business Enterprises. This section would increase the dollar threshold for project eligibility, for this authorization, from \$500K to \$1M. This section would also expand this contracting authorization to include technical, design, and engineering projects less than \$500K that involve Small Professional Services Firms. This section would become effective when it becomes law and would apply to solicitations for bids issued by the DOT on or after that date.

Section 5 – Section 2 of S.L. 2021-108, effective August 16, 2021, created an exemption from the cost-share requirement for DOT ferry channel dredging projects located, in whole or part, in a development tier one area. This section amends the exemption so it applies to ferry channels "used" by NCDOT rather than those "maintained" by NCDOT.

Section 6 – Current law outlines DOT responsibility for scheduling debris and trash removal from ROW prior to mowing. This section would further clarify these responsibilities as it relates to highways on the primary and secondary road system, and would require the DOT to report to JLTOC on the effectiveness of the Litter Management System website and its impact on litter management programs. This section would become effective when it becomes law. Subsection (a) of this section would apply to contracts entered into on or after January 1, 2022.

Section 7 – Current law requires insurers that provide motor vehicle liability policies to notify the DMV of new/replacement policy issuance, and policy termination and reinstatements. An insurer with \$25M or more premium volume must submit notices electronically, but all others can submit paper or electronic notices. This section would require all insurers to submit all notices for these purposes electronically to the DMV.

Section 8 – This section would require the DMV to offer in-person and online handicap credential (distinguishing license plate & windshield placards) renewals.

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Section 9 - Current law lists circumstances for which a person is disqualified from driving a commercial motor vehicle (CMV) for various spans of time. This section would modify the law to disqualify persons from operating a CMV for life based on a conviction of a felony involving a form of severe human trafficking that involves use of a CMV, as required by federal law.

Section 10 – Section 2 of S.L. 2021-134, effective September 2, 2021, required DMV, in consultation with the Office of Administrative Hearings (OAH) and the Attorney General, to study the feasibility of transferring motor vehicle dealer license hearings and safety and emissions inspection hearings to the OAH. This section would clarify that DMV and OAH would be jointly responsible for the feasibility study and would amend the deadline for the study from January 31, 2022, to March 31, 2022.

Section 11 – Section 9 of S.L. 2021-134, effective October 1, 2021, modified the effective dates for revocations based on DMV license revocations order mailings, for certain implied consent offense chemical analysis refusals and license restriction violations after driving while impaired convictions, from the 10th day after mailing to the 30th day after mailing. This section would amend the effective date of this modification from October 1, 2021 to December 31, 2021.

Section 12 – Current law requires the DMV to notify a vehicle owner by mail when they receive evidence the owner no longer has financial responsibility for the vehicle, and sets out owner response deadlines and lapse penalties. This section would modify DMV procedures that relate to insurance lapses, which would include authorizing electronic notification of lapses, preventing the Division from assessing a penalty when certain lapses occur, and requiring the DMV to submit a plan for creation of a system to allow electronic submission of certain insurance documentation.

Section 13 – Current law authorizes the North Carolina Turnpike Authority and the DOT to designate managed (e.g. HOV, HOT, etc.) lanes within their respective systems. Additional authority, requirements, and conditions for these lanes are set out by various statutes and rules. This section would make violations of use requirements and conditions for Turnpike Authority designated lanes infractions, and would further clarify that violations that relate to Department designated managed lanes are infractions. This section would become effective December 1, 2021, and would apply to offenses committed on or after that date.

Section 14 – Generally, vehicle length, width, and load capacity restrictions are set by various laws and rules, and current law exempts single vehicle passenger buses operated by units of local government that are 45 feet or less in length from certain restrictions. This section would expand this exemption to authorize articulated passenger buses with an overall length of 65 feet or less in length.

Section 15 – Current law requires individuals seeking a Level 2 provisional license, as part of the State's graduated licensing program, to pass a road test administered by the DMV. This section would authorize commercial driver training schools that are regulated and certified by the DMV to administer those road tests, in addition to the DMV.

EFFECTIVE DATE: Except as otherwise provided, this act would become effective when it becomes law.