

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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**SENATE BILL 446
PROPOSED HOUSE COMMITTEE SUBSTITUTE S446-PCS45394-RWf-43**

Short Title: Dealer Loaners/Unmanned Aircraft/Brunswick Co. (Public)

Sponsors:

Referred to:

March 26, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE UNIFORM TREATMENT OF FRANCHISED DEALER
3 LOANER VEHICLES; TO CLARIFY THAT AGENTS OR AGENCIES OF THE STATE
4 OR A POLITICAL SUBDIVISION OF THE STATE SHALL HAVE AUTHORITY TO
5 PROCURE AND OPERATE UNMANNED AIRCRAFT SYSTEMS UPON APPROVAL
6 OF THE STATE CHIEF INFORMATION OFFICER AND TO MODIFY THE
7 REGULATION OF UNMANNED AIRCRAFT SYSTEMS TO CONFORM TO FAA
8 GUIDELINES; AND AUTHORIZING BRUNSWICK COUNTY TO REGULATE
9 NAVIGABLE WATERS WITHIN ITS BOUNDARIES.

10 The General Assembly of North Carolina enacts:

11
12 **UNIFORM TREATMENT OF FRANCHISED DEALER LOANER VEHICLES**

13 **SECTION 1.** G.S. 20-4.01(48a) reads as rewritten:

14 "(48a) U-drive-it vehicles. – The following vehicles that are either rented to a
15 person, to be operated by that person; or loaned by a franchised
16 motor vehicle dealer, with or without charge, to customers of that dealer who
17 are having a vehicle serviced or repaired by the dealer:

- 18 a. A private passenger vehicle other than the following:
19 1. A private passenger vehicle of nine-passenger capacity or less
20 that is rented for a term of one year or more.
21 2. A private passenger vehicle that is rented to public school
22 authorities for driver-training instruction.
23 b. A property-hauling vehicle under 7,000 pounds that does not haul
24 products for hire and that is rented for a term of less than one year.
25 c. Motorcycles."

26 **SECTION 2.** G.S. 20-286(10), as amended by Section 8 of S.L. 2015-125, reads as
27 rewritten:

28 "(10) Motor vehicle. – Any motor propelled vehicle, trailer or semitrailer, required
29 to be registered under the laws of this State. This term does not include
30 mopeds, as that term is defined in G.S. 20-4.01.

- 31 a. "New motor vehicle" means a motor vehicle that has never been the
32 subject of a completed, successful, or conditional sale that was
33 subsequently approved other than between new motor vehicle
34 dealers, or between a manufacturer and a new motor vehicle dealer of
35 the same franchise. For purposes of this subdivision, the fact that a
36 new motor vehicle dealer may use a new motor vehicle as a service



1 loaner or use a new motor vehicle for demonstration purposes does
2 not render a new motor vehicle a used motor vehicle,
3 notwithstanding the commencement of the manufacturer's original
4 warranty as a result of the franchised dealer's use of the vehicle for
5 demonstration or loaner purposes or the dealer's receipt of incentive
6 or warranty compensation or other reimbursement or consideration
7 from a manufacturer, factory branch, distributor, distributor branch,
8 or third-party warranty, maintenance or service contract company
9 relating to the use of a vehicle as a demonstrator or service loaner.

10 b. "Used motor vehicle" means a motor vehicle other than described in
11 paragraph (10)a above."

12 **SECTION 3.** Article 3 of Chapter 20 of the General Statutes is amended by adding
13 a new section to read:

14 **"§ 20-79.02. Loaner/Dealer "LD" License Plate for Franchised Dealer Loaner Vehicles.**

15 (a) Application. – A franchised motor vehicle dealer, as defined in G.S.20-286(8b) and
16 licensed in accordance with Article 12 of this Chapter, who agrees, either with or without
17 charge, to loan one or more new motor vehicles owned by the dealer to customers of the dealer
18 who are having their vehicles serviced by the dealer, may obtain a Loaner/Dealer "LD" license
19 plate for those vehicles by filing an application with the Division and paying the required fee.
20 Receipt by a franchised motor vehicle dealer of compensation, or other consideration from a
21 manufacturer, distributor, manufacturer branch, distributor branch, third-party warranty,
22 maintenance or service contract company, or other third-party source related to a vehicle,
23 including, but not limited to, incentive compensation or reimbursement for maintenance,
24 repairs, or other work performed on the vehicle, shall not prevent the franchised motor vehicle
25 dealer from receiving an LD license plate for the vehicle as provided by this subsection. An
26 application must be filed on a form provided by the Division and contain the information
27 required by the Division. The annual fee for an LD license plate is two hundred dollars
28 (\$200.00) per 12 calendar months.

29 (b) Number of Plates. – There shall be no limit on the number of LD license plates a
30 franchised motor vehicle dealer may be issued, provided that the applicable annual fee for each
31 plate is paid.

32 (c) Form and Duration. – An LD license plate is subject to G.S. 20-63, except for the
33 requirement that the plate display the registration number of a motor vehicle and the
34 requirement that the plate be a "First in Flight" or "First in Freedom" plate. An LD license plate
35 must have a distinguishing symbol identifying the plate as an LD license plate. Subject to the
36 limitations contained in this section, an LD license plate may continue in existence perpetually
37 and may be transferred to other vehicles in the loaner fleet of the dealer when the vehicle on
38 which the LD license plate is displayed has been sold or leased to a third party or otherwise
39 removed from the loaner fleet of the dealer.

40 (d) Restrictions on Use. – An LD license plate may be displayed only on a motor
41 vehicle that meets all of the following requirements:

- 42 (1) Is part of the inventory of a franchised motor vehicle dealer.
- 43 (2) Is not consigned to the franchised motor vehicle dealer or affiliate.
- 44 (3) Is covered by liability insurance that meets the requirements of Article 9A of
45 this Chapter; provided, however, that nothing contained herein shall prevent
46 or prohibit a franchised motor vehicle dealer from contractually shifting the
47 risk of loss and insurance requirements contained in Article 9A of this
48 Chapter to the individuals or entities to which the vehicles are loaned.
- 49 (4) Is not used by the franchised motor vehicle dealer in another business in
50 which the dealer is engaged.

- 1 (5) Is driven on a highway by a customer of the franchised motor vehicle dealer
2 who is having a vehicle serviced or repaired by the dealer.
- 3 (6) A copy of the registration card for the LD license plate issued to the
4 franchised motor vehicle dealer is carried by the person operating the motor
5 vehicle or, if the person is operating the motor vehicle in this State, the
6 registration card is maintained on file at the franchised motor vehicle dealer's
7 address listed on the registration card, and the registration card must be able
8 to be produced within 24 hours upon request of any law enforcement officer.
9 A copy of the assignment by the franchised motor vehicle dealer shall be
10 carried by the person operating the motor vehicle.
- 11 (7) A vehicle displaying an LD license plate may be driven by anyone who is
12 licensed to drive the type of motor vehicle for which the plate is issued.
- 13 (8) An LD license plate may be displayed only on the motor vehicle for which it
14 has been assigned by the franchised motor vehicle dealer.
- 15 (9) The franchised motor vehicle dealer to whom LD license plates have been
16 issued shall be responsible for completing and maintaining documentation
17 prescribed by the Division relating to the assignment of each motor vehicle
18 on which an LD license plate is displayed to customers of the franchised
19 dealer.
- 20 (e) Sanctions. – The following sanctions apply when a motor vehicle displaying an LD
21 license plate is driven in violation of the restrictions on the use of the plate:
- 22 (1) The individual driving the motor vehicle is responsible for an infraction and
23 is subject to a penalty of one hundred dollars (\$100.00).
- 24 (2) The franchised motor vehicle dealer to whom the plate is issued is subject to
25 an infraction and is subject to a penalty of two hundred fifty dollars
26 (\$250.00).
- 27 (3) The Division may rescind all LD license plates issued to the franchised
28 motor vehicle dealer for knowing repeated violations of this section.
- 29 (f) Transfer of Dealer Registration. – No change in the name of a firm, partnership, or
30 corporation shall be considered a new business and the franchised motor vehicle dealer's LD
31 plates may continue to be used.
- 32 (g) Penalties. – The clear proceeds of all civil penalties, civil forfeitures, and civil fines
33 that are collected pursuant to this section shall be remitted to the Civil Penalty and Forfeiture
34 Fund in accordance with G.S. 115C-457.2.
- 35 (h) Applicability. – Prior to January 1, 2019, a new motor vehicle dealer's use of LD
36 license plates on loaner vehicles shall be voluntary. Any new motor vehicle that a new motor
37 vehicle dealer places into service as a loaner vehicle on or after January 1, 2019, shall display
38 LD license plates as provided in this subsection during the period of time the vehicle is in use
39 as a service loaner vehicle, in the event either:
- 40 (1) The new motor vehicle dealer is receiving incentive or warranty
41 compensation from a manufacturer, factory branch, distributor, or distributor
42 branch for the use of the vehicle as a service loaner; or
- 43 (2) The new motor vehicle dealer is receiving a fee or other compensation from
44 the dealer's customers for the use of the vehicle as a service loaner."
- 45 **SECTION 4.** G.S. 20-79(d) reads as rewritten:
- 46 "(d) Restrictions on Use. – A dealer license plate may be displayed only on a motor
47 vehicle that meets all of the following requirements:
- 48 (1) Is part of the inventory of the dealer.
- 49 (2) Is not consigned to the dealer.
- 50 (3) Is covered by liability insurance that meets the requirements of Article 9A of
51 this Chapter.

- 1 (4) Is not used by the dealer in another business in which the dealer is engaged.
2 (5) Is driven on a highway by a person who meets one of the following
3 descriptions:
4 a. Has a demonstration permit to test-drive the motor vehicle and
5 carries the demonstration permit while driving the motor vehicle.
6 b. Is an officer or sales representative of the dealer and is driving the
7 vehicle for a business purpose of the dealer.
8 c. Is an employee of the dealer and is driving the vehicle in the course
9 of employment.
10 d. Is an employee of the dealer or of a contractor of the dealer and is
11 driving the vehicle within a 20-mile radius of a place where the
12 vehicle is being repaired or otherwise prepared for sale.
13 e. Is an employee of the dealer or of a contractor of the dealer and is
14 transporting the vehicle to or from a vehicle auction or to the dealer's
15 established salesroom.
16 f. Is an officer, sales representative, or other employee of a franchised
17 motor vehicle dealer or is an immediate family member of an officer,
18 sales representative, or other employee of a franchised motor vehicle
19 dealer.
20 (6) A copy of the registration card for the dealer plate issued to the dealer is
21 carried by the person operating the motor vehicle or, if the person is
22 operating the motor vehicle in this State, the registration card is maintained
23 on file at the dealer's address listed on the registration card, and the
24 registration card must be able to be produced within 24 hours upon request
25 of any law enforcement officer.

26 A dealer may issue a demonstration permit for a motor vehicle to a person licensed to drive
27 that type of motor vehicle. A demonstration permit authorizes each person named in the permit
28 to drive the motor vehicle described in the permit for up to 96 hours after the time the permit is
29 issued. A dealer may, for good cause, renew a demonstration permit for one additional 96-hour
30 period. A demonstration permit may be issued in accordance with this subsection by a
31 franchised motor vehicle dealer who loans a vehicle without any additional charge, to
32 customers of the dealer who are having a vehicle serviced or repaired by the dealer. A
33 franchised motor vehicle dealer shall not be prohibited from using a demonstration permit
34 pursuant to this subdivision by reason of the dealer's receipt of incentive or warranty
35 compensation or other reimbursement or consideration from a manufacturer, factory branch,
36 distributor, distributor branch, or third-party warranty, maintenance or service contract
37 company relating to the use of the vehicle as a demonstrator or service loaner.

38 A dealer may not lend, rent, lease, or otherwise place a dealer license plate at the disposal
39 of a person except as authorized by this subsection."
40

41 UNMANNED AIRCRAFT SYSTEMS

42 **SECTION 5.** Section 7.16(e) of S.L. 2013-360, as amended by Section 7.11(a) of
43 S.L. 2014-100, reads as rewritten:

44 "**SECTION 7.16.(e)** ~~Until December 31, 2015, no State or local governmental entity or~~
45 ~~officer may procure or operate an unmanned aircraft system or disclose personal information~~
46 ~~about any person acquired through the operation of an unmanned aircraft system unless the~~
47 ~~State CIO approves an exception specifically granting disclosure, use, or purchase. Any~~
48 ~~exceptions to the prohibition in this subsection shall be reported immediately the State CIO~~
49 shall have the authority to approve or disapprove (i) the procurement or operation of an
50 unmanned aircraft system by agents or agencies of the State or a political subdivision of the
51 State and (ii) the disclosure of personal information about any person acquired through the

1 operation of an unmanned aircraft system by agents or agencies of the State or a political
2 subdivision of the State. When making a decision under this subsection, the State CIO may
3 consult with the Division of Aviation of the Department of Transportation. The State CIO shall
4 immediately report to the Joint Legislative Oversight Committee on Information Technology
5 and the Fiscal Research Division. Division on all decisions made under this subsection.
6 Notwithstanding G.S. 63-95(c), agents or agencies of the State or a political subdivision of the
7 State that receive State CIO approval under this subsection may procure or operate an
8 unmanned aircraft system prior to the implementation of the knowledge test required by
9 G.S. 63-95. In addition to receiving approval from the State CIO under this subsection, agents
10 or agencies of the State or a political subdivision of the State who submit a request on or after
11 the date of implementation of the knowledge test required by G.S. 63-95 shall also be subject to
12 the provisions of that section. The following definitions apply in this section:

- 13 (1) "Unmanned aircraft" means an aircraft that is operated without the
14 possibility of human intervention from within or on the aircraft.
15 (2) "Unmanned aircraft system" means an unmanned aircraft and associated
16 elements, including communication links and components that control the
17 unmanned aircraft that are required for the pilot in command to operate
18 safely and efficiently in the national airspace system."

19 **SECTION 6.** Section 34.30(j) of S.L. 2014-100 reads as rewritten:

20 "**SECTION 34.30.(j)** ~~No~~ Except as authorized under Section 7.16(e) of S.L. 2013-360, as
21 amended by Section 7.11(a) of S.L. 2014-100, no operation of unmanned aircraft systems by
22 agents or agencies of the State, or agents or agencies of State or a political subdivision of the
23 State, State shall be authorized in this State until the knowledge and skills test required by
24 G.S. 63-95, as enacted in subsection (g) of this section, has been implemented.

25 No operation of unmanned aircraft systems for commercial purposes shall be authorized in
26 this State until the FAA has authorized commercial operations and the licensing system
27 required by G.S. 63-96, as enacted in subsection (g) of this section, has been implemented."

28 **SECTION 7.** G.S. 63-95(b) reads as rewritten:

29 "(b) The Division shall develop a knowledge ~~and skills~~ test for operating an unmanned
30 aircraft system that complies with all applicable State and federal regulations and shall provide
31 for administration of the test. The test shall ensure that the operator of an unmanned aircraft
32 system is knowledgeable of the State statutes and regulations regarding the operation of
33 unmanned aircraft systems. The Division may permit a person, including an agency of this
34 State, an agency of a political subdivision of this State, an employer, or a private training
35 facility, to administer the test developed pursuant to this subsection, provided the test is the
36 same as that administered by the Division and complies with all applicable State and federal
37 regulations."

38 **SECTION 8.** G.S. 63-96 reads as rewritten:

39 "**§ 63-96. License-Permit required for commercial operation of unmanned aircraft**
40 **systems.**

41 (a) No person shall operate an unmanned aircraft system, as defined in G.S. 15A-300.1,
42 in this State for commercial purposes unless the person is in possession of a ~~license-permit~~
43 issued by the Division valid for the unmanned aircraft system being operated. Application for
44 ~~such license-the permit~~ shall be made in the manner provided by the Division. Unless
45 suspended or revoked, the ~~license-permit~~ shall be effective for a period to be established by the
46 Division not exceeding eight years.

47 (b) No person shall be issued a ~~license-permit~~ under this section unless all of the
48 following apply:

- 49 (1) The person is at least ~~18-17~~ years of age.
50 (2) The person possesses a valid drivers license issued by any state or territory
51 of the United States or the District of Columbia.

- 1 (3) The person has passed the knowledge ~~and skills~~ test for operating an
2 unmanned aircraft system as prescribed in G.S. 63-95(b).
- 3 (4) The person has satisfied all other applicable requirements of this Article or
4 federal regulation.
- 5 (c) A ~~license-permit~~ to operate an unmanned aircraft system for commercial purposes
6 shall not be issued to a person while the person's license or permit to operate an unmanned
7 aircraft system is suspended, revoked, or cancelled in any state.
- 8 (d) The Division shall develop and administer a program that complies with all
9 applicable federal regulations to license-issue permits to operators of unmanned aircraft
10 systems for commercial purposes. The program must include the following components:
- 11 (1) A system for classifying unmanned aircraft systems based on characteristics
12 determined to be appropriate by the Division.
- 13 (2) A fee structure for ~~licenses-permits~~.
- 14 (3) A ~~license-permit~~ application process.
- 15 (4) Technical guidance for complying with program requirements.
- 16 (5) Criteria under which the Division may suspend or revoke a ~~license-permit~~.
- 17 (6) Criteria under which the Division may waive ~~license-permitting~~
18 requirements for applicants currently holding a valid license or permit
19 to operate unmanned aircraft systems issued by another state or territory of the
20 United States, the District of Columbia, or the United States.
- 21 (7) A designation of the geographic area within which a ~~licensee-permittee~~ shall
22 be authorized to operate an unmanned aircraft system.
- 23 (8) Requirements pertaining to the collection, use, and retention of data by
24 ~~licensees-permittees~~ obtained through the operation of unmanned aircraft
25 systems, to be established in consultation with the State Chief Information
26 Officer.
- 27 (9) Requirements for the marking of each unmanned aircraft system operated
28 pursuant to a ~~license-permit~~ issued under this section sufficient to ~~permit~~
29 allow identification of the owner of the system and the person ~~licensed~~
30 issued a permit to operate it.
- 31 (10) A system for providing agencies that conduct other operations within
32 regulated airspace with the identity and contact information of ~~licensees~~
33 permittees and the geographic areas within which the ~~licensee-permittee~~ is
34 permitted-authorized to operate an unmanned aircraft system.
- 35 (e) A person who operates an unmanned aircraft system for commercial purposes other
36 than as ~~permitted-authorized~~ under this section shall be guilty of a Class 1 misdemeanor.
- 37 (f) The Division may issue rules and regulations to implement the provisions of this
38 section."

39 **SECTION 9.** Prior to the implementation of the knowledge test and permitting
40 process required by G.S. 63-96, any person authorized by the FAA for commercial operation of
41 an unmanned aircraft system in this State shall not be in violation of that statute, provided that
42 they make application for a State permit for commercial operation within 60 days of the full
43 implementation of the permitting process and are issued a State commercial operation permit in
44 due course.

45 46 **BRUNSWICK COUNTY TO REGULATE NAVIGABLE WATERS WITHIN ITS** 47 **BOUNDARIES**

48 **SECTION 10.(a)** The Board of Commissioners of Brunswick County may adopt
49 and enforce ordinances for the navigable waters within the county's jurisdictional boundaries
50 which (i) relate to the operation of boats and vessels, including restrictions concerning the types
51 of activities conducted on the navigable waters within the jurisdictional limits of the county; (ii)

1 restrict the anchoring of boats and vessels as to location; and (iii) generally, regulate the
2 anchoring of vessels within its navigable waters. The Board may make all reasonable rules and
3 regulations as it deems necessary for the safe and proper use of the navigable waters within the
4 jurisdictional limits of the county for the occupants of boats and vessels, swimmers, fishermen,
5 and others using the navigable waters and may provide for enforcement of ordinances adopted
6 by the county under this section in accordance with G.S. 153A-123.

7 **SECTION 10.(b)** If any rules or regulations of the North Carolina Wildlife
8 Commission, the Division of Marine Fisheries in the Department of Environment and Natural
9 Resources, the Marine Fisheries Commission, the U.S. Coast Guard, or the U.S. Army Corps of
10 Engineers expressly conflict with ordinances adopted by the county under the authority granted
11 by this section, then the State or federal rule or regulation shall prevail over the county
12 ordinance to the extent of the conflict.

13 **SECTION 10.(c)** Brunswick County may appropriate funds to carry out the power
14 and authority granted by this section.

15 **SECTION 10.(d)** If any part or parts of this section shall be held to be
16 unconstitutional, the unconstitutionality shall not affect the validity of the remaining parts of
17 this section.

18
19 **EFFECTIVE DATE**

20 **SECTION 11.** Section 3 of this act becomes effective July 1, 2016. The remainder
21 of this act is effective when it becomes law. Sections 1 and 4 of this act expire December 31,
22 2018.