

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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SENATE BILL 446  
House Committee Substitute Favorable 7/28/15  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S446-PCS15264-SVf-38

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 TO AUTHORIZE BRUNSWICK COUNTY TO REGULATE  
9 NAVIGABLE WATERS WITHIN ITS BOUNDARIES.

10 The General Assembly of North Carolina enacts:

11  
12 **PART I. UNIFORM TREATMENT OF FRANCHISED DEALER LOANER VEHICLES**

13 **SECTION 1.1.(a)** 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~~person, or loaned by a franchised  
16 motor vehicle dealer, with or without charge, to a customer of that dealer  
17 who is 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 1.1.(b)** This section is effective when this act becomes law and expires  
27 December 31, 2018.

28 **SECTION 1.2.** G.S. 20-286(10), as amended by Section 8 of S.L. 2015-125, reads  
29 as rewritten:

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

- 33 a. "New motor vehicle" means a motor vehicle that has never been the  
34 subject of a completed, successful, or conditional sale that was  
35 subsequently approved other than between new motor vehicle



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1 dealers, or between a manufacturer and a new motor vehicle dealer of  
2 the same franchise. For purposes of this subdivision, the use of a new  
3 motor vehicle by a new motor vehicle dealer for demonstration or  
4 service loaner purposes does not render the new motor vehicle a used  
5 motor vehicle, notwithstanding the commencement of (i) the  
6 manufacturer's original warranty as a result of the franchised dealer's  
7 use of the vehicle for demonstration or loaner purposes or the dealer's  
8 receipt of incentive or warranty compensation or other  
9 reimbursement or consideration from a manufacturer, factory branch,  
10 distributor, distributor branch or (ii) a third-party warranty,  
11 maintenance, or service contract company relating to the use of a  
12 vehicle as a demonstrator or service loaner.

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

15 **SECTION 1.3.(a)** Article 3 of Chapter 20 of the General Statutes is amended by  
16 adding a new section to read:

17 **"§ 20-79.02. Loaner/Dealer "LD" license plate for franchised dealer loaner vehicles.**

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

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

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

42 (d) Restrictions on Use. – The following restrictions apply with regard to the use and  
43 display of an LD license plate:

44 (1) An LD license plate may be displayed only on a motor vehicle that meets all  
45 of the following requirements:

46 a. Is part of the inventory of a franchised motor vehicle dealer.

47 b. Is not consigned to the franchised motor vehicle dealer or affiliate.

48 c. Is covered by liability insurance that meets the requirements of  
49 Article 9A of this Chapter; provided, however, that nothing herein  
50 prevents or prohibits a franchised motor vehicle dealer from  
51 contractually shifting the risk of loss and insurance requirements

- 1                   contained in Article 9A of this Chapter to an individual or entity to  
2                   which a vehicle is loaned.
- 3           d. Is not used by the franchised motor vehicle dealer in another business  
4           in which the dealer is engaged.
- 5           e. Is driven on a highway by a customer of the franchised motor vehicle  
6           dealer who is having a vehicle serviced or repaired by the dealer.
- 7           (2) The person operating the motor vehicle must carry a copy of the assignment  
8           by the franchised motor vehicle dealer and a copy of the registration card for  
9           the LD license plate issued to the franchised motor vehicle dealer, or, if the  
10           person is operating the motor vehicle in this State, the registration card must  
11           be maintained on file at the franchised motor vehicle dealer's address listed  
12           on the registration card, and the registration card must be able to be  
13           produced within 24 hours upon request of a law enforcement officer.
- 14           (3) A vehicle displaying an LD license plate may be driven only by a person  
15           who is licensed to drive the type of motor vehicle for which the plate is  
16           issued.
- 17           (4) An LD license plate may be displayed only on the motor vehicle for which it  
18           has been assigned by the franchised motor vehicle dealer.
- 19           (5) The franchised motor vehicle dealer to whom an LD license plate is issued is  
20           responsible for completing and maintaining documentation prescribed by the  
21           Division relating to the assignment of each motor vehicle on which an LD  
22           license plate is displayed to a customer of the franchised dealer.
- 23           (e) Penalties. – A driver of a motor vehicle or a franchised motor vehicle dealer who  
24           violates a restriction on the use or display of an LD license plate as set out in subsection (d) of  
25           this section is subject to the penalties listed in this subsection. The clear proceeds of all civil  
26           penalties, civil forfeitures, and civil fines that are collected pursuant to this section shall be  
27           remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. The  
28           penalties are as follows:
- 29                   (1) The driver of the motor vehicle who violates a restriction on the use or  
30                   display of an LD license plate is responsible for an infraction and is subject  
31                   to a penalty of one hundred dollars (\$100.00).
- 32                   (2) A franchised motor vehicle dealer to whom the plate is issued who violates a  
33                   restriction on the use or display of an LD license plate is subject to an  
34                   infraction and is subject to a penalty of two hundred fifty dollars (\$250.00).  
35                   The Division may rescind all LD license plates issued to the franchised  
36                   motor vehicle dealer for knowing repeated violations of subsection (d) of  
37                   this section.
- 38           (f) Transfer of Dealer Registration. – A change in the name of a firm, partnership, or  
39           corporation is not considered a new business, and the franchised motor vehicle dealer's LD  
40           license plates may continue to be used.
- 41           (g) Applicability. – Prior to January 1, 2019, a new motor vehicle dealer may, but is not  
42           required to, display an LD license plate on a service loaner vehicle. Beginning on or after  
43           January 1, 2019, a new motor vehicle dealer shall display an LD license plate on any new  
44           motor vehicle placed into service as a loaner vehicle if either of the following circumstances  
45           exists:
- 46                   (1) The new motor vehicle dealer is receiving incentive or warranty  
47                   compensation from a manufacturer, factory branch, distributor, or distributor  
48                   branch for the use of the vehicle as a service loaner.
- 49                   (2) The new motor vehicle dealer is receiving a fee or other compensation from  
50                   the dealer's customers for the use of the vehicle as a service loaner."

51           **SECTION 1.3.(b)** This section becomes effective July 1, 2016.

1           **SECTION 1.4.(a)** G.S. 20-79(d) reads as rewritten:

2           "(d) Restrictions on Use. – A dealer license plate may be displayed only on a motor  
3 vehicle that meets all of the following requirements:

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

33           A dealer may issue a demonstration permit for a motor vehicle to a person licensed to drive  
34 that type of motor vehicle. A demonstration permit authorizes each person named in the permit  
35 to drive the motor vehicle described in the permit for up to 96 hours after the time the permit is  
36 issued. A dealer may, for good cause, renew a demonstration permit for one additional 96-hour  
37 period. A franchised motor vehicle dealer is not prohibited from using a demonstration permit  
38 pursuant to this subsection by reason of the dealer's receipt of (i) incentive or warranty  
39 compensation or other reimbursement or consideration from a manufacturer, factory branch,  
40 distributor, distributor branch or (ii) a third-party warranty, maintenance, or service contract  
41 company relating to the use of the vehicle as a demonstrator or service loaner.

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

44           **SECTION 1.4.(b)** This section is effective when this act becomes law and expires  
45 December 31, 2018.

## 46           **PART II. UNMANNED AIRCRAFT SYSTEMS**

47           **SECTION 2.1.** Section 7.16(e) of S.L. 2013-360, as amended by Section 7.11(a) of  
48 S.L. 2014-100, reads as rewritten:

49           "**SECTION 7.16.(e)** Until December 31, 2015, ~~no State or local governmental entity or~~  
50 ~~officer may procure or operate an unmanned aircraft system or disclose personal information~~  
51

1 ~~about any person acquired through the operation of an unmanned aircraft system unless the~~  
2 ~~State CIO approves an exception specifically granting disclosure, use, or purchase. Any~~  
3 ~~exceptions to the prohibition in this subsection shall be reported immediately the State CIO~~  
4 ~~shall have the authority to approve or disapprove (i) the procurement or operation of an~~  
5 ~~unmanned aircraft system by agents or agencies of the State or a political subdivision of the~~  
6 ~~State and (ii) the disclosure of personal information about any person acquired through the~~  
7 ~~operation of an unmanned aircraft system by agents or agencies of the State or a political~~  
8 ~~subdivision of the State. When making a decision under this subsection, the State CIO may~~  
9 ~~consult with the Division of Aviation of the Department of Transportation. The State CIO shall~~  
10 ~~immediately report to the Joint Legislative Oversight Committee on Information Technology~~  
11 ~~and the Fiscal Research Division. Division on all decisions made under this subsection.~~  
12 ~~Notwithstanding G.S. 63-95(c), agents or agencies of the State or a political subdivision of the~~  
13 ~~State that receive State CIO approval under this subsection may procure or operate an~~  
14 ~~unmanned aircraft system prior to the implementation of the knowledge test required by~~  
15 ~~G.S. 63-95. In addition to receiving approval from the State CIO under this subsection, agents~~  
16 ~~or agencies of the State or a political subdivision of the State who submit a request on or after~~  
17 ~~the date of implementation of the knowledge test required by G.S. 63-95 shall also be subject to~~  
18 ~~the provisions of that section. The following definitions apply in this section:~~

19 (1) "Unmanned aircraft" means an aircraft that is operated without the  
20 possibility of human intervention from within or on the aircraft.

21 (2) "Unmanned aircraft system" means an unmanned aircraft and associated  
22 elements, including communication links and components that control the  
23 unmanned aircraft that are required for the pilot in command to operate  
24 safely and efficiently in the national airspace system."

25 **SECTION 2.2.** Section 34.30(j) of S.L. 2014-100 reads as rewritten:

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

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

34 **SECTION 2.3.** G.S. 63-95(b) reads as rewritten:

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

44 **SECTION 2.4.** G.S. 63-96 reads as rewritten:

45 **"§ 63-96. License-Permit required for commercial operation of unmanned aircraft**  
46 **systems.**

47 (a) No person shall operate an unmanned aircraft system, as defined in G.S. 15A-300.1,  
48 in this State for commercial purposes unless the person is in possession of a ~~license-permit~~  
49 issued by the Division valid for the unmanned aircraft system being operated. Application for  
50 ~~such license~~ the permit shall be made in the manner provided by the Division. Unless

1 suspended or revoked, the ~~license-permit~~ shall be effective for a period to be established by the  
2 Division not exceeding eight years.

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

- 5 (1) The person is at least ~~18~~17 years of age.
- 6 (2) The person possesses a valid drivers license issued by any state or territory  
7 of the United States or the District of Columbia.
- 8 (3) The person has passed the knowledge ~~and skills~~ test for operating an  
9 unmanned aircraft system as prescribed in G.S. 63-95(b).
- 10 (4) The person has satisfied all other applicable requirements of this Article or  
11 federal regulation.

12 (c) A ~~license-permit~~ to operate an unmanned aircraft system for commercial purposes  
13 shall not be issued to a person while the person's license or permit to operate an unmanned  
14 aircraft system is suspended, revoked, or cancelled in any state.

15 (d) The Division shall develop and administer a program that complies with all  
16 applicable federal regulations to license-issue permits to operators of unmanned aircraft  
17 systems for commercial purposes. The program must include the following components:

- 18 (1) A system for classifying unmanned aircraft systems based on characteristics  
19 determined to be appropriate by the Division.
- 20 (2) A fee structure for ~~licenses-permits~~.
- 21 (3) A ~~license-permit~~ application ~~process~~process, which shall include a  
22 requirement that the Division provide notice to an applicant of the Division's  
23 decision on issuance of a permit no later than 10 days from the date the  
24 Division receives the applicant's application.
- 25 (4) Technical guidance for complying with program requirements.
- 26 (5) Criteria under which the Division may suspend or revoke a ~~license-permit~~.
- 27 (6) Criteria under which the Division may waive ~~license-permitting~~  
28 requirements for applicants currently holding a valid license or permit  
29 to operate unmanned aircraft systems issued by another state or territory of the  
30 United States, the District of Columbia, or the United States.
- 31 (7) A designation of the geographic area within which a ~~licensee-permittee~~ shall  
32 be authorized to operate an unmanned aircraft system. The rules adopted by  
33 the Division for designating a geographic area pursuant to this subdivision  
34 shall be no more restrictive than the rules or regulations adopted by the  
35 Federal Aviation Administration for designating a geographic area for the  
36 commercial operation of unmanned aircraft systems.
- 37 (8) Requirements pertaining to the collection, use, and retention of data by  
38 ~~licensees-permittees~~ obtained through the operation of unmanned aircraft  
39 systems, to be established in consultation with the State Chief Information  
40 Officer.
- 41 (9) Requirements for the marking of each unmanned aircraft system operated  
42 pursuant to a ~~license-permit~~ issued under this section sufficient to ~~permit~~  
43 allow identification of the owner of the system and the person ~~licensed~~  
44 issued a permit to operate it.
- 45 (10) A system for providing agencies that conduct other operations within  
46 regulated airspace with the identity and contact information of ~~licensees~~  
47 permittees and the geographic areas within which the ~~licensee-permittee~~ is  
48 permitted-authorized to operate an unmanned aircraft system.

49 (e) A person who operates an unmanned aircraft system for commercial purposes other  
50 than as ~~permitted-authorized~~ under this section shall be guilty of a Class 1 misdemeanor.

1 (f) The Division may issue rules and regulations to implement the provisions of this  
2 section."

3 **SECTION 2.5.** Prior to the implementation of the knowledge test and permitting  
4 process required by G.S. 63-96, any person authorized by the FAA for commercial operation of  
5 an unmanned aircraft system in this State shall not be in violation of that statute, provided that  
6 the person makes application for a State permit for commercial operation within 60 days of the  
7 full implementation of the permitting process and is issued a State commercial operation permit  
8 in due course.

9  
10 **PART III. BRUNSWICK COUNTY TO REGULATE NAVIGABLE WATERS WITHIN**  
11 **ITS BOUNDARIES**

12 **SECTION 3.1.** The Board of Commissioners of Brunswick County may adopt and  
13 enforce ordinances for the navigable waters within the county's jurisdictional boundaries that (i)  
14 relate to the operation of boats and vessels, including restrictions concerning the types of  
15 activities conducted on the navigable waters within the jurisdictional limits of the county; (ii)  
16 restrict the anchoring of boats and vessels as to location; and (iii) generally regulate the  
17 anchoring of vessels within its navigable waters. The Board may make all reasonable rules and  
18 regulations as it deems necessary for the safe and proper use of the navigable waters within the  
19 jurisdictional limits of the county for the occupants of boats and vessels, swimmers, fishermen,  
20 and others using the navigable waters and may provide for enforcement of ordinances adopted  
21 by the county under this section in accordance with G.S. 153A-123.

22 **SECTION 3.2.** If any rules or regulations of the North Carolina Wildlife Resources  
23 Commission, the Division of Marine Fisheries of the Department of Environment and Natural  
24 Resources, the Marine Fisheries Commission, the U.S. Coast Guard, or the U.S. Army Corps of  
25 Engineers expressly conflict with ordinances adopted by the county under the authority granted  
26 by this section, then the State or federal rule or regulation shall prevail over the county  
27 ordinance to the extent of the conflict.

28 **SECTION 3.3.** Brunswick County may appropriate funds to carry out the power  
29 and authority granted by this section.

30 **SECTION 3.4.** If any part or parts of this section are held unconstitutional, the  
31 unconstitutionality shall not affect the validity of the remaining parts of this section.

32  
33 **PART IV. EFFECTIVE DATE**

34 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes  
35 law.