

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 263

Short Title: Motor Fleet Management Amendments.

(Public)

Sponsors: Representative Nesbitt.

Referred to: State Government.

February 25, 1993

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATUTES REGULATING CENTRALIZED MOTOR FLEET MANAGEMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-341(8)i. reads as rewritten:

"i. To establish and operate a central motor pool and such subsidiary related facilities as the Secretary may deem necessary, and to that end:

1. To establish and operate central facilities for the maintenance, repair, and storage of state-owned passenger motor vehicles for the use of State agencies; to utilize any available State facilities for that purpose; and to establish such subsidiary facilities as the Secretary may deem necessary. The definition of 'passenger-carrying vehicle' shall be set forth in rules adopted by the Department, and shall be consistent, so far as is practicable, with definitions applied by the United States Internal Revenue Service to classify vehicles likely to be used more than a **de minimis** amount for personal purposes.
2. To acquire passenger motor vehicles by transfer from other State agencies and by purchase. All motor vehicles transferred to or purchased by the Department shall become part of a central motor pool.

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- 1 3. To require on a schedule determined by the Department
2 all State agencies to transfer ownership, custody or
3 control of any or all passenger motor vehicles within the
4 ownership, custody or control of that agency to the
5 Department, except those motor vehicles under the
6 ownership, custody or control of the Highway Patrol or
7 the State Bureau of Investigation which are used
8 primarily for law-enforcement purposes, and except
9 those motor vehicles under the ownership, custody or
10 control of the Department of Crime Control and Public
11 Safety for Butner Public Safety which are used primarily
12 for law-enforcement, fire, or emergency purposes. After
13 January 1, 1993, subject to the exceptions set forth in
14 this sub-subdivision, no agency other than the
15 Department of Administration shall own or control any
16 passenger-carrying vehicle.
- 17 4. To maintain, store, repair, dispose of, and replace state-
18 owned motor vehicles under the control of the
19 Department. The Department shall ensure that state-
20 owned vehicles are not normally replaced until they have
21 been driven for 90,000 miles or more.
- 22 5. Upon proper requisition, proper showing of need for use
23 on State business only, and proper showing of proof that
24 all persons who will be driving the motor vehicle have
25 valid drivers' licenses, to assign suitable transportation,
26 either on a temporary or permanent basis, to any State
27 employee or agency. An agency assigned a motor
28 vehicle may not allow a person to operate that motor
29 vehicle unless that person displays to the agency and
30 allows the agency to copy that person's valid driver's
31 license. Notwithstanding G.S. 20-30(6), persons or
32 agencies requesting assignment of motor vehicles may
33 photostat or otherwise reproduce drivers' licenses for
34 purposes of complying with this subpart.
- 35 As used in this subpart, 'suitable transportation' means the
36 standard vehicle in the State motor fleet, unless special
37 towing provisions are required by the employee or
38 agency. The Department may not assign any employee
39 or agency a motor vehicle that is not suitable. The
40 Department shall not approve requests for vehicle
41 assignment or reassignment when the purpose of that
42 assignment or reassignment is to provide any employee
43 with a newer or lower mileage vehicle because of his or
44 her rank, management authority, or length of service or

1 because of any non-job-related reason. The Department
2 shall not assign 'special use' vehicles, such as four-wheel
3 drive vehicles or law enforcement vehicles, to any
4 agency or individual except upon written justification,
5 verified by historical data, and accepted by the Secretary.

- 6 6. To allocate and charge against each State agency to
7 which transportation is furnished, on a basis of mileage
8 or of rental, its proportionate part of the cost of
9 maintenance and operation of the motor pool.

10 The amount allocated and charged by the Department of
11 Administration to State agencies to which
12 transportation is furnished shall be at least as
13 follows:

- 14 I. Pursuit vehicles and full size four-wheel drive
15 vehicles – \$.24/mile.
16 II. Vans and compact four-wheel drive vehicles –
17 \$.22/mile.
18 III. All other vehicles – \$.20/mile.

- 19 7. To adopt, with the approval of the Governor, reasonable
20 rules for the efficient and economical operation,
21 maintenance, repair, and replacement, as limited in
22 paragraph 4. of this subdivision, of all state-owned motor
23 vehicles under the control of the Department, and to
24 enforce those rules; and to adopt, with the approval of
25 the Governor, reasonable rules regulating the use of
26 private motor vehicles upon State business by the
27 officers and employees of State agencies, and to enforce
28 those rules. The Department, with the approval of the
29 Governor, may delegate to the respective heads of the
30 agencies to which motor vehicles are permanently
31 assigned by the Department the duty of enforcing the
32 rules adopted by the Department pursuant to this
33 paragraph. Any person who violates a rule adopted by
34 the Department and approved by the Governor is guilty
35 of a misdemeanor, and upon conviction is punishable in
36 the discretion of the court.

- 37 7a. To adopt with the approval of the Governor and to
38 enforce rules and to coordinate State policy regarding (i)
39 the permanent assignment of state-owned passenger
40 motor vehicles and (ii) the use of and reimbursement for
41 those vehicles for the limited commuting permitted by
42 this subdivision. For the purpose of this subdivision 7a,
43 'state-owned passenger motor vehicle' includes any state-
44 owned passenger motor vehicle, whether or not owned,

1 maintained or controlled by the Department of
2 Administration, and regardless of the source of the funds
3 used to purchase it. Notwithstanding the provisions of
4 G.S. 20-190 or any other provisions of law, all state-
5 owned passenger motor vehicles are subject to the
6 provisions of this subdivision 7a; no permanent
7 assignment shall be made and no one shall be exempt
8 from payment of reimbursement for commuting or from
9 the other provisions of this subdivision 7a except as
10 provided by this subdivision 7a. Commuting, as defined
11 and regulated by this subdivision, is limited to those
12 specific cases in which the Secretary has received and
13 accepted written justification, verified by historical data.
14 The Department shall not assign any state-owned motor
15 vehicle that may be used for commuting other than those
16 authorized by the procedure prescribed in this
17 subdivision.

18 A State-owned passenger motor vehicle shall
19 not be permanently assigned to an individual who is
20 likely to drive it on official business at a rate of less
21 than 3,150 miles per quarter unless (i) the individual's
22 duties are routinely related to public safety or (ii) the
23 individual's duties are likely to expose him routinely to
24 life-threatening situations. A State-owned passenger
25 motor vehicle shall also not be permanently assigned
26 to an agency that is likely to drive it on official
27 business at a rate of less than 3,150 miles per quarter
28 unless the agency can justify to the Division of Motor
29 Fleet Management the need for permanent assignment
30 because of the unique use of the vehicle. The
31 Department of Administration shall verify, on a
32 quarterly basis, that each motor vehicle has been
33 driven at the minimum allowable rate. ~~If it has not and if~~
34 ~~the department by whom the individual to which the car is~~
35 ~~assigned is employed or the agency to which the car is~~
36 ~~assigned cannot justify the lower mileage for the quarter in~~
37 ~~view of the minimum annual rate, the permanent~~
38 ~~assignment shall be revoked immediately. If an~~
39 ~~individually assigned vehicle is driven less than 3,150~~
40 ~~miles per quarter for two successive quarters, the~~
41 ~~assignment shall be revoked immediately.~~

42 Every individual who uses a State-owned passenger motor
43 vehicle, pickup truck, or van to drive between his official
44 work station and his home, shall reimburse the State for

1 these trips at a rate computed by the Department. This
2 rate shall approximate the benefit derived from the use of
3 the vehicle as prescribed by federal law. Reimbursement
4 shall be for 20 days per month regardless of how many
5 days the individual uses the vehicle to commute during
6 the month. Reimbursement shall be made by payroll
7 deduction. Funds derived from reimbursement on
8 vehicles owned by the Motor Fleet Management
9 Division shall be deposited to the credit of the Division;
10 funds derived from reimbursements on vehicles initially
11 purchased with appropriations from the Highway Fund
12 and not owned by the Division shall be deposited in a
13 Special Depository Account in the Department of
14 Transportation, which shall revert to the Highway Fund;
15 funds derived from reimbursement on all other vehicles
16 shall be deposited in a Special Depository Account in the
17 Department of Administration which shall revert to the
18 General Fund. Commuting, for purposes of this
19 paragraph, does not include those individuals whose
20 office is in their home, ~~as determined by the Department of~~
21 ~~Administration, Division of Motor Fleet Management.~~ home.
22 To determine whether an employee has an office in their
23 home, the Department of Administration shall apply the
24 same criteria used by the Internal Revenue Service under
25 Section 280A of the Internal Revenue Code to determine
26 that an individual income tax filer qualifies for a
27 business use of home deduction. Also, this paragraph
28 does not apply to the following vehicles: (i) clearly
29 marked police and fire vehicles, (ii) delivery trucks with
30 seating only for the driver, (iii) flatbed trucks, (iv) cargo
31 carriers with over a 14,000 pound capacity, (v) school
32 and passenger buses with over 20 person capacities, (vi)
33 ambulances, (vii) hearses, (viii) bucket trucks, (ix)
34 cranes and derricks, (x) forklifts, (xi) cement mixers,
35 (xii) dump trucks, (xiii) garbage trucks, (xiv) specialized
36 utility repair trucks (except vans and pickup trucks), (xv)
37 tractors, (xvi) unmarked law-enforcement vehicles that
38 are used in undercover work and are operated by full-
39 time, fully sworn law-enforcement officers whose
40 primary duties include carrying a firearm, executing
41 search warrants, and making arrests, and (xvii) any other
42 vehicle exempted under Section 274(d) of the Internal
43 Revenue Code of 1954, and Federal Internal Revenue
44 Services regulations based thereon. The Department of

1 Administration, Division of Motor Fleet Management,
2 shall report quarterly to the Joint Legislative
3 Commission on Governmental Operations and to the
4 Fiscal Research Division of the Legislative Services
5 Office on individuals who use State-owned passenger
6 motor vehicles, pickup trucks, or vans between their
7 official work stations and their homes, who are not
8 required to reimburse the State for these trips.

9 The Department of Administration shall revoke the
10 assignment or require the Department owning the vehicle
11 to revoke the assignment of a State-owned passenger
12 motor vehicle, pickup truck or van to any individual
13 who:

- 14 I. Uses the vehicle for other than official
15 business except in accordance with the
16 commuting rules;
- 17 II. Fails to supply required reports to the
18 Department of Administration, or supplies
19 incomplete reports, or supplies reports in a form
20 unacceptable to the Department of
21 Administration and does not cure the deficiency
22 within 30 days of receiving a request to do so;
- 23 III. Knowingly and willfully supplies false
24 information to the Department of Administration
25 on applications for permanent assignments,
26 commuting reimbursement forms, or other
27 required reports or forms;
- 28 IV. Does not personally sign all reports on forms
29 submitted for vehicles permanently assigned to
30 him and does not cure the deficiency within 30
31 days of receiving a request to do so;
- 32 IVa. While using a state-owned vehicle, commits more
33 than one moving traffic violation within any
34 three-year period;
- 35 IVb. Within the time period required by ordinance,
36 statute, or rule, fails to pay a fine for a parking
37 violation committed while using a state-owned
38 vehicle;
- 39 V. Abuses the vehicle; or
- 40 VI. Violates other rules or policy promulgated by the
41 Department of Administration not in conflict with
42 this act.

43 A new requisition shall not be honored until the
44 Secretary of the Department of Administration is

1 assured that the violation for which a vehicle was
2 previously revoked will not recur.

3 The Department of Administration, with the
4 approval of the Governor, may delegate, or
5 conditionally delegate, to the respective heads
6 of agencies which own passenger motor
7 vehicles or to which passenger motor vehicles
8 are permanently assigned by the Department,
9 the duty of enforcing all or part of the rules
10 adopted by the Department of Administration
11 pursuant to this subdivision 7a. The Department
12 of Administration, with the approval of the
13 Governor, may revoke this delegation of
14 authority.

15 Prior to adopting rules under this paragraph, the
16 Secretary of Administration may consult with
17 the Advisory Budget Commission.

18 Copies of complaints received from citizens
19 alleging the use of a State vehicle for other than
20 official business, together with all responses to
21 those allegations and all other correspondence or
22 records related thereto, shall be transmitted to the
23 Department of State Auditor on a quarterly basis.
24 A summary of complaints received and remedial
25 actions taken shall be included with the quarterly
26 report to the Joint Legislative Commission on
27 Governmental Operations and the Fiscal Research
28 Division required elsewhere in this sub-
29 subdivision.

- 30 8. To adopt and administer rules for the control of all state-
31 owned passenger motor vehicles and to require State
32 agencies to keep all records and make all reports
33 regarding motor vehicle use as the Secretary deems
34 necessary.
- 35 9. To acquire motor vehicle liability insurance on all State-
36 owned motor vehicles under the control of the
37 Department.
- 38 10. To contract with the appropriate State prison authorities
39 for the furnishing, upon such conditions as may be
40 agreed upon from time to time between such State prison
41 authorities and the Secretary, of prison labor for use in
42 connection with the operation of a central motor pool
43 and related activities.

- 1 11. To report annually to the General Assembly on any rules
2 adopted, amended or repealed under paragraphs 3, 7, or
3 7a of this subdivision."
4 Sec. 2. This act is effective upon ratification.