

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 165

Short Title: DOT Legislative Changes.-AB (Public)

Sponsors: Representatives B. Jones, Iler, and Shepard (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Transportation, if favorable, Rules, Calendar, and Operations of the House

March 1, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CHANGES TO LAWS, AS RECOMMENDED BY THE DEPARTMENT
3 OF TRANSPORTATION.

4 The General Assembly of North Carolina enacts:

5
6 **PART I. DEPARTMENT OF TRANSPORTATION**

7
8 **ELIMINATE CAP ON PUBLIC PRIVATE PARTNERSHIPS**

9 **SECTION 1.1.** G.S. 136-18(39a)a. reads as rewritten:

10 "(39a) a. The Department of Transportation ~~or Turnpike Authority, as~~
11 ~~applicable,~~ may authorize the Turnpike Authority and the Division of
12 Motor Vehicles to enter into up to three agreements each with a private
13 entity as provided under subdivision (39) of this section for which the
14 provisions of this section apply."
15

16 **REPEAL LIMIT ON FUNDS TO PAY MAP ACT SETTLEMENT COSTS**

17 **SECTION 1.2.** Section 1.4(a) of S.L. 2019-251 is repealed.
18

19 **AUTHORIZE LICENSE PLATE READERS ON DEPARTMENT RIGHT-OF-WAY**

20 **SECTION 1.3.** Subdivision (2) of G.S. 136-18 is amended by adding a new
21 sub-subdivision to read:

22 "h. At the request of a State or local law enforcement agency, to enter into
23 an encroachment agreement for the placement of automatic license
24 plate readers in existing right-of-way of the Department. Nothing in
25 this sub-subdivision shall require the Department to purchase
26 additional right-of-way for this purpose or to enter into an
27 encroachment agreement where the integrity of the infrastructure or
28 the safety of the public will be impacted by the installation, operation,
29 or repair of the automatic license plate reader or its structural support."
30

31 **REVISIONS TO HIGHWAY MAINTENANCE IMPROVEMENT PROGRAM**

32 **SECTION 1.4.** G.S. 143B-350(f)(4a) reads as rewritten:

33 "(4a) To approve a schedule of State highway maintenance projects and their
34 anticipated cost. This schedule is designated the Highway Maintenance
35 Improvement Program and is established in G.S. 136-44.3A. The Board shall



publish the schedule on the Department's ~~Web site by April 1~~ website by June 1 of each year. The document that contains the Highway Maintenance Improvement Program shall include the anticipated funding sources for the improvement projects included in the Highway Maintenance Improvement Program, ~~a list of any changes made from the previous year's Highway Maintenance Improvement Program, and the reasons for the changes.~~Program."

SECTION 1.5. G.S. 136-44.3A reads as rewritten:

"§ 136-44.3A. Highway Maintenance Improvement Program.

(a) Definitions. – The following definitions apply in this Article:

- (1) ~~Cape seal treatment. — A chip seal treatment followed by a slurry seal treatment.~~
- (2) ~~Chip seal treatment. — A type of pavement preservation treatment applied to existing asphalt pavement. The treatment involves spraying an asphalt emulsion onto the roadway, applying a layer of aggregate chips, and rolling the chips into the emulsion. This term includes single, double, and triple chip seal treatments.~~
- (3) Highway Maintenance Improvement Program. – The schedule of State highway maintenance projects required under G.S. 143B-350(f)(4a).
- (4) Highway Maintenance Improvement Program Needs Assessment. – A report of the amount of funds ~~needed, the number of affected lane miles, and the percentage of the primary and secondary system roads that are rated to need a resurfacing or pavement preservation treatment within the Highway Maintenance Improvement Program's five-year time period but are not programmed due to funding constraints.~~needed and the quantity of work to be accomplished to meet and sustain the performance standards for the State highway system in each of the maintenance program categories.
- (5) ~~Microsurfacing treatment. — A type of pavement preservation treatment that involves mixing fine aggregate, asphalt emulsion, minerals, water, and a polymer additive, and applying the mixture to the roadway.~~
- (6) Pavement preservation treatment. – Includes full-width surface treatments used to extend or renew the pavement life.
- (7) Rehabilitation. – A contract resurfacing maintenance program that involves applying multiple layers of pavement that exceed two inches.
- (8) Resurfacing. – A contract resurfacing program that involves applying one layer that does not exceed two inches of pavement.
- (9) ~~Slurry seal treatment. — A type of pavement preservation treatment that involves mixing fine aggregate, asphalt emulsion, minerals, and water, and applying the mixture to the roadway.~~

...

(c) Highway Maintenance Improvement Program. – After the annual inspection of roads within the State highway system, ~~each highway division shall determine and report to the Chief Engineer on (i) the need for rehabilitation, resurfacing, or pavement preservation treatments, (ii) the need for bridge and general maintenance, and (iii) projected changes to the condition of pavement on primary and secondary roads for each year over a five-year period. The Chief Engineer shall establish a five-year priority list for each highway division based on the Chief Engineer's estimate of need. In addition, the Chief Engineer shall establish a five-year improvement schedule, sorted by county, for rehabilitation, resurfacing, and pavement preservation treatment activities. The schedule shall be based on the amount of funds appropriated to the contract resurfacing program and the pavement preservation program in the fiscal year preceding the issuance of the Highway Maintenance Improvement Program for all~~

1 ~~five years of the Highway Maintenance Improvement Program. State funding for the Highway~~
2 ~~Maintenance Improvement Program shall be limited to funds appropriated from the State~~
3 ~~Highway Fund system, all of the following shall occur:~~

4 (1) The Chief Engineer shall establish the annual cost to meet and sustain the
5 performance standards for pavement, bridge, and general maintenance
6 activities for the State highway system.

7 (2) The Division Engineer for each highway division shall determine and report
8 to the Chief Engineer a five-year improvement schedule, sorted by county, for
9 pavement, bridge, and general maintenance activities within each highway
10 division. The schedule shall be based on the amount of funds appropriated to
11 the pavement, bridge, and general maintenance programs in the fiscal year
12 preceding the issuance of the Highway Maintenance Improvement Program
13 for all five years of the Highway Maintenance Improvement Program. State
14 funding for the Highway Maintenance Improvement Program shall be limited
15 to funds appropriated from the State Highway Fund.

16 ...

17 (g) Report. – The Department shall submit the Highway Maintenance Improvement
18 Program and Highway Maintenance Improvement Program Needs Assessment to the General
19 Assembly by ~~April 1~~ June 1 of each year. If the General Assembly is in session, the Department
20 shall report to the House of Representatives Appropriations Subcommittee on Transportation,
21 the Senate Appropriations Committee on Transportation, and the Fiscal Research Division. If the
22 General Assembly is not in session, the Department shall report to the Joint Legislative
23 Transportation Oversight Committee and the Fiscal Research Division."
24

25 **EXEMPT PORTS AUTHORITY FROM STATUTORY REQUIREMENTS TO OBTAIN** 26 **CONSULTANT SERVICE CONTRACTS**

27 **SECTION 1.6.** G.S. 143-64.24 is amended by adding a new subdivision to read:

28 (9) The North Carolina State Ports Authority. The North Carolina State Ports
29 Authority may only contract to obtain the services of a consultant after the
30 proposed contract is approved by the Board of the North Carolina State Ports
31 Authority.
32

33 **PART II. DIVISION OF MOTOR VEHICLES**

34 **INSURANCE COMPANIES TO SUBMIT FORMS ELECTRONICALLY**

35 **SECTION 2.1.** G.S. 20-309.2(c) reads as rewritten:

36 "(c) Form of Notice. – ~~Any insurer with twenty five million dollars (\$25,000,000) or more~~
37 ~~in annual vehicle insurance premium volume shall submit the notices required under this section~~
38 ~~by electronic means. All other insurers may shall submit the notices required under this section~~
39 ~~by either paper or electronic means."~~
40

41 **ONLINE RENEWAL OF VARIOUS DMV CREDENTIALS**

42 **SECTION 2.2.** Article 1 of Chapter 20 of the General Statutes is amended by adding
43 a new section to read:

44 **§ 20-4.04 Online renewal of credentials issued by the Division.**

45 (a) Pursuant to G.S. 20-2(b), the Commissioner of Motor Vehicles may authorize the
46 online renewal of any credential issued by the Division not already authorized by statute. For
47 purposes of this section, "credential" means any license, permit, certificate, registration, or plate
48 issued by the Division.
49

1 (b) No later than 30 days after establishing online renewal capability for any credential
2 authorized under this section, the Division shall submit a report to the Joint Legislative
3 Transportation Oversight Committee and the Fiscal Research Division."
4

5 **EXTEND DMV EMERGENCY RULE AUTHORITY**

6 **SECTION 2.3.** Section 3.20 of S.L. 2020-97 is amended by adding a new subsection
7 to read:

8 "**SECTION 3.20.(g)** Notwithstanding the expiration dates in subsections (e) and (f) of this
9 section, the Division of Motor Vehicles authority to adopt emergency rules under this section
10 shall expire 30 days after Executive Order No. 116 is rescinded or September 30, 2021,
11 whichever is earlier."
12

13 **HANDICAPPED PLACARD ONLINE RENEWAL**

14 **SECTION 2.4.** G.S. 20-37.6(c1) reads as rewritten:

15 "(c1) Application and Renewal; Medical Certification. – The initial application for a
16 distinguishing license plate, removable windshield placard, or temporary removable windshield
17 placard shall be accompanied by a certification of a licensed physician, a licensed
18 ophthalmologist, a licensed optometrist, a licensed physician assistant, a licensed nurse
19 practitioner, or the Division of Services for the Blind that the applicant or person in the applicant's
20 custody or care is handicapped or by a disability determination by the United States Department
21 of Veterans Affairs that the applicant or person in the applicant's custody or care is handicapped.
22 For an initial application for a temporary removable windshield placard only, the certification
23 that the applicant is handicapped may be made by a licensed certified nurse midwife. The
24 application for a temporary removable windshield placard shall contain additional certification
25 to include the period of time the certifying authority determines the applicant will have the
26 disability. Distinguishing license plates shall be renewed annually, but subsequent applications
27 shall not require a medical certification that the applicant is handicapped, except that a registered
28 owner that certified pursuant to subsection (b) of this section that the registered owner is the
29 guardian or parent of a handicapped person must recertify every five years. Removable
30 windshield placards shall be renewed every five years, and, except for a person certified as totally
31 and permanently disabled at the time of the initial application or a prior renewal under this
32 subsection, the renewal shall require a medical recertification that the person is handicapped;
33 provided that a medical certification shall not be required to renew any placard that expires after
34 the person to whom it is issued is 80 years of age. Temporary removable windshield placards
35 shall expire no later than six months after issuance. The Division shall offer renewal of
36 handicapped credentials in person and online on the Division's website."
37

38 **LIMITED REGISTRATION PLATES/DEALER TO NOTIFY PURCHASER OF** 39 **OUTSTANDING PENALTIES, FEES, AND TOLLS**

40 **SECTION 2.5.** G.S. 20-79.1A(a)(1) reads as rewritten:

41 "(1) A person who applies, either directly or through a dealer licensed under
42 Article 12 of this Chapter, for a title to a motor vehicle and a registration plate
43 for the vehicle and who submits payment for the applicable title and
44 registration fees but does not submit payment for any municipal corporation
45 property taxes on the vehicle. A person who submits payment for municipal
46 corporation property taxes receives an annual registration plate. A dealer shall
47 notify the person purchasing a vehicle of any outstanding civil penalties, fees,
48 tolls, and obligations owed that are of record and that are known by the dealer
49 at the time the dealer applies for a title to a motor vehicle and a registration
50 plate for the vehicle under this section."
51

CDL DISQUALIFICATION FOR HUMAN TRAFFICKING

SECTION 2.6. G.S. 20-37.14A reads as rewritten:

"§ 20-37.14A. Prohibit issuance or renewal of certain categories of commercial drivers licenses to sex offenders, offenders and persons convicted of human trafficking.

(a) Effective December 1, 2009, the Division shall not issue or renew a commercial drivers license with a P or S endorsement to any person who is required to register under Article 27A of Chapter 14 of the General Statutes.

...

(d) Human Trafficking Violations. – The Division shall disqualify from operating a commercial motor vehicle for life a person who uses a commercial motor vehicle in committing a felony involving an act or practice described in 22 U.S.C. § 7102(9). For purposes of this subsection, "disqualify" means to deny, revoke, suspend, or cancel a commercial vehicle license."

PRE-DEPRIVATION HEARING/AUTOMATIC RESTORATION/DRIVERS LICENSE

SECTION 2.7. G.S. 20-24.1 reads as rewritten:

"§ 20-24.1. Revocation for failure to appear or pay fine, penalty, or costs for motor vehicle offenses.

(a) ~~The Division must revoke the driver's license of a person upon receipt of notice from a court that the person was charged with a motor vehicle offense and he:~~ Upon receipt of notice from the court, the Division shall revoke the drivers license of a person who was charged with a motor vehicle offense and failed to do either of the following:

- (1) ~~failed to appear, after being notified to do so, when the case was called for a trial or hearing; or~~ Appear, after being notified to do so, when the case was called for a trial or hearing.
- (2) ~~failed to pay a fine, penalty, or court costs ordered by the court.~~ Pay a fine, penalty, or court costs ordered by the court.

Revocation orders entered under the authority of this section are effective on the sixtieth day after the order is mailed or personally delivered to the person. Before the effective date of the revocation order issued pursuant to this section, a person whose license is to be revoked under subdivision (2) of subsection (a) may request a pre-deprivation hearing. If that person requests a pre-deprivation hearing, then the Division shall provide a pre-deprivation hearing to determine the person's financial status. Once the Division determines the person's financial status, the person may or may not be declared indigent. If the Division declares the person indigent, any costs and fees associated with the pre-deprivation hearing shall be waived for the person and the Division shall restore the person's license as provided in subsection (c) of this section. If the Division declares the person not indigent, the person must pay any costs and fees associated with the pre-deprivation hearing and may seek relief in subsection (f) of this section, if eligible, or, otherwise, satisfy the requirements in subsection (c) of this section.

...

(c) ~~If the person satisfies the conditions of subsection (b) that are applicable to his case before the effective date of the revocation order, the revocation order and any entries on his driving record relating to it shall be deleted and the person does not have to pay the restoration fee set by G.S. 20-7(i1). The Division shall delete the revocation order and any entries on the person's driving record relating to the revocation order and the Division shall not require the person to pay the restoration fee set by G.S. 20-7(i1) if the person: (i) is declared indigent by the Division under subdivision (2) of subsection (a) of this section or (ii) satisfies the conditions of subsection (b) that are applicable to the person's case before the effective date of the revocation order. This action shall be taken automatically, without need for an in-person transaction at a Division office. For all other revocation orders issued pursuant to this section, G.S. 50-13.12, G.S. 50-13.12, or G.S. 110-142.2, the person must pay the restoration fee and satisfy any other applicable requirements of this Article before the person may be relicensed. The Division shall~~

1 accept payment of the restoration fee both online and in person at a Division office. After the
2 restoration fee and other applicable requirements to restore the license are satisfied, the Division
3 shall automatically, without need for an in-person transaction, restore the license.

4"

6 **DWI HEARING CHANGE**

7 **SECTION 2.8.(a)** G.S. 20-16.2(d) reads as rewritten:

8 "(d) Consequences of Refusal; Right to Hearing before Division; Issues. – Upon receipt
9 of a properly executed affidavit required by subsection (c1), the Division shall expeditiously
10 notify the person charged that the person's license to drive is revoked for 12 months, effective on
11 the tenth calendar day after the mailing of the revocation order unless, before the effective date
12 of the order, the person requests in writing a hearing before the Division. Except for the time
13 referred to in G.S. 20-16.5, if the person shows to the satisfaction of the Division that his or her
14 license was surrendered to the court, and remained in the court's possession, then the Division
15 shall credit the amount of time for which the license was in the possession of the court against
16 the 12-month revocation period required by this subsection. If the person properly requests a
17 hearing, the person retains his or her license, unless it is revoked under some other provision of
18 law, until the hearing is held, the person withdraws the request, or the person fails to appear at a
19 scheduled hearing. The hearing officer may subpoena any witnesses or documents that the
20 hearing officer deems necessary. The person may request the hearing officer to subpoena the
21 charging officer, the chemical analyst, or both to appear at the hearing if the person makes the
22 request in writing at least three days before the hearing. The person may subpoena any other
23 witness whom the person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to
24 the issuance and service of all subpoenas issued under the authority of this section. The hearing
25 officer is authorized to administer oaths to witnesses appearing at the hearing. The hearing shall
26 be conducted in ~~the county where the charge was brought, a location designated by the Division,~~
27 and shall be limited to consideration of ~~whether~~ whether the following conditions have been met:

- 28 (1) The person was charged with an implied-consent offense or the driver had an
29 alcohol concentration restriction on the drivers license pursuant to
30 ~~G.S. 20-19;G.S. 20-19.~~
- 31 (2) A law enforcement officer had reasonable grounds to believe that the person
32 had committed an implied-consent offense or violated the alcohol
33 concentration restriction on the drivers ~~license;license.~~
- 34 (3) The implied-consent offense charged involved death or critical injury to
35 another person, if this allegation is in the ~~affidavit;affidavit.~~
- 36 (4) The person was notified of the person's rights as required by subsection ~~(a);~~
37 ~~and(a).~~
- 38 (5) The person willfully refused to submit to a chemical analysis.

39 If the Division finds that the conditions specified in this subsection are met, it shall order the
40 revocation sustained. If the Division finds that any of the conditions (1), (2), (4), or (5) is not
41 met, it shall rescind the revocation. If it finds that condition (3) is alleged in the affidavit but is
42 not met, it shall order the revocation sustained if that is the only condition that is not met; in this
43 instance subsection (d1) does not apply to that revocation. If the revocation is sustained, the
44 person shall surrender his or her license immediately upon notification by the Division."

45 **SECTION 2.8.(b)** This section becomes effective October 1, 2021, and applies to
46 hearings requested on or after that date.

48 **PART III. EFFECTIVE DATE**

49 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
50 law.