

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 193
HOUSE BILL 8

AN ACT TO IMPROVE THE ADMINISTRATION OF THE HIGHWAY TRUST
FUND AND TO MAKE TECHNICAL CHANGES TO THE LAWS AFFECTED
BY THE HIGHWAY TRUST FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-187.4(b) reads as rewritten:

"(b) Sale by Retailer. When a certificate of title for a motor vehicle is issued because of a sale of the motor vehicle by a retailer, the applicant for the certificate of title must attach a copy of the bill of sale for the motor vehicle to the application. A retailer who sells a motor vehicle may collect from the purchaser of the vehicle the tax payable upon the issuance of a certificate of title for the vehicle, apply for a certificate of title on behalf of the purchaser, and remit the tax due on behalf of the purchaser. If a check submitted by a retailer in payment of taxes collected under this section is not honored by the financial institution upon which it is drawn because the retailer's account did not have sufficient funds to pay the check or the retailer did not have an account at the institution, the Division may suspend or revoke the license issued to the retailer under Article 12 of Chapter 20 of the General Statutes."

Sec. 2. G.S. 20-294 reads as rewritten:

"§ 20-294. Grounds for denying, suspending or revoking licenses.

A license may be denied, suspended or revoked on any one or more of the following grounds:

- (1) Material misstatement in application for license.
- (2) Willful and intentional failure to comply with any provision of this Article or Article 15 or the willful and intentional violation of G.S. 20-52.1, 20-75, 20-79, 20-82, 20-108, 20-109 or rescission and cancellation of dealer's license and dealer's plates under G.S. 20-110(e) or 20-110(f) or any lawful rule or regulation promulgated by the Division under this Article.
- (3) Being a motor vehicle dealer, failure to have an established place of business as defined in this Article.
- (4) Willfully defrauding any retail buyer, to the buyer's damage, or any other person in the conduct of the licensee's business.
- (5) Employment of fraudulent devices, methods or practices in connection with compliance with the requirements under the laws of this State with respect to the retaking of motor vehicles under retail installment contracts and the redemption and resale of such motor vehicles.

- (6) Having used unfair methods of competition or unfair deceptive acts or practices.
- (7) Knowingly advertising by any means, any assertion, representation or statement of fact which is untrue, misleading or deceptive in any particular relating to the conduct of the business licensed or for which a license is sought.
- (8) Knowingly advertising a used motor vehicle for sale as a new motor vehicle.
- (9) Conviction of an offense set forth under G.S. 20-106, 20-106.1, 20-107, 20-112 while holding such a license or within five years next preceding the date of filing the application; or conviction of a felony involving moral turpitude under the laws of this State, any other state, territory or the District of Columbia or of the United States.
- (10) Submitting a bad check to the Division of Motor Vehicles in payment of highway use taxes collected by the licensee."

Sec. 3. G.S. 105-187.5(d) reads as rewritten:

"(d) Reporting Administration. The Division shall notify the Secretary of Revenue of a retailer who makes the election under this section. A retailer who makes this election shall report and remit to the Secretary the tax on the gross receipts of the lease or rental of the motor vehicle ~~as if the gross receipts were taxable under G.S. 105-164.4(a)(2).~~ The Secretary shall administer the tax imposed by this section on gross receipts in the same manner as the tax levied under G.S. 105-164.4(a)(2). The administrative provisions and powers of the Secretary that apply to the tax levied under G.S. 105-164.4(a)(2) apply to the tax imposed by this section. In addition, the Division may request the Secretary to audit a retailer who elects to pay tax on gross receipts under this section. When the Secretary conducts an audit at the request of the Division, the Division shall reimburse the Secretary for the cost of the audit, as determined by the Secretary. In conducting an audit of a retailer under this section, the Secretary may audit any sales of motor vehicles made by the retailer."

Sec. 4. G.S. 105-187.6 reads as rewritten:

"§ 105-187.6. Exemptions from highway use tax.

(a) Full Exemptions. – The tax imposed by this Article does not apply when a certificate of title is issued as the result of a transfer of a motor vehicle:

- (1) To the insurer of the motor vehicle under G.S. 20-109.1 because the vehicle is a salvage vehicle.
- (2) To either a manufacturer, as defined in ~~G.S. 20-285~~, G.S. 20-286, or a motor vehicle retailer for the purpose of ~~resale~~, resale other than lease or rental.

(b) Partial Exemptions. – Only the minimum tax imposed by this Article applies when a certificate of title is issued as ~~a~~the result of ~~the~~a transfer of a motor vehicle:

- (1) By a gift between a husband and wife or a parent and child.
- (2) By will or intestacy.
- (3) By a distribution of marital property as a result of a divorce.

- (4) To a secured party who has ~~filed a~~ perfected security interest in the motor vehicle ~~with the Department of the Secretary of State.~~ vehicle.
- (5) To a partnership or corporation as an incident to the formation of the partnership or corporation and no gain or loss arises on the transfer under section 351 or section 721 of the Internal Revenue Code, or to a corporation by merger or consolidation in accordance with ~~G.S. 55-110.~~ G.S. 55-11-06.
- (6) To the same owner to reflect a change in the owner's name.

(c) Out-of-state Vehicles. – A maximum tax of one hundred dollars (\$100.00) applies when a certificate of title is issued for a motor vehicle that, at the time of applying for a certificate of title, is and has been titled in another state for at least 90 days."

Sec. 5. G.S. 105-436 is repealed.

Sec. 6. Section 4 of Chapter 753 of the 1989 Session Laws reads as rewritten:

"Sec. 4. ~~These refunds~~ Refunds for taxable periods ending before October 1, 1989, shall be drawn from the Highway Fund. Refunds for taxable periods ending after September 30, 1989, shall be drawn from the Highway Fund and the Highway Trust Fund in the same percentage amounts that refunds are drawn from these Funds under G.S. 105-445."

Sec. 7. G.S. 20-57(b) reads as rewritten:

"(b) The registration card shall be delivered to the owner and shall contain upon the face thereof the name and address of the owner, space for the owner's signature, the registration number assigned to the vehicle, and ~~such a~~ description of the vehicle as determined by the Commissioner, provided that if there are more than two owners the Division may show only two owners on the registration card and indicate that additional owners exist by placing after the names listed 'et al.' ~~Upon application to the Division, the registered owner may acquire additional copies of the registration card at a fee of three dollars (\$3.00) each. An owner may obtain a copy of a registration card issued in the owner's name by applying to the Division for a copy and paying the fee set in G.S. 20-85.~~"

Sec. 8. G.S. 20-85(a) reads as rewritten:

"(a) ~~Except as provided in G.S. 20-68, the following fees concerning a certificate of title for a motor vehicle and registration of a motor vehicle shall be paid to the Division. The following fees are imposed concerning a certificate of title, a registration card, or a registration plate for a motor vehicle. These fees are payable to the Division and are in addition to the tax imposed by Article 5A of Chapter 105 of the General Statutes.~~

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| (1) | Each application for certificate of title | \$35.00 |
| (2) | Each application for duplicate or corrected certificate of title | 10.00 |
| (3) | Each application of reposessor for certificate of title | 10.00 |
| (4) | Each transfer of registration | 10.00 |

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| (5) | Each set of replacement registration plates | 10.00 |
| (6) | Each application for duplicate registration certificate <u>card</u> | 10.00 |
| (7) | Each application for recording supplementary lien | 10.00 |
| (8) | Each application for removing a lien from a certificate of title | 10.00 |
| (9) | Each application for certificate of title for a motor vehicle transferred to a manufacturer, as defined in G.S. 20-285 , <u>G.S. 20-286</u> , or a motor vehicle retailer for the purpose of resale | 10.00. |

Sec. 9. G.S. 136-176(a) reads as rewritten:

"(a) A special account, designated the North Carolina Highway Trust Fund, is created within the State treasury. The Trust Fund consists of the following revenue:

- (1) Motor fuel, special fuel, and road tax revenue deposited in the Fund under G.S. 105-445, 105-449.16, and 105-449.43, respectively.
- (2) Motor vehicle use tax deposited in the Fund under G.S. ~~405-173~~. 105-187.9.
- (3) Revenue from the certificate of title fee and other fees payable under G.S. 20-85.
- (4) Revenue available from the retirement of refunding bonds issued to repay highway construction bonds and deposited in the Fund under G.S. 136-183.
- (5) Interest and income earned by the Fund."

Sec. 10. Sections 1 and 2 of this act become effective July 1, 1991. The remaining sections of this act are effective upon ratification.

In the General Assembly read three times and ratified this the 3rd day of June, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives