

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

D

HOUSE BILL 272
Committee Substitute Favorable 4/4/13
Committee Substitute #2 Favorable 4/16/13
Fourth Edition Engrossed 4/17/13
Senate Rules and Operations of the Senate Committee Substitute Adopted 7/29/14
Proposed Conference Committee Substitute H272-PCCS10604-TKf-2

Short Title: DOT/DMV Changes #2.

(Public)

Sponsors:

Referred to:

March 12, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO LAWS AFFECTING THE DEPARTMENT
3 OF TRANSPORTATION AND THE DIVISION OF MOTOR VEHICLES.

4 The General Assembly of North Carolina enacts:

5
6 **DWI INTERLOCK VIOLATION/DMV HEARING SITE**

7 **SECTION 1.(a)** G.S. 20-17.8(j) reads as rewritten:

8 "(j) Right to Hearing Before Division; Issues. – If the person's license is revoked
9 pursuant to subsection (g) of this section, before the effective date of the order issued under
10 subsection (i) of this section, the person may request in writing a hearing before the Division.
11 Except for the time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the
12 Division that the person's license was surrendered to the court and remained in the court's
13 possession, then the Division shall credit the amount of time for which the license was in the
14 possession of the court against the revocation period required by subsection (g) of this section.
15 If the person properly requests a hearing, the person retains the person's license, unless it is
16 revoked under some other provision of law, until the hearing is held, the person withdraws the
17 request, or the person fails to appear at a scheduled hearing. The hearing officer may subpoena
18 any witnesses or documents that the hearing officer deems necessary. The person may request
19 the hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at
20 the hearing if the person makes the request in writing at least three days before the hearing. The
21 person may subpoena any other witness whom the person deems necessary, and the provisions
22 of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the
23 authority of this section. The hearing officer is authorized to administer oaths to witnesses
24 appearing at the hearing. The hearing must be conducted in the county where the charge was
25 brought, ~~and except when the evidence of the violation is an alcohol concentration report from~~
26 an ignition interlock system, the hearing may be conducted in the county where the person
27 resides. The hearing must be limited to consideration of whether:

- 28 (1) The drivers license of the person had an ignition interlock requirement; and
29 (2) The person:



* H 2 7 2 - P C C S 1 0 6 0 4 - C S T K F - 2 *

- 1 a. Was driving a vehicle that was not equipped with a functioning
2 ignition interlock system; or
3 b. Did not personally activate the ignition interlock system before
4 driving the vehicle; or
5 c. Drove the vehicle in violation of an applicable alcohol concentration
6 restriction prescribed by subdivision (b)(3) of this section.

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

14 **SECTION 1.(b)** This section becomes effective October 1, 2014, and applies to
15 hearings requested on or after that date.

16 17 **SINGLE LICENSE PLATE RENEWAL STICKER**

18 **SECTION 2.(a)** G.S. 20-66(c) reads as rewritten:

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

25 **SECTION 2.(b)** This section becomes effective January 1, 2015.

26 27 **PERMANENT REGISTRATION PLATE CHANGES**

28 **SECTION 3.(a)** G.S. 20-84(b) is amended by adding two new subdivisions to read:

29 "(b) Permanent Registration Plates. – The Division may issue permanent plates for the
30 following motor vehicles:

31 ...

32 (18) A motor vehicle that is owned and operated by a sanitary district created
33 under Part 2 of Article 2 of Chapter 130A of the General Statutes.

34 (19) Any motor vehicle owned by a federally recognized tribe."

35 **SECTION 3.(b)** This section is effective when it becomes law.

36 37 **CLARIFY APPLICATION OF DEALER FEE DISCLOSURE REQUIREMENTS**

38 **SECTION 4.(a)** G.S. 20-101.1 is amended by adding a new subsection to read:

39 "(d) This section does not apply to a dealer fee related to the online registration of a
40 motor vehicle when the dealer fee is separately stated on the buyer's order, purchase order,
41 retail installment sales agreement, lease, or bill of sale."

42 **SECTION 4.(b)** This section becomes effective October 1, 2014.

43 44 **MOTOR VEHICLE DEALER LICENSE PROBATION AUTHORIZED**

45 **SECTION 5.(a)** G.S. 20-294 reads as rewritten:

46 "**§ 20-294. Grounds for denying, ~~suspendingsuspending~~, placing on probation, or**
47 **revoking licenses.**

48 The Division may deny, suspend, place on probation, or revoke a license issued under this
49 Article for any one or more of the following grounds:

- 50 (1) Making a material misstatement in an application for a license.

- 1 (2) Willfully and intentionally failing to comply with this Article, Article 15 of
 2 this Chapter, or G.S. 20-52.1, 20-75, 20-79.1, 20-79.2, 20-108, 20-109, or a
 3 rule adopted by the Division under this Article.
 4 (3) Failing to have an established salesroom, if the license holder is a motor
 5 vehicle dealer, or failing to have an established office, if the license holder is
 6 a wholesaler.
 7 (4) Willfully defrauding any retail buyer, to the buyer's damage, or any other
 8 person in the conduct of the licensee's business.
 9 (5) Employing fraudulent devices, methods or practices in connection with
 10 compliance with the requirements under the laws of this State with respect to
 11 the retaking of motor vehicles under retail installment contracts and the
 12 redemption and resale of such motor vehicles.
 13 (6) Using unfair methods of competition or unfair deceptive acts or practices.
 14 (7) Knowingly advertising by any means, any assertion, representation or
 15 statement of fact which is untrue, misleading or deceptive in any particular
 16 relating to the conduct of the business licensed or for which a license is
 17 sought.
 18 (8) Knowingly advertising a used motor vehicle for sale as a new motor vehicle.
 19 (9) Being convicted of an offense set forth under G.S. 20-106, 20-106.1, 20-107,
 20 or 20-112 while holding such a license or within five years next preceding
 21 the date of filing the application; or being convicted of a felony involving
 22 moral turpitude under the laws of this State, another state, or the United
 23 States.
 24 (10) Submitting a bad check to the Division of Motor Vehicles in payment of
 25 highway use taxes collected by the licensee.
 26 (11) Knowingly giving an incorrect certificate of title, or failing to give a
 27 certificate of title to a purchaser, a lienholder, or the Division, as appropriate,
 28 after a vehicle is sold.
 29 (12) Making a material misstatement in an application for a dealer license plate.
 30 (13) Failure to pay a civil penalty imposed under G.S. 20-287."

31 **SECTION 5.(b)** This section becomes effective October 1, 2014.
 32

33 **CHANGE TO MOTOR VEHICLE DEALER LICENSE SERVICE OF HEARING** 34 **ORDER**

35 **SECTION 6.(a)** G.S. 20-296 reads as rewritten:

36 "**§ 20-296. Notice and hearing upon denial, suspension, ~~revocation~~ revocation, placing on**
 37 **probation, or refusal to renew license.**

38 No license shall be ~~suspended or revoked or~~ suspended, revoked, denied, placed on
 39 probation, or renewal thereof refused, until a written notice of the complaint made has been
 40 furnished to the licensee against whom the same is directed, and a hearing thereon has been had
 41 before the Commissioner, or a person designated by him. At least 10 days' written notice of the
 42 time and place of such hearing shall be given to the licensee by certified mail with return
 43 receipt requested to his last known address as shown on his license or other record of
 44 information in possession of the Division. At any such hearing, the licensee shall have the right
 45 to be heard personally or by counsel. After hearing, the Division shall have power to suspend,
 46 ~~revoke~~ revoke, place on probation, or refuse to renew the license in question. Immediate notice
 47 of any such action shall be given to the licensee in ~~the manner herein provided in the case of~~
 48 notices of hearing, accordance with G.S. 1A-1, Rule 4(j) of the Rules of Civil Procedure."

49 **SECTION 6.(b)** This section becomes effective October 1, 2014, and applies to
 50 notices given on or after that date.
 51

DOT MINORITY/WOMEN BUSINESS PROGRAM

SECTION 7.(a) G.S. 136-28.4(e) reads as rewritten:

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

SECTION 7.(b) This section is effective when it becomes law.

NOTIFY PROPERTY OWNERS OF RIGHT-OF-WAY TRANSFERS

SECTION 8.(a) G.S. 136-66.10 reads as rewritten:

"§ 136-66.10. Dedication of right-of-way under local ordinances.

(a) Whenever a tract of land located within the territorial jurisdiction of a city or county's zoning or subdivision control ordinance or any other land use control ordinance authorized by local act is proposed for subdivision or for use pursuant to a zoning or building permit, and a portion of it is embraced within a corridor for a street or highway on a plan established and adopted pursuant to G.S. 136-66.2, a city or county zoning or subdivision ordinance may provide for the dedication of right-of-way within that corridor pursuant to any applicable legal authority, or:

(1) A city or county may require an applicant for subdivision plat approval or for a special use permit, conditional use permit, or special exception, or for any other permission pursuant to a land use control ordinance authorized by local act to dedicate for street or highway purpose, the right-of-way within such corridor if the city or county allows the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the applicant. No dedication of right-of-way shall be required pursuant to this subdivision unless the board or agency granting final subdivision plat approval or the special use permit, conditional use permit, special exception, or permission shall find, prior to the grant, that the dedication does not result in the deprivation of a reasonable use of the original tract and that the dedication is either reasonably related to the traffic generated by the proposed subdivision or use of the remaining land or the impact of the dedication is mitigated by measures provided in the local ordinance.

(2) If a city or county does not require the dedication of right-of-way within the corridor pursuant to subdivision (1) of this subsection or other applicable legal authority, but an applicant for subdivision plat approval or a zoning or building permit, or any other permission pursuant to a land use control ordinance authorized by local act elects to dedicate the right-of-way, the city or county may allow the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land that is part of a common development plan or to transfer severable development rights attributable to the dedicated right-of-way to noncontiguous land in designated receiving districts pursuant to G.S. 136-66.11.

(3) Units of local government that require or accept right-of-way dedications under this subsection shall notify the applicant and the property owner when the local government begins review of or negotiations for a right-of-way dedication and associated density credit transfer, whichever first occurs. If the property owner is not the applicant, then the property owner shall be given notification of right-of-way dedications and any related density credit transfers under this subsection. The notification shall be sent to the last known address for the owner and shall include a copy of this section and any local ordinances, policies, or procedures governing the calculation and application of the density credit transfer.

(b) When used in this section, the term "density credit" means the potential for the improvement or subdivision of part or all of a parcel of real property, as permitted under the

1 terms of a zoning and/or subdivision ordinance, and/or other land use control ordinance
2 authorized by local act, expressed in dwelling unit equivalents or other measures of
3 development density or intensity or a fraction or multiple of that potential that may be
4 transferred to other portions of the same parcel or to contiguous land in that is part of a
5 common development plan."

6 **SECTION 8.(b)** This section becomes effective October 1, 2014, and applies to
7 dedications occurring on or after that date.

8
9 **REVENUE LAWS STUDY COMMITTEE/DIGITAL DISPATCHING SERVICES**

10 **SECTION 9.(a)** The Revenue Laws Study Committee is directed to study the
11 registration requirements, fees, and penalties applicable to for-hire passenger vehicles,
12 including for-hire passenger vehicles directed by digital dispatching services. The Committee
13 shall report its findings, together with any recommended legislation, to the 2015 Regular
14 Session of the 2015 General Assembly upon its convening.

15 **SECTION 9.(b)** This section is effective when it becomes law.

16
17 **EFFECTIVE DATE**

18 **SECTION 10.** Except as otherwise provided, this act is effective when it becomes
19 law.