

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE DRS45112-TQz-21 (04/01)

Short Title: Motor Vehicle Civil Penalty/District Court. (Public)

Sponsors: Senators Bingham, B. Jackson, and Brock (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW JUDICIAL REVIEW OF CIVIL PENALTIES ON MOTOR  
3 VEHICLES IMPOSED BY THE DEPARTMENT OF PUBLIC SAFETY IN THE  
4 DISTRICT COURT OF THE COUNTY IN WHICH THE PENALTY WAS ASSESSED,  
5 AS RECOMMENDED BY THE AGRICULTURE AND FORESTRY AWARENESS  
6 STUDY COMMISSION.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 20-178.1 reads as rewritten:

9 **"§ 20-178.1. Payment and review of civil penalty imposed by Department of Public Safety.**

10 ...

11 (c) Judicial Review. – Except as provided in subsection (c1) of this section, any ~~Any~~  
12 person who is dissatisfied with the decision of the Secretary and who has paid the penalty in  
13 full within 30 days of the notice of decision, as required by subsection (b) of this section, may,  
14 within 60 days of the decision, bring an action for refund of the penalty against the Department  
15 in the Superior Court of Wake County or in the superior court of the county in which the civil  
16 penalty was assessed. The court shall review the Secretary's decision and shall make findings of  
17 fact and conclusions of law. The hearing shall be conducted by the court without a jury. In  
18 reviewing the case, the court shall not give deference to the prior decision of the Secretary. A  
19 superior court may award attorneys' fees to a prevailing plaintiff only upon a showing of bad  
20 faith on the part of the Department, and any order for attorneys' fees must be supported by  
21 findings of fact and conclusions of law.

22 (c1) Judicial Review. – Any person operating a truck or other motor vehicle transporting  
23 supplies, material, or equipment necessary to carry out a farming or forestry operation who is  
24 dissatisfied with the decision of the Secretary and who has paid the penalty in full within 30  
25 days of the notice of decision, as required by subsection (b) of this section, may, within 60 days  
26 of the decision, bring an action for refund of the penalty against the Department in the district  
27 court of the county in which the civil penalty was assessed. The court shall review the  
28 Secretary's decision and shall make findings of fact and conclusions of law. The hearing shall  
29 be conducted by the court without a jury. In reviewing the case, the court shall not give  
30 deference to the prior decision of the Secretary. A district court may award attorneys' fees to a  
31 prevailing plaintiff only upon a showing of bad faith on the part of the Department, and any  
32 order for attorneys' fees must be supported by findings of fact and conclusions of law.

33 ...."

34 **SECTION 2.** This act becomes effective October 1, 2014, and applies to penalties  
35 assessed on or after that date.

