



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 198**

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

H198-ABG-21 [v.8]

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Amends Title [NO]
Second Edition

Date _____, 2023

Representative B. Jones

1 moves to amend the bill on page 9, lines 7-14, by rewriting those lines to read:

2 "(2) ~~The point located 200 feet down the right-of-way line in the direction of the~~
3 ~~sign viewing zone shall be point B.~~ Notwithstanding subdivision (1) of this
4 subsection, the sign owner or designee may also cut vegetation within any area
5 on the State right-of-way located between viewing zones of two sign faces on
6 the same structure, or otherwise within any area measured perpendicular from
7 any point on the sign structure to the edge of the pavement of the main traveled
8 way, by paying a fee of one hundred fifty dollars (\$150.00) per caliper inch to
9 the Department of Transportation.";

10
11 and on page 12, line 49, through page 13, line 2, by rewriting those lines to read:

12 ""(b) Transportation Needs. ~~At the end of each quarter, the~~ The Secretary must, on
13 a monthly basis, transfer to the Funds listed below a percentage of the net proceeds of the tax
14 collected under this Article at the State's general rate of tax set in G.S. 105-164.4(a). The
15 percentages that must be transferred are as follows:";

16
17 and on page 15, line 46, through page 17, line 16, by rewriting those lines to read:

18 **"LIMITATIONS ON RAIL TRANSPORTATION LIABILITY FOR S-LINE**
19 **CORRIDOR ACQUISITION**

20 **SECTION 37.(a)** Article 2D of Chapter 136 of the General Statutes is amended by
21 adding a new section to read:

22 **"§ 136-44.40. Limitations on rail transportation liability for S-Line Corridor acquisition.**

23 (a) As used in this section:

24 (1) "Claim" means a claim, action, suit, or request for damages, whether
25 compensatory, punitive, or otherwise, made by any person or entity against
26 any of the following:

27 a. The Department of Transportation, or a railroad.

28 b. A Regional Public Transportation Authority as defined by
29 G.S. 160A-601(6), a city as defined by G.S. 160A-1(2), or a county
30 listed in G.S. 153A-10 pursuant to a contract authorized by subsection
31 (b) of this section.



* H 1 9 8 - A B G - 2 1 - V - 8 *

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- 1 c. An officer, director, trustee, employee, parent, subsidiary, or affiliated
2 corporation as defined in G.S. 105-130.2, or agent of: the Department,
3 a railroad, or a Regional Public Transportation Authority, city, or
4 county as authorized by subsection (b) of this section.
- 5 (2) "S-Line Corridor" means that portion of the rail corridor located generally
6 between Raleigh and Ridgeway, also known as the S-Line, which is to be
7 acquired by the Department, as it may now be constituted or hereafter
8 enlarged, adjusted, or relocated, and shall include any additional real property
9 from any source and howsoever acquired if used for or in connection with
10 passenger rail service on or near the S-Line.
- 11 (3) "Passenger rail claims" means claims arising out of or relating to any of the
12 following:
- 13 a. The transportation of rail passengers on behalf of the Department on
14 the S-Line Corridor.
- 15 b. Services performed by a railroad pursuant to a contract with the
16 Department in connection with the transportation of rail passengers on
17 the S-Line Corridor, including, but not limited to, the operation of
18 trains; the use of right-of-way, trackage, public or private roadway and
19 rail crossings, equipment, or station areas or appurtenant facilities; the
20 design, construction, reconstruction, operation, or maintenance of rail
21 related equipment, tracks, and any appurtenant facilities.
- 22 c. An incident occurring on property owned by the Department or a
23 railroad, or otherwise occupied by the Department or a railroad,
24 pursuant to charter grant, fee simple deed, lease, easement, license,
25 trackage rights, or other form of ownership or authorized use, and
26 intended for current or future use in connection with passenger rail
27 service on the S-Line.
- 28 (4) "Railroad" means a railroad corporation or railroad company from whom the
29 Department has acquired an interest in land related to passenger rail service,
30 its successors in interest, the National Railroad Passenger Corporation, or any
31 other intercity rail passenger service provider, and, in the case of all of the
32 foregoing, that has entered into any contracts or operating agreements of any
33 kind with the Department for operations on the S-Line Corridor.
- 34 (b) Contracts Allocating Financial Responsibility Authorized. – The Department may
35 contract with any railroad, Regional Public Transportation Authority authorized pursuant to
36 G.S. 160A-626, county authorized pursuant to G.S. 153A-279, or city authorized pursuant to
37 G.S. 160A-326, to allocate financial responsibility for passenger rail claims as defined in
38 subsection (a) of this section, including, but not limited to, the execution of indemnity
39 agreements, notwithstanding any other statutory, common law, public policy, or other prohibition
40 against the same, and regardless of the nature of the claim or the conduct giving rise to such
41 claim.
- 42 (c) Insurance Required. – If the Department enters into any contract authorized by
43 subsection (b) of this section, the Department shall secure and maintain a liability insurance

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1 policy covering the liability of the parties to the contract and a railroad that owns or claims an
2 interest in any real property subject to the contract for all property damage, personal injury,
3 bodily injury, and death arising out of or related to passenger rail claims, regardless of whether
4 or not the claim exceeds the self-insured retention of the policy. The policy shall name the parties
5 to the contract and the railroad that owns or claims an interest in any real property subject to the
6 contract as named insureds and shall have policy limits as provided in the contract, which amount
7 shall not exceed the then current limitation of liability provided in 49 U.S.C. § 28103 (or any
8 successor legislation), and may include a self-insured retention in an amount of not more than
9 five million dollars (\$5,000,000.00). The Department shall establish a fund or other means of
10 satisfying passenger rail claims up to the amount of the self-insured retention.

11 (d) Liability Limit. – The aggregate liability of the Department and railroad for all
12 passenger rail claims arising from a single accident or incident for property damage, personal
13 injury, bodily injury, and death of passengers is limited to the current limitations of liability
14 provided in 49 U.S.C. § 28103 (or any successor legislation) or to any proceeds available under
15 any insurance policy secured pursuant to subsection (c) of this section, whichever is greater.

16 (e) Effect on Other Laws. – This section shall not affect the damages that may be
17 recovered under the Federal Employers' Liability Act, 45 U.S.C. § 51, et seq., (1908); or under
18 Article 1 of Chapter 97 of the General Statutes.

19 (f) Sovereign Immunity not Waived. – Neither the provisions of this section nor acts of
20 the Department, including the procurement of insurance or self-insurance, shall be deemed a
21 waiver of any sovereign immunity for tort to which the Department or its directors, officers,
22 employees, or agents are otherwise entitled."";

23
24 and on page 17, lines 23-24, by rewriting those lines to read:

25 **""SECTION 3.2.** The Highway Fund availability used in developing the 2021-2023 fiscal
26 biennial budget is shown below:"";

27
28 and on page 17, lines 46-47, by rewriting those lines to read:

29 **""SECTION 3.4.** The Highway Trust Fund availability used in developing the 2021-2023
30 fiscal biennial budget is shown below:"";

31
32 and on page 18, lines 45-46, by inserting the following between those lines:

33 **"CLARIFY RED LIGHT CAMERA DELAY INTERVAL**

34 **SECTION 39.(a)** G.S. 20-158 is amended by adding a new subsection to read:

35 "(f) The following requirements apply to a traffic control photographic system used to
36 enforce this section:

37 (1) A violation detected by a traffic control photographic system is defined as
38 when a vehicle enters and proceeds into the intersection after the onset of the
39 signal display of a steady circular red or steady red arrow controlling traffic
40 approaching the intersection and the applicable red clearance interval has
41 expired. All signals with traffic control photographic systems must be
42 designed with an appropriate red clearance interval.

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(2) The duration of the yellow light change interval and the red clearance interval at intersections where traffic control photographic systems are in use shall be no less than the yellow light change interval and the red clearance interval durations specified on the traffic signal plan of record signed and sealed by a professional engineer, licensed in accordance with the provisions of Chapter 89C of the General Statutes, and shall comply with the provisions of the most recently adopted Manual on Uniform Traffic Control Devices."

SECTION 39.(b) This section becomes effective December 1, 2023, and applies to any enforcement of G.S. 20-158 by a traffic control photographic system, including by any municipality authorized under G.S. 160A-300.1, and S.L. 2001-286, as amended, on or after that date.

MODIFY AND AUTHORIZE INSURANCE LAWS THAT RELATE TO THE DEPARTMENT OF TRANSPORTATION

SECTION 40.(a) G.S. 143-299.2 reads as rewritten:

"§ 143-299.2. Limitation on payments by the State.

(a) The maximum amount that the State may pay cumulatively to all claimants on account of injury and damage to any one person arising out of any one occurrence, whether the claim or claims are brought under this Article, or Article 31A or Article 31B of this Chapter, shall be one million dollars (\$1,000,000), less any commercial liability insurance purchased by the State and applicable to the claim or claims under G.S. 143-291(b), 143-300.6(c), or 143-300.16(c).

(a1) The maximum amount that the Department of Transportation may pay cumulatively to all claimants on account of injury and damage to any one person arising out of any one occurrence, whether the claim or claims are brought under this Article, or Article 31A or Article 31B of this Chapter, shall be three million dollars (\$3,000,000.00), less any commercial liability insurance purchased by the Department and applicable to the claim or claims under G.S. 143-291(b), 143-300.6(c), or 143-300.16(c).

(b) The fact that a claim or claims may be brought under more than one Article under this Chapter shall not increase the above maximum liability of the State."

SECTION 40.(b) G.S. 136-18 is amended by adding a new subdivision to read:

"(47) To purchase and maintain an umbrella policy of commercial liability insurance providing coverage in an amount up to ten million dollars (\$10,000,000.000) beyond the limits of commercial liability insurance policies otherwise authorized by law."

SECTION 40.(c) This section is effective when it becomes law, and applies retroactively to January 1, 2021.";

and by renumbering the remaining sections accordingly.

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SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____