

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1114

Short Title: Highway Patrol Investigations.

(Public)

Sponsors: Representative H. Hunter.

Referred to: Judiciary II.

April 14, 1991

A BILL TO BE ENTITLED

AN ACT TO TRANSFER THE AUTHORITY TO CONDUCT INVESTIGATIONS INTO ALLEGATIONS OF MISCONDUCT BY MEMBERS OF THE STATE HIGHWAY PATROL FROM THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY TO THE ATTORNEY GENERAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-184 reads as rewritten:

"§ 20-184. Patrol under supervision of Department of Crime Control and Public Safety.

The Secretary of Crime Control and Public Safety, under the direction of the Governor, shall have supervision, direction and control of the State Highway Patrol, except that investigations into allegations of misconduct by members of the State Highway Patrol shall be conducted exclusively by the Department of Justice, as provided in G.S 114-2(9). The Secretary shall establish in the Department of Crime Control and Public Safety a State Highway Patrol Division, prescribe regulations governing said Division, and assign to the Division such duties as he may deem proper."

Sec. 2. G.S. 114-2 reads as rewritten:

"§ 114-2. Duties.

It shall be the duty of the Attorney General:

- (1) To defend all actions in the appellate division in which the State shall be interested, or a party, and to appear for the State in any other court or tribunal in any cause or matter, civil or criminal, in which the State may be a party or interested.

- 1 (2) To represent all State departments, agencies, institutions, commissions,
2 bureaus or other organized activities of the State which receive support
3 in whole or in part from the State.
- 4 (3) Repealed by Session Laws 1973, c. 702, s. 2.
- 5 (4) To consult with and advise the prosecutors, when requested by them,
6 in all matters pertaining to the duties of their office.
- 7 (5) To give, when required, his opinion upon all questions of law
8 submitted to him by the General Assembly, or by either branch
9 thereof, or by the Governor, Auditor, Treasurer, or any other State
10 officer.
- 11 (6) To pay all moneys received for debts due or penalties to the State
12 immediately after the receipt thereof into the treasury.
- 13 (7) To compare the warrants drawn on the State treasury with the laws
14 under which they purport to be drawn.
- 15 (8) Subject to the provisions of G.S. 62-20:
- 16 a. To intervene, when he deems it to be advisable in the public
17 interest, in proceedings before any courts, regulatory officers,
18 agencies and bodies, both State and federal, in a representative
19 capacity for and on behalf of the using and consuming public of
20 this State. He shall also have the authority to institute and
21 originate proceedings before such courts, officers, agencies or
22 bodies and shall have authority to appear before agencies on
23 behalf of the State and its agencies and citizens in all matters
24 affecting the public interest.
- 25 b. Upon the institution of any proceeding before any State agency
26 by application, petition or other pleading, formal or informal,
27 the outcome of which will affect a substantial number of
28 residents of North Carolina, such agency or agencies shall
29 furnish the Attorney General with copies of all such
30 applications, petitions and pleadings so filed, and, when the
31 Attorney General deems it advisable in the public interest to
32 intervene in such proceedings, he is authorized to file
33 responsive pleadings and to appear before such agency either in
34 a representative capacity in behalf of the using and consuming
35 public of this State or in behalf of the State or any of its
36 agencies.
- 37 (9) To conduct investigations into allegations of misconduct by members
38 of the State Highway Patrol. The Attorney General shall adopt rules
39 for the implementation of this subdivision, and shall have the powers
40 of a trial judge for the purpose of summoning and compelling the
41 attendance of witnesses to testify in relation to actions being
42 investigated. The member of the State Highway Patrol whose conduct
43 is under investigation is entitled to have independent counsel present at
44 all phases of the investigation."

1 Sec. 3. This act becomes effective July 1, 1991, and applies to investigations
2 of actions occurring on or after that date.