

**2011-2012**

**SENATE  
TRANSPORTATION**

**MINUTES**

**SENATE TRANSPORTATION COMMITTEE MEETINGS  
2011 LEGISLATIVE SESSION**

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**CERTIFICATION AND ACKNOWLEDGMENT**

**OF**

**COMMITTEE MEETINGS**

**PLACED ON FILE IN THE NORTH CAROLINA GENERAL ASSEMBLY  
LEGISLATIVE LIBRARY**

*June 16*  
**This 16<sup>th</sup> day of May, 2011.**

Senator Jim Forrester, Co-Chairman

Senator William Rabon, Co-Chairman

Senator Kathy Harrington,  
Vice Chairman

Ramona Fitzgerald, Committee Clerk

*June 16*  
*Jim Forrester*  
*William Rabon*  
*Kathy Harrington*  
*Ramona Fitzgerald*



NORTH CAROLINA GENERAL ASSEMBLY  
Legislative Services Office

George R. Hall, Legislative Services Officer

*Transport*

Research Division  
300 N. Salisbury Street, Suite 545  
Raleigh, NC 27603-5925  
Tel. 919-733-2578 Fax 919-715-5460

O. Walker Reagan  
Director

February 3, 2011

The Honorable James Forrester, Co-Chair  
Committee on Transportation  
North Carolina Senate  
16 West Jones Street, Room 1028  
Raleigh, NC 27601-1096

Dear Senator Forrester:

I have asked Ms. Wendy Graf Ray, Mr. Giles Perry, and Ms. Brenda Carter with the Research Division to serve as counsel to the Senate Committee on Transportation, which you co-chair. They will attend the meetings of the Committee when it convenes on Wednesdays at 11:00 a.m. In accordance with the Committee's directions as expressed through the Co-Chairs, they will aid in analyzing proposed legislation and drafting amendments and committee substitutes. They will staff several other committees, as well.

✓ I have asked Ms. Carter to serve as the coordinating staff person (point person) for the committee staff's efforts. I would ask that you and your committee clerk consider Ms. Carter as your initial contact for staffing needs and questions for the committee. The role of the coordinating staff will be to serve as the primary contact for the committee chairs and committee clerks to use in arranging committee meetings and identifying bills to be considered. Coordinating staff also will coordinate the assignment of bills among the committee staff. Most of the members of the Research Division have been asked to assume this role for one or more committees this session. If you are unable to reach Ms. Carter at any time, you should feel free to contact any of the committee staff for assistance.

My best wishes to you and the Committee in its work. If I can be of any service to you or the Committee, please contact me.

Yours truly,

O. Walker Reagan  
Director of Research

OWR:wsh

cc: Hon. Thom Tillis, Speaker  
Hon. Philip Berger, President Pro Tempore  
Hon. Bill Rabon, Co-Chair  
Mr. George Hall  
Ms. Wendy Graf Ray

Mr. Giles Perry  
Ms. Brenda Carter  
Mr. Brian Peck  
Ms. Becky Cook  
Ms. Dianne Russell

Senate Transportation Committee

---

Senator James Forrester, Co-Chairman  
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Ramona Fitzgerald, Clerk  
1028 LB 715-3050

## MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

Wednesday, March 9, 2011  
11:00 AM, 1027 LB

The Senate Transportation Committee met on Wednesday, March 9, 2011, at 11:00 AM, in Room 1027 of the Legislative Building. Senator Rabon, Co-Chairman of the Committee, called the meeting to order.

Fifteen members of the committee were present, and Senator Rabon welcomed committee members, staff, and guests. He further acknowledged the following pages serving at today's meeting: Serena Advani, Morrisville, sponsored by Senator Phil Berger, and Gina Such, Asheboro, sponsored by Senator Tillman.

The first order of business was Senate Bill 165, NC Turnpike Authority Corridor Selection, sponsored by Senator Stevens and Senator Blue. Senator Rabon recognized Senator Stevens and Senator Blue to explain the bill. After an explanation of Senate Bill 165 by Senator Stevens and Senator Blue (including a map presentation (Exhibit A), Chairman Rabon recognized the following individuals who spoke to the bill: Mr. Buck Kennedy, Town Council, Town of Garner; Mr. Paul Capps, Real Estate Broker from Garner, North Carolina; and Mr. Douglas Ball, Developer, Village of Aversboro.

Senator Rabon then asked if there were any members who wished to speak in opposition to the bill. There being none, Senator Rabon recognized Senator Tillman for a motion. Senator Tillman moved that Senate Bill 165, NC Turnpike Authority Corridor Selection, be given a favorable report, seconded by Senator McKissick. Motion carried.

Chairman Rabon then recognized Senator East for a motion. Senator East moved that Senate Bill 45, Emissions/Safety Inspection Changes, be removed from today's agenda and calendared for the next committee meeting. Without objection, motion carried.

There being no further business, the committee adjourned at 11:26 AM.

Senator William Rabon, Chairman



Ramona R. Fitzgerald, Committee Clerk



**Mona Fitzgerald (Sen. Forrester)**

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**From:** Joyce Hodge (Senate LA Director)  
**Sent:** Tuesday, March 08, 2011 2:50 PM  
**To:** @SenateCommitteeNotice  
**C:** @Senate/Transportation; Sen. Dan Blue; Bonnie McNeil (Sen. Blue)  
**Subject:** <NCGA> Senate Transportation Committee Meeting Notice for Wed, 03-09-2011 at 11:00 AM

Principal Clerk \_\_\_\_\_  
Reading Clerk \_\_\_\_\_

**SENATE**  
**NOTICE OF COMMITTEE MEETING**  
**AND**  
**BILL SPONSOR NOTICE**

The Senate Committee on **Transportation** will meet at the following time:

<b>DAY</b>	<b>DATE</b>	<b>TIME</b>	<b>ROOM</b>
Wednesday	March 9, 2011	11:00 AM	1027 LB

The following will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
SB 45	Emissions/Safety Inspection Changes.	Senator East
SB 165	NC Turnpike Authority Corridor Selection.	Senator Blue Senator Stevens

Senator James Forrester, Co-Chair  
Senator Bill Rabon, Co-Chair

**Senate Transportation Committee**  
**Wednesday, March 9, 2011, 11:00 AM**  
**1027 LB**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills**

SB 45	Emissions/Safety Inspection Changes.
SB 165	NC Turnpike Authority Corridor Selection.

Senator East  
Senator Blue  
Senator Stevens

**Presentations**

**Other Business**

**Adjournment**

# PUBLIC BILL

S.B. 45

SESSION LAW \_\_\_\_\_

## A BILL TO BE ENTITLED

AN ACT TO PREVENT AN INSPECTION STATION FROM DENYING AN INSPECTION AUTHORIZATION FOR THE MERE FACT THAT THE "CHECK ENGINE LIGHT" IS ON WITH NO UNDERLYING EMISSION OR SAFETY ISSUES WHICH WOULD REQUIRE A DENIAL AND TO LIMIT THE REQUIRED EMISSIONS AND SAFETY INSPECTIONS TO ONCE A YEAR REGARDLESS OF THE VEHICLE'S OWNERSHIP.

Introduced by Senator(s)

*PATE*

East

*W. S. D.*  
*W. S. D.*

*James L. H. H.*  
*James L. H. H.*

*W. S. D.*  
*W. S. D.*

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**FILED FEB 8 2011**

PASSED 1st READING

FEB 9 - 2011

AND REFERRED TO COMMITTEE

ON *Transp.*

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

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1

**SENATE BILL 45**

Short Title: Emissions/Safety Inspection Changes.

(Public)

Sponsors: Senators East, Hise, Jackson, Pate, Soucek, and Tillman.

Referred to: Transportation.

February 9, 2011

A BILL TO BE ENTITLED

AN ACT TO PREVENT AN INSPECTION STATION FROM DENYING AN INSPECTION AUTHORIZATION FOR THE MERE FACT THAT THE "CHECK ENGINE LIGHT" IS ON WITH NO UNDERLYING EMISSION OR SAFETY ISSUES WHICH WOULD REQUIRE A DENIAL AND TO LIMIT THE REQUIRED EMISSIONS AND SAFETY INSPECTIONS TO ONCE A YEAR REGARDLESS OF THE VEHICLE'S OWNERSHIP.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-183.3 is amended by adding a new subsection to read:

"(b2) Check Engine Light Malfunctions. – No vehicle shall fail an emissions or safety inspection for merely having a "check engine light" malfunction if the underlying reason for the malfunction cannot be determined based on information gathered from the OBD or if the underlying reason for the "check engine light" malfunction is for a condition of the engine or vehicle that is not regulated by this Part."

**SECTION 2.** G.S. 20-183.4C(a)(2) reads as rewritten:

"(a) Inspection. – A vehicle that is subject to a safety inspection, an emissions inspection, or both must be inspected as follows:

...

(2) A used vehicle must be inspected before it is offered for sale at retail in this State by a ~~dealer~~ dealer unless the vehicle has received a passing inspection within the previous 12 months. Upon purchase, a receipt approved by the Division must be provided to the new owner certifying compliance.

...."

**SECTION 3.** This act becomes effective October 1, 2011, and applies to inspections performed on or after that date.





## SENATE BILL 45: Emissions/Safety Inspection Changes

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Sen. East  
**Analysis of:** First Edition

**Date:** March 8, 2011  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *Senate Bill 45 would amend the law concerning the scope of motor vehicle safety and emissions inspections to specify that a vehicle will not fail inspection solely on the basis of a malfunctioning "check engine" light. The bill also would allow a used vehicle to be sold by a dealer without an inspection if the vehicle has received a passing inspection within the previous 12 months.*

**CURRENT LAW:** G.S. 20-183.3 defines the scope of automobile safety and emissions inspections. The following equipment must be present and in a safe operating condition: brakes, lights, horn, steering mechanism, windows and windshield wipers (including tinting), directional signals, tires, mirrors, and exhaust system and emissions control devices. An emissions inspection includes both a visual inspection and an analysis of data provided by the vehicles on-board diagnostic (OBD) equipment.

G.S. 20-183.4C requires that a used vehicle be inspected before it is offered for sale at retail in this State by a dealer.

**BILL ANALYSIS:** **Section 1** of the bill would amend the law concerning the scope of motor vehicle safety and emissions inspections to specify that a vehicle will not fail inspection solely on the basis of a malfunctioning "check engine" light.

**Section 2** of the bill would amend the law concerning when a motor vehicle must be inspected, to allow a used vehicle to be sold by a dealer without an inspection if the vehicle has received a passing inspection within the previous 12 months:

**EFFECTIVE DATE:** The bill would become effective October 1, 2011, and apply to inspections performed on or after that date.

S45-SMRV-11(e1) v1

# PUBLIC BILL

S.B. 165

*ID = #225*

SESSION LAW \_\_\_\_\_

## A BILL TO BE ENTITLED

AN ACT TO RESTRICT THE NORTH CAROLINA TURNPIKE AUTHORITY'S SELECTION OF TRANSPORTATION CORRIDORS TO EXISTING PROTECTED CORRIDORS OR CORRIDORS SOUTH OF AN EXISTING PROTECTED CORRIDOR EXCEPT IN THE AREA OF INTERSTATE 40 EAST.

Introduced by Senator(s)

Stevens

Blue

(Primary Sponsors)

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**FILED** MAR 1 2011

**PASSED 1st READING**

**MAR 2 2011**

AND REFERRED TO COMMITTEE

ON *Transp.*

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

S

1

**SENATE BILL 165\***

Short Title: NC Turnpike Authority Corridor Selection. (Public)

Sponsors: Senators Stevens and Blue.

Referred to: Transportation.

March 2, 2011

A BILL TO BE ENTITLED

AN ACT TO RESTRICT THE NORTH CAROLINA TURNPIKE AUTHORITY'S  
SELECTION OF TRANSPORTATION CORRIDORS TO EXISTING PROTECTED  
CORRIDORS OR CORRIDORS SOUTH OF AN EXISTING PROTECTED CORRIDOR  
EXCEPT IN THE AREA OF INTERSTATE 40 EAST.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 136-89.183(a)(2) reads as rewritten:

"(2) To study, plan, develop, and undertake preliminary design work on up to nine Turnpike Projects. At the conclusion of these activities, the Turnpike Authority is authorized to design, establish, purchase, construct, operate, and maintain the following projects:

- a. Triangle Expressway, including segments also known as N.C. 540, Triangle Parkway, and Western Wake Freeway in Wake and Durham ~~Counties.~~ Counties, except that segment known as the Triangle Expressway Southeast Extension which shall not be located north of an existing protected corridor established by the Department of Transportation circa 1995, except in the area of Interstate 40 East.
  - b. Gaston East-West Connector, also known as the Garden Parkway.
  - c. Monroe Connector/Bypass.
  - d. Cape Fear Skyway.
  - e. A bridge of more than two miles in length going from the mainland to a peninsula bordering the State of Virginia, pursuant to G.S. 136-89.183A.
  - f. Repealed by Session Laws 2008-225, s. 4, effective August 17, 2008.
- Any other project proposed by the Authority in addition to the projects listed in this subdivision must be approved by the General Assembly prior to construction.
- A Turnpike Project selected for construction by the Turnpike Authority shall be included in any applicable locally adopted comprehensive transportation plans and shall be shown in the current State Transportation Improvement Plan prior to the letting of a contract for the Turnpike Project."

**SECTION 2.** This act is effective when it becomes law.



\* S 1 6 5 - V - 1 \*



## SENATE BILL 165: NC Turnpike Authority Corridor Selection

2011-2012 General Assembly

Committee: Senate Transportation  
Introduced by: Sens. Stevens, Blue  
Analysis of: First Edition

Date: March 8, 2011  
Prepared by: Giles S. Perry  
Committee Counsel

**SUMMARY:** *Senate Bill 165 amends the statutory description of the route location of the North Carolina Turnpike Authority Triangle Expressway project.*

[As introduced, this bill was identical to H225, as introduced by Reps. Jackson, Ross, Gill, which is currently in House Transportation.]

**CURRENT LAW:** The North Carolina Turnpike Authority, enacted by S.L. 2002-133 in 2002, is authorized to design construct and operate several toll road projects, including the Triangle Expressway.

**BILL ANALYSIS:** Senate Bill 165 amends the statutory description of the route location of one of the authorized North Carolina Turnpike Authority projects, known as the *Triangle Expressway*, to provide that the segment known as the *Triangle Expressway Southeast Extension* shall not be located north of an existing protected corridor established by the Department of Transportation about 1995, except in the area of Interstate 40 East.

**EFFECTIVE DATE:** Effective when it becomes law.

*S165-SMRW-22(e1) v1*

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**TRANSPORTATION COMMITTEE REPORT  
Senator James Forrester, Co-Chair  
Senator Bill Rabon, Co-Chair**

Wednesday, March 09, 2011

Senator RABON,  
submits the following with recommendations as to passage:

**FAVORABLE**

S.B.	165	NC Turnpike Authority Corridor Selection.	
		Sequential Referral:	None
		Recommended Referral:	None

**TOTAL REPORTED: 1**

Committee Clerk Comments:

## VISITOR REGISTRATION SHEET

Senate Transportation Committee  
Name of Committee

3/9/2011  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE  
CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Steve DeWitt	NCDOT / NCTA
Beau Mennery	NCDOT
Chris Barber	CAPPA
Barbie Murberty	Adams Outdoor
Caron Gustin	Fairway Outdoor Advertising
Tony Adams	NCOAA
Keith Roberts	DEVELOPMENT CONSULTING (CIVIL ENGINEER)
Dennis Patterson	OSA
DAVID BARNES	PS
Corne Wilson	Concrete Pavement Assoc.
Chig Kullian	Nelson Mullin

# VISITOR REGISTRATION SHEET

Senate Transportation Committee

Name of Committee

3/9/2011

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE  
CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Henry Jones	Attorney - Raleigh
Bob Ford	NC PF
Roland Beauchamp	citizen 502 EASY WIND LN GARNER NC
Judy BAKER	CITIZEN 502 EASY WIND LANE, GARNER, NC
Tom Beasley	Town of Garner ✓
Bruce Wittman	Brookwood Subdiv resident
RODNEY DICKERSON	TOWN OF GARNER
Ronnie Williams	" "
Buck Kennedy	" "
HARDIN WATKINS	" "
Kathryn Westcott	ACE/NC

## VISITOR REGISTRATION SHEET

## Senate Transportation Committee

**Name of Committee**

3/9/2011

**Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE**  
**CLERK**

NAME \_\_\_\_\_

**FIRM OR AGENCY AND ADDRESS**

Steve Brewer

CenturyLink

Edmund Rubio

## AMERICAN CRAFTMAN

## VISITOR REGISTRATION SHEET

Senate Transportation Committee

Name of Committee

3/9/2011  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE  
CLERK

NAME	FIRM OR AGENCY AND ADDRESS
William Robinson	NCRMA
Kay Emanuel	Legislative Reporting Services
Betsy Bailey	PENC
AMY SIMES	DENR
Jean Stevens	Fonville Morisey
Carol Sims	1004 Vandora Springs Rd, Garner Fonville Morisey Realty
LEAH Isadore	1004 Vandora Springs Rd, Garner FONVILLE MORISEY REALTY 21529
Tan Cors	TNC
CP Dault	The Insider
Joey Gardner	DMV License + Theft
JZ HOBBS	HANC

# VISITOR REGISTRATION SHEET

## Senate Transportation Committee

Name of Committee

3/9/2011

**Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE**  
**CLERK**

NAME \_\_\_\_\_

**FIRM OR AGENCY AND ADDRESS**

Johanna Reese

DMV

Doul Heron

Williams Murch

# VISITOR REGISTRATION SHEET

Senate Transportation Committee

Name of Committee

Date

3/9/2011

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE  
CLERK

NAME	FIRM OR AGENCY AND ADDRESS
George Everett	Duke Energy
Paul Sherman	NCFB
BRUCE THOMPSON	PARKER P&G
Aubrey Incorvaia	Dept. of Commerce
Allison Waller / Shrewh	Charlotte Chamber NCMMC
Carol Schriber	Town of Garner (citizen rep.)
DOUGLAS BALL	THE VILLAGE @ AVERSPROO
Russ Owen	Garner citizen
PAUL CAPPAS	Citizen, Realton - GARNER
Angie Maier	NCPC
Tommy Neese	NCPC

## PAGES ATTENDING

COMMITTEE: Transportation ROOM: 1027

DATE: 3-20-11 TIME: 11 AM

**PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!**

Page Name	Hometown	Sponsoring Senator
1 Gina Such	Asheboro	Senator Tillman
2 Serena Advani <i>ADVANI</i>	Morrisville	Senator P. Berger
4		
5		
6		
7		
8		
9		
10		

Do not add names below the grid.

es: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.

## MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

Wednesday, March 23, 2011  
11:00 AM, 1027 LB

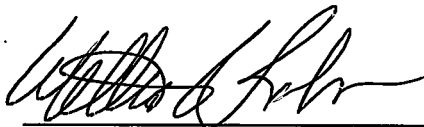
The Senate Transportation Committee met on Wednesday, March 23, 2011, at 11:00 AM, in Room 1027 of the Legislative Building. Senator Rabon, Co-Chairman of the Committee, called the meeting to order.

Seventeen members of the committee were present, and Senator Rabon welcomed committee members, staff, and guests. He further acknowledged the following pages serving at today's meeting: Sarah Head, Greenville, sponsored by Senator Jenkins, and Shane Poletta, Leland, sponsored by Senator Rabon.

The first order of business was Senate Bill 183, Selective Vegetation Removal/State Highways, sponsored by Senator Brown. Senator Rabon recognized Senator Brown to explain the bill. After an explanation of Senate Bill 183 by Senator Brown, Chairman Rabon recognized Brenda Carter, Research Staff, to explain the various portions of the bill.

The following individuals were recognized to speak on the bill: Mr. Ben Hitchings, North Carolina Chapter of the American Planning Association (Exhibit A); Ms. Julie White, Director of the North Carolina Metropolitan Mayors' Coalition Exhibit B); Mr. Paul Meyers, North Carolina League of Municipalities; Ms. Ann Franklin, Raleigh; Mr. Jon Nance, North Carolina Department of Transportation; Mr. Tony Adams, North Carolina Outdoor Advertising Association; and Mr. Kevin Leonard, North Carolina Association of County Commissioners.

After comments by members and closing comments by Senator Brown the meeting was adjourned at 11:55 a.m.



Senator William Rabon, Chairman



Ramona R. Fitzgerald, Committee Clerk

Principal Clerk \_\_\_\_\_  
Reading Clerk \_\_\_\_\_

**SENATE**  
**NOTICE OF COMMITTEE MEETING**  
**AND**  
**BILL SPONSOR NOTICE**

The Senate Committee on **Transportation** will meet at the following time:

<b>DAY</b>	<b>DATE</b>	<b>TIME</b>	<b>ROOM</b>
Wednesday	March 23, 2011	11:00 AM	1027 LB

The following will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
SB 183	Selective Vegetation Removal/State Highways .	Senator Brown

Senator James Forrester, Co-Chair  
Senator Bill Rabon, Co-Chair

**Senate Transportation Committee**  
**Wednesday, March 23, 2011, 11:00 AM**  
**1027 LB**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills**

SB 183      Selective Vegetation Removal/State Highways .      Senator Brown

**Presentations**

**Other Business**

**Adjournment**

# PUBLIC BILL

S.B. 183

SESSION LAW \_\_\_\_\_

## A BILL TO BE ENTITLED

AN ACT TO ESTABLISH CERTAIN STATUTORY STANDARDS FOR SELECTIVE VEGETATION REMOVAL WITHIN THE RIGHTS-OF-WAY OF THE STATE HIGHWAY SYSTEM AND FOR THE ERECTION OF OUTDOOR ADVERTISING.

Introduced by Senator(s)

R. Alvarado  
\_\_\_\_\_  
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Brown

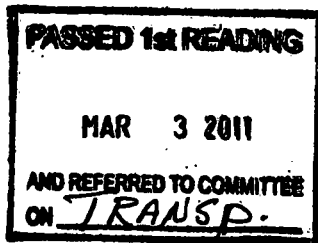
J. Brown  
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Principal Clerk's Use Only

**FILED MAR 2 2011**



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 183

Short Title: Selective Vegetation Removal/State Highways.

(Public)

Sponsors: Senators Brown; Jenkins, Rucho, Tillman, and Walters.

Referred to: Transportation.

March 3, 2011

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH CERTAIN STATUTORY STANDARDS FOR SELECTIVE  
VEGETATION REMOVAL WITHIN THE RIGHTS-OF-WAY OF THE STATE  
HIGHWAY SYSTEM AND FOR THE ERECTION OF OUTDOOR ADVERTISING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18.7 reads as rewritten:

"§ 136-18.7. Fees.

The fee for a selective vegetation removal permit issued pursuant to ~~G.S. 136-18(5), (7), and (9) is two hundred dollars (\$200.00).~~ G.S. 136-93, 136-133.1, and 136-133.4 is four hundred dollars (\$400.00) per permitted site and is nonrefundable."

SECTION 2. G.S. 136-93 reads as rewritten:

"§ 136-93. Openings, structures, pipes, trees, and issuance of permits.

(a) No opening or other interference whatsoever shall be made in any State road or highway other than streets not maintained by the Department of Transportation in cities and towns, nor shall any structure be placed thereon, nor shall any structure which has been placed thereon be changed or removed except in accordance with a written permit from the Department of Transportation or its duly authorized officers, who shall exercise complete and permanent control over such roads and highways. No State road or State highway, other than streets not maintained by the Department of Transportation in cities and towns, shall be dug up for laying or placing pipes, conduits, sewers, wires, railways, or other objects, ~~and no tree or shrub in or on any State road or State highway shall be planted, trimmed, or removed,~~ and no obstruction placed thereon, without a written permit as hereinbefore provided for, and then only in accordance with the regulations of said Department of Transportation or its duly authorized officers or employees; and the work shall be under the supervision and to the satisfaction of the Department of Transportation or its officers or employees, and the entire expense of replacing the highway in as good condition as before shall be paid by the persons, firms, or corporations to whom the permit is given, or by whom the work is done. The Department of Transportation, or its duly authorized officers, may, in its discretion, before granting a permit under the provisions of this section, require the applicant to file a satisfactory bond, payable to the State of North Carolina, in such an amount as may be deemed sufficient by the Department of Transportation or its duly authorized officers, conditioned upon the proper compliance with the requirements of this section by the person, firm, or corporation granted such permit. Any person making any opening in a State road or State highway, or placing any structure thereon, or changing or removing any structure thereon without obtaining a written permit as herein provided, or not in compliance with the terms of such permit, or otherwise violating the provisions of this section, shall be guilty of a Class 1 misdemeanor: Provided, this section shall



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not apply to railroad crossings. The railroads shall keep up said crossings as now provided by law.

(b) Except as provided in G.S. 136-133.1(f), no vegetation, including any tree, shrub, or underbrush in or on any right-of-way of a State road or State highway shall be planted, cut, trimmed, pruned, or removed without a written selective vegetation removal permit issued pursuant to G.S. 136-133.2 and in accordance with the rules of the Department. Requests for a permit for selective vegetation cutting, thinning, pruning, or removal shall be made by the owner of an outdoor advertising sign or the owner of a business facility to the appropriate roadside environmental engineer in the Division of Highways office on a form required by the Department. For purposes of this section, G.S. 136-133.1, 136-133.2, and 136-133.4, the phrase "outdoor advertising" shall mean the outdoor advertising expressly permitted under G.S. 136-129(a)(4) or G.S. 136-129(a)(5). These provisions shall not be used to provide visibility to on-premise signs.

(c) For outdoor advertising, vegetation cut or removal limits shall be restricted to a maximum selective vegetation cut or removal zone for each sign face pursuant to the provisions of G.S. 136-133.1.

(d) If the application for vegetation cutting, thinning, pruning, or removal is for a site located within the corporate limits of a municipality, the municipality shall be given 30 days to review and provide nonbinding comments on the application if the municipality has previously advised the Department in writing of the desire to review such applications and the name of the local official to whom notice of such application should be directed. Local governments are prohibited from regulating vegetation cutting, trimming, pruning, or removal within the limits of interstate or primary highway rights-of-way by any permittee or other person authorized by the Department, including anyone authorized under G.S. 136-133.1(f)."

SECTION 3. Article 7 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-93.2. Monetary value of trees.**

The monetary value for existing trees removed and eligible for reimbursement to the Department as provided in G.S. 136-93 or G.S. 136-133.1 from State rights-of-way shall be determined on an annual basis by the Department. In determining the value of existing trees removed, the average cost per caliper inch shall be based on the lower value of either the average wholesale commercial nursery prices for hardwood and conifer plants, times a 2.5 multiplier for installation and warranty or the average cost per caliper inch for tree planting contracts let by the Department in the previous calendar year. The values shall be determined and published by the Department no later than December 15 of each year. The values established pursuant to this section shall be used in calculating the monetary value of trees removed from State rights-of-way beginning January 1 of each year. If the Department fails to publish changes in values by December 15, then the values existing on December 15 shall be applicable to existing trees removed and eligible for reimbursement for the following year."

SECTION 4. G.S. 136-129 reads as rewritten:

**"§ 136-129. Limitations of outdoor advertising devices.**

(a) No outdoor advertising shall be erected or maintained within 660 feet of the nearest edge of the right-of-way of the interstate or primary highway systems in this State so as to be visible from the main-traveled way thereof after the effective date of this Article as determined by G.S. 136-140, except the following:

- (1) Directional and other official signs and notices, which signs and notices shall include those authorized and permitted by Chapter 136 of the General Statutes, which include but are not limited to official signs and notices pertaining to natural wonders, scenic and historic attractions and signs erected and maintained by a public utility, electric or telephone membership corporation, or municipality for the purpose of giving warning of or

information as to the location of an underground cable, pipeline or other installation.

(2) Outdoor advertising which advertises the sale or lease of property upon which it is located.

(2a) Outdoor advertising which advertises the sale of any fruit or vegetable crop by the grower at a roadside stand or by having the purchaser pick the crop on the property on which the crop is grown provided: (i) the sign is no more than two feet long on any side; (ii) the sign is located on property owned or leased by the grower where the crop is grown; (iii) the grower is also the seller; and (iv) the sign is kept in place by the grower for no more than 30 days.

(3) Outdoor advertising which advertises activities conducted on the property upon which it is located.

(4) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in areas which are zoned industrial or commercial under authority of State law.

(5) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in unzoned commercial or industrial areas.

(b) No two outdoor advertising structures permitted by G.S. 136-129(a)(4) and G.S. 136-129(a)(5) shall be erected on interstates or other routes with fully controlled access less than 500 feet apart on the same side of the highway if the structures are erected on such routes outside the limits of an incorporated municipality. No two outdoor advertising structures permitted by G.S. 136-129(a)(4) and G.S. 136-129(a)(5) shall be erected on routes without fully controlled access less than 300 feet apart on the same side of the highway if the structures are erected on such routes outside the limits of an incorporated municipality, or 100 feet apart on the same side of the highway if erected on such routes without fully controlled access within the limits of an incorporated municipality. The minimum distance between structures shall be measured along the nearest edge of the main-traveled way between points directly opposite the signs along each side of the highway.

(c) Automatic changeable facing signs shall be permitted in areas described in G.S. 136-129(a)(4) and G.S. 136-129(a)(5) on any interstate or primary highway system route under the following conditions:

(1) The sign does not contain or display flashing, intermittent, or moving lights, including animated or scrolling advertising.

(2) The changeable facing remains in a fixed position for at least eight seconds.

(3) If a message is changed electronically, it must be accomplished within an interval of two seconds or less.

(4) The sign is not placed within 1,500 feet of another automatic changeable facing outdoor advertising sign on the same side of the highway.

(5) The distance 1,500 feet shall be measured along the nearest edge of the main-traveled way and between points directly opposite the signs along each side of the highway.

(6) The sign must contain a default design that will freeze the sign in one position if a malfunction occurs.

(7) For purposes of this subsection, an "automatic changeable facing sign" shall mean a sign, display, or device which changes the message or copy on the sign facing electronically by movement or rotation of panels or slats.

A legally conforming outdoor advertising structure or an outdoor advertising structure that is nonconforming only to local ordinances may be modified or reconstructed to an automatic changeable facing upon compliance with the standards established in this subsection.

(d) No electrical utility permit shall be denied to any outdoor advertising sign described in G.S. 136-129(a)(4) and G.S. 136-129(a)(5) for which a permit has been issued by the Department, is valid, and is otherwise compliant with technical utility standards.

(e) The fee for outdoor advertising structures specified in (a)(4) and (a)(5) of this subsection shall not exceed one hundred fifty dollars (\$150.00) for the initial fee and ninety dollars (\$90.00) for the annual renewal fee. Thirty dollars (\$30.00) of each initial and annual renewal fee collected pursuant to this section shall be used by the Department for highway beautification projects."

SECTION 5. Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-133.1. Outdoor advertising vegetation cutting or removal.**

(a) The owner of an outdoor advertising sign permitted under G.S. 136-129(a)(4) or G.S. 136-129(a)(5) who obtains a selective vegetation removal permit, and the owner's designees, may cut, thin, prune, or remove vegetation in accordance with this section, G.S. 136-93(b), 136-133.2, and 136-133.4. The maximum cut or removal zone for vegetation for each sign face shall be determined as follows:

- (1) The point located on the edge of the right-of-way that is the closest point to the centerline of the sign face shall be point A.
- (2) The point located 200 feet down the right-of-way line in the direction of the sign viewing zone shall be point B.
- (3) The point on the edge of the pavement of the travel way, including acceleration and deceleration ramps, that is the closest to the centerline of the sign shall be point C.
- (4) The point 50 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point D.
- (5) The point 400 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point E.
- (6) Lines drawn from point A to point D and from point B to point E shall define the limits of the vegetation cut or removal area.

(b) Vegetation permitted to be cut, thinned, pruned, or removed shall be defined as any tree, shrub, or underbrush within the zone created by points A, B, D, and E. Any existing tree that was in existence at the time that an outdoor advertising structure was erected shall only be eligible for removal in accordance with subsections (c) and (d) of this section. Native dogwoods and native redbuds shall be preserved. For the purposes of this section, an existing tree is defined as a tree that had a diameter of four inches or greater as measured six inches from the ground at the time that the outdoor advertising structure was erected. An outdoor advertising sign is considered erected when the sign is completely constructed with a sign face.

(c) The applicant for a selective vegetation removal permit shall submit to the Department a site plan locating thereon any trees existing at the time that the outdoor advertising sign was erected, as defined in subsection (b) of this section, that are requested to be cut, thinned, pruned, or removed, and noting their species and total caliber inches. The applicant shall also tag, with highly visible material or flagging, any tree that is, at the time of the application for a selective vegetation removal permit, greater than four inches in diameter as measured six inches from the ground and requested to be cut, thinned, pruned, or removed. The selective vegetation removal request may be investigated on-site by Department personnel and a representative of the applicant. In the event that the Department disputes the accuracy of the existing tree information on the site plan noted above, the Department shall notify the applicant in writing and may request the following:

- (1) A tree survey.
- (2) That the applicant amends the site plan.
- (3) That the applicant deletes the trees in dispute from the desired cutting.

1     If a notice of disputed tree information is received from the Department, the applicant can  
2 either employ the services of a North Carolina licensed landscape architect or certified arborist  
3 to perform a tree survey, amend the site plan, or notify the Department in writing that any or all  
4 of the disputed trees are deleted from the application. If the applicant selects a tree survey, the  
5 landscape architect or certified arborist will submit a report under seal that contains a tree  
6 inventory of existing trees in the removal zone for the outdoor advertising structure and include  
7 the age of any tree that existed at the time that the sign was erected. The report will categorize  
8 tree species and include a site map of sufficient detail and dimensions. A tree survey will not be  
9 required for subsequent applications to cut, thin, prune, or remove trees at the same site for  
10 trees that have been previously permitted. Any dispute relating to whether or not the tree  
11 existed at the time that the outdoor advertising sign was erected shall be conclusively resolved  
12 by information in the report from the licensed landscape architect or certified arborist.

13     (d) Trees existing at the time the outdoor advertising sign was erected may only be  
14 removed within the zone created in subparagraph (a) above if the applicant satisfies one of the  
15 following two options selected by the applicant: (i) reimbursement to the Department pursuant  
16 to G.S. 136-93.2 or (ii) trees that existed at the time of the erection of the sign may be removed  
17 if the applicant agrees to remove two nonconforming outdoor advertising signs for each sign at  
18 which removal of existing trees is requested. The surrendered nonconforming signs must be  
19 fully disassembled before any removal of existing trees is permitted and shall not be eligible for  
20 future outdoor advertising permits in perpetuity.

21     (e) Tree branches within a highway right-of-way that encroach into the zone created by  
22 points A, C, and D may be cut or pruned. Except as provided in subsection (f) of this section,  
23 no person, firm, or entity shall cut, trim, prune, or remove or otherwise cause to be cut,  
24 trimmed, pruned, or removed, vegetation that is in front of, or adjacent to, outdoor advertising  
25 and within the limits of the highway right-of-way for the purpose of enhancing the visibility of  
26 outdoor advertising unless permitted to do so by the Department in accordance with this  
27 section, G.S. 136-93(b), 136-133.2, and 136-133.4.

28     (f) Notwithstanding any law to the contrary, the owner of an outdoor advertising sign  
29 defined by subsection (a) of this section or the owner's designees may, working only from the  
30 private property side of the fence, without charge and without obtaining a selective vegetation  
31 removal permit, cut, trim, prune, or remove any tree or other vegetation except for native  
32 dogwoods or native redbuds that is (i) less than four inches in diameter at the height of the  
33 controlled access fence, (ii) located within 200 feet on either side of the existing sign location  
34 as defined by point A and point B in G.S. 136-133.1(a)(1) and (2), and (iii) a distance of three  
35 feet from a controlled access fence within the limits of the highway right-of-way. The activities  
36 permitted by this subsection must be performed from the private property owner side of the  
37 controlled access fence and with the consent of the owner of the land that is used to access said  
38 fence.

39     (g) The Department may revoke an outdoor advertising permit for the unlawful  
40 destruction or illegal cutting of vegetation within the right-of-way of any State-owned or  
41 State-maintained highway only if the unlawful destruction or illegal cutting occurred within  
42 500 feet of either side of the corresponding sign location measured along the edge of pavement  
43 of the main-travel way of the nearest controlled route and was willfully caused by the applicant,  
44 owner of the sign, owner of the sign permit, or any of their agents, employees or contractors,  
45 and there is substantial material evidence that the unlawful destruction or illegal cutting of  
46 vegetation would create, increase, or improve a view to the outdoor advertising sign for passing  
47 motorists from the main-traveled way of the nearest controlled route."

48     SECTION 6. Article 11 of Chapter 136 of the General Statutes is amended by  
49 adding a new section to read:

50     **"§ 136-133.2. Issuance or denial of a selective vegetation removal permit.**

1       (a) Except as provided in G.S. 136-133.1(f), permits to remove vegetation may be  
2 granted for outdoor advertising locations that have been permitted for at least two years prior to  
3 the date of application. The Department shall approve or deny an application submitted  
4 pursuant to this section, including the fee required by G.S. 136-18.7 and all required  
5 documentation, within 30 days of the receipt of an application for a selective vegetation  
6 removal permit. If written notice of approval or denial is not given to the applicant within the  
7 30-day period, then the application shall be deemed approved. If the application is denied, the  
8 Department shall advise the applicant, in writing, by registered or certified mail, return receipt  
9 requested, addressed to the party to be noticed, and delivering to the addressee, the reasons for  
10 the denial.

11       (b) The application shall be denied by the Department if any of the following apply:

- 12           (1) The application is for the opening of a view to an outdoor advertising sign  
13 which has been declared illegal, is currently the subject of litigation, or the  
14 outdoor advertising sign owner has received written notification of an  
15 investigation by the Department for impermissible activity.
- 16           (2) The application is for the opening of a view to an outdoor advertising sign  
17 that was obscured from view at the time of erection of the sign.
- 18           (3) Removal of vegetation will adversely affect the safety of the traveling  
19 public.
- 20           (4) Trees, shrubs, or other vegetation of any sort that are requested to be cut,  
21 thinned, pruned, or removed were planted in accordance with a local, State,  
22 or federal beautification or environmental project but only to the extent that  
23 such planting was done adjacent to and prior to the erection of the outdoor  
24 advertising sign the visibility of which is sought to be enhanced.
- 25           (5) Trees, shrubs, or other vegetation of any sort that are requested to be cut,  
26 thinned, pruned, or removed were planted in conjunction with a designed  
27 noise barrier, but only to the extent that such planting was done adjacent to  
28 and prior to the erection of the outdoor advertising sign the visibility of  
29 which is sought to be enhanced.
- 30           (6) The applicant, or his designee, has not performed satisfactory work  
31 authorized by previous permits issued under the provisions of this section.  
32 The Department may not deny an application for a permit if the work  
33 authorized by previous permits issued pursuant to this section was performed  
34 by a landscape architect or certified arborist.
- 35           (7) The selective vegetation removal, cutting, or pruning involves opening of a  
36 view to a junkyard.
- 37           (8) Unlawful destruction or illegal cutting of vegetation as defined in  
38 G.S. 136-133.1(g) has occurred within the past five years of the date of filing  
39 an application with the Department for a selective vegetation removal  
40 permit."

41       SECTION 7. Article 11 of Chapter 136 of the General Statutes is amended by  
42 adding a new section to read:

43       **"§ 136-133.3. Appeals of selective vegetation removal permit decisions.**

44       (a) An applicant for a selective vegetation removal permit issued pursuant to  
45 G.S. 136-133.2 may appeal a decision of the Department pertaining to the denial or  
46 conditioning of a permit for selective vegetation removal pursuant to the provisions of this  
47 section.

48       (b) Within 30 days of service of the Department's decision to deny or condition a  
49 selective vegetation removal permit issued pursuant to G.S. 136-133.4, the applicant shall  
50 submit a written appeal to the Secretary of Transportation setting forth with particularity the  
51 facts and arguments upon which the appeal is based. The appeal shall be sent to the Secretary

1 by registered or certified mail, return receipt requested, addressed to the Secretary, and  
2 delivering to the addressee, with a copy to the Department official who issued the decision.

3 (c) Upon receipt of the written appeal, the Secretary of Transportation shall review the  
4 written appeal and the Department's decision, as well as any available documents, exhibits, or  
5 other evidence bearing on the appeal, and shall render the agency's final decision, supported by  
6 findings of fact and conclusions of law. The final agency decision shall be served upon the  
7 appealing party by registered or certified mail, return receipt requested, addressed to the  
8 applicant, and delivering to the addressee, within 90 days after the Secretary receives the  
9 written appeal. A copy of the agency's final decision shall also be delivered to the Department  
10 official who issued the initial decision.

11 (d) A person aggrieved by a decision made pursuant to this section may seek judicial  
12 review of the final agency decision pursuant to G.S.136-134.1."

13 SECTION 8. Article 11 of Chapter 136 of the General Statutes is amended by  
14 adding a new section to read:

15 **"§ 136-133.4. Selective vegetation removal permits.**

16 (a) Selected vegetation within the approved limits shall be cut, thinned, pruned, or  
17 removed by the permittee or his agent in accordance with accepted International Society of  
18 Arboriculture (ISA) standards.

19 (b) Permits are valid for a period of one year. The permittee may cut, thin, prune, or  
20 remove vegetation more than one time per year. A 48-hour notification shall be provided to the  
21 Department by the permittee before entering the right-of-way.

22 (c) The permittee, or his agent, shall not impede the flow of traffic on any highway  
23 while performing vegetation removal authorized by a permit. Access to the work site on  
24 controlled access highways must be gained without using the main travel way of the highway.  
25 The division roadside environmental engineer shall determine the traffic control signage that  
26 may be required. The permittee shall furnish, erect, and maintain the required signs as directed  
27 by the division roadside environmental engineer. The permittee, or his agent, shall wear safety  
28 vests that conform to OSHA standards while performing the work.

29 (d) Any damage to vegetation designated to remain at the site, to highway fences, signs,  
30 paved areas, or other facilities shall be repaired or replaced by the permittee to the condition  
31 prior to the occurrence of the damage caused by the permittee or his agent. All trimmings, laps,  
32 and debris shall be removed from the right-of-way and disposed of in areas provided by the  
33 permittee. No burning or burying of trimmings, laps, or debris shall be permitted on the  
34 highway right-of-way. When chipping is used to dispose of trimmings, chips may be neatly  
35 spread on a right-of-way at locations which the Department determines will not be harmful to  
36 the environment or affect traffic safety.

37 (e) Willful failure to substantially comply with all the requirements specified in the  
38 selective vegetation removal permit, unless otherwise mutually resolved by the Department and  
39 the permittee, shall result in a five year moratorium for vegetation removal at the site, a  
40 summary revocation of the outdoor advertising permit if such willful failure meets the  
41 standards in G.S. 136-133.1(g), payment of Department investigative costs, and forfeiture of  
42 any applicable performance bond as determined by the Secretary. The moratorium shall begin  
43 upon execution of a settlement agreement or entry of a final disposition in the case."

44 SECTION 9. Article 11 of Chapter 136 of the General Statutes is amended by  
45 adding a new section to read:

46 **"§ 136-133.5. Denial of a permit for proposed outdoor advertising.**

47 (a) When a district engineer determines that a proposed outdoor advertising structure  
48 would not conform to the standards of outdoor advertising as set out in the Outdoor Advertising  
49 Control Act, the district engineer shall refuse to issue a permit for that proposed outdoor  
50 advertising structure.

1       (b) When a violation of the Outdoor Advertising Control Act has been discovered, the  
2 district engineer shall notify the permit applicant by registered or certified mail, return receipt  
3 requested, addressed to the party to be noticed, and delivering to the addressee, in writing, the  
4 reason for the denial and the statutes or rules forming the basis for the denial and include a  
5 copy of the Act.

6       (c) The Department shall not issue permits for new outdoor advertising signs at a sign  
7 location for a period of five years where the unlawful destruction or illegal cutting of  
8 vegetation has occurred within 500 feet on either side of the proposed sign location and as  
9 measured along the edge of pavement of the main travel way of the nearest controlled route.  
10 For the purposes of this section, unlawful destruction or illegal cutting is defined as the  
11 destruction or cutting of trees, shrubs, or other vegetation on the State-owned or maintained  
12 rights-of-way by anyone other than the Department or its authorized agents, or without written  
13 permission of the Department.

14       (d) Before a permit is denied pursuant to subsection (c) of this section, the Department  
15 shall determine and disclose to the applicant substantial material evidence that the unlawful  
16 destruction or illegal cutting was done by the applicant or the owner of the proposed sign or  
17 their agents, employees, or contractors and was performed for the purpose of creating,  
18 increasing, or improving a view to a proposed outdoor advertising sign from the main-traveled  
19 way of the nearest controlled route.

20       (e) The five-year period shall begin on the date the Department executes a settlement  
21 agreement or final disposition of the case is entered.

22       (f) Subject to subsection (d) of this section, the five-year prohibition period for a new  
23 sign permit shall apply to all sign locations, including the following:

- 24           (1) Sign locations where the unlawful destruction or illegal cutting of vegetation  
25 occurs prior to the time the location becomes a conforming location.
- 26           (2) Sign locations where a revocation of an existing permit has been upheld and  
27 a sign has been removed.
- 28           (3) Sign locations where the unlawful destruction or illegal cutting occurs prior  
29 to receipt of an outdoor advertising permit.
- 30           (4) Sign locations where the unlawful destruction or illegal cutting occurs  
31 following receipt of an outdoor advertising permit application, but prior to  
32 the issuance of the permit by the Department.

33       (g) The Department shall not issue permits for new outdoor advertising signs at a sign  
34 location where existing trees, if they were to reach the average mature size for that species,  
35 would make the proposed sign faces, when erected, not completely visible from the viewing  
36 zone. "Existing trees" are those trees that at the time of the permit application are four inches or  
37 greater in diameter as measured six inches from the ground. "Viewing zone" means the area  
38 which is 500 feet as measured along the edge of the main-traveled way of the controlled route  
39 on each side of the proposed sign structure which will have a sign face.

40       (h) An outdoor advertising permit requested pursuant to G.S. 136-129(a)(4) shall not be  
41 issued to a location if the zoning to commercial or industrial zones was adopted within one year  
42 prior to the filing of the permit application and is not part of comprehensive zoning or  
43 constitutes spot zoning, which, for purposes of this subsection, shall be defined as zoning  
44 designed primarily for the purpose of permitting outdoor advertising signs and in an area which  
45 would not normally permit outdoor advertising. Zoning shall not be considered "primarily for  
46 the purpose of permitting outdoor advertising signs" if the zoning would allow for the property  
47 to be used for more than one principal commercial or industrial use, other than outdoor  
48 advertising, and the size of the land being zoned can practically support such commercial or  
49 industrial uses.

50       (i) Outdoor advertising permits shall not be issued to a location for a period of 12  
51 months prior to the proposed letting of a new construction contract that may affect the spacing

1 or location requirements for an outdoor advertising structure until the project is completed. The  
2 prohibition authorized by this subsection shall not extend for a period longer than 18 months.  
3 Priority in spacing shall be given by the Department to the first submitted application for an  
4 outdoor advertising permit at the location.

5 (j) Outdoor advertising permits shall not be issued for a location on a North Carolina or  
6 United States route designated as a scenic byway."

7 **SECTION 10.** This act becomes October 1, 2011, and applies to permit  
8 applications or renewals submitted on or after that date and to offenses occurring on or after  
9 that date.



## SENATE BILL 183: Selective Vegetation Removal/State Highways

2011-2012 General Assembly

Committee: Senate Transportation  
Introduced by: Sen. Brown  
Analysis of: First Edition

Date: March 22, 2011  
Prepared by: Brenda J. Carter  
Committee Counsel

**SUMMARY:** *Senate Bill 183 would amend the State's Outdoor Advertising Control Act by establishing statutory standards for selective vegetation removal within the rights-of-way of the State highway system, increasing the fee for a selective vegetation removal permit, establishing standards for the issuance or denial of a selected vegetation removal permit, and establishing a process for appeals of selective vegetation removal permit decisions. The bill also establishes statutory provisions concerning the placement of outdoor advertising devices in conformity with DOT rules & regulations in certain industrial or commercial areas, and establishes a statutory procedure and standards for denial of a permit for proposed outdoor advertising. The bill would become effective October 1, 2011 and apply to permit applications or renewals submitted on or after that date and to offenses occurring on or after that date.*

**CURRENT LAW:** The Outdoor Advertising Control Act is set out in Article 11 of Chapter 136 of the General Statutes. The Act is intended to control the erection and maintenance of outdoor advertising devices in order to "preserve and enhance the natural scenic beauty of the highways and areas in the vicinity of the State highways and to promote the reasonable, orderly and effective display of such signs, displays and devices." G.S. 136-18 grants the Department of Transportation (DOT) the authority to "employ appropriate means for properly selecting, planting and protecting trees, shrubs, vines, grasses or legumes in the highway right-of-way in the promotion of erosion control, landscaping and general protection of said highways". Pursuant to its rulemaking authority, the Department has established a Selective Vegetation Removal Policy that is set out in the North Carolina Administrative Code. (Copy attached) The policy provides for selective thinning, pruning, replacement, relocation, or removal of vegetation within highway rights of way for the purpose of opening views to office, institutional, commercial and industrial facilities and legally erected forms of outdoor advertising which are located directly adjacent to State highway rights of way. When removal of vegetation is allowed, it must be performed by the permittee in compliance with the policy and at no cost to the Department of Transportation. Under G.S. 136-18.7, the fee for a selective vegetation removal permit is \$200.

**BILL ANALYSIS:** Senate Bill 183 would establish statutory standards for selective vegetation removal within the rights-of-way of the State highway system. It would also establish statutory standards for the erection of outdoor advertising. Many of the provisions in the bill are substantially similar to existing provisions of the North Carolina Administrative Code. The bill contains fee changes in Sections 1 and 4 and under Senate Rules, should be referred to Finance.

**Section 1** of the bill would increase the fee for a selective vegetation removal permit from \$200 to \$400 for each permitted site. The fee would be nonrefundable.

**Section 2** of the bill prohibits the removal of vegetation in or on any right of way of a State road or State highway without a written selective vegetation removal permit issued pursuant to provisions in the bill and in accordance with DOT rules. Requests for a permit would be made to the appropriate roadside environmental engineer in the Division of Highways office, on a form prescribed by DOT. Permits may be requested by the owner of an outdoor advertising sign or the owner of a business facility. The provision would apply to outdoor advertising that is in conformity with DOT rules & regulations and

# Senate Bill 183

Page 2

located in certain industrial or commercial areas. If the permit application is for a site located within a municipality, the municipality would have 30 days to review and comment on the application provided it has advised DOT in writing of its desire to review such applications and has identified the name of the local official who should receive notice. Local governments would be prohibited from regulating the removal of vegetation as authorized by DOT.

**Section 3** of the bill establishes a standard for determining the monetary value of trees removed from State rights-of-way. Values would be determined and published by DOT annually by December 15, for use in the following calendar year.

**Section 4** of the bill would amend the law concerning limitations of outdoor advertising devices, with regard to outdoor advertising that is in conformity with DOT rules & regulations and located in certain industrial or commercial areas. The bill would prohibit the location of two outdoor advertising structures less than 500 feet apart on the same side of an interstate or other route with fully controlled access, when located outside of a municipality. For routes without fully controlled access, the minimum distance between structures would be 300 feet outside the limits of an incorporated municipality, and 100 feet if located inside municipal limits. Automatic changeable facing signs (with moving or rotating panels or slats) would be permitted under specified conditions, and one such sign may not be placed within 1,500 feet of another. The bill provides for an initial fee of \$150 for outdoor advertising located in certain industrial or commercial areas, and \$90 for the annual renewal fee. \$30 of each initial and annual fee is to be used by DOT for highway beautification projects.

**Section 5** of the bill establishes standards for the cutting or removal of vegetation pursuant to a selective vegetation removal permit issued to the owner of an outdoor advertising sign. The bill prescribes a maximum cut or removal zone for each sign face. Native dogwoods and native redbuds would be preserved, and there are special provisions for identifying and marking existing trees. The permit applicant must submit a site plan to DOT, and DOT may conduct an on-site investigation. The bill sets out a procedure for resolving disputes concerning the accuracy of information on the site plan. Trees existing at the time the outdoor advertising sign was erected may only be removed if the applicant reimburses DOT for the established value of the trees or if the applicant agrees to remove two nonconforming signs for each sign at which the removal of trees is requested. Under specified conditions, a selective vegetation removal permit is not required for activities conducted from the private property side of a controlled access fence and with the consent of the landowner. In certain instances, DOT would have the authority to revoke an outdoor advertising permit for the unlawful destruction or illegal cutting of vegetation within highway right-of-way.

**Section 6** of the bill establishes standards for the issuance or denial of a selected vegetation removal permit. DOT would be required to approve or deny a permit within 30 day of receipt of the application; if no decision is conveyed in writing within the 30 day period, the application is deemed to be approved. Denial must be made in writing, by registered or certified mail, and must include reason for the denial. The bill requires that an application be denied when certain conditions apply.

**Section 7** establishes a process for appeals of selective vegetation removal permit decisions. An applicant would have 30 days in which to submit a written appeal, by registered or certified mail to the Secretary of Transportation, setting forth the facts and arguments upon which the appeal is based. The agency would be required to render a final decision within 90 days of receiving the written appeal. The bill provides that the aggrieved party may seek judicial review of the final agency decision.

**Section 8** requires that vegetation cutting or removal be done in accordance with accepted International Society of Arboriculture (ISA) standards. Selective vegetation removal permits would be valid for a period of 1 year and cutting or removal may occur more than one time during that year. The permittee must give a 48-hour notice to DOT before entering the right-of-way. Other terms and conditions are

# Senate Bill 183

Page 3

established concerning impeding the flow of traffic, access to the work site, traffic control signage, adherence to safety standards, property damage, and debris removal. Willful failure to comply with requirements specified in the permit could result in a 5-year moratorium for vegetation removal at the site or a summary revocation of the outdoor advertising permit.

**Section 9** establishes a procedure and standards for denial of a permit for proposed outdoor advertising. A district engineer would be required to refuse to issue a permit for a proposed outdoor advertising structure that would not conform to the standards of outdoor advertising as set out in the Outdoor Advertising Control Act. The applicant would be notified of the denial and the basis for the denial by registered or certified mail. In the case of a sign located at a site where the 5-year moratorium is in effect for the unlawful destruction or cutting of vegetation, before denying the permit DOT would be required to determine and disclose to the applicant evidence that the unlawful acts were done by the applicant or owner of the proposed sign and was performed for the purpose of creating or improving a view to a proposed outdoor advertising sign.

The bill would prohibit DOT from issuing permits for new outdoor advertising signs at a location where existing trees, if they were to reach mature height, would make the proposed sign faces not completely visible from the viewing zone. An outdoor advertising permit in an area zoned industrial or commercial under authority of State law could not be issued if the zoning was adopted within one year prior to the filing of the permit application and is not part of comprehensive zoning or represents spot zoning for the purpose of permitting outdoor advertising signs in an area that would not normally permit such signs. Outdoor advertising permits would also not be issued for certain locations where new construction contracts may affect spacing or location requirements for an outdoor advertising structure. Priority in spacing would be granted to the first submitted application for a permit at the location. DOT would also deny permits for locations on a State or US scenic byway.

**EFFECTIVE DATE:** The bill would become effective October 1, 2011 and apply to permit applications or renewals submitted on or after that date and to offenses occurring on or after that date.

SI83-SMRV-20(e1) v2

# Senate Bill 183

Page 4

## SELECTIVE VEGETATION REMOVAL POLICY. North Carolina Administrative Code

### 19A NCAC 02E .0601 PERMIT TO REMOVE VEGETATION

(a) In recognition of the State of North Carolina's desire to assure that high quality and aesthetically pleasing views are provided highway users, along with recognizing that, within certain specified limitations, businesses and certain business advertising are legitimate commercial uses of property adjacent to the highways and are an integral part of the State's business and marketing economy, permits for opening views to office, institutional, commercial, and industrial developments and legally erected forms of outdoor advertising, which border State highways, are provided by this Section.

(b) Selective thinning, pruning, replacement, relocation, or removal of vegetation within highway rights of way may be permitted only for opening views to office, institutional, commercial and industrial facilities and legally erected forms of outdoor advertising which are located directly adjacent to State highway rights of way. When such thinning, pruning, replacement, relocation, or removal of vegetation is allowed, it shall be performed by the permittee or his agent at no cost to the Department of Transportation and shall comply with this Section.

### 19A NCAC 02E .0602 REQUESTS FOR PERMITS

(a) Applications for selective vegetation thinning, pruning, or removal (exclusive of grasses) shall be made by the owner of the business or advertisement to the appropriate Division Engineer of the North Carolina Department of Transportation, Division of Highways. A fee of two hundred dollars (\$200.00) must accompany each application.

(b) Selective vegetation thinning, pruning, or removal shall be permitted only for the permittee's facilities adjacent to highway right of way at locations where such facilities have been constructed. The provisions shall not be used to provide visibility to undeveloped property.

(c) Applications must be accompanied by a sketch showing the requested limits of the selective thinning, pruning, or removal of vegetation. For outdoor advertising displays, these limits shall be restricted to a maximum cutting area for each sign face which shall be determined as follows:

- (1) The point located on the edge of the right of way which is the closest point to the center line of the sign face shall be point A;
- (2) The point located 100 feet down the right of way line in the direction of the sign viewing zone shall be point B;
- (3) The point on the edge of pavement of the travelway (not paved shoulder) which is the closest to the center line of the sign shall be point C;
- (4) The point 50 feet down the edge of pavement in the direction of the sign viewing zone from point C shall be point D;
- (5) The point 250 feet down the edge of pavement in the direction of the sign viewing zone from point C shall be point E; and
- (6) Lines drawn from point A to point D and from point B to point E shall define the limits of the cutting area (see diagrams that follow as examples of the application of this subsection).

The Department of Transportation shall determine compensatory tree replanting to be performed by the sign owner as a result of the ABED removal zone versus the previous 125-foot rectangular zone. Compensatory tree planting is required to replace trees removed in the new portion of the ABED zone. This replanting shall be inch for inch based on the caliper inches of trees removed in the ABED zone which are four inches and greater measured six inches above the ground. Location of replanting shall be areas of old 125-foot zone now not allowable to be cut by new ABED zone and locations within right of way on same route within one mile as designated by the Department where sign faces are blocked or will be blocked by existing trees in the 125-foot zone the ABED removal zone shall not be implemented. For commercial, industrial, institutional and office facilities, the limits of selective clearing or thinning shall be restricted to the area of right-of-way immediately adjacent to frontage property of the facility but not to exceed 1,000 linear feet.

(d) Applications for permits for vegetation cutting to be performed on State Highway right of way must be accompanied by written authorization(s) by the underlying fee owner(s) of all property upon which cutting is to take place, provided that where the right of way was secured in fee simple by the Department, such authorization shall not be required. The application must also be accompanied by written authorization of all owners of property abutting the area to be cut.

(e) The selective vegetation control request shall be investigated on site by Maintenance and Roadside Environmental personnel and a representative of the applicant.

# Senate Bill 183

Page 5

(f) If the application for vegetation cutting is for a site located within the corporate limits of a City or Town, local officials shall be given the opportunity to review the application if the City or Town has previously advised the Division Engineer of their desire to review such applications.

## **19A NCAC 02E .0603      ISSUANCE OR DENIAL OF PERMIT**

(a) Within 30 days following receipt of the application, the Division Engineer shall approve or deny the application. If the application is denied, the Division Engineer shall advise the applicant, in writing, of the reasons for denial.

(b) The application shall be denied by the Division Engineer if:

- (1) It requires removal of trees that were in existence before the business or advertisement was established. An existing tree shall be one that is four inches in diameter as measured six inches from the ground.
- (2) The application is for the opening of view to a sign or business which has been declared illegal or is currently involved in litigation with the department.
- (3) It is determined that the facility or advertisement is not screened from view.
- (4) The application is for the opening of view to an outdoor advertising sign which was obscured from view at the time of erection of the sign.
- (5) Removal of vegetation will adversely affect the safety of the traveling public.
- (6) Trees, shrubs, or other vegetation of any sort were planted in accordance with a local, State, or Federal beautification project.
- (7) Planting was done in conjunction with a designed noise barrier.
- (8) The applicant has not performed satisfactory work on previous requests under the provisions of the Rules in this Section (this may not be cause for denial if the applicant engages a landscape contractor to perform the work).
- (9) It involves opening of views to junkyards.
- (10) The application is contrary to ordinances or rules and regulations enacted by local government, within whose jurisdiction the work has been requested to be performed.

## **19A NCAC 02E .0604      CONDITIONS OF PERMIT**

(a) Selected vegetation within the approved limits shall be thinned, pruned, or removed by the Permittee or his agent in accordance with accepted horticultural practices recommended by North Carolina State University. Roadside environmental personnel shall identify specific trees, shrubs, and other vegetation which may be pruned, thinned, or removed.

(b) The Permittee may be required to furnish a performance bond or check in an amount determined by the Division Engineer to run concurrently with the permit, as deemed necessary to restore the right of way to the original condition if damage occurs.

(c) A Division of Highways Roadside Inspector shall be present while work is underway.

(d) Permits may be issued for multiple sites; however, a permit must be secured prior to performing any vegetation control work. Routine maintenance by the Permittee or his agent shall not be permitted.

(e) The Permittee or his agent shall not impede traffic on the highway in performing the work. Access to the work site on controlled access highways must be gained without using the main travelway of the highway. The Division Engineer shall determine traffic control signing which may be required. The Permittee shall furnish, erect and maintain the required signs as directed by the Division Engineer.

(f) Any damage to vegetation which is to remain, to highway fences, signs, paved areas, or other facilities shall be repaired or replaced by the Permittee to the satisfaction of the Division Engineer. All trimmings, laps, and debris shall be removed from the right of way and disposed of in areas provided by the Permittee. No burning or burying shall be permitted on the highway right of way. When chipping is used to dispose of trimmings, chips may be neatly spread on right of way at locations which the Division Engineer determines will not be harmful to the environment or traffic safety.

(g) Upon satisfactory completion of all work, the Roadside Inspector shall notify the Division Engineer who shall notify the Permittee in writing of such acceptance, terminate the permit, and return the performance bond or check.

(h) Failure to comply with all the requirements specified in the permit, unless otherwise mutually resolved, shall result in immediate revocation of the permit and forfeiture of any or all of the performance bond or check as determined by the Division Engineer based on conditions stated in Paragraph (b) of this Rule.

## VISITOR REGISTRATION SHEET

Senate Transportation Committee

Name of Committee

3/23/11

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE  
CLERK

NAME

FIRM OR AGENCY AND ADDRESS

John P. [Signature]

NCAAA

James For [Signature]

Wake Co.

Bob [Signature]

UCFA

Walter S. [Signature]

R. [Signature]

David McGowan

UCAR

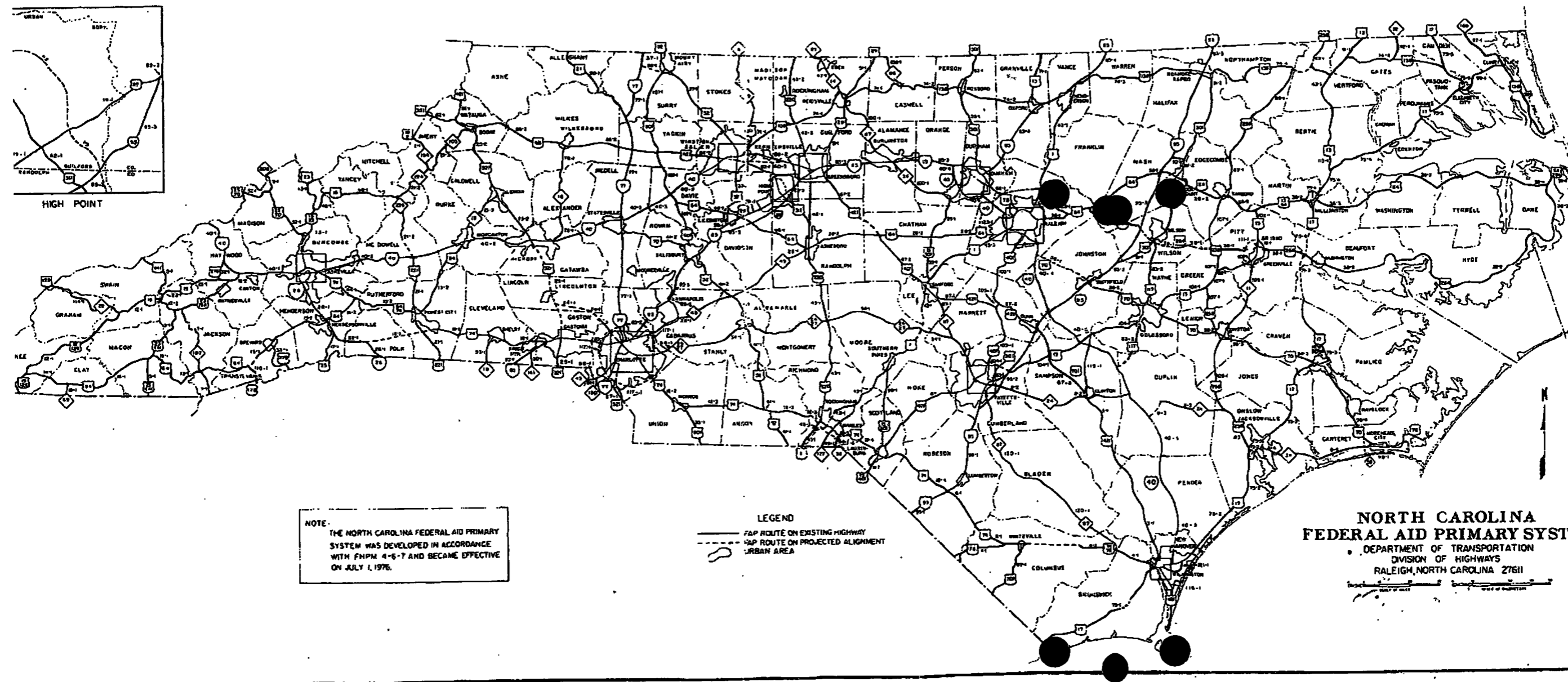
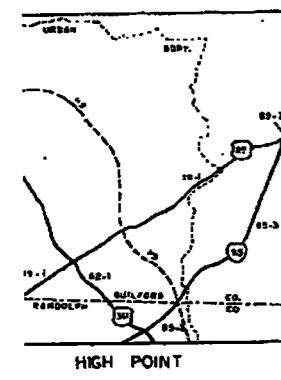
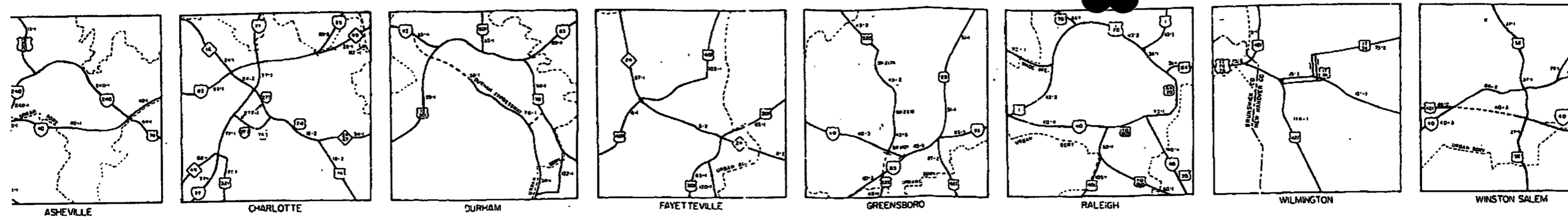
Jim [Signature]

Red Oak [Signature]

Bob [Signature]

Mr

EXHIBIT



NOTE:  
THE NORTH CAROLINA FEDERAL AID PRIMARY  
SYSTEM WAS DEVELOPED IN ACCORDANCE  
WITH FHPP 4-6-7 AND BECAME EFFECTIVE  
ON JULY 1, 1976.

LEGEND  
— FAP ROUTE ON EXISTING HIGHWAY  
--- FAP ROUTE ON PROJECTED ALIGNMENT  
■ URBAN AREA

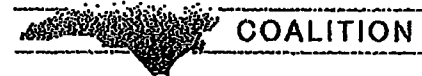
**NORTH CAROLINA  
FEDERAL AID PRIMARY SYSTEM**  
DEPARTMENT OF TRANSPORTATION  
DIVISION OF HIGHWAYS  
RALEIGH, NORTH CAROLINA 27611

Exhibit A



Exhibit B

North Carolina Metropolitan  
**MAYORS**



**DURHAM**  
Mayor William V. Bell  
Chair

**SALISBURY**  
Mayor Susan Klutitz  
Vice Chair

**GREENSBORO**  
Mayor Bill Knight  
Treasurer

**APEX**  
Mayor Keith Weatherly

**ASHEVILLE**  
Mayor Terry Bohn

**BOONE**  
Mayor Lorella Clawson

**BURLINGTON**  
Mayor Ronde Wolf

**CARRBORO**  
Mayor Mark Chilton

**CARY**  
Mayor Harold Weinbrecht

**CHAPEL HILL**  
Mayor Mark Kleinschmidt

**CHARLOTTE**  
Mayor Anthony Foxx

**CONCORD**  
Mayor J. Scott Padgett

**FAYETTEVILLE**  
Mayor Anthony Chavonne

**GASTONIA**  
Mayor Jennifer Stultz

**GOLDSBORO**  
Mayor Al King

**GREENVILLE**  
Mayor Pat Dunn

**HICKORY**  
Mayor Rudy Wright

**HIGH POINT**  
Mayor Robecca Smothers

**HUNTERSVILLE**  
Mayor J.R. Swain

**JACKSONVILLE**  
Mayor Sammy Phillips

**KANNAPOLIS**  
Mayor Robert Mischelmer

**MONROE**  
Mayor Bobby Kigore

**RALEIGH**  
Mayor Charles Meeker

**ROCKY MOUNT**  
Mayor David Combs

**WILSON**  
Mayor Bruce Rose

**WINSTON-SALEM**  
Mayor Allen Johnson

**WILMINGTON**  
Mayor Bill Saffo

**DIRECTOR**  
Julie White  
jwhite@ncm.org

215 N. Dawson St.  
Raleigh, NC 27603  
(919) 715-7885  
www.ncmetromayors.com

**RESOLUTION IN SUPPORT OF PRESERVING LOCAL CONTROL  
OVER NEW BILLBOARDS AND BILLBOARD CONVERSIONS**

Whereas the North Carolina Metropolitan Mayors Coalition has existed for ten years and represents the interests of twenty seven large and medium sized towns and cities across the state that contain more than three million people;

Whereas it has been reported that the billboard industry will be seeking legislation this session that would override local ordinances regulating new billboards and conversion of existing billboards to electronic/digital billboards;

Whereas decisions to allow new billboards and conversion of existing billboards to electronic/digital billboards require consideration of issues such as community aesthetics; traffic safety; location of schools, churches, and residences; public investment in particular areas; and the number and location of existing billboards in a community;

Whereas these considerations are local in nature, and the interests of citizen taxpayers, neighborhoods, and local businesses are best considered by local elected officials;

Whereas legislation passed in 2004 at the request of the billboard industry gave billboard companies new state rights to compensation in the event of billboard removal, and that legislation makes it prohibitively expensive to require removal of any billboard once it has been erected;

Whereas because of that legislation it is critically important that initial decisions regarding the allowance and siting of new billboards be carefully made at the local level, with consideration of all factors, interests, and impacts;

**NOW, THEREFORE**, be it resolved that the North Carolina Metropolitan Mayors Coalition opposes any new state legislation that would override local government ordinances regarding new billboards, conversions of existing billboards, or other applicable regulations for billboards.

This is 25<sup>th</sup> Day of February 2011

  
Durham Mayor William V. "Bill" Bell  
Chair, N.C. Metropolitan Mayors Coalition

IN PARTNERSHIP WITH THE N.C. LEAGUE OF MUNICIPALITIES

# VISITOR REGISTRATION SHEET

Senate Transportation Committee  
Name of Committee

3/23/11  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tim Craven	Fairway Outdoor Advertising
Drake Reed	Fairway Outdoor Advertising
David Crawford	AIANC
Heather Barnett	Williams Mullen
Tim Kent	NC Beer & Wine Wholesalers
John McEliff	MWCLLC
Herri Brewer	MWC
Kevin Leonard	WCACC
Tony Adams	NCQAA
Baile Morlidge	Adams Outdoor
Robert Moore	Riley Outdoor

## VISITOR REGISTRATION SHEET

Senate Transportation Committee  
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3/23/11  
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CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ken BOWERS	NCAPA Raleigh NC
Amy BASON	NCACE
Melissa Tinker	NCACE
Mark Woods	Robeson County Comm
Fred Bayliss	Smith Moore L.
Liza Martin	NC Home Builders
Cameron Moore	BASE
Forrest Gilliam	Governor's Office
Marty Scarborough	Fairway Outdoor Advertising
Kim Cordina	Fairway Outdoor Advertising
100/1. R. W.	Fairway Outdoor Adv.

## VISITOR REGISTRATION SHEET

Senate Transportation Committee  
Name of Committee

3/23/11  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE  
CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JAMAE MacINTYRE	LAMAR Outdoor
Aaron Gaulten	Fairway Outdoor Advertising
Benson Kirkman	Triangle JCOG Regional Appearance Comm.
Mary Belle Pace	SWCAC, Raleigh
Jon Nance	NCDOT
DON WEBB	NCDOT
Terry Gibson	NCDOT
ANNE SIMES	DNRA
Kay Emmanuel	Legislative Reporting Services
PAUL Meyer	NCLM
Dana Fenton	City of Charlotte

# VISITOR REGISTRATION SHEET

Senate Transportation Committee

Name of Committee

3/23/11  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE  
CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Julie White

~~THE~~ KENNE

Ray Groubej

The Herald-Sun

Steve Warner

Gateway Magnet

Cody Thomas

NLAR

Paul Hickman

Fairway OA

DAN O'SHEA

FAIRWAY

Dan Conrad

NCCN

Molly Higgins

Silva Chh

ANNE S. FRANKLIN

CITIZEN

Jack Betts

Chr. Obs.

Jim Morrill

Chr. Obs

Evelyn Steinhorn

ETG R

David Ferris

Van der

Daniel Amburn

NCLM

## MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

Wednesday, March 30, 2011  
11:00 AM, 1027 LB

The Senate Transportation Committee met on Wednesday, March 30, 2011, at 11:00 AM, in Room 1027 of the Legislative Building. Senator Harrington, Vice Chairman of the Committee, called the meeting to order.

Fourteen members of the committee were present, and Senator Harrington welcomed committee members, staff, and guests. She further acknowledged the following pages serving at today's meeting: Katherine Leak, Winston-Salem, sponsored by Senator Brunstetter, and James Ammons, Fayetteville, sponsored by Senator Mansfield

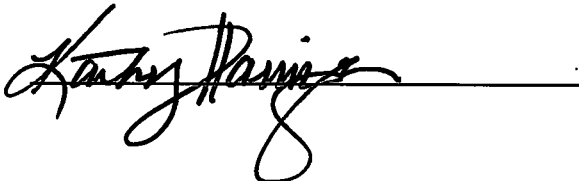
The first order of business was Senate Bill 416, School Buses/State Vehicles. Senator Harrington relinquished the gavel to Co-Chairman Rabon to preside. Senator Rabon recognized Senator Harrington to explain the bill. After an explanation of the bill, Senator Stevens moved for a favorable report. Motion carried.

Co-Chairman Rabon relinquished the gavel to Senator Harrington. Senator Harrington asked for a motion to allow the committee to take up H.B. 159, Military Service Notation on Licenses. Senator East moved that the rules be suspended so that the bill could be considered before the committee. Motion carried.

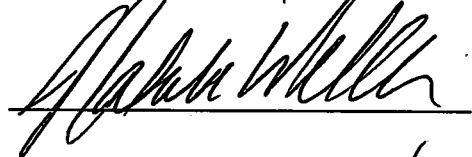
Senator Harrington recognized Representative Ken Goodman to explain the bill. After an explanation of the bill, Senator McKissick moved for a favorable report. Motion carried.

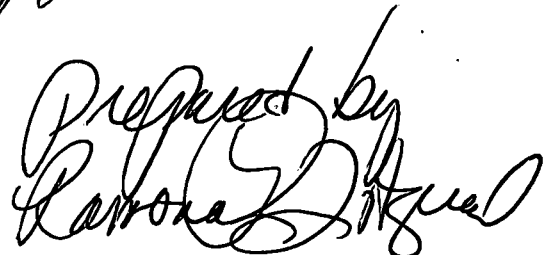
The meeting adjourned at 11:45 a.m.

Senator Kathy Harrington, Vice Chairman



Natalie Welch, Committee Clerk



Prepared by  


**Senate Transportation Committee**  
**Wednesday, March 30, 2011, 11:00 AM**  
**1027 LB**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills**

SB 416      School Buses/State Vehicles/Tires.

Senator Forrester  
Senator Harrington  
Senator Rabon

**Presentations**

**Other Business**

**Adjournment**

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**TRANSPORTATION COMMITTEE REPORT  
Senator James Forrester, Co-Chair  
Senator Bill Rabon, Co-Chair**

**CORRECTED REPORT**

Wednesday, March 30, 2011

Senator FORRESTER,  
submits the following with recommendations as to passage:

**FAVORABLE**

S.B.	416	School Buses/State Vehicles/Tires.	
		Sequential Referral:	None
		Recommended Referral:	None
H.B.(CS #1)	159	Military Service Notation on Licenses.	
		Sequential Referral:	None
		Recommended Referral:	None

**TOTAL REPORTED: 2**

Committee Clerk Comments:

HB 159- Senator Rabon

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 416

Short Title: School Buses/State Vehicles/Tires. (Public)

Sponsors: Senators Harrington, Rabon, Forrester; Allran, Apodaca, Bingham, Blake, Brock, Brown, Brunstetter, Clary, Daniel, Davis, East, Gunn, Hartsell, Hise, Hunt, Jackson, Jenkins, Mansfield, McKissick, Meredith, Pate, Preston, Soucek, Stevens, Tillman, and Tucker.

Referred to: Transportation.

March 24, 2011

A BILL TO BE ENTITLED  
AN ACT PROVIDING THAT THE STATE AND LOCAL BOARDS OF EDUCATION  
SHALL USE THE MOST COST-EFFICIENT TIRE RETREADS ON AND PRESERVE  
CRITICAL TIRE INFORMATION FOR STATE VEHICLES AND SCHOOL BUSES,  
RESPECTIVELY.

Whereas, on April 1, 2007, the Joint Legislative Transportation Oversight Committee contracted with Smithers Scientific Services of Akron, Ohio, to conduct a comparative analysis of quality, safety, and cost-effectiveness for the types of retread processes purchased through the State's statewide contract; and

Whereas, the final Smithers report, which was delivered on April 10, 2008, indicated that approximately 80% to 85% of the U.S. market for tire retreads is of the pre-cure type and approximately 15% to 20% is of the mold-cure type; and

Whereas, the final Smithers report indicated that the percentage of the bead-to-bead type of tire retread, which is a subset of the mold-cure type, in the U.S. market is "very small" and "unusual"; and

Whereas, the final Smithers report indicated that the retread tires with the lowest cost per mile is the pre-cure type and not the mold-cure type; and

Whereas, the bead-to-bead retread process removes critical tire information from the original tire sidewall, including tire brand name, tire line name, tire identification numbers, load and pressure markings, tire size designation, service descriptions such as load and speed ratings, and other specifications placed by the original manufacturer on the original tire sidewall; and

Whereas, the removal of critical tire information from the original tire sidewall can void the tire warranty, disallow identification of original tires in the case of a manufacturer recall, or disallow the identification of original tires in case of a tire-related accident; Now, therefore,

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 3 of Chapter 143 of the General Statutes is amended by adding a new section to read as follows:

**"§ 143-63.2. Purchase of tires for State vehicles; repair or refurbishment of tires for State vehicles.**

**(a) Definitions. – The following terms apply in this section:**



\* 4 1 6 - V - 1 \*

(1) State vehicle. – Any vehicle owned, rented, or leased by the State, or an institution, department, or agency of the State, that is driven on a public road consistently at speeds greater than 30 miles per hour.

(2) Critical tire information. – Tire brand name, tire line name, tire identification numbers, load and pressure markings, tire size designation, service descriptions such as load and speed ratings, and other information and specifications placed on the original tire sidewall by the original tire manufacturer.

(b) Forensic Tire Standards. – In order to preserve critical tire information, the Secretary of Administration and any institution, department, or agency of the State shall only procure and install tires for State vehicles that possess the original, unaltered, and uncovered tire sidewall. Furthermore, neither the Secretary of Administration nor any institution, department, or agency of the State shall execute a contract for the repair or refurbishment of tires for State vehicles that provides for the removal, covering, or other alteration in any manner of the critical tire information contained on the original tire sidewall.

(c) Tire Purchase and Contract Standards Applicability. – All contracts for the purchase, repair, or refurbishment of tires for State vehicles, or contracts for the purchase of products or services related to the repair or refurbishment of tires for State vehicles, executed on or after the date this section becomes effective shall comply with the provisions of this section."

SECTION 2. Article 17 of Chapter 115C of the General Statutes is amended by adding a new section to read as follows:

**"§ 115C-249.1. Purchase of tires for school buses; repair or refurbishment of tires for school buses.**

(a) Definitions. – The following terms apply in this section:

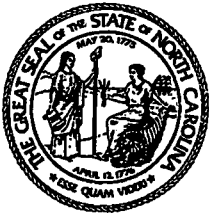
(1) School bus. – A vehicle as defined in G.S. 20-4.01(27)d3. and G.S. 20-4.01(27)d4. that is owned, rented, or leased by a local board of education.

(2) Critical tire information. – Tire brand name, tire line name, tire identification numbers, load and pressure markings, tire size designation, service descriptions such as load and speed ratings, and other information and specifications placed on the original tire sidewall by the original tire manufacturer.

(b) Forensic Tire Standards. – In order to preserve critical tire information, a local board of education shall only procure and install tires for school buses that possess the original, unaltered, and uncovered tire sidewall. Furthermore, a local board of education shall not execute a contract for the repair or refurbishment of tires for school buses that provides for the removal, covering, or other alteration in any manner of the critical tire information contained on the original tire sidewall.

(c) Tire Purchase and Contract Standards Applicability. – All contracts for the purchase, repair, or refurbishment of tires for school buses, or contracts for the purchase of products or services related to the repair or refurbishment of tires for school buses, executed on or after the date this section becomes effective shall comply with the provisions of this section."

SECTION 3. This act is effective when it becomes law.



# SENATE BILL 416: School Buses/State Vehicles/Tires

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Sens. Harrington, Rabon, Forrester  
**Analysis of:** First Edition

**Date:** March 29, 2011  
**Prepared by:** Giles S. Perry  
Committee Counsel

**SUMMARY:** *Senate Bill 416 requires the State, and local boards of education, to purchase tires for certain state vehicles, school buses, and activity buses that possess original, unaltered, and uncovered tire sidewalls.*

**CURRENT LAW:** Pursuant to Article 3 of Chapter 143, the Department of Administration, Division of Division of Purchase and Contract, administers a contract for the purchase of retreaded tires, used by State agencies and many local boards of education. The current contract, from October 1, 2010 to July 31, 2012, is multi-award, and includes contractors that provide both pre-cure and mold-cure (bead-to-bead) type retread tires.

## BILL ANALYSIS:

### Section 1 of the bill:

- amends the State's purchase and contract statutes by adding a new section concerning purchase of tires for State vehicles.
- defines "State vehicles" to mean vehicles owned, rented or leased by the State that is driven on a public road at speeds greater than 30 miles per hour. This section also defines "critical tire information" placed on the original tire sidewall by the manufacturer.
- requires the Secretary of Administration and institutions, departments, and agencies of the State to only purchase and install tires that possess the original, unaltered and uncovered tire sidewall.
- requires all contracts for tires executed on or after the effective date of the bill to comply with this section.

**Section 2** of the bill amends the State's education transportation statutes by adding a new section with requirements similar to Section 1, applicable to local board of education school buses and activity buses.

**EFFECTIVE DATE:** This act is effective when it becomes law.

S416-SMRW-45(e1) v1

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

H

3

**HOUSE BILL 159  
Committee Substitute Favorable 3/8/11  
Third Edition Engrossed 3/9/11**

Short Title: Military Service Notation on Licenses.

(Public)

Sponsors:

Referred to:

February 23, 2011

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO MAKE A NOTATION ON A NORTH CAROLINA DRIVERS LICENSE SHOWING A LICENSE HOLDER'S MILITARY VETERAN STATUS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-7(q) reads as rewritten:

"(q) Active Duty Military Designation. – The Division shall develop a military designation for drivers licenses that may, upon request, be granted to North Carolina residents on active duty and to their spouses and dependent children. A drivers license with a military designation on it may be renewed by mail no more than two times during the license holder's lifetime. A license renewed by mail under this subsection is a permanent license and does not expire when the license holder returns to the State. A drivers license with a military designation on it issued to a person on active duty may be renewed up to one year prior to its expiration upon presentation of military or Department of Defense credentials."

**SECTION 2.** Chapter 20 of the General Statutes is amended by adding a new subsection to read:

"(q1) Veteran Military Designation. – The Division shall develop a military designation for drivers licenses and identification cards that may, upon request, be granted to North Carolina residents who are honorably discharged from military service in the United States Armed Forces. An applicant requesting this designation must produce a Form DD-214 showing the applicant has been honorably discharged from the United States Armed Forces."

**SECTION 3.** This act becomes effective when the Division of Motor Vehicles has completed the implementation of the Division's Next Generation Secure Driver License System or July 1, 2012, whichever occurs first, and applies to drivers licenses issued on or after that date.



\* H 1 5 9 - V - 3 \*

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**TRANSPORTATION COMMITTEE REPORT  
Senator James Forrester, Co-Chair  
Senator Bill Rabon, Co-Chair**

Wednesday, March 30, 2011

Senator FORRESTER,  
submits the following with recommendations as to passage:

**FAVORABLE**

S.B.	<b>416</b>	School Buses/State Vehicles/Tires.	
		Sequential Referral:	None
		Recommended Referral:	None
H.B.(CS #1)	<b>159</b>	Military Service Notation on Licenses.	
		Sequential Referral:	None
		Recommended Referral:	None

**TOTAL REPORTED: 2**

Committee Clerk Comments:

# VISITOR REGISTRATION SHEET

~~Transportation~~  
Senate Finance Committee  
Name of Committee

<sup>30</sup>  
March 29, 2011  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Arnell Harrison	NC DOT
Cathy Griner	DOA P&C
RALPH EDELBERG	DOT/P&C
Russ Hunt	STI
Harry Price	Bestroads
Bobby Turner	Edway Time Corp
Bruce Thompson	PARCOR 100
Charlie Smith	Amer. Legion
Jff Joyner	American Legion
Richard Naville	American Legion
W. LARRY ROZIER	AMEC. LEGION

# VISITOR REGISTRATION SHEET

*Senate Finance Committee*  
Senate Finance Committee

*20*  
March 29, 2011

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME

FIRM OR AGENCY AND ADDRESS

ZEB ALLEY

AMERICAN LEGION

FRANK STANKE

AMERICAN LEGION

Terry Lewis

Manassas Turnpike Receiving, Inc.

Katherine Joyce

NCA SA

Caron Guntan

Fairway Outdoor Advertising

Tuan Dean

DS

Antoine Lyons

NKTS

## MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

Wednesday, April 6, 2011  
11:00 AM, 1027 LB

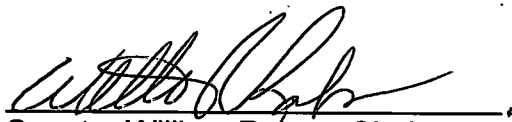
The Senate Transportation Committee met on Wednesday, April 6, 2011, at 11:00 AM, in Room 1027 of the Legislative Building. Senator Rabon, Co-Chairman of the Committee, called the meeting to order.

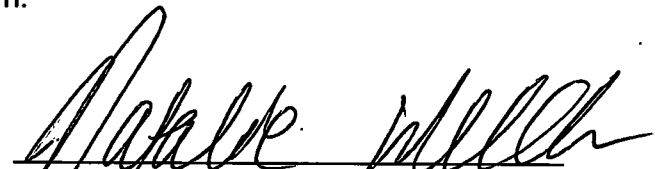
Fourteen members of the committee were present, and Senator Rabon welcomed committee members, staff, and guests. He further acknowledged the following pages serving at today's meeting: Michael Horton, Fayetteville, sponsored by Senator Meredith; Olivia Lanier, Jacksonville, sponsored by Senator Brown; and Carolina McMurry, Statesville, sponsored by Senator Forrester.


The first order of business was H. B. 113, Motorcycle Safety Act. Senator Rabon recognized Representative Killian to explain the bill. After an explanation of Senate Bill 113 by Representative Killian, Senator Vaughan moved for a favorable report. Motion Carried. The bill was re-referred to the Finance Committee.

Chairman Rabon stated that the next order of business was S.B. 187, Outlaw Red Light Camera Systems. He then recognized Senator East to explain the bill. Senator East offered Amendment 1 which was adopted. Senator McKissick offers Amendment No. 2 which was adopted. Senator Tillman moved for a favorable report of the bill, as amended. Motion carried. Senator Rabon stated the bill would be engrossed into a committee substitute bill for reporting purposes. Motion carried.

The meeting was adjourned at 11:55 a.m.

  
Senator William Rabon, Chairman

  
Natalie Welch, Committee Clerk

*prepared by*  


Principal Clerk  
Reading Clerk

\_\_\_\_\_  
\_\_\_\_\_

**SENATE**  
**NOTICE OF COMMITTEE MEETING**  
**AND**  
**BILL SPONSOR NOTICE**

The Senate Committee on **Transportation** will meet at the following time:

<b>DAY</b>	<b>DATE</b>	<b>TIME</b>	<b>ROOM</b>
Wednesday	April 6, 2011	11:00 AM	1027 LB

The following will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
HB 113	Motorcycle Safety Act.	Representative Killian
SB 187	Outlaw Red Light Camera Systems.	Senator East

Senator James Forrester, Co-Chair  
Senator Bill Rabon, Co-Chair

**Senate Transportation Committee**  
**Wednesday, April 6, 2011, 11:00 AM**  
**1027 LB**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills**

HB 113      Motorcycle Safety Act.

Representative Killian

SB 187      Outlaw Red Light Camera Systems.

Senator East

**Presentations**

**Other Business**

**Adjournment**

PUBLIC BILL

H.B. 0113

SESSION LAW \_\_\_\_\_

A BILL TO BE ENTITLED

AN ACT TO CREATE ADDITIONAL PROTECTIONS FOR MOTORCYCLISTS FROM UNSAFE MOVEMENTS BY OTHER VEHICLES.

Introduced by Representative(s): <sup>20</sup>Killian.

Rob W. Moore  
John

For a complete list of cosponsors for this bill, please see the report inside the bill jacket.

Principal Clerk's Use Only

PASSED 1st READING

FEB 17 2011

AND REFERRED TO COMMITTEE  
ON Transportation

Committee on Transportation  
being present, having considered  
recommend that it do ☒ pass.

Rps. Her J. Mills  
For the Committee

ORTED FAVORABLY MAR 0 2011

PURSUANT TO RULE 36(b)

MAR 4 2011

PLACED ON CALENDAR  
OF 3-3-11

Passed 2nd & 3rd Reading  
112-ZEV VV

MAR 02 2011

RECEIVED

MAR 4 2011

From House of Representatives  
By Clerk 12 8:25 AM PM

PASSED 1st READING

MAR 7 2011

AND REFERRED TO COMMITTEE  
ON Transp.

SEQUENTIAL REFERRAL:

Finance

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

1

HOUSE BILL 113

Short Title: Motorcycle Safety Act. (Public)

Sponsors: Representative Killian (Primary Sponsor).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Transportation.

February 17, 2011

A BILL TO BE ENTITLED  
AN ACT TO CREATE ADDITIONAL PROTECTIONS FOR MOTORCYCLISTS FROM  
UNSAFE MOVEMENTS BY OTHER VEHICLES.

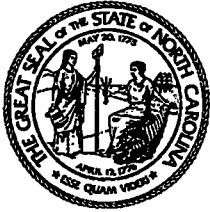
The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-154 is amended by adding a new subsection to read:

"(a1) A violation of subsection (a) of this section that causes a motorcycle operator to change travel lanes or leave that portion of any public street or highway designated as travel lanes shall be a Class 2 misdemeanor and shall require payment of a fine of not less than two hundred dollars (\$200.00). A violation of subsection (a) of this section that results in a crash causing property damage or personal injury to a motorcycle operator or passenger shall be a Class 1 misdemeanor and shall require payment of a fine of not less than five hundred dollars (\$500.00)."

SECTION 2. This act becomes effective December 1, 2011, and applies to offenses committed on or after that date.





# HOUSE BILL 113: Motorcycle Safety Act

2011-2012 General Assembly

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<b>Committee:</b>	Senate Ref to Transportation. If fav, re-ref to Finance	<b>Date:</b>	April 6, 2011
<b>Introduced by:</b>	Rep. Killian	<b>Prepared by:</b>	Wendy Graf Ray
<b>Analysis of:</b>	First Edition		Committee Counsel

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**SUMMARY:** *House Bill 113 would create an enhanced penalty for violation of an existing motor vehicle law, which requires drivers to check for safety and then signal before making certain movements, if the violation causes a motorcycle to leave its travel lane or results in a crash causing property damage or injury to a motorcycle operator.*

**CURRENT LAW:** G.S. 20-154(a) (see complete text of statute below) requires the driver of a vehicle to do the following before starting, stopping, or turning, from a direct line, which includes changing lanes:

- First see that the movement can be made in safety; and
- If a pedestrian or another vehicle may be affected by the movement, give an appropriate signal

Violation is an infraction, punishable by a fine of not more than \$100.

**BILL ANALYSIS:** House Bill 113 would add a new subsection (a1) to G.S. 20-154, which would provide for an enhanced penalty when a driver violates G.S. 20-154(a), and the violation causes a motorcycle operator to change lanes or leave a travel lane, or if the violation results in a crash that causes property damage or personal injury to a motorcycle operator or passenger.

A violation that causes a motorcycle operator to change or leave a travel lane would be a Class 2 misdemeanor and would require payment of a fine not less than \$200. Assuming no prior convictions, the maximum penalty would be 30 days of community punishment and a fine up to \$1,000 but not less than \$200.

A violation that results in a crash that causes property damage or personal injury to a motorcycle operator or passenger would be a Class 1 misdemeanor and would require payment of a fine not less than \$500. Assuming no prior convictions, the maximum penalty would be 45 days of community punishment and a fine in the discretion of the court but not less than \$500.

**EFFECTIVE DATE:** The bill would become effective December 1, 2011, and would apply to offenses committed on or after that date.

**§ 20-154. Signals on starting, stopping or turning.**

(a) The driver of any vehicle upon a highway or public vehicular area before starting, stopping or turning from a direct line shall first see that such movement can be made in safety, and if any pedestrian may be affected by such movement shall give a clearly audible signal by sounding the horn, and whenever the operation of any other vehicle may be affected by such movement, shall give a signal as required in this section, plainly visible to the driver of such other vehicle, of the intention to make such movement. The driver of a vehicle shall not back the same unless such movement can be made with safety and without interfering with other traffic.

(b) The signal herein required shall be given by means of the hand and arm in the manner herein specified, or by any mechanical or electrical signal device approved by the Division, except that when a vehicle is so constructed or loaded as to prevent the hand and arm signal from being visible, both to the front and rear, the signal shall be given by a device of a type which has been approved by the Division.

# House Bill 113

Page 2

Whenever the signal is given the driver shall indicate his intention to start, stop, or turn by extending the hand and arm from and beyond the left side of the vehicle as hereinafter set forth.

Left turn – hand and arm horizontal, forefinger pointing.

Right turn – hand and arm pointed upward.

Stop – hand and arm pointed downward.

All hand and arm signals shall be given from the left side of the vehicle and all signals shall be maintained or given continuously for the last 100 feet traveled prior to stopping or making a turn. Provided, that in all areas where the speed limit is 45 miles per hour or higher and the operator intends to turn from a direct line of travel; a signal of intention to turn from a direct line of travel shall be given continuously during the last 200 feet traveled before turning.

Any motor vehicle in use on a highway shall be equipped with, and required signal shall be given by, a signal lamp or lamps or mechanical signal device when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds 24 inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds 14 feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles except combinations operated by farmers in hauling farm products.

(c) No person shall operate over the highways of this State a right-hand-drive motor vehicle or a motor vehicle equipped with the steering mechanism on the right-hand side thereof unless said motor vehicle is equipped with mechanical or electrical signal devices by which the signals for left turns and right turns may be given. Such mechanical or electrical devices shall be approved by the Division.

(d) A violation of this section shall not constitute negligence per se.

*H113-SMSU-19(e1) v1*

S.B. 187

SESSION LAW \_\_\_\_\_

**A BILL TO BE ENTITLED**

**AN ACT TO MAKE THE USE OF PHOTOGRAPHIC CAMERA SYSTEMS TO REGULATE TRAFFIC UNLAWFUL.**

*Introduced by Senator(s)*

East

*W. E. D.*

*Vaughan*

*Principal Clerk's Use Only*

**FILED MAR 2 2011**

**PASSED 1st READING**

**MAR 3 2011**

**AND REFERRED TO COMMITTEE**

**ON**

**TRANSP**

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 187

Short Title: Outlaw Red Light Camera Systems. (Public)

Sponsors: Senators East; and Hise.

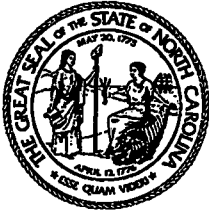
Referred to: Transportation.

March 3, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE THE USE OF PHOTOGRAPHIC CAMERA SYSTEMS TO  
3 REGULATE TRAFFIC UNLAWFUL.  
4 The General Assembly of North Carolina enacts:  
5 SECTION 1. G.S. 160A-300.1 is repealed.  
6 SECTION 2. S.L. 2001-286 is repealed.  
7 SECTION 3. S.L. 2003-380 is repealed.  
8 SECTION 4. Sections 2, 3, 4, and 5 of S.L. 2003-380 are repealed.  
9 SECTION 5. Section 6 of S.L. 2003-380 reads as rewritten:  
10 "SECTION 6. This act is effective when it becomes law. ~~Section 5 of this act expires June~~  
11 ~~30, 2006.~~"  
12 SECTION 6. Sections 3 and 4 of S.L. 2004-141 are repealed.  
13 SECTION 7. Section 4 of S.L. 2005-117 reads as rewritten:  
14 "SECTION 4. The following acts are not affected by this act:  
15 Chapter 1275, Session Laws of 1979 (removal of areas from the corporate  
16 limits)  
17 Chapter 279, Session Laws of 1989 (closing streets in ETJ)  
18 Chapter 27, Session Laws of 1993 (removal of areas from the corporate  
19 limits and addition of areas to the corporate limits)  
20 Chapter 137, Session Laws of 1993 (acquisition of street right-of-way  
21 outside the corporate limits)  
22 Chapter 325, Session Laws of 1993 (motor vehicle tax)  
23 S.L. 1998-192 (Swift Creek Management Plan)  
24 S.L. 2000-108 (removal, replacement, and preservation of trees and shrubs)  
25 S.L. 2001-191 (clear-cutting of trees in buffer zones, protection of specimen  
26 trees)  
27 S.L. 2001-245 (expending funds on roads outside the corporate limits)  
28 S.L. 2003-74 (acquisition of property for utilities)  
29 ~~S.L. 2001-286 (red light cameras)~~  
30 S.L. 2005-41 (reimbursement agreements)."  
31 SECTION 8. Sections 17, 18, and 19 of S.L. 2010-132 are repealed.  
32 SECTION 9. Article 15 of Chapter 160 of the General Statutes is amended by  
33 adding a new section to read:  
34 "§ 160A-300.1A. Traffic control photographic systems unlawful.  
35 It shall be unlawful for any person to operate a traffic control photographic system in this  
36 State. A violation of this section is a Class 1 misdemeanor and shall result in the forfeiture of  
37 any photographic system used for traffic control."



1           **SECTION 10.** Sections 1 through 8 and Section 10 of this act are effective when  
2 this act becomes law. Section 9 of this act becomes effective December 1, 2011, and applies to  
3 offenses committed on or after that date.



# SENATE BILL 187: Outlaw Red Light Camera Systems

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Sen. East  
**Analysis of:** First Edition

**Date:** April 5, 2011  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *Senate Bill 187 would repeal various laws that authorize municipalities to adopt ordinances for the civil enforcement of traffic violations by means of traffic control photographic systems, and make the use of such systems unlawful.*

**CURRENT LAW:** Under G.S. 20-158, it is unlawful for the driver of any vehicle to fail to stop in obedience to a red-light or a stop sign. Violation is an infraction, punishable by a fine up to \$100.

Beginning in 1997, the legislature has granted specified municipalities the authority to adopt ordinances for the civil enforcement of traffic light offenses by means of a traffic control photographic system known as a "red light camera." The provisions were eventually codified in G.S. 160A-300.1, which applies to the Cities of Albemarle, Charlotte, Durham, Fayetteville, Greensboro, Greenville, High Point, Locust, Lumberton, Newton, Rocky Mount, and Wilmington, to the Towns of Chapel Hill, Cornelius, Huntersville, Matthews, Nags Head, Pineville, and Spring Lake, and to the municipalities in Union County. Similar provisions were enacted for Wake County and the City of Concord.

A number of municipalities abandoned the use of red light cameras following what was deemed to be an unfavorable decision in a case concerning High Point's red light camera program. (*Shavitz v. City of High Point*, 177 N.C.App. 465). Article IX, Section 7 of the North Carolina Constitution directs that the clear proceeds of all fines and penalties collected for any breach of the State's penal laws be given to the public schools. The court in *Shavitz* ruled that red light violations are subject to Article IX, Section 7 as a violation of the State penal law, and therefore, the clear proceeds of the fines and penalties collected must go to public schools. Red light cameras are still in use in three municipalities in Wake County – Cary, Knightdale, and Raleigh – and in Wilmington.

**BILL ANALYSIS:** Senate Bill 187 would repeal the statute that allows certain municipalities to use red-light cameras as a traffic control device. The bill would also repeal various Session Laws pertaining to the authority of certain municipalities to use traffic control photographic systems, and would enact a new statute making it unlawful to operate a traffic control photographic system. Violation would be punishable as a Class 1 misdemeanor, and result in forfeiture of the photographic system.

**EFFECTIVE DATE:** The misdemeanor offense of operating a traffic control photographic system would become effective December 1, 2011 and apply to offenses occurring on or after that date. The remainder of the bill would be effective when it becomes law.

S187-SMRV-24(e1) v1



**NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
Senate Bill 187**

AMENDMENT NO. \_\_\_\_\_  
(to be filled in by  
Principal Clerk)

Page 1 of 1

S187-ARV-7 [v.1]

Comm. Sub. [NO]  
Amends Title [NO]  
First Edition

Date \_\_\_\_\_, 2011

Senator \_\_\_\_\_

- 1 moves to amend the bill on page 1, line 7 by deleting "S.L. 2003-380" and substituting "S.L.  
2 2003-280".

SIGNED \_\_\_\_\_  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_



\* S 1 8 7 - A R V - 7 - V - 1 \*



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
Senate Bill 187

AMENDMENT NO. 1  
(to be filled in by  
Principal Clerk)

S187-ARV-7 [v.1]

Comm. Sub. [NO]  
Amends Title [NO]  
First Edition

Page 1 of 1

Date 4/6/2011 ,2011

Senator East

- 1 moves to amend the bill on page 1, line 7 by deleting "S.L. 2003-380" and substituting "S.L.  
2 2003-280".

SIGNED [Signature]  
Amendment Sponsor

SIGNED [Signature]  
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_



\* S 1 8 7 - A R V - 7 - V - 1 \*

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. \_\_\_\_\_

H. B. No. \_\_\_\_\_

S. B. No. 187

DATE 4/6/201

Amendment No. 2

(to be filled in by  
Principal Clerk)

COMMITTEE SUBSTITUTE \_\_\_\_\_

Rep. )

Ser. )

McKissick

1 moves to amend the bill on page 1, line 36

2 ( ) WHICH CHANGES THE TITLE

3 by inserting after the word "State" the following  
4 for the purpose of enforcing the provisions of  
5 G.S. 20-158"

6 \_\_\_\_\_

3 \_\_\_\_\_

9 \_\_\_\_\_

10 \_\_\_\_\_

11 \_\_\_\_\_

12 \_\_\_\_\_

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14 \_\_\_\_\_

15 \_\_\_\_\_

16 \_\_\_\_\_

17 \_\_\_\_\_

18 \_\_\_\_\_

19 \_\_\_\_\_

SIGNED

[Signature]

ADOPTED

[Signature]

FAILED

TABLED

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE BILL 187  
PROPOSED COMMITTEE SUBSTITUTE S187-PCS85146-RV-7

Short Title: Outlaw Red Light Camera Systems.

(Public)

Sponsors:

Referred to:

March 3, 2011

A BILL TO BE ENTITLED  
AN ACT TO MAKE THE USE OF PHOTOGRAPHIC CAMERA SYSTEMS TO  
REGULATE TRAFFIC UNLAWFUL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-300.1 is repealed.

SECTION 2. S.L. 2001-286 is repealed.

SECTION 3. S.L. 2003-280 is repealed.

SECTION 4. Sections 2, 3, 4, and 5 of S.L. 2003-380 are repealed.

SECTION 5. Section 6 of S.L. 2003-380 reads as rewritten:

"SECTION 6. This act is effective when it becomes law. ~~Section 5 of this act expires June 30, 2006.~~"

SECTION 6. Sections 3 and 4 of S.L. 2004-141 are repealed.

SECTION 7. Section 4 of S.L. 2005-117 reads as rewritten:

"SECTION 4. The following acts are not affected by this act:

Chapter 1275, Session Laws of 1979 (removal of areas from the corporate limits)

Chapter 279, Session Laws of 1989 (closing streets in ETJ)

Chapter 27, Session Laws of 1993 (removal of areas from the corporate limits and addition of areas to the corporate limits)

Chapter 137, Session Laws of 1993 (acquisition of street right-of-way outside the corporate limits)

Chapter 325, Session Laws of 1993 (motor vehicle tax)

S.L. 1998-192 (Swift Creek Management Plan)

S.L. 2000-108 (removal, replacement, and preservation of trees and shrubs)

S.L. 2001-191 (clear-cutting of trees in buffer zones, protection of specimen trees)

S.L. 2001-245 (expending funds on roads outside the corporate limits)

S.L. 2003-74 (acquisition of property for utilities)

~~S.L. 2001-286 (red light cameras)~~

S.L. 2005-41 (reimbursement agreements)."

SECTION 8. Sections 17, 18, and 19 of S.L. 2010-132 are repealed.

SECTION 9. Article 15 of Chapter 160 of the General Statutes is amended by adding a new section to read:

**"§ 160A-300.1A. Traffic control photographic systems unlawful.**



\* S 1 8 7 - P C S 8 5 1 4 6 - R V - 7 \*

1        It shall be unlawful for any person to operate a traffic control photographic system in this  
2        State for the purpose of enforcing the provisions of G.S. 20-158. A violation of this section is a  
3        Class 1 misdemeanor and shall result in the forfeiture of any photographic system used for  
4        traffic control."

5        **SECTION 10.** Sections 1 through 8 and Section 10 of this act are effective when  
6        this act becomes law. Section 9 of this act becomes effective December 1, 2011, and applies to  
7        offenses committed on or after that date.

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**TRANSPORTATION COMMITTEE REPORT  
Senator James Forrester, Co-Chair  
Senator Bill Rabon, Co-Chair**

Wednesday, April 06, 2011

Senator RABON,  
submits the following with recommendations as to passage:

**FAVORABLE**

H.B.	113	Motorcycle Safety Act.	
		Sequential Referral:	Finance
		Recommended Referral:	None

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL**

S.B.	187	Outlaw Red Light Camera Systems.	
		Draft Number:	PCS85146
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	No

**TOTAL REPORTED: 2**

**Committee Clerk Comments:**

HB113- Senator Rabon, Senator Forrester

# VISITOR REGISTRATION SHEET

Senate Transportation Committee

Name of Committee

April 6, 2011

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

FIRM OR AGENCY AND ADDRESS

Pat Gannon	Wilmington StarNews
Katherine Joyce	NCAAA
Caplan Payne	MVC
Mike Farrell	NCSBA
Cherie Phua	NCDMA
Suzanne Swell	NCLMA
Gene Cawby	NCLMA
DAN O'SHEA	NCOAA
Melissa Lovell	NCDJ
Paul Perry	AdJ
JGOODMAN	NCCAMRA

## VISITOR REGISTRATION SHEET

Senate Transportation Committee

April 6, 2011

Name of Committee

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME	FIRM OR AGENCY AND ADDRESS
LANA HYGH	Town of Cary
DOC SKI	CBA/ABATE - NC BIKEDAC
Ben Meray	NC DOT
Brad Trahan	Ric Killian
Allison Fowler	NC Grange
Ken Bangle	RLUC
Caroline Papp	RLUC
Haley Faw	Saint Mary's (NC DOT)
Aura Sowe	Saint Mary's (NC DOT)
CHARLIE BOONE	CBA OF NC

## VISITOR REGISTRATION SHEET

## Senate Transportation Committee

**Name of Committee**

April 6, 2011

**Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

**NAME****FIRM OR AGENCY AND ADDRESS**

PRESTON HOWARD MCIC

Tony Adams	NCAA

## MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

Wednesday, April, 20, 2011  
11:00 AM, 1027 LB

The Senate Transportation Committee met on Wednesday, April 20, 2011, at 11:00 AM, in Room 1027 of the Legislative Building. Senator Rabon, Co-Chairman of the Committee, called the meeting to order.

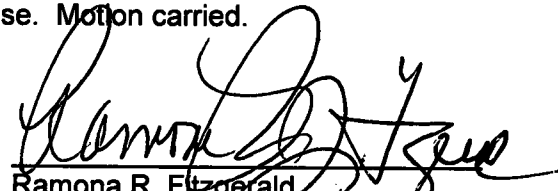
Sixteen members of the committee were present, and Senator Rabon welcomed committee members, staff, and guests. He further acknowledged the following pages serving at today's meeting: Grayson Bennett, Allie Drexler, Sam Holmes, and Tyler Jackson, all of Raleigh, sponsored by Senator Hunt; Maddie Fleming, Elon, sponsored by Senator Gunn; and Ethan Johns, Burlington, sponsored by Senator Gunn.

The first order of business was Senate Bill 315, Roadside Campaign Signs, sponsored by Senators Daniel, Brock, and Doug Berger. Senator Rabon recognized Senator Daniel to explain the bill. After an explanation of Senate Bill 315 by Senator Daniel, Chairman Rabon recognized committee members for comments and questions regarding the bill. Senator Tillman moved that the bill be removed from today's calendar. Motion Carried.

The next order of business was S.B. 461, Amend Weight Limits for Farm Products, sponsored by Senator Tucker. Senator Forrester moved that the proposed committee substitute bill be brought before the committee for discussion purposes. Motion carried. Senator Rabon then recognized Senator Tucker to explain the bill. After a discussion of the committee substitute bill, Senator Jenkins moved for a favorable report of the committee substitute bill, seconded by Senator McKissick. Motion carried.

H.B. 336, Amend Weight Requirements-Certain Vehicles, sponsored by Representatives Lewis and Frye was the next item of business to be discussed. Senator Rabon recognized Senator Gunn to explain the bill. After a discussion of the committee substitute bill, Senator Rabon recognized Mr. John Nance, of the North Carolina Department of Transportation, who spoke to the bill. Senator Tillman then offered Amendment No. 1, which was adopted. Senator Tillman moved for a favorable report of the committee substitute bill, as amended, and further that the amended committee substitute bill be engrossed into a Senate Committee Substitute bill for reporting purposes, seconded by Senator Hise. Motion carried.

The meeting adjourned at 11:38 a.m.

  
Senator William Rabon, Chairman  
Ramona R. Fitzgerald,  
Committee Clerk

Principal Clerk \_\_\_\_\_  
Reading Clerk \_\_\_\_\_

Additional Corrected Notice – Removed SB 183

**SENATE**  
**NOTICE OF COMMITTEE MEETING**  
**AND**  
**BILL SPONSOR NOTICE**

The Senate Committee on **Transportation** will meet at the following time:

<b>DAY</b>	<b>DATE</b>	<b>TIME</b>	<b>ROOM</b>
Wednesday	April 20, 2011	11:00 AM	1027 LB

The following will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
SB 315	Roadside Campaign Signs.	Senator Brock Senator Berger Senator Daniel Senator Tucker
SB 461	Amend Weight Limits for Farm Products.	
HB 336	Amend Weight Requirements-Certain Vehicles.	Representative Lewis Representative Frye

Senator James Forrester, Co-Chair  
Senator Bill Rabon, Co-Chair

**Senate Transportation Committee**  
**Wednesday, April 20, 2011, 11:00 AM**  
**1027 LB**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills**

SB 315	Roadside Campaign Signs.	Senator Brock Senator Berger Senator Daniel Senator Tucker
SB 461	Amend Weight Limits for Farm Products.	
HB 336	Amend Weight Requirements-Certain Vehicles.	Representative Lewis Representative Frye

**Presentations**

**Other Business**

**Adjournment**

S.B. 315

SESSION LAW \_\_\_\_\_

## A BILL TO BE ENTITLED

AN ACT TO PERMIT CAMPAIGN SIGNS IN STATE HIGHWAY RIGHTS-OF-WAY WITH REASONABLE  
TIME, PLACE, AND MANNER RESTRICTIONS.Introduced by Senator(s)  
(Primary Sponsors)

*PATE*  
*Buck*

Daniel

*Daniel*  
*Paul E. H. H.*  
*Paul E. H. H.*  
*Paul E. H. H.*

D. Berger

*D. Berger*  
*D. Berger*  
*D. Berger*  
*D. Berger*

Brock

*Brock*  
*Brock*  
*Brock*  
*Brock*

Principal Clerk's Use Only

FILED MAR 10 2011

PASSED 1st READING

MAR 14 2011

AND REFERRED TO COMMITTEE

ON

*Transp.*

SEQUENTIAL REFERRAL:

*Finance*

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2011

S

1

SENATE BILL 315

Short Title: Roadside Campaign Signs.

(Public)

Sponsors: Senators Daniel, D. Berger, Brock; Apodaca, Brown, Goolsby, Harrington, Hise, Jackson, Kinnaird, Newton, Pate, and Rabon.

Referred to: Transportation.

March 14, 2011

A BILL TO BE ENTITLED

AN ACT TO PERMIT CAMPAIGN SIGNS IN STATE HIGHWAY RIGHTS-OF-WAY WITH REASONABLE TIME, PLACE, AND MANNER RESTRICTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-32 reads as rewritten:

"§ 136-32. ~~Other than official signs prohibited.~~ Regulation of signs.

(a) Commercial Signs. – No unauthorized person shall erect or maintain upon any highway any warning or direction sign, marker, signal or light or imitation of any official sign, marker, signal or light erected under the provisions of G.S. 136-30, except in cases of emergency. No person shall erect or maintain upon any highway any traffic or highway sign or signal bearing thereon any commercial advertising or political advertising, except as provided in subsections (b) through (f) of this section: Provided, nothing in this section shall be construed to prohibit the erection or maintenance of signs, markers, or signals bearing thereon the name of an organization authorized to erect the same by the Department of Transportation or by any local authority referred to in G.S. 136-31. Any person who shall violate any of the provisions of this section shall be guilty of a Class 1 misdemeanor. The Department of Transportation or any person may remove any signs that have been erected without authority, authority or allowed to remain beyond the deadline established in subsection (b) of this section.

(b) Compliant Political Signs Permitted. – During the period beginning on the 30<sup>th</sup> day before the beginning date of "one-stop" early voting under G.S. 163-227.2 and ending on the 10<sup>th</sup> day after the primary or election day, persons may place political signs in the right-of-way of the State highway system as provided in this subsection. A person may place signs in the right-of-way of the State highway system if all the following conditions are met:

(1) The person obtains a permit from the State Board of Elections or the county board of elections as provided in this section. The board shall issue a permit to any person who signs a certification that the person understands and agrees to adhere to the requirements of this section.

(2) The person places the signs in compliance with rules adopted by the Department. The Department shall adopt rules in accordance with subsection (d) of this section.

(3) The person removes the signs by the 10<sup>th</sup> day after the primary or election date.

(c) Definition. – The term "political sign" is any sign that advocates for political action. The term does not include a commercial sign.



1        (d) Rules to Be Adopted by the Department. – The Department shall adopt rules for  
2 sign placement as provided by subsection (b) of this section. Those rules shall include the  
3 following:

- 4            (1) Designations of the portion of the State highway system right-of-way where  
5 signs are permitted and specifications of the types of signs that are  
6 permitted. The Department's rules shall adhere to the following:  
7            a. No sign shall be permitted in the right-of-way of a fully controlled  
8 access highway.  
9            b. No sign shall be closer than three feet from the edge of the pavement  
10 of the road.  
11            c. No sign shall be permitted closer than 50 feet from an intersection.  
12 That distance shall be measured from the edge of the pavements of  
13 the intersecting roads.  
14            d. No sign shall be permitted higher than 42 inches above the edge of  
15 the pavement of the road.  
16            e. No sign shall be larger than 576 square inches.  
17            f. No sign shall be permitted that obscures or replaces another  
18 permitted sign.  
19            (2) The requirement that the permittee obtain the permission of any property  
20 owner of a residence, business, or religious institution fronting the  
21 right-of-way where a sign would be erected.

22        (e) Procedures to Be Adopted by State Board of Elections: – The State Board of  
23 Elections shall adopt uniform procedures for the issuance of permits. The procedures shall  
24 provide for all of the following:

- 25            (1) A means for candidates to apply for and receive permits as a part of the  
26 process of filing notice of candidacy.  
27            (2) A means for candidates and noncandidates to apply for and receive permits  
28 at other times during the period specified in subsection (b) of this section.  
29            (3) Standard certification forms that explain the requirements of this section and  
30 of G.S. 163-33.3.  
31            (4) Reasonable specificity as to the kind of sign permitted and as to the places  
32 where the sign is permitted.

33        (f) Penalties for Permit Holders. – The State Board of Elections shall adopt penalties  
34 for permit holders who fail to remove signs by the date required by subsection (b) of this  
35 section. Total penalties shall not exceed fifty dollars (\$50.00) for each notice of an offense,  
36 with a maximum fine of five hundred dollars (\$500.00) per county during a permitted period.  
37 The penalties shall be enforced by the county board of elections in the county in which the  
38 violation occurred. Enforcement shall be in the manner of enforcement of civil penalties under  
39 G.S. 163-278.34(a), (d), and (e), including the provision that the State Board of Elections shall  
40 reduce the monies collected by the enforcement costs and the collection costs to determine the  
41 clear proceeds payable to the Civil Penalty and Forfeiture Fund. Monies set aside for the costs  
42 of enforcement and the costs of collection shall be credited to accounts of the State Board of  
43 Elections. Appeals from decisions of the county board of elections shall be to the State Board  
44 of Elections. In an appeal, the State Board may add to any penalty imposed by the county board  
45 the costs of the appeal hearing to the State Board.

46        (g) Penalties for Unlawful Removal of Signs. – It is a Class 3 misdemeanor for a person  
47 to unlawfully remove a campaign sign that is lawfully placed under this section.

48        (h) Option for Municipalities to Adopt State Plan. – A municipality may elect to have  
49 the provisions of this section apply to street rights-of-way within the municipality maintained  
50 by the municipality. If the municipality so elects, issuance of permits, implementation of this  
51 section, and enforcement of penalties shall be by the State and county boards of elections as if

1 the streets of the municipality were part of the State highway system. The municipality shall be  
2 subject to the provisions of subsection (b) of this section."

3 **SECTION 2.** This act becomes effective January 1, 2012, and applies to any  
4 primary or election held on or after that date.

ON Transp.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 461\*

Short Title: Amend Weight Limits for Farm Products.

(Public)

Sponsors: Senators Tucker; Blake, Davis, Forrester, Gunn, Hise, Jackson, Jones, Newton, Pate, Rabon, and Tillman.

Referred to: Transportation.

March 31, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW AN EXEMPTION FROM VEHICLE WEIGHT LIMITS FOR A  
3 PERSON HAULING LIVE POULTRY FROM THE FARM WHERE THE LIVE  
4 POULTRY IS RAISED TO ANY PROCESSING FACILITY WITHIN ONE HUNDRED  
5 FIFTY MILES OF THAT FARM.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 20-118(c)12 reads as rewritten:

8 "(12) Subsections (b) and (e) of this section do not apply to a vehicle that meets all  
9 of the conditions set out below:

10 a. Is hauling agricultural crops from the farm where the crop is grown  
11 to any market within 150 miles of that farm.

12 a1. Is hauling live poultry from the farm where the live poultry is raised  
13 to any processing facility within 150 miles of that farm.

14 b. Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 13.

15 b1. Does not operate on an interstate highway or exceed any posted  
16 bridge weight limits during transportation or hauling of agricultural  
17 products.

18 c. Does not exceed a single-axle weight of 22,000 pounds, a  
19 tandem-axle weight of 42,000 pounds, or a gross weight of 90,000  
20 pounds.

21 d. Is registered pursuant to G.S. 20-88 for the maximum weight allowed  
22 for the vehicle configuration as listed in subsection (b) of this  
23 section."

24 SECTION 2. This act becomes effective December 1, 2011, and applies to  
25 offenses committed on or after that date. Prosecutions for offenses committed before the  
26 effective date of this act are not abated or affected by this act, and the statutes that would be  
27 applicable but for this act remain applicable to those prosecutions.





## SENATE BILL 461: Amend Weight Limits for Farm Products

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Sen. Tucker  
**Analysis of:** PCS to First Edition  
S461-CSRV-12

**Date:** April 19, 2011  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *Senate Bill 461 would allow an exemption from vehicle weight limits for a vehicle hauling live poultry from the farm where the live poultry is raised to any processing facility within one hundred fifty miles of that farm. The proposed committee substitute makes a technical change.*

[As introduced, this bill was identical to H468, as introduced by Reps. Horn, Sager, Hill, Hackney, which is currently in House Transportation.]

**CURRENT LAW:** G.S. 20-118 establishes weight limitations for vehicles operating on the highways of the State. Violators are subject to civil penalties. There is an exception that applies to a vehicle that is hauling agricultural crops from the farm where the crop is grown to any market within 150 miles of that farm, provided the vehicle meets the following additional conditions:

- Does not operate on an interstate highway or exceed any posted bridge weight limits during transportation or hauling of agricultural products.
- Does not exceed a single-axle weight of 22,000 pounds, a tandem-axle weight of 42,000 pounds, or a gross weight of 90,000 pounds.
- Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration.

**BILL ANALYSIS:** Senate Bill 461 would amend an existing weight limit exemption that applies to trucks hauling agricultural crops. The bill would expand the exemption to include vehicles hauling live poultry from a farm where the live poultry is raised to any processing facility within one hundred fifty miles of that farm.

**EFFECTIVE DATE:** The bill would become effective December 1, 2011 and apply to offenses committed on or after that date.

S461-SMRV-37(CSRV-12) v2

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE BILL 461\*  
PROPOSED COMMITTEE SUBSTITUTE S461-CSR-V-12 [v.1]

4/19/2011 7:17:05 PM

Short Title: Amend Weight Limits for Farm Products.

(Public)

Sponsors:

Referred to:

March 31, 2011

- 1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW AN EXEMPTION FROM VEHICLE WEIGHT LIMITS FOR A  
3 PERSON HAULING LIVE POULTRY FROM THE FARM WHERE THE LIVE  
4 POULTRY IS RAISED TO ANY PROCESSING FACILITY WITHIN ONE HUNDRED  
5 FIFTY MILES OF THAT FARM.  
6 The General Assembly of North Carolina enacts:  
7 SECTION 1. G.S. 20-118(c)12 reads as rewritten:  
8 "(12) Subsections (b) and (e) of this section do not apply to a vehicle that meets all  
9 of the conditions set out below:  
10 a. Is hauling agricultural crops from the farm where the crop is grown  
11 to any market within 150 miles of that ~~farm~~ farm, or is hauling live  
12 poultry from the farm where the live poultry is raised to any  
13 processing facility within 150 miles of that farm.  
14 b. Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 13.  
15 b1. Does not operate on an interstate highway or exceed any posted  
16 bridge weight limits during transportation or hauling of agricultural  
17 products.  
18 c. Does not exceed a single-axle weight of 22,000 pounds, a  
19 tandem-axle weight of 42,000 pounds, or a gross weight of 90,000  
20 pounds.  
21 d. Is registered pursuant to G.S. 20-88 for the maximum weight allowed  
22 for the vehicle configuration as listed in subsection (b) of this  
23 section."  
24 SECTION 2. This act becomes effective December 1, 2011, and applies to  
25 offenses committed on or after that date. Prosecutions for offenses committed before the  
26 effective date of this act are not abated or affected by this act, and the statutes that would be  
27 applicable but for this act remain applicable to those prosecutions.



\* S 4 6 1 - C S R V - 1 2 - V - 1 \*

PUBLIC BILL

~~Proposed~~ Committee Substitute For

H.B. 336

*LD- SB 441*

SESSION LAW \_\_\_\_\_

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE HAULING OF READY-MIXED CONCRETE IN EXCESS OF WEIGHT LIMITS  
SO LONG AS CERTAIN CONDITIONS ARE MET.

Introduced by Representative(s): *Lewis & Frye (Primary Sponsors)*


For a complete list of cosponsors for this bill, please see the report inside the bill jacket.

Principal Clerk's Use Only

The Committee on *Transportation*  
a majority being present, having considered  
this bill, recommend that it do ☒ pass.

*Rep. Just Mills*  
For the Committee

☒ FAVORABLE TO COMM. SUB  
☐ UNFAVORABLE TO BLM

MAR 29 2011

AND PLACED ON  
CALENDAR FOR

*3/6/11* *3-30-11*

Passed 2nd & 3rd Reading  
111-5 EV VU  
MAR 30 2011  
ORDERED SENT TO SENATE

*Kevin Weeks*

RECEIVED

MAR 3 2011

From House of Representatives  
By Clerk *JD* 9:36 AM

PASSED 1st READING

APR 04 2011

AND REFERRED TO COMMITTEE  
ON *Transportation*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 336  
Committee Substitute Favorable 3/29/11

Short Title: Amend Weight Requirements-Certain Vehicles.

(Public)

Sponsors:

Referred to:

March 14, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW THE HAULING OF READY-MIXED CONCRETE IN EXCESS OF  
3 WEIGHT LIMITS SO LONG AS CERTAIN CONDITIONS ARE MET.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 20-118(c) is amended by adding a new subdivision to read:

6 "(16) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle  
7 combination that meets all of the conditions below, but all other enforcement  
8 provisions of this Article remain applicable:

9 a. Is hauling unhardened ready-mixed concrete.

10 b. Does not operate on an interstate highway or a posted light-traffic  
11 road, or exceed any posted bridge weight limits.

12 c. Does not exceed a maximum gross weight of 66,000 pounds on a  
13 three-axle vehicle with a single-axle weight of no more than 22,000  
14 pounds, a tandem-axle weight of no more than 46,000 pounds, with a  
15 length of at least 21 feet between the center of axle one and the  
16 center of axle three of the vehicle. For the purposes of this  
17 subdivision, gross weight, single-axle weight, and tandem-axle  
18 weight include all tolerance, and the tolerance allowed by subsection  
19 (h) of this section shall not apply."

20 SECTION 2. This act becomes effective October 1, 2011, and applies to offenses  
21 committed on or after that date.



\* H 3 3 6 - V - 2 \*



## HOUSE BILL 336: Amend Weight Requirements-Certain Vehicles

2011-2012 General Assembly

Committee: Senate Transportation  
Introduced by: Reps. Lewis, Frye  
Analysis of: Second Edition

Date: April 19, 2011  
Prepared by: Brenda J. Carter  
Committee Counsel

**SUMMARY:** *House Bill 336 would allow the hauling of unhardened ready-mixed concrete in excess of weight limits so long as specified conditions are met.*

[As introduced, this bill was identical to S441, as introduced by Sens. Gunn, Vaughan, which is currently in Senate Transportation.]

**CURRENT LAW:** G.S. 20-118 prescribes weight limitations that apply to vehicles operating on the highways of the State.

**BILL ANALYSIS:** House Bill 336 would allow the hauling of unhardened ready mixed concrete in excess of weight limits so long as the following conditions are met:

- The vehicle does not operate on an interstate highway or a posted light traffic road, or exceed any posted bridge weight limits.
- The vehicle does not exceed a maximum gross weight of 66,000 pounds on a three-axle vehicle with a single-axle weight of no more than 22,000 pounds, a tandem-axle weight of no more than 46,000 pounds, with a length of at least 21 feet between the center of axle one and the center of axle three of the vehicle.

**EFFECTIVE DATE:** The bill would become effective October 1, 2011, and apply to offenses committed on or after that date.

*Wendy Graf Ray, counsel to House Transportation, contributed to this summary:*

*H336-SMRV-36(e2) v1*



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 336

AMENDMENT NO. 1  
(to be filled in by  
Principal Clerk)

H336-ARV-10 [v.1]

Page 1 of 1

Comm. Sub. [YES]  
Amends Title [NO]  
Second Edition

Date 4-20-11, 2011

Senator Tillman

- 1 moves to amend the bill on page 1. Lines 16-19, by rewriting the sentence that begins on line  
2 16 to read: "For purposes of this subdivision, no additional weight allowances as found in this  
3 section shall apply for the gross weight, single-axle weight, and tandem-axle weight, and the  
4 tolerance allowed by subsection (h) of this section shall not apply."

SIGNED

[Signature]  
Amendment Sponsor

SIGNED

[Signature]  
Committee Chair if Senate Committee Amendment

ADOPTED ✓

FAILED \_\_\_\_\_

TABLED \_\_\_\_\_



\* H 3 3 6 - A R V - 1 0 - V - 1 \*

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**TRANSPORTATION COMMITTEE REPORT  
Senator James Forrester, Co-Chair  
Senator Bill Rabon, Co-Chair**

Wednesday, April 20, 2011

Senator RABON,  
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL**

<b>S.B.</b>	<b>461</b>	<b>Amend Weight Limits for Farm Products.</b>
		Draft Number: PCS55284
		Sequential Referral: None
		Recommended Referral: None
		Long Title Amended: No

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO  
SENATE COMMITTEE SUBSTITUTE BILL**

<b>H.B.(CS #1) 336</b>	<b>Amend Weight Requirements-Certain Vehicles.</b>
	Draft Number: PCS50303
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: No

**TOTAL REPORTED: 2**

**Committee Clerk Comments:**

**Senator Gunn will be Floor Manager  
For House Bill 336**

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

S

D

**SENATE BILL 461\*  
PROPOSED COMMITTEE SUBSTITUTE S461-PCS55284-RV-12**

Short Title: Amend Weight Limits for Farm Products.

(Public)

Sponsors:

Referred to:

March 31, 2011

A BILL TO BE ENTITLED

AN ACT TO ALLOW AN EXEMPTION FROM VEHICLE WEIGHT LIMITS FOR A PERSON HAULING LIVE POULTRY FROM THE FARM WHERE THE LIVE POULTRY IS RAISED TO ANY PROCESSING FACILITY WITHIN ONE HUNDRED FIFTY MILES OF THAT FARM.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-118(c)(12) reads as rewritten:

"(12) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the conditions set out below:

- a. Is hauling agricultural crops from the farm where the crop is grown to any market within 150 miles of that ~~farm~~, farm, or is hauling live poultry from the farm where the live poultry is raised to any processing facility within 150 miles of that farm.
- b. Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 13.
- b1. Does not operate on an interstate highway or exceed any posted bridge weight limits during transportation or hauling of agricultural products.
- c. Does not exceed a single-axle weight of 22,000 pounds, a tandem-axle weight of 42,000 pounds, or a gross weight of 90,000 pounds.
- d. Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration as listed in subsection (b) of this section."

**SECTION 2.** This act becomes effective December 1, 2011, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.



\* S 4 6 1 - P C S 5 5 2 8 4 - R V - 1 2 \*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 336  
Committee Substitute Favorable 3/29/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H336-PCS50303-RV-13

Short Title: Amend Weight Requirements-Certain Vehicles.

(Public)

Sponsors:

Referred to:

March 14, 2011

A BILL TO BE ENTITLED  
AN ACT TO ALLOW THE HAULING OF READY-MIXED CONCRETE IN EXCESS OF  
WEIGHT LIMITS SO LONG AS CERTAIN CONDITIONS ARE MET.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-118(c) is amended by adding a new subdivision to read:

"(16) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle combination that meets all of the conditions below, but all other enforcement provisions of this Article remain applicable:

a. Is hauling unhardened ready-mixed concrete.

b. Does not operate on an interstate highway or a posted light-traffic road, or exceed any posted bridge weight limits.

c. Does not exceed a maximum gross weight of 66,000 pounds on a three-axle vehicle with a single-axle weight of no more than 22,000 pounds, a tandem-axle weight of no more than 46,000 pounds, with a length of at least 21 feet between the center of axle one and the center of axle three of the vehicle. For purposes of this subdivision, no additional weight allowances as found in this section shall apply for the gross weight, single-axle weight, and tandem-axle weight, and the tolerance allowed by subsection (h) of this section shall not apply."

SECTION 2. This act becomes effective October 1, 2011, and applies to offenses committed on or after that date.



\* H 3 3 6 - P C S 5 0 3 0 3 - R V - 1 3 \*

## PAGES ATTENDING

COMMITTEE: Transportation ROOM: 1027  
 DATE: 4-20 TIME: 11 <sup>Am</sup>

PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!

Page Name	Hometown	Sponsoring Senator
1 Tyler Jackson	Raleigh	Hunt
2 SAM HOLMES Sam Holmes	Raleigh	Hunt
3 MADDIE FLEMING Maddie Fleming	Elon	Gunn
4 ETHAN JOHNS Ethan Johns	Burlington	Gunn
5 <del>ALLIE DREXLER</del> <del>David Gwalt</del>	<del>King</del> Raleigh	<del>East</del> <del>K</del> Hunt
6 Grayson Bennett	Raleigh	Hunt
7 <del>GRAYSON BENNETT</del>		
8		
9		
10		


Do not add names below the grid.

## VISITOR REGISTRATION SHEET

Senate Transportation Committee  
Name of Committee

4/20/2011  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE  
CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Paul Sherman	NCSB
<del>Allen Turner</del>	
Bob Ford	NC Poultry Fed
Henry Jones	Atkinson - Raleigh
Jon Nance	NC DOT
Beau Mcmenamy	NC DOT
Samira Khanna	Independent Weekly
WILLIAM ARENT	CAROLINAS READY MIXED CONCRETE ASSN.
Will Sulpper	NVR
	RANC
GARLAND HORTON	RANC

## VISITOR REGISTRATION SHEET

Senate Transportation Committee

Name of Committee

4/20/2011  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
BRUCE THOMPSON	PARKER POB
Mark Bussan	RANC
Cady Thomas	NCAR
Julie White	NCMMC
J Goodman	NC CHANCE
Patric Mayhew	NCLM
Sumner	NS
Conne Wilson	CRMCA
John Polunski	NCHMA
Gordon Myers	NCHRE
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety

## VISITOR REGISTRATION SHEET

Senate Transportation Committee

Name of Committee

4/20/2014  
Date

Date \_\_\_\_\_

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

[illegible]

## MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

Wednesday, April 27, 2011  
11:00 AM, 1027 LB

The Senate Transportation Committee met on Wednesday, April 27, 2011, at 11:00 AM, in Room 1027 of the Legislative Building. Senator Harrington, Vice Chairman of the Committee, called the meeting to order.

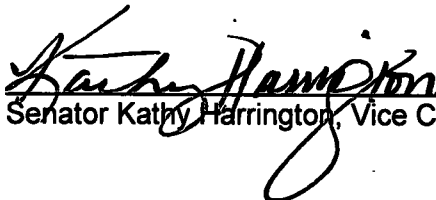
Seventeen members of the committee were present, and Senator Harrington welcomed committee members, staff, and guests. She further acknowledged the following pages serving at today's meeting: Heather Green, Rutherfordton, sponsored by Senator Clary; Blake Scruggs, Chapel Hill, sponsored by Senator Atwater; and Bailey Sherrill, Hiddenite, sponsored by Senator Soucek.

The first order of business was S.B. 183, sponsored by Senator Brown. Senator Vaughan moved for adoption of the committee substitute bill for discussion purposes. Motion carried. Senator Brown then explained the committee substitute bill. After a discussion of the bill by committee members, the following individuals spoke to the bill: John Nance, North Carolina Department of Transportation; Tony Adams, Executive Director of the North Carolina Outdoor Advertising Association; Gary Harris, North Carolina Petroleum Marketers and Convenience Stores; Frank Gray, North Carolina Restaurant and Lodging Association; Ben Hitchings, North Carolina Planning Association; Paul Meyer, North Carolina League of Municipalities; and Dana Fenton, City of Charlotte. Senator Tillman moved for a favorable report of the committee substitute bill. Motion carried. The committee recommended the committee substitute bill be re-referred to the Finance Committee.

Senator Harrington recognized Senator Robinson, who moved for adoption of the committee substitute bill for S.B. 749, Modify Weight Limits for Farm Operations, for discussion purposes. She then recognized Senator Rabon to explain the committee substitute bill. Senator Jackson offered Amendment No. 1 which was adopted. Senator Gunn moved for a favorable report of the committee substitute bill, as amended. Motion carried. The committee recommended the committee substitute bill, as amended, be re-referred to the Finance Committee.

Senator Harrington again recognized Senator Rabon to explain S.B. 750, DOT Bid Responses Not Public/Contract Awarded. After an explanation of the bill, Senator Harrington recognized the following individuals who spoke to the bill: Kathryn Westcott, American Council of Engineering, and Berry Jenkins, Carolinas Associate General Council. Senator Jenkins moved for a favorable report of the bill. Motion carried.

The meeting was adjourned at 11:58 a.m.

  
Senator Kathy Harrington, Vice Chairman

  
Ramona Fitzgerald, Committee Clerk

Principal Clerk \_\_\_\_\_  
Reading Clerk \_\_\_\_\_

**CORRECTED NOTICE – REMOVED SB 271  
and SB 771**

**SENATE  
NOTICE OF COMMITTEE MEETING  
AND  
BILL SPONSOR NOTICE**

The Senate Committee on **Transportation** will meet at the following time:

<b>DAY</b>	<b>DATE</b>	<b>TIME</b>	<b>ROOM</b>
Wednesday	April 27, 2011	11:00 AM	1027 LB

The following will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
SB 183	Selective Vegetation Removal/State Highways .	Senator Brown
SB 704	Eliminate Weight Requirements/Farm Trucks.	Senator Meredith
SB 749	Modify Weight Limits for Farm Operations.	Senator Rouzer Senator Tucker Senator Rabon
SB 750	DOT Bid Responses Not Public/Contract Awarded.	Senator Rabon

Senator James Forrester, Co-Chair  
Senator Bill Rabon, Co-Chair

**Senate Transportation Committee  
Wednesday, April 27, 2011, 11:00 AM  
1027 LB**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills**

SB 183	Selective Vegetation Removal/State Highways .	Senator Brown
SB 704	Eliminate Weight Requirements/Farm Trucks.	Senator Meredith
SB 749	Modify Weight Limits for Farm Operations.	Senator Rouzer Senator Tucker Senator Rabon
SB 750	DOT Bid Responses Not Public/Contract Awarded.	Senator Rabon

**Presentations**

**Other Business**

**Adjournment**

S.B. 183

## SESSION LAW

## A BILL TO BE ENTITLED

AN ACT TO ESTABLISH CERTAIN STATUTORY STANDARDS FOR SELECTIVE VEGETATION  
REMOVAL WITHIN THE RIGHTS-OF-WAY OF THE STATE HIGHWAY SYSTEM AND FOR THE  
ERECTION OF OUTDOOR ADVERTISING.

*Introduced by Senator(s)*

## Brown

R. A. Linde

[illegible]

Principal Clerk's Use Only

FILED MAR 2 2011

**PASSED 1st READING**

MAR 3 2011

AND REFERRED TO COMMITTEE  
ON TRANSP.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 183

Short Title: Selective Vegetation Removal/State Highways. (Public)

Sponsors: Senators Brown; Jenkins, Rucho, Tillman, and Walters.

Referred to: Transportation.

March 3, 2011

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH CERTAIN STATUTORY STANDARDS FOR SELECTIVE  
VEGETATION REMOVAL WITHIN THE RIGHTS-OF-WAY OF THE STATE  
HIGHWAY SYSTEM AND FOR THE ERECTION OF OUTDOOR ADVERTISING.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 136-18.7 reads as rewritten:

**"§ 136-18.7. Fees.**

The fee for a selective vegetation removal permit issued pursuant to ~~G.S. 136-18(5), (7), and (9) is two hundred dollars (\$200.00).~~ G.S. 136-93, 136-133.1, and 136-133.4 is four hundred dollars (\$400.00) per permitted site and is nonrefundable."

**SECTION 2.** G.S. 136-93 reads as rewritten:

**"§ 136-93. Openings, structures, pipes, trees, and issuance of permits.**

(a) No opening or other interference whatsoever shall be made in any State road or highway other than streets not maintained by the Department of Transportation in cities and towns, nor shall any structure be placed thereon, nor shall any structure which has been placed thereon be changed or removed except in accordance with a written permit from the Department of Transportation or its duly authorized officers, who shall exercise complete and permanent control over such roads and highways. No State road or State highway, other than streets not maintained by the Department of Transportation in cities and towns, shall be dug up for laying or placing pipes, conduits, sewers, wires, railways, or other objects, ~~and no tree or shrub in or on any State road or State highway shall be planted, trimmed, or removed,~~ and no obstruction placed thereon, without a written permit as hereinbefore provided for, and then only in accordance with the regulations of said Department of Transportation or its duly authorized officers or employees; and the work shall be under the supervision and to the satisfaction of the Department of Transportation or its officers or employees, and the entire expense of replacing the highway in as good condition as before shall be paid by the persons, firms, or corporations to whom the permit is given, or by whom the work is done. The Department of Transportation, or its duly authorized officers, may, in its discretion, before granting a permit under the provisions of this section, require the applicant to file a satisfactory bond, payable to the State of North Carolina, in such an amount as may be deemed sufficient by the Department of Transportation or its duly authorized officers, conditioned upon the proper compliance with the requirements of this section by the person, firm, or corporation granted such permit. Any person making any opening in a State road or State highway, or placing any structure thereon, or changing or removing any structure thereon without obtaining a written permit as herein provided, or not in compliance with the terms of such permit, or otherwise violating the provisions of this section, shall be guilty of a Class 1 misdemeanor: Provided, this section shall



not apply to railroad crossings. The railroads shall keep up said crossings as now provided by law.

(b) Except as provided in G.S. 136-133.1(f), no vegetation, including any tree, shrub, or underbrush in or on any right-of-way of a State road or State highway shall be planted, cut, trimmed, pruned, or removed without a written selective vegetation removal permit issued pursuant to G.S. 136-133.2 and in accordance with the rules of the Department. Requests for a permit for selective vegetation cutting, thinning, pruning, or removal shall be made by the owner of an outdoor advertising sign or the owner of a business facility to the appropriate roadside environmental engineer in the Division of Highways office on a form required by the Department. For purposes of this section, G.S. 136-133.1, 136-133.2, and 136-133.4, the phrase "outdoor advertising" shall mean the outdoor advertising expressly permitted under G.S. 136-129(a)(4) or G.S. 136-129(a)(5). These provisions shall not be used to provide visibility to on-premise signs.

(c) For outdoor advertising, vegetation cut or removal limits shall be restricted to a maximum selective vegetation cut or removal zone for each sign face pursuant to the provisions of G.S. 136-133.1.

(d) If the application for vegetation cutting, thinning, pruning, or removal is for a site located within the corporate limits of a municipality, the municipality shall be given 30 days to review and provide nonbinding comments on the application if the municipality has previously advised the Department in writing of the desire to review such applications and the name of the local official to whom notice of such application should be directed. Local governments are prohibited from regulating vegetation cutting, trimming, pruning, or removal within the limits of interstate or primary highway rights-of-way by any permittee or other person authorized by the Department, including anyone authorized under G.S. 136-133.1(f)."

**SECTION 3.** Article 7 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-93.2. Monetary value of trees.**

The monetary value for existing trees removed and eligible for reimbursement to the Department as provided in G.S. 136-93 or G.S. 136-133.1 from State rights-of-way shall be determined on an annual basis by the Department. In determining the value of existing trees removed, the average cost per caliper inch shall be based on the lower value of either the average wholesale commercial nursery prices for hardwood and conifer plants, times a 2.5 multiplier for installation and warranty or the average cost per caliper inch for tree planting contracts let by the Department in the previous calendar year. The values shall be determined and published by the Department no later than December 15 of each year. The values established pursuant to this section shall be used in calculating the monetary value of trees removed from State rights-of-way beginning January 1 of each year. If the Department fails to publish changes in values by December 15, then the values existing on December 15 shall be applicable to existing trees removed and eligible for reimbursement for the following year."

**SECTION 4.** G.S. 136-129 reads as rewritten:

**"§ 136-129. Limitations of outdoor advertising devices.**

(a) No outdoor advertising shall be erected or maintained within 660 feet of the nearest edge of the right-of-way of the interstate or primary highway systems in this State so as to be visible from the main-traveled way thereof after the effective date of this Article as determined by G.S. 136-140, except the following:

- (1) Directional and other official signs and notices, which signs and notices shall include those authorized and permitted by Chapter 136 of the General Statutes, which include but are not limited to official signs and notices pertaining to natural wonders, scenic and historic attractions and signs erected and maintained by a public utility, electric or telephone membership corporation, or municipality for the purpose of giving warning of or

information as to the location of an underground cable, pipeline or other installation.

(2) Outdoor advertising which advertises the sale or lease of property upon which it is located.

(2a) Outdoor advertising which advertises the sale of any fruit or vegetable crop by the grower at a roadside stand or by having the purchaser pick the crop on the property on which the crop is grown provided: (i) the sign is no more than two feet long on any side; (ii) the sign is located on property owned or leased by the grower where the crop is grown; (iii) the grower is also the seller; and (iv) the sign is kept in place by the grower for no more than 30 days.

(3) Outdoor advertising which advertises activities conducted on the property upon which it is located.

(4) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in areas which are zoned industrial or commercial under authority of State law.

(5) Outdoor advertising, in conformity with the rules and regulations promulgated by the Department of Transportation, located in unzoned commercial or industrial areas.

(b) No two outdoor advertising structures permitted by G.S. 136-129(a)(4) and G.S. 136-129(a)(5) shall be erected on interstates or other routes with fully controlled access less than 500 feet apart on the same side of the highway if the structures are erected on such routes outside the limits of an incorporated municipality. No two outdoor advertising structures permitted by G.S. 136-129(a)(4) and G.S. 136-129(a)(5) shall be erected on routes without fully controlled access less than 300 feet apart on the same side of the highway if the structures are erected on such routes outside the limits of an incorporated municipality, or 100 feet apart on the same side of the highway if erected on such routes without fully controlled access within the limits of an incorporated municipality. The minimum distance between structures shall be measured along the nearest edge of the main-traveled way between points directly opposite the signs along each side of the highway.

(c) Automatic changeable facing signs shall be permitted in areas described in G.S. 136-129(a)(4) and G.S. 136-129(a)(5) on any interstate or primary highway system route under the following conditions:

(1) The sign does not contain or display flashing, intermittent, or moving lights, including animated or scrolling advertising.

(2) The changeable facing remains in a fixed position for at least eight seconds.

(3) If a message is changed electronically, it must be accomplished within an interval of two seconds or less.

(4) The sign is not placed within 1,500 feet of another automatic changeable facing outdoor advertising sign on the same side of the highway.

(5) The distance 1,500 feet shall be measured along the nearest edge of the main-traveled way and between points directly opposite the signs along each side of the highway.

(6) The sign must contain a default design that will freeze the sign in one position if a malfunction occurs.

(7) For purposes of this subsection, an "automatic changeable facing sign" shall mean a sign, display, or device which changes the message or copy on the sign facing electronically by movement or rotation of panels or slats.

A legally conforming outdoor advertising structure or an outdoor advertising structure that is nonconforming only to local ordinances may be modified or reconstructed to an automatic changeable facing upon compliance with the standards established in this subsection.

(d) No electrical utility permit shall be denied to any outdoor advertising sign described in G.S. 136-129(a)(4) and G.S. 136-129(a)(5) for which a permit has been issued by the Department, is valid, and is otherwise compliant with technical utility standards.

(e) The fee for outdoor advertising structures specified in (a)(4) and (a)(5) of this subsection shall not exceed one hundred fifty dollars (\$150.00) for the initial fee and ninety dollars (\$90.00) for the annual renewal fee. Thirty dollars (\$30.00) of each initial and annual renewal fee collected pursuant to this section shall be used by the Department for highway beautification projects."

SECTION 5. Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-133.1. Outdoor advertising vegetation cutting or removal.**

(a) The owner of an outdoor advertising sign permitted under G.S. 136-129(a)(4) or G.S. 136-129(a)(5) who obtains a selective vegetation removal permit, and the owner's designees, may cut, thin, prune, or remove vegetation in accordance with this section, G.S. 136-93(b), 136-133.2, and 136-133.4. The maximum cut or removal zone for vegetation for each sign face shall be determined as follows:

- (1) The point located on the edge of the right-of-way that is the closest point to the centerline of the sign face shall be point A.
- (2) The point located 200 feet down the right-of-way line in the direction of the sign viewing zone shall be point B.
- (3) The point on the edge of the pavement of the travel way, including acceleration and deceleration ramps, that is the closest to the centerline of the sign shall be point C.
- (4) The point 50 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point D.
- (5) The point 400 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point E.
- (6) Lines drawn from point A to point D and from point B to point E shall define the limits of the vegetation cut or removal area.

(b) Vegetation permitted to be cut, thinned, pruned, or removed shall be defined as any tree, shrub, or underbrush within the zone created by points A, B, D, and E. Any existing tree that was in existence at the time that an outdoor advertising structure was erected shall only be eligible for removal in accordance with subsections (c) and (d) of this section. Native dogwoods and native redbuds shall be preserved. For the purposes of this section, an existing tree is defined as a tree that had a diameter of four inches or greater as measured six inches from the ground at the time that the outdoor advertising structure was erected. An outdoor advertising sign is considered erected when the sign is completely constructed with a sign face.

(c) The applicant for a selective vegetation removal permit shall submit to the Department a site plan locating thereon any trees existing at the time that the outdoor advertising sign was erected, as defined in subsection (b) of this section, that are requested to be cut, thinned, pruned, or removed, and noting their species and total caliber inches. The applicant shall also tag, with highly visible material or flagging, any tree that is, at the time of the application for a selective vegetation removal permit, greater than four inches in diameter as measured six inches from the ground and requested to be cut, thinned, pruned, or removed. The selective vegetation removal request may be investigated on-site by Department personnel and a representative of the applicant. In the event that the Department disputes the accuracy of the existing tree information on the site plan noted above, the Department shall notify the applicant in writing and may request the following:

- (1) A tree survey.
- (2) That the applicant amends the site plan.
- (3) That the applicant deletes the trees in dispute from the desired cutting.

1 If a notice of disputed tree information is received from the Department, the applicant can  
2 either employ the services of a North Carolina licensed landscape architect or certified arborist  
3 to perform a tree survey, amend the site plan, or notify the Department in writing that any or all  
4 of the disputed trees are deleted from the application. If the applicant selects a tree survey, the  
5 landscape architect or certified arborist will submit a report under seal that contains a tree  
6 inventory of existing trees in the removal zone for the outdoor advertising structure and include  
7 the age of any tree that existed at the time that the sign was erected. The report will categorize  
8 tree species and include a site map of sufficient detail and dimensions. A tree survey will not be  
9 required for subsequent applications to cut, thin, prune, or remove trees at the same site for  
10 trees that have been previously permitted. Any dispute relating to whether or not the tree  
11 existed at the time that the outdoor advertising sign was erected shall be conclusively resolved  
12 by information in the report from the licensed landscape architect or certified arborist.

13 (d) Trees existing at the time the outdoor advertising sign was erected may only be  
14 removed within the zone created in subparagraph (a) above if the applicant satisfies one of the  
15 following two options selected by the applicant: (i) reimbursement to the Department pursuant  
16 to G.S. 136-93.2 or (ii) trees that existed at the time of the erection of the sign may be removed  
17 if the applicant agrees to remove two nonconforming outdoor advertising signs for each sign at  
18 which removal of existing trees is requested. The surrendered nonconforming signs must be  
19 fully disassembled before any removal of existing trees is permitted and shall not be eligible for  
20 future outdoor advertising permits in perpetuity.

21 (e) Tree branches within a highway right-of-way that encroach into the zone created by  
22 points A, C, and D may be cut or pruned. Except as provided in subsection (f) of this section,  
23 no person, firm, or entity shall cut, trim, prune, or remove or otherwise cause to be cut,  
24 trimmed, pruned, or removed, vegetation that is in front of, or adjacent to, outdoor advertising  
25 and within the limits of the highway right-of-way for the purpose of enhancing the visibility of  
26 outdoor advertising unless permitted to do so by the Department in accordance with this  
27 section, G.S. 136-93(b), 136-133.2, and 136-133.4.

28 (f) Notwithstanding any law to the contrary, the owner of an outdoor advertising sign  
29 defined by subsection (a) of this section or the owner's designees may, working only from the  
30 private property side of the fence, without charge and without obtaining a selective vegetation  
31 removal permit, cut, trim, prune, or remove any tree or other vegetation except for native  
32 dogwoods or native redbuds that is (i) less than four inches in diameter at the height of the  
33 controlled access fence, (ii) located within 200 feet on either side of the existing sign location  
34 as defined by point A and point B in G.S. 136-133.1(a)(1) and (2), and (iii) a distance of three  
35 feet from a controlled access fence within the limits of the highway right-of-way. The activities  
36 permitted by this subsection must be performed from the private property owner side of the  
37 controlled access fence and with the consent of the owner of the land that is used to access said  
38 fence.

39 (g) The Department may revoke an outdoor advertising permit for the unlawful  
40 destruction or illegal cutting of vegetation within the right-of-way of any State-owned or  
41 State-maintained highway only if the unlawful destruction or illegal cutting occurred within  
42 500 feet of either side of the corresponding sign location measured along the edge of pavement  
43 of the main-travel way of the nearest controlled route and was willfully caused by the applicant,  
44 owner of the sign, owner of the sign permit, or any of their agents, employees or contractors,  
45 and there is substantial material evidence that the unlawful destruction or illegal cutting of  
46 vegetation would create, increase, or improve a view to the outdoor advertising sign for passing  
47 motorists from the main-traveled way of the nearest controlled route."

48 **SECTION 6.** Article 11 of Chapter 136 of the General Statutes is amended by  
49 adding a new section to read:

50 **"§ 136-133.2. Issuance or denial of a selective vegetation removal permit.**

(a) Except as provided in G.S. 136-133.1(f), permits to remove vegetation may be granted for outdoor advertising locations that have been permitted for at least two years prior to the date of application. The Department shall approve or deny an application submitted pursuant to this section, including the fee required by G.S. 136-18.7 and all required documentation, within 30 days of the receipt of an application for a selective vegetation removal permit. If written notice of approval or denial is not given to the applicant within the 30-day period, then the application shall be deemed approved. If the application is denied, the Department shall advise the applicant, in writing, by registered or certified mail, return receipt requested, addressed to the party to be noticed, and delivering to the addressee, the reasons for the denial.

(b) The application shall be denied by the Department if any of the following apply:

- (1) The application is for the opening of a view to an outdoor advertising sign which has been declared illegal, is currently the subject of litigation, or the outdoor advertising sign owner has received written notification of an investigation by the Department for impermissible activity.
- (2) The application is for the opening of a view to an outdoor advertising sign that was obscured from view at the time of erection of the sign.
- (3) Removal of vegetation will adversely affect the safety of the traveling public.
- (4) Trees, shrubs, or other vegetation of any sort that are requested to be cut, thinned, pruned, or removed were planted in accordance with a local, State, or federal beautification or environmental project but only to the extent that such planting was done adjacent to and prior to the erection of the outdoor advertising sign the visibility of which is sought to be enhanced.
- (5) Trees, shrubs, or other vegetation of any sort that are requested to be cut, thinned, pruned, or removed were planted in conjunction with a designed noise barrier, but only to the extent that such planting was done adjacent to and prior to the erection of the outdoor advertising sign the visibility of which is sought to be enhanced.
- (6) The applicant, or his designee, has not performed satisfactory work authorized by previous permits issued under the provisions of this section. The Department may not deny an application for a permit if the work authorized by previous permits issued pursuant to this section was performed by a landscape architect or certified arborist.
- (7) The selective vegetation removal, cutting, or pruning involves opening of a view to a junkyard.
- (8) Unlawful destruction or illegal cutting of vegetation as defined in G.S. 136-133.1(g) has occurred within the past five years of the date of filing an application with the Department for a selective vegetation removal permit."

SECTION 7. Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-133.3. Appeals of selective vegetation removal permit decisions.**

(a) An applicant for a selective vegetation removal permit issued pursuant to G.S. 136-133.2 may appeal a decision of the Department pertaining to the denial or conditioning of a permit for selective vegetation removal pursuant to the provisions of this section.

(b) Within 30 days of service of the Department's decision to deny or condition a selective vegetation removal permit issued pursuant to G.S. 136-133.4, the applicant shall submit a written appeal to the Secretary of Transportation setting forth with particularity the facts and arguments upon which the appeal is based. The appeal shall be sent to the Secretary

1 by registered or certified mail, return receipt requested, addressed to the Secretary, and  
2 delivering to the addressee, with a copy to the Department official who issued the decision.

3 (c) Upon receipt of the written appeal, the Secretary of Transportation shall review the  
4 written appeal and the Department's decision, as well as any available documents, exhibits, or  
5 other evidence bearing on the appeal, and shall render the agency's final decision, supported by  
6 findings of fact and conclusions of law. The final agency decision shall be served upon the  
7 appealing party by registered or certified mail, return receipt requested, addressed to the  
8 applicant, and delivering to the addressee, within 90 days after the Secretary receives the  
9 written appeal. A copy of the agency's final decision shall also be delivered to the Department  
10 official who issued the initial decision.

11 (d) A person aggrieved by a decision made pursuant to this section may seek judicial  
12 review of the final agency decision pursuant to G.S.136-134.1."

13 **SECTION 8.** Article 11 of Chapter 136 of the General Statutes is amended by  
14 adding a new section to read:

15 **"§ 136-133.4. Selective vegetation removal permits.**

16 (a) Selected vegetation within the approved limits shall be cut, thinned, pruned, or  
17 removed by the permittee or his agent in accordance with accepted International Society of  
18 Arboriculture (ISA) standards.

19 (b) Permits are valid for a period of one year. The permittee may cut, thin, prune, or  
20 remove vegetation more than one time per year. A 48-hour notification shall be provided to the  
21 Department by the permittee before entering the right-of-way.

22 (c) The permittee, or his agent, shall not impede the flow of traffic on any highway  
23 while performing vegetation removal authorized by a permit. Access to the work site on  
24 controlled access highways must be gained without using the main travel way of the highway.  
25 The division roadside environmental engineer shall determine the traffic control signage that  
26 may be required. The permittee shall furnish, erect, and maintain the required signs as directed  
27 by the division roadside environmental engineer. The permittee, or his agent, shall wear safety  
28 vests that conform to OSHA standards while performing the work.

29 (d) Any damage to vegetation designated to remain at the site, to highway fences, signs,  
30 paved areas, or other facilities shall be repaired or replaced by the permittee to the condition  
31 prior to the occurrence of the damage caused by the permittee or his agent. All trimmings, laps,  
32 and debris shall be removed from the right-of-way and disposed of in areas provided by the  
33 permittee. No burning or burying of trimmings, laps, or debris shall be permitted on the  
34 highway right-of-way. When chipping is used to dispose of trimmings, chips may be neatly  
35 spread on a right-of-way at locations which the Department determines will not be harmful to  
36 the environment or affect traffic safety.

37 (e) Willful failure to substantially comply with all the requirements specified in the  
38 selective vegetation removal permit, unless otherwise mutually resolved by the Department and  
39 the permittee, shall result in a five year moratorium for vegetation removal at the site, a  
40 summary revocation of the outdoor advertising permit if such willful failure meets the  
41 standards in G.S. 136-133.1(g), payment of Department investigative costs, and forfeiture of  
42 any applicable performance bond as determined by the Secretary. The moratorium shall begin  
43 upon execution of a settlement agreement or entry of a final disposition in the case."

44 **SECTION 9.** Article 11 of Chapter 136 of the General Statutes is amended by  
45 adding a new section to read:

46 **"§ 136-133.5. Denial of a permit for proposed outdoor advertising.**

47 (a) When a district engineer determines that a proposed outdoor advertising structure  
48 would not conform to the standards of outdoor advertising as set out in the Outdoor Advertising  
49 Control Act, the district engineer shall refuse to issue a permit for that proposed outdoor  
50 advertising structure.

1       (b) When a violation of the Outdoor Advertising Control Act has been discovered, the  
2 district engineer shall notify the permit applicant by registered or certified mail, return receipt  
3 requested, addressed to the party to be noticed, and delivering to the addressee, in writing, the  
4 reason for the denial and the statutes or rules forming the basis for the denial and include a  
5 copy of the Act.

6       (c) The Department shall not issue permits for new outdoor advertising signs at a sign  
7 location for a period of five years where the unlawful destruction or illegal cutting of  
8 vegetation has occurred within 500 feet on either side of the proposed sign location and as  
9 measured along the edge of pavement of the main travel way of the nearest controlled route.  
10 For the purposes of this section, unlawful destruction or illegal cutting is defined as the  
11 destruction or cutting of trees, shrubs, or other vegetation on the State-owned or maintained  
12 rights-of-way by anyone other than the Department or its authorized agents, or without written  
13 permission of the Department.

14       (d) Before a permit is denied pursuant to subsection (c) of this section, the Department  
15 shall determine and disclose to the applicant substantial material evidence that the unlawful  
16 destruction or illegal cutting was done by the applicant or the owner of the proposed sign or  
17 their agents, employees, or contractors and was performed for the purpose of creating,  
18 increasing, or improving a view to a proposed outdoor advertising sign from the main-traveled  
19 way of the nearest controlled route.

20       (e) The five-year period shall begin on the date the Department executes a settlement  
21 agreement or final disposition of the case is entered.

22       (f) Subject to subsection (d) of this section, the five-year prohibition period for a new  
23 sign permit shall apply to all sign locations, including the following:

- 24           (1) Sign locations where the unlawful destruction or illegal cutting of vegetation  
25 occurs prior to the time the location becomes a conforming location.
- 26           (2) Sign locations where a revocation of an existing permit has been upheld and  
27 a sign has been removed.
- 28           (3) Sign locations where the unlawful destruction or illegal cutting occurs prior  
29 to receipt of an outdoor advertising permit.
- 30           (4) Sign locations where the unlawful destruction or illegal cutting occurs  
31 following receipt of an outdoor advertising permit application, but prior to  
32 the issuance of the permit by the Department.

33       (g) The Department shall not issue permits for new outdoor advertising signs at a sign  
34 location where existing trees, if they were to reach the average mature size for that species,  
35 would make the proposed sign faces, when erected, not completely visible from the viewing  
36 zone. "Existing trees" are those trees that at the time of the permit application are four inches or  
37 greater in diameter as measured six inches from the ground. "Viewing zone" means the area  
38 which is 500 feet as measured along the edge of the main-traveled way of the controlled route  
39 on each side of the proposed sign structure which will have a sign face.

40       (h) An outdoor advertising permit requested pursuant to G.S. 136-129(a)(4) shall not be  
41 issued to a location if the zoning to commercial or industrial zones was adopted within one year  
42 prior to the filing of the permit application and is not part of comprehensive zoning or  
43 constitutes spot zoning, which, for purposes of this subsection, shall be defined as zoning  
44 designed primarily for the purpose of permitting outdoor advertising signs and in an area which  
45 would not normally permit outdoor advertising. Zoning shall not be considered "primarily for  
46 the purpose of permitting outdoor advertising signs" if the zoning would allow for the property  
47 to be used for more than one principal commercial or industrial use, other than outdoor  
48 advertising, and the size of the land being zoned can practically support such commercial or  
49 industrial uses.

50       (i) Outdoor advertising permits shall not be issued to a location for a period of 12  
51 months prior to the proposed letting of a new construction contract that may affect the spacing

1 or location requirements for an outdoor advertising structure until the project is completed. The  
2 prohibition authorized by this subsection shall not extend for a period longer than 18 months.  
3 Priority in spacing shall be given by the Department to the first submitted application for an  
4 outdoor advertising permit at the location.

5 (j) Outdoor advertising permits shall not be issued for a location on a North Carolina or  
6 United States route designated as a scenic byway."

7 **SECTION 10.** This act becomes October 1, 2011, and applies to permit  
8 applications or renewals submitted on or after that date and to offenses occurring on or after  
9 that date.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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D

SENATE BILL 183  
PROPOSED COMMITTEE SUBSTITUTE S183-CSRvf-10 [v.6]

4/22/2011 3:40:11 PM

Short Title: Selective Vegetation Removal/State Highways.

(Public)

Sponsors:

Referred to:

March 3, 2011

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH CERTAIN STATUTORY STANDARDS FOR SELECTIVE  
VEGETATION REMOVAL WITHIN THE RIGHTS-OF-WAY OF THE STATE  
HIGHWAY SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18.7 reads as rewritten:

"§ 136-18.7. Fees.

The fee for a selective vegetation removal permit issued pursuant to ~~G.S. 136-18(5), (7), and (9) is two hundred dollars (\$200.00).~~ G.S. 136-93, 136-133.1, and 136-133.4 is four hundred dollars (\$400.00) per permitted site and is nonrefundable."

SECTION 2. G.S. 136-93 reads as rewritten:

"§ 136-93. Openings, structures, pipes, trees, and issuance of permits.

(a) No opening or other interference whatsoever shall be made in any State road or highway other than streets not maintained by the Department of Transportation in cities and towns, nor shall any structure be placed thereon, nor shall any structure which has been placed thereon be changed or removed except in accordance with a written permit from the Department of Transportation or its duly authorized officers, who shall exercise complete and permanent control over such roads and highways. No State road or State highway, other than streets not maintained by the Department of Transportation in cities and towns, shall be dug up for laying or placing pipes, conduits, sewers, wires, railways, or other objects, ~~and no tree or shrub in or on any State road or State highway shall be planted, trimmed, or removed,~~ and no obstruction placed thereon, without a written permit as hereinbefore provided for, and then only in accordance with the regulations of said Department of Transportation or its duly authorized officers or employees; and the work shall be under the supervision and to the satisfaction of the Department of Transportation or its officers or employees, and the entire expense of replacing the highway in as good condition as before shall be paid by the persons, firms, or corporations to whom the permit is given, or by whom the work is done. The Department of Transportation, or its duly authorized officers, may, in its discretion, before granting a permit under the provisions of this section, require the applicant to file a satisfactory bond, payable to the State of North Carolina, in such an amount as may be deemed sufficient by the Department of Transportation or its duly authorized officers, conditioned upon the proper compliance with the requirements of this section by the person, firm, or corporation granted such permit. Any person making any opening in a State road or State highway, or placing any structure thereon, or changing or removing any structure thereon without obtaining a written permit as herein



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provided, or not in compliance with the terms of such permit, or otherwise violating the provisions of this section, shall be guilty of a Class 1 misdemeanor: Provided, this section shall not apply to railroad crossings. The railroads shall keep up said crossings as now provided by law.

(b) Except as provided in G.S. 136-133.1(f), no vegetation, including any tree, shrub, or underbrush in or on any right-of-way of a State road or State highway shall be planted, cut, trimmed, pruned, or removed without a written selective vegetation removal permit issued pursuant to G.S. 136-133.2 and in accordance with the rules of the Department. Requests for a permit for selective vegetation cutting, thinning, pruning, or removal shall be made by the owner of an outdoor advertising sign or the owner of a business facility to the appropriate person in the Division of Highways office on a form prescribed by the Department. For purposes of this section, G.S. 136-133.1, 136-133.2, and 136-133.4, the phrase "outdoor advertising" shall mean the outdoor advertising expressly permitted under G.S. 136-129(a)(4) or G.S. 136-129(a)(5). These provisions shall not be used to provide visibility to on-premise signs.

(c) For outdoor advertising, vegetation cut or removal limits shall be restricted to a maximum selective vegetation cut or removal zone for each sign face pursuant to the provisions of G.S. 136-133.1.

(d) If the application for vegetation cutting, thinning, pruning, or removal is for a site located within the corporate limits of a municipality, the municipality shall be given 30 days to review and provide nonbinding comments on the application if the municipality has previously advised the Department in writing of the desire to review such applications and the name of the local official to whom notice of such application should be directed. Local governments are prohibited from regulating vegetation cutting, trimming, pruning, or removal within the limits of interstate or primary highway rights-of-way by any permittee or other person authorized by the Department, including anyone authorized under G.S. 136-133.1(f)."

**SECTION 3.** Article 7 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-93.2. Monetary value of trees.**

The monetary value for existing trees removed and eligible for reimbursement to the Department as provided in G.S. 136-93 or G.S. 136-133.1 from State rights-of-way shall be determined on an annual basis by the Department. In determining the value of existing trees removed, the average cost per caliper inch shall be based on the lower value of either the average wholesale commercial nursery prices for hardwood and conifer plants, times a 2.5 multiplier for installation and warranty or the average cost per caliper inch for tree planting contracts let by the Department in the previous calendar year. The values shall be determined and published by the Department no later than December 15 of each year. The values established pursuant to this section shall be used in calculating the monetary value of trees removed from State rights-of-way beginning January 1 of each year. If the Department fails to publish changes in values by December 15, then the values existing on December 15 shall be applicable to existing trees removed and eligible for reimbursement for the following year."

**SECTION 4.** G.S. 136-133 reads as rewritten:

**"§ 136-133. Permits required.**

(a) No person shall erect or maintain any outdoor advertising within 660 feet of the nearest edge of the right-of-way of the interstate or primary highway system, except those allowed under G.S. 136-129, subdivisions (2) and (3) in this Article, or beyond 660 feet of the nearest edge of the right-of-way of the interstate or primary highway system, except those allowed under G.S. 136-129.1, subdivisions (2) and (3), without first obtaining a permit from the Department of Transportation or its agents pursuant to the procedures set out by rules adopted by the Department of Transportation. The permit shall be valid until revoked for nonconformance with this Article or rules adopted by the Department of Transportation. Any

1 person aggrieved by the decision of the Department of Transportation or its agents in refusing  
2 to grant or in revoking a permit may appeal the decision in accordance with the rules adopted  
3 by the Department of Transportation pursuant to this Article to the Secretary of Transportation  
4 who shall make the final decision on the agency appeal. The Department of Transportation  
5 shall have the authority to charge permit fees to defray the costs of administering the permit  
6 procedures under this Article. The fees for directional signs as set forth in G.S. 136-129(1) and  
7 G.S. 136-129.1(1) shall not exceed a forty dollar (\$40.00) initial fee and a thirty dollar (\$30.00)  
8 annual renewal fee. The fees for outdoor advertising structures, as set forth in G.S. 136-129(4)  
9 and (5) shall not exceed a ~~one hundred twenty dollar (\$120.00) initial fee and a sixty dollar~~  
10 ~~(\$60.00) annual renewal fee.~~ one hundred fifty dollar (\$150.00) initial fee and a ninety dollar  
11 (\$90.00) annual renewal fee. Thirty dollars (\$30.00) of each initial and annual fee collected  
12 pursuant to this section shall be used by the Department for highway beautification projects. No  
13 additional funds from the Highway Trust Fund shall be used for the purposes of vegetation  
14 replacement under the provisions of this subsection.

15 (b) If outdoor advertising is under construction and the Department of Transportation  
16 determines that a permit has not been issued for the outdoor advertising, the Department may  
17 require that all work on the outdoor advertising cease until the owner of the outdoor advertising  
18 shows that the outdoor advertising does not violate this section. The stopwork order shall be  
19 prominently posted on the outdoor advertising structure, and no further notice of the stopwork  
20 order is required. The failure of an owner of outdoor advertising to comply immediately with  
21 the stopwork order shall subject the outdoor advertising to removal by the Department of  
22 Transportation or its agents. Outdoor advertising is under construction when it is in any phase  
23 of construction prior to the attachment and display of the advertising message in final position  
24 for viewing by the traveling public. The cost of removing outdoor advertising by the  
25 Department of Transportation or its agents pursuant to this section shall be assessed against the  
26 owner of the unpermitted outdoor advertising by the Department of Transportation. No  
27 stopwork order may be issued when the Department of Transportation process agent has been  
28 served with a court order allowing the sign to be constructed.

29 (c) No electrical utility permit shall be denied to an outdoor advertising sign described  
30 in G.S. 136-129(4) and G.S. 136-129(5) for which a permit has been issued by the Department,  
31 is valid, and is otherwise complaint with technical utility standards."

32 **SECTION 5.** Article 11 of Chapter 136 of the General Statutes is amended by  
33 adding a new section to read:

34 **"§ 136-133.1. Outdoor advertising vegetation cutting or removal.**

35 (a) The owner of an outdoor advertising sign permitted under G.S. 136-129(a)(4) or  
36 G.S. 136-129(a)(5) who obtains a selective vegetation removal permit, and the owner's  
37 designees, may cut, thin, prune, or remove vegetation in accordance with this section,  
38 G.S. 136-93(b), 136-133.2, and 136-133.4. The maximum cut or removal zone for vegetation  
39 for each sign face shall be determined as follows:

- 40 (1) The point located on the edge of the right-of-way that is the closest point to  
41 the centerline of the sign face shall be point A.
- 42 (2) The point located 200 feet down the right-of-way line in the direction of the  
43 sign viewing zone shall be point B.
- 44 (3) The point on the edge of the pavement of the travel way, including  
45 acceleration and deceleration ramps, that is the closest to the centerline of  
46 the sign shall be point C.
- 47 (4) The point 50 feet down the edge of the pavement in the direction of the sign  
48 viewing zone from point C shall be point D.
- 49 (5) The point 380 feet down the edge of the pavement in the direction of the  
50 sign viewing zone from point C shall be point E: provided, however, the

following shall apply within the corporal limits and territorial jurisdiction of any city, as defined in Chapter 160A of the General Statutes:

a. On interstates or other routes with fully controlled access, the point 340 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point E.

b. On highways other than interstates and other routes with fully controlled access, the point 250 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point E.

(6) Lines drawn from point A to point D and from point B to point E shall define the limits of the vegetation cut or removal area.

(b) Vegetation permitted to be cut, thinned, pruned, or removed shall be defined as any tree, shrub, or underbrush within the zone created by points A, B, D, and E. Any existing tree that was in existence at the time that an outdoor advertising structure was erected shall only be eligible for removal in accordance with subsections (c) and (d) of this section. Native dogwoods and native redbuds shall be preserved. For the purposes of this section, an existing tree is defined as a tree that had a diameter of four inches or greater as measured six inches from the ground at the time that the outdoor advertising structure was erected. An outdoor advertising sign is considered erected when the sign is completely constructed with a sign face.

(c) The applicant for a selective vegetation removal permit shall submit to the Department a site plan locating thereon any trees existing at the time that the outdoor advertising sign was erected, as defined in subsection (b) of this section, that are requested to be cut, thinned, pruned, or removed, and noting their species and total caliper inches. The applicant shall also tag, with highly visible material or flagging, any tree that is, at the time of the application for a selective vegetation removal permit, greater than four inches in diameter as measured six inches from the ground and requested to be cut, thinned, pruned, or removed. The selective vegetation removal request may be investigated on-site by Department personnel and a representative of the applicant. In the event that the Department disputes the accuracy of the existing tree information on the site plan noted above, the Department shall notify the applicant in writing and may request the following:

(1) A tree survey.

(2) That the applicant amends the site plan.

(3) That the applicant deletes the trees in dispute from the desired cutting.

If a notice of disputed tree information is received from the Department, the applicant can either employ the services of a North Carolina licensed landscape architect or certified arborist to perform a tree survey, amend the site plan, or notify the Department in writing that any or all of the disputed trees are deleted from the application. If the applicant selects a tree survey, the landscape architect or certified arborist will submit a report under seal that contains a tree inventory of existing trees in the removal zone for the outdoor advertising structure and include the age of any tree that existed at the time that the sign was erected. The report will categorize tree species and include a site map of sufficient detail and dimensions. A tree survey will not be required for subsequent applications to cut, thin, prune, or remove trees at the same site for trees that have been previously permitted. Any dispute relating to whether or not the tree existed at the time the outdoor advertising sign was erected shall be conclusively resolved by information in the report from the licensed landscape architect or certified arborist.

(d) Trees existing at the time the outdoor advertising sign was erected may only be removed within the zone created in subsection (a) of this section if the applicant satisfies one of the following two options selected by the applicant: (i) reimbursement to the Department pursuant to G.S. 136-93.2 or (ii) trees that existed at the time of the erection of the sign may be removed if the applicant agrees to remove two nonconforming outdoor advertising signs for each sign at which removal of existing trees is requested. The surrendered nonconforming signs

1 must be fully disassembled before any removal of existing trees is permitted and shall not be  
2 eligible for future outdoor advertising permits in perpetuity.

3 (e) Tree branches within a highway right-of-way that encroach into the zone created by  
4 points A, C, and D may be cut or pruned. Except as provided in subsection (f) of this section,  
5 no person, firm, or entity shall cut, trim, prune, or remove or otherwise cause to be cut,  
6 trimmed, pruned, or removed, vegetation that is in front of, or adjacent to, outdoor advertising  
7 and within the limits of the highway right-of-way for the purpose of enhancing the visibility of  
8 outdoor advertising unless permitted to do so by the Department in accordance with this  
9 section, G.S. 136-93(b), 136-133.2, and 136-133.4.

10 (f) Notwithstanding any law to the contrary, the owner of an outdoor advertising sign  
11 defined by subsection (a) of this section or the owner's designees may, working only from the  
12 private property side of the fence, without charge and without obtaining a selective vegetation  
13 removal permit, cut, trim, prune, or remove any tree or other vegetation except for native  
14 dogwoods or native redbuds that is (i) less than four inches in diameter at the height of the  
15 controlled access fence, (ii) located within 200 feet on either side of the existing sign location  
16 as defined by point A and point B in G.S. 136-133.1(a)(1) and (2), and (iii) a distance of three  
17 feet from a controlled access fence within the limits of the highway right-of-way. The activities  
18 permitted by this subsection must be performed from the private property owner side of the  
19 controlled access fence and with the consent of the owner of the land that is used to access said  
20 fence.

21 (g) The Department may revoke an outdoor advertising permit for the unlawful  
22 destruction or illegal cutting of vegetation within the right-of-way of any State-owned or  
23 State-maintained highway only if both of the followings conditions are met:

24 (1) The unlawful destruction or illegal cutting occurred within 500 feet of either  
25 side of the corresponding sign location measured along the edge of  
26 pavement of the main-travel way of the nearest controlled route and was  
27 willfully caused by one or more of the following:

28 a. The sign owner.

29 b. The permit holder.

30 c. The lessee or advertiser employing the sign.

31 d. The owner of the property upon which the sign is located.

32 e. Any employees, agents, or assigns of persons listed in sub-  
33 subdivisions a. through d. of this subdivision, including, but not  
34 limited to, independent contractors hired by the permit holder/sign  
35 owner, the lessee/agents or advertiser employing the sign, or the  
36 owner of the property upon which the sign is located.

37 (2) There is substantial, material evidence that the unlawful destruction or  
38 illegal cutting of vegetation would create, increase, or improve a view to the  
39 outdoor advertising sign for passing motorists from the main-traveled way of  
40 the nearest controlled route."

41 **SECTION 6.** Article 11 of Chapter 136 of the General Statutes is amended by  
42 adding a new section to read:

43 **"§ 136-133.2. Issuance or denial of a selective vegetation removal permit.**

44 (a) Except as provided in G.S. 136-133.1(f), permits to remove vegetation may be  
45 granted for outdoor advertising locations that have been permitted for at least two years prior to  
46 the date of application. The Department shall approve or deny an application submitted  
47 pursuant to this section, including the fee required by G.S. 136-18.7 and all required  
48 documentation, within 30 days of the receipt of an application for a selective vegetation  
49 removal permit. If written notice of approval or denial is not given to the applicant within the  
50 30-day period, then the application shall be deemed approved. If the application is denied, the  
51 Department shall advise the applicant, in writing, by registered or certified mail, return receipt

requested, addressed to the party to be noticed, and delivering to the addressee, the reasons for the denial.

(b) The application shall be denied by the Department if any of the following apply:

- (1) The application is for the opening of a view to an outdoor advertising sign which has been declared illegal, is currently the subject of litigation, or the outdoor advertising sign owner has received written notification of an investigation by the Department for impermissible activity.
- (2) The application is for the opening of a view to an outdoor advertising sign that was obscured from view at the time of erection of the sign.
- (3) Removal of vegetation will adversely affect the safety of the traveling public.
- (4) Trees, shrubs, or other vegetation of any sort that are requested to be cut, thinned, pruned, or removed were planted in accordance with a local, State, or federal beautification or environmental project but only to the extent that such planting was done prior to the erection of the outdoor advertising sign the visibility of which is sought to be enhanced.
- (5) Trees, shrubs, or other vegetation of any sort that are requested to be cut, thinned, pruned, or removed were planted in conjunction with a designed noise barrier, but only to the extent that such planting was done prior to the erection of the outdoor advertising sign the visibility of which is sought to be enhanced.
- (6) The applicant, or his designee, has not performed satisfactory work authorized by previous permits issued under the provisions of this section. The Department may not deny an application for a permit if the work authorized by previous permits issued pursuant to this section was performed by a landscape architect or certified arborist.
- (7) The selective vegetation removal, cutting, or pruning involves opening of a view to a junkyard.
- (8) Unlawful destruction or illegal cutting of vegetation as defined in G.S. 136-133.1(g) has occurred within five years preceding the date of filing an application with the Department for a selective vegetation removal permit."

SECTION 7. Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-133.3. Appeals of selective vegetation removal permit decisions.**

(a) An applicant for a selective vegetation removal permit issued pursuant to G.S. 136-133.2 may appeal a decision of the Department pertaining to the denial or conditioning of a permit for selective vegetation removal pursuant to the provisions of this section.

(b) Within 30 days of service of the Department's decision to deny or condition a selective vegetation removal permit issued pursuant to G.S. 136-133.4, the applicant shall submit a written appeal to the Secretary of Transportation setting forth with particularity the facts and arguments upon which the appeal is based. The appeal shall be sent to the Secretary by registered or certified mail, return receipt requested, addressed to the Secretary, and delivering to the addressee, with a copy to the Department official who issued the decision.

(c) Upon receipt of the written appeal, the Secretary of Transportation shall review the written appeal and the Department's decision, as well as any available documents, exhibits, or other evidence bearing on the appeal, and shall render the agency's final decision, supported by findings of fact and conclusions of law. The final agency decision shall be served upon the appealing party by registered or certified mail, return receipt requested, addressed to the applicant, and delivering to the addressee, within 90 days after the Secretary receives the

1 written appeal. A copy of the agency's final decision shall also be delivered to the Department  
2 official who issued the initial decision.

3 (d) A person aggrieved by a decision made pursuant to this section may seek judicial  
4 review of the final agency decision pursuant to G.S.136-134.1."

5 **SECTION 8.** Article 11 of Chapter 136 of the General Statutes is amended by  
6 adding a new section to read:

7 **"§ 136-133.4. Selective vegetation removal permits.**

8 (a) Selected vegetation within the approved limits shall be cut, thinned, pruned, or  
9 removed by the permittee or his agent in accordance with accepted International Society of  
10 Arboriculture (ISA) standards.

11 (b) Permits are valid for a period of one year. The permittee may cut, thin, prune, or  
12 remove vegetation more than one time per year. A 48-hour notification shall be provided to the  
13 Department by the permittee before entering the right-of-way.

14 (c) The permittee, or his agent, shall not impede the flow of traffic on any highway  
15 while performing vegetation removal authorized by a permit. Access to the work site on  
16 controlled access highways must be gained without using the main travel way of the highway.  
17 The Department shall determine the traffic control signage that may be required. The permittee  
18 shall furnish, erect, and maintain the required signs as directed by the Department. The  
19 permittee, or his agent, shall wear safety vests that conform to OSHA standards while  
20 performing the work.

21 (d) Any damage to vegetation designated to remain at the site, to highway fences, signs,  
22 paved areas, or other facilities shall be repaired or replaced by the permittee to the condition  
23 prior to the occurrence of the damage caused by the permittee or his agent. All trimmings, laps,  
24 and debris shall be removed from the right-of-way and disposed of in areas provided by the  
25 permittee. No burning or burying of trimmings, laps, or debris shall be permitted on the  
26 highway right-of-way. When chipping is used to dispose of trimmings, chips may be neatly  
27 spread on a right-of-way at locations which the Department determines will not be harmful to  
28 the environment or affect traffic safety.

29 (e) Willful failure to substantially comply with all the requirements specified in the  
30 selective vegetation removal permit, unless otherwise mutually resolved by the Department and  
31 the permittee, shall result in a five year moratorium for vegetation removal at the site, a  
32 summary revocation of the outdoor advertising permit if such willful failure meets the  
33 standards in G.S. 136-133.1(g), payment of Department investigative costs, and forfeiture of  
34 any applicable performance bond as determined by the Secretary. The moratorium shall begin  
35 upon execution of a settlement agreement or entry of a final disposition in the case."

36 **SECTION 9.** Article 11 of Chapter 136 of the General Statutes is amended by  
37 adding a new section to read:

38 **"§ 136-133.5. Denial of a permit for proposed outdoor advertising.**

39 (a) When a district engineer determines that a proposed outdoor advertising structure  
40 would not conform to the standards of outdoor advertising as set out in the Outdoor Advertising  
41 Control Act, the district engineer shall refuse to issue a permit for that proposed outdoor  
42 advertising structure.

43 (b) When a violation of the Outdoor Advertising Control Act has been discovered, the  
44 district engineer shall notify the permit applicant by registered or certified mail, return receipt  
45 requested, addressed to the party to be noticed, and delivering to the addressee, in writing, the  
46 reason for the denial and the statutes or rules forming the basis for the denial and include a  
47 copy of the Act.

48 (c) The Department shall not issue permits for new outdoor advertising signs at a sign  
49 location for a period of five years where the unlawful destruction or illegal cutting of  
50 vegetation has occurred within 500 feet on either side of the proposed sign location and as  
51 measured along the edge of pavement of the main travel way of the nearest controlled route.

1 For the purposes of this section, unlawful destruction or illegal cutting is defined as the  
2 destruction or cutting of trees, shrubs, or other vegetation on the State-owned or maintained  
3 rights-of-way by anyone other than the Department or its authorized agents, or without written  
4 permission of the Department.

5 (d) Before a permit is denied pursuant to subsection (c) of this section, the Department  
6 shall reveal some evidence that the unlawful destruction or illegal cutting would create,  
7 increase, or improve a view to a proposed outdoor advertising sign from the main-traveled way  
8 of the nearest controlled route.

9 (e) The five-year period shall begin on the date the Department executes a settlement  
10 agreement or final disposition of the case is entered.

11 (f) Subject to subsection (d) of this section, the five-year prohibition period for a new  
12 sign permit shall apply to all sign locations, including the following:

13 (1) Sign locations where the unlawful destruction or illegal cutting of vegetation  
14 occurs prior to the time the location becomes a conforming location.

15 (2) Sign locations where a revocation of an existing permit has been upheld and  
16 a sign has been removed.

17 (3) Sign locations where the unlawful destruction or illegal cutting occurs prior  
18 to receipt of an outdoor advertising permit.

19 (4) Sign locations where the unlawful destruction or illegal cutting occurs  
20 following receipt of an outdoor advertising permit application, but prior to  
21 the issuance of the permit by the Department.

22 (g) The Department shall not issue permits for new outdoor advertising signs at a sign  
23 location where existing trees, if they were to reach the average mature size for that species,  
24 would make the proposed sign faces, when erected, not completely visible from the viewing  
25 zone. "Existing trees" are those trees that at the time of the permit application are four inches or  
26 greater in diameter as measured six inches from the ground. "Viewing zone" means the area  
27 which is 500 feet as measured along the edge of the main-traveled way of the controlled route  
28 on each side of the proposed sign structure which will have a sign face.

29 (h) An outdoor advertising permit requested pursuant to G.S. 136-129(a)(4) shall not be  
30 issued to a location if the zoning to commercial or industrial zones was adopted within one year  
31 prior to the filing of the permit application and is not part of comprehensive zoning or  
32 constitutes spot zoning, which, for purposes of this subsection, shall be defined as zoning  
33 designed primarily for the purpose of permitting outdoor advertising signs and in an area which  
34 would not normally permit outdoor advertising. Zoning shall not be considered "primarily for  
35 the purpose of permitting outdoor advertising signs" if the zoning would permit more than one  
36 principal commercial or industrial use, other than outdoor advertising, and the size of the land  
37 being zoned can practically support such commercial or industrial uses.

38 (i) Outdoor advertising permits shall not be issued to a location for a period of 12  
39 months prior to the proposed letting of a new construction contract that may affect the spacing  
40 or location requirements for an outdoor advertising structure until the project is completed. The  
41 prohibition authorized by this subsection shall not extend for a period longer than 18 months.  
42 Priority in spacing shall be given by the Department to the first submitted application for an  
43 outdoor advertising permit at the location.

44 (j) Outdoor advertising permits shall not be issued for a location on a North Carolina or  
45 United States route designated as a scenic byway."

46 SECTION 10. This act becomes October 1, 2011, and applies to permit  
47 applications or renewals submitted on or after that date and to offenses occurring on or after  
48 that date.



## SENATE BILL 183: Selective Vegetation Removal/State Highways

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Sen. Brown  
**Analysis of:** PCS to First Edition  
S183-CSRVf-10

**Date:** April 19, 2011  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *This proposed committee substitute for Senate Bill 183 eliminates the provisions in the 1<sup>st</sup> Edition of the bill concerning electronic billboards. The bill would amend the State's Outdoor Advertising Control Act by establishing statutory standards for selective vegetation removal within the rights-of-way of the State highway system, increasing the fee for a selective vegetation removal permit, establishing standards for the issuance or denial of a selected vegetation removal permit, and establishing a process for appeals of selective vegetation removal permit decisions. The bill would become effective October 1, 2011 and apply to permit applications or renewals submitted on or after that date and to offenses occurring on or after that date.*

**CURRENT LAW:** The Outdoor Advertising Control Act is set out in Article 11 of Chapter 136 of the General Statutes. The Act is intended to control the erection and maintenance of outdoor advertising devices in order to "preserve and enhance the natural scenic beauty of the highways and areas in the vicinity of the State highways and to promote the reasonable, orderly and effective display of such signs, displays and devices." G.S. 136-18 grants the Department of Transportation (DOT) the authority to "employ appropriate means for properly selecting, planting and protecting trees, shrubs, vines, grasses or legumes in the highway right-of-way in the promotion of erosion control, landscaping and general protection of said highways". Pursuant to its rulemaking authority, the Department has established a Selective Vegetation Removal Policy that is set out in the North Carolina Administrative Code. The policy provides for selective thinning, pruning, replacement, relocation, or removal of vegetation within highway rights of way for the purpose of opening views to office, institutional, commercial and industrial facilities and legally erected forms of outdoor advertising which are located directly adjacent to State highway rights of way. When removal of vegetation is allowed, it must be performed by the permittee in compliance with the policy and at no cost to the Department of Transportation. Under G.S. 136-18.7, the fee for a selective vegetation removal permit is \$200.

**BILL ANALYSIS:** Senate Bill 183 would establish statutory standards for selective vegetation removal within the rights-of-way of the State highway system. Many of the provisions in the bill are substantially similar to existing provisions of the North Carolina Administrative Code. The bill contains fee changes in Sections 1 and 4 and under Senate Rules, should be referred to Finance.

**Section 1** of the bill would increase the fee for a selective vegetation removal permit from \$200 to \$400 for each permitted site. The fee would be nonrefundable.

**Section 2** of the bill prohibits the removal of vegetation in or on any right of way of a State road or State highway without a written selective vegetation removal permit issued pursuant to provisions in the bill and in accordance with DOT rules. Requests for a permit would be made to the appropriate person in the Division of Highways office, on a form prescribed by DOT. Permits may be requested by the owner of an outdoor advertising sign or the owner of a business facility. If the permit application is for a site located within a municipality, the municipality would have 30 days to review and comment on the application provided it has advised DOT in writing of its desire to review such applications and has

# Senate PCS 183

Page 2

identified the name of the local official who should receive notice. Local governments would be prohibited from regulating the removal of vegetation as authorized by DOT.

**Section 3** of the bill establishes a standard for determining the monetary value of trees removed from State rights-of-way. Values would be determined and published by DOT annually by December 15, for use in the following calendar year.

**Section 4** of the bill would amend the law concerning permits for the erection or maintenance of outdoor advertising. The bill increases the initial fee from \$120 to \$150, and the annual renewal fee is increased from \$60 to \$90. The bill provides that \$30 of each initial and annual fee is to be used by DOT for highway beautification projects. No electrical utility permit may be denied to an outdoor advertising sign for which a permit has been issued by DOT, so long as the permit is valid and otherwise compliant with technical utility standards.

**Section 5** of the bill establishes standards for the cutting or removal of vegetation pursuant to a selective vegetation removal permit issued to the owner of an outdoor advertising sign. The bill prescribes a maximum cut or removal zone for each sign face; the maximum zone varies depending upon whether the site is within the corporal limits and territorial jurisdiction of a municipality and whether the highway is an interstate or other route with fully controlled access. The permit applicant must submit a site plan to DOT, and DOT may conduct an on-site investigation. The bill sets out a procedure for resolving disputes concerning the accuracy of information on the site plan. Trees existing at the time the outdoor advertising sign was erected may only be removed if the applicant reimburses DOT for the established value of the trees or if the applicant agrees to remove two nonconforming signs for each sign at which the removal of trees is requested. Under specified conditions, a selective vegetation removal permit is not required for activities conducted from the private property side of a controlled access fence and with the consent of the landowner. In certain instances, DOT would have the authority to revoke an outdoor advertising permit for the unlawful destruction or illegal cutting of vegetation within highway right-of-way.

**Section 6** of the bill establishes standards for the issuance or denial of a selected vegetation removal permit. DOT would be required to approve or deny a permit within 30 day of receipt of the application; if no decision is conveyed in writing within the 30 day period, the application is deemed to be approved. Denial must be made in writing, by registered or certified mail, and must include reason for the denial. The bill requires that an application be denied when certain conditions apply.

**Section 7** establishes a process for appeals of selective vegetation removal permit decisions. An applicant would have 30 days in which to submit a written appeal, by registered or certified mail to the Secretary of Transportation, setting forth the facts and arguments upon which the appeal is based. The agency would be required to render a final decision within 90 days of receiving the written appeal. The bill provides that the aggrieved party may seek judicial review of the final agency decision.

**Section 8** requires that vegetation cutting or removal be done in accordance with accepted International Society of Arboriculture (ISA) standards. Selective vegetation removal permits would be valid for a period of 1 year and cutting or removal may occur more than one time during that year. The permittee must give a 48-hour notice to DOT before entering the right-of-way. Other terms and conditions are established concerning impeding the flow of traffic, access to the work site, traffic control signage, adherence to safety standards, property damage, and debris removal. Willful failure to comply with requirements specified in the permit could result in a 5-year moratorium for vegetation removal at the site or a summary revocation of the outdoor advertising permit.

**Section 9** establishes a procedure and standards for denial of a permit for proposed outdoor advertising. A district engineer would be required to refuse to issue a permit for a proposed outdoor advertising

# Senate PCS 183

Page 3

structure that would not conform to the standards of outdoor advertising as set out in the Outdoor Advertising Control Act. The applicant would be notified of the denial and the basis for the denial by registered or certified mail. In the case of a sign located at a site where the 5-year moratorium is in effect for the unlawful destruction or cutting of vegetation, before denying the permit DOT would be required to reveal some evidence that the unlawful acts would create, increase, or improve a view to an outdoor advertising sign.

The bill would prohibit DOT from issuing permits for new outdoor advertising signs at a location where existing trees, if they were to reach mature height, would make the proposed sign faces not completely visible from the viewing zone. An outdoor advertising permit in an area zoned industrial or commercial under authority of State law could not be issued if the zoning was adopted within one year prior to the filing of the permit application and is not part of comprehensive zoning or represents spot zoning for the purpose of permitting outdoor advertising signs in an area that would not normally permit such signs. Outdoor advertising permits would also not be issued for certain locations where new construction contracts may affect spacing or location requirements for an outdoor advertising structure. Priority in spacing would be granted to the first submitted application for a permit at the location. DOT would also deny permits for locations on a State or US scenic byway.

**EFFECTIVE DATE:** The bill would become effective October 1, 2011 and apply to permit applications or renewals submitted on or after that date and to offenses occurring on or after that date.

*SI83-SMRV-35(CSRVf-10) v2*

## Transportation

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2011**

**S**

**1**

**SENATE BILL 704**

**Short Title:** Eliminate Weight Requirements/Farm Trucks.

**(Public)**

**Sponsors:** Senators Meredith; and Pate.

**Referred to:** Transportation.

April 20, 2011

A BILL TO BE ENTITLED  
AN ACT TO ELIMINATE THE WEIGHT RESTRICTIONS ON FARM TRUCKS OR  
VEHICLES TRAVELLING ON A LIGHT-TRAFFIC ROAD.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-118(c)(4) reads as rewritten:

"(4) A truck or other motor vehicle shall be exempt from such light-traffic road limitations provided for pursuant to G.S. 20-118(b)(4), when transporting supplies, material or equipment necessary to carry out a ~~farming~~any operation ~~engaged in the production of meats and agricultural crops and livestock or poultry by products or a business engaged in the harvest or processing of seafood~~ when the destination of such vehicle and load is located solely upon said light-traffic road."

**SECTION 2.** G.S. 20-118(c)(5) is repealed.

**SECTION 3.** This act is effective when it becomes law. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.





## SENATE BILL 704: Eliminate Weight Requirements/Farm Trucks

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Sen. Meredith  
**Analysis of:** First Edition

**Date:** April 26, 2011  
**Prepared by:** Giles S. Perry  
Committee Counsel

**SUMMARY:** *Senate Bill 704 amends the light-traffic road vehicle weight exemptions of the State.*

**CURRENT LAW:** Under current law, G.S. 20-118, DOT is authorized to post lower weight limits on light-traffic roads, which are defined as roads other than Interstate, US, and NC numbered highways.

Several exemptions to the light-traffic road weight limitations are included in G.S. 20-118.

**BILL ANALYSIS:** Senate Bill 704 amends current G.S. 20-118 by:

- Repealing the light-traffic road weight exemption of G.S. 20-118(c)(5) (*see below*) for vehicles transporting various farm, forest, and meat products, recyclable materials, garbage, and waste, from point of origin to either one of the two nearest highways; and
- Expanding the light-traffic road limitation of G.S. 20-118 (c)(4), to exempt a truck or other motor vehicle when transporting supplies, material, or equipment necessary to carry out any operation when the destination of such vehicle is located solely upon the light-traffic road.

**EFFECTIVE DATE:** Section 3 provides that this act is effective when it becomes law. In addition, it provides that prosecutions for offenses committed before the effective date are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

**BACKGROUND:** Text of G.S. 20-118(c)(5):

- (5) The light-traffic road limitations provided for pursuant to subdivision (b)(4) of this section do not apply to a vehicle while that vehicle is transporting only the following from its point of origin on a light-traffic road to either one of the two nearest highways that is not a light-traffic road. If that vehicle's point of origin is a non-light-traffic road and that road is blocked by light-traffic roads from all directions and is not contiguous with other non-light-traffic roads, then the road at point of origin is treated as a light-traffic road for purposes of this subdivision:
  - a. Processed or unprocessed seafood transported from boats or any other point of origin to a processing plant or a point of further distribution.
  - b. Meats or agricultural crop products transported from a farm to first market.
  - c. Forest products originating and transported from a farm or from woodlands to first market without interruption or delay for further packaging or processing after initiating transport.
  - d. Livestock or poultry transported from their point of origin to a processing plant or first market.
  - e. Livestock by-products or poultry by-products transported from their point of origin to a rendering plant.
  - f. Recyclable material transported from its point of origin to a scrap-processing facility for processing. As used in this subpart, the terms "recyclable material" and "processing" have the same meaning as in G.S. 130A-290(a).

# Senate Bill 704

Page 2

- g. Garbage collected by the vehicle from residences or garbage dumpsters if the vehicle is fully enclosed and is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters. As used in this subpart, the term "garbage" does not include hazardous waste as defined in G.S. 130A-290(a), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5, or radioactive material as defined in G.S. 104E-5.
- h. Treated sludge collected from a wastewater treatment facility.
- i. Apples when transported from the orchard to the first processing or packing point.
- j. Trees grown as Christmas trees from the field, farm, stand, or grove to first processing point.

*S704-SMRW-89(e1) v2*

# PUBLIC BILL

S.B. 749

SESSION LAW \_\_\_\_\_

## A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR INCREASED TRANSPORTATION EFFICIENCY FOR BRINGING AGRICULTURAL PRODUCTS TO A MARKETPLACE BY MODIFYING THE TYPES OF ITEMS THAT MAY BE TRANSPORTED BY A FARMER WITHOUT HAVING TO PAY A REGISTRATION FEE FOR A TRAILER OR SEMITRAILER; TO MODIFY THE REGISTRATION REQUIREMENTS FOR PROPERTY HAULING VEHICLES TO ENSURE THEY ARE REGISTERED FOR THE MAXIMUM WEIGHT ALLOWABLE FOR THE VEHICLE BEING OPERATED; AND TO MODIFY THE EXCEPTIONS TO THE MAXIMUM WEIGHT ALLOWED ON LIGHT ROADS FOR A PERSON TRANSPORTING AGRICULTURAL PRODUCTS AND RESIDUALS.

Introduced by Senator(s)  
(Primary Sponsors)

*Butt*

Rabon

*W. E. H. H.*

Tucker

*W. E. H. H.*

Rouzer

*W. E. H. H.*

Principal Clerk's Use Only

**FILED** 'APR 19 2011

**PASSED 1st READING**

**APR 20 2011**

AND REFERRED TO COMMITTEE

ON:

*Transportation*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 749

Short Title: Modify Weight Limits for Farm Operations.

(Public)

Sponsors: Senators Rabon, Tucker, Rouzer; Apodaca, Davis, Goolsby, Hise, Jackson, Jenkins, and Pate.

Referred to: Transportation.

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR INCREASED TRANSPORTATION EFFICIENCY FOR BRINGING AGRICULTURAL PRODUCTS TO A MARKETPLACE BY MODIFYING THE TYPES OF ITEMS THAT MAY BE TRANSPORTED BY A FARMER WITHOUT HAVING TO PAY A REGISTRATION FEE FOR A TRAILER OR SEMITRAILER; TO MODIFY THE REGISTRATION REQUIREMENTS FOR PROPERTY HAULING VEHICLES TO ENSURE THEY ARE REGISTERED FOR THE MAXIMUM WEIGHT ALLOWABLE FOR THE VEHICLE BEING OPERATED; AND TO MODIFY THE EXCEPTIONS TO THE MAXIMUM WEIGHT ALLOWED ON LIGHT ROADS FOR A PERSON TRANSPORTING AGRICULTURAL PRODUCTS AND RESIDUALS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-51(6) reads as rewritten:

"(6) Any trailer or semitrailer attached to and drawn by a properly licensed motor vehicle when used by a farmer, his tenant, agent, or employee in transporting unginning cotton, peanuts, soybeans, corn, hay, tobacco, silage, cucumbers, potatoes, all vegetables, fruits, greenhouse and nursery plants and flowers, Christmas trees, livestock, live poultry, animal waste, herbicides, fungicides, seeds, fertilizers or chemicals purchased or owned by the farmer or tenant for personal use in implementing husbandry, irrigation pipes, loaders, or equipment owned by the farmer or tenant from place to place on the same farm, from one farm to another, from farm to gin, from farm to dryer, or from farm to market, and when not operated on a for-hire basis. The term "transporting" as used herein shall include the actual hauling of said products and all unloaded travel in connection therewith."

SECTION 2. G.S. 20-88 is amended by adding a new subsection to read:

"(m) Any vehicle weighing greater than the limits found in G.S. 20-118(b), as authorized by G.S. 20-118(c)(12), (c)(14), and (c)(15), must be registered for the maximum weight allowed for the vehicle configuration as listed in G.S. 20-118(b). A vehicle driven in violation of this subsection is subject to the axle group penalties set in G.S. 20-118(e). The penalties apply to the amount by which the vehicle's maximum gross weight as listed in G.S. 20-118(b) exceeds its declared weight."

SECTION 3. G.S. 20-118(c) reads as rewritten:

"(c) Exceptions. – The following exceptions apply to G.S. 20-118(b) and 20-118(e).

...  
(5) The light-traffic road limitations provided for pursuant to subdivision (b)(4) of this section do not apply to a vehicle while that vehicle is transporting



only the following from its point of origin on a light-traffic road to either one of the two nearest highways that is not a light-traffic road. If that vehicle's point of origin is a non-light-traffic road and that road is blocked by light-traffic roads from all directions and is not contiguous with other non-light-traffic roads, then the road at point of origin is treated as a light-traffic road for purposes of this subdivision:

- a. Processed or unprocessed seafood transported from boats or any other point of origin to a processing plant or a point of further distribution.
- b. ~~Meats~~ Meats, live poultry, or agricultural crop products transported from a farm to a processing plant or first-market.
- c. Forest products originating and transported from a farm or from woodlands to ~~first-market~~ without interruption or delay for further packaging or processing after initiating transport.
- d. Livestock or live poultry transported from their point of origin to a processing plant or ~~first-market~~.
- e. Livestock by-products or poultry by-products transported from their point of origin to a rendering plant.
- f. Recyclable material transported from its point of origin to a scrap-processing facility for processing. As used in this subpart, the terms "recyclable material" and "processing" have the same meaning as in G.S. 130A-290(a).
- g. Garbage collected by the vehicle from residences or garbage dumpsters if the vehicle is fully enclosed and is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters. As used in this subpart, the term "garbage" does not include hazardous waste as defined in G.S. 130A-290(a), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5, or radioactive material as defined in G.S. 104E-5.
- h. Treated sludge collected from a wastewater treatment facility.
- i. Apples when transported from the orchard to the first processing or packing point.
- j. Trees grown as Christmas trees from the field, farm, stand, or grove to ~~first-a~~ processing point.
- k. Water, fertilizer, herbicides, fungicides, seeds, fuel, and animal waste transported to or from a farm by a farm vehicle as defined in G.S. 20-37.16(e)(3).

...

(12) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the conditions set out below:

- a. ~~Is hauling agricultural crops from the farm where the crop is grown to any market~~ transporting an item listed in sub-subdivisions(c)(5)b., d., i., j., or k. within 150 miles of that the farm.
- b. Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 13.
- b1. Does not operate on an interstate highway or exceed any posted bridge weight limits during transportation or hauling of agricultural products.
- c. Does not exceed a single-axle weight of ~~22,000~~ 26,000 pounds, a tandem-axle weight of ~~42,000~~ 44,000 pounds, or a gross weight of 90,000 pounds.

- d. ~~Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration as listed in subsection (b) of this section.~~

(14) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the conditions below, but all other enforcement provisions of this Article remain applicable:

- a. Is hauling aggregates from a distribution yard or a State-permitted production site located within a North Carolina county contiguous to the North Carolina State border to a destination in another state adjacent to that county as verified by a weight ticket in the driver's possession and available for inspection by enforcement personnel.
- b. Does not operate on an interstate highway or exceed any posted bridge weight limits.
- c. Does not exceed 69,850 pounds gross vehicle weight and 53,850 pounds per axle grouping for tri-axle vehicles. For purposes of this subsection, a tri-axle vehicle is a single power unit vehicle with a three consecutive axle group on which the respective distance between any two consecutive axles of the group, measured longitudinally center to center to the nearest foot, does not exceed eight feet. For purposes of this subsection, the tolerance provisions of subsection (h) of this section do not apply, and vehicles must be licensed in accordance with G.S. 20-88.
- d. Repealed by Session Laws 2001-487, s. 10, effective December 16, 2001.
- e. ~~Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration as listed in subsection (b) of this section.~~

(15) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle combination that meets all of the conditions below, but all other enforcement provisions of this Article remain applicable:

- a. Is hauling wood residuals, including wood chips, sawdust, mulch, or tree bark from any site; is hauling raw logs to first market; is transporting bulk soil, bulk rock, sand, sand rock, or asphalt millings from a site that does not have a certified scale for weighing the vehicle; or is hauling animal waste products from the animal waste storage site to a farm or field.
- b. Does not operate on an interstate highway, a posted light-traffic road, except as provided by subdivision (c)(5) of this section, or exceed any posted bridge weight limits.
- c. Does not exceed a maximum gross weight 4,000 pounds in excess of what is allowed in subsection (b) of this section.
- d. Does not exceed a single-axle weight of more than ~~22,000~~26,000 pounds and a tandem-axle weight of more than ~~42,000~~44,000 pounds.
- e. ~~Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration as listed in subsection (b) of this section."~~

**SECTION 3.** This act becomes effective October 1, 2011, and applies to offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE BILL 749  
PROPOSED COMMITTEE SUBSTITUTE S749-CSRWF-24 [v.1]

4/26/2011 9:25:58 PM

Short Title:   Modify Weight Limits for Farm Operations.

(Public)

Sponsors:

Referred to:

April 20, 2011

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR INCREASED TRANSPORTATION EFFICIENCY FOR  
3 BRINGING AGRICULTURAL PRODUCTS TO A MARKETPLACE BY MODIFYING  
4 THE TYPES OF ITEMS THAT MAY BE TRANSPORTED BY A FARMER WITHOUT  
5 HAVING TO PAY A REGISTRATION FEE FOR A TRAILER OR SEMITRAILER; TO  
6 MODIFY THE REGISTRATION REQUIREMENTS FOR PROPERTY HAULING  
7 VEHICLES TO ENSURE THEY ARE REGISTERED FOR THE MAXIMUM WEIGHT  
8 ALLOWABLE FOR THE VEHICLE BEING OPERATED; AND TO MODIFY THE  
9 EXCEPTIONS TO THE MAXIMUM WEIGHT ALLOWED ON LIGHT ROADS FOR A  
10 PERSON TRANSPORTING AGRICULTURAL PRODUCTS AND RESIDUALS.

11 The General Assembly of North Carolina enacts:

12       **SECTION 1.** G.S. 20-51(6) reads as rewritten:

13       "(6) Any trailer or semitrailer attached to and drawn by a properly licensed motor  
14 vehicle when used by a farmer, his tenant, agent, or employee in transporting  
15 unginne cotton, peanuts, soybeans, corn, hay, tobacco, silage, cucumbers,  
16 potatoes, all vegetables, fruits, greenhouse and nursery plants and flowers,  
17 Christmas trees, livestock, live poultry, animal waste, herbicides, fungicides,  
18 seeds, fertilizers or chemicals purchased or owned by the farmer or tenant  
19 for personal use in implementing husbandry, irrigation pipes, loaders, or  
20 equipment owned by the farmer or tenant from place to place on the same  
21 farm, from one farm to another, from farm to gin, from farm to dryer, or  
22 from farm to market, and when not operated on a for-hire basis. The term  
23 "transporting" as used herein shall include the actual hauling of said products  
24 and all unloaded travel in connection therewith."

25       **SECTION 2.** G.S. 20-88 is amended by adding a new subsection to read:

26       "(m) Any vehicle weighing greater than the limits found in G.S. 20-118(b), as authorized  
27 by G.S. 20-118(c)(12), (c)(14), and (c)(15), must be registered for the maximum weight  
28 allowed for the vehicle configuration as listed in G.S. 20-118(b). A vehicle driven in violation  
29 of this subsection is subject to the axle group penalties set in G.S. 20-118(e). The penalties  
30 apply to the amount by which the vehicle's maximum gross weight as listed in G.S. 20-118(b)  
31 exceeds its declared weight."

32       **SECTION 3.** G.S. 20-118(c) reads as rewritten:

33       "(c) Exceptions. – The following exceptions apply to G.S. 20-118(b) and 20-118(e).

34       ...



(5) The light-traffic road limitations provided for pursuant to subdivision (b)(4) of this section do not apply to a vehicle while that vehicle is transporting only the following from its point of origin on a light-traffic road to either one of the two nearest highways that is not a light-traffic road. If that vehicle's point of origin is a non-light-traffic road and that road is blocked by light-traffic roads from all directions and is not contiguous with other non-light-traffic roads, then the road at point of origin is treated as a light-traffic road for purposes of this subdivision:

- a. Processed or unprocessed seafood transported from boats or any other point of origin to a processing plant or a point of further distribution.
- b. ~~Meats~~ Meats, live poultry, or agricultural crop products transported from a farm to a processing plant or first-market.
- c. Forest products originating and transported from a farm or from woodlands to ~~first-market~~ without interruption or delay for further packaging or processing after initiating transport.
- d. Livestock or live poultry transported from their point of origin to a processing plant or ~~first-market~~.
- e. Livestock by-products or poultry by-products transported from their point of origin to a rendering plant.
- f. Recyclable material transported from its point of origin to a scrap-processing facility for processing. As used in this subpart, the terms "recyclable material" and "processing" have the same meaning as in G.S. 130A-290(a).
- g. Garbage collected by the vehicle from residences or garbage dumpsters if the vehicle is fully enclosed and is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters. As used in this subpart, the term "garbage" does not include hazardous waste as defined in G.S. 130A-290(a), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5, or radioactive material as defined in G.S. 104E-5.
- h. Treated sludge collected from a wastewater treatment facility.
- i. Apples when transported from the orchard to the first processing or packing point.
- j. Trees grown as Christmas trees from the field, farm, stand, or grove to ~~first-a~~ processing point.
- k. Water, fertilizer, herbicides, fungicides, seeds, fuel, and animal waste transported to or from a farm by a farm vehicle as defined in G.S. 20-37.16(e)(3).

...  
(12) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the conditions set out below:

- a. ~~Is hauling agricultural crops from the farm where the crop is grown to any market~~ transporting an item listed in sub-subdivisions(c)(5)b., d., i., j., or k. within 150 miles of that the farm.
- b. Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 13.
- b1. Does not operate on an interstate highway or exceed any posted bridge weight limits during transportation or hauling of agricultural products.

c. Does not exceed a single-axle weight of ~~22,000~~26,000 pounds, a tandem-axle weight of ~~42,000~~44,000 pounds, or a gross weight of 90,000 pounds.

d. ~~Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration as listed in subsection (b) of this section.~~

(14) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the conditions below, but all other enforcement provisions of this Article remain applicable:

a. Is hauling aggregates from a distribution yard or a State-permitted production site located within a North Carolina county contiguous to the North Carolina State border to a destination in another state adjacent to that county as verified by a weight ticket in the driver's possession and available for inspection by enforcement personnel.

b. Does not operate on an interstate highway or exceed any posted bridge weight limits.

c. Does not exceed 69,850 pounds gross vehicle weight and 53,850 pounds per axle grouping for tri-axle vehicles. For purposes of this subsection, a tri-axle vehicle is a single power unit vehicle with a three consecutive axle group on which the respective distance between any two consecutive axles of the group, measured longitudinally center to center to the nearest foot, does not exceed eight feet. For purposes of this subsection, the tolerance provisions of subsection (h) of this section do not apply, and vehicles must be licensed in accordance with G.S. 20-88.

d. Repealed by Session Laws 2001-487, s. 10, effective December 16, 2001.

e. ~~Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration as listed in subsection (b) of this section.~~

(15) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle combination that meets all of the conditions below, but all other enforcement provisions of this Article remain applicable:

a. Is hauling wood residuals, including wood chips, sawdust, mulch, or tree bark from any site; is hauling raw logs to first market; is transporting bulk soil, bulk rock, sand, sand rock, or asphalt millings from a site that does not have a certified scale for weighing the vehicle; or is hauling animal waste products from the animal waste storage site to a farm or field.

b. Does not operate on an interstate highway, a posted light-traffic road, except as provided by subdivision (c)(5) of this section, or exceed any posted bridge weight limits.

c. Does not exceed a maximum gross weight 4,000 pounds in excess of what is allowed in subsection (b) of this section.

d. Does not exceed a single-axle weight of more than ~~22,000~~26,000 pounds and a tandem-axle weight of more than ~~42,000~~44,000 pounds.

e. ~~Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration as listed in subsection (b) of this section."~~

1           **SECTION 3.** This act becomes effective December 1, 2011, and applies to  
2 offenses committed on or after that date.



## SENATE BILL 749: Modify Weight Limits for Farm Operations

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Sens. Rabon, Tucker, Rouzer  
**Analysis of:** PCS to First Edition  
S749-CSRWf-24

**Date:** April 26, 2011  
**Prepared by:** Giles S. Perry  
Committee Counsel

**SUMMARY:** *Senate Bill 749 (PCS) exempts certain farm trailers from registration, restates the requirement that specified property hauling vehicles be registered for the maximum weight allowed; and to increase the single and tandem axle weight limits for vehicles transportation specified products.*

*The proposed committee substitute changes the effective date.*

**CURRENT LAW:** G.S. 20-51(6) includes several exceptions to the requirement that vehicles be registered if they use the highways of the State

G.S. 20-88 sets out the registration fees for property hauling vehicles.

G.S. 20-118 sets out the weight limits applicable to vehicles using the highways of the State.

### BILL ANALYSIS:

**Section 1** of House Bill 749 amends G.S. 20-51, which lists the exceptions to the requirement that a vehicle be registered, to exempt any trailer or semi-trailer used by a farmer, his tenant, agent, or employee in transporting livestock, live poultry, animal waste, herbicides, fungicide, or seeds from the requirement of registration.

**Section 2** of the bill amends G.S. 20-88, (which sets out the fees for property-hauling vehicles) to restate that any vehicle weighing greater than the usual weight limits set in G.S. 20-118(b) (due to a weight limit exception pursuant to G.S. 20-118 (c)(12), (14), or (15) for agricultural crops, aggregates, wood residuals, including wood chips, sawdust, mulch, or tree bark, raw logs, bulk soil, bulk rock, sand, sand rock, asphalt millings, or animal waste), shall:

- Be registered for the maximum weight allowed for the vehicle configuration.
- If driven in violation of this provision, be subject to the axle group penalties set in G.S. 20-118(e), and that the penalties apply to the amount by which the vehicle's maximum gross weight exceeds its declared weight.

**Section 3** of the bill amends G.S. 20-118(c), exceptions to the State's weight limits, to:

- Authorize a light-traffic road weight exception for live poultry from a farm; and water, fertilizer, herbicides, fungicides, seeds, fuel, and animal waste to or from a farm by a farm vehicle.
- Authorize a single axle weight of 26,000 lbs. and tandem axle weight of 44,000 lbs. for vehicles transporting the following within 150 miles of the farm: meats or agricultural crop products transported from a farm to first market; livestock or poultry transported from their point of origin to a processing plant or first market; apples when transported from the orchard to the first

# Senate PCS 749

Page 2

processing or packing point; trees grown as Christmas trees from the field, farm, stand, or grove to first processing point; water, fertilizer, herbicides, fungicides, seeds, fuel, and animal waste transported to or from a farm by a farm vehicle.

- Authorize a single axle weight of 26,000 lbs. and a tandem axle weight of 44,000 lbs., for wood residuals, including wood chips, sawdust, mulch, or tree bark, raw logs, bulk soil, bulk rock, sand, sand rock, asphalt millings, or animal waste

•  
**EFFECTIVE DATE:** This act becomes effective October 1, 2011, and applies to offenses committed on or after that date.

*S749-SMRW-91(CSRWF-24) v1*

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. \_\_\_\_\_

H. B. No. \_\_\_\_\_

S. B. No. 749

COMMITTEE SUBSTITUTE X

DATE 4-27-2011

Amendment No. 1

(to be filled in by  
Principal Clerk)

Rep. ) Jackson  
Sen. ) \_\_\_\_\_

1 moves to amend the bill on page 2, line 34

2 ( ) WHICH CHANGES THE TITLE

3 by adding on that line

4 "and other forest products, including  
5 chips, & bark, and residuals"

6 \_\_\_\_\_

7 \_\_\_\_\_

9 \_\_\_\_\_

10 \_\_\_\_\_

11 \_\_\_\_\_

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19 \_\_\_\_\_

SIGNED



ADOPTED V FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

# PUBLIC BILL

S.B. 750

SESSION LAW \_\_\_\_\_

## A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT BIDS AND DOCUMENTS RELATED TO BIDS AND CONTRACTS FOR PROJECTS OFFERED FOR BID BY THE DEPARTMENT OF TRANSPORTATION ARE NOT PUBLIC RECORDS UNTIL THE CONTRACT FOR THE PROJECT IS AWARDED.

Introduced by Senator(s)

Rabon

*Bartolucci*

*Bill Clark*  
*W. Starnes*

*Andrew*  
*Rafferty*

Principal Clerk's Use Only

**FILED** APR 19 2011

PASSED 1st READING

APR 20 2011

AND REFERRED TO COMMITTEE

ON:

*Committee*

Transportation

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**S**

**1**

**SENATE BILL 750**

**Short Title:** DOT Bid Responses Not Public/Contract Awarded. (Public)

**Sponsors:** Senators Rabon; Apodaca, Davis, Hise, Jackson, Jenkins, and Tucker.

**Referred to:** Transportation.

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT BIDS AND DOCUMENTS RELATED TO BIDS AND CONTRACTS FOR PROJECTS OFFERED FOR BID BY THE DEPARTMENT OF TRANSPORTATION ARE NOT PUBLIC RECORDS UNTIL THE CONTRACT FOR THE PROJECT IS AWARDED.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 136-28.5 is amended by adding a new subsection to read:

**"(c)** Notwithstanding G.S. 132-1, bids and documents submitted in response to an advertisement or request for proposal under this Chapter shall not be public record until the Department issues a decision to award or not to award the contract."

**SECTION 2.** This act becomes effective July 1, 2011, and applies to bids and documents submitted for advertisements and requests for proposal that are advertised or requested on or after that date.





## SENATE BILL 750: DOT Bid Responses Not Public/Contract Awarded

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Sen. Rabon  
**Analysis of:** First Edition

**Date:** April 26, 2011  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *Senate Bill 750 would provide that bids and documents submitted in response to an advertisement or RFP by the Department of Transportation do not become public records until a decision is made concerning award of the contract.*

**CURRENT LAW:** The State's Public Records law is set out in Chapter 132 of the General Statutes. Public records include all documentary material made or received pursuant to law in connection with the transaction of public business by any agency of North Carolina government or its subdivisions, and people may generally obtain copies of public records and public information free or at minimal cost. The Public Records Act contains a number of exceptions that allow agencies to refrain from disclosing information deemed confidential, including information "*disclosed or furnished to the public agency in connection with the owner's performance of a public contract or in connection with a bid, application, proposal, industrial development project, or in compliance with laws, regulations, rules, or ordinances of the United States, the State, or political subdivisions of the State.*"

Under G.S. 136-28.5 diaries kept in connection with construction or repair contracts are not considered public records until the final estimate has been paid. Analyses generated by DOT's Bid Analysis and Management System, including work papers, documents, and the output of automated systems associated with the analysis of bids are confidential and not subject to public records law.

**BILL ANALYSIS:** Senate Bill 750 amends the law concerning the Department of Transportation and the letting of contracts for road construction, maintenance, operations, or repairs. The bill specifies that bids and documents submitted in response to an advertisement or request for proposal by the Department of Transportation do not become public records until the Department issues a decision concerning award of the contract.

**EFFECTIVE DATE:** The bill would become effective July 1, 2011 and apply to bids and documents submitted for advertisements and requests for proposal that are advertised or requested on or after that date.

S750-SMRV-42(e1) v1

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**TRANSPORTATION COMMITTEE REPORT  
Senator James Forrester, Co-Chair  
Senator Bill Rabon, Co-Chair**

Thursday, April 28, 2011

**Senator Kathy Harrington, Vice Chairman  
submits the following with recommendations as to passage:**

**FAVORABLE**

<b>S.B.</b>	<b>750</b>	<b>DOT Bid Responses Not Public/Contract Awarded.</b>
		Sequential Referral: None
		Recommended Referral: None

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL**

<b>S.B.</b>	<b>183</b>	<b>Selective Vegetation Removal/State Highways .</b>
		Draft Number: PCS85187
		Sequential Referral: None
		Recommended Referral: Finance
		Long Title Amended: Yes

<b>S.B.</b>	<b>749</b>	<b>Modify Weight Limits for Farm Operations.</b>
		Draft Number: PCS15154
		Sequential Referral: None
		Recommended Referral: Finance
		Long Title Amended: No

**TOTAL REPORTED: 3**

**Committee Clerk Comments:**

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**S**

**D**

**SENATE BILL 749  
PROPOSED COMMITTEE SUBSTITUTE S749-PCS15154-RWf-24**

Short Title:   Modify Weight Limits for Farm Operations.

(Public)

Sponsors:

Referred to:

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR INCREASED TRANSPORTATION EFFICIENCY FOR BRINGING AGRICULTURAL PRODUCTS TO A MARKETPLACE BY MODIFYING THE TYPES OF ITEMS THAT MAY BE TRANSPORTED BY A FARMER WITHOUT HAVING TO PAY A REGISTRATION FEE FOR A TRAILER OR SEMITRAILER; TO MODIFY THE REGISTRATION REQUIREMENTS FOR PROPERTY HAULING VEHICLES TO ENSURE THEY ARE REGISTERED FOR THE MAXIMUM WEIGHT ALLOWABLE FOR THE VEHICLE BEING OPERATED; AND TO MODIFY THE EXCEPTIONS TO THE MAXIMUM WEIGHT ALLOWED ON LIGHT ROADS FOR A PERSON TRANSPORTING AGRICULTURAL PRODUCTS AND RESIDUALS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-51(6) reads as rewritten:

"(6) Any trailer or semitrailer attached to and drawn by a properly licensed motor vehicle when used by a farmer, his tenant, agent, or employee in transporting unginne cotton, peanuts, soybeans, corn, hay, tobacco, silage, cucumbers, potatoes, all vegetables, fruits, greenhouse and nursery plants and flowers, Christmas trees, livestock, live poultry, animal waste, herbicides, fungicides, seeds, fertilizers or chemicals purchased or owned by the farmer or tenant for personal use in implementing husbandry, irrigation pipes, loaders, or equipment owned by the farmer or tenant from place to place on the same farm, from one farm to another, from farm to gin, from farm to dryer, or from farm to market, and when not operated on a for-hire basis. The term "transporting" as used herein shall include the actual hauling of said products and all unloaded travel in connection therewith."

**SECTION 2.** G.S. 20-88 is amended by adding a new subsection to read:

"(m) Any vehicle weighing greater than the limits found in G.S. 20-118(b), as authorized by G.S. 20-118(c)(12), (c)(14), and (c)(15), must be registered for the maximum weight allowed for the vehicle configuration as listed in G.S. 20-118(b). A vehicle driven in violation of this subsection is subject to the axle group penalties set in G.S. 20-118(e). The penalties apply to the amount by which the vehicle's maximum gross weight as listed in G.S. 20-118(b) exceeds its declared weight."

**SECTION 3.** G.S. 20-118(c) reads as rewritten:

"(c) Exceptions. – The following exceptions apply to G.S. 20-118(b) and 20-118(e).

...



\* S 7 4 9 - P C S 1 5 1 5 4 - R W F - 2 4 \*

(5) The light-traffic road limitations provided for pursuant to subdivision (b)(4) of this section do not apply to a vehicle while that vehicle is transporting only the following from its point of origin on a light-traffic road to either one of the two nearest highways that is not a light-traffic road. If that vehicle's point of origin is a non-light-traffic road and that road is blocked by light-traffic roads from all directions and is not contiguous with other non-light-traffic roads, then the road at point of origin is treated as a light-traffic road for purposes of this subdivision:

- a. Processed or unprocessed seafood transported from boats or any other point of origin to a processing plant or a point of further distribution.
- b. ~~Meats~~ Meats, live poultry, or agricultural crop products transported from a farm to a processing plant or first-market.
- c. Forest products originating and transported from a farm or from woodlands to first-market without interruption or delay for further packaging or processing after initiating transport.
- d. Livestock or live poultry transported from their point of origin to a processing plant or first-market.
- e. Livestock by-products or poultry by-products transported from their point of origin to a rendering plant.
- f. Recyclable material transported from its point of origin to a scrap-processing facility for processing. As used in this subpart, the terms "recyclable material" and "processing" have the same meaning as in G.S. 130A-290(a).
- g. Garbage collected by the vehicle from residences or garbage dumpsters if the vehicle is fully enclosed and is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters. As used in this subpart, the term "garbage" does not include hazardous waste as defined in G.S. 130A-290(a), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5, or radioactive material as defined in G.S. 104E-5.
- h. Treated sludge collected from a wastewater treatment facility.
- i. Apples when transported from the orchard to the first processing or packing point.
- j. Trees grown as Christmas trees from the field, farm, stand, or ~~grove~~ grove, and other forest products, including chips and bark, to first-a processing point.
- k. Water, fertilizer, herbicides, fungicides, seeds, fuel, and animal waste transported to or from a farm by a farm vehicle as defined in G.S. 20-37.16(e)(3).

...  
(12) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the conditions set out below:

- a. ~~Is hauling agricultural crops from the farm where the crop is grown to any market~~ transporting an item listed in sub-subdivisions(c)(5)b., d., i., j., or k. within 150 miles of that the farm.
- b. Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 13.
- b1. Does not operate on an interstate highway or exceed any posted bridge weight limits during transportation or hauling of agricultural products.

- 1 c. Does not exceed a single-axle weight of ~~22,000~~26,000 pounds, a  
2 tandem-axle weight of ~~42,000~~44,000 pounds, or a gross weight of  
3 90,000 pounds.  
4 d. ~~Is registered pursuant to G.S. 20-88 for the maximum weight allowed~~  
5 ~~for the vehicle configuration as listed in subsection (b) of this~~  
6 ~~section.~~

7 ...  
8 (14) Subsections (b) and (e) of this section do not apply to a vehicle that meets all  
9 of the conditions below, but all other enforcement provisions of this Article  
10 remain applicable:

- 11 a. Is hauling aggregates from a distribution yard or a State-permitted  
12 production site located within a North Carolina county contiguous to  
13 the North Carolina State border to a destination in another state  
14 adjacent to that county as verified by a weight ticket in the driver's  
15 possession and available for inspection by enforcement personnel.  
16 b. Does not operate on an interstate highway or exceed any posted  
17 bridge weight limits.  
18 c. Does not exceed 69,850 pounds gross vehicle weight and 53,850  
19 pounds per axle grouping for tri-axle vehicles. For purposes of this  
20 subsection, a tri-axle vehicle is a single power unit vehicle with a  
21 three consecutive axle group on which the respective distance  
22 between any two consecutive axles of the group, measured  
23 longitudinally center to center to the nearest foot, does not exceed  
24 eight feet. For purposes of this subsection, the tolerance provisions of  
25 subsection (h) of this section do not apply, and vehicles must be  
6 licensed in accordance with G.S. 20-88.  
7 d. Repealed by Session Laws 2001-487, s. 10, effective December 16,  
28 2001.  
29 e. ~~Is registered pursuant to G.S. 20-88 for the maximum weight allowed~~  
30 ~~for the vehicle configuration as listed in subsection (b) of this~~  
31 ~~section.~~

32 (15) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle  
33 combination that meets all of the conditions below, but all other enforcement  
34 provisions of this Article remain applicable:

- 35 a. Is hauling wood residuals, including wood chips, sawdust, mulch, or  
36 tree bark from any site; is hauling raw logs to first market; is  
37 transporting bulk soil, bulk rock, sand, sand rock, or asphalt millings  
38 from a site that does not have a certified scale for weighing the  
39 vehicle; or is hauling animal waste products from the animal waste  
40 storage site to a farm or field.  
41 b. Does not operate on an interstate highway, a posted light-traffic road,  
42 except as provided by subdivision (c)(5) of this section, or exceed  
43 any posted bridge weight limits.  
44 c. Does not exceed a maximum gross weight 4,000 pounds in excess of  
45 what is allowed in subsection (b) of this section.  
46 d. Does not exceed a single-axle weight of more than ~~22,000~~26,000  
47 pounds and a tandem-axle weight of more than ~~42,000~~44,000  
3 pounds.  
9 e. ~~Is registered pursuant to G.S. 20-88 for the maximum weight allowed~~  
50 ~~for the vehicle configuration as listed in subsection (b) of this~~  
51 ~~section."~~

1           **SECTION 4.** This act becomes effective December 1, 2011, and applies to  
2 offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE BILL 183  
PROPOSED COMMITTEE SUBSTITUTE S183-PCS85187-RVf-10

Short Title: Selective Vegetation Removal/State Highways.

(Public)

Sponsors:

Referred to:

March 3, 2011

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH CERTAIN STATUTORY STANDARDS FOR SELECTIVE  
VEGETATION REMOVAL WITHIN THE RIGHTS-OF-WAY OF THE STATE  
HIGHWAY SYSTEM.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 136-18.7 reads as rewritten:

**"§ 136-18.7. Fees.**

The fee for a selective vegetation removal permit issued pursuant to ~~G.S. 136-18(5), (7), and (9) is two hundred dollars (\$200.00).~~ G.S. 136-93, 136-133.1, and 136-133.4 is four hundred dollars (\$400.00) per permitted site and is nonrefundable."

**SECTION 2.** G.S. 136-93 reads as rewritten:

**"§ 136-93. Openings, structures, pipes, trees, and issuance of permits.**

(a) No opening or other interference whatsoever shall be made in any State road or highway other than streets not maintained by the Department of Transportation in cities and towns, nor shall any structure be placed thereon, nor shall any structure which has been placed thereon be changed or removed except in accordance with a written permit from the Department of Transportation or its duly authorized officers, who shall exercise complete and permanent control over such roads and highways. No State road or State highway, other than streets not maintained by the Department of Transportation in cities and towns, shall be dug up for laying or placing pipes, conduits, sewers, wires, railways, or other objects, ~~and no tree or shrub in or on any State road or State highway shall be planted, trimmed, or removed,~~ and no obstruction placed thereon, without a written permit as hereinbefore provided for, and then only in accordance with the regulations of said Department of Transportation or its duly authorized officers or employees; and the work shall be under the supervision and to the satisfaction of the Department of Transportation or its officers or employees, and the entire expense of replacing the highway in as good condition as before shall be paid by the persons, firms, or corporations to whom the permit is given, or by whom the work is done. The Department of Transportation, or its duly authorized officers, may, in its discretion, before granting a permit under the provisions of this section, require the applicant to file a satisfactory bond, payable to the State of North Carolina, in such an amount as may be deemed sufficient by the Department of Transportation or its duly authorized officers, conditioned upon the proper compliance with the requirements of this section by the person, firm, or corporation granted such permit. Any person making any opening in a State road or State highway, or placing any structure thereon, or changing or removing any structure thereon without obtaining a written permit as herein



\* S 1 8 3 - P C S 8 5 1 8 7 - R V F - 1 0 \*

provided, or not in compliance with the terms of such permit, or otherwise violating the provisions of this section, shall be guilty of a Class 1 misdemeanor: Provided, this section shall not apply to railroad crossings. The railroads shall keep up said crossings as now provided by law.

(b) Except as provided in G.S. 136-133.1(f), no vegetation, including any tree, shrub, or underbrush, in or on any right-of-way of a State road or State highway shall be planted, cut, trimmed, pruned, or removed without a written selective vegetation removal permit issued pursuant to G.S. 136-133.2 and in accordance with the rules of the Department. Requests for a permit for selective vegetation cutting, thinning, pruning, or removal shall be made by the owner of an outdoor advertising sign or the owner of a business facility to the appropriate person in the Division of Highways office on a form prescribed by the Department. For purposes of this section, G.S. 136-133.1, 136-133.2, and 136-133.4, the phrase "outdoor advertising" shall mean the outdoor advertising expressly permitted under G.S. 136-129(a)(4) or G.S. 136-129(a)(5). These provisions shall not be used to provide visibility to on-premise signs.

(c) For outdoor advertising, vegetation cut or removal limits shall be restricted to a maximum selective vegetation cut or removal zone for each sign face pursuant to the provisions of G.S. 136-133.1.

(d) If the application for vegetation cutting, thinning, pruning, or removal is for a site located within the corporate limits of a municipality, the municipality shall be given 30 days to review and provide nonbinding comments on the application if the municipality has previously advised the Department in writing of the desire to review such applications and the name of the local official to whom notice of such application should be directed. Local governments are prohibited from regulating vegetation cutting, trimming, pruning, or removal within the limits of interstate or primary highway rights-of-way by any permittee or other person authorized by the Department, including anyone authorized under G.S. 136-133.1(f)."

**SECTION 3.** Article 7 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-93.2. Monetary value of trees.**

The monetary value for existing trees removed and eligible for reimbursement to the Department as provided in G.S. 136-93 or G.S. 136-133.1 from State rights-of-way shall be determined on an annual basis by the Department. In determining the value of existing trees removed, the average cost per caliper inch shall be based on the lower value of either the average wholesale commercial nursery prices for hardwood and conifer plants, times a 2.5 multiplier for installation and warranty or the average cost per caliper inch for tree planting contracts let by the Department in the previous calendar year. The values shall be determined and published by the Department no later than December 15 of each year. The values established pursuant to this section shall be used in calculating the monetary value of trees removed from State rights-of-way beginning January 1 of each year. If the Department fails to publish changes in values by December 15, then the values existing on December 15 shall be applicable to existing trees removed and eligible for reimbursement for the following year."

**SECTION 4.** G.S. 136-133 reads as rewritten:

**"§ 136-133. Permits required.**

(a) No person shall erect or maintain any outdoor advertising within 660 feet of the nearest edge of the right-of-way of the interstate or primary highway system, except those allowed under G.S. 136-129, subdivisions (2) and (3) in this Article, or beyond 660 feet of the nearest edge of the right-of-way of the interstate or primary highway system, except those allowed under G.S. 136-129.1, subdivisions (2) and (3), without first obtaining a permit from the Department of Transportation or its agents pursuant to the procedures set out by rules adopted by the Department of Transportation. The permit shall be valid until revoked for nonconformance with this Article or rules adopted by the Department of Transportation. Any

1 person aggrieved by the decision of the Department of Transportation or its agents in refusing  
2 to grant or in revoking a permit may appeal the decision in accordance with the rules adopted  
3 by the Department of Transportation pursuant to this Article to the Secretary of Transportation  
4 who shall make the final decision on the agency appeal. The Department of Transportation  
5 shall have the authority to charge permit fees to defray the costs of administering the permit  
6 procedures under this Article. The fees for directional signs as set forth in G.S. 136-129(1) and  
7 G.S. 136-129.1(1) shall not exceed a forty dollar (\$40.00) initial fee and a thirty dollar (\$30.00)  
8 annual renewal fee. The fees for outdoor advertising structures, as set forth in G.S. 136-129(4)  
9 and (5) shall not exceed a ~~one hundred twenty dollar (\$120.00) initial fee and a sixty dollar~~  
10 ~~(\$60.00) annual renewal fee.~~ one hundred fifty dollar (\$150.00) initial fee and a ninety dollar  
11 (\$90.00) annual renewal fee. Thirty dollars (\$30.00) of each initial and annual fee collected  
12 pursuant to this section shall be used by the Department for highway beautification projects. No  
13 additional funds from the Highway Trust Fund shall be used for the purposes of vegetation  
14 replacement under the provisions of this subsection.

15 (b) If outdoor advertising is under construction and the Department of Transportation  
16 determines that a permit has not been issued for the outdoor advertising, the Department may  
17 require that all work on the outdoor advertising cease until the owner of the outdoor advertising  
18 shows that the outdoor advertising does not violate this section. The stopwork order shall be  
19 prominently posted on the outdoor advertising structure, and no further notice of the stopwork  
20 order is required. The failure of an owner of outdoor advertising to comply immediately with  
21 the stopwork order shall subject the outdoor advertising to removal by the Department of  
22 Transportation or its agents. Outdoor advertising is under construction when it is in any phase  
23 of construction prior to the attachment and display of the advertising message in final position  
24 for viewing by the traveling public. The cost of removing outdoor advertising by the  
25 Department of Transportation or its agents pursuant to this section shall be assessed against the  
26 owner of the unpermitted outdoor advertising by the Department of Transportation. No  
27 stopwork order may be issued when the Department of Transportation process agent has been  
28 served with a court order allowing the sign to be constructed.

29 (c) No electrical utility permit shall be denied to an outdoor advertising sign described  
30 in G.S. 136-129(4) and G.S. 136-129(5) for which a permit has been issued by the Department,  
31 is valid, and is otherwise compliant with technical utility standards."

32 **SECTION 5.** Article 11 of Chapter 136 of the General Statutes is amended by  
33 adding a new section to read:

34 **"§ 136-133.1. Outdoor advertising vegetation cutting or removal.**

35 (a) The owner of an outdoor advertising sign permitted under G.S. 136-129(a)(4) or  
36 G.S. 136-129(a)(5) who obtains a selective vegetation removal permit, and the owner's  
37 designees, may cut, thin, prune, or remove vegetation in accordance with this section,  
38 G.S. 136-93(b), 136-133.2, and 136-133.4. The maximum cut or removal zone for vegetation  
39 for each sign face shall be determined as follows:

- 40 (1) The point located on the edge of the right-of-way that is the closest point to  
41 the centerline of the sign face shall be point A.
- 42 (2) The point located 200 feet down the right-of-way line in the direction of the  
43 sign viewing zone shall be point B.
- 44 (3) The point on the edge of the pavement of the travel way, including  
45 acceleration and deceleration ramps, that is the closest to the centerline of  
46 the sign shall be point C.
- 47 (4) The point 50 feet down the edge of the pavement in the direction of the sign  
48 viewing zone from point C shall be point D.
- 49 (5) The point 380 feet down the edge of the pavement in the direction of the  
50 sign viewing zone from point C shall be point E; provided, however, the

following shall apply within the corporal limits and territorial jurisdiction of any city, as defined in Chapter 160A of the General Statutes:

- a. On interstates or other routes with fully controlled access, the point 340 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point E.
- b. On highways other than interstates and other routes with fully controlled access, the point 250 feet down the edge of the pavement in the direction of the sign viewing zone from point C shall be point E.

(6) Lines drawn from point A to point D and from point B to point E shall define the limits of the vegetation cut or removal area.

(b) Vegetation permitted to be cut, thinned, pruned, or removed shall be defined as any tree, shrub, or underbrush within the zone created by points A, B, D, and E. Any existing tree that was in existence at the time that an outdoor advertising structure was erected shall only be eligible for removal in accordance with subsections (c) and (d) of this section. Native dogwoods and native redbuds shall be preserved. For the purposes of this section, an existing tree is defined as a tree that had a diameter of four inches or greater as measured six inches from the ground at the time that the outdoor advertising structure was erected. An outdoor advertising sign is considered erected when the sign is completely constructed with a sign face.

(c) The applicant for a selective vegetation removal permit shall submit to the Department a site plan locating thereon any trees existing at the time that the outdoor advertising sign was erected, as defined in subsection (b) of this section, that are requested to be cut, thinned, pruned, or removed, and noting their species and total caliper inches. The applicant shall also tag, with highly visible material or flagging, any tree that is, at the time of the application for a selective vegetation removal permit, greater than four inches in diameter as measured six inches from the ground and requested to be cut, thinned, pruned, or removed. The selective vegetation removal request may be investigated on-site by Department personnel and a representative of the applicant. In the event that the Department disputes the accuracy of the existing tree information on the site plan noted above, the Department shall notify the applicant in writing and may request the following:

- (1) A tree survey.
- (2) That the applicant amends the site plan.
- (3) That the applicant deletes the trees in dispute from the desired cutting.

If a notice of disputed tree information is received from the Department, the applicant can either employ the services of a North Carolina licensed landscape architect or certified arborist to perform a tree survey, amend the site plan, or notify the Department in writing that any or all of the disputed trees are deleted from the application. If the applicant selects a tree survey, the landscape architect or certified arborist will submit a report under seal that contains a tree inventory of existing trees in the removal zone for the outdoor advertising structure and include the age of any tree that existed at the time that the sign was erected. The report will categorize tree species and include a site map of sufficient detail and dimensions. A tree survey will not be required for subsequent applications to cut, thin, prune, or remove trees at the same site for trees that have been previously permitted. Any dispute relating to whether or not the tree existed at the time the outdoor advertising sign was erected shall be conclusively resolved by information in the report from the licensed landscape architect or certified arborist.

(d) Trees existing at the time the outdoor advertising sign was erected may only be removed within the zone created in subsection (a) of this section if the applicant satisfies one of the following two options selected by the applicant: (i) reimbursement to the Department pursuant to G.S. 136-93.2 or (ii) trees that existed at the time of the erection of the sign may be removed if the applicant agrees to remove two nonconforming outdoor advertising signs for each sign at which removal of existing trees is requested. The surrendered nonconforming signs

1 must be fully disassembled before any removal of existing trees is permitted and shall not be  
2 eligible for future outdoor advertising permits in perpetuity.

3 (e) Tree branches within a highway right-of-way that encroach into the zone created by  
4 points A, C, and D may be cut or pruned. Except as provided in subsection (f) of this section,  
5 no person, firm, or entity shall cut, trim, prune, or remove or otherwise cause to be cut,  
6 trimmed, pruned, or removed vegetation that is in front of, or adjacent to, outdoor advertising  
7 and within the limits of the highway right-of-way for the purpose of enhancing the visibility of  
8 outdoor advertising unless permitted to do so by the Department in accordance with this  
9 section, G.S. 136-93(b), 136-133.2, and 136-133.4.

10 (f) Notwithstanding any law to the contrary, the owner of an outdoor advertising sign  
11 defined by subsection (a) of this section or the owner's designees may, working only from the  
12 private property side of the fence, without charge and without obtaining a selective vegetation  
13 removal permit, cut, trim, prune, or remove any tree or other vegetation except for native  
14 dogwoods or native redbuds that is (i) less than four inches in diameter at the height of the  
15 controlled access fence, (ii) located within 200 feet on either side of the existing sign location  
16 as defined by point A and point B in G.S. 136-133.1(a)(1) and (2), and (iii) a distance of three  
17 feet from a controlled access fence within the limits of the highway right-of-way. The activities  
18 permitted by this subsection must be performed from the private property owner side of the  
19 controlled access fence and with the consent of the owner of the land that is used to access said  
20 fence.

21 (g) The Department may revoke an outdoor advertising permit for the unlawful  
22 destruction or illegal cutting of vegetation within the right-of-way of any State-owned or  
23 State-maintained highway only if both of the following conditions are met:

24 (1) The unlawful destruction or illegal cutting occurred within 500 feet of either  
25 side of the corresponding sign location measured along the edge of  
26 pavement of the main-travel way of the nearest controlled route and was  
27 willfully caused by one or more of the following:

28 a. The sign owner.

29 b. The permit holder.

30 c. The lessee or advertiser employing the sign.

31 d. The owner of the property upon which the sign is located.

32 e. Any employees, agents, or assigns of persons listed in  
33 sub-subdivisions a. through d. of this subdivision, including, but not  
34 limited to, independent contractors hired by the permit holder/sign  
35 owner, the lessee/agents or advertiser employing the sign, or the  
36 owner of the property upon which the sign is located.

37 (2) There is substantial, material evidence that the unlawful destruction or  
38 illegal cutting of vegetation would create, increase, or improve a view to the  
39 outdoor advertising sign for passing motorists from the main-traveled way of  
40 the nearest controlled route."

41 **SECTION 6.** Article 11 of Chapter 136 of the General Statutes is amended by  
42 adding a new section to read:

43 **"§ 136-133.2. Issuance or denial of a selective vegetation removal permit.**

44 (a) Except as provided in G.S. 136-133.1(f), permits to remove vegetation may be  
45 granted for outdoor advertising locations that have been permitted for at least two years prior to  
46 the date of application. The Department shall approve or deny an application submitted  
47 pursuant to this section, including the fee required by G.S. 136-18.7 and all required  
48 documentation, within 30 days of the receipt of an application for a selective vegetation  
49 removal permit. If written notice of approval or denial is not given to the applicant within the  
50 30-day period, then the application shall be deemed approved. If the application is denied, the  
51 Department shall advise the applicant, in writing, by registered or certified mail, return receipt

requested, addressed to the party to be noticed, and delivering to the addressee, the reasons for the denial.

(b) The application shall be denied by the Department if any of the following apply:

- (1) The application is for the opening of a view to an outdoor advertising sign which has been declared illegal, is currently the subject of litigation, or the outdoor advertising sign owner has received written notification of an investigation by the Department for impermissible activity.
- (2) The application is for the opening of a view to an outdoor advertising sign that was obscured from view at the time of erection of the sign.
- (3) Removal of vegetation will adversely affect the safety of the traveling public.
- (4) Trees, shrubs, or other vegetation of any sort that are requested to be cut, thinned, pruned, or removed were planted in accordance with a local, State, or federal beautification or environmental project but only to the extent that such planting was done prior to the erection of the outdoor advertising sign the visibility of which is sought to be enhanced.
- (5) Trees, shrubs, or other vegetation of any sort that are requested to be cut, thinned, pruned, or removed were planted in conjunction with a designed noise barrier but only to the extent that such planting was done prior to the erection of the outdoor advertising sign the visibility of which is sought to be enhanced.
- (6) The applicant, or the applicant's designee, has not performed satisfactory work authorized by previous permits issued under the provisions of this section. The Department may not deny an application for a permit if the work authorized by previous permits issued pursuant to this section was performed by a landscape architect or certified arborist.
- (7) The selective vegetation removal, cutting, or pruning involves opening of a view to a junkyard.
- (8) Unlawful destruction or illegal cutting of vegetation as defined in G.S. 136-133.1(g) has occurred within five years preceding the date of filing an application with the Department for a selective vegetation removal permit."

SECTION 7. Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-133.3. Appeals of selective vegetation removal permit decisions.**

(a) An applicant for a selective vegetation removal permit issued pursuant to G.S. 136-133.2 may appeal a decision of the Department pertaining to the denial or conditioning of a permit for selective vegetation removal pursuant to the provisions of this section.

(b) Within 30 days of service of the Department's decision to deny or condition a selective vegetation removal permit issued pursuant to G.S. 136-133.4, the applicant shall submit a written appeal to the Secretary of Transportation setting forth with particularity the facts and arguments upon which the appeal is based. The appeal shall be sent to the Secretary by registered or certified mail, return receipt requested, addressed to the Secretary, and delivering to the addressee, with a copy to the Department official who issued the decision.

(c) Upon receipt of the written appeal, the Secretary of Transportation shall review the written appeal and the Department's decision, as well as any available documents, exhibits, or other evidence bearing on the appeal, and shall render the agency's final decision, supported by findings of fact and conclusions of law. The final agency decision shall be served upon the appealing party by registered or certified mail, return receipt requested, addressed to the applicant, and delivering to the addressee, within 90 days after the Secretary receives the

1 written appeal. A copy of the agency's final decision shall also be delivered to the Department  
2 official who issued the initial decision.

3 (d) A person aggrieved by a decision made pursuant to this section may seek judicial  
4 review of the final agency decision pursuant to G.S. 136-134.1."

5 **SECTION 8.** Article 11 of Chapter 136 of the General Statutes is amended by  
6 adding a new section to read:

7 **"§ 136-133.4. Selective vegetation removal permits.**

8 (a) Selected vegetation within the approved limits shall be cut, thinned, pruned, or  
9 removed by the permittee or the permittee's agent in accordance with accepted International  
10 Society of Arboriculture (ISA) standards.

11 (b) Permits are valid for a period of one year. The permittee may cut, thin, prune, or  
12 remove vegetation more than one time per year. A 48-hour notification shall be provided to the  
13 Department by the permittee before entering the right-of-way.

14 (c) The permittee, or the permittee's agent, shall not impede the flow of traffic on any  
15 highway -while performing vegetation removal authorized by a permit. Access to the work site  
16 on controlled access highways must be gained without using the main travel way of the  
17 highway. The Department shall determine the traffic control signage that may be required. The  
18 permittee shall furnish, erect, and maintain the required signs as directed by the Department.  
19 The permittee, or the permittee's agent, shall wear safety vests that conform to OSHA standards  
20 while performing the work.

21 (d) Any damage to vegetation designated to remain at the site, to highway fences, signs,  
22 paved areas, or other facilities shall be repaired or replaced by the permittee to the condition  
23 prior to the occurrence of the damage caused by the permittee or the permittee's agent. All  
24 trimmings, laps, and debris shall be removed from the right-of-way and disposed of in areas  
25 provided by the permittee. No burning or burying of trimmings, laps, or debris shall be  
26 permitted on the highway right-of-way. When chipping is used to dispose of trimmings, chips  
27 may be neatly spread on a right-of-way at locations which the Department determines will not  
28 be harmful to the environment or affect traffic safety.

29 (e) Willful failure to substantially comply with all the requirements specified in the  
30 selective vegetation removal permit, unless otherwise mutually resolved by the Department and  
31 the permittee, shall result in a five-year moratorium for vegetation removal at the site, a  
32 summary revocation of the outdoor advertising permit if such willful failure meets the  
33 standards in G.S. 136-133.1(g), payment of Department investigative costs, and forfeiture of  
34 any applicable performance bond as determined by the Secretary. The moratorium shall begin  
35 upon execution of a settlement agreement or entry of a final disposition in the case."

36 **SECTION 9.** Article 11 of Chapter 136 of the General Statutes is amended by  
37 adding a new section to read:

38 **"§ 136-133.5. Denial of a permit for proposed outdoor advertising.**

39 (a) When a district engineer determines that a proposed outdoor advertising structure  
40 would not conform to the standards of outdoor advertising as set out in the Outdoor Advertising  
41 Control Act, the district engineer shall refuse to issue a permit for that proposed outdoor  
42 advertising structure.

43 (b) When a violation of the Outdoor Advertising Control Act has been discovered, the  
44 district engineer shall notify the permit applicant by registered or certified mail, return receipt  
45 requested, addressed to the party to be noticed, and delivering to the addressee, in writing, the  
46 reason for the denial and the statutes or rules forming the basis for the denial and include a  
47 copy of the Act.

48 (c) The Department shall not issue permits for new outdoor advertising signs at a sign  
49 location for a period of five years where the unlawful destruction or illegal cutting of  
50 vegetation has occurred within 500 feet on either side of the proposed sign location and as  
51 measured along the edge of pavement of the main travel way of the nearest controlled route.

1 For the purposes of this section, unlawful destruction or illegal cutting is defined as the  
2 destruction or cutting of trees, shrubs, or other vegetation on the State-owned or maintained  
3 rights-of-way by anyone other than the Department or its authorized agents, or without written  
4 permission of the Department.

5 (d) Before a permit is denied pursuant to subsection (c) of this section, the Department  
6 shall reveal some evidence that the unlawful destruction or illegal cutting would create,  
7 increase, or improve a view to a proposed outdoor advertising sign from the main-traveled way  
8 of the nearest controlled route.

9 (e) The five-year period shall begin on the date the Department executes a settlement  
10 agreement or final disposition of the case is entered.

11 (f) Subject to subsection (d) of this section, the five-year prohibition period for a new  
12 sign permit shall apply to all sign locations, including the following:

13 (1) Sign locations where the unlawful destruction or illegal cutting of vegetation  
14 occurs prior to the time the location becomes a conforming location.

15 (2) Sign locations where a revocation of an existing permit has been upheld and  
16 a sign has been removed.

17 (3) Sign locations where the unlawful destruction or illegal cutting occurs prior  
18 to receipt of an outdoor advertising permit.

19 (4) Sign locations where the unlawful destruction or illegal cutting occurs  
20 following receipt of an outdoor advertising permit application, but prior to  
21 the issuance of the permit by the Department.

22 (g) The Department shall not issue permits for new outdoor advertising signs at a sign  
23 location where existing trees, if they were to reach the average mature size for that species,  
24 would make the proposed sign faces, when erected, not completely visible from the viewing  
25 zone. "Existing trees" are those trees that at the time of the permit application are four inches or  
26 greater in diameter as measured six inches from the ground. "Viewing zone" means the area  
27 which is 500 feet as measured along the edge of the main-traveled way of the controlled route  
28 on each side of the proposed sign structure which will have a sign face.

29 (h) An outdoor advertising permit requested pursuant to G.S. 136-129(a)(4) shall not be  
30 issued to a location if the zoning to commercial or industrial zones was adopted within one year  
31 prior to the filing of the permit application and is not part of comprehensive zoning or  
32 constitutes spot zoning, which, for purposes of this subsection, shall be defined as zoning  
33 designed primarily for the purpose of permitting outdoor advertising signs and in an area which  
34 would not normally permit outdoor advertising. Zoning shall not be considered "primarily for  
35 the purpose of permitting outdoor advertising signs" if the zoning would permit more than one  
36 principal commercial or industrial use, other than outdoor advertising, and the size of the land  
37 being zoned can practically support such commercial or industrial uses.

38 (i) Outdoor advertising permits shall not be issued to a location for a period of 12  
39 months prior to the proposed letting of a new construction contract that may affect the spacing  
40 or location requirements for an outdoor advertising structure until the project is completed. The  
41 prohibition authorized by this subsection shall not extend for a period longer than 18 months.  
42 Priority in spacing shall be given by the Department to the first submitted application for an  
43 outdoor advertising permit at the location.

44 (j) Outdoor advertising permits shall not be issued for a location on a North Carolina or  
45 United States route designated as a scenic byway."

46 **SECTION 10.** This act becomes October 1, 2011, and applies to permit  
47 applications or renewals submitted on or after that date and to offenses occurring on or after  
48 that date.

# VISITOR REGISTRATION SHEET

Senate Transportation Committee  
Name of Committee

Wednesday April 27,  
Date 2011

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Perry Miller	School of Gov
BERRY JENKINS	CAROLINAS AGC
Kathy Hawkins	Duke Energy
Ray Stalling	NCDACS
Steve Woodson	NCFB
Kathryn Westcott	HEEC/NC
Rick Zechini	Progress Energy
Tony Adams	NCOAA
Philp Bly	UCMA
DAN O'SHEA	FOA
Will Morgan	Sierra
✓ Micky D. Jones	Sierra Club
Gary Harris	NCPM

## VISITOR REGISTRATION SHEET

Senate Transportation Committee  
Name of Committee

Wednesday April 27,  
Date  
2011

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE  
CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ben Hitchings	NCAPA
Robert Moore	NCOAFA
Aaron Guyton	Fairway Outdoor Advertising
Aubrey Incorvaia	NC Doc
Ray Grandy	The World-Ten
Lou Ann Harris	LATTA
Sarniha Khanna	Independent Weekly

## VISITOR REGISTRATION SHEET

Senate Transportation Committee  
Name of Committee

Wednesday April 27,  
Date  
2011

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE  
CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Paul Hickman

FOA

Elizabeth Jones

Fairway Outdoor Adv.

N. J. H.  
for [Signature]

NASCAR TECHNICAL INSTITUTE

TODD ENGLISH

ROUSH PATES

WILLIAM D. ANTHONY

MMI

Buck Gregory

Roush Yates

RICHMOND GAGE

RCCC

JACQUELYN DANNEU

NASCAR

Kevin Leonard

NCACC

Amy Basow

NCACC

## VISITOR REGISTRATION SHEET

Senate Transportation Committee  
Name of Committee

Wednesday April 27,  
Date  
2011

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME	FIRM OR AGENCY AND ADDRESS
David Crawford	AIANC
Betsy Bailey	PENC
Cathy Thomas	NLRN
Bill Borel	NLRN
Dan Crawford	NLSN
Dan Conrad	NCCN
Lt. D.R. Shackelford	NCSHP
Allen Hook	NCSHP
Jon Nance	NCDOT
STEVE DOERRER	JACOBS / ACEC-NC

# VISITOR REGISTRATION SHEET

Senate Transportation Committee  
Name of Committee

Wednesday April 27,  
Date 2011

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE  
CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Karen Ray	NCMA
Steve Earnest	Rockingham
Phillip Walker	Hillsborough
Steve Johnson	CV Products
Mary E Ferguson	JKS Motorsports
Will Spencer	JKS Motorsports
Tammy Stevens	NCPA
Jerry Hardesty	NCPA / NCCA
Nathan Stencil	NCOAA
Bailie Morledge	Adams Outdoor
JAMAE MACHIST	LAMAR ADVERTISING

Sgt @ Auno  
Charles Harper  
Jim Blackburn

## PAGES ATTENDING

COMMITTEE: Transportation ROOM: 1027  
DATE: 4-27 TIME: 11 AM

PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!

Page Name	Hometown	Sponsoring Senator
<sup>1</sup> Blake Scruggs	Chapel Hill	Atwater
<sup>2</sup> Bailey Sherrill	Hiddenite	Soucek
<sup>3</sup> Heather Green	Rutherfordton	Clary
<sup>4</sup> <del>Mike Clemons</del>	<del>Sylva</del>	<del>Boyd</del>
<sup>5</sup>		
<sup>6</sup>		
<sup>7</sup>		
<sup>8</sup>		
<sup>9</sup>		

Do not add names below the grid.

# MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

Wednesday, May 04, 2011

11:00 AM, 1027 LB

The Senate Transportation Committee met on Wednesday, May 4, 2011, at 11:00 AM, in Room 1027 of the Legislative Building. Senator Rabon, Co-Chairman of the Committee, called the meeting to order.

Eleven members of the committee were present, and Senator Rabon welcomed committee members, staff, and guests. He further acknowledged the following pages serving at today's meeting: Morgan Brinson, Charlotte, sponsored by Senator Dannelly; Grant Murphy-Herndon, Durham, sponsored by Senator Atwater; and April Smith, Goldsboro, sponsored by Senator Tillman.

The first order of business was Senate Bill 126, Drivers License/Military ID Validity, sponsored by Senators Brown, Preston, and Meredith. Senator Rabon recognized Senator Meredith to explain the bill. After an explanation of the bill, Senator Tillman moved for a favorable report of the bill. Motion carried.

The next order of business was Senate Bill 271, Commercial and Other M/V Law Changes, sponsored by Senator Brunstetter. Senator Rabon recognized Senator Hise who moved for adoption of the proposed Committee Substitute bill for discussion purposes. Motion carried. Senator Rabon ordered the bill displaced so that corrected copies of the proposed Committee Substitute bill could be made and distributed to the committee members.

Senator Rabon recognized Senator Hise for a motion to suspend Senate Rule 45.1 to allow the committee to consider a proposed Senate Committee Substitute bill to House Bill 561, Medians on U.S. Highway 70, sponsored by Representatives LaRoque and Wainwright. Motion carried. Senator Tillman further moved that the proposed Senate Committee Substitute be adopted for discussion purposes. Motion carried. Chairman Rabon recognized Representative LaRoque to explain the proposed Senate Committee Substitute bill. After an explanation of the proposed Committee Substitute bill, Senator Rabon recognized Betsy Bailey, representing the Professional Engineers of North Carolina, who spoke to the bill. After a discussion of the measure by the committee members, Senator Hise moved for a favorable report of the Senate Committee Substitute bill. Motion carried.

Chairman Rabon then ordered the proposed Committee Substitute bill for Senate Bill 271, previously displaced, be brought back before the committee for consideration. After a discussion of the bill, he then recognized the following individuals who spoke to the measure: Thomas Caves, representing the Division of Crime Control and Public Safety, and Major Mark Nichols, North Carolina State Highway Patrol, Motor Carrier Operations Division. Senator White then offered Amendment No. 1 which was adopted. Senator Tillman further moved that the proposed Senate Committee substitute, as amended, be given a favorable report. Motion carried. The Senate Committee Substitute bill was re-referred to the Finance Committee.

The meeting adjourned at 11:32 a.m.

  
Senator William Rabon, Chairman

  
Ramona R. Fitzgerald, Committee Clerk

Principal Clerk  
Reading Clerk

**Second Corrected Notice: Add HB 561**

**SENATE**  
**NOTICE OF COMMITTEE MEETING**  
**AND**  
**BILL SPONSOR NOTICE**

The Senate Committee on **Transportation** will meet at the following time:

<b>DAY</b>	<b>DATE</b>	<b>TIME</b>	<b>ROOM</b>
Wednesday	May 4, 2011	11:00 AM	1027 LB

The following will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
SB 126	Drivers License/Military ID Validity.	Senator Brown Senator Preston Senator Meredith
SB 271	Commercial and Other M/V Law Changes.-AB	Senator Brunstetter Senator Jenkins
HB 561	Medians on U.S. Highway 70.	Representative LaRoque Representative Wainwright

Senator James Forrester, Co-Chair  
Senator Bill Rabon, Co-Chair

**Senate Transportation Committee  
Wednesday, May 4, 2011, 11:00 AM  
1027 LB**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills**

SB 126	Drivers License/Military ID Validity.	Senator Brown Senator Preston Senator Meredith
SB 271	Commercial and Other M/V Law Changes.-AB	Senator Brunstetter Senator Jenkins
HB 561	Medians on U.S. Highway 70.	Representative LaRoque Representative Wainwright

**Presentations**

**Other Business**

**Adjournment**



**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**S**

**1**

**SENATE BILL 126**

Short Title: Drivers License/Military ID Validity.

(Public)

Sponsors: Senators Brown, Preston, Meredith; Atwater, Brunstetter, Goolsby, and Hise.

Referred to: Finance.

February 28, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE ACTIVE DUTY MILITARY PERSONNEL WHO ARE NOT RESIDENTS OF NORTH CAROLINA AND WHO HAVE A VALID MILITARY IDENTIFICATION AN EXEMPTION FROM HAVING A VALID DRIVERS LICENSE SO LONG AS THE PERSON HAS BEEN PREVIOUSLY LICENSED AND THE LICENSE IS NOT IN A STATE OF SUSPENSION OR REVOCATION.

The General Assembly of North Carolina enacts:

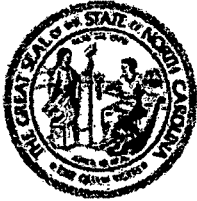
**SECTION 1.** G.S. 20-8 is amended by adding a new subdivision to read:

"(8) A nonresident who is at least 16 years of age, who is a member of the Armed Forces or a reserve component of the Armed Forces of the United States, and who has in his or her immediate possession a valid military identification card issued by the United States Department of Defense showing the member to be on active duty, and a valid or expired drivers license issued to the member in the member's home state or country if the nonresident is operating a motor vehicle in this State in accordance with the license restrictions and vehicle classifications that would be applicable to the member under the laws and regulations of the home state or country if the nonresident were driving in his or her home state or country. The exemption granted by this subdivision shall not apply if the member's drivers license or privileges to drive have been rescinded, suspended, revoked, or otherwise invalidated under some other provision of law by the member's home state or country or this State."

**SECTION 2.** This act is effective when it becomes law.



\* S 1 2 6 - V - 1 \*



## SENATE BILL 126: Drivers License/Military ID Validity

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Sens. Brown, Preston, Meredith  
**Analysis of:** First Edition

**Date:** May 3, 2011  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *Senate Bill 126 amends the State's drivers license law by providing an exemption for nonresidents who are at least 16 years of age and who are members of the Armed Forces or a reserve component of the Armed Forces of the United States. To be eligible for the exemption, the person must have a valid military identification card showing active duty status, and a valid or expired drivers license from the home state or country.*

**CURRENT LAW:** Under G.S. 20-7, to drive a motor vehicle on a highway in this State, a person must be licensed to drive the vehicle and must carry the license while driving the vehicle. G.S. 20-8 provides an exemption for nonresidents of the State who are at least 16 years of age, who have a valid driver's license issued by their home state or country and are operating a motor vehicle in this State in accordance with the license restrictions and vehicle classifications that would be applicable under the laws and regulations of their home state or country. The exemption in G.S. 20-8 specifically applies to nonresident military spouses, regardless of their employment status, who are temporarily residing in North Carolina due to the active duty military orders of a spouse.

**BILL ANALYSIS:** Senate Bill 126 amends the law concerning persons who are exempt from the State's drivers license requirement. The bill adds a provision that would exempt nonresidents at least 16 years of age who are members of the Armed Forces or a reserve component of the Armed Forces of the United States, and who have a valid military identification card showing themselves to be on active duty, and a valid or expired drivers license issued in their home state or country. The nonresident service member must be operating a motor vehicle in this State in accordance with any license restrictions and vehicle classifications that would be applicable under the laws and regulations of the person's home state or country when driving in that state or country. The exemption will not apply if the person's drivers license or privileges to drive have been rescinded, suspended, revoked, or otherwise invalidated under some other provision of law by the home state or country or by this State.

**EFFECTIVE DATE:** The bill would be effective when it becomes law.

S126-SMRV-50(e1) v1

# PUBLIC BILL

S.B. 271

SESSION LAW \_\_\_\_\_

## A BILL TO BE ENTITLED

AN ACT TO CLARIFY LICENSE PLATE COVER REQUIREMENTS, TO MODIFY WINDOW TINTING RESTRICTIONS FOR MOTOR CARRIERS SUBJECT TO THE PROVISIONS OF TITLE 49 OF THE FEDERAL CODE, TO CLARIFY TEXTING FOR MOTOR CARRIERS SUBJECT TO TITLE 49 OF THE FEDERAL CODE, TO CREATE A VEHICLE SEIZURE PROCESS FOR VEHICLES USED IN FELONY SPEEDING TO ELUDE LAW ENFORCEMENT OFFICER CASES, TO REQUIRE REDACTION OF CERTAIN VEHICLES CRASH REPORT INFORMATION, AND TO PROVIDE FOR CIVILIAN EMPLOYEES TO MANAGE OR OPERATE PERMANENT WEIGH STATIONS FOR THE STATE HIGHWAY PATROL.

Introduced by Senator(s)

Brunstetter

Jenkins

(Primary Sponsors)

Principal Clerk's Use Only

FILED MAR 8 2011

PASSED 1st READING

MAR 9 2011

AND REFERRED TO COMMITTEE  
ON Transp.

SEQUENTIAL REFERRAL:

Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2011

S

1

SENATE BILL 271

Short Title: Commercial and Other M/V Law Changes.-AB

(Public)

Sponsors: Senators Brunstetter and Jenkins.

Referred to: Transportation.

March 9, 2011

A BILL TO BE ENTITLED

AN ACT TO CLARIFY LICENSE PLATE COVER REQUIREMENTS, TO MODIFY WINDOW TINTING RESTRICTIONS FOR MOTOR CARRIERS SUBJECT TO THE PROVISIONS OF TITLE 49 OF THE FEDERAL CODE, TO CLARIFY TEXTING FOR MOTOR CARRIERS SUBJECT TO TITLE 49 OF THE FEDERAL CODE, TO CREATE A VEHICLE SEIZURE PROCESS FOR VEHICLES USED IN FELONY SPEEDING TO ELUDE LAW ENFORCEMENT OFFICER CASES, TO REQUIRE REDACTION OF CERTAIN VEHICLES CRASH REPORT INFORMATION, AND TO PROVIDE FOR CIVILIAN EMPLOYEES TO MANAGE OR OPERATE PERMANENT WEIGH STATIONS FOR THE STATE HIGHWAY PATROL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-28.3 reads as rewritten:

"§ 20-28.3. Seizure, impoundment, forfeiture of motor vehicles for offenses involving impaired driving while license revoked or without license and ~~insurance~~, insurance, and for felony speeding to elude arrest.

(a) Motor Vehicles Subject to ~~Seizure~~ Seizure for Impaired Driving Offenses. – A motor vehicle that is driven by a person who is charged with an offense involving impaired driving is subject to seizure if:

(1) At the time of the violation, the drivers license of the person driving the motor vehicle was revoked as a result of a prior impaired driving license revocation as defined in G.S. 20-28.2(a); or

(2) At the time of the violation:

a. The person was driving without a valid drivers license, and

b. The driver was not covered by an automobile liability policy.

For the purposes of this subsection, a person who has a complete defense, pursuant to G.S. 20-35, to a charge of driving without a drivers license, shall be considered to have had a valid drivers license at the time of the violation.

(a1) Motor Vehicles Subject to Seizure for Felony Speeding to Elude Arrest. – A motor vehicle that is driven by a person who is charged with the offense of felony speeding to elude arrest pursuant to G.S. 20-141.5(b).

(b) Duty of Officer. – If the charging officer has probable cause to believe that a motor vehicle driven by the defendant may be subject to forfeiture under this section, the officer shall seize the motor vehicle and have it impounded. If the officer determines prior to seizure that the motor vehicle had been reported stolen, the officer shall not seize the motor vehicle pursuant to this section. If the officer determines prior to seizure that the motor vehicle was a rental vehicle driven by a person not listed as an authorized driver on the rental contract, the officer shall not seize the motor vehicle pursuant to this section, but shall make a reasonable effort to notify the



\* 5 2 7 1 - V - 1 \*

owner of the rental vehicle that the vehicle was stopped and that the driver of the vehicle was not listed as an authorized driver on the rental contract. Probable cause may be based on the officer's personal knowledge, reliable information conveyed by another officer, records of the Division, or other reliable ~~source-sources~~. The seizing officer shall notify the ~~executive agency designated under subsection (b1) of this section~~ Division as soon as practical but no later than 24 hours after seizure of the motor vehicle of the seizure in accordance with procedures established by the executive agency designated under subsection (b1) of this section.

(b1) Written Notification of Impoundment. – Within 48 hours of receipt within regular business hours of the notice of seizure, ~~an executive agency designated by the Governor shall issue written notification of impoundment to the Division, the Division shall issue written notification of impoundment~~ to any lienholder of record and to any motor vehicle owner who was not operating the motor vehicle at the time of the offense. A notice of seizure received outside regular business hours shall be considered to have been received at the start of the next business day. The notification of impoundment shall be sent by first-class mail to the most recent address contained in the Division's records. If the motor vehicle is registered in another state, notice shall be sent to the address shown on the records of the state where the motor vehicle is registered. This written notification shall provide notice that the motor vehicle has been seized, state the reason for the seizure and the procedure for requesting release of the motor vehicle. Additionally, if the motor vehicle was damaged ~~while the defendant operator was committing an offense involving impaired driving while the operator was committing an offense resulting in seizure~~ or incident to the seizure, the ~~agency~~ Division shall issue written notification of the seizure to the owner's insurance company of record and to any other insurance companies that may be insuring other motor vehicles involved in the accident. The Division shall prohibit title to a seized motor vehicle from being transferred by a motor vehicle owner unless authorized by court order.

...

(k) County Board of Education Right to Appear and Participate in Proceedings. – The attorney for the county board of education shall be given notice of all proceedings regarding offenses ~~involving impaired driving related to a motor vehicle subject to forfeiture~~ forfeiture under this section. However, the notice requirement under this subsection does not apply to proceedings conducted under G.S. 20-28.3(e1). The attorney for the county board of education shall also have the right to appear and to be heard on all issues relating to the seizure, possession, release, forfeiture, sale, and other matters related to the seized vehicle under this section. With the prior consent of the county board of education, the district attorney may delegate to the attorney for the county board of education any or all of the duties of the district attorney under this section. Clerks of superior court, law enforcement agencies, and all other agencies with information relevant to the seizure, impoundment, release, or forfeiture of motor vehicles are authorized and directed to provide county boards of education with access to that information and to do so by electronic means when existing technology makes this type of transmission possible.

(l) Payment of Fees Upon Conviction. – If the driver of a motor vehicle seized pursuant to this section is convicted ~~of an offense involving impaired driving, of the underlying offense leading to the seizure of a motor vehicle pursuant to this section~~, the defendant shall be ordered to pay as restitution to the county board of education, the motor vehicle owner, or the lienholder the cost paid or owing for the towing, storage, and sale of the motor vehicle to the extent the costs were not covered by the proceeds from the forfeiture and sale of the motor vehicle. If the underlying offense is for felony speeding to elude arrest pursuant to G.S. 20-141.5(b), and the conviction is based on a plea agreement or a reduced charge to misdemeanor speeding to elude arrest pursuant to G.S. 20-141.5(a), the defendant shall be ordered to pay as restitution to the county board of education, the motor vehicle owner, or the lienholder the cost paid or owing for the towing and storage of the motor vehicle. In addition, a

1 civil judgment for the costs under this section in favor of the party to whom the restitution is  
2 owed shall be docketed by the clerk of superior court. If the defendant is sentenced to an active  
3 term of imprisonment, the civil judgment shall become effective and be docketed when the  
4 defendant's conviction becomes final. If the defendant is placed on probation, the civil  
5 judgment in the amount found by a judge during the probation revocation or termination  
6 hearing to be due shall become effective and be docketed by the clerk when the defendant's  
7 probation is revoked or terminated.

8 ...."

9 **SECTION 2. G.S. 20-63(g) reads as rewritten:**

10 "(g) Alteration, Disguise, or Concealment of Numbers. – Any operator of a motor  
11 vehicle who shall willfully mutilate, bend, twist, cover or cause to be covered or partially  
12 covered by any bumper, light, spare tire, tire rack, strap, or other device, or who shall paint,  
13 enamel, emboss, stamp, print, perforate, or alter or add to or cut off any part or portion of a  
14 registration plate or the figures or letters thereon, or who shall place or deposit or cause to be  
15 placed or deposited any oil, grease, or other substance upon such registration plates for the  
16 purpose of making dust adhere thereto, or who shall deface, disfigure, change, or attempt to  
17 change any letter or figure thereon, or who shall display a number plate in other than a  
18 horizontal upright position, shall be guilty of a Class 2 misdemeanor. Any operator of a motor  
19 vehicle who shall willfully cover or cause to be covered any part or portion of a registration  
20 plate or the figures or letters thereon by any device designed or intended to prevent or interfere  
21 with the taking of a clear photograph of a registration plate by a traffic control or toll collection  
22 system using cameras commits an infraction and shall be penalized under G.S. 14-3.1. Any  
23 operator of a motor vehicle who shall otherwise intentionally cover any number or registration  
24 renewal sticker on a registration plate with any material that makes the number or registration  
25 renewal sticker illegible commits an infraction and shall be penalized under G.S. 14-3.1. Any  
26 operator of a motor vehicle who covers any registration plate with any frame or transparent,  
27 clear, or color-tinted cover that covers any portion of the registration letters or numbers makes  
28 ~~a number or letter~~ included in the vehicle's registration, the State name on the plate, or a  
29 number or month on the registration renewal sticker on the plate ~~illegible~~ commits an infraction  
30 and shall be penalized under G.S. 14-3.1."

31 **SECTION 3. G.S. 20-127 reads as rewritten:**

32 **§ 20-127. Windows and windshield wipers.**

33 ...

34 (b) Window Tinting Restrictions. – A window of a vehicle that is operated on a  
35 highway or a public vehicular area shall comply with this subsection. The windshield of the  
36 vehicle may be tinted only along the top of the windshield and the tinting may not extend more  
37 than five inches below the top of the windshield or below the AS1 line of the windshield,  
38 whichever measurement is longer. Provided, however, an untinted clear film which does not  
39 obstruct vision but which reduces or eliminates ultraviolet radiation from entering a vehicle  
40 may be applied to the windshield. Any other window of the vehicle may be tinted in  
41 accordance with the following restrictions:

- 42 (1) The total light transmission of the tinted window shall be at least thirty-five  
43 percent (35%). A vehicle window that, by use of a light meter approved by  
44 the Commissioner, measures a total light transmission of more than  
45 thirty-two percent (32%) is conclusively presumed to meet this restriction.
- 46 (2) The light reflectance of the tinted window shall be twenty percent (20%) or  
47 less.
- 48 (3) Tinted film or another material used to tint the window shall be nonreflective  
49 and shall not be red, yellow, or amber.

(b1) Notwithstanding subsection (b) of this section, a window of a vehicle that is operated on a public street or highway and which is subject to the provisions of Part 393 of Title 49 of the Code of Federal Regulations shall comply with the provisions of that Part.

(c) Tinting Exceptions. – The window tinting restrictions in subsection (b) of this section apply without exception to the windshield of a vehicle. The window tinting restrictions in subdivisions (b)(1) and (b)(2) of this section do not apply to any of the following vehicle windows:

- (1) A window of an excursion passenger vehicle, as defined in G.S. 20-4.01(27)a.
- (2) ~~A window of a for hire passenger vehicle, as defined in G.S. 20-4.01(27)b.~~
- (3) ~~A window of a common carrier of passengers, as defined in G.S. 20-4.01(27)e.~~
- (4) A window of a motor home, as defined in G.S. 20-4.01(27)d2.
- (5) A window of an ambulance, as defined in G.S. 20-4.01(27)f.
- (6) The rear window of a property-hauling vehicle, as defined in G.S. 20-4.01(31).
- (7) A window of a limousine.
- (8) A window of a law enforcement vehicle.
- (9) A window of a multipurpose vehicle that is behind the driver of the vehicle. A multipurpose vehicle is a passenger vehicle that is designed to carry 10 or fewer passengers and either is constructed on a truck chassis or has special features designed for occasional off-road operation. A minivan and a pickup truck are multipurpose vehicles.
- (10) A window of a vehicle that is registered in another state and meets the requirements of the state in which it is registered.
- (11) A window of a vehicle for which the Division has issued a medical exception permit under subsection (f) of this section.

...."

**SECTION 4.** G.S. 20-137.4A is amended by adding a new subsection to read:

"(a1) Motor Carrier Offense. – It shall be unlawful for any person to operate a commercial motor vehicle subject to Parts 390 or 392 of Title 49 of the Code of Federal Regulations on a public street or highway or public vehicular area while using a mobile telephone or other electronic device in violation of those Parts."

**SECTION 5.** G.S. 20-141.5 reads as rewritten:

"§ 20-141.5. Speeding to elude arrest.

(f) Each law enforcement agency shall adopt a policy applicable to the pursuit of fleeing or eluding motorists. Each policy adopted pursuant to this subsection shall specifically include factors to be considered by an officer in determining when ~~it is advisable to break off a chase to stop and apprehend a suspect to initiate or terminate a pursuit.~~ The Attorney General shall develop a model policy or policies to be considered for use by law enforcement agencies.

(g) If a person is convicted of a violation of subsection (b) of this section, the motor vehicle that was driven by the defendant at the time the defendant committed the offense of felony speeding to elude arrest becomes property subject to forfeiture in accordance with the procedure set out in G.S. 20-28.2. In applying the procedure set out in that statute, an owner or a holder of a security interest is considered an innocent party with respect to a motor vehicle subject to forfeiture under this subsection if the defendant drove the motor vehicle without the consent of the owner or the holder of the security interest."

**SECTION 6.** G.S. 20-166.1(i) reads as rewritten:

"(i) Effect of Report. – A report of an accident made under this section by a person who is not a law enforcement officer is without prejudice, is for the use of the Division, and shall

1 not be used in any manner as evidence, or for any other purpose in any trial, civil or criminal,  
2 arising out of the accident. Any other report of an accident made under this section may be used  
3 in any manner as evidence, or for any other purpose, in any trial, civil or criminal, as permitted  
4 under the rules of evidence. At the demand of a court, the Division must give the court a  
5 properly executed certificate stating that a particular accident report has or has not been filed  
6 with the Division solely to prove a compliance with this section.

7 ~~The reports made by persons who are not law enforcement officers or medical examiners~~  
8 ~~are not public records. The reports made by law enforcement officers and medical examiners~~  
9 ~~are public records and are open to inspection by the general public at all reasonable times.~~  
10 pursuant to this section are public records within the meaning of G.S. 132-1. Reports made  
11 pursuant to this section may not be released to any person making a request unless and until  
12 personal identifying information has been redacted from the report in compliance with the  
13 provisions of the federal Drivers Privacy Protection Act, 18 U.S.C. § 2721(b)(11) and (12), and  
14 G.S. 20-43.1. The Division must give a certified copy of one of these reports to a member of  
15 the general public who requests a copy any person entitled to a copy of such report and who  
16 pays the fee set in G.S. 20-42."

17 **SECTION 7.** G.S. 20-383 reads as rewritten:

18 **"§ 20-383. Inspectors and officers given enforcement authority.**

19 ~~Only designated inspectors and officers of the Department of Crime Control and Public~~  
20 ~~Safety. The State Highway patrol and other agents or employees of the Department of Crime~~  
21 ~~Control and Public Safety designated by the Secretary of Crime Control and Public Safety shall~~  
22 have the authority to enforce the provisions of this Article and provisions of Chapter 62  
23 applicable to motor transportation, and they are empowered to make complaint for the issue of  
24 appropriate warrants, informations, presentments or other lawful process for the enforcement  
25 and prosecution of violations of the transportation laws against all offenders, whether they be  
26 regulated motor carriers or not, and to appear in court or before the North Carolina Utilities  
27 Commission and offer evidence at the trial pursuant to such processes."

28 **SECTION 8.** Sections 6 and 7 of this act are effective when this act becomes law.  
29 Sections 1, 2, 3, 4, and 5 of this act become effective December 1, 2011, and apply to offenses  
30 committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 271  
PROPOSED COMMITTEE SUBSTITUTE S271-CSR-15 [v.1]

4/27/2011 6:52:42 PM

Short Title: Commercial and Other M/V Law Changes.-AB

(Public)

Sponsors:

Referred to:

March 9, 2011

A BILL TO BE ENTITLED

AN ACT TO MODIFY WINDOW TINTING RESTRICTIONS FOR MOTOR CARRIERS  
SUBJECT TO THE PROVISIONS OF TITLE 49 OF THE FEDERAL CODE, TO  
CLARIFY TEXTING FOR MOTOR CARRIERS SUBJECT TO TITLE 49 OF THE  
FEDERAL CODE, TO REQUIRE REDACTION OF CERTAIN VEHICLES CRASH  
REPORT INFORMATION, AND TO PROVIDE FOR CIVILIAN EMPLOYEES TO  
MANAGE OR OPERATE PERMANENT WEIGH STATIONS FOR THE STATE  
HIGHWAY PATROL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-127 reads as rewritten:

§ 20-127. Windows and windshield wipers.

...

(b) Window Tinting Restrictions. – A window of a vehicle that is operated on a highway or a public vehicular area shall comply with this subsection. The windshield of the vehicle may be tinted only along the top of the windshield and the tinting may not extend more than five inches below the top of the windshield or below the AS1 line of the windshield, whichever measurement is longer. Provided, however, an untinted clear film which does not obstruct vision but which reduces or eliminates ultraviolet radiation from entering a vehicle may be applied to the windshield. Any other window of the vehicle may be tinted in accordance with the following restrictions:

- (1) The total light transmission of the tinted window shall be at least thirty-five percent (35%). A vehicle window that, by use of a light meter approved by the Commissioner, measures a total light transmission of more than thirty-two percent (32%) is conclusively presumed to meet this restriction.
- (2) The light reflectance of the tinted window shall be twenty percent (20%) or less.
- (3) Tinted film or another material used to tint the window shall be nonreflective and shall not be red, yellow, or amber.

(b1) Notwithstanding subsection (b) of this section, a window of a vehicle that is operated on a public street or highway and which is subject to the provisions of Part 393 of Title 49 of the Code of Federal Regulations shall comply with the provisions of that Part.

(c) Tinting Exceptions. – The window tinting restrictions in subsection (b) of this section apply without exception to the windshield of a vehicle. The window tinting restrictions



in subdivisions (b)(1) and (b)(2) of this section do not apply to any of the following vehicle windows:

- (1) A window of an excursion passenger vehicle, as defined in G.S. 20-4.01(27)a.
- (2) ~~A window of a for hire passenger vehicle, as defined in G.S. 20-4.01(27)b.~~
- (3) ~~A window of a common carrier of passengers, as defined in G.S. 20-4.01(27)c.~~
- (4) A window of a motor home, as defined in G.S. 20-4.01(27)d2.
- (5) A window of an ambulance, as defined in G.S. 20-4.01(27)f.
- (6) The rear window of a property-hauling vehicle, as defined in G.S. 20-4.01(31).
- (7) A window of a limousine.
- (8) A window of a law enforcement vehicle.
- (9) A window of a multipurpose vehicle that is behind the driver of the vehicle. A multipurpose vehicle is a passenger vehicle that is designed to carry 10 or fewer passengers and either is constructed on a truck chassis or has special features designed for occasional off-road operation. A minivan and a pickup truck are multipurpose vehicles.
- (10) A window of a vehicle that is registered in another state and meets the requirements of the state in which it is registered.
- (11) A window of a vehicle for which the Division has issued a medical exception permit under subsection (f) of this section.

...."

**SECTION 2.** G.S. 20-137.4A is amended by adding a new subsection to read:

"(a1) Motor Carrier Offense. – It shall be unlawful for any person to operate a commercial motor vehicle subject to Parts 390 or 392 of Title 49 of the Code of Federal Regulations on a public street or highway or public vehicular area while using a mobile telephone or other electronic device in violation of those Parts."

**SECTION 3.** G.S. 20-166.1(i) reads as rewritten:

"(i) Effect of Report. – A report of an accident made under this section by a person who is not a law enforcement officer is without prejudice, is for the use of the Division, and shall not be used in any manner as evidence, or for any other purpose in any trial, civil or criminal, arising out of the accident. Any other report of an accident made under this section may be used in any manner as evidence, or for any other purpose, in any trial, civil or criminal, as permitted under the rules of evidence. At the demand of a court, the Division must give the court a properly executed certificate stating that a particular accident report has or has not been filed with the Division solely to prove a compliance with this section.

The reports made by persons who are not law enforcement officers or medical examiners are not public records. The reports made by law enforcement officers and medical examiners are public records and are open to inspection by the general public at all reasonable times. pursuant to this section are public records within the meaning of G.S. 132-1. Reports made pursuant to this section may not be released to any person making a request unless and until personal identifying information has been redacted from the report in compliance with the provisions of the federal Drivers Privacy Protection Act, 18 U.S.C. § 2721(b)(11) and (12), and G.S. 20-43.1. The Division must give a certified copy of one of these reports to a member of the general public who requests a copy any person entitled to a copy of such report and who pays the fee set in G.S. 20-42."

**SECTION 4.** G.S. 20-383 reads as rewritten:

**"§ 20-383. Inspectors and officers given enforcement authority.**

Only designated inspectors and officers inspectors, officers, and personnel of the Department of Crime Control and Public Safety shall have the authority to enforce the

1 provisions of this Article and provisions of Chapter 62 applicable to motor transportation, and  
2 they are empowered to make complaint for the issue of appropriate warrants, informations,  
3 presentments or other lawful process for the enforcement and prosecution of violations of the  
4 transportation laws against all offenders, whether they be regulated motor carriers or not, and to  
5 appear in court or before the North Carolina Utilities Commission and offer evidence at the  
6 trial pursuant to such processes."

7 **SECTION 5.** Sections 3 and 4 of this act are effective when this act becomes law.  
8 Sections 1 and 2 of this act become effective December 1, 2011, and apply to offenses  
9 committed on or after that date.



## SENATE BILL 271: Commercial and Other M/V Law Changes.-AB

2011-2012 General Assembly

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<b>Committee:</b>	Senate Ref to Transportation. If fav, re-ref to Finance	<b>Date:</b>	April 28, 2011
<b>Introduced by:</b>	Sens. Brunstetter, Jenkins	<b>Prepared by:</b>	Brenda J. Carter
<b>Analysis of:</b>	PCS to First Edition S271-CSRV-15		Committee Counsel

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**SUMMARY:** *This proposed committee substitute for Senate Bill 271 amends the law concerning window tinting restrictions as it applies to interstate motor carriers; makes it unlawful for a person to operate certain commercial motor vehicles while using a mobile telephone or electronic device in violation of federal regulations; amends the law concerning motor vehicle accident reports and clarifies authority for enforcement of motor carrier & common carrier safety laws.*

**BILL ANALYSIS:** *Section 1 amends the law concerning window tinting restrictions. The bill eliminates the current exception that applies to vehicles transporting passengers for compensation and to common carriers operating under a certificate of authority issued by the Utilities Commission. The bill provides that commercial motor vehicles that are subject to federal law must comply with applicable federal regulations. Federal regulations provide that "coloring or tinting of windshields and the windows to the immediate right and left of the driver is allowed, provided the parallel luminous transmittance through the colored or tinted glazing is not less than 70 percent of the light at normal incidence in those portions of the windshield or windows which are marked as having a parallel luminous transmittance of not less than 70 percent. The transmittance restriction does not apply to other windows on the commercial motor vehicle."*

*Section 2 makes it unlawful for a person to operate certain commercial motor vehicles while using a mobile telephone or electronic device in violation of federal regulations.* This section applies to vehicles used on a highway in interstate commerce to transport passengers or property when the vehicle:

- Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 10,001 pounds or more, whichever is greater; or
- Is designed or used to transport more than 8 passengers (including the driver) for compensation; or
- Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
- Is used in transporting hazardous material requiring placarding

*Section 3 amends the law concerning motor vehicle accident reports.* Currently, accident reports made by persons who are not law enforcement officers or medical examiners are not public records. The bill provides that all accident reports are public records; however, reports may not be released unless and until personal identifying information has been redacted from the report. Personal identifying information includes the individual's name, date of birth, address, sex, county of residence, and drivers license number.

*Section 4 amends the law concerning the enforcement of motor carrier safety laws.* Currently, "designated inspectors and officers of the Department of Crime Control and Public Safety" have authority to enforce the provisions of the Motor Carrier Safety Act and provisions of Chapter 62

# Senate PCS 271

Page 2

applicable to common carriers. The bill provides for enforcement by the "State Highway Patrol and other agents or employees of the Department of Crime Control and Public Safety designated by the Secretary."

**EFFECTIVE DATE:** Sections 3 and 4 of the bill would be effective when the bill becomes law. The remainder of the bill would become effective December 1, 2011 and apply to offenses committed on or after that date.

*S271-SMRV-47(CSRV-15) v1*

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. \_\_\_\_\_

H. B. No. \_\_\_\_\_

DATE 5-4-11

S. B. No. 5271-CSRV-15

Amendment No. 1

(to be filled in by  
Principal Clerk)

COMMITTEE SUBSTITUTE ✓

Rep. )

Sen. )

White

1 moves to amend the bill on page 2, line 28

2 ( ) WHICH CHANGES THE TITLE

3 by adding at the end of that line the

4 following: "Nothing in this subsection shall

5 prohibit the use of hands-free technology."

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SIGNED [Signature]

ADOPTED N

FAILED \_\_\_\_\_

TABLED \_\_\_\_\_

PUBLIC BILL

H.B. 7561

SESSION LAW \_\_\_\_\_

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE DEPARTMENT OF TRANSPORTATION FROM CONSTRUCTING TRAFFIC  
MEDIANS ON THAT PORTION OF U.S. HIGHWAY 70 IN LENOIR COUNTY BETWEEN THE  
INTERSECTIONS OF U.S. HIGHWAY 258 SOUTH AND NC HIGHWAY 58 SOUTH.

Introduced by Representative(s): <sup>82</sup> LaRoque. <sup>WGW</sup> Wainwright (Primary)


For a complete list of cosponsors for this bill, please see the report inside the bill jacket.

Principal Clerk's Use Only

PASSED 1st READING  
MAR 31 2011  
AND REFERRED TO COMMITTEE  
ON Transportation

The Committee on Transportation  
a majority being present, having considered  
this bill, recommend that it do ✓ pass.

Rep. New Mills  
For the Committee

REPORTED FAVORABLY APR 26 2011

PURSUANT TO RULE 30(b)  
APR 26 2011  
PLACED ON CALENDAR  
OF 4-28-11

Passed 2nd & 3rd Reading  
III-LEV VV  
APR 28 2011  
ORDERED SENT TO SENATE

RECEIVED

APR 29 2011

From House of Representatives  
By Clerk APR 29 4:42 AM PM

PASSED 1st READING  
MAY 03 2011  
AND REFERRED TO COMMITTEE  
ON: Transportation

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2011

H

2

HOUSE BILL 561  
Corrected Copy 5/2/11

Short Title: Medians on U.S. Highway 70.

(Public)

Sponsors: Representatives LaRoque and Wainwright (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Transportation.

March 31, 2011

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE DEPARTMENT OF TRANSPORTATION FROM  
CONSTRUCTING TRAFFIC MEDIANS ON THAT PORTION OF U.S. HIGHWAY 70  
IN LENOIR COUNTY BETWEEN THE INTERSECTIONS OF U.S. HIGHWAY 258  
SOUTH AND NC HIGHWAY 58 SOUTH.

The General Assembly of North Carolina enacts:

**SECTION 1.** The Department of Transportation shall not expend any funds to, regardless of the fund sources, and shall not erect, construct, build, or otherwise place a median, barrier, or other construct on that portion of U.S. Highway 70 between a point located 1,050 feet West of the intersection of U.S. Highway 258 South and the intersection of NC Highway 58 South that in any way limits, reduces, blocks, or by any other means reduces the current level of ingress and egress to businesses located on that portion of U.S. Highway 70 which are currently accessible from U.S. Highway 70.

**SECTION 2.** This act is effective when it becomes law.



\* H 5 6 1 - V - 2 \*

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**H**

**D**

**HOUSE BILL 561  
Corrected Copy 5/2/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H561-CSLB-48 [v.1]**

5/4/2011 10:40:13 AM

Short Title: No DOT Medians on Certain Roads.

(Public)

Sponsors:

Referred to:

March 31, 2011

A BILL TO BE ENTITLED  
AN ACT TO PROHIBIT THE DEPARTMENT OF TRANSPORTATION FROM  
CONSTRUCTING TRAFFIC MEDIANS IN CERTAIN DESCRIBED AREAS.

The General Assembly of North Carolina enacts:

**SECTION 1.** The Department of Transportation shall not expend any funds to, regardless of the fund sources, and shall not erect, construct, build, or otherwise place a median, barrier, or other construct on that portion of U.S. Highway 70 between a point located 1,050 feet West of the intersection of U.S. Highway 258 South and the intersection of NC Highway 58 South that in any way limits, reduces, blocks, or by any other means reduces the current level of ingress and egress to businesses located on that portion of U.S. Highway 70 which are currently accessible from U.S. Highway 70.

**SECTION 2.(a)** Until authorized by an act of the General Assembly, the Department of Transportation shall not expend any funds to, regardless of the fund sources, and shall not erect, construct, build, or otherwise place a median, barrier, or other construct on any of the following locations that in any way limits, reduces, blocks, or by any other means reduces the current level of ingress and egress to businesses:

(1) On that portion of U.S. Highway 64 between Third Street in Asheboro and the intersection of U.S. Highway 64 and Salisbury Street.

(2) On that portion of Winstead Avenue between Sunset Avenue and Hunter Hill Road in Rocky Mount.

(3) On that portion of Brevard Road between Pond Road to I-40 in Asheville.

**SECTION 2.(b)** For the area listed in subdivision (a)(3) of this section, the Department of Transportation shall cease construction on the median to replace an existing turn lane and rehabilitate the turn lane area so that it may once again function as a turn lane.

**SECTION 3.** This act is effective when it becomes law.



\* H 5 6 1 - C S L B - 4 8 - V - 1 \*



## HOUSE BILL 561: Medians on U.S. Highway 70

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Reps. LaRoque, Wainwright  
**Analysis of:** Second Edition

**Date:** May 3, 2011  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *House Bill 561 would prohibit the Department of Transportation from constructing traffic medians on Highway 70 in Lenoir County between the intersections of Highway 258 South and Highway 58 South.*

**CURRENT LAW:** Under G.S. 136-18, the Department of Transportation has the authority and general supervision over all matters relating to the construction, maintenance, and design of State transportation projects.

**BILL ANALYSIS:** House Bill 561 would prohibit the Department of Transportation from constructing or placing a median, barrier, or other such device that would in any way limit, reduce, or block the current access to businesses located on U.S. Highway 70 between a point located 1,050 feet West of the intersection of U.S. Highway 258 South and the intersection of NC Highway 58 South.

**EFFECTIVE DATE:** The bill would be effective when it becomes law.

*H561-SMRV-51(e2) v1*

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE  
TRANSPORTATION COMMITTEE REPORT  
Senator James Forrester, Co-Chair  
Senator Bill Rabon, Co-Chair**

Wednesday, May 04, 2011

Senator RABON,  
submits the following with recommendations as to passage:

**FAVORABLE**

<b>S.B.</b>	<b>126</b>	Drivers License/Military ID Validity.	
		Sequential Referral:	None
		Recommended Referral:	None

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL**

<b>S.B.</b>	<b>271</b>	Commercial and Other M/V Law Changes.-AB	
		Draft Number:	PCS35239
		Sequential Referral:	Finance
		Recommended Referral:	None
		Long Title Amended:	Yes

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE  
SUBSTITUTE BILL**

<b>H.B.</b>	<b>561</b>	Medians on U.S. Highway 70.	
		Draft Number:	PCS50334
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	Yes

**TOTAL REPORTED: 3**

**Committee Clerk Comments:**

Senator Jackson and/or Senator Tillman will be floor  
Managers for House Bill 561

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 126

Short Title: Drivers License/Military ID Validity.

(Public)

Sponsors: Senators Brown, Preston, Meredith; Atwater, Brunstetter, Goolsby, and Hise.

Referred to: Finance.

February 28, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE ACTIVE DUTY MILITARY PERSONNEL WHO ARE NOT RESIDENTS OF NORTH CAROLINA AND WHO HAVE A VALID MILITARY IDENTIFICATION AN EXEMPTION FROM HAVING A VALID DRIVERS LICENSE SO LONG AS THE PERSON HAS BEEN PREVIOUSLY LICENSED AND THE LICENSE IS NOT IN A STATE OF SUSPENSION OR REVOCATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-8 is amended by adding a new subdivision to read:

"(8) A nonresident who is at least 16 years of age, who is a member of the Armed Forces or a reserve component of the Armed Forces of the United States, and who has in his or her immediate possession a valid military identification card issued by the United States Department of Defense showing the member to be on active duty, and a valid or expired drivers license issued to the member in the member's home state or country if the nonresident is operating a motor vehicle in this State in accordance with the license restrictions and vehicle classifications that would be applicable to the member under the laws and regulations of the home state or country if the nonresident were driving in his or her home state or country. The exemption granted by this subdivision shall not apply if the member's drivers license or privileges to drive have been rescinded, suspended, revoked, or otherwise invalidated under some other provision of law by the member's home state or country or this State."

SECTION 2. This act is effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE BILL 271  
PROPOSED COMMITTEE SUBSTITUTE S271-PCS35239-RV-15

Short Title: Commercial and Other M/V Law Changes.-AB

(Public)

Sponsors:

Referred to:

March 9, 2011

A BILL TO BE ENTITLED

AN ACT TO MODIFY WINDOW TINTING RESTRICTIONS FOR MOTOR CARRIERS  
SUBJECT TO THE PROVISIONS OF TITLE 49 OF THE FEDERAL CODE, TO  
CLARIFY TEXTING FOR MOTOR CARRIERS SUBJECT TO TITLE 49 OF THE  
FEDERAL CODE, TO REQUIRE REDACTION OF CERTAIN VEHICLES CRASH  
REPORT INFORMATION, AND TO PROVIDE FOR CIVILIAN EMPLOYEES TO  
MANAGE OR OPERATE PERMANENT WEIGH STATIONS FOR THE STATE  
HIGHWAY PATROL.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-127 reads as rewritten:

**"§ 20-127. Windows and windshield wipers.**

...

(b) Window Tinting Restrictions. – A window of a vehicle that is operated on a highway or a public vehicular area shall comply with this subsection. The windshield of the vehicle may be tinted only along the top of the windshield and the tinting may not extend more than five inches below the top of the windshield or below the AS1 line of the windshield, whichever measurement is longer. Provided, however, an untinted clear film which does not obstruct vision but which reduces or eliminates ultraviolet radiation from entering a vehicle may be applied to the windshield. Any other window of the vehicle may be tinted in accordance with the following restrictions:

(1) The total light transmission of the tinted window shall be at least thirty-five percent (35%). A vehicle window that, by use of a light meter approved by the Commissioner, measures a total light transmission of more than thirty-two percent (32%) is conclusively presumed to meet this restriction.

(2) The light reflectance of the tinted window shall be twenty percent (20%) or less.

(3) Tinted film or another material used to tint the window shall be nonreflective and shall not be red, yellow, or amber.

(b1) Notwithstanding subsection (b) of this section, a window of a vehicle that is operated on a public street or highway and which is subject to the provisions of Part 393 of Title 49 of the Code of Federal Regulations shall comply with the provisions of that Part.

(c) Tinting Exceptions. – The window tinting restrictions in subsection (b) of this section apply without exception to the windshield of a vehicle. The window tinting restrictions



in subdivisions (b)(1) and (b)(2) of this section do not apply to any of the following vehicle windows:

- (1) A window of an excursion passenger vehicle, as defined in G.S. 20-4.01(27)a.
- (2) ~~A window of a for hire passenger vehicle, as defined in G.S. 20-4.01(27)b.~~
- (3) ~~A window of a common carrier of passengers, as defined in G.S. 20-4.01(27)c.~~
- (4) A window of a motor home, as defined in G.S. 20-4.01(27)d2.
- (5) A window of an ambulance, as defined in G.S. 20-4.01(27)f.
- (6) The rear window of a property-hauling vehicle, as defined in G.S. 20-4.01(31).
- (7) A window of a limousine.
- (8) A window of a law enforcement vehicle.
- (9) A window of a multipurpose vehicle that is behind the driver of the vehicle. A multipurpose vehicle is a passenger vehicle that is designed to carry 10 or fewer passengers and either is constructed on a truck chassis or has special features designed for occasional off-road operation. A minivan and a pickup truck are multipurpose vehicles.
- (10) A window of a vehicle that is registered in another state and meets the requirements of the state in which it is registered.
- (11) A window of a vehicle for which the Division has issued a medical exception permit under subsection (f) of this section.

...."

**SECTION 2.** G.S. 20-137.4A is amended by adding a new subsection to read:

"(a1) Motor Carrier Offense. – It shall be unlawful for any person to operate a commercial motor vehicle subject to Parts 390 or 392 of Title 49 of the Code of Federal Regulations on a public street or highway or public vehicular area while using a mobile telephone or other electronic device in violation of those Parts. Nothing in this subsection shall be construed to prohibit the use of hands-free technology."

**SECTION 3.** G.S. 20-166.1(i) reads as rewritten:

"(i) Effect of Report. – A report of an accident made under this section by a person who is not a law enforcement officer is without prejudice, is for the use of the Division, and shall not be used in any manner as evidence, or for any other purpose in any trial, civil or criminal, arising out of the accident. Any other report of an accident made under this section may be used in any manner as evidence, or for any other purpose, in any trial, civil or criminal, as permitted under the rules of evidence. At the demand of a court, the Division must give the court a properly executed certificate stating that a particular accident report has or has not been filed with the Division solely to prove a compliance with this section.

The reports made by persons who are not law enforcement officers or medical examiners are not public records. The reports made by law enforcement officers and medical examiners are public records and are open to inspection by the general public at all reasonable times. pursuant to this section are public records within the meaning of G.S. 132-1. Reports made pursuant to this section may not be released to any person making a request unless and until personal identifying information has been redacted from the report in compliance with the provisions of the federal Drivers Privacy Protection Act, 18 U.S.C. § 2721(b)(11) and (12), and G.S. 20-43.1. The Division must give a certified copy of one of these reports to a member of the general public who requests a copy any person entitled to a copy of such report and who pays the fee set in G.S. 20-42."

**SECTION 4.** G.S. 20-383 reads as rewritten:

**"§ 20-383. Inspectors and officers given enforcement authority.**

1       Only ~~designated inspectors and officers~~ inspectors, officers, and personnel of the  
2 Department of Crime Control and Public Safety shall have the authority to enforce the  
3 provisions of this Article and provisions of Chapter 62 applicable to motor transportation, and  
4 they are empowered to make complaint for the issue of appropriate warrants, informations,  
5 presentments or other lawful process for the enforcement and prosecution of violations of the  
6 transportation laws against all offenders, whether they be regulated motor carriers or not, and to  
7 appear in court or before the North Carolina Utilities Commission and offer evidence at the  
8 trial pursuant to such processes."

9               **SECTION 5.** Sections 3 and 4 of this act are effective when this act becomes law.  
10 Sections 1 and 2 of this act become effective December 1, 2011, and apply to offenses  
11 committed on or after that date.

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**H**

**D**

**HOUSE BILL 561  
Corrected Copy 5/2/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H561-PCS50334-LB-48**

Short Title: No DOT Medians on Certain Roads.

(Public)

Sponsors:

Referred to:

March 31, 2011

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE DEPARTMENT OF TRANSPORTATION FROM  
CONSTRUCTING TRAFFIC MEDIANS IN CERTAIN DESCRIBED AREAS.

The General Assembly of North Carolina enacts:

**SECTION 1.** The Department of Transportation shall not expend any funds to, regardless of the fund sources, and shall not erect, construct, build, or otherwise place a median, barrier, or other construct on that portion of U.S. Highway 70 between a point located 1,050 feet West of the intersection of U.S. Highway 258 South and the intersection of NC Highway 58 South that in any way limits, reduces, blocks, or by any other means reduces the current level of ingress and egress to businesses located on that portion of U.S. Highway 70 which are currently accessible from U.S. Highway 70.

**SECTION 2.(a)** Until authorized by an act of the General Assembly, the Department of Transportation shall not expend any funds to, regardless of the fund sources, and shall not erect, construct, build, or otherwise place a median, barrier, or other construct on any of the following locations that in any way limits, reduces, blocks, or by any other means reduces the current level of ingress and egress to businesses:

(1) On that portion of U.S. Highway 64 between Third Street in Asheboro and the intersection of U.S. Highway 64 and Salisbury Street.

(2) On that portion of Winstead Avenue between Sunset Avenue and Hunter Hill Road in Rocky Mount.

(3) On that portion of Brevard Road between Pond Road and I-40 in Asheville.

**SECTION 2.(b)** For the area listed in subdivision (a)(3) of this section, the Department of Transportation shall cease construction on the median to replace an existing turn lane and rehabilitate the turn lane area so that it may once again function as a turn lane.

**SECTION 3.** This act is effective when it becomes law.



## VISITOR REGISTRATION SHEET

Senate Transportation Committee  
Name of Committee

May 4, 2011  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE  
CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Victor J. Taylor	City of New Bern - Alderman
Kevin Lacy	NC DOT
Kay Emanuel	Legislative Reporting Services
Allen Hook	NCSHP
Doug Sheddelford	NCSHP
Jessi Hayes	WC HBA
Derek Graham	DFI
Zjv m	Misc
Bob Smith	Kinston NC - Josh Allen Menswear
Russell Rhodes	Neuse Sport Shop - Kinston
BJ Murphy	Mayor, City of Kinston

# VISITOR REGISTRATION SHEET

Senate Transportation Committee  
Name of Committee

May 4, 2011  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
MARSHALL KING	Neuse Sport Shop Kinston NC
Ginger Knott Johnson	Knott's Warehouse Kinston, NC
Vickie Knott	Knott's Warehouse Kinston, NC
Stern DeCillis	DeCillis & Turrentine, PLLC, Henderson, NC
Betsy Barling	PENC
Teresa Heath	Rep LaPrade's Office
Karen Ray	NCMA
Johanna Reese	DMV
Bon Murray	NC DOT
Emily grimm	MWC
Kelli Tingo	Kendrick's Catering & Events

# VISITOR REGISTRATION SHEET

Senate Transportation Committee  
Name of Committee

May 4, 2011  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Cashion	NC Chamber
Mark Beason	<del>NC Chamber</del>
Marta Stone	Belmont City Council
Dot Martin	Belmont N.C.
Charlie MARTIN Chairman	BELMONT MAYOR - PRO TEM
Donnie Loftis	Gaston Co Bd of Commissioners
Jack Batson	Belville - Mayor
Paul Fogleman	Tubers
John Polenta	NCAAA
CALVIN PECK	PALO HERRA ISLAND
Mike Waters	NERPA

## VISITOR REGISTRATION SHEET

## Senate Transportation Committee

Name of Committee

May 4, 2017  
Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE**

**CLERK**

NAME \_\_\_\_\_

**FIRM OR AGENCY AND ADDRESS**

Christina Alphin

City of Kingston  
PO Box 3399 Kingston 28502

Scotty Hill

CITY of Kingston  
P.O. Box 339, Kingston 28502

## PAGES ATTENDING

COMMITTEE: Transportation ROOM: 1027

DATE: 5-4 TIME: 11<sup>4</sup> M

PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!

Page	Name	Hometown	Sponsoring Senator
1	Morgan Brinson	Charlotte	Dannelly
2	April Smith	Goldsboro	Tillman
3	<del>Grant Murphy-Henderson</del>	Durham	<del>Atwater</del>
4			
5	<del>_____</del>		
6	Sgt At	Arms	Stan Johnson
7			Steve Wilson
8			Jon Fitchett
9			<del>_____</del>
10			

not add names below the grid.

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.

## MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

Wednesday, May 18, 2011  
11:00 AM, 1027 LB

The Senate Transportation Committee met on Wednesday, May 18, 2011, at 11:00 AM, in Room 1027 of the Legislative Building. Senator Harrington, Vice Chairman of the Committee, called the meeting to order.

Eleven members of the committee were present, and Senator Harrington welcomed committee members, staff, and guests. She further acknowledged the following pages serving at today's meeting: Alex Johnson, Charlotte, sponsored by Senator Hartsell, and Micaela Percy, Cary, sponsored by Senator Phil Berger.

The first order of business was Senate Bill 315, Roadside Campaign Signs, sponsored by Senator Daniel. Senator Harrington recognized Senator Hise who moved for adoption of the Committee Substitute bill for discussion purposes. Motion carried. Senator Harrington then recognized Senator Daniel to explain the bill. After an explanation of the bill, Senator Tillman moved for a favorable report of the committee substitute. Motion carried. The bill was re-referred to the Finance Committee.

Senator Harrington recognized Senator Apodaca to explain Senate Bill 581, Clarify Motor Vehicle Laws. After Senator Apodaca's explanation of the bill, Senator Tillman moved for a favorable report. Motion carried.

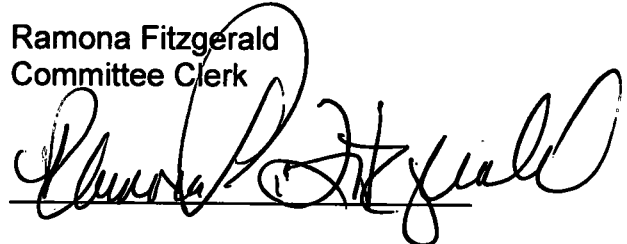
The next order of business was Senate Bill 590, Terminal Rental Adjustment Clauses, sponsored by Senator Vaughan. Vice-Chairman Harrington recognized Senator Vaughan to explain the bill. After Senator Vaughan presented the bill, Senator Harrington recognized John Palicastro, Legal Counsel for the North Carolina Auto Dealers Association, who spoke to the bill. Senator Tillman moved for a favorable report. Motion carried.

The meeting adjourned at 11:15 a.m.

Senator Kathy Harrington,  
Vice Chairman



Ramona Fitzgerald  
Committee Clerk



Principal Clerk  
Reading Clerk

\_\_\_\_\_  
\_\_\_\_\_

**Corrected: SB 45 Removed from Agenda**

**SENATE**  
**NOTICE OF COMMITTEE MEETING**  
**AND**  
**BILL SPONSOR NOTICE**

The Senate Committee on **Transportation** will meet at the following time:

<b>DAY</b>	<b>DATE</b>	<b>TIME</b>	<b>ROOM</b>
Wednesday	May 18, 2011	11:00 AM	1027 LB

The following will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
SB 315	Roadside Campaign Signs.	Senator Brock Senator Berger Senator Daniel
SB 581	Clarify Motor Vehicle Laws.	Senator Apodaca
SB 590	Terminal Rental Adjustment Clauses.	Senator Vaughan

Senator James Forrester, Co-Chair  
Senator Bill Rabon, Co-Chair

**Senate Transportation Committee  
Wednesday, May 18, 2011, 11:00 AM  
1027 LB**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills**

SB 315 Roadside Campaign Signs.

SB 581 Clarify Motor Vehicle Laws.

SB 590 Terminal Rental Adjustment  
Clauses.

Senator Brock  
Senator Berger  
Senator Daniel  
Senator Apodaca  
Senator Vaughan

**Presentations**

**Other Business**

**Adjournment**

S.B. 315

SESSION LAW \_\_\_\_\_

## A BILL TO BE ENTITLED

AN ACT TO PERMIT CAMPAIGN SIGNS IN STATE HIGHWAY RIGHTS-OF-WAY WITH REASONABLE  
TIME, PLACE, AND MANNER RESTRICTIONS.Introduced by Senator(s)  
(Primary Sponsors)

*PATE*  
*Brock*

Daniel

*Daniel*  
*Paul E. H. H.*  
*Paul E. H. H.*  
*Paul E. H. H.*

D. Berger

*D. Berger*  
*D. Berger*  
*D. Berger*  
*D. Berger*

Brock

*Brock*  
*Brock*  
*Brock*  
*Brock*

Principal Clerk's Use Only

FILED MAR 10 2011

PASSED 1st READING

MAR 14 2011

AND REFERRED TO COMMITTEE  
ON *Transp.*

SEQUENTIAL REFERRAL:

*Finance*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 315

Short Title: Roadside Campaign Signs.

(Public)

Sponsors: Senators Daniel, D. Berger, Brock; Apodaca, Brown, Goolsby, Harrington, Hise, Jackson, Kinnaird, Newton, Pate, and Rabon.

Referred to: Transportation.

March 14, 2011

A BILL TO BE ENTITLED

AN ACT TO PERMIT CAMPAIGN SIGNS IN STATE HIGHWAY RIGHTS-OF-WAY  
WITH REASONABLE TIME, PLACE, AND MANNER RESTRICTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-32 reads as rewritten:

"§ 136-32. ~~Other than official signs prohibited.~~ Regulation of signs.

(a) Commercial Signs. – No unauthorized person shall erect or maintain upon any highway any warning or direction sign, marker, signal or light or imitation of any official sign, marker, signal or light erected under the provisions of G.S. 136-30, except in cases of emergency. No person shall erect or maintain upon any highway any traffic or highway sign or signal bearing thereon any commercial advertising or political advertising, except as provided in subsections (b) through (f) of this section: Provided, nothing in this section shall be construed to prohibit the erection or maintenance of signs, markers, or signals bearing thereon the name of an organization authorized to erect the same by the Department of Transportation or by any local authority referred to in G.S. 136-31. Any person who shall violate any of the provisions of this section shall be guilty of a Class 1 misdemeanor. The Department of Transportation or any person may remove any signs that have been erected without authority or allowed to remain beyond the deadline established in subsection (b) of this section.

(b) Compliant Political Signs Permitted. – During the period beginning on the 30<sup>th</sup> day before the beginning date of "one-stop" early voting under G.S. 163-227.2 and ending on the 10<sup>th</sup> day after the primary or election day, persons may place political signs in the right-of-way of the State highway system as provided in this subsection. A person may place signs in the right-of-way of the State highway system if all the following conditions are met:

(1) The person obtains a permit from the State Board of Elections or the county board of elections as provided in this section. The board shall issue a permit to any person who signs a certification that the person understands and agrees to adhere to the requirements of this section.

(2) The person places the signs in compliance with rules adopted by the Department. The Department shall adopt rules in accordance with subsection (d) of this section.

(3) The person removes the signs by the 10<sup>th</sup> day after the primary or election date.

(c) Definition. – The term "political sign" is any sign that advocates for political action. The term does not include a commercial sign.



1       (d) Rules to Be Adopted by the Department. – The Department shall adopt rules for  
2 sign placement as provided by subsection (b) of this section. Those rules shall include the  
3 following:

- 4           (1) Designations of the portion of the State highway system right-of-way where  
5 signs are permitted and specifications of the types of signs that are  
6 permitted. The Department's rules shall adhere to the following:  
7           a. No sign shall be permitted in the right-of-way of a fully controlled  
8 access highway.  
9           b. No sign shall be closer than three feet from the edge of the pavement  
10 of the road.  
11           c. No sign shall be permitted closer than 50 feet from an intersection.  
12 That distance shall be measured from the edge of the pavements of  
13 the intersecting roads.  
14           d. No sign shall be permitted higher than 42 inches above the edge of  
15 the pavement of the road.  
16           e. No sign shall be larger than 576 square inches.  
17           f. No sign shall be permitted that obscures or replaces another  
18 permitted sign.  
19           (2) The requirement that the permittee obtain the permission of any property  
20 owner of a residence, business, or religious institution fronting the  
21 right-of-way where a sign would be erected.

22       (e) Procedures to Be Adopted by State Board of Elections. – The State Board of  
23 Elections shall adopt uniform procedures for the issuance of permits. The procedures shall  
24 provide for all of the following:

- 25           (1) A means for candidates to apply for and receive permits as a part of the  
26 process of filing notice of candidacy.  
27           (2) A means for candidates and noncandidates to apply for and receive permits  
28 at other times during the period specified in subsection (b) of this section.  
29           (3) Standard certification forms that explain the requirements of this section and  
30 of G.S. 163-33.3.  
31           (4) Reasonable specificity as to the kind of sign permitted and as to the places  
32 where the sign is permitted.

33       (f) Penalties for Permit Holders. – The State Board of Elections shall adopt penalties  
34 for permit holders who fail to remove signs by the date required by subsection (b) of this  
35 section. Total penalties shall not exceed fifty dollars (\$50.00) for each notice of an offense,  
36 with a maximum fine of five hundred dollars (\$500.00) per county during a permitted period.  
37 The penalties shall be enforced by the county board of elections in the county in which the  
38 violation occurred. Enforcement shall be in the manner of enforcement of civil penalties under  
39 G.S. 163-278.34(a), (d), and (e), including the provision that the State Board of Elections shall  
40 reduce the monies collected by the enforcement costs and the collection costs to determine the  
41 clear proceeds payable to the Civil Penalty and Forfeiture Fund. Monies set aside for the costs  
42 of enforcement and the costs of collection shall be credited to accounts of the State Board of  
43 Elections. Appeals from decisions of the county board of elections shall be to the State Board  
44 of Elections. In an appeal, the State Board may add to any penalty imposed by the county board  
45 the costs of the appeal hearing to the State Board.

46       (g) Penalties for Unlawful Removal of Signs. – It is a Class 3 misdemeanor for a person  
47 to unlawfully remove a campaign sign that is lawfully placed under this section.

48       (h) Option for Municipalities to Adopt State Plan. – A municipality may elect to have  
49 the provisions of this section apply to street rights-of-way within the municipality maintained  
50 by the municipality. If the municipality so elects, issuance of permits, implementation of this  
51 section, and enforcement of penalties shall be by the State and county boards of elections as if

1 the streets of the municipality were part of the State highway system. The municipality shall be  
2 subject to the provisions of subsection (b) of this section."

3 **SECTION 2.** This act becomes effective January 1, 2012, and applies to any  
4 primary or election held on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE BILL 315  
PROPOSED COMMITTEE SUBSTITUTE S315-CSR-V-18 [v.4]

5/17/2011 5:28:07 PM

Short Title: Roadside Campaign Signs.

(Public)

Sponsors:

Referred to:

March 14, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO PERMIT CAMPAIGN SIGNS IN HIGHWAY RIGHTS-OF-WAY WITH  
3 REASONABLE TIME, PLACE, AND MANNER RESTRICTIONS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 136-32 reads as rewritten:

6 "~~§ 136-32. Other than official signs prohibited.~~Regulation of signs.

7 (a) Commercial Signs. – No unauthorized person shall erect or maintain upon any  
8 highway any warning or direction sign, marker, signal or light or imitation of any official sign,  
9 marker, signal or light erected under the provisions of G.S. 136-30, except in cases of  
10 emergency. No person shall erect or maintain upon any highway any traffic or highway sign or  
11 signal bearing thereon any commercial ~~advertising~~ or political advertising, except as provided  
12 in subsections (b) through (e) of this section: Provided, nothing in this section shall be  
13 construed to prohibit the erection or maintenance of signs, markers, or signals bearing thereon  
14 the name of an organization authorized to erect the same by the Department of Transportation  
15 or by any local authority referred to in G.S. 136-31. Any person who shall violate any of the  
16 provisions of this section shall be guilty of a Class 1 misdemeanor. The Department of  
17 Transportation may remove any signs erected without authority. ~~authority or allowed to remain~~  
18 ~~beyond the deadline established in subsection (b) of this section.~~

19 (b) Compliant Political Signs Permitted. – During the period beginning on the 30<sup>th</sup> day  
20 before the beginning date of "one-stop" early voting under G.S. 163-227.2 and ending on the  
21 10<sup>th</sup> day after the primary or election day, persons may place political signs in the right-of-way  
22 of the State highway system as provided in this section. Signs must be placed in compliance  
23 with subsection (d) of this section, and must be removed by the end of the period prescribed in  
24 this subsection.

25 (c) Definition. – For purposes of this section, "political sign" means any sign that  
26 advocates for political action. The term does not include a commercial sign.

27 (d) Sign Placement. – The permittee must obtain the permission of any property owner  
28 of a residence, business, or religious institution fronting the right-of-way where a sign would be  
29 erected. Signs must be placed in accordance with the following:

- 30 (1) No sign shall be permitted in the right-of-way of a fully controlled access  
31 highway.  
32 (2) No sign shall be closer than three feet from the edge of the pavement of the  
33 road.  
34 (3) No sign shall obscure motorist visibility at an intersection.



\* S 3 1 5 - C S R V - 1 8 - V - 4 \*

1           (4)   No sign shall be higher than 42 inches above the edge of the pavement of the  
2               road.

3           (5)   No sign shall be larger than 864 square inches.

4           (6)   No sign shall obscure or replace another sign.

5           (f)   Penalties for Unlawful Removal of Signs. – It is a Class 3 misdemeanor for a person  
6               to steal, deface, vandalize or unlawfully remove a political sign that is lawfully placed under  
7               this section.

8           (g)   Application within Municipalities. – Pursuant to Article 8 of Chapter 160A of the  
9               General Statutes, a city may by ordinance prohibit or regulate the placement of political signs  
10              on rights-of-way of streets located within the corporate limits of a municipality and maintained  
11              by the municipality. In the absence of an ordinance prohibiting or regulating the placement of  
12              political signs on the rights-of-way of streets located within a municipality and maintained by  
13              the municipality, the provisions of subsections.(b)-(f) of this section shall apply."

14           **SECTION 2.** This act becomes effective January 1, 2012, and applies to any  
15           primary or election held on or after that date.



## SENATE BILL 315: Roadside Campaign Signs

2011-2012 General Assembly

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<b>Committee:</b>	Senate Ref to Transportation. If fav, re-ref to Finance	<b>Date:</b>	May 17, 2011
<b>Introduced by:</b>	Sens. Daniel, D. Berger, Brock	<b>Prepared by:</b>	Brenda J. Carter
<b>Analysis of:</b>	PCS to First Edition S315-CSR-V-18		Committee Counsel

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**SUMMARY:** *Senate Bill 315 would permit the placement of political signs in State highway rights-of-way provided specified conditions are met.*

**CURRENT LAW:** G.S. 136-32 prohibits unauthorized persons from placing commercial advertising signs on the State's highways. Violation is a Class 1 misdemeanor. The Department of Transportation (DOT) has the authority to remove any signs that have been erected without authority.

**BILL ANALYSIS:** Senate Bill 315 would permit political signs in State highway rights-of-way with certain restrictions as to time, place and manner. Persons would be allowed to place political signs in State highway rights-of-way beginning 30 days before the beginning of "one-stop" early voting and ending the 10<sup>th</sup> day after the primary or election day. Signs must be removed by the 10<sup>th</sup> day following the primary or election date.

A permittee would be required obtain the permission of certain property owners fronting the right-of-way where a sign would be located. The bill requires that no sign be closer than 3 feet from the edge of the pavement, or obscure motorist visibility at an intersection. It also provides that a sign be no higher than 42 inches above the pavement, and no larger than 864 square inches.

The bill would make it a Class 3 misdemeanor to steal, deface, vandalize or unlawfully remove a lawfully placed political sign. Municipalities would be authorized to prohibit or regulate the placement of political signs on the rights-of-way of streets located within municipal limits and maintained by the municipality.

**EFFECTIVE DATE:** The bill would become effective January 1, 2012 and apply to any primary or any election held on or after that date.

S315-SMRV-57(CSRV-18) v1

# PUBLIC BILL

S.B. 581

SESSION LAW \_\_\_\_\_

## A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT A SECURITY INTEREST IN A TITLE SHALL BE RELEASED AFTER SATISFACTION AND TO RESTRICT FRANCHISED MOTOR VEHICLE DEALERS PLATES TO AN OFFICER, SALES REPRESENTATIVE, OR OTHER EMPLOYEE OF A FRANCHISED MOTOR VEHICLE DEALER OR AN IMMEDIATE FAMILY MEMBER OF AN OFFICER, SALES REPRESENTATIVE, OR OTHER EMPLOYEE OF A FRANCHISED MOTOR VEHICLE DEALER.

Introduced by Senator(s) \_\_\_\_\_

Apodaca Apodaca

Principal Clerk's Use Only

**FILED** APR 12 2011

<b>PASSED 1st READING</b>
APR 14 2011
AND REFERRED TO COMMITTEE
ON <u>Finance</u>

WITH UNANIMOUS CONSENT  
WITHDRAWN FROM

Finance

MAY 02 2011

**RE-REFERRED TO**

Transportation

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**S**

**1**

**SENATE BILL 581**

Short Title: Clarify Motor Vehicle Laws.

(Public)

Sponsors: Senator Apodaca.

Referred to: Finance.

April 14, 2011

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT A SECURITY INTEREST IN A TITLE SHALL BE RELEASED AFTER SATISFACTION AND TO RESTRICT FRANCHISED MOTOR VEHICLE DEALERS PLATES TO AN OFFICER, SALES REPRESENTATIVE, OR OTHER EMPLOYEE OF A FRANCHISED MOTOR VEHICLE DEALER OR AN IMMEDIATE FAMILY MEMBER OF AN OFFICER, SALES REPRESENTATIVE, OR OTHER EMPLOYEE OF A FRANCHISED MOTOR VEHICLE DEALER.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-58.4(a) reads as rewritten:

"(a) Upon the satisfaction or other discharge of a security interest in a vehicle for which the certificate of title is in the possession of the secured party, the secured party ~~shall within~~ shall, within the earlier of 10 days after demand and, in any event, within 30 days, or 30 days from the date of satisfaction, execute a release of his security interest, in the space provided therefor on the certificate or as the Division prescribes, and mail or deliver the certificate and release to the next secured party named therein, or if none, to the owner or other person authorized to receive the certificate for the owner."

**SECTION 2.** G.S. 20-79(d)(5) is amended by adding a new sub-subdivision to read:

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

- (1) Is part of the inventory of the dealer.
- (2) Is not consigned to the dealer.
- (3) Is covered by liability insurance that meets the requirements of Article 9A of this Chapter.
- (4) Is not used by the dealer in another business in which the dealer is engaged.
- (5) Is driven on a highway by a person who meets one of the following descriptions:
  - a. Has a demonstration permit to test-drive the motor vehicle and carries the demonstration permit while driving the motor vehicle.
  - b. Is an officer or sales representative of the dealer and is driving the vehicle for a business purpose of the dealer.
  - c. Is an employee of the dealer and is driving the vehicle in the course of employment.
  - d. Is an employee of the dealer or of a contractor of the dealer and is driving the vehicle within a 20-mile radius of a place where the vehicle is being repaired or otherwise prepared for sale.



\* 5 5 8 1 - V - 1 \*

1                   e.     Is an employee of the dealer or of a contractor of the dealer and is  
2                   transporting the vehicle to or from a vehicle auction or to the dealer's  
3                   established salesroom.

4                   f.     Is an officer, sales representative, or other employee of a franchised  
5                   motor vehicle dealer or is an immediate family member of an officer,  
6                   sales representative, or other employee of a franchised motor vehicle  
7                   dealer."

8                   **SECTION 3.** This act becomes effective August 1, 2011, and applies to offenses  
9 committed and security interests satisfied on or after that date.



## SENATE BILL 581: Clarify Motor Vehicle Laws

2011-2012 General Assembly

Committee: Senate Transportation  
Introduced by: Sen. Apodaca  
Analysis of: First Edition

Date: May 10, 2011  
Prepared by: Brenda J. Carter  
Committee Counsel

**SUMMARY:** *Senate Bill 581 clarifies the time limit for release of security interest in a motor vehicle, when the certificate of title is in the possession of the secured party. The bill also provides that an officer, sales representative, or other employee of a franchised motor vehicle dealer, or an immediate family of any of those persons, may operate a motor vehicle displaying a dealer license plate.*

**CURRENT LAW:** G.S. 20-58.4 requires that upon satisfaction or other discharge of security interest in a vehicle for which the certificate of title is in the possession of the secured party, release of the security interest must occur within 10 days after demand. Where no demand is made, release of the security interest must occur within 30 days of satisfaction or other discharge of the security interest.

Under G.S. 20-79 only the following persons may operate a motor vehicle displaying a dealer license plate. Authorized persons include an officer or sales representative of the dealer, who is driving the vehicle for a business purpose of the dealer. An employee of the dealer may operate a motor vehicle displaying a dealer license plate: (i) in the course of employment, (ii) when driving the vehicle within a 20-mile radius of a place where the vehicle is being repaired or prepared for sale, or (iii) when transporting the vehicle to or from a vehicle auction or to the dealer's established salesroom. When a motor vehicle is driven in violation of the statutory restrictions on use of the plate, the person driving the vehicle is responsible for an infraction and is subject to a penalty of \$100; the dealer to whom the plate is issued is subject to a civil penalty of \$250 imposed by the Division of Motor Vehicles (DMV); and DMV may rescind all dealer plates issued to the dealer.

**BILL ANALYSIS:** **Section 1** of the bill clarifies the law concerning the release of a security interest in a motor vehicle when the certificate of title is in the possession of the secured party. The bill requires that release of the security interest be executed within 10 days after demand or 30 days from the date of satisfaction, whichever occurs earlier. **Section 2** of the bill would allow an officer, sales representative, or other employee of a franchised motor vehicle dealer, or an immediate family of any of those persons, to operate a motor vehicle displaying a dealer license plate.

**EFFECTIVE DATE:** The bill would become effective August 1, 2011, and apply to offenses committed and security interests satisfied on or after that date.

*S581-SMRV-53(e1) v1*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 590

Short Title: Terminal Rental Adjustment Clauses. (Public)

Sponsors: Senators Vaughan; and Bingham.

Referred to: Finance.

April 14, 2011

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT TERMINAL RENTAL ADJUSTMENT CLAUSES DO NOT  
CREATE A SALE OR SECURITY INTEREST IN THE LEASED VEHICLE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 20 of the General Statutes is amended by adding  
a new section to read:

**"§ 20-78.1. Terminal rental adjustment clauses; vehicle leases that are not sales or  
security interests.**

**Notwithstanding any other provision of law, a lease transaction does not create a sale or  
security interest in a motor vehicle or trailer merely because the lease contains a terminal rental  
adjustment clause that provides that the rental price is permitted or required to be adjusted up or  
down by reference to the amount of money realized upon the sale or other disposition of the  
motor vehicle or trailer."**

SECTION 2. This act is effective when it becomes law.



\* 5 5 9 0 - V - 1 \*



## SENATE BILL 590: Terminal Rental Adjustment Clauses

2011-2012 General Assembly

Committee: Senate Transportation  
Introduced by: Sen. Vaughan  
Analysis of: First Edition

Date: May 10, 2011  
Prepared by: Brenda J. Carter  
Committee Counsel

**SUMMARY:** *Senate Bill 590 provides that terminal rental adjustment clauses do not create a sale or security interest in the leased vehicle.*

**BILL ANALYSIS:** Terminal Rental Adjustment Clauses (TRAC) are used in commercial leases for fleets of motor vehicles. Senate Bill 590 provides that lease transactions do not create a sale or security interest in a motor vehicle or trailer based solely on the fact that the lease contains a terminal rental adjustment clause that provides for adjustment of the rental price by reference to the amount of money realized upon the sale or disposition of the vehicle or trailer.

**EFFECTIVE DATE:** The bill would be effective when it becomes law.

SS90-SMRV-54(e1) v1

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**TRANSPORTATION COMMITTEE REPORT  
Senator James Forrester, Co-Chair  
Senator Bill Rabon, Co-Chair**

Wednesday, May 18, 2011

Senator RABON,  
submits the following with recommendations as to passage:

**FAVORABLE**

S.B.	<b>581</b>	Clarify Motor Vehicle Laws.	
		Sequential Referral:	None
		Recommended Referral:	None
S.B.	<b>590</b>	Terminal Rental Adjustment Clauses.	
		Sequential Referral:	None
		Recommended Referral:	None

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL**

S.B.	<b>315</b>	Roadside Campaign Signs.	
		Draft Number:	PCS85203
		Sequential Referral:	Finance
		Recommended Referral:	None
		Long Title Amended:	Yes

**TOTAL REPORTED: 3**

**Committee Clerk Comments:**

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**S**

**1**

**SENATE BILL 581**

**Short Title:** Clarify Motor Vehicle Laws.

**(Public)**

**Sponsors:** Senator Apodaca.

**Referred to:** Finance.

April 14, 2011

**A BILL TO BE ENTITLED**

**AN ACT TO CLARIFY THAT A SECURITY INTEREST IN A TITLE SHALL BE RELEASED AFTER SATISFACTION AND TO RESTRICT FRANCHISED MOTOR VEHICLE DEALERS PLATES TO AN OFFICER, SALES REPRESENTATIVE, OR OTHER EMPLOYEE OF A FRANCHISED MOTOR VEHICLE DEALER OR AN IMMEDIATE FAMILY MEMBER OF AN OFFICER, SALES REPRESENTATIVE, OR OTHER EMPLOYEE OF A FRANCHISED MOTOR VEHICLE DEALER.**

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-58.4(a) reads as rewritten:

"(a) Upon the satisfaction or other discharge of a security interest in a vehicle for which the certificate of title is in the possession of the secured party, the secured party ~~shall within~~ shall, within the earlier of 10 days after demand and, in any event, within 30 days, or 30 days from the date of satisfaction, execute a release of his security interest, in the space provided therefor on the certificate or as the Division prescribes, and mail or deliver the certificate and release to the next secured party named therein, or if none, to the owner or other person authorized to receive the certificate for the owner."

**SECTION 2.** G.S. 20-79(d)(5) is amended by adding a new sub-subdivision to read:

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

- (1) Is part of the inventory of the dealer.
- (2) Is not consigned to the dealer.
- (3) Is covered by liability insurance that meets the requirements of Article 9A of this Chapter.
- (4) Is not used by the dealer in another business in which the dealer is engaged.
- (5) Is driven on a highway by a person who meets one of the following descriptions:
  - a. Has a demonstration permit to test-drive the motor vehicle and carries the demonstration permit while driving the motor vehicle.
  - b. Is an officer or sales representative of the dealer and is driving the vehicle for a business purpose of the dealer.
  - c. Is an employee of the dealer and is driving the vehicle in the course of employment.
  - d. Is an employee of the dealer or of a contractor of the dealer and is driving the vehicle within a 20-mile radius of a place where the vehicle is being repaired or otherwise prepared for sale.



\* 5 5 8 1 - V - 1 \*

1 e. Is an employee of the dealer or of a contractor of the dealer and is  
2 transporting the vehicle to or from a vehicle auction or to the dealer's  
3 established salesroom.

4 f. Is an officer, sales representative, or other employee of a franchised  
5 motor vehicle dealer or is an immediate family member of an officer,  
6 sales representative, or other employee of a franchised motor vehicle  
7 dealer."

8 **SECTION 3.** This act becomes effective August 1, 2011, and applies to offenses  
9 committed and security interests satisfied on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 590

Short Title: Terminal Rental Adjustment Clauses. (Public)

Sponsors: Senators Vaughan; and Bingham.

Referred to: Finance.

April 14, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY THAT TERMINAL RENTAL ADJUSTMENT CLAUSES DO NOT  
3 CREATE A SALE OR SECURITY INTEREST IN THE LEASED VEHICLE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 3 of Chapter 20 of the General Statutes is amended by adding  
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7 "§ 20-78.1. Terminal rental adjustment clauses; vehicle leases that are not sales or  
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9 Notwithstanding any other provision of law, a lease transaction does not create a sale or  
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11 adjustment clause that provides that the rental price is permitted or required to be adjusted up or  
12 down by reference to the amount of money realized upon the sale or other disposition of the  
13 motor vehicle or trailer."

14 SECTION 2. This act is effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE BILL 315  
PROPOSED COMMITTEE SUBSTITUTE S315-PCS85203-RV-18

Short Title: Roadside Campaign Signs.

(Public)

Sponsors:

Referred to:

March 14, 2011

A BILL TO BE ENTITLED

AN ACT TO PERMIT CAMPAIGN SIGNS IN HIGHWAY RIGHTS-OF-WAY WITH  
REASONABLE TIME, PLACE, AND MANNER RESTRICTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-32 reads as rewritten:

"§ 136-32. ~~Other than official signs prohibited.~~ Regulation of signs.

(a) Commercial Signs. – No unauthorized person shall erect or maintain upon any highway any warning or direction sign, marker, signal or light or imitation of any official sign, marker, signal or light erected under the provisions of G.S. 136-30, except in cases of emergency. No person shall erect or maintain upon any highway any traffic or highway sign or signal bearing thereon any commercial advertising or political advertising, except as provided in subsections (b) through (e) of this section: Provided, nothing in this section shall be construed to prohibit the erection or maintenance of signs, markers, or signals bearing thereon the name of an organization authorized to erect the same by the Department of Transportation or by any local authority referred to in G.S. 136-31. Any person who shall violate any of the provisions of this section shall be guilty of a Class 1 misdemeanor. The Department of Transportation may remove any signs erected without authority, authority or allowed to remain beyond the deadline established in subsection (b) of this section.

(b) Compliant Political Signs Permitted. – During the period beginning on the 30<sup>th</sup> day before the beginning date of "one-stop" early voting under G.S. 163-227.2 and ending on the 10<sup>th</sup> day after the primary or election day, persons may place political signs in the right-of-way of the State highway system as provided in this section. Signs must be placed in compliance with subsection (d) of this section and must be removed by the end of the period prescribed in this subsection.

(c) Definition. – For purposes of this section, "political sign" means any sign that advocates for political action. The term does not include a commercial sign.

(d) Sign Placement. – The permittee must obtain the permission of any property owner of a residence, business, or religious institution fronting the right-of-way where a sign would be erected. Signs must be placed in accordance with the following:

- (1) No sign shall be permitted in the right-of-way of a fully controlled access highway.
- (2) No sign shall be closer than three feet from the edge of the pavement of the road.
- (3) No sign shall obscure motorist visibility at an intersection.



\* S 3 1 5 - P C S 8 5 2 0 3 - R V - 1 8 \*

1           (4)   No sign shall be higher than 42 inches above the edge of the pavement of the  
2               road.

3           (5)   No sign shall be larger than 864 square inches.

4           (6)   No sign shall obscure or replace another sign.

5       (e)   Penalties for Unlawful Removal of Signs. – It is a Class 3 misdemeanor for a person  
6   to steal, deface, vandalize, or unlawfully remove a political sign that is lawfully placed under  
7   this section.

8       (f)   Application Within Municipalities. – Pursuant to Article 8 of Chapter 160A of the  
9   General Statutes, a city may by ordinance prohibit or regulate the placement of political signs  
10   on rights-of-way of streets located within the corporate limits of a municipality and maintained  
11   by the municipality. In the absence of an ordinance prohibiting or regulating the placement of  
12   political signs on the rights-of-way of streets located within a municipality and maintained by  
13   the municipality, the provisions of subsections (b) through (e) of this section shall apply."

14       SECTION 2. This act becomes effective January 1, 2012, and applies to any  
15   primary or election held on or after that date.

## PAGES ATTENDING

COMMITTEE: Transportation ROOM: 1027  
 DATE: 5-18 TIME: 11 AM

PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!

Page Name	Hometown	Sponsoring Senator
1 Micaela Percy	Cary	P. Berger
2 Alex Johnson	Charlotte	Hartse
3		
4		
5		
6		
7		
8		
9		
10		

Do not add names below the grid.

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.

## VISITOR REGISTRATION SHEET

Senate Transportation Committee  
Name of Committee

Wed May 18, 2011  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Paul Engleman	Inform Inc
Amy McConkey	NC Beverage Assoc
Lu-Anne Pagn	CSS
Joey Gardner	DMV License + Theft
John Polinski	NCAA
Jon Nance	NC DOT
Dave Foster	City of Charlotte
Julio White	Memuc
Grant Egan	NMRS
Barry Smith	m2m, politics.com
Lydia Daniel	Citizen

## VISITOR REGISTRATION SHEET

Senate Transportation Committee  
Name of Committee

Wed

May 18, 2011

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE  
CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Just May

The Fisher

Dea Jackson

Stop the toll Road - Garden

Margaret Floyd

"

"

Parkway

B. H. Toole

"

"

Stephanie Armstrong

"

East-West  
Connector

T. Lee

to the W. Place

Bobby N. Stanley

Soil & Water Commission

## MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

Wednesday, June 8, 2011  
12 Noon, 1124 LB

The Senate Transportation Committee met on Wednesday, June 8, 2011, at 12 Noon in Room 1124 of the Legislative Building. Senator Rabon, Co-Chairman of the Committee, called the meeting to order.

Nine members of the committee were present, and Senator Rabon welcomed committee members, staff, and guests. He further acknowledged the following pages serving at today's meeting: Jake Anthony and Brad Yovanovich, Raleigh, sponsored by Senator Harrington; Addie Griffin, Louisburg, sponsored by Senator Doug Berger; Corinne May, Raleigh, sponsored by Senator Nesbitt; and Ryder Smith, Burlington, sponsored by Senator Gunn.



The first order of business was House Bill 468, Amend Weight Limits for Farm Products, sponsored by Representatives Horn, Hill, Sager, and Hackney. Senator Rabon recognized Representative Horn to explain the bill. After a discussion of the bill, Senator Tillman moved for a favorable report. Motion carried.

House Bill 311, Household Goods Carriers/ID Markings, sponsored by Representatives McComas, Jeffus, Samuelson, and Fisher was the next order of business. Representative Samuelson was recognized to explain the bill. After an explanation of the bill, Senator Hunt moved for a favorable report. Motion carried. The bill was re-referred to the Finance Committee.

Senator Rabon recognized Senator Brock for an explanation of Senate Bill 771, Single Trip Permits/Modular Homes. After an explanation of the bill, Senator Tillman moved for a favorable report. Motion carried.

The last order of business was Senate Bill 214, Transportation Map Corridors/Condemnation, sponsored by Senators Jenkins, Goolsby, and Rabon. Senator Tillman moved that the proposed committee substitute bill be adopted for discussion purposes. Motion carried. Senator Rabon then recognized Senator Goolsby to explain the committee substitute bill. Jessi Hayes, representing the North Carolina Home Builders Association, was then recognized to speak to the bill. Senator Hunt moved for a favorable report of the committee substitute bill. Motion carried.

The meeting adjourned at 12:15 p.m.

  
Senator William Rabon, Chairman  
Ramona R. Fitzgerald, Committee Clerk

Principal Clerk  
Reading Clerk

\_\_\_\_\_  
\_\_\_\_\_

Revised Notice: Add SB 214

**SENATE**  
**NOTICE OF COMMITTEE MEETING**  
**AND**  
**BILL SPONSOR NOTICE**

The Senate Committee on **Transportation** will meet at the following time:

<b>DAY</b>	<b>DATE</b>	<b>TIME</b>	<b>ROOM</b>
Wednesday	June 8, 2011	12 Noon	1124 LB

The following will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
SB 771	Single Trip Permits/Modular Homes.	Senator Brock
HB 311	Household Goods Carriers/ID Markings.	Representative McComas
		Representative Jeffus
		Representative Samuelson
		Representative Fisher
HB 468	Amend Weight Limits for Farm Products.	Representative Horn
		Representative Hill
		Representative Sager
		Representative Hackney
SB 214	Transportation Map Corridors/Condemnation.	Senator Jenkins
		Senator Goolsby
		Senator Rabon

Senator James Forrester, Co-Chair  
Senator Bill Rabon, Co-Chair

**Senate Transportation Committee  
Wednesday, June 8, 2011, 12 Noon  
1124 LB**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills**

SB 214    Transportation Map  
             Corridors/Condemnation.

Senator Jenkins  
Senator Goolsby  
Senator Rabon  
Senator Brock

SB 771    Single Trip Permits/Modular  
             Homes.

HB 311    Household Goods Carriers/ID  
             Markings.

Representative  
McComas  
Representative Jeffus  
Representative  
Samuelson  
Representative Fisher  
Representative Horn  
Representative Hill  
Representative Sager  
Representative  
Hackney

HB 468    Amend Weight Limits for Farm  
             Products.

**Presentations**

**Other Business**

**Adjournment**

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**TRANSPORTATION COMMITTEE REPORT**

**Senator James Forrester, Co-Chair**

**Senator Bill Rabon, Co-Chair**

Wednesday, June 08, 2011

Senator RABON,  
submits the following with recommendations as to passage:

**FAVORABLE**

S.B.	771	Single Trip Permits/Modular Homes.	
		Sequential Referral:	None
		Recommended Referral:	None
H.B.	311	Household Goods Carriers/ID Markings.	
		Sequential Referral:	Finance
		Recommended Referral:	None

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL**

S.B.	214	Transportation Map Corridors/Condemnation.	
		Draft Number:	PCS15179
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	Yes

**TOTAL REPORTED: 3**

**Committee Clerk Comments:**

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**TRANSPORTATION COMMITTEE REPORT  
Senator James Forrester, Co-Chair  
Senator Bill Rabon, Co-Chair**

Thursday, June 09, 2011

Senator RABON,  
submits the following with recommendations as to passage:

**FAVORABLE**

H.B.(CS #1) 468	Amend Weight Limits for Farm Products.	
	Sequential Referral:	None
	Recommended Referral:	None

**TOTAL REPORTED: 1**

Committee Clerk Comments:

FLOOR MANAGER – SENATOR ~~TUCKER~~

Rabon

PUBLIC BILL

~~Pre~~ Committee Substitute For  
H.B. 468

SESSION LAW \_\_\_\_\_

ID = SB 461

A BILL TO BE ENTITLED

AN ACT TO ALLOW AN EXEMPTION FROM VEHICLE WEIGHT LIMITS FOR A PERSON HAULING LIVE POULTRY FROM THE FARM WHERE THE LIVE POULTRY IS RAISED TO ANY PROCESSING FACILITY WITHIN ONE HUNDRED FIFTY MILES OF THAT FARM.

Introduced by Representative(s): Horn, Sager, Hill, Hackney (Primary Sponsors)

For a complete list of cosponsors for this bill, please see the report inside the bill jacket.

Principal Clerk's Use Only

Committee on Transportation  
majority being present, having considered  
bill, recommend that it do ☒ pass.  
Rep. Aut. Hill  
For the Committee

FAVORABLE TO COMM. SUB  
UNFAVORABLE TO BILL

APR 27 2011

AND PLACED ON  
CALENDAR FOR

4-28-11

Passed 2nd & 3rd Reading

APR 28 2011

DERED SENT TO SENATE

Dennis Weeks

RECEIVED

APR 29 2011

From House of Representatives  
By Clerk 2/9:42 AM PM

PASSED 1st READING

MAY 02 2011

AND REFERRED TO COMMITTEE  
ON: Transportation

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 468  
Committee Substitute Favorable 4/27/11

Short Title: Amend Weight Limits for Farm Products.

(Public)

Sponsors:

Referred to:

March 28, 2011

A BILL TO BE ENTITLED

AN ACT TO ALLOW AN EXEMPTION FROM VEHICLE WEIGHT LIMITS FOR A  
PERSON HAULING LIVE POULTRY FROM THE FARM WHERE THE LIVE  
POULTRY IS RAISED TO ANY PROCESSING FACILITY WITHIN ONE HUNDRED  
FIFTY MILES OF THAT FARM.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-118(c)(12) reads as rewritten:

"(12) Subsections (b) and (e) of this section do not apply to a vehicle that meets all  
of the conditions set out below:

- a. Is hauling agricultural crops from the farm where the crop is grown  
to any market within 150 miles of that ~~farm~~ farm, or is hauling live  
poultry from the farm where the live poultry is raised to any  
processing facility within 150 miles of that farm.
- b. Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 13.
- b1. Does not operate on an interstate highway or exceed any posted  
bridge weight limits during transportation or hauling of agricultural  
products.
- c. Does not exceed a single-axle weight of 22,000 pounds, a  
tandem-axle weight of 42,000 pounds, or a gross weight of 90,000  
pounds.
- d. Is registered pursuant to G.S. 20-88 for the maximum weight allowed  
for the vehicle configuration as listed in subsection (b) of this  
section."

**SECTION 2.** This act becomes effective December 1, 2011, and applies to  
offenses committed on or after that date. Prosecutions for offenses committed before the  
effective date of this act are not abated or affected by this act, and the statutes that would be  
applicable but for this act remain applicable to those prosecutions.



\* H 4 6 8 - V - 2 \*



## HOUSE BILL 468: Amend Weight Limits for Farm Products

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Reps. Horn, Sager, Hill, Hackney  
**Analysis of:** Second Edition

**Date:** June 7, 2011  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *House Bill 468 would allow an exemption from vehicle weight limits for a vehicle hauling live poultry from the farm where the live poultry is raised to any processing facility within one hundred fifty miles of that farm.*

[As introduced, this bill was identical to S461, as introduced by Sen. Tucker, which is currently in House Transportation.]

**CURRENT LAW:** G.S. 20-118 establishes weight limitations for vehicles operating on the highways of the State. Violators are subject to civil penalties. There is an exception that applies to a vehicle that is hauling agricultural crops from the farm where the crop is grown to any market within 150 miles of that farm, provided the vehicle meets the following additional conditions:

- Does not operate on an interstate highway or exceed any posted bridge weight limits during transportation or hauling of agricultural products.
- Does not exceed a single-axle weight of 22,000 pounds, a tandem-axle weight of 42,000 pounds, or a gross weight of 90,000 pounds.
- Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration.

**BILL ANALYSIS:** House Bill 468 would amend an existing weight limit exemption that applies to trucks hauling agricultural crops. The bill would expand the exemption to include vehicles hauling live poultry from a farm where the live poultry is raised to any processing facility within one hundred fifty miles of that farm.

**EFFECTIVE DATE:** The bill would become effective December 1, 2011 and apply to offenses committed on or after that date.

H468-SMRV-71(e2) v1

H.B. 0311

SESSION LAW \_\_\_\_\_

## A BILL TO BE ENTITLED

AN ACT REQUIRING THAT MOTOR CARRIERS OF HOUSEHOLD GOODS MARK OR IDENTIFY THEIR VEHICLES AND MAKING IT UNLAWFUL FOR A PERSON NOT CERTIFIED BY THE UTILITIES COMMISSION AS A MOTOR CARRIER OF HOUSEHOLD GOODS TO ADVERTISE OR OTHERWISE REPRESENT THAT THE PERSON IS AUTHORIZED TO ENGAGE IN THE TRANSPORTATION OF HOUSEHOLD GOODS FOR COMPENSATION IN THIS STATE.

*Introduced by Representative(s):* Fisher, Samuelson, Jeffus, and McComas (Primary Sponsors).

For a complete list of cosponsors for this bill, please see the report inside the bill jacket.

*ii Clerk's Use Only*

PASSED 1st READING

MAR 10 2011

AND REFERRED TO COMMITTEE  
ON Transportation

*5 Bow Finance*

Committee on Transportation  
majority being present, having considered  
bill, recommend that it do pass  
*be re-referred to the Comm. on Finance*  
*Reps. Miller*  
For the Committee

REPORTED FAVORABLY

APR 12 2011

AND RE-REFERRED TO  
ASSOCIATIONS FINANCE

ON MOTION OF REP. T. Moore  
WITHDRAWN FROM Finance

MAY 02 2011

Calendar 366

PASSES 2nd READING

111-5 EV

MAY 05 2011

AND PLACED ON THE CALENDAR

*Stam*  
AMENDMENT NO. 1  
ADOPTED

MAY 05 2011

114-1 EV (adj)

PASSED 3rd READING

110-5 EV

MAY 05 2011

AND ORDERED ENGROSSED  
AND SENT TO SENATE*Lemise Wecker*

RECEIVED

MAY 6 2011

House of Representatives  
By Clk 10:15 AM PM

PASSED 1st READING

MAY 10 2011

AND REFERRED TO COMMITTEE  
ON Transportation

SEQUENTIAL REFERRAL:

Finance

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 311  
Second Edition Engrossed 5/5/11

Short Title: Household Goods Carriers/ID Markings. (Public)

Sponsors: Representatives Fisher, Samuelson, Jeffus, and McComas (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Transportation, if favorable, Finance.

March 10, 2011.

A BILL TO BE ENTITLED

AN ACT REQUIRING THAT MOTOR CARRIERS OF HOUSEHOLD GOODS MARK OR IDENTIFY THEIR VEHICLES AND MAKING IT UNLAWFUL FOR A PERSON NOT CERTIFIED BY THE UTILITIES COMMISSION AS A MOTOR CARRIER OF HOUSEHOLD GOODS TO ADVERTISE OR OTHERWISE REPRESENT THAT THE PERSON IS AUTHORIZED TO ENGAGE IN THE TRANSPORTATION OF HOUSEHOLD GOODS FOR COMPENSATION IN THIS STATE.

The General Assembly of North Carolina enacts:

**SECTION 1.** Part 4 of Article 17 of Chapter 20 of the General Statutes is amended by adding a new section to read as follows:

**"§ 20-398. Household goods carrier; marking or identification of vehicles.**

(a) No carrier shall operate any motor vehicle upon a highway, public street, or public vehicular area within the State in the transportation of household goods for compensation unless the name or trade name and the North Carolina number assigned to the carrier by the North Carolina Utilities Commission appear on each side of the vehicle in letters and figures not less than three inches high. The North Carolina number assigned to the carrier shall also be placed on the rear left upper quadrant of the vehicle in letters and figures not less than three inches high. In case of a tractor-trailer unit, the side markings must be on the tractor and the rear markings must be on the trailer. The markings required may be printed on the vehicle or on durable placards securely fastened on the vehicle.

(b) Except as provided in subsection (b) of this section, the provisions of this section shall apply to every vehicle used by the carrier in his or her operation whether owned, rented, leased, or otherwise. However, if a vehicle is rented or leased, the words "Operated By" shall also appear above or preceding the name of the carrier, unless the vehicles are under permanent lease, in which case the name of the lessor and the words "Operated By" need not appear.

(c) The provisions of this section do not apply to carriers engaged only in interstate commerce. If the carrier is engaged in both interstate and intrastate commerce and is marked as required by the Federal Motor Carrier Safety Administration, then in that case, it will only be necessary for the carrier to print his or her North Carolina number in a conspicuous place near his or her name in letters and figures corresponding in size with Federal Motor Carrier Safety Administration regulations.

(d) Any person, whether carrier or any officer, employee, agent, or representative thereof, who violates this section shall be guilty of a Class 3 misdemeanor and punished only by a fine of not more than five hundred dollars (\$500.00) for the first offense and not more than two thousand dollars (\$2,000) for any subsequent offense."



\* H 3 1 1 - V - 2 \*

1           **SECTION 2.** Article 12 of Chapter 62 of the General Statutes is amended by  
2 adding the following new sections to read:

3 **"§ 62-280. Household goods carrier; marking or identification of vehicles.**

4       (a) No carrier of household goods shall operate any motor vehicle upon a highway,  
5 public street, or public vehicular area within the State in the transportation of household goods  
6 for compensation in violation of the provisions of G.S. 20-398.

7       (b) The Utilities Commission may assess a civil penalty not in excess of five thousand  
8 dollars (\$5,000) for the violation of subsection (a) of this section. The clear proceeds of any  
9 civil penalties collected pursuant to this subsection shall be remitted to the Civil Penalty and  
10 Forfeiture Fund in accordance with G.S. 115C-457.2.

11 **"§ 62-280.1. False representation of household goods carrier certificate unlawful.**

12       (a) It is unlawful for a person not issued a certificate to operate as a carrier of household  
13 goods under the provisions of this Chapter to do any of the following:

14           (1) Orally, in writing, in print, or by sign, including the use of a vehicle placard,  
15 phone book, Internet, magazine, newspaper, billboard, or business card, or in  
16 any other manner, directly or by implication, represent that the person holds  
17 a certificate or is otherwise authorized to operate as a carrier of household  
18 goods in this State.

19           (2) Use in connection with the person's name or place of business any words,  
20 letters, abbreviations, or insignia indicating or implying that the person holds  
21 a certificate or is otherwise authorized to operate as a carrier of household  
22 goods in this State.

23       (b) Any person who violates subsection (a) of this section shall be guilty of a Class 3  
24 misdemeanor and punished only by a fine of not more than five hundred dollars (\$500.00) for  
25 the first offense and not more than two thousand dollars (\$2,000) for any subsequent offense.

26       (c) The Utilities Commission may assess a civil penalty not in excess of five thousand  
27 dollars (\$5,000) for the violation of subsection (a) of this section. The clear proceeds of any  
28 civil penalties collected pursuant to this subsection shall be remitted to the Civil Penalty and  
29 Forfeiture Fund in accordance with G.S. 115C-457.2."

30       **SECTION 3.** This act becomes effective October 1, 2011.



## HOUSE BILL 311: Household Goods Carriers/ID Markings

2011-2012 General Assembly

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Committee:	Senate Ref to Transportation. If fav, re-ref to Finance	Date:	June 7, 2011
Introduced by:	Reps. Fisher, Samuelson, Jeffus, McComas	Prepared by:	Brenda J. Carter
Analysis of:	Second Edition		Committee Counsel

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**SUMMARY:** *House Bill 311 would require a motor carrier of household goods to mark or identify its vehicles; failure to mark a vehicle in accordance with the law would be a Class 3 misdemeanor. The carrier would also be subject to a civil penalty. The bill would make it unlawful for a person not certified by the Utilities Commission as a motor carrier of household goods to advertise or otherwise represent that the person is authorized to engage in the transportation of household goods for compensation in this State. Violation would be a Class 1 misdemeanor, and the person would also be subject to a civil penalty.*

**CURRENT LAW:** Under G.S. 20-382.1, a motor carrier that hauls household goods for compensation must register its operations with the State by obtaining a certificate of authority from the North Carolina Utilities Commission. Title 4, Chapter 11 of the North Carolina Administrative Code requires that each carrier of household goods be assigned a number by the Utilities Commission. All household goods common carriers are identified by the letter "C", and each such carrier is assigned a number. (Example: N.C. No. C-25). The Administrative Code requires that the name or trade name, home address and the North Carolina number assigned to the carrier appear on both sides of the vehicle in letters and figures not less than three inches high. The number must also appear on the rear of the vehicle.

**BILL ANALYSIS:** Section 1 of the bill codifies an existing provision of the N. C. Administrative Code, by adding a new section to the State's motor vehicle law that requires intrastate motor carriers of household goods to display the carrier's name or trade name and the North Carolina number assigned to the carrier by the NC Utilities Commission on each side of the vehicle in letters/numbers at least 3 inches high. The number must also be placed on the rear of the vehicle. The requirement does not apply to carriers engaged only in interstate commerce; carriers engaged in both interstate and intrastate commerce must be marked as required by the Federal Motor Carrier Safety Administration (FMCSA), and print the carrier's NC number in a conspicuous place near the carrier's name in figures corresponding in size with FMCSA regulations. Violation would be a Class 3 misdemeanor, punishable by a fine up to \$500 for the first offense, and up to \$2,000 for any subsequent offense. Section 2 of the bill amends the public utilities laws pertaining to motor carriers, adding a new section that prohibits a carrier of household goods from operating a motor vehicle that is not marked in accordance with the provisions set out in Section 1 of the bill. The Utilities Commission would be authorized to assess a civil penalty up to \$5,000 for a violation. The bill also makes it unlawful for a person to falsely represent himself or herself as holding a certificate or being otherwise authorized to operate as a carrier of household goods in this State; it would also be unlawful such person to use any words or insignia implying that the person holds a certificate or is otherwise authorized to operate. Violation would be a Class 3 misdemeanor, punishable by a fine up to \$500 for the first offense, and up to \$2,000 for any subsequent offense. The Utilities Commission would be authorized to assess a civil penalty up to \$5,000 for a violation.

**EFFECTIVE DATE:** The bill would become effective October 1, 2011.

H311-SMRV-70(e2) v1

771

S.B. \_\_\_\_\_

SESSION LAW \_\_\_\_\_

**A BILL TO BE ENTITLED**

AN ACT TO PROVIDE FOR THE ISSUANCE OF A SINGLE TRIP PERMIT BY THE DEPARTMENT OF TRANSPORTATION FOR THE TRANSPORT AND DELIVERY OF SIXTEEN-FOOT-WIDE MANUFACTURED AND MODULAR HOMES SUBJECT TO CERTAIN RULES ADOPTED BY THE DEPARTMENT OF TRANSPORTATION.

Introduced by Senator(s)

Brock

*[Signature]* *[Signature]*

Principal Clerk's Use Only

**FILED** APR 19 2011

**PASSED 1st READING**

APR 20 2011

AND REFERRED TO COMMITTEE

ON: Transportation

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 771

Short Title: Single Trip Permits/Modular Homes.

(Public)

Sponsors: Senators Brock; and Daniel.

Referred to: Transportation.

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE ISSUANCE OF A SINGLE TRIP PERMIT BY THE  
DEPARTMENT OF TRANSPORTATION FOR THE TRANSPORT AND DELIVERY  
OF SIXTEEN-FOOT-WIDE MANUFACTURED AND MODULAR HOMES SUBJECT  
TO CERTAIN RULES ADOPTED BY THE DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-119 is amended by adding a new subsection to read:

"(b2) The Department shall issue single trip permits for the transport and delivery of a manufactured or modular home with a maximum width of 16 feet and a gutter edge that does not exceed three feet from the manufacturer to an authorized dealership within this State, and for delivery of a manufactured or modular home by a manufacturer and authorized dealer or their transporters to a location within this State. The Department shall promulgate rules that set the days allowed for transport and delivery, times of day transport or delivery may occur, and the display and use of banners and escort vehicles for public safety purposes. For the purposes of this subsection, manufactured home and modular home shall have the same meanings as those terms are defined in G.S. 105-164.3."

**SECTION 2.** This act becomes effective October 1, 2011.





## SENATE BILL 771: Single Trip Permits/Modular Homes

2011-2012 General Assembly

Committee: Senate Transportation  
Introduced by: Sen. Brock  
Analysis of: First Edition

Date: April 26, 2011  
Prepared by: Brenda J. Carter  
Committee Counsel

**SUMMARY:** *Senate Bill 771 would require the Department of Transportation to issue single trip permits for the transport and delivery of manufactured or modular homes with a maximum width of 16 feet and to adopt rules setting forth the days and times for transport and delivery of the homes.*

**CURRENT LAW:** Pursuant to G.S. 20-119, the Department of Transportation has the authority, for good cause, to issue special permits for vehicles of excessive size or weight. Upon issuance of a special permit, the applicant must generally pay a fee for each dimension over lawful dimensions, including height, length, width, and weight. Violation of the terms of a special permit result in the assessment of civil penalties against the registered owner of the vehicle.

**BILL ANALYSIS:** Senate Bill 771 would require the Department of Transportation to issue single trip permits for the transport and delivery of manufactured or modular homes with a maximum width of 16 feet. The Department would be required to adopt rules that set the days and times during which transport and delivery of the homes may occur, and that also provide for the display and use of banners and escort vehicles for the purpose of public safety. For purposes of the bill, a manufactured home is a structure that is designed to be used as a dwelling and is manufactured in accordance with the specifications for manufactured homes issued by the United States Department of Housing and Urban Development. A modular home is a factory-built structure that is designed to be used as a dwelling, is manufactured in accordance with the specifications for modular homes under the North Carolina State Residential Building Code, and bears a seal or label issued by the Department of Insurance.

**EFFECTIVE DATE:** The bill would become effective October 1, 2011.

S771-SMRV-43(e1) v1

214

S.B. \_\_\_\_\_

SESSION LAW \_\_\_\_\_

**A BILL TO BE ENTITLED**

AN ACT TO LIMIT THE AMOUNT OF TIME LAND MAY BE ENCUMBERED BY A TRANSPORTATION CORRIDOR OFFICIAL MAP BEFORE THE ENTITY ESTABLISHING, ADOPTING, OR AMENDING THE TRANSPORTATION CORRIDOR OFFICIAL MAP IS REQUIRED BY LAW TO PURCHASE THE PROPERTY OR INITIATE CONDEMNATION PROCEEDINGS AGAINST THE PROPERTY.

Introduced by Senator(s)  
(Primary Sponsors)

Goolsby

Jenkins

Rabon

*[Handwritten signatures]*

*[Handwritten signatures]*

*[Handwritten signatures]*

*[Handwritten signatures]*

Principal Clerk's Use Only

FILED MAR 3 2011

PASSED 1st READING

MAR 7 2011

AND REFERRED TO COMMITTEE

ON *[Handwritten signature]*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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1

SENATE BILL 214\*

Short Title: Transportation Map Corridors/Condemnation. (Public)

Sponsors: Senators Goolsby, Jenkins, Rabon; Apodaca, Brunstetter, Daniel, Gunn, Harrington, Hise, Newton, Rouzer, and Tucker.

Referred to: Transportation.

March 7, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO LIMIT THE AMOUNT OF TIME LAND MAY BE ENCUMBERED BY A  
3 TRANSPORTATION CORRIDOR OFFICIAL MAP BEFORE THE ENTITY  
4 ESTABLISHING, ADOPTING, OR AMENDING THE TRANSPORTATION  
5 CORRIDOR OFFICIAL MAP IS REQUIRED BY LAW TO PURCHASE THE  
6 PROPERTY OR INITIATE CONDEMNATION PROCEEDINGS AGAINST THE  
7 PROPERTY.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 136-44.51(b) reads as rewritten:

10 "(b) In any event, no application for building permit issuance or subdivision plat  
11 approval for a tract subject to a valid transportation corridor official map shall be delayed by  
12 the provisions of this section for more than ~~three years~~ 18 months from the date of ~~its original~~  
13 ~~submittal~~ the adoption of a transportation official corridor map. If the corridor is still being  
14 reviewed after the 18-month period set out in this subsection, the entity which adopted the  
15 transportation corridor official map affecting the issuance of building permits or subdivision  
16 plat approval shall initiate condemnation proceedings on the affected properties. If the entity  
17 which adopted the transportation corridor official map has not purchased or initiated  
18 condemnation proceedings within the time limits established pursuant to this subsection, the  
19 owner of real property within the corridor may treat the real property as unencumbered and free  
20 of any restriction on sale, transfer, or use established by this Article."

21 SECTION 2. This act becomes effective December 1, 2011, and applies to all  
22 transportation corridor official maps filed on or after that date.



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE BILL 214\*  
PROPOSED COMMITTEE SUBSTITUTE S214-CSR-V-23 [v.5]

6/7/2011 9:44:40 PM

Short Title: Transportation Map Corridors/Condemnation.

(Public)

Sponsors:

Referred to:

March 7, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO LIMIT THE AMOUNT OF TIME LAND MAY BE ENCUMBERED BY A  
3 TRANSPORTATION CORRIDOR OFFICIAL MAP BEFORE THE ENTITY  
4 ESTABLISHING, ADOPTING, OR AMENDING THE TRANSPORTATION  
5 CORRIDOR OFFICIAL MAP IS REQUIRED BY LAW TO PURCHASE THE  
6 PROPERTY OR RELEASE THE PROPERTY FROM ANY ENCUMBRANCES DUE TO  
7 FILING OF THE CORRIDOR MAP.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 136-44.51 reads as rewritten:

10 "§ 136-44.51. Effect of transportation corridor official map.

11 (a) After a transportation corridor official map is filed with the register of deeds, no  
12 building permit shall be issued for any building or structure or part thereof located within the  
13 transportation corridor, nor shall approval of a subdivision, as defined in G.S. 153A-335 and  
14 G.S. 160A-376, be granted with respect to property within the transportation corridor. The  
15 Secretary of Transportation or his designee, the director of a regional public transportation  
16 authority, or the director of a regional transportation authority, as appropriate, shall be notified  
17 within 10 days of all submittals for corridor map determination, as provided in subsections (b)  
18 and (c) of this section. ~~requests for building permits or subdivision approval within the~~  
19 ~~transportation corridor. The provisions of this section shall not apply to valid building permits~~  
20 ~~issued prior to August 7, 1987, or to building permits for buildings and structures which existed~~  
21 ~~prior to the filing of the transportation corridor provided the size of the building or structure is~~  
22 ~~not increased and the type of building code occupancy as set forth in the North Carolina~~  
23 ~~Building Code is not changed.~~

24 (b) In any event, no application for building permit issuance or subdivision plat  
25 approval for a tract subject to a valid transportation corridor official map shall be delayed by  
26 the provisions of this section for more than three years from the date of its original submittal.  
27 submittal to the appropriate local jurisdiction. A submittal to the local jurisdiction for corridor  
28 map determination shall only require the name of the property owner, the street address of the  
29 property parcel, parcel number or tax identification number, a vicinity map showing the  
30 location of the parcel with respect to nearby roads and other landmarks, a sketch of the parcel  
31 showing all existing and proposed structures or other uses of the property, and a description of  
32 the proposed improvements. If the impact of an adopted corridor on a property submittal for  
33 corridor map determination is still being reviewed after the three-year period established



1 pursuant to this subsection, the entity that adopted the transportation corridor official map  
2 affecting the issuance of building permits or subdivision plat approval shall issue approval for  
3 an otherwise eligible request or initiate acquisition proceedings on the affected properties. If the  
4 entity that adopted the transportation corridor official map has not initiated acquisition  
5 proceedings or issued approval within the time limit established pursuant to this subsection, an  
6 applicant within the corridor may treat the real property as unencumbered and free of any  
7 restriction on sale, transfer, or use established by this Article.

8 (c) No submittal to a local jurisdiction for corridor map determination shall be  
9 construed to be an application for building permit issuance or subdivision plat approval. The  
10 provisions of this section shall not apply to valid building permits issued prior to August 7,  
11 1987, or to building permits for buildings and structures which existed prior to the filing of the  
12 transportation corridor, provided the size of the building or structure is not increased and the  
13 type of building code occupancy as set forth in the North Carolina Building Code is not  
14 changed."

15 **SECTION 2.** This act becomes effective December 1, 2011, and applies to all  
16 transportation corridor official maps filed on or after that date.



## SENATE BILL 214: Transportation Map Corridors/Condemnation

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Sens. Goolsby, Jenkins, Rabon  
**Analysis of:** PCS to First Edition  
S214-CSR-23

**Date:** June 7, 2011  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *Senate Bill 214 would amend the law concerning the effect of a transportation corridor official map. The bill establishes requirements for submittals for corridor map determination, and provides that if the impact of an adopted corridor on a property submitted for corridor map determination is still being reviewed after three years, the entity that adopted the transportation corridor official map must issue approval for an otherwise eligible request or initiate acquisition proceedings on the affected properties.*

**CURRENT LAW:** The Transportation Corridor Official Map Act is set out in Article 2E of Chapter 136 of the General Statutes. Under G.S. 136-44.50, a transportation corridor official map may be adopted or amended by:

- The governing board of any local government for any thoroughfare included as part of a comprehensive plan for streets and highways or for any proposed public transportation corridor included in the adopted long-range transportation plan.
- The State Board of Transportation, or the governing board of any county, for any portion of the existing or proposed State highway system or for any public transportation corridor, to include rail, that is in the Transportation Improvement Program.
- Regional public transportation authorities or regional transportation authorities for any portion of the existing or proposed State highway system, or for any proposed public transportation corridor, or adjacent station or parking lot, included in the adopted long-range transportation plan.
- The North Carolina Turnpike Authority for any project being studied pursuant to its statutory authority.
- The Wilmington Urban Area Metropolitan Planning Organization for any project that is within its urbanized boundary and identified by law as a project on the Intrastate System.

Under G.S. 136-44.51, after a transportation corridor official map is filed with the register of deeds, no building permit or approval of a subdivision can be issued within the transportation corridor. However, no application for building permit issuance or subdivision plat approval may be delayed for more than three years from the date of its original submittal.

**BILL ANALYSIS:** Senate Bill 214 would amend the law concerning the effect of a transportation corridor official map. The bill requires that the Secretary of Transportation, the director of a regional public transportation authority, or the director of a regional transportation authority, as appropriate, be notified within 10 days of all submittals for corridor map determination. No application for building permit issuance or subdivision plat approval may be delayed for more than three years from the date of its original submittal to the appropriate local jurisdiction. The bill establishes requirements for submittals for corridor map determination, and provides that if the impact of an adopted corridor on a property submitted for corridor map determination is still being reviewed after the three-year period, the

## **Senate PCS 214**

*Page 2*

entity that adopted the transportation corridor official map must issue approval for an otherwise eligible request or initiate acquisition proceedings on the affected properties. If the entity that adopted the transportation corridor official map fails to act within the three-year time limit, the applicant may treat the real property as unencumbered and free of any restriction on sale, transfer or use. The bill provides that a submittal for corridor map determination is not an application for building permit issuance or subdivision plat approval.

**EFFECTIVE DATE:** The bill would become effective December 1, 2011, and apply to all transportation corridor official maps filed on or after that date.

*S214-SMRV-72(CSRV-23) v1*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE BILL 214\*  
PROPOSED COMMITTEE SUBSTITUTE S214-PCS15179-RV-23

Short Title: Transportation Map Corridors/Condemnation.

(Public)

Sponsors:

Referred to:

March 7, 2011

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE AMOUNT OF TIME LAND MAY BE ENCUMBERED BY A  
TRANSPORTATION CORRIDOR OFFICIAL MAP BEFORE THE ENTITY  
ESTABLISHING, ADOPTING, OR AMENDING THE TRANSPORTATION  
CORRIDOR OFFICIAL MAP IS REQUIRED BY LAW TO PURCHASE THE  
PROPERTY OR RELEASE THE PROPERTY FROM ANY ENCUMBRANCES DUE TO  
FILING OF THE CORRIDOR MAP.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-44.51 reads as rewritten:

"§ 136-44.51. Effect of transportation corridor official map.

(a) After a transportation corridor official map is filed with the register of deeds, no building permit shall be issued for any building or structure or part thereof located within the transportation corridor, nor shall approval of a subdivision, as defined in G.S. 153A-335 and G.S. 160A-376, be granted with respect to property within the transportation corridor. The Secretary of Transportation or his designee, the director of a regional public transportation authority, or the director of a regional transportation authority, as appropriate, shall be notified within 10 days of all submittals for corridor map determination, as provided in subsections (b) and (c) of this section. ~~requests for building permits or subdivision approval within the transportation corridor. The provisions of this section shall not apply to valid building permits issued prior to August 7, 1987, or to building permits for buildings and structures which existed prior to the filing of the transportation corridor provided the size of the building or structure is not increased and the type of building code occupancy as set forth in the North Carolina Building Code is not changed.~~

(b) In any event, no application for building permit issuance or subdivision plat approval for a tract subject to a valid transportation corridor official map shall be delayed by the provisions of this section for more than three years from the date of its original ~~submittal.~~ submittal to the appropriate local jurisdiction. A submittal to the local jurisdiction for corridor map determination shall require only the name of the property owner, the street address of the property parcel, the parcel number or tax identification number, a vicinity map showing the location of the parcel with respect to nearby roads and other landmarks, a sketch of the parcel showing all existing and proposed structures or other uses of the property, and a description of the proposed improvements. If the impact of an adopted corridor on a property submittal for corridor map determination is still being reviewed after the three-year period



\* S 2 1 4 - P C S 1 5 1 7 9 - R V - 2 3 \*

1 established pursuant to this subsection, the entity that adopted the transportation corridor  
2 official map affecting the issuance of building permits or subdivision plat approval shall issue  
3 approval for an otherwise eligible request or initiate acquisition proceedings on the affected  
4 properties. If the entity that adopted the transportation corridor official map has not initiated  
5 acquisition proceedings or issued approval within the time limit established pursuant to this  
6 subsection, an applicant within the corridor may treat the real property as unencumbered and  
7 free of any restriction on sale, transfer, or use established by this Article.

8 (c) No submittal to a local jurisdiction for corridor map determination shall be  
9 construed to be an application for building permit issuance or subdivision plat approval. The  
10 provisions of this section shall not apply to valid building permits issued prior to August 7,  
11 1987, or to building permits for buildings and structures which existed prior to the filing of the  
12 transportation corridor, provided the size of the building or structure is not increased and the  
13 type of building code occupancy as set forth in the North Carolina Building Code is not  
14 changed."

15 SECTION 2. This act becomes effective December 1, 2011, and applies to all  
16 transportation corridor official maps filed on or after that date.

# PAGES ATTENDING

COMMITTEE: Transportation ROOM: 1124  
 DATE: 6-8 TIME: Noon

PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!

Page	Name	Hometown	Sponsoring Senator
①	Corinne May	Raleigh	Nesbitt
②	Brad Yovanovitch	Raleigh	Harrington
③	Jake Anthony	Raleigh	Harrington
④	Addie Griffin	Louisburg	D. Berger
⑤	Ryder Smith	Burlington	Gunn
6			
7			
8			
9			
10			

Do not add names below the grid.

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.

# VISITOR REGISTRATION SHEET

Senate Transportation Committee  
Name of Committee

June 8, 2011  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

*[Signature]*

NCDTA + others

Henry Jones

Attorney Raley's

Bob Ford

NC Poultry Fed

Frank Gray

NCMHA

Dean Baum

NC Motors Assoc.

Tom Dodge

Public Staff, NCUC

Jessi Hays

WCHBA

Julie W

NCMNC

Kay Emanuel

Legislative Reporting Services

Cameron Moore

BASE

Gene Cauchy

NCMA

# VISITOR REGISTRATION SHEET

Senate Transportation Committee  
Name of Committee

June 8, 2011  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Barbara Canale	Beca
David M. Howan	NC Realtors
Beau Manning	NC DOT
Kevin Lacy	NC DOT
Tammy C. Denning	NC DOT
Lisa Martin	NC Home Builders
Terry Hardest	NECA / NAFPC

## MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

Tuesday, June 14, 2011  
11:30 AM, 414 LOB

The Senate Transportation Committee met on Tuesday, June 14, 2011 at 11:30 AM, in Room 414 of the Legislative Office Building. Senator Rabon, Co-Chairman of the Committee, called the meeting to order.

A quorum was declared and Senator Rabon welcomed committee members, staff, and guests. He further acknowledged the following pages serving at today's meeting: Quinn Burkhalter, Jaye Hunt, Miles Leathers, and James Springs, all of Charlotte, sponsored by Senator Graham, and Dylan Gurrera, Raleigh, sponsored by Senator Purcell.

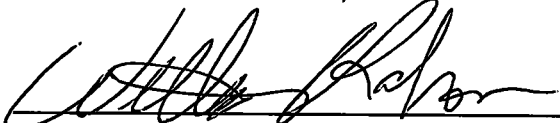
The first order of business was House Bill 661, CLD/HAZMAT Endorsement Expiration, sponsored by Representatives Cook and Shephard. After an explanation of the bill by Representative Cook, Senator Vaughan moved for a favorable report. Motion carried.

Co-Chairman Rabon relinquished the gavel to Senator Harrington in order to present House Bill 229, Rural Operating Assistance Program Changes, sponsored by Representative Owens. After an explanation of the bill, Senator White moved for a favorable report. Motion carried.

Senator Harrington then recognized Senator Rabon to explain House Bill 507, Withdrawing Public Use Dedication, sponsored by Representative Owens. After an explanation of the bill, Senator Jenkins moved for a favorable report. Motion carried.

The meeting adjourned at 11:55 a.m.

Senator William Rabon, Co-Chairman

A handwritten signature in black ink, appearing to read "William Rabon", written over a horizontal line.

Ramona Fitzgerald, Committee Clerk

A handwritten signature in black ink, appearing to read "Ramona Fitzgerald", written over a horizontal line.

Senator Kathy Harrington, Vice Chairman

A handwritten signature in black ink, appearing to read "Kathy Harrington", written over a horizontal line.

**Mona Fitzgerald (Sen. Forrester)**

---

**Fi** Joyce Hodge (Senate LA Director)  
**S** Monday, June 13, 2011 7:52 PM  
**To:** @SenateCommitteeReport; @Senate/Transportation  
**Cc:** Rep. Bill Owens; Rep. Bill Cook; Linda A. Johnson (Rep. Owens); Amanda Vuke (Rep. Bill Cook);  
Rep. Phil Shepard; Pamela Pate (Rep. Shepard)  
**Subject:** <NCGA> Senate Transportation Committee Meeting Notice for Tue, 06-14-2011 at 11:30 AM -  
CORRECTED

Principal Clerk \_\_\_\_\_

Reading Clerk \_\_\_\_\_

**Corrected: HB 661 Added**

**SENATE**  
**NOTICE OF COMMITTEE MEETING**  
**AND**  
**BILL SPONSOR NOTICE**

Tr enate Committee on **Transportation** will meet at the following time:

<b>DAY</b>	<b>DATE</b>	<b>TIME</b>	<b>ROOM</b>
Tuesday	June 14, 2011	11:30 AM	414 LOB

The following will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
HB 229	Rural Operating Assistance Program Changes.	Representative Owens, Jr.
HB 507	Withdrawing Public Use Dedication.	Representative Owens, Jr.
HB 661	CDL/HAZMAT Endorsement Expiration.	Representative Shepard Representative Cook

Senator James Forrester, Co-Chair  
Senator Bill Rabon, Co-Chair

**Senate Transportation Committee  
Tuesday, June 14, 2011, 11:30 AM  
414 LOB**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills**

HB 229	Rural Operating Assistance Program Changes.	Representative Owens, Jr.
HB 507	Withdrawing Public Use Dedication.	Representative Owens, Jr.
HB 661	CDL/HAZMAT Endorsement Expiration.	Representative Shepard Representative Cook

**Presentations**

**Other Business**

**Adjournment**

**PUBLIC BILL**

~~Proposed~~ Committee Substitute For  
H.B. 661

SESSION LAW \_\_\_\_\_

**A BILL TO BE ENTITLED**

**AN ACT TO REQUIRE THE DIVISION OF MOTOR VEHICLES TO MAKE A COMMERCIAL DRIVERS  
LICENSE AND A HAZARDOUS MATERIALS ENDORSEMENT EXPIRE AT THE SAME TIME.**

Introduced by Representative(s): Cook + Shepherd (Primary)

For a complete list of cosponsors for this bill, please see the report inside the bill jacket.

*Principal Clerk's Use Only*

Committee on Transportation  
being present, having considered  
recommend that it do ☒ pass.  
Rp. Mills & Lu  
For the Committee

FAVORABLE TO COMM. SUB  
UNFAVORABLE TO BILL

MAY 31 2011

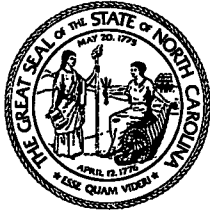
366 AND PLACED ON  
CALENDAR FOR  
6-1-11

Passed 2nd & 3rd Reading  
114-221 VU  
JUN 01 2011  
---ERED SENT TO SENATE

Denise Weeks

PASSED 1st READING  
JUN 2 2011  
AND REFERRED TO COMMITTEE  
ON: Transportation

**RECEIVED**  
JUN 02 2011



## HOUSE BILL 661: CDL/HAZMAT Endorsement Expiration

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Reps. Cook, Shepard  
**Analysis of:** Second Edition

**Date:** June 14, 2011  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *House Bill 661 would put hazardous materials endorsements for commercial drivers licenses on the same renewal cycle as the licenses; the "H" and "X" endorsements would expire when the commercial drivers license expires.*

**CURRENT LAW:** G.S. 20-37.12 provides that no person shall operate a commercial motor vehicle on the highways of this State unless the person has been issued and is in possession of a commercial drivers license with applicable endorsement for the vehicle being driven. To obtain an "H" or an "X" endorsement (vehicles carrying hazardous materials) an applicant must take a test. The testing requirement applies when a person first obtains an H or an X endorsement and each time a person renews an H or an X endorsement.

Under G.S. 20-7, issuance and renewal terms of drivers licenses are based upon the applicant's age. The duration of a license is eight years for those between eighteen and sixty-five; and five years for those sixty-six and older. However, effective December 1, 2010 the duration of a commercial drivers license is five years.

**BILL ANALYSIS:** House Bill 661 would require that hazardous materials endorsements for a commercial drivers license (CDL) be renewed for a period of five years or less so that individuals subject to a federally required screening may receive the screening and be authorized to renew the "H" or "X" endorsement to transport hazardous materials. A CDL that contains an "H" or "X" endorsement would expire on the date of expiration of the licensee's threat assessment. The endorsements would expire when the commercial drivers license expires. An exception applies for CDL licensees who are certified school bus drivers with an "S" endorsement.

**EFFECTIVE DATE:** The act would become effective December 1, 2011 and apply to endorsements issued on or after that date.

H661-SMRV-92(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 661  
Committee Substitute Favorable 5/31/11

Short Title: CDL/HAZMAT Endorsement Expiration.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DIVISION OF MOTOR VEHICLES TO MAKE A  
COMMERCIAL DRIVERS LICENSE AND A HAZARDOUS MATERIALS  
ENDORSEMENT EXPIRE AT THE SAME TIME.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-37.16 is amended by adding a new subsection to read:

"(c2) Expiration of H and X Endorsements. – Hazardous materials endorsements shall be renewed every five years or less so that individuals subject to a Transportation Security Administration security screening required pursuant to 49 C.F.R. § 383.141 may receive the screening and be authorized to renew the endorsements of H or X to transport hazardous materials. Notwithstanding G.S. 20-7(f), a commercial drivers license that contains an H or X endorsement as defined in subsection (c) of this section shall expire on the date of expiration of the licensee's security threat assessment conducted by the Transportation Security Administration of the United States Department of Homeland Security. When the commercial drivers license also contains an S endorsement and the licensee is certified to drive a school bus in this State, the commercial drivers license shall expire as provided in G.S. 20-7(f). The H and X endorsements on a commercial drivers license shall expire when the commercial drivers license expires."

**SECTION 2.** This act becomes effective July 1, 2012, and applies to endorsements issued for commercial drivers licenses on or after that date.



Title Change

PUBLIC BILL

Proposed Committee Substitute For  
H.B. 229

SESSION LAW

A BILL TO BE ENTITLED

AN ACT TO ALLOW A PUBLIC TRANSPORTATION AUTHORITY OR REGIONAL PUBLIC TRANSPORTATION AUTHORITY TO APPLY FOR ELDERLY AND DISABLED TRANSPORTATION AND ASSISTANCE FUNDS ON BEHALF OF THE COUNTIES THAT THE PUBLIC TRANSPORTATION AUTHORITY OR REGIONAL PUBLIC TRANSPORTATION AUTHORITY SERVES.

Introduced by Representative(s): Owens (Primary)

For a complete list of cosponsors for this bill, please see the report inside the bill jacket.

Principal Clerk's Use Only  
Committee on Transportation  
ity being present, having considered  
recommend that it do ✓ pass.  
Rip Mills & Alver  
For the Committee

FAVORABLE TO COMM. SUB  
UNFAVORABLE TO BILL

JUN 7 2011

3665 AND PLACED ON  
CALENDAR FOR

W/O 6-7-11

Passed 2nd & 3rd Reading

46-00 VV

JUN 07 2011

ORDERED SENT TO SENATE

Special Message

Denise White

RECEIVED

JUN 8 2011

From House of Representatives  
By Clerk YJ 11:19 AM/PM

PASSED 1st READING

JUN 08 2011

AND REFERRED TO COMMITTEE

ON: Transportation



## HOUSE BILL 229: Rural Operating Assistance Program Changes

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Rep. Owens  
**Analysis of:** Second Edition

**Date:** June 14, 2011  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *House Bill 229 would allow public transportation authorities and regional public transportation authorities to apply for elderly and disabled transportation and assistance funds on behalf of the counties served by the transportation authority.*

**CURRENT LAW:** G.S. 136-44.27 establishes the NC Elderly and Disabled Transportation Assistance Program and designates DOT as the agency responsible for administering State funds appropriated to purchase elderly and disabled transportation services for counties within the State. Funds are distributed to counties based on the following statutory formula: fifty percent (50%) divided equally among all counties; twenty two and one half percent (22 1/2%) based upon the number of elderly residents per county as a percentage of the State's elderly population; twenty two and one half percent (22 1/2%) based upon the number of disabled residents per county as a percentage of the State's disabled population; and, the remaining five percent (5%) based upon a population density factor that recognizes the higher transportation costs in sparsely populated counties. The funds are to be used by counties in a manner consistent with transportation development plans approved by DOT and the Board of County Commissioners.

**BILL ANALYSIS:** House Bill 229 would allow public transportation authorities and regional public transportation authorities to apply for elderly and disabled transportation and assistance funds on behalf of the counties served by the transportation authority. Upon written agreement with the municipalities served by a public transportation authority or counties served by the regional public transportation authority, a regional public transportation authority would be authorized to apply for and receive any funds to which the member municipality or counties are entitled to receive based on the statutory distribution formula.

**EFFECTIVE DATE:** The bill would be effective when it becomes law.

H229-SMRV-90(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 229  
Committee Substitute Favorable 6/7/11

Short Title: Rural Operating Assistance Program Changes.

(Public)

Sponsors:

Referred to:

March 3, 2011

A BILL TO BE ENTITLED

AN ACT TO ALLOW A PUBLIC TRANSPORTATION AUTHORITY OR REGIONAL PUBLIC TRANSPORTATION AUTHORITY TO APPLY FOR ELDERLY AND DISABLED TRANSPORTATION AND ASSISTANCE FUNDS ON BEHALF OF THE COUNTIES THAT THE PUBLIC TRANSPORTATION AUTHORITY OR REGIONAL PUBLIC TRANSPORTATION AUTHORITY SERVES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 136-44.27 reads as rewritten:

**"§ 136-44.27. North Carolina Elderly and Disabled Transportation Assistance Program.**

...

(e) Funds distributed by the Department under this section shall be used by counties, public transportation authorities, or regional public transportation authorities in a manner consistent with transportation development plans which have been approved by the Department and the Board of County Commissioners. To receive funds apportioned for a given fiscal year, a county shall have an approved transportation development plan. Funds that are not obligated in a given fiscal year due to the lack of such a plan will be distributed to the eligible counties based upon the distribution formula prescribed by subsection (d) of this section.

(f) A regional public transportation authority created pursuant to Article 25 or Article 26 of Chapter 160A of the General Statutes may, upon written agreement with the municipalities served by a public transportation authority or counties served by the regional public transportation authority, apply for and receive any funds to which the member municipality or counties are entitled to receive based on the distribution formula set out in subsection (d) of this section.

**SECTION 2.** This act is effective when it becomes law.



\* H 2 2 9 - V - 2 \*

PUBLIC BILL

H.B. 7507

SESSION LAW

A BILL TO BE ENTITLED

AN ACT AUTHORIZING PROPERTY OWNERS ASSOCIATIONS THAT OWN STREETS THAT ARE LOCATED OUTSIDE INCORPORATED MUNICIPALITIES AND THAT HAVE NOT BEEN ACCEPTED FOR MAINTENANCE BY THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR A PERIOD OF THIRTY YEARS TO FILE, WITH THE APPROVAL OF THE COUNTY COMMISSIONERS, A DECLARATION WITHDRAWING THE DEDICATION TO PUBLIC USE OF SUCH STREETS.

*W.C. Owens*

Introduced by Representative(s): Owens.

For a complete list of cosponsors for this bill, please see the report inside the bill jacket.

Principal Clerk's Use Only

PASSED 1st READING  
MAR 30 2011  
AND REFERRED TO COMMITTEE  
ON *Transportation*

Committee on *Transportation*  
rity being present, having considered  
, recommend that it do *pass*.

*Rep Mills*  
For the Committee

ATED FAVORABLY JUN 07 2011

URSQUANT TO RULE 35(d)  
JUN 07 2011  
*w/o sig*  
PLACED ON CALENDAR  
OF *6-7-11*

Passed 2nd & 3rd Reading  
117-0EV VU  
JUN 07 2011  
ORDERED SENT TO SENATE

Special Message

*Kevin Weeks*

RECEIVED

JUN 7 2011

From House of Representatives  
By Clerk *JP* 10:41 AM '11

PASSED 1st READING  
JUN 08 2011  
AND REFERRED TO COMMITTEE  
ON: *Transportation*



# HOUSE BILL 507: Withdrawing Public Use Dedication

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Rep. Owens  
**Analysis of:** First Edition

**Date:** June 14, 2011  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *House Bill 507 would establish a procedure for withdrawing public use dedication by a property owners association that owns subdivision streets or segments of streets in coastal areas of the State.*

**BILL ANALYSIS:** House Bill 507 would allow a property owner association that owns subdivision streets to file a declaration with the register of deeds withdrawing any dedication to public use or withdrawing an offer of dedication to public use of the streets as provided in the bill. The subdivision where the streets are located must be outside the corporate limits of any municipality and bounded on the east by the Atlantic Ocean, and must have been created by a plat recorded at least 30 years prior to the recording of the declaration of withdrawal. Other qualifications for withdrawal include the fact that the streets have never been maintained by the county, and DOT has never maintained the streets, accepted them for maintenance, or claimed any ownership interest in the streets. The declaration of withdrawal must be approved by the board of county commissioners of the county in which the streets are located. A board of county commissioners may make its consent subject to the following conditions: (1) withdrawal of dedication will not apply to streets where it would terminate all reasonable legal means of access to any property or where the streets are necessary to connect one public street located outside the subdivision with another public street also located outside the subdivision, (2) that no gate or other obstruction be placed across any street unless approved by the board of county commissioners, and (3) that the clerk to the board of commissioners sign the declaration of withdrawal only upon completion of improvements to the covered streets in accordance with a plan submitted by the property owners association that complies with any published street standards required by the county on the date that the subdivision plat was recorded as certified by the county engineer.

The bill provides that the recording of a declaration withdrawal makes the streets the private property of the property owners association; however, the interest vested in the property owners association remains subject to public pedestrian access as existed immediately before its closing; and subject to public utility use or facility until the landowner pays, and the utility accepts, the reasonable cost of removing and relocating the facility.

**EFFECTIVE DATE:** The bill would be effective when it becomes law.

H507-SMRV-91(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

1

HOUSE BILL 507

Short Title:     Withdrawing Public Use Dedication. (Public)

Sponsors:     Representative Owens (Primary Sponsor).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to:    Transportation.

March 30, 2011

A BILL TO BE ENTITLED  
AN ACT AUTHORIZING PROPERTY OWNERS ASSOCIATIONS THAT OWN STREETS  
THAT ARE LOCATED OUTSIDE INCORPORATED MUNICIPALITIES AND THAT  
HAVE NOT BEEN ACCEPTED FOR MAINTENANCE BY THE NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION FOR A PERIOD OF THIRTY YEARS TO  
FILE, WITH THE APPROVAL OF THE COUNTY COMMISSIONERS, A  
DECLARATION WITHDRAWING THE DEDICATION TO PUBLIC USE OF SUCH  
STREETS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 7 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-96.2. Withdrawal of public use dedication by property owners associations.**

**(a) Qualification for Withdrawal of Dedication. – A property owners association that owns subdivision streets or segments of streets may file in the office of the register of deeds, in the county where the streets are located, a declaration withdrawing any purported dedication to public use or withdrawing an offer of dedication to public use of such streets and declaring such streets to be private when all of the following conditions are met:**

- (1) The subdivision within which the streets exist is located entirely outside the corporate limits of any municipality and bounded on the east by the Atlantic Ocean.**
- (2) The subdivision was created by a plat recorded at least 30 years prior to the recording of the declaration of withdrawal.**
- (3) The recorded plat of the subdivision bears a certificate signed by a county representative purporting to accept on behalf of the county the dedication of the streets shown on the plat.**
- (4) At least two-thirds of the total length of all the streets shown on the plat have been paved, opened, and used for vehicular traffic for a period of at least 25 years prior to the recording of the declaration of withdrawal.**
- (5) The subdivision streets have only one means of ingress and egress intersecting with a State highway.**
- (6) The streets have never been maintained by the county, and the county claims no interest in the streets.**
- (7) The Department of Transportation has never maintained the streets or accepted them for maintenance and claims no ownership interest in the streets.**



(8) The developer of the subdivision or the successor to the developer has deeded the streets to an incorporated property owners association and, therefore, such property owners association is the record owner of the streets.

(9) The streets within the subdivision are being maintained and insured by the property owners association that represents all property owners.

(10) The declaration of withdrawal has been approved by a two-thirds vote of all members of the property owners association present in person or by proxy at a special meeting of all such members duly called for that purpose.

(b) Approval by Board of County Commissioners; Signature of Clerk. – A declaration described under subsection (a) of this section may not be recorded unless it bears the signature of the clerk to the board of commissioners of the county where the streets covered in the declaration are located attesting to the adoption by the board of commissioners of a resolution approving such declaration. The board of commissioners may adopt such a resolution only upon a finding that each of the circumstances listed in subsection (a) of this section exists. In approving such a resolution, the board of commissioners may provide that:

(1) The withdrawal of dedication shall not apply to (i) streets or segments of streets where withdrawal of dedication would terminate all reasonable legal means of access to any property or (ii) streets or segments of streets that are necessary to connect a public street located outside the subject subdivision with another public street located outside the subject subdivision.

(2) No gate or other obstruction may be placed across any street or segments of streets unless such gate or obstruction is approved by the board of commissioners upon a finding by the board that other methods of preventing unauthorized parking or preserving public safety on such streets or segments of streets have proved inadequate.

(3) The clerk to the board of commissioners shall sign the declaration of withdrawal only upon completion of the improvements to the covered streets in accordance with a plan for such improvements submitted by the property owners association that complies with any published street standards required by the county on the date that the subdivision plat was recorded as certified by the county engineer.

(c) Effect of Withdrawal of Dedication. – The recording of a declaration authorized by and in accordance with this section shall declare and make the streets described in the declaration the private property of the property owners association that owns such streets, and any offer of dedication of such streets that may have been created by the recording of the plat creating the subdivision shall be conclusively presumed to be withdrawn. However, the right, title, or interest vested in the property owners association remains subject to (i) public pedestrian access on, over, and upon the road or easement as existed immediately before its closing and (ii) any public utility use or facility located on, over, or under the road easement immediately before its closing, until the landowner or any successor thereto pays to the utility involved, and the utility accepts, the reasonable cost of removing and relocating the facility."

**SECTION 2.** This act is effective when it becomes law.

## VISITOR REGISTRATION SHEET

Senate Transportation Committee  
Name of Committee

June 14, 2011  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
CHRIS SEWARD	NEWS + OBSERVER
Becki Gray	John Locke Foundation
Robbie Quinn	DMV
Johanna Reese	DMV
Richard Lukon	OCEAN HILL 1 NOA BOARD OF DIRECTORS - LOROLLA, NC
PAIGE WORSHAM	LEGISLATIVE REPORTING SERVICE
Julie White	NLMNC
Dee Penney	NEPOT

## PAGES ATTENDING

Date: 6-14

Committee: Transportation Room: 414 11:30

**PLEASE PRINT LEGIBLY!!!!**

Page Name	Hometown	Sponsoring Senator
① Dylan Gurrera	Raleigh	Purcell
② Quinn Burkhalter	Charlotte	Graham
③ Miles Leathers	Charlotte	Graham
④ James Springs	Charlotte	Graham
⑤ Jaye Hunt	Charlotte	Graham
6		
7		
8		
9		

**Do not add additional names below the grid.**

**ges: Please present this form to either the Committee Clerk at the meeting or a Sgt. at Arms.**

## **SENATE TRANSPORTATION COMMITTEE**

**Wednesday, May 30, 2012 at 11:00 AM**

**Room 1027, Legislative Building**

### **MINUTES**

The Senate Transportation Committee met at 11:00 AM on May 30, 2012, in Room 1027 of the Legislative Building. Seventeen members of the committee were present. Sen. Bill Rabon (Chair) presided. Chairman Rabon brought the meeting to order and recognized Sergeant at Arms staff and the following pages: Mallory Lowe, sponsored by Senator McKissick, Morgan Best, sponsored by Senator Pate, Devin Burse, sponsored by Senator Blue, Abigail Griffin, sponsored by Senator Hise, Jacqueline Hardy, sponsored by Senator Mansfield. Senator Rabon recognized Senator Robinson, who recognized her granddaughter, Autumn Fulton, who was serving as a page.

The first order of business was HB 821: Allow DOT to Use Recycled Asphalt. Representative Holloway presented his bill to the committee. Senator East asked a question. Senator Rabon recognized Christie Barbee of the Carolina Asphalt Pavement Association to speak to the bill. Senator Rabon entertained a motion from Senator East for a favorable report. Motion carries. Bill is referred to the full Senate.

The next order of business was SB 886: Strengthen Board of Transportation Ethics Policy. Senator Rabon recognizes Senator Harrington to present the bill. Senator Tillman moves for a favorable report. Senator Rabon recognizes Senator White for a question. Senator White moves for a favorable report. Motion carries. Bill is referred to the full Senate.

The next order of business was SB 888: Ethics Requirements for MPOs/RPOs. Senator Rabon tables this measure until the next Transportation committee meeting.

The next order of business was SB 889: RPO Area Definition. Senator Rabon recognizes Senator Harrington to present the bill. Senator McKissick is recognized by Senator Rabon for a question. Senator Rabon recognizes Giles Perry, Research, to speak to the bill. Senator McKissick moves for a favorable report. Motion carries. Bill is referred to the full Senate.

The next order of business was SB 890: Secretary of Transportation Project Approval. Senator Rabon recognizes Senator Harrington to present the bill. Senator Tillman moves for a favorable report. Motion carries. Bill is referred to the full Senate.

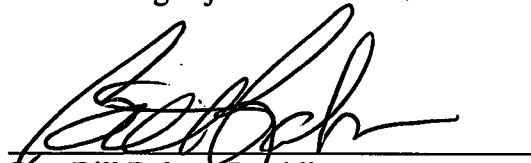
The next order of business was SB 891: Update Ch. 136 with Term "Chief Engineer."-AB. Senator Rabon recognizes Senator Harrington to present the bill. Senator Rabon recognizes Senator McKissick for a question. Senator Rabon recognizes John Nance from the Department of Transportation to speak to the bill. Senator East moves for a favorable report. Motion carries. Bill is referred to the full Senate.

The next order of business was SB 892: Require DOT Strategic Prioritization Process. Senator Rabon recognizes Senator Harrington to present the bill. Senator Rabon recognizes Senator Robinson. Senator Robinson moves for a favorable report. Motion carries. Bill is referred to the full Senate.

The next order of business was SB 893: Privacy of Turnpike Authority Toll Data.-AB. Senator Rabon recognizes Senator Harrington to present the bill. Senator Rabon recognizes Senator McKissick for a question. Staff address Senator McKissick's question. Senator Rabon recognizes Senator Jenkins for a question. Senator McKissick addresses Senator Jenkins' question. Senator McKissick offers an amendment to the bill. Senator Rabon tables discussion on the bill until the amendment is drafted and brought back before the committee. A proposed committee substitute is prepared and found to be favorable by the committee.


The next order of business was SB 895: DOT Division of Motor Vehicles Legislative Requests.-AB. Senator Rabon recognizes Senator Harrington to present the bill. Senator Rabon mentions that there is an amendment being sent forward. Senator Harrington explains that the bill is a proposed committee substitute that had been worked on that morning but that the information she had read about the bill was correct. Senator Harrington recognizes Joanna Reece from the DOT Division of Motor Vehicles to speak to the bill and address changes made from the original bill. Senator Rabon recognizes Senator Robinson for a question. Senator Robinson's question is addressed by Joanna Reece from DMV. Senator Rabon recognizes Senator Soucek for a question. Senator Rabon recognizes Senator Tillman for a question. Senator Rabon recognizes Senator East for a question. Joanna Reece from DMV addresses the question. A proposed committee substitute is prepared and found to be favorable by the committee.

The meeting adjourned at 11:30 a.m.



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Sen. Bill Rabon, Presiding



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Robert Jansen, Committee Clerk

**Senate Transportation Committee**  
**Wednesday, May 30, 2012, 11:00 AM**  
**1027 LB**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills**

HB 821	Allow DOT to Use Recycled Asphalt.	Representative Holloway
SB 886	Strengthen Bd. of Trans. Ethics Policy.	Senator Harrington
SB 887	Strengthen Bd. of Trans. Ethics Policy.	Senator Rabon
SB 888	Ethics Requirements for MPOs/RPOs.	Senator Rabon
SB 889	RPO Area Definition.	Senator Rabon
SB 890	Sec. of Transportation Project Approval.	Senator Rabon
SB 891	Update Ch. 136 with Term "Chief Engineer."-AB	Senator Rabon
SB 892	Require DOT Strategic Prioritization Process.	Senator Rabon
SB 893	Privacy of Turnpike Authority Toll Data.-AB	Senator Rabon
SB 895	DOT Division of Motor Vehicles Leg. Requests.-AB	Senator Rabon

**Presentations**

**Other Business**

**Adjournment**

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**H**

**1**

**HOUSE BILL 821**

**Short Title:** Allow DOT to Use Recycled Asphalt. (Public)

**Sponsors:** Representative Holloway (Primary Sponsor).  
For a complete list of Sponsors, see Bill/Information on the NCGA Web Site.

**Referred to:** Transportation.

April 7, 2011

A BILL TO BE ENTITLED  
AN ACT TO ALLOW THE DEPARTMENT OF TRANSPORTATION TO USE RECYCLED  
ASPHALT FOR HIGHWAY CONSTRUCTION AND MAINTENANCE IF IT MEETS  
THE REQUIRED MINIMUM CONTENT STANDARDS AND THE MATERIAL  
MEETS THE MINIMUM SPECIFICATIONS FOR THE PROJECT.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 136-28.8(b) reads as rewritten:

"(b) The General Assembly declares it to be in the public interest to find alternative ways to use certain recycled materials that currently are part of the solid waste stream and that contribute to problems of declining space in landfills. The Department shall, consistent with economic feasibility and applicable engineering and environmental quality standards, use:

- (1) Rubber from tires in road pavements, subbase materials, or other appropriate applications.
- (2) Recycled materials for guard rail posts, right-of-way fence posts, and sign supports.
- (3) Recycling technology, including, but not limited to, hot in-place recycling, in road and highway maintenance.
- (4) Recycled asphalt, provided that minimum content standards are met and the material meets minimum specifications for the project."

**SECTION 2.** This act is effective when it becomes law.





# HOUSE BILL 821: Allow DOT to Use Recycled Asphalt

*2011-2012 General Assembly*

**Committee:** Senate Transportation  
**Introduced by:** Rep. Holloway  
**Analysis of:** First Edition

**Date:** May 30, 2012  
**Prepared by:** Wendy Graf Ray  
Committee Counsel

**SUMMARY:** *House Bill 821 would authorize the Department of Transportation to use recycled asphalt for construction if it meets all standards and specifications.*

**CURRENT LAW:** The General Assembly has statutorily authorized various methods for using recyclable materials in highway construction and maintenance.

**BILL ANALYSIS:** House Bill 821 would authorize the Department of Transportation to use recycled asphalt for highway construction and maintenance, if all content standards and project specifications are met.

**EFFECTIVE DATE:** The act would be effective when it becomes law.

*H821-SMSU-52(e1) v1*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

2

SENATE BILL 887  
Corrected Copy 5/25/12

Short Title: Strengthen Bd. of Trans. Ethics Policy. (Public)

Sponsors: Senators Rabon (Primary Sponsor); Bingham, Carney, Davis, Goolsby,  
Harrington, Meredith, and Rouzer.

Referred to: Transportation.

May 24, 2012

1 A BILL TO BE ENTITLED  
2 AN ACT TO CODIFY THE PROVISIONS OF EXECUTIVE ORDER NO. 2 THAT  
3 STRENGTHEN THE BOARD OF TRANSPORTATION ETHICS POLICY, AS  
4 RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT  
5 COMMITTEE.  
6 The General Assembly of North Carolina enacts:  
7 SECTION 1. G. S. 143B-350 is amended by adding a new subsection to read:  
8 "(o) Additional Ethics Requirements. – Board members shall sign a sworn statement that  
9 they will abide by the disclosure, ethics, and education requirements of this section and of  
10 Chapter 138A of the General Statutes. Following the convening of each Board of  
11 Transportation meeting, and prior to the conduct of business, each Board member shall sign a  
12 sworn statement that the member has no financial, professional, or other interest in any project  
13 being considered on the meeting agenda. To the extent the Board member has such an interest,  
14 the Chair and member shall take all appropriate steps to ensure that the interest is properly  
15 evaluated and addressed in accordance with law, and that the member is not permitted to act on  
16 any matter in which the member has a disqualifying conflict of interest."  
17 SECTION 2. This act is effective when it becomes law.



\* S 8 8 7 - V - 2 \*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

2

SENATE BILL 889  
Corrected Copy 5/25/12

Short Title: RPO Area Definition. (Public)

Sponsors: Senators Rabon (Primary Sponsor); Bingham, Carney, Davis, Goolsby,  
Harrington, Meredith, and Rouzer.

Referred to: Transportation.

May 24, 2012

A BILL TO BE ENTITLED  
AN ACT TO CHANGE THE DEFINITION ON AN AREA THAT CAN BE REPRESENTED  
BY A RURAL PLANNING ORGANIZATION, AS RECOMMENDED BY THE JOINT  
LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 136-211 reads as rewritten:

**"§ 136-211. Department authorized to establish Rural Transportation Planning Organizations.**

(a) Authorization. – The Department of Transportation is authorized to form Rural Transportation Planning Organizations.

(b) Area Represented. – Rural Transportation Planning Organizations shall include representatives from contiguous areas in three to fifteen counties, ~~with or~~ a total population of the entire area represented of at least 50,000 persons according to the latest population estimate of the ~~Office of State Planning~~ Office of State Budget and Management. Noncontiguous counties adjacent to the same Metropolitan Planning Organization may form a Rural Transportation Planning Organization. Areas already included in a Metropolitan Planning Organization shall not be included in the area represented by a Rural Transportation Planning Organization.

(c) Membership. – The Rural Transportation Planning Organization shall consist of local elected officials or their designees and representatives of local transportation systems in the area as agreed to by all parties in a memorandum of understanding.

(d) Formation; Memorandum of Understanding. – The Department shall notify local elected officials and representatives of local transportation systems around the State of the opportunity to form Rural Transportation Planning Organizations. The Department shall work cooperatively with interested local elected officials, their designees, and representatives of local transportation systems to develop a proposed area, membership, functions, and responsibilities of a Rural Transportation Planning Organization. The agreement of all parties shall be included in a memorandum of understanding approved by the membership of a proposed Rural Transportation Planning Organization and the Secretary of the Department of Transportation."

**SECTION 2.** This act is effective when it becomes law.





## SENATE BILL 889: RPO Area Definition

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Sen. Rabon  
**Analysis of:** Second Edition

**Date:** May 29, 2012  
**Prepared by:** Giles S. Perry  
Committee Counsel

**SUMMARY:** *Senate Bill 889 changes the definition of an area that can be represented by a Rural Planning Organization (RPO). Senate Bill 889 was recommended by the Joint Legislative Transportation Oversight Committee.*

**CURRENT LAW:** Under current G.S. 136-211, a Rural Transportation Planning Organization must include three to fifteen counties, and at least 50,000 persons.

**BILL ANALYSIS:** Senate Bill 889 changes the area definition for a Rural Planning Organization by allowing the area of an RPO to be either three to fifteen counties, or have at least 50,000 persons.

**EFFECTIVE DATE:** This act is effective when it becomes law.

### BACKGROUND:

#### G.S. 136-210. Definitions.

As used in this Article, "Rural Transportation Planning Organization" means a voluntary organization of local elected officials or their designees and representatives of local transportation systems formed by a memorandum of understanding with the Department of Transportation to work cooperatively with the Department to plan rural transportation systems and to advise the Department on rural transportation policy.

#### G.S. 136-212. Duties of Rural Transportation Planning Organizations.

The duties of a Rural Transportation Planning Organization shall include, but not be limited to:

- (1) Developing, in cooperation with the Department, long-range local and regional multimodal transportation plans.
- (2) Providing a forum for public participation in the transportation planning process.
- (3) Developing and prioritizing suggestions for transportation projects the organization believes should be included in the State's Transportation Improvement Program.
- (4) Providing transportation-related information to local governments and other interested organizations and persons.

S889-SMRW-187(e2) v3

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

2

SENATE BILL 890  
Corrected Copy 5/25/12

Short Title:   Sec. of Transportation Project Approval. (Public)

Sponsors:   Senators Rabon (Primary Sponsor);   Bingham, Carney, Davis, Goolsby,  
                  Harrington, Meredith, and Rouzer.

Referred to:   Transportation.

May 24, 2012

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO CODIFY THE PROVISIONS OF EXECUTIVE ORDER NO. 2 THAT  
3 DELEGATE TO THE SECRETARY OF TRANSPORTATION; THE AUTHORITY TO  
4 APPROVE HIGHWAY CONSTRUCTION PROJECTS AND CONSTRUCTION PLANS,  
5 AND TO AWARD HIGHWAY CONSTRUCTION CONTRACTS, AS  
6 RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT  
7 COMMITTEE.

8 The General Assembly of North Carolina enacts:

9           **SECTION 1.** G.S. 143B-350(g) reads as rewritten:

10       "(g) Delegation of Board Duties. – The Board of Transportation ~~may, in its~~  
11 ~~discretion, shall~~ delegate to the Secretary of Transportation the ~~authority; authority under~~  
12 subdivisions (1) and (2) of this subsection, and may delegate the authority under subdivision  
13 (3) of this subsection:

14           (1) To approve all highway construction projects and construction plans for the  
15 construction of projects;

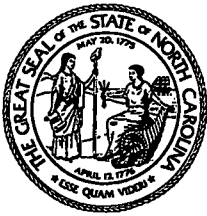
16           (2) To award all highway construction contracts;

17           (3) To promulgate rules, regulations, and ordinances concerning all  
18 transportation functions assigned to the Department.

19 The Secretary may, in turn, subdelegate these duties and powers."

20           **SECTION 2.** This act is effective when it becomes law.





# SENATE BILL 890: Sec. of Transportation Project Approval

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Sen. Rabon  
**Analysis of:** Second Edition

**Date:** May 29, 2012  
**Prepared by:** Giles S. Perry  
Committee Counsel

**SUMMARY:** *Senate Bill 890 codifies the provision of Executive Order No. 2 that required the Board of Transportation to delegate to the Secretary of Transportation the authority to approve highway construction projects and construction plans and to award highway construction contracts. Senate Bill 890 is a recommendation of the Joint Legislative Transportation Oversight Committee.*

**CURRENT LAW:** Currently, authorizes, but does not require, the Board of Transportation to delegate to the Secretary of Transportation its authority to approve highway construction projects and construction plans, and to award highway construction contracts.

In 2009, The Governor issued Executive Order No. 2 (see text below). Section 1 of that order required the Board of Transportation to delegate to the Secretary of Transportation the authority to approve highway construction projects and construction plans and to award highway construction contracts.

**BILL ANALYSIS:** Senate Bill codifies the provision of Executive Order No. 2 that required the Board of Transportation to delegate to the Secretary of Transportation the authority to approve highway construction projects and construction plans and to award highway construction contracts.

**EFFECTIVE DATE:** This act is effective when it becomes law.

## BACKGROUND:

Text of Executive Order No. 2, Dated January 12, 2009

### REFORMING DEPARTMENT OF TRANSPORTATION

WHEREAS, the State, through the Office of the Governor, has an obligation to assure that highway construction plans are developed and that projects are awarded based on professional standards designed to meet the needs of citizens and communities across the State fairly, efficiently and effectively; and

WHEREAS, the present process for developing plans and approving projects needs to be reformed in order to assure that plans are developed and projects are awarded based on professional standards and not other considerations.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, IT IS ORDERED.

#### Section 1. Board of Transportation Reform

The State Board of Transportation shall exercise the authority conferred on it by G.S. § 143B-350(g) to delegate to the Secretary the authority to approve highway construction projects and construction plans and to award highway construction contracts. The Board shall retain those duties prescribed to it under G.S. § 143B-350 and carry them out in accordance with a professional approval process to be established by the Secretary pursuant to Section 2 of this Order.

#### Section 2. Department of Transportation.

# Senate Bill 890

Page 2

(a) The Secretary of the Department of Transportation shall implement throughout the Department a professional approval process for all highway construction programs, highway construction contracts, highway construction projects, and plans for the construction of projects.

(b) The Secretary will implement this professional approval process within 60 days of the signing of this Order.

## Section 3. Strengthen Board of Transportation Ethics Policy

(a) In addition to the disclosure requirements of G.S. § 143B-350 and the ethics provisions of G.S. § 143B-350, board members shall sign sworn statements that they will abide by the disclosure and ethics standards as set forth by law. Board members shall swear as part of these statements that they will follow the standards set forth by the State Government Ethics Act and attend any ethics education programs developed for the Board as set forth in G.S. § 143B-350(m).

(b) Following the convening of each State Board of Transportation meeting and prior to the conduct of business, each board member shall sign a sworn statement that he or she has no financial, professional, or other interest in any project being considered on the meeting agenda. To the extent any board member has such an interest, the Chair and member shall take all appropriate steps to ensure the interest is properly evaluated and addressed under the law and that no member is permitted to act on any matter in which he or she has a disqualifying conflict of interest.

(c) Failure of any member of the State Board of Transportation to comply with the standards of conduct established by G.S. § 143B-350, by other laws of this State, or by the terms of this Executive Order will constitute grounds for removal from office.

## Section 4. Implementation and Duration

This Executive Order shall be effective immediately and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twelfth day of January in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-third.

(signature of Governor Perdue)

SECTION 2. This act is effective when it becomes law.

S890-SMRW-188(e2) v3

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 891\*

Short Title:   Update Ch. 136 with Term "Chief Engineer."-AB (Public)

Sponsors:    Senators Rabon; Bingham, Carney, Davis, Goolsby, Harrington, Meredith, and Rouzer.

Referred to:   Transportation.

May 24, 2012

A BILL TO BE ENTITLED  
AN ACT TO UPDATE CHAPTER 136 OF THE GENERAL STATUTES WITH THE TERM  
"CHIEF ENGINEER," WHICH REPLACES THE TERM "STATE HIGHWAY  
ADMINISTRATOR," AS RECOMMENDED BY THE JOINT LEGISLATIVE  
TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 136-4 reads as rewritten:

**"§ 136-4. ~~State Highway Administrator.~~ Chief Engineer.**

There shall be a ~~State Highway Administrator,~~ Chief Engineer, who shall be a career official and who shall be the administrative officer of the Department of Transportation for highway matters. The ~~State Highway Administrator~~ Chief Engineer shall be appointed by the Secretary of Transportation and he may be removed at any time by the Secretary of Transportation. He shall be paid a salary to be set in accordance with Chapter 126 of the General Statutes, the State Personnel Act. The ~~State Highway Administrator~~ Chief Engineer shall have such powers and perform such duties as the Secretary of Transportation shall prescribe."

**SECTION 2.** G.S. 136-18.3(a) reads as rewritten:

"(a) The Department of Transportation is authorized to issue permits to counties and municipalities for the location of containers on rights-of-way of state-maintained highways for the collection of garbage. Such containers may be located on highway rights-of-way only when authorized in writing by the ~~State Highway Administrator~~ Chief Engineer in accordance with rules and regulations promulgated by the Department of Transportation. Such rules and regulations shall take into consideration the safety of travelers on the highway and the elimination of unsightly conditions and health hazards. Such containers shall not be located on fully controlled-access highways."

**SECTION 3.** G.S. 136-64.1(d) reads as rewritten:

"(d) The Department of Transportation shall have the discretion to deny any application submitted pursuant to this section, or it may grant a permit on any condition it deems warranted. The Department, however, shall consider the use of alternate routes available during flooding of the roads, and any inconvenience to the public or temporary loss of access to business, homes and property. The Department shall have the authority to promulgate regulations for the issuance of permits under this section and it may delegate the authority for the consideration, issuance or denial of such permits to the ~~State Highway Administrator.~~ Chief Engineer. Any applicant granted a permit pursuant to this section shall cause suitable markers



1 to be installed on the secondary road to advise the general public of the intermittent closing of  
2 the road or roads involved. Such markers shall be located and approved by the ~~State Highway~~  
3 ~~Administrator. Chief Engineer.~~"

4 **SECTION 4. G.S. 136-89.59(1) reads as rewritten:**

5 "(1) Thirty-day permits shall be issued without cost by the Highway Division  
6 Engineer. Permits shall be subject to revocation by the ~~State Highway~~  
7 ~~Administrator-Chief Engineer~~ for violations of this section. The applicant  
8 must be a nonprofit organization showing a record of concern for  
9 automotive, highway, or driver safety."

10 **SECTION 5. G.S. 136-89.194(f) reads as rewritten:**

11 **"§ 136-89.194. Laws applicable to the Authority; exceptions.**

12 (f) Construction Claims. – G.S. 136-29 applies to the adjustment and resolution of  
13 Turnpike project construction claims. In applying G.S. 136-29 to the Turnpike Authority,  
14 references to the 'Department of Transportation,' the '~~State Highway Administrator,~~ 'Chief  
15 Engineer,' and a 'State highway' are considered references to the 'Turnpike Authority,' the 'chief  
16 engineer of the Turnpike Authority,' and a 'Turnpike project.'"

17 **SECTION 6. This act is effective when it becomes law.**



# SENATE BILL 891: Update Ch. 136 with Term Chief Engineer.-AB

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Sen. Rabon  
**Analysis of:** First Edition

**Date:** May 29, 2012  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *Senate Bill 891 would amend Chapter 136 of the General Statutes (Transportation) by replacing the term "State Highway Administrator" with "Chief Engineer", as recommended by the Transportation Oversight Committee.*

[As introduced, this bill was identical to H1080, as introduced by Reps. Frye, Mills, which is currently in House Transportation.]

**CURRENT LAW:** The State Highway Administrator is a career official who serves as the administrative officer of the Department of Transportation (DOT) for highway matters. The State Highway Administrator is appointed by the Secretary of Transportation, and is paid a salary set in accordance with the State Personnel Act.

**BILL ANALYSIS:** Senate Bill 891 would amend Chapter 136 of the General Statutes (Transportation) by replacing the term "State Highway Administrator" with "Chief Engineer" wherever the term appears. The bill is a recommendation of the Joint Legislative Transportation Oversight Committee.

**EFFECTIVE DATE:** The bill would be effective when it becomes law.

S891-SMRV-103(e1) v1

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

S

2

**SENATE BILL 892  
Corrected Copy 5/25/12**

Short Title:   Require DOT Strategic Prioritization Process. (Public)

Sponsors:   Senators Rabon (Primary Sponsor);   Bingham, Carney, Davis, Goolsby,  
                  Harrington, Meredith, and Rouzer.

Referred to:   Transportation.

May 24, 2012

A BILL TO BE ENTITLED  
AN ACT TO CODIFY THE PROVISIONS OF EXECUTIVE ORDER NO. 2 THAT  
REQUIRE THE DEPARTMENT OF TRANSPORTATION TO DEVELOP AND  
UTILIZE A STRATEGIC PRIORITIZATION PROCESS FOR SELECTION OF  
TRANSPORTATION PROJECTS, AS RECOMMENDED BY THE JOINT  
LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

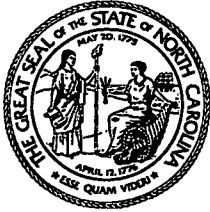
The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 136-18 is amended by adding a new subdivision to read:

**"(42)** The Department shall develop and utilize a process for selection of transportation projects that is based on professional standards in order to most efficiently use limited resources to benefit all citizens of the State. The strategic prioritization process should be a systematic, data-driven process that includes a combination of quantitative data, qualitative input, and multimodal characteristics, and should include local input. The Department shall develop a process for standardizing or approving local methodology used in Metropolitan Planning Organization and Rural Transportation Planning Organization prioritization."

**SECTION 2.** This act is effective when it becomes law.





## SENATE BILL 892: Require DOT Strategic Prioritization Process

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Sen. Rabon  
**Analysis of:** Second Edition

**Date:** May 30, 2012  
**Prepared by:** Wendy Graf Ray  
Committee Counsel

**SUMMARY:** *Senate Bill 892 would statutorily require the Department of Transportation to develop and utilize a strategic prioritization process to be used for selection of transportation projects, as directed by Executive Order No. 2.*

**CURRENT LAW:** In January, 2009, the Governor issued Executive Order No. 2, which called for transportation reform within the Department of Transportation. Specifically, the order directed the Department to implement a professional approval process for all highway construction programs, highway construction contracts, highway construction projects, and plans for construction projects.

The Department has developed a prioritization process for highway projects, which is a systematic, data driven process that includes a combination of quantitative data, qualitative data, and multimodal characteristics, as well as input from local planning partners.

**BILL ANALYSIS:** Senate Bill 892 would codify the requirement, as set out in Executive Order No. 2, that the Department develop and utilize a strategic prioritization process. The bill would also require the Department to develop a process for standardizing or approving methodology used by MPOs and RPOs in their prioritization processes.

**EFFECTIVE DATE:** The act would be effective when it becomes law.

**BACKGROUND:** This bill is a recommendation of the Joint Legislative Transportation Oversight Committee.

S892-SMSU-53(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 893\*

Short Title: Privacy of Turnpike Authority Toll Data.-AB (Public)

Sponsors: Senators Rabon; Bingham, Carney, Davis, Goolsby, Harrington, Meredith,  
Rouzer, and Westmoreland.

Referred to: Transportation.

May 24, 2012

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENSURE THE PRIVACY OF TOLL DATA COLLECTED BY THE  
3 DEPARTMENT OF TRANSPORTATION THROUGH THE NORTH CAROLINA  
4 TURNPIKE AUTHORITY, AS RECOMMENDED BY THE JOINT LEGISLATIVE  
5 TRANSPORTATION OVERSIGHT COMMITTEE.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 136-89.213 reads as rewritten:  
8 "§ 136-89.213. Administration of tolls and requirements for open road tolls.

9 (a) Administration. – The Authority is responsible for collecting tolls on Turnpike  
10 projects. In exercising its authority under G.S. 136-89.183 to perform or procure services  
11 required by the Authority, the Authority may contract with one or more providers to perform  
12 part or all of the collection functions and may enter into agreements to exchange information  
13 that identifies motor vehicles and their owners with one or more of the following entities: the  
14 Division of Motor Vehicles of the Department of Transportation, another state, another toll  
15 operator, or a toll collection-related organization.

16 (a1) Identifying information obtained by the Authority through an agreement is not a  
17 public record and is subject to the disclosure limitations in 18 U.S.C. § 2721, the federal  
18 Driver's Privacy Protection Act. The Authority shall maintain the confidentiality of all  
19 information relating to electronic toll collection, including, but not limited to, personal  
20 information, financial information, transactions and transaction history, and information related  
21 to the collection of a toll or user fee, including, but not limited to, photographs or other  
22 recorded images or automatic vehicle identification or driver account information generated by  
23 radio-frequency identification or other electronic means. Notwithstanding the provisions of this  
24 section:

25 (1) The account holder may examine his own account information, and the  
26 Authority may use the account information for purposes of collecting and  
27 enforcing tolls.

28 (2) A party, by authority of a proper court order, may inspect and examine  
29 confidential account information."

30 ...."

31 SECTION 2. This act is effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE BILL 893\*  
PROPOSED COMMITTEE SUBSTITUTE S893-PCS85280-SU-24

Short Title: Privacy of Turnpike Authority Toll Data.-AB

(Public)

Sponsors:

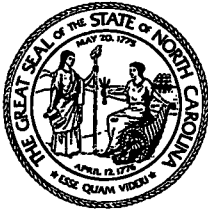
Referred to:

May 24, 2012

- 1 A BILL TO BE ENTITLED  
2 AN ACT TO ENSURE THE PRIVACY OF TOLL DATA COLLECTED BY THE  
3 DEPARTMENT OF TRANSPORTATION THROUGH THE NORTH CAROLINA  
4 TURNPIKE AUTHORITY, AS RECOMMENDED BY THE JOINT LEGISLATIVE  
5 TRANSPORTATION OVERSIGHT COMMITTEE.  
6 The General Assembly of North Carolina enacts:  
7 SECTION 1. G.S. 136-89.213 reads as rewritten:  
8 "§ 136-89.213. Administration of tolls and requirements for open road tolls.  
9 (a) Administration. – The Authority is responsible for collecting tolls on Turnpike  
10 projects. In exercising its authority under G.S. 136-89.183 to perform or procure services  
11 required by the Authority, the Authority may contract with one or more providers to perform  
12 part or all of the collection functions and may enter into agreements to exchange information  
13 that identifies motor vehicles and their owners with one or more of the following entities: the  
14 Division of Motor Vehicles of the Department of Transportation, another state, another toll  
15 operator, or a toll collection-related organization.  
16 (a1) Identifying information obtained by the Authority through an agreement is not a  
17 public record and is subject to the disclosure limitations in 18 U.S.C. § 2721, the federal  
18 Driver's Privacy Protection Act. The Authority shall maintain the confidentiality of all  
19 information relating to electronic toll collection, including, but not limited to, personal  
20 information, financial information, transactions and transaction history, and information related  
21 to the collection of a toll or user fee, including, but not limited to, photographs or other  
22 recorded images or automatic vehicle identification or driver account information generated by  
23 radio-frequency identification or other electronic means. Notwithstanding the provisions of this  
24 section, the following shall apply:  
25 (1) The account holder may examine his or her own account information, and  
26 the Authority may use the account information for purposes of collecting  
27 and enforcing tolls.  
28 (2) A party, by authority of a proper court order or subpoena, may inspect and  
29 examine confidential account information."  
30 ...."  
31 SECTION 2. This act is effective when it becomes law.



\* S 8 9 3 - P C S 8 5 2 8 0 - S U - 2 4 \*



# SENATE BILL 893: Privacy of Turnpike Authority Toll Data.-AB

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Sen. Rabon  
**Analysis of:** First Edition

**Date:** May 29, 2012  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *Senate Bill 893 would require the Turnpike Authority to maintain the confidentiality of all information relating to electronic toll information, except as authorized by a court order providing for inspection and examination.*

[As introduced, this bill was identical to H1078, as introduced by Reps. Frye, Mills, which is currently in House Transportation.]

**CURRENT LAW:** Identifying information obtained by the North Carolina Turnpike Authority through an agreement is not a public record and is subject to the disclosure limitation in the federal Driver's Privacy Protection Act.

**BILL ANALYSIS:** Senate Bill 893 would require the North Carolina Turnpike Authority to maintain the confidentiality of all information relating to electronic toll information, including the following:

- personal information
- financial information
- transactions and transaction history
- information related to the collection of a toll or user fee, including:
  - photographs or other recorded images
  - automatic vehicle identification
  - driver account information generated by radio frequency identification or other electronic means

An account holder may examine his or her own account information, and the Turnpike Authority may use the account information for purposes of collecting and enforcing tolls. Any other party may inspect and examine confidential account information only by authority of a proper court order. The bill is a recommendation of the Joint Legislative Transportation Oversight Committee.

**EFFECTIVE DATE:** The bill would be effective when it becomes law.

S893-SMRV-104(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 895\*

Short Title: DOT Division of Motor Vehicles Leg. Requests.-AB (Public)

Sponsors: Senators Rabon; Bingham, Carney, Davis, Goolsby, Harrington, Meredith,  
Rouzer, and Westmoreland.

Referred to: Transportation.

May 24, 2012

A BILL TO BE ENTITLED

AN ACT TO AMEND STATUTES RELATED TO MOTORCYCLE LICENSES, TO  
ELIMINATE A REQUIREMENT TO LIST RACE ON DRIVERS LICENSES, AND TO  
DELAY THE IMPLEMENTATION OF TWO CHANGES TO DRIVERS LICENSES  
PENDING AN INFORMATION TECHNOLOGY SYSTEM UPGRADE, AS  
RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT  
COMMITTEE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-7(a1) and (a2) read as rewritten:

"(a1) Motorcycles and Mopeds. – To drive a motorcycle, a person shall have one of the  
following:

- (1) A full provisional license with a motorcycle learner's permit.
- (2) A regular drivers license with a motorcycle learner's permit.
- (3) A full provisional license with a motorcycle endorsement.
- (4) A regular drivers ~~license, license~~ with a motorcycle endorsement.

Subsection (a2) of this section sets forth the requirements for a motorcycle learner's permit.  
To obtain a motorcycle endorsement, a person shall pay the fee set in subsection (i) of this  
section. In addition, to obtain an endorsement, a person ~~age 18 or older shall demonstrate~~  
~~competence to drive a motorcycle by passing a written or oral test concerning motorcycles and~~  
~~passing a road test, and a person less than 18 years of age shall demonstrate competence to~~  
drive a motorcycle by (i) passing a written or oral knowledge test concerning motorcycles and  
(ii) passing a road test or providing proof of successful completion of one of the following:

- (1) ~~The Motorcycle Safety Foundation Basic Rider Course or Experienced Rider Course.~~
- (2) The North Carolina Motorcycle Safety Education Program Basic Rider Course or Experienced Rider Course.
- (3) Any course approved by the Commissioner consistent with the instruction provided through the Motorcycle Safety Instruction Program established under G.S. 115D-72.

A person less than 18 years of age with a motorcycle endorsement may not drive a motorcycle with a passenger.

Neither a drivers license nor a motorcycle endorsement is required to drive a moped.

(a2) Motorcycle Learner's Permit. – The following persons are eligible for a motorcycle learner's permit:



\* S 8 9 5 - V - 1 \*

- (1) A person who is at least 16 years old but less than 18 years old and has a full provisional license issued by the Division.
- (2) A person who is at least 18 years old and has a license issued by the Division.

To obtain a motorcycle learner's permit, an applicant shall pass a vision test, a road sign test, and a ~~written knowledge~~ test specified by the Division. An applicant who is less than 18 years old shall successfully complete ~~the Motorcycle Safety Foundation Basic Rider Course or~~ the North Carolina Motorcycle Safety Education Program Basic Rider Course. A motorcycle learner's permit expires twelve months after it is issued and may be renewed for one additional six-month period. The holder of a motorcycle learner's permit may not drive a motorcycle with a passenger. The fee for a motorcycle learner's permit is the amount set in G.S. 20-7(l) for a learner's permit."

**SECTION 2.** G.S. 20-7(n) reads as rewritten:

"(n) Format. – A drivers license issued by the Division must be tamperproof and must contain all of the following information:

- (1) An identification of this State as the issuer of the license.
- (2) The license holder's full name.
- (3) The license holder's residence address.
- (4) A color photograph, or a properly applied laser engraved picture on polycarbonate material, of the license holder, taken by the Division.
- (5) A physical description of the license holder, including sex, height, eye color, and hair color.
- (6) The license holder's date of birth.
- (7) An identifying number for the license holder assigned by the Division. The identifying number may not be the license holder's social security number.
- (8) Each class of motor vehicle the license holder is authorized to drive and any endorsements or restrictions that apply.
- (9) The license holder's signature.
- (10) The date the license was issued and the date the license expires.

The Commissioner shall ensure that applicants 21 years old or older are issued drivers licenses and special identification cards that are printed in a horizontal format. The Commissioner shall ensure that applicants under the age of 21 are issued drivers licenses and special identification cards that are printed in a vertical format, that distinguishes them from the horizontal format, for ease of identification of individuals under age 21 by members of industries that regulate controlled products that are sale restricted by age and law enforcement officers enforcing these laws.

~~At the request of an applicant for a drivers license, a license issued to the applicant must contain the applicant's race."~~

**SECTION 3.** Section 3 of S.L. 2011-35 reads as rewritten:

"~~SECTION 3. This act becomes effective when the Division of Motor Vehicles has completed the implementation of the Division's Next Generation Secure Driver License System or July 1, 2012, whichever occurs first, and applies to drivers licenses issued on or after that date.~~ on the later of the following dates and applies to drivers licenses issued on or after that date:

- (1) January 1, 2013.
- (2) The first day of a month that is 30 days after the Commissioner of Motor Vehicles certifies to the Revisor of Statutes that the Division of Motor Vehicles has completed the implementation of the Division's Next Generation Secure Driver License System."

**SECTION 4.** Section 2 of S.L. 2011-228 reads as rewritten:

1       "SECTION 2. This act becomes effective July 1, 2012, and ~~applies to endorsements issued~~  
2 ~~for commercial drivers licenses on or after that date. on the later of the following dates and~~  
3 ~~applies to endorsements issued for commercial drivers licenses issued on or after that date:~~

4           (1)     January 1, 2013.

5           (2)     The first day of a month that is 30 days after the Commissioner of Motor  
6 Vehicles certifies to the Revisor of Statutes that the Division of Motor  
7 Vehicles has completed the implementation of the Division's Next  
8 Generation Secure Driver License System."

9       SECTION 5. When the Division of Motor Vehicles has completed the  
10 implementation of the Division's Next Generation Secure Driver License System, the  
11 Commissioner of Motor Vehicles shall certify to the Revisor of Statutes that the Division of  
12 Motor Vehicles has completed the implementation. When making the certification, the  
13 Commissioner of Motor Vehicles shall reference S.L. 2011-35, S.L. 2011-228, and the Session  
14 Law number of this act.

15       SECTION 6. Sections 1 and 2 of this act become effective July 1, 2012. The  
16 remainder of this act is effective when it becomes law.



# SENATE BILL 895: DOT Division of Motor Vehicles Leg. Requests.- AB

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Sen. Rabon  
**Analysis of:** First Edition

**Date:** May 30, 2012  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *Senate Bill 895 makes various changes to the State's laws concerning drivers licenses, as requested by the Division of Motor Vehicles (DMV) and recommended by the Joint Legislative Transportation Oversight Committee.*

[As introduced, this bill was identical to H1079, as introduced by Reps. Frye, Mills, which is currently in House Transportation.]

## BILL ANALYSIS:

**Section 1** would amend statutes related to motorcycle licenses. Under current law, all applicants must pass a written or oral test concerning motorcycles. Applicants age 18 or older must pass a road test, while applicants under the age of 18 must provide proof of successful completion of a specified course of instruction. The bill would require that all applicants, regardless of age, demonstrate competence to drive a motorcycle by passing a knowledge test concerning motorcycles and by passing a road test or providing proof of successful completion of a specified course of instruction. The bill would eliminate the requirement that applicants for a motorcycle learner's permit pass a written test, and would also delete the Motorcycle Safety Foundation Basic Rider Course as an alternative to the North Carolina Motorcycle Safety Basic Rider Course.

**Section 2** would eliminate a provision requiring that when requested by an applicant, a license issued to that applicant must contain the applicant's race.

**Section 3** would delay the implementation of an act authorizing the Division of Motor Vehicles to make a notation on a North Carolina drivers license showing a license holder's military veteran status. The act would become effective January 1, 2013 or the first day of the month beginning 30 days after certification that implementation of the Division's Next Generation Secure Driver License system has been completed, whichever occurs later.

**Section 4** would delay the implementation of an act requiring the Division of Motor Vehicles make a commercial drivers license and a hazardous materials endorsement expire at the same time. The act would become effective January 1, 2013 or the first day of the month beginning 30 days after certification that implementation of the Division's Next Generation Secure Driver License system has been completed, whichever occurs later.

**Section 5** would require that, for purposes of carrying out Sections 3 and 4 of this bill, when DMV has completed implementation of the Division's Next Generation Secure Driver License system the Commissioner of Motor Vehicles must certify to the Revisor of Statutes that DMV has completed the implementation.

**EFFECTIVE DATE:** Sections 1 and 2 would become effective July 1, 2012. The remainder of the bill would be effective when it becomes law.

S895-SMRV-106(e1).v1



**NORTH CAROLINA GENERAL ASSEMBLY**  
**AMENDMENT**  
**Senate Bill 895\***

AMENDMENT NO. \_\_\_\_\_  
(to be filled in by  
Principal Clerk)

S895-ARV-30 [v.1]

Page 1 of 2

Comm. Sub. [NO]  
Amends Title [NO]  
First Edition

Date \_\_\_\_\_, 2012

Senator Rabon

1 moves to amend the bill on page 1, lines 18-29 by rewriting those lines to read:

2 "section. In addition, to obtain an endorsement, a person age 18 or older shall demonstrate  
3 competence to drive a motorcycle by passing a ~~written or oral knowledge~~ test concerning  
4 ~~motereyeles motorcycles~~, and by passing a road test, test or providing proof of successful  
5 completion of one of the following:

6 (1) The North Carolina Motorcycle Safety Education Program Basic Rider  
7 Course or Experienced Rider Course.

8 (2) Any course approved by the Commissioner consistent with the instruction  
9 provided through the Motorcycle Safety Instruction Program established  
10 under G.S. 115D-72.

11 ~~and a~~ A person less than 18 years of age ~~shall demonstrate competence to drive a~~  
12 ~~motorcycle by passing a written or oral knowledge test concerning motorcycles and providing~~  
13 ~~proof of successful completion of one of the following:~~

14 (1) ~~The Moterecycle Safety Foundation Basic Rider Course or Experienced Rider~~  
15 ~~Course.~~

16 (2)(1) The North Carolina Motorcycle Safety Education Program Basic Rider  
17 Course or Experienced Rider Course.

18 (3)(2) Any course approved by the Commissioner consistent with the instruction  
19 provided through the Motorcycle Safety Instruction Program established  
20 under G.S. 115D-72.";

21 And on page 2, line 8 by rewriting that line to read:

22 "the North Carolina Motorcycle Safety Education Program Basic Rider ~~Course.~~ Course or any  
23 course approved by the Commissioner consistent with the instruction provided through the  
24 Motorcycle Safety Instruction Program established under G.S. 115D-72. A motorcycle"



\* S 8 9 5 - A R V - 3 0 - V - 1 \*

**NORTH CAROLINA GENERAL ASSEMBLY**

**AMENDMENT**

**Senate Bill 895\***

AMENDMENT NO. \_\_\_\_\_

(to be filled in by  
Principal Clerk)

S895-ARV-30 [v.1]

Page 2 of 2

SIGNED \_\_\_\_\_  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**S**

**D**

**SENATE BILL 895\*  
PROPOSED COMMITTEE SUBSTITUTE S895-PCS85282-RV-44**

Short Title: DOT Division of Motor Vehicles Leg. Requests.-AB

(Public)

Sponsors:

Referred to:

May 24, 2012

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND STATUTES RELATED TO MOTORCYCLE LICENSES, TO  
3 ELIMINATE A REQUIREMENT TO LIST RACE ON DRIVERS LICENSES, AND TO  
4 DELAY THE IMPLEMENTATION OF TWO CHANGES TO DRIVERS LICENSES  
5 PENDING AN INFORMATION TECHNOLOGY SYSTEM UPGRADE, AS  
6 RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT  
7 COMMITTEE.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 20-7(a1) and (a2) read as rewritten:

10 "(a1) Motorcycles and Mopeds. – To drive a motorcycle, a person shall have one of the  
11 following:

- 12 (1) A full provisional license with a motorcycle learner's permit.
- 13 (2) A regular drivers license with a motorcycle learner's permit.
- 14 (3) A full provisional license with a motorcycle endorsement.
- 15 (4) A regular drivers ~~license, license~~ with a motorcycle endorsement.

16 Subsection (a2) of this section sets forth the requirements for a motorcycle learner's permit.  
17 To obtain a motorcycle endorsement, a person shall pay the fee set in subsection (i) of this  
18 section. In addition, to obtain an endorsement, a person age 18 or older shall demonstrate  
19 competence to drive a motorcycle by passing a ~~written or oral knowledge~~ test concerning  
20 ~~motorcycles-motorcycles~~, and by passing a road test, and a test or providing proof of successful  
21 completion of one of the following:

- 22 (1) The North Carolina Motorcycle Safety Education Program Basic Rider  
23 Course or Experienced Rider Course.
- 24 (2) Any course approved by the Commissioner consistent with the instruction  
25 provided through the Motorcycle Safety Instruction Program established  
26 under G.S. 115D-72.

27 A person less than 18 years of age shall demonstrate competence to drive a motorcycle by  
28 passing a ~~written or oral knowledge~~ test concerning motorcycles and providing proof of  
29 successful completion of one of the following:

- 30 (1) ~~The Motorcycle Safety Foundation Basic Rider Course or Experienced Rider~~  
31 ~~Course.~~
- 32 (2) The North Carolina Motorcycle Safety Education Program Basic Rider  
33 Course or Experienced Rider Course.



\* S 8 9 5 - P C S 8 5 2 8 2 - R V - 4 4 \*

- 1 (3) Any course approved by the Commissioner consistent with the instruction  
2 provided through the Motorcycle Safety Instruction Program established  
3 under G.S. 115D-72.

4 A person less than 18 years of age with a motorcycle endorsement may not drive a  
5 motorcycle with a passenger.

6 Neither a drivers license nor a motorcycle endorsement is required to drive a moped.

7 (a2) Motorcycle Learner's Permit. – The following persons are eligible for a motorcycle  
8 learner's permit:

- 9 (1) A person who is at least 16 years old but less than 18 years old and has a full  
10 provisional license issued by the Division.

- 11 (2) A person who is at least 18 years old and has a license issued by the  
12 Division.

13 To obtain a motorcycle learner's permit, an applicant shall pass a vision test, a road sign  
14 test, and a ~~written-knowledge~~ test specified by the Division. An applicant who is less than 18  
15 years old shall successfully complete ~~the Motorcycle Safety Foundation Basic Rider Course or~~  
16 ~~the North Carolina Motorcycle Safety Education Program Basic Rider Course. Course or any~~  
17 ~~course approved by the Commissioner consistent with the instruction provided through the~~  
18 ~~Motorcycle Safety Instruction Program established under G.S. 115D-72.~~ A motorcycle learner's  
19 permit expires twelve months after it is issued and may be renewed for one additional  
20 six-month period. The holder of a motorcycle learner's permit may not drive a motorcycle with  
21 a passenger. The fee for a motorcycle learner's permit is the amount set in G.S. 20-7(l) for a  
22 learner's permit."

23 **SECTION 2.** G.S. 20-7(n) reads as rewritten:

24 "(n) Format. – A drivers license issued by the Division must be tamperproof and must  
25 contain all of the following information:

- 26 (1) An identification of this State as the issuer of the license.  
27 (2) The license holder's full name.  
28 (3) The license holder's residence address.  
29 (4) A color photograph, or a properly applied laser engraved picture on  
30 polycarbonate material, of the license holder, taken by the Division.  
31 (5) A physical description of the license holder, including sex, height, eye color,  
32 and hair color.  
33 (6) The license holder's date of birth.  
34 (7) An identifying number for the license holder assigned by the Division. The  
35 identifying number may not be the license holder's social security number.  
36 (8) Each class of motor vehicle the license holder is authorized to drive and any  
37 endorsements or restrictions that apply.  
38 (9) The license holder's signature.  
39 (10) The date the license was issued and the date the license expires.

40 The Commissioner shall ensure that applicants 21 years old or older are issued drivers  
41 licenses and special identification cards that are printed in a horizontal format. The  
42 Commissioner shall ensure that applicants under the age of 21 are issued drivers licenses and  
43 special identification cards that are printed in a vertical format, that distinguishes them from the  
44 horizontal format, for ease of identification of individuals under age 21 by members of  
45 industries that regulate controlled products that are sale restricted by age and law enforcement  
46 officers enforcing these laws.

47 ~~At the request of an applicant for a drivers license, a license issued to the applicant must~~  
48 ~~contain the applicant's race."~~

49 **SECTION 3.** Section 3 of S.L. 2011-35 reads as rewritten:

50 "SECTION 3. This act becomes effective ~~when the Division of Motor Vehicles has~~  
51 ~~completed the implementation of the Division's Next Generation Secure Driver License System~~

1 or July 1, 2012, whichever occurs first, and applies to drivers licenses issued on or after that  
2 date, on the later of the following dates and applies to drivers licenses issued on or after that  
3 date:

4 (1) January 1, 2013.

5 (2) The first day of a month that is 30 days after the Commissioner of Motor  
6 Vehicles certifies to the Revisor of Statutes that the Division of Motor  
7 Vehicles has completed the implementation of the Division's Next  
8 Generation Secure Driver License System."

9 SECTION 4. Section 2 of S.L. 2011-228 reads as rewritten:

10 "SECTION 2. This act becomes effective July 1, 2012, and applies to endorsements issued  
11 for commercial drivers licenses on or after that date, on the later of the following dates and  
12 applies to endorsements issued for commercial drivers licenses issued on or after that date:

13 (1) January 1, 2013.

14 (2) The first day of a month that is 30 days after the Commissioner of Motor  
15 Vehicles certifies to the Revisor of Statutes that the Division of Motor  
16 Vehicles has completed the implementation of the Division's Next  
17 Generation Secure Driver License System."

18 SECTION 5. When the Division of Motor Vehicles has completed the  
19 implementation of the Division's Next Generation Secure Driver License System, the  
20 Commissioner of Motor Vehicles shall certify to the Revisor of Statutes that the Division of  
21 Motor Vehicles has completed the implementation. When making the certification, the  
22 Commissioner of Motor Vehicles shall reference S.L. 2011-35, S.L. 2011-228, and the session  
23 law number of this act.

24 SECTION 6. Sections 1 and 2 of this act become effective July 1, 2012. The  
25 remainder of this act is effective when it becomes law.

# VISITOR REGISTRATION SHEET

## TRANSPORTATION

(Committee Name)

May 30, 2012

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE  
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Donny Hicks	GASTON COUNTY EDC P.O. Box 2339 GASTONIA, NC 28053
Alison Cookson	Gaston Regional Chamber 601 W. Franklin Blvd, Gastonia, NC 28052
Jim Hoffman	Daniel Stowe Botanical Garden 6500 S. New Hope Rd., Belmont, NC 28012
Frank Stewart	12000 Rhine Comfort Rd Gastonia, NC 28054
JOEL LONG	GSM SERVICES 204 BLUE HERON WAY - BELMONT NC 28012
MIKE BRUFF	NC DOT
T. J. J. -	RANC - NCDOT - LPA
W. J. G. -	RANC
W. J. G. -	Seal, Stone
Donnie Loftis	Gaston Co. Chairman, Bd of Commissioners 1849 Gaston Day School Rd Gastonia, NC 28056
Owen Etheridge	Currituck County Commissioner
Jake Cashion	NC Chamber
Paul Mayh	NCLM
Patience Wall	NCAFA
Crystal Collins	NC Trucking Assoc.
Michelle Frazier	MF+S

# VISITOR REGISTRATION SHEET

## SENATE TRANSPORTATION

Committee Name

Date

MAY 30, 2012

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE

CLERK ROB JANSEN

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Susanna Hailley	K&L Gates
Amy Simes	DEVR
Shannon Arata	NC Conservation Network
Susan Camilleri	DOA
Katherine Skinner ETZ	The Nature Conservancy
Tam Coors	TNC
Harvey McIver	TNC
Perry M. H.	School of Gov.
Heather Barnett	Williams Mullen Co.
DON VOELKEIZ	NC DOT
Shelby Powell	Capital Area MPO
Gerald G. Daniel Sr.	Capital Area MPO
My M. H. D. H.	SELC
Perry Newson	NC SELC
Mary Shuping	NC Statistics Comm.
Bradford Sneed	NC DOT
Paul Sherman	NCAB

# VISITOR REGISTRATION SHEET

## SENATE TRANSPORTATION

Committee Name

Date

MAY 30, 2012

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE

CLERK ROB JANSEN

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Johannz Reese	DMV
Betsy Bailey	PENC
Christie Bralier	CHPA
BERRY JENKINS	CAROLINAS AGC
Julie White	NCMMC
Jon Nance	NCDOT
Marc Linayson	Highway 17 Association
John Palumbo	NCAAA
John	ECU
Anthony Morrison	MWC
Joe Carpenter	Gaston Co. Commission
Allison Waller	Nelson Mullins
Debbie Clary	Gaston Co.
David Barnes	PS
Kathryn Westcott	ACE/NC

# TRANSPORTATION

**May 30, 2012**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE**  
**CLERK**

[illegible]

## SENATE TRANSPORTATION COMMITTEE

Wednesday, June 6, 2012 at 11:00 AM

Room 1027, Legislative Building

### MINUTES

The Senate Transportation Committee met at 11:00 AM on June 6, 2012, in Room 1027 of the Legislative Building. Fourteen members of the committee were present. Senator Kathy Harrington, presided.

Senator Harrington called the meeting to order, recognized Sergeant-at-Arms staff and the following pages: Meghan Breden of Wilkesboro, sponsored by Senator Soucek; McKayla McNeill of Lake Waccamaw, sponsored by Senator Rabon; Shelby Cartret of Whiteville, sponsored by Senator Rabon; Davis McKinney of Spruce Pine, sponsored by Senator Hise; Brock McKinney of Arden, sponsored by Senator Apodaca; Tristan Gordon of Monroe, sponsored by Senator Tucker; Kate Finlayson of New Bern, sponsored by Senator Preston; and Katie Honaker of Raleigh, sponsored by Senator Phil Berger.

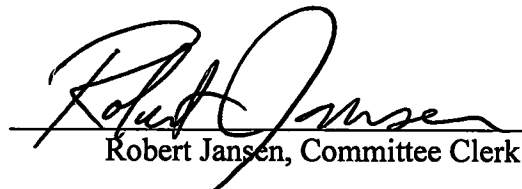
The first order of business was HB 490: Rename Yadkin River Bridge. Representative Steen presented the bill. Senator Jenkins moved for a favorable report. The committee voted in favor of a favorable report. The bill was then referred to the committee on Appropriations.

The next order of business was HB 261(PCS): Intrastate Motor Carrier Markings. Senator Jackson moved to hear the proposed committee substitute. Senator Tillman moved for a favorable report. The committee voted in favor of a favorable report. The bill was then referred to the full Senate.

The next order of business was SB 888: Ethics Requirements for MPOs/RPOs. The bill was presented by Senator Rabon. Senator East moved to amend the bill. The committee voted in favor of the amendment, which required that a proposed committee substitute be prepared. The resulting PCS received a favorable report by committee members.

The meeting adjourned at 11:18 a.m.

  
Sen. Kathy Harrington, Presiding

  
Robert Jansen, Committee Clerk

**Senate Transportation Committee  
Wednesday, June 6, 2012, 11:00 AM  
1027 LB**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills**

HB 261      Intrastate Motor Carrier Markings.

HB 490      Rename Yadkin River Bridge.

SB 888      Ethics Requirements for MPOs/RPOs.

Representative McComas

Representative Carney

Representative Steen, II

Representative Barnhart

Representative Dockham

Senator Rabon

**Presentations**

**Other Business**

**Adjournment**

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 261  
Committee Substitute Favorable 3/29/11

Short Title: Intrastate Motor Carrier Markings.

(Public)

Sponsors:

Referred to:

March 9, 2011

A BILL TO BE ENTITLED

AN ACT TO REQUIRE INTRASTATE MOTOR CARRIERS TO BE MARKED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-101 reads as rewritten:

"§ 20-101. Certain business vehicles to be marked.

(a) A motor vehicle that is subject to 49 C.F.R. Part 390, the federal motor carrier safety regulations, shall be marked as required by that Part.

(b) A motor vehicle with a gross vehicle weight rating of more than 10,000 pounds that is used in intrastate commerce shall have the name of the owner printed on each side of the vehicle in letters not less than ~~three inches in height, unless either of the following applies: than three inches in height. An intrastate motor carrier motor vehicle that is used in intrastate commerce and that is required to have an identification number under rules adopted by the Department of Crime Control and Public Safety shall have the motor carrier's identification number preceded by the letters "USDOT" and followed by the letters "NC" printed on each side of the vehicle in letters not less than three inches in height. The provisions of this subsection shall not apply if~~

(1) ~~The~~ the motor vehicle is subject to 49 C.F.R. Part 390.

(2) ~~The motor vehicle is a farm vehicle as further described in G.S. 20-118(e)(4), (e)(5), or (e)(12).~~

(c) A motor vehicle that is subject to regulation by the North Carolina Utilities Commission shall be marked as required by that Commission and as otherwise required by this section.

(d) A motor vehicle equipped to tow or transport another motor vehicle, hired for the purpose of towing or transporting another motor vehicle, shall have the name and address of the registered owner of the vehicle, and the name of the business or person being hired if different, printed on ~~the each~~ side of the vehicle in letters not less than three inches in height. This subsection shall not apply to motor vehicles subject to 49 C.F.R. Part 390."

SECTION 2. This act becomes effective December 1, 2011, and applies to offenses committed on or after that date.



\* H 2 6 1 - V - 2 \*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 261  
Committee Substitute Favorable 3/29/11  
PROPOSED COMMITTEE SUBSTITUTE H261-CSR-V-52 [v.1]

6/5/2012 6:41:26 PM

Short Title: Intrastate Motor Carrier Markings.

(Public)

Sponsors:

Referred to:

March 9, 2011

A BILL TO BE ENTITLED

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(1) ~~The~~ the motor vehicle is subject to 49 C.F.R. Part 390.

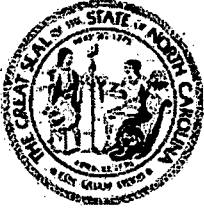
(2) ~~The motor vehicle is a farm vehicle as further described in G.S. 20-118(e)(4), (e)(5), or (e)(12).~~

(c) A motor vehicle that is subject to regulation by the North Carolina Utilities Commission shall be marked as required by that Commission and as otherwise required by this section.

(d) A motor vehicle equipped to tow or transport another motor vehicle, hired for the purpose of towing or transporting another motor vehicle, shall have the name and address of the registered owner of the vehicle, and the name of the business or person being hired if different, printed on ~~the each~~ side of the vehicle in letters not less than three inches in height. This subsection shall not apply to motor vehicles subject to 49 C.F.R. Part 390."

**SECTION 2.** This act becomes effective December 1, 2012, and applies to offenses committed on or after that date.





## HOUSE BILL 261: Intrastate Motor Carrier Markings

2011-2012 General Assembly

**Committee:** Senate Transportation  
**Introduced by:** Rep. McComas  
**Analysis of:** PCS to Second Edition  
H261-CSRV-52

**Date:** June 5, 2012  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *House Bill 261 would require that an intrastate motor carrier vehicle subject to State Motor Carrier Safety Regulations must have the motor carrier's USDOT identification number on each side of the vehicle. This proposed committee substitute changes the effective date and substitutes the name of the Department of Public Safety for the former Department of Crime Control and Public Safety.*

**CURRENT LAW:** Under federal law, companies that operate commercial vehicles transporting passengers or hauling cargo in *interstate* commerce must be registered with the Federal Motor Carrier Safety Administration (FMCSA) and must have a USDOT Number. The USDOT Number serves as a unique identifier when collecting and monitoring a company's safety information acquired during audits, compliance reviews, crash investigations, and inspections. Commercial *intrastate* hazardous materials carriers who haul quantities requiring a safety permit must also register for a USDOT Number.

G.S. 20-101 currently requires that motor vehicles with a gross vehicle weight rating of more than 10,000 pounds, which are used in intrastate commerce, have the name of the owner printed on each side of the vehicle in letters at least 3 inches high. The requirement does not apply to farm vehicles and vehicles used in interstate commerce and other vehicles required to be marked in accordance with federal law. Violation is a Class 2 misdemeanor.

Under rules adopted by the Department of Public Safety, intrastate motor carrier motor vehicles that have a gross vehicle weight rating (GVWR) of greater than 26,000 pounds are subject to federal motor carrier safety regulations, and are required to obtain a USDOT identification number. School buses are exempt under federal law.

**BILL ANALYSIS:** The bill would require that an intrastate motor carrier vehicle subject to State Motor Carrier Safety Regulations and required to have a USDOT identification number must have the motor carrier's USDOT identification number on each side of the vehicle, followed by "NC". The bill eliminates an exemption that applies to certain farm vehicles.

**EFFECTIVE DATE:** The bill would become effective December 1, 2012 and apply to offenses occurring on or after that date.

H261-SMRV-119(CSRV-52) v1

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**H**

**1**

**HOUSE BILL 490**

Short Title:   Rename Yadkin River Bridge. (Public)

Sponsors:   Representatives Steen, Carney, Dockham, and Barnhart (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to:   Transportation, if favorable, Appropriations Subcommittee on Transportation.

March 29, 2011

**A BILL TO BE ENTITLED**

**AN ACT TO NAME THE YADKIN RIVER BRIDGE AT THE DAVIDSON AND ROWAN  
COUNTY LINES THE "YADKIN RIVER VETERANS MEMORIAL BRIDGE."**

The General Assembly of North Carolina enacts:

**SECTION 1.**   The Department of Transportation shall name that portion of Interstate 85 known as the Yadkin River Bridge, over the Yadkin River and between Rowan and Davidson Counties, the Yadkin River Veterans Memorial Bridge. Of the funds appropriated to the Department of Transportation, the sum of one thousand dollars (\$1,000) may be spent for signage displaying the name of the Yadkin River Veterans Memorial Bridge.

**SECTION 2.**   G.S. 136-17.2A(i) reads as rewritten:

"(i)   All funds used in repayment of "GARVEE" bonds issued pursuant to G.S. 136-18(12b), except for funds used in repayment of "GARVEE" bonds related to Phase I of the Yadkin River Veterans Memorial Bridge project, shall be subject to the provisions of this section."

**SECTION 3.**   G.S. 136-89.183C reads as rewritten:

**"§ 136-89.183C. Accelerated Yadkin River Bridge Replacement Project.**

(a)   Contract for Accelerated Construction of the Yadkin River Veterans Memorial Bridge Replacement Bridge Project. – The Authority shall study, plan, develop, undertake preliminary design work, and analyze and list all necessary permits, in preparation for construction of a replacement bridge and approaches for the Yadkin River Veterans Memorial Bridge over the Yadkin River and between Rowan and Davidson Counties, in order to provide accelerated, efficient, and cost-effective completion of the project.

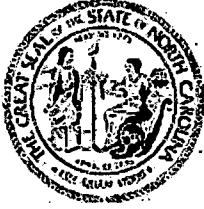
(b)   Replacement Bridge; Termini. – The bridge constructed pursuant to this section shall be a replacement bridge, with north and south termini located in general proximity to the termini of the existing Yadkin River Veterans Memorial Bridge."

**SECTION 4.**   G.S. 136-188(b) reads as rewritten:

"(b)   The initial project funded from the Mobility Fund shall be the widening and improvement of Interstate 85 north of the Yadkin River Veterans Memorial Bridge."

**SECTION 5.**   This act is effective when it becomes law.





## HOUSE BILL 490: Rename Yadkin River Bridge

2011-2012 General Assembly

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<b>Committee:</b>	Senate Ref to Transportation. If fav, re-ref to Appropriations/Base Budget	<b>Date:</b>	June 6, 2012
<b>Introduced by:</b>	Reps. Steen, Carney, Dockham, Barnhart	<b>Prepared by:</b>	Wendy Graf Ray
<b>Analysis of:</b>	First Edition		Committee Counsel

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**SUMMARY:** *House Bill 490 would rename the Yadkin River Bridge the "Yadkin River Veterans Memorial Bridge" and would authorize the Department of Transportation to spend \$1,000 for signage displaying the name.*

**BILL ANALYSIS:** House Bill 490 would direct the Department of Transportation to rename a portion of I-85, known as the Yadkin River Bridge, the Yadkin River Veterans Memorial Bridge. The bill would also authorize the Department to spend \$1,000 of its appropriated funds on signage displaying the name.

Sections 2-4 of the bill would make conforming changes to existing statutes to reflect the new bridge name.

**EFFECTIVE DATE:** The act would be effective when it becomes law.

H490-SMSU-59(e1) v1

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**S**

**2**

**SENATE BILL 888  
Corrected Copy 5/25/12**

**Short Title:** Ethics Requirements for MPOs/RPOs. (Public)

**Sponsors:** Senators Rabon (Primary Sponsor); Bingham, Carney, Davis, Goolsby, Harrington, Meredith, Rouzer, and Westmoreland.

**Referred to:** Transportation.

May 24, 2012

A BILL TO BE ENTITLED  
AN ACT TO PROVIDE THAT METROPOLITAN PLANNING ORGANIZATIONS AND  
RURAL TRANSPORTATION PLANNING ORGANIZATIONS ARE SUBJECT TO THE  
STATE GOVERNMENT ETHICS ACT, AS RECOMMENDED BY THE JOINT  
LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 136-202 is amended by adding a new subsection to read:

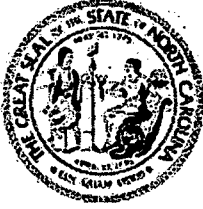
**"(e) A Metropolitan Planning Organization shall be treated as a board for purposes of Chapter 138A of the General Statutes."**

**SECTION 2.** G.S. 136-211 is amended by adding a new subsection to read:

**"(e) Ethics Requirements. – A Rural Transportation Planning Organization shall be treated as a board for purposes of Chapter 138A of the General Statutes."**

**SECTION 3.** This act becomes effective January 1, 2013.





## **SENATE BILL 888: Ethics Requirements for MPOs/RPOs**

*2011-2012 General Assembly*

**Committee:** Senate Transportation  
**Introduced by:** Sen. Rabon  
**Analysis of:** Second Edition

**Date:** June 6, 2012  
**Prepared by:** Wendy Graf Ray  
Committee Counsel

***SUMMARY:*** *Senate Bill 888 would subject members of Metropolitan Planning Organizations and Rural Transportation Planning Organizations to the State Ethics Act.*

**CURRENT LAW:** Metropolitan Planning Organizations (MPOs) and Rural Transportation Planning Organizations (RPOs) work with the Department of Transportation in developing transportation plans. Membership is determined by memorandum of understanding between the RPO or MPO and the Secretary of Transportation and generally includes local elected officials, Board of Transportation area representative, Department of Transportation, Federal Highway Administration, tribal governments, transit providers, and other agencies.

MPOs and RPOs are not currently covered under the State Ethics Act. Local elected officials may be covered by local ethics acts, and some members may be participating in ethics training offered by the State Ethics Commission. However, there are no uniform statutory ethics requirements that apply to all members of MPOs and RPOs.

**BILL ANALYSIS:** Senate Bill 888 would provide that MPOs and RPOs are treated as boards under the State Ethics Act, so all voting members would be subject to all provisions of the Act.

**EFFECTIVE DATE:** The act would become effective January 1, 2013.

**BACKGROUND:** This bill is a recommendation of the Joint Legislative Transportation Oversight Committee.

*S888-SMSU-54(e2) v1*



**NORTH CAROLINA GENERAL ASSEMBLY**  
**AMENDMENT**  
**Senate Bill 888**

AMENDMENT NO. \_\_\_\_\_  
(to be filled in by  
Principal Clerk)

S888-ASU-14 [v.1]

Page 1 of 1

Comm. Sub. [NO]  
Amends Title [NO]  
Second Edition

Date \_\_\_\_\_, 2012

Senator \_\_\_\_\_

1 moves to amend the bill on page 1, line 13, by adding the following to the end of the line:  
2

3 "Members of Metropolitan Planning Organizations and Rural Transportation Planning  
4 Organizations shall file an initial Statement of Economic Interest with the State Ethics  
5 Commission no later than April 15th, 2013. All information provided in the Statement of  
6 Economic Interest shall be current as of December 31, 2012. Initial Statements of Economic  
7 Interest shall be filed electronically."

SIGNED \_\_\_\_\_  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_



\* S 8 8 8 - A S U - 1 4 - V - 1 \*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE BILL 888  
Corrected Copy 5/25/12  
PROPOSED COMMITTEE SUBSTITUTE S888-PCS15237-RW-78

Short Title: Ethics Requirements for MPOs/RPOs.

(Public)

Sponsors:

Referred to:

May 24, 2012

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE THAT METROPOLITAN PLANNING ORGANIZATIONS AND  
3 RURAL TRANSPORTATION PLANNING ORGANIZATIONS ARE SUBJECT TO THE  
4 STATE GOVERNMENT ETHICS ACT, AS RECOMMENDED BY THE JOINT  
5 LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.  
6 The General Assembly of North Carolina enacts:  
7 SECTION 1. G.S. 136-202 is amended by adding a new subsection to read:  
8 "(e) A Metropolitan Planning Organization shall be treated as a board for purposes of  
9 Chapter 138A of the General Statutes."  
10 SECTION 2. G.S. 136-211 is amended by adding a new subsection to read:  
11 "(e) Ethics Requirements. – A Rural Transportation Planning Organization shall be  
12 treated as a board for purposes of Chapter 138A of the General Statutes."  
13 SECTION 3. This act becomes effective January 1, 2013. Members of  
14 Metropolitan Planning Organizations and Rural Transportation Planning Organizations shall  
15 file an initial Statement of Economic Interest with the State Ethics Commission no later than  
16 April 15, 2013. All information provided in the Statement of Economic Interest shall be  
17 current as of December 31, 2012. Initial Statements of Economic Interest shall be filed  
18 electronically.



\* S 8 8 8 - P C S 1 5 2 3 7 - R W - 7 8 \*

VISITOR REGISTRATION SHEET

TRANSPORTATION

(Committee Name)

June 6, 2012

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE  
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
SKIP YEAKER	NC TRUCKING ASSN.
Jim YARBROUGH	N.C. TRUCKING ASSN.
DAVID YARBROUGH	N.C. TRUCKING ASSN.
Ryan Chambers	N.C. Trucking Assn.
GARY HAROLD	NC TRUCKING ASSN.
PAUL MARTIN	NC TRUCKING ASSN.
ROBERT SPENCER	AGG/REA CONTRACTING
Ray Cox	NC Trucking Assn
Richard Hupler	NC Trucking Assn.
DENNIS DEUNGER	NCTA
Julie White	NCTA
Wm. J. Jenson	NCTA
Ben Schaubert	NCTA
Kate Carter	CAGC - Ben Contracting
KEVIN C. BURNS	CAGC - R.E. BURNS & SONS CO
Laura Teter	Carlinas Ass General Contractors

# VISITOR REGISTRATION SHEET

## TRANSPORTATION

(Committee Name)

June 6, 2012

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE  
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Michael T. James	NLGA
Mary Shuping	SEC
Perry Newsum	"
Teresa Pell	"
MIKE FORTE	City of Bowling Spring Lakes
K. Bestman	TSS
Pat Batteman	Town of Leland Council Member
Jon Tait	Town of Leland - Council
Crystal Collins	NC Trucking Assoc.
Pat Long	Logistics
DUANE LONG	LONGISTICS
Lou Tapper	Logistics
ANDY MARCHIANO	LONGISTICS
Gene Cawby	XSCMA
Sam Fawcett	Old Dominion Freight Line Inc.
BILL CRANFILL	OLD DOMINION FREIGHT LINE INC.
Jerry	NC Bus Truck Assn.

**(Committee Name)**

**Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE**  
**CLERK**

## PAGES ATTENDING

COMMITTEE: Transportation ROOM: 1027  
 DATE: 6-6 TIME: 11<sup>Am</sup>

PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!

Page Name	Hometown	Sponsoring Senator
<sup>1</sup> Meghan Breden	Wilkesboro	Dan Soucek
<sup>2</sup> McKayla McNeill	Lake Waccamaw	Bill Rabon
<sup>3</sup> Shelby Carver	Whiteville	Bill Rabon
<sup>4</sup> Davis McKinney	Spruce Pine	Ralph Hise
<sup>5</sup> Brock McKinney	Arden	Tom Apodaca
<sup>6</sup> Tristan Gordon	Monroe	Tommy Tucker
<sup>7</sup> Kate Finlayson	New Bern	Jean Preston
<sup>8</sup> Katie Honaker	Salisbury	Phil Berger
<sup>9</sup>		
<sup>10</sup>		

Do not add names below the grid.

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.