



ADOPTED

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 368

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

S368-ATD-12 [v.8]

Page 1 of 2

Comm. Sub. [YES]
Amends Title [NO]
Third Edition

Date 5-12-2009

Senator Nesbitt

moves to amend the bill on page 1, line 26 through page 2, line 23, by rewriting those lines to read:

SECTION 2.(a) Part 12 of Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

§ 20-178.1. Payment and review of civil penalty imposed by Department of Crime Control and Public Safety.

(a) Procedure. - A person who is assessed a civil penalty under this Article by the Department of Crime Control and Public Safety must pay the penalty within 30 calendar days after the date the penalty was assessed or make a written request within this time limit to the Department for a Departmental review of the penalty. A request for review must state the basis for the objection and explain why the person against whom the penalty was assessed believes the penalty was imposed in error. A person who does not submit a request for review within the required time waives the right to a review and hearing on the penalty.

(b) Department Review. - Upon receiving a request to review a penalty, the Department must review the information in the request for review and the Department's records to determine if the penalty was properly assessed. The Department must send the person who submitted the request for review written notice of its decision on the penalty. A penalty must be paid within 60 days after the Department gives written notice of its decision on the penalty.

(c) OAH Hearing. - A person who is dissatisfied with the Department's decision after its review of the penalty may pay the penalty under protest and file a petition for a contested case hearing under G.S. 150B-23. A petition to OAH must certify that the penalty has been paid.

(d) Judicial Review. - Except as provided in this subsection, Article 4 of Chapter 150B of the General Statutes governs judicial review of a final decision made after a contested case hearing on a penalty that is subject to this section. To obtain judicial review of a final decision on a penalty subject to this section, the person seeking review must file the petition in the Superior Court of Wake County or in the superior court of the county in which the penalty was assessed.

(e) Interest. - Interest accrues on a penalty that is overdue. A penalty is overdue if it is not paid within the time required by this section. Interest is payable on a penalty assessed in error from the date the penalty was paid. The interest rate set in G.S. 105-241.21 applies to interest payable under this section.'

SECTION 2.(b) G.S. 20-382.2 reads as rewritten:



\* 5 3 6 8 - A T D - 1 2 - V - 8 \*

NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
Senate Bill 368

AMENDMENT NO. 1  
(to be filled in by  
Principal Clerk)

S368-ATD-12 [v.8]

Page 2 of 2

1 '§ 20-382.2. Penalty for failure to comply with registration or insurance verification  
2 requirements.

3 ...  
4 (b) ~~Payment.~~ Payment and Review. – When the Department of Crime Control and  
5 Public Safety finds that a for-hire motor vehicle is operated in this State in violation of the  
6 registration and insurance verification requirements of this Part, the Department must place the  
7 motor vehicle shall be placed out of service until the motor carrier is in compliance and the  
8 penalty imposed under this section is paid unless the officer that imposes the penalty  
9 determines that operation of the motor vehicle will not jeopardize collection of the penalty. A  
10 motor carrier that denies liability for a penalty imposed under this section may pay the penalty  
11 under protest and ~~apply to the Department of Crime Control and Public Safety for a~~  
12 hearing. follow the procedure in G.S. 20-137.5 for a Departmental review of the penalty and a  
13 hearing on the penalty.

14 (c) ~~Hearing.~~ Judicial Restriction. – Upon receiving a request for a hearing, the Secretary  
15 of Crime Control and Public Safety shall schedule a hearing within 30 days after receipt of the  
16 request. ~~If after the hearing the Secretary of Crime Control and Public Safety determines that~~  
17 ~~the motor carrier was not liable for the penalty, the amount collected shall be refunded. If after~~  
18 ~~the hearing the Department of Crime Control and Public Safety determines that the motor~~  
19 ~~carrier was liable for the penalty, the motor carrier may bring an action in the Superior Court of~~  
20 ~~Wake County against the Department of Crime Control and Public Safety for refund of the~~  
21 ~~penalty. A court of this State may not issue a restraining order or an injunction to restrain or~~  
22 ~~enjoin the collection of the~~ a penalty imposed under this section or to permit the operation of  
23 the a vehicle placed out of service under this section without payment of the penalty.

24 ...'  
25 SECTION 2.(c) G.S. 150B-1(e)(14) is repealed.";

26 and on page 7, line 46 by rewriting the line to read:

27 "to civil penalties assessed and offenses committed on or after that date."  
28  
29  
30  
31  
32  
33

**ADOPTED**

SIGNED

  
Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

48-0

FAILED

TABLED

5-12-09

