

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

D

HOUSE BILL 884*
Committee Substitute Favorable 5/11/09
PROPOSED COMMITTEE SUBSTITUTE H884-PCS80432-SU-49

Short Title: Clarify Inspection Station Responsibilities. (Public)

Sponsors:

Referred to:

March 31, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY SAFETY INSPECTION STATION AND SAFETY
3 SELF-INSPECTOR RESPONSIBILITIES AND NOTICE REQUIREMENTS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 20-183.7A reads as rewritten:

6 "§ 20-183.7A. Penalties applicable to license holders and suspension or revocation of
7 license for safety violations.

8 (a) Kinds of Violations. – The civil penalty schedule established in this section applies
9 to safety self-inspectors, safety inspection stations, and safety inspection mechanics. The
10 schedule categorizes safety violations into serious (Type I), minor (Type II), and technical
11 (Type III) violations. A serious violation is a violation of this Part or a rule adopted to
12 implement this Part that directly affects the safety or emissions reduction benefits of the safety
13 inspection program. A minor violation is a violation of this Part or a rule adopted to implement
14 this Part that reflects negligence or carelessness in conducting a safety inspection or complying
15 with the safety inspection requirements but does not directly affect the safety benefits or
16 emission reduction benefits of the safety inspection program. A technical violation is a
17 violation that is not a serious violation, a minor violation, or another type of offense under this
18 Part.

19 (b) Penalty Schedule. – The Division must take the following action for a violation:

20 (1) Type I. – For a first or second Type I violation within three years by a safety
21 self-inspector or a safety inspection station, assess a civil penalty of two
22 hundred fifty dollars (\$250.00) and suspend the license of the business for
23 six months. For a third or subsequent Type I violation within three years by
24 a safety self-inspector or a safety inspection station, assess a civil penalty of
25 one thousand dollars (\$1,000) and revoke the license of the business for two
26 years. For a first or second Type I violation within seven years by a safety
27 inspection mechanic, assess a civil penalty of one hundred dollars (\$100.00)
28 and suspend the mechanic's license for six months. For a third or subsequent
29 Type I violation within seven years by a safety inspection mechanic, assess a
30 civil penalty of two hundred fifty dollars (\$250.00) and revoke the
31 mechanic's license for two years.

32 (2) Type II. – For a first or second Type II violation within three years by a
33 safety self-inspector or a safety inspection station, assess a civil penalty of



* H 8 8 4 - P C S 8 0 4 3 2 - S U - 4 9 *

1 one hundred dollars (\$100.00). For a third or subsequent Type II violation
2 within three years by a safety self-inspector or a safety inspection station,
3 assess a civil penalty of two hundred fifty dollars (\$250.00) and suspend the
4 license of the business for 90 days. For a first or second Type II violation
5 within seven years by a safety inspection mechanic, assess a civil penalty of
6 fifty dollars (\$50.00). For a third or subsequent Type II violation within
7 seven years by a safety inspection mechanic, assess a civil penalty of one
8 hundred dollars (\$100.00) and suspend the mechanic's license for 90 days.

9 (3) Type III. – For a first or second Type III violation within seven years by a
10 safety self-inspector, a safety inspection station, or a safety inspection
11 mechanic, send a warning letter. For a third or subsequent Type III violation
12 within seven years by the same safety license holder, assess a civil penalty of
13 twenty-five dollars (\$25.00).

14 (c) Station or Self-Inspector Responsibility. – It is the responsibility of a safety
15 inspection station and a safety self-inspector to supervise the safety inspection mechanics it
16 employs. A violation by a safety inspection mechanic is considered a violation by the station or
17 self-inspector for whom the mechanic is employed. A safety inspection station or safety
18 self-inspector charged with a violation resulting from the actions of a safety inspection
19 mechanic shall not result in any penalty under this Article against the safety inspection station
20 or safety self-inspector if the safety inspection station or safety self-inspector establishes that
21 the safety inspection station or safety self-inspector has implemented and maintained
22 reasonable procedures to ensure compliance with this Article, and the violation was committed
23 by a safety inspection mechanic without prior actual knowledge of the safety inspection station
24 or safety self-inspector license holder.

25 (d) Multiple Violations. – If a safety self-inspector, a safety inspection station, or a
26 safety inspection mechanic commits two or more violations in the course of a single safety
27 inspection, the Division shall take only the action specified for the most significant violation. In
28 any case where a safety inspection station or safety self-inspector is charged with a violation
29 due to the actions of a safety inspection mechanic, and the Division believes multiple violations
30 by the safety inspection mechanic occurred, the Division shall only charge a safety inspection
31 station or safety self-inspector with one violation.

32 (e) Mechanic Training. – A safety inspection mechanic whose license has been
33 suspended or revoked must retake the course required under G.S. 20-183.4 and successfully
34 complete the course before the mechanic's license can be reinstated. Failure to successfully
35 complete this course continues the period of suspension or revocation until the course is
36 completed successfully."

37 **SECTION 2.** G.S. 20-183.8B reads as rewritten:

38 **"§ 20-183.8B. Civil penalties against license holders and suspension or revocation of**
39 **license for emissions violations.**

40 (a) Kinds of Violations. – The civil penalty schedule established in this section applies
41 to emissions self-inspectors, emissions inspection stations, and emissions inspection mechanics.
42 The schedule categorizes emissions violations into serious (Type I), minor (Type II), and
43 technical (Type III) violations.

44 A serious violation is a violation of this Part or a rule adopted to implement this Part that
45 directly affects the emission reduction benefits of the emissions inspection program. A minor
46 violation is a violation of this Part or a rule adopted to implement this Part that reflects
47 negligence or carelessness in conducting an emissions inspection or complying with the
48 emissions inspection requirements but does not directly affect the emission reduction benefits
49 of the emissions inspection program. A technical violation is a violation that is not a serious
50 violation, a minor violation, or another type of offense under this Part.

51 (b) Penalty Schedule. – The Division must take the following action for a violation:

1 (1) Type I. – For a first or second Type I violation by an emissions
2 self-inspector or an emissions inspection station, assess a civil penalty of two
3 hundred fifty dollars (\$250.00) and suspend the license of the business for
4 six months. For a third or subsequent Type I violation within three years by
5 an emissions self-inspector or an emissions inspection station, assess a civil
6 penalty of one thousand dollars (\$1,000) and revoke the license of the
7 business for two years.

8 For a first or second Type I violation by an emissions inspection
9 mechanic, assess a civil penalty of one hundred dollars (\$100.00) and
10 suspend the mechanic's license for six months. For a third or subsequent
11 Type I violation within seven years by an emissions inspection mechanic,
12 assess a civil penalty of two hundred fifty dollars (\$250.00) and revoke the
13 mechanic's license for two years.

14 (2) Type II. – For a first or second Type II violation by an emissions
15 self-inspector or an emissions inspection station, assess a civil penalty of one
16 hundred dollars (\$100.00). For a third or subsequent Type II violation within
17 three years by an emissions self-inspector or an emissions inspection station,
18 assess a civil penalty of two hundred fifty dollars (\$250.00) and suspend the
19 license of the business for 90 days.

20 For a first or second Type II violation by an emissions inspection
21 mechanic, assess a civil penalty of fifty dollars (\$50.00). For a third or
22 subsequent Type II violation within seven years by an emissions inspection
23 mechanic, assess a civil penalty of one hundred dollars (\$100.00) and
24 suspend the mechanic's license for 90 days.

25 (3) Type III. – For a first or second Type III violation by an emissions
26 self-inspector, an emissions inspection station, or an emissions inspection
27 mechanic, send a warning letter. For a third or subsequent Type III violation
28 within three years by the same emissions license holder, assess a civil
29 penalty of twenty-five dollars (\$25.00).

30 (c) Station or Self-Inspector Responsibility. – It is the responsibility of an emissions
31 inspection station and an emissions self-inspector to supervise the emissions inspection
32 mechanics it employs. A violation by an emissions inspector mechanic is considered a violation
33 by the station or self-inspector for whom the mechanic is employed. An emissions inspection
34 station or emissions self-inspector charged with a violation resulting from the actions of an
35 emissions inspection mechanic shall not result in any penalty under this Article against the
36 emissions inspection station or emissions self-inspector license if the emissions inspection
37 station or emissions self-inspector establishes that the emissions inspection station or emissions
38 self-inspector has implemented and maintained reasonable procedures to ensure compliance
39 with this Article, and the violation was committed by an emissions inspection mechanic
40 without prior actual knowledge of the emissions inspection station or emissions self-inspector
41 license holder.

42 (c1) Multiple Violations. – If an emissions self-inspector, an emissions inspection
43 station, or an emissions inspection mechanic commits two or more violations in the course of a
44 single emissions inspection, the Division shall take only the action specified for the most
45 significant violation. In any case where an emissions inspection station or emissions
46 self-inspector is charged with a violation due to the actions of an emissions inspection
47 mechanic, and the Division believes multiple violations by the emissions inspection mechanic
48 occurred, the Division shall only charge an emissions inspection station or emissions
49 self-inspector with one violation.

50 (d) Missing Stickers. – The Division must assess a civil penalty against an emissions
51 inspection station, a windshield replacement station, or an emissions self-inspector that cannot

1 account for an emissions inspection sticker issued to it. A station or a self-inspector cannot
2 account for a sticker when the sticker is missing and the station or self-inspector cannot
3 establish reasonable grounds for believing the sticker was stolen or destroyed by fire or another
4 accident.

5 (d1) Penalty for Missing Stickers. – The amount of the penalty is twenty-five dollars
6 (\$25.00) for each missing sticker. If a penalty is imposed under subsection (b) of this section as
7 the result of missing stickers, the monetary penalty that applies is the higher of the penalties
8 required under this subsection and subsection (b); the Division may not assess a monetary
9 penalty as a result of missing stickers under both this subsection and subsection (b) of this
10 section. Imposition of a monetary penalty under this subsection does not affect suspension or
11 revocation of a license required under subsection (b) of this section.

12 (e) Mechanic Training. – An emissions inspection mechanic whose license has been
13 suspended or revoked must retake the course required under G.S. 20-183.4A and successfully
14 complete the course before the mechanic's license can be reinstated. Failure to successfully
15 complete this course continues the period of suspension or revocation until the course is
16 completed successfully."

17 **SECTION 3.** G.S. 20-183.8F(a) reads as rewritten:

18 "(a) Finding of Violation. – When an auditor of the Division finds that a violation has
19 occurred that could result in the suspension or revocation of an inspection station license, a
20 self-inspector license, a mechanic license, or the registration of a person engaged in the
21 business of replacing windshields, the auditor must give the affected license holder written
22 notice of the finding. The notice must be given within five business days after the completion
23 of the investigation that resulted in the discovery of the violation. The notice must state the
24 period of suspension or revocation that could apply to the violation and any monetary penalty
25 that could apply to the violation. The notice must also inform the license holder of the right to a
26 hearing if the Division charges the license holder with the violation. Failure to comply with the
27 notice requirements of this section shall result in the dismissal of the charge of the violation
28 against the license holder."

29 **SECTION 4.** G.S. 20-183.8G(f) reads as rewritten:

30 "(f) Decision. – Except as otherwise provided in this Article, a decision made after a
31 hearing on the imposition of a monetary penalty against a motorist for an emissions violation or
32 on a Type I, II, or III emissions violation by an emissions license holder must uphold any
33 monetary penalty, license suspension, license revocation, or warning required
34 by ~~G.S. 20-183.8A~~ G.S. 20-183.7A, 20-183.8A, or G.S. 20-183.8B, respectively, if the decision
35 contains a finding that the motorist or license holder committed the act for which the monetary
36 penalty, license suspension, license revocation, or warning was imposed. A decision made after
37 a hearing on any other action may uphold or modify the action."

38 **SECTION 5.** G.S. 20-183.8G is amended by adding a new subsection to read:

39 "(f1) Offers in Compromise. – In any case where a safety inspection station or safety
40 self-inspector is charged with an administrative violation due to the actions of a safety
41 inspection mechanic and the Division imposes a suspension or revocation of the license, the
42 Commissioner may accept from the license holder an offer in compromise to pay a penalty of
43 not more than two thousand dollars (\$2,000) to the Division in lieu of the suspension or
44 revocation of the license. The Commissioner may accept an offer in compromise, or suspend or
45 revoke the license, but may not take both actions."

46 **SECTION 6.** This act becomes effective December 1, 2009, and applies to
47 offenses committed on or after that date.