

Chapter 20.
Motor Vehicles.

Article 1.

Division of Motor Vehicles.

§ 20-1. Division of Motor Vehicles established.

The Division of Motor Vehicles of the Department of Transportation is established. This Chapter sets out the powers and duties of the Division. (1941, c. 36, s. 1; 1949, c. 1167; 1973, c. 476, s. 193; 1975, c. 716, s. 5; c. 863; 1987, c. 827, s. 2; c. 847, s. 1; 1995 (Reg. Sess., 1996), c. 756, s. 1.)

§ 20-2. Commissioner of Motor Vehicles; rules.

(a) Commissioner and Assistants. – The Division of Motor Vehicles shall be administered by the Commissioner of Motor Vehicles, who shall be appointed by and serve at the pleasure of the Secretary of the Department of Transportation. The Commissioner shall be paid an annual salary to be fixed by the Governor and allowed traveling expenses as allowed by law.

In any action, proceeding, or matter of any kind, to which the Commissioner of Motor Vehicles is a party or in which he may have an interest, all pleadings, legal notices, proof of claim, warrants for collection, certificates of tax liability, executions, and other legal documents, may be signed and verified on behalf of the Commissioner of Motor Vehicles by the Assistant Commissioner of Motor Vehicles or by any director or assistant director of any section of the Division of Motor Vehicles or by any other agent or employee of the Division so authorized by the Commissioner of Motor Vehicles.

(b) Rules. – The Commissioner may adopt rules to implement this Chapter. Chapter 150B of the General Statutes governs the adoption of rules by the Commissioner. (1941, c. 36, s. 2; 1945, c. 527; 1955, c. 472; 1975, c. 716, s. 5; 1983, c. 717, s. 5; 1983 (Reg. Sess., 1984), c. 1034, s. 164; 1991, c. 477, s. 4; 2012-142, s. 25.1(b).)

§ 20-3. Organization of Division.

The Commissioner, subject to the approval of the Secretary of the Department of Transportation, shall organize and administer the Division in such manner as he may deem necessary to conduct the work of the Division. (1941, c. 36, s. 3; 1975, c. 716, s. 5.)

§ 20-3.1. Purchase of additional airplanes.

The Division of Motor Vehicles shall not purchase additional airplanes without the express authorization of the General Assembly. (1963, c. 911, s. 1 1/2; 1971, c. 198; 1975, c. 716, s. 5.)

§ 20-4: Repealed by Session Laws 2002-190, s. 4, effective January 1, 2003.

§ 20-4.01. Definitions.

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

- (1a) Alcohol. – Any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.

- (1b) Alcohol Concentration. – The concentration of alcohol in a person, expressed either as:
 - a. Grams of alcohol per 100 milliliters of blood; or
 - b. Grams of alcohol per 210 liters of breath.
 The results of a defendant's alcohol concentration determined by a chemical analysis of the defendant's breath or blood shall be reported to the hundredths. Any result between hundredths shall be reported to the next lower hundredth.
- (1c) All-Terrain Vehicle or ATV. – A motorized vehicle 50 inches or less in width that is designed to travel on three or more low-pressure tires and manufactured for off-highway use. The terms "all-terrain vehicle" or "ATV" do not include a golf cart or a utility vehicle, as defined in this section, or a riding lawn mower.
- (1d) Business District. – The territory prescribed as such by ordinance of the Board of Transportation.
- (2) Canceled. – As applied to drivers' licenses and permits, a declaration that a license or permit which was issued through error or fraud, or to which G.S. 20-15(a) applies, is void and terminated.
- (2a) Class A Motor Vehicle. – A combination of motor vehicles that meets either of the following descriptions:
 - a. Has a combined GVWR of at least 26,001 pounds and includes as part of the combination a towed unit that has a GVWR of at least 10,001 pounds.
 - b. Has a combined GVWR of less than 26,001 pounds and includes as part of the combination a towed unit that has a GVWR of at least 10,001 pounds.
- (2b) Class B Motor Vehicle. – Any of the following:
 - a. A single motor vehicle that has a GVWR of at least 26,001 pounds.
 - b. A combination of motor vehicles that includes as part of the combination a towing unit that has a GVWR of at least 26,001 pounds and a towed unit that has a GVWR of less than 10,001 pounds.
- (2c) Class C Motor Vehicle. – Any of the following:
 - a. A single motor vehicle not included in Class B.
 - b. A combination of motor vehicles not included in Class A or Class B.
- (3) Repealed by Session Laws 1979, c. 667, s. 1.
- (3a) Chemical Analysis. – A test or tests of the breath, blood, or other bodily fluid or substance of a person to determine the person's alcohol concentration or presence of an impairing substance, performed in accordance with G.S. 20-139.1, including duplicate or sequential analyses.
- (3b) Chemical Analyst. – A person granted a permit by the Department of Health and Human Services under G.S. 20-139.1 to perform chemical analyses.
- (3c) Commercial Drivers License (CDL). – A license issued by a state to an individual who resides in the state that authorizes the individual to drive a class of commercial motor vehicle. A "nonresident commercial drivers license (NRCDL)" is issued by a state to an individual who resides in a foreign jurisdiction.
- (3d) Commercial Motor Vehicle. – Any of the following motor vehicles that are designed or used to transport passengers or property:

- a. A Class A motor vehicle that has a combined GVWR of at least 26,001 pounds and includes as part of the combination a towed unit that has a GVWR of at least 10,001 pounds.
 - b. A Class B motor vehicle.
 - c. A Class C motor vehicle that meets either of the following descriptions:
 - 1. Is designed to transport 16 or more passengers, including the driver.
 - 2. Is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.
 - d. Repealed by Session Laws 1999, c. 330, s. 9, effective December 1, 1999.
- (4) Commissioner. – The Commissioner of Motor Vehicles.
- (4a) Conviction. – A conviction for an offense committed in North Carolina or another state:
- a. In-State. When referring to an offense committed in North Carolina, the term means any of the following:
 - 1. A final conviction of a criminal offense, including a no contest plea.
 - 2. A determination that a person is responsible for an infraction, including a no contest plea.
 - 3. An unvacated forfeiture of cash in the full amount of a bond required by Article 26 of Chapter 15A of the General Statutes.
 - 4. A third or subsequent prayer for judgment continued within any five-year period.
 - 5. Any prayer for judgment continued if the offender holds a commercial drivers license or if the offense occurs in a commercial motor vehicle.
 - b. Out-of-State. When referring to an offense committed outside North Carolina, the term means any of the following:
 - 1. An unvacated adjudication of guilt.
 - 2. A determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal.
 - 3. An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.
 - 4. A violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.
 - 5. A final conviction of a criminal offense, including a no contest plea.
 - 6. Any prayer for judgment continued, including any payment of a fine or court costs, if the offender holds a commercial drivers license or if the offense occurs in a commercial motor vehicle.
- (4b) Crash. – Any event that results in injury or property damage attributable directly to the motion of a motor vehicle or its load. The terms collision, accident, and crash and their cognates are synonymous.

- (5) Dealer. – Every person engaged in the business of buying, selling, distributing, or exchanging motor vehicles, trailers, or semitrailers in this State, and having an established place of business in this State.
The terms "motor vehicle dealer," "new motor vehicle dealer," and "used motor vehicle dealer" as used in Article 12 of this Chapter have the meaning set forth in G.S. 20-286.
- (5a) Dedicated natural gas vehicle. – A four-wheeled motor vehicle that meets each of the following requirements:
- a. Is made by a manufacturer primarily for use on public streets, roads, and highways and meets National Highway Traffic Safety Administration standards included in 49 C.F.R. § 571.
 - b. Has not been modified from original manufacturer specifications with regard to power train or any manner of powering the vehicle.
 - c. Is powered solely by natural gas.
 - d. Is rated at not more than 8,500 pounds unloaded gross vehicle weight.
 - e. Has a maximum speed capability of at least 65 miles per hour.
- (5b) Disqualification. – A withdrawal of the privilege to drive a commercial motor vehicle.
- (6) Division. – The Division of Motor Vehicles acting directly or through its duly authorized officers and agents.
- (7) Driver. – The operator of a vehicle, as defined in subdivision (25). The terms "driver" and "operator" and their cognates are synonymous.
- (7a) Electric Assisted Bicycle. – A bicycle with two or three wheels that is equipped with a seat or saddle for use by the rider, fully operable pedals for human propulsion, and an electric motor of no more than 750 watts, whose maximum speed on a level surface when powered solely by such a motor is no greater than 20 miles per hour.
- (7b) Electric Personal Assistive Mobility Device. – A self-balancing nontandem two-wheeled device, designed to transport one person, with a propulsion system that limits the maximum speed of the device to 15 miles per hour or less.
- (7c) Employer. – Any person who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle and would be subject to the alcohol and controlled substance testing provisions of 49 C.F.R. § 382 and also includes any consortium or third-party administrator administering the alcohol and controlled substance testing program on behalf of owner-operators subject to the provisions of 49 C.F.R. § 382.
- (8) Essential Parts. – All integral and body parts of a vehicle of any type required to be registered hereunder, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.
- (9) Established Place of Business. – Except as provided in G.S. 20-286, the place actually occupied by a dealer or manufacturer at which a permanent business of bargaining, trading, and selling motor vehicles is or will be carried on and at which the books, records, and files necessary and incident to the conduct of

- the business of automobile dealers or manufacturers shall be kept and maintained.
- (10) Explosives. – Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructible effects on contiguous objects or of destroying life or limb.
 - (11) Farm Tractor. – Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.
 - (11a) For-Hire Motor Carrier. – A person who transports passengers or property by motor vehicle for compensation.
 - (12) Foreign Vehicle. – Every vehicle of a type required to be registered hereunder brought into this State from another state, territory, or country, other than in the ordinary course of business, by or through a manufacturer or dealer and not registered in this State.
 - (12a) Fuel cell electric vehicle. – A four-wheeled motor vehicle that meets each of the following requirements:
 - a. Is made by a manufacturer primarily for use on public streets, roads, and highways and meets National Highway Traffic Safety Administration standards included in 49 C.F.R. § 571.
 - b. Has not been modified from original manufacturer specifications with regard to power train or any manner of powering the vehicle.
 - c. Uses hydrogen and a fuel cell to produce electricity on board to power an electric motor to propel the vehicle.
 - d. Is rated at not more than 8,500 pounds unloaded gross vehicle weight.
 - e. Has a maximum speed capability of at least 65 miles per hour.
 - (12b) Golf Cart. – A vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour.
 - (12c) Gross Combination Weight Rating (GCWR). – Defined in 49 C.F.R. § 390.5.
 - (12d) Gross Combined Weight (GCW). – The total weight of a combination (articulated) motor vehicle, including passengers, fuel, cargo, and attachments.
 - (12e) Gross Vehicle Weight (GVW). – The total weight of a vehicle, including passengers, fuel, cargo, and attachments.
 - (12f) Gross Vehicle Weight Rating (GVWR). – The value specified by the manufacturer as the maximum loaded weight a vehicle is capable of safely hauling. The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units. When a vehicle is determined by an enforcement officer to be structurally altered in any way from the manufacturer's original design in an attempt to increase the hauling capacity of the vehicle, the GVWR of that vehicle shall be deemed to be the greater of

the license weight or the total weight of the vehicle or combination of vehicles for the purpose of enforcing this Chapter. For the purpose of classification of commercial drivers license and skills testing, the manufacturer's GVWR shall be used.

- (12g) Hazardous Materials. – Any material that has been designated as hazardous under 49 U.S.C. § 5103 and is required to be placarded under Subpart F of Part 172 of Title 49 of the Code of Federal Regulations, or any quantity of a material listed as a select agent or toxin under Part 73 of Title 42 of the Code of Federal Regulations.
- (12h) High-Mobility Multipurpose Wheeled Vehicle (HMMWV). – A four-wheel drive vehicle produced for military or government use and commonly referred to as a "HMMWV" or "Humvee".
- (13) Highway. – The entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic. The terms "highway" and "street" and their cognates are synonymous.
- (14) House Trailer. – Any trailer or semitrailer designed and equipped to provide living or sleeping facilities and drawn by a motor vehicle. This term shall not include a manufactured home as defined in subdivision (18a) of this section.
- (14a) Impairing Substance. – Alcohol, controlled substance under Chapter 90 of the General Statutes, any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances.
- (15) Implement of Husbandry. – Every vehicle which is designed for agricultural purposes and used exclusively in the conduct of agricultural operations.
- (15a) Inoperable Vehicle. – A motor vehicle that is substantially disassembled and for this reason is mechanically unfit or unsafe to be operated or moved upon a public street, highway, or public vehicular area.
- (16) Intersection. – The area embraced within the prolongation of the lateral curblines or, if none, then the lateral edge of roadway lines of two or more highways which join one another at any angle whether or not one such highway crosses the other.

Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event that such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.
- (17) License. – Any driver's license or any other license or permit to operate a motor vehicle issued under or granted by the laws of this State including:
 - a. Any temporary license or learner's permit;
 - b. The privilege of any person to drive a motor vehicle whether or not such person holds a valid license; and
 - c. Any nonresident's operating privilege.

- (18) Local Authorities. – Every county, municipality, or other territorial district with a local board or body having authority to adopt local police regulations under the Constitution and laws of this State.
- (18a) Manufactured Home. – Defined in G.S. 143-143.9(6).
- (19) Manufacturer. – Every person, resident, or nonresident of this State, who manufactures or assembles motor vehicles.
- (20) Manufacturer's Certificate. – A certification on a form approved by the Division, signed by the manufacturer, indicating the name of the person or dealer to whom the therein-described vehicle is transferred, the date of transfer and that such vehicle is the first transfer of such vehicle in ordinary trade and commerce. The description of the vehicle shall include the make, model, year, type of body, identification number or numbers, and such other information as the Division may require.
- (21) Metal Tire. – Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.
- (21a) Repealed by Session Laws 2016-90, s. 13(a), effective December 1, 2016, and applicable to offenses committed on or after that date.
- (21b) Motor Carrier. – A for-hire motor carrier or a private motor carrier.
- (22) Motorcycle. – A type of passenger vehicle as defined in G.S. 20-4.01(27).
- (23) Motor Vehicle. – Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. Except as specifically provided otherwise, this term shall not include mopeds or electric assisted bicycles.
- (24) Nonresident. – Any person whose legal residence is in some state, territory, or jurisdiction other than North Carolina or in a foreign country.
- (24a) Offense Involving Impaired Driving. – Any of the following offenses:
 - a. Impaired driving under G.S. 20-138.1.
 - b. Any offense set forth under G.S. 20-141.4 when conviction is based upon impaired driving or a substantially similar offense under previous law.
 - c. First or second degree murder under G.S. 14-17 or involuntary manslaughter under G.S. 14-18 when conviction is based upon impaired driving or a substantially similar offense under previous law.
 - d. An offense committed in another jurisdiction which prohibits substantially similar conduct prohibited by the offenses in this subsection.
 - e. A repealed or superseded offense substantially similar to impaired driving, including offenses under former G.S. 20-138 or G.S. 20-139.
 - f. Impaired driving in a commercial motor vehicle under G.S. 20-138.2, except that convictions of impaired driving under G.S. 20-138.1 and G.S. 20-138.2 arising out of the same transaction shall be considered a single conviction of an offense involving impaired driving for any purpose under this Chapter.
 - g. Habitual impaired driving under G.S. 20-138.5.
A conviction under former G.S. 20-140(c) is not an offense involving impaired driving.

- (25) Operator. – A person in actual physical control of a vehicle which is in motion or which has the engine running. The terms "operator" and "driver" and their cognates are synonymous.
- (25a) Out of Service Order. – A declaration that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service.
- (26) Owner. – A person holding the legal title to a vehicle, or in the event a vehicle is the subject of a chattel mortgage or an agreement for the conditional sale or lease thereof or other like agreement, with the right of purchase upon performance of the conditions stated in the agreement, and with the immediate right of possession vested in the mortgagor, conditional vendee or lessee, said mortgagor, conditional vendee or lessee shall be deemed the owner for the purpose of this Chapter. For the purposes of this Chapter, the lessee of a vehicle owned by the government of the United States shall be considered the owner of said vehicle.
- (27) Passenger Vehicles. –
 - a. Ambulances. – Vehicles equipped for transporting wounded, injured, or sick persons.
 - b. Autocycle. – A three-wheeled motorcycle that has a steering wheel, pedals, seat safety belts for each occupant, antilock brakes, completely or partially enclosed seating that does not require the operator to straddle or sit astride, and is otherwise manufactured to comply with federal safety requirements for motorcycles.
 - c. Child care vehicles. – Vehicles under the direction and control of a child care facility, as defined in G.S. 110-86(3), and driven by an owner, employee, or agent of the child care facility for the primary purpose of transporting children to and from the child care facility, or to and from a place for participation in an event or activity in connection with the child care facility.
 - d. Common carriers of passengers. – Vehicles operated under a certificate of authority issued by the Utilities Commission for operation on the highways of this State between fixed termini or over a regular route for the transportation of persons for compensation.
 - e. Excursion passenger vehicles. – Vehicles transporting persons on sight-seeing or travel tours.
 - f. For-hire passenger vehicles. – Vehicles transporting persons for compensation. This classification shall not include the following:
 - 1. Vehicles operated as ambulances.
 - 2. Vehicles operated by the owner where the costs of operation are shared by the passengers.
 - 3. Vehicles operated pursuant to a ridesharing arrangement as defined in G.S. 136-44.21.
 - 4. Vehicles transporting students for the public school system under contract with the State Board of Education.
 - 5. Vehicles leased to the United States of America or any of its agencies on a nonprofit basis.
 - 6. Vehicles used for human service.

7. Vehicles used for volunteer transportation.
8. Vehicles operated in a TNC service, excluding vehicles operated in connection with a brokering transportation network company, regulated under Article 10A of Chapter 20 of the General Statutes.
- g. Low-speed vehicle. A four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but less than 25 miles per hour.
- h. Motorcycles. – Vehicles having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including autocycles, motor scooters, and motor-driven bicycles, but excluding tractors and utility vehicles equipped with an additional form of device designed to transport property, three-wheeled vehicles while being used by law-enforcement agencies, electric assisted bicycles, and mopeds as defined in sub-subdivision d1. of this subdivision.
- i. Motor-driven bicycle. – A vehicle with two or three wheels, a steering handle, one or two saddle seats, pedals, and a motor that cannot propel the vehicle at a speed greater than 20 miles per hour on a level surface. This term shall not include an electric assisted bicycle as defined in subdivision (7a) of this section.
- j. Moped. – A vehicle, other than a motor-driven bicycle or electric assisted bicycle, that has two or three wheels, no external shifting device, a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 30 miles per hour on a level surface. The motor may be powered by electricity, alternative fuel, motor fuel, or a combination of each.
- k. Motor home or house car. – A vehicular unit, designed to provide temporary living quarters, built into as an integral part, or permanently attached to, a self-propelled motor vehicle chassis or van. The vehicle must provide at least four of the following facilities: cooking, refrigeration or icebox, self-contained toilet, heating or air conditioning, a portable water supply system including a faucet and sink, separate 110-125 volt electrical power supply, or an LP gas supply.
- l. Private passenger vehicles. – All other passenger vehicles not included in the above definitions.
- m. School activity bus. – A vehicle, generally painted a different color from a school bus, whose primary purpose is to transport school students and others to or from a place for participation in an event other than regular classroom work. The term includes a public, private, or parochial vehicle that meets this description.
- n. School bus. – A vehicle whose primary purpose is to transport school students over an established route to and from school for the regularly scheduled school day, that is equipped with alternately flashing red lights on the front and rear and a mechanical stop signal, that is painted primarily yellow below the roofline, and that bears the plainly visible

- words "School Bus" on the front and rear. The term includes a public, private, or parochial vehicle that meets this description.
- o. U-drive-it passenger vehicles. – Passenger vehicles included in the definition of U-drive-it vehicles set forth in this section.
- (28) Person. – Every individual, firm, partnership, association, corporation, governmental agency, or combination thereof of whatsoever form or character.
- (28a) Plug-in electric vehicle. – A four-wheeled motor vehicle that meets each of the following requirements:
- a. Is made by a manufacturer primarily for use on public streets, roads, and highways and meets National Highway Traffic Safety Administration standards included in 49 C.F.R. § 571.
 - b. Has not been modified from original manufacturer specifications with regard to power train or any manner of powering the vehicle.
 - c. Is rated at not more than 8,500 pounds unloaded gross vehicle weight.
 - d. Has a maximum speed capability of at least 65 miles per hour.
 - e. Draws electricity from a battery that has all of the following characteristics:
 - 1. A capacity of not less than four kilowatt hours.
 - 2. Capable of being recharged from an external source of electricity.
- (29) Pneumatic Tire. – Every tire in which compressed air is designed to support the load.
- (29a) Private Motor Carrier. – A person who transports passengers or property by motor vehicle in interstate commerce and is not a for-hire motor carrier.
- (30) Private Road or Driveway. – Every road or driveway not open to the use of the public as a matter of right for the purpose of vehicular traffic.
- (31) Property-Hauling Vehicles. –
- a. Vehicles used for the transportation of property.
 - b., c. Repealed by Session Laws 1995 (Regular Session, 1996), c. 756, s. 4.
 - d. Semitrailers. – Vehicles without motive power designed for carrying property or persons and for being drawn by a motor vehicle, and so constructed that part of their weight or their load rests upon or is carried by the pulling vehicle.
 - e. Trailers. – Vehicles without motive power designed for carrying property or persons wholly on their own structure and to be drawn by a motor vehicle, including "pole trailers" or a pair of wheels used primarily to balance a load rather than for purposes of transportation.
 - f. Repealed by Session Laws 1995 (Regular Session, 1996), c. 756, s. 4.
- (31a) Provisional Licensee. – A person under the age of 18 years.
- (32) Public Vehicular Area. – Any area within the State of North Carolina that meets one or more of the following requirements:
- a. The area is used by the public for vehicular traffic at any time, including by way of illustration and not limitation any drive, driveway,

road, roadway, street, alley, or parking lot upon the grounds and premises of any of the following:

1. Any public or private hospital, college, university, school, orphanage, church, or any of the institutions, parks or other facilities maintained and supported by the State of North Carolina or any of its subdivisions.
 2. Any service station, drive-in theater, supermarket, store, restaurant, or office building, or any other business, residential, or municipal establishment providing parking space whether the business or establishment is open or closed.
 3. Any property owned by the United States and subject to the jurisdiction of the State of North Carolina. (The inclusion of property owned by the United States in this definition shall not limit assimilation of North Carolina law when applicable under the provisions of Title 18, United States Code, section 13).
- b. The area is a beach area used by the public for vehicular traffic.
 - c. The area is a road used by vehicular traffic within or leading to a gated or non-gated subdivision or community, whether or not the subdivision or community roads have been offered for dedication to the public.
 - d. The area is a portion of private property used by vehicular traffic and designated by the private property owner as a public vehicular area in accordance with G.S. 20-219.4.
- (32a) Ramp Meter. – A traffic control device that consists of a circular red and circular green display placed at a point along an interchange entrance ramp.
- (32b) Recreational Vehicle. – A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motive power or is mounted on, or towed by, another vehicle. The basic entities are camping trailer, fifth-wheel travel trailer, motor home, travel trailer, and truck camper. This term shall not include a manufactured home as defined in G.S. 143-143.9(6). The basic entities are defined as follows:
- a. Camping trailer. – A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.
 - b. Fifth-wheel trailer. – A vehicular unit mounted on wheels designed to provide temporary living quarters for recreational, camping, or travel use, of a size and weight that does not require a special highway movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.
 - c. Motor home. – As defined in G.S. 20-4.01(27)k.
 - d. Travel trailer. – A vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of a size or weight that does not require a special highway movement permit when towed by a motorized vehicle.

- e. Truck camper. – A portable unit that is constructed to provide temporary living quarters for recreational, camping, or travel use, consisting of a roof, floor, and sides and is designed to be loaded onto and unloaded from the bed of a pickup truck.
- (32c) Regular Drivers License. – A license to drive a commercial motor vehicle that is exempt from the commercial drivers license requirements or a noncommercial motor vehicle.
- (33) a. Flood Vehicle. – A motor vehicle that has been submerged or partially submerged in water to the extent that damage to the body, engine, transmission, or differential has occurred.
- b. Non-U.S.A. Vehicle. – A motor vehicle manufactured outside of the United States and not intended by the manufacturer for sale in the United States.
- c. Reconstructed Vehicle. – A motor vehicle of a type required to be registered hereunder that has been materially altered from original construction due to removal, addition or substitution of new or used essential parts; and includes glider kits and custom assembled vehicles.
- d. Salvage Motor Vehicle. – Any motor vehicle damaged by collision or other occurrence to the extent that the cost of repairs to the vehicle and rendering the vehicle safe for use on the public streets and highways would exceed seventy-five percent (75%) of its fair retail market value, whether or not the motor vehicle has been declared a total loss by an insurer. Repairs shall include the cost of parts and labor. Fair market retail values shall be as found in the NADA Pricing Guide Book or other publications approved by the Commissioner.
- e. Salvage Rebuilt Vehicle. – A salvage vehicle that has been rebuilt for title and registration.
- f. Junk Vehicle. – A motor vehicle which is incapable of operation or use upon the highways and has no resale value except as a source of parts or scrap, and shall not be titled or registered.
- (33a) Relevant Time after the Driving. – Any time after the driving in which the driver still has in his body alcohol consumed before or during the driving.
- (33b) Reportable Crash. – A crash involving a motor vehicle that results in one or more of the following:
 - a. Death or injury of a human being.
 - b. Total property damage of one thousand dollars (\$1,000) or more, or property damage of any amount to a vehicle seized pursuant to G. S. 20-28.3.
- (33c) Reserve components of the Armed Forces of the United States. – The organizations listed in Title 10 United States Code, section 10101, which specifically includes the Army and Air National Guard.
- (34) Resident. – Any person who resides within this State for other than a temporary or transitory purpose for more than six months shall be presumed to be a resident of this State; but absence from the State for more than six months shall raise no presumption that the person is not a resident of this State.

- (35) Residential District. – The territory prescribed as such by ordinance of the Department of Transportation.
- (36) Revocation or Suspension. – Termination of a licensee's or permittee's privilege to drive or termination of the registration of a vehicle for a period of time stated in an order of revocation or suspension. The terms "revocation" or "suspension" or a combination of both terms shall be used synonymously.
- (37) Road Tractors. – Vehicles designed and used for drawing other vehicles upon the highway and not so constructed as to carry any part of the load, either independently or as a part of the weight of the vehicle so drawn.
- (38) Roadway. – That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. In the event a highway includes two or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.
- (39) Safety Zone. – Traffic island or other space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.
- (40) Security Agreement. – Written agreement which reserves or creates a security interest.
- (41) Security Interest. – An interest in a vehicle reserved or created by agreement and which secures payments or performance of an obligation. The term includes but is not limited to the interest of a chattel mortgagee, the interest of a vendor under a conditional sales contract, the interest of a trustee under a chattel deed of trust, and the interest of a lessor under a lease intended as security. A security interest is "perfected" when it is valid against third parties generally.
- (41a) Serious Traffic Violation. – A conviction of one of the following offenses when operating a commercial or other motor vehicle:
 - a. Excessive speeding, involving a single charge of any speed 15 miles per hour or more above the posted speed limit.
 - b. Careless and reckless driving.
 - c. A violation of any State or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident.
 - d. Improper or erratic lane changes.
 - e. Following the vehicle ahead too closely.
 - f. Driving a commercial motor vehicle without obtaining a commercial drivers license.
 - g. Driving a commercial motor vehicle without a commercial drivers license in the driver's possession.
 - h. Driving a commercial motor vehicle without the proper class of commercial drivers license or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported.

- i. Unlawful use of a mobile telephone under G.S. 20-137.4A or Part 390 or Part 392 of Title 49 of the Code of Federal Regulations while operating a commercial motor vehicle.
- (42) Solid Tire. – Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.
- (43) Specially Constructed Vehicles. – Motor vehicles required to be registered under this Chapter and that fit within one of the following categories:
 - a. Replica vehicle. – A vehicle, excluding motorcycles, that when assembled replicates an earlier year, make, and model vehicle.
 - b. Street rod vehicle. – A vehicle, excluding motorcycles, manufactured prior to 1949 that has been materially altered or has a body constructed from nonoriginal materials.
 - c. Custom-built vehicle. – A vehicle, including motorcycles, reconstructed or assembled by a nonmanufacturer from new or used parts that has an exterior that does not replicate or resemble any other manufactured vehicle. This category also includes any motorcycle that was originally sold unassembled and manufactured from a kit or that has been materially altered or that has a body constructed from nonoriginal materials.
- (44) Special Mobile Equipment. – Defined in G.S. 105-164.3.
- (44a) Specialty Vehicles. – Vehicles of a type required to be registered under this Chapter that are modified from their original construction for an educational, emergency services, or public safety use.
- (45) State. – A state, territory, or possession of the United States, District of Columbia, Commonwealth of Puerto Rico, a province of Canada, or the Sovereign Nation of the Eastern Band of the Cherokee Indians with tribal lands, as defined in 18 U.S.C. § 1151, located within the boundaries of the State of North Carolina. For provisions in this Chapter that apply to commercial drivers licenses, "state" means a state of the United States and the District of Columbia.
- (46) Street. – A highway, as defined in subdivision (13). The terms "highway" and "street" and their cognates are synonymous.
- (47) Suspension. – Termination of a licensee's or permittee's privilege to drive or termination of the registration of a vehicle for a period of time stated in an order of revocation or suspension. The terms "revocation" or "suspension" or a combination of both terms shall be used synonymously.
- (48) Truck Tractors. – Vehicles designed and used primarily for drawing other vehicles and not so constructed as to carry any load independent of the vehicle so drawn.
- (48a) **(Effective until December 31, 2018)** U-drive-it vehicles. – The following vehicles that are either rented to a person, to be operated by that person, or loaned by a franchised motor vehicle dealer, with or without charge, to a customer of that dealer who is having a vehicle serviced or repaired by the dealer:
 - a. A private passenger vehicle other than the following:

1. A private passenger vehicle of nine-passenger capacity or less that is rented for a term of one year or more.
 2. A private passenger vehicle that is rented to public school authorities for driver-training instruction.
- b. A property-hauling vehicle under 7,000 pounds that does not haul products for hire and that is rented for a term of less than one year.
 - c. Motorcycles.
- (48a) **(Effective December 31, 2018)** U-drive-it vehicles. – The following vehicles that are rented to a person, to be operated by that person:
- a. A private passenger vehicle other than the following:
 1. A private passenger vehicle of nine-passenger capacity or less that is rented for a term of one year or more.
 2. A private passenger vehicle that is rented to public school authorities for driver-training instruction.
 - b. A property-hauling vehicle under 7,000 pounds that does not haul products for hire and that is rented for a term of less than one year.
 - c. Motorcycles.
- (48b) Under the Influence of an Impairing Substance. – The state of a person having his physical or mental faculties, or both, appreciably impaired by an impairing substance.
- (48c) Utility Vehicle. – A motor vehicle that is (i) designed for off-road use and (ii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include an all-terrain vehicle or golf cart, as defined in this section, or a riding lawn mower.
- (49) Vehicle. – Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided, that for the purposes of this Chapter bicycles and electric assisted bicycles shall be deemed vehicles and every rider of a bicycle or an electric assisted bicycle upon a highway shall be subject to the provisions of this Chapter applicable to the driver of a vehicle except those which by their nature can have no application. This term shall not include a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including on sidewalks, and is limited by design to 15 miles per hour when the device is being operated by a person with a mobility impairment, or who uses the device for mobility enhancement. This term shall not include an electric personal assistive mobility device as defined in subdivision (7b) of this section. Unless the context requires otherwise, and except as provided under G.S. 20-109.2, 47-20.6, or 47-20.7, a manufactured home shall be deemed a vehicle.
- (50) Wreckers. – Vehicles with permanently attached cranes used to move other vehicles; provided, that said wreckers shall be equipped with adequate brakes for units being towed. (1973, c. 1330, s. 1; 1975, cc. 94, 208; c. 716, s. 5; c. 743; c. 859, s. 1; 1977, c. 313; c. 464, s. 34; 1979, c. 39; c. 423, s. 1; c. 574, ss. 1-4; c. 667, s. 1; c. 680; 1981, c. 606, s. 3; c. 792, s. 2; 1983, c. 435, s. 8;

1983 (Reg. Sess., 1984), c. 1101, ss. 1-3; 1985, c. 509, s. 6; 1987, c. 607, s. 2; c. 658, s. 1; 1987 (Reg. Sess., 1988), c. 1069; c. 1105, s. 1; c. 1112, ss. 1-3; 1989, c. 455, ss. 1, 2; c. 727, s. 219(1); c. 771, ss. 1, 18; 1991, c. 449, s. 2; c. 726, ss. 1-4; 1991 (Reg. Sess., 1992), c. 1015, s. 1; 1993 (Reg. Sess., 1994), c. 761, s. 22; 1995, c. 191, s. 1; 1995 (Reg. Sess., 1996), c. 756, ss. 2-4; 1997-379, s. 5.1; 1997-443, s. 11A.8; 1997-456, s. 27; 1998-149, s. 1; 1998-182, ss. 1, 1.1, 26; 1998-217, s. 62(e); 1999-330, s. 9; 1999-337, s. 28(c)-(e); 1999-406, s. 14; 1999-452, ss. 1-5; 2000-155, s. 9; 2000-173, s. 10(c); 2001-212, s. 2; 2001-341, ss. 1, 2; 2001-356, ss. 1, 2; 2001-441, s. 1; 2001-487, ss. 50(a), 51; 2002-72, s. 19(b); 2002-98, ss. 1-3; 2003-397, s. 1; 2005-282, s. 1; 2005-349, ss. 1-3; 2006-253, s. 8; 2007-56, s. 4; 2007-382, ss. 2, 3; 2007-455, s. 1; 2007-493, s. 1; 2008-156, s. 1; 2009-274, s. 1; 2009-405, ss. 1, 4; 2009-416, ss. 1, 2; 2010-129, s. 1; 2011-95, s. 1; 2011-206, s. 1; 2013-410, s. 47.5; 2014-58, ss. 10(a), (c), (d); 2014-115, s. 28.3; 2015-125, s. 1; 2015-163, s. 1; 2015-232, s. 1.1(a); 2015-237, s. 2; 2016-59, s. 1; 2016-90, ss. 12.5(a), 13(a); 2016-94, s. 35.20(a); 2017-69, s. 2.1(a); 2017-102, ss. 5.2(a), (b).)

§ 20-4.02. (Effective July 1, 2020) Quadrennial adjustment of certain fees and rates.

(a) Adjustment for Inflation. – Beginning July 1, 2020, and every four years thereafter, the Division shall adjust the fees and rates imposed pursuant to the statutes listed in this subsection for inflation in accordance with the Consumer Price Index computed by the Bureau of Labor Statistics. The adjustment for per transaction rates in subdivision (8a) of this subsection shall be rounded to the nearest cent and all other adjustments under this subsection shall be rounded to the nearest twenty-five cents (25¢):

- (1) G.S. 20-7.
- (2) G.S. 20-11.
- (3) G.S. 20-14.
- (4) G.S. 20-16.
- (5) G.S. 20-26.
- (6) G.S. 20-37.15.
- (7) G.S. 20-37.16.
- (8) G.S. 20-42(b).
- (8a) G.S. 20-63(h), with respect to the per transaction rates set in that subsection.
- (9) G.S. 20-85(a)(1) through (10).
- (10) G.S. 20-85.1.
- (11) G.S. 20-87, except for the additional fee set forth in G.S. 20-87(6) for private motorcycles.
- (12) G.S. 20-88.
- (13) G.S. 20-289.
- (14) G.S. 20-385.
- (15) G.S. 44A-4(b)(1).

(b) Computation. – In determining the rate of inflation to use when making an adjustment pursuant to subsection (a) of this section, the Division shall base the rate on the percent change in the annual Consumer Price Index over the preceding four-year period.

(c) Rules. – The provisions of Chapter 150B of the General Statutes shall not apply to the inflation adjustment required by this section.

(d) Consultation and Publication. – At least 90 days prior to making an adjustment pursuant to subsection (a) of this section, and notwithstanding any provision of G.S. 12-3.1 to the contrary, the Division shall (i) consult with the Joint Legislative Commission on Governmental Operations, (ii) provide a report to the chairs of the Senate Appropriations Committee on Department of Transportation and the House of Representatives Appropriations Committee on Transportation, and (iii) publish notice of the fees that will be in effect in the offices of the Division and on the Division's Web site. (2015-241, s. 29.30(s); 2016-120, s. 1.)

§ 20-4.03. Administrative hearing fees.

(a) Authorization. – The Division is authorized to charge a fee to any person who requests an administrative hearing before the Division in accordance with this Chapter.

(b) Requirements for Requesting a Hearing. – Any request for an administrative hearing before the Division must be in writing and accompanied by the total applicable administrative hearing fee charged by the Division. An administrative hearing shall not be granted by the Division unless the administrative hearing request complies with the requirements of this subsection. Notwithstanding any provision of this Chapter to the contrary, any pending revocation, suspension, civil penalty assessment, or other adverse action shall not be stayed upon receipt of an administrative hearing request unless the request complies with the requirements of this subsection. (2017-57, s. 34.32(b); 2017-197, s. 7.3(a).)

Article 1A.

Reciprocity Agreements as to Registration and Licensing.

§ 20-4.1. Declaration of policy.

It is the policy of this State to promote and encourage the fullest possible use of its highway system by authorizing the making and execution of motor vehicle reciprocal registration agreements, arrangements and declarations with other states, provinces, territories and countries with respect to vehicles registered in this and such other states, provinces, territories and countries thus contributing to the economic and social development and growth of this State. (1961, c. 642, s. 1.)

§ 20-4.2. Definitions.

As used in this Article:

- (1) "Commercial vehicle" means any vehicle which is operated in furtherance of any commercial enterprise.
- (2) "Commissioner" means the Commissioner of Motor Vehicles of North Carolina.
- (3) "Division" means the Division of Motor Vehicles of North Carolina.
- (4) "Jurisdiction" means and includes a state, district, territory or possession of the United States, a foreign country and a state or province of a foreign country.
- (5) "Properly registered," as applied to place of registration, means:
 - a. The jurisdiction where the person registering the vehicle has his legal residence, or

- b. In the case of a commercial vehicle, including a leased vehicle, the jurisdiction in which it is registered if the commercial enterprise in which such vehicle is used has a place of business therein, and, if the vehicle is most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled in or from such place of business, and, the vehicle has been assigned to such place of business, or
- c. In the case of a commercial vehicle, including leased vehicles, the jurisdiction where, because of an agreement or arrangement between two or more jurisdictions, or pursuant to a declaration, the vehicle has been registered as required by said jurisdiction.
- d. In case of doubt or dispute as to the proper place of registration of a vehicle, the Division shall make the final determination, but in making such determination, may confer with departments of the other jurisdictions affected. (1961, c. 642, s. 1; 1975, c. 716, s. 5; 1979, c. 470, s. 2.)

§ 20-4.3. Commissioner may make reciprocity agreements, arrangements or declarations.

The Commissioner of Motor Vehicles shall have the authority to execute or make agreements, arrangements or declarations to carry out the provisions of this Article. (1961, c. 642, s. 1.)

§ 20-4.4. Authority for reciprocity agreements; provisions; reciprocity standards.

(a) The Commissioner may enter into an agreement or arrangement for interstate or intrastate operations with the duly authorized representatives of another jurisdiction, granting to vehicles or to owners of vehicles which are properly registered or licensed in such jurisdiction and for which evidence of compliance is supplied, benefits, privileges and exemptions from the payment, wholly or partially, of any taxes, fees, or other charges imposed upon such vehicles or owners with respect to the operation or ownership of such vehicles under the laws of this State. Such an agreement or arrangement shall provide that vehicles properly registered or licensed in this State when operated upon highways of such other jurisdiction shall receive exemptions, benefits and privileges of a similar kind or to a similar degree as are extended to vehicles properly registered or licensed in such jurisdiction when operated in this State. Each such agreement or arrangement shall, in the judgment of the Commissioner, be in the best interest of this State and the citizens thereof and shall be fair and equitable to this State and the citizens thereof, and all of the same shall be determined on the basis and recognition of the benefits which accrue to the economy of this State from the uninterrupted flow of commerce.

(b) When the Commissioner enters into a reciprocal registration agreement or arrangement with another jurisdiction which has a motor vehicle tax, license or fee which is not subject to waiver by a reciprocity agreement, the Commissioner is empowered and authorized to provide as a condition of the agreement or arrangement that owners of vehicles licensed in such other jurisdiction shall pay some equalizing tax or fee to the Division. The failure of any owner or operator of a vehicle to pay the taxes or fees provided in the agreement or arrangement shall prohibit them from receiving any benefits therefrom and they shall be required to register their vehicles and pay taxes as if there was no agreement or arrangement. (1961, c. 642, s. 1; 1971, c. 588; 1975, c. 716, s. 5.)

§ 20-4.5. Base-state registration reciprocity.

An agreement or arrangement entered into, or a declaration issued under the authority of this Article may contain provisions authorizing the registration or licensing in another jurisdiction of vehicles located in or operated from a base in such other jurisdiction which vehicles otherwise would be required to be registered or licensed in some other state; and in such event the exemptions, benefits and privileges extended by such agreement, arrangement or declaration shall apply to such vehicles, when properly licensed or registered in such base jurisdiction. (1961, c. 642, s. 1.)

§ 20-4.6. Repealed by Session Laws 1997-122, s. 1.

§ 20-4.7. Extension of reciprocal privileges to lessees authorized.

An agreement or arrangement entered into, or a declaration issued under the authority of this Article, may contain provisions under which a leased vehicle properly registered by the lessor thereof may be entitled, subject to terms and conditions stated therein, to the exemptions, benefits and privileges extended by such agreement, arrangement or declaration. (1961, c. 642, s. 1.)

§ 20-4.8. Automatic reciprocity, when.

On and after July 1, 1961, if no agreement, arrangement or declaration is in effect with respect to another jurisdiction as authorized by this Article, any vehicle properly registered or licensed in such other jurisdiction and for which evidence of compliance supplied shall receive, when operated in this State, the same exemptions, benefits and privileges granted by such other jurisdiction to vehicles properly registered in this State. Reciprocity extended under this section shall apply to commercial vehicles only when engaged exclusively in interstate operations. (1961, c. 642, s. 1.)

§ 20-4.9. Suspension of reciprocity benefits.

Agreements, arrangements or declarations made under the authority of this Article may include provisions authorizing the Division to suspend or cancel the exemptions, benefits or privileges granted thereunder to a vehicle which is in violation of any of the conditions or terms of such agreements, arrangements or declarations or is in violation of the laws of this State relating to motor vehicles or rules and regulations lawfully promulgated thereunder. (1961, c. 642, s. 1; 1975, c. 716, s. 5.)

§ 20-4.10. Agreements to be written, filed and available for distribution.

All agreements, arrangements or declarations or amendments thereto shall be in writing and shall be filed in the office of the Commissioner. Copies thereof shall be made available by the Commissioner upon request and upon payment of a fee therefor in an amount necessary to defray the costs of reproduction thereof. (1961, c. 642, s. 1.)

§ 20-4.11. Reciprocity agreements in effect at time of Article.

All reciprocity registration agreements, arrangements and declarations relating to vehicles in force and effect July 1, 1961, shall continue in force and effect until specifically amended or revoked as provided by law or by such agreements or arrangements. (1961, c. 642, s. 1.)

§ 20-4.12. Article part of and supplemental to motor vehicle registration law.

This Article shall be, and construed as, a part of and supplemental to the motor vehicle registration law of this State. (1961, c. 642, s. 1.)

§§ 20-4.13 through 20-4.17. Reserved for future codification purposes.

Article 1B.

Reciprocal Provisions as to Arrest of Nonresidents.

§ 20-4.18. Definitions.

Unless the context otherwise requires, the following words and phrases, for the purpose of this Article, shall have the following meanings:

- (1) Citation. – Any citation, summons, ticket, or other document issued by a law-enforcement officer for the violation of a traffic law, ordinance, rule or regulation.
- (2) Collateral or Bond. – Any cash or other security deposited to secure an appearance following a citation by a law-enforcement officer.
- (3) Repealed by Session Laws 1979, c. 667, s. 2.
- (4) Nonresident. – A person who holds a license issued by a reciprocating state.
- (5) Personal Recognizance. – An agreement by a nonresident to comply with the terms of the citation issued to the nonresident.
- (6) Reciprocating State. – Any state or other jurisdiction which extends by its laws to residents of North Carolina substantially the rights and privileges provided by this Article.
- (7) State. – The State of North Carolina. (1973, c. 736; 1979, c. 667, s. 2; 1981, c. 508; 1999-452, s. 6.)

§ 20-4.19. Issuance of citation to nonresident; officer to report noncompliance.

(a) Notwithstanding other provisions of this Chapter, a law-enforcement officer observing a violation of this Chapter or other traffic regulation by a nonresident shall issue a citation as appropriate and shall not, subject to the provisions of subsection (b) of this section, require such nonresident to post collateral or bond to secure appearance for trial, but shall accept such nonresident's personal recognizance; provided, however, that the nonresident shall have the right upon request to post collateral or bond in a manner provided by law and in such case the provisions of this Article shall not apply.

(b) A nonresident may be required to post collateral or bond to secure appearance for trial if the offense is one which would result in the suspension or revocation of a person's license under the laws of this State.

(c) Upon the failure of the nonresident to comply with the citation, the clerk of court shall report the noncompliance to the Division. The report of noncompliance shall clearly identify the nonresident; describe the violation, specifying the section of the statute, code, or ordinance violated; indicate the location and date of offense; and identify the vehicle involved. (1973, c. 736; 1975, c. 716, s. 5; 1991, c. 682, s. 1; 1999-452, s. 7.)

§ 20-4.20. Division to transmit report to reciprocating state; suspension of license for noncompliance with citation issued by reciprocating state.

(a) Upon receipt of a report of noncompliance, the Division shall transmit a certified copy of such report to the official in charge of the issuance of licenses in the reciprocating state in which the nonresident resides or by which he is licensed.

(b) When the licensing authority of a reciprocating state reports that a person holding a North Carolina license has failed to comply with a citation issued in such state, the Commissioner shall forthwith suspend such person's license. The order of suspension shall indicate the reason for the order, and shall notify the person that his license shall remain suspended until he has furnished evidence satisfactory to the Commissioner that he has complied with the terms of the citation which was the basis for the suspension order by appearing before the tribunal to which he was cited and complying with any order entered by said tribunal.

(c) A copy of any suspension order issued hereunder may be furnished to the licensing authority of the reciprocating state.

(d) The Commissioner shall maintain a current listing of reciprocating states hereunder. Such lists shall from time to time be disseminated among the appropriate departments, divisions, bureaus, and agencies of this State; the principal law-enforcement officers of the several counties, cities, and towns of this State; and the licensing authorities in reciprocating states.

(e) The Commissioner shall have the authority to execute or make agreements, arrangements, or declarations to carry out the provisions of this Article. (1973, c. 736; 1975, c. 716, s. 5; 1979, c. 104.)

Article 1C.

Drivers License Compact.

§ 20-4.21. Title of Article.

This Article is the Drivers License Compact and may be cited by that name. (1993, c. 533, s. 1.)

§ 20-4.22. Commissioner may make reciprocity agreements, arrangements, or declarations.

The Commissioner may execute or make agreements, arrangements, or declarations to implement this Article. (1993, c. 533, s. 1.)

§ 20-4.23. Legislative findings and policy.

(a) Findings. – The General Assembly and the states that are members of the Drivers License Compact find that:

- (1) The safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles.
- (2) The violation of a law or an ordinance relating to the operation of a motor vehicle is evidence that the violator engages in conduct that is likely to endanger the safety of persons and property.
- (3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles in whichever jurisdiction the vehicle is operated.

(b) Policy. – It is the policy of the General Assembly and of each of the states that is a member of the Drivers License Compact to:

- (1) Promote compliance with the laws, ordinances, and administrative rules and regulations of a member state relating to the operation of motor vehicles.
- (2) Make the reciprocal recognition of licenses to drive and the eligibility for a license to drive more just and equitable by making consideration of overall compliance with motor vehicle laws, ordinances, and administrative rules and regulations a condition precedent to the continuance or issuance of any license that authorizes the holder of the license to operate a motor vehicle in a member state. (1993, c. 533, s. 1.)

§ 20-4.24. Reports of convictions; effect of reports.

(a) Reports. – A state that is a member of the Drivers License Compact shall report to another member state of the compact a conviction for any of the following:

- (1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle.
- (2) Driving a motor vehicle while impaired.
- (3) A felony in the commission of which a motor vehicle was used.
- (4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

If the laws of a member state do not describe the listed violations in precisely the words used in this subsection, the member state shall construe the descriptions to apply to offenses of the member state that are substantially similar to the ones described.

A state that is a member of the Drivers License Compact shall report to another member state of the compact a conviction for any other offense or any other information concerning convictions that the member states agree to report.

(b) Effect. – A state that is a member of the Drivers License Compact shall treat a report of a conviction received from another member state of the compact as a report of the conduct that resulted in the conviction. For a conviction required to be reported under subsection (a), a member state shall give the same effect to the report as if the conviction had occurred in that state. For a conviction that is not required to be reported under subsection (a), a member state shall give the effect to the report that is required by the laws of that state. G.S. 20-23 governs the effect in this State of convictions that are not required to be reported under subsection (a). (1993, c. 533, s. 1.)

§ 20-4.25. Review of license status in other states upon application for license in member state.

Upon application for a license to drive, the licensing authority of a state that is a member of the Drivers License Compact must determine if the applicant has ever held, or currently holds, a license to drive issued by another member state. The licensing authority of the member state where the application is made may not issue the applicant a license to drive if:

- (1) The applicant has held a license, but it has been revoked for a violation and the revocation period has not ended. If the revocation period is for more than one year and it has been at least one year since the license was revoked, the licensing authority may allow the applicant to apply for a new license if the laws of the licensing authority's state permit the application.
- (2) The applicant currently holds a license to drive issued by another member state and does not surrender that license. (1993, c. 533, s. 1.)

§ 20-4.26. Effect on other laws or agreements.

Except as expressly required by the provisions of this Article, this Article does not affect the right of a member state to the Drivers License Compact to apply any of its other laws relating to licenses to drive to any person or circumstance, nor does it invalidate or prevent any driver license agreement or other cooperative arrangement between a member state and a state that is not a member. (1993, c. 533, s. 1.)

§ 20-4.27. Effect on other State driver license laws.

To the extent that this Article conflicts with general driver licensing provisions in this Chapter, this Article prevails. Where this Article is silent, the general driver licensing provisions apply. (1993, c. 533, s. 1.)

§ 20-4.28. Administration and exchange of information.

The head of the licensing authority of each member state is the administrator of the Drivers License Compact for that state. The administrators, acting jointly, have the power to formulate all necessary procedures for the exchange of information under this compact. The administrator of each member state shall furnish to the administrator of each other member state any information or documents reasonably necessary to facilitate the administration of this compact. (1993, c. 533, s. 1.)

§ 20-4.29. Withdrawal from Drivers License Compact.

A member state may withdraw from the Drivers License Compact. A withdrawal may not become effective until at least six months after the heads of all other member states have received notice of the withdrawal. Withdrawal does not affect the validity or applicability by the licensing authorities of states remaining members of the compact of a report of a conviction occurring prior to the withdrawal. (1993, c. 533, s. 1.)

§ 20-4.30. Construction and severability.

This Article shall be liberally construed to effectuate its purposes. The provisions of this Article are severable; if any part of this Article is declared to be invalid by a court, the invalidity does not affect other parts of this Article that can be given effect without the invalid provision. If the Drivers License Compact is declared invalid by a court in a member state, the compact remains in full force and effect in the remaining member states and in full force and effect for all severable matters in that member state. (1993, c. 533, s. 1.)

Article 2.

Uniform Driver's License Act.

§ 20-5. Title of Article.

This Article may be cited as the Uniform Driver's License Act. (1935, c. 52, s. 31.)

§ 20-6. Repealed by Session Laws 1973, c. 1330, s. 39.

§ 20-7. Issuance and renewal of drivers licenses.

(a) License Required. – To drive a motor vehicle on a highway, a person must be licensed by the Division under this Article or Article 2C of this Chapter to drive the vehicle and must carry the license while driving the vehicle. The Division issues regular drivers licenses under this Article and issues commercial drivers licenses under Article 2C.

A license authorizes the holder of the license to drive any vehicle included in the class of the license and any vehicle included in a lesser class of license, except a vehicle for which an endorsement is required. To drive a vehicle for which an endorsement is required, a person must obtain both a license and an endorsement for the vehicle. A regular drivers license is considered a lesser class of license than its commercial counterpart.

The classes of regular drivers licenses and the motor vehicles that can be driven with each class of license are:

- (1) Class A. – A Class A license authorizes the holder to drive any of the following:
 - a. A Class A motor vehicle that is exempt under G.S. 20-37.16 from the commercial drivers license requirements.
 - b. A Class A motor vehicle that has a combined GVWR of less than 26,001 pounds and includes as part of the combination a towed unit that has a GVWR of at least 10,001 pounds.
- (2) Class B. – A Class B license authorizes the holder to drive any Class B motor vehicle that is exempt under G.S. 20-37.16 from the commercial drivers license requirements.
- (3) Class C. – A Class C license authorizes the holder to drive any of the following:
 - a. A Class C motor vehicle that is not a commercial motor vehicle.
 - b. When operated by a volunteer member of a fire department, a rescue squad, or an emergency medical service (EMS) in the performance of duty, a Class A or Class B fire-fighting, rescue, or EMS motor vehicle or a combination of these vehicles.
 - c. A combination of noncommercial motor vehicles that have a GVWR of more than 10,000 pounds but less than 26,001 pounds. This sub-subdivision does not apply to a Class C license holder less than 18 years of age.

The Commissioner may assign a unique motor vehicle to a class that is different from the class in which it would otherwise belong.

A person holding a commercial drivers license issued by another jurisdiction must apply for a transfer and obtain a North Carolina issued commercial drivers license within 30 days of becoming a resident. Any other new resident of North Carolina who has a drivers license issued by another jurisdiction must obtain a license from the Division within 60 days after becoming a resident.

(a1) Motorcycles and Mopeds. – To drive a motorcycle, a person shall have one of the following:

- (1) A full provisional license with a motorcycle learner's permit.
- (2) A regular drivers license with a motorcycle learner's permit.
- (3) A full provisional license with a motorcycle endorsement.
- (4) A regular drivers license with a motorcycle endorsement.

Subsection (a2) of this section sets forth the requirements for a motorcycle learner's permit. To obtain a motorcycle endorsement, a person shall pay the fee set in subsection (i) of this section. In addition, to obtain an endorsement, a person age 18 or older shall demonstrate competence to drive a motorcycle by passing a knowledge test concerning motorcycles, and by passing a road test or providing proof of successful completion of one of the following:

- (1) The North Carolina Motorcycle Safety Education Program Basic Rider Course or Experienced Rider Course.
- (2) Any course approved by the Commissioner consistent with the instruction provided through the Motorcycle Safety Instruction Program established under G.S. 115D-72.

A person less than 18 years of age shall demonstrate competence to drive a motorcycle by passing a knowledge test concerning motorcycles and providing proof of successful completion of one of the following:

- (1) Repealed by Session Laws 2012-85, s. 1, effective July 1, 2012.
- (2) The North Carolina Motorcycle Safety Education Program Basic Rider Course or Experienced Rider Course.
- (3) Any course approved by the Commissioner consistent with the instruction provided through the Motorcycle Safety Instruction Program established under G.S. 115D-72.

A person less than 18 years of age with a motorcycle endorsement may not drive a motorcycle with a passenger.

Neither a drivers license nor a motorcycle endorsement is required to drive a moped.

(a2) Motorcycle Learner's Permit. – The following persons are eligible for a motorcycle learner's permit:

- (1) A person who is at least 16 years old but less than 18 years old and has a full provisional license issued by the Division.
- (2) A person who is at least 18 years old and has a license issued by the Division.

To obtain a motorcycle learner's permit, an applicant shall pass a vision test, a road sign test, and a knowledge test specified by the Division. An applicant who is less than 18 years old shall successfully complete the North Carolina Motorcycle Safety Education Program Basic Rider Course or any course approved by the Commissioner consistent with the instruction provided through the Motorcycle Safety Instruction Program established under G.S. 115D-72. A motorcycle learner's permit expires twelve months after it is issued and may be renewed for one additional six-month period. The holder of a motorcycle learner's permit may not drive a motorcycle with a passenger. The fee for a motorcycle learner's permit is the amount set in G.S. 20-7(1) for a learner's permit.

(a3) Autocycles. – For purposes of this section, the term "motorcycle" shall not include autocycles. To drive an autocycle, a person shall have a regular drivers license.

(b) Repealed by Session Laws 1993, c. 368, s. 1, c. 533, s. 12.

(b1) Application. – To obtain an identification card, learners permit, or drivers license from the Division, a person shall complete an application form provided by the Division, present at least two forms of identification approved by the Commissioner, be a resident of this State, and, except for an identification card, demonstrate his or her physical and mental ability to drive safely a motor vehicle included in the class of license for which the person has applied. At least one of the forms of identification shall indicate the applicant's residence address. The Division may copy the identification presented or hold it for a brief period of time to verify its

authenticity. To obtain an endorsement, a person shall demonstrate his or her physical and mental ability to drive safely the type of motor vehicle for which the endorsement is required.

The application form shall request all of the following information, and it shall contain the disclosures concerning the request for an applicant's social security number required by section 7 of the federal Privacy Act of 1974, Pub. L. No. 93-579:

- (1) The applicant's full name.
- (2) The applicant's mailing address and residence address.
- (3) A physical description of the applicant, including the applicant's sex, height, eye color, and hair color.
- (4) The applicant's date of birth.
- (5) The applicant's valid social security number.
- (6) The applicant's signature.

The Division shall not issue an identification card, learners permit, or drivers license to an applicant who fails to provide the applicant's valid social security number.

(b2) Disclosure of Social Security Number. – The social security number of an applicant is not a public record. The Division may not disclose an applicant's social security number except as allowed under federal law. A violation of the disclosure restrictions is punishable as provided in 42 U.S.C. § 408, and amendments to that law.

In accordance with 42 U.S.C. 405 and 42 U.S.C. 666, and amendments thereto, the Division may disclose a social security number obtained under subsection (b1) of this section only as follows:

- (1) For the purpose of administering the drivers license laws.
- (2) To the Department of Health and Human Services, Child Support Enforcement Program for the purpose of establishing paternity or child support or enforcing a child support order.
- (3) To the Department of Revenue for the purpose of verifying taxpayer identity.
- (4) To the Office of Indigent Defense Services of the Judicial Department for the purpose of verifying the identity of a represented client and enforcing a court order to pay for the legal services rendered.
- (5) To each county jury commission for the purpose of verifying the identity of deceased persons whose names should be removed from jury lists.
- (6) To the State Chief Information Officer for the purposes of G.S. 143B-1385.
- (7) To the Department of Commerce, Division of Employment Security, for the purpose of verifying employer and claimant identity.

(b3) The Division shall adopt rules implementing the provisions of subsection (b1) of this section with respect to proof of residency in this State. Those rules shall ensure that applicants submit verified or verifiable residency and address information that can be reasonably considered to be valid and that is provided on any of the following:

- (1) A document issued by an agency of the United States or by the government of another nation.
- (2) A document issued by another state.
- (3) A document issued by the State of North Carolina, or a political subdivision of this State. This includes an agency or instrumentality of this State.
- (4) A preprinted bank or other corporate statement.
- (5) A preprinted business letterhead.
- (6) Any other document deemed reliable by the Division.

(b4) Examples of documents that are reasonably reliable indicators of residency include, but are not limited to, any of the following:

- (1) A pay stub with the payee's address.
- (2) A utility bill showing the address of the applicant-payor.
- (3) A contract for an apartment, house, modular unit, or manufactured home with a North Carolina address signed by the applicant.
- (4) A receipt for personal property taxes paid.
- (5) A receipt for real property taxes paid to a North Carolina locality.
- (6) A current automobile insurance policy issued to the applicant and showing the applicant's address.
- (7) A monthly or quarterly financial statement from a North Carolina regulated financial institution.
- (8), (9) Repealed by Session Laws 2015-294, s. 12, effective October 1, 2015, and applicable to contracts entered into on or after that date.

(b5) The Division rules adopted pursuant to subsection (b3) of this section shall also provide that if an applicant cannot produce any documentation specified in subsection (b3) or (b4) of this section, the applicant, or in the case of a minor applicant a parent or legal guardian of the applicant, may complete an affidavit, on a form provided by the Division and sworn to before an official of the Division, indicating the applicant's current residence address. The affidavit shall contain the provisions of G.S. 20-15(a) and G.S. 20-17(a)(5) and shall indicate the civil and criminal penalties for completing a false affidavit.

(c) Tests. – To demonstrate physical and mental ability, a person must pass an examination. The examination may include road tests, vision tests, oral tests, and, in the case of literate applicants, written tests, as the Division may require. The tests must ensure that an applicant recognizes the handicapped international symbol of access, as defined in G.S. 20-37.5. The Division may not require a person who applies to renew a license that has not expired to take a written test or a road test unless one or more of the following applies:

- (1) The person has been convicted of a traffic violation since the person's license was last issued.
- (2) The applicant suffers from a mental or physical condition that impairs the person's ability to drive a motor vehicle.

The Division shall require sign and symbol testing upon initial issuance of a license. The Division shall require vision testing as a part of required in-person, in-office renewals of a license.

The Division may not require a person who is at least 60 years old to parallel park a motor vehicle as part of a road test. A person shall not use an autocycle to complete a road test under this subsection.

(c1) Insurance. – The Division may not issue a drivers license to a person until the person has furnished proof of financial responsibility. Proof of financial responsibility shall be in one of the following forms:

- (1) A written certificate or electronically-transmitted facsimile thereof from any insurance carrier duly authorized to do business in this State certifying that there is in effect a nonfleet private passenger motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. The certificate or facsimile shall state the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy and shall state the

date that the certificate or facsimile is issued. The certificate or facsimile shall remain effective proof of financial responsibility for a period of 30 consecutive days following the date the certificate or facsimile is issued but shall not in and of itself constitute a binder or policy of insurance.

- (2) A binder for or policy of nonfleet private passenger motor vehicle liability insurance under which the applicant is insured, provided that the binder or policy states the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy.

The preceding provisions of this subsection do not apply to applicants who do not own currently registered motor vehicles and who do not operate nonfleet private passenger motor vehicles that are owned by other persons and that are not insured under commercial motor vehicle liability insurance policies. In such cases, the applicant shall sign a written certificate to that effect. Such certificate shall be furnished by the Division and may be incorporated into the license application form. Any material misrepresentation made by such person on such certificate shall be grounds for suspension of that person's license for a period of 90 days.

For the purpose of this subsection, the term "nonfleet private passenger motor vehicle" has the definition ascribed to it in Article 40 of General Statute Chapter 58.

The Commissioner may require that certificates required by this subsection be on a form approved by the Commissioner.

The requirement of furnishing proof of financial responsibility does not apply to a person who applies for a renewal of his or her drivers license.

Nothing in this subsection precludes any person from showing proof of financial responsibility in any other manner authorized by Articles 9A and 13 of this Chapter.

(d) Repealed by Session Laws 1993, c. 368, s. 1.

(e) Restrictions. – The Division may impose any restriction it finds advisable on a drivers license. It is unlawful for the holder of a restricted license to operate a motor vehicle without complying with the restriction and is the equivalent of operating a motor vehicle without a license. If any applicant shall suffer from any physical or mental disability or disease that affects his or her operation of a motor vehicle, the Division may require to be filed with it a certificate of the applicant's condition signed by a medical authority of the applicant's community designated by the Division. The Division may, in its discretion, require the certificate to be completed and submitted after a license or renewal has been issued based on the applicant's performance during a road test administered by the Division. Upon submission, the certificate shall be reviewed in accordance with the procedure set forth in G.S. 20-9(g)(3). This certificate shall in all cases be treated as confidential. Nothing in this subsection shall be construed to prevent the Division from refusing to issue a license, either restricted or unrestricted, to any person deemed to be incapable of safely operating a motor vehicle based on information observed or received by the Division, including observations during a road test and medical information submitted about the applicant. An applicant may seek review pursuant to G.S. 20-9(g)(4) of a licensing decision made on the basis of a physical or mental disability or disease. This subsection does not prohibit deaf persons from operating motor vehicles who in every other way meet the requirements of this section.

(f) Duration and Renewal of Licenses. – Drivers licenses shall be issued and renewed pursuant to the provisions of this subsection:

- (1) Duration of license for persons under age 18. – A full provisional license issued to a person under the age of 18 expires on the person's twenty-first birthday.

- (2) Duration of original license for persons at least 18 years of age or older. – A drivers license issued to a person at least 18 years old but less than 66 years old expires on the birthday of the licensee in the eighth year after issuance. A drivers license issued to a person at least 66 years old expires on the birthday of the licensee in the fifth year after issuance. A commercial drivers license expires on the birthday of the licensee in the fifth year after issuance. A commercial drivers license that has a vehicles carrying passengers (P) and school bus (S) endorsement issued pursuant to G.S. 20-37.16 expires on the birthday of the licensee in the third year after issuance, if the licensee is certified to drive a school bus in North Carolina.
- (2a) Duration of renewed licenses. – A renewed drivers license that was issued by the Division to a person at least 18 years old but less than 66 years old expires eight years after the expiration date of the license that is renewed. A renewed drivers license that was issued by the Division to a person at least 66 years old expires five years after the expiration date of the license that is renewed. A renewed commercial drivers license expires five years after the expiration date of the license that is renewed.
- (3) Duration of license for certain other drivers. – The durations listed in subdivisions (1), (2) and (2a) of this subsection are valid unless the Division determines that a license of shorter duration should be issued when the applicant holds valid documentation issued by, or under the authority of, the United States government that demonstrates the applicant's legal presence of limited duration in the United States. In no event shall a license of limited duration expire later than the expiration of the authorization for the applicant's legal presence in the United States.
- (3a) When to renew. – A person may apply to the Division to renew a license during the 180-day period before the license expires. The Division may not accept an application for renewal made before the 180-day period begins.
- (3b) Renewal for certain members of the Armed Forces of the United States and reserve components of the Armed Forces of the United States.
 - a. The Division may renew a drivers license, without limitation on the period of time before the license expires, if the person applying for renewal is a member of the Armed Forces of the United States or of a reserve component of the Armed Forces of the United States and provides orders that place the member on active duty and duty station outside this State.
 - b. A person who is a member of a reserve component of the Armed Forces of the United States whose license bears an expiration date that occurred while the person was on active duty outside this State shall be considered to have a valid license until 60 days after the date of release from active duty upon showing proof of the release date, unless the license was rescinded, revoked, or otherwise invalidated under some other provision of law. Notwithstanding the provisions of this sub-subdivision, no license shall be considered valid more than 18 months after the date of expiration.

- (4) Renewal by mail. – The Division may renew by mail a drivers license issued by the Division to a person who meets any of the following descriptions:
- a. Is a member of the Armed Forces of the United States or a reserve component of the Armed Forces of the United States serving on active duty and is stationed outside this State.
 - b. Is a resident of this State and has been residing outside the State for at least 30 continuous days.

When renewing a license by mail, the Division may waive the examination that would otherwise be required for the renewal and may impose any conditions it finds advisable. A license renewed by mail is a temporary license that expires 60 days after the person to whom it is issued returns to this State.

- (5) License to be sent by mail. – The Division shall issue to the applicant a temporary driving certificate valid for 60 days, unless the applicant is applying for renewal by mail under subdivision (4) of this subsection. The temporary driving certificate shall be valid for driving purposes and shall not be valid for identification purposes, except when conducting business with the Division and not otherwise prohibited by federal law. The Division shall produce the applicant's drivers license at a central location and send it to the applicant by first-class mail at the residence address provided by the applicant, unless the applicant is ineligible for mail delivery by the United States Postal Service at the applicant's residence. If the United States Postal Service documents that it does not deliver to the residential address provided by the applicant, and the Division has verified the applicant's residential address by other means, the Division may mail the drivers license to the post office box provided by the applicant. Applicants whose only mailing address prior to July 1, 2008, was a post office box in this State may continue to receive their license at that post office box, provided the applicant's residential address has been verified by the Division.

- (6) Remote renewal. – Subject to the following requirements and limitations, the Division may offer remote renewal of a drivers license issued by the Division:
- a. Requirements. – To be eligible for remote renewal under this subdivision, a person must meet all of the following requirements:
 1. The license holder possesses a valid, unexpired Class C drivers license that was issued when the person was at least 18 years old.
 2. The license holder's current license includes no restrictions other than a restriction for corrective lenses.
 3. The license holder attests, in a manner designated by the Division, that (i) the license holder is a resident of the State and currently resides at the address on the license to be renewed, (ii) the license holder's name as it appears on the license to be renewed has not changed, and (iii) all other information required by the Division for an in-person renewal under this Article has been provided completely and truthfully.
 4. The most recent renewal was an in-person renewal and not a remote renewal under this subdivision.

5. The license holder is otherwise eligible for renewal under this subsection.
- b. Waiver of requirements. – When renewing a drivers license pursuant to this subdivision, the Division may waive the examination and photograph that would otherwise be required for the renewal.
- c. Duration of remote renewal. – A renewed drivers license issued to a person by remote renewal under this subdivision expires according to the following schedule:
 1. For a person at least 18 years old but less than 66 years old, on the birthday of the licensee in the eighth year after issuance.
 2. For a person at least 66 years old, on the birthday of the licensee in the fifth year after issuance.
- d. Rules. – The Division shall adopt rules to implement this subdivision.
- e. Federal law. – Nothing in this subdivision shall be construed to supersede any more restrictive provisions for renewal of drivers licenses prescribed by federal law or regulation.
- f. Definition. – For purposes of this subdivision, "remote renewal" means renewal of a drivers license by mail, telephone, electronic device, or other secure means approved by the Commissioner.
- (g) Repealed by Session Laws 1979, c. 667, s. 6.
- (h) Repealed by Session Laws 1979, c. 113, s. 1.
- (i) Fees. – The fee for a regular drivers license is the amount set in the following table multiplied by the number of years in the period for which the license is issued:

<u>Class of Regular License</u>	<u>Fee For Each Year</u>
Class A	\$5.00
Class B	\$5.00
Class C	\$5.00

The fee for a motorcycle endorsement is two dollars and thirty cents (\$2.30) for each year of the period for which the endorsement is issued. The appropriate fee shall be paid before a person receives a regular drivers license or an endorsement.

(i1) Restoration Fee. – Any person whose drivers license has been revoked pursuant to the provisions of this Chapter, other than G.S. 20-17(a)(2) shall pay a restoration fee of sixty-five dollars (\$65.00). A person whose drivers license has been revoked under G.S. 20-17(a)(2) shall pay a restoration fee of one hundred thirty dollars (\$130.00). The fee shall be paid to the Division prior to the issuance to such person of a new drivers license or the restoration of the drivers license. The restoration fee shall be paid to the Division in addition to any and all fees which may be provided by law. This restoration fee shall not be required from any licensee whose license was revoked or voluntarily surrendered for medical or health reasons whether or not a medical evaluation was conducted pursuant to this Chapter. The sixty-five-dollar (\$65.00) fee, and the first one hundred five dollars (\$105.00) of the one-hundred-thirty-dollar (\$130.00) fee, shall be deposited in the Highway Fund. Twenty-five dollars (\$25.00) of the one-hundred-thirty-dollar (\$130.00) fee shall be used to fund a statewide chemical alcohol testing program administered by the Forensic Tests for Alcohol Branch of the Chronic Disease and Injury Section of the Department of Health and Human Services. The Office of State Budget and Management shall annually report to the General Assembly the amount of fees deposited in the General Fund and transferred to the Forensic Tests for Alcohol Branch of the Chronic

Disease and Injury Section of the Department of Health and Human Services under this subsection.

(j) Highway Fund. – The fees collected under this section and G.S. 20-14 shall be placed in the Highway Fund.

(k) Repealed by Session Laws 1991, c. 726, s. 5.

(l) Learner's Permit. – A person who is at least 18 years old may obtain a learner's permit. A learner's permit authorizes the permit holder to drive a specified type or class of motor vehicle while in possession of the permit. A learner's permit is valid for a period of 18 months after it is issued. The fee for a learner's permit is twenty dollars (\$20.00). A learner's permit may be renewed, or a second learner's permit may be issued, for an additional period of 18 months. The permit holder must, while operating a motor vehicle over the highways, be accompanied by a person who is licensed to operate the motor vehicle being driven and is seated beside the permit holder.

(l-1) Repealed by Session Laws 1991, c. 726, s. 5.

(m) Instruction Permit. – The Division upon receiving proper application may in its discretion issue a restricted instruction permit effective for a school year or a lesser period to any of the following applicants:

- (1) An applicant who is less than 18 years old and is enrolled in a drivers education program that is approved by the State Superintendent of Public Instruction and is offered at a public high school, a nonpublic secondary school, or a licensed drivers training school.
- (2) A restricted instruction permit authorizes the holder of the permit to drive a specified type or class of motor vehicle when in possession of the permit, subject to any restrictions imposed by the Division. The restrictions the Division may impose on a permit include restrictions to designated areas and highways and restrictions prohibiting operation except when an approved instructor is occupying a seat beside the permittee. A restricted instruction permit is not required to have a distinguishing number or a picture of the person to whom the permit is issued.

(n) Format. – A drivers license issued by the Division must be tamperproof and must contain all of the following information:

- (1) An identification of this State as the issuer of the license.
- (2) The license holder's full name.
- (3) The license holder's residence address.
- (4) A color photograph of the license holder applied to material that is measured by the industry standard of security and durability and is resistant to tampering and reproduction.
- (5) A physical description of the license holder, including sex, height, eye color, and hair color.
- (6) The license holder's date of birth.
- (7) An identifying number for the license holder assigned by the Division. The identifying number may not be the license holder's social security number.
- (8) Each class of motor vehicle the license holder is authorized to drive and any endorsements or restrictions that apply.
- (9) The license holder's signature.
- (10) The date the license was issued and the date the license expires.

The Commissioner shall ensure that applicants 21 years old or older are issued drivers licenses and special identification cards that are printed in a horizontal format. The Commissioner shall ensure that applicants under the age of 21 are issued drivers licenses and special identification cards that are printed in a vertical format, that distinguishes them from the horizontal format, for ease of identification of individuals under age 21 by members of industries that regulate controlled products that are sale restricted by age and law enforcement officers enforcing these laws.

At the request of an applicant for a drivers license, a license issued to the applicant must contain the applicant's race, which shall be designated with the letters "AI" for an applicant who is American Indian.

(o) Repealed by Session Laws 1991, c. 726, s. 5.

(p) The Division must give the clerk of superior court in each county at least 50 copies of the driver license handbook free of charge. The clerk must give a copy to a person who requests it.

(q) **(See note)** Military Designation. – The Division shall develop a military designation for drivers licenses that may, upon request, be granted to North Carolina residents on active duty and to their spouses and dependent children. A drivers license with a military designation on it may be renewed by mail no more than two times during the license holder's lifetime. A license renewed by mail under this subsection is a permanent license and does not expire when the license holder returns to the State. A drivers license with a military designation on it issued to a person on active duty may be renewed up to one year prior to its expiration upon presentation of military or Department of Defense credentials.

(q) **(See note for delayed effective date and applicability)** Active Duty Military Designation. – The Division shall develop a military designation for drivers licenses that may, upon request, be granted to North Carolina residents on active duty and to their spouses and dependent children. A drivers license with a military designation on it may be renewed by mail no more than two times during the license holder's lifetime. A license renewed by mail under this subsection is a permanent license and does not expire when the license holder returns to the State. A drivers license with a military designation on it issued to a person on active duty may be renewed up to one year prior to its expiration upon presentation of military or Department of Defense credentials.

(q1) **(See note for delayed effective date and applicability)** Veteran Military Designation. – The Division shall develop a military designation for drivers licenses and identification cards that may, upon request, be granted to North Carolina residents who are honorably discharged from military service in the Armed Forces of the United States. An applicant requesting this designation must produce a Form DD-214 showing the applicant has been honorably discharged from the Armed Forces of the United States.

(q2) Deaf or Hard of Hearing Designation. – The Division shall develop, in consultation with the Department of Public Safety, the State Highway Patrol, the Division of Services for the Deaf and Hard of Hearing, and pursuant to this subsection, a drivers license designation that may, upon request, be granted to a person who is deaf or hard of hearing. The Division shall comply with the following requirements applicable to the designation:

- (1) At the request of a person who is deaf or hard of hearing, the Division shall place a unique symbol on the front of the person's license. The unique symbol placed on the license shall not include any further descriptor. The Division

shall record the designation in the electronic record associated with the person's drivers license.

- (2) At the request of a person who is deaf or hard of hearing, the Division shall enter the drivers license symbol and a descriptor into the electronic record of any motor vehicle registered in the same name of the deaf or hard of hearing person.
- (3) For the purposes of this subsection, a person shall be considered to be deaf or hard of hearing if they provide verification or documentation substantiating their hearing loss that is recommended by the Division of Services for the Deaf and the Hard of Hearing as acceptable. The Division of Motor Vehicles shall consult with the Division of Services for the Deaf and the Hard of Hearing to identify acceptable forms of verification that do not result in undue burden to the person requesting the designation of hearing loss. Acceptable documentation shall include any of the following:
 - a. Documentation of certification or examination by a medical, health, or audiology professional showing evidence of hearing loss.
 - b. Affidavit executed by the person, their parent, or guardian attesting to the person's hearing loss.
 - c. Documentation deemed by the Division of Motor Vehicles to qualify as satisfactory proof of the person's hearing loss.
- (4) Nothing in this subsection shall be construed as authorizing the issuance of a drivers license to a person ineligible under G.S. 20-9.
- (5) Nothing in this subsection shall be construed as prohibiting the issuance of a drivers license to a person otherwise eligible under the law.
- (6) Any individual who chooses to register or not to register shall not be deemed to have waived any protections under the law.
- (7) Information collected under this subsection shall only be available to law enforcement and only for the purpose of ensuring mutually safe interactions between law enforcement and persons who are deaf or hard of hearing. It shall not be accessed or used for any other purpose.
- (8) The right to make the decision for inclusion or removal of the designation from the database is entirely voluntary and shall only be made by the person who holds the drivers license associated with the designation.
- (9) The Division, in conjunction with the Department of Health and Human Services, shall develop a process for removal of the designation authorized by this subsection that is available online, by mail, or in person.

(r) Waiver of Vision Test. – The following license holders shall be exempt from any required eye exam when renewing a drivers license by mail under either subsection (f) of this section or subsection (q) of this section if, at the time of renewal, the license holder is serving in a combat zone or a qualified hazardous duty zone:

- (1) A member of the Armed Forces of the United States.
- (2) A member of a reserve component of the Armed Forces of the United States.

(s) Notwithstanding the requirements of subsection (b1) of this section that an applicant present a valid social security number, the Division shall issue a drivers license of limited duration, under subsection (f) of this section, to an applicant present in the United States who holds valid documentation issued by, or under the authority of, the United States government that

demonstrates the applicant's legal presence of limited duration in the United States if the applicant presents that valid documentation and meets all other requirements for a license of limited duration. Notwithstanding the requirements of subsection (n) of this section addressing background colors and borders, a drivers license of limited duration issued under this section shall bear a distinguishing mark or other designation on the face of the license clearly denoting the limited duration of the license.

(t) Use of Bioptic Telescopic Lenses. –

- (1) An applicant using bioptic telescopic lenses shall be eligible for a regular Class C drivers license under this section if the applicant meets all of the following:
 - a. Demonstrates a visual acuity of at least 20/200 in one or both eyes and a field of 70 degrees horizontal vision with or without corrective carrier lenses, or if the person has vision in one eye only, the person demonstrates a field of at least 40 degrees temporal and 30 degrees nasal horizontal vision.
 - b. Demonstrates a visual acuity of at least 20/70 in one or both eyes with the bioptic telescopic lenses and without the use of field expanders.
 - c. Provides a report of examination by an ophthalmologist or optometrist, on a form prescribed by the Division, for the Division to determine if all field of vision requirements are met or additional testing is needed.
 - d. Successfully passes a road test administered by the Division. This requirement is waived if the applicant is a new resident of North Carolina who has a valid drivers license issued by another jurisdiction that requires a road test.
 - e. Meets all other criteria for licensure.
- (2) In addition to the requirements listed in subdivision (1) of this subsection, the Division shall require an applicant using bioptic telescopic lenses to successfully complete a behind-the-wheel training and assessment program prescribed by the Division. This requirement is waived if the applicant has successfully completed a behind-the-wheel training and assessment program as a condition of licensure in another jurisdiction.
- (3) Applicants using bioptic telescopic lenses shall be eligible for a limited learner's permit or provisional drivers license issued pursuant to G.S. 20-11, provided the requirements of this subsection are met and any other required testing or documentation is completed and submitted with the application.
- (4) Applicants issued a regular Class C drivers license, limited learner's permit, or provisional drivers license shall be subject to the following restrictions on the license issued:
 - a. The license or permit holder shall not be eligible for any endorsements.
 - b. The license or permit shall permit the operation of motor vehicles only during the period beginning one-half hour after sunrise and ending one-half hour before sunset.
- (5) Applicants issued a regular Class C drivers license may drive motor vehicles between the period beginning one-half hour before sunset and ending one-half hour after sunrise if the applicant meets the following requirements:

- a. Demonstrates a visual acuity of at least 20/40 in one or both eyes with the bioptic telescopic lenses and without the use of field expanders.
- b. Provides a report of examination by an ophthalmologist or optometrist in accordance with sub-subdivision c. of subdivision (1) of this subsection that does not recommend restricting the applicant to driving a motor vehicle only during the period beginning one-half hour after sunrise and ending one-half hour before sunset. (1935, c. 52, s. 2; 1943, c. 649, s. 1; c. 787, s. 1; 1947, c. 1067, s. 10; 1949, c. 583, ss. 9, 10; c. 826, ss. 1, 2; 1951, c. 542, ss. 1, 2; c. 1196, ss. 1-3; 1953, cc. 839, 1284, 1311; 1955, c. 1187, ss. 2-6; 1957, c. 1225; 1963, cc. 754, 1007, 1022; 1965, c. 410, s. 5; 1967, c. 509; 1969, c. 183; c. 783, s. 1; c. 865; 1971, c. 158; 1973, cc. 73, 705; c. 1057, ss. 1, 3; 1975, c. 162, s. 1; c. 295; c. 296, ss. 1, 2; c. 684; c. 716, s. 5; c. 841; c. 875, s. 4; c. 879, s. 46; 1977, c. 6; c. 340, s. 3; c. 865, ss. 1, 3; 1979, c. 37, s. 1; c. 113; c. 178, s. 2; c. 667, ss. 3-11, 41; c. 678, ss. 1-3; c. 801, ss. 5, 6; 1981, c. 42; c. 690, ss. 8-10; c. 792, s. 3; 1981 (Reg. Sess., 1982), c. 1257, s. 1; 1983, c. 443, s. 1; 1985, c. 141, s. 4; c. 682, ss. 1, 2; 1987, c. 869, ss. 10, 11; 1989, c. 436, ss. 1, 2; c. 771, s. 5; c. 786, s. 4; 1991, c. 478, s. 1; c. 689, s. 325; c. 726, s. 5; 1991 (Reg. Sess., 1992), c. 1007, s. 27; c. 1030, s. 10; 1993, c. 368, s. 1; c. 533, ss. 2, 3, 12; 1993 (Reg. Sess., 1994), c. 595, ss. 1, 2; c. 750, s. 1; c. 761, s. 1.1; 1995 (Reg. Sess., 1996), c. 675, s. 1; 1997-16, ss. 5, 8, 9; 1997-122, ss. 2, 3; 1997-377, s. 1; 1997-433, s. 4; 1997-443, ss. 11A.122, 32.20; 1997-456, s. 32, 33; 1998-17, s. 1; 1998-149, s. 2; 2000-120, ss. 14, 15; 2000-140, s. 93.1(a); 2001-424, ss. 12.2(b), 27.10A(a)-(d); 2001-513, s. 32(a); 2003-152, ss. 1, 2; 2003-284, s. 36.1; 2004-189, s. 5(a); 2004-203, s. 2; 2005-276, s. 44.1(a); 2005-349, s. 4; 2006-257, ss. 1, 2; 2006-264, s. 35.2; 2007-56, ss. 1-3; 2007-249, s. 1; 2007-350, s. 1; 2007-512, s. 5; 2008-202, ss. 2, 3; 2008-217, s. 1; 2008-221, s. 1; 2009-274, ss. 2, 3; 2009-451, s. 9.5(a); 2009-492, ss. 1, 2; 2010-130, s. 1; 2010-131, ss. 1, 2; 2010-132, s. 1; 2011-35, ss. 1, 2; 2011-183, ss. 21, 127(a); 2011-326, s. 28; 2011-381, s. 2; 2012-78, s. 1; 2012-85, ss. 1, 2; 2012-142, s. 9.16; 2012-145, s. 2.2; 2013-195, s. 2; 2013-231, s. 1; 2013-360, s. 7.10(a); 2014-58, s. 5; 2014-100, s. 34.8(a); 2014-115, s. 56.8(c); 2015-163, s. 2; 2015-238, s. 2.1; 2015-241, ss. 7A.4(b), 29.30(a), 29.30(a1), 29.36; 2015-294, s. 12; 2016-75, s. 1; 2016-90, ss. 6(a), 8(a), 9(a); 2017-191, s. 1.)

§ 20-7.01: Repealed by Session Laws 1979, c. 667, s. 43.

§ 20-7.1. Notice of change of address or name.

(a) Address. – A person whose address changes from the address stated on a drivers license must notify the Division of the change within 60 days after the change occurs. If the person's address changed because the person moved, the person must obtain a duplicate license within that time limit stating the new address. A person who does not move but whose address changes due to governmental action may not be charged with violating this subsection. A person

who has provided an e-mail or electronic address to the Division pursuant to G.S. 20-48(a) shall notify the Division of any change or discontinuance of that e-mail or electronic address within 30 days after the change or discontinuance.

(b) Name. – A person whose name changes from the name stated on a drivers license must notify the Division of the change within 60 days after the change occurs and obtain a duplicate drivers license stating the new name.

(c) Fee. – G.S. 20-14 sets the fee for a duplicate license. (1975, c. 223, s. 1; 1979, c. 970; 1983, c. 521, s. 1; 1997-122, s. 4; 2016-90, s. 10(a).)

§ 20-7.2. Repealed by Session Laws 1987, c. 581, s. 2.

§ 20-7.3. Availability of organ, eye, and tissue donor cards at motor vehicle offices.

The Division shall make organ, eye, and tissue donor cards available to interested individuals in each office authorized to issue drivers licenses or special identification cards. The Division shall obtain donor cards from qualified organ, eye, or tissue procurement organizations or tissue banks, as defined in G.S. 130A-412.4(31). The Division shall offer organ donation information and a donor card to each applicant for a drivers license. The organ donation information shall include the following:

- (1) A statement informing the individual that federally designated organ procurement organizations and eye banks have read-only access to the Department-operated Organ Donor Registry Internet site (hereafter "Donor Registry") listing those individuals who have stated to the Division of Motor Vehicles the individual's intent to be an organ donor and have an organ donation symbol on the individual's drivers license or special identification card.
- (2) The type of information that will be made available on the Donor Registry. (2001-481, s. 3; 2004-189, s. 3; 2007-538, s. 7.)

§ 20-7.4. License to Give Trust Fund established.

(a) There is established the License to Give Trust Fund. Revenue in the Fund includes amounts credited by the Division as required by law, and other funds. Any surplus in the Fund shall not revert but shall be used for the purposes stated in this section. The Fund shall be kept on deposit with the State Treasurer, as in the case of other State Funds, and may be invested by the State Treasurer in any lawful securities for investment of State funds. The License to Give Trust Fund is subject to oversight by the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

(b) The purposes for which funds may be expended by the License to Give Trust Fund Commission from the License to Give Trust Fund are as follows:

- (1) As grants-in-aid for initiatives that educate about and promote organ and tissue donation and health care decision making at life's end.
- (2) Expenses of the License to Give Trust Fund Commission as authorized in G.S. 20-7.5. (2004-189, s. 4(a); 2015-241, s. 27.8(a); 2015-276, s. 6.5.)

§ 20-7.5. License to Give Trust Fund Commission established.

(a) There is established the License to Give Trust Fund Commission. The Commission shall be located in the Department of Administration for budgetary and administrative purposes

only. The Commission may allocate funds from the License to Give Trust Fund for the purposes authorized in G.S. 20-7.4. The Commission shall have 15 members, appointed as follows:

- (1) Four members by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate:
 - a. One representative of Carolina Donor Services.
 - b. One representative of LifeShare of The Carolinas.
 - c. Two members who have demonstrated an interest in organ and tissue donation and education.
- (2) Four members by the General Assembly, upon the recommendation of the Speaker of the House of Representatives:
 - a. One representative of The North Carolina Eye Bank, Inc.
 - b. One representative of The Carolinas Center for Hospice and End-of-Life Care.
 - c. Two members who have demonstrated an interest in promoting advance care planning education.
- (3) Seven members by the Governor:
 - a. Three members representing organ, tissue, and eye recipients, families of recipients, or families of donors. Of these three, one each from the mountain, heartland, and coastal regions of the State.
 - b. One member who is a transplant physician licensed to practice medicine in this State.
 - c. One member who has demonstrated an interest in organ and tissue donation and education.
 - d. One member who has demonstrated an interest in promoting advance care planning education.
 - e. A representative of the North Carolina Department of Transportation.

(b) The Commission shall elect from its membership a chair and a vice-chair for two-year terms. The Secretary of Administration shall provide meeting facilities for the Commission as required by the Chair.

(c) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 and G.S. 138-6, as applicable. Per diem, subsistence, and travel expenses of the members shall be paid from the License to Give Trust Fund.

(d) The members of the Commission shall comply with G.S. 14-234 prohibiting conflicts of interest. In addition to the restrictions imposed under G.S. 14-234, a member shall not vote on, participate in the deliberations of, or otherwise attempt through his or her official capacity to influence the vote on allocations of moneys from the License to Give Trust Fund to a nonprofit entity of which the member is an officer, director, or employee, or to a governmental entity of which the member is an employee or a member of the governing board. A violation of this subsection is a Class 1 misdemeanor. (2004-189, s. 4(b).)

§ 20-7.6. Powers and duties of the License to Give Trust Fund Commission.

The License to Give Trust Fund Commission has the following powers and duties:

- (1) Establish general policies and guidelines for awarding grants-in-aid to nonprofit entities to conduct education and awareness activities on organ and tissue donation and advance care planning.

- (2) Accept gifts or grants from other sources to further the purposes of the License to Give Trust Fund. Such gifts or grants shall be transmitted to the State Treasurer for credit to the Fund.
- (3) Hire staff or contract for other expertise for the administration of the Fund. Expenses related to staffing shall be paid from the License to Give Trust Fund. (2004-189, s. 4(b); 2015-241, s. 27.8(b); 2015-276, s. 6.5.)

§ 20-8. Persons exempt from license.

The following are exempt from license hereunder:

- (1) Any person while operating a motor vehicle the property of and in the service of the Armed Forces of the United States. This shall not be construed to exempt any operators of the United States Civilian Conservation Corps motor vehicles;
- (2) Any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway;
- (3) A nonresident who is at least 16 years of age who has in his immediate possession a valid driver's license issued to him in his home state or country if the nonresident is operating a motor vehicle in this State in accordance with the license restrictions and vehicle classifications that would be applicable to him under the laws and regulations of his home state or country if he were driving in his home state or country. This exemption specifically applies to nonresident military spouses, regardless of their employment status, who are temporarily residing in North Carolina due to the active duty military orders of a spouse.
- (4) to (6) Repealed by Session Laws 1979, c. 667, s. 13.
- (7) Any person who is at least 16 years of age and while operating a moped. (1935, c. 52, s. 3; 1963, c. 1175; 1973, c. 1017; 1975, c. 859, s. 2; 1979, c. 574, s. 7; c. 667, s. 13; 1983, c. 436; 2009-274, s. 4.)

§ 20-9. What persons shall not be licensed.

(a) To obtain a regular drivers license, a person must have reached the minimum age set in the following table for the class of license sought:

Class of Regular License	Minimum Age
Class A	18
Class B	18
Class C	16

G.S. 20-37.13 sets the age qualifications for a commercial drivers license.

(b) The Division shall not issue a driver's license to any person whose license has been suspended or revoked during the period for which the license was suspended or revoked.

(b1) The Division shall not issue a drivers license to any person whose permit or license has been suspended or revoked under G.S. 20-13.2(c1) during the suspension or revocation period, unless the Division has restored the person's permit or license under G.S. 20-13.2(c1).

(c) The Division shall not issue a driver's license to any person who is an habitual drunkard or is an habitual user of narcotic drugs or barbiturates, whether or not such use be in accordance with the prescription of a physician.

(d) Repealed by Session Laws 2012-194, s. 8, effective July 17, 2012.

(e) The Division shall not issue a driver's license to any person when in the opinion of the Division the person is unable to exercise reasonable and ordinary control over a motor vehicle while operating the vehicle upon the highways, nor shall a license be issued to any person who is unable to understand highway warnings or direction signs.

(f) The Division shall not issue a driver's license to any person whose license or driving privilege is in a state of cancellation, suspension or revocation in any jurisdiction, if the acts or things upon which the cancellation, suspension or revocation in such other jurisdiction was based would constitute lawful grounds for cancellation, suspension or revocation in this State had those acts or things been done or committed in this State; provided, however, any such cancellation shall not prohibit issuance for a period in excess of 18 months.

(g) The Division may issue a restricted or unrestricted driver's license under the following conditions to an otherwise eligible applicant suffering from a physical or mental disability or disease that affects his or her ability to exercise reasonable and ordinary control of a motor vehicle:

- (1) The applicant submits to the Division a certificate in the form prescribed in subdivision (2). The Division may request the certificate at the applicant's initial application, at any time following the issuance of the license, or at the initial application and any time following the issuance of the license. Until a license issued under this subdivision expires, is cancelled, or is revoked, the license continues in force as long as the licensee presents to the Division a certificate in the form prescribed in subdivision (2) of this subsection at the intervals determined by the Division to be in the best interests of public safety.
- (2) The Division may request a signed certificate from a health care provider duly licensed to practice medicine in the United States that the applicant or licensee has submitted to a physical examination by the health care provider. The certificate shall be devised by the Commissioner with the advice of qualified experts in the field of diagnosing and treating physical and mental disabilities and diseases as the Commissioner may select to assist him or her and shall be designed to elicit the maximum medical information necessary to aid in determining whether or not it would be a hazard to public safety to permit the applicant or licensee to operate a motor vehicle, including, if such is the fact, the examining provider's statement that the applicant or licensee is under medication and treatment and that the applicant's or licensee's physical or mental disability or disease is controlled. The certificate shall contain a waiver of privilege and the recommendation of the examining provider to the Commissioner as to whether a license should be issued to the applicant or licensee and whether the applicant or licensee can safely operate a motor vehicle.
- (3) The Commissioner is not bound by the recommendation of the examining health care provider but shall give fair consideration to such recommendation in exercising his or her discretion in making licensing decisions, the criterion being whether or not, upon all the evidence, it appears that it is safe to permit the applicant or licensee to operate a motor vehicle. The burden of proof of such fact is upon the applicant or licensee. In deciding whether to issue, restrict, cancel, or deny a license, the Commissioner may be guided by the opinion of experts in the field of diagnosing and treating the specific physical

or mental disability or disease suffered by an applicant or licensee and the experts may be compensated for their services on an equitable basis. The Commissioner may also take into consideration any other factors which bear on the issue of public safety.

- (4) Whenever a license is restricted, cancelled, or denied by the Commissioner on the basis of a physical or mental disability or disease, the action may be reviewed by a reviewing board upon written request of the applicant or licensee filed with the Division within 10 days after receipt of notice given in accordance with G.S. 20-48 of the action taken. The reviewing board shall consist of the Commissioner or his authorized representative and at least two medical professionals selected by the Commissioner and duly licensed to practice medicine by the appropriate licensing authority in the State. The medical professionals selected by the Commissioner may be compensated for their services on an equitable basis, including reimbursement for ordinary and necessary travel expenses. The Commissioner or his authorized representative, plus any two medical professionals selected by the Commissioner, shall constitute a quorum. The procedure for hearings authorized by this section shall be as follows:

- a. Applicants shall be afforded an opportunity for hearing, after reasonable notice of not less than 10 days, before the review board established by this subdivision. The notice shall be in writing and shall be delivered to the applicant in person or sent by certified mail, with return receipt requested. The notice shall state the time, place, and subject of the hearing. If a hearing is requested under this subdivision to contest a restriction placed on a license under subdivision (3) of this subsection, the restriction shall be stayed unless the Division determines there is an imminent threat to public safety if continued unrestricted driving is permitted. No stay shall be granted if a hearing is requested under this subdivision to contest a denial or cancellation of a license under subdivision (3) of this subsection. Nothing in this sub-subdivision shall be construed as authorizing the stay of a restriction placed on a license pursuant to another provision of law.
- b. The review board may compel the attendance of witnesses and the production of such books, records and papers as it desires at a hearing authorized by the section. Upon request of an applicant or licensee, a subpoena to compel the attendance of any witness or a subpoena duces tecum to compel the production of any books, records, or papers shall be issued by the board. Subpoenas shall be directed to the sheriff of the county where the witness resides or is found and shall be served and returned in the same manner as a subpoena in a criminal case. Fees of the sheriff and witnesses shall be the same as that allowed in the district court in cases before that court and shall be paid in the same manner as other expenses of the Division of Motor Vehicles are paid. In any case of disobedience or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matters regarding which he may be lawfully interrogated, the district court or superior

court where such disobedience, neglect or refusal occurs, or any judge thereof, on application by the board, shall compel obedience or punish as for contempt.

- c. A hearing may be continued upon motion of the applicant or licensee for good cause shown with approval of the board or upon order of the board.
- d. The board shall pass upon the admissibility of evidence at a hearing but the applicant or licensee affected may at the time object to the board's ruling, and, if evidence offered by an applicant or licensee is rejected the party may proffer the evidence, and such proffer shall be made a part of the record. The board shall not be bound by common law or statutory rules of evidence which prevail in courts of law or equity and may admit and give probative value to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. They may exclude incompetent, immaterial, irrelevant and unduly repetitious evidence. Uncontested facts may be stipulated by agreement between an applicant or licensee and the board and evidence relating thereto may be excluded. All evidence, including records and documents in the possession of the Division of Motor Vehicles or the board, of which the board desires to avail itself shall be made a part of the record. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. The board shall prepare an official record, which shall include testimony and exhibits. A record of the testimony and other evidence submitted shall be taken, but it shall not be necessary to transcribe shorthand notes or electronic recordings unless requested for purposes of court review.
- e. Every decision and order adverse to an applicant or licensee shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the board's conclusions on each contested issue of fact. The applicant or licensee shall be notified of the board's decision in person or by registered mail with return receipt requested. A copy of the board's decision with accompanying findings and conclusions shall be delivered or mailed upon request to the applicant's or licensee's attorney of record or to the applicant or licensee, if he or she has no attorney.
- f. Actions of the reviewing board are subject to judicial review as provided under Chapter 150B of the General Statutes.
- g. Repealed by Session Laws 1977, c. 840.
- h. All records and evidence collected and compiled by the Division and the reviewing board shall not be considered public records within the meaning of Chapter 132 of the General Statutes of North Carolina and may be made available to the public only upon an order of a court of competent jurisdiction. An applicant or licensee may obtain, without a court order, a copy of records and evidence collected and compiled

under this subdivision about the applicant or licensee by submitting a written request to the Division, signing any release forms required by the Division, and remitting the required fee set by the Division. All information furnished by, about, or on behalf of an applicant or licensee under this section shall be without prejudice and shall be for the use of the Division, the reviewing board or the court in administering this section and shall not be used in any manner as evidence, or for any other purposes in any trial, civil or criminal. The prohibition on release and use under this sub-subdivision applies without regard to who authored or produced the information collected, compiled, and used by the Division under this subdivision.

(h) The Division shall not issue a drivers license to an applicant who currently holds a license to drive issued by another state unless the applicant surrenders the license.

(i) The Division shall not issue a drivers license to an applicant who has resided in this State for less than 12 months until the Division has searched the National Sex Offender Public Registry to determine if the person is currently registered as a sex offender in another state.

- (1) If the Division finds that the person is currently registered as a sex offender in another state, the Division shall not issue a drivers license to the person until the person submits proof of registration pursuant to Article 27A of Chapter 14 of the General Statutes issued by the sheriff of the county where the person resides.
- (2) If the person does not appear on the National Sex Offender Public Registry, the Division shall issue a drivers license but shall require the person to sign an affidavit acknowledging that the person has been notified that if the person is a sex offender, then the person is required to register pursuant to Article 27A of Chapter 14 of the General Statutes.
- (3) If the Division is unable to access all states' information contained in the National Sex Offender Public Registry, but the person is otherwise qualified to obtain a drivers license, then the Division shall issue the drivers license but shall first require the person to sign an affidavit stating that: (i) the person does not appear on the National Sex Offender Public Registry and (ii) acknowledging that the person has been notified that if the person is a sex offender, then the person is required to register pursuant to Article 27A of Chapter 14 of the General Statutes. The Division shall search the National Sex Offender Public Registry for the person within a reasonable time after access to the Registry is restored. If the person does appear in the National Sex Offender Public Registry, the person is in violation of G.S. 20-30, and the Division shall immediately revoke the drivers license and shall promptly notify the sheriff of the county where the person resides of the offense.
- (4) Any person denied a license or whose license has been revoked by the Division pursuant to this subsection shall have a right to file a petition within 30 days thereafter for a hearing in the matter in the superior court of the county wherein such person shall reside, or to the resident judge of the district or judge holding the court of that district, or special or emergency judge holding a court in such district, and such court or judge is hereby vested with jurisdiction, and it shall be its or his duty to set the matter for hearing upon 30

days' written notice to the Division, and thereupon to take testimony and examine into the facts of the case and to determine whether the petitioner is entitled to a license under the provisions of this subsection and whether the petitioner is in violation of G.S. 20-30. (1935, c. 52, s. 4; 1951, c. 542, s. 3; 1953, c. 773; 1955, c. 118, s. 7; 1967, cc. 961, 966; 1971, c. 152; c. 528, s. 11; 1973, cc. 135, 441; c. 476, s. 128; c. 1331, s. 3; 1975, c. 716, s. 5; 1979, c. 667, ss. 14, 41; 1983, c. 545; 1987, c. 827, s. 1; 1989, c. 771, s. 7; 1991, c. 726, s. 6; 1993, c. 368, s. 2; c. 533, s. 4; 1999-243, s. 4; 1999-452, s. 8; 2003-14, s. 1; 2006-247, s. 19(c); 2007-182, s. 2; 2012-194, s. 8; 2016-94, s. 35.20(c).)

§ 20-9.1. Physicians, psychologists, and other medical providers providing medical information on drivers with physical or mental disabilities or diseases.

(a) Notwithstanding G.S. 8-53 for physicians and G.S. 8-53.3 for psychologists, or any other law relating to confidentiality of communications between physicians, psychologists, or other medical providers and their patients, a physician, psychologist, or other medical provider duly licensed in the State of North Carolina may disclose after consultation with the patient to the Commissioner information about a patient who has a physical or mental disability or disease that the physician, psychologist, or other medical provider believes may affect the patient's ability to safely operate a motor vehicle. This information shall be limited to the patient's name, address, date of birth, and diagnosis.

(b) The information provided to the Commissioner pursuant to subsection (a) of this section shall be confidential and shall be used only for the purpose of determining the qualifications of the patient to operate a motor vehicle.

(c) A physician, psychologist, or other medical provider disclosing or not disclosing information pursuant to this section, or conducting an evaluation and making a recommendation to the Division regarding a person's ability to safely operate a motor vehicle, is immune from any civil or criminal liability that might otherwise be incurred or imposed based on the action taken provided that the physician, psychologist, or other medical provider was acting in good faith and without malice. In any proceeding involving liability, good faith and lack of malice are presumed. (1997-464, s. 1; 2016-94, s. 35.20(d).)

§ 20-9.2. Selective service system registration requirements.

(a) Any male United States citizen or immigrant who is at least 18 years of age but less than 26 years of age shall be registered in compliance with the requirements of the Military Selective Service Act, 50 U.S.C. § 453 (1948), when applying for the issuance, renewal, or duplication of a drivers license, commercial drivers license, or identification card.

(b) The Division shall forward in an electronic format the necessary personal information of the applicants identified in subsection (a) of this section required for registration to the Selective Service System. An application for the issuance, renewal, or duplication of a drivers license, commercial drivers license, or identification card constitutes an affirmation that the applicant has already registered with the Selective Service System or that he authorizes the Division to forward the necessary information to the Selective Service System for registration. The Division shall notify the applicant that his application for the issuance, renewal, or duplication of a drivers license, commercial drivers license, or identification card serves as his consent to be registered with the Selective Service System pursuant to this section.

(c) This section does not apply to special identification cards issued pursuant to G.S. 20-37.7(d)(5) or (6). (2002-162, s. 1; 2014-111, s. 14.)

§ 20-9.3. Notification of requirements for sex offender registration.

The Division shall provide notice to each person who applies for the issuance of a drivers license, learner's permit, or instruction permit to operate a motor vehicle, and to each person who applies for an identification card, that if the person is a sex offender, then the person is required to register pursuant to Article 27A of Chapter 14 of the General Statutes. (2006-247, s. 19(b).)

§ 20-10. Age limits for drivers of public passenger-carrying vehicles.

It shall be unlawful for any person, whether licensed under this Article or not, who is under the age of 18 years to drive a motor vehicle while in use as a public passenger-carrying vehicle. For purposes of this section, an ambulance when operated for the purpose of transporting persons who are sick, injured, or otherwise incapacitated shall not be treated as a public passenger-carrying vehicle.

No person 14 years of age or under, whether licensed under this Article or not, shall operate any road machine, farm tractor or motor driven implement of husbandry on any highway within this State. Provided any person may operate a road machine, farm tractor, or motor driven implement of husbandry upon a highway adjacent to or running in front of the land upon which such person lives when said person is actually engaged in farming operations. (1935, c. 52, s. 5; 1951, c. 764; 1967, c. 343, s. 4; 1971, c. 1231, s. 1.)

§ 20-10.1. Mopeds.

It shall be unlawful for any person who is under the age of 16 years to operate a moped as defined in G.S. 20-4.01(27)j. upon any highway or public vehicular area of this State. (1979, c. 574, s. 8; 2002-72, s. 6; 2016-90, s. 13(b); 2017-102, s. 5.2(b).)

§ 20-11. Issuance of limited learner's permit and provisional drivers license to person who is less than 18 years old.

(a) Process. – Safe driving requires instruction in driving and experience. To ensure that a person who is less than 18 years old has both instruction and experience before obtaining a drivers license, driving privileges are granted first on a limited basis and are then expanded in accordance with the following process:

- (1) Level 1. – Driving with a limited learner's permit.
- (2) Level 2. – Driving with a limited provisional license.
- (3) Level 3. – Driving with a full provisional license.

A permit or license issued under this section must indicate the level of driving privileges granted by the permit or license.

(b) Level 1. – A person who is at least 15 years old but less than 18 years old may obtain a limited learner's permit if the person meets all of the following requirements:

- (1) Passes a course of driver education prescribed in G.S. 115C-215 or a course of driver instruction at a licensed commercial driver training school.
- (2) Passes a written test administered by the Division.
- (3) Has a driving eligibility certificate or a high school diploma or its equivalent.

(c) Level 1 Restrictions. – A limited learner's permit authorizes the permit holder to drive a specified type or class of motor vehicle only under the following conditions:

- (1) The permit holder must be in possession of the permit.
 - (2) A supervising driver must be seated beside the permit holder in the front seat of the vehicle when it is in motion. No person other than the supervising driver can be in the front seat.
 - (3) For the first six months after issuance, the permit holder may drive only between the hours of 5:00 a.m. and 9:00 p.m.
 - (4) After the first six months after issuance, the permit holder may drive at any time.
 - (5) Every person occupying the vehicle being driven by the permit holder must have a safety belt properly fastened about his or her body, or be restrained by a child passenger restraint system as provided in G.S. 20-137.1(a), when the vehicle is in motion.
 - (6) The permit holder shall not use a mobile telephone or other additional technology associated with a mobile telephone while operating the motor vehicle on a public street or highway or public vehicular area.
- (d) Level 2. – A person who is at least 16 years old but less than 18 years old may obtain a limited provisional license if the person meets all of the following requirements:
- (1) Has held a limited learner's permit issued by the Division for at least 12 months.
 - (2) Has not been convicted of a motor vehicle moving violation or seat belt infraction or a violation of G.S. 20-137.3 during the preceding six months.
 - (3) Passes a road test administered by the Division.
 - (4) Has a driving eligibility certificate or a high school diploma or its equivalent.
 - (5) Has completed a driving log, on a form approved by the Division, detailing a minimum of 60 hours as the operator of a motor vehicle of a class for which the driver has been issued a limited learner's permit. The log must show at least 10 hours of the required driving occurred during nighttime hours. No more than 10 hours of driving per week may be counted toward the 60-hour requirement. The driving log must be signed by the supervising driver and submitted to the Division at the time the applicant seeks to obtain a limited provisional license. If the Division has cause to believe that a driving log has been falsified, the limited learner's permit holder shall be required to complete a new driving log with the same requirements and shall not be eligible to obtain a limited provisional license for six months.
- (e) Level 2 Restrictions. – A limited provisional license authorizes the license holder to drive a specified type or class of motor vehicle only under the following conditions:
- (1) The license holder shall be in possession of the license.
 - (2) The license holder may drive without supervision in any of the following circumstances:
 - a. From 5:00 a.m. to 9:00 p.m.
 - b. When driving directly to or from work.
 - c. When driving directly to or from an activity of a volunteer fire department, volunteer rescue squad, or volunteer emergency medical service, if the driver is a member of the organization.
 - (3) The license holder may drive with supervision at any time. When the license holder is driving with supervision, the supervising driver shall be seated

beside the license holder in the front seat of the vehicle when it is in motion. The supervising driver need not be the only other occupant of the front seat, but shall be the person seated next to the license holder.

- (4) When the license holder is driving the vehicle and is not accompanied by the supervising driver, there may be no more than one passenger under 21 years of age in the vehicle. This limit does not apply to passengers who are members of the license holder's immediate family or whose primary residence is the same household as the license holder. However, if a family member or member of the same household as the license holder who is younger than 21 years of age is a passenger in the vehicle, no other passengers under 21 years of age, who are not members of the license holder's immediate family or members of the license holder's household, may be in the vehicle.
- (5) Every person occupying the vehicle being driven by the license holder shall have a safety belt properly fastened about his or her body, or be restrained by a child passenger restraint system as provided in G.S. 20-137.1(a), when the vehicle is in motion.
- (6) The license holder shall not use a mobile telephone or other additional technology associated with a mobile telephone while operating the vehicle on a public street or highway or public vehicular area.

(f) Level 3. – A person who is at least 16 years old but less than 18 years old may obtain a full provisional license if the person meets all of the following requirements:

- (1) Has held a limited provisional license issued by the Division for at least six months.
- (2) Has not been convicted of a motor vehicle moving violation or seat belt infraction or a violation of G.S. 20-137.3 during the preceding six months.
- (3) Has a driving eligibility certificate or a high school diploma or its equivalent.
- (4) Has completed a driving log, on a form approved by the Division, detailing a minimum of 12 hours as the operator of a motor vehicle of a class for which the driver is licensed. The log must show at least six hours of the required driving occurred during nighttime hours. The driving log must be signed by the supervising driver for any hours driven outside the provisions of subdivision (e)(2) of this section and submitted to the Division at the time the applicant seeks to obtain a full provisional license. If the Division has cause to believe that a driving log has been falsified, the limited provisional licensee shall be required to complete a new driving log with the same requirements and shall not be eligible to obtain a full provisional license for six months.

A person who meets these requirements may obtain a full provisional license by mail.

(g) Level 3 Restrictions. – The restrictions on Level 1 and Level 2 drivers concerning time of driving, supervision, and passenger limitations do not apply to a full provisional license. However, the prohibition against operating a motor vehicle while using a mobile telephone under G.S. 20-137.3(b) shall apply to a full provisional license.

(h) Exception for Persons 16 to 18 Who Have an Unrestricted Out-of-State License. – A person who is at least 16 years old but less than 18 years old, who was a resident of another state and has an unrestricted drivers license issued by that state, and who becomes a resident of this State may obtain one of the following upon the submission of a driving eligibility certificate or a high school diploma or its equivalent:

- (1) A temporary permit, if the person has not completed a drivers education program that meets the requirements of the Superintendent of Public Instruction but is currently enrolled in a drivers education program that meets these requirements. A temporary permit is valid for the period specified in the permit and authorizes the holder of the permit to drive a specified type or class of motor vehicle when in possession of the permit, subject to any restrictions imposed by the Division concerning time of driving, supervision, and passenger limitations. The period must end within 10 days after the expected completion date of the drivers education program in which the applicant is enrolled.
- (2) A full provisional license, if the person has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction, has held the license issued by the other state for at least 12 months, and has not been convicted during the preceding six months of a motor vehicle moving violation, a seat belt infraction, or an offense committed in another jurisdiction that would be a motor vehicle moving violation or seat belt infraction if committed in this State.
- (2a) A full provisional license, if the person has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction, has held both a learner's permit and a restricted license from another state for at least six months each, the Commissioner finds that the requirements for the learner's permit and restricted license are comparable to the requirements for a learner's permit and restricted license in this State, and the person has not been convicted during the preceding six months of a motor vehicle moving violation, a seat belt infraction, or an offense committed in another jurisdiction that would be a moving violation or a seat belt infraction if committed in this State.
- (3) A limited provisional license, if the person has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction but either did not hold the license issued by the other state for at least 12 months or was convicted during the preceding six months of a motor vehicle moving violation, a seat belt infraction, or an offense committed in another jurisdiction that would be a motor vehicle moving violation or seat belt infraction if committed in this State.

(h1) Exception for Persons 16 to 18 Who Have an Out-of-State Restricted License. – A person who is at least 16 years old but less than 18 years old, who was a resident of another state and has a restricted drivers license issued by that state, and who becomes a resident of this State may obtain one of the following:

- (1) A limited provisional license, if the person has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction, held the restricted license issued by the other state for at least 12 months, and whose parent or guardian certifies that the person has not been convicted during the preceding six months of a motor vehicle moving violation, a seat belt infraction, or an offense committed in another jurisdiction that would be a motor vehicle moving violation or seat belt infraction if committed in this State.

- (2) A limited learners permit, if the person has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction but either did not hold the restricted license issued by the other state for at least 12 months or was convicted during the preceding six months of a motor vehicle moving violation, a seat belt infraction, or an offense committed in another jurisdiction that would be a motor vehicle moving violation or seat belt infraction if committed in this State. A person who qualifies for a limited learners permit under this subdivision and whose parent or guardian certifies that the person has not been convicted of a moving violation in the preceding six months shall be deemed to have held a limited learners permit in this State for each month the person held a restricted license in another state.

(h2) Exception for Persons Age 15 Who Have an Out-of-State Unrestricted or Restricted License. – A person who is age 15, who was a resident of another state, has an unrestricted or restricted drivers license issued by that state, and who becomes a resident of this State may obtain a limited learners permit if the person has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction. A person who qualifies for a limited learners permit under this subsection and whose parent or guardian certifies that the person has not been convicted of a moving violation in the preceding six months shall be deemed to have held a limited learners permit in this State for each month the person held an unrestricted or restricted license in another state.

(h3) Exception for Persons Less Than Age 18 Who Have a Federally Issued Unrestricted or Restricted License. – A person who is less than age 18, who has an unrestricted or restricted drivers license issued by the federal government, and who becomes a resident of this State may obtain a limited provisional license or a provisional license if the person has completed a drivers education program substantially equivalent to the drivers education program that meets the requirements of the Superintendent of Public Instruction. A person who qualifies for a limited provisional license or a provisional license under this subsection and whose parent or guardian certifies that the person has not been convicted of a moving violation in the preceding six months shall be deemed to have held a limited provisional license or a provisional license in this State for each month the person held an unrestricted or restricted license issued by the federal government.

(i) Application. – An application for a permit or license authorized by this section must be signed by both the applicant and another person. That person must be:

- (1) The applicant's parent or guardian;
- (2) A person approved by the applicant's parent or guardian; or
- (3) A person approved by the Division.
- (4) With respect to minors in the legal custody of the county department of social services, any of the following:
 - a. A guardian ad litem or attorney advocate appointed to advocate for the minor under G.S. 7B-601.
 - b. The director of the county department of social services or the director's designee.
 - c. If no person listed in sub-subdivision a. or b. of this subdivision is available, the court with continuing jurisdiction over the minor's placement under G.S. 7B-1000(b).

(j) Duration and Fee. – A limited learner's permit expires on the eighteenth birthday of the permit holder. A limited provisional license expires on the eighteenth birthday of the license holder. A limited learner's permit or limited provisional license issued under this section that expires on a weekend or State holiday shall remain valid through the fifth regular State business day following the date of expiration. A full provisional license expires on the date set under G.S. 20-7(f). The fee for a limited learner's permit or a limited provisional license is twenty dollars (\$20.00). The fee for a full provisional license is the amount set under G.S. 20-7(i).

(k) Supervising Driver. – A supervising driver shall be a parent, grandparent, or guardian of the permit holder or license holder or a responsible person approved by the parent or guardian or the Division. A supervising driver shall be a licensed driver who has been licensed for at least five years. At least one supervising driver shall sign the application for a permit or license.

(l) Violations. – It is unlawful for the holder of a limited learner's permit, a temporary permit, or a limited provisional license to drive a motor vehicle in violation of the restrictions that apply to the permit or license. Failure to comply with a restriction concerning the time of driving or the presence of a supervising driver in the vehicle constitutes operating a motor vehicle without a license. Failure to comply with the restriction regarding the use of a mobile telephone while operating a motor vehicle is an infraction punishable by a fine of twenty-five dollars (\$25.00). Failure to comply with any other restriction, including seating and passenger limitations, is an infraction punishable by a monetary penalty as provided in G.S. 20-176. Failure to comply with the provisions of subsections (e) and (g) of this section shall not constitute negligence per se or contributory negligence by the driver or passenger in any action for the recovery of damages arising out of the operation, ownership or maintenance of a motor vehicle. Any evidence of failure to comply with the provisions of subdivisions (1), (2), (3), (4), and (5) of subsection (e) of this section shall not be admissible in any criminal or civil trial, action, or proceeding except in an action based on a violation of this section. No drivers license points or insurance surcharge shall be assessed for failure to comply with seating and occupancy limitations in subsection (e) of this section. No drivers license points or insurance surcharge shall be assessed for failure to comply with subsection (e) or (g) of this section regarding the use of a mobile telephone while operating a motor vehicle.

(m) Insurance Status. – The holder of a limited learner's permit is not considered a licensed driver for the purpose of determining the inexperienced operator premium surcharge under automobile insurance policies.

(n) Driving Eligibility Certificate. – A person who desires to obtain a permit or license issued under this section must have a high school diploma or its equivalent or must have a driving eligibility certificate. A driving eligibility certificate must meet the following conditions:

- (1) The person who is required to sign the certificate under subdivision (4) of this subsection must show that he or she has determined that one of the following requirements is met:
 - a. The person is currently enrolled in school and is making progress toward obtaining a high school diploma or its equivalent.
 - b. A substantial hardship would be placed on the person or the person's family if the person does not receive a certificate.
 - c. The person cannot make progress toward obtaining a high school diploma or its equivalent.
- (1a) The person who is required to sign the certificate under subdivision (4) of this subsection also must show that one of the following requirements is met:

- a. The person who seeks a permit or license issued under this section is not subject to subsection (n1) of this section.
- b. The person who seeks a permit or license issued under this section is subject to subsection (n1) of this section and is eligible for the certificate under that subsection.
- (2) It must be on a form approved by the Division.
- (3) It must be dated within 30 days of the date the person applies for a permit or license issuable under this section.
- (4) It must be signed by the applicable person named below:
 - a. The principal, or the principal's designee, of the public school in which the person is enrolled.
 - b. The administrator, or the administrator's designee, of the nonpublic school in which the person is enrolled.
 - c. The person who provides the academic instruction in the home school in which the person is enrolled.
 - c1. The person who provides the academic instruction in the home in accordance with an educational program found by a court, prior to July 1, 1998, to comply with the compulsory attendance law.
 - d. The designee of the board of directors of the charter school in which the person is enrolled.
 - e. The president, or the president's designee, of the community college in which the person is enrolled.

Notwithstanding any other law, the decision concerning whether a driving eligibility certificate was properly issued or improperly denied shall be appealed only as provided under the rules adopted in accordance with G.S. 115C-12(28), 115D-5(a3), or 115C-566, whichever is applicable, and may not be appealed under this Chapter.

(n1) Lose Control; Lose License.

- (1) The following definitions apply in this subsection:
 - a. Applicable State entity. – The State Board of Education for public schools and charter schools, the State Board of Community Colleges for community colleges, or the Secretary of Administration for nonpublic schools and home schools.
 - b. Certificate. – A driving eligibility certificate that meets the conditions of subsection (n) of this section.
 - c. Disciplinary action. – An expulsion, a suspension for more than 10 consecutive days, or an assignment to an alternative educational setting for more than 10 consecutive days.
 - d. Enumerated student conduct. – One of the following behaviors that results in disciplinary action:
 - 1. The possession or sale of an alcoholic beverage or an illegal controlled substance on school property.
 - 2. The bringing, possession, or use on school property of a weapon or firearm that resulted in disciplinary action under G.S. 115C-390.10 or that could have resulted in that disciplinary action if the conduct had occurred in a public school.

3. The physical assault on a teacher or other school personnel on school property.
 - e. School. – A public school, charter school, community college, nonpublic school, or home school.
 - f. School administrator. – The person who is required to sign certificates under subdivision (4) of subsection (n) of this section.
 - g. School property. – The physical premises of the school, school buses or other vehicles under the school's control or contract and that are used to transport students, and school-sponsored curricular or extracurricular activities that occur on or off the physical premises of the school.
 - h. Student. – A person who desires to obtain a permit or license issued under this section.
- (2) Any student who was subject to disciplinary action for enumerated student conduct that occurred either after the first day of July before the school year in which the student enrolled in the eighth grade or after the student's fourteenth birthday, whichever event occurred first, is subject to this subsection.
 - (3) A student who is subject to this subsection is eligible for a certificate when the school administrator determines that the student has exhausted all administrative appeals connected to the disciplinary action and that one of the following conditions is met:
 - a. The enumerated student conduct occurred before the student reached the age of 15, and the student is now at least 16 years old.
 - b. The enumerated student conduct occurred after the student reached the age of 15, and it is at least one year after the date the student exhausted all administrative appeals connected to the disciplinary action.
 - c. The student needs the certificate in order to drive to and from school, a drug or alcohol treatment counseling program, as appropriate, or a mental health treatment program, and no other transportation is available.
 - (4) A student whose permit or license is denied or revoked due to ineligibility for a certificate under this subsection may otherwise be eligible for a certificate if, after six months from the date of the ineligibility, the school administrator determines that one of the following conditions is met:
 - a. The student has returned to school or has been placed in an alternative educational setting, and has displayed exemplary student behavior, as defined by the applicable State entity.
 - b. The disciplinary action was for the possession or sale of an alcoholic beverage or an illegal controlled substance on school property, and the student subsequently attended and successfully completed, as defined by the applicable State entity, a drug or alcohol treatment counseling program, as appropriate. (1935, c. 52, s. 6; 1953, c. 355; 1955, c. 1187, s. 8; 1963, c. 968, ss. 2, 2A; 1965, c. 410, s. 3; c. 1171; 1967, c. 694; 1969, c. 37; 1973, c. 191, ss. 1, 2; c. 664, ss. 1, 2; 1975, c. 79; c. 716, s. 5; 1979, c. 101; c. 667, ss. 15, 16, 41; 1981 (Reg. Sess., 1982), c. 1257, s. 2; 1989 (Reg. Sess., 1990), c. 1021, s. 11; 1991, c. 689, s.

326; 1993, c. 539, s. 319; 1994, Ex. Sess., c. 24, s. 14(c); 1997-16, s. 1; 1997-443, s. 32.20; 1997-507, s. 1; 1998-149, ss. 2.1, 2.2, 2.3, 2.4, 2.5; 1998-212, s. 9.21(c); 1999-243, ss. 1, 2; 1999-276, s. 1; 1999-387, s. 4; 1999-452, s. 9; 2001-194, s. 1; 2001-487, s. 51.5(a); 2002-73, ss. 1, 2; 2002-159, s. 30; 2005-276, s. 44.1(b); 2006-177, ss. 2-7; 2011-145, s. 28.37(d); 2011-282, s. 15; 2011-381, s. 3; 2011-385, ss. 1-3; 2011-412, s. 3.2; 2015-135, s. 4.2; 2015-241, s. 29.30(b).)

§ 20-11.1. Repealed by Session Laws 1965, c. 410, s. 4.

§ 20-12: Repealed by Session Laws 1997-16, s. 6.

§ 20-12.1. Impaired supervision or instruction.

(a) It is unlawful for a person to serve as a supervising driver under G.S. 20-7(l) or G.S. 20-11 or as an approved instructor under G.S. 20-7(m) in any of the following circumstances:

- (1) While under the influence of an impairing substance.
- (2) After having consumed sufficient alcohol to have, at any relevant time after the driving, an alcohol concentration of 0.08 or more.

(b) An offense under this section is an implied-consent offense under G.S. 20-16.2. (1977, c. 116, ss. 1, 2; 1981, c. 412, s. 4; c. 747, s. 66; 1983, c. 435, s. 9; 1993, c. 285, s. 2; 1997-16, s. 7; 1997-443, s. 32.20.)

§ 20-13. Suspension of license of provisional licensee.

(a) The Division may suspend, with or without a preliminary hearing, the operator's license of a provisional licensee upon receipt of notice of the licensee's conviction of a motor vehicle moving violation, in accordance with subsection (b), if the offense was committed while the person was still a provisional licensee. As used in this section, the phrase "motor vehicle moving violation" does not include the offenses listed in the third paragraph of G.S. 20-16(c) for which no points are assessed, nor does it include equipment violations specified in Part 9 of Article 3 of this Chapter. However, if the Division revokes without a preliminary hearing and the person whose license is being revoked requests a hearing before the effective date of the revocation, the licensee retains his license unless it is revoked under some other provision of the law, until the hearing is held, the person withdraws his request, or he fails to appear at a scheduled hearing.

(b) The Division may suspend the license of a provisional licensee as follows:

- (1) For the first motor vehicle moving violation, the Division may not suspend the license of the provisional licensee.
- (2) For conviction of a second motor vehicle moving violation committed within 12 months of the date the first offense was committed, the Division may suspend the licensee's license for up to 30 days.
- (3) For conviction of a third motor vehicle moving violation committed within 12 months of the date the first offense was committed, the Division may suspend the licensee's license for up to 90 days.
- (4) For conviction of a fourth motor vehicle moving violation committed within 12 months of the date the first offense was committed, the Division may suspend the licensee's license for up to six months.

The Division may, in lieu of suspension and with the written consent of the licensee, place the licensee on probation for a period of not more than 12 months on such terms and conditions as the Division sees fit to impose.

If the Division suspends the provisional licensee's license for at least 90 days without a preliminary hearing, the parent, guardian or other person standing in loco parentis of the provisional licensee may request a hearing to determine if the provisional licensee's license should be restored on a probationary status. The Division may wait until one-half the period of suspension has expired to hold the hearing. The Division may place the licensee on probation for up to 12 months on such terms and conditions as the Division sees fit to impose, if the licensee consents in writing to the terms and conditions of probation.

(c) In the event of conviction of two or more motor vehicle moving offenses committed on a single occasion, a licensee shall be charged, for purposes of this section, with only one moving offense, except as otherwise provided.

(d) The suspension provided for in this section is in addition to any other remedies which the Division may have against a licensee under other provisions of law; however, when the license of any person is suspended under this section and at the same time is also suspended under other provisions of law, the suspensions run concurrently.

(e) Repealed by Session Laws 1987, c. 869, s. 14. (1963, c. 968, s. 1; 1965, c. 897; 1967, c. 295, s. 1; 1971, c. 120, ss. 1, 2; 1973, c. 439; 1975, c. 716, s. 5; 1979, c. 555, s. 1; 1983, c. 538, ss. 1, 2; 1983 (Reg. Sess., 1984), c. 1101, s. 3; 1987, c. 744, ss. 3, 4; c. 869, s. 14.)

§ 20-13.1. Repealed by Session Laws 1979, c. 555, s. 2.

§ 20-13.2. Grounds for revoking provisional license.

(a) The Division must revoke the license of a person convicted of violating the provisions of G.S. 20-138.3 upon receipt of a record of the licensee's conviction.

(b) If a person is convicted of an offense involving impaired driving and the offense occurs while he is less than 21 years old, his license must be revoked under this section in addition to any other revocation required or authorized by law.

(c) If a person willfully refuses to submit to a chemical analysis pursuant to G.S. 20-16.2 while he is less than 21 years old, his license must be revoked under this section, in addition to any other revocation required or authorized by law. A revocation order entered under authority of this subsection becomes effective at the same time as a revocation order issued under G.S. 20-16.2 for the same willful refusal.

(c1) Upon receipt of notification from the proper school authority that a person no longer meets the requirements for a driving eligibility certificate under G.S. 20-11(n), the Division must expeditiously notify the person that his or her permit or license is revoked effective on the tenth calendar day after the mailing of the revocation notice. The Division must revoke the permit or license of that person on the tenth calendar day after the mailing of the revocation notice. Notwithstanding subsection (d) of this section, the length of revocation must last for the following periods:

- (1) If the revocation is because of ineligibility for a driving eligibility certificate under G.S. 20-11(n)(1), then the revocation shall last until the person's eighteenth birthday.
- (2) If the revocation is because of ineligibility for a driving eligibility certificate under G.S. 20-11(n1), then the revocation shall be for a period of one year.

For a person whose permit or license was revoked due to ineligibility for a driving eligibility certificate under G.S. 20-11(n)(1), the Division must restore a person's permit or license before the person's eighteenth birthday, if the person submits to the Division one of the following:

- (1) A high school diploma or its equivalent.
- (2) A driving eligibility certificate as required under G.S. 20-11(n).

If the Division restores a permit or license that was revoked due to ineligibility for a driving eligibility certificate under G.S. 20-11(n)(1), any record of revocation or suspension shall be expunged by the Division from the person's driving record. The Division shall not expunge a suspension or revocation record if a person has had a prior expunction from the person's driving record for any reason.

For a person whose permit or license was revoked due to ineligibility for a driving eligibility certificate under G.S. 20-11(n1), the Division shall restore a person's permit or license before the end of the revocation period, if the person submits to the Division a driving eligibility certificate as required under G.S. 20-11(n).

Notwithstanding any other law, the decision concerning whether a driving eligibility certificate was properly issued or improperly denied shall be appealed only as provided under the rules adopted in accordance with G.S. 115C-12(28), 115D-5(a3), or 115C-566, whichever is applicable, and may not be appealed under this Chapter.

(c2) The Division must revoke the permit or license of a person under the age of 18 upon receiving a record of the person's conviction for malicious use of an explosive or incendiary device to damage property (G.S. 14-49(b) and (b1)); conspiracy to injure or damage by use of an explosive or incendiary device (G.S. 14-50); making a false report concerning a destructive device in a public building (G.S. 14-69.1(c)); perpetrating a hoax concerning a destructive device in a public building (G.S. 14-69.2(c)); possessing or carrying a dynamite cartridge, bomb, grenade, mine, or powerful explosive on educational property (G.S. 14-269.2(b1)); or causing, encouraging, or aiding a minor to possess or carry a dynamite cartridge, bomb, grenade, mine, or powerful explosive on educational property (G.S. 14-269.2(c1)).

(d) The length of revocation under this section shall be one year. Revocations under this section run concurrently with any other revocations.

(e) Before the Division restores a driver's license that has been suspended or revoked under any provision of this Article, other than G.S. 20-24.1, the person seeking to have his driver's license restored shall submit to the Division proof that he has notified his insurance agent or company of his seeking the restoration and that he is financially responsible. Proof of financial responsibility shall be in one of the following forms:

- (1) A written certificate or electronically-transmitted facsimile thereof from any insurance carrier duly authorized to do business in this State certifying that there is in effect a nonfleet private passenger motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. The certificate or facsimile shall state the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy and shall state the date that the certificate or facsimile is issued. The certificate or facsimile shall remain effective proof of financial responsibility for a period of 30 consecutive days following the date the certificate or facsimile is issued but shall not in and of itself constitute a binder or policy of insurance or
- (2) A binder for or policy of nonfleet private passenger motor vehicle liability insurance under which the applicant is insured, provided that the binder or

policy states the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy.

The preceding provisions of this subsection do not apply to applicants who do not own currently registered motor vehicles and who do not operate nonfleet private passenger motor vehicles that are owned by other persons and that are not insured under commercial motor vehicle liability insurance policies. In such cases, the applicant shall sign a written certificate to that effect. Such certificate shall be furnished by the Division and may be incorporated into the restoration application form. Any material misrepresentation made by such person on such certificate shall be grounds for suspension of that person's license for a period of 90 days.

For the purposes of this subsection, the term "nonfleet private passenger motor vehicle" has the definition ascribed to it in Article 40 of General Statute Chapter 58.

The Commissioner may require that certificates required by this subsection be on a form approved by the Commissioner. The financial responsibility required by this subsection shall be kept in effect for not less than three years after the date that the license is restored. Failure to maintain financial responsibility as required by this subsection shall be grounds for suspending the restored driver's license for a period of thirty (30) days. Nothing in this subsection precludes any person from showing proof of financial responsibility in any other manner authorized by Articles 9A and 13 of this Chapter. (1983, c. 435, s. 33; 1987, c. 869, s. 12; 1989, c. 436, s. 3; 1993, c. 285, s. 8; 1995, c. 506, ss. 3, 4, 5; 1997-507, s. 2; 1999-243, s. 3; 1999-257, s. 4; 2013-133, s. 1.)

§ 20-13.3. Immediate civil license revocation for provisional licensees charged with certain offenses.

(a) Definitions. – As used in this section, the following words and phrases have the following meanings:

- (1) Clerk. – As defined in G.S. 15A-101(2).
- (2) Criminal moving violation. – A violation of Part 9 or 10 of Article 3 of this Chapter which is punishable as a misdemeanor or a felony offense. This term does not include the offenses listed in the third paragraph of G.S. 20-16(c) for which no points are assessed, nor does it include equipment violations specified in Part 9 of Article 3 of this Chapter.
- (3) Judicial official. – As defined in G.S. 15A-101(5).
- (4) Provisional licensee. – A person under the age of 18 who has a limited learner's permit, a limited provisional license, or a full provisional license issued pursuant to G.S. 20-11.
- (5) Revocation report. – A sworn statement by a law enforcement officer containing facts indicating that the conditions of subsection (b) of this section have been met.

(b) Revocations for Provisional Licensees Charged With Criminal Moving Violation. – A provisional licensee's permit or license is subject to revocation under this section if a law enforcement officer has reasonable grounds to believe that the provisional licensee has committed a criminal moving violation, the provisional licensee is charged with that offense, and the provisional licensee is not subject to a civil revocation pursuant to G.S. 20-16.5.

(c) Duty of Law Enforcement Officers to Notify Provisional Licensee and Report to Judicial Officials. – If a provisional licensee's permit or license is subject to revocation under this section, the law enforcement officer must execute a revocation report. It is the specific duty of

the law enforcement officer to make sure that the report is expeditiously filed with a judicial official as required by this section. If no initial appearance is required on the underlying criminal moving violation at the time of the issuance of the charge, the law enforcement officer must verbally notify the provisional licensee that the provisional licensee's permit or license is subject to revocation pursuant to this section and must provide the provisional licensee with a written form containing notice of the process for revocation and hearing under this section.

(c1) Which Judicial Official Must Receive Report. – The judicial official with whom the revocation report must be filed is:

(1) The judicial official conducting the initial appearance on the underlying criminal moving violation.

(2) The clerk of superior court in the county in which the underlying criminal charge has been brought if no initial appearance is required.

(d) Procedure If Report Filed With Judicial Official When Provisional Licensee Is Present. – If an initial appearance is required, the law enforcement officer must file the revocation report with the judicial official conducting the initial appearance on the underlying criminal moving violation. If a properly executed revocation report concerning a provisional licensee is filed with a judicial official when the person is present before that official, the judicial official shall, after completing any other proceedings involving the provisional licensee, determine whether there is probable cause to believe that the conditions of subsection (b) of this section have been met. If the judicial official determines there is such probable cause, the judicial official shall enter an order revoking the provisional licensee's permit or license. In addition to setting it out in the order, the judicial official shall personally inform the provisional licensee of the right to a hearing as specified in subsection (d2) of this section and that the provisional licensee's permit or license remains revoked pending the hearing. The period of revocation is for 30 days and begins at the time the revocation order is issued and continues for 30 additional calendar days. The judicial official shall give the provisional licensee a copy of the revocation order, which shall include the beginning date of the revocation and shall clearly state the final day of the revocation period and the date on which the provisional licensee's permit or license will again become valid. The provisional licensee shall not be required to surrender the provisional licensee's permit or license; however, the provisional licensee shall not be authorized to drive at any time or for any purpose during the period of revocation.

(d1) Procedure If Report Filed With Clerk of Court When Provisional Licensee Not Present. – When a clerk receives a properly executed report under subdivision (2) of subsection (c1) of this section and the provisional licensee named in the revocation report is not present before the clerk, the clerk shall determine whether there is probable cause to believe that the conditions of subsection (b) of this section have been met. If the clerk determines there is such probable cause, the clerk shall mail to the provisional licensee a revocation order by first-class mail. The order shall inform the provisional licensee that the period of revocation is for 30 days, that the revocation becomes effective on the fourth day after the order is deposited in the United States mail and continues for 30 additional calendar days, of the right to a hearing as specified in subsection (d2) of this section, and that the revocation remains in effect pending the hearing. The provisional licensee shall not be required to surrender the provisional licensee's permit or license; however, the provisional licensee shall not be authorized to drive at any time or for any purpose during the period of revocation.

(d2) Hearing Before Magistrate or Judge If Provisional Licensee Contests Validity of Revocation. – A provisional licensee whose permit or license is revoked under this section may

request in writing a hearing to contest the validity of the revocation. The request may be made at the time of the person's initial appearance, or within 10 days of the effective date of the revocation to the clerk or a magistrate designated by the clerk, and may specifically request that the hearing be conducted by a district court judge. The Administrative Office of the Courts must develop a hearing request form for any provisional licensee requesting a hearing. Unless a district court judge is requested, the hearing must be conducted within the county by a magistrate assigned by the chief district court judge to conduct such hearings. If the provisional licensee requests that a district court judge hold the hearing, the hearing must be conducted within the district court district as defined in G.S. 7A-133 by a district court judge assigned to conduct such hearings. The revocation remains in effect pending the hearing, but the hearing must be held within three working days following the request if the hearing is before a magistrate or within ten working days if the hearing is before a district court judge. The request for the hearing must specify the grounds upon which the validity of the revocation is challenged, and the hearing must be limited to the grounds specified in the request. A witness may submit his evidence by affidavit unless he is subpoenaed to appear. Any person who appears and testifies is subject to questioning by the judicial official conducting the hearing, and the judicial official may adjourn the hearing to seek additional evidence if the judicial official is not satisfied with the accuracy or completeness of evidence. The provisional licensee contesting the validity of the revocation may, but is not required to, testify in his own behalf. Unless contested by the person requesting the hearing, the judicial official may accept as true any matter stated in the revocation report. If any relevant condition under subsection (b) of this section is contested, the judicial official must find by the greater weight of the evidence that the condition was met in order to sustain the revocation. At the conclusion of the hearing, the judicial official must enter an order sustaining or rescinding the revocation. The judicial official's findings are without prejudice to the provisional licensee contesting the revocation and to any other potential party as to any other proceedings, civil or criminal, that may involve facts bearing upon the conditions in subsection (b) of this section considered by the judicial official. The decision of the judicial official is final and may not be appealed in the General Court of Justice. If the hearing is not held and completed within three working days of the written request for a hearing before a magistrate or within ten working days of the written request for a hearing before a district court judge, the judicial official must enter an order rescinding the revocation, unless the provisional licensee contesting the revocation contributed to the delay in completing the hearing. If the provisional licensee requesting the hearing fails to appear at the hearing or any rescheduling thereof after having been properly notified, the provisional licensee forfeits the right to a hearing.

(e) Report to Division. – The clerk shall notify the Division of the issuance of a revocation order pursuant to this section within two business days of the issuance of the revocation order. The notification shall identify the person whose provisional license has been revoked and specify the beginning and end date of the revocation period.

(f) Effect of Revocations. – A revocation under this section revokes a provisional licensee's privilege to drive in North Carolina. Revocations under this section are independent of and run concurrently with any other revocations, except for a revocation pursuant to G.S. 20-16.5. Any civil revocation issued pursuant to G.S. 20-16.5 for the same underlying conduct as a revocation under this section shall have the effect of terminating a revocation pursuant to this section. No court imposing a period of revocation following conviction for an offense involving impaired driving may give credit for any period of revocation imposed under this section. A

person whose license is revoked pursuant to this section is not eligible to receive a limited driving privilege.

(g) Designation of Proceedings. – Proceedings under this section are civil actions and must be identified by the caption "In the Matter of _____" and filed as directed by the Administrative Office of the Courts.

(h) No drivers license points or insurance surcharge shall be assessed for a revocation pursuant to this section. Possession of a drivers license revoked pursuant to this section shall not be a violation of G.S. 20-30.

(i) The Administrative Office of the Courts shall adopt forms to implement this section. (2011-385, s. 4; 2011-412, s. 3.2; 2012-168, s. 3.)

§ 20-14. Duplicate licenses.

A person may obtain a duplicate of a license issued by the Division by paying a fee of thirteen dollars (\$13.00) and giving the Division satisfactory proof that any of the following has occurred:

- (1) The person's license has been lost or destroyed.
- (2) It is necessary to change the name or address on the license.
- (3) Because of age, the person is entitled to a license with a different color photographic background or a different color border.
- (4) The Division revoked the person's license, the revocation period has expired, and the period for which the license was issued has not expired. (1935, c. 52, s. 9; 1943, c. 649, s. 2; 1969, c. 783, s. 2; 1975, c. 716, s. 5; 1979, c. 667, s. 41; 1981, c. 690, s. 11; 1983, c. 443, s. 3; 1991, c. 682, s. 2; c. 689, s. 327; 1991 (Reg. Sess., 1992), c. 1007, s. 28; 1995 (Reg. Sess., 1996), c. 675, s. 2; 2004-189, s. 5(b); 2005-276, s. 44.1(c); 2015-241, s. 29.30(c).)

§ 20-15. Authority of Division to cancel license or endorsement.

(a) The Division shall have authority to cancel any driver's license upon determining any of the following:

- (1) The licensee was not entitled to the issuance of the license under this Chapter.
- (2) The licensee failed to give the required or correct information on the license application or committed fraud in making the application.
- (3) The licensee is no longer authorized under federal law to be legally present in the United States.
- (4) The licensee suffers from a physical or mental disability or disease that affects his or her ability to safely operate a motor vehicle, as determined by the applicable State or federal law, rule, or regulation.
- (5) The licensee has failed to submit the certificate required under G.S. 20-7(e) and G.S. 20-9(g).

(b) Upon such cancellation, the licensee must surrender the license so cancelled to the Division.

(c) Any person whose license is canceled under this section for failure to give the required or correct information, or for committing fraud, in an application for a commercial drivers license shall be prohibited from reapplying for a commercial drivers license for a period of 60 days from the date of cancellation.

(d) The Division shall have authority to revoke an H endorsement of a commercial drivers license holder if the person with the endorsement is determined by the federal Transportation Security Administration to constitute a security threat, as specified in 49 C.F.R. § 1572.5(d)(4). (1935, c. 52, s. 10; 1943, c. 649, s. 3; 1975, c. 716, s. 5; 1979, c. 667, s. 41; 2005-349, s. 5; 2007-56, s. 5; 2016-94, s. 35.20(e).)

§ 20-15.1. Revocations when licensing privileges forfeited.

The Division shall revoke the license of a person whose licensing privileges have been forfeited under G.S. 15A-1331.1, 50-13.12, and 110-142.2. If a revocation period set by this Chapter is longer than the revocation period resulting from the forfeiture of licensing privileges, the revocation period in this Chapter applies. (1994, Ex. Sess., c. 20, s. 2; 1995, c. 538, s. 2(a); 2012-194, s. 45(b).)

§ 20-16. Authority of Division to suspend license.

(a) The Division shall have authority to suspend the license of any operator with or without a preliminary hearing upon a showing by its records or other satisfactory evidence that the licensee:

- (1) through (4) Repealed by Session Laws 1979, c. 36;
- (5) Has, under the provisions of subsection (c) of this section, within a three-year period, accumulated 12 or more points, or eight or more points in the three-year period immediately following the reinstatement of a license which has been suspended or revoked because of a conviction for one or more traffic offenses;
- (6) Has made or permitted an unlawful or fraudulent use of such license or a learner's permit, or has displayed or represented as his own, a license or learner's permit not issued to him;
- (7) Has committed an offense in another state, which if committed in this State would be grounds for suspension or revocation;
- (8) Has been convicted of illegal transportation of alcoholic beverages;
- (8a) Has been convicted of impaired instruction under G.S. 20-12.1;
- (8b) Has violated on a military installation a regulation of that installation prohibiting conduct substantially similar to conduct that constitutes impaired driving under G.S. 20-138.1 and, as a result of that violation, has had his privilege to drive on that installation revoked or suspended after an administrative hearing authorized by the commanding officer of the installation and that commanding officer has general court martial jurisdiction;
- (9) Has, within a period of 12 months, been convicted of (i) two or more charges of speeding in excess of 55 and not more than 80 miles per hour, (ii) one or more charges of reckless driving and one or more charges of speeding in excess of 55 and not more than 80 miles per hour, or (iii) one or more charges of aggressive driving and one or more charges of speeding in excess of 55 and not more than 80 miles per hour;
- (10) Has been convicted of operating a motor vehicle at a speed in excess of 75 miles per hour on a public road or highway where the maximum speed is less than 70 miles per hour;

- (10a) Has been convicted of operating a motor vehicle at a speed in excess of 80 miles per hour on a public highway where the maximum speed is 70 miles per hour; or
- (11) Has been sentenced by a court of record and all or a part of the sentence has been suspended and a condition of suspension of the sentence is that the operator not operate a motor vehicle for a period of time.

However, if the Division revokes without a preliminary hearing and the person whose license is being revoked requests a hearing before the effective date of the revocation, the licensee retains his license unless it is revoked under some other provision of the law, until the hearing is held, the person withdraws his request, or he fails to appear at a scheduled hearing.

(b) Pending an appeal from a conviction of any violation of the motor vehicle laws of this State, no driver's license shall be suspended by the Division of Motor Vehicles because of such conviction or because of evidence of the commission of the offense for which the conviction has been had.

(c) The Division shall maintain a record of convictions of every person licensed or required to be licensed under the provisions of this Article as an operator and shall enter therein records of all convictions of such persons for any violation of the motor vehicle laws of this State and shall assign to the record of such person, as of the date of commission of the offense, a number of points for every such conviction in accordance with the following schedule of convictions and points, except that points shall not be assessed for convictions resulting in suspensions or revocations under other provisions of laws: Further, any points heretofore charged for violation of the motor vehicle inspection laws shall not be considered by the Division of Motor Vehicles as a basis for suspension or revocation of driver's license:

Schedule of Point Values

Passing stopped school bus	5
Aggressive driving	5
Reckless driving	4
Hit and run, property damage only.....	4
Following too close	4
Driving on wrong side of road	4
Illegal passing.....	4
Failure to yield right-of-way to pedestrian pursuant to G.S. 20-158(b)(2)b.	4
Failure to yield right-of-way to bicycle, motor scooter, or motorcycle	4
Running through stop sign	3
Speeding in excess of 55 miles per hour	3
Failing to yield right-of-way	3
Running through red light	3
No driver's license or license expired more than one year	3
Failure to stop for siren	3
Driving through safety zone	3
No liability insurance	3
Failure to report accident where such report is required.....	3
Speeding in a school zone in excess of the posted school zone speed limit.....	3

Failure to properly restrain a child in a restraint or seat belt.....	2
All other moving violations.....	2
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle.....	1

Schedule of Point Values for Violations While Operating a Commercial Motor
Vehicle

Passing stopped school bus	8
Rail-highway crossing violation.....	6
Careless and reckless driving in violation of G.S. 20-140(f)	6
Speeding in violation of G.S. 20-141(j3)	6
Aggressive driving	6
Reckless driving	5
Hit and run, property damage only.....	5
Following too close	5
Driving on wrong side of road	5
Illegal passing.....	5
Failure to yield right-of-way to pedestrian pursuant to G.S. 20-158(b)(2)b.	5
Failure to yield right-of-way to bicycle, motor scooter, or motorcycle	5
Running through stop sign	4
Speeding in excess of 55 miles per hour	4
Failing to yield right-of-way	4
Running through red light	4
No driver's license or license expired more than one year.....	4
Failure to stop for siren	4
Driving through safety zone.....	4
No liability insurance	4
Failure to report accident where such report is required.....	4
Speeding in a school zone in excess of the posted school zone speed limit.....	4
Possessing alcoholic beverages in the passenger area of a commercial motor vehicle	4
All other moving violations.....	3
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle.....	1

The above provisions of this subsection shall only apply to violations and convictions which take place within the State of North Carolina. The Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle shall not apply to any commercial motor vehicle known as an "aerial lift truck" having a hydraulic arm and bucket station, and to any commercial motor vehicle known as a "line truck" having a hydraulic lift for cable, if the vehicle is owned, operated by or under contract to a public utility, electric or telephone membership corporation or municipality and used in connection with installation, restoration or maintenance of utility services.

No points shall be assessed for conviction of the following offenses:

- Overloads
- Over length
- Over width
- Over height
- Illegal parking
- Carrying concealed weapon
- Improper plates
- Improper registration
- Improper muffler
- Improper display of license plates or dealers' tags
- Unlawful display of emblems and insignia
- Failure to display current inspection certificate.

In case of the conviction of a licensee of two or more traffic offenses committed on a single occasion, such licensee shall be assessed points for one offense only and if the offenses involved have a different point value, such licensee shall be assessed for the offense having the greater point value.

Upon the restoration of the license or driving privilege of such person whose license or driving privilege has been suspended or revoked because of conviction for a traffic offense, any points that might previously have been accumulated in the driver's record shall be cancelled.

Whenever any licensee accumulates as many as seven points or accumulates as many as four points during a three-year period immediately following reinstatement of his license after a period of suspension or revocation, the Division may request the licensee to attend a conference regarding such licensee's driving record. The Division may also afford any licensee who has accumulated as many as seven points or any licensee who has accumulated as many as four points within a three-year period immediately following reinstatement of his license after a period of suspension or revocation an opportunity to attend a driver improvement clinic operated by the Division and, upon the successful completion of the course taken at the clinic, three points shall be deducted from the licensee's conviction record; provided, that only one deduction of points shall be made on behalf of any licensee within any five-year period.

When a license is suspended under the point system provided for herein, the first such suspension shall be for not more than 60 days; the second such suspension shall not exceed six months and any subsequent suspension shall not exceed one year.

Whenever the driver's license of any person is subject to suspension under this subsection and at the same time also subject to suspension or revocation under other provisions of laws, such suspensions or revocations shall run concurrently.

In the discretion of the Division, a period of probation not to exceed one year may be substituted for suspension or for any unexpired period of suspension under subsections (a)(1) through (a)(10a) of this section. Any violation of probation during the probation period shall result in a suspension for the unexpired remainder of the suspension period. Any accumulation of three or more points under this subsection during a period of probation shall constitute a violation of the condition of probation.

(d) Upon suspending the license of any person as authorized in this section, the Division shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing, not to exceed 60 days after receipt of the request, unless a preliminary hearing was held before his license was suspended. Upon such hearing the duly authorized

agents of the Division may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the Division shall either rescind its order of suspension, or good cause appearing therefor, may extend the suspension of such license. Provided further upon such hearing, preliminary or otherwise, involving subsections (a)(1) through (a)(10a) of this section, the Division may for good cause appearing in its discretion substitute a period of probation not to exceed one year for the suspension or for any unexpired period of suspension. Probation shall mean any written agreement between the suspended driver and a duly authorized representative of the Division and such period of probation shall not exceed one year, and any violation of the probation agreement during the probation period shall result in a suspension for the unexpired remainder of the suspension period. The authorized agents of the Division shall have the same powers in connection with a preliminary hearing prior to suspension as this subsection provided in connection with hearings held after suspension. These agents shall also have the authority to take possession of a surrendered license on behalf of the Division if the suspension is upheld and the licensee requests that the suspension begin immediately.

(e) The Division may conduct driver improvement clinics for the benefit of those who have been convicted of one or more violations of this Chapter. Each driver attending a driver improvement clinic shall pay a fee of sixty-five dollars (\$65.00).

(e1) Notwithstanding any other provision of this Chapter, if the Division suspends the license of an operator pursuant to subdivisions (a)(9), (a)(10), or (a)(10a) of this section, upon the first suspension only, a district court judge may allow the licensee a limited driving privilege or license for a period not to exceed 12 months, provided he has not been convicted of any other motor vehicle moving violation within the previous 12 months. The limited driving privilege shall be issued in the same manner and under the terms and conditions prescribed in G.S. 20-16.1(b)(1), (2), (3), (4), and (5).

(e2) If the Division revokes a person's drivers license pursuant to G.S. 20-17(a)(16), a judge may allow the licensee a limited driving privilege for a period not to exceed the period of revocation. The limited driving privilege shall be issued in the same manner and under the terms and conditions prescribed in G.S. 20-16.1(b)(1), (2), (3), (4), (5), and (g). (1935, c. 52, s. 11; 1947, c. 893, ss. 1, 2; c. 1067, s. 13; 1949, c. 373, ss. 1, 2; c. 1032, s. 2; 1953, c. 450; 1955, c. 1152, s. 15; c. 1187, ss. 9-12; 1957, c. 499, s. 1; 1959, c. 1242, ss. 1-2; 1961, c. 460, ss. 1, 2(a); 1963, c. 1115; 1965, c. 130; 1967, c. 16; 1971, c. 234, ss. 1, 2; c. 793, ss. 1, 2; c. 1198, ss. 1, 2; 1973, c. 17, ss. 1, 2; 1975, c. 716, s. 5; 1977, c. 902, s. 1; 1979, c. 36; c. 667, ss. 18, 41; 1981, c. 412, s. 4; c. 747, ss. 33, 66; 1981 (Reg. Sess., 1982), c. 1256; 1983, c. 435, s. 10; c. 538, ss. 3-5; c. 798; 1983 (Reg. Sess., 1984), c. 1101, s. 4; 1987, c. 744, ss. 1, 2; 1987 (Reg. Sess., 1988), c. 1037, s. 75; 1989, c. 784, s. 9; 1991, c. 682, s. 3; 1999-330, s. 7; 1999-452, s. 10; 2000-109, s. 7(d); 2000-117, s. 2; 2000-155, s. 10; 2001-352, s. 2; 2004-172, s. 3; 2004-193, ss. 2, 3; 2005-276, s. 44.1(d); 2015-241, s. 29.30(d).)

§ 20-16.01. Double penalties for offenses committed while operating a commercial motor vehicle.

Any person who commits an offense for which points may be assessed pursuant to the Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle as provided in G.S. 20-16(c) may be assessed double the amount of any fine or penalty authorized by statute. (1999-330, s. 8.)

§ 20-16.1. Mandatory suspension of driver's license upon conviction of excessive speeding; limited driving permits for first offenders.

(a) Notwithstanding any other provisions of this Article, the Division shall suspend for a period of 30 days the license of any driver without preliminary hearing on receiving a record of the driver's conviction of either (i) exceeding by more than 15 miles per hour the speed limit, either within or outside the corporate limits of a municipality, if the person was also driving at a speed in excess of 55 miles per hour at the time of the offense, or (ii) driving at a speed in excess of 80 miles per hour at the time of the offense.

(b) (1) Upon a first conviction only of violating subsection (a), the trial judge may when feasible allow a limited driving privilege or license to the person convicted for proper purposes reasonably connected with the health, education and welfare of the person convicted and his family. For purposes of determining whether conviction is a first conviction, no prior offense occurring more than seven years before the date of the current offense shall be considered. The judge may impose upon such limited driving privilege any restrictions as in his discretion are deemed advisable including, but not limited to, conditions of days, hours, types of vehicles, routes, geographical boundaries and specific purposes for which limited driving privilege is allowed. Any such limited driving privilege allowed and restrictions imposed thereon shall be specifically recorded in a written judgment which shall be as near as practical to that hereinafter set forth and shall be signed by the trial judge and shall be affixed with the seal of the court and shall be made a part of the records of the said court. A copy of said judgment shall be transmitted to the Division of Motor Vehicles along with any driver's license in the possession of the person convicted and a notice of the conviction. Such permit issued hereunder shall be valid for 30 days from the date of issuance by trial court. Such permit shall constitute a valid license to operate motor vehicles of the class or type that would be allowed by the person's license if it were not currently revoked upon the streets and highways of this or any other state in accordance with the restrictions noted thereon and shall be subject to all provisions of law relating to driver's license, not by their nature, rendered inapplicable.

(2) The judgment issued by the trial judge as herein permitted shall as near as practical be in form and content as follows:

STATE OF NORTH	IN THE GENERAL COURT
CAROLINA	OF JUSTICE
COUNTY OF _____	RESTRICTED DRIVING PRIVILEGES

This cause coming on to be heard and being heard before the Honorable _____, Judge presiding, and it appearing to the court that the defendant, _____, has been convicted of the offense of excessive speeding in violation of G.S. 20-16.1(a), and it further appearing to the court that the defendant should be issued a restrictive driving license and is entitled to the issuance of a restrictive driving privilege under and by the authority of G.S. 20-16.1(b);

Now, therefore, it is ordered, adjudged and decreed that the defendant be allowed to operate a motor vehicle under the following conditions and under no other circumstances.

Name: _____

Race: _____ Sex: _____

Height: _____ Weight: _____

Color of Hair: _____ Color of Eyes: _____

Birth Date: _____

Driver's License Number: _____

Signature of Licensee: _____

Conditions of Restriction: _____

Type of Vehicle: _____

Geographic Restrictions: _____

Hours of Restriction: _____

Other Restrictions: _____

This limited license shall be effective from _____ to _____ subject to further orders as the court in its discretion may deem necessary and proper.

This the _____ day of _____, _____

(Judge Presiding)

- (3) Upon conviction of such offense outside the jurisdiction of this State the person so convicted may apply to a district court judge of the district or set of districts as defined in G.S. 7A-41.1(a) in which he resides for limited driving privileges hereinbefore defined. Upon such application the judge shall have the authority to issue such limited driving privileges in the same manner as if he were the trial judge.
- (4) Any violation of the restrictive driving privileges as set forth in the judgment of the trial judge allowing such privileges shall constitute the offense of driving while license has been suspended as set forth in G.S. 20-28. Whenever a person is charged with operating a motor vehicle in violation of the restrictions, the limited driving privilege shall be suspended pending the final disposition of the charge.
- (5) This section is supplemental and in addition to existing law and shall not be construed so as to repeal any existing provision contained in the General Statutes of North Carolina.

(c) Upon conviction of a similar second or subsequent offense which offense occurs within one year of the first or prior offense, the license of such operator shall be suspended for 60 days, provided such first or prior offense occurs subsequent to July 1, 1953.

(d) Notwithstanding any other provisions of this Article, the Division shall suspend for a period of 60 days the license of any driver without preliminary hearing on receiving a record of such driver's conviction of having violated the laws against speeding described in subsection (a) and of having violated the laws against reckless driving on the same occasion as the speeding offense occurred.

(e) The provisions of this section shall not prevent the suspension or revocation of a license for a longer period of time where the same may be authorized by other provisions of law.

(f) Repealed by Session Laws 1987, c. 869, s. 14.

(g) Any judge granting limited driving privileges under this section shall, prior to granting such privileges, be furnished proof and be satisfied that the person being granted such privileges is financially responsible. Proof of financial responsibility shall be in one of the following forms:

- (1) A written certificate or electronically-transmitted facsimile thereof from any insurance carrier duly authorized to do business in this State certifying that there is in effect a nonfleet private passenger motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. The certificate or facsimile shall state the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy and shall state the date that the certificate or facsimile is issued. The certificate or facsimile shall remain effective proof of financial responsibility for a period of 30 consecutive days following the date the certificate or facsimile is issued but shall not in and of itself constitute a binder or policy of insurance or
- (2) A binder for or policy of nonfleet private passenger motor vehicle liability insurance under which the applicant is insured, provided that the binder or policy states the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy.

The preceding provisions of this subsection do not apply to applicants who do not own currently registered motor vehicles and who do not operate nonfleet private passenger motor vehicles that are owned by other persons and that are not insured under commercial motor vehicle liability insurance policies. In such cases, the applicant shall sign a written certificate to that effect. Such certificate shall be furnished by the Division. Any material misrepresentation made by such person on such certificate shall be grounds for suspension of that person's license for a period of 90 days.

For the purpose of this subsection "nonfleet private passenger motor vehicle" has the definition ascribed to it in Article 40 of General Statute Chapter 58.

The Commissioner may require that certificates required by this subsection be on a form approved by the Commissioner. Such granting of limited driving privileges shall be conditioned upon the maintenance of such financial responsibility during the period of the limited driving privilege. Nothing in this subsection precludes any person from showing proof of financial responsibility in any other manner authorized by Articles 9A and 13 of this Chapter. (1953, c. 1223; 1955, c. 1187, s. 15; 1959, c. 1264, s. 4; 1965, c. 133; 1975, c. 716, s. 5; c. 763; 1979, c. 667, ss. 19, 41; 1983, c. 77; 1987, c. 869, ss. 13, 14; 1989, c. 436, s. 4; 770, s. 57; 1995 (Reg. Sess., 1996), c. 652, s. 2; 1999-456, s. 59; 2004-199, s. 13(a).)

§ 20-16.2. Implied consent to chemical analysis; mandatory revocation of license in event of refusal; right of driver to request analysis.

(a) Basis for Officer to Require Chemical Analysis; Notification of Rights. – Any person who drives a vehicle on a highway or public vehicular area thereby gives consent to a chemical analysis if charged with an implied-consent offense. Any law enforcement officer who has reasonable grounds to believe that the person charged has committed the implied-consent offense may obtain a chemical analysis of the person.

Before any type of chemical analysis is administered the person charged shall be taken before a chemical analyst authorized to administer a test of a person's breath or a law enforcement

officer who is authorized to administer chemical analysis of the breath, who shall inform the person orally and also give the person a notice in writing that:

- (1) You have been charged with an implied-consent offense. Under the implied-consent law, you can refuse any test, but your drivers license will be revoked for one year and could be revoked for a longer period of time under certain circumstances, and an officer can compel you to be tested under other laws.
- (2) Repealed by Session Laws 2006-253, s. 15, effective December 1, 2006, and applicable to offenses committed on or after that date.
- (3) The test results, or the fact of your refusal, will be admissible in evidence at trial.
- (4) Your driving privilege will be revoked immediately for at least 30 days if you refuse any test or the test result is 0.08 or more, 0.04 or more if you were driving a commercial vehicle, or 0.01 or more if you are under the age of 21.
- (5) After you are released, you may seek your own test in addition to this test.
- (6) You may call an attorney for advice and select a witness to view the testing procedures remaining after the witness arrives, but the testing may not be delayed for these purposes longer than 30 minutes from the time you are notified of these rights. You must take the test at the end of 30 minutes even if you have not contacted an attorney or your witness has not arrived.

(a1) **Meaning of Terms.** – Under this section, an "implied-consent offense" is an offense involving impaired driving, a violation of G.S. 20-141.4(a2), or an alcohol-related offense made subject to the procedures of this section. A person is "charged" with an offense if the person is arrested for it or if criminal process for the offense has been issued.

(b) **Unconscious Person May Be Tested.** – If a law enforcement officer has reasonable grounds to believe that a person has committed an implied-consent offense, and the person is unconscious or otherwise in a condition that makes the person incapable of refusal, the law enforcement officer may direct the taking of a blood sample or may direct the administration of any other chemical analysis that may be effectively performed. In this instance the notification of rights set out in subsection (a) and the request required by subsection (c) are not necessary.

(c) **Request to Submit to Chemical Analysis.** – A law enforcement officer or chemical analyst shall designate the type of test or tests to be given and may request the person charged to submit to the type of chemical analysis designated. If the person charged willfully refuses to submit to that chemical analysis, none may be given under the provisions of this section, but the refusal does not preclude testing under other applicable procedures of law.

(c1) **Procedure for Reporting Results and Refusal to Division.** – Whenever a person refuses to submit to a chemical analysis, a person has an alcohol concentration of 0.15 or more, or a person's drivers license has an alcohol concentration restriction and the results of the chemical analysis establish a violation of the restriction, the law enforcement officer and the chemical analyst shall without unnecessary delay go before an official authorized to administer oaths and execute an affidavit(s) stating that:

- (1) The person was charged with an implied-consent offense or had an alcohol concentration restriction on the drivers license;
- (2) A law enforcement officer had reasonable grounds to believe that the person had committed an implied-consent offense or violated the alcohol concentration restriction on the drivers license;

- (3) Whether the implied-consent offense charged involved death or critical injury to another person, if the person willfully refused to submit to chemical analysis;
- (4) The person was notified of the rights in subsection (a); and
- (5) The results of any tests given or that the person willfully refused to submit to a chemical analysis.

If the person's drivers license has an alcohol concentration restriction, pursuant to G.S. 20-19(c3), and an officer has reasonable grounds to believe the person has violated a provision of that restriction other than violation of the alcohol concentration level, the officer and chemical analyst shall complete the applicable sections of the affidavit and indicate the restriction which was violated. The officer shall immediately mail the affidavit(s) to the Division. If the officer is also the chemical analyst who has notified the person of the rights under subsection (a), the officer may perform alone the duties of this subsection.

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

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

If the Division finds that the conditions specified in this subsection are met, it shall order the revocation sustained. If the Division finds that any of the conditions (1), (2), (4), or (5) is not met, it shall rescind the revocation. If it finds that condition (3) is alleged in the affidavit but is

not met, it shall order the revocation sustained if that is the only condition that is not met; in this instance subsection (d1) does not apply to that revocation. If the revocation is sustained, the person shall surrender his or her license immediately upon notification by the Division.

(d1) Consequences of Refusal in Case Involving Death or Critical Injury. – If the refusal occurred in a case involving death or critical injury to another person, no limited driving privilege may be issued. The 12-month revocation begins only after all other periods of revocation have terminated unless the person's license is revoked under G.S. 20-28, 20-28.1, 20-19(d), or 20-19(e). If the revocation is based on those sections, the revocation under this subsection begins at the time and in the manner specified in subsection (d) for revocations under this section. However, the person's eligibility for a hearing to determine if the revocation under those sections should be rescinded is postponed for one year from the date on which the person would otherwise have been eligible for the hearing. If the person's driver's license is again revoked while the 12-month revocation under this subsection is in effect, that revocation, whether imposed by a court or by the Division, may only take effect after the period of revocation under this subsection has terminated.

(e) Right to Hearing in Superior Court. – If the revocation for a willful refusal is sustained after the hearing, the person whose license has been revoked has the right to file a petition in the superior court district or set of districts defined in G.S. 7A-41.1, where the charges were made, within 30 days thereafter for a hearing on the record. The superior court review shall be limited to whether there is sufficient evidence in the record to support the Commissioner's findings of fact and whether the conclusions of law are supported by the findings of fact and whether the Commissioner committed an error of law in revoking the license.

(e1) Limited Driving Privilege after Six Months in Certain Instances. – A person whose driver's license has been revoked under this section may apply for and a judge authorized to do so by this subsection may issue a limited driving privilege if:

- (1) At the time of the refusal the person held either a valid drivers license or a license that had been expired for less than one year;
- (2) At the time of the refusal, the person had not within the preceding seven years been convicted of an offense involving impaired driving;
- (3) At the time of the refusal, the person had not in the preceding seven years willfully refused to submit to a chemical analysis under this section;
- (4) The implied consent offense charged did not involve death or critical injury to another person;
- (5) The underlying charge for which the defendant was requested to submit to a chemical analysis has been finally disposed of:
 - a. Other than by conviction; or
 - b. By a conviction of impaired driving under G.S. 20-138.1, at a punishment level authorizing issuance of a limited driving privilege under G.S. 20-179.3(b), and the defendant has complied with at least one of the mandatory conditions of probation listed for the punishment level under which the defendant was sentenced;
- (6) Subsequent to the refusal the person has had no unresolved pending charges for or additional convictions of an offense involving impaired driving;
- (7) The person's license has been revoked for at least six months for the refusal; and

- (8) The person has obtained a substance abuse assessment from a mental health facility and successfully completed any recommended training or treatment program.

Except as modified in this subsection, the provisions of G.S. 20-179.3 relating to the procedure for application and conduct of the hearing and the restrictions required or authorized to be included in the limited driving privilege apply to applications under this subsection. If the case was finally disposed of in the district court, the hearing shall be conducted in the district court district as defined in G.S. 7A-133 in which the refusal occurred by a district court judge. If the case was finally disposed of in the superior court, the hearing shall be conducted in the superior court district or set of districts as defined in G.S. 7A-41.1 in which the refusal occurred by a superior court judge. A limited driving privilege issued under this section authorizes a person to drive if the person's license is revoked solely under this section or solely under this section and G.S. 20-17(2). If the person's license is revoked for any other reason, the limited driving privilege is invalid.

(f) Notice to Other States as to Nonresidents. – When it has been finally determined under the procedures of this section that a nonresident's privilege to drive a motor vehicle in this State has been revoked, the Division shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(g) Repealed by Session Laws 1973, c. 914.

(h) Repealed by Session Laws 1979, c. 423, s. 2.

(i) Right to Chemical Analysis before Arrest or Charge. – A person stopped or questioned by a law enforcement officer who is investigating whether the person may have committed an implied consent offense may request the administration of a chemical analysis before any arrest or other charge is made for the offense. Upon this request, the officer shall afford the person the opportunity to have a chemical analysis of his or her breath, if available, in accordance with the procedures required by G.S. 20-139.1(b). The request constitutes the person's consent to be transported by the law enforcement officer to the place where the chemical analysis is to be administered. Before the chemical analysis is made, the person shall confirm the request in writing and shall be notified:

- (1) That the test results will be admissible in evidence and may be used against you in any implied consent offense that may arise;
- (2) Your driving privilege will be revoked immediately for at least 30 days if the test result is 0.08 or more, 0.04 or more if you were driving a commercial vehicle, or 0.01 or more if you are under the age of 21.
- (3) That if you fail to comply fully with the test procedures, the officer may charge you with any offense for which the officer has probable cause, and if you are charged with an implied consent offense, your refusal to submit to the testing required as a result of that charge would result in revocation of your driving privilege. The results of the chemical analysis are admissible in evidence in any proceeding in which they are relevant. (1963, c. 966, s. 1; 1965, c. 1165; 1969, c. 1074, s. 1; 1971, c. 619, ss. 3-6; 1973, c. 206, ss. 1, 2; cc. 824, 914; 1975, c. 716, s. 5; 1977, c. 812; 1979, c. 423, s. 2; 1979, 2nd Sess., c. 1160; 1981, c. 412, s. 4; c. 747, s. 66; 1983, c. 87; c. 435, s. 11; 1983 (Reg. Sess., 1984), c. 1101, ss. 5-8; 1987, c. 797, s. 3; 1987 (Reg. Sess., 1988), c. 1037, ss. 76, 77; c. 1112; 1989, c. 771, ss. 13, 14, 18; 1991, c. 689, s.

233.1(c); 1993, c. 285, ss. 3, 4; 1995, c. 163, s. 1; 1997-379, ss. 3.1-3.3; 1998-182, s. 28; 1999-406, ss. 1, 10; 2000-155, s. 5; 2006-253, s. 15; 2007-493, ss. 25, 27; 2011-119, s. 1.)

§ 20-16.3. Alcohol screening tests required of certain drivers; approval of test devices and manner of use by Department of Health and Human Services; use of test results or refusal.

(a) When Alcohol Screening Test May Be Required; Not an Arrest. – A law-enforcement officer may require the driver of a vehicle to submit to an alcohol screening test within a relevant time after the driving if the officer has:

- (1) Reasonable grounds to believe that the driver has consumed alcohol and has:
 - a. Committed a moving traffic violation; or
 - b. Been involved in an accident or collision; or
- (2) An articulable and reasonable suspicion that the driver has committed an implied-consent offense under G.S. 20-16.2, and the driver has been lawfully stopped for a driver's license check or otherwise lawfully stopped or lawfully encountered by the officer in the course of the performance of the officer's duties.

Requiring a driver to submit to an alcohol screening test in accordance with this section does not in itself constitute an arrest.

(b) Approval of Screening Devices and Manner of Use. – The Department of Health and Human Services is directed to examine and approve devices suitable for use by law-enforcement officers in making on-the-scene tests of drivers for alcohol concentration. For each alcohol screening device or class of devices approved, the Department must adopt regulations governing the manner of use of the device. For any alcohol screening device that tests the breath of a driver, the Department is directed to specify in its regulations the shortest feasible minimum waiting period that does not produce an unacceptably high number of false positive test results.

(c) Tests Must Be Made with Approved Devices and in Approved Manner. – No screening test for alcohol concentration is a valid one under this section unless the device used is one approved by the Department and the screening test is conducted in accordance with the applicable regulations of the Department as to the manner of its use.

(d) Use of Screening Test Results or Refusal by Officer. – The fact that a driver showed a positive or negative result on an alcohol screening test, but not the actual alcohol concentration result, or a driver's refusal to submit may be used by a law-enforcement officer, is admissible in a court, or may also be used by an administrative agency in determining if there are reasonable grounds for believing:

- (1) That the driver has committed an implied-consent offense under G.S. 20-16.2; and
- (2) That the driver had consumed alcohol and that the driver had in his or her body previously consumed alcohol, but not to prove a particular alcohol concentration. Negative results on the alcohol screening test may be used in factually appropriate cases by the officer, a court, or an administrative agency in determining whether a person's alleged impairment is caused by an impairing substance other than alcohol. (1973, c. 312, s. 1; c. 476, s. 128; 1981, c. 412, s. 4; c. 747, s. 66; 1983, c. 435, s. 12; 2006-253, s. 7.)

§ 20-16.3A. Checking stations and roadblocks.

(a) A law-enforcement agency may conduct checking stations to determine compliance with the provisions of this Chapter. If the agency is conducting a checking station for the purposes of determining compliance with this Chapter, it must:

- (1) Repealed by Session Laws 2006-253, s. 4, effective December 1, 2006, and applicable to offenses committed on or after that date.
- (2) Designate in advance the pattern both for stopping vehicles and for requesting drivers that are stopped to produce drivers license, registration, or insurance information.
- (2a) Operate under a written policy that provides guidelines for the pattern, which need not be in writing. The policy may be either the agency's own policy, or if the agency does not have a written policy, it may be the policy of another law enforcement agency, and may include contingency provisions for altering either pattern if actual traffic conditions are different from those anticipated, but no individual officer may be given discretion as to which vehicle is stopped or, of the vehicles stopped, which driver is requested to produce drivers license, registration, or insurance information. If officers of a law enforcement agency are operating under another agency's policy, it must be stated in writing.
- (3) Advise the public that an authorized checking station is being operated by having, at a minimum, one law enforcement vehicle with its blue light in operation during the conducting of the checking station.

(a1) A pattern designated by a law enforcement agency pursuant to subsection (a) of this section shall not be based on a particular vehicle type, except that the pattern may designate any type of commercial motor vehicle as defined in G.S. 20-4.01(3d). The provisions of this subsection shall apply to this Chapter only and are not to be construed to restrict any other type of checkpoint or roadblock which is lawful and meets the requirements of subsection (c) of this section.

(b) An officer who determines there is a reasonable suspicion that an occupant has violated a provision of this Chapter, or any other provision of law, may detain the driver to further investigate in accordance with law. The operator of any vehicle stopped at a checking station established under this subsection may be requested to submit to an alcohol screening test under G.S. 20-16.3 if during the course of the stop the officer determines the driver had previously consumed alcohol or has an open container of alcoholic beverage in the vehicle. The officer so requesting shall consider the results of any alcohol screening test or the driver's refusal in determining if there is reasonable suspicion to investigate further.

(c) Law enforcement agencies may conduct any type of checking station or roadblock as long as it is established and operated in accordance with the provisions of the United States Constitution and the Constitution of North Carolina.

(d) The placement of checkpoints should be random or statistically indicated, and agencies shall avoid placing checkpoints repeatedly in the same location or proximity. This subsection shall not be grounds for a motion to suppress or a defense to any offense arising out of the operation of a checking station. (1983, c. 435, s. 22; 2006-253, s. 4; 2011-216, s. 1.)

§ 20-16.4: Repealed by Session Laws 1989, c. 691, s. 4.

§ 20-16.5. Immediate civil license revocation for certain persons charged with implied-consent offenses.

(a) Definitions. – As used in this section the following words and phrases have the following meanings:

- (1) Law Enforcement Officer. – As described in G.S. 20-16.2(a1).
- (2) Clerk. – As defined in G.S. 15A-101(2).
- (3) Judicial Official. – As defined in G.S. 15A-101(5).
- (4) Revocation Report. – A sworn statement by a law enforcement officer and a chemical analyst containing facts indicating that the conditions of subsection (b) have been met, and whether the person has a pending offense for which the person's license had been or is revoked under this section. When one chemical analyst analyzes a person's blood and another chemical analyst informs a person of his rights and responsibilities under G.S. 20-16.2, the report must include the statements of both analysts.
- (5) Surrender of a Driver's License. – The act of turning over to a court or a law-enforcement officer the person's most recent, valid driver's license or learner's permit issued by the Division or by a similar agency in another jurisdiction, or a limited driving privilege issued by a North Carolina court. A person who is validly licensed but who is unable to locate his license card may file an affidavit with the clerk setting out facts that indicate that he is unable to locate his license card and that he is validly licensed; the filing of the affidavit constitutes a surrender of the person's license.

(b) Revocations for Persons Who Refuse Chemical Analyses or Who Are Charged With Certain Implied-Consent Offenses. – A person's driver's license is subject to revocation under this section if:

- (1) A law enforcement officer has reasonable grounds to believe that the person has committed an offense subject to the implied-consent provisions of G.S. 20-16.2;
- (2) The person is charged with that offense as provided in G.S. 20-16.2(a);
- (3) The law enforcement officer and the chemical analyst comply with the procedures of G.S. 20-16.2 and G.S. 20-139.1 in requiring the person's submission to or procuring a chemical analysis; and
- (4) The person:
 - a. Willfully refuses to submit to the chemical analysis;
 - b. Has an alcohol concentration of 0.08 or more within a relevant time after the driving;
 - c. Has an alcohol concentration of 0.04 or more at any relevant time after the driving of a commercial motor vehicle; or
 - d. Has any alcohol concentration at any relevant time after the driving and the person is under 21 years of age.

(b1) Precharge Test Results as Basis for Revocation. – Notwithstanding the provisions of subsection (b), a person's driver's license is subject to revocation under this section if:

- (1) The person requests a precharge chemical analysis pursuant to G.S. 20-16.2(i); and
- (2) The person has:

- a. An alcohol concentration of 0.08 or more at any relevant time after driving;
- b. An alcohol concentration of 0.04 or more at any relevant time after driving a commercial motor vehicle; or
- c. Any alcohol concentration at any relevant time after driving and the person is under 21 years of age; and

(3) The person is charged with an implied-consent offense.

(c) Duty of Law Enforcement Officers and Chemical Analysts to Report to Judicial Officials. – If a person's driver's license is subject to revocation under this section, the law enforcement officer and the chemical analyst must execute a revocation report. If the person has refused to submit to a chemical analysis, a copy of the affidavit to be submitted to the Division under G.S. 20-16.2(c) may be substituted for the revocation report if it contains the information required by this section. It is the specific duty of the law enforcement officer to make sure that the report is expeditiously filed with a judicial official as required by this section.

(d) Which Judicial Official Must Receive Report. – The judicial official with whom the revocation report must be filed is:

- (1) The judicial official conducting the initial appearance on the underlying criminal charge if:
 - a. No revocation report has previously been filed; and
 - b. At the time of the initial appearance the results of the chemical analysis, if administered, or the reports indicating a refusal, are available.
- (2) A judicial official conducting any other proceeding relating to the underlying criminal charge at which the person is present, if no report has previously been filed.
- (3) The clerk of superior court in the county in which the underlying criminal charge has been brought if subdivisions (1) and (2) are not applicable at the time the law enforcement officer must file the report.

(e) Procedure if Report Filed with Judicial Official When Person Is Present. – If a properly executed revocation report concerning a person is filed with a judicial official when the person is present before that official, the judicial official shall, after completing any other proceedings involving the person, determine whether there is probable cause to believe that each of the conditions of subsection (b) has been met. If he determines that there is such probable cause, he shall enter an order revoking the person's driver's license for the period required in this subsection. The judicial official shall order the person to surrender his license and if necessary may order a law-enforcement officer to seize the license. The judicial official shall give the person a copy of the revocation order. In addition to setting it out in the order the judicial official shall personally inform the person of his right to a hearing as specified in subsection (g), and that his license remains revoked pending the hearing. The revocation under this subsection begins at the time the revocation order is issued and continues until the person's license has been surrendered for the period specified in this subsection, and the person has paid the applicable costs. The period of revocation is 30 days, if there are no pending offenses for which the person's license had been or is revoked under this section. If at the time of the current offense, the person has one or more pending offenses for which his license had been or is revoked under this section, the revocation shall remain in effect until a final judgment, including all appeals, has been entered for the current offense and for all pending offenses. In no event, may the period of

revocation under this subsection be less than 30 days. If within five working days of the effective date of the order, the person does not surrender his license or demonstrate that he is not currently licensed, the clerk shall immediately issue a pick-up order. The pick-up order shall be issued to a member of a local law-enforcement agency if the law enforcement officer was employed by the agency at the time of the charge and the person resides in or is present in the agency's territorial jurisdiction. In all other cases, the pick-up order shall be issued to an officer or inspector of the Division. A pick-up order issued pursuant to this section is to be served in accordance with G.S. 20-29 as if the order had been issued by the Division.

(f) Procedure if Report Filed with Clerk of Court When Person Not Present. – When a clerk receives a properly executed report under subdivision (d)(3) and the person named in the revocation report is not present before the clerk, the clerk shall determine whether there is probable cause to believe that each of the conditions of subsection (b) has been met. For purposes of this subsection, a properly executed report under subdivision (d)(3) may include a sworn statement by the law enforcement officer along with an affidavit received directly by the Clerk from the chemical analyst. If he determines that there is such probable cause, he shall mail to the person a revocation order by first-class mail. The order shall direct that the person on or before the effective date of the order either surrender his license to the clerk or appear before the clerk and demonstrate that he is not currently licensed, and the order shall inform the person of the time and effective date of the revocation and of its duration, of his right to a hearing as specified in subsection (g), and that the revocation remains in effect pending the hearing. Revocation orders mailed under this subsection become effective on the fourth day after the order is deposited in the United States mail. If within five working days of the effective date of the order, the person does not surrender his license to the clerk or appear before the clerk to demonstrate that he is not currently licensed, the clerk shall immediately issue a pick-up order. The pick-up order shall be issued and served in the same manner as specified in subsection (e) for pick-up orders issued pursuant to that subsection. A revocation under this subsection begins at the date specified in the order and continues until the person's license has been revoked for the period specified in this subsection and the person has paid the applicable costs. If the person has no pending offenses for which his license had been or is revoked under this section, the period of revocation under this subsection is:

- (1) Thirty days from the time the person surrenders his license to the court, if the surrender occurs within five working days of the effective date of the order; or
- (2) Thirty days after the person appears before the clerk and demonstrates that he is not currently licensed to drive, if the appearance occurs within five working days of the effective date of the revocation order; or
- (3) Forty-five days from the time:
 - a. The person's drivers license is picked up by a law-enforcement officer following service of a pick-up order; or
 - b. The person demonstrates to a law-enforcement officer who has a pick-up order for his license that he is not currently licensed; or
 - c. The person's drivers license is surrendered to the court if the surrender occurs more than five working days after the effective date of the revocation order; or
 - d. The person appears before the clerk to demonstrate that he is not currently licensed, if he appears more than five working days after the effective date of the revocation order.

If at the time of the current offense, the person has one or more pending offenses for which his license had been or is revoked under this section, the revocation shall remain in effect until a final judgment, including all appeals, has been entered for the current offense and for all pending offenses. In no event may the period of revocation for the current offense be less than the applicable period of revocation in subdivision (1), (2), or (3) of this subsection. When a pick-up order is issued, it shall inform the person of his right to a hearing as specified in subsection (g), and that the revocation remains in effect pending the hearing. An officer serving a pick-up order under this subsection shall return the order to the court indicating the date it was served or that he was unable to serve the order. If the license was surrendered, the officer serving the order shall deposit it with the clerk within three days of the surrender.

(g) Hearing before Magistrate or Judge if Person Contests Validity of Revocation. – A person whose license is revoked under this section may request in writing a hearing to contest the validity of the revocation. The request may be made at the time of the person's initial appearance, or within 10 days of the effective date of the revocation to the clerk or a magistrate designated by the clerk, and may specifically request that the hearing be conducted by a district court judge. The Administrative Office of the Courts must develop a hearing request form for any person requesting a hearing. Unless a district court judge is requested, the hearing must be conducted within the county by a magistrate assigned by the chief district court judge to conduct such hearings. If the person requests that a district court judge hold the hearing, the hearing must be conducted within the district court district as defined in G.S. 7A-133 by a district court judge assigned to conduct such hearings. The revocation remains in effect pending the hearing, but the hearing must be held within three working days following the request if the hearing is before a magistrate or within five working days if the hearing is before a district court judge. The request for the hearing must specify the grounds upon which the validity of the revocation is challenged and the hearing must be limited to the grounds specified in the request. A witness may submit his evidence by affidavit unless he is subpoenaed to appear. Any person who appears and testifies is subject to questioning by the judicial official conducting the hearing, and the judicial official may adjourn the hearing to seek additional evidence if he is not satisfied with the accuracy or completeness of evidence. The person contesting the validity of the revocation may, but is not required to, testify in his own behalf. Unless contested by the person requesting the hearing, the judicial official may accept as true any matter stated in the revocation report. If any relevant condition under subsection (b) is contested, the judicial official must find by the greater weight of the evidence that the condition was met in order to sustain the revocation. At the conclusion of the hearing the judicial official must enter an order sustaining or rescinding the revocation. The judicial official's findings are without prejudice to the person contesting the revocation and to any other potential party as to any other proceedings, civil or criminal, that may involve facts bearing upon the conditions in subsection (b) considered by the judicial official. The decision of the judicial official is final and may not be appealed in the General Court of Justice. If the hearing is not held and completed within three working days of the written request for a hearing before a magistrate or within five working days of the written request for a hearing before a district court judge, the judicial official must enter an order rescinding the revocation, unless the person contesting the revocation contributed to the delay in completing the hearing. If the person requesting the hearing fails to appear at the hearing or any rescheduling thereof after having been properly notified, he forfeits his right to a hearing.

(h) Return of License. – After the applicable period of revocation under this section, or if the magistrate or judge orders the revocation rescinded, the person whose license was revoked

may apply to the clerk for return of his surrendered license. Unless the clerk finds that the person is not eligible to use the surrendered license, he must return it if:

- (1) The applicable period of revocation has passed and the person has tendered payment for the costs under subsection (j); or
- (2) The magistrate or judge has ordered the revocation rescinded.

If the license has expired, he may return it to the person with a caution that it is no longer valid. Otherwise, if the person is not eligible to use the license and the license was issued by the Division or in another state, the clerk must mail it to the Division. If the person has surrendered his copy of a limited driving privilege and he is no longer eligible to use it, the clerk must make a record that he has withheld the limited driving privilege and forward that record to the clerk in the county in which the limited driving privilege was issued for filing in the case file. If the person's license is revoked under this section and under another section of this Chapter, the clerk must surrender the license to the Division if the revocation under this section can terminate before the other revocation; in such cases, the costs required by subsection (j) must still be paid before the revocation under this section is terminated.

(i) Effect of Revocations. – A revocation under this section revokes a person's privilege to drive in North Carolina whatever the source of his authorization to drive. Revocations under this section are independent of and run concurrently with any other revocations. No court imposing a period of revocation following conviction of an offense involving impaired driving may give credit for any period of revocation imposed under this section. A person whose license is revoked pursuant to this section is not eligible to receive a limited driving privilege except as specifically authorized by G.S. 20-16.5(p).

(j) Costs. – Unless the magistrate or judge orders the revocation rescinded, a person whose license is revoked under this section must pay a fee of one hundred dollars (\$100.00) as costs for the action before the person's license may be returned under subsection (h) of this section. Fifty percent (50%) of the costs collected under this section shall be credited to the General Fund. Twenty-five percent (25%) of the costs collected under this section shall be used to fund a statewide chemical alcohol testing program administered by the Injury Control Section of the Department of Health and Human Services. The remaining twenty-five percent (25%) of the costs collected under this section shall be remitted to the county for the sole purpose of reimbursing the county for jail expenses incurred due to enforcement of the impaired driving laws.

(k) Report to Division. – Except as provided below, the clerk shall mail a report to the Division:

- (1) If the license is revoked indefinitely, within 10 working days of the revocation of the license; and
- (2) In all cases, within 10 working days of the return of a license under this section or of the termination of a revocation of the driving privilege of a person not currently licensed.

The report shall identify the person whose license has been revoked, specify the date on which his license was revoked, and indicate whether the license has been returned. The report must also provide, if applicable, whether the license is revoked indefinitely. No report need be made to the Division, however, if there was a surrender of the driver's license issued by the Division, a 30-day minimum revocation was imposed, and the license was properly returned to the person under subsection (h) within five working days after the 30-day period had elapsed.

(l) Restoration Fee for Unlicensed Persons. – If a person whose license is revoked under this section has no valid license, he must pay the restoration fee required by G.S. 20-7 before he may apply for a license from the Division.

(m) Modification of Revocation Order. – Any judicial official presiding over a proceeding under this section may issue a modified order if he determines that an inappropriate order has been issued.

(n) Exception for Revoked Licenses. – Notwithstanding any other provision of this section, if the judicial official required to issue a revocation order under this section determines that the person whose license is subject to revocation under subsection (b):

- (1) Has a currently revoked driver's license;
- (2) Has no limited driving privilege; and
- (3) Will not become eligible for restoration of his license or for a limited driving privilege during the period of revocation required by this section,

the judicial official need not issue a revocation order under this section. In this event the judicial official must file in the records of the civil proceeding a copy of any documentary evidence and set out in writing all other evidence on which he relies in making his determination.

(o) Designation of Proceedings. – Proceedings under this section are civil actions, and must be identified by the caption "In the Matter of _____" and filed as directed by the Administrative Office of the Courts.

(p) Limited Driving Privilege. – A person whose drivers license has been revoked for a specified period of 30 or 45 days under this section may apply for a limited driving privilege if:

- (1) At the time of the alleged offense the person held either a valid drivers license or a license that had been expired for less than one year;
- (2) Does not have an unresolved pending charge involving impaired driving except the charge for which the license is currently revoked under this section or additional convictions of an offense involving impaired driving since being charged for the violation for which the license is currently revoked under this section;
- (3) The person's license has been revoked for at least 10 days if the revocation is for 30 days or 30 days if the revocation is for 45 days; and
- (4) The person has obtained a substance abuse assessment from a mental health facility and registers for and agrees to participate in any recommended training or treatment program.

A person whose license has been indefinitely revoked under this section may, after completion of 30 days under subsection (e) or the applicable period of time under subdivision (1), (2), or (3) of subsection (f), apply for a limited driving privilege. In the case of an indefinite revocation, a judge of the division in which the current offense is pending may issue the limited driving privilege only if the privilege is necessary to overcome undue hardship and the person meets the eligibility requirements of G.S. 20-179.3, except that the requirements in G.S. 20-179.3(b)(1)c. and G.S. 20-179.3(e) shall not apply. Except as modified in this subsection, the provisions of G.S. 20-179.3 relating to the procedure for application and conduct of the hearing and the restrictions required or authorized to be included in the limited driving privilege apply to applications under this subsection. Any district court judge authorized to hold court in the judicial district is authorized to issue such a limited driving privilege. A limited driving privilege issued under this section authorizes a person to drive if the person's license is revoked solely under this section. If the person's license is revoked for any other reason, the limited driving

privilege is invalid. (1983, c. 435, s. 14; 1983 (Reg. Sess., 1984), c. 1101, ss. 11-17; 1985, c. 690, ss. 1, 2; 1987 (Reg. Sess., 1988), c. 1037, s. 80, c. 1112; 1989, c. 771, ss. 15, 16, 18; 1991, c. 689, s. 233.1(a); 1993, c. 285, ss. 5, 6; 1997-379, ss. 3.4-3.8; 1997-443, s. 11A.9; 1997-486, ss. 2-6; 1998-182, ss. 29, 30; 1999-406, s. 13; 2000-140, s. 103A; 2000-155, s. 15; 2001-487, ss. 6, 7; 2003-104, s. 1; 2007-323, s. 30.10(e); 2007-493, s. 17.)

§ 20-17. Mandatory revocation of license by Division.

(a) The Division shall forthwith revoke the license of any driver upon receiving a record of the driver's conviction for any of the following offenses:

- (1) Manslaughter (or negligent homicide) resulting from the operation of a motor vehicle.
- (2) Either of the following impaired driving offenses:
 - a. Impaired driving under G.S. 20-138.1.
 - b. Impaired driving under G.S. 20-138.2, if the driver's alcohol concentration level was .06 or higher. For the purposes of this sub-subdivision, the driver's alcohol concentration level result, obtained by chemical analysis, shall be conclusive and is not subject to modification by any party, with or without approval by the court.
- (3) Any felony in the commission of which a motor vehicle is used.
- (4) Failure to stop and render aid in violation of G.S. 20-166(a) or (b).
- (5) Perjury or the making of a false affidavit or statement under oath to the Division under this Article or under any other law relating to the ownership of motor vehicles.
- (6) Conviction, within a period of 12 months, of (i) two charges of reckless driving, (ii) two charges of aggressive driving, or (iii) one or more charges of reckless driving and one or more charges of aggressive driving.
- (7) Conviction upon one charge of aggressive driving or reckless driving while engaged in the illegal transportation of intoxicants for the purpose of sale.
- (8) Conviction of using a false or fictitious name or giving a false or fictitious address in any application for a drivers license, or learner's permit, or any renewal or duplicate thereof, or knowingly making a false statement or knowingly concealing a material fact or otherwise committing a fraud in any such application or procuring or knowingly permitting or allowing another to commit any of the foregoing acts.
- (9) Any offense set forth under G.S. 20-141.4.
- (10) Repealed by Session Laws 1997-443, s. 19.26(b).
- (11) Conviction of assault with a motor vehicle.
- (12) A second or subsequent conviction of transporting an open container of alcoholic beverage under G.S. 20-138.7.
- (13) A second or subsequent conviction, as defined in G.S. 20-138.2A(d), of driving a commercial motor vehicle after consuming alcohol under G.S. 20-138.2A.
- (14) A conviction of driving a school bus, school activity bus, or child care vehicle after consuming alcohol under G.S. 20-138.2B.
- (15) A conviction of malicious use of an explosive or incendiary device to damage property (G.S. 14-49(b) and (b1)); making a false report concerning a

destructive device in a public building (G.S. 14-69.1(c)); perpetrating a hoax concerning a destructive device in a public building (G.S. 14-69.2(c)); possessing or carrying a dynamite cartridge, bomb, grenade, mine, or powerful explosive on educational property (G.S. 14-269.2(b1)); or causing, encouraging, or aiding a minor to possess or carry a dynamite cartridge, bomb, grenade, mine, or powerful explosive on educational property (G.S. 14-269.2(c1)).

- (16) A second or subsequent conviction of larceny of motor fuel under G.S. 14-72.5. A conviction for violating G.S. 14-72.5 is a second or subsequent conviction if at the time of the current offense the person has a previous conviction under G.S. 14-72.5 that occurred in the seven years immediately preceding the date of the current offense.

(b) On the basis of information provided by the child support enforcement agency or the clerk of court, the Division shall:

- (1) Ensure that no license or right to operate a motor vehicle under this Chapter is renewed or issued to an obligor who is delinquent in making child support payments when a court of record has issued a revocation order pursuant to G.S. 110-142.2 or G.S. 50-13.12. The obligor shall not be entitled to any other hearing before the Division as a result of the revocation of his license pursuant to G.S. 110-142.2 or G.S. 50-13.12; or
- (2) Revoke the drivers license of any person who has willfully failed to complete court-ordered community service and a court has issued a revocation order. This revocation shall continue until the Division receives certification from the clerk of court that the person has completed the court-ordered community service. No person whose drivers license is revoked pursuant to this subdivision shall be entitled to any other hearing before the Division as a result of this revocation. (1935, c. 52, s. 12; 1947, c. 1067, s. 14; 1967, c. 1098, s. 2; 1971, c. 619, s. 7; 1973, c. 18, s. 1; c. 1081, s. 3; c. 1330, s. 2; 1975, c. 716, s. 5; c. 831; 1979, c. 667, ss. 20, 41; 1981, c. 412, s. 4; c. 747, s. 66; 1983, c. 435, s. 15; 1989, c. 771, s. 11; 1991, c. 726, s. 7; 1993 (Reg. Sess., 1994), c. 761, s. 1; 1995, c. 506, s. 7; c. 538, s. 2(b); 1997-234, s. 3; 1997-443, s. 19.26(b); 1998-182, s. 18; 1999-257, s. 4.1; 2001-352, s. 3; 2001-487, s. 52; 2004-193, ss. 4, 5; 2006-253, s. 22.2; 2007-493, s. 2.)

§ 20-17.1. Revocation of license of mental incompetents, alcoholics and habitual users of narcotic drugs.

(a) The Commissioner, upon receipt of notice that any person has been legally adjudicated incompetent or has been involuntarily committed to an institution for the treatment of alcoholism or drug addiction, shall forthwith make inquiry into the facts for the purpose of determining whether such person is competent to operate a motor vehicle. If a person has been adjudicated incompetent under Chapter 35A of the General Statutes, in making an inquiry into the facts, the Commissioner shall consider the clerk of court's recommendation regarding whether the incompetent person should be allowed to retain his or her driving privilege. Unless the Commissioner is satisfied that such person is competent to operate a motor vehicle with safety to persons and property, he shall revoke such person's driving privilege. Provided that if such person requests, in writing, a hearing, he shall retain his license until after the hearing, and

if the revocation is sustained after such hearing, the person whose driving privilege has been revoked under the provisions of this section, shall have the right to a review by the review board as provided in G.S. 20-9(g)(4) upon written request filed with the Division.

(b) If any person shall be adjudicated as incompetent or is involuntarily committed for the treatment of alcoholism or drug addiction, the clerk of the court in which any such adjudication is made shall forthwith send a certified copy of abstract thereof to the Commissioner.

(c) Repealed by Session Laws 1973, c. 475, s. 31/2.

(d) It is the intent of this section that the provisions herein shall be carried out by the Commissioner of Motor Vehicles for the safety of the motoring public. The Commissioner shall have authority to make such agreements as are necessary with the persons in charge of every institution of any nature for the care and treatment of alcoholics or habitual users of narcotic drugs, to effectively carry out the duty hereby imposed and the person in charge of the institutions described above shall cooperate with and assist the Commissioner of Motor Vehicles.

(e) Notwithstanding the provisions of G.S. 8-53, 8-53.2, and Article 3 of Chapter 122C of the General Statutes, the person or persons in charge of any institution as set out in subsection (a) hereinabove shall furnish such information as may be required for the effective enforcement of this section. Information furnished to the Division of Motor Vehicles as provided herein shall be confidential and the Commissioner of Motor Vehicles shall be subject to the same penalties and is granted the same protection as is the department, institution or individual furnishing such information. No criminal or civil action may be brought against any person or agency who shall provide or submit to the Commissioner of Motor Vehicles or his authorized agents the information as required herein.

(f) Revocations under this section may be reviewed as provided in G.S. 20-9(g)(4). (1947, c. 1006, s. 9; 1953, c. 1300, s. 36; 1955, c. 1187, s. 16; 1969, c. 186, s. 1; c. 1125; 1971, c. 208, ss. 1, 11/2; c. 401, s. 1; c. 767; 1973, c. 475, s. 31/2; c. 1362; 1975, c. 716, s. 5; 1983, c. 768, s. 3; 1987, c. 720, s. 1; 2008-182, s. 1.)

§ 20-17.1A. Restoration of license for person adjudicated to be restored to competency.

If otherwise eligible under G.S. 20-7 and any other applicable provision of law, the Division shall restore the drivers license of a person adjudicated to be restored to competency under G.S. 35A-1130 upon receiving notice from the clerk of court in which the adjudication is made. Nothing in this section shall be construed as requiring the Division to restore the drivers license of a person if (i) the person's drivers license was revoked because of a conviction or other act requiring revocation and (ii) the person has not met the requirements set forth in this Article for restoration of the person's drivers license. (2015-165, s. 1.)

§ 20-17.2: Repealed by Session Laws 2006-253, s. 25, effective December 1, 2006, and applicable to offenses committed on or after that date.

§ 20-17.3. Revocation for underage purchasers of alcohol.

The Division shall revoke for one year the driver's license of any person who has been convicted of violating any of the following:

- (1) G.S. 18B-302(c), (e), or (f).
- (2) G.S. 18B-302(b), if the violation occurred while the person was purchasing or attempting to purchase an alcoholic beverage.

(3) G.S. 18B-302(a1).

If the person's license is currently suspended or revoked, then the revocation under this section shall begin at the termination of that revocation. A person whose license is revoked under this section for a violation of G.S. 18B-302(a1) or G.S. 18B-302(c) shall be eligible for a limited driving privilege under G.S. 20-179.3. (1983, c. 435, s. 36; 2007-537, s. 3.)

§ 20-17.4. Disqualification to drive a commercial motor vehicle.

(a) One Year. – Any of the following disqualifies a person from driving a commercial motor vehicle for one year if committed by a person holding a commercial drivers license, or, when applicable, committed while operating a commercial motor vehicle by a person who does not hold a commercial drivers license:

- (1) A first conviction of G.S. 20-138.1, driving while impaired, for a holder of a commercial drivers license that occurred while the person was driving a motor vehicle that is not a commercial motor vehicle.
- (2) A first conviction of G.S. 20-138.2, driving a commercial motor vehicle while impaired.
- (3) A first conviction of G.S. 20-166, hit and run.
- (4) A first conviction of a felony in the commission of which a commercial motor vehicle was used or the first conviction of a felony in which any motor vehicle is used by a holder of a commercial drivers license.
- (5) Refusal to submit to a chemical test when charged with an implied-consent offense, as defined in G.S. 20-16.2.
- (6) A second or subsequent conviction, as defined in G.S. 20-138.2A(d), of driving a commercial motor vehicle after consuming alcohol under G.S. 20-138.2A.
- (7) A civil license revocation under G.S. 20-16.5, or a substantially similar revocation obtained in another jurisdiction, arising out of a charge that occurred while the person was either operating a commercial motor vehicle or while the person was holding a commercial drivers license.
- (8) A first conviction of vehicular homicide under G.S. 20-141.4 or vehicular manslaughter under G.S. 14-18 occurring while the person was operating a commercial motor vehicle.
- (9) Driving a commercial motor vehicle during a period when the person's commercial drivers license is revoked, suspended, cancelled, or the driver is otherwise disqualified from operating a commercial motor vehicle.

(a1) Ten-Day Disqualification. – A person who is convicted for a first offense of driving a commercial motor vehicle after consuming alcohol under G.S. 20-138.2A is disqualified from driving a commercial motor vehicle for 10 days.

(b) Modified Life. – A person who has been disqualified from driving a commercial motor vehicle for a conviction or refusal described in subsection (a) who, as the result of a separate incident, is subsequently convicted of an offense or commits an act requiring disqualification under subsection (a) is disqualified for life. The Division may adopt guidelines, including conditions, under which a disqualification for life under this subsection may be reduced to 10 years.

(b1) Life Without Reduction. – A person is disqualified from driving a commercial motor vehicle for life, without the possibility of reinstatement after 10 years, if that person is convicted

of a third or subsequent violation of G.S. 20-138.2, a fourth or subsequent violation of G.S. 20-138.2A, or if the person refuses to submit to a chemical test a third time when charged with an implied-consent offense, as defined in G.S. 20-16.2, that occurred while the person was driving a commercial motor vehicle.

(c) Life. – A person is disqualified from driving a commercial motor vehicle for life if that person either uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance or is the holder of a commercial drivers license at the time of the commission of any such felony.

(c1) Life. – A person shall be disqualified from driving a commercial motor vehicle for life, without the possibility of reinstatement, if that person has had a commercial drivers license reinstated in the past and is convicted of another major disqualifying offense as defined in 49 C.F.R. § 383.51(b).

(d) Less Than a Year. – A person is disqualified from driving a commercial motor vehicle for 60 days if that person is convicted of two serious traffic violations, or 120 days if convicted of three or more serious traffic violations, arising from separate incidents occurring within a three-year period, committed in a commercial motor vehicle or while holding a commercial drivers license. This disqualification shall be in addition to, and shall be served at the end of, any other prior disqualification. For purposes of this subsection, a "serious violation" includes violations of G.S. 20-140(f) and G.S. 20-141(j3).

(e) Three Years. – A person is disqualified from driving a commercial motor vehicle for three years if that person is convicted of an offense or commits an act requiring disqualification under subsection (a) and the offense or act occurred while the person was transporting a hazardous material that required the motor vehicle driven to be placarded.

(f) Revocation Period. – A person is disqualified from driving a commercial motor vehicle for the period during which the person's regular or commercial drivers license is revoked, suspended, or cancelled.

(g) Violation of Out-of-Service Order. – Any person holding a commercial learner's permit or commercial drivers license or required to have a commercial learner's permit or commercial drivers license convicted for violating an out-of-service order, except as described in subsection (h) of this section, shall be disqualified as follows:

- (1) A person is disqualified from driving a commercial vehicle for a period of no less than 180 days and no more than one year if convicted of a first violation of an out-of-service order while operating a commercial motor vehicle.
- (2) A person is disqualified for a period of no less than two years and no more than five years if convicted of a second violation of an out-of-service order while operating a commercial motor vehicle during any 10-year period, arising from separate incidents.
- (3) A person is disqualified for a period of no less than three years and no more than five years if convicted of a third or subsequent violation of an out-of-service order while operating a commercial motor vehicle during any 10-year period, arising from separate incidents.

(h) Violation of Out-of-Service Order; Special Rule for Hazardous Materials and Passenger Offenses. – Any person holding a commercial learner's permit or commercial drivers license or required to have a commercial learner's permit or commercial drivers license convicted for violating an out-of-service order while transporting hazardous materials, as defined in 49

C.F.R. § 383.5, or while operating a commercial vehicle designed or used to transport 16 or more passengers, including the driver, shall be disqualified as follows:

- (1) A person is disqualified for a period of no less than 180 days and no more than two years if convicted of a first violation of an out-of-service order while operating a commercial motor vehicle.
- (2) A person is disqualified for a period of no less than three years and no more than five years if convicted of a second or subsequent violation of an out-of-service order while operating a commercial motor vehicle during any 10-year period, arising from separate incidents.
- (3) A person is disqualified for a period of no less than three years and no more than five years if convicted of a third or subsequent violation of an out-of-service order while operating a commercial motor vehicle during any 10-year period arising from separate incidents.

(i) **Disqualification for Out-of-State Violations.** – The Division shall withdraw the privilege to operate a commercial vehicle of any resident of this State or person transferring to this State upon receiving notice of the person's conviction or Administrative Per Se Notice in another state for an offense that, if committed in this State, would be grounds for disqualification, even if the offense occurred in another jurisdiction prior to being licensed in this State where no action had been taken at that time in the other jurisdiction. The period of disqualification shall be the same as if the offense occurred in this State.

(j) **Disqualification of Persons Without Commercial Drivers Licenses.** – Any person convicted of an offense that requires disqualification under this section, but who does not hold a commercial drivers license, shall be disqualified from operating a commercial vehicle in the same manner as if the person held a valid commercial drivers license.

(k) **Disqualification for Railroad Grade Crossing Offenses.** – Any person convicted of a violation of G.S. 20-142.1 through G.S. 20-142.5, when the driver is operating a commercial motor vehicle, shall be disqualified from driving a commercial motor vehicle as follows:

- (1) A person is disqualified for a period of 60 days if convicted of a first violation of a railroad grade crossing offense listed in this subsection.
- (2) A person is disqualified for a period of 120 days if convicted during any three-year period of a second violation of any combination of railroad grade crossing offenses listed in this subsection.
- (3) A person is disqualified for a period of one year if convicted during any three-year period of a third or subsequent violation of any combination of railroad grade crossing offenses listed in this subsection.

(l) **Disqualification for Testing Positive in a Drug or Alcohol Test.** – Upon receipt of notice of a positive drug or alcohol test, or of refusal to participate in a drug or alcohol test, pursuant to G.S. 20-37.19(c), the Division must disqualify a CDL holder from operating a commercial motor vehicle for a minimum of 30 days and until receipt of proof of successful completion of assessment and treatment by a substance abuse professional in accordance with 49 C.F.R. § 382.503.

(m) **Disqualifications of Drivers Who Are Determined to Constitute an Imminent Hazard.** – The Division shall withdraw the privilege to operate a commercial motor vehicle for any resident of this State for a period of 30 days in accordance with 49 C.F.R. § 383.52.

(n) **Disqualification for Conviction of Criminal Offense That Requires Registration Under the Sex Offender and Public Protection Registration Programs.** – Effective December 1,

2009, except as otherwise provided by this subsection, a person convicted of a violation that requires registration under Article 27A of Chapter 14 of the General Statutes is disqualified from driving a commercial motor vehicle that requires a commercial drivers license with a P or S endorsement for the period of time during which the person is required to maintain registration under Article 27A of Chapter 14 of the General Statutes. If a person who is registered pursuant to Article 27A of Chapter 14 of the General Statutes on December 1, 2009, also has a valid commercial drivers license with a P or S endorsement that was issued on or before December 1, 2009, then the person is not disqualified under this subsection until that license expires, provided the person does not commit a subsequent offense that requires registration under Article 27A of Chapter 14 of the General Statutes.

(o) Disqualification for Passing Stopped School Bus. – Any person whose drivers license is revoked under G.S. 20-217 is disqualified from driving a commercial motor vehicle for the period of time in which the person's drivers license remains revoked under G.S. 20-217. (1989, c. 771, s. 3; 1991, c. 726, s. 8; 1993, c. 533, s. 5; 1998-149, s. 3; 1998-182, s. 19; 2000-109, s. 7(e); 2002-72, s. 7; 2003-397, s. 2; 2005-156, s. 2; 2005-349, s. 6; 2007-492, s. 1; 2008-175, s. 1; 2009-416, s. 3; 2009-491, s. 2; 2013-293, s. 3; 2016-90, ss. 6(c), (d).)

§ 20-17.5. Effect of disqualification.

(a) When No Accompanying Revocation. – A person who is disqualified as the result of a conviction that requires disqualification but not revocation may keep any regular Class C drivers license the person had at the time of the offense resulting in disqualification. If the person had a Class A or Class B regular drivers license or a commercial drivers license when the offense occurred, all of the following apply:

- (1) The person must give the license to the court that convicts the person or, if the person is not present when convicted, to the Division.
- (2) The person may apply for a regular Class C drivers license.

(b) When Revocation and Disqualification. – When a person is disqualified as the result of a conviction that requires both disqualification and revocation, all of the following apply:

- (1) The person must give any drivers license the person has to the court that convicts the person or, if the person is not present when convicted, to the Division.
- (2) The person may obtain limited driving privileges to drive a noncommercial motor vehicle during the revocation period to the extent the law would allow limited driving privileges if the person had been driving a noncommercial motor vehicle when the offense occurred. The same procedure, eligibility requirements, and mandatory conditions apply to limited driving privileges authorized by this subdivision that would apply if the person had been driving a noncommercial motor vehicle when the offense occurred.
- (3) If the disqualification period is longer than the revocation period, the person may apply for a regular Class C drivers license at the end of the revocation period.

(c) Refusal to Take Chemical Test. – When a person is disqualified for refusing to take a chemical test, all of the following apply:

- (1) The person must give any license the person has to a court, a law enforcement officer, or the Division, in accordance with G.S. 20-16.2 and G.S. 20-16.5.

- (2) The person may obtain limited driving privileges to drive a noncommercial motor vehicle during the period the person's license is revoked for the refusal that disqualified the person to the extent the law would allow limited driving privileges if the person had been driving a noncommercial motor vehicle at the time of the refusal. The same procedure, eligibility requirements, and mandatory conditions apply to limited driving privileges authorized by this subdivision that would apply if the person had been driving a noncommercial motor vehicle at the time of the refusal.
- (3) If the disqualification period is longer than the revocation period, the person may apply for a regular Class C drivers license at the end of the revocation period.

(d) **Obtaining Class C Regular License.** – A person who is authorized by this section to apply for a regular Class C drivers license and who meets all of the following criteria may obtain a regular Class C drivers license without taking a test:

- (1) The person must have had a Class A or Class B regular drivers license or a commercial drivers license when the person was disqualified.
- (2) The person's license must have been issued by the Division.
- (3) The person's license must not have expired by the date the person applies for a regular Class C drivers license.

Upon application and payment of the fee set in G.S. 20-14 for a duplicate license, the Division shall issue a person who meets these criteria a regular Class C drivers license. The license shall include the same endorsements and restrictions as the former Class A regular, Class B regular, or commercial drivers license, to the extent they apply to a regular Class C drivers license. A regular Class C drivers license issued to a person who meets these criteria expires the same day as the license it replaces.

G.S. 20-7 governs the issuance of a regular Class C drivers license to a person who is authorized by this section to apply for a regular Class C drivers license but who does not meet the listed criteria. In accordance with that statute, the Division may require the person to take a test and the person must pay the license fee.

(e) **Restoration Fee.** – A person who is disqualified must pay the restoration fee set in G.S. 20-7(i1) the first time any of the following events occurs as a result of the same disqualification:

- (1) The Division reinstates a Class A regular drivers license, a Class B regular drivers license, or a commercial drivers license the person had at the time of the disqualification by issuing the person a duplicate license.
- (2) The Division issues a Class A regular drivers license, a Class B regular drivers license, or a commercial drivers license to the person.
- (3) If the person's license was revoked because of the conviction or act requiring disqualification, the Division issues a regular Class C drivers license to the person.

The restoration fee does not apply the second time any of these events occurs as a result of the same disqualification. (1991, c. 726, s. 9.)

§ 20-17.6. Restoration of a license after a conviction of driving while impaired or driving while less than 21 years old after consuming alcohol or drugs.

(a) Scope. – This section applies to a person whose license was revoked as a result of a conviction of any of the following offenses:

- (1) G.S. 20-138.1, driving while impaired (DWI).
- (2) G.S. 20-138.2, commercial DWI.
- (3) G.S. 20-138.3, driving while less than 21 years old after consuming alcohol or drugs.
- (4) G.S. 20-138.2A, driving a commercial motor vehicle with an alcohol concentration of greater than 0.00 and less than 0.04, if the person's drivers license was revoked under G.S. 20-17(a)(13).
- (5) G.S. 20-138.2B, driving a school bus, a school activity bus, or a child care vehicle with an alcohol concentration of greater than 0.00, if the person's drivers license was revoked under G.S. 20-17(a)(14).

(b) Requirement for Restoring License. – The Division must receive a certificate of completion for a person who is subject to this section before the Division can restore that person's license. The revocation period for a person who is subject to this section is extended until the Division receives the certificate of completion.

(c) Certificate of Completion. – To obtain a certificate of completion, a person must have a substance abuse assessment and, depending on the results of the assessment, must complete either an alcohol and drug education traffic (ADET) school or a substance abuse treatment program. The substance abuse assessment must be conducted by one of the entities authorized by the Department of Health and Human Services to conduct assessments. G.S. 122C-142.1 describes the procedure for obtaining a certificate of completion.

(d) Notice of Requirement. – When a court reports to the Division a conviction of a person who is subject to this section, the Division must send the person written notice of the requirements of this section and of the consequences of failing to comply with these requirements. The notification must include a statement that the person may contact the local area mental health, developmental disabilities, and substance abuse program for a list of agencies and entities in the person's area that are authorized to make a substance abuse assessment and provide the education or treatment needed to obtain a certificate of completion.

(e) Effect on Limited Driving Privileges. – A person who is subject to this section is not eligible for limited driving privileges if the revocation period for the offense that caused the person to become subject to this section has ended and the person's license remains revoked only because the Division has not obtained a certificate of completion for that person. The issuance of limited driving privileges during the revocation period for the offense that caused the person to become subject to this section is governed by the statutes that apply to that offense. (1995, c. 496, ss. 1, 11, 12; 1997-443, s. 11A.118(a); 1998-182, s. 20.)

§ 20-17.7. Commercial motor vehicle out-of-service fines authorized.

The Secretary of Public Safety may adopt rules implementing fines for violation of out-of-service criteria as defined in 49 C.F.R. § 390.5. These fines may not exceed the schedule of fines adopted by the Commercial Motor Vehicle Safety Alliance that is in effect on the date of the violations. (1999-330, s. 1; 2002-159, s. 31.5(b); 2002-190, s. 3; 2011-145, s. 19.1(g).)

§ 20-17.8. Restoration of a license after certain driving while impaired convictions; ignition interlock.

(a) Scope. – This section applies to a person whose license was revoked as a result of a conviction of driving while impaired, G.S. 20-138.1, and:

- (1) The person had an alcohol concentration of 0.15 or more;
- (2) The person has been convicted of another offense involving impaired driving, which offense occurred within seven years immediately preceding the date of the offense for which the person's license has been revoked; or
- (3) The person was sentenced pursuant to G.S. 20-179(f3).

For purposes of subdivision (1) of this subsection, the results of a chemical analysis, as shown by an affidavit or affidavits executed pursuant to G.S. 20-16.2(c1), shall be used by the Division to determine that person's alcohol concentration.

(a1) Additional Scope. – This section applies to a person whose license was revoked as a result of a conviction of habitual impaired driving, G.S. 20-138.5.

(b) Ignition Interlock Required. – Except as provided in subsection (l) of this section, when the Division restores the license of a person who is subject to this section, in addition to any other restriction or condition, it shall require the person to agree to and shall indicate on the person's drivers license the following restrictions for the period designated in subsection (c):

- (1) A restriction that the person may operate only a vehicle that is equipped with a functioning ignition interlock system of a type approved by the Commissioner. The Commissioner shall not unreasonably withhold approval of an ignition interlock system and shall consult with the Division of Purchase and Contract in the Department of Administration to ensure that potential vendors are not discriminated against.
- (2) A requirement that the person personally activate the ignition interlock system before driving the motor vehicle.
- (3) An alcohol concentration restriction as follows:
 - a. If the ignition interlock system is required pursuant only to subdivision (a)(1) of this section, a requirement that the person not drive with an alcohol concentration of 0.04 or greater;
 - b. If the ignition interlock system is required pursuant to subdivision (a)(2) or (a)(3) of this section, or subsection (a1) of this section, a requirement that the person not drive with an alcohol concentration of greater than 0.00; or
 - c. If the ignition interlock system is required pursuant to subdivision (a)(1) of this section, and the person has also been convicted, based on the same set of circumstances, of: (i) driving while impaired in a commercial vehicle, G.S. 20-138.2, (ii) driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, (iii) a violation of G.S. 20-141.4, or (iv) manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, a requirement that the person not drive with an alcohol concentration of greater than 0.00.

(c) Length of Requirement. – The requirements of subsection (b) shall remain in effect for:

- (1) One year from the date of restoration if the original revocation period was one year;

- (2) Three years from the date of restoration if the original revocation period was four years; or
- (3) Seven years from the date of restoration if the original revocation was a permanent revocation.

(c1) Vehicles Subject to Requirement. – A person subject to this section shall have all registered vehicles owned by that person equipped with a functioning ignition interlock system of a type approved by the Commissioner. The Commissioner shall not issue a license to a person subject to this section until presented with proof of the installation of an ignition interlock system in all registered vehicles owned by the person. In order to avoid an undue financial hardship, a person subject to this section may seek a waiver from the Division for any vehicle registered to that person that is relied upon by another member of that person's family for transportation and that the vehicle is not in the possession of the person subject to this section. The Division shall determine such waiver on a case-by-case basis following an assessment of financial hardship to the person subject to this restriction. The Commissioner shall cancel the drivers license of any person subject to this section for registration of a motor vehicle owned by the person without an installed ignition interlock system or removal of the ignition interlock system from a motor vehicle owned by the person, other than when changing ignition interlock providers or upon sale of the vehicle.

(d) Effect of Limited Driving Privileges. – If the person was eligible for and received a limited driving privilege under G.S. 20-179.3, with the ignition interlock requirement contained in G.S. 20-179.3(g5), the period of time for which that limited driving privilege was held shall be applied towards the requirements of subsection (c).

(e) Notice of Requirement. – When a court reports to the Division a conviction of a person who is subject to this section, the Division must send the person written notice of the requirements of this section and of the consequences of failing to comply with these requirements. The notification must include a statement that the person may contact the Division for information on obtaining and having installed an ignition interlock system of a type approved by the Commissioner.

(f) Effect of Violation of Restriction. – A person subject to this section who violates any of the restrictions of this section commits the offense of driving while license revoked for impaired driving under G.S. 20-28(a1) and is subject to punishment and license revocation as provided in that section. If a law enforcement officer has reasonable grounds to believe that a person subject to this section has consumed alcohol while driving or has driven while he has remaining in his body any alcohol previously consumed, the suspected offense of driving while license is revoked is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2. If a person subject to this section is charged with driving while license revoked by violating a condition of subsection (b) of this section, and a judicial official determines that there is probable cause for the charge, the person's license is suspended pending the resolution of the case, and the judicial official must require the person to surrender the license. The judicial official must also notify the person that he is not entitled to drive until his case is resolved. An alcohol concentration report from the ignition interlock system shall not be admissible as evidence of driving while license revoked, nor shall it be admissible in an administrative revocation proceeding as provided in subsection (g) of this section, unless the person operated a vehicle when the ignition interlock system indicated an alcohol concentration in violation of the restriction placed upon the person by subdivision (b)(3) of this section.

(g) Effect of Violation of Restriction When Driving While License Revoked Not Charged. – A person subject to this section who violates any of the restrictions of this section, but is not charged or convicted of driving while license revoked pursuant to G.S. 20-28(a), shall have the person's license revoked by the Division for a period of one year.

(h) Beginning of Revocation Period. – If the original period of revocation was imposed pursuant to G.S. 20-19(d) or (e), any remaining period of the original revocation, prior to its reduction, shall be reinstated and the revocation required by subsection (f) or (g) of this section begins after all other periods of revocation have terminated.

(i) Notification of Revocation. – If the person's license has not already been surrendered to the court, the Division must expeditiously notify the person that the person's license to drive is revoked pursuant to subsection (f) or (g) of this section effective on the tenth calendar day after the mailing of the revocation order.

(j) Right to Hearing Before Division; Issues. – If the person's license is revoked pursuant to subsection (g) of this section, before the effective date of the order issued under subsection (i) of this section, the person may request in writing a hearing before the Division. Except for the time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the Division that the person's license was surrendered to the court and remained in the court's possession, then the Division shall credit the amount of time for which the license was in the possession of the court against the revocation period required by subsection (g) of this section. If the person properly requests a hearing, the person retains the person's license, unless it is revoked under some other provision of law, until the hearing is held, the person withdraws the request, or the person fails to appear at a scheduled hearing. The hearing officer may subpoena any witnesses or documents that the hearing officer deems necessary. The person may request the hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at the hearing if the person makes the request in writing at least three days before the hearing. The person may subpoena any other witness whom the person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the authority of this section. The hearing officer is authorized to administer oaths to witnesses appearing at the hearing. The hearing must be conducted in the county where the charge was brought, except when the evidence of the violation is an alcohol concentration report from an ignition interlock system, the hearing may be conducted in the county where the person resides. The hearing must be limited to consideration of whether:

- (1) The drivers license of the person had an ignition interlock requirement; and
- (2) The person:
 - a. Was driving a vehicle that was not equipped with a functioning ignition interlock system; or
 - b. Did not personally activate the ignition interlock system before driving the vehicle; or
 - c. Drove the vehicle in violation of an applicable alcohol concentration restriction prescribed by subdivision (b)(3) of this section.

If the Division finds that the conditions specified in this subsection are met, it must order the revocation sustained. If the Division finds that the condition of subdivision (1) is not met, or that none of the conditions of subdivision (2) are met, it must rescind the revocation. If the revocation is sustained, the person must surrender the person's license immediately upon

notification by the Division. If the revocation is sustained, the person may appeal the decision of the Division pursuant to G.S. 20-25.

(k) **Restoration After Violation.** – When the Division restores the license of a person whose license was revoked pursuant to subsection (f) or (g) of this section and the revocation occurred prior to completion of time period required by subsection (c) of this section, in addition to any other restriction or condition, it shall require the person to comply with the conditions of subsection (b) of this section until the person has complied with those conditions for the cumulative period of time as set forth in subsection (c) of this section. The period of time for which the person successfully complied with subsection (b) of this section prior to revocation pursuant to subsection (f) or (g) of this section shall be applied towards the requirements of subsection (c) of this section.

(l) **Medical Exception to Requirement.** – A person subject to this section solely for the reason set forth in subdivision (a)(1) of this section and who has a medically diagnosed physical condition that makes the person incapable of personally activating an ignition interlock system may request an exception to the requirements of this section from the Division. The Division shall not issue an exception to this section unless the person has submitted to a physical examination by two or more physicians or surgeons duly licensed to practice medicine in this State or in any other state of the United States and unless such examining physicians or surgeons have completed and signed a certificate in the form prescribed by the Division. Such certificate shall be devised by the Commissioner with the advice of those qualified experts in the field of diagnosing and treating physical disorders that the Commissioner may select and shall be designed to elicit the maximum medical information necessary to aid in determining whether or not the person is capable of personally activating an ignition interlock system. The certificate shall contain a waiver of privilege and the recommendation of the examining physician to the Commissioner as to whether the person is capable of personally activating an ignition interlock system.

The Commissioner is not bound by the recommendations of the examining physicians but shall give fair consideration to such recommendations in acting upon the request for medical exception, the criterion being whether or not, upon all the evidence, it appears that the person is in fact incapable of personally activating an ignition interlock system. The burden of proof of such fact is upon the person seeking the exception.

Whenever an exception is denied by the Commissioner, such denial may be reviewed by a reviewing board upon written request of the person seeking the exception filed with the Division within 10 days after receipt of such denial. The composition, procedures, and review of the reviewing board shall be as provided in G.S. 20-9(g)(4). This subsection shall not apply to persons subject to an ignition interlock requirement under this section for the reasons set forth in subdivision (a)(2) or (a)(3) of this section. (1999-406, s. 3; 2000-155, ss. 1-3; 2001-487, s. 8; 2006-253, ss. 22.3, 22.4; 2007-493, ss. 5, 10, 28; 2009-369, ss. 5, 6; 2011-191, s. 3; 2013-348, s. 1; 2014-108, s. 1(a); 2014-115, s. 61.5; 2015-186, s. 4; 2015-264, s. 86; 2017-176, s. 2(b).)

§ 20-17.8A. Tampering with ignition interlock systems.

Any person who tampers with, circumvents, or attempts to circumvent an ignition interlock device required to be installed on a motor vehicle pursuant to judicial order, statute, or as may be otherwise required as a condition for an individual to operate a motor vehicle, for the purpose of avoiding or altering testing on the ignition interlock device in the operation or attempted operation of a vehicle, or altering the testing results received or results in the process of being

received on the ignition interlock device, is guilty of a Class 1 misdemeanor. Each act of tampering, circumvention, or attempted circumvention under this statute shall constitute a separate violation. (2011-381, s. 1.)

§ 20-17.9. Revocation of commercial drivers license with a P or S endorsement upon conviction of certain offenses.

The Division shall revoke the commercial drivers license with a P or S endorsement of any person convicted of any offense on or after December 1, 2009, that requires registration under Article 27A of Chapter 14 of the General Statutes. The person may apply for the issuance of a new commercial drivers license pursuant to this Chapter, but, pursuant to G.S. 20-17.4, shall remain disqualified from obtaining a commercial drivers license with a P or S endorsement for the period of time during which the person is required to maintain registration. (2009-491, s. 3.)

§ 20-18. Conviction of offenses described in § 20-181 not ground for suspension or revocation.

Conviction of offenses described in G.S. 20-181 shall not be cause for the suspension or revocation of driver's license under the terms of this Article. (1939, c. 351, s. 2; 1955, c. 913, s. 1; 1979, c. 667, s. 41.)

§ 20-19. Period of suspension or revocation; conditions of restoration.

(a) When a license is suspended under subdivision (8) or (9) of G.S. 20-16(a), the period of suspension shall be in the discretion of the Division and for such time as it deems best for public safety but shall not exceed six months.

(b) When a license is suspended under subdivision (10) of G.S. 20-16(a), the period of suspension shall be in the discretion of the Division and for such time as it deems best for public safety but shall not exceed a period of 12 months.

(c) When a license is suspended under any other provision of this Article which does not specifically provide a period of suspension, the period of suspension shall be not more than one year.

(c1) When a license is revoked under subdivision (2) of G.S. 20-17, and the period of revocation is not determined by subsection (d) or (e) of this section, the period of revocation is one year.

(c2) When a license is suspended under G.S. 20-17(a)(14), the period of revocation for a first conviction shall be for 10 days. For a second or subsequent conviction as defined in G.S. 20-138.2B(d), the period of revocation shall be one year.

(c3) Restriction; Revocations. – When the Division restores a person's drivers license which was revoked pursuant to G.S. 20-13.2(a), G.S. 20-23 when the offense involved impaired driving, G.S. 20-23.2, subdivision (2) of G.S. 20-17(a), subdivision (1) or (9) of G.S. 20-17(a) when the offense involved impaired driving, G.S. 20-138.5(d), or this subsection, in addition to any other restriction or condition, it shall place the applicable restriction on the person's drivers license as follows:

- (1) For the first restoration of a drivers license for a person convicted of driving while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired under

- G.S. 20-138.1, that the person not operate a vehicle with an alcohol concentration of 0.04 or more at any relevant time after the driving;
- (2) For the second or subsequent restoration of a drivers license for a person convicted of driving while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired under G.S. 20-138.1, that the person not operate a vehicle with an alcohol concentration greater than 0.00 at any relevant time after the driving;
 - (3) For any restoration of a drivers license for a person convicted of driving while impaired in a commercial motor vehicle, G.S. 20-138.2, habitual impaired driving, G.S. 20-138.5, driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, felony death by vehicle, G.S. 20-141.4(a1), manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, or a revocation under this subsection, that the person not operate a vehicle with an alcohol concentration of greater than 0.00 at any relevant time after the driving;
 - (4) For any restoration of a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired in a commercial motor vehicle, G.S. 20-138.2, driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, a violation of G.S. 20-141.4, or manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, that the person not operate vehicle with an alcohol concentration of greater than 0.00 at any relevant time after the driving.

In addition, the person seeking restoration of a license must agree to submit to a chemical analysis in accordance with G.S. 20-16.2 at the request of a law enforcement officer who has reasonable grounds to believe the person is operating a motor vehicle on a highway or public vehicular area in violation of the restriction specified in this subsection. The person must also agree that, when requested by a law enforcement officer, the person will agree to be transported by the law enforcement officer to the place where chemical analysis is to be administered.

The restrictions placed on a license under this subsection shall be in effect (i) seven years from the date of restoration if the person's license was permanently revoked, (ii) until the person's twenty-first birthday if the revocation was for a conviction under G.S. 20-138.3, and (iii) three years in all other cases.

A law enforcement officer who has reasonable grounds to believe that a person has violated a restriction placed on the person's drivers license shall complete an affidavit pursuant to G.S. 20-16.2(c1). On the basis of information reported pursuant to G.S. 20-16.2, the Division shall revoke the drivers license of any person who violates a condition of reinstatement imposed under this subsection. An alcohol concentration report from an ignition interlock system shall not be used as the basis for revocation under this subsection. A violation of a restriction imposed under this subsection or the willful refusal to submit to a chemical analysis shall result in a one-year revocation. If the period of revocation was imposed pursuant to subsection (d) or (e), or G.S. 20-138.5(d), any remaining period of the original revocation, prior to its reduction, shall be

reinstated and the one-year revocation begins after all other periods of revocation have terminated.

(c4) Applicable Procedures. – When a person has violated a condition of restoration by refusing a chemical analysis, the notice and hearing procedures of G.S. 20-16.2 apply. When a person has submitted to a chemical analysis and the results show a violation of the alcohol concentration restriction, the notification and hearing procedures of this section apply.

(c5) Right to Hearing Before Division; Issues. – Upon receipt of a properly executed affidavit required by G.S. 20-16.2(c1), the Division must expeditiously notify the person charged that the person's license to drive is revoked for the period of time specified in this section, effective on the tenth calendar day after the mailing of the revocation order unless, before the effective date of the order, the person requests in writing a hearing before the Division. Except for the time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the Division that the person's license was surrendered to the court and remained in the court's possession, then the Division shall credit the amount of time for which the license was in the possession of the court against the revocation period required by this section. If the person properly requests a hearing, the person retains the person's license, unless it is revoked under some other provision of law, until the hearing is held, the person withdraws the request, or the person fails to appear at a scheduled hearing. The hearing officer may subpoena any witnesses or documents that the hearing officer deems necessary. The person may request the hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at the hearing if the person makes the request in writing at least three days before the hearing. The person may subpoena any other witness whom the person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the authority of this section. The hearing officer is authorized to administer oaths to witnesses appearing at the hearing. The hearing must be conducted in the county where the charge was brought, and must be limited to consideration of whether:

- (1) The charging officer had reasonable grounds to believe that the person had violated the alcohol concentration restriction;
- (2) The person was notified of the person's rights as required by G.S. 20-16.2(a);
- (3) The driver's license of the person had an alcohol concentration restriction; and
- (4) The person submitted to a chemical analysis upon the request of the charging officer, and the analysis revealed an alcohol concentration in excess of the restriction on the person's driver's license.

If the Division finds that the conditions specified in this subsection are met, it must order the revocation sustained. If the Division finds that any of the conditions (1), (2), (3), or (4) is not met, it must rescind the revocation. If the revocation is sustained, the person must surrender the person's license immediately upon notification by the Division.

(c6) Appeal to Court. – There is no right to appeal the decision of the Division. However, if the person properly requested a hearing before the Division under subsection (c5) and the Division held such a hearing, the person may within 30 days of the date the Division's decision is mailed to the person, petition the superior court of the county in which the hearing took place for discretionary review on the record of the revocation. The superior court may stay the imposition of the revocation only if the court finds that the person is likely to succeed on the merits of the case and will suffer irreparable harm if such a stay is not granted. The stay shall not exceed 30 days. The reviewing court shall review the record only and shall be limited to determining if the

Division hearing officer followed proper procedures and if the hearing officer made sufficient findings of fact to support the revocation. There shall be no further appeal.

(d) When a person's license is revoked under (i) G.S. 20-17(a)(2) and the person has another offense involving impaired driving for which he has been convicted, which offense occurred within three years immediately preceding the date of the offense for which his license is being revoked, or (ii) G.S. 20-17(a)(9) due to a violation of G.S. 20-141.4(a3), the period of revocation is four years, and this period may be reduced only as provided in this section. The Division may conditionally restore the person's license after it has been revoked for at least two years under this subsection if he provides the Division with satisfactory proof that:

- (1) He has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs; and
- (2) He is not currently an excessive user of alcohol, drugs, or prescription drugs, or unlawfully using any controlled substance. The person may voluntarily submit themselves to continuous alcohol monitoring for the purpose of proving abstinence from alcohol consumption during a period of revocation immediately prior to the restoration consideration.
 - a. Monitoring periods of 120 days or longer shall be accepted by the Division as evidence of abstinence if the Division receives sufficient documentation that reflects that the person abstained from alcohol use during the monitoring period.
 - b. The continuous alcohol monitoring system shall be a system approved under G.S. 15A-1343.3.
 - c. The Division may establish guidelines for the acceptance of evidence of abstinence under this subdivision.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for the duration of the original revocation period.

(e) When a person's license is revoked under (i) G.S. 20-17(a)(2) and the person has two or more previous offenses involving impaired driving for which the person has been convicted, and the most recent offense occurred within the five years immediately preceding the date of the offense for which the person's license is being revoked, (ii) G.S. 20-17(a)(2) and the person was sentenced pursuant to G.S. 20-179(f3) for the offense resulting in the revocation, or (iii) G.S. 20-17(a)(9) due to a violation of G.S. 20-141.4(a4), the revocation is permanent.

(e1) Notwithstanding subsection (e) of this section, the Division may conditionally restore the license of a person to whom subsection (e) applies after it has been revoked for at least three years under subsection (e) if the person provides the Division with satisfactory proof of all of the following:

- (1) In the three years immediately preceding the person's application for a restored license, the person has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs.
- (2) The person is not currently an excessive user of alcohol, drugs, or prescription drugs, or unlawfully using any controlled substance. The person may voluntarily submit themselves to continuous alcohol monitoring for the

purpose of proving abstinence from alcohol consumption during a period of revocation immediately prior to the restoration consideration.

- a. Monitoring periods of 120 days or longer shall be accepted by the Division as evidence of abstinence if the Division receives sufficient documentation that reflects that the person abstained from alcohol use during the monitoring period.
- b. The continuous alcohol monitoring system shall be a system approved under G.S. 15A-1343.3.
- c. The Division may establish guidelines for the acceptance of evidence of abstinence under this subdivision.

(e2) Notwithstanding subsection (e) of this section, the Division may conditionally restore the license of a person to whom subsection (e) applies after it has been revoked for at least 24 months under G.S. 20-17(a)(2) if the person provides the Division with satisfactory proof of all of the following:

- (1) The person has not consumed any alcohol for the 12 months preceding the restoration while being monitored by a continuous alcohol monitoring device of a type approved by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
- (2) The person has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs.
- (3) The person is not currently an excessive user of drugs or prescription drugs.
- (4) The person is not unlawfully using any controlled substance.

(e3) If the Division restores a person's license under subsection (e1), (e2), or (e4) of this section, it may place reasonable conditions or restrictions on the person for any period up to five years from the date of restoration.

(e4) When a person's license is revoked under G.S. 20-138.5(d), the Division may conditionally restore the license of that person after it has been revoked for at least 10 years after the completion of any sentence imposed by the court, if the person provides the Division with satisfactory proof of all of the following:

- (1) In the 10 years immediately preceding the person's application for a restored license, the person has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any other criminal offense.
- (2) The person is not currently a user of alcohol, unlawfully using any controlled substance, or an excessive user of prescription drugs.

(f) When a license is revoked under any other provision of this Article which does not specifically provide a period of revocation, the period of revocation shall be one year.

(g) When a license is suspended under subdivision (11) of G.S. 20-16(a), the period of suspension shall be for a period of time not in excess of the period of nonoperation imposed by the court as a condition of the suspended sentence; further, in such case, it shall not be necessary to comply with the Motor Vehicle Safety and Financial Responsibility Act in order to have such license returned at the expiration of the suspension period.

(g1) When a license is revoked under subdivision (12) of G.S. 20-17, the period of revocation is six months for conviction of a second offense and one year for conviction of a third or subsequent offense.

(g2) When a license is revoked under G.S. 20-17(a)(16), the period of revocation is 90 days for a second conviction and six months for a third or subsequent conviction. The term "second or subsequent conviction" shall have the same meaning as found in G.S. 20-17(a)(16).

(h) Repealed by Session Laws 1983, c. 435, s. 17.

(i) **(For applicability, see Editor's note)** When a person's license is revoked under G.S. 20-17(a)(1) or G.S. 20-17(a)(9), and the offense is one involving impaired driving and a fatality, the revocation is permanent. The Division may, however, conditionally restore the person's license after it has been revoked for at least five years under this subsection if he provides the Division with satisfactory proof that:

(1) In the five years immediately preceding the person's application for a restored license, he has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs; and

(2) He is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for any period up to seven years from the date of restoration.

(j) The Division is authorized to issue amended revocation orders issued under subsections (d) and (e), if necessary because convictions do not respectively occur in the same order as offenses for which the license may be revoked under those subsections.

(k) Before the Division restores a driver's license that has been suspended or revoked under G.S. 20-138.5(d), or under any provision of this Article, other than G.S. 20-24.1, the person seeking to have his driver's license restored shall submit to the Division proof that he has notified his insurance agent or company of his seeking the restoration and that he is financially responsible. Proof of financial responsibility shall be in one of the following forms:

(1) A written certificate or electronically-transmitted facsimile thereof from any insurance carrier duly authorized to do business in this State certifying that there is in effect a nonfleet private passenger motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. The certificate or facsimile shall state the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy and shall state the date that the certificate or facsimile is issued. The certificate or facsimile shall remain effective proof of financial responsibility for a period of 30 consecutive days following the date the certificate or facsimile is issued but shall not in and of itself constitute a binder or policy of insurance or

(2) A binder for or policy of nonfleet private passenger motor vehicle liability insurance under which the applicant is insured, provided that the binder or policy states the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy.

The preceding provisions of this subsection do not apply to applicants who do not own currently registered motor vehicles and who do not operate nonfleet private passenger motor vehicles that are owned by other persons and that are not insured under commercial motor vehicle liability insurance policies. In such cases, the applicant shall sign a written certificate to

that effect. Such certificate shall be furnished by the Division and may be incorporated into the restoration application form. Any material misrepresentation made by such person on such certificate shall be grounds for suspension of that person's license for a period of 90 days.

For the purposes of this subsection, the term "nonfleet private passenger motor vehicle" has the definition ascribed to it in Article 40 of General Statute Chapter 58.

The Commissioner may require that certificates required by this subsection be on a form approved by the Commissioner. The financial responsibility required by this subsection shall be kept in effect for not less than three years after the date that the license is restored. Failure to maintain financial responsibility as required by this subsection shall be grounds for suspending the restored driver's license for a period of thirty (30) days. Nothing in this subsection precludes any person from showing proof of financial responsibility in any other manner authorized by Articles 9A and 13 of this Chapter. (1935, c. 52, s. 13; 1947, c. 1067, s. 15; 1951, c. 1202, ss. 2-4; 1953, c. 1138; 1955, c. 1187, ss. 13, 17, 18; 1957, c. 499, s. 2; c. 515, s. 1; 1959, c. 1264, s. 11A; 1969, c. 242; 1971, c. 619, ss. 8-10; 1973, c. 1445, ss. 1-4; 1975, c. 716, s. 5; 1979, c. 903, ss. 4-6; 1981, c. 412, s. 4; c. 747, ss. 34, 66; 1983, c. 435, s. 17; 1983 (Reg. Sess., 1984), c. 1101, s. 18; 1987, c. 869, s. 12; 1987 (Reg. Sess., 1988), c. 1112; 1989, c. 436, s. 5; c. 771, s. 18; 1995, c. 506, s. 8; 1998-182, s. 21; 1999-406, s. 2; 1999-452, ss. 11, 12; 2000-140, ss. 3, 4; 2000-155, s. 6; 2001-352, s. 4; 2007-165, ss. 1(a), (b); 2007-493, ss. 11-14; 2008-187, s. 9; 2009-99, s. 1; 2009-369, ss. 1-4; 2009-500, ss. 1, 2; 2011-145, s. 19.1(h); 2011-191, s. 2; 2014-115, s. 61.5; 2017-176, s. 2(b); 2017-186, s. 2(jjjj).)

§ 20-20: Repealed by Session Laws 1981, c. 938, s. 5.

§ 20-20.1. Limited driving privilege for certain revocations.

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

- (1) Limited driving privilege. – A judgment issued by a court authorizing a person with a revoked drivers license to drive under specified terms and conditions.
- (2) Nonstandard working hours. – Anytime other than 6:00 A.M. until 8:00 P.M. on Monday through Friday.
- (3) Standard working hours. – Anytime from 6:00 A.M. until 8:00 P.M. on Monday through Friday.
- (4) Underlying offense. – The offense for which a person's drivers license was revoked when the person was charged under G.S. 20-28(a), driving with a revoked license, or under G.S. 20-28.1, committing a motor vehicle moving offense while driving with a revoked license.

(b) Eligibility. – A person is eligible to apply for a limited driving privilege under this section if all of the following conditions apply:

- (1) The person's license is currently revoked under G.S. 20-28(a) or G.S. 20-28.1.
- (2) The person has complied with the revocation for the period required in subsection (c) of this section immediately preceding the date the person files a petition for a limited driving privilege under this section.
- (3) The person's underlying offense is not an offense involving impaired driving and, if the person's license is revoked under G.S. 20-28.1 for committing a motor vehicle moving offense while driving with a revoked license, the moving offense is not an offense involving impaired driving.

- (4) The revocation period for the underlying offense has expired.
- (5) The revocation under G.S. 20-28(a) or G.S. 20-28.1 is the only revocation in effect.
- (6) The person is not eligible to receive a limited driving privilege under any other law.
- (7) The person has not held a limited driving privilege issued under this section at anytime during the three years prior to the date the person files the current petition.
- (8) The person has no pending charges for any motor vehicle offense in this or in any other state and has no unpaid motor vehicle fines or penalties in this or in any other state.
- (9) The person's drivers license issued by another state has not been revoked by that state.
- (10) G.S. 20-9(e) or G.S. 20-9(f) does not prohibit the Division from issuing the person a license.

(c) Compliance Period. – The following table sets out the period during which a person must comply with a revocation under G.S. 20-28(a) or G.S. 20-28.1 to be eligible for a limited driving privilege under this section:

Revocation Period	Compliance Period
1 Year	90 Days
2 Years	1 Year
Permanent	2 Years

(d) Petition. – A person may apply for a limited driving privilege under this section by filing a petition. A petition filed under this section is separate from the action that resulted in the initial revocation and is a civil action. A petition must be filed in district court in the county of the person's residence as reflected by the Division's records or, if the Division's records are inaccurate, in the county of the person's actual residence. A person must attach to a petition a copy of the person's motor vehicle record. A petition must include a sworn statement that the person filing the petition is eligible for a limited driving privilege under this section.

A court, for good cause shown, may issue a limited driving privilege to an eligible person in accordance with this section. The costs required under G.S. 7A-305(a) and G.S. 20-20.2 apply to a petition filed under this section. The clerk of court for the court that issues a limited driving privilege under this section must send a copy of the limited driving privilege to the Division.

(e) Scope of Privilege. – A limited driving privilege restricts the person to essential driving related to one or more of the purposes listed in this subsection. Any driving that is not related to the purposes authorized in this subsection is unlawful even though done at times and upon routes that may be authorized by the privilege. Except as otherwise provided, all driving must be for a purpose and done within the restrictions specified in the privilege.

The permissible purposes for a limited driving privilege are:

- (1) Travel to and from the person's place of employment and in the course of employment.
- (2) Travel necessary for maintenance of the person's household.
- (3) Travel to provide emergency medical care for the person or for an immediate family member of the person who resides in the same household with the person. Driving related to emergency medical care is authorized at anytime and without restriction as to routes.

(f) Employment Driving in Standard Working Hours. – The court may authorize driving for employment-related purposes during standard working hours without specifying times and routes for the driving. If the person is required to drive for essential employment-related purposes only during standard working hours, the limited driving privilege must prohibit driving during nonstandard working hours unless the driving is for emergency medical care or for authorized household maintenance. The limited driving privilege must state the name and address of the person's employer and may, in the discretion of the court, include other information and restrictions applicable to employment-related driving.

(g) Employment Driving in Nonstandard Working Hours. – If a person is required to drive during nonstandard working hours for an essential employment-related purpose and the person provides documentation of that fact to the court, the court may authorize the person to drive for that purpose during those hours. If the person is self-employed, the documentation must be attached to or made a part of the limited driving privilege. If the person is employed by another, the limited driving privilege must state the name and address of the person's employer and may, in the discretion of the court, include other information and restrictions applicable to employment-related driving. If the court determines that it is necessary for the person to drive during nonstandard working hours for an employment-related purpose, the court may authorize the person to drive subject to these limitations:

- (1) If the person is required to drive to and from a specific place of employment at regular times, the limited driving privilege must specify the general times and routes by which the person may drive to and from work and must restrict driving to those times and routes.
- (2) If the person is required to drive to and from work at a specific place but is unable to specify the times during which the driving will occur, the limited driving privilege must specify the general routes by which the person may drive to and from work and must restrict driving to those general routes.
- (3) If the person is required to drive to and from work at regular times but is unable to specify the places at which work is to be performed, the limited driving privilege must specify the general times and geographic boundaries within which the person may drive and must restrict driving to those times and boundaries.
- (4) If the person can specify neither the times nor places in which the person will be driving to and from work, the limited driving privilege must specify the geographic boundaries within which the person may drive and must restrict driving to those boundaries.

(h) Household Maintenance. – A limited driving privilege may allow driving for maintenance of the household only during standard working hours. The court, at its discretion, may impose additional restrictions on driving for the maintenance of the household.

(i) Restrictions. – A limited driving privilege that is not authorized by this section or that does not contain the restrictions required by law is invalid. A limited driving privilege issued under this section is subject to the following conditions:

- (1) Financial responsibility. – A person applying for a limited driving privilege under this section must provide the court proof of financial responsibility acceptable under G.S. 20-16.1(g) and must maintain the financial responsibility during the period of the limited driving privilege.

- (2) Alcohol restrictions. – A person who received a limited driving privilege under this section may not consume alcohol while driving or drive at anytime while the person has remaining in the person's body any alcohol or controlled substance previously consumed, unless the controlled substance was lawfully obtained and taken in therapeutically appropriate amounts.
- (3) Others. – The court may impose any other reasonable restrictions or conditions necessary to achieve the purposes of this section.

(j) Term and Reinstatement. – The term of a limited driving privilege issued under this section is the shorter of one year or the length of time remaining in the revocation period imposed under G.S. 20-28(a) or G.S. 20-28.1. When the term of the limited driving privilege expires, the Division must reinstate the person's license if the person meets all of the conditions listed in this subsection. The Division may impose restrictions or conditions on the new license in accordance with G.S. 20-7(e). The conditions are:

- (1) Payment of the restoration fee as required under G.S. 20-7(i1).
- (2) Providing proof of financial responsibility as required under G.S. 20-7(c1).
- (3) Providing the proof required for reinstatement of a license under G.S. 20-28(c1).

(k) Modification. – A court may modify or revoke a person's limited driving privilege issued under this section upon a showing that the circumstances have changed sufficiently to justify modification or revocation. If the judge who issued the privilege is not presiding in the court in which the privilege was issued, a presiding judge in that court may modify or revoke the privilege. The judge must indicate in the order of modification or revocation the reasons for the order or make specific findings indicating the reason for the order and enter those findings in the record of the case. When a court issues an order of modification or revocation, the clerk of court must send a copy of the order to the Division.

(l) Effect of Violation. – A violation of a limited driving privilege issued under this section constitutes the offense of driving while license revoked under G.S. 20-28. When a person is charged with operating a motor vehicle in violation of the limited driving privilege, the limited driving privilege is suspended pending the final disposition of the charge. (2007-293, s. 1; 2007-323, s. 30.11(d); 2007-345, s. 9.1(c); 2008-118, s. 2.9(b).)

§ 20-20.2. Processing fee for limited driving privilege.

Upon the issuance of a limited driving privilege by a court under this Chapter, the applicant or petitioner must pay, in addition to any other costs associated with obtaining the privilege, a processing fee of one hundred dollars (\$100.00). The applicant or petitioner shall pay this fee to the clerk of superior court in the county in which the limited driving privilege is issued. The fee must be remitted to the State Treasurer and used for support of the General Court of Justice. The failure to pay this fee shall render the privilege invalid. (2007-323, s. 30.11(b); 2007-345, s. 9.1(b).)

§ 20-21. No operation under foreign license during suspension or revocation in this State.

Any resident or nonresident whose driver's license or right or privilege to operate a motor vehicle in this State has been suspended or revoked as provided in this Article shall not operate a motor vehicle in this State under a license, permit or registration issued by another jurisdiction or otherwise during such suspension, or after such revocation until a new license is obtained when and as permitted under this Article. (1935, c. 52, s. 15; 1979, c. 667, s. 41.)

§ 20-22. Suspending privileges of nonresidents and reporting convictions.

(a) The privilege of driving a motor vehicle on the highways of this State given to a nonresident hereunder shall be subject to suspension or revocation by the Division in like manner and for like cause as a driver's license issued hereunder may be suspended or revoked.

(b) The Division is further authorized, upon receiving a record of the conviction in this State of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this State, to forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident. (1935, c. 52, s. 16; 1975, c. 716, s. 5; 1979, c. 667, s. 41.)

§ 20-23. Revoking resident's license upon conviction in another state.

The Division may revoke the license of any resident of this State upon receiving notice of the person's conviction in another state of an offense set forth in G.S. 20-26(a). (1935, c. 52, s. 17; 1971, c. 486, s. 2; 1975, c. 716, s. 5; 1979, c. 667, s. 22; 1993, c. 533, s. 6.)

§ 20-23.1. Suspending or revoking operating privilege of person not holding license.

In any case where the Division would be authorized to suspend or revoke the license of a person but such person does not hold a license, the Division is authorized to suspend or revoke the operating privilege of such a person in like manner as it could suspend or revoke his license if such person held a driver's license, and the provisions of this Chapter governing suspensions, revocations, issuance of a license, and driving after license suspended or revoked, shall apply in the discretion of the Division in the same manner as if the license has been suspended or revoked. (1955, c. 1187, s. 19; 1969, c. 186, s. 2; 1975, c. 716, s. 5; 1979, c. 667, s. 41.)

§ 20-23.2. Suspension of license for conviction of offense involving impaired driving in federal court.

Upon receipt of notice of conviction in any court of the federal government of an offense involving impaired driving, the Division is authorized to revoke the driving privilege of the person convicted in the same manner as if the conviction had occurred in a court of this State. (1969, c. 988; 1971, c. 619, s. 11; 1975, c. 716, s. 5; 1979, c. 903, s. 12; 1981, c. 412, s. 4; c. 747, s. 66; 1983, c. 435, s. 18.)

§ 20-24. When court or child support enforcement agency to forward license to Division and report convictions, child support delinquencies, and prayers for judgment continued.

(a) License. – A court that convicts a person of an offense that requires revocation of the person's drivers license or revokes a person's drivers license pursuant to G.S. 50-13.12 shall require the person to give the court any regular or commercial drivers license issued to that person. A court that convicts a person of an offense that requires disqualification of the person but would not require revocation of a regular drivers license issued to that person shall require the person to give the court any Class A or Class B regular drivers license and any commercial drivers license issued to that person.

The clerk of court in a non-IV-D case, and the child support enforcement agency in a IV-D case, shall accept a drivers license required to be given to the court under this subsection. A clerk of court or the child support enforcement agency who receives a drivers license shall give the

person whose license is received a copy of a dated receipt for the license. The receipt must be on a form approved by the Commissioner. A revocation or disqualification for which a license is received under this subsection is effective as of the date on the receipt for the license.

The clerk of court or the child support enforcement agency shall notify the Division of a license received under this subsection either by forwarding to the Division the license, a record of the conviction for which the license was received, a copy of the court order revoking the license for failure to pay child support for which the license was received, and the original dated receipt for the license or by electronically sending to the Division the information on the license, the record of conviction or court order revoking the license for failure to pay child support, and the receipt given for the license. The clerk of court or the child support enforcement agency must forward the required items unless the Commissioner has given the clerk of court or the child support enforcement agency approval to notify the Division electronically. If the clerk of court or the child support enforcement agency notifies the Division electronically, the clerk of court or the child support enforcement agency must destroy a license received after sending to the Division the required information. The clerk of court or the child support enforcement agency shall notify the Division within 30 days after entry of the conviction or court order revoking the license for failure to pay child support for which the license was received.

(b) Convictions, Court Orders of Drivers License Revocations, and PJsCs. – The clerk of court shall send the Division a record of any of the following:

- (1) A conviction of a violation of a law regulating the operation of a vehicle.
- (2) A conviction for which the convicted person is placed on probation and a condition of probation is that the person not drive a motor vehicle for a period of time, stating the period of time for which the condition applies.
- (3) A conviction of a felony in the commission of which a motor vehicle is used, when the judgment includes a finding that a motor vehicle was used in the commission of the felony.
- (4) A conviction that requires revocation of the drivers license of the person convicted and is not otherwise reported under subdivision (1).
- (4a) A court order revoking drivers license pursuant to G.S. 50-13.12.
- (5) An order entering prayer for judgment continued in a case involving an alleged violation of a law regulating the operation of a vehicle.

The child support enforcement agency shall send the Division a record of any court order revoking drivers license pursuant to G.S. 110-142.2(a)(1).

With the approval of the Commissioner, the clerk of court or the child support enforcement agency may forward a record of conviction, court order revoking drivers license, or prayer for judgment continued to the Division by electronic data processing means.

(b1) In any case in which the Division, for any reason, does not receive a record of a conviction or a prayer for judgment continued until more than one year after the date it is entered, the Division may, in its discretion, substitute a period of probation for all or any part of a revocation or disqualification required because of the conviction or prayer for judgment continued.

(c) Repealed by Session Laws 1991, c. 726, s. 10.

(d) Scope. – This Article governs drivers license revocation and disqualification. A drivers license may not be revoked and a person may not be disqualified except in accordance with this Article.

(e) Special Information. – A judgment for a conviction for an offense for which special information is required under this subsection shall, when appropriate, include a finding of the special information. The convictions for which special information is required and the specific information required is as follows:

- (1) Homicide. – If a conviction of homicide involves impaired driving, the judgment must indicate that fact.
- (2) G.S. 20-138.1, Driving While Impaired. – If a conviction under G.S. 20-138.1 involves a commercial motor vehicle, the judgment must indicate that fact. If a conviction under G.S. 20-138.1 involves a commercial motor vehicle that was transporting a hazardous substance required to be placarded, the judgment must indicate that fact.
- (3) G.S. 20-138.2, Driving Commercial Motor Vehicle While Impaired. – If the commercial motor vehicle involved in an offense under G.S. 20-138.2 was transporting a hazardous material required to be placarded, a judgment for that offense must indicate that fact.
- (4) G.S. 20-166, Hit and Run. – If a conviction under G.S. 20-166 involves a commercial motor vehicle, the judgment must indicate that fact. If a conviction under G.S. 20-166 involves a commercial motor vehicle that was transporting a hazardous substance required to be placarded, the judgment must indicate that fact.
- (5) Felony Using Commercial Motor Vehicle. – If a conviction of a felony in which a commercial motor vehicle was used involves the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance, the judgment must indicate that fact. If a commercial motor vehicle used in a felony was transporting a hazardous substance required to be placarded, the judgment for that felony must indicate that fact. (1935, c. 52, s. 18; 1949, c. 373, ss. 3, 4; 1955, c. 1187, s. 14; 1959, c. 47; 1965, c. 38; 1973, c. 19; 1975, cc. 46, 445; c. 716, s. 5; c. 871, s. 1; 1979, c. 667, s. 41; 1981, c. 416; c. 839; 1983, c. 294, s. 5; c. 435, s. 19; 1985, c. 764, s. 18; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1987, c. 581, s. 1; c. 658, s. 2; 1989, c. 771, s. 10; 1991, c. 726, s. 10; 1993, c. 533, s. 7; 1995, c. 538, s. 2(c).)

§ 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:

- (1) failed to appear, after being notified to do so, when the case was called for a trial or hearing; or
- (2) failed to 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.

(b) A license revoked under this section remains revoked until the person whose license has been revoked:

- (1) disposes of the charge in the trial division in which he failed to appear when the case was last called for trial or hearing; or

- (2) demonstrates to the court that he is not the person charged with the offense; or
- (3) pays the penalty, fine, or costs ordered by the court; or
- (4) demonstrates to the court that his failure to pay the penalty, fine, or costs was not willful and that he is making a good faith effort to pay or that the penalty, fine, or costs should be remitted.

Upon receipt of notice from the court that the person has satisfied the conditions of this subsection applicable to his case, the Division must restore the person's license as provided in subsection (c). In addition, if the person whose license is revoked is not a resident of this State, the Division may notify the driver licensing agency in the person's state of residence that the person's license to drive in this State has been revoked.

(b1) A defendant must be afforded an opportunity for a trial or a hearing within a reasonable time of the defendant's appearance. Upon motion of a defendant, the court must order that a hearing or a trial be heard within a reasonable time.

(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). For all other revocation orders issued pursuant to this section, 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.

(d) To facilitate the prompt return of licenses and to prevent unjustified charges of driving while license revoked, the clerk of court, upon request, must give the person a copy of the notice it sends to the Division to indicate that the person has complied with the conditions of subsection (b) applicable to his case. If the person complies with the condition before the effective date of the revocation, the notice must indicate that the person is eligible to drive if he is otherwise validly licensed.

(e) As used in this section and in G.S. 20-24.2, the word offense includes crimes and infractions created by this Chapter. (1985, c. 764, s. 19; 1985 (Reg. Sess., 1986), c. 852, ss. 4-6, 9, 17; 1987, c. 581, s. 4; 1991, c. 682, s. 4; 1993, c. 313, s. 1; 1995, c. 538, s. 2(d).)

§ 20-24.2. Court to report failure to appear or pay fine, penalty or costs.

(a) The court must report to the Division the name of any person charged with a motor vehicle offense under this Chapter who:

- (1) Fails to appear to answer the charge as scheduled, unless within 20 days after the scheduled appearance, he either appears in court to answer the charge or disposes of the charge pursuant to G.S. 7A-146; or
- (2) Fails to pay a fine, penalty, or costs within 40 days of the date specified in the court's judgment.

(b) The reporting requirement of this section and the revocation mandated by G.S. 20-24.1 do not apply to offenses in which an order of forfeiture of a cash bond is entered and reported to the Division pursuant to G.S. 20-24. If an order is sent to the Division by the clerk through clerical mistake or other inadvertence, the clerk's office that sent the report of noncompliance must withdraw the report and send notice to the Division which shall correct its records accordingly. (1985, c. 764, s. 3; 1985 (Reg. Sess., 1986), c. 852, ss. 3, 17; 1987, c. 581, s. 3; 1991, c. 682, s. 5; 2015-247, s. 1(b).)

§ 20-25. Right of appeal to court.

Any person denied a license or whose license has been canceled, suspended or revoked by the Division, except where such cancellation is mandatory under the provisions of this Article, shall have a right to file a petition within 30 days thereafter for a hearing in the matter in the superior court of the county wherein such person shall reside, or to the resident judge of the district or judge holding the court of that district, or special or emergency judge holding a court in such district in which the violation was committed, and such court or judge is hereby vested with jurisdiction and it shall be its or his duty to set the matter for hearing upon 30 days' written notice to the Division, and thereupon to take testimony and examine into the facts of the case, and to determine whether the petitioner is entitled to a license or is subject to suspension, cancellation or revocation of license under the provisions of this Article. Provided, a judge of the district court shall have limited jurisdiction under this section to sign and enter a temporary restraining order only. (1935, c. 52, s. 19; 1975, c. 716, s. 5; 1987, c. 659.)

§ 20-26. Records; copies furnished; charge.

(a) The Division shall keep a record of all applications for a drivers license, all tests given an applicant for a drivers license, all applications for a drivers license that are denied, all drivers licenses issued, renewed, cancelled, or revoked, all disqualifications, all convictions affecting a drivers license, and all prayers for judgment continued that may lead to a license revocation. When the Division cancels or revokes a commercial drivers license or disqualifies a person, the Division shall update its records to reflect that action within 10 days after the cancellation, revocation, or disqualification becomes effective. When a person who is not a resident of this State is convicted of an offense or commits an act requiring revocation of the person's commercial drivers license or disqualification of the person, the Division shall notify the licensing authority of the person's state of residence.

The Division shall keep records of convictions occurring outside North Carolina for the offenses of exceeding a stated speed limit of 55 miles per hour or more by more than 15 miles per hour, driving while license suspended or revoked, careless and reckless driving, engaging in prearranged speed competition, engaging willfully in speed competition, hit-and-run driving resulting in damage to property, unlawfully passing a stopped school bus, illegal transportation of alcoholic beverages, and the offenses included in G.S. 20-17. The Division shall also keep records of convictions occurring outside North Carolina for any serious traffic violation that involves a commercial motor vehicle and is not otherwise required to be kept under this subsection.

(b) The Division shall furnish certified copies of license records required to be kept by subsection (a) of this section to State, county, municipal and court officials of this State for official use only, without charge. A certified copy of a driver's records kept pursuant to subsection (a) may be sent by the Police Information Network. In addition to the uses authorized by G.S. 8-35.1, a copy certified under the authority of this section is admissible as prima facie evidence of the status of the person's license. The Attorney General and the Commissioner of Motor Vehicles are authorized to promulgate such rules and regulations as may be necessary to implement the provision of this subsection.

(b1) The registered or declared weight set forth on the vehicle registration card or a certified copy of the Division record sent by the Department of Public Safety or otherwise is admissible in any judicial or administrative proceeding and shall be prima facie evidence of the registered or declared weight.

(c) The Division shall furnish copies of license records required to be kept by subsection (a) of this section in accordance with G.S. 20-43.1 to other persons for uses other than official upon prepayment of the following fees:

- (1) Limited extract copy of license record,
for period up to three years\$10.00
- (2) Complete extract copy of license record..... 10.00
- (3) Certified true copy of complete license record 14.00.

All fees received by the Division under this subsection shall be credited to the Highway Fund.

(d) The charge for records provided pursuant to this section shall not be subject to the provisions of Chapter 132 of the General Statutes.

(e) In the event of a mistake on the part of any person in ordering license records under subsection (c) of this section, the Commissioner may refund or credit to that person up to sixty-five percent (65%) of the amount paid for the license records.

(f) On and after July 1, 1988, the Division shall expeditiously furnish to insurance agents, insurance companies, and to insurance support organizations as defined in G.S. 58-39-15(12), for the purpose of rating nonfleet private passenger motor vehicle insurance policies, through electronic data processing means or otherwise, copies of or information pertaining to license records that are required to be kept pursuant to subsection (a) of this section. (1935, c. 52, s. 20; 1961, c. 307; 1969, c. 783, s. 3; 1971, c. 486, s. 1; 1975, c. 716, s. 5; 1979, c. 667, s. 23; c. 903, ss. 9, 10; 1981, c. 145, s. 1; c. 412, s. 4; c. 690, s. 13; c. 747, s. 66; 1983, c. 435, s. 20; c. 761, s. 149; 1987, c. 869, s. 16; 1987 (Reg. Sess., 1988), c. 1112, ss. 14, 17; 1989, c. 771, ss. 9, 17, 18; 1991, c. 689, s. 330; c. 726, s. 11; 1997-443, s. 32.25(b); 2005-276, s. 44.1(e); 2014-100, s. 17.1(q); 2015-241, s. 29.30(e).)

§ 20-27. Availability of records.

(a) All records of the Division pertaining to application and to drivers' licenses, except the confidential medical report referred to in G.S. 20-7, of the current or previous five years shall be open to public inspection in accordance with G.S. 20-43.1, at any reasonable time during office hours and copies shall be provided pursuant to the provisions of G.S. 20-26.

(b) All records of the Division pertaining to chemical tests as provided in G.S. 20-16.2 shall be available to the courts as provided in G.S. 20-26(b). (1935, c. 52, s. 21; 1975, c. 716, s. 5; 1979, c. 667, s. 24; c. 903, s. 11; 1981, c. 145, s. 2; 1997-443, s. 32.25(c).)

§ 20-27.1. Unlawful for sex offender to drive commercial passenger vehicle or school bus without appropriate commercial license or while disqualified.

A person who drives a commercial passenger vehicle or a school bus and who does not have a valid commercial drivers license with a P or S endorsement because the person was convicted of a violation that requires registration under Article 27A of Chapter 14 of the General Statutes is guilty of a Class F felony. (2009-491, s. 4.)

§ 20-28. Unlawful to drive while license revoked, after notification, or while disqualified.

(a) Driving While License Revoked. – Except as provided in subsections (a1) or (a2) of this section, any person whose drivers license has been revoked who drives any motor vehicle upon the highways of the State while the license is revoked is guilty of a Class 3 misdemeanor.

(a1) Driving While License Revoked for Impaired Driving. – Any person whose drivers license has been revoked for an impaired driving revocation as defined in G.S. 20-28.2(a) and

who drives any motor vehicle upon the highways of the State is guilty of a Class 1 misdemeanor. Upon conviction, the person's license shall be revoked for an additional period of one year for the first offense, two years for the second offense, and permanently for a third or subsequent offense.

If the person's license was originally revoked for an impaired driving revocation, the court may order as a condition of probation that the offender abstain from alcohol consumption and verify compliance by use of a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, for a minimum period of 90 days.

The restoree of a revoked drivers license who operates a motor vehicle upon the highways of the State without maintaining financial responsibility as provided by law shall be punished as for driving without a license.

(a2) Driving Without Reclaiming License. – A person convicted under subsection (a) or (a1) of this section shall be punished as if the person had been convicted of driving without a license under G.S. 20-35 if the person demonstrates to the court that either of the following is true:

- (1) At the time of the offense, the person's license was revoked solely under G.S. 20-16.5 and one of the following applies:
 - a. The offense occurred more than 45 days after the effective date of a revocation order issued under G.S. 20-16.5(f) and the period of revocation was 45 days as provided under subdivision (3) of that subsection; or
 - b. The offense occurred more than 30 days after the effective date of the revocation order issued under any other provision of G.S. 20-16.5.
- (2) At the time of the offense the person had met the requirements of G.S. 50-13.12, or G.S. 110-142.2 and was eligible for reinstatement of the person's drivers license privilege as provided therein.

In addition, a person punished under this subsection shall be treated for drivers license and insurance rating purposes as if the person had been convicted of driving without a license under G.S. 20-35, and the conviction report sent to the Division must indicate that the person is to be so treated.

(a3) Driving After Notification or Failure to Appear. – A person shall be guilty of a Class 1 misdemeanor if:

- (1) The person operates a motor vehicle upon a highway while that person's license is revoked for an impaired drivers license revocation after the Division has sent notification in accordance with G.S. 20-48; or
- (2) The person fails to appear for two years from the date of the charge after being charged with an implied-consent offense.

Upon conviction, the person's drivers license shall be revoked for an additional period of one year for the first offense, two years for the second offense, and permanently for a third or subsequent offense. The restoree of a revoked drivers license who operates a motor vehicle upon the highways of the State without maintaining financial responsibility as provided by law shall be punished as for driving without a license.

(b) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 3.

(c) When Person May Apply for License. – A person whose license has been revoked may apply for a license as follows:

- (1) If revoked under subsection (a1) of this section for one year, the person may apply for a license after 90 days.
- (2) If punished under subsection (a2) of this section and the original revocation was pursuant to G.S. 20-16.5, in order to obtain reinstatement of a drivers license, the person must obtain a substance abuse assessment and show proof of financial responsibility to the Division. If the assessment recommends education or treatment, the person must complete the education or treatment within the time limits specified by the Division.
- (3) If revoked under subsection (a3) of this section for one year, the person may apply for a license after one year.
- (4) If revoked under this section for two years, the person may apply for a license after one year.
- (5) If revoked under this section permanently, the person may apply for a license after three years.

(c1) Upon the filing of an application the Division may, with or without a hearing, issue a new license upon satisfactory proof that the former licensee has not been convicted of a moving violation under this Chapter or the laws of another state, a violation of any provision of the alcoholic beverage laws of this State or another state, or a violation of any provisions of the drug laws of this State or another state when any of these violations occurred during the revocation period. For purposes of this subsection, a violation of subsection (a) of this section shall not be considered a moving violation.

(c2) The Division may impose any restrictions or conditions on the new license that the Division considers appropriate for the balance of the revocation period. When the revocation period is permanent, the restrictions and conditions imposed by the Division may not exceed three years.

(c3) A person whose license is revoked for violation of subsection (a1) of this section where the person's license was originally revoked for an impaired driving revocation, or a person whose license is revoked for a violation of subsection (a3) of this section, may only have the license conditionally restored by the Division pursuant to the provisions of subsection (c4) of this section.

(c4) For a conditional restoration under subsection (c3) of this section, the Division shall require at a minimum that the driver obtain a substance abuse assessment prior to issuance of a license and show proof of financial responsibility. If the substance abuse assessment recommends education or treatment, the person must complete the education or treatment within the time limits specified. If the assessment determines that the person abuses alcohol, the Division shall require the person to install and use an ignition interlock system on any vehicles that are to be driven by that person for the period of time that the conditional restoration is active.

(c5) For licenses conditionally restored pursuant to subsections (c3) and (c4) of this section, the Division shall cancel the license and impose the remaining revocation period if any of the following occur:

- (1) The person violates any condition of the restoration.
- (2) The person is convicted of any moving offense in this or another state.
- (3) The person is convicted for a violation of the alcoholic beverage or controlled substance laws of this or any other state.

(d) **Driving While Disqualified.** – A person who was convicted of a violation that disqualified the person and required the person's drivers license to be revoked who drives a motor vehicle during the revocation period is punishable as provided in subsection (a1) of this section. A person who has been disqualified who drives a commercial motor vehicle during the disqualification period is guilty of a Class 1 misdemeanor and is disqualified for an additional period as follows:

- (1) For a first offense of driving while disqualified, a person is disqualified for a period equal to the period for which the person was disqualified when the offense occurred.
- (2) For a second offense of driving while disqualified, a person is disqualified for a period equal to two times the period for which the person was disqualified when the offense occurred.
- (3) For a third offense of driving while disqualified, a person is disqualified for life.

The Division may reduce a disqualification for life under this subsection to 10 years in accordance with the guidelines adopted under G.S. 20-17.4(b). A person who drives a commercial motor vehicle while the person is disqualified and the person's drivers license is revoked is punishable for both driving while the person's license was revoked and driving while disqualified. (1935, c. 52, s. 22; 1945, c. 635; 1947, c. 1067, s. 16; 1955, c. 1020, s. 1; c. 1152, s. 18; c. 1187, s. 20; 1957, c. 1046; 1959, c. 515; 1967, c. 447; 1973, c. 47, s. 2; cc. 71, 1132; 1975, c. 716, s. 5; 1979, c. 377, ss. 1, 2; c. 667, s. 41; 1981, c. 412, s. 4; c. 747, s. 66; 1983, c. 51; 1983 (Reg. Sess., 1984), c. 1101, s. 18A; 1989, c. 771, s. 4; 1991, c. 509, s. 2; c. 726, s. 12; 1993, c. 539, ss. 320-322; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 761, ss. 2, 3; 1995, c. 538, s. 2(e), (f); 2002-159, s. 6; 2006-253, s. 22.1; 2007-493, ss. 4, 19; 2012-146, s. 8; 2013-360, s. 18B.14(f); 2015-186, s. 2; 2015-264, ss. 38(a), 86; 2017-186, s. 2(kkkk).)

§ 20-28.1. Conviction of moving offense committed while driving during period of suspension or revocation of license.

(a) Upon receipt of notice of conviction of any person of a motor vehicle moving offense, such offense having been committed while such person's driving privilege was in a state of suspension or revocation, the Division shall revoke such person's driving privilege for an additional period of time as set forth in subsection (b) hereof. For purposes of this section a violation of G.S. 20-7(a), 20-24.1, or 20-28(a) or (a2) shall not be considered a "motor vehicle moving offense" unless the offense occurred in a commercial motor vehicle or the person held a commercial drivers license at the time of the offense.

(b) When a driving privilege is subject to revocation under this section, the additional period of revocation shall be as follows:

- (1) A first such revocation shall be for one year;
- (2) A second such revocation shall be for two years; and
- (3) A third or subsequent such revocation shall be permanent.

(c) A person whose license has been revoked under this section for one year may apply for a license after 90 days. A person whose license has been revoked under this section for two years may apply for a license after 12 months. A person whose license has been revoked under this section permanently may apply for a license after three years. Upon the filing of an application, the Division may, with or without a hearing, issue a new license upon satisfactory proof that the former licensee has not been convicted of a moving violation under this Chapter or

the laws of another state, or a violation of any provision of the alcoholic beverage laws of this State or another state, or a violation of any provision of the drug laws of this State or another state when any of these violations occurred during the revocation period. The Division may impose any restrictions or conditions on the new license that the Division considers appropriate for the balance of the revocation period. When the revocation period is permanent, the restrictions and conditions imposed by the Division may not exceed three years.

(d) Repealed by Session Laws 1979, c. 378, s. 2. (1965, c. 286; 1969, c. 348; 1971, c. 163; 1973, c. 47, s. 2; 1975, c. 716, s. 5; 1979, c. 378, ss. 1, 2; 1981, c. 412, s. 4; c. 747, s. 66; 1991, c. 509, s. 1; c. 682, s. 6; c. 726, s. 22.1; 2015-186, s. 3; 2015-264, s. 86.)

§ 20-28.2. Forfeiture of motor vehicle for impaired driving after impaired driving license revocation; forfeiture for felony speeding to elude arrest.

(a) Meaning of "Impaired Driving License Revocation". – The revocation of a person's drivers license is an impaired driving license revocation if the revocation is pursuant to:

- (1) G.S. 20-13.2, 20-16(a)(8b), 20-16.2, 20-16.5, 20-17(a)(2), 20-17(a)(12), or 20-138.5; or
- (2) G.S. 20-16(a)(7), 20-17(a)(1), 20-17(a)(3), 20-17(a)(9), or 20-17(a)(11), if the offense involves impaired driving; or
- (3) The laws of another state and the offense for which the person's license is revoked prohibits substantially similar conduct which if committed in this State would result in a revocation listed in subdivisions (1) or (2).

(a1) Definitions. – As used in this section and in G.S. 20-28.3, 20-28.4, 20-28.5, 20-28.7, 20-28.8, 20-28.9, 20-54.1, and 20-141.5, the following terms mean:

- (1) Fair Market Value. – The value of the seized motor vehicle, as determined in accordance with the schedule of values adopted by the Commissioner pursuant to G.S. 105-187.3.
- (1a) Impaired Driving Acknowledgment. – A written document acknowledging that:
 - a. The motor vehicle was operated by a person charged with an offense involving impaired driving, and:
 1. That person's drivers license was revoked as a result of a prior impaired drivers license revocation; or
 2. That person did not have a valid drivers license, and did not have liability insurance.
 - b. If the motor vehicle is again operated by this particular person, and the person is charged with an offense involving impaired driving, then the vehicle is subject to impoundment and forfeiture if (i) the offense occurs while that person's drivers license is revoked, or (ii) the offense occurs while the person has no valid drivers license, and has no liability insurance.
 - c. A lack of knowledge or consent to the operation will not be a defense in the future, unless the motor vehicle owner has taken all reasonable precautions to prevent the use of the motor vehicle by this particular person and immediately reports, upon discovery, any unauthorized use to the appropriate law enforcement agency.
- (2) Innocent Owner. – A motor vehicle owner:

- a. Who, if the offense resulting in seizure was an impaired driving offense, did not know and had no reason to know that (i) the defendant's drivers license was revoked, or (ii) that the defendant did not have a valid drivers license, and that the defendant had no liability insurance; or
 - b. Who, if the offense resulting in seizure was an impaired driving offense, knew that (i) the defendant's drivers license was revoked, or (ii) that the defendant had no valid drivers license, and that the defendant had no liability insurance, but the defendant drove the vehicle without the person's expressed or implied permission, and the owner files a police report for unauthorized use of the motor vehicle and agrees to prosecute the unauthorized operator of the motor vehicle, or who, if the offense resulting in seizure was a felony speeding to elude arrest offense, did not give the defendant express or implied permission to drive the vehicle, and the owner files a police report for unauthorized use of the motor vehicle and agrees to prosecute the unauthorized operator of the motor vehicle; or
 - c. Whose vehicle was reported stolen; or
 - d. Repealed by Session Laws 1999-406, s. 17.
 - e. Who is (i) a rental car company as defined in G.S. 66-201(a) and the vehicle was driven by a person who is not listed as an authorized driver on the rental agreement as defined in G.S. 66-201; or (ii) a rental car company as defined in G.S. 66-201(a) and the vehicle was driven by a person who is listed as an authorized driver on the rental agreement as defined in G.S. 66-201 and if the offense resulting in seizure was an impaired driving offense, the rental car company has no actual knowledge of the revocation of the renter's drivers' license at the time the rental agreement is entered, or if the offense resulting in seizure was a felony speeding to elude arrest offense, the rental agreement expressly prohibits use of the vehicle while committing a felony; or
 - f. Who is in the business of leasing motor vehicles, who holds legal title to the motor vehicle as a lessor at the time of seizure and, if the offense resulting in seizure was an impaired driving offense, who has no actual knowledge of the revocation of the lessee's drivers license at the time the lease is entered.
- (2a) Insurance Company. – Any insurance company that has coverage on or is otherwise liable for repairs or damages to the motor vehicle at the time of the seizure.
 - (2b) Insurance Proceeds. – Proceeds paid under an insurance policy for damage to a seized motor vehicle less any payments actually paid to valid lienholders and for towing and storage costs incurred for the motor vehicle after the time the motor vehicle became subject to seizure.
 - (3) Lienholder. – A person who holds a perfected security interest in a motor vehicle at the time of seizure.

- (3a) Motor Vehicle Owner. – A person in whose name a registration card or certificate of title for a motor vehicle is issued at the time of seizure.
- (4) Order of Forfeiture. – An order by the court which terminates the rights and ownership interest of a motor vehicle owner in a motor vehicle and any insurance proceeds or proceeds of sale in accordance with G.S. 20-28.2.
- (5) Repealed by Session Laws 1998-182, s. 2.
- (6) Registered Owner. – A person in whose name a registration card for a motor vehicle is issued at the time of seizure.
- (7) Repealed by Session Laws 1998-182, s. 2.
- (8) Speeding to Elude Arrest Acknowledgment. – A written document acknowledging that:
 - a. The motor vehicle was operated by a person charged with felony speeding to elude arrest pursuant to G.S. 20-141.5(b) or (b1).
 - b. If the motor vehicle is again operated by this particular person and the person is charged with felony speeding to elude arrest pursuant to G.S. 20-141.5(b) or (b1), then the vehicle is subject to impoundment and forfeiture.
 - c. A lack of knowledge or consent to the operation will not be a defense in the future unless the motor vehicle owner has taken all reasonable precautions to prevent the use of the motor vehicle by this particular person and immediately reports upon discovery any unauthorized use to the appropriate law enforcement agency.
- (9) State Surplus Property Agency. – The Department of Administration.

(b) When Motor Vehicle Becomes Property Subject to Order of Forfeiture; Impaired Driving and Prior Revocation. – A judge may determine whether the vehicle driven by an impaired driver at the time of the offense becomes subject to an order of forfeiture. The determination may be made at any of the following times:

- (1) A sentencing hearing for the underlying offense involving impaired driving.
- (2) A separate hearing after conviction of the defendant.
- (3) A forfeiture hearing held at least 60 days after the defendant failed to appear at the scheduled trial for the underlying offense, and the defendant's order of arrest for failing to appear has not been set aside.

The vehicle shall become subject to an order of forfeiture if the greater weight of the evidence shows that the defendant is guilty of an offense involving impaired driving, and that the defendant's license was revoked pursuant to an impaired driving license revocation as defined in subsection (a) of this section.

(b1) When a Motor Vehicle Becomes Property Subject to Order of Forfeiture; No License and No Insurance. – A judge may determine whether the vehicle driven by an impaired driver at the time of the offense becomes subject to an order of forfeiture. The determination may be made at any of the following times:

- (1) A sentencing hearing for the underlying offense involving impaired driving.
- (2) A separate hearing after conviction of the defendant.
- (3) A forfeiture hearing held at least 60 days after the defendant failed to appear at the scheduled trial for the underlying offense, and the defendant's order of arrest for failing to appear has not been set aside.

The vehicle shall become subject to an order of forfeiture if the greater weight of the evidence shows that the defendant is guilty of an offense involving impaired driving, and: (i) the defendant was driving without a valid drivers license, and (ii) the defendant was not covered by an automobile liability policy.

(b2) When a Motor Vehicle Becomes Property Subject to Order of Forfeiture; Felony Speeding to Elude Arrest. – A judge may determine whether the vehicle driven at the time of the offense becomes subject to an order of forfeiture. The determination may be made at any of the following times:

- (1) A sentencing hearing for the underlying felony speeding to elude arrest offense.
- (2) A separate hearing after conviction of the defendant.
- (3) A forfeiture hearing held at least 60 days after the defendant failed to appear at the scheduled trial for the underlying offense, and the defendant's order of arrest for failing to appear has not been set aside.

The vehicle shall become subject to an order of forfeiture if the greater weight of the evidence shows that the defendant is guilty of felony speeding to elude arrest pursuant to G.S. 20-141.5(b) or (b1).

(c) Duty of Prosecutor to Notify Possible Innocent Parties. – In any case in which a prosecutor determines that a motor vehicle driven by a defendant may be subject to forfeiture under this section and the motor vehicle has not been permanently released to a nondefendant vehicle owner pursuant to G.S. 20-28.3(e1), a defendant owner pursuant to G.S. 20-28.3(e2), or a lienholder, pursuant to G.S. 20-28.3(e3), the prosecutor shall notify the defendant, each motor vehicle owner, and each lienholder that the motor vehicle may be subject to forfeiture and that the defendant, motor vehicle owner, or the lienholder may intervene to protect that person's interest. The notice may be served by any means reasonably likely to provide actual notice, and shall be served at least 10 days before the hearing at which an order of forfeiture may be entered.

(c1) Motor Vehicles Involved in Accidents. – If a motor vehicle subject to forfeiture was damaged while the defendant operator was committing the underlying offense resulting in seizure, or was damaged incident to the seizure of the motor vehicle, the Division shall determine the name of any insurance companies that are the insurers of record with the Division for the motor vehicle at the time of the seizure or that may otherwise be liable for repair to the motor vehicle. In any case where a seized motor vehicle was involved in an accident, the Division shall notify the insurance companies that the claim for insurance proceeds for damage to the seized motor vehicle shall be paid to the clerk of superior court of the county where the motor vehicle driver was charged to be held and disbursed pursuant to further orders of the court. Any insurance company that receives written or other actual notice of seizure pursuant to this section shall not be relieved of any legal obligation under any contract of insurance unless the claim for property damage to the seized motor vehicle minus the policy owner's deductible is paid directly to the clerk of court. The insurance company paying insurance proceeds to the clerk of court pursuant to this section shall be immune from suit by the motor vehicle owner for any damages alleged to have occurred as a result of the motor vehicle seizure. The proceeds shall be held by the clerk. The clerk shall disburse the insurance proceeds pursuant to further orders of the court.

(d) Forfeiture Hearing. – Unless a motor vehicle that has been seized pursuant to G.S. 20-28.3 has been permanently released to an innocent owner pursuant to G.S. 20-28.3(e1), a defendant owner pursuant to G.S. 20-28.3(e2), or to a lienholder pursuant to G.S. 20-28.3(e3),

the court shall conduct a hearing on the forfeiture of the motor vehicle. The hearing may be held at the sentencing hearing on the underlying offense resulting in seizure, at a separate hearing after conviction of the defendant, or at a separate forfeiture hearing held not less than 60 days after the defendant failed to appear at the scheduled trial for the underlying offense and the defendant's order of arrest for failing to appear has not been set aside. If at the forfeiture hearing, the judge determines that the motor vehicle is subject to forfeiture pursuant to this section and proper notice of the hearing has been given, the judge shall order the motor vehicle forfeited. If at the sentencing hearing or at a forfeiture hearing, the judge determines that the motor vehicle is subject to forfeiture pursuant to this section and proper notice of the hearing has been given, the judge shall order the motor vehicle forfeited unless another motor vehicle owner establishes, by the greater weight of the evidence, that such motor vehicle owner is an innocent owner as defined in this section, in which case the trial judge shall order the motor vehicle released to the innocent owner pursuant to the provisions of subsection (e) of this section. In any case where the motor vehicle is ordered forfeited, the judge shall:

- (1) a. Authorize the sale of the motor vehicle at public sale or allow the county board of education to retain the motor vehicle for its own use pursuant to G.S. 20-28.5; or
- b. Order the motor vehicle released to a lienholder pursuant to the provisions of subsection (f) of this section; and
- (2) a. Order any proceeds of sale or insurance proceeds held by the clerk of court to be disbursed to the county board of education; and
- b. Order any outstanding insurance claims be assigned to the county board of education in the event the motor vehicle has been damaged in an accident incident to the seizure of the motor vehicle.

If the judge determines that the motor vehicle is subject to forfeiture pursuant to this section, but that notice as required by subsection (c) has not been given, the judge shall continue the forfeiture proceeding until adequate notice has been given. In no circumstance shall the sentencing of the defendant be delayed as a result of the failure of the prosecutor to give adequate notice.

(e) Release of Vehicle to Innocent Motor Vehicle Owner. – At a forfeiture hearing, if a nondefendant motor vehicle owner establishes by the greater weight of the evidence that: (i) the motor vehicle was being driven by a person who was not the only motor vehicle owner or had no ownership interest in the motor vehicle at the time of the underlying offense and (ii) the petitioner is an "innocent owner", as defined by this section, a judge shall order the motor vehicle released to that owner, conditioned upon payment of all towing and storage charges incurred as a result of the seizure and impoundment of the motor vehicle.

Release to an innocent owner shall only be ordered upon satisfactory proof of:

- (1) The identity of the person as a motor vehicle owner;
- (2) The existence of financial responsibility to the extent required by Article 13 of this Chapter or by the laws of the state in which the vehicle is registered; and
- (3) Repealed by Session Laws 1998-182, s. 2, effective December 1, 1998.
- (4) The execution of:
 - a. An impaired driving acknowledgment as defined in subdivision (a1)(1a) of this section if the seizure was for an offense involving impaired driving; or

- b. A speeding to elude arrest acknowledgment as defined in subdivision (a1)(8) of this section if the seizure was for violation of G.S. 20-141.5(b) or (b1).

If the nondefendant owner is a lessor, the release shall also be conditioned upon the lessor agreeing not to sell, give, or otherwise transfer possession of the forfeited motor vehicle to the defendant or any person acting on the defendant's behalf. A lessor who refuses to sell, give, or transfer possession of a seized motor vehicle to the defendant or any person acting on the behalf of the defendant shall not be liable for damages arising out of the refusal.

No motor vehicle subject to forfeiture under this section shall be released to a nondefendant motor vehicle owner if the records of the Division indicate the motor vehicle owner had previously signed an impaired driving acknowledgment or a speeding to elude arrest acknowledgment, as required by this section, and the same person was operating the motor vehicle at the time of the current seizure unless the innocent owner shows by the greater weight of the evidence that the motor vehicle owner has taken all reasonable precautions to prevent the use of the motor vehicle by this particular person and immediately reports, upon discovery, any unauthorized use to the appropriate law enforcement agency. A determination by the court at the forfeiture hearing held pursuant to subsection (d) of this section that the petitioner is not an innocent owner is a final judgment and is immediately appealable to the Court of Appeals.

(f) Release to Lienholder. – At a forfeiture hearing, the trial judge shall order a forfeited motor vehicle released to the lienholder upon payment of all towing and storage charges incurred as a result of the seizure of the motor vehicle if the judge determines, by the greater weight of the evidence, that:

- (1) The lienholder's interest has been perfected and appears on the title to the forfeited vehicle;
- (2) The lienholder agrees not to sell, give, or otherwise transfer possession of the forfeited motor vehicle to the defendant or to the motor vehicle owner who owned the motor vehicle immediately prior to forfeiture, or any person acting on the defendant's or motor vehicle owner's behalf;
- (3) The forfeited motor vehicle had not previously been released to the lienholder;
- (4) The owner is in default under the terms of the security instrument evidencing the interest of the lienholder and as a consequence of the default the lienholder is entitled to possession of the motor vehicle; and
- (5) The lienholder agrees to sell the motor vehicle in accordance with the terms of its agreement and pursuant to the provisions of Part 6 of Article 9 of Chapter 25 of the General Statutes. Upon the sale of the motor vehicle, the lienholder will pay to the clerk of court of the county in which the vehicle was forfeited all proceeds from the sale, less the amount of the lien in favor of the lienholder, and any towing and storage costs paid by the lienholder.

A lienholder who refuses to sell, give, or transfer possession of a forfeited motor vehicle to the defendant, the vehicle owner who owned the motor vehicle immediately prior to forfeiture, or any person acting on the behalf of the defendant or motor vehicle owner shall not be liable for damages arising out of such refusal. The defendant, the motor vehicle owner who owned the motor vehicle immediately prior to forfeiture, and any person acting on the defendant's or motor vehicle owner's behalf are prohibited from purchasing the motor vehicle at any sale conducted by the lienholder.

- (g) Repealed by Session Laws 1998-182, s. 2, effective December 1, 1998.

(h) Any order issued pursuant to this section authorizing the release of a seized vehicle shall require the payment of all towing and storage charges incurred as a result of the seizure and impoundment of the motor vehicle. This requirement shall not be waived. (1983, c. 435, s. 21; 1983 (Reg. Sess., 1984), c. 1101, s. 19; 1989 (Reg. Sess., 1990), c. 1024, s. 6; 1997-379, s. 1.1; 1997-456, s. 30; 1998-182, s. 2; 1999-406, ss. 11, 12, 17; 2000-169, s. 28; 2001-362, s. 7; 2006-253, s. 31; 2007-493, ss. 7, 8, 21; 2013-243, s. 1; 2013-410, s. 18(a); 2015-241, s. 27.3(a).)

§ 20-28.3. Seizure, impoundment, forfeiture of motor vehicles for offenses involving impaired driving while license revoked or without license and insurance, and for felony speeding to elude arrest.

(a) Motor Vehicles Subject to Seizure for Impaired Driving Offenses. – A motor vehicle that is driven by a person who is charged with an offense involving impaired driving is subject to seizure if:

- (1) At the time of the violation, the drivers license of the person driving the motor vehicle was revoked as a result of a prior impaired driving license revocation as defined in G.S. 20-28.2(a); or
- (2) At the time of the violation:
 - a. The person was driving without a valid drivers license, and
 - b. The driver was not covered by an automobile liability policy.

For the purposes of this subsection, a person who has a complete defense, pursuant to G.S. 20-35, to a charge of driving without a drivers license, shall be considered to have had a valid drivers license at the time of the violation.

(a1) Motor Vehicles Subject to Seizure for Felony Speeding to Elude Arrest. – A motor vehicle is subject to seizure if it is driven by a person who is charged with the offense of felony speeding to elude arrest pursuant to G.S. 20-141.5(b) or (b1).

(b) Duty of Officer. – If the charging officer has probable cause to believe that a motor vehicle driven by the defendant may be subject to forfeiture under this section, the officer shall seize the motor vehicle and have it impounded. If the officer determines prior to seizure that the motor vehicle had been reported stolen, the officer shall not seize the motor vehicle pursuant to this section. If the officer determines prior to seizure that the motor vehicle was a rental vehicle driven by a person not listed as an authorized driver on the rental contract, the officer shall not seize the motor vehicle pursuant to this section, but shall make a reasonable effort to notify the owner of the rental vehicle that the vehicle was stopped and that the driver of the vehicle was not listed as an authorized driver on the rental contract. Probable cause may be based on the officer's personal knowledge, reliable information conveyed by another officer, records of the Division, or other reliable sources. The seizing officer shall notify the Division as soon as practical but no later than 24 hours after seizure of the motor vehicle of the seizure in accordance with procedures established by the Division.

(b1) Written Notification of Impoundment. – Within 48 hours of receipt within regular business hours of the notice of seizure, the Division shall issue written notification of impoundment to any lienholder of record and to any motor vehicle owner who was not operating the motor vehicle at the time of the offense. A notice of seizure received outside regular business hours shall be considered to have been received at the start of the next business day. The notification of impoundment shall be sent by first-class mail to the most recent address contained in the Division's records. If the motor vehicle is registered in another state, notice shall be sent to the address shown on the records of the state where the motor vehicle is registered. This written

notification shall provide notice that the motor vehicle has been seized, state the reason for the seizure and the procedure for requesting release of the motor vehicle. Additionally, if the motor vehicle was damaged while the operator was committing an offense resulting in seizure or incident to the seizure, the Division shall issue written notification of the seizure to the owner's insurance company of record and to any other insurance companies that may be insuring other motor vehicles involved in the accident. The Division shall prohibit title to a seized motor vehicle from being transferred by a motor vehicle owner unless authorized by court order.

(b2) Additional Notification to Lienholders. – In addition to providing written notification pursuant to subsection (b1) of this section, within eight hours of receipt within regular business hours of the notice of seizure, the Division shall notify by facsimile any lienholder of record that has provided the Division with a designated facsimile number for notification of impoundment. The facsimile notification of impoundment shall state that the vehicle has been seized, state the reason for the seizure, and notify the lienholder of the additional written notification that will be provided pursuant to subsection (b1) of this section. The Division shall establish procedures to allow a lienholder to provide one designated facsimile number for notification of impoundment for any vehicle for which the lienholder is a lienholder of record and shall maintain a centralized database of the provided facsimile numbers. The lienholder must provide a facsimile number at which the Division may give notification of impoundment at anytime.

(c) Review by Magistrate. – Upon determining that there is probable cause for seizing a motor vehicle, the seizing officer shall present to a magistrate within the county where the driver was charged an affidavit of impoundment setting forth the basis upon which the motor vehicle has been or will be seized for forfeiture. The magistrate shall review the affidavit of impoundment and if the magistrate determines the requirements of this section have been met, shall order the motor vehicle held. The magistrate may request additional information and may hear from the defendant if the defendant is present. If the magistrate determines the requirements of this section have not been met, the magistrate shall order the motor vehicle released to a motor vehicle owner upon payment of towing and storage fees. If the motor vehicle has not yet been seized, and the magistrate determines that seizure is appropriate, the magistrate shall issue an order of seizure of the motor vehicle. The magistrate shall provide a copy of the order of seizure to the clerk of court. The clerk shall provide copies of the order of seizure to the district attorney and the attorney for the county board of education.

(c1) Effecting an Order of Seizure. – An order of seizure shall be valid anywhere in the State. Any officer with territorial jurisdiction and who has subject matter jurisdiction for violations of this Chapter may use such force as may be reasonable to seize the motor vehicle and to enter upon the property of the defendant to accomplish the seizure. An officer who has probable cause to believe the motor vehicle is concealed or stored on private property of a person other than the defendant may obtain a search warrant to enter upon that property for the purpose of seizing the motor vehicle.

(d) Custody of Motor Vehicle. – Unless the motor vehicle is towed pursuant to a statewide or regional contract, or a contract with the county board of education, the seized motor vehicle shall be towed by a commercial towing company designated by the law enforcement agency that seized the motor vehicle. Seized motor vehicles not towed pursuant to a statewide or regional contract or a contract with a county board of education shall be retrieved from the commercial towing company within a reasonable time, not to exceed 10 business days, by the county board of education or their agent who must pay towing and storage fees to the commercial towing company when the motor vehicle is retrieved. If either a statewide or

regional contractor, or the county board of education, chooses to contract for local towing services, all towing companies on the towing list for each law enforcement agency with jurisdiction within the county shall be given written notice and an opportunity to submit proposals prior to a contract for local towing services being awarded. The seized motor vehicle is under the constructive possession of the county board of education for the county in which the operator of the vehicle is charged at the time the vehicle is delivered to a location designated by the county board of education or delivered to its agent pending release or sale, or in the event a statewide or regional contract is in place, under the constructive possession of the State Surplus Property Agency on behalf of the State at the time the vehicle is delivered to a location designated by the State Surplus Property Agency or delivered to its agent pending release or sale. Absent a statewide or regional contract that provides otherwise, each county board of education may elect to have seized motor vehicles stored on property owned or leased by the county board of education and charge a reasonable fee for storage, not to exceed ten dollars (\$10.00) per calendar day. In the alternative, the county board of education may contract with a commercial towing and storage facility or other private entity for the towing, storage, and disposal of seized motor vehicles, and a storage fee of not more than ten dollars (\$10.00) per calendar day may be charged. Except for gross negligence or intentional misconduct, neither the State Surplus Property Agency, the county board of education, nor any of their employees, shall be liable to the owner or lienholder for damage to or loss of the motor vehicle or its contents, or to the owner of personal property in a seized vehicle, during the time the motor vehicle is being towed or stored pursuant to this subsection.

(e) Release of Motor Vehicle Pending Trial. – A motor vehicle owner, other than the driver at the time of the underlying offense resulting in the seizure, may apply to the clerk of superior court in the county where the charges are pending for pretrial release of the motor vehicle.

The clerk shall release the motor vehicle to a nondefendant motor vehicle owner conditioned upon payment of all towing and storage charges incurred as a result of seizure and impoundment of the motor vehicle under the following conditions:

- (1) The motor vehicle has been seized for not less than 24 hours;
- (2) Repealed by Session Laws 1998-182, s. 3, effective December 1, 1998.
- (3) A bond in an amount equal to the fair market value of the motor vehicle as defined by G.S. 20-28.2 has been executed and is secured by a cash deposit in the full amount of the bond, by a recordable deed of trust to real property in the full amount of the bond, by a bail bond under G.S. 58-71-1(2), or by at least one solvent surety, payable to the county school fund and conditioned on return of the motor vehicle, in substantially the same condition as it was at the time of seizure and without any new or additional liens or encumbrances, on the day of any hearing scheduled and noticed by the district attorney under G.S. 20-28.2(c), unless the motor vehicle has been permanently released;
- (4) Execution of either:
 - a. An impaired driving acknowledgment as described in G.S. 20-28.2(a1)(1a) if the seizure was for an offense involving impaired driving; or
 - b. A speeding to elude arrest acknowledgment as defined in G.S. 20-28.2(a1)(8) if the seizure was for violation of G.S. 20-141.5(b) or (b1).

- (5) A check of the records of the Division indicates that the requesting motor vehicle owner has not previously executed an acknowledgment naming the operator of the seized motor vehicle; and
- (6) A bond posted to secure the release of this motor vehicle under this subsection has not been previously ordered forfeited under G.S. 20-28.5.

In the event a nondefendant motor vehicle owner who obtains temporary possession of a seized motor vehicle pursuant to this subsection does not return the motor vehicle on the day of the forfeiture hearing as noticed by the district attorney under G.S. 20-28.2(c) or otherwise violates a condition of pretrial release of the seized motor vehicle as set forth in this subsection, the bond posted shall be ordered forfeited and an order of seizure shall be issued by the court. Additionally, a nondefendant motor vehicle owner or lienholder who willfully violates any condition of pretrial release may be held in civil or criminal contempt.

(e1) **Pretrial Release of Motor Vehicle to Innocent Owner.** – A nondefendant motor vehicle owner may file a petition with the clerk of court seeking a pretrial determination that the petitioner is an innocent owner. The clerk shall consider the petition and make a determination as soon as may be feasible. At any proceeding conducted pursuant to this subsection, the clerk is not required to determine the issue of forfeiture, only the issue of whether the petitioner is an innocent owner. If the clerk determines that the petitioner is an innocent owner, the clerk shall release the motor vehicle to the petitioner subject to the same conditions as if the petitioner were an innocent owner under G.S. 20-28.2(e). The clerk shall send a copy of the order authorizing or denying release of the vehicle to the district attorney and the attorney for the county board of education. An order issued under this subsection finding that the petitioner failed to establish that the petitioner is an innocent owner may be reconsidered by the court as part of the forfeiture hearing conducted pursuant to G.S. 20-28.2(d).

(e2) **Pretrial Release of Motor Vehicle to Defendant Owner.** –

- (1) If the seizure was for an offense involving impaired driving, a defendant motor vehicle owner may file a petition with the clerk of court seeking a pretrial determination that the defendant's license was not revoked pursuant to an impaired driving license revocation as defined in G.S. 20-28.2(a). The clerk shall schedule a hearing before a judge of the division in which the underlying criminal charge is pending for a hearing to be held within 10 business days or as soon thereafter as may be feasible. Notice of the hearing shall be given to the defendant, the district attorney, and the attorney for the county board of education. The clerk shall forward a copy of the petition to the district attorney for the district attorney's review. If, based on available information, the district attorney determines that the defendant's motor vehicle is not subject to forfeiture, the district attorney may note the State's consent to the release of the motor vehicle on the petition and return the petition to the clerk of court who shall enter an order releasing the motor vehicle to the defendant upon payment of all towing and storage charges incurred as a result of the seizure and impoundment of the motor vehicle, subject to the satisfactory proof of the identity of the defendant as a motor vehicle owner and the existence of financial responsibility to the extent required by Article 13 of this Chapter, and no hearing shall be held. The clerk shall send a copy of the order of release to the attorney for the county board of education. At any pretrial hearing conducted pursuant to this subdivision, the court is not

required to determine the issue of the underlying offense of impaired driving only the existence of a prior drivers license revocation as an impaired driving license revocation. Accordingly, the State shall not be required to prove the underlying offense of impaired driving. An order issued under this subdivision finding that the defendant failed to establish that the defendant's license was not revoked pursuant to an impaired driving license revocation as defined in G.S. 20-28.2(a) may be reconsidered by the court as part of the forfeiture hearing conducted pursuant to G.S. 20-28.2(d).

(2) If the seizure was for a felony speeding to elude arrest offense, a defendant motor vehicle owner may apply to the clerk of superior court in the county where the charges are pending for pretrial release of the motor vehicle. The clerk shall release the motor vehicle to the defendant motor vehicle owner conditioned upon payment of all towing and storage charges incurred as a result of seizure and impoundment of the motor vehicle under the following conditions:

- a. The motor vehicle has been seized for not less than 24 hours;
- b. A bond in an amount equal to the fair market value of the motor vehicle as defined by G.S. 20-28.2 has been executed and is secured by a cash deposit in the full amount of the bond, by a recordable deed of trust to real property in the full amount of the bond, by a bail bond under G.S. 58-71-1(2), or by at least one solvent surety, payable to the county school fund and conditioned on return of the motor vehicle, in substantially the same condition as it was at the time of seizure and without any new or additional liens or encumbrances, on the day of any hearing scheduled and noticed by the district attorney under G.S. 20-28.2(c), unless the motor vehicle has been permanently released;
- c. A bond posted to secure the release of this motor vehicle under this subdivision has not been previously ordered forfeited under G.S. 20-28.5.

In the event a defendant motor vehicle owner who obtains temporary possession of a seized motor vehicle pursuant to this subdivision does not return the motor vehicle on the day of the forfeiture hearing as noticed by the district attorney under G.S. 20-28.2(c) or otherwise violates a condition of pretrial release of the seized motor vehicle as set forth in this subdivision, the bond posted shall be ordered forfeited, and an order of seizure shall be issued by the court. Additionally, a defendant motor vehicle owner who willfully violates any condition of pretrial release may be held in civil or criminal contempt.

(e3) Pretrial Release of Motor Vehicle to Lienholder. –

(1) A lienholder may file a petition with the clerk of court requesting the court to order pretrial release of a seized motor vehicle. The lienholder shall serve a copy of the petition on all interested parties which shall include the registered owner, the titled owner, the district attorney, and the county board of education attorney. Upon 10 days' prior notice of the date, time, and location of the hearing sent by the lienholder to all interested parties, a judge, after a hearing, shall order a seized motor vehicle released to the lienholder

conditioned upon payment of all towing and storage costs incurred as a result of the seizure and impoundment of the motor vehicle if the judge determines, by the greater weight of the evidence, that:

- a. Default on the obligation secured by the motor vehicle has occurred;
- b. As a consequence of default, the lienholder is entitled to possession of the motor vehicle;
- c. The lienholder agrees to sell the motor vehicle in accordance with the terms of its agreement and pursuant to the provisions of Part 6 of Article 9 of Chapter 25 of the General Statutes. Upon sale of the motor vehicle, the lienholder will pay to the clerk of court of the county in which the driver was charged all proceeds from the sale, less the amount of the lien in favor of the lienholder, and any towing and storage costs paid by the lienholder;
- d. The lienholder agrees not to sell, give, or otherwise transfer possession of the seized motor vehicle while the motor vehicle is subject to forfeiture, or the forfeited motor vehicle after the forfeiture hearing, to the defendant or the motor vehicle owner; and
- e. The seized motor vehicle while the motor vehicle is subject to forfeiture, or the forfeited motor vehicle after the forfeiture hearing, had not previously been released to the lienholder as a result of a prior seizure involving the same defendant or motor vehicle owner.

(2) The clerk of superior court may order a seized vehicle released to the lienholder conditioned upon payment of all towing and storage costs incurred as a result of the seizure and impoundment of the motor vehicle at any time when all interested parties have, in writing, waived any rights that they may have to notice and a hearing, and the lienholder has agreed to the provision of subdivision (1)d. above. A lienholder who refuses to sell, give, or transfer possession of a seized motor vehicle while the motor vehicle is subject to forfeiture, or a forfeited motor vehicle after the forfeiture hearing, to:

- a. The defendant;
- b. The motor vehicle owner who owned the motor vehicle immediately prior to seizure pending the forfeiture hearing, or to forfeiture after the forfeiture hearing; or
- c. Any person acting on the behalf of the defendant or the motor vehicle owner,

shall not be liable for damages arising out of such refusal. However, any subsequent violation of the conditions of release by the lienholder shall be punishable by civil or criminal contempt.

(f), (g) Repealed by Session Laws 1998-182, s. 3, effective December 1, 1998.

(h) Insurance Proceeds. – In the event a motor vehicle is damaged incident to the conduct of the defendant which gave rise to the defendant's arrest and seizure of the motor vehicle pursuant to this section, the county board of education, or its authorized designee, is authorized to negotiate the county board of education's interest with the insurance company and to compromise and accept settlement of any claim for damages. Property insurance proceeds accruing to the defendant, or other owner of the seized motor vehicle, shall be paid by the responsible insurance company directly to the clerk of superior court in the county where the

motor vehicle driver was charged. If the motor vehicle is declared a total loss by the insurance company liable for the damages to the motor vehicle, the clerk of superior court, upon application of the county board of education, shall enter an order that the motor vehicle be released to the insurance company upon payment into the court of all insurance proceeds for damage to the motor vehicle after payment of towing and storage costs and all valid liens. The clerk of superior court shall provide the Division with a certified copy of the order entered pursuant to this subsection, and the Division shall transfer title to the insurance company or to such other person or entity as may be designated by the insurance company. Insurance proceeds paid to the clerk of court pursuant to this subsection shall be subject to forfeiture pursuant to G.S. 20-28.5 and shall be disbursed pursuant to further orders of the court. An affected motor vehicle owner or lienholder who objects to any agreed upon settlement under this subsection may file an independent claim with the insurance company for any additional monies believed owed. Notwithstanding any other provisions in this Chapter, nothing in this section or G.S. 20-28.2 shall require an insurance company to make payments in excess of those required pursuant to its policy of insurance on the seized motor vehicle.

(i) Expedited Sale of Seized Motor Vehicles in Certain Cases. – In order to avoid additional liability for towing and storage costs pending resolution of the criminal proceedings of the defendant, the State Surplus Property Agency or county board of education may, after expiration of 90 days from the date of seizure, sell any motor vehicle having a fair market value of one thousand five hundred dollars (\$1,500) or less. The county board of education may also sell a motor vehicle, regardless of the fair market value, any time the outstanding towing and storage costs exceed eighty-five percent (85%) of the fair market value of the vehicle, or with the consent of all the motor vehicle owners. Any sale conducted pursuant to this subsection shall be conducted in accordance with the provisions of G.S. 20-28.5(a) or G.S. 20-28.5(a1), as applicable, and the proceeds of the sale, after the payment of outstanding towing and storage costs or reimbursement of towing and storage costs paid by a person other than the defendant, shall be deposited with the clerk of superior court. If an order of forfeiture is entered by the court, the court shall order the proceeds held by the clerk to be disbursed as provided in G.S. 20-28.5(b). If the court determines that the motor vehicle is not subject to forfeiture, the court shall order the proceeds held by the clerk to be disbursed first to pay the sale, towing, and storage costs, second to pay outstanding liens on the motor vehicle, and the balance to be paid to the motor vehicle owners.

(j) Retrieval of Certain Personal Property. – At reasonable times, the entity charged with storing the motor vehicle may permit owners of personal property not affixed to the motor vehicle to retrieve those items from the motor vehicle, provided satisfactory proof of ownership of the motor vehicle or the items of personal property is presented to the storing entity.

(k) County Board of Education Right to Appear and Participate in Proceedings. – The attorney for the county board of education shall be given notice of all proceedings regarding offenses related to a motor vehicle subject to forfeiture under this section. However, the notice requirement under this subsection does not apply to proceedings conducted under G.S. 20-28.3(e1). The attorney for the county board of education shall also have the right to appear and to be heard on all issues relating to the seizure, possession, release, forfeiture, sale, and other matters related to the seized vehicle under this section. With the prior consent of the county board of education, the district attorney may delegate to the attorney for the county board of education any or all of the duties of the district attorney under this section. Clerks of superior court, law enforcement agencies, and all other agencies with information relevant to the seizure,

impoundment, release, or forfeiture of motor vehicles are authorized and directed to provide county boards of education with access to that information and to do so by electronic means when existing technology makes this type of transmission possible.

(l) Payment of Fees Upon Conviction. – If the driver of a motor vehicle seized pursuant to this section is convicted of the underlying offense resulting in the seizure of a motor vehicle pursuant to this section, the defendant shall be ordered to pay as restitution to the county board of education, the motor vehicle owner, or the lienholder the cost paid or owing for the towing, storage, and sale of the motor vehicle to the extent the costs were not covered by the proceeds from the forfeiture and sale of the motor vehicle. If the underlying offense resulting in the seizure is felony speeding to elude arrest pursuant to G.S. 20-141.5(b) or (b1) and the defendant's conviction is for misdemeanor speeding to elude arrest pursuant to G.S. 20-141.5(a), whether or not the reduced charge is by plea agreement, the defendant shall be ordered to pay as restitution to the county board of education, the motor vehicle owner, or the lienholder the cost paid or owing for the towing and storage of the motor vehicle. In addition, a civil judgment for the costs under this section in favor of the party to whom the restitution is owed shall be docketed by the clerk of superior court. If the defendant is sentenced to an active term of imprisonment, the civil judgment shall become effective and be docketed when the defendant's conviction becomes final. If the defendant is placed on probation, the civil judgment in the amount found by a judge during the probation revocation or termination hearing to be due shall become effective and be docketed by the clerk when the defendant's probation is revoked or terminated.

(m) Trial Priority. – District court trials of offenses involving forfeitures of motor vehicles pursuant to G.S. 20-28.2 shall be scheduled on the arresting officer's next court date or within 30 days of the offense, whichever comes first.

Once scheduled, the case shall not be continued unless all of the following conditions are met:

- (1) A written motion for continuance is filed with notice given to the opposing party prior to the motion being heard.
- (2) The judge makes a finding of a "compelling reason" for the continuance.
- (3) The motion and finding are attached to the court case record.

Upon a determination of guilt, the issue of vehicle forfeiture shall be heard by the judge immediately, or as soon thereafter as feasible, and the judge shall issue the appropriate orders pursuant to G.S. 20-28.2(d).

Should a defendant appeal the conviction to superior court, any party who has not previously been heard on a petition for pretrial release under subsection (e1) or (e3) of this section or any party whose motor vehicle has not been the subject of a forfeiture hearing held pursuant to G.S. 20-28.2(d) may be heard on a petition for pretrial release pursuant to subsection (e1) or (e3) of this section. The provisions of subsection (e) of this section shall also apply to seized motor vehicles pending trial in superior court. Where a motor vehicle was released pursuant to subsection (e) of this section pending trial in district court, the release of the motor vehicle continues, and the terms and conditions of the original bond remain the same as those required for the initial release of the motor vehicle under subsection (e) of this section, pending the resolution of the underlying offense involving impaired driving in superior court.

(n) Any order issued pursuant to this section authorizing the release of a seized vehicle shall require the payment of all towing and storage charges incurred as a result of the seizure and impoundment of the motor vehicle. This requirement shall not be waived. (1997-379, s. 1.2;

1997-456, s. 31; 1998-182, s. 3; 1998-217, s. 62(a)-(c); 2000-169, s. 29; 2001-362, ss. 1, 2, 3, 4, 5, 6; 2001-487, s. 9; 2006-253, s. 32; 2013-243, s. 2; 2015-241, s. 27.3(b).)

§ 20-28.4. Release of impounded motor vehicles by judge.

(a) Release Upon Conclusion of Trial. – If the driver of a motor vehicle seized pursuant to G.S. 20-28.3:

- (1) Is subsequently not convicted of the underlying offense resulting in seizure due to dismissal or a finding of not guilty; or
- (2) The judge at a forfeiture hearing conducted pursuant to G.S. 20-28.2(d) finds that the criteria for forfeiture have not otherwise been met; and
- (3) The vehicle has not previously been released to a lienholder pursuant to G.S. 20-28.3(e3),

the seized motor vehicle or insurance proceeds held by the clerk of court pursuant to G.S. 20-28.2(c1) or G.S. 20-28.3(h) shall be released to the motor vehicle owner conditioned upon payment of towing and storage costs. The court shall not waive the payment of towing and storage costs. The court shall include in its order notice to the owner of the seized motor vehicle still being held, that within 30 days of the date of the court's order, the owner must make payment of the outstanding towing and storage costs for the motor vehicle and retrieve the motor vehicle, or give notice to Division of Motor Vehicles requesting a judicial hearing on the validity of any mechanics' lien on the motor vehicle for towing and storage costs.

(b) Notwithstanding G.S. 44A-2(d), if the owner of the seized motor vehicle does not obtain release of the vehicle within 30 days from the date of the court's order, the possessor of the seized motor vehicle has a mechanics' lien on the seized motor vehicle for the full amount of the towing and storage charges incurred since the motor vehicle was seized and may dispose of the seized motor vehicle pursuant to Article 1 of Chapter 44A of the General Statutes. Notice of the right to a judicial hearing on the validity of the mechanics' lien given to the owner of the motor vehicle in open court in accordance with subsection (a) of this section or delivery to the owner of the vehicle of a copy of the court's order entered in accordance with subsection (a) of this section shall satisfy the notice requirement of G.S. 44A-4(b). (1997-379, s. 1.3; 1998-182, s. 4; 2001-362, s. 8; 2004-128, s. 4; 2013-243, s. 3.)

§ 20-28.5. Forfeiture of impounded motor vehicle or funds.

(a) Sale of Vehicle in Possession of County Board of Education. – A motor vehicle in the possession or constructive possession of a county board of education ordered forfeited and sold or a seized motor vehicle authorized to be sold pursuant to G.S. 20-28.3(i), shall be sold at a public sale conducted in accordance with the provisions of Article 12 of Chapter 160A of the General Statutes, applicable to sales authorized pursuant to G.S. 160A-266(a)(2), (3), or (4), subject to the notice requirements of this subsection, and shall be conducted by the county board of education or a person acting on its behalf. Notice of sale, including the date, time, location, and manner of sale, shall be given by first-class mail to all motor vehicle owners of the vehicle to be sold at the address shown by the records of the Division. Written notice of sale shall also be given to all lienholders on file with the Division. Notice of sale shall be given to the Division in accordance with the procedures established by the Division. Notices required to be given under this subsection shall be mailed at least 10 days prior to the date of sale. A lienholder shall be permitted to purchase the motor vehicle at any such sale by bidding in the amount of its lien, if that should be the highest bid, without being required to tender any additional funds, other than

the towing and storage fees. The county board of education, or its agent, shall not sell, give, or otherwise transfer possession of the forfeited motor vehicle to the defendant, the motor vehicle owner who owned the motor vehicle immediately prior to forfeiture, or any person acting on the defendant's or motor vehicle owner's behalf.

(a1) Sale of Vehicle in Possession of the State Surplus Property Agency. – A motor vehicle in the possession or constructive possession of the State Surplus Property Agency ordered forfeited and sold or a seized motor vehicle authorized to be sold pursuant to G.S. 20-28.3(i) shall be sold at a public sale conducted in accordance with the provisions of Article 3A of Chapter 143 of the General Statutes, subject to the notice requirements of this subsection, and shall be conducted by the State Surplus Property Agency or a person acting on its behalf. Notice of sale, including the date, time, location, and manner of sale, shall be given by first-class mail to all motor vehicle owners of the vehicle to be sold at the address shown by the records of the Division. Written notice of sale shall also be given to all lienholders on file with the Division. Notice of sale shall be given to the Division in accordance with the procedures established by the State Surplus Property Agency. Notices required to be given under this subsection shall be mailed at least 10 days prior to the date of sale. A lienholder shall be permitted to purchase the motor vehicle at any such sale by bidding in the amount of its lien, if that should be the highest bid, without being required to tender any additional funds, other than the towing and storage fees. The State Surplus Property Agency, or its agent, shall not sell, give, or otherwise transfer possession of the forfeited motor vehicle to the defendant, the motor vehicle owner who owned the motor vehicle immediately prior to forfeiture, or any person acting on the defendant's or motor vehicle owner's behalf.

(b) Proceeds of Sale. – Proceeds of any sale conducted under this section, G.S. 20-28.2(f)(5), or G.S. 20-28.3(e3)(3), shall first be applied to all costs incurred by the State Surplus Property Agency or county board of education and then to satisfy towing and storage costs. The balance of the proceeds of sale, if any, shall be used to satisfy any other existing liens of record that were properly recorded prior to the date of initial seizure of the vehicle. Any remaining balance shall be paid to the county school fund in the county in which the motor vehicle was ordered forfeited. If there is more than one school board in the county, then the net proceeds of sale, after reimbursement to the county board of education of reasonable administrative costs incurred in connection with the forfeiture and sale of the motor vehicle, shall be distributed in the same manner as fines and other forfeitures. The sale of a motor vehicle pursuant to this section shall be deemed to extinguish all existing liens on the motor vehicle and the motor vehicle shall be transferred free and clear of any liens.

(c) Retention of Motor Vehicle. – A board of education may, at its option, retain any forfeited motor vehicle for its use upon payment of towing and storage costs. If the motor vehicle is retained, any valid lien of record at the time of the initial seizure of the motor vehicle shall be satisfied by the county board of education relieving the motor vehicle owner of all liability for the obligation secured by the motor vehicle. If there is more than one school board in the county, and the motor vehicle is retained by a board of education, then the fair market value of the motor vehicle, less the costs for towing, storage, reasonable administrative costs, and liens paid, shall be used to determine and pay the share due each of the school boards in the same manner as fines and other forfeitures.

(d) Repealed by Session Laws 1998-182, s. 5, effective December 1, 1998.

(e) Order of Forfeiture; Appeals. – An order of forfeiture is stayed pending appeal of a conviction for an offense that is the basis for the order. When the conviction of an offense that is

the basis for an order of forfeiture is appealed from district court, the issue of forfeiture shall be heard in superior court de novo. Appeal from a final order of forfeiture shall be to the Court of Appeals. (1997-379, s. 1.4; 1998-182, s. 5; 1998-217, s. 62(d); 1999-456, s. 11; 2015-241, s. 27.3(c).)

§ 20-28.6: Repealed by Session Laws 1998-182, s. 6 effective December 1, 1998, and applicable to offenses committed, contracts entered, and motor vehicles seized on or after that date.

§ 20-28.7. Responsibility of Division of Motor Vehicles.

The Division shall establish procedures by rule to provide for the orderly seizure, forfeiture, sale, and transfer of motor vehicles pursuant to the provisions of G.S. 20-28.2, 20-28.3, 20-28.4, and 20-28.5. (1997-379, s. 1.6; 1998-182, s. 7.)

§ 20-28.8. Reports to the Division.

In any case in which a vehicle has been seized pursuant to G.S. 20-28.3, in addition to any other information that must be reported pursuant to this Chapter, the clerk of superior court shall report to the Division by electronic means the execution of an impaired driving acknowledgment as defined in G.S. 20-28.2(a1)(1a), a speeding to elude arrest acknowledgment as defined in G.S. 20-28.2(a1)(8), the entry of an order of forfeiture as defined in G.S. 20-28.2(a1)(4), and the entry of an order of release as defined in G.S. 20-28.3 and G.S. 20-28.4. Each report shall include any of the following information that has not previously been reported to the Division in the case: the name, address, and drivers license number of the defendant; the name, address, and drivers license number of the nondefendant motor vehicle owner, if known; and the make, model, year, vehicle identification number, state of registration, and vehicle registration plate number of the seized vehicle, if known. (1998-182, s. 8; 2013-243, s. 4.)

§ 20-28.9. Authority for the State Surplus Property Agency to administer a statewide or regional towing, storage, and sales program for vehicles forfeited.

(a) The State Surplus Property Agency is authorized to enter into a contract for a statewide service or contracts for regional services to tow, store, process, maintain, and sell motor vehicles seized pursuant to G.S. 20-28.3. All motor vehicles seized under G.S. 20-28.3 shall be subject to contracts entered into pursuant to this section. Contracts shall be let by the State Surplus Property Agency in accordance with the provisions of Article 3 of Chapter 143 of the General Statutes. All contracts shall ensure the safety of the motor vehicles while held and any funds arising from the sale of any seized motor vehicle. The contract shall require the contractor to maintain and make available to the agency a computerized up-to-date inventory of all motor vehicles held under the contract, together with an accounting of all accrued charges, the status of the vehicle, and the county school fund to which the proceeds of sale are to be paid. The contract shall provide that the contractor shall pay the towing and storage charges owed on a seized vehicle to a commercial towing company at the time the seized vehicle is obtained from the commercial towing company, with the contractor being reimbursed this expense when the vehicle is released or sold. The State Surplus Property Agency shall not enter into any contract under this section under which the State will be obligated to pay a deficiency arising from the sale of any forfeited motor vehicle.

(b) The State Surplus Property Agency, through its contractor or contractors designated in accordance with subsection (a) of this section, may charge a reasonable fee for storage not to exceed ten dollars (\$10.00) per calendar day for the storage of seized vehicles pursuant to G.S. 20-28.3.

(c) Repealed by Session Laws 2015-241, s. 27.3(d), effective July 1, 2015. (1998-182, s. 8; 2014-115, s. 2.2; 2015-241, s. 27.3(d); 2015-264, s. 38.3(a).)

§ 20-29. Surrender of license.

Any person operating or in charge of a motor vehicle, when requested by an officer in uniform, or, in the event of accident in which the vehicle which he is operating or in charge of shall be involved, when requested by any other person, who shall refuse to write his name for the purpose of identification or to give his name and address and the name and address of the owner of such vehicle, or who shall give a false name or address, or who shall refuse, on demand of such officer or such other person, to produce his license and exhibit same to such officer or such other person for the purpose of examination, or who shall refuse to surrender his license on demand of the Division, or fail to produce same when requested by a court of this State, shall be guilty of a Class 2 misdemeanor. Pickup notices for drivers' licenses or revocation or suspension of license notices and orders or demands issued by the Division for the surrender of such licenses may be served and executed by patrolmen or other peace officers or may be served in accordance with G.S. 20-48. Patrolmen and peace officers, while serving and executing such notices, orders and demands, shall have all the power and authority possessed by peace officers when serving the executing warrants charging violations of the criminal laws of the State. (1935, c. 52, s. 23; 1949, c. 583, s. 7; 1975, c. 716, s. 5; 1979, c. 667, s. 25; 1981, c. 938, s. 1; 1993, c. 539, s. 323; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-29.1. Commissioner may require reexamination; issuance of limited or restricted licenses.

The Commissioner of Motor Vehicles, having good and sufficient cause to believe that a licensed operator is incompetent or otherwise not qualified to be licensed, may, upon written notice of at least five days to such licensee, require him to submit to a reexamination to determine his competency to operate a motor vehicle. Upon the conclusion of such examination, the Commissioner shall take such action as may be appropriate, and may suspend or revoke the license of such person or permit him to retain such license, or may issue a license subject to restrictions or upon failure of such reexamination may cancel the license of such person until he passes a reexamination. Refusal or neglect of the licensee to submit to such reexamination shall be grounds for the cancellation of the license of the person failing to be reexamined, and the license so canceled shall remain canceled until such person satisfactorily complies with the reexamination requirements of the Commissioner. The Commissioner may, in his discretion and upon the written application of any person qualified to receive a driver's license, issue to such person a driver's license restricting or limiting the licensee to the operation of a single prescribed motor vehicle or to the operation of a particular class or type of motor vehicle. Such a limitation or restriction shall be noted on the face of the license, and it shall be unlawful for the holder of such limited or restricted license to operate any motor vehicle or class of motor vehicle not specified by such restricted or limited license, and the operation by such licensee of motor vehicles not specified by such license shall be deemed the equivalent of operating a motor vehicle without any driver's license. Any such restricted or limited licensee may at any time

surrender such restricted or limited license and apply for and receive an unrestricted driver's license upon meeting the requirements therefor. (1943, c. 787, s. 2; 1949, c. 1121; 1971, c. 546; 1979, c. 667, ss. 26, 41.)

§ 20-30. Violations of license, learner's permit, or special identification card provisions.

It shall be unlawful for any person to commit any of the following acts:

- (1) To display or cause to be displayed or to have in possession a driver's license, learner's permit, or special identification card, knowing the same to be fictitious or to have been canceled, revoked, suspended or altered.
- (2) To counterfeit, sell, lend to, or knowingly permit the use of, by one not entitled thereto, a driver's license, learner's permit, or special identification card.
- (3) To display or to represent as one's own a drivers license, learner's permit, or special identification card not issued to the person so displaying same.
- (4) To fail or refuse to surrender to the Division upon demand any driver's license, learner's permit, or special identification card that has been suspended, canceled or revoked as provided by law.
- (5) To use a false or fictitious name or give a false or fictitious address in any application for a driver's license, learner's permit, or special identification card, or any renewal or duplicate thereof, or knowingly to make a false statement or knowingly conceal a material fact or otherwise commit a fraud in any such application, or for any person to procure, or knowingly permit or allow another to commit any of the foregoing acts. Any license, learner's permit, or special identification card procured as aforesaid shall be void from the issuance thereof, and any moneys paid therefor shall be forfeited to the State. Any person violating the provisions of this subdivision shall be guilty of a Class 1 misdemeanor.
- (6) To make a color photocopy or otherwise make a color reproduction of a drivers license, learner's permit, or special identification card which has been color-photocopied or otherwise reproduced in color, unless such color photocopy or other color reproduction was authorized by the Commissioner. It shall be lawful to make a black and white photocopy of a drivers license, learner's permit, or special identification card or otherwise make a black and white reproduction of a drivers license, learner's permit, or special identification card.
- (7) To sell or offer for sale any reproduction or facsimile or simulation of a driver's license, learner's permit, or special identification card. The provisions of this subdivision shall not apply to agents or employees of the Division while acting in the course and scope of their employment. Any person, firm or corporation violating the provisions of this subsection shall be guilty of a Class I felony.
- (8) To possess more than one commercial drivers license or to possess a commercial drivers license and a regular drivers license. Any commercial drivers license other than the one most recently issued is subject to immediate seizure by any law enforcement officer or judicial official. Any regular drivers

license possessed at the same time as a commercial drivers license is subject to immediate seizure by any law enforcement officer or judicial official.

- (9) To present, display, or use a drivers license, learner's permit, or special identification card that contains a false or fictitious name in the commission or attempted commission of a felony. Any person violating the provisions of this subdivision shall be guilty of a Class I felony. (1935, c. 52, s. 24; 1951, c. 542, s. 4; 1967, c. 1098, s. 1; 1973, c. 18, s. 2; 1975, c. 716, s. 5; 1979, c. 415; c. 667, ss. 27, 41; 1979, 2nd Sess., c. 1316, s. 22; 1989, c. 771, s. 8; 1991, c. 726, s. 13; 1991 (Reg. Sess., 1992), c. 1007, s. 29; 1993, c. 539, s. 1247; 1994, Ex. Sess., c. 24, s. 14(c); 1999-299, s. 1; 2001-461, s. 1.1; 2001-487, s. 50(b); 2011-381, s. 4.)

§ 20-31. Making false affidavits perjury.

Any person who shall make any false affidavit, or shall knowingly swear or affirm falsely, to any matter or thing required by the terms of this Article to be sworn to or affirmed shall be guilty of a Class I felony. (1935, c. 52, s. 25; 1993, c. 539, s. 1249; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-32. Unlawful to permit unlicensed minor to drive motor vehicle.

It shall be unlawful for any person to cause or knowingly permit any minor under the age of 18 years to drive a motor vehicle upon a highway as an operator, unless such minor shall have first obtained a license to so drive a motor vehicle under the provisions of this Article. (1935, c. 52, s. 26; 1973, c. 684.)

§ 20-33. Repealed by Session Laws 1979, c. 667, s. 28.

§ 20-34. Unlawful to permit violations of this Article.

No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven by any person who has no legal right to do so or in violation of any of the provisions of this Article. (1935, c. 52, s. 28.)

§ 20-34.1. Violations for wrongful issuance of a drivers license or a special identification card.

(a) An employee of the Division or of an agent of the Division who does any of the following commits a Class I felony:

- (1) Charges or accepts any money or other thing of value, except the required fee, for the issuance of a drivers license or a special identification card.
- (2) Knowing it is false, accepts false proof of identification submitted for a drivers license or a special identification card.
- (3) Knowing it is false, enters false information concerning a drivers license or a special identification card in the records of the Division.

(b) Defenses Precluded. – The fact that the Division does not issue a license or a special identification card after an employee or an agent of the Division charges or accepts money or another thing of value for its issuance is not a defense to a criminal action under this section. It is not a defense to a criminal action under this section to show that the person who received or was intended to receive the license or special identification card was eligible for it.

(c) Dismissal. – An employee of the Division who violates this section shall be dismissed from employment and may not hold any public office or public employment in this State for five years after the violation. If a person who violates this section is an employee of the agent of the Division, the Division shall cancel the contract of the agent unless the agent dismisses that person. A person dismissed by an agent because of a violation of this section may not hold any public office or public employment in this State for five years after the violation. (1951, c. 211; 1975, c. 716, s. 5; 1979, c. 667, s. 41; 1993, c. 533, s. 8; 1994, Ex. Sess., c. 14, s. 30; c. 24, s. 14(c).)

§ 20-35. Penalties for violating Article; defense to driving without a license.

(a) Penalty. – Except as otherwise provided in subsection (a1) or (a2) of this section, a violation of this Article is a Class 2 misdemeanor unless a statute in the Article sets a different punishment for the violation. If a statute in this Article sets a different punishment for a violation of the Article, the different punishment applies.

(a1) The following offenses are Class 3 misdemeanors:

- (1) Failure to obtain a license before driving a motor vehicle, in violation of G.S. 20-7(a).
- (2) Failure to comply with license restrictions, in violation of G.S. 20-7(e).
- (3) Permitting a motor vehicle owned by the person to be operated by an unlicensed person, in violation of G.S. 20-34.

(a2) A person who does any of the following is responsible for an infraction:

- (1) Fails to carry a valid license while driving a motor vehicle, in violation of G.S. 20-7(a).
- (2) Operates a motor vehicle with an expired license, in violation of G.S. 20-7(f).
- (3) Fails to notify the Division of an address change for a drivers license within 60 days after the change occurs, in violation of G.S. 20-7.1.

(b) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 4.

(c) Defenses. – A person may not be found responsible for failing to carry a regular drivers license if, when tried for that offense, the person produces in court a regular drivers license issued to the person that was valid when the person was charged with the offense. A person may not be found responsible for driving a motor vehicle with an expired drivers license if, when tried for that offense, the person shows all the following:

- (1) That, at the time of the offense, the person had an expired license.
- (2) The person renewed the expired license within 30 days after it expired and now has a drivers license.
- (3) The person could not have been charged with driving without a license if the person had the renewed license when charged with the offense. (1935, c. 52, s. 29; 1991, c. 726, s. 14; 1993, c. 539, s. 324; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 761, s. 4; 2013-360, s. 18B.14(g); 2013-385, s. 4.)

§ 20-36. Ten-year-old convictions not considered.

Except for offenses occurring in a commercial motor vehicle, offenses by the holder of a commercial drivers license involving a noncommercial motor vehicle, or a second failure to submit to a chemical test when charged with an implied-consent offense, as defined in G.S. 20-16.2, that occurred while the person was driving a commercial motor vehicle, no conviction of any other violation of the motor vehicle laws shall be considered by the Division in

determining whether any person's driving privilege shall be suspended or revoked or in determining the appropriate period of suspension or revocation after 10 years has elapsed from the date of that conviction. (1971, c. 15; 1975, c. 716, s. 5; 1998-182, s. 22; 2005-349, s. 7; 2009-416, s. 4.)

§ 20-37. Limitations on issuance of licenses.

There shall be no driver's license issued within this State other than that provided for in this Article, nor shall there be any other examination required: Provided, however, that cities and towns shall have the power to license, regulate and control drivers and operators of taxicabs within the city or town limits and to regulate and control operators of taxicabs operating between the city or town to points, not incorporated, within a radius of five miles of said city or town. (1935, c. 52, s. 34; 1943, c. 639, s. 2; 1979, c. 667, s. 41.)

§ 20-37.01. Drivers License Technology Fund.

The Drivers License Technology Fund is established in the Department of Transportation as a nonreverting, interest-bearing special revenue account. The revenue in the Fund at the end of a fiscal year does not revert, and earnings on the Fund shall be credited to the Fund annually. All money collected by the Commissioner pursuant to G.S. 20-37.02 shall be remitted to the State Treasurer and held in the Fund. Money held in the Fund shall be used to supplement funds otherwise available to the Division for information technology and office automation needs. The Commissioner shall report by February 1 and August 1 of each year to the Joint Legislative Commission on Governmental Operations, the chairs of the Senate and House of Representatives Appropriation Committees, and the chairs of the Senate and House of Representatives Appropriations Subcommittees on Transportation on all money collected and deposited in the Fund and on the proposed expenditure of funds collected during the preceding six months. (2001-461, s. 4; 2001-487, s. 42(c).)

§ 20-37.02. Verification of drivers license information.

(a) The Commissioner shall establish and operate an electronic system that can be used to verify drivers licenses and identification cards issued by the Division and the dates of birth on these documents in order to facilitate access to drivers license information by retailers and persons holding ABC permits to prevent the utilization of fictitious identification for the purpose of underage purchases of certain age-restricted products or to commit certain crimes.

(b) The electronic system established and operated by the Commissioner pursuant to subsection (a) of this section shall allow a retailer, as defined in G.S. 105-164.3(14), a person who holds an ABC permit, as defined in G.S. 18B-101(2), or an agent of the retailer or a person holding an ABC permit, to verify the validity of a drivers license or identification card issued by the Division and the date of birth of the person issued the drivers license or identification card. The Commissioner shall make drivers license and identification card information available in a read-only format, and the information to be made available shall not exceed the information contained on the face of the drivers license. The Division shall not keep a record of the inquiry. The retailer or a person holding an ABC permit may retain such information as is necessary to provide evidence that the person's drivers license or identification card was validated or that the person's age was verified. A retailer or permittee shall agree to comply with the requirements of this section prior to using the system.

(c) Except for purposes allowed in this section, a person using the electronic system established in accordance with subsection (a) of this section shall not collect or retain any information obtained through the use of the electronic system, nor transfer or make accessible to a third party any information obtained through an inquiry permitted under this section. A violation of the provisions of this subsection shall be punished as a Class 2 misdemeanor.

(d) A retailer or permittee using the electronic system established pursuant to this section shall be responsible for the costs of the equipment and communication lines approved by the Division needed by the retailer or permittee to access the system.

(e) The establishment and operation of an electronic system pursuant to this section may be funded through grants received from the State, the federal government, a private entity, or any other funding source made available to the Drivers License Technology Fund. All funds obtained through grants to the Fund shall be remitted to the State Treasurer to be held in the Drivers License Technology Fund established in G.S. 20-37.01. (2001-461, s. 4.)

Article 2A.

Afflicted, Disabled or Handicapped Persons.

§ 20-37.1: Repealed by Session Laws 1989, c. 157, s. 1.

§§ 20-37.2 through 20-37.4: Repealed by Session Laws 1991, c. 411, s. 5.

§ 20-37.5. Definitions.

Unless the context requires otherwise, the following definitions apply throughout this Article to the defined words and phrases and their cognates:

- (1) "Distinguishing license plate" means a license plate that displays the International Symbol of Access using the same color, size of plate, and size of letters or numbers as a regular plate.
- (2) "Handicapped" shall mean a person with a mobility impairment who, as determined by a licensed physician:
 - a. Cannot walk 200 feet without stopping to rest;
 - b. Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;
 - c. Is restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume of one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than 60 mm/hg on room air at rest;
 - d. Uses portable oxygen;
 - e. Has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association;
 - f. Is severely limited in their ability to walk due to an arthritic, neurological, or orthopedic condition; or
 - g. Is totally blind or whose vision with glasses is so defective as to prevent the performance of ordinary activity for which eyesight is

essential, as certified by a licensed ophthalmologist, optometrist, or the Division of Services for the Blind.

- (3) "International Symbol of Access" means the symbol adopted by Rehabilitation International in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled.
- (4) "Removable windshield placard" means a two-sided, hooked placard which includes on each side:
 - a. The International Symbol of Access, which is at least three inches in height, centered on the placard, and is white on a blue shield;
 - b. An identification number;
 - c. An expiration date that is visible from at least 20 feet and the month and year of expiration; and
 - d. The seal or other identification of the issuing authority. (1967, c. 296, s. 5; 1977, c. 340, s. 1; 1991, c. 411, s. 1; 2009-493, s. 1.)

§ 20-37.6. Parking privileges for handicapped drivers and passengers.

(a) General Parking. – Any vehicle that is driven by or is transporting a person who is handicapped and that displays a distinguishing license plate, a removable windshield placard, or a temporary removable windshield placard may be parked for unlimited periods in parking zones restricted as to the length of time parking is permitted. This provision has no application to those zones or during times in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. Any qualifying vehicle may park in spaces designated as restricted to vehicles driven by or transporting the handicapped.

(b) Handicapped Car Owners; Distinguishing License Plates. – If the handicapped person is a registered owner of a vehicle, the owner may apply for and display a distinguishing license plate. This license plate shall be issued for the normal fee applicable to standard license plates. Any vehicle owner who qualifies for a distinguishing license plate shall be notified by the Division at the time the plate is issued that the applicant is also eligible to receive one removable windshield placard and, upon request, shall be issued a placard at that time.

(c) Handicapped Drivers and Passengers; Distinguishing Placards. – Handicapped Drivers and Passengers; Distinguishing Placards. – A handicapped person may apply for the issuance of a removable windshield placard or a temporary removable windshield placard. Upon request, one additional placard may be issued to applicants who do not have a distinguishing license plate. Any organization which, as determined and certified by the State Vocational Rehabilitation Agency, regularly transports handicapped persons may also apply. These organizations may receive one removable windshield placard for each transporting vehicle. When the removable windshield or temporary removable windshield placard is properly displayed, all parking rights and privileges extended to vehicles displaying a distinguishing license plate issued pursuant to subsection (b) shall apply. The removable windshield placard or the temporary removable windshield placard shall be displayed so that it may be viewed from the front and rear of the vehicle by hanging it from the front windshield rearview mirror of a vehicle using a parking space allowed for handicapped persons. When there is no inside rearview mirror, or when the placard cannot reasonably be hung from the rearview mirror by the handicapped person, the placard shall be displayed on the driver's side of the dashboard. A removable windshield placard placed on a motorized wheelchair or similar vehicle shall be displayed in a clearly visible location. The Division shall establish procedures for the issuance of the placards

and may charge a fee sufficient to pay the actual cost of issuance, but in no event less than five dollars (\$5.00) per placard. The Division shall issue a placard registration card with each placard issued to a handicapped person. The registration card shall bear the name of the person to whom the placard is issued, the person's address, the placard number, and an expiration date. The registration card shall be in the vehicle in which the placard is being used, and the person to whom the placard is issued shall be the operator or a passenger in the vehicle in which the placard is displayed.

(c1) Application and Renewal; Medical Certification. – The initial application for a distinguishing license plate, removable windshield placard, or temporary removable windshield placard shall be accompanied by a certification of a licensed physician, a licensed ophthalmologist, a licensed optometrist, a licensed physician assistant, a licensed nurse practitioner, or the Division of Services for the Blind that the applicant is handicapped or by a disability determination by the United States Department of Veterans Affairs that the applicant is handicapped. For an initial application for a temporary removable windshield placard only, the certification that the applicant is handicapped may be made by a licensed certified nurse midwife. The application for a temporary removable windshield placard shall contain additional certification to include the period of time the certifying authority determines the applicant will have the disability. Distinguishing license plates shall be renewed annually, but subsequent applications shall not require a medical certification that the applicant is handicapped. Removable windshield placards shall be renewed every five years, and, except for a person certified as totally and permanently disabled at the time of the initial application or a prior renewal under this subsection, the renewal shall require a medical recertification that the person is handicapped. Temporary removable windshield placards shall expire no later than six months after issuance.

(c2) Existing Placards; Expiration; Exchange for New Placards. – All existing placards shall expire on January 1, 1992. No person shall be convicted of parking in violation of this Article by reason of an expired placard if the defendant produces in court, at the time of trial on the illegal parking charge, an expired placard and a renewed placard issued within 30 days of the expiration date of the expired placard and which would have been a defense to the charge had it been issued prior to the time of the alleged offense. Existing placards issued on or after July 1, 1989, may be exchanged without charge for the new placards.

(c3) It shall be unlawful to sell a distinguishing license plate, a removable windshield placard, or a temporary removable windshield placard issued pursuant to this section. A violation of this subsection shall be a Class 2 misdemeanor and may be punished pursuant to G.S. 20-176(c) and (c1).

(d) Designation of Parking Spaces. – Designation of parking spaces for handicapped persons on streets and public vehicular areas shall comply with G.S. 136-30. A sign designating a parking space for handicapped persons shall state the maximum penalty for parking in the space in violation of the law.

(d1) Repealed by Session Laws 1991, c. 530, s. 4.

(e) Enforcement of Handicapped Parking Privileges. – It shall be unlawful:

- (1) To park or leave standing any vehicle in a space designated with a sign pursuant to subsection (d) of this section for handicapped persons when the vehicle does not display the distinguishing license plate, removable windshield placard, temporary removable windshield placard as provided in

- this section, a disabled veteran registration plate issued under G.S. 20-79.4, or a partially disabled veteran registration plate issued under G.S. 20-79.4;
- (2) For any person not qualifying for the rights and privileges extended to handicapped persons under this section to exercise or attempt to exercise such rights or privileges by the unauthorized use of a distinguishing license plate, removable windshield placard, or temporary removable windshield placard issued pursuant to the provisions of this section;
 - (3) To park or leave standing any vehicle so as to obstruct a curb ramp or curb cut for handicapped persons as provided for by the North Carolina Building Code or as designated in G.S. 136-44.14;
 - (4) For those responsible for designating parking spaces for the handicapped to erect or otherwise use signs not conforming to G.S. 20-37.6(d) for this purpose.

This section is enforceable in all public vehicular areas.

(f) Penalties for Violation. –

- (1) A violation of G.S. 20-37.6(e)(1), (2) or (3) is an infraction which carries a penalty of at least one hundred dollars (\$100.00) but not more than two hundred fifty dollars (\$250.00) and whenever evidence shall be presented in any court of the fact that any automobile, truck, or other vehicle was found to be parked in a properly designated handicapped parking space in violation of the provisions of this section, it shall be prima facie evidence in any court in the State of North Carolina that the vehicle was parked and left in the space by the person, firm, or corporation in whose name the vehicle is registered and licensed according to the records of the Division. No evidence tendered or presented under this authorization shall be admissible or competent in any respect in any court or tribunal except in cases concerned solely with a violation of this section.
- (2) A violation of G.S. 20-37.6(e)(4) is an infraction which carries a penalty of at least one hundred dollars (\$100.00) but not more than two hundred fifty dollars (\$250.00) and whenever evidence shall be presented in any court of the fact that a nonconforming sign is being used it shall be prima facie evidence in any court in the State of North Carolina that the person, firm, or corporation with ownership of the property where the nonconforming sign is located is responsible for violation of this section. Building inspectors and others responsible for North Carolina State Building Code violations specified in G.S. 143-138(h) where such signs are required by the Handicapped Section of the North Carolina State Building Code, may cause a citation to be issued for this violation and may also initiate any appropriate action or proceeding to correct such violation.
- (3) A law-enforcement officer, including a company police officer commissioned by the Attorney General under Chapter 74E of the General Statutes, or a campus police officer commissioned by the Attorney General under Chapter 74G of the General Statutes, may cause a vehicle parked in violation of this section to be towed. The officer is a legal possessor as provided in G.S. 20-161(d)(2). The officer shall not be held to answer in any civil or criminal action to any owner, lienholder or other person legally entitled to the

possession of any motor vehicle removed from a space pursuant to this section, except where the motor vehicle is willfully, maliciously, or negligently damaged in the removal from the space to a place of storage.

- (4) Notwithstanding any other provision of the General Statutes, the provisions of this section relative to handicapped parking shall be enforced by State, county, city and other municipal authorities in their respective jurisdictions whether on public or private property in the same manner as is used to enforce other parking laws and ordinances by said agencies. (1971, c. 374, s. 1; 1973, cc. 126, 1384; 1977, c. 340, s. 2; 1979, c. 632; 1981, c. 682, s. 7; 1983, c. 326, ss. 1, 2; 1985, c. 249; c. 586; c. 764, s. 24; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1987, c. 843; 1989, c. 760, s. 3; 1989 (Reg. Sess., 1990), c. 1052, ss. 1-3.1; 1991, c. 411, s. 2; c. 530, s. 4; c. 672, s. 5; c. 726, s. 23; c. 761, s. 5; 1991 (Reg. Sess., 1992), c. 1007, s. 30; c. 1043, s. 4; 1993, c. 373, s. 1; 1994, Ex. Sess., c. 14, s. 31; 1999-265, s. 1; 2005-231, s. 11; 2009-493, s. 2; 2015-22, s. 1; 2015-29, s. 1; 2016-25, ss. 1, 2; 2017-111, s. 1.)

§ 20-37.6A. Parking privileges for out-of-state handicapped drivers and passengers.

Any vehicle displaying an out-of-State handicapped license plate, placard, or other evidence of handicap issued by the appropriate authority of the appropriate jurisdiction may park in any space reserved for the handicapped pursuant to G.S. 20-37.6. (1981, c. 48; 1991, c. 411, s. 3; 1991 (Reg. Sess., 1992), c. 1007, s. 31.)

Article 2B.

Special Identification Cards for Nonoperators.

§ 20-37.7. Special identification card.

(a) Eligibility. – A person who is a resident of this State is eligible for a special identification card.

(b) Application. – To obtain a special identification card from the Division, a person must complete the application form used to obtain a drivers license.

(b1) Search National Sex Offender Public Registry. – The Division shall not issue a special identification card to an applicant who has resided in this State for less than 12 months until the Division has searched the National Sex Offender Public Registry to determine if the person is currently registered as a sex offender in another state.

- (1) If the Division finds that the person is currently registered as a sex offender in another state, the Division shall not issue a special identification card to the person until the person submits proof of registration pursuant to Article 27A of Chapter 14 of the General Statutes issued by the sheriff of the county where the person resides.
- (2) If the person does not appear on the National Sex Offender Public Registry, the Division shall issue a special identification card but shall require the person to sign an affidavit acknowledging that the person has been notified that if the person is a sex offender, then the person is required to register pursuant to Article 27A of Chapter 14 of the General Statutes.
- (3) If the Division is unable to access all states' information contained in the National Sex Offender Public Registry, but the person is otherwise qualified

to obtain a special identification card, then the Division shall issue the card but shall first require the person to sign an affidavit stating that: (i) the person does not appear on the National Sex Offender Public Registry and (ii) acknowledging that the person has been notified that if the person is a sex offender, then the person is required to register pursuant to Article 27A of Chapter 14 of the General Statutes. The Division shall search the National Sex Offender Public Registry for the person within a reasonable time after access to the Registry is restored. If the person does appear in the National Sex Offender Public Registry, the person is in violation of G.S. 20-37.8, and the Division shall promptly notify the sheriff of the county where the person resides of the offense.

- (4) Any person denied a special identification card by the Division pursuant to this subsection shall have a right to file a petition within 30 days thereafter for a hearing in the matter in the superior court of the county wherein such person shall reside, or to the resident judge of the district or judge holding the court of that district, or special or emergency judge holding a court in such district, and such court or judge is hereby vested with jurisdiction, and it shall be its or his duty to set the matter for hearing upon 30 days' written notice to the Division, and thereupon to take testimony and examine into the facts of the case and to determine whether the petitioner is entitled to a special identification card under the provisions of this subsection and whether the petitioner is in violation of G.S. 20-37.8.

(c) **Format.** – A special identification card shall include a color photograph of the special identification card holder and be similar in size, shape, and design to a drivers license, but shall clearly state that it does not entitle the person to whom it is issued to operate a motor vehicle. A special identification card issued to an applicant must have the same background color that a drivers license issued to the applicant would have.

(d) **Expiration and Fee.** – A special identification card issued to a person for the first time under this section expires when a drivers license issued on the same day to that person would expire. A special identification card renewed under this section expires when a drivers license renewed by the card holder on the same day would expire.

The fee for a special identification card is the same as the fee set in G.S. 20-14 for a duplicate license. The fee does not apply to a special identification card issued to a resident of this State as follows:

- (1) The applicant is legally blind.
- (2) The applicant is at least 70 years old.
- (3) The applicant or who has been issued a drivers license but the drivers license is cancelled under G.S. 20-15, in accordance with G.S. 20-9(e) and (g), as a result of a physical or mental disability or disease.
- (4) The applicant is homeless. To obtain a special identification card without paying a fee, a homeless person must present a letter to the Division from the director of a facility that provides care or shelter to homeless persons verifying that the person is homeless.
- (5) The applicant is registered to vote in this State and does not have photo identification acceptable under G.S. 163A-1145. To obtain a special identification card without paying a fee, a registered voter shall sign a

declaration stating the registered voter is registered and does not have other photo identification acceptable under G.S. 163A-1145. The Division shall verify that voter registration prior to issuing the special identification card. Any declaration shall prominently include the penalty under G.S. 163A-1389(13) for falsely making the declaration.

- (6) The applicant is appearing before the Division for the purpose of registering to vote in accordance with G.S. 163A-883 and does not have other photo identification acceptable under G.S. 163A-1145. To obtain a special identification card without paying a fee, that applicant shall sign a declaration stating that applicant is registering to vote and does not have other photo identification acceptable under G.S. 163A-1145. Any declaration shall prominently include the penalty under G.S. 163A-1389(13) for falsely making the declaration.
- (7) The applicant has a developmental disability. To obtain a special identification card without paying a fee pursuant to this subdivision, an applicant must present a letter from his or her primary care provider certifying that the applicant has a developmental disability. For purposes of this subdivision, the term "developmental disability" has the same meaning as in G.S. 122C-3.

(d1) For a person who has a physician's letter certifying that a severe disability causes the person to be homebound, the Division shall adopt rules allowing for application for or renewal of a special photo identification card under this section by means other than a personal appearance.

(e) Offense. – Any fraud or misrepresentation in the application for or use of a special identification card issued under this section is a Class 2 misdemeanor.

(f) Records. – The Division shall maintain a record of all recipients of a special identification card.

(g) No State Liability. – The fact of issuance of a special identification card pursuant to this section shall not place upon the State of North Carolina or any agency thereof any liability for the misuse thereof and the acceptance thereof as valid identification is a matter left entirely to the discretion of any person to whom such card is presented.

(h) Advertising. – The Division may utilize the various communications media throughout the State to inform North Carolina residents of the provisions of this section. (1973, c. 438, s. 1; 1975, c. 716, s. 5; 1979, c. 469, c. 667, s. 30; 1981, c. 673, ss. 1, 2; c. 690, s. 12; 1981 (Reg. Sess., 1982), c. 1257, s. 3; 1983, c. 443, s. 2; 1983 (Reg. Sess., 1984), c. 1062, s. 7; 1985, c. 141, s. 5; 1991, c. 689, s. 328; 1993, c. 368, s. 3; c. 490, ss. 1, 2; c. 539, s. 325; c. 553, s. 77; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 750, s. 2; 2006-247, s. 19(d); 2009-493, s. 3; 2013-233, ss. 1, 2; 2013-381, s. 3.1; 2016-80, s. 1; 2017-6, s. 3.)

§ 20-37.8. Fraudulent use prohibited.

(a) It shall be unlawful for any person to use a false or fictitious name or give a false or fictitious address in any application for a special identification card or knowingly to make a false statement or knowingly conceal a material fact or otherwise commit a fraud in any such application or to obtain or possess more than one such card for a fraudulent purpose or knowingly to permit or allow another to commit any of the foregoing acts.

(b) It shall be unlawful for any person to present, display, or use a special identification card which contains a false or fictitious name in the commission or attempted commission of a felony.

(c) A violation of subsection (a) of this section shall constitute a Class 2 misdemeanor. A violation of subsection (b) of this section shall constitute a Class I felony. (1979, c. 603, s. 1; 1993, c. 539, s. 326; 1994, Ex. Sess., c. 24, s. 14(c); 1999-299, s. 2.)

§ 20-37.9. Notice of change of address or name.

(a) Address. – A person whose address changes from the address stated on a special identification card must notify the Division of the change within 60 days after the change occurs. If the person's address changed because the person moved, the person must obtain a new special identification card within that time limit stating the new address. A person who does not move but whose address changes due to governmental action may not be charged with violating this subsection.

(b) Name. – A person whose name changes from the name stated on a special identification card must notify the Division of the change within 60 days after the change occurs and obtain a new special identification card stating the new name.

(c) Fee. – G.S. 20-37.7 sets the fee for a special identification card. (1981, c. 521, s. 2; 1991, c. 689, s. 329; 1997-122, s. 6.)

Article 2C.

Commercial Driver License.

§ 20-37.10. Title of Article.

This Article may be cited as the Commercial Driver License Act. (1989, c. 771, s. 2.)

§ 20-37.11. Purpose.

The purpose of this Article is to implement the federal Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. Chapter 36, and reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by:

- (1) Permitting commercial drivers to hold one license;
- (2) Disqualifying commercial drivers who have committed certain serious traffic violations, or other specified offenses; and
- (3) Strengthening commercial driver licensing and testing standards.

To the extent that this Article conflicts with general driver licensing provisions, this Article prevails. Where this Article is silent, the general driver licensing provisions apply. (1989, c. 771, s. 2.)

§ 20-37.12. Commercial drivers license required.

(a) On or after April 1, 1992, no person shall operate a commercial motor vehicle on the highways of this State unless he has first been issued and is in immediate possession of a commercial drivers license with applicable endorsements valid for the vehicle he is driving; provided, a person may operate a commercial motor vehicle after being issued and while in possession of a commercial driver learner's permit and while accompanied by the holder of a commercial drivers license valid for the vehicle being driven.

(b) The out-of-service criteria as referred to in 49 C.F.R. Subchapter B apply to a person who drives a commercial motor vehicle. No person shall drive a commercial motor vehicle on the highways of this State in violation of an out-of-service order.

(c) Repealed by Session Laws 1991, c. 726, s. 15.

(d) Any person who is not a resident of this State, who has been issued a commercial drivers license by his state of residence, or who holds any license recognized by the federal government that grants the privilege of driving a commercial motor vehicle, who has that license in his immediate possession, whose privilege to drive any motor vehicle is not suspended, revoked, or cancelled, and who has not been disqualified from driving a commercial motor vehicle shall be permitted without further examination or licensure by the Division to drive a commercial motor vehicle in this State.

(e) G.S. 20-7 sets the time period in which a new resident of North Carolina must obtain a license from the Division. The Commissioner may establish by rule the conditions under which the test requirements for a commercial drivers license may be waived for a new resident who is licensed in another state.

(f) A person shall not be convicted of failing to carry a commercial drivers license if, by the date the person is required to appear in court for the violation, the person produces to the court a commercial drivers license issued to the person that was valid on the date of the offense. (1989, c. 771, s. 2; 1991, c. 726, s. 15; 1997-122, s. 5; 1998-149, s. 4; 2003-397, s. 3; 2009-416, s. 5.)

§ 20-37.13. Commercial drivers license qualification standards.

(a) No person shall be issued a commercial drivers license unless the person meets all of the following requirements:

- (1) Is a resident of this State.
- (2) Is 21 years of age.
- (3) Has passed a knowledge test and a skills test for driving a commercial motor vehicle that comply with minimum federal standards established by federal regulation enumerated in 49 C.F.R., Part 383, Subparts F, G, and H.
- (4) Has satisfied all other requirements of the Commercial Motor Vehicle Safety Act in addition to other requirements of this Chapter or federal regulation.
- (5) Has held a commercial learner's permit for a minimum of 14 days.

For the purpose of skills testing and determining commercial drivers license classification, only the manufacturer's GVWR shall be used.

The tests shall be prescribed and conducted by the Division. Provided, a person who is at least 18 years of age may be issued a commercial drivers license if the person is exempt from, or not subject to, the age requirements of the federal Motor Carrier Safety Regulations contained in 49 C.F.R., Part 391, as adopted by the Division.

(b) The Division may permit a person, including an agency of this or another state, an employer, a private driver training facility, or an agency of local government, to administer the skills test specified by this section, provided:

- (1) The test is the same as that administered by the Division; and
- (2) The third party has entered into an agreement with the Division which complies with the requirements of 49 C.F.R. § 383.75. The Division may charge a fee to applicants for third-party testing authority in order to

investigate the applicants' qualifications and to monitor their program as required by federal law.

(b1) The Division shall allow a third party to administer a skills test for driving a commercial motor vehicle pursuant to subsection (b) of this section any day of the week.

(c) Prior to October 1, 1992, the Division may waive the skills test for applicants licensed at the time they apply for a commercial drivers license if:

- (1) For an application submitted by April 1, 1992, the applicant has not, and certifies that he or she has not, at any time during the two years immediately preceding the date of application done any of the following and for an application submitted after April 1, 1992, the applicant has not, and certifies that he or she has not, at any time during the two years preceding April 1, 1992:
 - a. Had more than one drivers license, except during the 10-day period beginning on the date he or she is issued a drivers license, or unless, prior to December 31, 1989, he or she was required to have more than one license by a State law enacted prior to June 1, 1986;
 - b. Had any drivers license or driving privilege suspended, revoked, or cancelled;
 - c. Had any convictions involving any kind of motor vehicle for the offenses listed in G.S. 20-17 or had any convictions for the offenses listed in G.S. 20-17.4;
 - d. Been convicted of a violation of State or local laws relating to motor vehicle traffic control, other than a parking violation, which violation arose in connection with any reportable traffic accident; or
 - e. Refused to take a chemical test when charged with an implied consent offense, as defined in G.S. 20-16.2; and
- (2) The applicant certifies, and provides satisfactory evidence, that he or she is regularly employed in a job requiring the operation of a commercial motor vehicle, and he or she either:
 - a. Has previously taken and successfully completed a skills test that was administered by a state with a classified licensing and testing system and the test was behind the wheel in a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed; or
 - b. Has operated for the relevant two-year period under subpart (1)a. of this subsection, a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed.

(c1) The Division may waive the skills test for any qualified military applicant at the time the applicant applies for a commercial drivers license if the applicant is currently licensed at the time of application and meets all of the following:

- (1) The applicant has passed all required written knowledge exams.
- (2) The applicant has not, and certifies that the applicant has not, at any time during the two years immediately preceding the date of application done any of the following:

- a. Had any drivers license or driving privilege suspended, revoked, or cancelled.
 - b. Had any convictions involving any kind of motor vehicle for the offenses listed in G.S. 20-17 or had any convictions for the offenses listed in G.S. 20-17.4.
 - c. Been convicted of a violation of military, State, or local laws relating to motor vehicle traffic control, other than a parking violation, which violation arose in connection with any reportable traffic accident.
 - d. Refused to take a chemical test when charged with an implied consent offense, as defined in G.S. 20-16.2.
 - e. Had more than one drivers license, except for a drivers license issued by the military.
- (3) The applicant certifies, and provides satisfactory evidence on the date of application, that the applicant is a retired, discharged, or current member of an active or reserve component of the Armed Forces of the United States and is regularly employed or was regularly employed within the one-year period immediately preceding the date of application in a military position requiring the operation of a commercial motor vehicle, and the applicant meets either of the following requirements:
- a. Repealed by Session Laws 2013-201, s. 1, effective June 26, 2013.
 - b. Has operated for the two-year period immediately preceding the date of application a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed, and has taken and successfully completed a skills test administered by the military.
 - c. For an applicant who is a retired or discharged member of an active or reserve component of the Armed Forces of the United States, the applicant (i) has operated for the two-year period immediately preceding the date of retirement or discharge a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed, and has taken and successfully completed a skills test administered by the military, (ii) has retired or received either an honorable or general discharge, and (iii) has retired or been discharged from the Armed Forces within the one-year period immediately preceding the date of application.

(c2) The one-year period referenced in subdivision (3) of subsection (c1) of this section applies unless a different period is provided by federal law. An applicant may provide his or her Form DD 214, "Certificate of Release or Discharge from Active Duty," and his or her drivers license issued by the military, to satisfy the certification required by subdivision (3) of subsection (c1) of this section. An applicant who is retired or discharged must provide a drivers license issued by the military that was valid at the time of his or her retirement or discharge when using the process in this subsection to satisfy the certification required by subdivision (3) of subsection (c1) of this section.

(d) A commercial drivers license or learner's permit shall not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's drivers license is suspended, revoked, or cancelled in any state; nor shall a commercial

drivers license be issued unless the person who has applied for the license first surrenders all other drivers licenses issued by the Division or by another state. If a person surrenders a drivers license issued by another state, the Division must return the license to the issuing state for cancellation.

(e) A commercial learner's permit may be issued to an individual who holds a regular Class C drivers license and has passed the knowledge test for the class and type of commercial motor vehicle the individual will be driving. The permit is valid for a period not to exceed 180 days. The fee for a commercial driver learner's permit is the same as the fee set by G.S. 20-7 for a regular learner's permit.

(f) Notwithstanding subsection (e) of this section, a commercial driver learner's permit with a P or S endorsement shall not be issued to any person who is required to register under Article 27A of Chapter 14 of the General Statutes.

(g) The issuance of a commercial driver learner's permit is a precondition to the initial issuance of a commercial drivers license. The issuance of a commercial driver learner's permit is also a precondition to the upgrade of a commercial drivers license if the upgrade requires a skills test.

(h) The Division shall promptly notify any driver who fails to meet the medical certification requirements in accordance with 49 C.F.R. § 383.71. The Division shall give the driver 60 days to provide the required documentation. If the driver fails to provide the required commercial drivers license medical certification documentation within the period allowed, the Division shall automatically downgrade a commercial drivers license to a class C regular drivers license. (1989, c. 771, s. 2; 1991, c. 726, s. 16; 1991 (Reg. Sess., 1992), c. 916, s. 1; 2005-349, s. 8; 2009-274, s. 4; 2009-491, s. 5; 2009-494, s. 1; 2011-183, s. 22; 2013-195, s. 1; 2013-201, s. 1; 2014-115, ss. 28.5(a), (b); 2015-115, s. 1; 2016-90, s. 6(b).)

§ 20-37.13A. Medical qualifications standards; waiver for intrastate drivers.

(a) **Medical Qualifications Standards Applicable to Commercial Drivers.** – All commercial drivers license holders and applicants for commercial drivers licenses must meet the medical qualifications standards set forth in 49 C.F.R. § 391.41.

(b) **Intrastate Medical Waiver.** – Any person unable to meet the standards in 49 C.F.R. § 391.41, as adopted by the Division, may apply for a medical waiver that, if approved, will authorize intrastate operation of a commercial motor vehicle. Applications for the medical waiver must be submitted to the Division in writing. Waivers may be granted for no more than two years.

(c) **Intrastate Operation Subject to Waiver.** – Any person granted an intrastate commercial drivers license medical waiver is permitted to maintain a commercial drivers license and operate a commercial motor vehicle in intrastate commerce subject to the following conditions:

- (1) The commercial drivers license must display a restriction to signify it is only valid for intrastate operation.
- (2) The holder of the license must submit to medical recertification at intervals set by the Division.
- (3) The holder of the license must timely submit all documentation required by the Division.

- (4) Failure to meet any condition within the time period allowed will result in an automatic downgrade of the license holder's commercial drivers license to a Class C regular drivers license. (2016-90, s. 6(e).)

§ 20-37.14. Nonresident commercial driver license.

The Division may issue a nonresident commercial driver license (NRCDL) to a resident of a foreign jurisdiction if the United States Secretary of Transportation has determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing standards established in 49 C.F.R., Part 383. The word "Nonresident" must appear on the face of the NRCDL. An applicant must surrender any NRCDL issued by another state. Prior to issuing a NRCDL, the Division shall establish the practical capability of revoking, suspending, or cancelling the NRCDL and disqualifying that person with the same conditions applicable to the commercial driver license issued to a resident of this State. (1989, c. 771, s. 2.)

§ 20-37.14A. Prohibit issuance or renewal of certain categories of commercial drivers licenses to sex offenders.

(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.

(b) The Division shall not issue a commercial drivers license with a P or S endorsement to an applicant until the Division has searched both the statewide registry and the National Sex Offender Public Registry to determine if the person is currently registered as a sex offender in North Carolina or another state.

- (1) If the Division finds that the person is currently registered as a sex offender in either North Carolina or another state, the Division, in compliance with subsection (a) of this section, shall not issue a commercial drivers license with a P or S endorsement to the person.
- (2) If the Division is unable to access either the statewide registry or all of the states' information contained in the National Sex Offender Public Registry, but the person is otherwise qualified to obtain a commercial drivers license with a P or S endorsement, then the Division shall issue the commercial drivers license with the P or S endorsement but shall first require the person to sign an affidavit stating that the person does not appear on either the statewide registry or the National Sex Offender Public Registry. The Division shall search the statewide registry and the National Sex Offender Public Registry for the person within a reasonable time after access to the statewide registry or the National Sex Offender Public Registry is restored. If the person does appear in either registry, the person is in violation of this section, and the Division shall immediately cancel the commercial drivers license and shall promptly notify the sheriff of the county where the person resides of the offense.
- (3) Any person denied a commercial license with a P or S endorsement or who is disqualified from driving a commercial motor vehicle that requires a commercial drivers license with a P or S endorsement by the Division pursuant to this subsection shall have a right to file a petition within 30 days thereafter for a hearing in the matter, in the superior court of the county where

the person resides, or to the resident judge of the district or judge holding the court of that district, or special or emergency judge holding a court in such district. The court or judge is vested with jurisdiction to hear the petition, and it shall be the duty of the judge or court to set the matter for hearing upon 30 days' written notice to the Division, and thereupon to take testimony and examine into the facts of the case and to determine whether the petitioner is entitled to a commercial drivers license with a P or S endorsement under the provisions of this subsection.

(c) Any person who makes a false affidavit, or who knowingly swears or affirms falsely, to any matter or thing required by the terms of this section to be affirmed to or sworn is guilty of a Class I felony. (2009-491, s. 6.)

§ 20-37.15. Application for commercial drivers license.

(a) An application for a commercial drivers license must include the information required by G.S. 20-7 for a regular drivers license and a consent to release driving record information.

(a1) The application must be accompanied by a nonrefundable application fee of forty dollars (\$40.00). This fee does not apply in any of the following circumstances:

- (1) When an individual surrenders a commercial driver learner's permit issued by the Division when submitting the application.
- (2) When the application is to renew a commercial drivers license issued by the Division.

This fee shall entitle the applicant to three attempts to pass the written knowledge test without payment of a new fee. No application fee shall be charged to an applicant eligible for a waiver under G.S. 20-37.13(c).

(b) When the holder of a commercial drivers license changes his name or residence address, an application for a duplicate shall be made as provided in G.S. 20-7.1 and a fee paid as provided in G.S. 20-14. (1989, c. 771, s. 2; 1991, c. 726, s. 17; 1993 (Reg. Sess., 1994), c. 750, s. 3; 2005-276, s. 44.1(f); 2015-241, s. 29.30(f).)

§ 20-37.16. Content of license; classifications and endorsements; fees.

(a) A commercial drivers license must be marked "Commercial Drivers License" or "CDL" and must contain the information required by G.S. 20-7 for a regular drivers license.

(b) The classes of commercial drivers licenses are:

- (1) Class A CDL – A Class A commercial drivers license authorizes the holder to drive any Class A motor vehicle.
- (2) Class B CDL – A Class B commercial drivers license authorizes the holder to drive any Class B motor vehicle.
- (3) Class C CDL – A Class C commercial drivers license authorizes the holder to drive any Class C motor vehicle.

(c) Endorsements. – The endorsements required to drive certain motor vehicles are as follows:

<u>Endorsement</u>	<u>Vehicles That Can Be Driven</u>
H	Vehicles, regardless of size or class, except tank vehicles, when transporting hazardous materials that require the vehicle to be placarded
M	Motorcycles

- N Tank vehicles not carrying hazardous materials
- P Vehicles carrying passengers
- S School bus
- T Double trailers
- X Tank vehicles carrying hazardous materials.

To qualify for any of the above endorsements, an applicant shall pass a knowledge test. To obtain an H or an X endorsement, an applicant must take a test. This requirement applies when a person first obtains an H or an X endorsement and each time a person renews an H or an X endorsement. An applicant who has an H or an X endorsement issued by another state who applies for an H or an X endorsement must take a test unless the person has passed a test that covers the information set out in 49 C.F.R. § 383.121 within the preceding two years. For purposes of this subsection, the term "motorcycle" shall not include autocycles. Autocycles shall be subject to the requirements under this section for motor vehicles.

(c1) Expired.

(c2) **(For contingent effective date, see Editor's note)** Expiration of H and X Endorsements. – Hazardous materials endorsements shall be renewed every five years or less so that individuals subject to a Transportation Security Administration security screening required pursuant to 49 C.F.R. § 383.141 may receive the screening and be authorized to renew the endorsements of H or X to transport hazardous materials. Notwithstanding G.S. 20-7(f), a commercial drivers license that contains an H or X endorsement as defined in subsection (c) of this section shall expire on the date of expiration of the licensee's security threat assessment conducted by the Transportation Security Administration of the United States Department of Homeland Security. When the commercial drivers license also contains an S endorsement and the licensee is certified to drive a school bus in this State, the commercial drivers license shall expire as provided in G.S. 20-7(f). The H and X endorsements on a commercial drivers license shall expire when the commercial drivers license expires.

(d) The fee for a Class A, B, or C commercial drivers license is twenty dollars (\$20.00) for each year of the period for which the license is issued. The fee for each endorsement is four dollars (\$4.00) for each year of the period for which the endorsement is issued. The fees required under this section do not apply to employees of the Driver License Section of the Division who are designated by the Commissioner.

(e) The requirements for a commercial drivers license do not apply to vehicles used for personal use such as recreational vehicles. A commercial drivers license is also waived for the following classes of vehicles as permitted by regulation of the United States Department of Transportation:

- (1) Vehicles owned or operated by the Department of Defense, including the National Guard, while they are driven by active duty military personnel, or members of the National Guard when on active duty, in the pursuit of military purposes.
- (2) Any vehicle when used as firefighting or emergency equipment for the purpose of preserving life or property or to execute emergency governmental functions.
- (3) A farm vehicle that meets all of the following criteria:
 - a. Is controlled and operated by the farmer or the farmer's employee and used exclusively for farm use.

- b. Is used to transport either agricultural products, farm machinery, or farm supplies, both to or from a farm.
- c. Is not used in the operations of a for-hire motor carrier.
- d. Is used within 150 miles of the farmer's farm.

A farm vehicle includes a forestry vehicle that meets the listed criteria when applied to the forestry operation.

(f) For the purposes of this section, the term "school bus" has the same meaning as in 49 C.F.R. § 383.5. (1989, c. 771, s. 2; 1991, c. 726, s. 18; 1993, c. 368, s. 4; 1993 (Reg. Sess., 1994), c. 750, ss. 4, 6; 1995 (Reg. Sess., 1996), c. 695, s. 1; c. 756, s. 5; 1998-149, s. 5; 2003-397, ss. 4, 5; 2005-276, s. 44.1(g); 2005-349, s. 9; 2011-228, s. 1; 2012-85, s. 3; 2015-163, s. 3; 2015-241, s. 29.30(g).)

§ 20-37.17. Record check and notification of license issuance.

Before issuing a commercial driver license, the Division shall obtain driving record information from the Commercial Driver License Information System (CDLIS), the National Driver Register, and from each state in which the person has been licensed.

Within 10 days after issuing a commercial driver license, the Division shall notify CDLIS of the issuance of the commercial driver license, providing all information necessary to ensure identification of the person. (1989, c. 771, s. 2.)

§ 20-37.18. Notification required by driver.

(a) Any driver holding a commercial driver license issued by this State who is convicted of violating any State law or local ordinance relating to motor vehicle traffic control in any other state, other than parking violations, shall notify the Division in the manner specified by the Division within 30 days of the date of the conviction.

(b) Any driver holding a commercial driver license issued by this State who is convicted of violating any State law or local ordinance relating to motor vehicle traffic control in this or any other state, other than parking violations, shall notify his employer in writing of the conviction within 30 days of the date of conviction.

(c) Any driver whose commercial driver license is suspended, revoked, or cancelled by any state, or who loses the privilege to drive a commercial motor vehicle in any state for any period, including being disqualified from driving a commercial motor vehicle, or who is subject to an out-of-service order, shall notify his employer of that fact before the end of the business day following the day the driver received notice of that fact.

(d) Any person who applies to be a commercial motor vehicle driver shall provide the employer, at the time of the application, with the following information for the 10 years preceding the date of application:

- (1) A list of the names and addresses of the applicant's previous employers for which the applicant was a driver of a commercial motor vehicle;
- (2) The dates between which the applicant drove for each employer; and
- (3) The reason for leaving that employer.

The applicant shall certify that all information furnished is true and complete. Any employer may require an applicant to provide additional information. (1989, c. 771, s. 2.)

§ 20-37.19. Employer responsibilities.

(a) Each employer shall require the applicant to provide the information specified in G.S. 20-37.18(c).

(b) No employer shall knowingly allow, permit, or authorize a driver to drive a commercial motor vehicle during any period:

- (1) In which the driver has had his commercial driver license suspended, revoked, or cancelled by any state, is currently disqualified from driving a commercial vehicle, or is subject to an out-of-service order in any state; or
- (2) In which the driver has more than one driver license; [or]
- (3) In which the driver, the commercial motor vehicle being operated, or the motor carrier operation, is subject to an out-of-service order.

(c) The employer of any employee or applicant who tests positive or of any employee who refuses to participate in a drug or alcohol test required under 49 C.F.R. Part 382 and 49 C.F.R. Part 655 must notify the Division in writing within five business days following the employer's receipt of confirmation of a positive drug or alcohol test or of the employee's refusal to participate in the test. The notification must include the driver's name, address, drivers license number, social security number, and results of the drug or alcohol test or documentation from the employer of the refusal by the employee to take the test. (1989, c. 771, s. 2; 2005-156, s. 1; 2007-492, s. 2; 2009-416, s. 6.)

§ 20-37.20. Notification of traffic convictions.

(a) **Out-of-state Resident.** – Within 10 days after receiving a report of the conviction of any nonresident holder of a commercial driver license for any violation of State law or local ordinance relating to motor vehicle traffic control, other than parking violations, committed in a commercial vehicle, the Division shall notify the driver licensing authority in the licensing state of the conviction.

(b) **(For effective date, see note) Foreign Diplomat.** – The Division must notify the United States Department of State within 15 days after it receives one or more of the following reports for a holder of a drivers license issued by the United States Department of State:

- (1) A report of a conviction for a violation of State law or local ordinance relating to motor vehicle traffic control, other than parking violations.
- (2) A report of a civil revocation order. (1989, c. 771, s. 2; 2001-498, s. 7; 2002-159, s. 31; 2006-209, s. 7.)

§ 20-37.20A. Driving record notation for testing positive in a drug or alcohol test.

Upon receipt of notice pursuant to G.S. 20-37.19(c) of positive result in an alcohol or drug test of a person holding a commercial drivers license, and subject to any appeal of the disqualification pursuant to G.S. 20-37.20B, the Division shall place a notation on the driving record of the driver. A notation of a disqualification pursuant to G.S. 20-17.4(l) shall be retained on the record of a person for a period of three years following the end of any disqualification of that person. (2005-156, s. 3; 2008-175, s. 2.)

§ 20-37.20B. Appeal of disqualification for testing positive in a drug or alcohol test.

Following receipt of notice pursuant to G.S. 20-37.19(c) of a positive test in an alcohol or drug test, the Division shall notify the driver of the pending disqualification of the driver to operate a commercial vehicle and the driver's right to a hearing if requested within 20 days of the date of the notice. If the Division receives no request for a hearing, the disqualification shall

become effective at the end of the 20-day period. If the driver requests a hearing, the disqualification shall be stayed pending outcome of the hearing. The hearing shall take place at the offices of the Division of Motor Vehicles in Raleigh. The hearing shall be limited to issues of testing procedure and protocol. A copy of a positive test result accompanied by certification by the testing officer of the accuracy of the laboratory protocols that resulted in the test result shall be prima facie evidence of a confirmed positive test result. The decision of the Division hearing officer may be appealed in accordance with the procedure of G.S. 20-19(c6). (2005-156, s. 4.)

§ 20-37.21. Penalties.

(a) Any person who drives a commercial motor vehicle in violation of G.S. 20-37.12 shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined not less than two hundred fifty dollars (\$250.00) for a first offense and not less than five hundred dollars (\$500.00) for a second or subsequent offense. In addition, the person shall be subject to a civil penalty pursuant to the provisions of 49 C.F.R. § 383.53(b).

(b) Any person who violates G.S. 20-37.18 shall have committed an infraction and, upon being found responsible, shall pay a penalty of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

(c) Any employer who violates G.S. 20-37.19 shall have committed an infraction and, upon being found responsible, shall pay a penalty of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000). In addition, upon conviction, the employer shall be subject to a civil penalty of not less than two thousand seven hundred fifty dollars (\$2,750) nor more than eleven thousand dollars (\$11,000).

(d) An employer who knowingly allows, requires, permits, or otherwise authorizes an employee to violate any railroad grade requirements contained in G.S. 20-142.1 through G.S. 20-142.5 shall pay a civil penalty of not more than ten thousand dollars (\$10,000). (1989, c. 771, s. 2; 1993, c. 539, s. 327; 1994, Ex. Sess., c. 24, s. 14(c); 2005-349, s. 10; 2009-416, s. 7.)

§ 20-37.22. Rule making authority.

The Division may adopt any rules necessary to carry out the provisions of this Article. (1989, c. 771, s. 2.)

§ 20-37.23. Authority to enter agreements.

The Commissioner shall have the authority to execute or make agreements, arrangements, or declarations to carry out the provisions of this Article. (1989, c. 771, s. 2.)

§ 20-38: Repealed by Session Laws 1973, c. 1330, s. 39.

Article 2D.

Implied-Consent Offense Procedures.

§ 20-38.1. Applicability.

The procedures set forth in this Article shall be followed for the investigation and processing of an implied-consent offense as defined in G.S. 20-16.2. The trial procedures shall apply to any implied-consent offense litigated in the District Court Division. (2006-253, s. 5.)

§ 20-38.2. Investigation.

A law enforcement officer who is investigating an implied-consent offense or a vehicle crash that occurred in the officer's territorial jurisdiction is authorized to investigate and seek evidence of the driver's impairment anywhere in-state or out-of-state, and to make arrests at any place within the State. (2006-253, s. 5.)

§ 20-38.3. Police processing duties.

Upon the arrest of a person, with or without a warrant, but not necessarily in the order listed, a law enforcement officer:

- (1) Shall inform the person arrested of the charges or a cause for the arrest.
- (2) May take the person arrested to any place within the State for one or more chemical analyses at the request of any law enforcement officer and for any evaluation by a law enforcement officer, medical professional, or other person to determine the extent or cause of the person's impairment.
- (3) May take the person arrested to some other place within the State for the purpose of having the person identified, to complete a crash report, or for any other lawful purpose.
- (4) May take photographs and fingerprints in accordance with G.S. 15A-502.
- (5) Shall take the person arrested before a judicial official for an initial appearance after completion of all investigatory procedures, crash reports, chemical analyses, and other procedures provided for in this section. (2006-253, s. 5.)

§ 20-38.4. Initial appearance.

(a) Appearance Before a Magistrate. – Except as modified in this Article, a magistrate shall follow the procedures set forth in Article 24 of Chapter 15A of the General Statutes.

- (1) A magistrate may hold an initial appearance at any place within the county and shall, to the extent practicable, be available at locations other than the courthouse when it will expedite the initial appearance.
- (2) In determining whether there is probable cause to believe a person is impaired, the magistrate may review all alcohol screening tests, chemical analyses, receive testimony from any law enforcement officer concerning impairment and the circumstances of the arrest, and observe the person arrested.
- (3) If there is a finding of probable cause, the magistrate shall consider whether the person is impaired to the extent that the provisions of G.S. 15A-534.2 should be imposed.
- (4) The magistrate shall also:
 - a. Inform the person in writing of the established procedure to have others appear at the jail to observe his condition or to administer an additional chemical analysis if the person is unable to make bond; and
 - b. Require the person who is unable to make bond to list all persons he wishes to contact and telephone numbers on a form that sets forth the procedure for contacting the persons listed. A copy of this form shall be filed with the case file.

(b) The Administrative Office of the Courts shall adopt forms to implement this Article. (2006-253, s. 5.)

§ 20-38.5. Facilities.

(a) The Chief District Court Judge, the Department of Health and Human Services, the district attorney, and the sheriff shall:

- (1) Establish a written procedure for attorneys and witnesses to have access to the chemical analysis room.
- (2) Approve the location of written notice of implied-consent rights in the chemical analysis room in accordance with G.S. 20-16.2.
- (3) Approve a procedure for access to a person arrested for an implied-consent offense by family and friends or a qualified person contacted by the arrested person to obtain blood or urine when the arrested person is held in custody and unable to obtain pretrial release from jail.

(b) Signs shall be posted explaining to the public the procedure for obtaining access to the room where the chemical analysis of the breath is administered and to any person arrested for an implied-consent offense. The initial signs shall be provided by the Department of Transportation, without costs. The signs shall thereafter be maintained by the county for all county buildings and the county courthouse.

(c) If the instrument for performing a chemical analysis of the breath is located in a State or municipal building, then the head of the highway patrol for the county, the chief of police for the city or that person's designee shall be substituted for the sheriff when determining signs and access to the chemical analysis room. The signs shall be maintained by the owner of the building. When a breath testing instrument is in a motor vehicle or at a temporary location, the Department of Health and Human Services shall alone perform the functions listed in subdivisions (a)(1) and (a)(2) of this section. (2006-253, s. 5.)

§ 20-38.6. Motions and district court procedure.

(a) The defendant may move to suppress evidence or dismiss charges only prior to trial, except the defendant may move to dismiss the charges for insufficient evidence at the close of the State's evidence and at the close of all of the evidence without prior notice. If, during the course of the trial, the defendant discovers facts not previously known, a motion to suppress or dismiss may be made during the trial.

(b) Upon a motion to suppress or dismiss the charges, other than at the close of the State's evidence or at the close of all the evidence, the State shall be granted reasonable time to procure witnesses or evidence and to conduct research required to defend against the motion.

(c) The judge shall summarily grant the motion to suppress evidence if the State stipulates that the evidence sought to be suppressed will not be offered in evidence in any criminal action or proceeding against the defendant.

(d) The judge may summarily deny the motion to suppress evidence if the defendant failed to make the motion pretrial when all material facts were known to the defendant.

(e) If the motion is not determined summarily, the judge shall make the determination after a hearing and finding of facts. Testimony at the hearing shall be under oath.

(f) The judge shall set forth in writing the findings of fact and conclusions of law and preliminarily indicate whether the motion should be granted or denied. If the judge preliminarily indicates the motion should be granted, the judge shall not enter a final judgment on the motion until after the State has appealed to superior court or has indicated it does not intend to appeal. (2006-253, s. 5.)

§ 20-38.7. Appeal to superior court.

(a) The State may appeal to superior court any district court preliminary determination granting a motion to suppress or dismiss. If there is a dispute about the findings of fact, the superior court shall not be bound by the findings of the district court but shall determine the matter de novo. Any further appeal shall be governed by Article 90 of Chapter 15A of the General Statutes.

(b) The defendant may not appeal a denial of a pretrial motion to suppress or to dismiss but may appeal upon conviction as provided by law.

(c) Notwithstanding the provisions of G.S. 15A-1431, for any implied-consent offense that is first tried in district court and that is appealed to superior court by the defendant for a trial de novo as a result of a conviction, when an appeal is withdrawn or a case is remanded back to district court, the sentence imposed by the district court is vacated and the district court shall hold a new sentencing hearing and shall consider any new convictions unless one of the following conditions is met:

- (1) If the appeal is withdrawn pursuant to G.S. 15A-1431(c), the prosecutor has certified to the clerk, in writing, that the prosecutor has no new sentencing factors to offer the court.
- (2) If the appeal is withdrawn and remanded pursuant to G.S. 15A-1431(g), the prosecutor has certified to the clerk, in writing, that the prosecutor has no new sentencing factors to offer the court.
- (3) If the appeal is withdrawn and remanded pursuant to G.S. 15A-1431(h), the prosecutor has certified to the clerk, in writing, that the prosecutor consents to the withdrawal and remand and has no new sentencing factors to offer the court.

(d) Following a new sentencing hearing in district court pursuant to subsection (c) of this section, a defendant has a right of appeal to the superior court only if:

- (1) The sentence is based upon additional facts considered by the district court that were not considered in the previously vacated sentence, and
- (2) The defendant would be entitled to a jury determination of those facts pursuant to G.S. 20-179.

A defendant who has a right of appeal under this subsection, gives notice of appeal, and subsequently withdraws the appeal shall have the sentence imposed by the district court reinstated by the district court as a final judgment that is not subject to further appeal. (2006-253, s. 5; 2007-493, s. 9; 2008-187, s. 10; 2015-150, s. 5; 2015-264, s. 39(a).)

Article 3.

Motor Vehicle Act of 1937.

Part 1. General Provisions.

§ 20-38.100: Reserved for future codification purposes.

Part 2. Authority and Duties of Commissioner and Division.

§ 20-39. Administering and enforcing laws; rules and regulations; agents, etc.; seal; fees.

(a) The Commissioner is hereby vested with the power and is charged with the duty of administering and enforcing the provisions of this Article and of all laws regulating the operation

of vehicles or the use of the highways, the enforcement or administration of which is now or hereafter vested in the Division.

(b) The Commissioner is hereby authorized to adopt and enforce such rules and regulations as may be necessary to carry out the provisions of this Article and any other laws the enforcement and administration of which are vested in the Division.

(c) The Commissioner is authorized to designate and appoint such agents, field deputies, and clerks as may be necessary to carry out the provisions of this Article.

(d) The Commissioner shall adopt an official seal for the use of the Division.

(e) The Commissioner is authorized to cooperate with and provide assistance to the Environmental Management Commission, or appropriate local government officials, and to develop, adopt, and ensure enforcement of necessary rules and regulations, regarding programs of motor vehicle emissions inspection/maintenance required for areas in which ambient air pollutant concentrations exceed National Ambient Air Quality Standards. The Commissioner is further authorized to allow offices of the Division that provide vehicle titling and registration services and commission contractors of the Division under G.S. 20-63 to serve, upon agreement with the Wildlife Resources Commission, as vessel agents under G.S. 75A-5.2.

(f) The Commissioner is authorized to charge and collect the following fees for the verification of equipment to be used on motor vehicles or to be sold in North Carolina, when that approval is required pursuant to this Chapter:

(1) When a federal standard has been established, the fee shall be equal to the cost of verifying compliance with the applicable federal standard; or

(2) When no federal standard has been established, the fee shall be equal to the cost of verifying compliance with the applicable State standard. Any motor vehicle manufacturer or distributor who is required to certify his products under the National Traffic and Motor Vehicle Safety Act of 1966, as from time to time amended, may satisfy the provisions of this section by submitting an annual written certification to the Commissioner attesting to the compliance of his vehicles with applicable federal requirements. Failure to comply with the certification requirement or failure to meet the federal standards will subject the manufacturer or distributor to the fee requirements of this subsection.

(g), (h) Repealed by Session Laws 2001-424, s. 6.14(e), effective September 26, 2001.

(i) Notwithstanding the requirements of G.S. 20-7.1 and G.S. 20-67(a), the Commissioner may correct the address records of drivers license and registration plate holders as shown in the files of the Division to that shown on notices and renewal cards returned to the Division with new addresses provided by the United States Postal Service. (1937, c. 407, s. 4; 1975, c. 716, s. 5; 1979, 2nd Sess., c. 1180, s. 1; 1983, c. 223; c. 629, s. 2; c. 768, ss. 25.1, 25.2; 1985, c. 767, ss. 1, 2; 1987, c. 552; 1991, c. 53, s. 1; c. 654, s. 1; 1993, c. 539, s. 328; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 507, s. 6.2(b); 1996, 2nd Ex. Sess., c. 18, s. 23(a); 1997-256, s. 8; 1997-347, s. 4; 1997-401, s. 4; 1997-418, s. 3; 1997-443, s. 20.10(a), (b); 2001-424, ss. 6.14(e), 6.14(f); 2015-241, s. 29.38.)

§ 20-39.1. Publicly owned vehicles to be marked; private license plates on publicly owned vehicles.

(a) Except as otherwise provided in this section, the executive head of every department of State government and every county, institution, or agency of the State shall mark every motor

vehicle owned by the State, county, institution, or agency with a statement that the vehicle belongs to the State, county, institution, or agency. The requirements of this subsection are complied with if:

- (1) The vehicle has imprinted on the license plate, above the license number, the words "State Owned" and the vehicle has affixed to the front the words "State Owned";
- (2) In the case of a county, the vehicle has painted or affixed on its side a circle not less than eight inches in diameter showing a replica of the seal of the county; or
- (3) In the case of vehicles assigned to members of the Council of State, the vehicle has imprinted on the license plate the license number assigned to the appropriate member of the Council of State pursuant to G.S. 20-79.5(a); a member of the Council of State shall not be assessed any registration fee if the member elects to have a State-owned motor vehicle assigned to the member designated by the official plate number.

(b) A motor vehicle used by any State or county officer or official for transporting, apprehending, or arresting persons charged with violations of the laws of the United States or the laws of this State is not required to be marked as provided in subsection (a) of this section. The Commissioner may lawfully provide private license plates to local, State, or federal departments or agencies for use on publicly owned or leased vehicles used for those purposes. Private license plates issued under this subsection shall be issued on an annual basis and the records of issuance shall be maintained in accordance with the provisions of G.S. 20-56.

(c) A motor vehicle used by a county for transporting day or residential facility clients of area mental health, developmental disabilities, and substance abuse authorities established under Article 4 of Chapter 122C of the General Statutes is not required to be marked as provided in subsection (a) of this section. The Commissioner may lawfully provide private license plates to counties for use on publicly owned or leased vehicles used for that purpose. Private license plates issued under this subsection shall be issued on an annual basis and the records of issuance shall be maintained in accordance with the provisions of G.S. 20-56.

(c1) A motor vehicle used by the Department of Agriculture and Consumer Services exclusively for Meat and Poultry compliance officers to conduct inspections is not required to be marked as provided in subsection (a) of this section. The Commissioner may lawfully provide private license plates to the Department of Agriculture and Consumer Services for use on publicly owned or leased vehicles used for this purpose. Private license plates issued under this subsection shall be issued on an annual basis and the records of issuance shall be maintained in accordance with the provisions of G.S. 20-56.

(d) For purposes of this section, the term "private license plate" refers to a license plate that would normally be issued to a private party and therefore lacks any markings indicating that it has been assigned to a publicly owned vehicle. "Confidential" license plates are a specialized form of private license plate for which a confidential registration has been authorized under subsection (e) of this section. "Fictitious" license plates are a specialized form of private license plate for which a fictitious registration has been issued under subsection (f) or (g) of this section.

(e) Upon approval and request of the Director of the State Bureau of Investigation, the Commissioner shall issue confidential license plates to local, State, or federal law enforcement agencies, the Department of Public Safety, agents of the Internal Revenue Service, and agents of the Department of Defense in accordance with the provisions of this subsection. Applicants in

these categories shall provide satisfactory evidence to the Director of the State Bureau of Investigation of the following:

- (1) The confidential license plate requested is to be used on a publicly owned or leased vehicle that is primarily used for transporting, apprehending, or arresting persons charged with violations of the laws of the United States or the State of North Carolina;
- (2) The use of a confidential license plate is necessary to protect the personal safety of an officer or for placement on a vehicle used primarily for surveillance or undercover operations; and
- (3) The application contains an original signature of the head of the requesting agency or department or, in the case of a federal agency, the signature of the senior ranking officer for that agency in this State.

Confidential license plates issued under this subsection shall be issued on an annual basis and the Division shall maintain a separate registration file for vehicles bearing confidential license plates. That file shall be confidential for the use of the Division and is not a public record within the meaning of Chapter 132 of the General Statutes. Upon the annual renewal of the registration of a vehicle for which a confidential status has been established under this section, the registration shall lose its confidential status unless the agency or department supplies the Director of the State Bureau of Investigation with information demonstrating that an officer's personal safety remains at risk or that the vehicle is still primarily used for surveillance or undercover operations at the time of renewal.

(f) The Commissioner may to the extent necessary provide law enforcement officers of the Division on special undercover assignments with motor vehicle operator's licenses and motor vehicle license plates under assumed names, using false or fictitious addresses. The Commissioner shall be responsible for the request for issuance and use of such licenses and license plates, and may direct the immediate return of any license or license plate issued pursuant to this subsection.

(g) The Commissioner may, upon the request of the Director of the State Bureau of Investigation and to the extent necessary, lawfully provide local, State, and federal law enforcement officers on special undercover assignments and to agents of the Department of Defense with motor vehicle drivers licenses and motor vehicle license plates under assumed names, using false or fictitious addresses. Fictitious license plates shall only be used on publicly owned or leased vehicles. A request for fictitious licenses and license plates by a local, State or federal law enforcement agency or department or by the Department of Defense shall be made in writing to the Director of the State Bureau of Investigation and shall contain an original signature of the head of the requesting agency or department or, in the case of a federal agency, the signature of the senior ranking officer for that agency in this State.

Prior to the issuance of any fictitious license or license plate, the Director of the State Bureau of Investigation shall make a specific written finding that the request is justified and necessary. The Director shall maintain a record of all such licenses, license plates, assumed names, false or fictitious addresses, and law enforcement officers using the licenses or license plates. That record shall be confidential and is not a public record within the meaning of Chapter 132 of the General Statutes. The Director shall request the immediate return of any license or registration that is no longer necessary.

Licenses and license plates provided under this subsection shall expire six months after initial issuance unless the Director of the State Bureau of Investigation has approved an extension in

writing. The head of the local, State, or federal law enforcement agency or the Department of Defense shall be responsible for the use of the licenses and license plates and shall return them immediately to the Director for cancellation upon either (i) their expiration, (ii) request of the Director of the State Bureau of Investigation, or (iii) request of the Commissioner. Failure to return a license or license plate issued pursuant to this subsection shall be punished as a Class 2 misdemeanor. At no time shall the number of valid licenses issued under this subsection exceed two hundred nor shall the number of valid license plates issued under this subsection exceed one hundred twenty-five unless the Director determines that exceptional circumstances justify exceeding those amounts. However, fictitious licenses and license plates issued to special agents of the State Bureau of Investigation, State alcohol law enforcement agents, and the Department of Defense shall not be counted against the limitation on the total number of fictitious licenses and plates established by this subsection and shall be renewable annually.

(h) No private, confidential, or fictitious license plates issued under this section shall be used on privately owned vehicles under any circumstances.

(i) The Commissioner shall administer the issuance of private plates for publicly owned vehicles under the provisions of this section to ensure strict compliance with those provisions. The Division shall report to the Joint Legislative Commission on Governmental Operations by January 1 and July 1 of each year on the total number of private plates issued to each agency, and the total number of fictitious licenses and plates issued by the Division. (2001-424, s. 6.14(a); 2001-424, s. 6.14(b); 2001-487, ss. 53, 54; 2003-152, ss. 3, 4; 2003- 284, ss. 6.5(a), (b); 2004-124, s. 6.5(a), (b); 2005-276, s. 6.18(a); 2011-145, s. 19.1(g); 2017-108, s. 10.)

§ 20-40. Offices of Division.

The Commissioner shall maintain an office in Raleigh, North Carolina, and in such places in the State as he shall deem necessary to properly carry out the provisions of this Article. (1937, c. 407, s. 5.)

§ 20-41. Commissioner to provide forms required.

The Commissioner shall provide suitable forms for applications, certificates of title and registration cards, registration number plates and all other forms requisite for the purpose of this Article, and shall prepay all transportation charges thereon. (1937, c. 407, s. 6.)

§ 20-42. Authority to administer oaths and certify copies of records.

(a) Officers and employees of the Division designated by the Commissioner are, for the purpose of administering the motor vehicle laws, authorized to administer oaths and acknowledge signatures, and shall charge for the acknowledgment of signatures a fee according to the following schedule:

(1)	One signature	\$2.00
(2)	Two signatures	3.00
(3)	Three or more signatures	4.00

Funds received under the provisions of this subsection shall be used to defray a part of the costs of distribution of license plates, registration certificates and certificates of title issued by the Division.

(b) The Commissioner and officers of the Division designated by the Commissioner may prepare under the seal of the Division and deliver upon request a certified copy of any document of the Division for a fee. The fee for a document, other than an accident report under G.S.

20-166.1, is thirteen dollars (\$13.00). The fee for an accident report is five dollars (\$5.00). A certified copy shall be admissible in any proceeding in any court in like manner as the original thereof, without further certification. The certification fee does not apply to a document furnished for official use to a judicial official or to an official of the federal government, a state government, or a local government. (1937, c. 407, s. 7; 1955, c. 480; 1961, c. 861, s. 1; 1967, c. 691, s. 41; c. 1172; 1971, c. 749; 1975, c. 716, s. 5; 1977, c. 785; 1979, c. 801, s. 7; 1981, c. 690, ss. 22, 23; 1991, c. 689, s. 331; 1995, c. 191, s. 8; 2005-276, s. 44.1(h); 2015-241, s. 29.30(h).)

§ 20-43. Records of Division.

(a) All records of the Division, other than those declared by law to be confidential for the use of the Division, shall be open to public inspection during office hours in accordance with G.S. 20-43.1. A signature recorded in any format by the Division for a drivers license or a special identification card is confidential and shall not be released except for law enforcement purposes or to the State Chief Information Officer for purposes of G.S. 143B-1385 or the Bipartisan State Board of Elections and Ethics Enforcement in connection with its official duties under Subchapter III of Chapter 163A of the General Statutes. A photographic image recorded in any format by the Division for a drivers license or a special identification card is confidential and shall not be released except for law enforcement purposes or to the State Chief Information Officer for the purposes of G.S. 143B-1385 or the Bipartisan State Board of Elections and Ethics Enforcement in connection with its official duties under Subchapter III of Chapter 163A of the General Statutes.

(b) The Commissioner, upon receipt of notification from another state or foreign country that a certificate of title issued by the Division has been surrendered by the owner in conformity with the laws of such other state or foreign country, may cancel and destroy such record of certificate of title. (1937, c. 407, s. 8; 1947, c. 219, s. 1; 1971, c. 1070, s. 1; 1975, c. 716, s. 5; 1995, c. 195, s. 1; 1997-443, s. 32.25(d); 2013-360, s. 7.10(b); 2014-115, s. 56.8(d); 2015-241, s. 7A.4(c); 2016-94, s. 24.1; 2017-6, s. 3.)

§ 20-43.1. Disclosure of personal information in motor vehicle records.

(a) The Division shall disclose personal information contained in motor vehicle records in accordance with the federal Driver's Privacy Protection Act of 1994, as amended, 18 U.S.C. §§ 2721, et seq.

(b) As authorized in 18 U.S.C. § 2721, the Division shall not disclose personal information for the purposes specified in 18 U.S.C. § 2721(b)(11).

(c) The Division shall not disclose personal information for the purposes specified in 18 U.S.C. § 2721(b)(12) unless the Division receives prior written permission from the person about whom the information is requested.

(d) As authorized in 18 U.S.C. § 2721, the Division may disclose personal information to federally designated organ procurement organizations and eye banks operating in this State for the purpose of identifying individuals who have indicated an intent to be an organ donor. Personal information authorized under this subsection is limited to the individual's first, middle, and last name, date of birth, address, sex, county of residence, and drivers license number. Employees of the Division who provide access to or disclosure of information in good-faith compliance with this subsection are not liable in damages for access to or disclosure of the information.

(e) As authorized in 18 U.S.C. § 2721, the Division may also provide copies of partial crash report data collected pursuant to G.S. 20-166.1, partial driver license data kept pursuant to G.S. 20-26(a), and partial vehicle registration application data collected pursuant to G.S. 20-52 in bulk form to persons, private companies, or other entities, for uses other than official, upon payment of a fee of three cents (3¢) per individual record. The Division shall not furnish such data except upon execution by the recipient of a written agreement to comply with the Driver's Privacy Protection Act of 1994, as amended, 18 U.S.C. §§ 2721, et seq. The information released to persons, private companies, or other entities, for uses other than official, pursuant to this subsection, shall not be a public record pursuant to Chapter 132 of the General Statutes.

(f) E-mail addresses or other electronic addresses provided to the Division are personal information for purposes of this section and shall only be disclosed in accordance with this section. (1997-443, s. 32.25(a); 1999-237, s. 27.9(b); 2004-189, s. 2; 2011-145, s. 31.29; 2016-90, s. 10(b).)

§ 20-43.2. Internet access to organ donation records by organ procurement organizations.

(a) The Department of Transportation, Division of Motor Vehicles, shall establish and maintain a statewide, online Organ Donor Registry Internet site (hereafter "Donor Registry"). The purpose of the Donor Registry is to enable federally designated organ procurement organizations and eye banks to have access 24 hours per day, seven days per week to obtain relevant information on the Donor Registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift through a symbol on the donor's or prospective donor's drivers license, special identification card, or other manner. The data available on the Donor Registry shall be limited to the individual's first, middle, and last name, date of birth, address, sex, county of residence, and drivers license number. The Division of Motor Vehicles shall ensure that only federally designated organ procurement organizations and eye banks operating in this State have access to the Donor Registry in read-only format. The Division of Motor Vehicles shall enable federally designated organ procurement organizations and eye banks operating in this State to have online access in read-only format to the Donor Registry through a unique identifier and password issued to the organ procurement organization or eye bank by the Division of Motor Vehicles. Employees of the Division who provide access to or disclosure of information in good-faith compliance with this section are not liable in damages for access to or disclosure of the information.

(b) When accessing and using information obtained from the Donor Registry, federally designated organ procurement organizations and eye banks shall comply with the requirements of Part 3A of Article 16 of Chapter 130A of the General Statutes.

(c) Personally identifiable information on a donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor, or person that made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

(d) This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with the State. Any such registry must comply with subsections (b) and (c) of this section. (2004-189, s. 1; 2007-538, s. 2.)

§ 20-43.3. Reserved for future codification purposes.

§ 20-43.4. Current list of licensed drivers to be provided to jury commissions.

(a) The Commissioner of Motor Vehicles shall provide to each county jury commission an alphabetical list of all persons that the Commissioner has determined are residents of the county, who will be 18 years of age or older as of the first day of January of the following year, and licensed to drive a motor vehicle as of July 1 of each odd-numbered year, provided that if an annual master jury list is being prepared under G.S. 9-2(a), the list to be provided to the county jury commission shall be updated and provided annually.

(b) The list shall include those persons whose license to drive has been suspended, and those former licensees whose license has been canceled, except that the list shall not include the name of any formerly licensed driver whose license is expired and has not been renewed for eight years or more. The list shall contain the address and zip code of each driver, plus the driver's date of birth, sex, social security number, and drivers license number, and may be in either printed or computerized form, as requested by each county. Before providing the list to the county jury commission, the Commissioner shall have computer-matched the list with the voter registration list of the Bipartisan State Board of Elections and Ethics Enforcement to eliminate duplicates. The Commissioner shall also remove from the list the names of those residents of the county who are (i) issued a drivers license of limited duration under G.S. 20-7(s), (ii) issued a drivers license of regular duration under G.S. 20-7(f) and who hold a valid permanent resident card issued by the United States, or (iii) who are recently deceased, which names shall be supplied to the Commissioner by the State Registrar under G.S. 130A-121(b). The Commissioner shall include in the list provided to the county jury commission names of registered voters who do not have drivers licenses, and shall indicate the licensed or formerly licensed drivers who are also registered voters, the licensed or formerly licensed drivers who are not registered voters, and the registered voters who are not licensed or formerly licensed drivers.

(c) The list so provided shall be used solely for jury selection and election records purposes and no other. Information provided by the Commissioner to county jury commissions and the Bipartisan State Board of Elections and Ethics Enforcement under this section shall remain confidential, shall continue to be subject to the disclosure restriction provisions of G.S. 20-43.1, and shall not be a public record for purposes of Chapter 132 of the General Statutes. (1981, c. 720, s. 2; 1983, c. 197, ss. 1, 1.1; c. 754; c. 768, s. 25.3; 2003-226, s. 7(c); 2007-512, s. 3; 2012-180, s. 11.5; 2017-6, s. 3.)

§ 20-44. Authority to grant or refuse applications.

The Division shall examine and determine the genuineness, regularity and legality of every application for registration of a vehicle and for a certificate of title therefor, and of any other application lawfully made in the Division, and may in all cases make investigation as may be deemed necessary or require additional information, and shall reject any such application if not satisfied of the genuineness, regularity, or legality thereof or the truth of any statement contained therein, or for any other reason, when authorized by law. (1937, c. 407, s. 9; 1975, c. 716, s. 5.)

§ 20-45. Seizure of documents and plates.

(a) The Division is authorized to take possession of any certificate of title, registration card, permit, license, or registration plate issued by it upon expiration, revocation, cancellation, or suspension thereof, or which is fictitious, or which has been unlawfully or erroneously issued, or which has been unlawfully used.

(b) The Division may give notice to the owner, licensee or lessee of its authority to take possession of any certificate of title, registration card, permit, license, or registration plate issued by it and require that person to surrender it to the Commissioner or the Commissioner's officers or agents. Any person who fails to surrender the certificate of title, registration card, permit, license, or registration plate or any duplicate thereof, upon personal service of notice or within 10 days after receipt of notice by mail as provided in G.S. 20-48, shall be guilty of a Class 2 misdemeanor.

(c) Any sworn law enforcement officer with jurisdiction, including a member of the State Highway Patrol, is authorized to seize the certificate of title, registration card, permit, license, or registration plate, if the officer has electronic or other notification from the Division that the item has been revoked or cancelled, or otherwise has probable cause to believe that the item has been revoked or cancelled under any law or statute, including G.S. 20-311. If a criminal proceeding relating to a certificate of title, registration card, permit, or license is pending, the law enforcement officer in possession of that item shall retain the item pending the entry of a final judgment by a court with jurisdiction. If there is no criminal proceeding pending, the law enforcement officer shall deliver the item to the Division.

(d) Any law enforcement officer who seizes a registration plate pursuant to this section shall report the seizure to the Division within 48 hours of the seizure and shall return the registration plate, but not a fictitious registration plate, to the Division within 10 business days of the seizure. (1937, c. 407, s. 10; 1975, c. 716, s. 5; 1981, c. 938, s. 2; 1993, c. 539, s. 329; 1994, Ex. Sess., c. 24, s. 14(c); 2005-357, s. 1; 2006-105, ss. 2.1, 2.2; 2006-264, s. 98.1; 2017-102, s. 6.)

§ 20-46. Repealed by Session Laws 1979, c. 99.

§ 20-47. Division may summon witnesses and take testimony.

(a) The Commissioner and officers of the Division designated by him shall have authority to summon witnesses to give testimony under oath or to give written deposition upon any matter under the jurisdiction of the Division. Such summons may require the production of relevant books, papers, or records.

(b) Every such summons shall be served at least five days before the return date, either by personal service made by any person over 18 years of age or by registered mail, but return acknowledgment is required to prove such latter service. Failure to obey such a summons so served shall constitute a Class 2 misdemeanor. The fees for the attendance and travel of witnesses shall be the same as for witnesses before the superior court.

(c) The superior court shall have jurisdiction, upon application by the Commissioner, to enforce all lawful orders of the Commissioner under this section. (1937, c. 407, s. 12; 1975, c. 716, s. 5; 1993, c. 539, s. 330; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-48. Giving of notice.

(a) Whenever the Division is authorized or required to give any notice under this Chapter or other law regulating the operation of vehicles, unless a different method of giving such notice is otherwise expressly prescribed, such notice shall be given either by personal delivery thereof to the person to be so notified or by deposit in the United States mail of such notice in an envelope with postage prepaid, addressed to such person at his address as shown by the records of the Division. The giving of notice by mail is complete upon the expiration of four days after

such deposit of such notice. In lieu of providing notice by personal delivery or United States mail, the Division may give notice under this Chapter by e-mail or other electronic means if the person to be notified has consented to receiving notices via electronic means and has provided the Division an e-mail address or other like electronic address for receiving the notices. Proof of the giving of notice in any such manner pursuant to this section may be made by a notation in the records of the Division that the notice was sent to a particular address, physical or electronic, and the purpose of the notice. A certified copy of the Division's records may be sent by the Police Information Network, facsimile, or other electronic means. A copy of the Division's records sent under the authority of this section is admissible as evidence in any court or administrative agency and is sufficient evidence to discharge the burden of the person presenting the record that notice was sent to the person named in the record, at the physical or electronic address indicated in the record, and for the purpose indicated in the record. There is no requirement that the actual notice or letter be produced.

(a1) A person may consent to receive any notice under this Chapter by electronic delivery by completing a written or electronic authorization for this method of delivery. The authorization must advise the person that all of the following apply to consent to electronic delivery of a notice:

- (1) Consent is effective until it is revoked in accordance with the procedure set by the Division.
- (2) At the option of the Division, electronic delivery may be the only method of delivery.
- (3) A notice sent by electronic delivery to an e-mail or electronic address is considered to have been received even if the person to whom it is sent does not receive it.

(a2) A person who consents to electronic notification pursuant to this section shall notify the Division of any change or discontinuance of any e-mail or electronic address provided to the Division in accordance with the provisions of this section and G.S. 20-7.1(a). Upon the failure of a person to notify the Division of any change or discontinuance of an electronic notification pursuant to this section, any notices sent to the original or discontinued electronic address shall be deemed to have been received by the person and a copy of the Division's records sent under the authority of this section is sufficient evidence that notice was sent to the person named in the record, at the physical or electronic address indicated in the record, and for the purpose indicated in the record.

(b) Notwithstanding any other provision of this Chapter at any time notice is now required by registered mail with return receipt requested, certified mail with return receipt requested may be used in lieu thereof and shall constitute valid notice to the same extent and degree as notice by registered mail with return receipt requested.

(c) The Commissioner shall appoint such agents of the Division as may be needed to serve revocation notices required by this Chapter. The fee for service of a revocation notice by personal delivery shall be fifty dollars (\$50.00). (1937, c. 407, s. 13; 1955, c. 1187, s. 21; 1971, c. 1231, s. 1; 1975, c. 326, s. 3; c. 716, s. 5; 1983, c. 761, s. 148; 1985, c. 479, s. 171; 2006-253, s. 21; 2016-90, s. 10(c).)

§ 20-49. Police authority of Division.

The Commissioner and such officers and inspectors of the Division as he shall designate and all members of the Highway Patrol and law enforcement officers of the Department of Public Safety shall have the power:

- (1) Of peace officers for the purpose of enforcing the provisions of this Article and of any other law regulating the operation of vehicles or the use of the highways.
- (2) To make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of this Article or other laws regulating the operation of vehicles or the use of the highways.
- (3) At all time to direct all traffic in conformance with law, and in the event of a fire or other emergency or to expedite traffic or to insure safety, to direct traffic as conditions may require, notwithstanding the provisions of law.
- (4) When on duty, upon reasonable belief that any vehicle is being operated in violation of any provision of this Article or of any other law regulating the operation of vehicles to require the driver thereof to stop and exhibit his driver's license and the registration card issued for the vehicle, and submit to an inspection of such vehicle, the registration plates and registration card thereon or to an inspection and test of the equipment of such vehicle.
- (5) To inspect any vehicle of a type required to be registered hereunder in any public garage or repair shop or in any place where such vehicles are held for sale or wrecking, for the purpose of locating stolen vehicles and investigating the title and registration thereof.
- (6) To serve all warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways.
- (7) To investigate traffic accidents and secure testimony of witnesses or of persons involved.
- (8) To investigate reported thefts of motor vehicles, trailers and semitrailers and make arrest for thefts thereof.
- (9) For the purpose of determining compliance with the provisions of this Chapter, to inspect all files and records of the persons hereinafter designated and required to be kept under the provisions of this Chapter or of the registrations of the Division:
 - a. Persons dealing in or selling and buying new, used or junked motor vehicles and motor vehicle parts; and
 - b. Persons operating garages or other places where motor vehicles are repaired, dismantled, or stored. (1937, c. 407, s. 14; 1955, c. 554, s. 1; 1975, c. 716, s. 5; 1979, c. 93; 2002-159, s. 31.5(b); 2002-190, s. 5; 2011-145, s. 19.1(g).)

§ 20-49.1. Supplemental police authority of Division officers.

(a) In addition to the law enforcement authority granted in G.S. 20-49 or elsewhere, the Commissioner and the officers and inspectors of the Division whom the Commissioner designates have the authority to enforce criminal laws under any of the following circumstances:

- (1) When they have probable cause to believe that a person has committed a criminal act in their presence and at the time of the violation they are engaged in the enforcement of laws otherwise within their jurisdiction.

- (2) When they are asked to provide temporary assistance by the head of a State or local law enforcement agency or his designee and the request is within the scope of the agency's subject matter jurisdiction.

While acting pursuant to this subsection, the Division officers shall have the same powers vested in law enforcement officers by statute or common law. When acting pursuant to subdivision (2) of this subsection, the Division officers shall not be considered an officer, employee, or agent of the State or local law enforcement agency or designee asking for temporary assistance. Nothing in this section shall be construed to expand the Division officers' authority to initiate or conduct an independent investigation into violations of criminal laws outside the scope of their subject matter or territorial jurisdiction.

(b) In addition to the law enforcement authority granted in G.S. 20-49 or elsewhere, the Commissioner and the officers and inspectors of the Division whom the Commissioner designates have the authority to investigate drivers license fraud and identity thefts related to drivers license fraud and to make arrests for these offenses. (2004-148, s. 1.)

§ 20-49.2. Supplemental authority of State Highway Patrol Motor Carrier Enforcement officers.

In addition to law enforcement authority granted in G.S. 20-49 or elsewhere, all sworn Motor Carrier Enforcement officers of the State Highway Patrol shall have the authority to enforce criminal laws under the following circumstances:

- (1) When they have probable cause to believe that a person has committed a criminal act in their presence and at the time of the violation they are engaged in the enforcement of laws otherwise within their jurisdiction.
- (2) When they are asked to provide temporary assistance by the head of a State or local law enforcement agency or his designee and the request is within the scope of the agency's subject matter jurisdiction.

While acting pursuant to this section, they shall have the same powers invested in law enforcement officers by statute or common law. When acting pursuant to subdivision (2) of this section, they shall not be considered an officer, employee, or agent for the State or local law enforcement agency or designee asking for temporary assistance. Nothing in this statute shall be construed to expand their authority to initiate or conduct an independent investigation into violations of criminal laws outside the scope of their subject matter or territorial jurisdiction. (2004-148, s. 2.)

§ 20-49.3. Bureau of License and Theft; custody of seized vehicles.

(a) Vehicles Seized by the Division of Motor Vehicles. – Notwithstanding any other provision of law, the Division of Motor Vehicles, Bureau of License and Theft, may retain any vehicle seized by the Division of Motor Vehicles, Bureau of License and Theft, in the course of any investigation authorized by the provisions of G.S. 20-49 or G.S. 20-49.1 and forfeited to the Division by a court of competent jurisdiction.

(b) Vehicles Seized by the United States Government. – Notwithstanding any other provision of law, the Division may accept custody and ownership of any vehicle seized by the United States Government, forfeited by a court of competent jurisdiction, and turned over to the Division.

(c) Use of Vehicles. – All vehicles forfeited to, or accepted by, the Division pursuant to this section shall be used by the Bureau of License and Theft to conduct undercover operations and inspection station compliance checks throughout the State.

(d) Disposition of Seized Vehicles. – Upon determination by the Commissioner of Motor Vehicles that a vehicle transferred pursuant to the provisions of this section is of no further use to the agency for use in official investigations, the vehicle shall be sold as surplus property in the same manner as other vehicles owned by the law enforcement agency and the proceeds from the sale after deducting the cost of sale shall be paid to the treasurer or proper officer authorized to receive fines and forfeitures to be used for the school fund of the county in the county in which the vehicle was seized, provided, that any vehicle transferred to any law enforcement agency under the provisions of this Article that has been modified to increase speed shall be used in the performance of official duties only and not for resale, transfer, or disposition other than as junk. The Division shall also reimburse the appropriate county school fund for any diminution in value of any vehicle seized under subsection (a) of this section during its period of use by the Division. Any vehicle seized outside of this State shall be sold as surplus property in the same manner as other vehicles owned by the law enforcement agency and the proceeds from the sale after deducting the cost of sale shall be paid to the treasurer and placed in the Civil Fines and Forfeitures Fund established pursuant to G.S. 115C-457.1. (2009-495, s. 1.)

Part 3. Registration and Certificates of Titles of Motor Vehicles.

§ 20-50. Owner to secure registration and certificate of title; temporary registration markers.

(a) A vehicle intended to be operated upon any highway of this State must be registered with the Division in accordance with G.S. 20-52, and the owner of the vehicle must comply with G.S. 20-52 before operating the vehicle. A vehicle that is leased to an individual who is a resident of this State is a vehicle intended to be operated upon a highway of this State.

The Commissioner of Motor Vehicles or the Commissioner's duly authorized agent is empowered to grant a special one-way trip permit to move a vehicle without license upon good cause being shown. When the owner of a vehicle leases the vehicle to a carrier of passengers or property and the vehicle is actually used by the carrier in the operation of its business, the license plates may be obtained by the lessee, upon written consent of the owner, after the certificate of title has been obtained by the owner. When the owner of a vehicle leases the vehicle to a farmer and the vehicle is actually used by the farmer in the operation of a farm, the license plates may be obtained by the farmer at the applicable farmer rate, upon written consent of the owner, after the certificate of title has been obtained by the owner. The lessee shall make application on an appropriate form furnished by the Division and file such evidence of the lease as the Division may require.

(b) The Division may issue a temporary license plate for a vehicle. A temporary license plate is valid for the period set by the Division. The period may not be less than 10 days nor more than 60 days.

A person may obtain a temporary license plate for a vehicle by filing an application with the Division and paying the required fee. An application must be filed on a form provided by the Division.

The fee for a temporary license plate that is valid for 10 days is ten dollars (\$10.00). The fee for a temporary license plate that is valid for more than 10 days is the amount that would be required with an application for a license plate for the vehicle. If a person obtains for a vehicle a

temporary license plate that is valid for more than 10 days and files an application for a license plate for that vehicle before the temporary license plate expires, the person is not required to pay the fee that would otherwise be required for the license plate.

A temporary license plate is subject to the following limitations and conditions:

- (1) It may be issued only upon proper proof that the applicant has met the applicable financial responsibility requirements.
- (2) It expires on midnight of the day set for expiration.
- (3) It may be used only on the vehicle for which issued and may not be transferred, loaned, or assigned to another.
- (4) If it is lost or stolen, the person who applied for it must notify the Division.
- (5) It may not be issued by a dealer.
- (6) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 that apply to license plates apply to temporary license plates insofar as possible. (1937, c. 407, s. 15; 1943, c. 648; 1945, c. 956, s. 3; 1947, c. 219, s. 2; 1953, c. 831, s. 3; 1957, c. 246, s. 2; 1961, c. 360, s. 1; 1963, c. 552, s. 1; 1973, c. 919; 1975, c. 462; c. 716, s. 5; c. 767, s. 1; 1995, c. 394, s. 1; 1999-438, s. 26; 2005-276, s. 44.1(i); 2015-241, s. 29.35(b).)

§ 20-50.1. Repealed by Session Laws 1979, c. 574, s. 5.

§ 20-50.2: Repealed by Session Laws 1991, c. 624, s. 4.

§ 20-50.3: Repealed by Session Laws 2005-294, s. 10, effective July 1, 2013, and applicable to combined tax and registration notices issued on or after that date. See Editor's note.

§ 20-50.4. Division to refuse to register vehicles on which county and municipal taxes and fees are not paid and when there is a failure to meet court-ordered child support obligations.

(a) Property Taxes Paid with Registration. – The Division shall refuse to register a vehicle on which county and municipal taxes and fees have not been paid.

(b) Delinquent Child Support Obligations. – Upon receiving a report from a child support enforcement agency that sanctions pursuant to G.S. 110-142.2(a)(3) have been imposed, the Division shall refuse to register a vehicle for the owner named in the report until the Division receives certification pursuant to G.S. 110-142.2 that the payments are no longer considered delinquent. (1991, c. 624, s. 5; 1995, c. 538, s. 2(g); 1995 (Reg. Sess., 1996), c. 741, ss. 1, 2; 2005-294, s. 11; 2006-259, s. 31.5; 2007-527, s. 22(b); 2008-134, s. 65; 2011-330, s. 42(a); 2012-79, s. 3.6; 2013-414, s. 70(d).)

§ 20-51. Exempt from registration.

The following shall be exempt from the requirement of registration and certificate of title:

- (1) Any such vehicle driven or moved upon a highway in conformance with the provisions of this Article relating to manufacturers, dealers, or nonresidents.
- (2) Any such vehicle which is driven or moved upon a highway only for the purpose of crossing such highway from one property to another.
- (3) Any implement of husbandry, farm tractor, road construction or maintenance machinery or other vehicle which is not self-propelled that was designed for

- use in work off the highway and which is operated on the highway for the purpose of going to and from such nonhighway projects.
- (4) Any vehicle owned and operated by the government of the United States.
 - (5) Farm tractors equipped with rubber tires and trailers or semitrailers when attached thereto and when used by a farmer, his tenant, agent, or employee in transporting his own farm implements, farm supplies, or farm products from place to place on the same farm, from one farm to another, from farm to market, or from market to farm. This exemption shall extend also to any tractor, implement of husbandry, and trailer or semitrailer while on any trip within a radius of 10 miles from the point of loading, provided that the vehicle does not exceed a speed of 35 miles per hour. This section shall not be construed as granting any exemption to farm tractors, implements of husbandry, and trailers or semitrailers which are operated on a for-hire basis, whether money or some other thing of value is paid or given for the use of such tractors, implements of husbandry, and trailers or semitrailers.
 - (6) Any trailer or semitrailer attached to and drawn by a properly licensed motor vehicle when used by a farmer, his tenant, agent, or employee in transporting unginning cotton, peanuts, soybeans, corn, hay, tobacco, silage, cucumbers, potatoes, all vegetables, fruits, greenhouse and nursery plants and flowers, Christmas trees, livestock, live poultry, animal waste, pesticides, seeds, fertilizers or chemicals purchased or owned by the farmer or tenant for personal use in implementing husbandry, irrigation pipes, loaders, or equipment owned by the farmer or tenant from place to place on the same farm, from one farm to another, from farm to gin, from farm to dryer, or from farm to market, and when not operated on a for-hire basis. The term "transporting" as used herein shall include the actual hauling of said products and all unloaded travel in connection therewith.
 - (7) Those small farm trailers known generally as tobacco-handling trailers, tobacco trucks or tobacco trailers when used by a farmer, his tenant, agent or employee, when transporting or otherwise handling tobacco in connection with the pulling, tying or curing thereof.
 - (8) Any vehicle which is driven or moved upon a highway only for the purpose of crossing or traveling upon such highway from one side to the other provided the owner or lessee of the vehicle owns the fee or a leasehold in all the land along both sides of the highway at the place or crossing.
 - (9) Repealed by Session Laws 2014-114, s. 2, effective July 1, 2015, and applicable to offenses committed on or after that date.
 - (10) Devices which are designed for towing private passenger motor vehicles or vehicles not exceeding 5,000 pounds gross weight. These devices are known generally as "tow dollies." A tow dolly is a two-wheeled device without motive power designed for towing disabled motor vehicles and is drawn by a motor vehicle in the same manner as a trailer.
 - (11) Devices generally called converter gear or dollies consisting of a tongue attached to either a single or tandem axle upon which is mounted a fifth wheel and which is used to convert a semitrailer to a full trailer for the purpose of being drawn behind a truck tractor and semitrailer.

- (12) Motorized wheelchairs or similar vehicles not exceeding 1,000 pounds gross weight when used for pedestrian purposes by a handicapped person with a mobility impairment as defined in G.S. 20-37.5.
- (13) Any vehicle registered in another state and operated temporarily within this State by a public utility, a governmental or cooperative provider of utility services, or a contractor for one of these entities for the purpose of restoring utility services in an emergency outage.
- (14) Electric personal assistive mobility devices as defined in G.S. 20-4.01(7b).
- (15) Any vehicle that meets all of the following:
 - a. Is designed for use in work off the highway.
 - b. Is used for agricultural quarantine programs under the supervision of the Department of Agriculture and Consumer Services.
 - c. Is driven or moved on the highway for the purpose of going to and from nonhighway projects.
 - d. Is identified in a manner approved by the Division of Motor Vehicles.
 - e. Is operated by a person who possesses an identification card issued by the Department of Agriculture and Consumer Services.
- (16) A vehicle that meets all of the following conditions is exempt from the requirement of registration and certificate of title. The provisions of G.S. 105-449.117 continue to apply to the vehicle and to the person in whose name the vehicle would be registered.
 - a. Is an agricultural spreader vehicle. An "agricultural spreader vehicle" is a vehicle that is designed for off-highway use on a farm to spread feed, fertilizer, seed, lime, or other agricultural products.
 - b. Is driven on the highway only for the purpose of going from the location of its supply source for fertilizer or other products to and from a farm.
 - c. Does not exceed a speed of 45 miles per hour.
 - d. Does not drive outside a radius of 50 miles from the location of its supply source for fertilizer and other products.
 - e. Is driven by a person who has a license appropriate for the class of the vehicle.
 - f. Is insured under a motor vehicle liability policy in the amount required under G.S. 20-309.
 - g. Displays a valid federal safety inspection decal if the vehicle has a gross vehicle weight rating of at least 10,001 pounds.
- (17) A header trailer when transported to or from a dealer, or after a sale or repairs, to the farm or another dealership. (1937, c. 407, s. 16; 1943, c. 500; 1949, c. 429; 1951, c. 705, s. 2; 1953, c. 826, ss. 2, 3; c. 1316, s. 1; 1961, cc. 334, 817; 1963, c. 145; 1965, c. 1146; 1971, c. 107; 1973, cc. 478, 757, 964; 1979, c. 574, s. 6; 1981 (Reg. Sess., 1982), c. 1286; 1983, cc. 288, 732; 1987, c. 608; 1989, c. 157, s. 2; 1991, c. 411, s. 4; 1995, c. 50, s. 4; 1999-281, s. 2; 2002-98, s. 4; 2002-150, s. 1; 2006-135, s. 2; 2007-194, s. 1; 2007-527, s. 41; 2012-78, ss. 2, 3; 2014-114, s. 2; 2015-263, s. 7; 2016-90, s. 13(i).)

§ 20-52. Application for registration and certificate of title.

(a) An owner of a vehicle subject to registration must apply to the Division for a certificate of title, a registration plate, and a registration card for the vehicle. To apply, an owner must complete an application provided by the Division. The application shall contain a preprinted option that co-owners may use to title the vehicle as a joint tenancy with right of survivorship. The co-owners' designation of a joint tenancy with right of survivorship on the application shall be valid notwithstanding whether this designation appears on the assignment of title. The application must request all of the following information and may request other information the Division considers necessary:

(1) The owner's name.

(1a) If the owner is an individual, the following information:

a. The owner's mailing address and residence address.

b. One of the following at the option of the applicant:

1. The owner's North Carolina drivers license number or North Carolina special identification card number.

2. The owner's home state drivers license number or home state special identification card number and valid active duty military identification card number or military dependent identification card number if the owner is a person or the spouse or dependent child of a person on active duty in the Armed Forces of the United States who is stationed in this State or deployed outside this State from a home base in this State. The owner's inability to provide a photocopy or reproduction of a military or military dependent identification card pursuant to any prohibition of the United States government or any agency thereof against the making of such photocopy or reproduction shall not operate to prevent the owner from making an application for registration and certificate of title pursuant to this subdivision.

3. The owner's home state drivers license number or home state special identification card number and proof of enrollment in a school in this State if the owner is a permanent resident of another state but is currently enrolled in a school in this State.

4. The owner's home state drivers license number or home state special identification card number if the owner provides a signed affidavit certifying that the owner intends to principally garage the vehicle in this State and provides the address where the vehicle is or will be principally garaged. For purposes of this section, "principally garage" means the vehicle is garaged for six or more months of the year on property in this State which is owned, leased, or otherwise lawfully occupied by the owner of the vehicle.

5. The owner's home state drivers license number or home state special identification card number, provided that the application is made pursuant to a court authorized sale or a sale authorized by G.S. 44A-4 for the purpose of issuing a title to be registered in another state or country.

6. The co-owner's home state drivers license number or home state special identification card number if at least one co-owner provides a North Carolina drivers license number or North Carolina special identification number.
 7. The owner's home state drivers license number or special identification card number if the application is for a motor home or house car, as defined in G.S. 20-4.01(27)k., or for a house trailer, as defined in G.S. 20-4.01(14).
- (1b) If the owner is a firm, partnership, a corporation, or another entity, the address of the entity.
 - (2) A description of the vehicle, including the following:
 - a. The make, model, type of body, and vehicle identification number of the vehicle.
 - b. Whether the vehicle is new or used and, if a new vehicle, the date the manufacturer or dealer sold the vehicle to the owner and the date the manufacturer or dealer delivered the vehicle to the owner.
 - (3) A statement of the owner's title and of all liens upon the vehicle, including the names and addresses of all lienholders in the order of their priority, and the date and nature of each lien.
 - (4) – (6) Repealed by Session Laws 2017-69, s. 2(a), effective July 1, 2017.
 - (7) A statement that the owner has proof of financial responsibility, as required by Article 9A or Article 13 of this Chapter.

(a1) An owner who would otherwise be capable of attaining a drivers license or special identification card from this State or any other state, except for a medical or physical condition that can be documented to, and verified by, the Division, shall be issued a registration plate and certificate of title if the owner provides a signed affidavit certifying that the owner intends to principally garage the vehicle in this State and provides the address where the vehicle is or will be principally garaged.

(b) When such application refers to a new vehicle purchased from a manufacturer or dealer, such application shall be accompanied with a manufacturer's certificate of origin that is properly assigned to the applicant. If the new vehicle is acquired from a dealer or person located in another jurisdiction other than a manufacturer, the application shall be accompanied with such evidence of ownership as is required by the laws of that jurisdiction duly assigned by the disposer to the purchaser, or, if no such evidence of ownership be required by the laws of such other jurisdiction, a notarized bill of sale from the disposer.

(c) Unless otherwise prohibited by federal law, an application for a certificate of title, a registration plate, a registration card, and any other document required by the Division to be submitted with the application and requiring a signature may be submitted to the Division with an electronic signature in accordance with Article 40 of Chapter 66 of the General Statutes. The required notarization of any electronic signature on any application or document submitted to the Division pursuant to this subsection may be performed electronically in accordance with Article 2 of Chapter 10B of the General Statutes. (1937, c. 407, s. 17; 1961, c. 835, ss. 2, 3; 1975, c. 716, s. 5; 1991, c. 183, s. 2; 1993 (Reg. Sess., 1994), c. 750, s. 5; 2007-164, s. 4; 2007-209, ss. 1, 2; 2007-443, s. 6; 2007-481, ss. 4-7; 2008-124, s. 4.1; 2009-274, s. 4; 2015-270, s. 1; 2016-90, s. 10.5(a); 2017-69, ss. 2(a), (b); 2017-102, s. 5.2(b).)

§ 20-52.1. Manufacturer's certificate of transfer of new motor vehicle.

(a) Any manufacturer transferring a new motor vehicle to another shall, at the time of the transfer, supply the transferee with a manufacturer's certificate of origin assigned to the transferee.

(b) Any dealer transferring a new vehicle to another dealer shall, at the time of transfer, give such transferee the proper manufacturer's certificate assigned to the transferee.

(c) Upon sale of a new vehicle by a dealer to a consumer-purchaser, the dealer shall execute in the presence of a person authorized to administer oaths an assignment of the manufacturer's certificate of origin for the vehicle, including in such assignment the name and address of the transferee and no title to a new motor vehicle acquired by a dealer under the provisions of subsections (a) and (b) of this section shall pass or vest until such assignment is executed and the motor vehicle delivered to the transferee.

Any dealer transferring title to, or an interest in, a new vehicle shall deliver the manufacturer's certificate of origin duly assigned in accordance with the foregoing provision to the transferee at the time of delivering the vehicle, except that where a security interest is obtained in the motor vehicle from the transferee in payment of the purchase price or otherwise, the transferor shall deliver the manufacturer's certificate of origin to the lienholder and the lienholder shall forthwith forward the manufacturer's certificate of origin together with the transferee's application for certificate of title and necessary fees to the Division. Any person who delivers or accepts a manufacturer's certificate of origin assigned in blank shall be guilty of a Class 2 misdemeanor, unless done in accordance with subsection (d) of this section.

(d) When a manufacturer's statement of origin or an existing certificate of title on a motor vehicle is unavailable, a motor vehicle dealer licensed under Article 12 of this Chapter may also transfer title to another by certifying in writing in a sworn statement to the Division that all prior perfected liens on the vehicle have been paid and that the motor vehicle dealer, despite having used reasonable diligence, is unable to obtain the vehicle's statement of origin or certificate of title. The Division is authorized to develop a form for this purpose. The filing of a false sworn certification with the Division pursuant to this subsection shall constitute a Class H felony. The dealer shall hold harmless the consumer-purchaser from any damages arising from the use of the procedure authorized by this subsection. (1961, c. 835, s. 4; 1967, c. 863; 1975, c. 716, s. 5; 1993, c. 539, s. 331; 1994, Ex. Sess., c. 24, s. 14(c); 2000-182, s. 1.)

§ 20-53. Application for specially constructed, reconstructed, or foreign vehicle.

(a) In the event the vehicle to be registered is a specially constructed, reconstructed, or foreign vehicle, such fact shall be stated in the application, and with reference to every foreign vehicle which has been registered outside of this State, the owner shall surrender to the Division all registration cards, certificates of title or notarized copies of original titles on vehicles 35 model years old and older, or other evidence of such foreign registration as may be in his possession or under his control, except as provided in subsection (b) hereof. After initial review, the Division shall return to the owner any original titles presented on vehicles 35 model years old and older appropriately marked indicating that the title has been previously submitted.

(b) Where, in the course of interstate operation of a vehicle registered in another state, it is desirable to retain registration of said vehicle in such other state, such applicant need not surrender, but shall submit for inspection said evidence of such foreign registration, and the Division in its discretion, and upon a proper showing, shall register said vehicle in this State but shall not issue a certificate of title for such vehicle.

(c), (d) Repealed by Session Laws 1965, c. 734, s. 2.

(e) No title shall be issued to an initial applicant for (i) out-of-state vehicles that are 1980 model year or older or (ii) a specially constructed vehicle prior to the completion of a vehicle verification conducted by the License and Theft Bureau of the Division of Motor Vehicles. These verifications shall be conducted as soon as practical. For an out-of-state vehicle that is 1980 model year or older, this inspection shall consist of verifying the public vehicle identification number to ensure that it matches the vehicle and ownership documents. No covert vehicle identification numbers are to be examined on an out-of-state vehicle 1980 model year or older unless the inspector develops probable cause to believe that the ownership documents or public vehicle identification number presented does not match the vehicle being examined. However, upon such application and the submission of any required documentation, the Division shall be authorized to register the vehicle pending the completion of the verification of the vehicle. The registration shall be valid for one year but shall not be renewed unless and until the vehicle examination has been completed.

If an inspection and verification is not conducted by the License and Theft Bureau of the Division of Motor Vehicles within 15 days after receiving a request for such and the inspector has no probable cause to believe that the ownership documents or public vehicle identification number presented does not match the vehicle being examined, the vehicle shall be deemed to have satisfied all inspection and verification requirements and title shall issue to the owner within 15 days thereafter. If an inspection and verification is timely performed and the vehicle passes the inspection and verification, title shall issue to the owner within 15 days of the date of the inspection.

(f) If a vehicle owner desires a vehicle title classification change, he or she may, upon proper application, be eligible for a reclassification. (1937, c. 407, s. 18; 1949, c. 675; 1953, c. 853; 1957, c. 1355; 1965, c. 734, s. 2; 1975, c. 716, s. 5; 2009-405, s. 5; 2013-349, s. 1; 2016-90, s. 11(a).)

§ 20-53.1. Specially constructed vehicle certificate of title and registration.

(a) Specially constructed vehicles shall be titled in the following manner:

- (1) Replica vehicles shall be titled as the year, make, and model of the vehicle intended to be replicated. A label of "Replica" shall be applied to the title and registration card. All replica vehicle titles shall be labeled "Specially Constructed Vehicle."
- (2) The model year of a street rod vehicle shall continue to be recognized as the manufacturer's assigned model year. The manufacturer's name shall continue to be used as the make with a label of "Street Rod" applied to the title and registration card. All street rod vehicle titles shall be labeled "Specially Constructed Vehicle."
- (3) Custom-built vehicles shall be titled and registered showing the make as "Custom-built," and the year the vehicle was built shall be the vehicle model year. All custom-built vehicle titles shall be labeled "Specially Constructed Vehicle."

(b) Inoperable vehicles may be titled, but no registration may be issued until such time as the License and Theft Bureau inspects the vehicle to ensure it is substantially assembled. Once a vehicle has been verified as substantially assembled pursuant to an inspection by the License and Theft Bureau, the Commissioner shall title the vehicle by classifying it in the proper category

and collecting all highway use taxes applicable to the value of the car at the time the vehicle is retitled to a proper classification, as described in this section.

(c) Motor vehicle certificates of title and registration cards issued pursuant to this section shall be labeled in accordance with this section. As used in this section, "labeled" means that the title and registration card shall contain a designation that discloses if the vehicle is classified as any of the following:

- (1) Specially constructed vehicle.
- (2) Inoperable vehicle. (2009-405, s. 2.)

§ 20-53.2: Reserved for future codification purposes.

§ 20-53.3. Appeal of specially constructed vehicle classification determination to Vehicle Classification Review Committee.

(a) Any person aggrieved by the Division's determination of the appropriate vehicle classification for a specially constructed vehicle may request review of that determination by the Vehicle Classification Review Committee. This review shall be initiated by completing a Vehicle Classification Review Request and returning the request to the Division. The Vehicle Classification Review Request shall be made on a form provided by the Division. The decision of the Review Committee may be appealed to the Commissioner of Motor Vehicles.

(b) The Vehicle Classification Review Committee shall consist of five members as follows:

- (1) Two members shall be personnel of the License and Theft Bureau of the Division of Motor Vehicles appointed by the Commissioner.
- (2) One member shall be a member of the public with expertise in antique or specially constructed vehicles appointed by the Commissioner from a list of nominees provided by the Antique Automobile Club of America.
- (3) One member shall be a member of the public with expertise in antique or specially constructed vehicles appointed by the Commissioner from a list of nominees provided by the Specialty Equipment Market Association.
- (4) One member shall be a member of the public with expertise in antique or specially constructed vehicles appointed by the Commissioner from a list of nominees provided by the National Corvette Restorers Society.

(c) Members of the Vehicle Classification Review Committee shall serve staggered two-year terms. Initial appointments shall be made on or before October 1, 2009. The initial appointment of one of the members from the License and Theft Bureau and the member nominated by the Antique Automobile Club of America shall be for one year. The initial appointments of the remaining members shall be for two years. At the expiration of these initial terms, appointments shall be for two years. A member of the Committee may be removed at any time by unanimous vote of the remaining four members. Vacancies shall be filled in the manner set out in subsection (b) of this section. (2009-405, s. 6.)

§ 20-53.4. Registration of mopeds; certificate of title.

(a) Registration. – Mopeds shall be registered with the Division. The owner of the moped shall pay the same base fee and be issued the same type of registration card and plate issued for a motorcycle. In order to be registered with the Division and operated upon a highway or public vehicular area, a moped must meet the following requirements:

- (1) The moped has a manufacturer's certificate of origin.
- (2) The moped was designed and manufactured for use on highways or public vehicular areas.

(b) Certificate of Title. – Notwithstanding G.S. 20-52 and G.S. 20-57, the owner of a moped is not required to apply for, and the Division is not required to issue, a certificate of title. (2014-114, s. 1; 2015-125, s. 9.)

§ 20-53.5. Titling and registration of HMMWV.

(a) Registration and Certificate of Title. – The Division shall register and issue a certificate of title for an HMMWV if all of the following conditions are met:

- (1) The applicant for the title and registration of the HMMWV has provided to the Division a sworn affidavit from a manufacturer, motor vehicle dealer, or seller of the HMMWV certifying that the vehicle complies with all applicable federal motor vehicle safety standards for vehicles designed for highway use.
- (2) The vehicle has a vehicle identification number that matches the vehicle ownership documents. If the vehicle does not have a vehicle identification number, the Division shall assign one to the vehicle prior to registration. The existence of a valid vehicle identification number for the vehicle shall be verified by the License and Theft Bureau of the Division prior to its registration and titling.

(b) Applicability of This Chapter. – All provisions of this Chapter shall apply to an HMMWV, including the provisions of Article 3A and Article 9A of this Chapter, to the same extent they would apply to any other registered motor vehicle.

(c) Fees. – The vehicle registration fees applicable to property-hauling vehicles shall apply to the registration of an HMMWV.

(d) No Liability for Operations. – Neither the State nor its commission contract agents shall be liable for any injury or damages resulting from the operation of an HMMWV registered or titled pursuant to this section. (2017-69, s. 2.1(b).)

§ 20-54. Authority for refusing registration or certificate of title.

The Division shall refuse registration or issuance of a certificate of title or any transfer of registration upon any of the following grounds:

- (1) The application contains a false or fraudulent statement, the applicant has failed to furnish required information or reasonable additional information requested by the Division, or the applicant is not entitled to the issuance of a certificate of title or registration of the vehicle under this Article.
- (2) The vehicle is mechanically unfit or unsafe to be operated or moved upon the highways.
- (3) The Division has reasonable ground to believe that the vehicle is a stolen or embezzled vehicle, or that the granting of registration or the issuance of a certificate of title would constitute a fraud against the rightful owner or another person who has a valid lien against the vehicle.
- (4) The registration of the vehicle stands suspended or revoked for any reason as provided in the motor vehicle laws of this State, except in such cases to abide by the ignition interlock installation requirements of G.S. 20-17.8.

- (5) The required fee has not been paid, including any additional registration fees or taxes due pursuant to G.S. 20-91(c).
- (6) The vehicle is not in compliance with the inspection requirements of Part 2 of Article 3A of this Chapter or a civil penalty assessed as a result of the failure of the vehicle to comply with that Part has not been paid.
- (7) The Division has been notified that the motor vehicle has been seized by a law enforcement officer and is subject to forfeiture pursuant to G.S. 20-28.2, et seq., or any other statute. However, the Division shall not prevent the renewal of existing registration prior to an order of forfeiture.
- (8) The vehicle is a golf cart or utility vehicle.
- (9) The applicant motor carrier is subject to an order issued by the Federal Motor Carrier Safety Administration or the Division to cease all operations based on a finding that the continued operations of the motor carrier pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).
- (10) The North Carolina Turnpike Authority has notified the Division that the owner of the vehicle has not paid the amount of tolls, fees, and civil penalties the owner owes the Authority for use of a Turnpike project.
- (11) **(Effective until July 25, 2018)** The Division has been notified pursuant to G.S. 20-217(g2) that the owner of the vehicle has failed to pay any fine imposed pursuant to G.S. 20-217.
- (11) **(Effective July 25, 2018)** The Division has been notified (i) pursuant to G.S. 20-217(g2) that the owner of the vehicle has failed to pay any fine imposed pursuant to G.S. 20-217 or (ii) pursuant to G.S. 153A-246(b)(14) that the owner of the vehicle has failed to pay a civil penalty due under G.S. 153A-246.
- (12) The owner of the vehicle has failed to pay any penalty or fee imposed pursuant to G.S. 20-311.
- (13) The Division has been notified by the State Highway Patrol that the owner of the vehicle has failed to pay any civil penalty and fees imposed by the State Highway Patrol for a violation of Part 9 of Article 3 of this Chapter. (1937, c. 407, s. 19; 1975, c. 716, s. 5; 1993 (Reg. Sess., 1994), c. 754, s. 7; 1998-182, s. 9; 2001-356, s. 3; 2002-152, s. 1; 2007-164, s. 5; 2008-225, s. 7; 2009-319, s. 1; 2013-293, s. 4; 2015-241, s. 29.31(b); 2016-87, s. 4; 2017-188, s. 3.)

§ 20-54.1. Forfeiture of right of registration.

(a) Upon receipt of notice of conviction of a violation of an offense involving impaired driving while the person's license is revoked as a result of a prior impaired driving license revocation as defined in G.S. 20-28.2, the Division shall revoke the registration of all motor vehicles registered in the convicted person's name and shall not register a motor vehicle in the convicted person's name until the convicted person's license is restored, except in such cases to abide by the ignition interlock installation requirements of G.S. 20-17.8. Upon receipt of notice of revocation of registration from the Division, the convicted person shall surrender the registration on all motor vehicles registered in the convicted person's name to the Division within 10 days of the date of the notice.

(a1) Upon receipt of notice of conviction of a felony speeding to elude arrest offense under G.S. 20-141.5(b) or (b1), the Division shall revoke the registration of all motor vehicles

registered in the convicted person's name and shall not register a motor vehicle in the convicted person's name until the convicted person's license is restored. Upon receipt of notice of revocation of registration from the Division, the convicted person shall surrender the registration on all motor vehicles registered in the convicted person's name to the Division within 10 days of the date of the notice.

(b) Upon receipt of a notice of conviction under subsection (a) or (a1) of this section, the Division shall revoke the registration of the motor vehicle seized, and the owner shall not be allowed to register the motor vehicle seized until the convicted operator's drivers license has been restored. The Division shall not revoke the registration of the owner of the seized motor vehicle if the owner is determined to be an innocent owner. The Division shall revoke the owner's registration only after the owner is given an opportunity for a hearing to demonstrate that the owner is an innocent owner as defined in G.S. 20-28.2. Upon receipt of notice of revocation of registration from the Division, the owner shall surrender the registration on the motor vehicle seized to the Division within 10 days of the date of the notice. (1998-182, s. 10; 2007-164, s. 6; 2013-243, s. 5.)

§ 20-55. Examination of registration records and index of seized, stolen, and recovered vehicles.

The Division, upon receiving application for any transfer of registration or for original registration of a vehicle, other than a new vehicle sold by a North Carolina dealer, shall first check the engine and serial numbers shown in the application with its record of registered motor vehicles, and against the index of seized, stolen and recovered motor vehicles required to be maintained by this Article. (1937, c. 407, s. 20; 1971, c. 1070, s. 2; 1975, c. 716, s. 5; 1998-182, s. 11.)

§ 20-56. Registration indexes.

(a) The Division shall file each application received, and when satisfied as to the genuineness and regularity thereof, and that the applicant is entitled to register such vehicle and to the issuance of a certificate of title, shall register the vehicle therein described and keep a record thereof as follows:

- (1) Under a distinctive registration number assigned to the vehicle;
- (2) Alphabetically, under the name of the owner;
- (3) Under the motor number or any other identifying number of the vehicle; and
- (4) In the discretion of the Division, in any other manner it may deem advisable.

(b) Repealed by Session Laws 2001, c. 424, s. 6.14(g), effective September 26, 2001. (1937, c. 407, s. 201/2; 1949, c. 583, s. 5; 1971, c. 1070, s. 3; 1975, c. 716, s. 5; 1991, c. 53, s. 2; 2001-424, s. 6.14(g).)

§ 20-57. Division to issue certificate of title and registration card.

(a) The Division upon registering a vehicle shall issue a registration card and a certificate of title as separate documents.

(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 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." 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.

(c) Every such registration card shall at all times be carried in the vehicle to which it refers or in the vehicle to which transfer is being effected, as provided by G.S. 20-64 at the time of its operation, and such registration card shall be displayed upon demand of any peace officer or any officer of the Division: Provided, however, any person charged with failing to so carry such registration card shall not be convicted if he produces in court a registration card theretofore issued to him and valid at the time of his arrest: Provided further, that in case of a transfer of a license plate from one vehicle to another under the provisions of G.S. 20-72, evidence of application for transfer shall be carried in the vehicle in lieu of the registration card.

(d) The certificate of title shall contain upon the face thereof the identical information required upon the face of the registration card except the abbreviation "et al." if such appears and in addition thereto the name of all owners, the date of issuance and all liens or encumbrances disclosed in the application for title. All such liens or encumbrances shall be shown in the order of their priority, according to the information contained in such application.

(e) The certificate of title shall contain upon the reverse side an assignment of title or interest and warranty by registered owner or registered dealer. The purchaser's application for North Carolina certificate of title shall be made on a form prescribed by the Commissioner and shall include a space for notation of liens and encumbrances on the vehicle at the time of transfer.

(f) Certificates of title upon which liens or encumbrances are shown shall be delivered or mailed by the Division to the holder of the first lien or encumbrance.

(g) Certificates of title shall bear thereon the seal of the Division.

(h) Certificates of title need not be renewed annually, but shall remain valid until canceled by the Division for cause or upon a transfer of any interest shown therein. (1937, c. 407, s. 21; 1943, c. 715; 1961, c. 360, s. 2; c. 835, s. 5; 1963, c. 552, s. 2; 1973, c. 72; c. 764, ss. 1-3; c. 1118; 1975, c. 716, s. 5; 1979, c. 139; 1981, c. 690, s. 20; 1983, c. 252; 1991, c. 193, s. 7; 2016-90, s. 12(a).)

§ 20-58. Perfection by indication of security interest on certificate of title.

(a) Except as provided in G.S. 20-58.8, a security interest in a vehicle of a type for which a certificate of title is required shall be perfected only as hereinafter provided.

- (1) If the vehicle is not registered in this State, the application for notation of a security interest shall be the application for certificate of title provided for in G.S. 20-52.
- (2) If the vehicle is registered in this State, the application for notation of a security interest shall be in the form prescribed by the Division, signed by the debtor, and contain the date of application of each security interest, and name and address of the secured party from whom information concerning the security interest may be obtained. The application must be accompanied by the existing certificate of title unless in the possession of a prior secured party. If there is an existing certificate of title issued by this or any other jurisdiction in the possession of a prior secured party, the application for notation of the security interest shall in addition contain the name and address of such prior secured party. An application for notation of a security interest may be signed by the secured party instead of the debtor when the application is

accompanied by documentary evidence of the applicant's security interest in that motor vehicle signed by the debtor and by affidavit of the applicant stating the reason the debtor did not sign the application. In the event the certificate cannot be obtained for recordation of the security interest, when title remains in the name of the debtor, the Division shall cancel the certificate and issue a new certificate of title listing all the respective security interests.

- (3) If the application for notation of security interest is made in order to continue the perfection of a security interest perfected in another jurisdiction, it may be signed by the secured party instead of the debtor. Such application shall be accompanied by documentary evidence of a perfected security interest. No such application shall be valid unless an application for a certificate of title has been made in North Carolina. The security interest perfected herein shall be subject to the provisions set forth in G.S. 20-58.5.

(b) When a manufacturer's statement of origin or an existing certificate of title on a motor vehicle is unavailable, a first lienholder who holds a valid license as a motor vehicle dealer issued by the Commissioner under Article 12 of this Chapter or his designee may file a notarized copy of an instrument creating and evidencing a security interest in the motor vehicle with the Division of Motor Vehicles. A filing pursuant to this subsection shall constitute constructive notice to all persons of the security interest in the motor vehicle described in the filing. The constructive notice shall be effective from the date of the filing if the filing is made within 20 days after the date of the security agreement. The constructive notice shall date from the date of the filing with the Division if it is made more than 20 days after the date of the security agreement. The notation of a security interest created under this subsection shall automatically expire 60 days after the date of the creation of the security interest, or upon perfection of the security interest as provided in subsection (a) of this section, whichever occurs first. A security interest notation made under this subsection and then later perfected under subsection (a) of this section shall be presumed to have been perfected on the date of the earlier filing. The Division may charge a fee not to exceed ten dollars (\$10.00) for each notation of security interest filed pursuant to this subsection. The fee shall be credited to the Highway Fund. A false filing with the Division pursuant to this subsection shall constitute a Class H felony.

(c) An application for the notation of a security interest pursuant to subsection (a) of this section on a certificate of title for a manufactured home shall state the maturity date of the secured obligation. The Division shall include the stated maturity date for the certificate of title, including the notation of the maturity date on the certificate of title, in its public records and in any reports regarding the certificate of title provided to third parties. For the purposes of this subsection, the maturity date of the security interest is defined in G.S. 45-36.24. (1937, c. 407, s. 22; 1955, c. 554, s. 2; 1961, c. 835, s. 6; 1969, c. 838, s. 1; 1975, c. 716, s. 5; 1979, c. 145, ss. 1, 2; c. 199; 2000-182, s. 2; 2016-59, s. 2.)

§ 20-58.1. Duty of the Division upon receipt of application for notation of security interest.

(a) Upon receipt of an application for notation of security interest, the required fee and accompanying documents required by G.S. 20-58, the Division, if it finds the application and accompanying documents in order, shall either endorse upon the certificate of title or issue a new certificate of title containing, the name and address of each secured party, and the date of perfection of each security interest as determined by the Division. The Division shall deliver or

mail the certificate to the first secured party named in it and shall also notify the new secured party that his security interest has been noted upon the certificate of title.

(b) If the certificate of title is in the possession of some prior secured party, the Division, when satisfied that the application is in order, shall procure the certificate of title from the secured party in whose possession it is being held, for the sole purpose of noting the new security interest. Upon request of the Division, a secured party in possession of a certificate of title shall forthwith deliver or mail the certificate of title to the Division. Such delivery of the certificate does not affect the rights of any secured party under his security agreement. (1961, c. 835, s. 6; 1969, c. 838, s. 1; 1975, c. 716, s. 5; 1979, c. 145, s. 3.)

§ 20-58.2. Date of perfection.

If the application for notation of security interest with the required fee is delivered to the Division within 20 days after the date of the security agreement, the security interest is perfected as of the date of the execution of the security agreement. Otherwise, the security interest is perfected as of the date of delivery of the application to the Division. (1961, c. 835, s. 6; 1969, c. 838, s. 1; 1975, c. 716, s. 5; 1991, c. 414, s. 1.)

§ 20-58.3. Notation of assignment of security interest on certificate of title.

An assignee of a security interest may have the certificate of title endorsed or issued with the assignee named as the secured party, upon delivering to the Division on a form prescribed by the Division, with the required fee, an assignment by the secured party named in the certificate together with the certificate of title. The assignment must contain the address of the assignee from which information concerning the security interest may be obtained. If the certificate of title is in the possession of some other secured party the procedure prescribed by G.S. 20-58.1(b) shall be followed. (1961, c. 835, s. 6; 1969, c. 838, s. 1; 1975, c. 716, s. 5.)

§ 20-58.3A. Automatic expiration of security interest in manufactured home; renewal of security interests in manufactured homes.

(a) For the purposes of this section, the term "secured party" means the secured party named on a certificate of title for a manufactured home and those parties that succeed to the rights of the secured party as a secured creditor by assignment or otherwise. The term "borrower" means the homeowner or the debtor on the obligation secured by the security interest noted on the certificate of title for a manufactured home.

(b) With the exception of a security interest in a manufactured home perfected pursuant to G.S. 20-58(c), unless satisfied pursuant to G.S. 20-58.4 or G.S. 20-109.2, the perfection of a security interest in a manufactured home that is perfected by a notation on the certificate of title shall automatically expire 30 years after the date of the issuance of the original certificate of title containing the notation of the security interest, unless a different maturity date is stated on the title.

(c) Unless satisfied pursuant to G.S. 20-58.4 or G.S. 20-109.2, the perfection of a security interest in a manufactured home perfected by a notation on the certificate of title pursuant to G.S. 20-58(c) shall automatically expire as follows:

- (1) If the perfection of the security interest has not been renewed as provided in this section, on the earlier of (i) 90 days after the maturity date stated on the application for the security interest or (ii) 15 years plus 180 days after the date

of issuance of the original certificate of title containing the notation of the security interest.

- (2) If the perfection of the security interest has been renewed as provided in this section, on the earlier of (i) 10 years after the date of the renewal of the perfection of the security interest, (ii) 90 days after the original maturity date of the security interest, if the original maturity date has not been extended, or (iii) 90 days after any extended maturity date stated on the application of renewal.

(d) Prior to the date that perfection of a secured party's security interest in a manufactured home automatically expires pursuant to subsection (b) or (c) of this section, the secured party may deliver to the Division an application for renewal of the perfection of the secured party's security interest. The application for the renewal of the perfection of the secured party's security interest shall be in a form prescribed by the Division. Nothing in this section shall be construed to extend the maturity date of the secured obligation unless an agreement in writing has been executed by the borrower extending the original maturity date. The application for renewal of the perfection of the secured party's security interest shall contain all of the following:

- (1) The secured party's signature.
- (2) The existing certificate of title, unless it is in the possession of a prior secured party.
- (3) An affirmative statement of any agreement executed by the borrower to extend the maturity date.
- (4) If the application is submitted by the assignee or successor in interest of the secured party listed on the certificate of title, documentary evidence that the applicant is the assignee or successor in interest of the secured party listed on the certificate of title.
- (5) The name and address of the party from whom information concerning the security interest may be obtained.
- (6) Any other information requested by the Division.

(e) Upon receipt of the application for renewal of the perfection of the secured party's security interest, the Division shall do one of the following:

- (1) If the existing certificate of title is included with the application for renewal, the Division shall issue a new certificate of title bearing the original or extended maturity date of the security interest.
- (2) If the existing certificate of title is in the possession of a prior secured party, the Division, if satisfied as to the genuineness and regularity of the application for renewal, may request the certificate of title from the party in possession for the purpose of notating the original or extended maturity date of the security interest. Once the notations have been made, the Division shall return the certificate of title to the possession of the secured party.
- (3) If the existing certificate of title is not obtained upon request, the Division shall cancel the existing certificate of title and issue a new certificate of title. The new certificate of title shall list all known security interests and shall bear notation that shows the original or extended maturity date of the security interest.

(f) An application for the renewal of a secured party's security interest pursuant to this section shall be effective to renew the perfection of the security interest as of the date the

application is delivered to the Division. Each renewed security interest shall retain its original date of perfection and the perfection shall thereafter expire on the earlier to occur of (i) 10 years after the date of renewal of the perfection of the security interest, (ii) 90 days after the original maturity date of the security interest, if the original maturity date has not been extended, or (iii) 90 days after any extended maturity date stated on the application of renewal. Perfection of a security interest in a manufactured home may be renewed more than once pursuant to this section.

(g) The Division shall not be subject to a claim under Article 31 of Chapter 143 of the General Statutes related to the renewal of the perfection of a security interest on a certificate of title for a manufactured home pursuant to this section if the claim is based on reliance by the Division on any application for renewal submitted to the Division by a third party pursuant to this section. (2016-59, s. 3.)

§ 20-58.4. Release of security interest.

(a) Upon the satisfaction or other discharge of a security interest in a vehicle for which the certificate of title is in the possession of the secured party, the secured party shall, within the earlier of 10 days after demand or 30 days from the date of satisfaction, execute a release of his security interest, in the space provided therefor on the certificate or as the Division prescribes, and mail or deliver the certificate and release to the next secured party named therein, or if none, to the owner or other person authorized to receive the certificate for the owner.

(a1) Upon the satisfaction or other discharge of a security interest in a vehicle for which the certificate of title data is notated by a lien through electronic means pursuant to G.S. 20-58.4A, the secured party shall, within seven business days from the date of satisfaction, send electronic notice of the release of the security interest to the Division through the electronic lien release system established pursuant to G.S. 20-58.4A. The electronic notice of the release of the security interest sent to the Division by the secured party shall direct that a physical certificate of title be mailed or delivered to the address noted by the secured party providing notice of the satisfaction or other discharge of the security interest. Upon receipt by the Division of an electronic notice of the release of the security interest, the Division shall mail or deliver a certificate of title to the address noted by the secured party within three business days.

(b) Upon the satisfaction or other discharge of a security interest in a vehicle for which the certificate of title is in the possession of a prior secured party, the secured party whose security interest is satisfied shall within 10 days execute a release of his security interest in such form as the Division prescribes and mail or deliver the same to the owner or other person authorized to receive the same for the owner.

(c) An owner, upon securing the release of any security interest in a vehicle shown upon the certificate of title issued therefor, may exhibit the documents evidencing such release, signed by the person or persons making such release, and the certificate of title to the Division which shall, when satisfied as to the genuineness and regularity of the release, issue to the owner either a new certificate of title in proper form or an endorsement or rider attached thereto showing the release of the security interest.

(d) If an owner exhibits documents evidencing the release of a security interest as provided in subsection (c) of this section but is unable to furnish the certificate of title to the Division because it is in possession of a prior secured party, the Division, when satisfied as to the genuineness and regularity of the release, shall procure the certificate of title from the person in possession thereof for the sole purpose of noting thereon the release of the subsequent security

interest, following which the Division shall return the certificate of title to the person from whom it was obtained and notify the owner that the release has been noted on the certificate of title.

(e) If it is impossible for the owner to secure from the secured party the release contemplated by this section, the owner may exhibit to the Division such evidence as may be available showing satisfaction or other discharge of the debt secured, together with a sworn affidavit by the owner that the debt has been satisfied.

(e1) If the vehicle is a manufactured home, the owner may proceed in accordance with subsection (e) of this section or may, in the alternative, provide the Division with a sworn affidavit by the owner that the debt has been satisfied and that either:

- (1) After diligent inquiry, the owner has been unable to determine the identity or the current location of the secured creditor or its successor in interest; or
- (2) The secured creditor has not responded within 30 days to a written request from the owner to release the secured creditor's security interest.

(e2) The Division may treat either of the methods employed by the owner pursuant to subsection (e) or subsection (e1) of this section as a proper release for purposes of this section when satisfied as to the genuineness, truth and sufficiency thereof. Prior to cancellation of a security interest under the provisions of this subsection, at least 15 days' notice of the pendency thereof shall be given to the secured party at his last known address by the Division by registered letter. The Division shall not cancel a security interest pursuant to this subsection if, within 15 days after the Division gives notice, the secured party responds to the Division indicating that the security interest remains in effect.

(f) The Division shall not be subject to a claim under Article 31 of Chapter 143 of the General Statutes related to the release of the perfection of a security interest on a certificate of title for a manufactured home pursuant to this section if the claim is based on reliance by the Division on any release, affidavit, notation of the certificate of title, or documents evidencing the release or satisfaction of a security interest submitted to the Division by a third party pursuant to this section. (1961, c. 835, s. 6; 1969, c. 838, s. 1; 1975, c. 716, s. 5; 2011-318, s. 1; 2015-270, s. 2; 2016-59, s. 4.)

§ 20-58.4A. Electronic lien system.

(a) Implementation. – No later than January 1, 2015, the Division shall implement a statewide electronic lien system to process the notification, release, and maintenance of security interests and certificate of title data where a lien is notated, through electronic means instead of paper documents otherwise required by this Chapter. The Division may contract with a qualified vendor or vendors to develop and implement this statewide electronic lien system, or the Division may develop and make available to qualified service providers a well-defined set of information services that will enable secure access to the data and internal application components necessary to facilitate the creation of an electronic lien system.

(b) Minimum Standards for a Vendor Implemented System. – When contracting with a qualified vendor or vendors to implement the system required in subsection (a) of this section, the Division shall set the following minimum standards:

- (1) The Division shall issue a competitive request for proposal to assess the qualifications of any vendor or vendors responsible for the establishment and ongoing support of the statewide electronic lien system. The Division may also reserve the right to receive input regarding specifications for the

electronic lien system from parties that do not respond to a request for proposal to establish and operate an electronic lien system.

- (2) Any contract entered into with a vendor or vendors shall include no costs or charges payable by the Division to the vendor or vendors. The vendor or vendors shall reimburse the Division for documented reasonable implementation costs directly associated with the establishment and ongoing support of the statewide electronic lien system.
- (3) Upon implementation of the electronic lien system pursuant to subsection (a) of this section, the qualified vendor or vendors may charge participating lienholders or their agents a per-transaction fee for each lien notification. The per-transaction lien notification fee shall be consistent with market pricing in an amount not to exceed three dollars and fifty cents (\$3.50) for costs associated with the development and ongoing administration of the electronic lien system. The qualified vendor or vendors shall not charge lienholders or their agents any additional fee for lien releases, assignments, or transfers. To recover their costs, participating lienholders or their agents may charge the borrower of a motor vehicle loan or the lessee of an automotive lease an amount equal to the transaction fee per lien notification plus a fee in an amount not to exceed three dollars (\$3.00) for each electronic transaction where a lien is notated.
- (4) A qualified vendor or vendors may also serve as a service provider to lienholders, if all of the following conditions are met:
 - a. The contract with the vendor must include provisions specifically prohibiting the vendor from using information concerning vehicle titles for marketing or business solicitation purposes.
 - b. The contract with the vendor must include an acknowledgment by the vendor that it is required to enter into agreements to exchange electronic lien data with any service providers who offer electronic lien and title services in the State and who have been approved by the Division for participation in the system and with service providers who are not qualified vendors.
 - c. The Division must periodically monitor fees charged by a qualified vendor also serving as a service provider to lienholders and providing services as a qualified vendor to other service providers to ensure the vendor is not engaged in predatory pricing.

(c) Minimum Standards for Division-Developed System. – If the Division chooses to develop an interface to enable service provider access to data to facilitate the creation of an electronic lien system, then the Division shall do so for a cost not to exceed two hundred fifty thousand dollars (\$250,000) and set the following minimum standards:

- (1) The Division shall establish qualifications for third-party service providers offering electronic lien services and establish a qualification process that will vet applications developed by service providers for compliance with defined security and architecture standards as follows:
 - a. Qualifications shall be posted within 60 days of the effective date of this section.

- b. Interested service providers shall respond by providing qualifications within 30 days of posting.
 - c. The Division shall notify service providers of their approval.
 - d. Within 30 days of approval, each qualified service provider shall remit payment in an amount equal to the development costs as a fraction of the number of qualified service providers participating in the electronic lien services.
 - e. If there is a service provider who later wishes to participate but did not apply or pay the initial development costs, then that provider may apply to participate if the provider meets all qualifications and pays the same amount in development costs as other participating service providers.
- (2) Each qualified service provider shall remit to the Division an annual fee not to exceed three thousand dollars (\$3,000) on a date prescribed by the Division to be used for the operation and maintenance of the electronic lien system.
 - (3) Any contract entered into with a service provider shall include no costs or charges payable by the Division to the service provider.
 - (4) Upon implementation of the electronic lien system pursuant to subsection (a) of this section, the service provider may charge participating lienholders or their agents a per-transaction fee consistent with market pricing.
 - (5) The contract with the service provider must include provisions specifically prohibiting the service provider from using information concerning vehicle titles for marketing or business solicitation purposes.
- (d) Qualified vendors and service providers shall have experience in directly providing electronic solutions to State motor vehicle departments or agencies.
- (e) Notwithstanding any requirement in this Chapter that a lien on a motor vehicle shall be noted on the face of the certificate of title, if there are one or more liens or encumbrances on the motor vehicle or mobile home, the Division may electronically transmit the lien to the first lienholder and notify the first lienholder of any additional liens. Subsequent lien satisfactions may be electronically transmitted to the Division and shall include the name and address of the person satisfying the lien.
- (f) When electronic transmission of liens and lien satisfactions is used, a certificate of title need not be issued until the last lien is satisfied and a clear certificate of title is issued to the owner of the vehicle.
- (g) When a vehicle is subject to an electronic lien, the certificate of title for the vehicle shall be considered to be physically held by the lienholder for purposes of compliance with State or federal odometer disclosure requirements.
- (h) A duly certified copy of the Division's electronic record of the lien shall be admissible in any civil, criminal, or administrative proceeding in this State as evidence of the existence of the lien.
- (i) **Mandatory Participation.** – Beginning July 1, 2016, all individuals and lienholders who are normally engaged in the business or practice of financing motor vehicles, and who conduct at least five transactions annually, shall utilize the electronic lien system implemented in subsection (a) of this section to record information concerning the perfection and release of a security interest in a vehicle.

(j) Effect of Electronic Notice or Release. – An electronic notice or release of a security interest made through the electronic system implemented pursuant to subsection (a) of this section shall have the same force and effect as a notice or release on a paper document provided under G.S. 20-58 through G.S. 20-58.8.

(k) Nothing in this section shall preclude the Division from collecting a title fee for the preparation and issuance of a title.

(l) The Division may convert an existing paper title to an electronic lien upon request of a primary lienholder. The Division or a party contracting with the Division under this section is authorized to collect a fee not to exceed three dollars (\$3.00) for each conversion. (2013-341, s. 1; 2014-100, s. 34.7(a); 2014-115, s. 29(a), (b); 2015-264, s. 40.)

§ 20-58.5. Duration of security interest in favor of corporations which dissolve or become inactive.

Any security interest recorded in favor of a corporation which, since the recording of such security interest, has dissolved or become inactive for any reason, and which remains of record as a security interest of such corporation for a period of more than three years from the date of such dissolution or becoming inactive, shall become null and void and of no further force and effect. (1961, c. 835, s. 6; 1969, c. 838, s. 1; 1979, c. 145, s. 4.)

§ 20-58.6. Duty of secured party to disclose information.

A secured party named in a certificate of title shall, upon written request of the Division, the owner or another secured party named on the certificate, disclose information when called upon by such person, within 10 days after his lien shall have been paid and satisfied, and any person convicted under this section shall be fined not more than fifty dollars (\$50.00) or imprisoned not more than 30 days. (1937, c. 407, s. 23; 1975, c. 716, s. 5.)

§ 20-58.7. Cancellation of certificate.

The cancellation of a certificate of title shall not, in and of itself, affect the validity of a security interest noted on it. (1961, c. 835, s. 6; 1969, c. 838, s. 1.)

§ 20-58.8. Applicability of §§ 20-58 to 20-58.8; use of term "lien".

(a) Repealed by Session Laws 2000, c. 169, s. 30.

(b) The provisions of G.S. 20-58 through 20-58.8 inclusive shall not apply to or affect:

- (1) A lien given by statute or rule of law for storage of a motor vehicle or to a supplier of services or materials for a vehicle;
- (2) A lien arising by virtue of a statute in favor of the United States, this State or any political subdivision of this State; or
- (3) A security interest in a vehicle created by a manufacturer or by a dealer in new or used vehicles who holds the vehicle in his inventory.

(c) When the term "lien" is used in other sections of this Chapter, or has been used prior to October 1, 1969, with reference to transactions governed by G.S. 20-58 through 20-58.8, to describe contractual agreements creating security interests in personal property, the term "lien" shall be construed to refer to a "security interest" as the term is used in G.S. 20-58 through 20-58.8 and the Uniform Commercial Code. (1961, c. 835, s. 6; 1969, c. 838, s. 1; 2000-169, s. 30.)

§ 20-58.9. Repealed by Session Laws 1969, c. 838, s. 3.

§ 20-58.10. Effective date of §§ 20-58 to 20-58.9.

The provisions of G.S. 20-58 through 20-58.9 inclusive shall be effective and relate to the perfecting and giving notice of security interests entered into on and after January 1, 1962. (1961, c. 835, s. 6.)

§ 20-59. Unlawful for lienor who holds certificate of title not to surrender same when lien satisfied.

It shall be unlawful and constitute a Class 3 misdemeanor for a lienor who holds a certificate of title as provided in this Article to refuse or fail to surrender such certificate of title to the person legally entitled thereto, when called upon by such person, within 10 days after his lien shall have been paid and satisfied. (1937, c. 407, s. 23; 1993, c. 539, s. 332; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-60. Owner after transfer not liable for negligent operation.

The owner of a motor vehicle who has made a bona fide sale or transfer of his title or interest, and who has delivered possession of such vehicle and the certificate of title thereto properly endorsed to the purchaser or transferee, shall not be liable for any damages thereafter resulting from negligent operation of such vehicle by another. (1937, c. 407, s. 24.)

§ 20-61. Owner dismantling or wrecking vehicle to return evidence of registration.

Except as permitted under G.S. 20-62.1, any owner dismantling or wrecking any vehicle shall forward to the Division the certificate of title, registration card and other proof of ownership, and the registration plates last issued for such vehicle, unless such plates are to be transferred to another vehicle of the same owner. In that event, the plates shall be retained and preserved by the owner for transfer to such other vehicle. No person, firm or corporation shall dismantle or wreck any motor vehicle without first complying with the requirements of this section. The Commissioner upon receipt of certificate of title and notice from the owner thereof that a vehicle has been junked or dismantled may cancel and destroy such record of certificate of title. (1937, c. 407, s. 25; 1947, c. 219, s. 3; 1961, c. 360, s. 3; 1975, c. 716, s. 5; 2007-505, s. 2.)

§ 20-62: Repealed by Session Laws 1993, c. 533, s. 9.

§ 20-62.1. Purchase of vehicles for purposes of scrap or parts only.

(a) Records for Scrap or Parts. – A secondary metals recycler, as defined in G.S. 66-420(8), and a salvage yard, as defined in G.S. 20-137.7(6), purchasing motor vehicles solely for the purposes of dismantling or wrecking such motor vehicles for the recovery of scrap metal or for the sale of parts only, shall comply with the provisions of G.S. 20-61 and subsection (a1) of this section, provided, however, that a secondary metals recycler or salvage yard may purchase a motor vehicle without a certificate of title, if the motor vehicle is 10 model years old or older and the secondary metals recycler or salvage yard comply with the following requirements:

- (1) Maintain a record on a form, or in a format, as approved by the Division of Motor Vehicles (DMV) of all purchase transactions of motor vehicles. The following information shall be maintained for transactions of motor vehicles:

- a. The name, address, and contact information of the secondary metals recycler or salvage yard.
 - b. The name, initials, or other identification of the individual entering the information.
 - c. The date of the transaction.
 - d. A description of the motor vehicle, including the year, make, and model to the extent practicable.
 - e. The vehicle identification number (VIN) of the vehicle.
 - f. The amount of consideration given for the motor vehicle.
 - g. A written statement signed by the seller or the seller's agent certifying that (i) the seller or the seller's agent has the lawful right to sell and dispose of the motor vehicle, (ii) the motor vehicle is at least 10 model years old, and (iii) the motor vehicle is not subject to any security interest or lien.
 - g1. A written statement that the motor vehicle will be scrapped or crushed for disposal or dismantled for parts only.
 - h. The name, address, and drivers license number of the person from whom the motor vehicle is being purchased.
 - i. A photocopy or electronic scan of a valid drivers license or identification card issued by the DMV of the seller of the motor vehicle, or seller's agent, to the secondary metals recycler or salvage yard, or in lieu thereof, any other identification card containing a photograph of the seller as issued by any state or federal agency of the United States: provided, that if the buyer has a copy of the seller's photo identification on file, the buyer may reference the identification that is on file, without making a separate photocopy for each transaction. If seller has no identification as described in this sub-subdivision, the secondary metals recycler or salvage yard shall not complete the transaction.
- (1a) Verify with the DMV whether or not the motor vehicle has been reported stolen. The DMV shall develop a method to allow a person subject to this section to verify, at the time of the transaction, through the use of the Internet, that the vehicle has not been reported stolen, and that also allows for the DMV's response to be printed and retained by the person making the request. One of the following shall apply following the DMV response:
- a. If the Division of Motor Vehicles confirms that the motor vehicle has been reported stolen, the secondary metals recycler or salvage yard shall not complete the transaction and shall notify the DMV of the current location of the vehicle and the identifying information of the person attempting to transfer the vehicle.
 - b. If the Division of Motor Vehicles confirms that the motor vehicle has not been stolen, the secondary metals recycler or salvage yard may proceed with the transaction and shall not be held criminally or civilly liable if the motor vehicle later turns out to be a stolen vehicle, unless the secondary metals recycler had knowledge that the motor vehicle was a stolen vehicle.

c. If the Division of Motor Vehicles has not received information from a federal, State, or local department or independent source that a vehicle has been stolen and reports pursuant to this section that a vehicle is not stolen, any person damaged does not have a cause of action against the Division.

(2) Maintain the information required under subdivision (1) of this subsection, and the record confirming that the vehicle was not stolen, required under subdivision (1a) of this subsection, for not less than two years from the date of the purchase of the motor vehicle.

(a1) Reporting Requirement. – Within 72 hours of each day's close of business, a secondary metals recycler or salvage yard purchasing a motor vehicle under this section shall submit to the National Motor Vehicle Title Information System (NMVTIS) such information contained in subdivision (1) of subsection (a) of this section, along with any other information or statement pertaining to the intended disposition of the motor vehicle, as may be required. The information shall be in a format that will satisfy the requirement for reporting information in accordance with rules adopted by the United States Department of Justice in 28 C.F.R. § 25.56. A secondary metals recycler or salvage yard may comply with this subsection by reporting the information required by this subsection to a third-party consolidator as long as the third-party consolidator reports the information to the NMVTIS in compliance with the provisions of this subsection.

(b) Inspection of Motor Vehicles and Records. – At any time it appears a secondary metals recycler, salvage yard, or any other person involved in secondary metals operations is open for business, a law enforcement officer shall have the right to inspect the following:

(1) Any and all motor vehicles in the possession of the secondary metals recycler, the salvage yard, or any other person involved in secondary metals operations.

(2) Any records required to be maintained under subsection (a) of this section.

(b1) Availability of Information. – The information obtained by the Division of Motor Vehicles pursuant to this section shall be made available to law enforcement agencies only. The information submitted pursuant to this section is confidential and shall not be considered a public record as that term is defined in G.S. 132-1.

(c) Violations. – Any person who knowingly and willfully violates any of the provisions of this section, or any person who falsifies the statement required under subsection (a)(1)g. of this section, shall be guilty of a Class I felony and shall pay a minimum fine of one thousand dollars (\$1,000). The court may order a defendant seller under this subsection to make restitution to the secondary metals recycler or salvage yard or lien holder for any damage or loss caused by the defendant seller arising out of an offense committed by the defendant seller.

(d) Confiscation of Vehicle or Tools Used in Illegal Sale. – Any motor vehicle used to transport another motor vehicle illegally sold under this section may be seized by law enforcement and is subject to forfeiture by the court, provided, however, that no vehicle used by any person in the transaction of a sale of regulated metals is subject to forfeiture unless it appears that the owner or other person in charge of the motor vehicle is a consenting party or privy to the commission of a crime, and a forfeiture of the vehicle encumbered by a bona fide security interest is subject to the interest of the secured party who had no knowledge of or consented to the act.

Whenever property is forfeited under this subsection by order of the court, the law enforcement agency having custody of the property shall sell any forfeited property which is not

required to be destroyed by law and which is not harmful to the public, provided that the proceeds are remitted to the Civil Fines and Forfeitures Fund established pursuant to G.S. 115C-457.1.

(e) Exemptions. – As used in this section, the term "motor vehicle" shall not include motor vehicles which have been mechanically flattened, crushed, baled, or logged and sold for purposes of scrap metal only.

(f) Preemption. – No local government shall enact any local law or ordinance with regards to the regulation of the sale of motor vehicles to secondary metals recyclers or salvage yards. (2007-505, s. 1; 2012-46, s. 30; 2013-323, s. 2; 2013-410, s. 28(a).)

§ 20-63. Registration plates furnished by Division; requirements; replacement of regular plates with First in Flight plates or First in Freedom plates; surrender and reissuance; displaying; preservation and cleaning; alteration or concealment of numbers; commission contracts for issuance.

(a) The Division upon registering a vehicle shall issue to the owner one registration plate for a motorcycle, trailer or semitrailer and for every other motor vehicle. Registration plates issued by the Division under this Article shall be and remain the property of the State, and it shall be lawful for the Commissioner or his duly authorized agents to summarily take possession of any plate or plates which he has reason to believe is being illegally used, and to keep in his possession such plate or plates pending investigation and legal disposition of the same. Whenever the Commissioner finds that any registration plate issued for any vehicle pursuant to the provisions of this Article has become illegible or is in such a condition that the numbers thereon may not be readily distinguished, he may require that such registration plate, and its companion when there are two registration plates, be surrendered to the Division. When said registration plate or plates are so surrendered to the Division, a new registration plate or plates shall be issued in lieu thereof without charge. The owner of any vehicle who receives notice to surrender illegible plate or plates on which the numbers are not readily distinguishable and who willfully refuses to surrender said plates to the Division shall be guilty of a Class 2 misdemeanor.

(b) Every license plate must display the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina, which may be abbreviated, and the year number for which it is issued or the date of expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), and weighing 26,001 pounds or more, must bear the word "commercial," unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less. The plate issued for vehicles licensed for 7,000 pounds through 26,000 pounds must bear the word "weighted," unless the plate is a special registration plate authorized in G.S. 20-79.4.

A registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or less shall be, at the option of the owner, either (i) a "First in Flight" plate or (ii) a "First in Freedom" plate. A "First in Flight" plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the "First in Flight" plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right. A "First in Freedom" plate shall have the words "First in Freedom" printed at the top of the plate above all other letters and numerals. The background of the "First in Freedom" plate may include an image chosen by the Division that is representative of the Mecklenburg Declaration of 1775 or the Halifax Resolves of 1776.

(b1) The following special registration plates do not have to be a "First in Flight" plate or "First in Freedom" plate as provided in subsection (b) of this section. The design of the plates that are not "First in Flight" plates or "First in Freedom" plates must be developed in accordance with G.S. 20-79.4(a3). For special plates authorized in G.S. 20-79.7 on or after July 1, 2013, the Division may not issue the plate on a background under this subsection unless it receives the required number of applications set forth in G.S. 20-79.3A(a).

- (1) Friends of the Great Smoky Mountains National Park.
- (2) Rocky Mountain Elk Foundation.
- (3) Blue Ridge Parkway Foundation.
- (4) Friends of the Appalachian Trail.
- (5) NC Coastal Federation.
- (6) In God We Trust.
- (7) Stock Car Racing Theme.
- (8) Buddy Pelletier Surfing Foundation.
- (9) Guilford Battleground Company.
- (10) National Wild Turkey Federation.
- (11) North Carolina Aquarium Society.
- (12) First in Forestry.
- (13) North Carolina Wildlife Habitat Foundation.
- (14) NC Trout Unlimited.
- (15) Ducks Unlimited.
- (16) Lung Cancer Research – Expired July 1, 2016.
- (17) NC State Parks.
- (18) Support Our Troops.
- (19) US Equine Rescue League – Expired July 1, 2016.
- (20) Fox Hunting – Expired July 1, 2016.
- (21) Back Country Horsemen of North Carolina – Expired July 1, 2016.
- (22) Hospice Care – Expired July 1, 2016.
- (23) Home Care and Hospice.
- (24) NC Tennis Foundation.
- (25) AIDS Awareness – Expired July 1, 2016.
- (26) Donate Life.
- (27) Farmland Preservation – Expired July 1, 2016.
- (28) Travel and Tourism – Expired July 1, 2016.
- (29) Battle of Kings Mountain.
- (30) NC Civil War – Expired July 1, 2016.
- (31) North Carolina Zoological Society.
- (32) United States Service Academy.
- (33) Carolina Raptor Center – Expired July 1, 2016.
- (34) Carolinas Credit Union Foundation – Expired July 1, 2016.
- (35) North Carolina State Flag – Expired July 1, 2016.
- (36) NC Mining – Expired July 1, 2016.
- (37) Coastal Land Trust.
- (38) ARTS NC.
- (39) Choose Life.
- (40) North Carolina Green Industry Council – Expired July 1, 2016.

- (41) NC Horse Council.
- (42) Core Sound Waterfowl Museum and Heritage Center.
- (43) Mountains-to-Sea Trail, Inc.
- (44) Native Brook Trout.
- (45) Red Drum – Expired July 1, 2016.
- (46) S.T.A.R. – Expired July 1, 2016.
- (47) Alpha Phi Alpha – Expired July 1, 2016.
- (48) Reserved.
- (49) Carolina Panthers.
- (50) NC Surveyors.
- (51) North Carolina Sheriffs' Association.
- (52) Save the Honey Bee (SB).
- (53) Kappa Alpha Psi Fraternity.
- (54) Pisgah Conservancy.
- (55) Colorectal Cancer Awareness.
- (56) Big Rock Blue Marlin Tournament.
- (57) Order of the Long Leaf Pine.

(c) Such registration plate and the required numerals thereon, except the year number for which issued, shall be of sufficient size to be plainly readable from a distance of 100 feet during daylight.

(d) Registration plates issued for a motor vehicle other than a motorcycle, trailer, or semitrailer shall be attached thereto, one in the front and the other in the rear: Provided, that when only one registration plate is issued for a motor vehicle other than a truck-tractor, said registration plate shall be attached to the rear of the motor vehicle. The registration plate issued for a truck-tractor shall be attached to the front thereof. Provided further, that when only one registration plate is issued for a motor vehicle and this motor vehicle is transporting a substance that may adhere to the plate so as to cover or discolor the plate or if the motor vehicle has a mechanical loading device that may damage the plate, the registration plate may be attached to the front of the motor vehicle.

Any motor vehicle of the age of 35 years or more from the date of manufacture may bear the license plates of the year of manufacture instead of the current registration plates, if the current registration plates are maintained within the vehicle and produced upon the request of any person.

The Division shall provide registered owners of motorcycles and property hauling motorcycle trailers attached to the rear of motorcycles with suitably reduced size registration plates, approximately four by seven inches in size, that are issued on a multiyear basis in accordance with G.S. 20-88(c), or on an annual basis as otherwise provided in this Chapter.

(e) Preservation and Cleaning of Registration Plates. – It shall be the duty of each and every registered owner of a motor vehicle to keep the registration plates assigned to such motor vehicle reasonably clean and free from dust and dirt, and such registered owner, or any person in his employ, or who operates such motor vehicle by his authority, shall, upon the request of any proper officer, immediately clean such registration plates so that the numbers thereon may be readily distinguished, and any person who shall neglect or refuse to so clean a registration plate, after having been requested to do so, shall be guilty of a Class 3 misdemeanor.

(f) Operating with False Numbers. – Any person who shall willfully operate a motor vehicle with a registration plate which has been repainted or altered or forged shall be guilty of a Class 2 misdemeanor.

(g) Alteration, Disguise, or Concealment of Numbers. – Any operator of a motor vehicle who shall willfully mutilate, bend, twist, cover or cause to be covered or partially covered by any bumper, light, spare tire, tire rack, strap, or other device, or who shall paint, enamel, emboss, stamp, print, perforate, or alter or add to or cut off any part or portion of a registration plate or the figures or letters thereon, or who shall place or deposit or cause to be placed or deposited any oil, grease, or other substance upon such registration plates for the purpose of making dust adhere thereto, or who shall deface, disfigure, change, or attempt to change any letter or figure thereon, or who shall display a number plate in other than a horizontal upright position, shall be guilty of a Class 2 misdemeanor. Any operator of a motor vehicle who shall willfully cover or cause to be covered any part or portion of a registration plate or the figures or letters thereon by any device designed or intended to prevent or interfere with the taking of a clear photograph of a registration plate by a traffic control or toll collection system using cameras commits an infraction and shall be penalized under G.S. 14-3.1. Any operator of a motor vehicle who shall otherwise intentionally cover any number or registration renewal sticker on a registration plate with any material that makes the number or registration renewal sticker illegible commits an infraction and shall be penalized under G.S. 14-3.1. Any operator of a motor vehicle who covers any registration plate with any frame or transparent, clear, or color-tinted cover that makes a number or letter included in the vehicle's registration, the State name on the plate, or a number or month on the registration renewal sticker on the plate illegible commits an infraction and shall be penalized under G.S. 14-3.1.

(h) Commission Contracts for Issuance of Plates and Certificates. – All registration plates, registration certificates, and certificates of title issued by the Division, outside of those issued from the office of the Division located in Wake, Cumberland, or Mecklenburg Counties and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of the plates and certificates in localities throughout North Carolina, including military installations within this State, with persons, firms, corporations or governmental subdivisions of the State of North Carolina. The Division shall make a reasonable effort in every locality, except as noted above, to enter into a commission contract for the issuance of the plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts, it shall issue the plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates, and certificates of title are issued by the Division through commission contract arrangements, the Division shall provide proper supervision of the distribution. Nothing contained in this subsection allows or permits the operation of fewer outlets in any county in this State than are now being operated.

The terms of a commission contract entered under this subsection shall specify the duration of the contract and either include or incorporate by reference standards by which the Division may supervise and evaluate the performance of the commission contractor. The duration of an initial commission contract may not exceed eight years and the duration of a renewal commission contract may not exceed two years. The Division may award monetary performance bonuses, not to exceed an aggregate total of ninety thousand dollars (\$90,000) annually, to commission contractors based on their performance.

The amount of compensation payable to a commission contractor is determined on a per transaction basis. The collection of the highway use tax and the removal of an inspection stop are each considered a separate transaction for which one dollar and thirty cents (\$1.30) compensation shall be paid. The issuance of a limited registration "T" sticker and the collection of property tax are each considered a separate transaction for which compensation at the rate of one dollar and thirty cents (\$1.30) and one dollar and eight cents (\$1.08) respectively, shall be paid by counties and municipalities as a cost of the combined motor vehicle registration renewal and property tax collection system. The performance at the same time of one or more of the transactions below is considered a single transaction for which one dollar and forty-six cents (\$1.46) compensation shall be paid:

- (1) Issuance of a registration plate, a registration card, a registration sticker, or a certificate of title.
- (2) Issuance of a handicapped placard or handicapped identification card.
- (3) Acceptance of an application for a personalized registration plate.
- (4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.
- (5) Cancellation of a title because the vehicle has been junked.
- (6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.
- (7) Receipt of the civil penalty imposed by G.S. 20-311 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.
- (8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.
- (8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.
- (8b), (9) Repealed by Session Laws 2013-372, s. 2(a), effective July 1, 2013.
- (10) Acceptance of a temporary lien filing.
- (11) Conversion of an existing paper title to an electronic lien upon request of a primary lienholder.

(h1) Commission contracts entered into by the Division under this subsection shall also provide for the payment of an additional one dollar (\$1.00) of compensation to commission contract agents for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of G.S. 20-85.

(h2) Upon the closing of the only contract license plate agency in a county, the Division shall as soon as practicable designate a temporary location for the issuance of all registration plates, registration certificates, and certificates of title issued by the Division for that county. The designation shall be posted at the former agency location for not less than 30 days and shall include the street address and telephone number of the temporary location. A former contract agent shall allow the posting of this required notice at the former location for a period of not less than 30 days. A failure to comply with the posting requirements of this section by a former contract agent shall be a Class 3 misdemeanor.

(i) Electronic Applications and Collections. – The Division shall accept electronic applications for the issuance of registration plates, registration certificates, and certificates of title, and is authorized to electronically collect fees from online motor vehicle registration vendors under contract with the Division.

(j) The Division shall contract with at least two online motor vehicle registration vendors which may enter into contracts with motor vehicle dealers to complete and file Division required documents for the issuance of a certificate of title, registration plate, or registration card or a duplicate certificate of title, registration plate, or registration card for a motor vehicle, upon purchase or sale of a vehicle.

(k) Commission contract agents are authorized to enter into contracts with online motor vehicle registration vendors which are under contract with the Division to complete and file Division required documents for the issuance of a certificate of title, registration plate, or registration card or a duplicate certificate of title, registration plate, or registration card for a motor vehicle. (1937, c. 407, s. 27; 1943, c. 726; 1951, c. 102, ss. 1-3; 1955, c. 119, s. 1; 1961, c. 360, s. 4; c. 861, s. 2; 1963, c. 552, s. 6; c. 1071; 1965, c. 1088; 1969, c. 1140; 1971, c. 945; 1973, c. 629; 1975, c. 716, s. 5; 1979, c. 470, s. 1; c. 604, s. 1; c. 917, s. 4; 1981, c. 750; c. 859, s. 76; 1983, c. 253, ss. 1-3; 1985, c. 257; 1991 (Reg. Sess., 1992), c. 1007, s. 32; 1993, c. 539, ss. 333-336; 1994, Ex. Sess., c. 24, s. 14(c); 1997-36, s. 1; 1997-443, s. 32.7(a); 1997-461, s. 1; 1998-160, s. 3; 1998-212, ss. 15.4(a), 27.6(a); 1999-452, ss. 13, 14; 2000-182, s. 3; 2001-424, s. 27.21; 2001-487, s. 50(c); 2002-159, s. 31.1; 2003-424, s. 1; 2004-77, s. 1; 2004-79, s. 1; 2004-131, s. 1; 2004-185, s. 1; 2005-216, s. 1; 2006-209, s. 1; 2006-213, s. 4; 2007-243, s. 1; 2007-400, s. 1; 2007-483, s. 1; 2007-488, ss. 2-5; 2008-225, s. 8; 2009-445, s. 24(b1); 2009-456, s. 1; 2010-96, s. 40(a); 2010-132, ss. 2, 3; 2011-382, s. 4; 2011-392, ss. 1, 1.1; 2012-79, s. 1.12(a); 2013-87, s. 1; 2013-372, s. 2(a); 2013-376, s. 9(a), (b), (d); 2014-3, s. 13.2; 2014-96, s. 2; 2014-100, ss. 8.11(e), 34.7(b), 34.28(a); 2015-241, ss. 29.32(a), 29.40(a); 2015-264, s. 40.6(a); 2015-286, s. 3.5(a); 2016-120, s. 2; 2017-107, s. 1; 2017-114, s. 1.)

§ 20-63.01. Bonds required for commission contractors.

(a) A guaranty bond is required for each commission contractor that is not a governmental subdivision of this State that is granted a contract to issue license plates or conduct business pursuant to G.S. 20-63. Provided, however, a commission contractor that is unable to secure a bond may, with the consent of the Division, provide an alternative to a guaranty bond, as provided in subsection (c) of this section.

The Division may revoke, with cause, a contract with a commission contractor that fails to maintain a bond or an alternative to a bond, pursuant to this section.

- (b) (1) When application is made for a contract or contract renewal, the applicant shall file a guaranty bond with the clerk of the superior court and/or the register of deeds of the county in which the commission contractor will be located. The bond shall be in favor of the Division. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to the Division for a loss of revenue for any reason, including bankruptcy, employee embezzlement or theft, foreclosure, or ceasing to operate.
- (2) The bond shall be in an amount determined by the Division to be adequate to provide indemnification to the Division under the terms of the bond. The bond amount shall be at least one hundred thousand dollars (\$100,000).
- (3) The bond shall remain in force and effect until cancelled by the guarantor. The guarantor may cancel the bond upon 30 days' notice to the Division.

Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

- (4) The Division may be able to negotiate bonds for contractors who qualify for bonds as a group under favorable rates or circumstances. If so, the Division may require those contractors who can qualify for the group bond to obtain their bond as part of a group of contractors. The Division may deduct the premiums for any bonds it may be able to negotiate at group rates from the commissioned contractors' compensation.

(c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Division and approval of one of the guaranty bond alternatives set forth in this subsection. With the approval of the Division, an applicant may file with the clerk of the superior court and/or the register of deeds of the county in which the commission contractor will be located, in lieu of a bond:

- (1) An assignment of a savings account in an amount equal to the bond required (i) that is in a form acceptable to the Division; (ii) that is executed by the applicant; (iii) that is executed by a federally insured depository institution or a trust institution authorized to do business in this State; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section.
- (2) A certificate of deposit (i) that is executed by a federally insured depository institution or a trust institution authorized to do business in this State; (ii) that is either payable to the State of North Carolina, unrestrictively endorsed to the Division of Motor Vehicles; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Division of Motor Vehicles; or in the case of a nonnegotiable certificate of deposit, is assigned to the Division of Motor Vehicles in a form satisfactory to the Division; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section. (2007-488, s. 1; 2017-25, s. 1(b).)

§ 20-63.02. Advisory committee of commission contractors.

(a) **Committee and Duties.** – An advisory committee is established and is designated the License Plate Agent (LPA) Advisory Committee. The Division and the LPA Advisory Committee are directed to work together to ensure excellent and efficient customer service with respect to vehicle titling and registration services provided through commission contracts awarded under G.S. 20-63. As part of this effort, the Division and the Committee must periodically review all forms and instructions used in the vehicle titling and registration process to ensure that they are readily understandable and not duplicative. The Committee must meet at least quarterly.

(b) **Membership and Terms.** – The LPA Advisory Committee consists of persons who are on the staff of the Division of Motor Vehicles and six persons appointed by the North Carolina Association of Motor Vehicle Registration Contractors. The Commissioner determines the number of Division staff persons to appoint to the Committee and designates the chair of the Committee. Members of the Committee appointed by the Commissioner serve *ex officio*. Members of the Committee appointed by the Association serve two-year terms beginning on July

1 of an odd-numbered year. A member who serves for a specific term continues to serve after the expiration of the member's term until a successor is appointed.

(c) Expenses. – Members of the LPA Advisory Committee are allowed the per diem, subsistence, and travel allowances established under G.S. 138-5 for service on State boards and commissions. (2013-372, s. 1(a).)

§ 20-63.1. Division may cause plates to be reflectorized.

The Division of Motor Vehicles is hereby authorized to cause vehicle license plates for 1968 and future years to be completely treated with reflectorized materials designed to increase visibility and legibility of license plates at night. (1967, c. 8; 1975, c. 716, s. 5.)

§ 20-64. Transfer of registration plates to another vehicle.

(a) Except as otherwise provided in this Article, registration plates shall be retained by the owner thereof upon disposition of the vehicle to which assigned, and may be assigned to another vehicle, belonging to such owner and of a like vehicle category within the meaning of G.S. 20-87 and 20-88, upon proper application to the Division and payment of a transfer fee and such additional fees as may be due because the vehicle to which the plates are to be assigned requires a greater registration fee than that vehicle to which the license plates were last assigned. In cases where the plate is assigned to another vehicle belonging to such owner, and is not of a like vehicle category within the meaning of G.S. 20-87 and 20-88, the owner shall surrender the plate to the Division and receive therefor a plate of the proper category, and the unexpired portion of the fee originally paid by the owner for the plate so surrendered shall be a credit toward the fee charged for the new plate of the proper category. Provided, that the owner shall not be entitled to a cash refund when the registration fee for the vehicle to which the plates are to be assigned is less than the registration fee for that vehicle to which the license plates were last assigned. An owner assigning or transferring plates to another vehicle as provided herein shall be subject to the same assessments and penalties for use of the plates on another vehicle or for improper use of the plates, as he could have been for the use of the plates on the vehicle to which last assigned. Provided, however, that upon compliance with the requirements of this section, the registration plates of vehicles owned by and registered in the name of a corporation may be transferred and assigned to a like vehicle category within the meaning of G.S. 20-87 and 20-88, upon the showing that the vehicle to which the transfer and assignment is to be made is owned by a corporation which is a wholly owned subsidiary of the corporation applying for such transfer and assignment.

(b) Upon a change of the name of a corporation or a change of the name under which a proprietorship or partnership is doing business, the corporation, partnership or proprietorship shall forthwith apply for correction of the certificate of title of all vehicles owned by such corporation, partnership or proprietorship so as to correctly reflect the name of the corporation or the name under which the proprietorship or partnership is doing business, and pay the fees required by law.

(c) Upon a change in the composition of a partnership, ownership of vehicles belonging to such partnership shall not be deemed to have changed so long as one partner of the predecessor partnership remains a partner in the reconstituted partnership, but the reconstituted partnership shall forthwith apply for correction of the certificate of title of all vehicles owned by such partnership so as to correctly reflect the composition of the partnership and the name under which it is doing business, if any, and pay the fees required by law.

(d) When a proprietorship or partnership is incorporated, the corporation shall retain license plates assigned to vehicles belonging to it and may use the same, provided the corporation applies for and obtains transfers of the certificates of title of all vehicles and pays the fees required by law.

(e) Upon death of the owner of a registered vehicle, such registration shall continue in force as a valid registration until the end of the year for which the license is issued unless ownership of the vehicle passes or is transferred to any person other than the surviving spouse before the end of the year.

(f) The owner or transferor of a registered vehicle who surrenders the registration plate to the division may secure a refund for the unexpired portion of such plate prorated on a monthly basis, beginning the first day of the month following surrender of the plate to the division, provided the annual fee of such surrendered plate is sixty dollars (\$60.00) or more. This refund may not exceed one half of the annual license fee. No refund shall be made unless the owner or transferor furnishes proof of financial responsibility on the registered vehicle effective until the date of the surrender of the plate. Proof of financial responsibility shall be furnished in a manner prescribed by the Commissioner.

(g) The Commissioner of Motor Vehicles shall have the power to make such rules and regulations as he may deem necessary for the administration of transfers of license plates and vehicles under this Article. (1937, c. 407, s. 28; 1945, c. 576, s. 1; 1947, c. 914, s. 1; 1951, c. 188; c. 819, s. 1; 1961, c. 360, s. 5; 1963, cc. 1067, 1190; 1967, c. 995; 1973, c. 1134; 1975, c. 716, s. 5; 1981, c. 227; 2004-167, s. 1; 2004-199, s. 59; 2007-491, s. 5.)

§ 20-64.1: Repealed by Session Laws 1995 (Regular Session, 1996), c. 756, s. 6.

§ 20-64.2: Repealed by Session Laws 2010-132, s. 4, effective December 1, 2010.

§ 20-65. Repealed by Session Laws 1979, 2nd Session, c. 1280, s. 1.

§ 20-66. Renewal of vehicle registration.

(a) Annual Renewal. – The registration of a vehicle must be renewed annually. In accordance with G.S. 105-330.5(b), upon receiving written consent from the owner of the vehicle, the Division may send any required notice of renewal electronically to an e-mail address provided by the owner of the vehicle. To renew the registration of a vehicle, the owner of the vehicle must file an application with the Division and pay the required registration fee. The Division may receive and grant an application for renewal of registration at any time before the registration expires.

(b) Method of Renewal. – When the Division renews the registration of a vehicle, it must issue a new registration card for the vehicle and either a new registration plate or a registration renewal sticker. The Division may renew a registration plate for any type of vehicle by means of a renewal sticker.

(b1) Repealed by Session Laws 1993, c. 467, s. 2.

(c) Renewal Stickers. – A single registration renewal sticker issued by the Division must be displayed on the registration plate that it renews in the place prescribed by the Commissioner and must indicate the period for which it is valid. Except where physical differences between a registration renewal sticker and a registration plate render a provision of this Chapter

inapplicable, the provisions of this Chapter relating to registration plates apply to registration renewal stickers.

(d), (e) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, § 5.

(f) Repealed by Session Laws 1993, c. 467, s. 2.

(g) When Renewal Sticker Expires. – The registration of a vehicle that is renewed by means of a registration renewal sticker expires at midnight on the last day of the month designated on the sticker. It is lawful, however, to operate the vehicle on a highway until midnight on the fifteenth day of the month following the month in which the sticker expired.

The Division may vary the expiration dates of registration renewal stickers issued for a type of vehicle so that an approximately equal number expires at the end of each month, quarter, or other period consisting of one or more months. When the Division implements registration renewal for a type of vehicle by means of a renewal sticker, it may issue a registration renewal sticker that expires at the end of any monthly interval.

(g1) Expiration of Registration by Other Means. – The registration of a vehicle renewed by means of a new registration plate expires at midnight on the last day of the year in which the registration plate was issued. It is lawful, however, to operate the vehicle on a highway through midnight February 15 of the following year.

(h) Repealed by Session Laws 2004-167, s. 3, as amended by Session Laws 2004-199, s. 59, effective January 1, 2006.

(i) Property Tax Consolidation. – When the Division receives an application under subsection (a) for the renewal of registration before the current registration expires, the Division shall grant the application if it is made for the purpose of consolidating the property taxes payable by the applicant on classified motor vehicles, as defined in G.S. 105-330. The registration fee for a motor vehicle whose registration cycle is changed under this subsection shall be reduced by a prorated amount. The prorated amount is one-twelfth of the registration fee in effect when the motor vehicle's registration was last renewed multiplied by the number of full months remaining in the motor vehicle's current registration cycle, rounded to the nearest multiple of twenty-five cents (25¢).

(j) Inspection Prior to Renewal of Registration. – The Division shall not renew the registration of a vehicle unless it has a current safety or emissions inspection.

(k) Repealed by Session Laws 2008-190, s. 1, effective October 1, 2008. (1937, c. 407, s. 30; 1955, c. 554, s. 3; 1973, c. 1389, s. 1; 1975, c. 716, s. 5; 1977, c. 337; 1979, 2nd Sess., c. 1280, ss. 2, 3; 1981 (Reg. Sess., 1982), c. 1258, s. 1; 1985 (Reg. Sess., 1986), c. 982, s. 24; 1991, c. 624, ss. 6, 7; c. 672, s. 7; c. 726, s. 23; 1993, c. 467, s. 2; 1993 (Reg. Sess., 1994), c. 761, s. 5; 2004-167, ss. 2, 3; 2004-199, s. 59; 2007-503, s. 1; 2008-190, s. 1; 2014-108, s. 2(a); 2015-108, s. 2; 2016-90, s. 7(a); 2017-96, s. 1.)

§ 20-66.1. Repealed by Session Laws 1973, c. 1389, s. 2.

§ 20-67. Notice of change of address or name.

(a) Address. – A person whose address changes from the address stated on a certificate of title or registration card must notify the Division of the change within 60 days after the change occurs. The person may obtain a duplicate certificate of title or registration card stating the new address but is not required to do so. A person who does not move but whose address changes due to governmental action may not be charged with violating this subsection.

(b) Name. – A person whose name changes from the name stated on a certificate of title or registration card must notify the Division of the change within 60 days after the change occurs. The person may obtain a duplicate certificate of title or registration card but is not required to do so.

(c) Fee. – G.S. 20-85 sets the fee for a duplicate certificate of title or registration card. (1937, c. 407, s. 31; 1955, c. 554, s. 4; 1975, c. 716, s. 5; 1979, c. 106; 1997-122, s. 7.)

§ 20-68. Replacement of lost or damaged certificates, cards and plates.

(a) In the event any registration card or registration plate is lost, mutilated, or becomes illegible, the owner or legal representative of the owner of the vehicle for which the same was issued, as shown by the records of the Division, shall immediately make application for and may obtain a duplicate or a substitute or a new registration under a new registration number, as determined to be most advisable by the Division, upon the applicant's furnishing under oath information satisfactory to the Division and payment of required fee.

(b) If a certificate of title is lost, stolen, mutilated, destroyed or becomes illegible, the first lienholder or, if none, the owner or legal representative of the owner named in the certificate, as shown by the records of the Division, shall promptly make application for and may obtain a duplicate upon furnishing information satisfactory to the Division. It shall be mailed to the first lienholder named in it or, if none, to the owner. The Division shall not issue a new certificate of title upon application made on a duplicate until 15 days after receipt of the application. A person recovering an original certificate of title for which a duplicate has been issued shall promptly surrender the original certificate to the Division. (1937, c. 407, s. 32; 1961, c. 360, s. 7; c. 835, s. 7; 1975, c. 716, s. 5.)

§ 20-69. Division authorized to assign new engine number.

The owner of a motor vehicle upon which the engine number or serial number has become illegible or has been removed or obliterated shall immediately make application to the Division for a new engine or serial number for such motor vehicle. The Division, when satisfied that the applicant is the lawful owner of the vehicle referred to in such application is hereby authorized to assign a new engine or serial number thereto, and shall require that such number, together with the name of this State, or a symbol indicating this State, be stamped upon the engine, or in the event such number is a serial number, then upon such portion of the motor vehicle as shall be designated by the Division. (1937, c. 407, s. 33; 1975, c. 716, s. 5.)

§ 20-70. Division to be notified when another engine is installed or body changed.

(a) Whenever a motor vehicle registered hereunder is altered by the installation of another engine in place of an engine, the number of which is shown in the registration records, or the installation of another body in place of a body, the owner of such motor vehicle shall immediately give notice to the Division in writing on a form prepared by it, which shall state the number of the former engine and the number of the newly installed engine, the registration number of the motor vehicle, the name of the owner and any other information which the Division may require. Whenever another engine has been substituted as provided in this section, and the notice given as required hereunder, the Division shall insert the number of the newly installed engine upon the registration card and certificate of title issued for such motor vehicle.

(b) Whenever a new engine or serial number has been assigned to and stamped upon a motor vehicle as provided in G.S. 20-69, or whenever a new engine has been installed or body

changed as provided in this section, the Division shall require the owner to surrender to the Division the registration card and certificate of title previously issued for said vehicle. The Division shall also require the owner to make application for a duplicate registration card and a duplicate certificate of title showing the new motor or serial number thereon or new style of body, and upon receipt of such application and fee, as for any other duplicate title, the Division shall issue to said owner a duplicate registration and a duplicate certificate of title showing thereon the new number in place of the original number or the new style of body.

(c) The notification and registration requirements contained in subsections (a) and (b) of this section regarding an engine change shall be required only if the motor vehicle into which a new engine is installed uses an engine number as the sole means to identify the vehicle. (1937, c. 407, s. 34; 1943, c. 726; 1975, c. 716, s. 5; 2009-405, s. 3.)

§ 20-71. Altering or forging certificate of title, registration card or application, a felony; reproducing or possessing blank certificate of title.

(a) Any person who, with fraudulent intent, shall alter any certificate of title, registration card issued by the Division, or any application for a certificate of title or registration card, or forge or counterfeit any certificate of title or registration card purported to have been issued by the Division under the provisions of this Article, or who, with fraudulent intent, shall alter, falsify or forge any assignment thereof, or who shall hold or use any such certificate, registration card, or application, or assignment, knowing the same to have been altered, forged or falsified, shall be guilty of a felony and upon conviction thereof shall be punished in the discretion of the court.

(b) It shall be unlawful for any person with fraudulent intent to reproduce or possess a blank North Carolina certificate of title or facsimile thereof. Any person, firm or corporation violating the provisions of this section shall be guilty of a Class I felony. (1937, c. 407, s. 35; 1959, c. 1264, s. 2; 1971, c. 99; 1975, c. 716, s. 5; 1979, c. 499; 1993, c. 539, s. 1251; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-71.1. Registration evidence of ownership; ownership evidence of defendant's responsibility for conduct of operation.

(a) In all actions to recover damages for injury to the person or to property or for the death of a person, arising out of an accident or collision involving a motor vehicle, proof of ownership of such motor vehicle at the time of such accident or collision shall be prima facie evidence that said motor vehicle was being operated and used with the authority, consent, and knowledge of the owner in the very transaction out of which said injury or cause of action arose.

(b) Proof of the registration of a motor vehicle in the name of any person, firm, or corporation, shall for the purpose of any such action, be prima facie evidence of ownership and that such motor vehicle was then being operated by and under the control of a person for whose conduct the owner was legally responsible, for the owner's benefit, and within the course and scope of his employment. (1951, c. 494; 1961, c. 975.)

Part 3A.
Salvage Titles.

§ 20-71.2. Declaration of purpose.

The titling of salvage motor vehicles constitutes a problem in North Carolina because members of the public are sometimes misled into believing a motor vehicle has not been

damaged by collision, fire, flood, accident, or other cause or that the vehicle has not been altered, rebuilt, or modified to such an extent that it impairs or changes the original components of the motor vehicle. It is therefore in the public interest that the Commissioner of Motor Vehicles issue rules to give public notice of the titling of such vehicles and to carry out the provisions of this Part of the motor vehicle laws of North Carolina. (1987, c. 607, s. 1.)

§ 20-71.3. Salvage and other vehicles – titles and registration cards to be branded.

(a) Motor vehicle certificates of title and registration cards issued pursuant to G.S. 20-57 shall be branded in accordance with this section.

As used in this section, "branded" means that the title and registration card shall contain a designation that discloses if the vehicle is classified as any of the following:

- (1) Salvage Motor Vehicle.
- (2) Salvage Rebuilt Vehicle.
- (3) Reconstructed Vehicle.
- (4) Flood Vehicle.
- (5) Non-U.S.A. Vehicle.
- (6) Any other classification authorized by law.

(a1) Any motor vehicle that is declared a total loss by an insurance company licensed and approved to conduct business in North Carolina, in addition to the designations noted in subsection (a) of this section, shall:

- (1) Have the title and registration card marked "TOTAL LOSS CLAIM".
- (2) Have a tamperproof permanent marker inserted into the doorjamb of that vehicle by the Division, at the time of the final inspection of the reconstructed vehicle, that states "TOTAL LOSS CLAIM VEHICLE". Should that vehicle be later reconstructed, repaired, or rebuilt, a permanent tamperproof marker shall be inserted in the doorjamb of the reconstructed, repaired, or rebuilt vehicle.

(b) Any motor vehicle up to and including six model years old damaged by collision or other occurrence, that is to be retitled in this State, shall be subject to preliminary and final inspections by the Enforcement Section of the Division. For purposes of this section, the term "six model years" shall be calculated by counting the model year of the vehicle's manufacture as the first model year and the current calendar year as the final model year.

These inspections serve as anti-theft measures and do not certify the safety or road-worthiness of a vehicle.

(c) The Division shall not retitle a vehicle described in subsection (b) of this section that has not undergone the preliminary and final inspections required by that subsection.

(d) Any motor vehicle up to and including six model years old that has been inspected pursuant to subsection (b) of this section may be retitled with an unbranded title based upon a title application by the rebuilder with a supporting affidavit disclosing all of the following:

- (1) The parts used or replaced.
- (2) The major components replaced.
- (3) The hours of labor and the hourly labor rate.
- (4) The total cost of repair.
- (5) The existence, if applicable, of the doorjamb "TOTAL LOSS CLAIM VEHICLE" marker.

The unbranded title shall be issued only if the cost of repairs, including parts and labor, does not exceed seventy-five percent (75%) of its fair market retail value.

(e) Any motor vehicle more than six model years old damaged by collision or other occurrence that is to be retitled by the State may be retitled, without inspection, with an unbranded title based upon a title application by the rebuilder with a supporting affidavit disclosing all of the following:

- (1) The parts used or replaced.
- (2) The major components replaced.
- (3) The hours of labor and the hourly labor rate.
- (4) The total cost of repair.
- (5) The existence, if applicable, of the doorjamb "TOTAL LOSS CLAIM VEHICLE" marker.
- (6) The cost to replace the air bag restraint system.

The unbranded title shall be issued only if the cost of repairs, including parts and labor and excluding the cost to replace the air bag restraint system, does not exceed seventy-five percent (75%) of its fair market retail value.

(f) The Division shall maintain the affidavits required by this section and make them available for review and copying by persons researching the salvage and repair history of the vehicle.

(g) Any motor vehicle that has been branded in another state shall be branded with the nearest applicable brand specified in this section, except that no junk vehicle or vehicle that has been branded junk in another state shall be titled or registered.

(h) A branded title for a salvage motor vehicle damaged by collision or other occurrence shall be issued as follows:

- (1) For motor vehicles up to and including six model years old, a branded title shall be issued if the cost of repairs, including parts and labor, exceeds seventy-five percent (75%) of its fair market value at the time of the collision or other occurrence.
- (2) For motor vehicles more than six model years old, a branded title shall be issued if the cost of repairs, including parts and labor and excluding the cost to replace the air bag restraint system, exceeds seventy-five percent (75%) of its fair market value at the time of the collision or other occurrence.

(i) Once the Division has issued a branded title for a motor vehicle all subsequent titles for that motor vehicle shall continue to reflect the branding.

(j) The Division shall prepare necessary forms and doorjamb marker specifications and may adopt rules required to carry out the provisions of this Part. (1987, c. 607, s. 1; 1987 (Reg. Sess., 1988), c. 1105, s. 2; 1989, c. 455, ss. 2, 3; 1989 (Reg. Sess., 1990), c. 916, s. 1; 1997-443, s. 32.26; 1998-212, s. 27.8(a); 2003-258, s. 1.)

§ 20-71.4. Failure to disclose damage to a vehicle shall be a misdemeanor.

- (a) It shall be unlawful for any transferor of a motor vehicle to do any of the following:
- (1) Transfer a motor vehicle up to and including five model years old when the transferor has knowledge that the vehicle has been involved in a collision or other occurrence to the extent that the cost of repairing that vehicle, excluding the cost to replace the air bag restraint system, exceeds twenty-five percent (25%) of its fair market retail value at the time of the collision or other

occurrence, without disclosing that fact in writing to the transferee prior to the transfer of the vehicle.

- (2) Transfer a motor vehicle when the transferor has knowledge that the vehicle is, or was, a flood vehicle, a reconstructed vehicle, or a salvage motor vehicle, without disclosing that fact in writing to the transferee prior to the transfer of the vehicle.

(a1) For purposes of this section, the term "five model years" shall be calculated by counting the model year of the vehicle's manufacture as the first model year and the current calendar year as the final model year. Failure to disclose any of the information required under subsection (a) of this section that is within the knowledge of the transferor will also result in civil liability under G.S. 20-348. The Commissioner may prepare forms to carry out the provisions of this section.

(b) It shall be unlawful for any person to remove the title or supporting documents to any motor vehicle from the State of North Carolina with the intent to conceal damage (or damage which has been repaired) occurring as a result of a collision or other occurrence.

(c) It shall be unlawful for any person to remove, tamper with, alter, or conceal the "TOTAL LOSS CLAIM VEHICLE" tamperproof permanent marker that is affixed to the doorjamb of any total loss claim vehicle. It shall be unlawful for any person to reconstruct a total loss claim vehicle and not include or affix a "TOTAL LOSS CLAIM VEHICLE" tamperproof permanent marker to the doorjamb of the rebuilt vehicle. Violation of this subsection shall constitute a Class I felony, punishable by a fine of not less than five thousand dollars (\$5,000) for each offense.

(d) Violation of subsections (a) and (b) of this section shall constitute a Class 2 misdemeanor.

(e) The provisions of this section shall not apply to a State agency that assists the United States Department of Defense with purchasing, transferring, or titling a vehicle to another State agency, a unit of local government, a volunteer fire department, or a volunteer rescue squad. (1987, c. 607, s. 1; 1987 (Reg. Sess., 1988), c. 1105, s. 3; 1989, c. 455, s. 4; 1989 (Reg. Sess., 1990), c. 916, s. 2; 1993, c. 539, s. 337; 1994, Ex. Sess., c. 24, s. 14(c); 1998-212, s. 27.8(b); 2003-258, s. 2; 2009-550, s. 2(a).)

Part 4. Transfer of Title or Interest.

§ 20-72. Transfer by owner.

(a) Whenever the owner of a registered vehicle transfers or assigns his title or interests thereto, he shall remove the license plates. The registration card and plates shall be forwarded to the Division unless the plates are to be transferred to another vehicle as provided in G.S. 20-64. If they are to be transferred to and used with another vehicle, then the endorsed registration card and the plates shall be retained and preserved by the owner. If such registration plates are to be transferred to and used with another vehicle, then the owner shall make application to the Division for assignment of the registration plates to such other vehicle under the provisions of G.S. 20-64. Such application shall be made within 20 days after the date on which such plates are last used on the vehicle to which theretofore assigned.

(b) In order to assign or transfer title or interest in any motor vehicle registered under the provisions of this Article, the owner shall execute in the presence of a person authorized to administer oaths an assignment and warranty of title on the reverse of the certificate of title in form approved by the Division, including in such assignment the name and address of the

transferee; and no title to any motor vehicle shall pass or vest until such assignment is executed and the motor vehicle delivered to the transferee. The provisions of this section shall not apply to any foreclosure or repossession under a chattel mortgage or conditional sales contract or any judicial sale. The provisions of this subsection shall not apply to (i) any transfer to an insurer pursuant to G.S. 20-109.1(b)(2) or (ii) any transfer to a used motor vehicle dealer pursuant to G.S. 20-109.1(e1).

When a manufacturer's statement of origin or an existing certificate of title on a motor vehicle is unavailable, a motor vehicle dealer licensed under Article 12 of this Chapter may also transfer title to another by certifying in writing in a sworn statement to the Division that all prior perfected liens on the vehicle have been paid and that the motor vehicle dealer, despite having used reasonable diligence, is unable to obtain the vehicle's statement of origin or certificate of title. The Division is authorized to develop a form for this purpose. The filing of a false sworn certification with the Division pursuant to this paragraph shall constitute a Class H felony.

Any person transferring title or interest in a motor vehicle shall deliver the certificate of title duly assigned in accordance with the foregoing provision to the transferee at the time of delivering the vehicle, except that where a security interest is obtained in the motor vehicle from the transferee in payment of the purchase price or otherwise, the transferor shall deliver the certificate of title to the lienholder and the lienholder shall forward the certificate of title together with the transferee's application for new title and necessary fees to the Division within 20 days. Any person who delivers or accepts a certificate of title assigned in blank shall be guilty of a Class 2 misdemeanor.

The title to a salvage vehicle shall be forwarded to the Division as provided in G.S. 20-109.1, except with respect to the title of any salvage vehicle transferred pursuant to G.S. 20-109.1(b)(2) or G.S. 20-109.1(e1).

(c) When the Division finds that any person other than the registered owner of a vehicle has in his possession a certificate of title to the vehicle on which there appears an endorsement of an assignment of title but there does not appear in the assignment any designation to show the name and address of the assignee or transferee, the Division shall be authorized and empowered to seize and hold said certificate of title until the assignor whose name appears in the assignment appears before the Division to complete the execution of the assignment or until evidence satisfactory to the Division is presented to the Division to show the name and address of the transferee. (1937, c. 407, s. 36; 1947, c. 219, ss. 4, 5; 1955, c. 554, ss. 5, 6; 1961, c. 360, s. 8; c. 835, s. 8; 1963, c. 552, ss. 3, 4; 1971, c. 678; 1973, c. 1095, s. 2; 1975, c. 716, s. 5; 1993, c. 539, s. 338; 1994, Ex. Sess., c. 24, s. 14(c); 2000-182, s. 4; 2013-400, s. 2.)

§ 20-73. New owner must get new certificate of title.

(a) **Time Limit.** – A person to whom a vehicle is transferred, whether by purchase or otherwise, must apply to the Division for a new certificate of title. An application for a certificate of title must be submitted within 28 days after the vehicle is transferred. A person who must follow the procedure in G.S. 20-76 to get a certificate of title and who applies for a title within the required 20-day time limit is considered to have complied with this section even when the Division issues a certificate of title to the person after the time limit has elapsed.

A person may apply directly for a certificate of title or may allow another person, such as the person from whom the vehicle is transferred or a person who has a lien on the vehicle, to apply for a certificate of title on that person's behalf. A person to whom a vehicle is transferred is

responsible for getting a certificate of title within the time limit regardless of whether the person allowed another to apply for a certificate of title on the person's behalf.

(b) Exceptions. – This section does not apply to any of the following:

- (1) A dealer or an insurance company to whom a vehicle is transferred when the transfer meets the requirements of G.S. 20-75.
- (2) A State agency that assists the United States Department of Defense with purchasing, transferring, or titling a vehicle to another State agency, a unit of local government, a volunteer fire department, or a volunteer rescue squad.

(c) Penalties. – A person to whom a vehicle is transferred who fails to apply for a certificate of title within the required time is subject to a civil penalty of twenty dollars (\$20.00) and is guilty of a Class 2 misdemeanor. A person who undertakes to apply for a certificate of title on behalf of another person and who fails to apply for a title within the required time is subject to a civil penalty of twenty dollars (\$20.00). When a person to whom a vehicle is transferred fails to obtain a title within the required time because a person who undertook to apply for the certificate of title did not do so within the required time, the Division may impose a civil penalty only on the person who undertook to apply for the title. Civil penalties collected under this subsection shall be credited to the Highway Fund. (1937, c. 407, s. 37; 1939, c. 275; 1947, c. 219, s. 6; 1961, c. 360, s. 9; 1975, c. 716, s. 5; 1991, c. 689, s. 332; 1993, c. 539, s. 339; 1994, Ex. Sess., c. 24, s. 14(c); 2005-276, s. 44.1(j); 2009-81, s. 1; 2009-550, s. 2(b); 2015-241, s. 29.30(i).)

§ 20-74. Penalty for making false statement about transfer of vehicle.

A dealer or another person who, in an application required by this Division, knowingly makes a false statement about the date a vehicle was sold or acquired shall be guilty of a Class 3 misdemeanor. (1937, c. 407, s. 38; 1939, c. 275; 1961, c. 360, s. 10; 1975, c. 716, s. 5; 1979, c. 801, s. 8; 1981, c. 690, s. 21; 1991, c. 689, s. 333; 1993, c. 539, s. 340; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-75. When transferee is dealer or insurance company.

When the transferee of a vehicle registered under this Article is:

- (1) A dealer who is licensed under Article 12 of this Chapter and who holds the vehicle for resale; or
- (2) An insurance company taking the vehicle for sale or disposal for salvage purposes where the title is taken or requested as a part of a bona fide claim settlement transaction and only for the purpose of resale,

the transferee shall not be required to register the vehicle nor forward the certificate of title to the Division as provided in G.S. 20-73.

To assign or transfer title or interest in the vehicle, the dealer or insurance company shall execute, in the presence of a person authorized to administer oaths, a reassignment and warranty of title on the reverse of the certificate of title in the form approved by the Division, which shall include the name and address of the transferee. The title to the vehicle shall not pass or vest until the reassignment is executed and the motor vehicle delivered to the transferee.

The dealer transferring title or interest in a motor vehicle shall deliver the certificate of title duly assigned in accordance with the foregoing provision to the transferee at the time of delivering the vehicle, except:

- (1) Where a security interest in the motor vehicle is obtained from the transferee in payment of the purchase price or otherwise, the dealer shall deliver the

certificate of title to the lienholder and the lienholder shall forward the certificate of title together with the transferee's application for new certificate of title and necessary fees to the Division within 20 days; or

- (2) Where the transferee has the option of cancelling the transfer of the vehicle within 10 days of delivery of the vehicle, the dealer shall deliver the certificate of title to the transferee at the end of that period. Delivery need not be made if the contract for sale has been rescinded in writing by all parties to the contract.

Any person who delivers or accepts a certificate of title assigned in blank shall be guilty of a Class 2 misdemeanor.

The title to a salvage vehicle shall be forwarded to the Division as provided in G.S. 20-109.1, except with respect to the title of any salvage vehicle transferred pursuant to G.S. 20-109.1(b)(2) or G.S. 20-109.1(e1). (1937, c. 407, s. 39; 1961, c. 835, s. 9; 1963, c. 552, s. 5; 1967, c. 760; 1973, c. 1095, s. 3; 1975, c. 716, s. 5; 1993, c. 440, s. 12; c. 539, s. 341; 1994, Ex. Sess., c. 24, s. 14(c); 1997-327, s. 2.1; 2013-400, s. 3.)

§ 20-75.1. Conditional delivery of motor vehicles.

Notwithstanding G.S. 20-52.1, 20-72, and 20-75, nothing contained in those sections prohibits a dealer from entering into a contract with any purchaser for the sale of a vehicle and delivering the vehicle to the purchaser under terms by which the dealer's obligation to execute the manufacturer's certificate of origin or the certificate of title is conditioned on the purchaser obtaining financing for the purchase of the vehicle. Liability, collision, and comprehensive insurance on a vehicle sold and delivered conditioned on the purchaser obtaining financing for the purchase of the vehicle shall be covered by the dealer's insurance policy until such financing is finally approved and execution of the manufacturer's certificate of origin or execution of the certificate of title. Upon final approval and execution of the manufacturer's certificate of origin or the certificate of title, and upon the purchaser having liability insurance on another vehicle, the delivered vehicle shall be covered by the purchaser's insurance policy beginning at the time of final financial approval and execution of the manufacturer's certificate of origin or the certificate of title. The dealer shall notify the insurance agency servicing the purchaser's insurance policy or the purchaser's insurer of the purchase on the day of, or if the insurance agency or insurer is not open for business, on the next business day following approval of the purchaser's financing and execution of the manufacturer's certificate of origin or the certificate of title. This subsection is in addition to any other provisions of law or insurance policies and does not repeal or supersede those provisions. (1993, c. 328, s. 1.)

§ 20-76. Title lost or unlawfully detained; bond as condition to issuance of new certificate.

(a) Whenever the applicant for the registration of a vehicle or a new certificate of title thereto is unable to present a certificate of title thereto by reason of the same being lost or unlawfully detained by one in possession, or the same is otherwise not available, the Division is hereby authorized to receive such application and to examine into the circumstances of the case, and may require the filing of affidavits or other information; and when the Division is satisfied that the applicant is entitled thereto and that G.S. 20-72 has been complied with, it is hereby authorized to register such vehicle and issue a new registration card, registration plate or plates and certificates of title to the person entitled thereto, upon payment of proper fees.

(b) Whenever the applicant for a new certificate of title is unable to satisfy the Division that he is entitled thereto as provided in subsection (a) of this section, the applicant may nevertheless obtain issuance of a new certificate of title by filing a bond with the Division as a condition to the issuance thereof. The bond shall be in the form prescribed by the Division and shall be executed by the applicant. It shall be accompanied by the deposit of cash with the Division, be executed as surety by a person, firm or corporation authorized to conduct a surety business in this State or be in the nature of a real estate bond as described in G.S. 20-279.24(a). The bond shall be in an amount equal to one and one-half times the value of the vehicle as determined by the Division and conditioned to indemnify any prior owner or lienholder, any subsequent purchaser of the vehicle or person acquiring any security interest therein, and their respective successors in interest, against any expense, loss or damage, reason of the issuance of the certificate of title to the vehicle or on account of any defect in or undisclosed security interest in the right, title and interest of the applicant in and to the vehicle. Any person damaged by issuance of the certificate of title shall have a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, and any deposit accompanying it, shall be returned at the end of three years or prior thereto if the vehicle is no longer registered in this State and the currently valid certificate of title is surrendered to the Division, unless the Division has been notified of the pendency of an action to recover on the bond.

(c) Whenever an applicant for the registration of a moped is unable to present a manufacturer's certificate of origin for the moped, the applicant must submit an affidavit stating why the applicant does not have the manufacturer's certificate of origin and attesting that the applicant is entitled to registration. Upon receipt of the application and accompanying affidavit, the Division shall issue the applicant a registration card and plate. The Division may not require the applicant to post a bond as required under subsection (b) of this section. A person damaged by issuance of the registration card does not have a right of action against the Division. (1937, c. 407, s. 40; 1947, c. 219, s. 7; 1961, c. 360, s. 11; c. 835, s. 10; 1975, c. 716, s. 5; 2014-114, s. 3.)

§ 20-77. Transfer by operation of law; sale under mechanic's or storage lien; unclaimed vehicles.

(a) Whenever the title or interest of an owner in or to a vehicle shall pass to another by operation of law, as upon order in bankruptcy, execution sale, repossession upon default in performing the terms of a lease or executory sales contract, or otherwise than by voluntary transfer, the transferee shall secure a new certificate of title upon proper application, payment of the fees provided by law, and presentation of the last certificate of title, if available and such instruments or documents of authority or certified copies thereof as may be sufficient or required by law to evidence or effect a transfer of interest in or to chattels in such cases.

(b) In the event of transfer as upon inheritance or devise, the Division shall, upon a receipt of a certified copy of a will, letters of administration and/or a certificate from the clerk of the superior court showing that the motor vehicle registered in the name of the decedent owner has been assigned to the owner's surviving spouse as part of the spousal year's allowance, transfer both title and license as otherwise provided for transfers. If a decedent dies intestate and no administrator has qualified or the clerk of superior court has not issued a certificate of assignment as part of the spousal year's allowance, or if a decedent dies testate with a small estate and leaving a purported will, which, in the opinion of the clerk of superior court, does not justify the expense of probate and administration and probate and administration is not

demanded by any interested party entitled by law to demand same, and provided that the purported will is filed in the public records of the office of the clerk of the superior court, the Division may upon affidavit executed by all heirs effect such transfer. The affidavit shall state the name of the decedent, date of death, that the decedent died intestate or testate and no administration is pending or expected, that all debts have been paid or that the proceeds from the transfer will be used for that purpose, the names, ages and relationship of all heirs and devisees (if there be a purported will), and the name and address of the transferee of the title. A surviving spouse may execute the affidavit and transfer the interest of the decedent's minor or incompetent children where such minor or incompetent does not have a guardian. A transfer under this subsection shall not affect the validity nor be in prejudice of any creditor's lien.

(c) **Mechanic's or Storage Lien.** – In any case where a vehicle is sold under a mechanic's or storage lien, or abandoned property, the Division shall be given a 20-day notice as provided in G.S. 20-114.

(d) An operator of a place of business for garaging, repairing, parking or storing vehicles for the public in which a vehicle remains unclaimed for 10 days, or the landowners upon whose property a motor vehicle has been abandoned for more than 30 days, shall, within five days after the expiration of that period, report the vehicle as unclaimed to the Division. Failure to make the report shall constitute a Class 3 misdemeanor. Persons who are required to make this report and who fail to do so within the time period specified may collect other charges due but may not collect storage charges for the period of time between when they were required to make this report and when they actually did send the report to the Division by certified mail.

Any vehicle which remains unclaimed after report is made to the Division may be sold by the operator or landowner in accordance with the provisions relating to the enforcement of liens and the application of proceeds of sale of Article 1 of Chapter 44A. The Division shall make all forms required by the Division to effectuate a sale under this subsection available on the Division's Web site, and the Division shall allow for the electronic submission of these forms. Any form required by the Division to effectuate a sale under this subsection that requires a signature may be submitted with an electronic signature in accordance with Article 40 of Chapter 66 of the General Statutes.

(e) Any person, who shall sell a vehicle to satisfy a mechanic's or storage lien or any person who shall sell a vehicle as upon order in bankruptcy, execution sale, repossession upon default in performing the terms of a lease or executory sales contract, or otherwise by operation of law, shall remove any license plates attached thereto and return them to the Division. (1937, c. 407, s. 41; 1943, c. 726; 1945, cc. 289, 714; 1955, c. 296, s. 1; 1959, c. 1264, s. 3; 1961, c. 360, ss. 12, 13; 1967, c. 562, s. 8; 1971, cc. 230, 512, 876; 1973, c. 1386, ss. 1, 2; c. 1446, s. 21; 1975, c. 438, s. 2; c. 716, s. 5; 1993, c. 539, s. 342; 1994, Ex. Sess., c. 24, s. 14(c); 1995 (Reg. Sess., 1996), c. 635, s. 1; 2003-336, s. 1; 2011-284, s. 14; 2017-57, s. 34.41(a).)

§ 20-78. When Division to transfer registration and issue new certificate; recordation.

(a) The Division, upon receipt of a properly endorsed certificate of title, application for transfer thereof and payment of all proper fees, shall issue a new certificate of title as upon an original registration. The Division, upon receipt of an application for transfer of registration plates, together with payment of all proper fees, shall issue a new registration card transferring and assigning the registration plates and numbers thereon as upon an original assignment of registration plates. The Division, upon receipt of an application for transfer thereof and payment

of all proper fees, but without receipt of a properly endorsed certificate of title, shall issue a salvage certificate of title pursuant to G.S. 20-109.1(b)(2) or G.S. 20-109.1(e1).

(b) The Division shall maintain a record of certificates of title issued by the Division for a period of 20 years. After 20 years, the Division shall maintain a record of the last two owners.

The Commissioner is hereby authorized and empowered to provide for the photographic or photostatic recording of certificate of title records in such manner as he may deem expedient. The photographic or photostatic copies herein authorized shall be sufficient as evidence in tracing of titles of the motor vehicles designated therein, and shall also be admitted in evidence in all actions and proceedings to the same extent that the originals would have been admitted. (1937, c. 407, s. 42; 1943, c. 726; 1947, c. 219, s. 8; 1961, c. 360, s. 14; 1971, c. 1070, s. 4; 1975, c. 716, s. 5; 1999-452, s. 15; 2013-400, s. 4.)

§ 20-78.1. Terminal rental adjustment clauses; vehicle leases that are not sales or security interests.

Notwithstanding any other provision of law, a lease transaction does not create a sale or security interest in a motor vehicle or trailer merely because the lease contains a terminal rental adjustment clause that provides that the rental price is permitted or required to be adjusted up or down by reference to the amount of money realized upon the sale or other disposition of the motor vehicle or trailer. (2011-223, s. 1.)

Part 5. Issuance of Special Plates.

§ 20-79. Dealer license plates.

(a) How to Get a Dealer Plate. – The Division may issue a person licensed under Article 12 of this Chapter the appropriate classification of dealer license plate. A person eligible for a dealer license plate may obtain one by filing an application with the Division and paying the required fee. An application must be filed on a form provided by the Division. The required fee is the amount set by G.S. 20-87(7).

(b) Number of Plates. – A dealer who was licensed under Article 12 of this Chapter for the previous 12-month period ending December 31 may obtain the number of dealer license plates allowed by the following table; the number allowed is based on the number of motor vehicles the dealer sold during the relevant 12-month period and the average number of qualifying sales representatives the dealer employed during that same 12-month period:

<u>Vehicles Sold In Relevant 12-Month Period</u>	<u>Maximum Number of Plates</u>
Fewer than 12	3
At least 12 but less than 25	6
At least 25 but less than 37	7
At least 37 but less than 49	8
49 or more	At least 8, but no more than 5 times the average number of qualifying sales representatives employed by the dealer during the relevant 12-month period.

A dealer who was not licensed under Article 12 of this Chapter for part or all of the previous 12-month period ending December 31 may obtain the number of dealer license plates that equals four times the number of qualifying sales representatives employed by the dealer on the date the dealer files the application. A "qualifying sales representative " is a sales representative who

works for the dealer at least 25 hours a week on a regular basis and is compensated by the dealer for this work.

A dealer who sold fewer than 49 motor vehicles the previous 12-month period ending December 31 but has sold at least that number since January 1 may apply for additional dealer license plates at any time. The maximum number of dealer license plates the dealer may obtain is the number the dealer could have obtained if the dealer had sold at least 49 motor vehicles in the previous 12-month period ending December 31.

A dealer who applies for a dealer license plate must certify to the Division the number of motor vehicles the dealer sold in the relevant period. Making a material misstatement in an application for a dealer license plate is grounds for the denial, suspension, or revocation of a dealer's license under G.S. 20-294.

A dealer engaged in the alteration and sale of specialty vehicles may apply for up to two dealer plates in addition to the number of dealer plates that the dealer would otherwise be entitled to under this section.

This subsection does not apply to manufacturers licensed under Article 12 of this Chapter.

(c) Form and Duration. – A dealer license plate is subject to G.S. 20-63, except for the requirement that the plate display the registration number of a motor vehicle and the requirement that the plate be a "First in Flight " plate or a "First in Freedom " plate. A dealer license plate must have a distinguishing symbol identifying the plate as a dealer license plate. The symbol may vary depending upon the classification of dealer license plate issued. The Division must provide suitably reduced sized license plates for motorcycle dealers and manufacturers.

A dealer license plate is issued for a period of one year. The Division shall vary the expiration dates of dealer registration renewals so that an approximately equal number expires at the end of each month, quarter, or other period consisting of one or more months. A dealer license plate may be transferred from one vehicle to another. When the Division issues a dealer plate, it may issue a registration that expires at the end of any monthly interval. When one of the following occurs, a dealer must surrender to the Division all dealer license plates issued to the dealer:

- (1) The dealer surrenders the license issued to the dealer under Article 12 of this Chapter.
- (2) The Division suspends or revokes the license issued to the dealer under Article 12 of this Chapter.
- (3) The Division rescinds the dealer license plates because of a violation of the restrictions on the use of a dealer license plate.

To obtain a dealer license plate after it has been surrendered, the dealer must file a new application for a dealer license plate and pay the required fee for the plate.

(d) **(Effective until December 31, 2018)** Restrictions on Use. – A dealer license plate may be displayed only on a motor vehicle that meets all of the following requirements:

- (1) Is part of the inventory of the dealer.
- (2) Is not consigned to the dealer.
- (3) Is covered by liability insurance that meets the requirements of Article 9A of this Chapter.
- (4) Is not used by the dealer in another business in which the dealer is engaged.
- (5) Is driven on a highway by a person who meets one of the following descriptions:

- a. Has a demonstration permit to test-drive the motor vehicle and carries the demonstration permit while driving the motor vehicle.
 - b. Is an officer or sales representative of the dealer and is driving the vehicle for a business purpose of the dealer.
 - c. Is an employee of the dealer and is driving the vehicle in the course of employment.
 - d. Is an employee of the dealer or of a contractor of the dealer and is driving the vehicle within a 20-mile radius of a place where the vehicle is being repaired or otherwise prepared for sale.
 - e. Is an employee of the dealer or of a contractor of the dealer and is transporting the vehicle to or from a vehicle auction or to the dealer's established salesroom.
 - f. Is an officer, sales representative, or other employee of an independent or franchised motor vehicle dealer or is an immediate family member of an officer, sales representative, or other employee of an independent or franchised motor vehicle dealer.
- (6) A copy of the registration card for the dealer plate issued to the dealer is carried by the person operating the motor vehicle or, if the person is operating the motor vehicle in this State, the registration card is maintained on file at the dealer's address listed on the registration card, and the registration card must be able to be produced within 24 hours upon request of any law enforcement officer.

A dealer may issue a demonstration permit for a motor vehicle to a person licensed to drive that type of motor vehicle. A demonstration permit authorizes each person named in the permit to drive the motor vehicle described in the permit for up to 96 hours after the time the permit is issued. A dealer may, for good cause, renew a demonstration permit for one additional 96-hour period. A franchised motor vehicle dealer is not prohibited from using a demonstration permit pursuant to this subsection by reason of the dealer's receipt of incentive or warranty compensation or other reimbursement or consideration from a manufacturer, factory branch, distributor, distributor branch or from a third-party warranty, maintenance, or service contract company relating to the use of the vehicle as a demonstrator or service loaner.

A dealer may not lend, rent, lease, or otherwise place a dealer license plate at the disposal of a person except as authorized by this subsection.

(d) **(Effective December 31, 2018)** Restrictions on Use. – A dealer license plate may be displayed only on a motor vehicle that meets all of the following requirements:

- (1) Is part of the inventory of the dealer.
- (2) Is not consigned to the dealer.
- (3) Is covered by liability insurance that meets the requirements of Article 9A of this Chapter.
- (4) Is not used by the dealer in another business in which the dealer is engaged.
- (5) Is driven on a highway by a person who meets one of the following descriptions:
 - a. Has a demonstration permit to test-drive the motor vehicle and carries the demonstration permit while driving the motor vehicle.
 - b. Is an officer or sales representative of the dealer and is driving the vehicle for a business purpose of the dealer.

- c. Is an employee of the dealer and is driving the vehicle in the course of employment.
 - d. Is an employee of the dealer or of a contractor of the dealer and is driving the vehicle within a 20-mile radius of a place where the vehicle is being repaired or otherwise prepared for sale.
 - e. Is an employee of the dealer or of a contractor of the dealer and is transporting the vehicle to or from a vehicle auction or to the dealer's established salesroom.
 - f. Is an officer, sales representative, or other employee of an independent or franchised motor vehicle dealer or is an immediate family member of an officer, sales representative, or other employee of an independent or franchised motor vehicle dealer.
- (6) A copy of the registration card for the dealer plate issued to the dealer is carried by the person operating the motor vehicle or, if the person is operating the motor vehicle in this State, the registration card is maintained on file at the dealer's address listed on the registration card, and the registration card must be able to be produced within 24 hours upon request of any law enforcement officer.

A dealer may issue a demonstration permit for a motor vehicle to a person licensed to drive that type of motor vehicle. A demonstration permit authorizes each person named in the permit to drive the motor vehicle described in the permit for up to 96 hours after the time the permit is issued. A dealer may, for good cause, renew a demonstration permit for one additional 96-hour period.

A dealer may not lend, rent, lease, or otherwise place a dealer license plate at the disposal of a person except as authorized by this subsection.

(e) Sanctions. – The following sanctions apply when a motor vehicle displaying a dealer license plate is driven in violation of the restrictions on the use of the plate:

- (1) The individual driving the motor vehicle is responsible for an infraction and is subject to a penalty of one hundred dollars (\$100.00).
- (2) The dealer to whom the plate is issued is subject to a civil penalty imposed by the Division of two hundred fifty dollars (\$250.00).
- (3) The Division may rescind all dealer license plates issued to the dealer whose plate was displayed on the motor vehicle.

A penalty imposed under subdivision (1) of this subsection is payable to the county where the infraction occurred, as required by G.S. 14-3.1. A civil penalty imposed under subdivision (2) of this subsection shall be credited to the Highway Fund as nontax revenue.

(f) Transfer of Dealer Registration. – No change in the name of a firm, partnership or corporation, nor the taking in of a new partner, nor the withdrawal of one or more of the firm, shall be considered a new business; but if any one or more of the partners remain in the firm, or if there is change in ownership of less than a majority of the stock, if a corporation, the business shall be regarded as continuing and the dealers' plates originally issued may continue to be used.

(g) Penalties. – The clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by the Department of Transportation pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(h) Definition. – For purposes of this section, the term "dealer" means a person who is licensed under Article 12 of this Chapter. (1937, c. 407, s. 43; 1947, c. 220, s. 2; 1949, c. 583, s.

3; 1951, c. 985, s. 2; 1959, c. 1264, s. 3.5; 1961, c. 360, s. 15; 1975, c. 716, s. 5; 1979, c. 239; c. 612, s. 1; 1985, c. 764, s. 21; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1989, c. 770, s. 74.1(a); 1993, c. 321, s. 169.4; c. 440, s. 2; c. 539, s. 343; 1993 (Reg. Sess., 1994), c. 697, ss. 1, 2; c. 761, s. 6; 1994, Ex. Sess., c. 24, s. 14(c); 1997-335, s. 1; 2001-212, s. 1; 2004-167, s. 4; 2004-199, s. 59; 2005-276, s. 6.37(q); 2007-291, s. 1; 2007-481, s. 1; 2010-132, s. 5; 2011-318, s. 2; 2014-100, s. 34.28(b); 2015-232, s. 1.4(a); 2015-264, s. 42(b); 2016-90, s. 13.5.)

§ 20-79.01. Special sports event temporary license plates.

(a) Application. – A dealer who is licensed under Article 12 of this Chapter and who agrees to loan to another for use at a special sports event a vehicle that could display a dealer license plate if driven by an officer or employee of the dealer may obtain a temporary special sports event license plate for that vehicle by filing an application with the Division and paying the required fee. A "special sports event" is a sports event that is held no more than once a year and is open to the public. An application must be filed on a form provided by the Division and contain the information required by the Division. The fee for a temporary special sports event license plate is five dollars (\$5.00).

(b) Form and Duration. – A temporary special sports event license plate must state on the plate the date it was issued, the date it expires, and the make, model, and serial number of the vehicle for which it is issued. A temporary special sports event license plate may be issued for no more than 45 days. The dealer to whom the plate is issued must destroy the plate on or before the date it expires.

(c) Restrictions on Use. – A temporary special sports event license plate may be displayed only on the vehicle for which it is issued. A vehicle displaying a temporary special sports event license plate may be driven by anyone who is licensed to drive the type of vehicle for which the plate is issued and may be driven for any purpose. (1993, c. 440, s. 13.)

§ 20-79.02. Loaner/Dealer "LD" license plate for franchised dealer loaner vehicles.

(a) Application; Fee. – A franchised motor vehicle dealer, as defined in G.S. 20-286(8b) and licensed in accordance with Article 12 of this Chapter, who agrees to loan, with or without charge, a new motor vehicle owned by the dealer to a customer of the dealer who is having his or her vehicle serviced by the dealer, may obtain a Loaner/Dealer "LD" license plate for the vehicle by filing an application with the Division and paying the required fee. Receipt by a franchised motor vehicle dealer of compensation or other consideration from a manufacturer, distributor, manufacturer branch, distributor branch, third-party warranty, maintenance or service contract company, or other third-party source related to a vehicle, including, but not limited to, incentive compensation or reimbursement for maintenance, repairs, or other work performed on the vehicle, does not prevent the franchised motor vehicle dealer from receiving an LD license plate for the vehicle. An application must be filed on a form provided by the Division and contain the information required by the Division. The annual fee for an LD license plate is two hundred dollars (\$200.00) per 12 calendar months.

(b) Number of Plates. – There is no limit on the number of LD license plates that a franchised motor vehicle dealer may be issued, provided that the applicable annual fee for each plate is paid.

(c) Form and Duration. – An LD license plate is subject to G.S. 20-63, except for the requirement that the plate display the registration number of a motor vehicle and the requirement that the plate be a "First in Flight" or "First in Freedom" plate. An LD license plate must have a

distinguishing symbol identifying the plate as an LD license plate. Subject to the limitations in this section, an LD license plate may continue in existence perpetually and may be transferred to other vehicles in the dealer's loaner fleet when the vehicle on which the LD license plate is displayed has been sold or leased to a third party or otherwise removed from the dealer's loaner fleet.

(d) Restrictions on Use. – The following restrictions apply with regard to the use and display of an LD license plate:

- (1) An LD license plate may be displayed only on a motor vehicle that meets all of the following requirements:
 - a. Is part of the inventory of a franchised motor vehicle dealer.
 - b. Is not consigned to the franchised motor vehicle dealer or affiliate.
 - c. Is covered by liability insurance that meets the requirements of Article 9A of this Chapter; provided, however, that nothing herein prevents or prohibits a franchised motor vehicle dealer from contractually shifting the risk of loss and insurance requirements contained in Article 9A of this Chapter to an individual or entity to which a vehicle is loaned.
 - d. Is not used by the franchised motor vehicle dealer in another business in which the dealer is engaged.
 - e. Is driven on a highway by a customer of the franchised motor vehicle dealer who is having a vehicle serviced or repaired by the dealer.
- (2) The person operating the motor vehicle must carry a copy of the assignment by the franchised motor vehicle dealer and a copy of the registration card for the LD license plate issued to the franchised motor vehicle dealer, or, if the person is operating the motor vehicle in this State, the registration card must be maintained on file at the franchised motor vehicle dealer's address listed on the registration card, and the registration card must be able to be produced within 24 hours upon request of a law enforcement officer.
- (3) A vehicle displaying an LD license plate may be driven only by a person who is licensed to drive the type of motor vehicle for which the plate is issued.
- (4) An LD license plate may be displayed only on the motor vehicle for which it has been assigned by the franchised motor vehicle dealer.
- (5) The franchised motor vehicle dealer to whom an LD license plate is issued is responsible for completing and maintaining documentation prescribed by the Division relating to the assignment of each motor vehicle on which an LD license plate is displayed to a customer of the franchised dealer.

(e) Penalties. – A driver of a motor vehicle or a franchised motor vehicle dealer who violates a restriction on the use or display of an LD license plate as set out in subsection (d) of this section is subject to the penalties listed in this subsection. The clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. The penalties are as follows:

- (1) The driver of the motor vehicle who violates a restriction on the use or display of an LD license plate is responsible for an infraction and is subject to a penalty of one hundred dollars (\$100.00).
- (2) A franchised motor vehicle dealer to whom the plate is issued who violates a restriction on the use or display of an LD license plate is subject to an

infraction and is subject to a penalty of two hundred fifty dollars (\$250.00). The Division may rescind all LD license plates issued to the franchised motor vehicle dealer for knowing repeated violations of subsection (d) of this section.

(f) Transfer of Dealer Registration. – A change in the name of a firm, partnership, or corporation is not considered a new business, and the franchised motor vehicle dealer's LD license plates may continue to be used.

(g) Applicability. – Prior to January 1, 2019, a new motor vehicle dealer may, but is not required to, display an LD license plate on a service loaner vehicle. Beginning on or after January 1, 2019, a new motor vehicle dealer shall display an LD license plate on any new motor vehicle placed into service as a loaner vehicle if either of the following circumstances exists:

- (1) The new motor vehicle dealer is receiving incentive or warranty compensation from a manufacturer, factory branch, distributor, or distributor branch for the use of the vehicle as a service loaner.
- (2) The new motor vehicle dealer is receiving a fee or other compensation from the dealer's customers for the use of the vehicle as a service loaner. (2015-232, s. 1.3(a).)

§ 20-79.1. Use of temporary registration plates or markers by purchasers of motor vehicles in lieu of dealers' plates.

(a) The Division may, subject to the limitations and conditions hereinafter set forth, deliver temporary registration plates or markers designed by said Division to a dealer duly registered under the provisions of this Article who applies for at least 25 such plates or markers and who encloses with such application a fee of one dollar (\$1.00) for each plate or marker for which application is made. Such application shall be made upon a form prescribed and furnished by the Division. Dealers, subject to the limitations and conditions hereinafter set forth, may issue such temporary registration plates or markers to owners of vehicles, provided that such owners shall comply with the pertinent provisions of this section.

(b) Every dealer who has made application for temporary registration plates or markers shall maintain in permanent form a record of all temporary registration plates or markers delivered to him, and shall also maintain in permanent form a record of all temporary registration plates or markers issued by him, and in addition thereto, shall maintain in permanent form a record of any other information pertaining to the receipt or the issuance of temporary registration plates or markers that the Division may require. Each record shall be kept for a period of at least one year from the date of entry of such record. Every dealer shall allow full and free access to such records during regular business hours, to duly authorized representatives of the Division and to peace officers.

(c) Every dealer who issues temporary registration plates or markers shall also issue a temporary registration certificate upon a form furnished by the Division and deliver it with the registration plate or marker to the owner.

(d) A dealer shall:

- (1) Not issue, assign, transfer, or deliver temporary registration plates or markers to anyone other than a bona fide purchaser or owner of a vehicle which he has sold.

- (2) Not issue a temporary registration plate or marker without first obtaining from the purchaser or owner a written application for titling and registration of the vehicle and the applicable fees.
- (3) Within 10 working days, mail or deliver the application and fees to the Division or deliver the application and fees to a local license agency for processing. Delivery need not be made if the contract for sale has been rescinded in writing by all parties to the contract.
- (4) Not deliver a temporary registration plate to anyone purchasing a vehicle that has an unexpired registration plate that is to be transferred to the purchaser.
- (5) Not lend to anyone, or use on any vehicle that he may own, any temporary registration plates or markers.

A dealer may issue temporary markers, without obtaining the written application for titling and registration or collecting the applicable fees, to nonresidents for the purpose of removing the vehicle from the State.

(e) Every dealer who issues temporary plates or markers shall write clearly and indelibly on the face of the temporary registration plate or marker:

- (1) The dates of issuance and expiration;
- (2) The make, motor number, and serial numbers of the vehicle; and
- (3) Any other information that the Division may require.

It shall be unlawful for any person to issue a temporary registration plate or marker containing any misstatement of fact or to knowingly write any false information on the face of the plate or marker.

(f) If the Division finds that the provisions of this section or the directions of the Division are not being complied with by the dealer, the Division may suspend, after a hearing, the right of a dealer to issue temporary registration plates or markers. Nothing in this section shall be deemed to require a dealer to collect or receive property taxes from any person.

(g) Every person to whom temporary registration plates or markers have been issued shall permanently destroy such temporary registration plates or markers immediately upon receiving the limited registration plates or the annual registration plates from the Division: Provided, that if the limited registration plates or the annual registration plates are not received within 30 days of the issuance of the temporary registration plates or markers, the owner shall, notwithstanding, immediately upon the expiration of such 30-day period, permanently destroy the temporary registration plates or markers.

(h) Temporary registration plates or markers shall expire and become void upon the receipt of the limited registration plates or the annual registration plates from the Division, or upon the rescission of a contract to purchase a motor vehicle, or upon the expiration of 30 days from the date of issuance, depending upon whichever event shall first occur. No refund or credit or fees paid by dealers to the Division for temporary registration plates or markers shall be allowed, except in the event that the Division discontinues the issuance of temporary registration plates or markers or unless the dealer discontinues business. In this event the unissued registration plates or markers with the unissued registration certificates shall be returned to the Division and the dealer may petition for a refund. Upon the expiration of the 30 days from the date of issuance, a second 30-day temporary registration plate or marker may be issued by the dealer upon showing the vehicle has been sold, a temporary lien has been filed as provided in G.S. 20-58, and that the dealer, having used reasonable diligence, is unable to obtain the vehicle's statement of origin or certificate of title so that the lien may be perfected.

(i) A temporary registration plate or marker may be used on the vehicle for which issued only and may not be transferred, loaned, or assigned to another. In the event a temporary registration plate or marker or temporary registration certificate is lost or stolen, the owner shall permanently destroy the remaining plate or marker or certificate and no operation of the vehicle for which the lost or stolen registration certificate, registration plate or marker has been issued shall be made on the highways until the regular license plate is received and attached thereto.

(j) The Commissioner of Motor Vehicles shall have the power to make such rules and regulations, not inconsistent herewith, as he shall deem necessary for the purpose of carrying out the provisions of this section.

(k) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 shall apply in like manner to temporary registration plates or markers as is applicable to nontemporary plates. (1957, c. 246, s. 1; 1963, c. 552, s. 8; 1975, c. 716, s. 5; 1985, c. 95; c. 263; 1997-327, ss. 1, 2; 2000-182, s. 5; 2007-471, s. 1; 2009-445, s. 25(a); 2010-95, s. 22(d); 2013-414, s. 70(c).)

§ 20-79.1A. Limited registration plates.

(a) Eligibility. – A limited registration plate is issuable to any of the following:

(1) A person who applies, either directly or through a dealer licensed under Article 12 of this Chapter, for a title to a motor vehicle and a registration plate for the vehicle and who submits payment for the applicable title and registration fees but does not submit payment for any municipal corporation property taxes on the vehicle. A person who submits payment for municipal corporation property taxes receives an annual registration plate.

(2) A person who applies for a plate for a vehicle that was previously registered with the Division but whose registration has not been current for at least a year because the plate for the vehicle was surrendered or the vehicle's registration expired over a year ago.

(b) Form and Authorization. – A limited registration plate must be clearly and visibly designated as "temporary." The plate expires on the last day of the second month following the date of application of the limited registration plate. The plate may be used only on the vehicle for which it is issued and may not be transferred, loaned, or assigned to another. If the plate is lost or stolen, the vehicle for which the plate was issued may not be operated on a highway until a replacement limited registration plate or a regular license plate is received and attached to the vehicle.

(c) Registration Certificate. – The Division is not required to issue a registration certificate for a limited registration plate. A combined tax and registration notice issued under G.S. 105-330.5 serves as the registration certificate for the plate. (2007-471, s. 2; 2009-445, ss. 24(b), 25(a); 2010-95, ss. 22(c), (d); 2013-414, s. 70(b), (c); 2014-3, s. 14.24.)

§ 20-79.2. Transporter plates.

(a) Who Can Get a Plate. – The Division may issue a transporter plate authorizing the limited operation of a motor vehicle in the circumstances listed in this subsection. A person who receives a transporter plate must have proof of financial responsibility that meets the requirements of Article 9A of this Chapter. The person to whom a transporter plate may be issued and the circumstances in which the vehicle bearing the plate may be operated are as follows:

- (1) To a business or a dealer to facilitate the manufacture, construction, rebuilding, or delivery of new or used truck cabs or bodies between manufacturer, dealer, seller, or purchaser.
- (2) To a financial institution that has a recorded lien on a motor vehicle to repossess the motor vehicle.
- (3) To a dealer or repair facility to pick up and deliver a motor vehicle that is to be repaired, is to undergo a safety or emissions inspection, or is to otherwise be prepared for sale by a dealer, to road-test the vehicle, if it is repaired or inspected within a 20-mile radius of the place where it is repaired or inspected, and to deliver the vehicle to the dealer. A repair facility may not receive more than two transporter plates for this purpose.
- (4) To a business that has at least 10 registered vehicles to move a motor vehicle that is owned by the business and is a replaced vehicle offered for sale.
- (5) To a dealer or a business that contracts with a dealer and has a business privilege license to take a motor vehicle either to or from a motor vehicle auction where the vehicle will be or was offered for sale. The title to the vehicle, a bill of sale, or written authorization from the dealer or auction must be inside the vehicle when the vehicle is operated with a transporter plate.
- (6) To a business or dealer to road-test a repaired truck whose GVWR is at least 15,000 pounds when the test is performed within a 10-mile radius of the place where the truck was repaired and the truck is owned by a person who has a fleet of at least five trucks whose GVWRs are at least 15,000 pounds and who maintains the place where the truck was repaired.
- (7) To a business or dealer to move a mobile office, a mobile classroom, or a mobile or manufactured home, or to transport a newly manufactured travel trailer, fifth-wheel trailer, or camping trailer between a manufacturer and a dealer. Any transporter plate used under this subdivision may not be used on the power unit.
- (8) To a business to drive a motor vehicle that is registered in this State and is at least 35 years old to and from a parade or another public event and to drive the motor vehicle in that event. A person who owns one of these motor vehicles is considered to be in the business of collecting those vehicles.
- (9) To a dealer to drive a motor vehicle that is part of the inventory of a dealer to and from a motor vehicle trade show or exhibition or to, during, and from a parade in which the motor vehicle is used.
- (10) To drive special mobile equipment in any of the following circumstances:
 - a. From the manufacturer of the equipment to a facility of a dealer.
 - b. From one facility of a dealer to another facility of a dealer.
 - c. From a dealer to the person who buys the equipment from the dealer.

(b) How to Get a Plate. – A business or a dealer may obtain a transporter plate by filing an application with the Division and paying the required fee. An application must be on a form provided by the Division and contain the information required by the Division. The fee for a transporter plate is one-half the fee set in G.S. 20-87(5) for a passenger motor vehicle of not more than 15 passengers.

(b1) Number of Plates. – The total number of Dealer-Transporter or dealer plates issued to a dealer may not exceed the total number of plates that can be issued to the dealer under G.S.

20-79(b). Transporter plates issued to a dealer shall bear the words "Dealer-Transporter." This subsection does not apply to a person who is not a dealer.

(b2) Sanctions. – The following sanctions apply when a motor vehicle displaying a "Dealer-Transporter" or "Transporter" license plate is driven in violation of the restrictions on the use of the plate or of the requirement to have proof of financial responsibility:

- (1) The individual driving the motor vehicle is responsible for an infraction and is subject to a penalty of one hundred dollars (\$100.00).
- (2) The dealer or business to whom the plate is issued is subject to a civil penalty imposed by the Division of two hundred fifty dollars (\$250.00) per occurrence.
- (3) The Division may rescind all dealer license plates, dealer transporter plates, or transporter plates issued to the dealer or business whose plate was displayed on the motor vehicle.
- (4) A person who sells, rents, leases, or otherwise provides a transporter plate to another person in exchange for the money or any other thing of value is guilty of a Class I felony. A conviction for a violation of this subdivision is considered a felony involving moral turpitude for purposes of G.S. 20-294.

A penalty imposed under subdivision (1) of this subsection is payable to the county where the infraction occurred, as required by G.S. 14-3.1. A civil penalty imposed under subdivision (2) of this subsection shall be credited to the Highway Fund as nontax revenue. A law enforcement officer having probable cause to believe that a transporter plate is being used in violation of this section may seize the plate.

(c) Form, Duration, and Transfer. – A transporter plate is subject to G.S. 20-63, except for the requirement that the plate display the registration number of a motor vehicle and the requirement that the plate be a "First in Flight" plate or a "First in Freedom" plate. A transporter plate shall have a distinguishing symbol identifying the plate as a transporter plate. The symbol may vary depending upon the classification of transporter plate issued. A transporter plate is issued for a period of one year. The Division shall vary the expiration dates of transporter registration renewals so that an approximately equal number expires at the end of each month, quarter, or other period consisting of one or more months. When the Division issues a transporter plate, it may issue a registration that expires at the end of any monthly interval. During the year for which it is issued, a business or dealer may transfer a transporter plate from one vehicle to another as long as the vehicle is driven only for a purpose authorized by subsection (a) of this section. The Division must rescind a transporter plate that is displayed on a motor vehicle driven for a purpose that is not authorized by subsection (a) of this section.

(d) County. – A county may obtain one transporter plate, without paying a fee, by filing an application with the Division on a form to be provided by the Division. A transporter plate issued pursuant to this subsection may only be used to transport motor vehicles as part of a program established by the county to receive donated motor vehicles and make them available to low-income individuals.

If a motor vehicle is operated on the highways of this State using a transporter plate authorized by this section, all of the following requirements shall be met:

- (1) The driver of the vehicle shall have in his or her possession the certificate of title for the motor vehicle, which has been properly reassigned by the previous owner to the county or the affected donor program.

- (2) The vehicle shall be covered by liability insurance that meets the requirements of Article 9A of this Chapter.

The form and duration of the transporter plate shall be as provided in subsection (c) of this section.

(e) Any vehicle being operated on the highways of this State using a transporter plate shall have proof of financial responsibility that meets the requirement of Article 9A of this Chapter. (1961, c. 360, s. 21; 1969, c. 600, s. 1; 1975, c. 222; 1979, c. 473, ss. 1, 2; c. 627, ss. 1-3; 1981, c. 727, ss. 1, 2; 1983, c. 426; 1987, c. 520; 1993, c. 440, s. 4; 1995, c. 50, s. 1; 1997-335, s. 2; 2001-147, s. 1; 2010-132, s. 6; 2014-100, s. 34.28(c).)

§ 20-79.3: Repealed by Session Laws 1993, c. 440, s. 5.

§ 20-79.3A. Requirements to establish a special registration plate.

(a) **Minimum Number of Paid Applications.** – An applicant under this section is a person, organization, or other legal entity seeking authorization to establish a special registration plate for a motor vehicle or a motorcycle. An applicant must obtain the minimum number of paid applications from potential purchasers before submitting a Special Registration Plate Development Application to the Division. A "paid application" means an application completed by a potential purchaser and submitted to the applicant requesting purchase of the special registration plate being proposed by the applicant plus payment of the proposed additional fee amount. The minimum number of paid applications is as follows:

- (1) 300 for a special registration plate on a standard background described in G.S. 20-63(b).
- (2) 500 for a special registration plate on a background authorized under G.S. 20-63(b1).

(b) **Application.** – An applicant must submit all of the items listed in this subsection to the Division by February 15 in order for a bill authorizing the special registration plate to be considered for approval during the legislative session being held that year. The Division shall consider an application received after February 15 for approval in the legislative session that begins in the year following the submission date. The application items must include:

- (1) A completed Special Registration Plate Development Application.
- (2) A fee equal to number of paid applications received by the applicant, which shall be no less than the minimum number of paid applications required under subsection (a) of this section, multiplied by the proposed additional fee amount stated on the Special Registration Plate Development Application submitted by the applicant.

(c) **Report to General Assembly.** – On or before March 15 of each year, the Division shall submit to the Chairs of the House and Senate Transportation Committees, the Chairs of the House and Senate Finance Committees, and the Research Division of the General Assembly a report that identifies each applicant that has applied for a special registration plate to be authorized in the legislative session being held that year and indicates whether the applicant met the requirements of this section. If an applicant meets the requirements of this section, then a bill may be considered during the legislative session being held that year to authorize a special registration plate for the applicant that submitted the application.

(d) **Legislative Approval.** – If a special registration plate requested under this section is approved by law, the applicant must submit all of the following items to the Division no later 60

days after the act approving the plate becomes law. If the applicant fails to timely submit the items required under this subsection, the authorization for the special registration plate shall expire in accordance with G.S. 20-79.8(a1). The items to be submitted are:

- (1) The final artwork for the plate. The Division must review the artwork to ensure it complies with the standardized format established by G.S. 20-79.4(a3).
- (2) A list of purchasers who submitted to the applicant a paid application for the special registration plate and any additional fees submitted by potential purchasers to the applicant after submission of the Special Registration Plate Development Application.

(e) Legislative Disapproval. – If the special registration plate is not authorized in the legislative session in which the authorization was sought, the Division shall refund to the applicant the fee submitted under subdivision (2) of subsection (b) of this section.

(f) Issuance. – Within 180 days after receipt of the requester's design and the minimum number of paid applications, the Division shall issue the special registration plate. (2014-96, s. 3(a).)

§ 20-79.4. Special registration plates.

(a) General. – Upon application and payment of the required registration fees, a person may obtain from the Division a special registration plate for a motor vehicle registered in that person's name if the person qualifies for the registration plate. A holder of a special registration plate who becomes ineligible for the plate, for whatever reason, must return the special plate within 30 days. A special registration plate may not be issued for a vehicle registered under the International Registration Plan. A special registration plate may be issued for a commercial vehicle that is not registered under the International Registration Plan. A special registration plate may not be developed using a name or logo for which a trademark has been issued unless the holder of the trademark licenses, without charge, the State to use the name or logo on the special registration plate.

(a1) Qualifying for a Special Plate. – In order to qualify for a special plate, an applicant shall meet all of the qualifications set out in this section. The Division of Motor Vehicles shall verify the qualifications of an individual to whom any special plate is issued to ensure only qualified applicants receive the requested special plates.

(a2) Special Plates Based Upon Military Service. – The Department of Military and Veterans Affairs shall be responsible for verifying and maintaining all verification documentation for all special plates that are based upon military service. The Department shall not issue a special plate that is based on military service unless the application is accompanied by a motor vehicle registration (MVR) verification form signed by the Secretary of Military and Veterans Affairs, or the Secretary's designee, showing that the Department of Military and Veterans Affairs has verified the applicant's credentials and qualifications to hold the special plate applied for.

- (1) Unless a qualifying condition exists requiring annual verification, no additional verification shall be required to renew a special registration plate either in person or through an online service.
- (2) If the Department of Military and Veterans Affairs determines a special registration plate has been issued due to an error on the part of the Division of Motor Vehicles, the plate shall be recalled and canceled.

- (3) If the Department of Military and Veterans Affairs determines a special registration plate has been issued to an applicant who falsified documents or has fraudulently applied for the special registration plate, the Division of Motor Vehicles shall revoke the special plate and take appropriate enforcement action.

(a3) The Division shall develop, in consultation with the State Highway Patrol and the Division of Adult Correction and Juvenile Justice, a standardized format for special license plates. The format shall allow for the name of the State and the license plate number to be reflective and to contrast with the background so it may be easily read by the human eye and by cameras installed along roadways as part of tolling and speed enforcement. A designated segment of the plate shall be set aside for unique design representing various groups and interests. Nothing in this subsection shall be construed to require the recall of existing special license plates.

(b) Types. – The Division shall issue the following types of special registration plates:

- (1) 82nd Airborne Division Association Member. – Issuable to a member of the 82nd Airborne Division Association, Inc. The plate shall bear the insignia of the 82nd Airborne Division Association, Inc. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.
- (2) Administrative Officer of the Courts. – Issuable to the Director of the Administrative Office of the Courts. The plate shall bear the phrase "J-20".
- (3) AIDS Awareness. – Expired July 1, 2016.
- (4) Air Medal Recipient. – Issuable to the recipient of the Air Medal. The plate shall bear the emblem of the Air Medal and the words "Air Medal".
- (5) Alpha Kappa Alpha Sorority. – Issuable to the registered owner of a motor vehicle. The plate shall bear the sorority's symbol and name. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.
- (6) Alpha Phi Alpha Fraternity. – Expired July 1, 2016.
- (7) ALS Research. – Expired July 1, 2016.
- (8) Alternative Fuel Vehicles. – Expired July 1, 2016.
- (9) Amateur Radio Operator. – Issuable to an amateur radio operator who holds an unexpired and unrevoked amateur radio license issued by the Federal Communications Commission and who asserts to the Division that a portable transceiver is carried in the vehicle. The plate shall bear the phrase "Amateur Radio". The plate shall bear the operator's official amateur radio call letters, or call letters with numerical or letter suffixes so that an owner of more than one vehicle may have the call letters on each.
- (10) American Legion. – Issuable to a member of the American Legion. The plate shall bear the words "American Legion" and the emblem of the American Legion. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.
- (11) American Red Cross. – Expired July 1, 2016.
- (12) Animal Lovers. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a picture of a dog and cat and the phrase "I Care."

- (13) ARC of North Carolina. – Expired July 1, 2016.
- (14) Armed Forces Expeditionary Medal Recipient. – Expired July 1, 2016.
- (15) Arthritis Foundation. – Expired July 1, 2016.
- (16) ARTS NC. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "The Creative State" with a logo designed by ARTS North Carolina, Inc.
- (17) Audubon North Carolina. – Expired July 1, 2016.
- (18) Autism Society of North Carolina. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Autism Society of North Carolina", and the logo of the Autism Society.
- (19) Aviation Maintenance Technician. – Expired July 1, 2016.
- (20) Back Country Horsemen of North Carolina. – Expired July 1, 2016.
- (21) Battle of Kings Mountain. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Battle of Kings Mountain" with a representation of Kings Mountain on it. The plate authorized by this subdivision is not subject to the provisions of G.S. 20-79.3A or G.S. 20-79.8.
- (22) Be Active NC. – Expired July 1, 2016.
- (23) Big Rock Blue Marlin Tournament. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the words "Big Rock Blue Marlin Tournament" and include a representation of a blue marlin.
- (24) Blue Knights. – Expired July 1, 2016.
- (25) Boy Scouts of America. – Expired July 1, 2016.
- (26) Brain Injury Awareness. – Expired July 1, 2016.
- (27) Breast Cancer Awareness. – Issuable to the registered owner of a motor vehicle. The plate shall bear the phrase "Early Detection Saves Lives" and a representation of a pink ribbon. The Division must receive 300 or more applications for the plate before it may be developed.
- (28) Breast Cancer Earlier Detection. – Expired July 1, 2016.
- (29) Brenner Children's Hospital. – Expired July 1, 2016.
- (30) Bronze Star Recipient. – Issuable to a recipient of the Bronze Star. The plate shall bear the emblem of the Bronze Star and the words "Bronze Star".
- (31) Bronze Star Valor Recipient. – Issuable to a recipient of the Bronze Star Medal for valor in combat. The plate shall bear the emblem of the Bronze Star with a "Combat V" emblem and the words "Bronze Star." To be eligible for this plate, the applicant must provide documentation that the medal was issued for valor in combat.
- (32) Buddy Pelletier Surfing Foundation. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the words "Buddy Pelletier Surfing Foundation" and bear the logo of the Foundation.
- (33) Buffalo Soldiers. – Expired July 1, 2016.
- (34) Carolina Panthers. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Keep

Pounding", the logo of the Carolina Panthers, and the letters "CP". The Division shall not develop a plate under this subdivision without a license to use copyrighted or registered words, symbols, trademarks, or designs associated with the plate. The Division shall not pay a royalty for the license to use the copyrighted or registered words, symbols, trademarks, or designs associated with the plate. The plate authorized by this subdivision is not subject to the provisions of G.S. 20-79.3A or G.S. 20-79.8.

- (35) Carolina Raptor Center. – Expired July 1, 2016.
- (36) Carolina Regional Volleyball Association. – Expired July 1, 2016.
- (37) Carolina's Aviation Museum. – Expired July 1, 2016.
- (38) Carolinas Credit Union Foundation. – Expired July 1, 2016.
- (39) Carolinas Golf Association. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Carolinas Golf Association" and an emblem of the Carolinas Golf Association.
- (40) Celebrate Adoption. – Expired July 1, 2016.
- (41) Charlotte Checkers. – Expired July 1, 2016.
- (42) Childhood Cancer Awareness. – Expired July 1, 2016.
- (43) Choose Life. – Issuable to a registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Choose Life."
- (44) Civic Club. – Issuable to a member of a nationally recognized civic organization whose member clubs in the State are exempt from State corporate income tax under G.S. 105-130.11(a)(5). Examples of these clubs include Jaycees, Kiwanis, Optimist, Rotary, Ruritan, and Shrine. The plate shall bear a word or phrase identifying the civic club and the emblem of the civic club. A person may obtain from the Division a special registration plate under this subdivision for the registered owner of a motor vehicle or a motorcycle. The registration fees and the restrictions on the issuance of a specialized registration plate for a motorcycle are the same as for any motor vehicle. The Division may not issue a civic club plate authorized by this subdivision unless it receives at least 300 applications for that civic club plate.
- (45) Civil Air Patrol Member. – Issuable to an active member of the North Carolina Wing of the Civil Air Patrol. The plate shall bear the phrase "Civil Air Patrol". A plate issued to an officer member shall begin with the number "201" and the number shall reflect the seniority of the member; a plate issued to an enlisted member, a senior member, or a cadet member shall begin with the number "501".
- (46) Class D Citizen's Radio Station Operator. – Issuable to a Class D citizen's radio station operator. For an operator who has been issued Class D citizen's radio station call letters by the Federal Communications Commission, the plate shall bear the operator's official Class D citizen's radio station call letters. For an operator who has not been issued Class D citizen's radio station call letters by the Federal Communications Commission, the plate shall bear the phrase "Citizen's Band Radio".
- (47) Clerk of Superior Court. – Expired July 1, 2016.

- (48) Coast Guard Auxiliary Member. – Issuable to an active member of the United States Coast Guard Auxiliary. The plate shall bear the phrase "Coast Guard Auxiliary".
- (49) Coastal Conservation Association. – Expired July 1, 2016.
- (50) Coastal Land Trust. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Coastal Land Trust" with a logo designed by the North Carolina Coastal Land Trust.
- (51) Cold War Veteran. – Expired July 1, 2016.
- (52) Collegiate Insignia Plate. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing a public or private college or university.
- (53) Colorectal Cancer Awareness. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear (i) the phrase "It Takes a Warrior to Battle Cancer!" across the top of the plate, (ii) a symbol on the left side of the plate of a blue ribbon with two wings that are colored blue, grey, and black, (iii) the phrase "Blue Ribbon Warrior" above the symbol, (iv) the phrase "Colorectal Cancer Awareness" below the symbol, and (v) the letters "CC" on the right side of the plate. The plate authorized under this subdivision is not subject to G.S. 20-79.3A(c) or the deadline set forth in G.S. 20-79.3A(b).
- (54) Combat Infantry Badge Recipient. – Expired July 1, 2016.
- (55) Combat Veteran. – Expired July 1, 2016.
- (56) Commercial Fishing. – Expired July 1, 2016.
- (57) Concerned Bikers Association/ABATE of North Carolina. – Expired July 1, 2016.
- (58) Corvette Club. – Expired July 1, 2016.
- (59) County Commissioner. – Issuable to a county commissioner of a county in this State. The plate shall bear the words "County Commissioner" followed first by a number representing the commissioner's county and then by a letter or number that distinguishes plates issued to county commissioners of the same county. The number of a county shall be the order of the county in an alphabetical list of counties that assigns number one to the first county in the list and a letter or number to distinguish different cars owned by the county commissioners in that county. The plate authorized by this subdivision is not subject to the provisions of G.S. 20-79.3A or G.S. 20-79.8.
- (60) Crystal Coast. – Expired July 1, 2016.
- (61) Daniel Stowe Botanical Garden. – Expired July 1, 2016.
- (62) Daughters of the American Revolution. – Expired July 1, 2016.
- (63) Delta Sigma Theta Sorority. – Issuable to the registered owner of a motor vehicle. The plate shall bear the sorority's name and symbol. The Division must receive 300 or more applications for the plate before it may be developed.
- (64) Disabled Veteran. – Issuable to a veteran of the Armed Forces of the United States who suffered a 100% service-connected disability.

- (65) Distinguished Flying Cross. – Issuable to a recipient of the Distinguished Flying Cross. The plate shall bear the emblem of the Distinguished Flying Cross and the words "Distinguished Flying Cross".
- (66) District Attorney. – Issuable to a North Carolina or United States District Attorney. The plate issuable to a North Carolina district attorney shall bear the letters "DA" followed by a number that represents the prosecutorial district the district attorney serves. The plate for a United States attorney shall bear the phrase "U.S. Attorney" followed by a number that represents the district the attorney serves, with 1 being the Eastern District, 2 being the Middle District, and 3 being the Western District.
- (67) Donate Life. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Donate Life" with a logo designed by Donate Life North Carolina.
- (68) Don't Tread on Me. – Expired July 1, 2016.
- (69) Ducks Unlimited. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the logo of Ducks Unlimited, Inc., and shall bear the words: "Ducks Unlimited".
- (70) E-911 Telecommunicator. – Expired July 1, 2016.
- (71) Eagle Scout. – Issuable to a young man who has been certified as an Eagle Scout by the Boy Scouts of America, or to his parents or guardians. The plate shall bear the insignia of the Boy Scouts of America and shall bear the words "Eagle Scout". The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.
- (72) El Pueblo. – Expired July 1, 2016.
- (73) Emergency Medical Technician. – Expired July 1, 2016.
- (74) Farmland Preservation. – Expired July 1, 2016.
- (75) Fire Department or Rescue Squad Member. – Issuable to an active regular member or volunteer member of a fire department, rescue squad, or both a fire department and rescue squad. The plate shall bear the words "Firefighter", "Rescue Squad", or "Firefighter-Rescue Squad".
- (76) First in Forestry. – Issuable to the registered owner of a motor vehicle. The plate shall bear the words "First in Forestry". The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.
- (77) First in Turf. – Expired July 1, 2016.
- (78) First Tee. – Expired July 1, 2016.
- (79) Flag of the United States of America. – Expired July 1, 2016.
- (80) Fox Hunting. – Expired July 1, 2016.
- (81) Fraternal Order of Police. – The plate authorized by this subdivision shall bear a representation of the Fraternal Order of Police emblem containing the letters "FOP". The Division must receive 300 applications for the plate before it may be developed. The plate is issuable to one of the following:
 - a. A person who presents proof of active membership in the State Lodge, Fraternal Order of Police for the year in which the license plate is sought.

- b. The surviving spouse of a person who was a member of the State Lodge, Fraternal Order of Police, so long as the surviving spouse continues to renew the plate and does not remarry.
- (82) Future Farmers of America. – Expired July 1, 2016.
 - (83) Girl Scout Gold Award recipient. – Expired July 1, 2016.
 - (84) Girl Scouts. – Expired July 1, 2016.
 - (85) Gold Star Lapel Button. – Issuable to the recipient of the Gold Star lapel button. The plate shall bear the emblem of the Gold Star lapel button and the words "Gold Star".
 - (86) Goodness Grows. – Expired July 1, 2016.
 - (87) Greensboro Symphony Guild. – Expired July 1, 2016.
 - (88) Greyhound Friends of North Carolina. – Expired July 1, 2016.
 - (89) Guilford Battleground Company. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Revolutionary" used by the Guilford Battleground Company and an image that depicts General Nathaniel Greene.
 - (90) Harley Owners' Group. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall be designed in consultation with and approved by the Harley-Davidson Motor Company, Inc., and shall bear the words and trademark of the "Harley Owners' Group".
 - (91) High Point Furniture Market 100th Anniversary. – Expired July 1, 2016.
 - (92) High School Insignia Plate. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing a public high school in North Carolina.
 - (93) Historic Vehicle Owner. – Issuable for a motor vehicle that is at least 35 years old measured from the date of manufacture. The plate for an historic vehicle shall bear the word "Antique" unless the vehicle is a model year 1943 or older. The plate for a vehicle that is a model year 1943 or older shall bear the word "Antique" or the words "Horseless Carriage", at the option of the vehicle owner.
 - (94) Historical Attraction Plate. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing a publicly owned or nonprofit historical attraction located in North Carolina.
 - (95) Hollerin'. – Expired July 1, 2016.
 - (96) Home Care and Hospice. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Home Care and Hospice" and the letters "HH" on the right side of the plate.
 - (97) Home of American Golf. – Expired July 1, 2016.
 - (98) HOMES4NC Plate. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear "HOMES4NC", the logo of the North Carolina Association of Realtors Housing Opportunity Foundation, and shall be developed in conjunction with that organization. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

- (99) Honorary Plate. – Issuable to a member of the Honorary Consular Corps, who has been certified by the U. S. State Department, the plate shall bear the words "Honorary Consular Corps" and a distinguishing number based on the order of issuance.
- (100) Hospice Care. – Expired July 1, 2016.
- (101) I.B.P.O.E.W. – Expired July 1, 2016.
- (102) I Support Teachers. – Expired July 1, 2016.
- (103) In God We Trust. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "In God We Trust."
- (104) International Association of Fire Fighters. – The plate authorized by this subdivision shall bear the logo of the International Association of Fire Fighters. The Division may not issue the plate unless it receives at least 300 applications for the plate. The plate is issuable to one of the following:
 - a. A person who presents proof of active membership in the International Association of Fire Fighters for the year in which the license plate is sought.
 - b. The surviving spouse of a person who was a member of the International Association of Fire Fighters, so long as the surviving spouse continues to renew the plate and does not remarry.
- (105) Jaycees. – Expired July 1, 2016.
- (106) Judge or Justice. – Issuable to a sitting or retired judge or justice in accordance with G.S. 20-79.6.
- (107) Juvenile Diabetes Research Foundation. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Juvenile Diabetes Research" and the "sneaker" logo of the nonprofit group Juvenile Diabetes Research Foundation International, Inc.
- (108) Kappa Alpha Order. – Expired July 1, 2016.
- (109) Kappa Alpha Psi Fraternity. – Issuable to the registered owner of a motor vehicle who is a member of the Kappa Alpha Psi Fraternity. The plate shall bear the fraternity's symbol and name. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.
- (110) Kick Cancer for Kids. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the words "Kick Cancer for Kids" and a representation of a gold ribbon with children's handprints surrounding the ribbon.
- (111) Kids First. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear the phrase "Kids First" and a logo of children's hands.
- (112) Legion of Merit. – Issuable to a recipient of the Legion of Merit award. The plate shall bear the emblem and name of the Legion of Merit decoration.
- (113) Legion of Valor. – Issuable to a recipient of one of the following military decorations: the Congressional Medal of Honor, the Distinguished Service Cross, the Navy Cross, the Air Force Cross, or the Coast Guard Cross. The plate shall bear the emblem and name of the recipient's decoration.

- (114) Legislator. – Issuable to a member of the North Carolina General Assembly. The plate shall bear "The Great Seal of the State of North Carolina" and, as appropriate, the word "Senate" or "House" followed by the Senator's or Representative's assigned seat number.
- (115) Leukemia & Lymphoma Society. – Expired July 1, 2016.
- (116) Lifetime Sportsman. – Expired July 1, 2016.
- (117) Litter Prevention. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase and picture appropriate to the subject of litter prevention in North Carolina.
- (118) Lung Cancer Research. – Expired July 1, 2016.
- (119) Maggie Valley Trout Festival. – Expired July 1, 2016.
- (120) Magistrate. – Issuable to a current or retired North Carolina magistrate. A plate issued to a current magistrate shall bear the letters "MJ" followed by a number indicating the district court district the magistrate serves, then by a hyphen, and then by a number indicating the seniority of the magistrate. The Division shall use the number "9" to designate District Court Districts 9 and 9B. A plate issued to a retired magistrate shall bear the phrase "Magistrate, Retired", the letters "MJX" followed by a hyphen and the number that indicates the district court district the magistrate served, followed by a letter based on the order of issuance of the plates.
- (121) March of Dimes. – Expired July 1, 2016.
- (122) Marine Corps League. – Issuable to a member of the Marine Corps League. The plate shall bear the words "Marine Corps League" or the letters "MCL" and the emblem of the Marine Corps League. The Division may not issue the plate authorized by this subdivision unless it receives at least 150 applications for the plate.
- (123) Marshal. – Issuable to a United States Marshal. The plate shall bear the phrase "U.S. Marshal" followed by a number that represents the district the Marshal serves, with 1 being the Eastern District, 2 being the Middle District, and 3 being the Western District.
- (124) Mayor. – Expired July 1, 2016.
- (125) Military Reservist. – Issuable to a member of a reserve component of the Armed Forces of the United States. The plate shall bear the name and insignia of the appropriate reserve component. Plates shall be numbered sequentially for members of a component with the numbers 1 through 5000 reserved for officers, without regard to rank.
- (126) Military Retiree. – Issuable to an individual who has retired from the Armed Forces of the United States. The plate shall bear the word "Retired" and the name and insignia of the branch of service from which the individual retired.
- (127) Military Veteran. – Issuable to an individual who served honorably in the Armed Forces of the United States. The plate shall bear the words "U.S. Military Veteran" and the name and insignia of the branch of service in which the individual served. The plate authorized by this subdivision is not subject to the provisions of G.S. 20-79.3A or G.S. 20-79.8.
- (128) Military Wartime Veteran. – Issuable to either a member or veteran of the Armed Forces of the United States who served during a period of war who

received a campaign or expeditionary ribbon or medal for their service. If the person is a veteran of the Armed Forces of the United States, then the veteran must be separated from the Armed Forces of the United States under honorable conditions. The plate shall bear a word or phrase identifying the period of war and a replica of the campaign badge or medal awarded for that war. The Division may not issue the plate authorized by this subdivision unless it receives a total of 300 applications for all periods of war, combined, to be represented on this plate. A "period of war" is any of the following:

- a. World War I, meaning the period beginning April 16, 1917, and ending November 11, 1918.
- b. World War II, meaning the period beginning December 7, 1941, and ending December 31, 1946.
- c. The Korean Conflict, meaning the period beginning June 27, 1950, and ending January 31, 1955.
- d. The Vietnam Era, meaning the period beginning August 5, 1964, and ending May 7, 1975.
- e. Desert Storm, meaning the period beginning August 2, 1990, and ending April 11, 1991.
- f. Operation Enduring Freedom, meaning the period beginning October 24, 2001, and ending at a date to be determined.
- g. Operation Iraqi Freedom, meaning the period beginning March 19, 2003, and ending at a date to be determined.
- h. Any other campaign, expedition, or engagement for which the United States Department of Defense authorizes a campaign badge or medal.

(129) Mission Foundation. – Expired July 1, 2016.

(130) Morehead Planetarium. – Expired July 1, 2016.

(131) Morgan Horse Club. – Expired July 1, 2016.

(132) Mothers Against Drunk Driving. – Expired July 1, 2016.

(133) Mountains-to-Sea Trail. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Mountains-to-Sea Trail" with a background designed by the Friends of the Mountains-to-Sea Trail, Inc.

(134) Municipal Council. – Expired July 1, 2016.

(135) Municipality Plate. – Expired July 1, 2016.

(136) National Defense Service Medal. – Expired July 1, 2016.

(137) National Guard Member. – Issuable to an active or a retired member of the North Carolina National Guard. The plate shall bear the phrase "National Guard". A plate issued to an active member shall bear a number that reflects the seniority of the member; a plate issued to a commissioned officer shall begin with the number "1"; a plate issued to a noncommissioned officer with a rank of E7, E8, or E9 shall begin with the number "1601"; a plate issued to an enlisted member with a rank of E6 or below shall begin with the number "3001". The plate issued to a retired or separated member shall indicate the member's retired status.

(138) National Kidney Foundation. – Expired July 1, 2016.

(139) National Law Enforcement Officers Memorial. – Expired July 1, 2016.

- (140) National Multiple Sclerosis Society. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall have the logo of the National Multiple Sclerosis Society and the telephone number "1-800-FIGHT MS" on the plate.
- (141) National Rifle Association. – Issuable to the registered owner of a motor vehicle. The plate shall bear a phrase or insignia representing the National Rifle Association of America. The Division must receive 300 or more applications for the plate before it may be developed.
- (142) National Wild Turkey Federation. – Issuable to the registered owner of a motor vehicle. The plate shall bear the design of a strutting wild turkey and dogwood blossoms and the words "Working For The Wild Turkey." The Division must receive 300 or more applications for the plate before it may be developed.
- (143) Native American. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing Native Americans. The Division must receive 300 or more applications for the plate before it may be developed.
- (144) Native Brook Trout. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Native Brook Trout" with a picture of a brook trout native to North Carolina in the background.
- (145) NC Agribusiness. – Expired July 1, 2016.
- (146) NCAMCCACC Clerk. – Expired July 1, 2016.
- (147) NC Beekeepers. – Expired July 1, 2016.
- (148) NC Children's Promise. – Expired July 1, 2016.
- (149) NC Civil War. – Expired July 1, 2016.
- (150) NC Coastal Federation. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a phrase used by the North Carolina Coastal Federation and an image that depicts the coastal area of the State.
- (151) NC FIRST Robotics. – Expired July 1, 2016.
- (152) NC Fisheries Association. – Expired July 1, 2016.
- (153) NC Horse Council. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "NC Horse Council" and a logo designed by the North Carolina Horse Council, Inc.
- (154) NC Mining. – Expired July 1, 2016.
- (155) NCSC. – Expired July 1, 2016.
- (156) NC Surveyors. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Following In Their Footsteps", a picture representing a surveyor, and the letters "PS" on the right side of the plate.
- (157) NC Tennis Foundation. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Play Tennis" and the image of an implement of the tennis sport.

- (158) NC Trout Unlimited. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Back the Brookie" and an image that depicts a North Carolina brook trout.
- (159) NC Veterinary Medical Association. – Expired July 1, 2016.
- (160) NC Victim Assistance Network. – Expired July 1, 2016.
- (161) NC Wildlife Federation. – Expired July 1, 2016.
- (162) NC Youth Soccer Association. – Expired July 1, 2016.
- (163) North Carolina 4-H Development Fund. – Expired July 1, 2016.
- (164) North Carolina Bluegrass Association. – Expired July 1, 2016.
- (165) North Carolina Cattlemen's Association. – Expired July 1, 2016.
- (166) North Carolina Emergency Management Association. – Expired July 1, 2016.
- (167) North Carolina Green Industry Council. – Expired July 1, 2016.
- (168) North Carolina Libraries. – Expired July 1, 2016.
- (169) North Carolina Master Gardener. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the letters "MG" with a logo representing the North Carolina Master Gardeners.
- (170) North Carolina Paddle Festival. – Expired July 1, 2016.
- (171) North Carolina Sheriffs' Association. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase and logo selected by the North Carolina Sheriffs' Association, Inc.
- (172) North Carolina State Flag. – Expired July 1, 2016.
- (173) North Carolina Wildlife Habitat Foundation. – Issuable to the owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the logo of the North Carolina Wildlife Habitat Foundation on the left side. The numbers or other writing on the plate shall be black and the border shall be black. The plate shall be developed by the Division in consultation with and approved by the North Carolina Wildlife Habitat Foundation. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.
- (174) Nurses. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20- 81.12. The plate shall bear the phrase "First in Nursing" and a representation relating to nursing.
- (175) Olympic Games. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or insignia representing the Olympic Games.
- (176) Omega Psi Phi Fraternity. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the fraternity's symbol and name.
- (177) Operation Coming Home. – Expired July 1, 2016.
- (178) Order of the Long Leaf Pine. – Issuable to a person who has received the award of membership in the Order of the Long Leaf Pine from the Governor. The plate shall bear the phrase "Order of the Long Leaf Pine."
- (179) Outer Banks Preservation Association. – Expired July 1, 2016.
- (180) Pamlico-Tar River Foundation. – Expired July 1, 2016.
- (181) Pancreatic Cancer Awareness. – Expired July 1, 2016.
- (182) Paramedics. – Expired July 1, 2016.

- (183) Partially Disabled Veteran. – Issuable to a veteran of the Armed Forces of the United States who suffered a service connected disability of less than 100%.
- (184) Pearl Harbor Survivor. – Issuable to a veteran of the Armed Forces of the United States who was present at and survived the attack on Pearl Harbor on December 7, 1941. The plate will bear the phrase "Pearl Harbor Survivor" and the insignia of the Pearl Harbor Survivors' Association.
- (185) P.E.O. Sisterhood. – Expired July 1, 2016.
- (186) Personalized. – Issuable to the registered owner of a motor vehicle. The plate will bear the letters or letters and numbers requested by the owner. The Division may refuse to issue a plate with a letter combination that is offensive to good taste and decency. The Division may not issue a plate that duplicates another plate.
- (187) Piedmont Airlines. – This plate is issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate authorized by this subdivision shall bear the phrase "PA" and the Piedmont Speed Bird logo.
- (188) Pisgah Conservancy. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear (i) the phrase "The Pisgah Conservancy", (ii) a representation of Looking Glass Rock and rhododendron flowers, and (iii) a background of a blue sky.
- (189) POWIA. – Expired July 1, 2016.
- (190) Prince Hall Mason. – This plate is issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Prince Hall Mason" and a picture of the Masonic symbol.
- (191) Prisoner of War. – Issuable to the following:
 - a. A member or veteran member of the Armed Forces of the United States who has been captured and held prisoner by forces hostile to the United States while serving in the Armed Forces of the United States.
 - b. The surviving spouse of a person who had a prisoner of war plate at the time of death so long as the surviving spouse continues to renew the plate and does not remarry.
- (192) Professional Engineer. – Expired July 1, 2016.
- (193) Professional Sports Fan. – Issuable to the registered owner of a motor vehicle. The plate shall bear the logo of a professional sports team located in North Carolina. The Division shall receive 300 or more applications for a professional sports fan plate before a plate may be issued.
- (194) Prostate Cancer Awareness. – Expired July 1, 2016.
- (195) Purple Heart Recipient. – Issuable to a recipient of the Purple Heart award. The plate shall bear the phrase "Purple Heart Veteran, Combat Wounded." A person may obtain from the Division a special registration plate under this subdivision for the registered owner of a motor vehicle or a motorcycle. A motorcycle plate issued under this subdivision shall bear a depiction of the Purple Heart Medal and the phrase "Purple Heart Veteran, Combat Wounded."
- (196) Red Drum. – Expired July 1, 2016.
- (197) Red Hat Society. – Expired July 1, 2016.

- (198) Register of Deeds. – Issuable to a register of deeds of a county of this State. The plate shall bear the words "Register of Deeds" and the letter "R" followed by a number representing the county of the register of deeds. The number of a county shall be the order of the county in an alphabetical list of counties that assigns number one to the first county in the list. A plate issued to a retired register of deeds shall bear the phrase "Register of Deeds, Retired," followed by a number that indicates the county where the register of deeds served and a designation indicating the retired status of the register of deeds. For purposes of this subdivision, a "retired register of deeds" is a person (i) with at least 10 years of service as a register of deeds of a county of this State and (ii) who no longer holds that office for any reason other than removal under G.S. 161-27.
- (199) Relay for Life. – Expired July 1, 2016.
- (200) Retired Law Enforcement Officers. – The plate authorized by this subdivision shall bear the phrase "Retired Law Enforcement Officer " and a representation of a law enforcement badge. The Division must receive 300 or more applications for the plate before it may be developed. The plate is issuable to one of the following:
- a. A retired law enforcement officer presenting to the Division, along with the application for the plate, a copy of the officer's retired identification card or letter of retirement.
 - b. The surviving spouse of a person who had a retired law enforcement officer plate at the time of death so long as the surviving spouse continues to renew the plate and does not remarry.
- (201) Retired Legislator. – Issuable to a retired member of the North Carolina General Assembly in accordance with G.S. 20-81.12. A person who has served in the North Carolina General Assembly is a retired member for purposes of this subdivision. The plate shall bear "The Great Seal of the State of North Carolina" and, as appropriate, the phrase "Retired Senate Member" or "Retired House Member" followed by a number representing the retired member's district with the letters "RM". If more than one retired member is from the same district, then the number shall be followed by a letter from A through Z. The plates shall be issued in the order applications are received.
- (202) Retired State Highway Patrol. – The plate authorized by this subdivision shall bear the phrase "SHP, Retired." The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate. The plate is issuable to one of the following:
- a. An individual who has retired from the North Carolina State Highway Patrol, presenting to the Division, along with the application for the plate, a copy of the retiree's retired identification card or letter of retirement.
 - b. The surviving spouse of a person who had retired from the State Highway Patrol who, along with the application for the plate, presents a copy of the deceased retiree's identification card or letter of retirement and certifies in writing that the retiree is deceased and that the applicant is not remarried.
- (203) RiverLink. – Expired July 1, 2016.

- (204) Rocky Mountain Elk Foundation. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Rocky Mountain Elk Foundation" and a logo approved by the Rocky Mountain Elk Foundation, Inc.
- (205) Ronald McDonald House. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "House and Hands" with the words "Ronald McDonald House Charities" below the emblem and the letters "RH".
- (206) Save the Honey Bee (HB). – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Save the Honey Bee", a picture representing a honey bee, and the letters "HB" on the right side of the plate.
- (207) Save the Honey Bee (SB). – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Save the Honey Bee", a picture representing a honey bee on a blue flower inside of a hexagon, a honeycomb background, and the letters "SB" on the right side of the plate.
- (208) Save the Sea Turtles. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear the phrase "Save the Sea Turtles" and a representation related to sea turtles.
- (209) Scenic Rivers. – Expired July 1, 2016.
- (210) School Board. – Expired July 1, 2016.
- (211) School Technology. – Expired July 1, 2016.
- (212) SCUBA. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "SCUBA" and a logo of the Diver Down Flag.
- (213) Shag Dancing. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear the phrase "I'd Rather Be Shaggin'" and a picture representing shag dancing.
- (214) Share the Road. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a representation of a bicycle and the phrase "Share the Road".
- (215) Sheriff. – Issuable to a current sheriff or to a retired sheriff who served as sheriff for at least 10 years before retiring. A plate issued to a current sheriff shall bear the word "Sheriff" and the letter "S" followed by a number that indicates the county the sheriff serves. A plate issued to a retired sheriff shall bear the phrase "Sheriff, Retired", the letter "S" followed by a number that indicates the county the sheriff served, and the letter "X" indicating the sheriff's retired status.
- (216) Sigma Gamma Rho Sorority. – Expired July 1, 2016.
- (217) Silver Star Recipient. – Issuable to a recipient of the Silver Star. The plate shall bear the emblem of the Silver Star and the words "Silver Star".
- (218) Silver Star Recipient/Disabled Veteran. – Issuable to a recipient of the Silver Star who is also a veteran of the Armed Forces of the United States who suffered a one hundred percent (100%) service-connected disability. The plate shall bear the emblem of the Silver Star laid over the universal symbol for the

handicapped and the words "Silver Star." For the purposes of a fee for this plate, it shall be treated as a one hundred percent (100%) Disabled Veteran plate.

- (219) Sneads Ferry Shrimp Festival. – Expired July 1, 2016.
- (220) Soil and Water Conservation. – Expired July 1, 2016.
- (221) Special Forces Association. – Expired July 1, 2016.
- (222) Special Olympics. – Expired July 1, 2016.
- (223) Sport Fishing. – Expired July 1, 2016.
- (224) Square Dance Clubs. – Issuable to a member of a recognized square dance organization exempt from corporate income tax under G.S. 105-130.11(a)(5). The plate shall bear a word or phrase identifying the club and the emblem of the club. The Division shall not issue a dance club plate authorized by this subdivision unless it receives at least 300 applications for that dance club plate.
- (225) S.T.A.R. – Expired July 1, 2016.
- (226) State Attraction. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing a publicly owned or nonprofit State or federal attraction located in North Carolina.
- (227) State Government Official. – Issuable to elected and appointed members of State government in accordance with G.S. 20-79.5.
- (228) Stock Car Racing Theme. – Issuable to the registered owner of a motor vehicle pursuant to G.S. 20-81.12. This is a series of plates bearing an emblem, seal, other symbol or design displaying themes of professional stock car auto racing, or professional stock car auto racing drivers. The Division shall not develop any plate in the series without a license to use copyrighted or registered words, symbols, trademarks, or designs associated with the plate. The plate shall be designed in consultation with and approved by the person authorized to provide the State with the license to use the words, symbols, trademarks, or designs associated with the plate. The Division shall not pay a royalty for the license to use the copyrighted or registered words, symbols, trademarks, or designs associated with the plate.
- (229) Street Rod Owner. – Expired July 1, 2016.
- (230) Support NC Education. – Expired July 1, 2016.
- (231) Support Our Troops. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a picture of a soldier and a child and shall bear the words: "Support Our Troops".
- (232) Support Soccer. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Support Soccer" and a logo designed by the North Carolina Soccer Hall of Fame, Inc.
- (233) Surveyor Plate. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the words "Following In Their Footsteps" and shall bear a picture of a transit.
- (234) Sustainable Fisheries. – Expired July 1, 2016.
- (235) Sweet Potato. – Expired July 1, 2016.
- (236) Tarheel Classic Thunderbird Club. – Expired July 1, 2016.

- (237) Toastmasters Club. – Expired July 1, 2016.
- (238) Tobacco Heritage. – Issuable to the registered owner of a motor vehicle. The plate shall bear a picture of a tobacco leaf and plow. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.
- (239) Topsail Island Shoreline Protection. – Expired July 1, 2016.
- (240) Town of Oak Island. – Expired July 1, 2016.
- (241) Transportation Personnel. – Issuable to various members of the Divisions of the Department of Transportation. The plate shall bear the letters "DOT" followed by a number from 1 to 85, as designated by the Governor.
- (242) Travel and Tourism. – Expired July 1, 2016.
- (243) Turtle Rescue Team. – Expired July 1, 2016.
- (244) United States Service Academy. – Issuable to a graduate of one of the service academies, upon furnishing to the Division proof of graduation. The plate shall bear the name of the specific service academy with an emblem that designates the specific service academy being represented. The Division, with the cooperation of each service academy, shall develop a special plate for each of the service academies. The Division must receive a combined total of 600 or more applications for all the plates authorized by this subdivision before a specific service academy plate may be developed. The plates authorized by this subdivision are not subject to the provisions of G.S. 20-79.3A or G.S. 20-79.8.
- (245) University Health Systems of Eastern Carolina. – Expired July 1, 2016.
- (246) US Equine Rescue League. – Expired July 1, 2016.
- (247) U.S. Navy Submarine Veteran. – Issuable to a veteran of the United States Navy Submarine Service. The plate shall bear the phrase "United States Navy Submarine Veteran" and shall bear a representation of the Submarine Service Qualification insignia overlaid upon a representation of the State of North Carolina. The Division may not issue the plate authorized by this subdivision unless it receives at least 150 applications for the plate.
- (248) U.S. Representative. – Issuable to a United States Representative for North Carolina. The plate shall bear the phrase "U.S. House" and shall be issued on the basis of Congressional district numbers.
- (249) U.S. Senator. – Issuable to a United States Senator for North Carolina. The plates shall bear the phrase "U.S. Senate" and shall be issued on the basis of seniority represented by the numbers 1 and 2.
- (250) USA Triathlon. – Expired July 1, 2016.
- (251) USO of NC. – Expired July 1, 2016.
- (252) The V Foundation for Cancer Research. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a phrase and insignia representing The V Foundation for Cancer Research.
- (253) Veterans of Foreign Wars. – Issuable to a member or a supporter of the Veterans of Foreign Wars. The plate shall bear the words "Veterans of Foreign Wars" or "VFW" and the emblem of the VFW. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

- (254) Victory Junction Gang Camp. – Expired July 1, 2016.
- (255) Vietnam Veterans of America. – Expired July 1, 2016.
- (256) Volunteers in Law Enforcement. – Expired July 1, 2016.
- (257) Watermelon. – Issuable to the registered owner of a motor vehicle. The plate shall bear a picture representing a slice of watermelon. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.
- (258) Wildlife Resources. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a picture representing a native wildlife species occurring in North Carolina.
- (259) YMCA. – Expired July 1, 2016.
- (260) Zeta Phi Beta Sorority. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the sorority's name and symbol.

(c) Repealed by Session Laws 1991 (Regular Session, 1992), c. 1042, s. 1. (1991, c. 672, s. 2; c. 726, s. 23; 1991 (Reg. Sess., 1992), c. 1042, s. 1; 1993, c. 543, s. 2; 1995, c. 326, ss. 1-3; c. 433, ss. 1, 4.1; 1997-156, s. 1; 1997-158, s. 1; 1997-339, s. 1; 1997-427, s. 1; 1997-461, ss. 2-4; 1997-477, s. 1; 1997-484, ss. 1-3; 1998-155, s. 1; 1998-160, ss. 1, 2; 1998-163, ss. 3-5; 1999-220, s. 3.1; 1999-277, s. 1; 1999-314, s. 1; 1999-403, s. 1; 1999-450, s. 1; 1999-452, s. 16; 2000-159, ss. 1, 2; 2001-40, s. 1; 2001-483, s. 1; 2001-498, ss. 1(a), 1(b), 2; 2002-134, ss. 1-4; 2002-159, s. 68; 2003-10, s. 1; 2003-11, s. 1; 2003-68, s. 1; 2003-424, s. 2; 2004-131, s. 2; 2004-182, s. 1; 2004-185, s. 2; 2004-200, s. 1; 2005-216, ss. 2, 3; 2006-209, ss. 2, 7; 2007-400, s. 2; 2007-470, s. 1; 2007-483, ss. 2, 8(d); 2007-522, s. 1; 2009-121, s. 1; 2009-274, s. 4; 2009-376, s. 1; 2010-39, s. 1; 2011-145, ss. 2; 19.1(h); 2011-183, s. 23; 2011-392, ss. 2, 3; 2012-194, ss. 45.7, 57; 2013-376, ss. 1, 2, 9(e); 2013-414, s. 57(a); 2014-100, s. 8.11(b); 2015-241, ss. 24.1(m), 14.30(s), 29.40(b), (f), (g), (i), (j), (l)-(o), (q); 2015-264, s. 40.6(b); 2015-268, s. 7.3(a); 2017-100, s. 1; 2017-107, ss. 2, 5; 2017-114, ss. 2, 5; 2017-186, s. 2(*III*).)

§ 20-79.5. Special registration plates for elected and appointed State government officials.

(a) Plates. – The State government officials listed in this section are eligible for a special registration plate under G.S. 20-79.4. The plate shall bear the number designated in the following table for the position held by the official.

Position	Number on Plate
Governor	1
Lieutenant Governor	2
Speaker of the House of Representatives	3
President Pro Tempore of the Senate	4
Secretary of State	5
State Auditor	6
State Treasurer	7
Superintendent of Public Instruction	8
Attorney General	9
Commissioner of Agriculture	10
Commissioner of Labor	11
Commissioner of Insurance	12
Speaker Pro Tempore of the House	13

Legislative Services Officer	14
Secretary of Administration	15
Secretary of Environmental Quality	16
Secretary of Revenue	17
Secretary of Health and Human Services	18
Secretary of Commerce	19
Secretary of Public Safety	20
Secretary of Natural and Cultural Resources	21
Secretary of Military and Veterans Affairs	22
Governor's Staff	23-29
State Budget Officer	30
Director of the Office of State Human Resources	31
Chair of the State Board of Education	32
President of the U.N.C. System	33
President of the Community Colleges System	34
State Board Member, Commission Member, or State Employee Not Named in List	35-43
Alcoholic Beverage Control Commission	44-46
Assistant Commissioners of Agriculture	47-48
Deputy Secretary of State	49
Deputy State Treasurer	50
Assistant State Treasurer	51
Deputy Commissioner for the Department of Labor	52
Chief Deputy for the Department of Insurance	53
Assistant Commissioner of Insurance	54
Deputies and Assistant to the Attorney General	55-65
Board of Economic Development Nonlegislative Member	66-88
State Ports Authority Nonlegislative Member	89-96
Utilities Commission Member	97-103
State Board Member, Commission Member, or State Employee Not Named in List	104
Post-Release Supervision and Parole Commission Member	105-107
State Board Member, Commission Member, or State Employee Not Named in List	108-200

(b) Designation. – When the table in subsection (a) designates a range of numbers for certain officials, the number given an official in that group shall be assigned. The Governor shall assign a number for members of the Governor's staff, nonlegislative members of the Board of Economic Development, nonlegislative members of the State Ports Authority, members of State boards and commissions, and for State employees. The Attorney General shall assign a number for the Attorney General's deputies and assistants.

The first number assigned to the Alcoholic Beverage Control Commission is reserved for the Chair of that Commission. The remaining numbers shall be assigned to the Alcoholic Beverage Control Commission members on the basis of seniority. The first number assigned to the Utilities Commission is reserved for the Chair of that Commission. The remaining numbers shall be assigned to the Utilities Commission members on the basis of seniority. The first number assigned to the Post-Release Supervision and Parole Commission is reserved for the Chair of that

Commission. The remaining numbers shall be assigned to the Post-Release Supervision and Parole Commission members on the basis of seniority. (1991, c. 672, s. 2; c. 726, s. 23; 1991 (Reg. Sess., 1992), c. 959, s. 1; 1996, 2nd Ex. Sess., c. 18, s. 8(a); 1997-443, ss. 11A.118(a), 11A.119(a); 2000-137, s. 4.(e); 2006-203, s. 14; 2007-483, s. 3(a); 2011-145, s. 19.1(g), (i), (m); 2012-83, s. 4; 2013-382, s. 9.1(c); 2015-241, ss. 14.30(t), (v), 24.1(n); 2015-268, s. 7.3(a).)

§ 20-79.6. Special registration plates for members of the judiciary.

(a) Supreme Court. – A special plate issued to a Justice of the North Carolina Supreme Court shall bear the words "Supreme Court" and the Great Seal of North Carolina and a number from 1 through 7. The Chief Justice of the Supreme Court of North Carolina shall be issued the plate bearing the number 1 and the remaining plates shall be issued to the Associate Justices on the basis of seniority.

Special plates issued to retired members of the Supreme Court shall bear a number indicating the member's position of seniority at the time of retirement followed by the letter "X" to indicate the member's retired status.

(a1) Court of Appeals. – A special plate issued to a Judge of the North Carolina Court of Appeals shall bear the words "Court of Appeals" and the Great Seal of North Carolina and a number beginning with the number 1. The Chief Judge of the North Carolina Court of Appeals shall be issued a plate with the number 1 and the remaining plates shall be issued to the Associate Judges with the numbers assigned on the basis of seniority.

Special plates issued to retired members of the Court of Appeals shall bear a number indicating the member's position of seniority at the time of retirement followed by the letter "X" to indicate the member's retired status.

(b) Superior Court. – A special plate issued to a resident superior court judge shall bear the letter "J" followed by a number indicative of the judicial district the judge serves. The number issued to the senior resident superior court judge shall be the numerical designation of the judge's judicial district, as defined in G.S. 7A-41.1(a)(1). If a district has more than one regular resident superior court judge, a special plate for a resident superior court judge of that district shall bear the number issued to the senior resident superior court judge followed by a hyphen and a letter of the alphabet beginning with the letter "A" to indicate the judge's seniority.

For any grouping of districts having the same numerical designation, other than districts where there are two or more resident superior court judges, the number issued to the senior resident superior court judge shall be the number the districts in the set have in common. A special plate issued to the other regular resident superior court judges of the set of districts shall bear the number issued to the senior resident superior court judge followed by a hyphen and a letter of the alphabet beginning with the letter "A" to indicate the judge's seniority among all of the regular resident superior court judges of the set of districts. The letter assigned to a resident superior court judge will not necessarily correspond with the letter designation of the district the judge serves.

Where there are two or more regular resident superior court judges for the district or set of districts, the registration plate with the letter "A" shall be issued to the judge who, from among all the regular resident superior court judges of the district or set of districts, has the most continuous service as a regular resident superior court judge; provided if two or more judges are of equal service, the oldest of those judges shall receive the next letter registration plate. Thereafter, registration plates shall be issued based on seniority within the district or set of districts.

A special judge, emergency judge, or retired judge of the superior court shall be issued a special plate bearing the letter "J" followed by a number designated by the Administrative Office of the Courts with the approval of the Chief Justice of the Supreme Court of North Carolina. The plate for a retired judge shall have the letter "X" after the designated number to indicate the judge's retired status.

(c) District Court. – A special plate issued to a North Carolina district court judge shall bear the letter "J" followed by a number. For the chief judge of the district court district, the number shall be equal to the sum of the numerical designation of the district court district the chief judge serves, plus 100. The number for all other judges of the district courts serving within the same district court district shall be the same number as appears on the special plate issued to the chief district judge followed by a letter of the alphabet beginning with the letter "A" to indicate the judge's seniority. A retired district court judge shall be issued a similar plate except that the numerical designation shall be followed by the letter "X" to indicate the judge's retired status.

(d) United States. – A special plate issued to a Justice of the United States Supreme Court, a Judge of the United States Circuit Court of Appeals, or a District Judge of the United States District Court residing in North Carolina shall bear the words "U.S. J" followed by a number beginning with "1". The number shall reflect the judge's seniority based on continuous service as a United States Judge as designated by the Secretary of State. A judge who has retired or taken senior status shall be issued a similar plate except that the number shall be based on the date of the judge's retirement or assumption of senior status and shall follow the numerical designation of active justices and judges. (1991, c. 672, s. 2; c. 726, s. 23; 1999-403, s. 5; 1999-456, s. 67.1.)

§ 20-79.7. Fees for special registration plates and distribution of the fees.

(a) Free of Charge. – Upon request, the Division shall annually provide and issue free of charge a single special registration plate listed in this subsection to a person qualified to receive the plate in accordance with G.S. 20-79.4(a2). This subsection does not apply to a special registration plate issued for a vehicle that has a registered weight greater than 6,000 pounds. The regular motor vehicle registration fees in G.S. 20-88 apply if the registered weight of the vehicle is greater than 6,000 pounds:

- (1) A Legion of Valor registration plate to a recipient of the Legion of Valor award.
- (2) A 100% Disabled Veteran registration plate to a 100% disabled veteran.
- (3) An Ex-Prisoner of War registration plate to an ex-prisoner of war.
- (4) A Bronze Star Valor registration plate to a recipient of the Bronze Star Medal for valor in combat award.
- (5) A Silver Star registration plate to a recipient of the Silver Star award.

(a1) Fees. – All other special registration plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

<u>Special Plate</u>	<u>Additional Fee Amount</u>
American Red Cross	Expired July 1, 2016
Animal Lovers	\$30.00
Arthritis Foundation	Expired July 1, 2016
ARTS NC	\$30.00
Back Country Horsemen of NC	Expired July 1, 2016

Big Rock Blue Marlin Tournament	\$30.00
Boy Scouts of America	Expired July 1, 2016
Brenner Children's Hospital	Expired July 1, 2016
Carolina Panthers	\$30.00
Carolina Raptor Center	Expired July 1, 2016
Carolinas Credit Union Foundation	Expired July 1, 2016
Carolinas Golf Association	\$30.00
Coastal Conservation Association	Expired July 1, 2016
Coastal Land Trust	\$30.00
Colorectal Cancer Awareness	\$30.00
Crystal Coast	Expired July 1, 2016
Daniel Stowe Botanical Garden	Expired July 1, 2016
El Pueblo	Expired July 1, 2016
Farmland Preservation	Expired July 1, 2016
First in Forestry	\$30.00
First Tee	Expired July 1, 2016
Girl Scouts	Expired July 1, 2016
Greensboro Symphony Guild	Expired July 1, 2016
Historical Attraction	\$30.00
Home Care and Hospice	\$30.00
Home of American Golf	Expired July 1, 2016
HOMES4NC	\$30.00
Hospice Care	Expired July 1, 2016
In God We Trust	\$30.00
Kick Cancer for Kids	\$30.00
Maggie Valley Trout Festival	Expired July 1, 2016
Morehead Planetarium	Expired July 1, 2016
Morgan Horse Club	Expired July 1, 2016
Mountains-to-Sea Trail	\$30.00
Municipality Plate	Expired July 1, 2016
NC Civil War	Expired July 1, 2016
NC Coastal Federation	\$30.00
NC FIRST Robotics	Expired July 1, 2016
NCSC	Expired July 1, 2016
NC Veterinary Medical Association	Expired July 1, 2016
National Kidney Foundation	Expired July 1, 2016
National Law Enforcement Officers Memorial	Expired July 1, 2016
Native Brook Trout	\$30.00
North Carolina 4-H Development Fund	Expired July 1, 2016
North Carolina Bluegrass Association	Expired July 1, 2016
North Carolina Cattlemen's Association	Expired July 1, 2016
North Carolina Emergency Management Association	Expired July 1, 2016
North Carolina Green Industry Council	Expired July 1, 2016
North Carolina Libraries	Expired July 1, 2016
North Carolina Paddle Festival	Expired July 1, 2016

North Carolina Sheriffs' Association	\$30.00
Operation Coming Home	Expired July 1, 2016
Outer Banks Preservation Association	Expired July 1, 2016
Pamlico-Tar River Foundation	Expired July 1, 2016
Pancreatic Cancer Awareness	Expired July 1, 2016
P.E.O. Sisterhood	Expired July 1, 2016
Personalized	\$30.00
Pisgah Conservancy	\$30.00
Red Drum	Expired July 1, 2016
Retired Legislator	\$30.00
RiverLink	Expired July 1, 2016
Ronald McDonald House	\$30.00
Share the Road	\$30.00
S.T.A.R.	Expired July 1, 2016
State Attraction	\$30.00
Stock Car Racing Theme	\$30.00
Support NC Education	Expired July 1, 2016
Support Our Troops	\$30.00
Sustainable Fisheries	Expired July 1, 2016
Toastmasters Club	Expired July 1, 2016
Topsail Island Shoreline Protection	Expired July 1, 2016
Travel and Tourism	Expired July 1, 2016
Turtle Rescue Team	Expired July 1, 2016
United States Service Academy	\$30.00
Volunteers in Law Enforcement	Expired July 1, 2016
YMCA	Expired July 1, 2016
AIDS Awareness	Expired July 1, 2016
Buffalo Soldiers	Expired July 1, 2016
Charlotte Checkers	Expired July 1, 2016
Choose Life	\$25.00
Collegiate Insignia	\$25.00
First in Turf	Expired July 1, 2016
Goodness Grows	Expired July 1, 2016
High School Insignia	\$25.00
I.B.P.O.E.W.	Expired July 1, 2016
Kids First	\$25.00
National Multiple Sclerosis Society	\$25.00
National Wild Turkey Federation	\$25.00
NC Agribusiness	Expired July 1, 2016
NC Children's Promise	Expired July 1, 2016
NC Surveyors	\$25.00
Nurses	\$25.00
Olympic Games	\$25.00
Professional Engineer	Expired July 1, 2016
Rocky Mountain Elk Foundation	\$25.00
Special Olympics	Expired July 1, 2016

Support Soccer	\$25.00
Surveyor Plate	\$25.00
The V Foundation for Cancer Research Division	\$25.00
University Health Systems of Eastern Carolina	Expired July 1, 2016
Alpha Phi Alpha Fraternity	Expired July 1, 2016
ALS Association, Jim "Catfish" Hunter Chapter	Expired July 1, 2016
ARC of North Carolina	Expired July 1, 2016
Audubon North Carolina	Expired July 1, 2016
Autism Society of North Carolina	\$20.00
Battle of Kings Mountain	\$20.00
Be Active NC	Expired July 1, 2016
Brain Injury Awareness	Expired July 1, 2016
Breast Cancer Earlier Detection	Expired July 1, 2016
Buddy Pelletier Surfing Foundation	\$20.00
Concerned Bikers Association/ABATE of North Carolina	Expired July 1, 2016
Daughters of the American Revolution	Expired July 1, 2016
Donate Life	\$20.00
Ducks Unlimited	\$20.00
Fraternal Order of Police	\$20.00
Greyhound Friends of North Carolina	Expired July 1, 2016
Guilford Battleground Company	\$20.00
Harley Owners' Group	\$20.00
I Support Teachers	Expired July 1, 2016
Jaycees	Expired July 1, 2016
Juvenile Diabetes Research Foundation	\$20.00
Kappa Alpha Order	Expired July 1, 2016
Litter Prevention	\$20.00
March of Dimes	Expired July 1, 2016
Mission Foundation	Expired July 1, 2016
Native American	\$20.00
NC Fisheries Association	Expired July 1, 2016
NC Horse Council	\$20.00
NC Mining	Expired July 1, 2016
NC Tennis Foundation	\$20.00
NC Trout Unlimited	\$20.00
NC Victim Assistance	Expired July 1, 2016
NC Wildlife Federation	Expired July 1, 2016
NC Wildlife Habitat Foundation	\$20.00
NC Youth Soccer Association	Expired July 1, 2016
North Carolina Master Gardener	\$20.00
Omega Psi Phi Fraternity	\$20.00
Order of the Long Leaf Pine	\$20.00
Piedmont Airlines	\$20.00
Prince Hall Mason	\$20.00

Save the Sea Turtles	\$20.00
Scenic Rivers	Expired July 1, 2016
School Technology	Expired July 1, 2016
SCUBA	\$20.00
Soil and Water Conservation	Expired July 1, 2016
Special Forces Association	Expired July 1, 2016
US Equine Rescue League	Expired July 1, 2016
USO of NC	Expired July 1, 2016
Wildlife Resources	\$20.00
Zeta Phi Beta Sorority	\$20.00
Carolina Regional Volleyball Association	Expired July 1, 2016
Carolina's Aviation Museum	Expired July 1, 2016
Leukemia & Lymphoma Society	Expired July 1, 2016
Lung Cancer Research	Expired July 1, 2016
NC Beekeepers	Expired July 1, 2016
Save the Honey Bee (HB)	\$15.00
Save the Honey Bee (SB)	\$15.00
Shag Dancing	\$15.00
Active Member of the National Guard	None
Bronze Star Combat Recipient	None
Bronze Star Recipient	None
Combat Veteran	Expired July 1, 2016
100% Disabled Veteran	None
Ex-Prisoner of War	None
Gold Star Lapel Button	None
Legion of Merit	None
Legion of Valor	None
Military Veteran	None
Military Wartime Veteran	None
Partially Disabled Veteran	None
Pearl Harbor Survivor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	\$10.00.

(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) of this section among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Clean Water Management Trust Fund (CWMTF), which is established under G.S. 113A-253, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

<u>Special Plate</u>	<u>SRPA</u>	<u>CCAPA</u>	<u>CWMTF</u>	<u>PRTF</u>
AIDS Awareness – Expired July 1, 2016				
Alpha Phi Alpha Fraternity – Expired July 1, 2016				

ALS Association, "Jim Catfish" Hunter Chapter – Expired July 1, 2016				
American Red Cross – Expired July 1, 2016				
Animal Lovers	\$10	\$20	0	0
ARC of North Carolina – Expired July 1, 2016				
Arthritis Foundation – Expired July 1, 2016				
ARTS NC	\$10	\$20	0	0
Audubon North Carolina – Expired July 1, 2016				
Autism Society of North Carolina	\$10	\$10	0	0
Back Country Horsemen of NC – Expired July 1, 2016				
Battle of Kings Mountain	\$10	\$10	0	0
Be Active NC – Expired July 1, 2016				
Big Rock Blue Marlin Tournament	\$10	\$20	0	0
Boy Scouts of America – Expired July 1, 2016				
Brain Injury Awareness – Expired July 1, 2016				
Breast Cancer Earlier Detection – Expired July 1, 2016				
Brenner Children’s Hospital – Expired July 1, 2016				
Buddy Pelletier Surfing Foundation –Expired July 1, 2016				
Buffalo Soldiers – Expired July 1, 2016				
Carolina Panthers	\$10	\$20	0	0
Carolina Raptor Center – Expired July 1, 2016				
Carolina Regional Volleyball Association – Expired July 1, 2016				
Carolina’s Aviation Museum – July 1, 2016				
Carolinas Credit Union Foundation – Expired July 1, 2016				
Carolinas Golf Association	\$10	\$20	0	0
Charlotte Checkers – Expired July 1, 2016				
Choose Life	\$10	\$15	0	0
Coastal Conservation Association –				

Expired July 1, 2016				
Coastal Land Trust	\$10	\$20	0	0
Colorectal Cancer Awareness	\$10	\$20	0	0
Concerned Bikers Association/ ABATE of North Carolina – Expired July 1, 2016				
Crystal Coast – Expired July 1, 2016				
Daniel Stowe Botanical Gardens – Expired July 1, 2016				
Daughters of the American Revolution – Expired July 1, 2016				
Donate Life	\$10	\$10	0	0
Ducks Unlimited	\$10	\$10	0	0
El Pueblo – Expired July 1, 2016				
Farmland Preservation – Expired July 1, 2016				
First in Forestry	\$10	\$10	\$10	0
First in Turf – Expired July 1, 2016				
First Tee – Expired July 1, 2016				
Fraternal Order of Police	\$10	\$10	0	0
Girl Scouts – Expired July 1, 2016				
Goodness Grows – Expired July 1, 2016				
Greensboro Symphony Guild – Expired July 1, 2016				
Greyhound Friends of North Carolina – Expired July 1, 2016				
Guilford Battleground Company	\$10	\$10	0	0
Harley Owners’ Group	\$10	\$10	0	0
High School Insignia	\$10	\$15	0	0
Historical Attraction	\$10	\$20	0	0
Home Care and Hospice	\$10	\$20	0	0
Home of American Golf – Expired July 1, 2016				
HOMES4NC	\$10	\$20	0	0
Hospice Care – Expired July 1, 2016				
I.B.P.O.E.W. – Expired July 1, 2016				
In God We Trust	\$10	\$20	0	0
In-State Collegiate Insignia	\$10	\$15	0	0
I Support Teachers – Expired July 1, 2016				
Jaycees – Expired July 1, 2016				
Juvenile Diabetes Research Foundation	\$10	\$10	0	0
Kappa Alpha Order– Expired July 1, 2016				

Kick Cancer for Kids	\$10	\$20	0	0
Kids First	\$10	\$15	0	0
Leukemia & Lymphoma Society – Expired July 1, 2016				
Litter Prevention	\$10	\$10	0	0
Lung Cancer Research – Expired July 1, 2016				
Maggie Valley Trout Festival – Expired July 1, 2016				
March of Dimes – Expired July 1, 2016				
Mission Foundation– Expired July 1, 2016				
Morgan Horse Club – Expired July 1, 2016				
Morehead Planetarium – Expired July 1, 2016				
Mountains-to-Sea Trail	\$10	\$20	0	0
Municipality Plate – Expired July 1, 2016				
National Kidney Foundation – Expired July 1, 2016				
National Law Enforcement Officers Memorial – Expired July 1, 2016				
National Multiple Sclerosis Society	\$10	\$15	0	0
National Wild Turkey Federation	\$10	\$15	0	0
Native American	\$10	\$10	0	0
NC Agribusiness – Expired July 1, 2016				
NC Beekeepers – Expired July 1, 2016				
NC Children’s Promise – Expired July 1, 2016				
NC Civil War – Expired July 1, 2016				
NC Coastal Federation – Expired July 1, 2016				
NC 4-H Development Fund – Expired July 1, 2016				
NC FIRST Robotics – Expired July 1, 2016				
NC Fisheries Association – Expired July 1, 2016				
NC Horse Council	\$10	\$10	0	0
NC Mining – Expired July 1, 2016				
NCSC – Expired July 1, 2016				

NC Surveyors	\$10	\$15	0	0
NC Tennis Foundation	\$10	\$10	0	0
NC Trout Unlimited	\$10	\$10	0	0
NC Veterinary Medical Association – Expired July 1, 2016				
NC Victim Assistance – Expired July 1, 2016				
NC Wildlife Federation – Expired July 1, 2016				
NC Wildlife Habitat Foundation	\$10	\$10	0	0
NC Youth Soccer Association – Expired July 1, 2016				
North Carolina Bluegrass Association – Expired July 1, 2016				
North Carolina Cattlemen’s Association – Expired July 1, 2016				
North Carolina Emergency Management Association – Expired July 1, 2016				
North Carolina Green Industry Council – Expired July 1, 2016				
North Carolina Libraries – Expired July 1, 2016				
North Carolina Master Gardener	\$10	\$10	0	0
North Carolina Paddle Festival – Expired July 1, 2016				
North Carolina Sheriffs' Association	\$10	\$20	0	0
Nurses	\$10	\$15	0	0
Olympic Games	\$10	\$15	0	0
Omega Psi Phi Fraternity	\$10	\$10	0	0
Operation Coming Home – Expired July 1, 2016				
Order of the Long Leaf Pine	\$10	\$10	0	0
Out-of-state Collegiate Insignia	\$10	0	\$15	0
Outer Banks Preservation Association – Expired July 1, 2016				
Pamlico-Tar River Foundation – Expired July 1, 2016				
Pancreatic Cancer Awareness – Expired July 1, 2016				
P.E.O. Sisterhood – Expired July 1, 2016				
Personalized	\$10	0	\$15	\$5
Piedmont Airlines	\$10	\$10	0	0
Pisgah Conservancy	\$10	\$20	0	0
Prince Hall Mason	\$10	\$10	0	0

Professional Engineer – Expired July 1, 2016				
Retired Legislator	\$10	\$20	0	0
RiverLink – Expired July 1, 2016				
Rocky Mountain Elk Foundation	\$10	\$15	0	0
Ronald McDonald House	\$10	\$20	0	0
Save the Honey Bee (HB)	\$10	\$5	0	0
Save the Honey Bee (SB)	\$10	\$5	0	0
Save the Sea Turtles	\$10	\$10	0	0
Scenic Rivers – Expired July 1, 2016				
School Technology – Expired July 1, 2016				
SCUBA	\$10	\$10	0	0
Shag Dancing	\$10	\$5	0	0
Share the Road	\$10	\$20	0	0
Sneads Ferry Shrimp Festival – Expired July 1, 2016				
Soil and Water Conservation – Expired July 1, 2016				
Special Forces Association – Expired July 1, 2016				
Special Olympics – Expired July 1, 2016				
S.T.A.R. – Expired July 1, 2016				
State Attraction	\$10	\$20	0	0
Stock Car Racing Theme	\$10	\$20	0	0
Support NC Education – Expired July 1, 2016				
Support Our Troops	\$10	\$20	0	0
Support Soccer	\$10	\$15	0	0
Surveyor Plate	\$10	\$15	0	0
Sustainable Fisheries – Expired July 1, 2016				
The V Foundation for Cancer Research	\$10	\$15	0	0
Toastmasters Club – Expired July 1, 2016				
Topsail Island Shoreline Protection – Expired July 1, 2016				
Travel and Tourism– Expired July 1, 2016				
Turtle Rescue Team – Expired July 1, 2016				
University Health Systems of Eastern Carolina – Expired July 1, 2016				
United States Service Academy	\$10	\$20	0	0

US Equine Rescue League– Expired
July 1, 2016

USO of NC – Expired July 1, 2016

Volunteers in Law Enforcement –
Expired July 1, 2016

Wildlife Resources	\$10	\$10	0	0
YMCA – Expired July 1, 2016				
Zeta Phi Beta Sorority	\$10	\$10	0	0
All other Special Plates	\$10	0	0	0.

(c) Use of Funds in Special Registration Plate Account. –

- (1) The Division shall deduct the costs of special registration plates, including the costs of issuing, handling, and advertising the availability of the special plates, from the Special Registration Plate Account.
- (2) From the funds remaining in the Special Registration Plate Account after the deductions in accordance with subdivision (1) of this subsection, there is annually appropriated from the Special Registration Plate Account the sum of one million three hundred thousand dollars (\$1,300,000) to provide operating assistance for the Visitor Centers:
 - a. on U.S. Highway 17 in Camden County, ninety-two thousand eight hundred fifty-seven dollars (\$92,857);
 - b. on U.S. Highway 17 in Brunswick County, ninety-two thousand eight hundred fifty-seven dollars (\$92,857);
 - c. on U.S. Highway 441 in Macon County, ninety-two thousand eight hundred fifty-seven dollars (\$92,857);
 - d. in Watauga County, ninety-two thousand eight hundred fifty-seven dollars (\$92,857);
 - e. on U.S. Highway 29 in Caswell County, ninety-two thousand eight hundred fifty-seven dollars (\$92,857);
 - f. on U.S. Highway 70 in Carteret County, ninety-two thousand eight hundred fifty-seven dollars (\$92,857);
 - g. on U.S. Highway 64 in Tyrrell County, ninety-two thousand eight hundred fifty-seven dollars (\$92,857);
 - h. at the intersection of U.S. Highway 701 and N.C. 904 in Columbus County, ninety-two thousand eight hundred fifty-seven dollars (\$92,857);
 - i. on U.S. Highway 221 in McDowell County, ninety-two thousand eight hundred fifty-seven dollars (\$92,857);
 - j. on Staton Road in Transylvania County, ninety-two thousand eight hundred fifty-seven dollars (\$92,857);
 - k. in the Town of Fair Bluff, Columbus County, near the intersection of U.S. Highway 76 and N.C. 904, ninety-two thousand eight hundred fifty-seven dollars (\$92,857);
 - l. on U.S. Highway 421 in Wilkes County, ninety-two thousand eight hundred fifty-seven dollars (\$92,857); and

- m. at the intersection of Interstate 73 and Interstate 74 in Randolph County, ninety-two thousand eight hundred fifty-eight dollars (\$92,858) each, for two centers.
- (3) The Division shall transfer fifty percent (50%) of the remaining revenue in the Special Registration Plate Account quarterly, and funds are hereby appropriated to the Department of Transportation to be used solely for the purpose of beautification of highways. These funds shall be administered by the Department of Transportation for beautification purposes not inconsistent with good landscaping and engineering principles. The Division shall transfer the remaining revenue in the Special Registration Plate Account quarterly to the Highway Fund to be used for the Roadside Vegetation Management Program. (1967, c. 413; 1971, c. 42; 1973, c. 507, s. 5; c. 1262, s. 86; 1975, c. 716, s. 5; 1977, c. 464, s. 3; c. 771, s. 4; 1979, c. 126, ss. 1, 2; 1981 (Reg. Sess., 1982), c. 1258, s. 6; 1983, c. 848; 1985, c. 766; 1987, c. 252; c. 738, s. 140; c. 830, ss. 113(a), 116(a)-(c); 1989, c. 751, s. 7(1); c. 774, s. 1; 1989 (Reg. Sess., 1990), c. 814, s. 31; 1991, c. 672, s. 3; c. 726, s. 23; 1991 (Reg. Sess., 1992), c. 959, s. 2; c. 1042, s. 2; c. 1044, ss. 33, 34; 1993, c. 321, s. 169.3(a); c. 543, s. 3; 1995, c. 163, s. 2; c. 324, s. 18.7(a); c. 433, ss. 2, 3; c. 507, s. 18.17(a); 1996, 2nd Ex. Sess., c. 18, s. 19.11(e); 1997-443, s. 11A.118(a); 1997-477, ss. 2, 3; 1997-484, ss. 4, 5; 1998-163, s. 1; 1999-277, ss. 2, 3; 1999-403, ss. 2, 3; 1999-450, ss. 2, 3; 2000-159, ss. 3, 4; 2001-414, s. 32; 2001-498, ss. 3(a), 3(b), 4(a), 4(b); 2002-134, ss. 5, 6; 2003-11, ss. 2, 3; 2003-68, ss. 2, 3; 2003-424, ss. 3, 4; 2004-124, s. 30.3A; 2004-131, ss. 3, 4; 2004-185, ss. 3, 4; 2004-200, ss. 2, 3; 2005-216, ss. 4, 5; 2005-276, s. 28.16; 2006-209, ss. 3, 4, 7; 2007-323, s. 27.20(b); 2007-345, s. 10.1; 2007-400, ss. 3, 4; 2007-483, ss. 4, 5, 8(a), (b); 2009-228, s. 1; 2010-31, ss. 11.4(i), (j), 28.11; 2010-132, s. 7; 2011-145, s. 28.30(b); 2011-392, ss. 4, 5, 5.1; 2012-79, s. 1.12(b); 2013-360, ss. 14.3(c), 34.22; 2013-376, ss. 3, 4, 9(c), (d); 2013-414, ss. 57(b), (c); 2014-100, s. 8.11(d); 2015-241, ss. 14.30(dd), 29.30B(a), 29.36A, 29.40(c), (h), (j), (n); 2017-100, s. 2; 2017-107, s. 3; 2017-114, s. 3.)

§ 20-79.8. Expiration of special registration plate authorization.

(a) Expiration of Plates Authorized Prior to October 1, 2014. – A special registration plate authorized after July 1, 2011, and before October 1, 2014, pursuant to G.S. 20-79.4 shall expire, as a matter of law, on July 1 of the second calendar year following the year in which the special plate was authorized if the number of required applications for the authorized special plate has not been received by the Division. The Division shall not accept applications for nor advertise any special registration plate that has expired pursuant to this section.

(a1) Expiration of Plates Authorized On or After October 1, 2014. – A special registration plate authorized on or after October 1, 2014, pursuant to G.S. 20-79.4, shall expire as a matter of law upon an applicant's failure to submit to the Division all of the items required under G.S. 20-79.3A(d) within 60 days of the act approving the special registration plate becoming law. The Division shall not accept applications for nor advertise any special registration plate that has expired pursuant to this section.

(b) Notification. – The Division shall notify the Revisor of Statutes in writing, not later than August 1 of each year, which special registration plate authorizations have expired as a matter of law pursuant to subsection (a) of this section. The Division shall publish a copy of the written notification sent to the Revisor of Statutes pursuant to this subsection on a Web site maintained by the Division or the Department of Transportation.

(c) Revisor of Statutes Responsibilities. – Upon notification of expiration of the authorization for any special registration plate by the Division pursuant to this section, the Revisor of Statutes shall verify that the authorization for each special registration plate listed has expired and shall notate the expiration in the applicable statutes. If an authorization for a special registration plate listed in G.S. 20-79.4 expires, the Revisor of Statutes shall revise the subdivision referring to the special registration plate to leave the name of the special registration plate authorized and the date the special registration plate's authorization expired. If an authorization for a special registration plate listed in G.S. 20-79.4 expires, the Revisor of Statutes shall also make corresponding changes to reflect the expiration of the special registration plate's authorization, if applicable, in G.S. 20-63(b), 20-79.7, and 20-81.12. (2011-392, s. 8; 2014-96, s. 6.)

§§ 20-80 through 20-81.2: Repealed by Session Laws 1991, c. 672, s. 1, as amended by Session Laws 1991, c. 726, s. 23.

§ 20-81.3: Recodified as § 20-79.7 by Session Laws 1991, c. 672, s. 3, as amended by Session Laws 1991, c. 726, s. 23.

§§ 20-81.4 through 20-81.11: Repealed by Session Laws 1991, c. 672, s. 1, as amended by Session Laws 1991, c. 726, s. 23.

§ 20-81.12. Collegiate insignia plates and certain other special plates.

(a) Collegiate Insignia Plates. – The Division must receive 300 or more applications for a collegiate insignia license plate for a college or university before a collegiate license plate may be developed. The color, design, and material for the plate must be approved by both the Division and the alumni or alumnae association of the appropriate college or university. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of in-State collegiate insignia plates to the Board of Governors of The University of North Carolina for in-State, public colleges and universities and to the respective board of trustees for in-State, private colleges and universities in proportion to the number of collegiate plates sold representing that institution for use for academic enhancement.

(b) Historical Attraction Plates. – The Division must receive 300 or more applications for an historical attraction plate representing a publicly owned or nonprofit historical attraction located in North Carolina and listed below before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of historical attraction plates to the organizations named below in proportion to the number of historical attraction plates sold representing that organization:

- (1) Historical Attraction Within Historic District. – The revenue derived from the special plate shall be transferred quarterly to the appropriate Historic Preservation Commission, or entity designated as the Historic Preservation Commission, and used to maintain property in the historic district in which the

attraction is located. As used in this subdivision, the term "historic district" means a district created under G.S. 160A-400.4.

- (2) Nonprofit Historical Attraction. – The revenue derived from the special plate shall be transferred quarterly to the nonprofit corporation that is responsible for maintaining the attraction for which the plate is issued and used to develop and operate the attraction.
- (3) State Historic Site. – The revenue derived from the special plate shall be transferred quarterly to the Department of Natural and Cultural Resources and used to develop and operate the site for which the plate is issued. As used in this subdivision, the term "State historic site" has the same meaning as in G.S. 121-2(11).

(b1) Special Olympics Plates. – Expired July 1, 2016.

(b2) State Attraction Plates. – The Division must receive 300 or more applications for a State attraction plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of State attraction plates to the organizations named below in proportion to the number of State attraction plates sold representing that organization:

- (1) Aurora Fossil Museum. – The revenue derived from the special plate shall be transferred quarterly to the Aurora Fossil Museum Foundation, Inc., to be used for educational programs, for enhancing collections, and for operating expenses of the Aurora Fossil Museum.
- (2) Blue Ridge Parkway Foundation. – The revenue derived from the special plate shall be transferred quarterly to Blue Ridge Parkway Foundation for use in promoting and preserving the Blue Ridge Parkway as a scenic attraction in North Carolina. A person may obtain from the Division a special registration plate under this subdivision for the registered owner of a motor vehicle or a motorcycle. The registration fees and the restrictions on the issuance of a specialized registration plate for a motorcycle are the same as for any motor vehicle. The Division must receive a minimum of 300 applications to develop a special registration plate for a motorcycle.
- (3) Friends of the Appalachian Trail. – The revenue derived from the special plate shall be transferred quarterly to The Appalachian Trail Conference to be used for educational materials, preservation programs, trail maintenance, trailway and viewshed acquisitions, trailway and viewshed easement acquisitions, capital improvements for the portions of the Appalachian Trail and connecting trails that are located in North Carolina, and related administrative and operating expenses.
- (4) Friends of the Great Smoky Mountains National Park. – The revenue derived from the special plate shall be transferred quarterly to the Friends of the Great Smoky Mountains National Park, Inc., to be used for educational materials, preservation programs, capital improvements for the portion of the Great Smoky Mountains National Park that is located in North Carolina, and operating expenses of the Great Smoky Mountains National Park.
- (5) The North Carolina Aquariums. – The revenue derived from the special plate shall be transferred quarterly to the North Carolina Aquarium Society, Inc., for its programs in support of the North Carolina Aquariums.

- (6) The North Carolina Arboretum. – The revenue derived from the special plate shall be transferred quarterly to The North Carolina Arboretum Society and used to help the Society obtain grants for the North Carolina Arboretum and for capital improvements to the North Carolina Arboretum.
- (7) The North Carolina Maritime Museum. – The revenue derived from the special plate shall be transferred quarterly to Friends of the Museum, North Carolina Maritime Museum, Inc., to be used for educational programs and conservation programs and for operating expenses of the North Carolina Maritime Museum.
- (8) The North Carolina Museum of Natural Sciences. – The revenue derived from the special plate shall be transferred quarterly to the Friends of the North Carolina State Museum of Natural Sciences for its programs in support of the museum.
- (9) North Carolina State Parks. – The revenue derived from the special plate shall be transferred quarterly to Friends of State Parks, Inc., for its educational, conservation, and other programs in support of the operations of the State Parks System established in Part 32 of Article 7 [Article 2] of Chapter 143B of the General Statutes.
- (10) The North Carolina Transportation Museum. – The revenue derived from the special plate shall be transferred quarterly to the North Carolina Transportation Museum Foundation to be used for educational programs and conservation programs and for operating expenses of the North Carolina Transportation Museum.
- (11) The North Carolina Zoological Society. – The revenue derived from the special plate shall be transferred quarterly to The North Carolina Zoological Society, Incorporated, to be used for educational programs and conservation programs at the North Carolina Zoo at Asheboro and for operating expenses of the North Carolina Zoo at Asheboro.
- (12) "Old Baldy," Bald Head Island Lighthouse. – The revenue derived from the special plate shall be transferred quarterly to the Old Baldy Foundation, Inc., for its programs in support of the Bald Head Island Lighthouse.
- (13) U.S.S. North Carolina Battleship Commission. – The revenue derived from the special plate shall be transferred quarterly to the U.S.S. North Carolina Battleship Commission to be used for educational programs and preservation programs on the U.S.S. North Carolina (BB-55) and for operating expenses of the U.S.S. North Carolina Battleship Commission.

(b3) Wildlife Resources Plates. – The Division must receive 300 or more applications for a wildlife resources plate with a picture representing a particular native wildlife species occurring in North Carolina before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of wildlife resources plates to the Wildlife Conservation Account established by G.S. 143-247.2.

(b4) Olympic Games. – The Division may not issue an Olympic Games special plate unless it receives 300 or more applications for the plate and the U.S. Olympic Committee licenses, without charge, the State to develop a plate bearing the Olympic Games symbol and name. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction

Plate Account derived from the sale of Olympic Games plates to North Carolina Amateur Sports, which will allocate the funds as follows:

- (1) Sixty-seven percent (67%) to the U.S. Olympic Committee to assist in training Olympic athletes.
- (2) Thirty-three percent (33%) to North Carolina Amateur Sports to assist with administration of the State Games of North Carolina.
- (3) Repealed by Session Laws 2013-376, s. 7, effective July 29, 2013.
- (b5) March of Dimes Plates. – Expired July 1, 2016.
- (b6) School Technology Plates. – Expired July 1, 2016.
- (b7) Scenic Rivers Plates. – Expired July 1, 2016.
- (b8) Soil and Water Conservation Plates. – Expired July 1, 2016.
- (b9) Kids First Plates. – The Division must receive 300 or more applications for a Kids First plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Kids First plates to the North Carolina Children's Trust Fund established in G.S. 7B-1302.
- (b10) University Health Systems of Eastern Carolina. – Expired July 1, 2016.
- (b11) Animal Lovers Plates. – The Division must receive 300 or more applications before an animal lovers plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the animal lovers plate to the Spay/Neuter Account established in G.S. 19A-62.
- (b12) I Support Teachers Plates. – Expired July 1, 2016.
- (b13) Ducks Unlimited Plates. – The Division must receive 300 or more applications for a Ducks Unlimited plate and receive any necessary licenses from Ducks Unlimited, Inc., for use of their logo before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Ducks Unlimited plates to the Wildlife Resources Commission to be used to support the conservation programs of Ducks Unlimited, Inc., in this State.
- (b14) Omega Psi Phi Fraternity Plates. – The Division must receive 300 or more applications for an Omega Psi Phi Fraternity plate and receive any necessary licenses, without charge, from Omega Psi Phi Fraternity, Incorporated, before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Omega Psi Phi Fraternity plates to the Carolina Uplift Foundation, Inc., for youth activity and scholarship programs.
- (b15) Litter Prevention Plates. – The Division must receive 300 or more applications for a Litter Prevention plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the litter prevention plates to the Litter Prevention Account created pursuant to G.S. 136-125.1.
- (b16) Goodness Grows Plates. – Expired July 1, 2016.
- (b17) Audubon North Carolina Plates. – Expired July 1, 2016.
- (b18) Special Forces Association. – Expired July 1, 2016.
- (b19) The V Foundation for Cancer Research. – The Division must receive 300 or more applications for a V Foundation plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of V Foundation plates to The V Foundation for Cancer Research to fund cancer research grants.

(b20) Save the Sea Turtles. – The Division must receive 300 or more applications for a Save the Sea Turtles plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Save the Sea Turtles plates to The Karen Beasley Sea Turtle Rescue and Rehabilitation Center.

(b21) Harley Owners' Group. – The Division must receive 300 or more applications for a Harley Owners' Group plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Harley Owners' Group plates to the State Board of Community Colleges to support the motorcycle safety instruction program established pursuant to G.S. 115D-72.

(b22) Rocky Mountain Elk Foundation. – The Division must receive 300 or more applications for a Rocky Mountain Elk Foundation plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Account derived from the sale of Rocky Mountain Elk Foundation plates to Rocky Mountain Elk Foundation, Inc.

(b23) NC Agribusiness. – Expired July 1, 2016.

(b24) Nurses. – The Division must receive 300 or more applications for a Nurses plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Nurses plates to the NC Foundation for Nursing for nursing scholarships for citizens of North Carolina to be awarded annually.

(b25) NC Coastal Federation. – The Division must receive 300 or more applications for a NC Coastal Federation plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of NC Coastal Federation plates to the North Carolina Coastal Federation, Inc.

(b26) Be Active NC. – Expired July 1, 2016.

(b27) Buffalo Soldiers. – Expired July 1, 2016.

(b28) Crystal Coast. – Expired July 1, 2016.

(b29) Surveyor Plate. – The Division must receive 300 or more applications for a Surveyor plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Surveyor plates to The North Carolina Society of Surveyors Education Foundation, Inc., for public educational programs.

(b30) Zeta Phi Beta Sorority. – The Division must receive 300 or more applications for a Zeta Phi Beta Sorority plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Zeta Phi Beta Sorority plates to the Zeta Phi Beta Sorority Education Foundation, through the Raleigh office, for the benefit of undergraduate scholarships in this State.

(b31) In God We Trust. – The Division must receive 300 or more applications for the In God We Trust plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the In God We Trust plates to the Department of Public Safety to be deposited into The N.C. National Guard Soldiers and Airmen Assistance Fund of The Minuteman Partnership to help provide assistance to the families of North Carolina National Guardsmen who have been activated and deployed in federal service.

(b32) North Carolina 4-H Development Fund. – Expired July 1, 2016.

(b33) High School Insignia Plate. – The Division must receive 300 or more applications for a high school insignia plate for a public high school in North Carolina before a high school insignia plate may be issued for that school. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of high school insignia plates to the Department of Public Instruction to be deposited into the State Aid to Local School Administrative Units account. The Division must also send the Department of Public Instruction information as to the number of plates sold representing a particular high school. The Department of Public Instruction must annually transfer the money in the State Aid to Local School Administrative Units account that is derived from the sale of the high school insignia plates to the high schools which have a high school insignia plate in proportion to the number of high school insignia plates sold representing that school. The high school must use the money for academic enhancement.

(b34) HOMES4NC. – The Division must receive 300 or more applications for the HOMES4NC plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the HOMES4NC plates to the NCAR Housing Opportunity Foundation to promote safe, decent, and affordable housing for all in North Carolina.

(b35) First in Forestry. – The Division must receive 300 or more applications for the First in Forestry plate before the plate may be developed. The Division shall transfer quarterly one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the First in Forestry plates to the North Carolina Forest Service of the Department of Agriculture and Consumer Services for a State forests and forestry education program and shall transfer quarterly one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the First in Forestry plates to the Forest Education and Conservation Foundation for their programs.

(b36) El Pueblo. – Expired July 1, 2016.

(b37) Daughters of the American Revolution. – Expired July 1, 2016.

(b38) Stock Car Racing Theme. – The Division may issue any plate in this series without a minimum number of applications if the person providing the State with the license to use the words, logos, trademarks, or designs associated with the plate produces the plate for the State without a minimum order quantity.

The cost of the Stock Car Racing Theme plate shall include all costs to produce blank plates for issuance by the Division. Notwithstanding G.S. 66-58(b), the Division or the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may contract for the production of the blank plates in this series to be issued by the Division, provided the plates meet or exceed the State's specifications including durability and retroreflectivity, and provided the plates are manufactured using high-quality embossable aluminum. The cost of the blank plates to the State shall be substantially equivalent to the price paid to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for license tags, as provided in G.S. 66-58(b)(15).

The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Stock Car Racing Theme plates to the North Carolina Motorsports Foundation, Inc.; except that the Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Charlotte Motor Speedway plates to Speedway Children's Charities.

(b39) Alpha Phi Alpha Fraternity. – Expired July 1, 2016.

(b40) ARC of North Carolina. – Expired July 1, 2016.

(b41) Autism Society of North Carolina. – The Division must receive 300 or more applications for an Autism Society of North Carolina plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Autism Society of North Carolina plates to the Autism Society of North Carolina, Inc., for support services to individuals with autism and their families.

(b42) Buddy Pelletier Surfing Foundation. – The Division must receive 300 or more applications for the Buddy Pelletier Surfing Foundation plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the Buddy Pelletier Surfing Foundation to the Foundation to fund the Foundation's scholastic and humanitarian aid programs.

(b43) Coastal Conservation Association. – Expired July 1, 2016.

(b44) Guilford Battleground Company. – The Division must receive 300 or more applications for a Guilford Battleground Company plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Guilford Battleground Company plates to the Guilford Battleground Company for its programs.

(b45) National Multiple Sclerosis Society. – The Division must receive 300 or more applications for the National Multiple Sclerosis Society plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the National Multiple Sclerosis Society plates to the National Multiple Sclerosis Society for its public awareness programs.

(b46) National Wild Turkey Federation. – The Division must receive 300 or more applications for the National Wild Turkey Federation plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the National Wild Turkey Federation plates to the North Carolina State Chapter of the National Wild Turkey Federation for special projects to benefit the public.

(b47) SCUBA. – The Division must receive 300 or more applications for the SCUBA plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Plate Account derived from the sale of the SCUBA plates to the Division of Marine Fisheries for the purpose of developing the State's artificial reefs.

(b48) Share the Road. – The Division must receive 300 or more applications for the Share the Road plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the Share the Road plates to the Department of Transportation, Division of Bicycle and Pedestrian Transportation, for its programs.

(b49) North Carolina Wildlife Habitat Foundation. – The Division must receive 300 or more applications for the North Carolina Wildlife Habitat Foundation plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the North Carolina Wildlife Habitat Foundation plates to the North Carolina Wildlife Habitat Foundation for its programs.

(b50) Shag Dancing. – The Division must receive 300 or more applications for the Shag Dancing plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Shag Dancing plates to the Hall of Fame Foundation.

(b51) North Carolina Libraries. – Expired July 1, 2016.

(b52) NC Trout Unlimited. – The Division must receive 300 or more applications for an NC Trout Unlimited plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of NC Trout Unlimited plates to North Carolina Trout Unlimited for its programs.

(b53) Repealed by Session Laws 2007-483, s. 8(c), effective October 1, 2007.

(b54) Carolina's Aviation Museum. – Expired July 1, 2016.

(b55) Greyhound Friends of North Carolina. – Expired July 1, 2016.

(b56) Leukemia & Lymphoma Society. – Expired July 1, 2016.

(b57) Lung Cancer Research. – Expired July 1, 2016.

(b58) NC Children's Promise. – Expired July 1, 2016.

(b59) Prince Hall Mason. – The Division must receive 300 or more applications for a Prince Hall Mason plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Prince Hall Mason plates to The Most Worshipful Prince Hall Grand Lodge of Free and Accepted Masons of North Carolina and Jurisdiction, Inc., to be used for scholarships, family assistance, and other charitable causes.

(b60) Support Our Troops. – The Division must receive 300 or more applications for a Support Our Troops plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Support Our Troops plates to NC Support Our Troops, Inc., to be used to provide support and assistance to the troops and their families.

(b61) US Equine Rescue League. – Expired July 1, 2016.

(b62) Back Country Horsemen of North Carolina. – Expired July 1, 2016.

(b63) Maggie Valley Trout Festival. – Expired July 1, 2016.

(b64) Home Care and Hospice. – The Division must receive 300 or more applications for the Home Care and Hospice plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Home Care and Hospice plates to The Association for Home and Hospice Care of North Carolina for its educational programs in support of home care and hospice care in North Carolina.

(b65) Hospice Care. – Expired July 1, 2016.

(b66) Breast Cancer Earlier Detection. – Expired July 1, 2016.

(b67) Juvenile Diabetes Research Foundation. – The Division must receive 300 or more applications for the Juvenile Diabetes Research Foundation plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Juvenile Diabetes Research Foundation plates to the Triangle Eastern North Carolina Chapter of the Juvenile Diabetes Research Foundation International, Inc., to provide funding for research to cure diabetes. The Foundation must distribute the amount it receives to all Juvenile Diabetes Research Foundation, Inc., chapters located in the State in equal shares.

(b68) AIDS Awareness. – Expired July 1, 2016.

(b69) ALS Research. – Expired July 1, 2016.

(b70) Brain Injury Awareness. – Expired July 1, 2016.

(b71) National Kidney Foundation. – Expired July 1, 2016.

(b72) NC Tennis Foundation. – The Division must receive 300 or more applications for the NC Tennis Foundation plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of NC Tennis Foundation plates to the North Carolina Tennis Foundation, Inc., to provide funding for development and growth of tennis as a sport in North Carolina.

(b73) American Red Cross. – Expired July 1, 2016.

(b74) ARTS NC. – The Division must receive 300 or more applications for the ARTS NC plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of ARTS NC plates to ARTS North Carolina, Inc., to provide funding to promote the arts in North Carolina.

(b75) Arthritis Foundation. – Expired July 1, 2016.

(b76) Battle of Kings Mountain. – The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "Battle of Kings Mountain" plates by transferring fifty percent (50%) to the Kings Mountain Tourism Development Authority and fifty percent (50%) to Kings Mountain Gateway Trails, Inc., to be used to develop tourism to the area and provide safe and adequate trails for visitors to the park.

(b77) Battleship North Carolina. – The Division must receive 300 or more applications for the "Battleship North Carolina" plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "Battleship North Carolina" plates to the U.S.S. North Carolina Battleship Commission to provide funding for information and education about the role of the Battleship U.S.S. North Carolina in history and for administrative and operating costs of the U.S.S. North Carolina Battleship Commission.

(b78) Boy Scouts of America. – Expired July 1, 2016.

(b79) Brenner Children's Hospital. – Expired July 1, 2016.

(b80) Carolina Raptor Center. – Expired July 1, 2016.

(b81) Carolina Regional Volleyball Association. – Expired July 1, 2016.

(b82) Carolinas Credit Union Foundation. – Expired July 1, 2016.

(b83) Carolinas Golf Association. – The Division must receive 300 or more applications for the "Carolinas Golf Association" plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "Carolinas Golf Association" plates to the Carolinas Golf Association to be used to promote amateur golf in North Carolina.

(b84) Choose Life. – The Division must receive 300 or more applications for a "Choose Life" plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "Choose Life" plates to the Carolina Pregnancy Care Fellowship, which shall distribute the money annually to nongovernmental, not-for-profit agencies that provide pregnancy services that are limited to counseling and/or meeting the physical needs of pregnant women. Funds received pursuant to this section shall not be distributed to any agency, organization, business, or other entity that provides, promotes, counsels, or refers for abortion and shall not be distributed to any entity that charges women for services received.

(b85) Coastal Land Trust. – The Division must receive 300 or more applications for the "Coastal Land Trust" plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the "Coastal Land Trust" plates to the North Carolina Coastal Land Trust to be used to

acquire open space and natural areas, to ensure conservation education, to promote good land stewardship, to set aside lands for conservation, and for other administrative and operating costs.

(b86) Concerned Bikers Association/ABATE of North Carolina. – Expired July 1, 2016.

(b87) Daniel Stowe Botanical Garden. – Expired July 1, 2016.

(b88) Donate Life. – The Division must receive 300 or more applications for the "Donate Life" plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "Donate Life" plates to Donate Life North Carolina to be divided equally among Donate Life North Carolina and each of the transplant centers in North Carolina to include Bowman Gray Medical Center, Carolinas Medical Center, Duke University, East Carolina University, and the University of North Carolina at Chapel Hill. The transplant centers shall use all of the proceeds received from this plate to provide funding for expenses incurred by needy families, recipients, and expenses related to organ donation.

(b89) Farmland Preservation. – Expired July 1, 2016.

(b90) First in Turf. – Expired July 1, 2016.

(b91) Girl Scouts. – Expired July 1, 2016.

(b92) Greensboro Symphony Guild. – Expired July 1, 2016.

(b93) Home of American Golf. – Expired July 1, 2016.

(b94) Jaycees. – Expired July 1, 2016.

(b95) Kappa Alpha Order. – Expired July 1, 2016.

(b96) Morgan Horse Club. – Expired July 1, 2016.

(b97) Mountains-to-Sea Trail. – The Division must receive 300 or more applications for the "Mountains-to-Sea Trail" plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "Mountains-to-Sea Trail" plates to the Friends of the Mountains-to-Sea Trail, Inc., to be used to fund trail projects and related administrative and operating expenses.

(b98) Native American. – The Division must receive 300 or more applications for the "Native American" plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "Native American" plates to the Native American College Fund for scholarships to be awarded to Native American students from North Carolina.

(b99) NC Beekeepers. – Expired July 1, 2016.

(b100) NC Civil War. – Expired July 1, 2016.

(b101) NC Fisheries Association. – Expired July 1, 2016.

(b102) NC Horse Council. – The Division must receive 300 or more applications for the "NC Horse Council" plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "NC Horse Council" plates to the North Carolina Horse Council, Inc., to promote and enhance the equine industry in North Carolina.

(b103) NC Mining. – Expired July 1, 2016.

(b104) NC Veterinary Medical Association. – Expired July 1, 2016.

(b105) NC Victim Assistance Network. – Expired July 1, 2016.

(b106) NC Wildlife Federation. – Expired July 1, 2016.

(b107) NC Youth Soccer Association. – Expired July 1, 2016.

(b108) North Carolina Emergency Management Association. – Expired July 1, 2016.

(b109) North Carolina Green Industry Council. – Expired July 1, 2016.

(b110) North Carolina Master Gardener. – The Division must receive 300 or more applications for the "North Carolina Master Gardener" plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "North Carolina Master Gardener" plates to the Master Gardener's Endowment Fund maintained by the Agricultural Foundation of North Carolina State University to be used for educational programs by trained volunteers who work in partnership with their county Cooperative Extension offices to extend information in consumer horticulture.

(b111) Outer Banks Preservation Association. – Expired July 1, 2016.

(b112) Pamlico-Tar River Foundation. – Expired July 1, 2016.

(b113) P.E.O. Sisterhood. – Expired July 1, 2016.

(b114) Phi Beta Sigma Fraternity. – The Division must receive 300 or more applications for the "Phi Beta Sigma Fraternity" plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "Phi Beta Sigma Fraternity" plates to the Phi Beta Sigma Fraternity, Inc., to provide funding for scholarships, education, and professional development, or similar programs. None of the proceeds from this special plate may be distributed to any board member as compensation or as an honorarium.

(b115) Piedmont Airlines. – The Division must receive 300 or more applications for a "Piedmont Airlines" plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "Piedmont Airlines" plates to Piedmont Silver Eagles Charitable Funds, Inc., to be used for scholarships and family assistance for Piedmont Airlines employees and their families, including surviving spouses and dependents, suffering economic hardship.

(b116) Retired Legislator. – The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Retired Legislator plates to the State Capitol Foundation, Inc., to be used to provide support for the mission and goals of the foundation.

(b117) Ronald McDonald House. – The Division must receive 300 or more applications for the "Ronald McDonald House" plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "Ronald McDonald House" plates to Ronald McDonald House Charities of North Carolina, Inc., to be used for Ronald McDonald Houses located within North Carolina and related administrative and operating expenses.

(b118) S.T.A.R. – Expired July 1, 2016.

(b119) Support NC Education. – Expired July 1, 2016.

(b120) Support Soccer. – The Division must receive 300 or more applications for the "Support Soccer" plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "Support Soccer" plates to the North Carolina Soccer Hall of Fame, Inc., to provide funding to promote the sport of soccer in North Carolina.

(b121) Sustainable Fisheries. – Expired July 1, 2016.

(b122) Toastmasters Club. – Expired July 1, 2016.

(b123) Topsail Island Shoreline Protection. – Expired July 1, 2016.

(b124) Travel and Tourism. – Expired July 1, 2016.

(b125) USO of NC. – Expired July 1, 2016.

(b126) Charlotte Checkers. – Expired July 1, 2016.

(b127) First Tee. – Expired July 1, 2016.

(b128) Fraternal Order of Police. – The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Fraternal Order of Police plates to The North Carolina Fraternal Order of Police to support the State Lodge.

(b129) I.B.P.O.E.W. – Expired July 1, 2016.

(b130) Mission Foundation. – Expired July 1, 2016.

(b131) Morehead Planetarium. – Expired July 1, 2016.

(b132) Municipality Plate. – Expired July 1, 2016.

(b133) National Law Enforcement Officers Memorial. – Expired July 1, 2016.

(b134) Native Brook Trout. – The Division must receive 300 or more applications for the Native Brook Trout plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Native Brook Trout plates to the North Carolina Wildlife Resources Commission to be used to fund public access to and habitat protection of brook trout waters.

(b135) NC FIRST Robotics. – Expired July 1, 2016.

(b136) NCSC. – Expired July 1, 2016.

(b137) North Carolina Bluegrass Association. – Expired July 1, 2016.

(b138) North Carolina Cattlemen's Association. – Expired July 1, 2016.

(b139) Operation Coming Home. – Expired July 1, 2016.

(b140) Order of the Long Leaf Pine. – The Order of the Long Leaf Pine plate is not subject to the provisions of G.S. 20-79.3A or G.S. 20-79.8. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Order of the Long Leaf Pine plates to the General Fund.

(b141) Pancreatic Cancer Awareness. – Expired July 1, 2016.

(b142) Professional Engineer. – Expired July 1, 2016.

(b143) Red Drum. – Expired July 1, 2016.

(b144) RiverLink. – Expired July 1, 2016.

(b145) Turtle Rescue Team. – Expired July 1, 2016.

(b146) Volunteers in Law Enforcement. – Expired July 1, 2016.

(b147) YMCA. – Expired July 1, 2016.

(b148) North Carolina Paddle Festival. – Expired July 1, 2016.

(b149) Carolina Panthers. – The Division shall transfer quarterly one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Carolina Panthers plates to the Keep Pounding Fund of the Carolinas Healthcare Foundation, Inc., to be used to support cancer research at the Carolinas Medical Center, and shall transfer quarterly one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the Carolina Panthers plates to the Carolina Panthers Charities Fund of the Foundation for the Carolinas to be used to create new athletic opportunities for children, support their educational needs, and promote healthy lifestyles for families.

(b150) NC Surveyors. – The applicable requirements of G.S. 20-79.3A shall be met before the NC Surveyors plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of NC Surveyors plates to the North Carolina Society of Surveyors Education Foundation, Inc., to be used to grant financial assistance to those persons genuinely interested in pursuing or continuing to pursue a formal education in the field of surveying.

(b151) North Carolina Sheriffs' Association. – The applicable requirements of G.S. 20-79.3A shall be met before the North Carolina Sheriffs' Association plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of North Carolina Sheriffs' Association plates to the North Carolina Sheriffs' Association, Inc., to support the operating expenses of the North Carolina Sheriffs' Association.

(b152) Save the Honey Bee (HB). – The applicable requirements of G.S. 20-79.3A shall be met before the Save the Honey Bee plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Save the Honey Bee plates to the North Carolina State University Apiculture Program.

(b153) Save the Honey Bee (SB). – The applicable requirements of G.S. 20-79.3A shall be met before the Save the Honey Bee plate may be developed. The Division shall transfer quarterly one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Save the Honey Bee plates to the Grandfather Mountain Stewardship Foundation to be used to support the Honey Bee Haven and honey bee educational programs and shall transfer one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Save the Honey Bee plates to the North Carolina State University Apiculture Program to be used to support work on honey bee biology and apicultural science.

(b154) United States Service Academy. – The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of United States Service Academy plates to the United Services Organization of North Carolina to support its mission to lead the way to enriching the lives of America's military in North Carolina.

(b155) Pisgah Conservancy. – The applicable requirements of G.S. 20-79.3A shall be met before the Pisgah Conservancy plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Pisgah Conservancy plates to The Pisgah Conservancy to be used to provide support for the mission and goals of the Conservancy.

(b156) Colorectal Cancer Awareness. – The Division must receive 300 or more applications for a Colorectal Cancer Awareness plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Colorectal Cancer Awareness plates to the Colon Cancer Coalition to be used to promote prevention and early detection of colorectal cancer and to provide support to persons affected.

(b157) Kick Cancer for Kids. – The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Kick Cancer for Kids plates as follows:

- (1) Fifty percent (50%) to The Children's Oncology Group Foundation to be used to provide support for the mission and goals of the Foundation.
- (2) Fifty percent (50%) to Riley's Army, Inc., to be used to provide support to children with cancer and their families.

(b158) Big Rock Blue Marlin Tournament. – The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Big Rock Blue Marlin Tournament plates to the Big Rock Blue Marlin Tournament to be used to fund charities in North Carolina.

(c) General. – An application for a special license plate named in this section may be made at any time during the year. If the application is made to replace an existing current valid

plate, the special plate must be issued with the appropriate decals attached. No refund shall be made to the applicant for any unused portion remaining on the original plate. The request for a special license plate named in this section may be combined with a request that the plate be a personalized license plate.

(c1) In accordance with G.S. 143C-1-2, the transfers mandated in this section are appropriations made by law.

(d) through (g) Repealed by Session Laws 1991 (Regular Session, 1992), c. 1042, s. 3. (1991, c. 758, s. 1; 1991 (Reg. Sess., 1992), c. 1007, s. 33; c. 1042, s. 3; 1993, c. 543, s. 5; 1995, c. 433, s. 4; 1997-427, s. 2; 1997-477, s. 4; 1997-484, s. 6; 1999-277, s. 4; 1999-403, s. 4; 1999-450, s. 4; 2000-159, ss. 5, 6; 2000-163, s. 3; 2001-498, ss. 6(a), 6(b); 2002-134, s. 7; 2003-11, s. 4; 2003-68, s. 4; 2003-424, ss. 5, 6; 2004-131, s. 5; 2004-185, s. 5; 2004-200, s. 4; 2005-216, ss. 6, 7; 2005-435, s. 40; 2006-209, ss. 5, 6, 7; 2007-323, s. 27.20(a); 2007-345, s. 10.1; 2007-400, ss. 5, 6; 2007-483, ss. 6(a), 7, 8(c); 2010-31, s. 11.4(m); 2010-95, s. 35; 2011-145, ss. 19.1(g), (h), 13.25(ll); 2011-392, ss. 6, 7; 2013-155, s. 2; 2013-360, s. 14.3B; 2013-376, ss. 5-8; 2013-414, s. 57(d); 2014-100, s. 8.11(c); 2015-241, ss. 14.30(dd1), 15.4(a), 29.40(d), (j), (k), (n), (p); 2017-100, s. 3; 2017-107, s. 4; 2017-114, s. 4; 2017-186, ss. 2(mmmm), 3(a).)

§ 20-82: Repealed by Session Laws 1995, c. 163, s. 3.

Part 6. Vehicles of Nonresidents of State; Permanent Plates; Highway Patrol.

§ 20-83. Registration by nonresidents.

(a) When a resident carrier of this State interchanges a properly licensed trailer or semitrailer with another carrier who is a resident of another state, and adequate records are on file in his office to verify such interchanges, the North Carolina licensed carrier may use the trailer licensed in such other state the same as if it is his own during the time the nonresident carrier is using the North Carolina licensed trailer.

(b) Motor vehicles duly registered in a state or territory which are not allowed exemptions by the Commissioner, as provided for in the preceding paragraph, desiring to make occasional trips into or through the State of North Carolina, or operate in this State for a period not exceeding 30 days, may be permitted the same use and privileges of the highways of this State as provided for similar vehicles regularly licensed in this State, by procuring from the Commissioner trip licenses upon forms and under rules and regulations to be adopted by the Commissioner, good for use for a period of 30 days upon the payment of a fee in compensation for said privilege equivalent to one tenth of the annual fee which would be chargeable against said vehicle if regularly licensed in this State: Provided that only one such permit allowed by this section shall be issued for the use of the same vehicle within the same registration year. Provided, however, that nothing in this provision shall prevent the extension of the privileges of the use of the roads of this State to vehicles of other states under the reciprocity provisions provided by law: Provided further, that nothing herein contained shall prevent the owners of vehicles from other states from licensing such vehicles in the State of North Carolina under the same terms and the same fees as like vehicles are licensed by owners resident in this State.

(c) Every nonresident, including any foreign corporation carrying on business within this State and owning and operating in such business any motor vehicle, trailer or semitrailer within this State, shall be required to register each such vehicle and pay the same fees therefor as is

required with reference to like vehicles owned by residents of this State. (1937, c. 407, s. 47; 1941, cc. 99, 365; 1957, c. 681, s. 1; 1961, c. 642, s. 4; 1967, c. 1090.)

§ 20-84. Permanent registration plates; State Highway Patrol.

(a) General. – The Division may issue a permanent registration plate for a motor vehicle owned by one of the entities authorized to have a permanent registration plate in this section. To obtain a permanent registration plate, an authorized representative of the entity must provide proof of ownership, provide proof of financial responsibility as required by G.S. 20-309, and pay a fee of six dollars (\$6.00). A permanent plate issued under this section may be transferred as provided in G.S. 20-78 to a replacement vehicle of the same classification. A permanent registration plate issued under this section must be a distinctive color and bear the word "permanent". In addition, a permanent registration plate issued under subdivision (b)(1) of this section must have distinctive color and design that is readily distinguishable from all other permanent registration plates issued under this section. Every eligible entity that receives a permanent registration plate under this section shall ensure that the permanent registration plate is registered under a single name. That single name shall be the full legal name of the eligible entity.

(b) Permanent Registration Plates. – The Division may issue permanent plates for the following motor vehicles:

- (1) A motor vehicle owned by the State or one of its agencies.
- (2) A motor vehicle owned by a county, city or town.
- (3) A motor vehicle owned by a board of education.
- (3a) A motor vehicle that is owned and exclusively operated by a nonprofit corporation authorized under G.S. 115C-218.5 to operate a charter school and identified by a permanent decal or painted marking disclosing the name of the nonprofit corporation. The motor vehicle shall only be used for student transportation and official charter school related activities.
- (4) Repealed by Session Laws 2012-159, s. 1, effective July 1, 2012.
- (5) A motor vehicle owned by the civil air patrol.
- (6) A motor vehicle owned by an incorporated emergency rescue squad.
- (7) through (9) Repealed by Session Laws 2012-159, s. 1, effective July 1, 2012.
- (10) A motor vehicle owned by a rural fire department, agency, or association.
- (11) Repealed by Session Laws 2012-159, s. 1, effective July 1, 2012.
- (12) A motor vehicle owned by a local chapter of the American National Red Cross and used for emergency or disaster work.
- (13) through (16) Repealed by Session Laws 2012-159, s. 1, effective July 1, 2012.
- (17) A motor vehicle owned by a community college. A community college vehicle purchased with State equipment funds shall be issued a permanent registration plate with the same distinctive color and design as a permanent registration plate issued under subdivision (1) of this subsection.
- (18) A motor vehicle that is owned and operated by a sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes.
- (19) Any motor vehicle owned by a federally recognized tribe.
- (20) A motor vehicle owned by a public transportation service provider that is a designated recipient or direct recipient of Federal Transit Administration formula grant funds pursuant to 49 U.S.C. § 5311 or 49 U.S.C. § 5307.

(c) State Highway Patrol. – In lieu of all other registration requirements, the Commissioner shall each year assign to the State Highway Patrol, upon payment of six dollars (\$6.00) per registration plate, a sufficient number of regular registration plates of the same letter prefix and in numerical sequence beginning with number 100 to meet the requirements of the State Highway Patrol for use on Division vehicles assigned to the State Highway Patrol. The commander of the Patrol shall, when such plates are assigned, issue to each member of the State Highway Patrol a registration plate for use upon the Division vehicle assigned to the member pursuant to G.S. 20-190 and assign a registration plate to each Division service vehicle operated by the Patrol. An index of such assignments of registration plates shall be kept at each State Highway Patrol radio station and a copy of it shall be furnished to the registration division of the Division. Information as to the individual assignments of the registration plates shall be made available to the public upon request to the same extent and in the same manner as regular registration information. The commander, when necessary, may reassign registration plates provided that the reassignment shall appear upon the index required under this subsection within 20 days after the reassignment.

(d) Revocation. – The Division may revoke all permanent registration plates issued to eligible entities for vehicles that are 90 days or more past due for a vehicle inspection, as required by G.S. 20-183.4C. This subsection does not limit or restrict the authority of the Division to revoke permanent registration plates pursuant to other applicable law. (1937, c. 407, s. 48; 1939, c. 275; 1949, c. 583, s. 1; 1951, c. 388; 1953, c. 1264; 1955, cc. 368, 382; 1967, c. 284; 1969, c. 800; 1971, c. 460, s. 1; 1975, c. 548; c. 716, s. 5; 1977, c. 370, s. 1; 1979, c. 801, s. 9; 1981 (Reg. Sess., 1982), c. 1159; 1983, c. 593, ss. 1, 2; 1987 (Reg. Sess., 1988), c. 885; 1991 (Reg. Sess., 1992), c. 1030, s. 11; 1997-443, s. 11A.118(a); 1999-220, s. 3; 2000-159, s. 7; 2012-159, s. 1; 2014-101, s. 6.6(a); 2014-108, s. 3(a); 2015-241, s. 29.40(r); 2016-94, s. 35.16.)

§ 20-84.1. Repealed by Session Laws 1999-220, s. 4.

Part 6A. Rental Vehicles.

§ 20-84.2. Definition; reciprocity; Commissioner's powers.

(a) The term rental vehicle when used herein shall mean and include any motor vehicle which is rented or leased to another by its owner for a period of not more than 30 days solely for the transportation of the lessee or the private hauling of the lessee's personal property.

(b) Rental vehicles owned or operated by any nonresident person engaged in the business of leasing such vehicles for use in intrastate or interstate commerce shall be extended full reciprocity and exempted from registration fees only in instances where:

- (1) Such person has validly licensed all rental vehicles owned by him in the state wherein the owner actually resides; provided, that such state affords equal recognition, either in fact or in law to such vehicles licensed in the State of North Carolina and operating similarly within the owner's state of residence; and further provided, that such person is not engaged in this State in the business of leasing rental vehicles; or where
- (2) Such person operates vehicles which are a part of a common fleet of vehicles which are easily identifiable as a part of such fleet and such person has validly licensed in the State of North Carolina a percentage of the total number of vehicles in each weight classification in such fleet which represents the percentage of total miles travelled in North Carolina by all vehicles in each

weight classification of such fleet to total miles travelled in all jurisdictions in which such fleet is operated by all vehicles in each weight classification of such fleet.

(c) The Commissioner of Motor Vehicles requires such person to submit under oath such information as is deemed necessary for fairly administering this section. The Commissioner's determination, after hearing, as to the number of vehicles in each weight classification to be licensed in North Carolina shall be final.

Any person who licenses vehicles under subsection (b)(2) above shall keep and preserve for three years the mileage records on which the percentage of the total fleet is determined. Upon request these records shall be submitted or made available to the Commissioner of Motor Vehicles for audit or review, or the owner or operator shall pay reasonable costs of an audit by the duly appointed representative of the Commissioner at the place where the records are kept.

If the Commissioner determines that the person licensing vehicles under subsection (b)(2) above should have licensed more vehicles in North Carolina or that such person's records are insufficient for proper determination the Commissioner may deny that person the right or any further benefits under this subsection until the correct number of vehicles have been licensed, and all taxes determined by the Commissioner to be due have been paid.

(d) Upon payment by the owner of the prescribed fee, the Division shall issue registration certificates and plates for the percentage of vehicles determined by the Commissioner. Thereafter, all rental vehicles properly identified and licensed in any state, territory, province, country or the District of Columbia, and belonging to such owner, shall be permitted to operate in this State on an interstate or intrastate basis. (1959, c. 1066; 1971, c. 808; 1973, c. 1446, s. 23; 1975, c. 716, s. 5.)

Part 7. Title and Registration Fees.

§ 20-85. Schedule of fees.

(a) 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:

(1)	Each application for certificate of title.....	\$52.00
(2)	Each application for duplicate or corrected certificate of title.....	20.00
(3)	Each application of reposessor for certificate of title.....	20.00
(4)	Each transfer of registration.....	20.00
(5)	Each set of replacement registration plates.....	20.00
(6)	Each application for duplicate registration card	20.00
(7)	Each application for recording supplementary lien	20.00
(8)	Each application for renewing a security interest on a certificate of title or removing a lien or security interest from a certificate of title.....	20.00
(9)	Each application for certificate of title for a motor vehicle transferred to a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of resale	20.00
(10)	Each application for a salvage certificate of title made by an insurer or by a used motor vehicle dealer pursuant to subdivision (b)(2) or subsection (e1) of G.S. 20-109.1	20.00
(11)	Each set of replacement Stock Car Racing Theme plates issued under G.S. 20-79.4	25.00.

(a1) **(Effective until June 30, 2021)** One dollar (\$1.00) of the fee imposed for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section shall be credited to the North Carolina Highway Fund. The Division shall use the fees derived from transactions with commission contract agents for the payment of compensation to commission contract agents. An additional twenty cents (20¢) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited to the Mercury Pollution Prevention Fund in the Department of Environmental Quality.

(a1) **(Effective June 30, 2021)** One dollar (\$1.00) of the fee imposed for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section shall be credited to the North Carolina Highway Fund. The Division shall use the fees derived from transactions with commission contract agents for the payment of compensation to commission contract agents.

(a2) From the fees collected under subdivisions (a)(1) through (a)(9) of this section, the Department shall annually credit the sum of four hundred thousand dollars (\$400,000) to the Reserve for Visitor Centers in the Highway Fund.

(b) Except as otherwise provided in subsections (a1) and (a2) of this section, the fees collected under subdivisions (a)(1) through (a)(9) of this section shall be credited to the North Carolina Highway Trust Fund. The fees collected under subdivision (a)(10) of this section shall be credited to the Highway Fund.

(c) The Division shall not collect a fee for a certificate of title for a motor vehicle entitled to a permanent registration plate under G.S. 20-84. (1937, c. 407, s. 49; 1943, c. 648; 1947, c. 219, s. 9; 1955, c. 554, s. 4; 1961, c. 360, s. 19; c. 835, s. 11; 1975, c. 430; c. 716, s. 5; c. 727; c. 875, s. 4; c. 879, s. 46; 1979, c. 801, s. 11; 1981, c. 690, s. 19; 1989, c. 692, s. 2.1; c. 700, s. 1; c. 770, s. 74.11; 1991, c. 193, s. 8; 1993, c. 467, s. 5; 1995, c. 50, s. 2; c. 390, s. 34; c. 509, s. 135.2(i), (j); 1999-220, s. 2; 2004-77, s. 2; 2004-185, s. 6; 2005-276, s. 44.1(k); 2005-384, s. 2; 2006-255, s. 5; 2006-264, s. 35.5; 2007-142, s. 8; 2011-145, ss. 28.30(a), 31.11; 2011-391, s. 54; 2013-183, s. 2.1; 2013-360, s. 34.16(b); 2013-400, s. 5; 2015-241, ss. 14.30(u), 29.30(j); 2016-59, s. 5; 2016-94, ss. 14.1(a), 35.3(a); 2017-57, s. 34.37(a).)

§ 20-85.1. Registration by mail; one-day title service; fees.

(a) The owner of a vehicle registered in North Carolina may renew that vehicle registration by mail.

(b) The Commissioner and the employees of the Division designated by the Commissioner may prepare and deliver upon request a certificate of title, charging a fee of ninety-eight dollars (\$98.00) for one-day title service, in lieu of the title fee required by G.S. 20-85(a). The fee for one-day title service must be paid by cash or by certified check. This fee shall be credited to the Highway Trust Fund.

(c) Repealed by Session Laws 2010-132, s. 8, effective December 1, 2010, and applicable to offenses committed on or after that date. (1983, c. 50, s. 1; 1989, c. 692, s. 2.2; c. 700, s. 1; 1991, c. 689, s. 324; 2005-276, s. 44.1(l); 2010-132, s. 8; 2015-241, s. 29.30(k).)

§ 20-86. Penalty for engaging in a "for-hire" business without proper license plates.

Any person, firm or corporation engaged in the business of transporting persons or property for compensation, except as otherwise provided in this Article, shall, before engaging in such business, pay the license fees prescribed by this Article and secure the license plates provided for vehicles operated for hire. Any person, firm or corporation operating vehicles for hire without

having paid the tax prescribed or using private plates on such vehicles shall be liable for an additional tax of twenty-five dollars (\$25.00) for each vehicle in addition to the normal fees provided in this Article; provided, that when the vehicle subject to for-hire license has attached thereto a trailer or semitrailer, each unit in the combination, including the tractor, trailer and/or semitrailer, shall be subject to the additional tax as herein prescribed; provided, further that the additional tax herein provided shall not apply to trailers having a gross weight of 3,000 pounds or less. (1937, c. 407, s. 50; 1965, c. 659.)

§ 20-86.1. International Registration Plan.

(a) The registration fees required under this Article may be proportioned for vehicles which qualify and are licensed under the provisions of the International Registration Plan.

(b) Notwithstanding any other provisions of this Chapter, the Commissioner is hereby authorized to promulgate and enforce such rules and regulations as may be necessary to carry out the provisions of any agreement entered pursuant to the International Registration Plan. (1975, c. 767, s. 2; 1981, c. 859, s. 77; c. 1127, s. 53.)

§ 20-87. Passenger vehicle registration fees.

These fees shall be paid to the Division annually for the registration and licensing of passenger vehicles, according to the following classifications and schedules:

- (1) For-Hire Passenger Vehicles. – The fee for a for-hire passenger vehicle with a capacity of 15 passengers or less is one hundred dollars (\$100.00). The fee for a for-hire passenger vehicle with a capacity of more than 15 passengers is one dollar and eighty cents (\$1.80) per hundred pounds of empty weight of the vehicle.
- (2) U-Drive-It Vehicles. – U-drive-it vehicles shall pay the following tax:

Motorcycles:	1-passenger capacity	\$23.00
	2-passenger capacity	30.00
	3-passenger capacity	34.00
Automobiles:	15 or fewer passengers	\$66.00
Buses:	16 or more passengers	\$2.60 per
		hundred
		pounds of
		empty weight
Trucks under		
7,000 pounds		
that do not		
haul products		
for hire:	4,000 pounds	\$54.00
	5,000 pounds	\$66.00
	6,000 pounds	\$80.00.
- (3) Repealed by Session Laws 1981, c. 976, s. 3.
- (4) Limousine Vehicles. – For-hire passenger vehicles on call or demand which do not solicit passengers indiscriminately for hire between points along streets or highways, shall be taxed at the same rate as for-hire passenger vehicles under G.S. 20-87(1) but shall be issued appropriate registration plates to distinguish such vehicles from taxicabs.

- (5) Private Passenger Vehicles. – There shall be paid to the Division annually, as of the first day of January, for the registration and licensing of private passenger vehicles, fees according to the following classifications and schedules:
- | | |
|---|---------|
| Private passenger vehicles of not more than fifteen passengers..... | \$36.00 |
| Private passenger vehicles over fifteen passengers | 40.00 |
- Provided, that a fee of only one dollar and thirty cents (\$1.30) shall be charged for any vehicle given by the federal government to any veteran on account of any disability suffered during war so long as such vehicle is owned by the original donee or other veteran entitled to receive such gift under Title 38, section 252, United States Code Annotated.
- (6) Private Motorcycles. – The base fee on private passenger motorcycles shall be twenty dollars (\$20.00); except that when a motorcycle is equipped with an additional form of device designed to transport persons or property, the base fee shall be thirty dollars (\$30.00). An additional fee of four dollars (\$4.00) is imposed on each private motorcycle registered under this subdivision in addition to the base fee. The revenue from the additional fee, in addition to any other funds appropriated for this purpose, shall be used to fund the Motorcycle Safety Instruction Program created in G.S. 115D-72.
- (7) Dealer License Plates. – The fee for a dealer license plate is the regular fee for each of the first five plates issued to the same dealer and is one-half the regular fee for each additional dealer license plate issued to the same dealer. The "regular fee" is the fee set in subdivision (5) of this section for a private passenger motor vehicle of not more than 15 passengers.
- (8) Driveaway Companies. – Any person engaged in the business of driving new motor vehicles from the place of manufacture to the place of sale in this State for compensation shall pay a fee of one-half of the amount that would otherwise be payable under this section for each set of plates.
- (9) House Trailers. – In lieu of other registration and license fees levied on house trailers under this section or G.S. 20-88, the registration and license fee on house trailers shall be fourteen dollars (\$14.00) for the license year or any portion thereof.
- (10) Special Mobile Equipment. – The fee for special mobile equipment for the license year or any part of the license year is two times the fee in subdivision (5) for a private passenger motor vehicle of not more than 15 passengers.
- (11) Any vehicle fee determined under this section according to the weight of the vehicle shall be increased by the sum of four dollars (\$4.00) to arrive at the total fee.
- (12) Low-Speed Vehicles. – The fee for a low-speed vehicle is the same as the fee for private passenger vehicles of not more than 15 passengers.
- (13) Additional fee for certain electric vehicles. – At the time of an initial registration or registration renewal, the owner of a plug-in electric vehicle that is not a low-speed vehicle and that does not rely on a nonelectric source of power shall pay a fee in the amount of one hundred thirty dollars (\$130.00) in addition to any other required registration fees. (1937, c. 407, s. 51; 1939, c.

275; 1943, c. 648; 1945, c. 564, s. 1; c. 576, s. 2; 1947, c. 220, s. 3; c. 1019, ss. 1-3; 1949, c. 127; 1951, c. 819, ss. 1, 2; 1953, c. 478; c. 826, s. 4; 1955, c. 1313, s. 2; 1957, c. 1340, s. 3; 1961, c. 1172, s. 1a; 1965, c. 927; 1967, c. 1136; 1969, c. 600, ss. 3-11; 1971, c. 952; 1973, c. 107; 1975, c. 716, s. 5; 1981, c. 976, ss. 1-4; 1981 (Reg. Sess., 1982), c. 1255; 1983, c. 713, s. 61; c. 761, ss. 142, 143, 145; 1985, c. 454, s. 2; 1987, c. 333; 1989, c. 755, ss. 2, 4; c. 770, ss. 74.2, 74.3; 1989 (Reg. Sess., 1990), c. 830, s. 1; 1991 (Reg. Sess., 1992), c. 1015, s. 2; 1993, c. 320, s. 5; c. 440, s. 7; 1995 (Reg. Sess., 1996), c. 756, s. 7; 1999-438, s. 27; 1999-452, s. 17; 2001-356, s. 4; 2001-414, s. 31; 2002-72, s. 8; 2004-167, s. 5; 2004-199, s. 59; 2005-276, s. 44.1(m); 2013-360, s. 34.21(a); 2015-237, s. 3; 2015-241, s. 29.30(l).)

§ 20-87.1. Interchange of passenger buses with nonresident common carriers of passengers.

When a resident common carrier of passengers of this State interchanges a properly licensed bus with another common carrier of passengers who is a resident of another state, and adequate records are on file in its office to verify such interchanges, the North Carolina licensed common carrier of passengers may use the bus licensed in such other state the same as if it is its own during the time the nonresident carrier is using the North Carolina licensed bus. (1971, c. 871, s. 1; 1975, c. 716, s. 5; 1981, c. 976, s. 5.)

§ 20-88. Property-hauling vehicles.

(a) Determination of Weight. – For the purpose of licensing, the weight of self-propelled property-carrying vehicles shall be the empty weight and heaviest load to be transported, as declared by the owner or operator; provided, that any determination of weight shall be made only in units of 1,000 pounds or major fraction thereof, weights of over 500 pounds counted as 1,000 and weights of 500 pounds or less disregarded. The declared gross weight of self-propelled property-carrying vehicles operated in conjunction with trailers or semitrailers shall include the empty weight of the vehicles to be operated in the combination and the heaviest load to be transported by such combination at any time during the registration period, except that the gross weight of a trailer or semitrailer is not required to be included when the operation is to be in conjunction with a self-propelled property-carrying vehicle which is licensed for 6,000 pounds or less gross weight and the gross weight of such combination does not exceed 9,000 pounds, except wreckers as defined under G.S. 20-4.01(50). Those property-hauling vehicles registered for 4,000 pounds shall be permitted a tolerance of 500 pounds above the weight permitted under the table of weights and rates appearing in subsection (b) of this section.

(b) The following fees are imposed on the annual registration of self-propelled property-hauling vehicles; the fees are based on the type of vehicle and its weight:

SCHEDULE OF WEIGHTS AND RATES
Rates Per Hundred Pound Gross Weight

	Farmer Rate
Not over 4,000 pounds	\$0.38
4,001 to 9,000 pounds inclusive	.52
9,001 to 13,000 pounds inclusive	.65
13,001 to 17,000 pounds inclusive	.88
Over 17,000 pounds	1.00

Rates Per Hundred Pound Gross Weight

	General Rate
Not over 4,000 pounds	\$0.77
4,001 to 9,000 pounds inclusive	1.05
9,001 to 13,000 pounds inclusive	1.30
13,001 to 17,000 pounds inclusive	1.77
Over 17,000 pounds	2.00

- (1) The minimum fee for a vehicle licensed under this subsection is thirty dollars (\$30.00) at the farmer rate and thirty-six dollars (\$36.00) at the general rate.
- (2) The term "farmer" as used in this subsection means any person engaged in the raising and growing of farm products on a farm in North Carolina not less than 10 acres in area, and who does not engage in the business of buying products for resale.
- (3) License plates issued at the farmer rate shall be placed upon trucks and truck-tractors that are operated for the primary purpose of carrying or transporting the applicant's farm products, raised or produced on the applicant's farm, and farm supplies. The license plates shall not be used on a vehicle operated in hauling for hire.
- (4) "Farm products" means any food crop, livestock, poultry, dairy products, flower bulbs, or other nursery products and other agricultural products designed to be used for food purposes, including in the term "farm products" also cotton, tobacco, logs, bark, pulpwood, tannic acid wood and other forest products grown, produced, or processed by the farmer.
- (5) The Division shall issue necessary rules and regulations providing for the recall, transfer, exchange or cancellation of "farmer" plates, when vehicle bearing such plates shall be sold or transferred.
- (5a) Notwithstanding any other provision of this Chapter, license plates issued pursuant to this subsection at the farmer rate may be purchased for any three-month period at one fourth of the annual fee.
- (6) There shall be paid to the Division annually the following fees for "wreckers" as defined under G.S. 20-4.01(50): a wrecker fully equipped weighing 7,000 pounds or less, ninety-eight dollars (\$98.00); wreckers weighing in excess of 7,000 pounds shall pay one hundred ninety-two dollars (\$192.00). Fees to be prorated monthly. Provided, further, that nothing herein shall prohibit a licensed dealer from using a dealer's license plate to tow a vehicle for a customer.

(c) The fee for a semitrailer or trailer is twenty-five dollars (\$25.00) for each year or part of a year. The fee is payable each year. Upon the application of the owner of a semitrailer or trailer, the Division may issue a multiyear plate and registration card for the semitrailer or trailer for a fee of ninety-eight dollars (\$98.00). A multiyear plate and registration card for a semitrailer or trailer are valid until the owner transfers the semitrailer or trailer to another person or surrenders the plate and registration card to the Division. A multiyear plate may not be transferred to another vehicle.

The Division shall issue a multiyear semitrailer or trailer plate in a different color than an annual semitrailer or trailer plate and shall include the word "multiyear" on the plate. The Division may not issue a multiyear plate for a house trailer.

(d) Rates on trucks, trailers and semitrailers wholly or partially equipped with solid tires shall be double the above schedule.

(e) Repealed by Session Laws 1981, c. 976, s. 6.

(f) Repealed by Session Laws 1995, c. 163, s. 6.

(g) Repealed by Session Laws 1969, c. 600, s. 17.

(h) Repealed by Session Laws 1979, c. 419.

(i) Any vehicle fee determined under this section according to the weight of the vehicle shall be increased by the sum of four dollars (\$4.00) to arrive at the total fee.

(j) No heavy vehicle subject to the use tax imposed by Section 4481 of the Internal Revenue Code of 1954 (26 U.S.C. 4481) may be registered or licensed pursuant to G.S. 20-88 without proof of payment of the use tax imposed by that law. The proof of payment shall be on a form prescribed by the United States Secretary of Treasury pursuant to the provisions of 23 U.S.C. 141(d).

(k) A person may not drive a vehicle on a highway if the vehicle's gross weight exceeds its declared gross weight. A vehicle driven in violation of this subsection is subject to the axle-group weight penalties set in G.S. 20-118(e). The penalties apply to the amount by which the vehicle's gross weight exceeds its declared weight.

(l) The Division shall issue permanent truck and truck-tractor plates to Class A and Class B Motor Vehicles and shall include the word "permanent" on the plate. The permanent registration plates issued pursuant to this section shall be subject to annual registration fees set in this section. The Division shall issue the necessary rules providing for the recall, transfer, exchange, or cancellation of permanent plates issued pursuant to this section.

(m) Any vehicle weighing greater than the gross weight limits found in G.S. 20-118(b)(3), as authorized by G.S. 20-118(c)(12), (c)(14), and (c)(15), must be registered for the maximum weight allowed for the vehicle configuration as listed in G.S. 20-118(b). A vehicle driven in violation of this subsection is subject to the axle group penalties set out in G.S. 20-118(e). The penalties apply to the amount by which the vehicle's maximum gross weight as listed in G.S. 20-118(b) exceeds its declared weight. (1937, c. 407, s. 52; 1939, c. 275; 1941, cc. 36, 227; 1943, c. 648; 1945, c. 569, s. 1; c. 575, s. 1; c. 576, s. 3; c. 956, ss. 1, 2; 1949, cc. 355, 361; 1951, c. 583; c. 819, ss. 1, 2; 1953, c. 568; c. 694, s. 1; c. 1122; 1955, c. 554, s. 8; 1957, c. 681, s. 2; c. 1215; 1959, c. 571; 1961, c. 685; 1963, c. 501; c. 702, ss. 2, 3; 1967, c. 1095, ss. 1, 2; 1969, c. 600, ss. 12-17; c. 1056, s. 1; 1973, c. 154, ss. 1, 2; c. 291; 1975, c. 716, s. 5; 1977, c. 638; 1979, c. 419; c. 631; 1981, c. 67; c. 690, ss. 29, 30; c. 976, s. 6; 1983, c. 43; c. 190, s. 1; c. 761, s. 144; c. 768, s. 4; 1991 (Reg. Sess., 1992), c. 947, s. 1; 1993, c. 467, s. 4; c. 543, s. 1; 1995, c. 109, s. 1; c. 163, s. 6; 1995 (Reg. Sess., 1996), c. 756, s. 8; 1997-466, s. 1; 2004-167, ss. 6, 7; 2004-199, s. 59; 2005-276, s. 44.1(n); 2008-221, s. 2; 2012-78, s. 4; 2013-92, s. 1; 2015-241, s. 29.30(o).)

§ 20-88.01. Revocation of registration for failure to register for or comply with road tax or pay civil penalty for buying or selling non-tax-paid fuel.

(a) Road Tax. – The Secretary of Revenue may notify the Commissioner of those motor vehicles that are registered or are required to be registered under Article 36B of Chapter 105 and whose owners or lessees, as appropriate, are not in compliance with Article 36B, 36C, or 36D of Chapter 105. When notified, the Commissioner shall withhold or revoke the registration plate for the vehicle.

(b) Non-tax-paid Fuel. – The Secretary of Revenue may notify the Commissioner of those motor vehicles for which a civil penalty imposed under G.S. 105-449.118 has not been

paid. When notified, the Commissioner shall withhold or revoke the registration plate of the vehicle. (1983, c. 713, s. 54; 1989, c. 692, s. 6.1; c. 770, s. 74.5; 1991, c. 613, s. 4; 1995, c. 390, s. 11.)

§ 20-88.02. Registration of logging vehicles.

Upon receipt of an application on a form prescribed by it, the Division shall register trucks and tractor trucks used exclusively in connection with logging operations, as provided in section 4483(e) of the Internal Revenue Code and 26 C.F.R. § 41.4483-6 for the collection of the federal heavy vehicle use tax. For the purposes of this section, "logging" shall mean the harvesting of timber and transportation from a forested site to places of sale.

Fees for the registration of vehicles under this section shall be the same as those ordinarily charged for the type of vehicle being registered. (1985, c. 458, s. 1; 2010-132, s. 9.)

§ 20-88.03. Late fee; motor vehicle registration.

(a) Late Fee. – In addition to the applicable fees required under this Article for the registration of a motor vehicle and any interest assessed under G.S. 105-330.4, the Division shall charge a late fee according to the following schedule to a person who pays the applicable registration fee required under this Article after the registration expires:

- (1) If the registration has been expired for less than one month, a late fee of fifteen dollars (\$15.00).
- (2) If the registration has been expired for one month or greater, but less than two months, a late fee of twenty dollars (\$20.00).
- (3) If the registration has been expired for two months or greater, a late fee of twenty-five dollars (\$25.00).

(b) Proceeds. – The clear proceeds of any late fee charged under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. The clear proceeds of the late fee charged under this section shall be used to provide a dedicated source of revenue for the drivers education program administered by the Department of Public Instruction in accordance with G.S. 115C-215.

(c) Construction. – For purposes of this section, payment by mail of a registration fee required under this Article is considered to be made on the date shown on the postmark stamped by the United States Postal Service. If payment by mail is not postmarked or does not show the date of mailing, the payment is considered to be made on the date the Division receives the payment.

(d) Grace Period Inapplicable. – The 15-day grace period provided in G.S. 20-66(g) shall not apply to any late fee assessed under this section.

(e) Surrender of Registration Plate. – Nothing in this section shall be construed as requiring the Division to assess a late fee under this section if, on or prior to the date the registration expires, the owner surrenders to the Division the registration plate issued for the vehicle. (2015-241, s. 29.30(m); 2015-268, s. 8.2(a); 2016-94, s. 35.13; 2017-57, s. 5.4(d).)

§ 20-88.1. Driver education.

- (a) through (b1) Repealed by Session Laws 2011-145, s. 28.37(c), effective July 1, 2011.
- (c) Repealed by Session Laws 2014-100, s. 8.15(a), effective July 1, 2015.
- (d) The Division shall prepare a driver license handbook that explains the traffic laws of the State and shall periodically revise the handbook to reflect changes in these laws. The

Division, in consultation with the State Highway Patrol, the North Carolina Sheriff's Association, and the North Carolina Association of Chiefs of Police, shall include in the driver license handbook a description of law enforcement procedures during traffic stops and the actions that a motorist should take during a traffic stop, including appropriate interactions with law enforcement officers. At the request of the Department of Public Instruction, the Division shall provide free copies of the handbook to that Department for use in the program of driver education offered at public high schools. (1957, c. 682, s. 1; 1965, c. 410, s. 1; 1975, c. 431; c. 716, s. 5; 1977, c. 340, s. 4; c. 1002; 1983, c. 761, s. 141; 1985 (Reg. Sess., 1986), c. 982, s. 25; 1991, c. 689, s. 32(a); 1993 (Reg. Sess., 1994), c. 761, s. 7; 1997-16, s. 3; 1997-443, s. 32.20; 2011-145, s. 28.37(c); 2014-100, s. 8.15(a); 2017-95, s. 1.)

§ 20-89: Repealed by Sessions Laws 1981, c. 976, s. 7.

§ 20-90: Repealed by Session Laws 1981, c. 976, s. 8.

§ 20-91. Audit of vehicle registrations under the International Registration Plan.

(a) Repealed by Session Laws 1995 (Regular Session, 1996), c. 756, s. 9.

(b) The Department of Revenue may audit a person who registers or is required to register a vehicle under the International Registration Plan to determine if the person has paid the registration fees due under this Article. A person who registers a vehicle under the International Registration Plan must keep any records used to determine the information when registering the vehicle. The records must be kept for three years after the date of the registration to which the records apply. The Department of Revenue may examine these records during business hours. If the records are not located in North Carolina and an auditor must travel to the location of the records, the registrant shall reimburse North Carolina for per diem and travel expense incurred in the performance of the audit. If more than one registrant is audited on the same out-of-state trip, the per diem and travel expense may be prorated.

The Secretary of Revenue may enter into reciprocal audit agreements with other agencies of this State or agencies of another jurisdiction for the purpose of conducting joint audits of any registrant subject to audit under this section.

(c) If an audit is conducted and it becomes necessary to assess the registrant for deficiencies in registration fees or taxes due based on the audit, the assessment will be determined based on the schedule of rates prescribed for that registration year, adding thereto and as a part thereof an amount equal to five percent (5%) of the tax to be collected. If, during an audit, it is determined that:

- (1) A registrant failed or refused to make acceptable records available for audit as provided by law; or
- (2) A registrant misrepresented, falsified or concealed records, then all plates and cab cards shall be deemed to have been issued erroneously and are subject to cancellation. The Commissioner, based on information provided by the Department of Revenue audit, may assess the registrant for an additional percentage up to one hundred percent (100%) North Carolina registration fees at the rate prescribed for that registration year, adding thereto and as a part thereof an amount equal to five percent (5%) of the tax to be collected. The Commissioner may cancel all registration and reciprocal privileges.

As a result of an audit, no assessment shall be issued and no claim for refund shall be allowed which is in an amount of less than ten dollars (\$10.00).

The results of any audit conducted under this section shall be provided to the Division. The notice of any assessments shall be sent by the Division to the registrant by registered or certified mail at the address of the registrant as it appears in the records of the Division of Motor Vehicles in Raleigh. The notice, when sent in accordance with the requirements indicated above, will be sufficient regardless of whether or not it was ever received.

The failure of any registrant to pay any additional registration fees or tax within 30 days after the billing date, shall constitute cause for revocation of registration license plates, cab cards and reciprocal privileges, or shall constitute cause for the denial of registration of a vehicle registered through the International Registration Plan or a vehicle no longer registered through the International Registration Plan.

(d) Repealed by Session Laws 1995 (Regular Session, 1996), c. 756, s. 9. (1937, c. 407, s. 55; 1939, c. 275; 1941, c. 36; 1943, c. 726; 1945, c. 575, s. 3; 1947, c. 914, s. 2; 1951, c. 190, s. 1; c. 819, s. 1; 1955, c. 1313, s. 2; 1967, c. 1079, s. 2; 1975, c. 716, s. 5; c. 767, s. 3; 1981, c. 859, s. 78; c. 976, s. 9; c. 1127, s. 53; 1995 (Reg. Sess., 1996), c. 756, s. 9; 2005-435, s. 22; 2007-164, s. 7; 2007-484, s. 41.5.)

§ 20-91.1: Repealed by Session Laws 2007-491, s. 2, effective January 1, 2008.

§ 20-91.2: Repealed by Session Laws 2007-491, s. 2, effective January 1, 2008.

§ 20-92: Repealed by Session Laws 1995 (Regular Session, 1996), c. 756, s. 10.

§ 20-93: Repealed by Session Laws 1981, c. 976, s. 10.

§ 20-94. Partial payments.

In the purchase of licenses, where the gross amount of the license fee to any one owner amounts to more than four hundred dollars (\$400.00), half of such payment may, if the Commissioner is satisfied of the financial responsibility of such owner, be deferred until six months from the month of renewal in any calendar year upon the execution to the Commissioner of a draft upon any bank or trust company upon forms to be provided by the Commissioner in an amount equivalent to one half of such fee, plus a carrying charge of three percent (3%) of the deferred portion of the license fee: Provided, that any person using any tag so purchased after the first day of six months from the month of renewal in any such year without having first provided for the payment of such draft, shall be guilty of a Class 2 misdemeanor. No further license plates shall be issued to any person executing such a draft after the due date of any such draft so long as such draft or any portion thereof remains unpaid. Any such draft being dishonored and not paid shall be subject to the penalties prescribed in G.S. 20-178 and shall be immediately turned over by the Commissioner to his duly authorized agents and/or the State Highway Patrol, to the end that this provision may be enforced. When the owner of the vehicles for which a draft has been given sells or transfers ownership to all vehicles covered by the draft, such draft shall become payable immediately, and such vehicles shall not be transferred by the Division until the draft has been paid. Any one owner whose gross license fee amounts to more than two hundred dollars (\$200.00) but not more than four hundred dollars (\$400.00) may also be permitted to sign a draft in accordance with the foregoing provisions of this section provided such owner makes

application for the draft during the month of renewal.(1937, c. 407, s. 58; 1943, c. 726; 1945, c. 49, ss. 1, 2; 1947, c. 219, s. 10; 1953, c. 192; 1967, c. 712; 1975, c. 716, s. 5; 1979, c. 801, s. 12; 1987 (Reg. Sess., 1988), c. 938; 1989, c. 661; 1993, c. 539, s. 344; 1994, Ex. Sess., c. 24, s. 14(c) 2004-167, s. 8; 2004-199, s. 59.)

§ 20-95. Prorated fee for license plate issued for other than a year.

(a) Calendar-Year Plate. – The fee for a calendar-year license plate issued on or after April 1 of a year is a percentage of the annual fee determined in accordance with the following table:

<u>Date Plate Issued</u>	<u>Percentage of Annual Fee</u>
April 1 through June 30	75%
July 1 through September 30	50
October 1 through December 31	25.

(a1) Plate With Renewal Sticker. – The fee for a license plate whose registration is renewed by means of a registration renewal sticker for a period of other than 12 months is a prorated amount of the annual fee. The prorated amount is one-twelfth of the annual fee multiplied by the number of full months in the period beginning the date the renewal sticker becomes effective until the date the renewal sticker expires, rounded to the nearest dollar.

(b) Scope. – This section does not apply to license plates issued pursuant to G.S. 20-79.1, 20-79.2, 20-84, 20-84.1, 20-87(9) or (10), and 20-88(c). (1937, c. 407, s. 59; 1947, c. 914, s. 3; 1979, c. 476; 1991, c. 672, s. 6, c. 726, s. 23; 1993, c. 440, s. 6; 1993 (Reg. Sess., 1994), c. 761, s. 8.)

§ 20-96. Detaining property-hauling vehicles or vehicles regulated by the Motor Carrier Safety Regulation Unit until fines or penalties and taxes are collected.

(a) Authority to Detain Vehicles. – A law enforcement officer may seize and detain the following property-hauling vehicles operating on the highways of the State:

- (1) A property-hauling vehicle with an overload in violation of G.S. 20-88(k) and G.S. 20-118.
- (2) A property-hauling vehicle that does not have a proper registration plate as required under G.S. 20-118.3.
- (3) A property-hauling vehicle that is owned by a person liable for any overload penalties or assessments due and unpaid for more than 30 days.
- (4) A property-hauling vehicle that is owned by a person liable for any taxes or penalties under Article 36B of Chapter 105 of the General Statutes.
- (5) Any commercial vehicle operating under the authority of a motor carrier when the motor carrier has been assessed a fine pursuant to G.S. 20-17.7 and that fine has not been paid.
- (6) A property-hauling vehicle operating in violation of G.S. 20-119.

The officer may detain the vehicle until the delinquent fines or penalties and taxes are paid and, in the case of a vehicle that does not have the proper registration plate, until the proper registration plate is secured.

(b) Storage; Liability. – When necessary, an officer who detains a vehicle under this section may have the vehicle stored. The motor carrier under whose authority the vehicle is being operated or the owner of a vehicle that is detained or stored under this section is responsible for

the care of any property being hauled by the vehicle and for any storage charges. The State shall not be liable for damage to the vehicle or loss of the property being hauled.

(c) The authority of a law enforcement officer to seize a motor vehicle pursuant to subsection (a) of this section shall not be affected by the statutes of limitations set out in Chapter 1 of the North Carolina General Statutes. (1937, c. 407, s. 60; 1943, c. 726; 1949, c. 583, s. 8; c. 1207, s. 4½; c. 1253; 1951, c. 1013, ss. 1-3; 1953, c. 694, ss. 2, 3; 1955, c. 554, s. 9; 1957, c. 65, s. 11; 1959, c. 1264, s. 5; 1973, c. 507, s. 5; 1985, c. 116, ss. 1-3; 1993, c. 539, s. 345; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 109, s. 2; 1999-452, s. 18; 2000-67, s. 25.11; 2005-361, s. 1; 2010-129, s. 2.)

§ 20-97. Taxes credited to Highway Fund; municipal vehicle taxes.

(a) State Taxes to Highway Fund. – All taxes levied under this Article are compensatory taxes for the use and privileges of the public highways of this State. The taxes collected shall be credited to the State Highway Fund. Except as provided in this section, no county or municipality shall levy any license or privilege tax upon any motor vehicle licensed by the State.

(b) Repealed by Session Laws 2015-241, s. 29.27A(a), effective July 1, 2016.

(b1) Municipal Vehicle Tax. – A city or town may levy an annual municipal vehicle tax upon any vehicle resident in the city or town. The aggregate annual municipal vehicle tax levied, including any annual municipal vehicle tax authorized by local legislation, may not exceed thirty dollars (\$30.00) per vehicle. A city or town may use the net proceeds from the municipal vehicle tax as follows:

- (1) General purpose. – Not more than five dollars (\$5.00) of the tax levied may be used for any lawful purpose.
- (2) Public transportation. – Not more than five dollars (\$5.00) of the tax levied may be used for financing, constructing, operating, and maintaining local public transportation systems. This subdivision only applies to a city or town that operates a public transportation system as defined in G.S. 105-550.
- (3) Public streets. – The remainder of the tax levied may be used for maintaining, repairing, constructing, reconstructing, widening, or improving public streets in the city or town that do not form a part of the State highway system.

(c) Repealed by Session Laws 2015-241, s. 29.27A(a), effective July 1, 2016.

(d) Municipal Taxi Tax. – Cities and towns may levy a tax of not more than fifteen dollars (\$15.00) per year upon each vehicle operated in the city or town as a taxicab. The proceeds of the tax may be used for any lawful purpose.

(e) No Additional Local Tax. – No county, city or town may impose a franchise tax, license tax, or other fee upon a motor carrier unless the tax is authorized by this section. (1937, c. 407, s. 61; 1941, c. 36; 1943, c. 639, ss. 3, 4; 1975, c. 716, s. 5; 1977, c. 433, s. 1; c. 880, s. 1; 1979, c. 173, s. 1; c. 216, s. 1; c. 217; c. 248, s. 1; c. 398; c. 400, s. 1; c. 458; c. 530, s. 1; c. 790; 1979, 2nd Sess., c. 1152; c. 1153, s. 1; c. 1155, s. 1; c. 1189; c. 1308, s. 1; 1981, cc. 74, 129, 210, 228, 310, 311, 312, 315, 368, 370, s. 10; c. 415, s. 10; cc. 857, 858, 991; 1981 (Reg. Sess., 1982), cc. 1202, 1250; 1983, cc. 9, 75; c. 106, s. 1; c. 188, ss. 1, 2; 1993, c. 321, s. 146, c. 479, s. 4; c. 456, s. 1; 1997-417, s. 2; 2009-166, s. 2(b); 2015-241, s. 29.27A(a).)

§ 20-98: Repealed by Session Laws 2007-491, s. 2, effective January 1, 2008.

§ 20-99: Repealed by Session Laws 2007-491, s. 2, effective January 1, 2008.

§ 20-100. Vehicles junked or destroyed by fire or collision.

Upon satisfactory proof to the Commissioner that any motor vehicle, duly licensed, has been completely destroyed by fire or collision, or has been junked and completely dismantled so that the same can no longer be operated as a motor vehicle, the owner of such vehicle may be allowed on the purchase of a new license for another vehicle a credit equivalent to the unexpired proportion of the cost of the original license, dating from the first day of the next month after the date of such destruction. (1937, c. 407, s. 64; 1939, c. 369, s. 1.)

§ 20-101. Certain business vehicles to be marked.

(a) A motor vehicle that is subject to 49 C.F.R. Part 390, the federal motor carrier safety regulations, shall be marked as required by that Part.

(b) A motor vehicle with a gross vehicle weight rating of more than 26,000 pounds that is used in intrastate commerce shall have (i) the name of the owner and (ii) the motor carrier's identification number preceded by the letters "USDOT" and followed by the letters "NC" printed on each side of the vehicle in letters not less than three inches in height. The provisions of this subsection shall not apply if any of the following are true:

- (1) The motor vehicle is subject to 49 C.F.R. Part 390.
- (2) The motor vehicle is of a type listed in 49 C.F.R. 390.3(f).
- (3) The motor vehicle is licensed at the farmer rate under G.S. 20-88.

(c) A motor vehicle that is subject to regulation by the North Carolina Utilities Commission shall be marked as required by that Commission and as otherwise required by this section.

(d) A motor vehicle equipped to tow or transport another motor vehicle, hired for the purpose of towing or transporting another motor vehicle, shall have the name and address of the registered owner of the vehicle, and the name of the business or person being hired if different, printed on each side of the vehicle in letters not less than three inches in height. This subsection shall not apply to motor vehicles subject to 49 C.F.R. Part 390. (1937, c. 407, s. 65; 1951, c. 819, s. 1; 1967, c. 1132; 1985, c. 132; 1995 (Reg. Sess., 1996), c. 756, s. 12; 2000-67, s. 25.8; 2001-487, s. 50(d); 2007-404, s. 1; 2009-376, s. 3; 2012-41, s. 1; 2017-108, s. 15.)

§ 20-101.1. Conspicuous disclosure of dealer administrative fees.

(a) A motor vehicle dealer shall not charge an administrative, origination, documentary, procurement, or other similar administrative fee related to the sale or lease of a motor vehicle, whether or not that fee relates to costs or charges that the dealer is required to pay to third parties or is attributable to the dealer's internal overhead or profit, unless the dealer complies with all of the following requirements:

- (1) The dealer shall post a conspicuous notice in the sales or finance area of the dealership measuring at least 24 inches on each side informing customers that a fee regulated by this section may or will be charged and the amount of the fee.
- (2) The fact that the dealer charges a fee regulated by this section and the amount of the fee shall be disclosed whenever the dealer engages in the price advertising of vehicles.
- (3) The amount of a fee regulated by this section shall be separately identified on the customer's buyer's order, purchase order, or bill of sale.

(b) Nothing contained in this section or elsewhere under the law of this State shall be deemed to prohibit a dealer from, in the dealer's discretion, deciding not to charge an administrative, origination, documentary, procurement, or other similar administrative fee or reducing the amount of the fee in certain cases, as the dealer may deem appropriate.

(c) Notwithstanding the terms of any contract, franchise, novation, or agreement, it shall be unlawful for any manufacturer, manufacturer branch, distributor, or distributor branch to prevent, attempt to prevent, prohibit, coerce, or attempt to coerce, any new motor vehicle dealer located in this State from charging any administrative, origination, documentary, procurement, or other similar administrative fee related to the sale or lease of a motor vehicle. It shall further be unlawful for any manufacturer, manufacturer branch, distributor, or distributor branch, notwithstanding the terms of any contract, franchise, novation, or agreement, to prevent or prohibit any new motor vehicle dealer in this State from participating in any program relating to the sale of motor vehicles or reduce the amount of compensation to be paid to any dealer in this State, based upon the dealer's willingness to refrain from charging or reduce the amount of any administrative, origination, documentary, procurement, or other similar administrative fee related to the sale or lease of a motor vehicle.

(d) This section does not apply to a dealer fee related to the online registration of a motor vehicle when the dealer fee is separately stated on the buyer's order, purchase order, retail installment sales agreement, lease, or bill of sale. (2001-487, s.123.5; 2001-492, s. 1; 2014-108, s. 4(a).)

§ 20-101.2. Conspicuous disclosure of dealer finance yield charges.

(a) A motor vehicle dealer shall not charge a fee or receive a commission or other compensation for providing, procuring, or arranging financing for the retail purchase or lease of a motor vehicle, unless the dealer complies with both of the following requirements:

- (1) The dealer shall post a conspicuous notice in the sales or finance area of the dealership measuring at least 24 inches on each side informing customers that the dealer may receive a fee, commission, or other compensation for providing, procuring, or arranging financing for the retail purchase or lease of a motor vehicle, for which the customer may be responsible.
- (2) The dealer shall disclose conspicuously on the purchase order or buyer's order, or on a separate form provided to the purchaser at or prior to the closing on the sale of the vehicle, that the dealer may receive a fee, commission, or other compensation for providing, procuring, or arranging financing for the retail purchase or lease of a motor vehicle, for which the customer may be responsible.

(b) Nothing contained in this section or elsewhere under the law of this State shall be deemed to require that a motor vehicle dealer disclose to any actual or potential purchaser the dealer's contractual arrangements with any finance company, bank, leasing company, or other lender or financial institution, or the amount of markup, profit, or compensation that the dealer will receive in any particular transaction or series of transactions from the charging of such fees. (2001-487, s. 123.5; 2001-492, s. 2.)

§ 20-101.3. Conspicuous disclosure of dealer shop and other service-related fees.

(a) Requirement. – A motor vehicle dealer shall not charge shop fees in conjunction with service work performed by the dealer, or other discretionary fees relating to environmental or

regulatory compliance, record retention, or other costs incurred by the dealer in conjunction with service work performed by the dealer, whether or not the fees are attributable to or include the dealer's internal overhead or profit, unless the dealer complies with both of the following requirements:

- (1) The dealer shall post a conspicuous notice in the service area of the dealership measuring at least 24 inches on each side informing customers that fees regulated by this section may or will be charged and that customers should inquire of dealership personnel if they would like to know the type and amount or basis of the fees charged by the dealer.
- (2) The total amount of all fees regulated by this section shall be disclosed on the customer's repair order or repair invoice. Nothing in this subdivision shall be construed as requiring a dealer to list separately each fee charged by the dealer.

(b) Discretion. – Notwithstanding any provision of law to the contrary, a dealer is not required to charge a shop or other service-related fee regulated under this section and may reduce the amount of any or all fees charged.

(c) Notwithstanding any other section of this Chapter, the fees covered by this section shall not be considered a warranty expense and are not subject to the compensation requirements of G.S. 20-305.1. (2017-148, s. 5.)

Part 8. Anti-Theft and Enforcement Provisions.

§ 20-102. Report of stolen and recovered motor vehicles.

Every sheriff, chief of police, or peace officer upon receiving reliable information that any vehicle registered hereunder has been stolen shall report such theft to the Division. Any said officer upon receiving information that any vehicle, which he has previously reported as stolen, has been recovered, shall report the fact of such recovery to the Division. (1937, c. 407, s. 66; 1975, c. 716, s. 5; 2005-182, s. 4.)

§ 20-102.1. False report of theft or conversion a misdemeanor.

A person who knowingly makes to a peace officer or to the Division a false report of the theft or conversion of a motor vehicle shall be guilty of a Class 2 misdemeanor. (1963, c. 1083; 1975, c. 716, s. 5; 1993, c. 539, s. 346; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-102.2. Report of failure to return hired motor vehicles.

Every sheriff, chief of police, or peace officer, upon receiving a vehicle theft report, warrant, or other reliable information that any rental, for-hire, or leased vehicle registered pursuant to this Chapter has not been returned as set forth in G.S. 14-167, shall report the failure to the National Crime Information Center. Any officer upon receiving information concerning the recovery of a vehicle that the officer previously reported as not having been returned shall report the recovery to the National Crime Information Center. The officer shall also attempt to notify the reporting party of the location and condition of the recovered vehicle by telephone, if the telephone number of the reporting party is available or readily accessible. (2005-182, s. 5.)

§ 20-103. Reports by owners of stolen and recovered vehicles.

The owner, or person having a lien or encumbrance upon a registered vehicle which has been stolen or embezzled, may notify the Division of such theft or embezzlement, but in the

event of an embezzlement may make such report only after having procured the issuance of a warrant for the arrest of the person charged with such embezzlement. Every owner or other person who has given any such notice must notify the Division of the recovery of such vehicle. (1937, c. 407, s. 67; 1975, c. 716, s. 5.)

§ 20-104. Action by Division on report of stolen or embezzled vehicles.

(a) The Division, upon receiving a report of a stolen or embezzled vehicle as hereinbefore provided, shall file and appropriately index the same and shall immediately suspend the registration of the vehicle so reported, and shall not transfer the registration of the same until such time as it is notified in writing that such vehicle has been recovered.

(b) The Division shall at least once each month compile and maintain at its headquarters office a list of all vehicles which have been stolen or embezzled or recovered as reported to it during the preceding month, and such lists shall be open to inspection by any peace officer or other persons interested in any such vehicle. (1937, c. 407, s. 68; 1975, c. 716, s. 5.)

§ 20-105. Repealed by Session Laws 1973, c. 1330, s. 39.

§ 20-106. Receiving or transferring stolen vehicles.

Any person who, with intent to procure or pass title to a vehicle which he knows or has reason to believe has been stolen or unlawfully taken, receives or transfers possession of the same from or to another, or who has in his possession any vehicle which he knows or has reason to believe has been stolen or unlawfully taken, and who is not an officer of the law engaged at the time in the performance of his duty as such officer shall be punished as a Class H felon. (1937, c. 407, s. 70; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, s. 1252; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-106.1. Fraud in connection with rental of motor vehicles.

Any person with the intent to defraud the owner of any motor vehicle or a person in lawful possession thereof, who obtains possession of said vehicle by agreeing in writing to pay a rental for the use of said vehicle, and further agreeing in writing that the said vehicle shall be returned to a certain place, or at a certain time, and who willfully fails and refuses to return the same to the place and at the time specified, or who secretes, converts, sells or attempts to sell the same or any part thereof shall be guilty of a Class I felony. (1961, c. 1067; 1993, c. 539, s. 1253; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-106.2. Sublease and loan assumption arranging regulated.

(a) As used in this section:

(1) "Buyer" means a purchaser of a motor vehicle under the terms of a retail installment contract. "Buyer" shall include any co-buyer on the retail installment contract.

(2) "Lease" means an agreement between a lessor and a lessee whereby the lessee obtains the possession and use of a motor vehicle for the period of time, for the purposes, and for the consideration set forth in the agreement whether or not the agreement includes an option to purchase the motor vehicle; provided, however, "lease" shall not include a residential rental agreement of a manufactured home which is subject to Chapter 42 of the General Statutes.

- (3) "Lessor" means any person who in the regular course of business or as a part of regular business activity leases motor vehicles under motor vehicle lease agreements, purchases motor vehicle lease agreements, or any sales finance company that purchases motor vehicle lease agreements.
 - (4) "Lessee" means a person who obtains possession and use of a motor vehicle through a motor vehicle lease agreement. "Lessee" shall include any co-lessee listed on the motor vehicle lease agreement.
 - (5) "Person" means an individual, partnership, corporation, association or any other group however organized.
 - (6) "Security interest" means an interest in personal property that secures performance of an obligation.
 - (7) "Secured party" means a lender, seller, or other person in whose favor there is a security interest, including a person to whom accounts or retail installment sales contracts have been sold.
 - (8) "Sublease" means an agreement whether written or oral:
 - a. To transfer to a third party possession of a motor vehicle which is and will, while in that third party's possession, remain the subject of a security interest which secures performance of a retail installment contract or consumer loan; or
 - b. To transfer or assign to a third party any of the buyer's rights, interests, or obligations under the retail installment contract or consumer loan; or
 - c. To transfer to a third party possession of a motor vehicle which is and will, while in the third party's possession, remain the subject of a motor vehicle lease agreement; or
 - d. To transfer or assign to a third party any of the lessee's or buyer's rights, interests, or obligations under the motor vehicle lease agreement.
 - (9) "Sublease arranger" means a person who engages in the business of inducing by any means buyers and lessees to enter into subleases as sublessors and inducing third parties to enter into subleases as sublessees, however such contracts may be called. "Sublease arranger" does not include the publisher, owner, agent or employee of a newspaper, periodical, radio station, television station, cable-television system or other advertising medium which disseminates any advertisement or promotion of any act governed by this section.
 - (10) "Third party" means a person other than the buyer or the lessee of the vehicle.
 - (11) "Transfer" means to transfer possession of a motor vehicle by means of a sale, loan assumption, lease, sublease, or lease assignment.
- (b) A sublease arranger commits an offense if the sublease arranger arranges a sublease of a motor vehicle and:
- (1) Does not first obtain written authorization for the sublease from the vehicle's secured party or lessor; or
 - (2) Accepts a fee without having first obtained written authorization for the sublease from the vehicle's secured party or lessor; or

- (3) Does not disclose the location of the vehicle on the request of the vehicle's buyer, lessee, secured party, or lessor; or
- (4) Does not provide to the third party new, accurate disclosures under the Consumer Credit Protection Act, 15 U.S.C. Section 1601, et seq.; or
- (5) Does not provide oral and written notice to the buyer or lessee that he will not be released from liability; or
- (6) Does not ensure that all rights under warranties and service contracts regarding the motor vehicle transfer to the third party, unless a pro rata rebate for any unexpired coverage is applied to reduce the third party's cost under the sublease; or
- (7) Does not take reasonable steps to ensure that the third party is financially able to assume the payment obligations of the buyer or lessee according to the terms of the lease agreement, retail installment contract, or consumer loan.

(c) It is not a defense to prosecution under subsection (b) of this section that the motor vehicle's buyer or lessee, secured party or lessor has violated a contract creating a security interest or lease in the motor vehicle, nor may any sublease arranger shift to the lessee, buyer or third party the arranger's duty under subdivision (b)(1) or (b)(2) to obtain prior written authorization for formation of a sublease.

(d) An offense under subdivision (b)(1) or (b)(2) of this section is a Class I felony.

(e) All other offenses under subsection (b) of this section are Class 1 misdemeanors. Each failure to disclose the location of the vehicle under subdivision (b)(3) shall constitute a separate offense.

(f) Any buyer, lessee, sublessee, secured party or lessor injured or damaged by reason of any act in violation of this section, whether or not there is a conviction for the violation, may file a civil action to recover damages based on the violation with the following available remedies:

- (1) Three times the amount of any actual damages or fifteen hundred dollars (\$1500), whichever is greater;
- (2) Equitable relief, including a temporary restraining order, a preliminary or permanent injunction, or restitution of money or property;
- (3) Reasonable attorney fees and costs; and
- (4) Any other relief which the court deems just.

The rights and remedies provided by this section are in addition to any other rights and remedies provided by law.

(g) This section and G.S. 14-114 and G.S. 14-115 are mutually exclusive and prosecution under those sections shall not preclude criminal prosecution or civil action under this section. (1989 (Reg. Sess., 1990), c. 1011; 1993, c. 539, ss. 347, 1254; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-107. Injuring or tampering with vehicle.

(a) Any person who either individually or in association with one or more other persons willfully injures or tampers with any vehicles or breaks or removes any part or parts of or from a vehicle without the consent of the owner is guilty of a Class 2 misdemeanor.

(b) Any person who with intent to steal, commit any malicious mischief, injury or other crime, climbs into or upon a vehicle, whether it is in motion or at rest, or with like intent attempts to manipulate any of the levers, starting mechanism, brakes, or other mechanism or device of a vehicle while the same is at rest and unattended or with like intent sets in motion any vehicle

while the same is at rest and unattended, is guilty of a Class 2 misdemeanor. (1937, c. 407, s. 71; 1965, c. 621, s. 1; 1993, c. 539, s. 348; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-108. Vehicles or component parts of vehicles without manufacturer's numbers.

(a) Any person who knowingly buys, receives, disposes of, sells, offers for sale, conceals, or has in his possession any motor vehicle, or engine or transmission or component part which has been stolen or removed from a motor vehicle and from which the manufacturer's serial or engine number or other distinguishing number or identification mark or number placed thereon under assignment from the Division has been removed, defaced, covered, altered, or destroyed for the purpose of concealing or misrepresenting the identity of said motor vehicle or engine or transmission or component part is guilty of a Class 2 misdemeanor.

(b) The Commissioner and such officers and inspectors of the Division of Motor Vehicles as he has designated may take and possess any motor vehicle or component part if its engine number, vehicle identification number, or manufacturer's serial number has been altered, changed, or obliterated or if such officer has probable cause to believe that the driver or person in charge of the motor vehicle or component part has violated subsection (a) above. Any officer who so takes possession of a motor vehicle or component part shall immediately notify the Division of Motor Vehicles and the rightful owner, if known. The notification shall contain a description of the motor vehicle or component part and any other facts that may assist in locating or establishing the rightful ownership thereof or in prosecuting any person for a violation of the provisions of this Article.

(c) Within 15 days after seizure of a motor vehicle or component part pursuant to this section, the Division shall send notice by certified mail to the person from whom the property was seized and to all claimants to the property whose interest or title is in the registration records in the Division of Motor Vehicles that the Division has taken custody of the motor vehicle or component part. The notice shall also contain the following information:

- (1) The name and address of the person or persons from whom the motor vehicle or component part was seized;
- (2) A statement that the motor vehicle or component part has been seized for investigation as provided in this section and that the motor vehicle or component part will be released to the rightful owner:
 - a. Upon a determination that the identification number has not been altered, changed, or obliterated; or
 - b. Upon presentation of satisfactory evidence of the ownership of the motor vehicle or component part if no other person claims an interest in it within 30 days of the date the notice is mailed. Otherwise, a hearing regarding the disposition of the motor vehicle or component part may take place in a court having jurisdiction.
- (3) The name and address of the officer to whom evidence of ownership of the motor vehicle or component part may be presented; and
- (4) A copy statement of the text contained in this section.

(d) Whenever a motor vehicle or component part comes into the custody of an officer, the Division of Motor Vehicles may commence a civil action in the District Court in the county in which the motor vehicle or component part was seized to determine whether the motor vehicle or component part should be destroyed, sold, converted to the use of the Division or otherwise disposed of by an order of the court. The Division shall give notice of the commencement of

such an action to the person from whom the motor vehicle or component part was seized and all claimants to the property whose interest or title is in the registration records of the Division of Motor Vehicles. Notice shall be by certified mail sent within 10 days after the filing of the action. In addition, any possessor of a motor vehicle or component part described in this section may commence a civil action under the provisions of this section, to which the Division of Motor Vehicles may be made a party, to provide for the proper disposition of the motor vehicle or component part.

(e) Nothing in this section shall preclude the Division of Motor Vehicles from returning a seized motor vehicle or component part to the owner following presentation of satisfactory evidence of ownership, and, if determined necessary, requiring the owner to obtain an assignment of an identification number for the motor vehicle or component part from the Division of Motor Vehicles.

(f) No court order providing for disposition shall be issued unless the person from whom the motor vehicle or component was seized and all claimants to the property whose interest or title is in the registration records in the Division of Motor Vehicles are provided a postseizure hearing by the court having jurisdiction. Ten days' notice of the postseizure hearing shall be given by certified mail to the person from whom the motor vehicle was seized and all claimants to the property whose interest or title is in the registration records in the Division of Motor Vehicles. If such motor vehicle or component part has been held or identified as evidence in a pending civil or criminal action or proceeding, no final disposition of such motor vehicle or component part shall be ordered without prior notice to the parties in said proceeding.

(g) At a hearing held pursuant to any action filed by the Division to determine the disposition of any motor vehicle or component part seized pursuant to this section, the court shall consider the following:

- (1) If the evidence reveals either that the motor vehicle or component part identification number has not been altered, changed or obliterated or that the identification number has been altered, changed, or obliterated but satisfactory evidence of ownership has been presented, the motor vehicle or component part shall be returned to the person entitled to it. If ownership cannot be established, nothing in this section shall preclude the return of said motor vehicle or component part to a good faith purchaser following the presentation of satisfactory evidence of ownership thereof and, if necessary, upon the good faith purchaser's obtaining an assigned number from the Division of Motor Vehicles and posting a reasonable bond for a period of three years. The amount of the bond shall be set by the court.
- (2) If the evidence reveals that the motor vehicle or component part identification number has been altered, changed, or obliterated and satisfactory evidence of ownership has not been presented, the motor vehicle or component part shall be destroyed, sold, converted to the use of the Division of Motor Vehicles or otherwise disposed of, as provided for by order of the court.

(h) At the hearing, the Division shall have the burden of establishing, by a preponderance of the evidence, that the motor vehicle or component part has been stolen or that its identification number has been altered, changed, or obliterated.

(i) At the hearing any claimant to the motor vehicle or component part shall have the burden of providing satisfactory evidence of ownership.

(j) An officer taking into custody a motor vehicle or component part under the provisions of this section is authorized to obtain necessary removal and storage services, but shall incur no personal liability for such services. The person or company so employed shall be entitled to reasonable compensation as a claimant under (e), and shall not be deemed an unlawful possessor under (a). (1937, c. 407, s. 72; 1965, c. 621, s. 2; 1973, c. 1149, ss. 1, 2; 1975, c. 716, s. 5; 1983, c. 592; 1985, c. 764, s. 22; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1993, c. 539, s. 349; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-109. Altering or changing engine or other numbers.

(a) It shall be unlawful and constitute a felony for:

- (1) Any person to willfully deface, destroy, remove, cover, or alter the manufacturer's serial number, transmission number, or engine number; or
- (2) Any vehicle owner to knowingly permit the defacing, removal, destroying, covering, or alteration of the serial number, transmission number, or engine number; or
- (3) Any person except a licensed vehicle manufacturer as authorized by law to place or stamp any serial number, transmission number, or engine number upon a vehicle, other than one assigned thereto by the Division; or
- (4) Any vehicle owner to knowingly permit the placing or stamping of any serial number or motor number upon a motor vehicle, except such numbers as assigned thereto by the Division.

A violation of this subsection shall be punishable as a Class I felony.

(b) It shall be unlawful and constitute a felony for:

- (1) Any person, with intent to conceal or misrepresent the true identity of the vehicle, to deface, destroy, remove, cover, alter, or use any serial or motor number assigned to a vehicle by the Division; or
- (2) Any vehicle owner, with intent to conceal or misrepresent the true identity of the vehicle, to permit the defacing, destruction, removal, covering, alteration, or use of a serial or motor number assigned to a vehicle by the Division; or
- (3) Any vehicle owner, with the intent to conceal or misrepresent the true identity of a vehicle, to permit the defacing, destruction, removal, covering, alteration, use, gift, or sale of any manufacturer's serial number, serial number plate, or any part or parts of a vehicle containing the serial number or portions of the serial number.

A violation of this subsection shall be punishable as a Class I felony. (1937, c. 407, s. 73; 1943, c. 726; 1953, c. 216; 1965, c. 621, s. 3; 1967, c. 449; 1973, c. 1089; 1975, c. 716, s. 5; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 179, s. 14; 1987, c. 512; 1993, c. 539, s. 1255; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-109.1. Surrender of titles to salvage vehicles.

(a) Option to Keep Title. – When a vehicle is damaged to the extent that it becomes a salvage vehicle and the owner submits a claim for the damages to an insurer, the insurer must determine whether the owner wants to keep the vehicle after payment of the claim. If the owner does not want to keep the vehicle after payment of the claim, the procedures in subsection (b) of this section apply. If the owner wants to keep the vehicle after payment of the claim, the procedures in subsection (c) of this section apply.

(b) Transfer to Insurer. –

(1) If a salvage vehicle owner does not want to keep the vehicle, the owner must assign the vehicle's certificate of title to the insurer when the insurer pays the claim. The insurer must send the assigned title to the Division within 10 days after receiving it from the vehicle owner. The Division must then send the insurer a form to use to transfer title to the vehicle from the insurer to a person who buys the vehicle from the insurer. If the insurer sells the vehicle, the insurer must complete the form and give it to the buyer. If the buyer rebuilds the vehicle, the buyer may apply for a new certificate of title to the vehicle.

(2) If a salvage vehicle owner fails to assign and deliver the vehicle's certificate of title to the insurer within 30 days of the payment of the claim in accordance with subdivision (b)(1) of this section, the insurer, without surrendering the certificate of title, may, at any time thereafter, request that the Division send the insurer a form to use to transfer title to the vehicle from the insurer to a person who buys the vehicle from the insurer. The request shall be made on a form prescribed by the Division and shall be accompanied by proof of payment of the claim and proof of notice sent to the owner and any lienholder requesting the vehicle's certificate of title. If the records of the Division indicate there is an outstanding lien against the vehicle immediately before the payment of the claim and if the payment was made to a lienholder or to a lienholder and the owner jointly, the proof of payment shall include evidence that funds were paid to the first lienholder shown on the records of the Division. The notice must be sent by the insurer at least 30 days prior to requesting the Division send the insurer a form to use to transfer title and must be sent by certified mail or by another commercially available delivery service providing proof of delivery to the address on record with the Division. Upon the Division's receipt of such request, the vehicle's certificate of title is deemed to be assigned to the insurer. Notwithstanding any outstanding liens against the vehicle, the Division must send the insurer a form to use to transfer title to the vehicle from the insurer to a person who buys the vehicle from the insurer. The Division's issuance of the form extinguishes all existing liens on the motor vehicle. If the insurer sells the vehicle, the insurer must complete the form and give it to the buyer. In such a sale by the insurer, the motor vehicle shall be transferred free and clear of any liens. If the buyer rebuilds the vehicle, the buyer may apply for a new certificate of title to the vehicle.

(c) Owner Keeps Vehicle. – If a salvage vehicle owner wants to keep the vehicle, the insurer must give the owner an owner-retained salvage form. The owner must complete the form and give it to the insurer when the insurer pays the claim. The owner's signature on the owner-retained salvage form must be notarized. The insurer must send the completed form to the Division within 10 days after receiving it from the vehicle owner. The Division must then note in its vehicle registration records that the vehicle listed on the form is a salvage vehicle.

(d) Theft Claim on Salvage Vehicle. – An insurer that pays a theft loss claim on a vehicle and, upon recovery of the vehicle, determines that the vehicle has been damaged to the extent that it is a salvage vehicle must send the vehicle's certificate of title to the Division within 10 days after making the determination. The Division and the insurer must then follow the procedures set in subdivision (1) of subsection (b) of this section.

(e) **Out-of-State Vehicle.** – A person who acquires a salvage vehicle that is registered in a state that does not require surrender of the vehicle's certificate of title must send the title to the Division within 10 days after the vehicle enters this State. The Division and the person must then follow the procedures set in subdivision (1) of subsection (b) of this section.

(e1) **Owner or Lienholder Abandons Vehicle.** – If an insurer requests a used motor vehicle dealer, the primary business of which is the sale of salvage vehicles on behalf of insurers, to take possession of a salvage vehicle that is the subject of an insurance claim and subsequently the insurer does not take ownership of the vehicle, the insurer may direct the used motor vehicle dealer to release the vehicle to the owner or lienholder. The insurer shall provide the used motor vehicle dealer a release statement authorizing the used motor vehicle dealer to release the vehicle to the vehicle's owner or lienholder.

Upon receiving a release statement from an insurer, the used motor vehicle dealer shall send notice to the owner and any lienholder of the vehicle informing the owner or lienholder that the vehicle is available for pick up. The notice shall include an invoice for any outstanding charges owed to the used motor vehicle dealer. The notice shall inform the owner and any lienholder that the owner or lienholder has 30 days from the date of the notice, and upon payment of applicable charges owed to the used motor vehicle dealer, to pick up the vehicle from the used motor vehicle dealer. Notice under this subsection must be sent by certified mail or by another commercially available delivery service providing proof of delivery to the address on record with the Division.

If the owner or any lienholder of the vehicle does not pick up the vehicle within 30 days after notice was sent to the owner and any lienholder in accordance with this subsection, the vehicle shall be considered abandoned, the vehicle's certificate of title is deemed to be assigned to the used motor vehicle dealer, and the used motor vehicle dealer, without surrendering the certificate of title, may request that the Division send the used motor vehicle dealer a form to use to transfer title to the vehicle from the used motor vehicle dealer to a person who buys the vehicle from the used motor vehicle dealer. The request shall be accompanied by a copy of the notice required by this subsection and proof of delivery of the notice required by this subsection sent to the owner and any lienholder. Notwithstanding any outstanding liens against the vehicle, the Division must send the used motor vehicle dealer a form to use to transfer title to the vehicle from the used motor vehicle dealer to a person who buys the vehicle from the used motor vehicle dealer. The Division's issuance of the form extinguishes all existing liens on the motor vehicle. If the used motor vehicle dealer sells the vehicle, the used motor vehicle dealer must complete the form and give it to the buyer. In such a sale by the used motor vehicle dealer, the motor vehicle shall be transferred free and clear of any liens. If the buyer rebuilds the vehicle, the buyer may apply for a new certificate of title.

(f) **Sanctions.** – Violation of this section is a Class 1 misdemeanor. In addition to this criminal sanction, a person who violates this section is subject to a civil penalty of up to one hundred dollars (\$100.00), to be imposed in the discretion of the Commissioner.

(g) **Fee.** – G.S. 20-85 sets the fee for issuing a salvage certificate of title.

(h) **Claims.** – The Division shall not be subject to a claim under Article 31 of Chapter 143 of the General Statutes related to the cancellation of a title pursuant to this section if the claim is based on reliance by the Division on any proof of payment or proof of notice submitted to the Division by a third party pursuant to subdivision (b)(2) or subsection (e1) of this section. (1973, c. 1095, s. 1; 1975, c. 716, s. 5; c. 799; 1983, c. 713, s. 94; 1989, c. 455, s. 5; 1993, c. 539, s. 350; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 50, s. 3; c. 517, s. 33.1; 2013-400, s. 1.)

§ 20-109.2. Surrender of title to manufactured home.

(a) Surrender of Title. – If a certificate of title has been issued for a manufactured home, the owner listed on the title has the title, and the manufactured home qualifies as real property as defined in G.S. 105-273(13), the owner listed on the title shall submit an affidavit to the Division that the manufactured home meets this definition and surrender the certificate of title to the Division.

(a1) Surrender When Title Not Available. – If a certificate of title has been issued for a manufactured home, no issued title is available, and the manufactured home qualifies as real property as defined in G.S. 105-273(13), the owner listed on the title shall be deemed to have surrendered the title to the Division if the owner of the real property on which the manufactured home is affixed (i) submits an affidavit to the Division that the manufactured home meets the definition of real property under G.S. 105-273(13) and in compliance with subsection (b) of this section and (ii) submits a tax record showing the manufactured home listed for ad valorem taxes as real property pursuant to Article 17 of Chapter 105 of the General Statutes in the name of the record owner of the real property on which the manufactured home is affixed.

(b) Affidavit. – The affidavit must be in a form approved by the Commissioner and shall include or provide for all of the following information:

- (1) The manufacturer and, if applicable, the model name of the manufactured home affixed to real property upon which cancellation is sought.
- (2) The vehicle identification number and serial number of the manufactured home affixed to real property upon which cancellation is sought.
- (3) The legal description of the real property on which the manufactured home is affixed, stating that the owner of the manufactured home also owns the real property or that the owner of the manufactured home has entered into a lease with a primary term of at least 20 years for the real property on which the manufactured home is affixed with a copy of the lease or a memorandum thereof pursuant to G.S. 47-18 attached to the affidavit, if not previously recorded.
- (4) A description of any security interests in the manufactured home affixed to real property upon which cancellation is sought.
- (5) A section for the Division's notation or statement that either the procedure in subsection (a) of this section for surrendering the title has been surrendered and the title has been cancelled by the Division or the affiant submits this affidavit pursuant to subsection (a1) of this section to have the title deemed surrendered by the owner listed on the certificate of title.
- (6) An affirmative statement that the affiant is (i) the record owner of the real property on which the manufactured home is affixed and the lease for the manufactured home does not include a provision allowing the owner listed on the certificate of title to dispose of the manufactured home prior to the end of the primary term of the lease or (ii) is the owner of the manufactured home and either owns the real property on which the manufactured home is affixed or has entered into a lease with a primary term of at least 20 years for the real property on which the manufactured home is affixed.

(7) The affiant affirms that he or she has sent notice of this cancellation by hand delivery or by first-class mail to the last known address of the owner listed on the certificate of title prior to filing this affidavit with the Division.

(c) Cancellation. – Upon compliance with the procedures in subsection (a) or (a1) of this section for surrender of title, the Division shall rescind and cancel the certificate of title. If a security interest has been recorded on the certificate of title and not released by the secured party, the Division may not cancel the title without written consent from all secured parties. After canceling the title, the Division shall return the original of the affidavit to the affiant, or to the secured party having the first recorded security interest, with the Division's notation or statement that the title has been surrendered and has been cancelled by the Division. The affiant or secured party shall file the affidavit returned by the Division with the office of the register of deeds of the county where the real property is located. The Division may charge five dollars (\$5.00) for a cancellation of a title under this section.

(d) Application for Title After Cancellation. – If the owner of a manufactured home whose certificate of title has been cancelled under this section subsequently seeks to separate the manufactured home from the real property, the owner may apply for a new certificate of title. The owner must submit to the Division an affidavit containing the same information set out in subsection (b) of this section, verification that the manufactured home has been removed from the real property, verification of the identity of the current owner of the real property upon which the manufactured home was located, and written consent of any affected owners of recorded mortgages, deeds of trust, or security interests in the real property where the manufactured home was placed. The Commissioner may require evidence sufficient to demonstrate that all affected owners of security interests have been notified and consent. Upon receipt of this information, together with a title application and required fee, the Division shall issue a new title for the manufactured home in the name of the current owner of the real property upon which the manufactured home was located.

(e) Sanctions. – Any person who violates this section is subject to a civil penalty of up to one hundred dollars (\$100.00), to be imposed in the discretion of the Commissioner.

(f) No Right of Action. – A person damaged by the cancellation of a certificate of title pursuant to subsection (a1) of this section does not have a right of action against the Division. (2001-506, s. 2; 2003-400, s. 1; 2013-79, s. 1; 2016-59, s. 6.)

§ 20-110. When registration shall be rescinded.

(a) The Division shall rescind and cancel the registration of any vehicle which the Division shall determine is unsafe or unfit to be operated or is not equipped as required by law.

(b) The Division shall rescind and cancel the registration of any vehicle whenever the person to whom the registration card or registration number plates therefor have been issued shall make or permit to be made any unlawful use of the said card or plates or permit the use thereof by a person not entitled thereto.

(c) Repealed by Session Laws 1993, c. 440, s. 8.

(d) The Division shall rescind and cancel the certificate of title to any vehicle which has been erroneously issued or fraudulently obtained or is unlawfully detained by anyone not entitled to possession.

(e) and (f) Repealed by Session Laws 1993, c. 440, s. 8.

(g) The Division shall rescind and cancel the registration plates issued to a carrier of passengers or property which has been secured by such carrier as provided under G.S. 20-50

when the license is being used on a vehicle other than the one for which it was issued or which is being used by the lessor-owner after the lease with such lessee has been terminated.

(h) The Division may rescind and cancel the registration or certificate of title on any vehicle on the grounds that the application therefor contains any false or fraudulent statement or that the holder of the certificate was not entitled to the issuance of a certificate of title or registration.

(i) The Division may rescind and cancel the registration or certificate of title of any vehicle when the Division has reasonable grounds to believe that the vehicle is a stolen or embezzled vehicle, or that the granting of registration or the issuance of certificate of title constituted a fraud against the rightful owner or person having a valid lien upon such vehicle.

(j) The Division may rescind and cancel the registration or certificate of title of any vehicle on the grounds that the registration of the vehicle stands suspended or revoked under the motor vehicle laws of this State.

(k) The Division shall rescind and cancel a certificate of title when the Division finds that such certificate has been used in connection with the registration or sale of a vehicle other than the vehicle for which the certificate was issued.

(l) The Division may rescind and cancel the registration and certificate of title of a vehicle when presented with evidence, such as a sworn statement, that the vehicle has been transferred to a person who has failed to get a new certificate of title for the vehicle as required by G.S. 20-73. A person may submit evidence to the Division by mail.

(m) The Division shall rescind and cancel the registration of vehicles of a motor carrier that is subject to an order issued by the Federal Motor Carrier Safety Administration or the Division to cease all operations based on a finding that the continued operations of the motor carrier pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1). (1937, c. 407, s. 74; 1945, c. 576, s. 5; 1947, c. 220, s. 4; 1951, c. 985, s. 1; 1953, c. 831, s. 4; 1955, c. 294, s. 1; c. 554, s. 11; 1975, c. 716, s. 5; 1981, c. 976, s. 11; 1991, c. 183, s. 1; 1993, c. 440, s. 8; 2002-152, s. 2.)

§ 20-111. Violation of registration provisions.

It shall be unlawful for any person to commit any of the following acts:

- (1) To drive a vehicle on a highway, or knowingly permit a vehicle owned by that person to be driven on a highway, when the vehicle is not registered with the Division in accordance with this Article or does not display a current registration plate. Violation of this subdivision is a Class 3 misdemeanor.
- (2) To display or cause or permit to be displayed or to have in possession any registration card, certificate of title or registration number plate knowing the same to be fictitious or to have been canceled, revoked, suspended or altered, or to willfully display an expired license or registration plate on a vehicle knowing the same to be expired. Violation of this subdivision is a Class 3 misdemeanor.
- (3) The giving, lending, or borrowing of a license plate for the purpose of using same on some motor vehicle other than that for which issued shall make the giver, lender, or borrower guilty of a Class 3 misdemeanor. Where license plate is found being improperly used, such plate or plates shall be revoked or canceled, and new license plates must be purchased before further operation of the motor vehicle.

- (4) To fail or refuse to surrender to the Division, upon demand, any title certificate, registration card or registration number plate which has been suspended, canceled or revoked as in this Article provided. Service of the demand shall be in accordance with G.S. 20-48.
- (5) To use a false or fictitious name or address in any application for the registration of any vehicle or for a certificate of title or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in any such application. A violation of this subdivision shall constitute a Class 1 misdemeanor.
- (6) To give, lend, sell or obtain a certificate of title for the purpose of such certificate being used for any purpose other than the registration, sale, or other use in connection with the vehicle for which the certificate was issued. Any person violating the provisions of this subdivision shall be guilty of a Class 2 misdemeanor. (1937, c. 407, s. 75; 1943, c. 592, s. 2; 1945, c. 576, s. 6; c. 635; 1949, c. 360; 1955, c. 294, s. 2; 1961, c. 360, s. 20; 1975, c. 716, s. 5; 1981, c. 938, s. 3; 1993, c. 440, s. 9; c. 539, ss. 351-353; 1994, Ex. Sess., c. 24, s. 14(c); 2013-360, s. 18B.14(i).)

§ 20-112. Making false affidavit perjury.

Any person who shall knowingly make any false affidavit or shall knowingly swear or affirm falsely to any matter or thing required by the terms of this Article to be sworn or affirmed to shall be guilty of a Class I felony. (1937, c. 407, s. 76; 1993, c. 539, s. 1256; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-113: Repealed by Session Laws 1995 (Regular Session, 1996), c. 756, s. 13.

§ 20-114. Duty of officers; manner of enforcement.

(a) For the purpose of enforcing the provisions of this Article, it is hereby made the duty of every police officer of any incorporated city or village, and every sheriff, deputy sheriff, and all other lawful officers of any county to arrest within the limits of their jurisdiction any person known personally to any such officer, or upon the sworn information of a creditable witness, to have violated any of the provisions of this Article, and to immediately bring such offender before any magistrate or officer having jurisdiction, and any such person so arrested shall have the right of immediate trial, and all other rights given to any person arrested for having committed a misdemeanor. Every officer herein named who shall neglect or refuse to carry out the duties imposed by this Chapter shall be liable on his official bond for such neglect or refusal as provided by law in like cases.

(b) It shall be the duty of all sheriffs, police officers, deputy sheriffs, deputy police officers, and all other officers within the State to cooperate with and render all assistance in their power to the officers herein provided for, and nothing in this Article shall be construed as relieving said sheriffs, police officers, deputy sheriffs, deputy police officers, and other officers of the duties imposed on them by this Chapter.

(c) It shall also be the duty of every law enforcement officer to make immediate report to the Commissioner of all motor vehicles reported to the officer as abandoned or that are seized by the officer for being used for illegal transportation of alcoholic beverages or other unlawful purposes, or seized and are subject to forfeiture pursuant to G.S. 20-28.2, et seq., or any other

statute, and no motor vehicle shall be sold by any sheriff, police or peace officer, or by any person, firm or corporation claiming a mechanic's or storage lien, or under judicial proceedings, until notice on a form approved by the Commissioner shall have been given the Commissioner at least 20 days before the date of such sale. (1937, c. 407, s. 78; 1943, c. 726; 1967, c. 862; 1971, c. 528, s. 13; 1981, c. 412, s. 4; c. 747, s. 66; 1998-182, s. 12.)

§ 20-114.1. Willful failure to obey law-enforcement or traffic-control officer; firemen as traffic-control officers; appointment, etc., of traffic-control officers.

(a) No person shall willfully fail or refuse to comply with any lawful order or direction of any law-enforcement officer or traffic-control officer invested by law with authority to direct, control or regulate traffic, which order or direction related to the control of traffic.

(b) In addition to other law enforcement or traffic control officers, uniformed regular and volunteer firemen and uniformed regular and volunteer members of a rescue squad may direct traffic and enforce traffic laws and ordinances at the scene of or in connection with fires, accidents, or other hazards in connection with their duties as firemen or rescue squad members. Except as herein provided, firemen and members of rescue squads shall not be considered law enforcement or traffic control officers.

(b1) Any member of a rural volunteer fire department or volunteer rescue squad who receives no compensation for services shall not be liable in civil damages for any acts or omissions relating to the direction of traffic or enforcement of traffic laws or ordinances at the scene of or in connection with a fire, accident, or other hazard unless such acts or omissions amount to gross negligence, wanton conduct, or intentional wrongdoing.

(c) The chief of police of a local or county police department or the sheriff of any county is authorized to appoint traffic-control officers, who shall have attained the age of 18 years and who are hereby authorized to direct, control, or regulate traffic within their respective jurisdictions at times and places specifically designated in writing by the police chief or the sheriff. A traffic-control officer, when exercising this authority, must be attired in a distinguishing uniform or jacket indicating that he is a traffic-control officer and must possess a valid authorization card issued by the police chief or sheriff who appointed him. Unless an earlier expiration date is specified, an authorization card shall expire two years from the date of its issuance. In order to be appointed as a traffic-control officer, a person shall have received at least three hours of training in directing, controlling, or regulating traffic under the supervision of a law-enforcement officer. A traffic-control officer shall be subject to the rules and regulations of the respective local or county police department or sheriff's office as well as the lawful command of any other law-enforcement officer. The appointing police chief or sheriff shall have the right to revoke the appointment of any traffic-control officer at any time with or without cause. The appointing police chief or sheriff shall not be held liable for any act or omission of a traffic-control officer. A traffic-control officer shall not be deemed to be an agent or employee of the respective local or county police department or of the sheriff's office, nor shall he be considered a law-enforcement officer except as provided herein. A traffic-control officer shall not have nor shall he exercise the power of arrest.

(d) No police chief or sheriff who is authorized to appoint traffic-control officers under subsection (c) of this section shall appoint any person to direct, control, or regulate traffic unless there is indemnity against liability of the traffic-control officer for wrongful death, bodily injury, or property damage that is proximately caused by the negligence of the traffic-control officer while acting within the scope of his duties as a traffic-control officer. Such indemnity shall

provide a minimum of twenty-five thousand dollars (\$25,000) for the death of or bodily injury to one person in any one accident, fifty thousand dollars (\$50,000) for the death of or bodily injury to two or more persons in any one accident, and ten thousand dollars (\$10,000) for injury to or destruction of property of others in any one accident. (1961, c. 879; 1969, c. 59; 1983, c. 483, ss. 1-3; 1987, c. 146, ss. 1, 3.)

§ 20-114.3: Repealed by Session Laws 2007-433, s. 3(a), (b), effective October 1, 2007.

Part 9. The Size, Weight, Construction and Equipment of Vehicles.

§ 20-115. **Scope and effect of regulations in this Part.**

It shall be unlawful for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or vehicles of a size or weight exceeding the limitations stated in this Part, or any vehicle or vehicles which are not so constructed or equipped as required in this Part, or the rules and regulations of the Department of Transportation adopted pursuant to this Part and the maximum size and weight of vehicles specified in this Part shall be lawful throughout this State, and local authorities shall have no power or authority to alter the limitations except as express authority may be granted in this Article. (1937, c. 407, s. 79; 1973, c. 507, s. 5; 1977, c. 464, s. 34; 1985 (Reg. Sess., 1986), c. 852, s. 8; 2015-264, s. 8(a).)

§ 20-115.1. **Limitations on tandem trailers and semitrailers on certain North Carolina highways.**

(a) Motor vehicle combinations consisting of a truck tractor and two trailing units may be operated in North Carolina only on highways of the interstate system (except those exempted by the United States Secretary of Transportation pursuant to 49 USC 2311(i)) and on those sections of the federal-aid primary system designated by the United States Secretary of Transportation. No trailer or semitrailer operated in this combination shall exceed 28 feet in length; Provided, however, a 1982 or older year model trailer or semitrailer of up to 28 1/2 feet in length may operate in a combination permitted by this section for trailers or semitrailers which are 28 feet in length.

(b) Motor vehicle combinations consisting of a semitrailer of not more than 53 feet in length and a truck tractor may be operated on all primary highway routes of North Carolina provided the motor vehicle combination meets the requirements of this subsection. The Department may, at any time, prohibit motor vehicle combinations on portions of any route on the State highway system. If the Department prohibits a motor vehicle combination on any route, it shall submit a written report to the Joint Legislative Transportation Oversight Committee within six months of the prohibition clearly documenting through traffic engineering studies that the operation of a motor vehicle combination on that route cannot be safely accommodated and that the route does not have sufficient capacity to handle the vehicle combination. To operate on a primary highway route, a motor vehicle combination described in this subsection must meet all of the following requirements:

- (1) The motor vehicle combination must comply with the weight requirements in G.S. 20-118.
- (2) A semitrailer in excess of 48 feet in length must meet one or more of the following conditions:

- (a) The distance between the kingpin of the trailer and the rearmost axle, or a point midway between the two rear axles, if the two rear axles are a tandem axle, does not exceed 41 feet.
 - (b) The semitrailer is used exclusively or primarily to transport vehicles in connection with motorsports competition events, and the distance between the kingpin of the trailer and the rearmost axle, or a point midway between the two rear axles, if the two rear axles are a tandem axle, does not exceed 46 feet.
- (3) A semitrailer in excess of 48 feet must be equipped with a rear underride guard of substantial construction consisting of a continuous lateral beam extending to within four inches of the lateral extremities of the semitrailer and located not more than 30 inches from the surface as measured with the vehicle empty and on a level surface.

(c) Motor vehicles with a width not exceeding 102 inches may be operated on the interstate highways (except those exempted by the United States Secretary of Transportation pursuant to 49 USC 2316(e)) and other qualifying federal-aid highways designated by the United States Secretary of Transportation, with traffic lanes designed to be a width of 12 feet or more and any other qualifying federal-aid primary system highway designated by the United States Secretary of Transportation if the Secretary has determined that the designation is consistent with highway safety.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section which limit the length of trailers which may be used in motor vehicle combinations in this State on highways of the interstate system (except those exempted by the United States Secretary of Transportation pursuant to 49 USC 2311(i)) and on those sections of the federal-aid primary system designated by the United States Secretary of Transportation, there is no limitation of the length of the truck tractor which may be used in motor vehicle combinations on these highways and therefore, in compliance with Section 411(b) of the Surface Transportation Act of 1982, there is no overall length limitation for motor vehicle combinations regulated by this section.

(e) The length and width limitations in this section are subject to exceptions and exclusions for safety devices and specialized equipment as provided for in 49 USC 2311(d)(h) and Section 416 of the Surface Transportation Act of 1982 as amended (49 USC 2316).

(f) Motor vehicle combinations operating pursuant to this section shall have reasonable access between (i) highways on the interstate system (except those exempted by the United States Secretary of Transportation pursuant to 49 USC 2311(i) and 49 USC 2316(e)) and other qualifying federal-aid highways as designated by the United States Secretary of Transportation and (ii) terminals, facilities for food, fuel, repairs, and rest and points of loading and unloading by household goods carriers and by any truck tractor-semitrailer combination in which the semitrailer has a length not to exceed 28 1/2 feet and a width not to exceed 102 inches as provided in subsection (c) of this section and which generally operates as part of a vehicle combination described in subsection (a) of this section. The North Carolina Department of Transportation may, on streets and highways on the State highway system, and any municipality may, on streets and highways on the municipal street system, impose reasonable restrictions based on safety considerations on any truck tractor-semitrailer combination in which the semitrailer has a length not to exceed 28 1/2 feet and which generally operates as part of a vehicle combination described in subsection (a) of this section. "Reasonable access" to facilities for food, fuel, repairs and rest shall be deemed to be those facilities which are located within

three road miles of the interstate or designated highway. The Department of Transportation is authorized to promulgate rules and regulations providing for "reasonable access." The Department may approve reasonable access routes for one particular type of STAA (Surface Transportation Assistance Act) dimensioned vehicle when significant, substantial differences in their operating characteristics exist.

(g) Under certain conditions, and after consultation with the Joint Legislative Commission on Governmental Operations, the North Carolina Department of Transportation may designate State highway system roads in addition to those highways designated by the United States Secretary of Transportation for use by the vehicle combinations authorized in this section. Such designations by the Department shall only be made under the following conditions:

- (1) A determination of the public convenience and need for such designation;
- (2) A traffic engineering study which clearly shows the road proposed to be designated can safely accommodate and has sufficient capacity to handle these vehicle combinations; and
- (3) A public hearing is held or the opportunity for a public hearing is provided in each county through which the designated highway passes, after two weeks notice posted at the courthouse and published in a newspaper of general circulation in each county through which the designated State highway system road passes, and consideration is given to the comments received prior to the designation.
- (4) The Department may designate routes for one particular type of STAA (Surface Transportation Assistance Act) dimensioned vehicle when significant, substantial differences in their operating characteristics exist.

The Department may not designate any portion of the State highway system that has been deleted or exempted by the United States Secretary of Transportation based on safety considerations. For the purpose of this section, any highway designated by the Department shall be deemed to be the same as a federal-aid primary highway designated by the United States Secretary of Transportation pursuant to 49 USC 2311 and 49 USC 2316, and the vehicle combinations authorized in this section shall be permitted to operate on such highway.

(h) Any owner of a semitrailer less than 50 feet in length in violation of subsections (a) or (b) is responsible for an infraction and is subject to a penalty of one hundred dollars (\$100.00). Any owner of a semitrailer 50 feet or greater in length in violation of subsection (b) is responsible for an infraction and subject to a penalty of two hundred dollars (\$200.00).

(i) Any driver of a vehicle with a semitrailer less than 50 feet in length violating subsections (a) or (b) of this section is guilty of a Class 3 misdemeanor punishable only by a fine of one hundred dollars (\$100.00). Any driver of a vehicle with a semitrailer 50 feet or more in length violating subsection (b) of this section is guilty of a Class 3 misdemeanor punishable only by a fine of two hundred dollars (\$200.00).

(j) Notwithstanding any other provision of this section, a manufacturer of trailer frames, with a permit issued pursuant to G.S. 20-119, is authorized to transport the trailer frame to another location within three miles of the first place of manufacture to the location of completion on any public street or highway if the width of the trailer frame does not exceed 14 feet and oversize markings and safety flags are used during transport. Trailer frames transported pursuant to this subsection shall not exceed 7,000 pounds, and the vehicle towing the trailer frame shall have a towing capacity greater than 10,000 pounds and necessary towing equipment. The transport of trailer frames under this subsection shall only be done during daylight hours. (1983,

c. 898, s. 1; 1985, c. 423, ss. 1-7; 1989, c. 790, ss. 1, 3, 3.1; 1993, c. 533, s. 10; c. 539, s. 354; 1994, Ex. Sess., c. 24, s. 14(c); 1998-149, s. 6; 2007-77, ss. 2, 3; 2008-160, s. 1; 2008-221, ss. 3, 4.)

§ 20-116. Size of vehicles and loads.

(a) The total outside width of any vehicle or the load thereon shall not exceed 102 inches, except as otherwise provided in this section. When hogsheads of tobacco are being transported, a tolerance of six inches is allowed. When sheet or bale tobacco is being transported the load must not exceed a width of 114 inches at the top of the load and the bottom of the load at the truck bed must not exceed the width of 102 inches inclusive of allowance for load shifting or settling. Vehicles (other than passenger buses) that do not exceed the overall width of 102 inches and otherwise provided in this section may be operated in accordance with G.S. 20-115.1(c), (f), and (g).

(b) No passenger-type vehicle or recreational vehicle shall be operated on any highway with any load carried thereon extending beyond the line of the fenders on the left side of such vehicle nor extending more than six inches beyond the line of the fenders on the right side thereof.

(c) No vehicle, unladen or with load, shall exceed a height of 13 feet, six inches. Provided, however, that neither the State of North Carolina nor any agency or subdivision thereof, nor any person, firm or corporation, shall be required to raise, alter, construct or reconstruct any underpass, wire, pole, trestle, or other structure to permit the passage of any vehicle having a height, unladen or with load, in excess of 12 feet, six inches. Provided further, that the operator or owner of any vehicle having an overall height, whether unladen or with load, in excess of 12 feet, six inches, shall be liable for damage to any structure caused by such vehicle having a height in excess of 12 feet, six inches.

(d) Maximum Length. – The following maximum lengths apply to vehicles. A truck-tractor and semitrailer shall be regarded as two vehicles for the purpose of determining lawful length and license taxes.

- (1) Except as otherwise provided in this subsection, a single vehicle having two or more axles shall not exceed 40 feet in length overall of dimensions inclusive of front and rear bumpers.
- (2) Trucks transporting unprocessed cotton from farm to gin, or unprocessed sage from farm to market shall not exceed 50 feet in length overall of dimensions inclusive of front and rear bumpers.
- (3) Recreational vehicles shall not exceed 45 feet in length overall, excluding bumpers and mirrors.
- (4) Vehicles owned or leased by State, local, or federal government, when used for official law enforcement or emergency management purposes, shall not exceed 45 feet in length overall, excluding bumpers and mirrors.

(e) Except as provided by G.S. 20-115.1, no combination of vehicles coupled together shall consist of more than two units and no such combination of vehicles shall exceed a total length of 60 feet inclusive of front and rear bumpers, subject to the following exceptions: Motor vehicle combinations of one semitrailer of not more than 53 feet in length and a truck tractor (power unit) may exceed the 60-foot maximum length. Said maximum overall length limitation shall not apply to vehicles operated in the daytime when transporting poles, pipe, machinery or other objects of a structural nature which cannot readily be dismembered, nor to such vehicles

transporting such objects operated at nighttime by a public utility when required for emergency repair of public service facilities or properties, provided the trailer length does not exceed 53 feet in length, but in respect to such night transportation every such vehicle and the load thereon shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of said projecting load to clearly mark the dimensions of such load: Provided that vehicles designed and used exclusively for the transportation of motor vehicles shall be permitted an overhang tolerance front or rear not to exceed five feet. Provided, that wreckers may tow a truck, combination tractor and trailer, trailer, or any other disabled vehicle or combination of vehicles to a place for repair, parking, or storage within 50 miles of the point where the vehicle was disabled and may tow a truck, tractor, or other replacement vehicle to the site of the disabled vehicle. Provided further, that the said limitation that no combination of vehicles coupled together shall consist of more than two units shall not apply to trailers not exceeding three in number drawn by a motor vehicle used by municipalities for the removal of domestic and commercial refuse and street rubbish, but such combination of vehicles shall not exceed a total length of 50 feet inclusive of front and rear bumpers. Provided further, that the said limitation that no combination of vehicles coupled together shall consist of more than two units shall not apply to a combination of vehicles coupled together by a saddle mount device used to transport motor vehicles in a driveway service when no more than three saddle mounts are used and provided further, that equipment used in said combination is approved by the safety regulations of the Federal Highway Administration and the safety rules of the Department of Public Safety.

(f) The load upon any vehicle operated alone, or the load upon the front vehicle of a combination of vehicles, shall not extend more than three feet beyond the foremost part of the vehicle. Under this subsection "load" shall include the boom on a self-propelled vehicle.

A utility pole carried by a self-propelled pole carrier may extend beyond the front overhang limit set in this subsection if the pole cannot be dismembered, the pole is less than 80 feet in length and does not extend more than 10 feet beyond the front bumper of the vehicle, and either of the following circumstances apply:

- (1) It is daytime and the front of the extending load of poles is marked by a flag of the type required by G.S. 20-117 for certain rear overhangs.
- (2) It is nighttime, operation of the vehicle is required to make emergency repairs to utility service, and the front of the extending load of poles is marked by a light of the type required by G.S. 20-117 for certain rear overhangs.

As used in this subsection, a "self-propelled pole carrier" is a vehicle designed to carry a pole on the side of the vehicle at a height of at least five feet when measured from the bottom of the brace used to carry the pole. A self-propelled pole carrier may not tow another vehicle when carrying a pole that extends beyond the front overhang limit set in this subsection.

- (g) (1) No vehicle shall be driven or moved on any highway unless the vehicle is constructed and loaded to prevent any of its load from falling, blowing, dropping, sifting, leaking, or otherwise escaping therefrom, and the vehicle shall not contain any holes, cracks, or openings through which any of its load may escape. However, sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled, dumped, or spread on a roadway in cleaning or maintaining the roadway. For purposes of this subsection, the terms "load" and "leaking" do not include water accumulated from precipitation.

- (2) A truck, trailer, or other vehicle licensed for more than 7,500 pounds gross vehicle weight that is loaded with rock, gravel, stone, or any other similar substance, other than sand, that could fall, blow, leak, sift, or drop shall not be driven or moved on any highway unless:
 - a. The height of the load against all four walls does not extend above a horizontal line six inches below their tops when loaded at the loading point; and
 - b. The load is securely covered by tarpaulin or some other suitable covering to prevent any of its load from falling, dropping, sifting, leaking, blowing, or otherwise escaping therefrom.
- (3) A truck, trailer, or other vehicle licensed for 7,500 pounds or less gross vehicle weight and loaded with rock, gravel, stone, or any other similar substance that could fall, blow, leak, or sift, or licensed for any gross vehicle weight and loaded with sand, shall not be driven or moved on any highway unless:
 - a. The height of the load against all four walls does not extend above a horizontal line six inches below the top when loaded at the loading point;
 - b. The load is securely covered by tarpaulin or some other suitable covering; or
 - c. The vehicle is constructed to prevent any of its load from falling, dropping, sifting, leaking, blowing, or otherwise escaping therefrom.
- (4) This section shall not be applicable to or in any manner restrict the transportation of seed cotton, poultry or livestock, or silage or other feed grain used in the feeding of poultry or livestock.

(h) Whenever there exist two highways of the State highway system of approximately the same distance between two or more points, the Department of Transportation may, when in the opinion of the Department of Transportation, based upon engineering and traffic investigation, safety will be promoted or the public interest will be served, designate one of the highways the "truck route" between those points, and to prohibit the use of the other highway by heavy trucks or other vehicles of a gross vehicle weight or axle load limit in excess of a designated maximum. In such instances the highways selected for heavy vehicle traffic shall be designated as "truck routes" by signs conspicuously posted, and the highways upon which heavy vehicle traffic is prohibited shall likewise be designated by signs conspicuously posted showing the maximum gross vehicle weight or axle load limits authorized for those highways. The operation of any vehicle whose gross vehicle weight or axle load exceeds the maximum limits shown on signs over the posted highway shall constitute a Class 2 misdemeanor: Provided, that nothing in this subsection shall prohibit a truck or other motor vehicle whose gross vehicle weight or axle load exceeds that prescribed for those highways from using them when its destination is located solely upon that highway, road or street: Provided, further, that nothing in this subsection shall prohibit passenger vehicles or other light vehicles from using any highways designated for heavy truck traffic.

(i) Repealed by Session Laws 1973, c. 1330, s. 39.

(j) Nothing in this section shall be construed to prevent the operation of self-propelled grain combines or other self-propelled farm equipment with or without implements, not exceeding 25 feet in width on any highway, unless the operation violates a provision of this

subsection. Farm equipment includes a vehicle that is designed exclusively to transport compressed seed cotton from a farm to a gin and has a self-loading bed. Combines or equipment which exceed 10 feet in width may be operated only if they meet all of the conditions listed in this subsection. A violation of one or more of these conditions does not constitute negligence per se.

- (1) The equipment may only be operated during daylight hours.
- (2) The equipment must display a red flag on front and rear ends or a flashing warning light. The flags or lights shall be attached to the equipment as to be visible from both directions at all times while being operated on the public highway for not less than 300 feet.
- (3) Equipment covered by this section, which by necessity must travel more than 10 miles or where by nature of the terrain or obstacles the flags or lights referred to in subdivision (2) of this subsection are not visible from both directions for 300 feet at any point along the proposed route, must be preceded at a distance of 300 feet and followed at a distance of 300 feet by a flagman in a vehicle having mounted thereon an appropriate warning light or flag. No flagman in a vehicle shall be required pursuant to this subdivision if the equipment is being moved under its own power or on a trailer from any field to another field, or from the normal place of storage of the vehicle to any field, for no more than ten miles and if visible from both directions for 300 feet at any point along the proposed route.
- (4) Every piece of equipment so operated shall operate to the right of the center line unless the combined width of the traveling lane and the accessible shoulder is less than the width of the equipment.
- (5) Repealed by Session Laws 2008-221, s. 6, effective September 1, 2008.
- (6) When the equipment is causing a delay in traffic, the operator of the equipment shall move the equipment off the paved portion of the highway at the nearest practical location until the vehicles following the equipment have passed.
- (7) The equipment shall be operated in the designed transport position that minimizes equipment width. No removal of equipment or appurtenances is required under this subdivision.
- (8) Equipment covered by this subsection shall not be operated on a highway or section of highway that is a fully controlled access highway or is a part of the National System of Interstate and Defense Highways without authorization from the North Carolina Department of Transportation. The Department shall develop an authorization process and approve routes under the following conditions:
 - a. Persons shall submit an application to the Department requesting authorization to operate equipment covered by this subsection on a particular route that is part of a highway or section of highway that is a fully controlled access highway or is a part of the National System of Interstate and Defense Highways.
 - b. The Department shall have a period of 30 days from receipt of a complete application to approve or reject the application. A complete application shall be deemed approved if the Department does not take

action within 30 days of receipt by the Department; such a route may then be used by the original applicant.

- c. The Department shall approve an application upon a showing that the route is necessary to accomplish one or more of the following:
 - 1. Prevent farming operations from traveling more than five miles longer than the requested route during the normal course of business.
 - 2. Prevent excess traffic delays on local or secondary roads.
 - 3. Allow farm equipment access due to dimension restrictions on local or secondary roads.
- d. For applications that do not meet the requirements of sub-subdivision c. of this subdivision, the Department may also approve an application upon review of relevant safety factors.
- e. The Department may consult with the North Carolina State Highway Patrol, the North Carolina Department of Agriculture and Consumer Services, or other parties concerning an application.
- f. Any approved route may be subject to any of the following additional conditions:
 - 1. A requirement that the subject equipment be followed by a flag vehicle with flashing lights that shall be operated at all times on the route so as to be visible from a distance of at least 300 feet.
 - 2. Restrictions on maximum and minimum speeds of the equipment.
 - 3. Restrictions on the maximum dimensions of the equipment.
 - 4. Restrictions on the time of day that the equipment may be operated on the approved route.
- g. The Department shall publish all approved routes, including any conditions on the routes' use, and shall notify appropriate State and local law enforcement officers of any approved route.
- h. Once approved for use and published by the Department, a route may be used by any person who adheres to the route, including any conditions on the route's use imposed by the Department.
- i. The Department may revise published routes as road conditions on the routes change.

(k) Nothing in this section shall be construed to prevent the operation of passenger buses having an overall width of 102 inches, exclusive of safety equipment, upon the highways of this State which are 20 feet or wider and that are designated as the State primary system, or as municipal streets, when, and not until, the federal law and regulations thereunder permit the operation of passenger buses having a width of 102 inches or wider on the National System of Interstate and Defense Highways.

(l) Nothing in this section shall be construed to prevent the operation of passenger buses that are owned and operated by units of local government, operated as a single vehicle only and having an overall length of 45 feet or less, on public streets or highways. The Department of Transportation may prevent the operation of buses that are authorized under this subsection if the

operation of such buses on a street or highway presents a hazard to passengers of the buses or to the motoring public.

(m) Notwithstanding subsection (a) of this section, a boat or boat trailer with an outside width of less than 120 inches may be towed without a permit. The towing of a boat or boat trailer 102 inches to 114 inches in width may take place on any day of the week, including weekends and holidays, and may take place at night. The towing of a boat or boat trailer 114 inches to 120 inches in width may take place on any day of the week, including weekends and holidays from sun up to sun down. A boat or boat trailer in excess of 102 inches but less than 120 inches must be equipped with a minimum of two operable amber lamps on the widest point of the boat and the boat trailer such that the dimensions of the boat and the boat trailer are clearly marked and visible.

(n) Vehicle combinations used in connection with motorsports competition events that include a cab or other motorized vehicle unit with living quarters, and an attached enclosed specialty trailer, the combination of which does not exceed 90 feet in length, may be operated on the highways of this State, provided that such operation takes place for one or more of the following purposes:

- (1) Driving to or from a motorsports competition event.
- (2) For trips conducted for the purpose of purchasing fuel or conducting repairs or other maintenance on the competition vehicle.
- (3) For other activities related to motorsports purposes, including, but not limited to, performance testing of the competition vehicle.

The Department of Transportation may prohibit combinations authorized by this subsection from specific routes, pursuant to G.S. 20-115.1(b).

(o) Any vehicle carrying baled hay from place to place on the same farm, from one farm to another, from farm to market, or from market to farm that does not exceed 12 feet in width may be operated on the highways of this State. Vehicles carrying baled hay that exceed 10 feet in width may only be operated under the following conditions:

- (1) The vehicle may only be operated during daylight hours.
- (2) The vehicle shall display a red flag or a flashing warning light on both the rear and front ends. The flags or lights shall be attached to the equipment as to be visible from both directions at all times while being operated on the public highway for not less than 300 feet.

(p) Notwithstanding any provision of this section to the contrary, the following may operate on the highways of this State without an oversize permit for the purpose of Department snow removal and snow removal training operations:

- (1) Truck supporting snow plows with blades not exceeding 12 feet in width. A truck operated pursuant to this subdivision shall have adequate illumination when the plow is in the up and the down positions; visible signal lights; and a plow that is angled so that the minimum width is exposed to oncoming traffic during periods of travel between assignments.
- (2) Motor graders not exceeding 102 inches in width, measured from the outside edge of the tires. A motor grader operated pursuant to this subdivision shall have adequate illumination when the moldboard is in the up and down positions; visible signal lights; and a moldboard that is angled not to exceed 102 inches during periods of travel between assignments. (1937, c. 246; c. 407, s. 80; 1943, c. 213, s. 1; 1945, c. 242, s. 1; 1947, c. 844; 1951, c. 495, s.

1; c. 733; 1953, cc. 682, 1107; 1955, c. 296, s. 2; c. 729; 1957, c. 65, s. 11; cc. 493, 1183, 1190; 1959, c. 559; 1963, c. 356, s. 1; c. 610, ss. 1, 2; c. 702, s. 4; c. 1027, s. 1; 1965, c. 471; 1967, c. 24, s. 4; c. 710; 1969, cc. 128, 880; 1971, cc. 128, 680, 688, 1079; 1973, c. 507, s. 5; c. 546; c. 1330, s. 39; 1975, c. 148, ss. 1-5; c. 716, s. 5; 1977, c. 464, s. 34; 1979, cc. 21, 218; 1981, c. 169, s. 1; 1983, c. 724, s. 2; 1985, c. 587; 1987, c. 272; 1989, c. 277, s. 1; c. 790, s. 2; 1991, c. 112, s. 1; c. 449, ss. 1, 2.1; 1993, c. 539, s. 355; 1994, Ex. Sess., c. 24, s. 14(c); 1995 (Reg. Sess., 1996), c. 573, s. 1; c. 756, s. 14; 1998-149, s. 7; 1999-438, s. 28; 2000-185, s. 2; 2001-341, ss. 3, 4; 2001-512, s. 2; 2002-72, s. 19(c); 2002-159, s. 31.5(b); 2002-190, s. 2; 2003-383, s. 8; 2005-248, s. 2; 2007-77, s. 1; 2007-194, ss. 2, 3; 2007-484, s. 5; 2007-499, s. 1; 2008-221, ss. 5, 6; 2008-229, s. 1; 2009-7, s. 1; 2009-127, s. 1; 2009-128, s. 1; 2011-145, s. 19.1(g); 2012-33, s. 1; 2012-78, s. 5; 2013-413, s. 59.2(f); 2014-115, s. 17; 2015-263, ss. 5, 6(a); 2015-264, s. 41; 2015-286, s. 1.8(a).)

§ 20-117. Flag or light at end of load.

(a) General Provisions. – Whenever the load on any vehicle shall extend more than four feet beyond the rear of the bed or body thereof, there shall be displayed at the end of such load, in such position as to be clearly visible at all times from the rear of such load, a red or orange flag not less than 18 inches both in length and width, except that from sunset to sunrise there shall be displayed at the end of any such load a red or amber light plainly visible under normal atmospheric conditions at least 200 feet from the rear of such vehicle. At no time shall a load extend more than 14 feet beyond the rear of the bed or body of the vehicle, with the exception of vehicles transporting forestry products or utility poles.

(b) Commercial Motor Vehicles. – A commercial motor vehicle, or a motor vehicle with a GVWR of 10,001 pounds or more that is engaged in commerce, that is being used to tow a load or that has a load that protrudes from the rear or sides of the vehicle shall comply with the provisions of 49 C.F.R. Part 393. (1937, c. 407, s. 81; 1985, c. 455; 1997-178, s. 1; 2005-361, s. 2; 2009-376, s. 4.)

§ 20-117.1. Requirements for mirrors and fuel container.

(a) Rear-Vision Mirrors. – Every bus, truck, and truck tractor with a GVWR of 10,001 pounds or more shall be equipped with two rear-vision mirrors, one at each side, firmly attached to the outside of the motor vehicle, and located as to reflect to the driver a view of the highway to the rear and along both sides of the vehicle. Only one outside mirror shall be required, on the driver's side, on trucks which are so constructed that the driver also has a view to the rear by means of an interior mirror. In driveaway-towaway operations, a driven vehicle shall have at least one mirror furnishing a clear view to the rear, and if the interior mirror does not provide the clear view, an additional mirror shall be attached to the left side of the driven vehicle to provide the clear view to the rear.

(b) Fuel Container Not to Project. – No part of any fuel tank or container or intake pipe shall project beyond the sides of the motor vehicle. (1949, c. 1207, s. 1; 1951, c. 819, s. 1; 1955, c. 1157, ss. 1, 4; 1991, c. 113, c. 761, s. 6.)

§ 20-118. Weight of vehicles and load.

(a) For the purposes of this section, the following definitions shall apply:

- (1) Single-axle weight. – The gross weight transmitted by all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.
- (2) Tandem-axle weight. – The gross weight transmitted to the road by two or more consecutive axles whose centers may be included between parallel vertical planes spaced more than 40 inches and not more than 96 inches apart, extending across the full width of the vehicle.
- (3) Axle group. – Any two or more consecutive axles on a vehicle or combination of vehicles.
- (4) Gross weight. – The weight of any single axle, tandem axle, or axle group of a vehicle or combination of vehicles plus the weight of any load thereon.
- (5) Light-traffic roads. – Any highway on the State Highway System, excepting routes designated I, U.S. or N.C., posted by the Department of Transportation to limit the axle weight below the statutory limits.

(b) The following weight limitations shall apply to vehicles operating on the highways of the State:

- (1) The single-axle weight of a vehicle or combination of vehicles shall not exceed 20,000 pounds.
- (2) The tandem-axle weight of a vehicle or combination of vehicles shall not exceed 38,000 pounds.
- (3) The gross weight imposed upon the highway by any axle group of a vehicle or combination of vehicles shall not exceed the maximum weight given for the respective distance between the first and last axle of the group of axles measured longitudinally to the nearest foot as set forth in the following table:

Distance Between Axles*	Maximum Weight in Pounds for any Group of Two or More Consecutive Axles					
	2 Axles	3 Axles	4 Axles	5 Axles	6 Axles	7 Axles
4	38000					
5	38000					
6	38000					
7	38000					
8 or less	38000	38000				
more than 8	38000	42000				
9	39000	42500				
10	40000	43500				
11		44000				
12		45000	50000			
13		45500	50500			
14		46500	51500			
15		47000	52000			
16		48000	52500	58000		
17		48500	53500	58500		
18		49500	54000	59000		
19		50000	54500	60000		

20	51000	55500	60500	66000	
21	51500	56000	61000	66500	
22	52500	56500	61500	67000	
23	53000	57500	62500	68000	
24	54000	58000	63000	68500	74000
25	54500	58500	63500	69000	74500
26	55500	59500	64000	69500	75000
27	56000	60000	65000	70000	75500
28	57000	60500	65500	71000	76500
29	57500	61500	66000	71500	77000
30	58500	62000	66500	72000	77500
31	59000	62500	67500	72500	78000
32	60000	63500	68000	73000	78500
33		64000	68500	74000	79000
34		64500	69000	74500	80000
35		65500	70000	75000	
36		66000**	70500	75500	
37		66500**	71000	76000	
38		67500**	72000	77000	
39		68000	72500	77500	
40		68500	73000	78000	
41		69500	73500	78500	
42		70000	74000	79000	
43		70500	75000	80000	
44		71500	75500		
45		72000	76000		
46		72500	76500		
47		73500	77500		
48		74000	78000		
49		74500	78500		
50		75500	79000		
51		76000	80000		
52		76500			
53		77500			
54		78000			
55		78500			
56		79500			
57		80000			

* Distance in Feet Between the Extremes of any Group of Two or More Consecutive Axles.

** See exception in G.S. 20-118(c)(1).

- (4) The Department of Transportation may establish light-traffic roads and further restrict the axle weight limit on such light-traffic roads lower than the statutory limits. The Department of Transportation shall have authority to designate any highway on the State Highway System, excluding routes designated by I, U.S. and N.C., as a light-traffic road when in the opinion of the Department of Transportation, such road is inadequate to carry and will be

injuriously affected by vehicles using the said road carrying the maximum axle weight. All such roads so designated shall be conspicuously posted as light-traffic roads and the maximum axle weight authorized shall be displayed on proper signs erected thereon.

- (c) Exceptions. – The following exceptions apply to G.S. 20-118(b) and 20-118(e).
- (1) Two consecutive sets of tandem axles may carry a gross weight of 34,000 pounds each without penalty provided the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more.
 - (2) When a vehicle is operated in violation of G.S. 20-118(b)(1), 20-118(b)(2), or 20-118(b)(3), but the gross weight of the vehicle or combination of vehicles does not exceed that permitted by G.S. 20-118(b)(3), the owner of the vehicle shall be permitted to shift the load within the vehicle, without penalty, from one axle to another to comply with the weight limits in the following cases:
 - a. Where the single-axle load exceeds the statutory limits, but does not exceed 21,000 pounds.
 - b. Where the vehicle or combination of vehicles has tandem axles, but the tandem-axle weight does not exceed 40,000 pounds.
 - (3) When a vehicle is operated in violation of G.S. 20-118(b)(4) the owner of the vehicle shall be permitted, without penalty, to shift the load within the vehicle from one axle to another to comply with the weight limits where the single-axle weight does not exceed the posted limit by 2,500 pounds.
 - (4) A truck or other motor vehicle shall be exempt from such light-traffic road limitations provided for pursuant to G.S. 20-118(b)(4), when transporting supplies, material or equipment necessary to carry out a farming operation engaged in the production of meats and agricultural crops and livestock or poultry by-products or a business engaged in the harvest or processing of seafood when the destination of such vehicle and load is located solely upon said light-traffic road.
 - (5) The light-traffic road limitations provided for pursuant to subdivision (b)(4) of this section do not apply to a vehicle while that vehicle is transporting only the following from its point of origin on a light-traffic road to either one of the two nearest highways that is not a light-traffic road. If that vehicle's point of origin is a non-light-traffic road and that road is blocked by light-traffic roads from all directions and is not contiguous with other non-light-traffic roads, then the road at point of origin is treated as a light-traffic road for purposes of this subdivision:
 - a. Processed or unprocessed seafood transported from boats or any other point of origin to a processing plant or a point of further distribution.
 - b. Meats, live poultry, or agricultural crop products transported from a farm to a processing plant or market.
 - c. Forest products originating and transported from a farm or from woodlands to market without interruption or delay for further packaging or processing after initiating transport.
 - d. Livestock or live poultry transported from their point of origin to a processing plant or market.

- e. Livestock by-products or poultry by-products transported from their point of origin to a rendering plant.
 - f. Recyclable material transported from its point of origin to a scrap-processing facility for processing. As used in this subpart, the terms "recyclable material" and "processing" have the same meaning as in G.S. 130A-290(a).
 - g. Garbage collected by the vehicle from residences or garbage dumpsters if the vehicle is fully enclosed and is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters. As used in this subpart, the term "garbage" does not include hazardous waste as defined in G.S. 130A-290(a), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5, or radioactive material as defined in G.S. 104E-5.
 - h. Treated sludge collected from a wastewater treatment facility.
 - i. Apples when transported from the orchard to the first processing or packing point.
 - j. Trees grown as Christmas trees from the field, farm, stand, or grove, and other forest products, including chips and bark, to a processing point.
 - k. Water, fertilizer, pesticides, seeds, fuel, and animal waste transported to or from a farm by a farm vehicle as defined in G.S. 20-37.16(e)(3).
- (6) A truck or other motor vehicle shall be exempt from such light-traffic road limitations provided by G.S. 20-118(b)(4) when such motor vehicles are owned, operated by or under contract to a public utility, electric or telephone membership corporation or municipality and such motor vehicles are used in connection with installation, restoration or emergency maintenance of utility services.
- (7) A wrecker may tow any disabled truck or other motor vehicle or combination of vehicles to a place for repairs, parking, or storage within 50 miles from the point that the vehicle was disabled and may tow a truck, tractor, or other replacement vehicle to the site of the disabled vehicle without being in violation of G.S. 20-118 provided that the wrecker and towed vehicle or combination of vehicles otherwise meet all requirements of this section.
- (8) A firefighting vehicle operated by any member of a municipal or rural fire department in the performance of his duties, regardless of whether members of that fire department are paid or voluntary and any vehicle of a voluntary lifesaving organization, when operated by a member of that organization while answering an official call shall be exempt from such light-traffic road limitations provided by G.S. 20-118(b)(4).
- (9) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 12.
- (10) Fully enclosed motor vehicles designed specifically for collecting, compacting and hauling garbage from residences, or from garbage dumpsters shall, when operating for those purposes, be allowed a single axle weight not to exceed 23,500 pounds on the steering axle on vehicles equipped with a boom, or on the rear axle on vehicles loaded from the rear. This exemption shall not apply

to vehicles operating on interstate highways, vehicles transporting hazardous waste as defined in G.S. 130A-290(a)(8), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5(9a), or radioactive material as defined in G.S. 104E-5(14).

- (11) A truck or other motor vehicle shall be exempt for light-traffic road limitations issued under subdivision (b)(4) of this section when transporting heating fuel for on-premises use at a destination located on the light-traffic road.
- (12) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle combination that meets all of the conditions set out below:
 - a. Is transporting any of the following items within 150 miles of the point of origination:
 - 1. Agriculture, dairy, and crop products transported from a farm or holding facility to a processing plant, feed mill, or market.
 - 2. Water, fertilizer, pesticides, seeds, fuel, or animal waste transported to or from a farm.
 - 3. Meats, livestock, or live poultry transported from the farm where they were raised to a processing plant or market.
 - 3a. Feed or feed ingredients that are used in the feeding of poultry or livestock and transported from a storage facility, holding facility, or mill to a farm.
 - 4. Forest products originating and transported from a farm or woodlands to market with delay interruption or delay for further packaging or processing after initiating transport.
 - 5. Wood residuals, including wood chips, sawdust, mulch, or tree bark from any site.
 - 6. Raw logs to market.
 - 7. Trees grown as Christmas trees from field, farm, stand, or grove to a processing point.
 - b. Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 13.
 - b1. Does not operate on an interstate highway or exceed any posted bridge weight limits during transportation or hauling of agricultural products.
 - c. Meets any of the following vehicle configurations:
 - 1. Does not exceed a single-axle weight of 22,000 pounds, a tandem-axle weight of 42,000 pounds, or a gross weight of 90,000 pounds.
 - 2. Consists of a five or more axle combination vehicle that does not exceed a single-axle weight of 26,000 pounds, a tandem-axle weight of 44,000 pounds and a gross weight of 90,000 pounds, with a length of at least 48 feet between the center of axle one and the center of the last axle of the vehicle and a minimum of 11 feet between the center of axle one and the center of axle two of the vehicle.
 - 3. Consists of a two-axle vehicle that does not exceed a gross weight of 37,000 pounds and a single-axle weight of no more

than 27,000 pounds, with a length of at least 14 feet between the center of axle one and the center of axle two of the vehicle.

- d. Repealed by Session Laws 2012-78, s. 6, effective June 26, 2012.
- (13) Vehicles specifically designed for fire fighting that are owned by a municipal or rural fire department. This exception does not apply to vehicles operating on interstate highways.
- (14) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the conditions below, but all other enforcement provisions of this Article remain applicable:
- a. Is hauling aggregates from a distribution yard or a State-permitted production site located within a North Carolina county contiguous to the North Carolina State border to a destination in another state adjacent to that county as verified by a weight ticket in the driver's possession and available for inspection by enforcement personnel.
 - b. Does not operate on an interstate highway or exceed any posted bridge weight limits.
 - c. Does not exceed 69,850 pounds gross vehicle weight and 53,850 pounds per axle grouping for tri-axle vehicles. For purposes of this subsection, a tri-axle vehicle is a single power unit vehicle with a three consecutive axle group on which the respective distance between any two consecutive axles of the group, measured longitudinally center to center to the nearest foot, does not exceed eight feet. For purposes of this subsection, the tolerance provisions of subsection (h) of this section do not apply, and vehicles must be licensed in accordance with G.S. 20-88.
 - d. Repealed by Session Laws 2001-487, s. 10, effective December 16, 2001.
 - e. Repealed by Session Laws 2012-78, s. 6, effective June 26, 2012.
- (15) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle combination that meets all of the conditions below, but all other enforcement provisions of this Article remain applicable:
- a. Is transporting bulk soil, bulk rock, sand, sand rock, or asphalt millings from a site that does not have a certified scale for weighing the vehicle.
 - b. Does not operate on an interstate highway, a posted light-traffic road, except as provided by subdivision (c)(5) of this section, or exceed any posted bridge weight limits.
 - c. Does not exceed a maximum gross weight 4,000 pounds in excess of what is allowed in subsection (b) of this section.
 - d. Does not exceed a single-axle weight of more than 22,000 pounds and a tandem-axle weight of more than 42,000 pounds.
 - e. Repealed by Session Laws 2012-78, s. 6, effective June 26, 2012.
- (16) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle combination that meets all of the conditions below, but all other enforcement provisions of this Article remain applicable:
- a. Is hauling unhardened ready-mixed concrete.

- b. Does not operate on an interstate highway or a posted light-traffic road, or exceed any posted bridge weight limits.
- c. Has a single steer axle weight of no more than 22,000 pounds and a tandem-axle weight of no more than 46,000 pounds.
- d. Does not exceed a maximum gross weight of 66,000 pounds on a three-axle vehicle with a length of at least 21 feet between the center of axle one and the center of axle three of the vehicle.
- e. Does not exceed a maximum gross weight of 72,600 pounds on a four-axle vehicle with a length of at least 36 feet between the center of axle one and the center of axle four. The four-axle vehicle shall have a maximum gross weight of 66,000 pounds on axles one, two, and three with a length of at least 21 feet between the center of axle one and the center of axle three.

For purposes of this subdivision, no additional weight allowances as found in this section shall apply for the gross weight, single-axle weight, and tandem-axle weight, and the tolerance allowed by subsection (h) of this section shall not apply.

- (17) Subsections (b) and (e) of this section do not apply to a truck owned, operated by, or under contract to a public utility, electric or telephone membership corporation, or municipality that meets all of the conditions listed below, but all other enforcement provisions of this Article remain applicable:
 - a. Is being used in connection with the installation, restoration, or maintenance of utility services within a North Carolina county located in whole or in part west of Interstate 77, and the terrain, road widths, and other naturally occurring conditions prevent the safe navigation and operation of a truck having more than a single axle or using a trailer.
 - b. Does not operate on an interstate highway.
 - c. Does not exceed a single-axle weight of more than 28,000 pounds.
 - d. Does not exceed a maximum gross weight in excess of 48,000 pounds.
- (18) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle combination that meets all of the conditions set out below:
 - a. Is transporting metal commodities or construction equipment.
 - b. Does not operate on an interstate highway, a posted light traffic road, or exceed any posted bridge weight limit.
 - c. Does not exceed a single-axle weight of 22,000 pounds, a tandem-axle weight of 42,000 pounds, or a gross weight of 90,000 pounds.
- (19) Any additional weight allowance authorized by 23 U.S.C. § 127, and applicable to all interstate highways, shall also apply to all State roads, unless the road is a posted road or posted bridge, or unless specifically prohibited by State law or a Department ordinance applicable to a specific road.

(d) The Department of Transportation is authorized to abrogate certain exceptions. The exceptions provided for in G.S. 20-118(c)(4) and 20-118(c)(5) as applied to any light-traffic road may be abrogated by the Department of Transportation upon a determination of the Department of Transportation that undue damage to such light-traffic road is resulting from such vehicles exempted by G.S. 20-118(c)(4) and 20-118(c)(5). In those cases where the exemption to the

light-traffic roads are abrogated by the Department of Transportation, the Department shall post the road to indicate no exemptions.

(e) Penalties. –

- (1) Except as provided in subdivision (2) of this subsection, for each violation of the single-axle or tandem-axle weight limits set in subdivision (b)(1), (b)(2), or (b)(4) of this section or axle weights authorized by special permit according to G.S. 20-119(a), the Department of Public Safety shall assess a civil penalty against the owner or registrant of the vehicle in accordance with the following schedule: for the first 1,000 pounds or any part thereof, four cents (4¢) per pound; for the next 1,000 pounds or any part thereof, six cents (6¢) per pound; and for each additional pound, ten cents (10¢) per pound. These penalties apply separately to each weight limit violated. In all cases of violation of the weight limitation, the penalty shall be computed and assessed on each pound of weight in excess of the maximum permitted.
- (2) The penalty for a violation of the single-axle or tandem-axle weight limits by a vehicle that is transporting an item listed in subdivision (c)(5) of this section is one-half of the amount it would otherwise be under subdivision (1) of this subsection.
- (3) If an axle-group weight of a vehicle exceeds the weight limit set in subdivision (b)(3) of this section plus any tolerance allowed in subsection (h) of this section or axle-group weights or gross weights authorized by special permit under G.S. 20-119(a), the Department of Public Safety shall assess a civil penalty against the owner or registrant of the motor vehicle. The penalty shall be assessed on the number of pounds by which the axle-group weight exceeds the limit set in subdivision (b)(3) of this section, or by a special permit issued pursuant to G.S. 20-119, as follows: for the first 2,000 pounds or any part thereof, two cents (2¢) per pound; for the next 3,000 pounds or any part thereof, four cents (4¢) per pound; for each pound in excess of 5,000 pounds, ten cents (10¢) per pound. Tolerance pounds in excess of the limit set in subdivision (b)(3) are subject to the penalty if the vehicle exceeds the tolerance allowed in subsection (h) of this section. These penalties apply separately to each axle-group weight limit violated. Notwithstanding any provision to the contrary, a vehicle with a special permit that is subject to additional penalties under this subsection based on a violation of any of the permit restrictions set out in G.S. 20-119(d1) shall be assessed a civil penalty, not to exceed ten thousand dollars (\$10,000), based on the number of pounds by which the axle-group weight exceeds the limit set in subdivision (b)(3) of this section.
- (4) The penalty for a violation of an axle-group weight limit by a vehicle that is transporting an item listed in subdivision (c)(5) of this section is one-half of the amount it would otherwise be under subdivision (3) of this subsection.
- (5) A violation of a weight limit in this section or of a permitted weight under G.S. 20-119 is not punishable under G.S. 20-176.
- (6) The penalty for violating the gross weight or axle-group weight by a dump truck or dump trailer vehicle transporting bulk soil, bulk rock, sand, sand rock, or asphalt millings intrastate from a site that does not have a certified scale for

weighing the vehicle is one-half of the amount it otherwise would be under subdivisions (1) and (3) of this subsection.

- (7) The clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by the Department of Transportation pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(f) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 15.

(g) General Statutes 20-118 shall not be construed to permit the gross weight of any vehicle or combination in excess of the safe load carrying capacity established by the Department of Transportation on any bridge pursuant to G.S. 136-72.

(h) Tolerance. – A vehicle may exceed maximum and the inner axle-group weight limitations set forth in subdivision (b)(3) of this section by a tolerance of ten percent (10%). This exception does not authorize a vehicle to exceed either the single-axle or tandem-axle weight limitations set forth in subdivisions (b)(1) and (b)(2) of this section, or the maximum gross weight limit of 80,000 pounds. This exception does not apply to a vehicle exceeding posted bridge weight limitations as posted under G.S. 136-72 or to vehicles operating on interstate highways. The tolerance allowed under this subsection does not authorize the weight of a vehicle to exceed the weight for which that vehicle is licensed under G.S. 20-88. No tolerance on the single-axle weight or the tandem-axle weight provided for in subdivisions (b)(1) and (b)(2) of this section shall be granted administratively or otherwise. The Department of Transportation shall report back to the Transportation Oversight Committee and to the General Assembly on the effects of the tolerance granted under this section, any abuses of this tolerance, and any suggested revisions to this section by that Department on or before May 1, 1998.

(i) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 16.

(j) Repealed by Session Laws 1987, c. 392.

(k) A vehicle which is equipped with a self-loading bed and which is designed and used exclusively to transport compressed seed cotton from the farm to a cotton gin, or sage to market, may operate on the highways of the State, except interstate highways, with a tandem-axle weight not exceeding 50,000 pounds. Such vehicles shall be exempt from light-traffic road limitations only from point of origin on the light-traffic road to the nearest State-maintained road which is not posted to prohibit the transportation of statutory load limits. This exemption does not apply to restricted, posted bridge structures. (1937, c. 407, s. 82; 1943, c. 213, s. 2; cc. 726, 784; 1945, c. 242, s. 2; c. 569, s. 2; c. 576, s. 7; 1947, c. 1079; 1949, c. 1207, s. 2; 1951, c. 495, s. 2; c. 942, s. 1; c. 1013, ss. 5, 6, 8; 1953, cc. 214, 1092; 1959, c. 872; c. 1264, s. 6; 1963, c. 159; c. 610, ss. 3-5; c. 702, s. 5; 1965, cc. 483, 1044; 1969, c. 537; 1973, c. 507, s. 5; c. 1449, ss. 1, 2; 1975, c. 325; c. 373, s. 2; c. 716, s. 5; c. 735; c. 736, ss. 1-3; 1977, c. 461; c. 464, s. 34; 1977, 2nd Sess., c. 1178; 1981, c. 690, ss. 27, 28; c. 726; c. 1127, s. 53.1; 1983, c. 407; c. 724, s. 1; 1983 (Reg. Sess., 1984), c. 1116, ss. 105-109; 1985, c. 54; c. 274; 1987, c. 392; c. 707, ss. 1-4; 1991, c. 202, s. 1; 1991 (Reg. Sess., 1992), c. 905, s. 1; 1993, c. 426, ss. 1, 2; c. 470, s. 1; c. 533, s. 11; 1993 (Reg. Sess., 1994), c. 761, ss. 10-16; 1995, c. 109, s. 3; c. 163, s. 4; c. 332, ss. 1-3; c. 509, s. 135.1(b); 1995 (Reg. Sess., 1996), c. 756, s. 29; 1997-354, s. 1; 1997-373, s. 1; 1997-466, s. 2; 1998-149, ss. 8, 9, 9.1; 1998-177, s. 1; 1999-452, s. 23; 2000-57, s. 1; 2001-487, ss. 10, 50(e); 2002-126, s. 26.16(a); 2004-145, ss. 1, 2; 2005-248, s. 1; 2005-276, s. 6.37(o); 2005-361, s. 3; 2006-135, s. 1; 2006-264, s. 37; 2008-221, ss. 7, 8, 9; 2009-127, s. 2; 2009-376, ss. 6, 16(a), 16(b); 2009-531, s. 1; 2010-129, s. 3; 2010-132, s. 10; 2011-71, s. 1; 2011-145, s. 19.1(g);

2011-200, s. 1; 2012-78, ss. 6, 13; 2013-120, s. 1; 2013-134, s. 1; 2015-263, s. 9(a); 2016-90, s. 2.1(a).)

§ 20-118.1. Officers may weigh vehicles and require overloads to be removed.

A law enforcement officer may stop and weigh a vehicle to determine if the vehicle's weight is in compliance with the vehicle's declared gross weight and the weight limits set in this Part. The officer may require the driver of the vehicle to drive to a scale located within five miles of where the officer stopped the vehicle.

Any person operating a vehicle or a combination of vehicles having a GVWR of 10,001 pounds or more or any vehicle transporting hazardous materials that is required to be placarded under 49 C.F.R. § 171-180 must enter a permanent weigh station or temporary inspection or weigh site as directed by duly erected signs or an electronic transponder for the purpose of being electronically screened for compliance, or weighed, or inspected.

If the vehicle's weight exceeds the amount allowable, the officer may detain the vehicle until the overload has been removed. Any property removed from a vehicle because the vehicle was overloaded is the responsibility of the owner or operator of the vehicle. The State is not liable for damage to or loss of the removed property.

Failure to permit a vehicle to be weighed or to remove an overload is a misdemeanor of the Class set in G.S. 20-176. An officer must weigh a vehicle with a scale that has been approved by the Department of Agriculture and Consumer Services.

A privately owned noncommercial horse trailer constructed to transport four or fewer horses shall not be required to stop at any permanent weigh station in the State while transporting horses, unless the driver of the vehicle hauling the trailer is directed to stop by a law enforcement officer. A "privately owned noncommercial horse trailer" means a trailer used solely for the occasional transportation of horses and not for compensation or in furtherance of a commercial enterprise. (1927, c. 148, s. 37; 1949, c. 1207, s. 3; 1951, c. 1013, s. 4; 1979, c. 436, ss. 1, 2; 1981 (Reg. Sess., 1982), c. 1259, s. 2; 1993, c. 539, s. 356; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 109, s. 4; 1997-261, s. 109; 2001-487, s. 50(f); 2003-338, s. 1.)

§ 20-118.2. Authority to fix higher weight limitations at reduced speeds for certain vehicles.

The Department of Transportation is hereby authorized and empowered to fix higher weight limitations at reduced speeds for vehicles used in transporting property when the point of origin or destination of the motor vehicles is located upon any light traffic highway, county road, farm-to-market road, or any other roads of the secondary system only and/or to the extent only that the motor vehicle is necessarily using said highway in transporting the property from the bona fide point of origin of the property being transported or to the bona fide point of destination of said property and such weights may be different from the weight of those vehicles otherwise using such roads. (1951, c. 1013, s. 7A; 1957, c. 65, s. 11; 1973, c. 507, s. 5; 1977, c. 464, s. 34.)

§ 20-118.3. Vehicle or combination of vehicles operated without registration plate subject to civil penalty.

Any vehicle or combination of vehicles being operated upon the highway of this State either by a resident or nonresident without having been issued therefor a registration plate by the appropriate jurisdiction shall be subject to a civil penalty equal to the North Carolina annual fee for the gross weight of the vehicle and in addition thereto the license fee applicable for the

remainder of the current registration year, provided a nonresident shall pay the North Carolina license fee or furnish satisfactory proof of payment of required registration fee to its base jurisdiction. The civil penalties provided for in this section shall not be enforceable through criminal sanctions and the provisions of G.S. 20-176 shall not apply to this section. (1981 Reg. Sess., 1982), c. 1259, s. 1.)

§ 20-118.4. Firefighting equipment exempt from size and weight restrictions while transporting or moving heavy equipment for emergency response and preparedness and fire prevention; permits.

(a) Exemption From Weight and Size Restrictions. – Any overweight or oversize vehicle owned and operated by a State or local government or cooperating federal agency is exempt from the weight and size restrictions of this Chapter and implementing rules while it is actively engaged in (i) a response to a fire under the authority of a forest ranger pursuant to G.S. 106-899(a); (ii) a county request for forest protection assistance pursuant to G.S. 106-906; (iii) a request for assistance under a state of emergency declared pursuant to G.S. 166A-19.20 or G.S. 166A-19.22, and any other applicable statutes and provisions of common law; (iv) a request for assistance under a disaster declared pursuant to G.S. 166A-19.21; or (v) performance of other required duties for emergency preparedness and fire prevention, when the vehicle meets the following conditions:

- (1) The vehicle weight does not exceed the manufacturer's GVWR or 90,000 pounds gross weight, whichever is less.
- (2) The tri-axle grouping weight does not exceed 50,000 pounds, tandem axle weight does not exceed 42,000 pounds, and the single axle weight does not exceed 22,000 pounds.
- (3) A vehicle/vehicle combination does not exceed 12 feet in width and a total overall vehicle combination length of 75 feet from bumper to bumper.

(b) Marking, Lighting, and Bridge Requirements. – Vehicle/vehicle combinations subject to an exemption or permit under this section shall not be exempt from the requirement of a yellow banner on the front and rear measuring a total length of seven feet by 18 inches bearing the legend "Oversize Load" in 10 inch black letters 1.5 inches wide, and red or orange flags measuring 18 inches square to be displayed on all sides at the widest point of load. In addition, when operating between sunset and sunrise, flashing amber lights shall be displayed on each side of the load at the widest point. Vehicle/vehicle combinations subject to an exemption or permit under this section shall not exceed posted bridge limits without prior approval from the Department of Transportation.

(c) Definition of "Response." – A response lasts from the time an overweight or oversize vehicle is requested until the vehicle is returned to its base location and restored to a state of readiness for another response.

(c1) Definition of "Preparedness and Fire Prevention." – Movement of equipment for the purpose of hazardous fuel reduction, training, equipment maintenance, pre-suppression fire line installation, fire prevention programs, and equipment staging. In order to qualify for the exception in subsection (a) of this section, equipment must remain configured during movement for one or more of these purposes.

(d) Discretionary Annual or Single Trip Permit for Emergency Response by a Commercial Vehicle. – The Department of Transportation may, in its discretion, issue an annual or single trip special use permit waiving the weight and size restrictions of this Chapter and

implementing rules for a commercial overweight or oversize vehicle actively engaged in a response to a fire or a request for assistance from a person authorized to direct emergency operations. The Department of Transportation may condition the permit with safety measures that do not unreasonably delay a response. The Department of Transportation may issue the single trip special use permit upon verbal communication, provided the requestor submits appropriate documentation and fees on the next business day.

(e) No Liability for Issuance of Permit Under This Section. – The action of issuing a permit by the Department of Transportation under this section is a governmental function and does not subject the Department of Transportation to liability for injury to a person or damage to property as a result of the activity. (2007-290, s. 1; 2012-12, s. 2(g); 2012-78, s. 7.)

§ 20-119. Special permits for vehicles of excessive size or weight; fees.

(a) The Department of Transportation may, in its discretion, upon application, for good cause being shown therefor, issue a special permit in writing authorizing the applicant to operate or move a vehicle of a size or weight exceeding a maximum specified in this Article upon any highway under the jurisdiction and for the maintenance of which the body granting the permit is responsible. However, the Department is not authorized to issue any permit to operate or move over the State highways twin trailers, commonly referred to as double bottom trailers. Every such permit shall be carried in the vehicle to which it refers and shall be open to inspection by any peace officer. The authorities in any incorporated city or town may grant permits in writing and for good cause shown, authorizing the applicant to move a vehicle over the streets of such city or town, the size or weight exceeding the maximum expressed in this Article. The Department of Transportation shall issue rules to implement this section.

(a1) Where permitted by the posted road and bridge limits, the Department may issue a single trip permit for a vehicle or vehicle combination responding to an emergency event that could result in severe damage, injury, or loss of life or property resulting from any natural or man-made emergency as determined by either the Secretary of Public Safety or the Secretary of Transportation or their designees. A permit issued under this subsection may allow for travel from a specific origin to destination and return 24 hours a day, seven days a week, including holidays. Permits issued under this subsection shall include a requirement for banners, flags, and other safety devices, as determined by the Department, and a requirement for a law enforcement escort or a vehicle being operated by a certified escort vehicle operator if traveling between sunset and sunrise. To obtain authorization to travel during restricted times, application shall be made with any required documentation to the proper officials as designated by the Department. If an emergency permit is issued under this subsection, the requestor shall contact the Department of Transportation's central permit office on the next business day to complete any further documentation and pay the applicable fees.

(b) Upon the issuance of a special permit for an oversize or overweight vehicle by the Department of Transportation in accordance with this section, the applicant shall pay to the Department for a single trip permit a fee of twelve dollars (\$12.00) for each dimension over lawful dimensions, including height, length, width, and weight up to 132,000 pounds. For overweight vehicles, the applicant shall pay to the Department for a single trip permit in addition to the fee imposed by the previous sentence a fee of three dollars (\$3.00) per 1,000 pounds over 132,000 pounds.

Upon the issuance of an annual permit for a single vehicle, the applicant shall pay a fee in accordance with the following schedule:

Commodity:	Annual Fee:
Annual Permit to Move House Trailers or Trailer Frames	\$200.00
Annual Permit to Move Other Commodities	\$100.00

In addition to the fees set out in this subsection, applications for permits that require an engineering study for pavement or structures or other special conditions or considerations shall be accompanied by a nonrefundable application fee of one hundred dollars (\$100.00).

This subsection does not apply to farm equipment or machinery being used at the time for agricultural purposes, nor to the moving of a house as provided for by the license and permit requirements of Article 16 of this Chapter. Fees will not be assessed for permits for oversize and overweight vehicles issued to any agency of the United States Government or the State of North Carolina, its agencies, institutions, subdivisions, or municipalities if the vehicle is registered in the name of the agency.

(b1) Neither the Department nor the Board may require review or renewal of annual permits, with or without fee, more than once per calendar year.

(b2) The Department shall issue single trip permits for the transport and delivery of a manufactured or modular home with a maximum width of 16 feet and a gutter edge that does not exceed three inches from the manufacturer to an authorized dealership within this State, for delivery of a manufactured or modular home by a manufacturer and authorized dealer or their transporters to a location within this State, and for transport and delivery of a manufactured or modular home by a homeowner from one location to another within this State. The Department shall promulgate rules that set the days allowed for transport and delivery, times of day transport or delivery may occur, the display and use of banners and escort vehicles for public safety purposes, and any other reasonable rules as are necessary to promote public safety and commerce. For the purposes of this subsection, manufactured home and modular home shall have the same meanings as those terms are defined in G.S. 105-164.3.

(b3) For a special permit issued under this section for the transport and delivery of cargo, containers, or other equipment, the Department may allow travel after sunset if the Department determines it will be safe and expedite traffic flow. The Department shall not include a term or condition prohibiting travel after sunset for any permitted shipments going to or from international ports. Nothing in this subsection precludes the Department from restricting movements it determines to be unsafe.

(c) Nothing in this section shall require the Department of Transportation to issue any permit for any load.

(d) For each violation of any of the terms or conditions of a special permit issued or where a permit is required but not obtained under this section the Department of Public Safety shall assess a civil penalty for each violation against the registered owner of the vehicle as follows:

- (1) A fine of one thousand five hundred dollars (\$1,500) for operating without the proper number of certified escorts as determined by the actual loaded weight or size of the vehicle combination.
- (1a) A fine of five hundred dollars (\$500.00) for any of the following: operating without the issuance of a permit, moving a load off the route specified in the permit, falsifying information to obtain a permit, or failing to comply with dimension restrictions of a permit.

- (2) A fine of two hundred fifty dollars (\$250.00) for moving loads beyond the distance allowances of an annual permit covering the movement of house trailers from the retailer's premises or for operating in violation of time of travel restrictions.
- (3) A fine of one hundred dollars (\$100.00) for any other violation of the permit conditions or requirements imposed by applicable regulations.

The Department of Transportation may refuse to issue additional permits or suspend existing permits if there are repeated violations of subdivision (1), (1a), or (2) of this subsection.

(d1) In addition to the penalties assessed under subsection (d) of this section, the Department of Public Safety shall assess a civil penalty, not to exceed ten thousand dollars (\$10,000), in accordance with G.S. 20-118(e)(1) and (e)(3) against the registered owner of the vehicle for any of the following:

- (1) Operating without the issuance of a required permit.
- (2) Operating off permitted route of travel.
- (3) Failing to comply with travel restrictions of the permit.
- (4) Operating without the proper vehicle registration or license for the class of vehicle being operated.

A violation of this subsection constitutes operating a vehicle without a special permit.

(e) It is the intent of the General Assembly that the permit fees provided in G.S. 20-119 shall be adjusted periodically to assure that the revenue generated by the fees is equal to the cost to the Department of administering the Oversize/Overweight Permit Unit Program within the Division of Highways. At least every two years, the Department shall review and compare the revenue generated by the permit fees and the cost of administering the program, and shall report to the Joint Legislative Transportation Oversight Committee created in G.S.120-70.50 its recommendations for adjustments to the permit fees to bring the revenues and the costs into alignment.

(f) The Department of Transportation shall issue rules to establish an escort driver training and certification program for escort vehicles accompanying oversize/overweight loads. Any driver operating a vehicle escorting an oversize/overweight load shall meet any training requirements and obtain certification under the rules issued pursuant to this subsection. These rules may provide for reciprocity with other states having similar escort certification programs. Certification credentials for the driver of an escort vehicle shall be carried in the vehicle and be readily available for inspection by law enforcement personnel. The escort and training certification requirements of this subsection shall not apply to the transportation of agricultural machinery until October 1, 2004. The Department of Transportation shall develop and implement an in-house training program for agricultural machinery escorts by September 1, 2004.

(g) The Department of Transportation shall issue annual overwidth permits for the following:

- (1) A vehicle carrying agricultural equipment or machinery from the dealer to the farm or from the farm to the dealer that does not exceed 14 feet in width. A permit issued under this subdivision is valid for unlimited movement without escorts on all State highways where the overwidth vehicle does not exceed posted bridge and load limits.

- (2) A boat or boat trailer whose outside width equals or exceeds 120 inches. A permit issued under this subdivision must restrict a vehicle's towing of the boat or boat trailer to daylight hours only.

(h) No law enforcement officer shall issue a citation to a person for a violation of this section if the officer is able to determine by electronic means that the person has a permit valid at the time of the violation but does not have the permit in his or her possession. Any person issued a citation pursuant to this section who does not have the permit in his or her possession at the time of the issuance of the citation shall not be responsible for a violation, and the Department of Public Safety may not impose any fines under this section if the person submits evidence to the Department of the existence of a permit valid at the time of the violation within 30 days of the date of the violation.

(i) One, two, or three steel coils, transported on the same vehicle, shall be considered a nondivisible load for purposes of permit issuance pursuant to this section. (1937, c. 407, s. 83; 1957, c. 65, s. 11; 1959, c. 1129; 1973, c. 507, s. 5; 1977, c. 464, s. 34; 1981, c. 690, ss. 31, 32; c. 736, ss. 1, 2; 1989, c. 54; 1991, c. 604, ss. 1, 2; c. 689, s. 334; 1993, c. 539, s. 357; 1994, Ex. Sess., c. 24, s. 14(c); 2000-109, ss. 7(a), 7(f), 7(g); 2001-424, s. 27.10; 2003-383, s. 7; 2004-124, s. 30.3E(a), (b); 2004-145, s. 3; 2005-361, s. 4; 2007-290, s. 2; 2008-160, s. 2; 2008-229, s. 2; 2009-376, ss. 7, 8; 2011-145, s. 19.1(g); 2011-358, s. 1; 2016-90, s. 2.1(b); 2017-97, s. 1.)

§ 20-119.1. Use of excess overweight and oversize fees.

Funds generated by overweight and oversize permit fees in excess of the cost of administering the program, as determined pursuant to G.S. 20-119(e), shall be used for highway and bridge maintenance required as a result of damages caused from overweight or oversize loads. (2005-276, s. 28.5.)

§ 20-120. Operation of flat trucks on State highways regulated; trucks hauling leaf tobacco in barrels or hogsheads.

It shall be unlawful for any person, firm or corporation to operate, or have operated on any public highway in the State any open, flat truck loaded with logs, cotton bales, boxes or other load piled on said truck, without having the said load securely fastened on said truck.

It shall be unlawful for any firm, person or corporation to operate or permit to be operated on any highway of this State a truck or trucks on which leaf tobacco in barrels or hogsheads is carried unless each section or tier of such barrels or hogsheads are reasonably securely fastened to such truck or trucks by metal chains or wire cables, or manila or hemp ropes of not less than five-eighths inch in diameter, to hold said barrels or hogsheads in place under any ordinary traffic or road condition: Provided that the provisions of this paragraph shall not apply to any truck or trucks on which the hogsheads or barrels of tobacco are arranged in a single layer, tier, or plane, it being the intent of this paragraph to require the use of metal chains or wire cables only when barrels or hogsheads of tobacco are stacked or piled one upon the other on a truck or trucks. Nothing in this paragraph shall apply to trucks engaged in transporting hogsheads or barrels of tobacco between factories and storage houses of the same company unless such hogsheads or barrels are placed upon the truck in tiers. In the event the hogsheads or barrels of tobacco are placed upon the truck in tiers same shall be securely fastened to the said truck as hereinbefore provided in this paragraph.

Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. (1939, c. 114; 1947, c. 1094; 1953, c. 240; 1993, c. 539, s. 358; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-121. When authorities may restrict right to use highways.

The Department of Transportation or local authorities may prohibit the operation of vehicles upon or impose restrictions as to the weight thereof, for a total period not to exceed 90 days in any one calendar year, when operated upon any highway under the jurisdiction of and for the maintenance of which the body adopting the ordinance is responsible, whenever any said highway by reason of deterioration, rain, snow or other climatic conditions will be damaged unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced. The local authority enacting any such ordinance shall erect, or cause to be erected and maintained, signs designating the provisions of the ordinance at each end of that portion of any highway to which the ordinance is applicable, and the ordinance shall not be effective until or unless such signs are erected and maintained. (1937, c. 407, s. 84; 1957, c. 65, s. 11; 1973, c. 507, s. 5; 1977, c. 464, s. 34.)

§ 20-121.1. Operation of a low-speed vehicle on certain roadways.

The operation of a low-speed vehicle is authorized with the following restrictions:

- (1) A low-speed vehicle may be operated only on streets and highways where the posted speed limit is 35 miles per hour or less. This does not prohibit a low-speed vehicle from crossing a road or street at an intersection where the road or street being crossed has a posted speed limit of more than 35 miles per hour.
- (2) A low-speed vehicle shall be equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, windshield wipers, speedometer, seat belts, and a vehicle identification number.
- (3) A low-speed vehicle shall be registered and insured in accordance with G.S. 20-50 and G.S. 20-309.
- (4) The Department of Transportation may prohibit the operation of low-speed vehicles on any road or highway if it determines that the prohibition is necessary in the interest of safety.
- (5) Low-speed vehicles must comply with the safety standards in 49 C.F.R. § 571.500. (2001-356, s. 5.)

§ 20-122. Restrictions as to tire equipment.

(a) No vehicle will be allowed to move on any public highway unless equipped with tires of rubber or other resilient material which depend upon compressed air, for support of a load, except by special permission of the Department of Transportation which may grant such special permits upon a showing of necessity. This subsection shall have no application to the movement of farm vehicles on highways.

(b) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the highway and except, also, that it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to slide or skid. It shall be permissible to use upon any vehicle for increased safety, regular and snow tires

with studs which project beyond the tread of the traction surface of the tire not more than one sixteenth of an inch when compressed.

(c) The Department of Transportation or local authorities in their respective jurisdictions may, in their discretion, issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugation upon the periphery of such movable tracks or farm tractors or other farm machinery.

(d) It shall not be unlawful to drive farm tractors on dirt roads from farm to farm: Provided, in doing so they do not damage said dirt roads or interfere with traffic. (1937, c. 407, s. 85; 1939, c. 266; 1957, c. 65, s. 11; 1965, c. 435; 1973, c. 507, s. 5; 1977, c. 464, s. 34; 1979, c. 515.)

§ 20-122.1. Motor vehicles to be equipped with safe tires.

(a) Every motor vehicle subject to safety equipment inspection in this State and operated on the streets and highways of this State shall be equipped with tires which are safe for the operation of the motor vehicle and which do not expose the public to needless hazard. Tires shall be considered unsafe if cut so as to expose tire cord, cracked so as to expose tire cord, or worn so as to expose tire cord or there is a visible tread separation or chunking or the tire has less than two thirty-seconds inch tread depth at two or more locations around the circumference of the tire in two adjacent major tread grooves, or if the tread wear indicators are in contact with the roadway at two or more locations around the circumference of the tire in two adjacent major tread grooves: Provided, the two thirty-seconds tread depth requirements of this section shall not apply to dual wheel trailers. For the purpose of this section, the following definitions shall apply:

- (1) "Chunking" – separation of the tread from the carcass in particles which may range from very small size to several square inches in area.
- (2) "Cord" – strands forming a ply in a tire.
- (3) "Tread" – portion of tire which comes in contact with road.
- (4) "Tread depth" – the distance from the base of the tread design to the top of the tread.

(a1) Any motor vehicle that has a GVWR of at least 10,001 pounds or more and is operated on the streets or highways of this State shall be equipped with tires that are safe for the operation of the vehicle and do not expose the public to needless hazard. A tire is unsafe if any of the following applies:

- (1) It is cut, cracked, or worn so as to expose tire cord.
- (2) There is a visible tread separation or chunking.
- (3) The steering axle tire has less than four thirty-seconds inch tread depth at any location around the circumference of the tire on any major tread groove.
- (4) Any nonsteering axle tire has less than two thirty-seconds inch tread depth around the circumference of the tire in any major tread groove.
- (5) The tread wear indicators are in contact with the roadway at any location around the circumference of the tire on any major tread groove.

(b) The driver of any vehicle who is charged with a violation of this section shall be allowed 15 calendar days within which to bring the tires of such vehicle in conformance with the requirements of this section. It shall be a defense to any such charge that the person arrested produce in court, or submit to the prosecuting attorney prior to trial, a certificate from an official safety inspection equipment station showing that within 15 calendar days after such arrest, the tires on such vehicle had been made to conform with the requirements of this section or that such

vehicle had been sold, destroyed, or permanently removed from the highways. Violation of this section shall not constitute negligence per se. (1969, c. 378, s. 1; c. 1256; 1985, c. 93, ss. 1, 2; 2009-376, s. 5.)

§ 20-123. Trailers and towed vehicles.

(a) The limitations in G.S. 20-116 on combination vehicles do not prohibit the towing of farm trailers not exceeding three in number nor exceeding a total length of 50 feet during the period from one-half hour before sunrise until one-half hour after sunset when a red flag of at least 12 inches square is prominently displayed on the last vehicle. The towing of farm trailers and equipment allowed by this subsection does not apply to interstate or federal numbered highways.

(b) No trailer or semitrailer or other towed vehicle shall be operated over the highways of the State unless such trailer or semitrailer or other towed vehicle be firmly attached to the rear of the towing unit, and unless so equipped that it will not snake, but will travel in the path of the vehicle drawing such trailer or semitrailer or other towed vehicle, which equipment shall at all times be kept in good condition.

(c) In addition to the requirements of subsections (a) and (b) of this section, the towed vehicle shall be attached to the towing unit by means of safety chains or cables which shall be of sufficient strength to hold the gross weight of the towed vehicle in the event the primary towing device fails or becomes disconnected while being operated on the highways of this State if the primary towing attachment is a ball hitch. Trailers and semitrailers having locking pins or bolts in the towing attachment to prevent disconnection, and the locking pins or bolts are of sufficient strength and condition to hold the gross weight of the towed vehicle, need not be equipped with safety chains or cables unless their operation is subject to the requirements of the Federal Motor Carrier Safety Regulations. Semitrailers in combinations of vehicles that are equipped with fifth wheel assemblies that include locking devices need not be equipped with safety chains or cables. (1937, c. 407, s. 86; 1955, c. 296, s. 3; 1963, c. 356, s. 2; c. 1027, s. 2; 1965, c. 966; 1971, c. 639; 1973, c. 507, s. 5; 1975, c. 716, s. 5; 1977, c. 464, s. 34; 1981 (Reg. Sess., 1982), c. 1195; 1993, c. 71, s. 1; 1995 (Reg. Sess., 1996), c. 756, s. 15; 1997-148, s. 8.)

§ 20-123.1. Steering mechanism.

The steering mechanism of every self-propelled motor vehicle operated on the highway shall be maintained in good working order, sufficient to enable the operator to control the vehicle's movements and to maneuver it safely. (1957, c. 1038, s. 3.)

§ 20-123.2 Speedometer.

(a) Every self-propelled motor vehicle when operated on the highway shall be equipped with a speedometer which shall be maintained in good working order.

(b) Any person violating this section shall have committed an infraction and may be ordered to pay a penalty of not more than twenty-five dollars (\$25.00). No drivers license points, insurance points or premium surcharge shall be assessed on or imputed to any party on account of a violation of this section. (1989 (Reg. Sess., 1990), c. 822, s. 2.)

§ 20-124. Brakes.

(a) Every motor vehicle when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop such vehicle or vehicles, and such brakes shall be maintained in good working order and shall conform to regulations provided in this section.

(b) Repealed by Session Laws 1973, c. 1330, s. 39.

(c) Every motor vehicle when operated on a highway shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, and shall have all originally equipped brakes in good working order, including two separate means of applying the brakes. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes.

(d) Every motorcycle and every motor-driven cycle when operated upon a highway shall be equipped with at least one brake which may be operated by hand or foot. For purposes of this section, the term "motorcycle" shall not include autocycles. Autocycles shall be subject to the requirements under this section for motor vehicles.

(e) Motor trucks and tractor-trucks with semitrailers attached shall be capable of stopping on a dry, hard, approximately level highway free from loose material at a speed of 20 miles per hour within the following distances: Thirty feet with both hand and service brake applied simultaneously and 50 feet when either is applied separately, except that vehicles maintained and operated permanently for the transportation of property and which were registered in this or any other state or district prior to August, 1929, shall be capable of stopping on a dry, hard, approximately level highway free from loose material at a speed of 20 miles per hour within a distance of 50 feet with both hand and service brake applied simultaneously, and within a distance of 75 feet when either applied separately.

(e1) Every motor truck and truck-tractor with semitrailer attached, shall be equipped with brakes acting on all wheels, except trucks and truck-tractors having three or more axles need not have brakes on the front wheels if manufactured prior to July 25, 1980. However, such trucks and truck-tractors must be capable of complying with the performance requirements of G.S. 20-124(e).

(f) Every semitrailer, or trailer, or separate vehicle, attached by a drawbar or coupling to a towing vehicle, and having a gross weight of two tons, and all house trailers of 1,000 pounds gross weight or more, shall be equipped with brakes controlled or operated by the driver of the towing vehicle, which shall conform to the specifications set forth in subsection (e) of this section and shall be of a type approved by the Commissioner.

It shall be unlawful for any person or corporation engaged in the business of selling house trailers at wholesale or retail to sell or offer for sale any house trailer which is not equipped with the brakes required by this subsection.

This subsection shall not apply to house trailers being used as dwellings, or to house trailers not intended to be used or towed on public highways and roads. This subsection shall not apply to house trailers with a manufacturer's certificate of origin dated prior to December 31, 1974.

(g) The provisions of this section shall not apply to a trailer when used by a farmer, a farmer's tenant, agent, or employee if the trailer is exempt from registration by the provisions of G.S. 20-51. This exemption does not apply to trailers that are equipped with brakes from the manufacturer and that are manufactured after October 1, 2009.

(h) From and after July 1, 1955, no person shall sell or offer for sale for use in motor vehicle brake systems in this State any hydraulic brake fluid of a type and brand other than those approved by the Commissioner of Motor Vehicles. From and after January 1, 1970, no person

shall sell or offer for sale in motor vehicle brake systems any brake lining of a type or brand other than those approved by the Commissioner of Motor Vehicles. Violation of the provisions of this subsection shall constitute a Class 2 misdemeanor. (1937, c. 407, s. 87; 1953, c. 1316, s. 2; 1955, c. 1275; 1959, c. 990; 1965, c. 1031; 1967, c. 1188; 1969, cc. 787, 866; 1973, c. 1203; c. 1330, s. 39; 1993, c. 539, s. 359; 1994, Ex. Sess., c. 24, s. 14(c); 2009-376, ss. 10, 11; 2015-163, s. 4.)

§ 20-125. Horns and warning devices.

(a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, and it shall be unlawful, except as otherwise provided in this section, for any vehicle to be equipped with or for any person to use upon a vehicle any siren, compression or spark plug whistle or for any person at any time to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonable loud or harsh sound by means of a horn or other warning device. All such horns and warning devices shall be maintained in good working order and shall conform to regulation not inconsistent with this section to be promulgated by the Commissioner.

(b) Every vehicle owned or operated by a police department or by the Department of Public Safety including the State Highway Patrol or by the Wildlife Resources Commission or the Division of Marine Fisheries of the Department of Environmental Quality, or by the Division of Parks and Recreation of the Department of Natural and Cultural Resources, or by the North Carolina Forest Service of the Department of Agriculture and Consumer Services, and used exclusively for law enforcement, firefighting, or other emergency response purposes, or by the Division of Emergency Management, or by a fire department, either municipal or rural, or by a fire patrol, whether such fire department or patrol be a paid organization or a voluntary association, vehicles used by an organ procurement organization or agency for the recovery and transportation of human tissues and organs for transplantation, and every ambulance or emergency medical service emergency support vehicle used for answering emergency calls, shall be equipped with special lights, bells, sirens, horns or exhaust whistles of a type approved by the Commissioner of Motor Vehicles.

The operators of all such vehicles so equipped are hereby authorized to use such equipment at all times while engaged in the performance of their duties and services, both within their respective corporate limits and beyond.

In addition to the use of special equipment authorized and required by this subsection, the chief and assistant chiefs of any police department or of any fire department, whether the same be municipal or rural, paid or voluntary, county fire marshals, assistant fire marshals, transplant coordinators, and emergency management coordinators, are hereby authorized to use such special equipment on privately owned vehicles operated by them while actually engaged in the performance of their official or semiofficial duties or services either within or beyond their respective corporate limits.

And vehicles driven by law enforcement officers of the North Carolina Division of Motor Vehicles shall be equipped with a bell, siren, or exhaust whistle of a type approved by the Commissioner, and all vehicles owned and operated by the State Bureau of Investigation for the use of its agents and officers in the performance of their official duties may be equipped with special lights, bells, sirens, horns or exhaust whistles of a type approved by the Commissioner of Motor Vehicles.

Every vehicle used or operated for law enforcement purposes by the sheriff or any salaried deputy sheriff or salaried rural policeman of any county, whether owned by the county or not, may be, but is not required to be, equipped with special lights, bells, sirens, horns or exhaust whistles of a type approved by the Commissioner of Motor Vehicles. Such special equipment shall not be operated or activated by any person except by a law enforcement officer while actively engaged in performing law enforcement duties.

In addition to the use of special equipment authorized and required by this subsection, the chief and assistant chiefs of each emergency rescue squad which is recognized or sponsored by any municipality or civil preparedness agency, are hereby authorized to use such special equipment on privately owned vehicles operated by them while actually engaged in their official or semiofficial duties or services either within or beyond the corporate limits of the municipality which recognizes or sponsors such organization.

(c) Repealed by Session Laws 1979, c. 653, s. 2. (1937, c. 407, s. 88; 1951, cc. 392, 1161; 1955, c. 1224; 1959, c. 166, s. 1; c. 494; c. 1170, s. 1; c. 1209; 1965, c. 257; 1975, c. 588; c. 734, s. 15; 1977, c. 52, s. 1; c. 438, s. 1; 1979, c. 653, s. 2; 1981, c. 964, s. 19; 1983, c. 32, s. 2; c. 768, s. 5; 1987, c. 266; 1989, c. 537; 1989 (Reg. Sess., 1990), c. 1020, s. 1; 1993 (Reg. Sess., 1994), c. 719, s. 2; 2011-145, s. 19.1(g); 2013-415, s. 1(a); 2015-241, s. 14.30(ee).)

§ 20-125.1. Directional signals.

(a) It shall be unlawful for the owner of any motor vehicle of a changed model or series designation indicating that it was manufactured or assembled after July 1, 1953, to register such vehicle or cause it to be registered in this State, or to obtain, or cause to be obtained in this State registration plates therefor, unless such vehicle is equipped with a mechanical or electrical signal device by which the operator of the vehicle may indicate to the operator of another vehicle, approaching from either the front or rear and within a distance of 200 feet, his intention to turn from a direct line. Such signal device must be of a type approved by the Commissioner of Motor Vehicles.

(b) It shall be unlawful for any dealer to sell or deliver in this State any motor vehicle of a changed model or series designation indicating that it was manufactured or assembled after July 1, 1953, if he knows or has reasonable cause to believe that the purchaser of such vehicle intends to register it or cause it to be registered in this State or to resell it to any other person for registration in and use upon the highways of this State, unless such motor vehicle is equipped with a mechanical or electrical signal device by which the operator of the vehicle may indicate to the operator of another vehicle, approaching from either of the front or rear or within a distance of 200 feet, his intention to turn from a direct line. Such signal device must be of a type approved by the Commissioner of Motor Vehicles: Provided that in the case of any motor vehicle manufactured or assembled after July 1, 1953, the signal device with which such motor vehicle is equipped shall be presumed prima facie to have been approved by the Commissioner of Motor Vehicles. Irrespective of the date of manufacture of any motor vehicle a certificate from the Commissioner of Motor Vehicles to the effect that a particular type of signal device has been approved by his Division shall be admissible in evidence in all the courts of this State.

(c) Trailers satisfying the following conditions are not required to be equipped with a directional signal device:

- (1) The trailer and load does not obscure the directional signals of the towing vehicle from the view of a driver approaching from the rear and within a distance of 200 feet;

(2) The gross weight of the trailer and load does not exceed 4,000 pounds.

(d) Nothing in this section shall apply to motorcycles. For purposes of this section, the term "motorcycle" shall not include autocycles. Autocycles shall be subject to the requirements under this section for motor vehicles. (1953, c. 481; 1957, c. 488, s. 1; 1963, c. 524; 1969, c. 622; 1975, c. 716, s. 5; 2015-163, s. 5.)

§ 20-126. Mirrors.

(a) No person shall drive a motor vehicle on the streets or highways of this State unless equipped with an inside rearview mirror of a type approved by the Commissioner, which provides the driver with a clear, undistorted, and reasonably unobstructed view of the highway to the rear of such vehicle; provided, a vehicle so constructed or loaded as to make such inside rearview mirror ineffective may be operated if equipped with a mirror of a type to be approved by the Commissioner located so as to reflect to the driver a view of the highway to the rear of such vehicle. A violation of this subsection shall not constitute negligence per se in civil actions. Farm tractors, self-propelled implements of husbandry and construction equipment and all self-propelled vehicles not subject to registration under this Chapter are exempt from the provisions of this section. Provided that pickup trucks equipped with an outside rearview mirror approved by the Commissioner shall be exempt from the inside rearview mirror provision of this section. Any inside mirror installed in any motor vehicle by its manufacturer shall be deemed to comply with the provisions of this subsection.

(b) It shall be unlawful for any person to operate upon the highways of this State any vehicle manufactured, assembled or first sold on or after January 1, 1966 and registered in this State unless such vehicle is equipped with at least one outside mirror mounted on the driver's side of the vehicle. Mirrors herein required shall be of a type approved by the Commissioner.

(c) No person shall operate a motorcycle upon the streets or highways of this State unless such motorcycle is equipped with a rearview mirror so mounted as to provide the operator with a clear, undistorted and unobstructed view of at least 200 feet to the rear of the motorcycle. No motorcycle shall be registered in this State after January 1, 1968, unless such motorcycle is equipped with a rearview mirror as described in this section. Violation of the provisions of this subsection shall not be considered negligence per se or contributory negligence per se in any civil action. (1937, c. 407, s. 89; 1965, c. 368; 1967, c. 282, s. 1; c. 674, s. 2; c. 1139; 2002-159, ss. 22(a), 22(b).)

§ 20-127. Windows and windshield wipers.

(a) Windshield Wipers. – A vehicle that is operated on a highway and has a windshield shall have a windshield wiper to clear rain or other substances from the windshield in front of the driver of the vehicle and the windshield wiper shall be in good working order. If a vehicle has more than one windshield wiper to clear substances from the windshield, all the windshield wipers shall be in good working order.

(b) Window Tinting Restrictions. – A window of a vehicle that is operated on a highway or a public vehicular area shall comply with this subsection. The windshield of the vehicle may be tinted only along the top of the windshield and the tinting may not extend more than five inches below the top of the windshield or below the AS1 line of the windshield, whichever measurement is longer. Provided, however, an untinted clear film which does not obstruct vision but which reduces or eliminates ultraviolet radiation from entering a vehicle may be applied to

the windshield. Any other window of the vehicle may be tinted in accordance with the following restrictions:

- (1) The total light transmission of the tinted window shall be at least thirty-five percent (35%). A vehicle window that, by use of a light meter approved by the Commissioner, measures a total light transmission of more than thirty-two percent (32%) is conclusively presumed to meet this restriction.
- (2) The light reflectance of the tinted window shall be twenty percent (20%) or less.
- (3) Tinted film or another material used to tint the window shall be nonreflective and shall not be red, yellow, or amber.

(b1) Notwithstanding subsection (b) of this section, a window of a vehicle that is operated on a public street or highway and which is subject to the provisions of Part 393 of Title 49 of the Code of Federal Regulations shall comply with the provisions of that Part.

(c) Tinting Exceptions. – The window tinting restrictions in subsection (b) of this section apply without exception to the windshield of a vehicle. The window tinting restrictions in subdivisions (b)(1) and (b)(2) of this section do not apply to any of the following vehicle windows:

- (1) A window of an excursion passenger vehicle, as defined in G.S. 20-4.01(27).
- (2), (3) Repealed by Session Laws 2012-78, s. 8, effective December 1, 2012. For applicability, see Editor's notes.
- (4) A window of a motor home, as defined in G.S. 20-4.01(27)k.
- (5) A window of an ambulance, as defined in G.S. 20-4.01(27)a.
- (6) The rear window of a property-hauling vehicle, as defined in G.S. 20-4.01(31).
- (7) A window of a limousine.
- (8) A window of a law enforcement vehicle.
- (9) A window of a multipurpose vehicle that is behind the driver of the vehicle. A multipurpose vehicle is a passenger vehicle that is designed to carry 10 or fewer passengers and either is constructed on a truck chassis or has special features designed for occasional off-road operation. A minivan and a pickup truck are multipurpose vehicles.
- (10) A window of a vehicle that is registered in another state and meets the requirements of the state in which it is registered.
- (11) A window of a vehicle for which the Division has issued a medical exception permit under subsection (f) of this section.

(d) Violations. – A person who does any of the following commits a Class 3 misdemeanor:

- (1) Applies tinting to the window of a vehicle that is subject to a safety inspection in this State and the resulting tinted window does not meet the window tinting restrictions set in this section.
- (2) Drives on a highway or a public vehicular area a vehicle that has a window that does not meet the window tinting restrictions set in this section.

(e) Defense. – It is a defense to a charge of driving a vehicle with an unlawfully tinted window that the tinting was removed within 15 days after the charge and the window now meets the window tinting restrictions. To assert this defense, the person charged shall produce in court,

or submit to the prosecuting attorney before trial, a certificate from the Division of Motor Vehicles or the Highway Patrol showing that the window complies with the restrictions.

(f) **Medical Exception.** – A person who suffers from a medical condition that causes the person to be photosensitive to visible light may obtain a medical exception permit. To obtain a permit, an applicant shall apply in writing to the Drivers Medical Evaluation Program and have his or her doctor complete the required medical evaluation form provided by the Division. The permit shall be valid for five years from the date of issue, unless a shorter time is directed by the Drivers Medical Evaluation Program. The renewal shall require a medical recertification that the person continues to suffer from a medical condition requiring tinting.

A person may receive no more than two medical exception permits that are valid at any one time. A permit issued under this subsection shall specify the vehicle to which it applies, the windows that may be tinted, and the permitted levels of tinting. The permit shall be carried in the vehicle to which it applies when the vehicle is driven on a highway.

The Division shall give a person who receives a medical exception permit a sticker to place on the lower left-hand corner of the rear window of the vehicle to which it applies. The sticker shall be designed to give prospective purchasers of the vehicle notice that the windows of the vehicle do not meet the requirements of G.S. 20-127(b), and shall be placed between the window and the tinting when the tinting is installed. The Division shall adopt rules regarding the specifications of the medical exception sticker. Failure to display the sticker is an infraction punishable by a two hundred dollar (\$200.00) fine. (1937, c. 407, s. 90; 1953, c. 1254; 1955, c. 1157, s. 2; 1959, c. 1264, s. 7; 1967, c. 1077; 1985, c. 789; 1985 (Reg. Sess., 1986), c. 997; 1987, c. 567; 1987 (Reg. Sess., 1988), c. 1082, ss. 7-8.1; 1989, c. 770, s. 66; 1991 (Reg. Sess., 1992), c. 1007, s. 34; 1993, c. 539, s. 360; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 683, s. 1; c. 754, s. 4; 1995, c. 14, s. 1; c. 473, s. 1; 2000-75, s. 1; 2012-78, s. 8; 2013-360, s. 18B.14(j); 2015-163, s. 13; 2017-102, s. 5.2(b).)

§ 20-128. Exhaust system and emissions control devices.

(a) No person shall drive a motor vehicle on a highway unless such motor vehicle is equipped with a muffler, or other exhaust system of the type installed at the time of manufacture, in good working order and in constant operation to prevent excessive or unusual noise, annoying smoke and smoke screens.

(b) It shall be unlawful to use a "muffler cut-out" on any motor vehicle upon a highway.

(c) No motor vehicle registered in this State that was manufactured after model year 1967 shall be operated in this State unless it is equipped with emissions control devices that were installed on the vehicle at the time the vehicle was manufactured and these devices are properly connected.

(d) The requirements of subsection (c) of this section shall not apply if the emissions control devices have been removed for the purpose of converting the motor vehicle to operate on natural or liquefied petroleum gas or other modifications have been made in order to reduce air pollution and these modifications are approved by the Department of Environmental Quality. (1937, c. 407, s. 91; 1971, c. 455, s. 1; 1983, c. 132; 1989, c. 727, s. 9; 1997-443, s. 11A.119(a); 2000-134, s. 6; 2015-241, s. 14.30(u).)

§ 20-128.1. Control of visible emissions.

(a) It shall be a violation of this Article:

- (1) For any gasoline-powered motor vehicle registered and operated in this State to emit visible air contaminants under any mode of operation for longer than five consecutive seconds.
- (2) For any diesel-powered motor vehicle registered and operated in this State to emit for longer than five consecutive seconds under any mode of operation visible air contaminants which are equal to or darker than the shade or density designated as No. 1 on the Ringelmann Chart or are equal to or darker than a shade or density of twenty percent (20%) opacity.

(b) Any person charged with a violation of this section shall be allowed 30 days within which to make the necessary repairs or modification to bring the motor vehicle into conformity with the standards of this section and to have the motor vehicle inspected and approved by the agency issuing the notice of violation. Any person who, within 30 days of receipt of a notice of violation, and prior to inspection and approval by the agency issuing the notice, receives additional notice or notices of violation, may exhibit a certificate of inspection and approval from the agency issuing the first notice in lieu of inspection and approval by the agencies issuing the subsequent notices.

(c) The provisions of this section shall be enforceable by all persons designated in G.S. 20-49; by all law-enforcement officers of this State within their respective jurisdictions; by the personnel of local air pollution control agencies within their respective jurisdictions; and by personnel of State air pollution control agencies throughout the State.

(d) Any person who fails to comply with the provisions of this section shall be subject to the penalties provided in G.S. 20-176. (1971, c. 1167, s. 10.)

§ 20-128.2. Motor vehicle emission standards.

(a) The rules and regulations promulgated pursuant to G.S. 143-215.107(a)(6) shall be implemented when the Environmental Management Commission certifies to the Commissioner of Motor Vehicles that the ambient air quality in an area will be improved by the implementation of a motor vehicle inspection/maintenance program within a specified county or group of counties, as necessary to effect attainment or preclude violations of the National Ambient Air Quality Standards for carbon monoxide or ozone; provided the Environmental Management Commission may prescribe different vehicle emission limits for different areas as may be necessary and appropriate to meet the stated purposes of this section.

(b) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 754, s. 5. (1979, 2nd Sess., c. 1180, s. 2; 1989, c. 391, s. 1; 1993 (Reg. Sess., 1994), c. 754, s. 5.)

§ 20-129. Required lighting equipment of vehicles.

(a) When Vehicles Must Be Equipped. – Every vehicle upon a highway within this State shall be equipped with lighted headlamps and rear lamps as required for different classes of vehicles, and subject to exemption with reference to lights on parked vehicles as declared in G.S. 20-134:

- (1) During the period from sunset to sunrise,
- (2) When there is not sufficient light to render clearly discernible any person on the highway at a distance of 400 feet ahead, or
- (3) Repealed by Session Laws 1989 (Reg. Sess., 1990), c. 822, s. 1.
- (4) At any other time when windshield wipers are in use as a result of smoke, fog, rain, sleet, or snow, or when inclement weather or environmental factors

severely reduce the ability to clearly discern persons and vehicles on the street and highway at a distance of 500 feet ahead, provided, however, the provisions of this subdivision shall not apply to instances when windshield wipers are used intermittently in misting rain, sleet, or snow. Any person violating this subdivision during the period from October 1, 1990, through December 31, 1991, shall be given a warning of the violation only. Thereafter, any person violating this subdivision shall have committed an infraction and shall pay a fine of five dollars (\$5.00) and shall not be assessed court costs. No drivers license points, insurance points or premium surcharge shall be assessed on account of violation of this subdivision and no negligence or liability shall be assessed on or imputed to any party on account of a violation of this subdivision. The Commissioner of Motor Vehicles and the Superintendent of Public Instruction shall incorporate into driver education programs and driver licensing programs instruction designed to encourage compliance with this subdivision as an important means of reducing accidents by making vehicles more discernible during periods of limited visibility.

(b) **Headlamps on Motor Vehicles.** – Every self-propelled motor vehicle other than motorcycles, road machinery, and farm tractors shall be equipped with at least two headlamps, all in good operating condition with at least one on each side of the front of the motor vehicle. Headlamps shall comply with the requirements and limitations set forth in G.S. 20-131 or 20-132.

(c) **Headlamps on Motorcycles.** – Every motorcycle shall be equipped with at least one and not more than two headlamps which shall comply with the requirements and limitations set forth in G.S. 20-131 or 20-132. The headlamps on a motorcycle shall be lighted at all times while the motorcycle is in operation on highways or public vehicular areas. For purposes of this section, the term "motorcycle" shall not include autocycles. Autocycles shall be subject to the requirements under this section for motor vehicles.

(d) **Rear Lamps.** – Every motor vehicle, and every trailer or semitrailer attached to a motor vehicle and every vehicle which is being drawn at the end of a combination of vehicles, shall have all originally equipped rear lamps or the equivalent in good working order, which lamps shall exhibit a red light plainly visible under normal atmospheric conditions from a distance of 500 feet to the rear of such vehicle. One rear lamp or a separate lamp shall be so constructed and placed that the number plate carried on the rear of such vehicle shall under like conditions be illuminated by a white light as to be read from a distance of 50 feet to the rear of such vehicle. Every trailer or semitrailer shall carry at the rear, in addition to the originally equipped lamps, a red reflector of the type which has been approved by the Commissioner and which is so located as to height and is so maintained as to be visible for at least 500 feet when opposed by a motor vehicle displaying lawful undimmed lights at night on an unlighted highway.

Notwithstanding the provisions of the first paragraph of this subsection, it shall not be necessary for a trailer weighing less than 4,000 pounds, or a trailer described in G.S. 20-51(6) weighing less than 6,500 pounds, to carry or be equipped with a rear lamp, provided such vehicle is equipped with and carries at the rear two red reflectors of a diameter of not less than three inches, such reflectors to be approved by the Commissioner, and which are so designed and located as to height and are maintained so that each reflector is visible for at least 500 feet when approached by a motor vehicle displaying lawful undimmed headlights at night on an unlighted highway.

The rear lamps of a motorcycle shall be lighted at all times while the motorcycle is in operation on highways or public vehicular areas.

(e) Lamps on Bicycles. – Every bicycle shall be equipped with a reflex mirror on the rear and both of the following when operated at night on any public street, public vehicular area, or public greenway:

- (1) A lighted lamp on the front thereof, visible under normal atmospheric conditions from a distance of at least 300 feet in front of such bicycle.
- (2) A lamp on the rear, exhibiting a red light visible under like conditions from a distance of at least 300 feet to the rear of such bicycle, or the operator must wear clothing or a vest that is bright and visible from a distance of at least 300 feet to the rear of the bicycle.

(f) Lights on Other Vehicles. – All vehicles not heretofore in this section required to be equipped with specified lighted lamps shall carry on the left side one or more lighted lamps or lanterns projecting a white light, visible under normal atmospheric conditions from a distance of not less than 500 feet to the front of such vehicle and visible under like conditions from a distance of not less than 500 feet to the rear of such vehicle, or in lieu of said lights shall be equipped with reflectors of a type which is approved by the Commissioner. Farm tractors operated on a highway at night must be equipped with at least one white lamp visible at a distance of 500 feet from the front of the tractor and with at least one red lamp visible at a distance of 500 feet to the rear of the tractor. Two red reflectors each having a diameter of at least four inches may be used on the rear of the tractor in lieu of the red lamp.

(g) No person shall sell or operate on the highways of the State any motor vehicle manufactured after December 31, 1955, and on or before December 31, 1970, unless it shall be equipped with a stop lamp on the rear of the vehicle. No person shall sell or operate on the highways of the State any motor vehicle, manufactured after December 31, 1970, unless it shall be equipped with stop lamps, one on each side of the rear of the vehicle. No person shall sell or operate on the highways of the State any motorcycle or motor-driven cycle, manufactured after December 31, 1955, unless it shall be equipped with a stop lamp on the rear of the motorcycle or motor-driven cycle. The stop lamps shall emit, reflect, or display a red or amber light visible from a distance of not less than 100 feet to the rear in normal sunlight, and shall be actuated upon application of the service (foot) brake. The stop lamps may be incorporated into a unit with one or more other rear lamps.

(h) **(Effective March 1, 2018, and applicable to offenses committed on or after that date)** Backup Lamps. – Every motor vehicle originally equipped with white backup lamps shall have those lamps in operating condition. (1937, c. 407, s. 92; 1939, c. 275; 1947, c. 526; 1955, c. 1157, ss. 3-5, 8; 1957, c. 1038, s. 1; 1967, cc. 1076, 1213; 1969, c. 389; 1973, c. 531, ss. 1, 2; 1979, c. 175; 1981, c. 549, s. 1; 1985, c. 66; 1987, c. 611; 1989 (Reg. Sess., 1990), c. 822, s. 1; 1991, c. 18, s. 1; 1999-281, s. 1; 2015-31, s. 1; 2015-163, s. 6; 2015-241, s. 29.36B(a); 2016-90, s. 5.1(a); 2017-211, s. 12(a).)

§ 20-129.1. Additional lighting equipment required on certain vehicles.

In addition to other equipment required by this Chapter, the following vehicles shall be equipped as follows:

- (1) On every bus or truck, whatever its size, there shall be the following:
On the rear, two reflectors, one at each side, and two stop lamps, one at each side.

- (2) On every bus or truck 80 inches or more in overall width, in addition to the requirements in subdivision (1):
 - On the front, two clearance lamps, one at each side.
 - On the rear, two clearance lamps, one at each side.
 - On each side, two side marker lamps, one at or near the front and one at or near the rear.
 - On each side, two reflectors, one at or near the front and one at or near the rear.
- (3) On every truck tractor:
 - On the front, two clearance lamps, one at each side.
 - On the rear, two stop lamps, one at each side.
- (4) On every trailer or semitrailer having a gross weight of 4,000 pounds or more:
 - On the front, two clearance lamps, one at each side.
 - On each side, two side marker lamps, one at or near the front and one at or near the rear.
 - On each side, two reflectors, one at or near the front and one at or near the rear.
 - On the rear, two clearance lamps, one at each side, also two reflectors, one at each side, and two stop lamps, one at each side.
- (5) On every pole trailer having a gross weight of 4,000 pounds or more:
 - On each side, one side marker lamp and one clearance lamp which may be in combination, to show to the front, side and rear.
 - On the rear of the pole trailer or load, two reflectors, one at each side.
- (6) On every trailer, semitrailer or pole trailer having a gross weight of less than 4,000 pounds:
 - On the rear, two reflectors, one on each side. If any trailer or semitrailer is so loaded or is of such dimensions as to obscure the stoplight on the towing vehicle, then such vehicle shall also be equipped with two stop lamps, one at each side.
- (7) Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color.
- (8) Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color.
- (9) Stop lamps (and/or brake reflectors) on the rear of a motor vehicle shall be constructed so that the light emitted, reflected, or displayed is red, except that a motor vehicle originally manufactured with amber stop lamps may emit, reflect, or display an amber light. The light illuminating the license plate shall be white. All other lights shall be white, amber, yellow, clear or red.
- (10) On every trailer and semitrailer which is 30 feet or more in length and has a gross weight of 4,000 pounds or more, one combination marker lamp showing amber and mounted on the bottom side rail at or near the center of each side of the trailer. (1955, c. 1157, s. 4; 1969, c. 387; 1983, c. 245; 1987, c. 363, s. 1; 2000-159, s. 10; 2015-31, s. 2.)

§ 20-129.2. Lighting equipment for mobile homes.

Notwithstanding the provisions of G.S. 20-129 and 20-129.1, the lighting equipment required to be provided and equipped on a house trailer, mobile home, modular home, or structural component thereof shall be as designated by the Commissioner of Motor Vehicles and from time to time promulgated by regulation of the Division. (1975, c. 716, s. 5; c. 833, s. 1.)

§ 20-130. Additional permissible light on vehicle.

(a) Spot Lamps. – Any motor vehicle may be equipped with not to exceed two spot lamps, except that a motorcycle shall not be equipped with more than one spot lamp, and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the beam will be directed to the left of the center of the highway nor more than 100 feet ahead of the vehicle. No spot lamps shall be used on the rear of any vehicle. For purposes of this section, the term "motorcycle" shall not include autocycles. Autocycles shall be subject to the requirements under this section for motor vehicles.

(b) Auxiliary Driving Lamps. – Any motor vehicle may be equipped with not to exceed two auxiliary driving lamps mounted on the front, and every such auxiliary driving lamp or lamps shall meet the requirements and limitations set forth in G.S. 20-131, subsection (c).

(c) Restrictions on Lamps. – Any device, other than headlamps, spot lamps, or auxiliary driving lamps, which projects a beam of light of an intensity greater than 25 candlepower, shall be so directed that no part of the beam will strike the level of the surface on which the vehicle stands at a distance of more than 50 feet from the vehicle.

(d) Electronically Modulated Headlamps. – Nothing contained in this Chapter shall prohibit the use of electronically modulated headlamps on motorcycles, law-enforcement and fire department vehicles, county fire marshals and Emergency Management coordinators, public and private ambulances, and rescue squad emergency service vehicles, provided such headlamps and light modulator are of a type or kind which have been approved by the Commissioner of Motor Vehicles.

(e) High Mounted Flashing Deceleration Lamps. – Public transit vehicles may be equipped with amber, high mounted, flashing deceleration lamps on the rear of the vehicle.

(f) Light Bar Lighting Device. – Notwithstanding any provision of this section to the contrary, and excluding vehicles described in subsection (d) of this section, and excluding vehicles listed in G.S. 20-130.1(b), no person shall drive a motor vehicle on the highways of this State while using a light bar lighting device. This subsection does not apply to or otherwise restrict use of a light bar lighting device with strobing lights. For purposes of this subsection, the term "light bar lighting device" means a bar-shaped lighting device comprised of multiple lamps capable of projecting a beam of light at an intensity greater than that set forth in subsection (c) of this section. (1937, c. 407, s. 93; 1977, c. 104; 1989, c. 770, s. 7; 2004-82, s. 1; 2015-163, s. 7; 2017-112, s. 1.)

§ 20-130.1. Use of red or blue lights on vehicles prohibited; exceptions.

(a) It is unlawful for any person to install or activate or operate a red light in or on any vehicle in this State. As used in this subsection, unless the context requires otherwise, "red light" means an operable red light not sealed in the manufacturer's original package which: (i) is designed for use by an emergency vehicle or is similar in appearance to a red light designed for use by an emergency vehicle; and (ii) can be operated by use of the vehicle's battery, vehicle's

electrical system, or a dry cell battery. As used in this subsection, the term "red light" shall also mean any red light installed on a vehicle after initial manufacture of the vehicle.

- (b) The provisions of subsection (a) of this section do not apply to the following:
- (1) A police vehicle.
 - (2) A highway patrol vehicle.
 - (3) A vehicle owned by the Wildlife Resources Commission and operated exclusively for law enforcement, firefighting, or other emergency response purposes.
 - (4) An ambulance.
 - (5) A vehicle used by an organ procurement organization or agency for the recovery and transportation of blood, human tissues, or organs for transplantation.
 - (6) A fire-fighting vehicle.
 - (7) A school bus.
 - (8) A vehicle operated by any member of a municipal or rural fire department in the performance of his duties, regardless of whether members of that fire department are paid or voluntary.
 - (9) A vehicle of a voluntary lifesaving organization (including the private vehicles of the members of such an organization) that has been officially approved by the local police authorities and which is manned or operated by members of that organization while answering an official call.
 - (10) A vehicle operated by medical doctors or anesthetists in emergencies.
 - (11) A motor vehicle used in law enforcement by the sheriff, or any salaried rural policeman in any county, regardless of whether or not the county owns the vehicle.
 - (11a) A vehicle operated by the State Fire Marshal or his representatives in the performance of their duties, whether or not the State owns the vehicle.
 - (12) A vehicle operated by any county fire marshal, assistant fire marshal, or emergency management coordinator in the performance of his duties, regardless of whether or not the county owns the vehicle.
 - (13) A light required by the Federal Highway Administration.
 - (14) A vehicle operated by a transplant coordinator who is an employee of an organ procurement organization or agency when the transplant coordinator is responding to a call to recover or transport human tissues or organs for transplantation.
 - (15) A vehicle operated by an emergency medical service as an emergency support vehicle.
 - (16) A State emergency management vehicle.
 - (17) An Incident Management Assistance Patrol vehicle operated by the Department of Transportation, when using rear-facing red lights while stopped for the purpose of providing assistance or incident management.
 - (18) A vehicle operated by the Division of Marine Fisheries of the Department of Environmental Quality or the Division of Parks and Recreation of the Department of Natural and Cultural Resources that is used for law enforcement, firefighting, or other emergency response purpose.

- (19) A vehicle operated by the North Carolina Forest Service of the Department of Agriculture and Consumer Services that is used for law enforcement, firefighting, or other emergency response purpose.
- (20) A vehicle operated by official members or Teams of REACT International, Inc., that is used to provide additional manpower authorized by law enforcement, firefighting, or other emergency response entities.

(c) It is unlawful for any person to possess a blue light or to install, activate, or operate a blue light in or on any vehicle in this State, except for a publicly owned vehicle used for law enforcement purposes or any other vehicle when used by law enforcement officers in the performance of their official duties. As used in this subsection, unless the context requires otherwise, "blue light" means any blue light installed on a vehicle after initial manufacture of the vehicle; or an operable blue light which:

- (1) Is not (i) being installed on, held in inventory for the purpose of being installed on, or held in inventory for the purpose of sale for installation on a vehicle on which it may be lawfully operated or (ii) installed on a vehicle which is used solely for the purpose of demonstrating the blue light for sale to law enforcement personnel;
- (1a) Is designed for use by an emergency vehicle, or is similar in appearance to a blue light designed for use by an emergency vehicle; and
- (2) Can be operated by use of the vehicle's battery, the vehicle's electrical system, or a dry cell battery.

(c1) The provisions of subsection (c) of this section do not apply to the possession and installation of an inoperable blue light on a vehicle that is inspected by and registered with the Department of Motor Vehicles as a specially constructed vehicle and that is used primarily for participation in shows, exhibitions, parades, or holiday/weekend activities, and not for general daily transportation. For purposes of this subsection, "inoperable blue light" means a blue-colored lamp housing or cover that does not contain a lamp or other mechanism having the ability to produce or emit illumination.

(d) Repealed by Session Laws 1999-249, s. 1.

(e) Violation of subsection (a) or (c) of this section is a Class 1 misdemeanor. (1943, c. 726; 1947, c. 1032; 1953, c. 354; 1955, c. 528; 1957, c. 65, s. 11; 1959, c. 166, s. 2; c. 1170, s. 2; 1967, c. 651, s. 1; 1971, c. 1214; 1977, c. 52, s. 2; c. 438, s. 2; 1979, c. 653, s. 1; c. 887; 1983, c. 32, s. 1; c. 768, s. 6; 1985 (Reg. Sess., 1986), c. 1027, s. 50; 1989, c. 537, s. 2; 1989 (Reg. Sess., 1990), c. 1020, s. 2; 1991, c. 263, s. 1; 1993, c. 539, s. 361; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 719, s. 1; 1995, c. 168, s. 1; 1995 (Reg. Sess., 1996), c. 756, s. 16; 1999-249, s. 1; 2005-152, s. 1; 2009-526, s. 1; 2009-550, s. 3; 2010-132, s. 11; 2013-415, s. 1(b); 2015-241, s. 14.30(ff); 2015-276, s. 2.)

§ 20-130.2. Use of amber lights on certain vehicles.

All wreckers operated on the highways of the State shall be equipped with an amber-colored flashing light which shall be so mounted and located as to be clearly visible in all directions from a distance of 500 feet, which light shall be activated when at the scene of an accident or recovery operation and when towing a vehicle which has a total outside width exceeding 96 inches or which exceeds the width of the towing vehicle. It shall be lawful to equip any other vehicle with a similar warning light including, but not by way of limitation, maintenance or construction vehicles or equipment of the Department of Transportation engaged in performing maintenance

or construction work on the roads, maintenance or construction vehicles of any person, firm or corporation, Radio Emergency Associated Citizens Team (REACT) vehicles, and any other vehicles required to contain a warning light. (1967, c. 651, s. 2; 1973, c. 507, s. 5; 1977, c. 464, s. 34; 1979, c. 1; c. 765; 1981, c. 390; 1991, c. 44, s. 1.)

§ 20-130.3. Use of white or clear lights on rear of vehicles prohibited; exceptions.

It shall be unlawful for any person to willfully drive a motor vehicle in forward motion upon the highways of this State displaying white or clear lights on the rear of said vehicle. The provisions of this section shall not apply to the white light required by G.S. 20-129(d) or so-called backup lights lighted only when said vehicle is in reverse gear or backing. Violation of this section does not constitute negligence per se in any civil action. (1973, c. 1071.)

§ 20-131. Requirements as to headlamps and auxiliary driving lamps.

(a) The headlamps of motor vehicles shall be so constructed, arranged, and adjusted that, except as provided in subsection (c) of this section, they will at all times mentioned in G.S. 20-129, and under normal atmospheric conditions and on a level road, produce a driving light sufficient to render clearly discernible a person 200 feet ahead, but any person operating a motor vehicle upon the highways, when meeting another vehicle, shall so control the lights of the vehicle operated by him by shifting, depressing, deflecting, tilting, or dimming the headlight beams in such manner as shall not project a glaring or dazzling light to persons within a distance of 500 feet in front of such headlamp. Every new motor vehicle, other than a motorcycle or motor-driven cycle, registered in this State after January 1, 1956, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the headlamps is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped. For purposes of this section, the term "motorcycle" shall not include autocycles. Autocycles shall be subject to the requirements under this section for motor vehicles.

(b) Headlamps shall be deemed to comply with the foregoing provisions prohibiting glaring and dazzling lights if none of the main bright portion of the headlamp beams rises above a horizontal plane passing through the lamp centers parallel to the level road upon which the loaded vehicle stands, and in no case higher than 42 inches, 75 feet ahead of the vehicle.

(c) Whenever a motor vehicle is being operated upon a highway, or portion thereof, which is sufficiently lighted to reveal a person on the highway at a distance of 200 feet ahead of the vehicle, it shall be permissible to dim the headlamps or to tilt the beams downward or to substitute therefor the light from an auxiliary driving lamp or pair of such lamps, subject to the restrictions as to tilted beams and auxiliary driving lamps set forth in this section.

(d) Whenever a motor vehicle meets another vehicle on any highway it shall be permissible to tilt the beams of the headlamps downward or to substitute therefor the light from an auxiliary driving lamp or pair of such lamps subject to the requirement that the tilted headlamps or auxiliary lamp or lamps shall give sufficient illumination under normal atmospheric conditions and on a level road to render clearly discernible a person 75 feet ahead, but shall not project a glaring or dazzling light to persons in front of the vehicle: Provided, that at all times required in G.S. 20-129 at least two lights shall be displayed on the front of and on opposite sides of every motor vehicle other than a motorcycle, road roller, road machinery, or farm tractor.

(e) No city or town shall enact an ordinance in conflict with this section. (1937, c. 407, s. 94; 1939, c. 351, s. 1; 1955, c. 1157, ss. 6, 7; 2015-163, s. 8.)

§ 20-132. Acetylene lights.

Motor vehicles eligible for a Historic Vehicle Owner special registration plate under G.S. 20-79.4 may be equipped with two acetylene headlamps of approximately equal candlepower when equipped with clear plane-glass fronts, bright six-inch spherical mirrors, and standard acetylene five-eighths foot burners not more and not less and which do not project a glaring or dazzling light into the eyes of approaching drivers. (1937, c. 407, s. 95; 1995, c. 379, s. 18.1.)

§ 20-133. Enforcement of provisions.

(a) The Commissioner is authorized to designate, furnish instructions to and to supervise official stations for adjusting headlamps and auxiliary driving lamps to conform with the provisions of G.S. 20-129. When headlamps and auxiliary driving lamps have been adjusted in conformity with the instructions issued by the Commissioner, a certificate of adjustment shall be issued to the driver of the motor vehicle on forms issued in duplicate by the Commissioner and showing date of issue, registration number of the motor vehicle, owner's name, make of vehicle and official designation of the adjusting station.

(b) The driver of any motor vehicle equipped with approved headlamps, auxiliary driving lamps, rear lamps or signal lamps, who is arrested upon a charge that such lamps are improperly adjusted or are equipped with bulbs of a candlepower not approved for use therewith, shall be allowed 48 hours within which to bring such lamps into conformance with the requirements of this Article. It shall be a defense to any such charge that the person arrested produce in court or submit to the prosecuting attorney a certificate from an official adjusting station showing that within 48 hours after such arrest such lamps have been made to conform with the requirements of this Article. (1937, c. 407, s. 96.)

§ 20-134. Lights on parked vehicles.

(a) Whenever a vehicle is parked or stopped upon a highway, whether attended or unattended during the times mentioned in G.S. 20-129, there shall be displayed upon such vehicle one or more lamps projecting a white or amber light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, and projecting a red light visible under like conditions from a distance of 500 feet to the rear, except that local authorities may provide by ordinance that no lights need be displayed upon any such vehicle when parked in accordance with local ordinances upon a highway where there is sufficient light to reveal any person within a distance of 200 feet upon such highway.

(b) A motor vehicle operated on a highway by a rural letter carrier or by a newspaper delivery person shall be equipped and operated with flashing amber lights at any time the vehicle is being used in the delivery of mail or newspapers, regardless of whether the vehicle is attended or unattended. (1937, c. 407, s. 97; 1959, c. 1264, s. 9; 1995 (Reg. Sess., 1996), c. 715, s. 1.)

§ 20-135. Safety glass.

(a) It shall be unlawful to operate knowingly, on any public highway or street in this State, any motor vehicle which is registered in the State of North Carolina and which shall have been manufactured or assembled on or after January 1, 1936, unless such motor vehicle be equipped with safety glass wherever glass is used in doors, windows, windshields, wings or

partitions; or for a dealer to sell a motor vehicle manufactured or assembled on or after January 1, 1936, for operation upon the said highways or streets unless it be so equipped. The provisions of this Article shall not apply to any motor vehicle if such motor vehicle shall have been registered previously in another state by the owner while the owner was a bona fide resident of said other state.

(b) The term "safety glass" as used in this Article shall be construed as meaning glass so treated or combined with other materials as to reduce, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by glass when the glass is cracked or broken.

(c) The Division of Motor Vehicles shall approve and maintain a list of the approved types of glass, conforming to the specifications and requirements for safety glass as set forth in this Article, and in accordance with standards recognized by the United States Bureau of Standards, and shall not issue a license for or relicense any motor vehicle subject to the provisions of this Article unless such motor vehicle be equipped as herein provided with such approved type of glass.

(d) Repealed by Session Laws 1985, c. 764, s. 26. (1937, c. 407, s. 98; 1941, c. 36; 1975, c. 716, s. 5; 1985, c. 764, s. 26; 1985 (Reg. Sess., 1986), c. 852, s. 17.)

§ 20-135.1: Repealed by Session Laws 1995 (Regular Session, 1996), c. 756, s. 30.

§ 20-135.2. Safety belts and anchorages.

(a) Every new motor vehicle registered in this State and manufactured, assembled, or sold after January 1, 1964, shall, at the time of registration, be equipped with at least two sets of seat safety belts for the front seat of the motor vehicle. Such seat safety belts shall be of such construction, design, and strength to support a loop load strength of not less than 5,000 pounds for each belt, and must be of a type approved by the Commissioner.

This subsection shall not apply to passenger motor vehicles having a seating capacity in the front seat of less than two passengers.

(b) After July 1, 1962, no seat safety belt shall be sold for use in connection with the operation of a motor vehicle on any highway of this State unless it shall be constructed and installed as to have a loop strength through the complete attachment of not less than 5,000 pounds and the buckle or closing device shall be of such construction and design that after it has received the aforesaid loop belt load it can be released with one hand with a pull of less than 45 pounds.

(c) The provisions of this section shall apply only to passenger vehicles of nine-passenger capacity or less, except motorcycles.

(d) For purposes of this section, the term "motorcycle" shall not include autocycles. Every autocycle registered in this State shall be equipped with seat safety belts for the front seats of the autocycle. The seat safety belts shall meet the same construction, design, and strength requirements under this section for seat safety belts in motor vehicles. (1961, c. 1076; 1963, c. 288; 2015-163, s. 9.)

§ 20-135.2A. (See Editor's note) Seat belt use mandatory.

(a) Except as otherwise provided in G.S. 20-137.1, each occupant of a motor vehicle manufactured with seat belts shall have a seatbelt properly fastened about his or her body at all times when the vehicle is in forward motion on a street or highway in this State.

(b) Repealed by Session Laws 2006-140, s. 1, effective December 1, 2006.

- (c) This section shall not apply to any of the following:
- (1) A driver or occupant of a noncommercial motor vehicle with a medical or physical condition that prevents appropriate restraint by a safety belt or with a professionally certified mental phobia against the wearing of vehicle restraints.
 - (2) A motor vehicle operated by a rural letter carrier of the United States Postal Service while performing duties as a rural letter carrier and a motor vehicle operated by a newspaper delivery person while actually engaged in delivery of newspapers along the person's specified route.
 - (3) A driver or passenger frequently stopping and leaving the vehicle or delivering property from the vehicle if the speed of the vehicle between stops does not exceed 20 miles per hour.
 - (4) Any vehicle registered and licensed as a property-carrying vehicle in accordance with G.S. 20-88, while being used for agricultural purposes in intrastate commerce.
 - (5) A motor vehicle not required to be equipped with seat safety belts under federal law.
 - (6) Any occupant of a motor home, as defined in G.S. 20-4.01(27)k, other than the driver and front seat passengers.
 - (7) Any occupant, while in the custody of a law enforcement officer, being transported in the backseat of a law enforcement vehicle.
 - (8) A passenger of a residential garbage or recycling truck while the truck is operating during collection rounds.

(d) Evidence of failure to wear a seat belt shall not be admissible in any criminal or civil trial, action, or proceeding except in an action based on a violation of this section or as justification for the stop of a vehicle or detention of a vehicle operator and passengers.

(d1) Failure of a rear seat occupant of a vehicle to wear a seat belt shall not be justification for the stop of a vehicle.

(e) Any driver or front seat passenger who fails to wear a seat belt as required by this section shall have committed an infraction and shall pay a penalty of twenty-five dollars and fifty cents (\$25.50) plus the following court costs: the General Court of Justice fee provided for in G.S. 7A-304(a)(4), the telephone facilities fee provided for in G.S. 7A-304(a)(2a), and the law enforcement training and certification fee provided for in G.S. 7A-304(a)(3b). Any rear seat occupant of a vehicle who fails to wear a seat belt as required by this section shall have committed an infraction and shall pay a penalty of ten dollars (\$10.00) and no court costs. Court costs assessed under this section are for the support of the General Court of Justice and shall be remitted to the State Treasurer. Conviction of an infraction under this section has no other consequence.

(f) No drivers license points or insurance surcharge shall be assessed on account of violation of this section.

(g) The Commissioner of Motor Vehicles and the Department of Public Instruction shall incorporate in driver education programs and driver licensing programs instructions designed to encourage compliance with this section as an important means of reducing the severity of injury to the users of restraint devices and on the requirements and penalties specified in this law.

(h) Repealed by Session Laws 1999-183, s. 3, effective October 1, 1999. (1985, c. 222, s. 1; 1987, c. 623; 1991, c. 448, s. 1; 1994, Ex. Sess., c. 5, s. 1; 1997-16, s. 2; 1997-443, s. 32.20;

1999-183, ss. 1-3; 2002-126, s. 29A.3(a); 2005-276, s. 43.1(g); 2006-66, s. 21.11; 2006-140, s. 1; 2006-221, s. 21(a); 2007-289, s. 1; 2007-404, s. 2; 2009-376, s. 12; 2009-451, s. 15.20(j); 2017-102, s. 5.2(b).)

§ 20-135.2B. Transporting children under 16 years of age in open bed or open cargo area of a vehicle prohibited; exceptions.

(a) The operator of a vehicle having an open bed or open cargo area shall ensure that no child under 16 years of age is transported in the bed or cargo area of that vehicle. An open bed or open cargo area is a bed or cargo area without permanent overhead restraining construction.

(b) Subsection (a) of this section does not apply in any of the following circumstances:

- (1) An adult is present in the bed or cargo area of the vehicle and is supervising the child.
- (2) The child is secured or restrained by a seat belt manufactured in compliance with Federal Motor Vehicle Safety Standard No. 208, installed to support a load strength of not less than 5,000 pounds for each belt, and of a type approved by the Commissioner.
- (3) An emergency situation exists.
- (4) The vehicle is being operated in a parade.
- (5) The vehicle is being operated in an agricultural enterprise, including providing transportation to and from the principal place of the agricultural enterprise.
- (6) Repealed by Session Laws 2008-216, s. 1, effective October 1, 2008.

(c) Any person violating this section shall have committed an infraction and shall pay a penalty of not more than twenty-five dollars (\$25.00), even if more than one child less than 16 years of age is riding in the open bed or open cargo area of a vehicle. A person found responsible for a violation of this section may not be assessed court costs.

(d) No drivers license points or insurance surcharge shall be assessed on account of violation of this section. A violation of this section shall not constitute negligence per se. (1993 (Reg. Sess., 1994), c. 672, s. 1; 1995, c. 163, s. 7; 1999-183, s. 4; 2008-216, s. 1.)

§ 20-135.3. Seat belt anchorages for rear seats of motor vehicles.

(a) Every new motor vehicle registered in this State and manufactured, assembled or sold after July 1, 1966, shall be equipped with sufficient anchorage units at the attachment points for attaching at least two sets of seat safety belts for the rear seat of the motor vehicle. Such anchorage units at the attachment points shall be of such construction, design, and strength to support a loop load strength of not less than 5,000 pounds for each belt.

(b) The provisions of this section shall apply to passenger vehicles of nine-passenger capacity or less, except motorcycles.

(c) For purposes of this section, the term "motorcycle" shall not include autocycles. Every autocycle registered in this State shall be equipped with sufficient anchorage units at the attachment points for attaching seat safety belts for the rear seats of the autocycle. The anchorage unit shall meet the same construction, design, and strength requirements under this section for anchorage units in motor vehicles. (1965, c. 372; 2015-163, s. 10; 2016-90, s. 12.5(c).)

§ 20-135.4. Certain automobile safety standards.

(a) Definitions. – For the purposes of this section, the term "private passenger automobile" shall mean a four-wheeled motor vehicle designed principally for carrying

passengers, for use on public roads and highways, except a multipurpose passenger vehicle which is constructed either on a truck chassis or with special features for occasional off-road operation.

(b), (c) Repealed by Session Laws 1975, c. 856.

(d) The manufacturer's specified height of any passenger motor vehicle shall not be elevated or lowered, either in front or back, more than six inches by modification, alteration, or change of the physical structure of said vehicle without prior written approval of the Commissioner of Motor Vehicles.

On or after January 1, 1975, no self-propelled passenger vehicle that has been so altered, modified or changed shall be operated upon any highway or public vehicular area without the prior written approval of the Commissioner. (1971, c. 485; 1973, cc. 58, 1082; 1975, c. 856.)

§ 20-136. Smoke screens.

(a) It shall be unlawful for any person or persons to drive, operate, equip or be in the possession of any automobile or other motor vehicle containing, or in any manner provided with, a mechanical machine or device designed, used or capable of being used for the purpose of discharging, creating or causing, in any manner, to be discharged or emitted, either from itself or from the automobile or other motor vehicle to which attached, any unusual amount of smoke, gas or other substance not necessary to the actual propulsion, care and keep of said vehicle, and the possession by any person or persons of any such device, whether the same is attached to any such motor vehicle, or detached therefrom, shall be prima facie evidence of the guilt of such person or persons of a violation of this section.

(b) Any person or persons violating the provisions of this section shall be guilty of a Class I felony. (1937, c. 407, s. 99; 1993, c. 539, s. 1257; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-136.1. Location of television, computer, or video players, monitors, and screens.

No person shall drive any motor vehicle upon a public street or highway or public vehicular area while viewing any television, computer, or video player which is located in the motor vehicle at any point forward of the back of the driver's seat, and which is visible to the driver while operating the motor vehicle. This section does not apply to the use of global positioning systems; turn-by-turn navigation displays or similar navigation devices; factory-installed or aftermarket global positioning systems or wireless communications devices used to transmit or receive data as part of a digital dispatch system; equipment that displays audio system information, functions, or controls, or weather, traffic, and safety information; vehicle safety or equipment information; or image displays that enhance the driver's view in any direction, inside or outside of the vehicle. The provisions of this section shall not apply to law enforcement or emergency personnel while in the performance of their official duties, or to the operator of a vehicle that is lawfully parked or stopped. (1949, c. 583, s. 4; 2009-376, s. 13.)

§ 20-136.2. Air bag installation.

It shall be unlawful for any person, firm, or corporation to knowingly install or reinstall any object in lieu of an air bag, other than an air bag that was designed in accordance with federal safety regulations for the make, model, and year of vehicle, as part of a vehicle inflation restraint system. Any person, firm, or corporation violating this section shall be guilty of a Class 1 misdemeanor. (2003-258, s. 3.)

§ 20-137: Repealed by Session Laws 1995, c. 379, s. 18.2.

§ 20-137.1. Child restraint systems required.

(a) Every driver who is transporting one or more passengers of less than 16 years of age shall have all such passengers properly secured in a child passenger restraint system or seat belt which meets federal standards applicable at the time of its manufacture.

(a1) A child less than eight years of age and less than 80 pounds in weight shall be properly secured in a weight-appropriate child passenger restraint system. In vehicles equipped with an active passenger-side front air bag, if the vehicle has a rear seat, a child less than five years of age and less than 40 pounds in weight shall be properly secured in a rear seat, unless the child restraint system is designed for use with air bags. If no seating position equipped with a lap and shoulder belt to properly secure the weight-appropriate child passenger restraint system is available, a child less than eight years of age and between 40 and 80 pounds may be restrained by a properly fitted lap belt only.

(b) The provisions of this section shall not apply: (i) to ambulances or other emergency vehicles; (ii) if all seating positions equipped with child passenger restraint systems or seat belts are occupied; or (iii) to vehicles which are not required by federal law or regulation to be equipped with seat belts.

(c) Any driver found responsible for a violation of this section may be punished by a penalty not to exceed twenty-five dollars (\$25.00), even when more than one child less than 16 years of age was not properly secured in a restraint system. No driver charged under this section for failure to have a child under eight years of age properly secured in a restraint system shall be convicted if he produces at the time of his trial proof satisfactory to the court that he has subsequently acquired an approved child passenger restraint system for a vehicle in which the child is normally transported.

(d) A violation of this section shall have all of the following consequences:

- (1) Two drivers license points shall be assessed pursuant to G.S. 20-16.
- (2) No insurance points shall be assessed.
- (3) The violation shall not constitute negligence per se or contributory negligence per se.
- (4) The violation shall not be evidence of negligence or contributory negligence. (1981, c. 804, ss. 1, 4, 5; 1985, c. 218; 1993 (Reg. Sess., 1994), c. 748, s. 1; 1999-183, ss. 6, 7; 2000-117, s. 1; 2004-191, ss. 1, 2; 2007-6, s. 1.)

§ 20-137.2. Operation of vehicles resembling law-enforcement vehicles unlawful; punishment.

(a) It is unlawful for any person other than a law-enforcement officer of the State or of any county, municipality, or other political subdivision thereof, with the intent to impersonate a law-enforcement officer, to operate any vehicle, which by its coloration, insignia, lettering, and blue or red light resembles a vehicle owned, possessed, or operated by any law-enforcement agency.

(b) Violation of subsection (a) of this section is a Class 1 misdemeanor. (1979, c. 567, s. 1; 1993, c. 539, s. 362; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-137.3. Unlawful use of a mobile phone by persons under 18 years of age.

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

- (1) Additional technology. – Any technology that provides access to digital media including, but not limited to, a camera, music, the Internet, or games. The term does not include electronic mail or text messaging.
- (2) Mobile telephone. – A device used by subscribers and other users of wireless telephone service to access the service. The term includes: (i) a device with which a user engages in a call using at least one hand, and (ii) a device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of the mobile telephone, by which a user engages in a call without the use of either hand, whether or not the use of either hand is necessary to activate, deactivate, or initiate a function of such telephone.
- (3) Wireless telephone service. – A service that is a two-way real-time voice telecommunications service that is interconnected to a public switched telephone network and is provided by a commercial mobile radio service, as such term is defined by 47 C.F.R. § 20.3.

(b) Offense. – Except as otherwise provided in this section, no person under the age of 18 years shall operate a motor vehicle on a public street or highway or public vehicular area while using a mobile telephone or any additional technology associated with a mobile telephone while the vehicle is in motion. This prohibition shall not apply to the use of a mobile telephone or additional technology in a stationary vehicle.

(c) Seizure. – The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a mobile telephone, unless otherwise provided by law.

(d) Exceptions. – The provisions of subsection (b) of this section shall not apply if the use of a mobile telephone is for the sole purpose of communicating with:

- (1) Any of the following regarding an emergency situation: an emergency response operator; a hospital, physician's office, or health clinic; a public or privately owned ambulance company or service; a fire department; or a law enforcement agency.
- (2) The motor vehicle operator's parent, legal guardian or spouse.

(e) Penalty. – Any person violating this section shall have committed an infraction and shall pay a fine of twenty-five dollars (\$25.00). This offense is an offense for which a defendant may waive the right to a hearing or trial and admit responsibility for the infraction pursuant to G.S. 7A-148. No drivers license points, insurance surcharge, or court costs shall be assessed as a result of a violation of this section. (2006-177, s. 1; 2009-135, s. 1.)

§ 20-137.4. Unlawful use of a mobile phone.

(a) Definitions. – For purposes of this section, the following terms shall mean:

- (1) Additional technology. – As defined in G.S. 20-137.3(a)(1).
- (2) Emergency situation. – Circumstances such as medical concerns, unsafe road conditions, matters of public safety, or mechanical problems that create a risk of harm for the operator or passengers of a school bus.
- (3) Mobile telephone. – As defined in G.S. 20-137.3(a)(2).
- (4) School bus. – As defined in G.S. 20-4.01(27)n. The term also includes any school activity bus as defined in G.S. 20-4.01(27)m. and any vehicle transporting public, private, or parochial school students for compensation.

(b) Offense. – Except as otherwise provided in this section, no person shall operate a school bus on a public street or highway or public vehicular area while using a mobile telephone or any additional technology associated with a mobile telephone while the school bus is in motion. This prohibition shall not apply to the use of a mobile telephone or additional technology associated with a mobile telephone in a stationary school bus.

(c) Seizure. – The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a mobile telephone or additional technology, unless otherwise provided by law.

(d) Exceptions. – The provisions of subsection (b) of this section shall not apply to the use of a mobile telephone or additional technology associated with a mobile telephone for the sole purpose of communicating in an emergency situation.

(e) Local Ordinances. – No local government may pass any ordinance regulating the use of mobile telephones or additional technology associated with a mobile telephone by operators of school buses.

(f) Penalty. – A violation of this section shall be a Class 2 misdemeanor and shall be punishable by a fine of not less than one hundred dollars (\$100.00). No drivers license points or insurance surcharge shall be assessed as a result of a violation of this section. Failure to comply with the provisions of this section shall not constitute negligence per se or contributory negligence by the operator in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a school bus. (2007-261, s. 1; 2017-102, s. 5.2(b).)

§ 20-137.4A. Unlawful use of mobile telephone for text messaging or electronic mail.

(a) Offense. – It shall be unlawful for any person to operate a vehicle on a public street or highway or public vehicular area while using a mobile telephone to:

- (1) Manually enter multiple letters or text in the device as a means of communicating with another person; or
- (2) Read any electronic mail or text message transmitted to the device or stored within the device, provided that this prohibition shall not apply to any name or number stored in the device nor to any caller identification information.

(a1) Motor Carrier Offense. – It shall be unlawful for any person to operate a commercial motor vehicle subject to Part 390 or 392 of Title 49 of the Code of Federal Regulations on a public street or highway or public vehicular area while using a mobile telephone or other electronic device in violation of those Parts. Nothing in this subsection shall be construed to prohibit the use of hands-free technology.

(b) Exceptions. – The provisions of this section shall not apply to:

- (1) The operator of a vehicle that is lawfully parked or stopped.
- (2) Any of the following while in the performance of their official duties: a law enforcement officer; a member of a fire department; or the operator of a public or private ambulance.
- (3) The use of factory-installed or aftermarket global positioning systems (GPS) or wireless communications devices used to transmit or receive data as part of a digital dispatch system.
- (4) The use of voice operated technology.

(c) Penalty. – A violation of this section while operating a school bus, as defined in G.S. 20-137.4(a)(4), shall be a Class 2 misdemeanor and shall be punishable by a fine of not less than

one hundred dollars (\$100.00). Any other violation of this section shall be an infraction and shall be punishable by a fine of one hundred dollars (\$100.00) and the costs of court.

No drivers license points or insurance surcharge shall be assessed as a result of a violation of this section. Failure to comply with the provisions of this section shall not constitute negligence per se or contributory negligence per se by the operator in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a vehicle. (2009-135, s. 2; 2012-78, s. 9.)

§ 20-137.5. Child passenger safety technician; limitation of liability.

(a) The following definitions apply in this section:

(1) Certified child passenger safety technician. – A certified child passenger safety technician is an individual who has successfully completed the U.S. Department of Transportation National Highway Traffic Safety Administration's (NHTSA) National Standardized Child Passenger Safety Certification Training Program and who maintains a current child passenger safety technician or technician instructor certification through the current certifying body for the National Child Passenger Safety Training Program as designated by the National Highway Traffic Safety Administration.

(2) Sponsoring organization. – A sponsoring organization is a person or organization other than a manufacturer of or employee or agent of a manufacturer of child safety seats that:

- a. Offers or arranges for the public a nonprofit child safety seat educational program, checkup event, or checking station program utilizing certified child passenger safety technicians; or
- b. Owns property upon which a nonprofit child safety seat educational program, checkup event, or checking station program for the public occurs utilizing certified child passenger safety technicians.

(b) Limitation of Liability. – Except as provided in subsection (c) of this section, a certified child passenger safety technician or sponsoring organization shall not be liable to any person as a result of any act or omission that occurs solely in the inspection, installation, or adjustment of a child safety seat or in providing education regarding the installation or adjustment of a child safety seat if:

- (1) The service is provided without fee or charge other than reimbursement for expenses, and
- (2) The child passenger safety technician or sponsoring organization acts in good faith and within the scope of training for which the technician is currently certified.

(c) Exceptions. – The limitation on liability shall not apply under any of the following conditions:

- (1) The act or omission of the certified child passenger safety technician or sponsoring organization constitutes willful or wanton misconduct or gross negligence.
- (2) The inspection, installation, or adjustment of a child safety seat or education provided regarding the installation or adjustment of a child safety seat is in conjunction with the for-profit sale of a child safety seat. (2008-178, s. 1.)

Part 9A. Abandoned and Derelict Motor Vehicles.

§ 20-137.6. Declaration of purpose.

Abandoned and derelict motor vehicles constitute a hazard to the health and welfare of the people of the State in that such vehicles can harbor noxious diseases, furnish shelter and breeding places for vermin, and present physical dangers to the safety and well-being of children and other citizens. It is therefore in the public interest that the present accumulation of abandoned and derelict motor vehicles be eliminated and that the future abandonment of such vehicles be prevented. (1973, c. 720, s. 1.)

§ 20-137.7. Definitions of words and phrases.

The following words and phrases when used in this Part shall for the purpose of this Part have the meaning respectively prescribed to them in this Part, except in those instances where the context clearly indicates a different meaning:

- (1) "Abandoned vehicle" means a motor vehicle that has remained illegally on private or public property for a period of more than 10 days without the consent of the owner or person in control of the property.
- (2) "Demolisher" means any person, firm or corporation whose business is to convert a motor vehicle into processed scrap or scrap metal or otherwise to wreck, or dismantle, such a vehicle.
- (3) "Department" means the North Carolina Department of Transportation.
- (4) "Derelict vehicle" means a motor vehicle:
 - a. Whose certificate of registration has expired and the registered and legal owner no longer resides at the address listed on the last certificate of registration on record with the North Carolina Department of Transportation; or
 - b. Whose major parts have been removed so as to render the vehicle inoperable and incapable of passing inspection as required under existing standards; or
 - c. Whose manufacturer's serial plates, vehicle identification numbers, license number plates and any other means of identification have been removed so as to nullify efforts to locate or identify the registered and legal owner; or
 - d. Whose registered and legal owner of record disclaims ownership or releases his rights thereto; or
 - e. Which is more than 12 years old and does not bear a current license as required by the Department.
- (5) "Officer" means any law-enforcement officer of the State, of any county or of any municipality including county sanitation officers.
- (6) "Salvage yard" means a business or a person who possesses five or more derelict vehicles, regularly engages in buying and selling used vehicle parts.
- (7) "Secretary" means the Secretary of the North Carolina Department of Transportation.
- (8) "Tag" means any type of notice affixed to an abandoned or derelict motor vehicle advising the owner or the person in possession that the same has been declared an abandoned or derelict vehicle and will be treated as such, which

tag shall be of sufficient size as to be easily discernible and contain such information as the Secretary deems necessary to enforce this Part.

- (9) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway by mechanical means.
- (10) "Vehicle recycling" means the process whereby discarded vehicles (abandoned, derelict or wrecked) are collected and then processed by shredding, bailing or shearing to produce processed scrap iron and steel which is then remelted by steel mills and foundries to make raw materials which are subsequently used to manufacture new metal-based products for the consumer. (1973, c. 720, s. 1.)

§ 20-137.8. Secretary may adopt rules and regulations.

The Secretary is hereby vested with the power and is charged with the duties of administering the provisions of this Part and is authorized to adopt such rules and regulations as may be necessary to carry out the provisions thereof. (1973, c. 720, s. 1.)

§ 20-137.9. Removal from private property.

Any abandoned or any derelict vehicle in this State shall be subject to be removed from public or private property provided not objected to by the owner of the private property after notice as hereinafter provided and disposed of in accordance with the provisions of this Part, provided, that all abandoned motor vehicles left on any right-of-way of any road or highway in this State may be removed in accordance with G.S. 20-161. (1973, c. 720, s. 1.)

§ 20-137.10. Abandoned and derelict vehicles to be tagged; determination of value.

(a) When any vehicle is derelict or abandoned in this State, the Secretary shall cause a tag to be placed on the vehicle which shall be notice to the owner, the person in possession of the vehicle, or any lienholder that the same is considered to have been derelict or abandoned and is subject to forfeiture to the State.

(b) Repealed by Session Laws 1975, c. 438, s. 3.

(c) The tag shall serve as the only notice that if the vehicle is not removed within five days from the date reflected on the tag, it will be removed to a designated place to be sold. After the vehicle is removed, the Secretary shall give notice in writing to the person in whose name the vehicle was last registered at the last address reflected in the Department's records and to any lienholder of record that the vehicle is being held, designating the place where the vehicle is being held and that if it is not redeemed within 10 days from the date of the notice by paying all costs of removal and storage the same shall be sold for recycling purposes. The proceeds of the sale shall be deposited in the highway fund established for the purpose of administering the provisions of this Part.

(d) If the value of the vehicle is determined to be more than one hundred dollars (\$100.00), and if the identity of the last registered owner cannot be determined or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identification and addresses of any lienholders, notice by one publication in a newspaper of general circulation in the area where the vehicle was located shall be sufficient to meet all requirements of notice pursuant to this Part. The notice of publication may contain multiple listings of vehicles. Five days after date of publication the advertised vehicles may be

sold. The proceeds of such sale shall be deposited in the highway fund established for the purpose of administering the provisions of this Part.

(d1) If the value of the vehicle is determined to be less than one hundred dollars (\$100.00), and if the identity of the last registered owner cannot be determined or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identification and addresses of any lienholders, no notice in addition to that required by subsection (a) hereof shall be required prior to sale.

(e) All officers, as defined in this Part, are given the authority to appraise or determine the value of derelict or abandoned vehicles as defined in this Part. (1973, c. 720, s. 1; 1975, c. 438, s. 3.)

§ 20-137.11. Title to vest in State.

Title to all vehicles sold or disposed of in accordance with this Part shall vest in the State. All manufacturers' serial number plates and any other identification numbers for all vehicles sold to any person other than a demolisher shall at the time of the sale be turned in to the Department for destruction. Any demolisher purchasing or acquiring any vehicle hereunder shall, under oath, state to the Department that the vehicles purchased or acquired by it have been shredded or recycled.

The Secretary shall remove and destroy all departmental records relating to such vehicles in such method and manner as he may prescribe. (1973, c. 720, s. 1.)

§ 20-137.12. Secretary may contract for disposal.

The Secretary is hereby authorized to contract with any federal, other state, county or municipal authority or private enterprise for tagging, collection, storage, transportation or any other services necessary to prepare derelict or abandoned vehicles for recycling or other methods of disposal. Publicly owned properties, when available, shall be provided as temporary collecting areas for the vehicles defined herein. The Secretary shall have full authority to sell such derelict or abandoned vehicles. If the Secretary deems it more advisable and practical, in addition, he is authorized to contract with private enterprise for the purchase of such vehicles for recycling. (1973, c. 720, s. 1.)

§ 20-137.13. No liability for removal.

No agent or employee of any federal, State, county or municipal government, no person or occupant of the premises from which any derelict or abandoned vehicle shall be removed, nor any person or firm contracting for the removal of or disposition of any such vehicle shall be held criminally or civilly liable in any way arising out of or caused by carrying out or enforcing any provisions of this Part. (1973, c. 720, s. 1.)

§ 20-137.14. Enclosed, antique, registered and certain other vehicles exempt.

The provisions of this Part shall not apply to vehicles located on used car lots, in private garages, enclosed parking lots, or on any other parking area on private property which is not visible from any public street or highway, nor to motor vehicles classified as antiques and registered under the laws of the State of North Carolina, those not required by law to be registered, or those in possession of a salvage yard as defined in G.S. 20-137.7, unless that vehicle presents some safety or health hazard or constitutes a nuisance. (1973, c. 720, s. 1.)

Part 10. Operation of Vehicles and Rules of the Road.

§ 20-138: Repealed by Session Laws 1983, c. 435, s. 23.

§ 20-138.1. Impaired driving.

(a) Offense. – A person commits the offense of impaired driving if he drives any vehicle upon any highway, any street, or any public vehicular area within this State:

- (1) While under the influence of an impairing substance; or
- (2) After having consumed sufficient alcohol that he has, at any relevant time after the driving, an alcohol concentration of 0.08 or more. The results of a chemical analysis shall be deemed sufficient evidence to prove a person's alcohol concentration; or
- (3) With any amount of a Schedule I controlled substance, as listed in G.S. 90-89, or its metabolites in his blood or urine.

(a1) A person who has submitted to a chemical analysis of a blood sample, pursuant to G.S. 20-139.1(d), may use the result in rebuttal as evidence that the person did not have, at a relevant time after driving, an alcohol concentration of 0.08 or more.

(b) Defense Precluded. – The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense to a charge under this section.

(b1) Defense Allowed. – Nothing in this section shall preclude a person from asserting that a chemical analysis result is inadmissible pursuant to G.S. 20-139.1(b2).

(c) Pleading. – In any prosecution for impaired driving, the pleading is sufficient if it states the time and place of the alleged offense in the usual form and charges that the defendant drove a vehicle on a highway or public vehicular area while subject to an impairing substance.

(d) Sentencing Hearing and Punishment. – Impaired driving as defined in this section is a misdemeanor. Upon conviction of a defendant of impaired driving, the presiding judge shall hold a sentencing hearing and impose punishment in accordance with G.S. 20-179.

(e) Exception. – Notwithstanding the definition of "vehicle" pursuant to G.S. 20-4.01(49), for purposes of this section the word "vehicle" does not include a horse. (1983, c. 435, s. 24; 1989, c. 711, s. 2; 1993, c. 285, s. 1; 2006-253, s. 9.)

§ 20-138.2. Impaired driving in commercial vehicle.

(a) Offense. – A person commits the offense of impaired driving in a commercial motor vehicle if he drives a commercial motor vehicle upon any highway, any street, or any public vehicular area within the State:

- (1) While under the influence of an impairing substance; or
- (2) After having consumed sufficient alcohol that he has, at any relevant time after the driving, an alcohol concentration of 0.04 or more. The results of a chemical analysis shall be deemed sufficient evidence to prove a person's alcohol concentration; or
- (3) With any amount of a Schedule I controlled substance, as listed in G.S. 90-89, or its metabolites in his blood or urine.

(a1) A person who has submitted to a chemical analysis of a blood sample, pursuant to G.S. 20-139.1(d), may use the result in rebuttal as evidence that the person did not have, at a relevant time after driving, an alcohol concentration of 0.04 or more.

(a2) In order to prove the gross vehicle weight rating of a vehicle as defined in G.S. 20-4.01(12e), the opinion of a person who observed the vehicle as to the weight, the testimony of

the gross vehicle weight rating affixed to the vehicle, the registered or declared weight shown on the Division's records pursuant to G.S. 20-26(b1), the gross vehicle weight rating as determined from the vehicle identification number, the listed gross weight publications from the manufacturer of the vehicle, or any other description or evidence shall be admissible.

(b) Defense Precluded. – The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense to a charge under this section.

(b1) Defense Allowed. – Nothing in this section shall preclude a person from asserting that a chemical analysis result is inadmissible pursuant to G.S. 20-139.1(b2).

(c) Pleading. – To charge a violation of this section, the pleading is sufficient if it states the time and place of the alleged offense in the usual form and charges the defendant drove a commercial motor vehicle on a highway, street, or public vehicular area while subject to an impairing substance.

(d) Implied Consent Offense. – An offense under this section is an implied consent offense subject to the provisions of G.S. 20-16.2.

(e) Punishment. – The offense in this section is a misdemeanor and any defendant convicted under this section shall be sentenced under G.S. 20-179. This offense is not a lesser included offense of impaired driving under G.S. 20-138.1, and if a person is convicted under this section and of an offense involving impaired driving under G.S. 20-138.1 arising out of the same transaction, the aggregate punishment imposed by the Court may not exceed the maximum punishment applicable to the offense involving impaired driving under G.S. 20-138.1.

(f) Repealed by Session Laws 1991, c. 726, s. 19.

(g) Chemical Analysis Provisions. – The provisions of G.S. 20-139.1 shall apply to the offense of impaired driving in a commercial motor vehicle. (1989, c. 771, s. 12; 1991, c. 726, s. 19; 1993, c. 539, s. 363; 1994, Ex. Sess., c. 24, s. 14(c); 1998-182, s. 24; 2006-253, s. 10; 2010-129, s. 1.)

§ 20-138.2A. Operating a commercial vehicle after consuming alcohol.

(a) Offense. – A person commits the offense of operating a commercial motor vehicle after consuming alcohol if the person drives a commercial motor vehicle, as defined in G.S. 20-4.01(3d)a. and b., upon any highway, any street, or any public vehicular area within the State while consuming alcohol or while alcohol remains in the person's body.

(b) Implied-Consent Offense. – An offense under this section is an implied-consent offense subject to the provisions of G.S. 20-16.2. The provisions of G.S. 20-139.1 shall apply to an offense committed under this section.

(b1) Odor Insufficient. – The odor of an alcoholic beverage on the breath of the driver is insufficient evidence by itself to prove beyond a reasonable doubt that alcohol was remaining in the driver's body in violation of this section unless the driver was offered an alcohol screening test or chemical analysis and refused to provide all required samples of breath or blood for analysis.

(b2) Alcohol Screening Test. – Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violation of subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the Department of Health and Human Services, and the screening

test is conducted in accordance with the applicable regulations of the Department as to its manner and use.

(c) Punishment. – Except as otherwise provided in this subsection, a violation of the offense described in subsection (a) of this section is a Class 3 misdemeanor and, notwithstanding G.S. 15A-1340.23, is punishable by a penalty of one hundred dollars (\$100.00). A second or subsequent violation of this section is a misdemeanor punishable under G.S. 20-179. This offense is a lesser included offense of impaired driving of a commercial vehicle under G.S. 20-138.2.

(d) Second or Subsequent Conviction Defined. – A conviction for violating this offense is a second or subsequent conviction if at the time of the current offense the person has a previous conviction under this section, and the previous conviction occurred in the seven years immediately preceding the date of the current offense. This definition of second or subsequent conviction also applies to G.S. 20-17(a)(13) and G.S. 20-17.4(a)(6). (1998-182, s. 23; 1999-406, s. 15; 2000-140, s. 5; 2000-155, s. 16; 2007-182, s. 2; 2008-187, s. 36(a).)

§ 20-138.2B. Operating a school bus, school activity bus, child care vehicle, ambulance, other EMS vehicle, firefighting vehicle, or law enforcement vehicle after consuming alcohol.

(a) Offense. – A person commits the offense of operating a school bus, school activity bus, child care vehicle, ambulance, other emergency medical services vehicle, firefighting vehicle, or law enforcement vehicle after consuming alcohol if the person drives a school bus, school activity bus, child care vehicle, ambulance, other emergency medical services vehicle, firefighting vehicle, or law enforcement vehicle upon any highway, any street, or any public vehicular area within the State while consuming alcohol or while alcohol remains in the person's body. This section does not apply to law enforcement officers acting in the course of, and within the scope of, their official duties.

(b) Implied-Consent Offense. – An offense under this section is an implied-consent offense subject to the provisions of G.S. 20-16.2. The provisions of G.S. 20-139.1 shall apply to an offense committed under this section.

(b1) Odor Insufficient. – The odor of an alcoholic beverage on the breath of the driver is insufficient evidence by itself to prove beyond a reasonable doubt that alcohol was remaining in the driver's body in violation of this section unless the driver was offered an alcohol screening test or chemical analysis and refused to provide all required samples of breath or blood for analysis.

(b2) Alcohol Screening Test. – Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violation of subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the Department of Health and Human Services, and the screening test is conducted in accordance with the applicable regulations of the Department as to its manner and use.

(c) Punishment. – Except as otherwise provided in this subsection, a violation of the offense described in subsection (a) of this section is a Class 3 misdemeanor and, notwithstanding G.S. 15A-1340.23, is punishable by a penalty of one hundred dollars (\$100.00). A second or subsequent violation of this section is a misdemeanor punishable under G.S. 20-179. This

offense is a lesser included offense of impaired driving of a commercial vehicle under G.S. 20-138.1.

(d) **Second or Subsequent Conviction Defined.** – A conviction for violating this offense is a second or subsequent conviction if at the time of the current offense the person has a previous conviction under this section, and the previous conviction occurred in the seven years immediately preceding the date of the current offense. This definition of second or subsequent conviction also applies to G.S. 20-19(c2). (1998-182, s. 27; 1999-406, s. 16; 2000-140, s. 6; 2000-155, s. 17; 2007-182, s. 2; 2008-187, s. 36(b); 2013-105, s. 1.)

§ 20-138.2C. Possession of alcoholic beverages while operating a commercial motor vehicle.

A person commits the offense of operating a commercial motor vehicle while possessing alcoholic beverages if the person drives a commercial motor vehicle, as defined in G.S. 20-4.01(3d), upon any highway, any street, or any public vehicular area within the State while having an open or closed alcoholic beverage in the passenger area of the commercial motor vehicle. This section shall not apply to the driver of a commercial motor vehicle that is also an excursion passenger vehicle, a for-hire passenger vehicle, a common carrier of passengers, or a motor home, if the alcoholic beverage is in possession of a passenger or is in the passenger area of the vehicle. (1999-330, s. 2.)

§ 20-138.3. Driving by person less than 21 years old after consuming alcohol or drugs.

(a) **Offense.** – It is unlawful for a person less than 21 years old to drive a motor vehicle on a highway or public vehicular area while consuming alcohol or at any time while he has remaining in his body any alcohol or controlled substance previously consumed, but a person less than 21 years old does not violate this section if he drives with a controlled substance in his body which was lawfully obtained and taken in therapeutically appropriate amounts.

(b) **Subject to Implied-Consent Law.** – An offense under this section is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2.

(b1) **Odor Insufficient.** – The odor of an alcoholic beverage on the breath of the driver is insufficient evidence by itself to prove beyond a reasonable doubt that alcohol was remaining in the driver's body in violation of this section unless the driver was offered an alcohol screening test or chemical analysis and refused to provide all required samples of breath or blood for analysis.

(b2) **Alcohol Screening Test.** – Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violation of subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the Department of Health and Human Services, and the screening test is conducted in accordance with the applicable regulations of the Department as to its manner and use.

(c) **Punishment; Effect When Impaired Driving Offense Also Charged.** – The offense in this section is a Class 2 misdemeanor. It is not, in any circumstances, a lesser included offense of impaired driving under G.S. 20-138.1, but if a person is convicted under this section and of an offense involving impaired driving arising out of the same transaction, the aggregate punishment

imposed by the court may not exceed the maximum applicable to the offense involving impaired driving, and any minimum punishment applicable shall be imposed.

(d) Limited Driving Privilege. – A person who is convicted of violating subsection (a) of this section and whose drivers license is revoked solely based on that conviction may apply for a limited driving privilege as provided in G.S. 20-179.3. This subsection shall apply only if the person meets both of the following requirements:

- (1) Is 18, 19, or 20 years old on the date of the offense.
- (2) Has not previously been convicted of a violation of this section.

The judge may issue the limited driving privilege only if the person meets the eligibility requirements of G.S. 20-179.3, other than the requirement in G.S. 20-179.3(b)(1)c. G.S. 20-179.3(e) shall not apply. All other terms, conditions, and restrictions provided for in G.S. 20-179.3 shall apply. G.S. 20-179.3, rather than this subsection, governs the issuance of a limited driving privilege to a person who is convicted of violating subsection (a) of this section and of driving while impaired as a result of the same transaction. (1983, c. 435, s. 34; 1985 (Reg. Sess., 1986), c. 852, s. 11; 1993, c. 539, s. 364; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 506, s. 6; 1997-379, ss. 4, 5.2; 2000-140, s. 7; 2000-155, s. 18; 2006-253, s. 11.)

§ 20-138.4. Requirement that prosecutor explain reduction or dismissal of charge in implied-consent case.

(a) Any prosecutor shall enter detailed facts in the record of any case subject to the implied-consent law or involving driving while license revoked for impaired driving as defined in G.S. 20-28.2 explaining orally in open court and in writing the reasons for his action if he:

- (1) Enters a voluntary dismissal; or
- (2) Accepts a plea of guilty or no contest to a lesser included offense; or
- (3) Substitutes another charge, by statement of charges or otherwise, if the substitute charge carries a lesser mandatory minimum punishment or is not a case subject to the implied-consent law; or
- (4) Otherwise takes a discretionary action that effectively dismisses or reduces the original charge in a case subject to the implied-consent law.

General explanations such as "interests of justice" or "insufficient evidence" are not sufficiently detailed to meet the requirements of this section.

(b) The written explanation shall be signed by the prosecutor taking the action on a form approved by the Administrative Office of the Courts and shall contain, at a minimum:

- (1) The alcohol concentration or the fact that the driver refused.
- (2) A list of all prior convictions of implied-consent offenses or driving while license revoked.
- (3) Whether the driver had a valid drivers license or privilege to drive in this State as indicated by the Division's records.
- (4) A statement that a check of the database of the Administrative Office of the Courts revealed whether any other charges against the defendant were pending.
- (5) The elements that the prosecutor believes in good faith can be proved, and a list of those elements that the prosecutor cannot prove and why.
- (6) The name and agency of the charging officer and whether the officer is available.
- (7) Any reason why the charges are dismissed.

(c) **(See Editor's note on effective date)** A copy of the form required in subsection (b) of this section shall be sent to the head of the law enforcement agency that employed the charging officer, to the district attorney who employs the prosecutor, and filed in the court file. The Administrative Office of the Courts shall electronically record this data in its database and make it available upon request. (1983, c. 435, s. 25; 1987 (Reg. Sess., 1988), c. 1112; 1989, c. 771, s. 18; 2006-253, s. 19; 2007-493, s. 16.)

§ 20-138.5. Habitual impaired driving.

(a) A person commits the offense of habitual impaired driving if he drives while impaired as defined in G.S. 20-138.1 and has been convicted of three or more offenses involving impaired driving as defined in G.S. 20-4.01(24a) within 10 years of the date of this offense.

(b) A person convicted of violating this section shall be punished as a Class F felon and shall be sentenced to a minimum active term of not less than 12 months of imprisonment, which shall not be suspended. Sentences imposed under this subsection shall run consecutively with and shall commence at the expiration of any sentence being served.

(c) An offense under this section is an implied consent offense subject to the provisions of G.S. 20-16.2. The provisions of G.S. 20-139.1 shall apply to an offense committed under this section.

(d) A person convicted under this section shall have his license permanently revoked.

(e) If a person is convicted under this section, the motor vehicle that was driven by the defendant at the time the defendant committed the offense of impaired driving becomes property subject to forfeiture in accordance with the procedure set out in G.S. 20-28.2. In applying the procedure set out in that statute, an owner or a holder of a security interest is considered an innocent party with respect to a motor vehicle subject to forfeiture under this subsection if any of the following applies:

- (1) The owner or holder of the security interest did not know and had no reason to know that the defendant had been convicted within the previous seven years of three or more offenses involving impaired driving.
- (2) The defendant drove the motor vehicle without the consent of the owner or the holder of the security interest. (1989 (Reg. Sess., 1990), c. 1039, s. 7; 1993, c. 539, s. 1258; 1994, Ex. Sess., c. 14, s. 32; c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 761, s. 34.1; c. 767, s. 32; 1997-379, s. 6; 2006-253, ss. 12, 13.)

§ 20-138.6. Reserved for future codification purposes.

§ 20-138.7. Transporting an open container of alcoholic beverage.

(a) Offense. – No person shall drive a motor vehicle on a highway or the right-of-way of a highway:

- (1) While there is an alcoholic beverage in the passenger area in other than the unopened manufacturer's original container; and
- (2) While the driver is consuming alcohol or while alcohol remains in the driver's body.

(a1) Offense. – No person shall possess an alcoholic beverage other than in the unopened manufacturer's original container, or consume an alcoholic beverage, in the passenger area of a motor vehicle while the motor vehicle is on a highway or the right-of-way of a highway. For

purposes of this subsection, only the person who possesses or consumes an alcoholic beverage in violation of this subsection shall be charged with this offense.

(a2) Exception. – It shall not be a violation of subsection (a1) of this section for a passenger to possess an alcoholic beverage other than in the unopened manufacturer's original container, or for a passenger to consume an alcoholic beverage, if the container is:

- (1) In the passenger area of a motor vehicle that is designed, maintained, or used primarily for the transportation of persons for compensation;
- (2) In the living quarters of a motor home or house car as defined in G.S. 20-4.01(27)k.; or
- (3) In a house trailer as defined in G.S. 20-4.01(14).

(a3) Meaning of Terms. – Under this section, the term "motor vehicle" means any vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways and includes mopeds.

(b) Subject to Implied-Consent Law. – An offense under this section is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2.

(c) Odor Insufficient. – The odor of an alcoholic beverage on the breath of the driver is insufficient evidence to prove beyond a reasonable doubt that alcohol was remaining in the driver's body in violation of this section, unless the driver was offered an alcohol screening test or chemical analysis and refused to provide all required samples of breath or blood for analysis.

(d) Alcohol Screening Test. – Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violating subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the Commission for Public Health, and the screening test is conducted in accordance with the applicable regulations of the Commission as to the manner of its use.

(e) Punishment; Effect When Impaired Driving Offense Also Charged. – Violation of subsection (a) of this section shall be a Class 3 misdemeanor for the first offense and shall be a Class 2 misdemeanor for a second or subsequent offense. Violation of subsection (a) of this section is not a lesser included offense of impaired driving under G.S. 20-138.1, but if a person is convicted under subsection (a) of this section and of an offense involving impaired driving arising out of the same transaction, the punishment imposed by the court shall not exceed the maximum applicable to the offense involving impaired driving, and any minimum applicable punishment shall be imposed. Violation of subsection (a1) of this section by the driver of the motor vehicle is a lesser-included offense of subsection (a) of this section. A violation of subsection (a) shall be considered a moving violation for purposes of G.S. 20-16(c).

Violation of subsection (a1) of this section shall be an infraction and shall not be considered a moving violation for purposes of G.S. 20-16(c).

(f) Definitions. – If the seal on a container of alcoholic beverages has been broken, it is opened within the meaning of this section. For purposes of this section, "passenger area of a motor vehicle" means the area designed to seat the driver and passengers and any area within the reach of a seated driver or passenger, including the glove compartment. The area of the trunk or the area behind the last upright back seat of a station wagon, hatchback, or similar vehicle shall not be considered part of the passenger area. The term "alcoholic beverage" is as defined in G.S. 18B-101(4).

(g) Pleading. – In any prosecution for a violation of subsection (a) of this section, the pleading is sufficient if it states the time and place of the alleged offense in the usual form and charges that the defendant drove a motor vehicle on a highway or the right-of-way of a highway with an open container of alcoholic beverage after drinking.

In any prosecution for a violation of subsection (a1) of this section, the pleading is sufficient if it states the time and place of the alleged offense in the usual form and charges that (i) the defendant possessed an open container of alcoholic beverage in the passenger area of a motor vehicle while the motor vehicle was on a highway or the right-of-way of a highway, or (ii) the defendant consumed an alcoholic beverage in the passenger area of a motor vehicle while the motor vehicle was on a highway or the right-of-way of a highway.

(h) Limited Driving Privilege. – A person who is convicted of violating subsection (a) of this section and whose drivers license is revoked solely based on that conviction may apply for a limited driving privilege as provided for in G.S. 20-179.3. The judge may issue the limited driving privilege only if the driver meets the eligibility requirements of G.S. 20-179.3, other than the requirement in G.S. 20-179.3(b)(1)c. G.S. 20-179.3(e) shall not apply. All other terms, conditions, and restrictions provided for in G.S. 20-179.3 shall apply. G.S. 20-179.3, rather than this subsection, governs the issuance of a limited driving privilege to a person who is convicted of violating subsection (a) of this section and of driving while impaired as a result of the same transaction. (1995, c. 506, s. 9; 2000-155, s. 4; 2002-25, s. 1; 2006-66, s. 21.7; 2007-182, s. 2; 2013-348, s. 4; 2017-102, s. 5.2(b).)

§ 20-139. Repealed by Session Laws 1983, c. 435, s. 23.

§ 20-139.1. Procedures governing chemical analyses; admissibility; evidentiary provisions; controlled-drinking programs.

(a) Chemical Analysis Admissible. – In any implied-consent offense under G.S. 20-16.2, a person's alcohol concentration or the presence of any other impairing substance in the person's body as shown by a chemical analysis is admissible in evidence. This section does not limit the introduction of other competent evidence as to a person's alcohol concentration or results of other tests showing the presence of an impairing substance, including other chemical tests.

(b) Approval of Valid Test Methods; Licensing Chemical Analysts. – The results of a chemical analysis shall be deemed sufficient evidence to prove a person's alcohol concentration. A chemical analysis of the breath administered pursuant to the implied-consent law is admissible in any court or administrative hearing or proceeding if it meets both of the following requirements:

- (1) It is performed in accordance with the rules of the Department of Health and Human Services.
- (2) The person performing the analysis had, at the time of the analysis, a current permit issued by the Department of Health and Human Services authorizing the person to perform a test of the breath using the type of instrument employed.

For purposes of establishing compliance with subdivision (b)(1) of this section, the court or administrative agency shall take notice of the rules of the Department of Health and Human Services. For purposes of establishing compliance with subdivision (b)(2) of this section, the court or administrative agency shall take judicial notice of the list of permits issued to the person performing the analysis, the type of instrument on which the person is authorized to perform tests

of the breath, and the date the permit was issued. The Department of Health and Human Services may ascertain the qualifications and competence of individuals to conduct particular chemical analyses and the methods for conducting chemical analyses. The Department may issue permits to conduct chemical analyses to individuals it finds qualified subject to periodic renewal, termination, and revocation of the permit in the Department's discretion.

(b1) When Officer May Perform Chemical Analysis. – Any person possessing a current permit authorizing the person to perform chemical analysis may perform a chemical analysis.

(b2) Breath Analysis Results Preventive Maintenance. – The Department of Health and Human Services shall perform preventive maintenance on breath-testing instruments used for chemical analysis. A court or administrative agency shall take judicial notice of the preventive maintenance records of the Department. Notwithstanding the provisions of subsection (b), the results of a chemical analysis of a person's breath performed in accordance with this section are not admissible in evidence if:

- (1) The defendant objects to the introduction into evidence of the results of the chemical analysis of the defendant's breath; and
- (2) The defendant demonstrates that, with respect to the instrument used to analyze the defendant's breath, preventive maintenance procedures required by the regulations of the Department of Health and Human Services had not been performed within the time limits prescribed by those regulations.

(b3) Sequential Breath Tests Required. – The methods governing the administration of chemical analyses of the breath shall require the testing of at least duplicate sequential breath samples. The results of the chemical analysis of all breath samples are admissible if the test results from any two consecutively collected breath samples do not differ from each other by an alcohol concentration greater than 0.02. Only the lower of the two test results of the consecutively administered tests can be used to prove a particular alcohol concentration. A person's refusal to give the sequential breath samples necessary to constitute a valid chemical analysis is a refusal under G.S. 20-16.2(c).

A person's refusal to give the second or subsequent breath sample shall make the result of the first breath sample, or the result of the sample providing the lowest alcohol concentration if more than one breath sample is provided, admissible in any judicial or administrative hearing for any relevant purpose, including the establishment that a person had a particular alcohol concentration for conviction of an offense involving impaired driving.

(b4) Repealed by Session Laws 2006-253, s. 16, effective December 1, 2006, and applicable to offenses committed on or after that date.

(b5) Subsequent Tests Allowed. – A person may be requested, pursuant to G.S. 20-16.2, to submit to a chemical analysis of the person's blood or other bodily fluid or substance in addition to or in lieu of a chemical analysis of the breath, in the discretion of a law enforcement officer; except that a person charged with a violation of G.S. 20-141.4 shall be requested, at any relevant time after the driving, to provide a blood sample in addition to or in lieu of a chemical analysis of the breath. However, if a breath sample shows an alcohol concentration of .08 or more, then requesting a blood sample shall be in the discretion of a law enforcement officer. If a subsequent chemical analysis is requested pursuant to this subsection, the person shall again be advised of the implied consent rights in accordance with G.S. 20-16.2(a). A person's willful refusal to submit to a chemical analysis of the blood or other bodily fluid or substance is a willful refusal under G.S. 20-16.2. If a person willfully refuses to provide a blood sample under this subsection, and the person is charged with a violation of G.S. 20-141.4, then a law enforcement officer with

probable cause to believe that the offense involved impaired driving or was an alcohol-related offense made subject to the procedures of G.S. 20-16.2 shall seek a warrant to obtain a blood sample. The failure to obtain a blood sample pursuant to this subsection shall not be grounds for the dismissal of a charge and is not an appealable issue.

(b6) The Department of Health and Human Services shall post on a Web page a list of all persons who have a permit authorizing them to perform chemical analyses, the types of analyses that they can perform, the instruments that each person is authorized to operate, the effective dates of the permits, and the records of preventive maintenance. A court or administrative agency shall take judicial notice of whether, at the time of the chemical analysis, the chemical analyst possessed a permit authorizing the chemical analyst to perform the chemical analysis administered and whether preventive maintenance had been performed on the breath-testing instrument in accordance with the Department's rules.

(c) Blood and Urine for Chemical Analysis. – Notwithstanding any other provision of law, when a blood or urine test is specified as the type of chemical analysis by a law enforcement officer, a physician, registered nurse, emergency medical technician, or other qualified person shall withdraw the blood sample and obtain the urine sample, and no further authorization or approval is required. If the person withdrawing the blood or collecting the urine requests written confirmation of the law enforcement officer's request for the withdrawal of blood or collecting the urine, the officer shall furnish it before blood is withdrawn or urine collected. When blood is withdrawn or urine collected pursuant to a law enforcement officer's request, neither the person withdrawing the blood nor any hospital, laboratory, or other institution, person, firm, or corporation employing that person, or contracting for the service of withdrawing blood or collecting urine, may be held criminally or civilly liable by reason of withdrawing the blood or collecting the urine, except that there is no immunity from liability for negligent acts or omissions. A person requested to withdraw blood or collect urine pursuant to this subsection may refuse to do so only if it reasonably appears that the procedure cannot be performed without endangering the safety of the person collecting the sample or the safety of the person from whom the sample is being collected. If the officer requesting the blood or urine requests a written justification for the refusal, the medical provider who determined the sample could not be collected safely shall provide written justification at the time of the refusal.

(c1) Admissibility. – The results of a chemical analysis of blood or urine reported by the North Carolina State Crime Laboratory, the Charlotte, North Carolina, Police Department Laboratory, or any other laboratory approved for chemical analysis by the Department of Health and Human Services (DHHS), are admissible as evidence in all administrative hearings, and in any court, without further authentication and without the testimony of the analyst. For the purposes of this section, a "laboratory approved for chemical analysis" by the DHHS includes, but is not limited to, any hospital laboratory approved by DHHS pursuant to the program resulting from the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA).

The results shall be certified by the person who performed the analysis. The provisions of this subsection may be utilized in any administrative hearing, but can only be utilized in cases tried in the district and superior court divisions, or in an adjudicatory hearing in juvenile court, if:

- (1) The State notifies the defendant no later than 15 business days after receiving the report and at least 15 business days before the proceeding at which the evidence would be used of its intention to introduce the report into evidence under this subsection and provides a copy of the report to the defendant, and

- (2) The defendant fails to file a written objection with the court, with a copy to the State, at least five business days before the proceeding at which the report would be used that the defendant objects to the introduction of the report into evidence.

If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection as provided in this subsection, then the objection shall be deemed waived and the report shall be admitted into evidence without the testimony of the analyst. Upon filing a timely objection, the admissibility of the report shall be determined and governed by the appropriate rules of evidence.

If the proceeding at which the report would be introduced into evidence under this subsection is continued, the notice provided by the State, the written objection filed by the defendant, or the failure of the defendant to file a written objection shall remain effective at any subsequent calendaring of that proceeding.

The report containing the results of any blood or urine test may be transmitted electronically or via facsimile. A copy of the affidavit sent electronically or via facsimile shall be admissible in any court or administrative hearing without further authentication. A copy of the report shall be sent to the charging officer, the clerk of superior court in the county in which the criminal charges are pending, the Division of Motor Vehicles, and the Department of Health and Human Services.

Nothing in this subsection precludes the right of any party to call any witness or to introduce any evidence supporting or contradicting the evidence contained in the report.

(c2) Repealed by Session Laws 2013-194, s. 1, effective June 26, 2013.

(c3) Procedure for Establishing Chain of Custody Without Calling Unnecessary Witnesses. –

- (1) For the purpose of establishing the chain of physical custody or control of blood or urine tested or analyzed to determine whether it contains alcohol, a controlled substance or its metabolite, or any impairing substance, a statement signed by each successive person in the chain of custody that the person delivered it to the other person indicated on or about the date stated is prima facie evidence that the person had custody and made the delivery as stated, without the necessity of a personal appearance in court by the person signing the statement.
- (2) The statement shall contain a sufficient description of the material or its container so as to distinguish it as the particular item in question and shall state that the material was delivered in essentially the same condition as received. The statement may be placed on the same document as the report provided for in subsection (c1) or the affidavit provided for in subsection (e1) of this section, as applicable.
- (3) The provisions of this subsection may be utilized in any administrative hearing, but can only be utilized in cases tried in the district and superior court divisions, or in an adjudicatory hearing in juvenile court, if:
 - a. The State notifies the defendant no later than 15 business days after receiving the statement and at least 15 business days before the proceeding at which the statement would be used of its intention to introduce the statement into evidence under this subsection and provides a copy of the statement to the defendant, and

- b. The defendant fails to file a written notification with the court, with a copy to the State, at least five business days before the proceeding at which the statement would be used that the defendant objects to the introduction of the statement into evidence.

If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection as provided in this subsection, then the objection shall be deemed waived and the statement shall be admitted into evidence without the necessity of a personal appearance by the person signing the statement. Upon filing a timely objection, the admissibility of the statement shall be determined and governed by the appropriate rules of evidence.

If the proceeding at which the statement would be introduced into evidence under this subsection is continued, the notice provided by the State, the written objection filed by the defendant, or the failure of the defendant to file a written objection shall remain effective at any subsequent calendaring of that proceeding.

- (4) Nothing in this subsection precludes the right of any party to call any witness or to introduce any evidence supporting or contradicting the evidence contained in the statement.

(c4) Repealed by Session Laws 2013-194, s. 1, effective June 26, 2013.

(c5) The testimony of an analyst regarding the results of a chemical analysis of blood or urine admissible pursuant to subsection (c1) of this section, and reported by that analyst, shall be permitted by remote testimony, as defined in G.S. 15A-1225.3, in all administrative hearings, and in any court, if all of the following occur:

- (1) The State has provided a copy of the report to the attorney of record for the defendant, or to the defendant if that person has no attorney, as required by subsections (c1) and (c3) of this section.
- (2) The State notifies the attorney of record for the defendant or the defendant if that person has no attorney, at least 15 business days before the proceeding at which the evidence would be used of its intention to introduce the testimony regarding the chemical analysis into evidence using remote testimony.
- (3) The defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection with the court, with a copy to the State, at least five business days before the proceeding at which the testimony will be presented that the defendant objects to the introduction of the remote testimony.

If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection as provided in this subsection, then the objection shall be deemed waived and the analyst shall be allowed to testify by remote testimony.

The method used for remote testimony authorized by this subsection shall allow the trier of fact and all parties to observe the demeanor of the analyst as the analyst testifies in a similar manner as if the analyst were testifying in the location where the hearing or trial is being conducted. The court shall ensure that the defendant's attorney, or the defendant if that person has no attorney, has a full and fair opportunity for examination and cross-examination of the analyst.

Nothing in this section shall preclude the right of any party to call any witness. Nothing in this subsection shall obligate the Administrative Office of the Courts or the State Crime Laboratory to incur expenses related to remote testimony absent an appropriation of funds for that purpose.

(d) Right to Additional Test. – Nothing in this section shall be construed to prohibit a person from obtaining or attempting to obtain an additional chemical analysis. If the person is not released from custody after the initial appearance, the agency having custody of the person shall make reasonable efforts in a timely manner to assist the person in obtaining access to a telephone to arrange for any additional test and allow access to the person in accordance with the agreed procedure in G.S. 20-38.5. The failure or inability of the person who submitted to a chemical analysis to obtain any additional test or to withdraw blood does not preclude the admission of evidence relating to the chemical analysis.

(d1) Right to Require Additional Tests. – If a person refuses to submit to any test or tests pursuant to this section, any law enforcement officer with probable cause may, without a court order, compel the person to provide blood or urine samples for analysis if the officer reasonably believes that the delay necessary to obtain a court order, under the circumstances, would result in the dissipation of the percentage of alcohol in the person's blood or urine.

(d2) Notwithstanding any other provision of law, when a blood or urine sample is requested under subsection (d1) of this section by a law enforcement officer, a physician, registered nurse, emergency medical technician, or other qualified person shall withdraw the blood and obtain the urine sample, and no further authorization or approval is required. If the person withdrawing the blood or collecting the urine requests written confirmation of the charging officer's request for the withdrawal of blood or obtaining urine, the officer shall furnish it before blood is withdrawn or urine obtained. A person requested to withdraw blood or collect urine pursuant to this subsection may refuse to do so only if it reasonably appears that the procedure cannot be performed without endangering the safety of the person collecting the sample or the safety of the person from whom the sample is being collected. If the officer requesting the blood or urine requests a written justification for the refusal, the medical provider who determined the sample could not be collected safely shall provide written justification at the time of the refusal.

(d3) When blood is withdrawn or urine collected pursuant to a law enforcement officer's request, neither the person withdrawing the blood nor any hospital, laboratory, or other institution, person, firm, or corporation employing that person, or contracting for the service of withdrawing blood, may be held criminally or civilly liable by reason of withdrawing that blood, except that there is no immunity from liability for negligent acts or omissions. The results of the analysis of blood or urine under this subsection shall be admissible if performed by the State Crime Laboratory or any other hospital or qualified laboratory.

(e) Recording Results of Chemical Analysis of Breath. – A person charged with an implied-consent offense who has not received, prior to a trial, a copy of the chemical analysis results the State intends to offer into evidence may request in writing a copy of the results. The failure to provide a copy prior to any trial shall be grounds for a continuance of the case but shall not be grounds to suppress the results of the chemical analysis or to dismiss the criminal charges.

(e1) Use of Chemical Analyst's Affidavit in District Court. – An affidavit by a chemical analyst sworn to and properly executed before an official authorized to administer oaths shall be admissible in evidence without further authentication and without the testimony of the analyst in

any hearing or trial in the District Court Division of the General Court of Justice with respect to the following matters:

- (1) The alcohol concentration or concentrations or the presence or absence of an impairing substance of a person given a chemical analysis and who is involved in the hearing or trial.
- (2) The time of the collection of the blood, breath, or other bodily fluid or substance sample or samples for the chemical analysis.
- (3) The type of chemical analysis administered and the procedures followed.
- (4) The type and status of any permit issued by the Department of Health and Human Services that the analyst held on the date the analyst performed the chemical analysis in question.
- (5) If the chemical analysis is performed on a breath-testing instrument for which regulations adopted pursuant to subsection (b) require preventive maintenance, the date the most recent preventive maintenance procedures were performed on the breath-testing instrument used, as shown on the maintenance records for that instrument.

The Department of Health and Human Services shall develop a form for use by chemical analysts in making this affidavit.

(e2) Except as governed by subsection (c1) or (c3) of this section, the State can only use the provisions of subsection (e1) of this section if:

- (1) The State notifies the defendant no later than 15 business days after receiving the affidavit and at least 15 business days before the proceeding at which the affidavit would be used of its intention to introduce the affidavit into evidence under this subsection and provides a copy of the affidavit to the defendant, and
- (2) The defendant fails to file a written notification with the court, with a copy to the State, at least five business days before the proceeding at which the affidavit would be used that the defendant objects to the introduction of the affidavit into evidence.

The failure to file a timely objection as provided in this subsection shall be deemed a waiver of the right to object to the admissibility of the affidavit, and the affidavit shall be admitted into evidence without the testimony of the analyst. Upon filing a timely objection, the admissibility of the report shall be determined and governed by the appropriate rules of evidence. The case shall be continued until the analyst can be present. The criminal case shall not be dismissed due to the failure of the analyst to appear, unless the analyst willfully fails to appear after being ordered to appear by the court. If the proceeding at which the affidavit would be introduced into evidence under this subsection is continued, the notice provided by the State, the written objection filed by the defendant, or the failure of the defendant to file a written objection shall remain effective at any subsequent calendaring of that proceeding.

Nothing in subsection (e1) or subsection (e2) of this section precludes the right of any party to call any witness or to introduce any evidence supporting or contradicting the evidence contained in the affidavit.

(f) Evidence of Refusal Admissible. – If any person charged with an implied-consent offense refuses to submit to a chemical analysis or to perform field sobriety tests at the request of an officer, evidence of that refusal is admissible in any criminal, civil, or administrative action against the person.

(g) **Controlled-Drinking Programs.** – The Department of Health and Human Services may adopt rules concerning the ingestion of controlled amounts of alcohol by individuals submitting to chemical testing as a part of scientific, experimental, educational, or demonstration programs. These regulations shall prescribe procedures consistent with controlling federal law governing the acquisition, transportation, possession, storage, administration, and disposition of alcohol intended for use in the programs. Any person in charge of a controlled-drinking program who acquires alcohol under these regulations must keep records accounting for the disposition of all alcohol acquired, and the records must at all reasonable times be available for inspection upon the request of any federal, State, or local law-enforcement officer with jurisdiction over the laws relating to control of alcohol. A controlled-drinking program exclusively using lawfully purchased alcoholic beverages in places in which they may be lawfully possessed, however, need not comply with the record-keeping requirements of the regulations authorized by this subsection. All acts pursuant to the regulations reasonably done in furtherance of bona fide objectives of a controlled-drinking program authorized by the regulations are lawful notwithstanding the provisions of any other general or local statute, regulation, or ordinance controlling alcohol.

(h) **Disposition of Blood Evidence.** – Notwithstanding any other provision of law, any blood or urine sample subject to chemical analysis for the presence of alcohol, a controlled substance or its metabolite, or any impairing substance pursuant to this section may be destroyed by the analyzing agency 12 months after the case is filed or after the case is concluded in the trial court and not under appeal, whichever is later, without further notice to the parties. However, if a Motion to Preserve the evidence has been filed by either party, the evidence shall remain in the custody of the analyzing agency or the agency that collected the sample until dispositive order of a court of competent jurisdiction is entered. (1963, c. 966, s. 2; 1967, c. 123; 1969, c. 1074, s. 2; 1971, c. 619, ss. 12, 13; 1973, c. 476, s. 128; c. 1081, s. 2; c. 1331, s. 3; 1975, c. 405; 1979, 2nd Sess., c. 1089; 1981, c. 412, s. 4; c. 747, s. 66; 1983, c. 435, s. 26; 1983 (Reg. Sess., 1984), c. 1101, s. 20; 1989, c. 727, s. 219(2); 1991, c. 689, s. 233.1(b); 1993, c. 285, s. 7; 1997-379, ss. 5.3-5.5; 1997-443, s. 11A.10; 1997-443, s. 11A.123; 1997-456, s. 34(b); 2000-155, s. 8; 2003-95, s. 1; 2003-104, s. 2; 2006-253, s. 16; 2007-115, ss. 5, 6; 2007-493, ss. 3, 18, 22, 23; 2009-473, ss. 3-6; 2011-19, ss. 5, 8; 2011-119, s. 2; 2011-307, s. 9; 2012-168, s. 6; 2013-171, ss. 1, 4-6; 2013-194, s. 1; 2013-338, s. 1; 2014-119, s. 8(b); 2015-173, s. 3; 2015-276, s. 1; 2016-10, s. 1.)

§ 20-140. Reckless driving.

(a) Any person who drives any vehicle upon a highway or any public vehicular area carelessly and heedlessly in willful or wanton disregard of the rights or safety of others shall be guilty of reckless driving.

(b) Any person who drives any vehicle upon a highway or any public vehicular area without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property shall be guilty of reckless driving.

(c) Repealed by Session Laws 1983, c. 435, s. 23.

(d) Reckless driving as defined in subsections (a) and (b) is a Class 2 misdemeanor.

(e) Repealed by Session Laws 1983, c. 435, s. 23.

(f) A person is guilty of the Class 2 misdemeanor of reckless driving if the person drives a commercial motor vehicle carrying a load that is subject to the permit requirements of G.S. 20-119 upon a highway or any public vehicular area either:

- (1) Carelessly and heedlessly in willful or wanton disregard of the rights or safety of others; or
- (2) Without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property. (1937, c. 407, s. 102; 1957, c. 1368, s. 1; 1959, c. 1264, s. 8; 1973, c. 1330, s. 3; 1979, c. 903, ss. 7, 8; 1981, c. 412, s. 4; c. 466, s. 7; c. 747, s. 66; 1983, c. 435, s. 23; 1985, c. 764, s. 28; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1993, c. 539, s. 365; 1994, Ex. Sess., c. 24, s. 14(c); 2000-109, s. 7(b).)

§ 20-140.1. Repealed by Session Laws 1973, c. 1330, s. 39.

§ 20-140.2. Overloaded or overcrowded vehicle.

No person shall operate upon a highway or public vehicular area a motor vehicle which is so loaded or crowded with passengers or property, or both, as to obstruct the operator's view of the highway or public vehicular area, including intersections, or so as to impair or restrict otherwise the proper operation of the vehicle. (1953, c. 1233; 1967, c. 674, s. 1; 1973, c. 1143, s. 2; c. 1330, s. 4.)

§ 20-140.3. Unlawful use of National System of Interstate and Defense Highways and other controlled-access highways.

On those sections of highways which are or become a part of the National System of Interstate and Defense Highways and other controlled-access highways, it shall be unlawful for any person:

- (1) To drive a vehicle over, upon, or across any curb, central dividing section or other separation or dividing line on said highways.
- (2) To make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb, separation section, or line on said highways.
- (3) To drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation section, or line on said highways.
- (4) To drive a vehicle onto or from any controlled-access highway except at such entrances and exits as are established by public authority.
- (5) To stop, park, or leave standing any vehicle, whether attended or unattended, on any part or portion of the right-of-way of said highways, except in the case of an emergency or as directed by a peace officer, or at designated parking areas.
- (6) To fail to yield the right-of-way when entering the highway to any vehicle already travelling on the highway.
- (7) Notwithstanding any other subdivision of this section, a law enforcement officer may cross the median of a divided highway when the officer has reasonable grounds to believe that a felony is being or has been committed, has personal knowledge that a vehicle is being operated at a speed or in a manner which is likely to endanger persons or property, or the officer has reasonable grounds to believe that the officer's presence is immediately required at a location which would necessitate crossing a median of a divided

highway for this purpose. Fire department vehicles and public or private ambulances and rescue squad emergency service vehicles traveling in response to a fire alarm or other emergency call may cross the median of a divided highway when assistance is immediately required at a location which would necessitate the vehicle crossing a median of a divided highway for this purpose. (1973, c. 1330, s. 5; 1977, c. 731, s. 1; 1999-330, s. 5.)

§ 20-140.4. Special provisions for motorcycles and mopeds.

(a) No person shall operate a motorcycle or moped upon a highway or public vehicular area:

- (1) When the number of persons upon or within such motorcycle or moped, including the operator, shall exceed the number of persons which it was designed to carry.
- (2) Unless the operator and all passengers thereon wear on their heads, with a retention strap properly secured, safety helmets of a type that complies with Federal Motor Vehicle Safety Standard (FMVSS) 218. This subdivision shall not apply to an operator of, or any passengers within, an auticycle that has completely enclosed seating.

(b) Violation of any provision of this section shall not be considered negligence per se or contributory negligence per se in any civil action.

(c) Any person convicted of violating this section shall have committed an infraction and shall pay a penalty of twenty-five dollars and fifty cents (\$25.50) plus the following court costs: the General Court of Justice fee provided for in G.S. 7A-304(a)(4), the telephone facilities fee provided for in G.S. 7A-304(a)(2a), and the law enforcement training and certification fee provided for in G.S. 7A-304(a)(3b). Conviction of an infraction under this section has no other consequence.

(d) No drivers license points or insurance surcharge shall be assessed on account of violation of this section. (1973, c. 1330, s. 6; 1989, c. 711, s. 1; 2007-360, s. 7; 2009-451, s. 15.20(k); 2015-163, s. 11; 2016-90, s. 12.5(b).)

§ 20-140.5. Special mobile equipment may tow certain vehicles.

Special mobile equipment may not tow any vehicle other than the following:

- (1) A single passenger vehicle that can carry no more than nine passengers and is carrying no passengers.
- (2) A single property-hauling vehicle that has a registered weight of 5,000 pounds or less, is carrying no passengers, and does not exceed its registered weight. (1991 (Reg. Sess., 1992), c. 1015, s. 3; 1999-438, s. 29.)

§ 20-141. Speed restrictions.

(a) No person shall drive a vehicle on a highway or in a public vehicular area at a speed greater than is reasonable and prudent under the conditions then existing.

(b) Except as otherwise provided in this Chapter, it shall be unlawful to operate a vehicle in excess of the following speeds:

- (1) Thirty-five miles per hour inside municipal corporate limits for all vehicles.
- (2) Fifty-five miles per hour outside municipal corporate limits for all vehicles except for school buses and school activity buses.

(c) Except while towing another vehicle, or when an advisory safe-speed sign indicates a slower speed, or as otherwise provided by law, it shall be unlawful to operate a passenger vehicle upon the interstate and primary highway system at less than the following speeds:

- (1) Forty miles per hour in a speed zone of 55 miles per hour.
- (2) Forty-five miles per hour in a speed zone of 60 miles per hour or greater.

These minimum speeds shall be effective only when appropriate signs are posted indicating the minimum speed.

(d) (1) Whenever the Department of Transportation determines on the basis of an engineering and traffic investigation that any speed allowed by subsection (b) is greater than is reasonable and safe under the conditions found to exist upon any part of a highway outside the corporate limits of a municipality or upon any part of a highway designated as part of the Interstate Highway System or any part of a controlled-access highway (either inside or outside the corporate limits of a municipality), the Department of Transportation shall determine and declare a reasonable and safe speed limit.

(2) Whenever the Department of Transportation determines on the basis of an engineering and traffic investigation that a higher maximum speed than those set forth in subsection (b) is reasonable and safe under the conditions found to exist upon any part of a highway designated as part of the Interstate Highway System or any part of a controlled-access highway (either inside or outside the corporate limits of a municipality) the Department of Transportation shall determine and declare a reasonable and safe speed limit. A speed limit set pursuant to this subsection may not exceed 70 miles per hour.

Speed limits set pursuant to this subsection are not effective until appropriate signs giving notice thereof are erected upon the parts of the highway affected.

(e) Local authorities, in their respective jurisdictions, may authorize by ordinance higher speeds or lower speeds than those set out in subsection (b) upon all streets which are not part of the State highway system; but no speed so fixed shall authorize a speed in excess of 55 miles per hour. Speed limits set pursuant to this subsection shall be effective when appropriate signs giving notice thereof are erected upon the part of the streets affected.

(e1) Local authorities within their respective jurisdictions may authorize, by ordinance, lower speed limits than those set in subsection (b) of this section on school property. If the lower speed limit is being set on the grounds of a public school, the local school administrative unit must request or consent to the lower speed limit. If the lower speed limit is being set on the grounds of a private school, the governing body of the school must request or consent to the lower speed limit. Speed limits established pursuant to this subsection shall become effective when appropriate signs giving notice of the speed limit are erected upon affected property. A person who drives a motor vehicle on school property at a speed greater than the speed limit set and posted under this subsection is responsible for an infraction and is required to pay a penalty of two hundred fifty dollars (\$250.00).

(f) Whenever local authorities within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that a higher maximum speed than those set forth in subsection (b) is reasonable and safe, or that any speed hereinbefore set forth is greater than is reasonable and safe, under the conditions found to exist upon any part of a street within the corporate limits of a municipality and which street is a part of the State highway system (except those highways designated as part of the interstate highway system or other

controlled-access highway) said local authorities shall determine and declare a safe and reasonable speed limit. A speed limit set pursuant to this subsection may not exceed 55 miles per hour. Limits set pursuant to this subsection shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

When local authorities annex a road on the State highway system, the speed limit posted on the road at the time the road was annexed shall remain in effect until both the Department and municipality pass concurrent ordinances to change the speed limit.

The Department of Transportation is authorized to raise or lower the statutory speed limit on all highways on the State highway system within municipalities which do not have a governing body to enact municipal ordinances as provided by law. The Department of Transportation shall determine a reasonable and safe speed limit in the same manner as is provided in G.S. 20-141(d)(1) and G.S. 20-141(d)(2) for changing the speed limits outside of municipalities, without action of the municipality.

(g) Whenever the Department of Transportation or local authorities within their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any part of a highway considerably impede the normal and reasonable movement of traffic, the Department of Transportation or such local authority may determine and declare a minimum speed below which no person shall operate a motor vehicle except when necessary for safe operation in compliance with law. Such minimum speed limit shall be effective when appropriate signs giving notice thereof are erected on said part of the highway. Provided, such minimum speed limit shall be effective as to those highways and streets within the corporate limits of a municipality which are on the State highway system only when ordinances adopting the minimum speed limit are passed and concurred in by both the Department of Transportation and the local authorities. The provisions of this subsection shall not apply to farm tractors and other motor vehicles operating at reasonable speeds for the type and nature of such vehicles.

(h) No person shall operate a motor vehicle on the highway at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law; provided, this provision shall not apply to farm tractors and other motor vehicles operating at reasonable speeds for the type and nature of such vehicles.

(i) The Department of Transportation shall have authority to designate and appropriately mark certain highways of the State as truck routes.

(j) Repealed by Session Laws 1997, c. 443, s. 19.26(b).

(j1) A person who drives a vehicle on a highway at a speed that is either more than 15 miles per hour more than the speed limit established by law for the highway where the offense occurred or over 80 miles per hour is guilty of a Class 3 misdemeanor.

(j2) A person who drives a motor vehicle in a highway work zone at a speed greater than the speed limit set and posted under this section shall be required to pay a penalty of two hundred fifty dollars (\$250.00). This penalty shall be imposed in addition to those penalties established in this Chapter. A "highway work zone" is the area between the first sign that informs motorists of the existence of a work zone on a highway and the last sign that informs motorists of the end of the work zone. The additional penalty imposed by this subsection applies only if signs are posted at the beginning and end of any segment of the highway work zone stating the penalty for speeding in that segment of the work zone. The Secretary shall ensure that work zones shall only

be posted with penalty signs if the Secretary determines, after engineering review, that the posting is necessary to ensure the safety of the traveling public due to a hazardous condition.

A law enforcement officer issuing a citation for a violation of this section while in a highway work zone shall indicate the vehicle speed and speed limit posted in the segment of the work zone, and determine whether the individual committed a violation of G.S. 20-141(j1). Upon an individual's conviction of a violation of this section while in a highway work zone, the clerk of court shall report that the vehicle was in a work zone at the time of the violation, the vehicle speed, and the speed limit of the work zone to the Division of Motor Vehicles.

(j3) A person is guilty of a Class 2 misdemeanor if the person drives a commercial motor vehicle carrying a load that is subject to the permit requirements of G.S. 20-119 upon a highway or any public vehicular area at a speed of 15 miles per hour or more above either:

- (1) The posted speed; or
- (2) The restricted speed, if any, of the permit, or if no permit was obtained, the speed that would be applicable to the load if a permit had been obtained.

(k) Repealed by Session Laws 1995 (Regular Session, 1996), c. 652, s. 1.

(l) Notwithstanding any other provision contained in G.S. 20-141 or any other statute or law of this State, including municipal charters, any speed limit on any portion of the public highways within the jurisdiction of this State shall be uniformly applicable to all types of motor vehicles using such portion of the highway, if on November 1, 1973, such portion of the highway had a speed limit which was uniformly applicable to all types of motor vehicles using it. Provided, however, that a lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of such vehicle, including any load thereon. The requirement for a uniform speed limit hereunder shall not apply to any portion of the highway during such time as the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of the highway.

(m) The fact that the speed of a vehicle is lower than the foregoing limits shall not relieve the operator of a vehicle from the duty to decrease speed as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highway, and to avoid injury to any person or property.

(n) Notwithstanding any other provision contained in G.S. 20-141 or any other statute or law of this State, the failure of a motorist to stop his vehicle within the radius of its headlights or the range of his vision shall not be held negligence per se or contributory negligence per se.

(o) A violation of G.S. 20-123.2 shall be a lesser included offense in any violation of this section, and shall be subject to the following limitations and conditions:

- (1) A violation of G.S. 20-123.2 shall be recorded in the driver's official record as "Improper equipment – Speedometer."
- (2) The lesser included offense under this subsection shall not apply to charges of speeding in excess of 25 miles per hour or more over the posted speed limit.

No drivers license points or insurance surcharge shall be assessed on account of a violation of this subsection.

(p) A driver charged with speeding in excess of 25 miles per hour over the posted speed limit shall be ineligible for a disposition of prayer for judgment continued. (1937, c. 297, s. 2; c. 407, s. 103; 1939, c. 275; 1941, c. 347; 1947, c. 1067, s. 17; 1949, c. 947, s. 1; 1953, c. 1145; 1955, c. 398; c. 555, ss. 1, 2; c. 1042; 1957, c. 65, s. 11; c. 214; 1959, c. 640; c. 1264, s. 10; 1961, cc. 99, 1147; 1963, cc. 134, 456, 949; 1967, c. 106; 1971, c. 79, ss. 1-3; 1973, c. 507, s. 5; c. 1330, s. 7; 1975, c. 225; 1977, c. 367; c. 464, s. 34; c. 470; 1983, c. 131; 1985, c. 764, ss. 29,

30; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1987, c. 164; 1991 (Reg. Sess., 1992), c. 818, s. 1; c. 1034, s. 1; 1993, c. 539, ss. 366, 367; 1994, Ex. Sess., c. 24, s. 14(c); 1995 (Reg. Sess., 1996), c. 652, s. 1; 1997-341, s. 1; 1997-443, s. 19.26(b); 1997-488, s. 1; 1999-330, s. 3; 2000-109, s. 7(c); 2003-110, s. 1; 2004-203, s. 70(a); 2005-349, s. 11; 2007-380, ss. 1, 2; 2009-234, ss. 1, 2; 2011-64, s. 2; 2012-194, s. 9; 2013-360, s. 18B.14(k).)

§ 20-141.1. Speed limits in school zones.

The Board of Transportation or local authorities within their respective jurisdictions may, by ordinance, set speed limits lower than those designated in G.S. 20-141 for areas adjacent to or near a public, private or parochial school. Limits set pursuant to this section shall become effective when signs are erected giving notice of the school zone, the authorized speed limit, and the days and hours when the lower limit is effective, or by erecting signs giving notice of the school zone, the authorized speed limit and which indicate the days and hours the lower limit is effective by an electronic flasher operated with a time clock. Limits set pursuant to this section may be enforced only on days when school is in session, and no speed limit below 20 miles per hour may be set under the authority of this section. A person who drives a motor vehicle in a school zone at a speed greater than the speed limit set and posted under this section is responsible for an infraction and is required to pay a penalty of two hundred fifty dollars (\$250.00). (1977, c. 902, s. 2; 1979, c. 613; 1997-341, s. 1.1; 2011-64, s. 1.)

§ 20-141.2. Prima facie rule of evidence as to operation of motor vehicle altered so as to increase potential speed.

Proof of the operation upon any street or highway of North Carolina at a speed in excess of the limits provided by law of any motor vehicle when the motor, or any mechanical part or feature, or the design of the motor vehicle has been changed or altered so that there is a variation between such motor vehicle as changed or altered and the motor vehicle as constructed according to specification of the original motor vehicle manufacturer, with the result that the potential speed of such vehicle has been increased beyond that which existed prior to such change or alteration, or the proof of operation upon any street or highway of North Carolina at a speed in excess of the limits provided by law of any motor vehicle assembled from parts of two or more different makes of motor vehicles, whether or not any specially made or specially designed parts or appliances are included in the manufacture and assembly thereof, shall be prima facie evidence that such motor vehicle was operated at such time by the registered owner thereof. (1953, c. 1220.)

§ 20-141.3. Unlawful racing on streets and highways.

(a) It shall be unlawful for any person to operate a motor vehicle on a street or highway willfully in prearranged speed competition with another motor vehicle. Any person violating the provisions of this subsection shall be guilty of a Class 1 misdemeanor.

(b) It shall be unlawful for any person to operate a motor vehicle on a street or highway willfully in speed competition with another motor vehicle. Any person willfully violating the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

(c) It shall be unlawful for any person to authorize or knowingly permit a motor vehicle owned by him or under his control to be operated on a public street, highway, or thoroughfare in prearranged speed competition with another motor vehicle, or to place or receive any bet, wager, or other thing of value from the outcome of any prearranged speed competition on any public

street, highway, or thoroughfare. Any person violating the provisions of this subsection shall be guilty of a Class 1 misdemeanor.

(d) The Commissioner of Motor Vehicles shall revoke the driver's license or privilege to drive of every person convicted of violating the provisions of subsection (a) or subsection (c) of this section, said revocation to be for three years; provided any person whose license has been revoked under this section may apply for a new license after 18 months from revocation. Upon filing of such application the Division may issue a new license upon satisfactory proof that the former licensee has been of good behavior for the past 18 months and that his conduct and attitude are such as to entitle him to favorable consideration and upon such terms and conditions which the Division may see fit to impose for the balance of the three-year revocation period, which period shall be computed from the date of the original revocation.

(e) The Commissioner may suspend the driver's license or privilege to drive of every person convicted of violating the provisions of subsection (b) of this section. Such suspension shall be for a period of time within the discretion of the Commissioner, but not to exceed one year.

(f) All suspensions and revocations made pursuant to the provisions of this section shall be in the same form and manner and shall be subject to all procedures as now provided for suspensions and revocations made under the provisions of Article 2 of Chapter 20 of the General Statutes.

(g) When any officer of the law discovers that any person has operated or is operating a motor vehicle willfully in prearranged speed competition with another motor vehicle on a street or highway, he shall seize the motor vehicle and deliver the same to the sheriff of the county in which such offense is committed, or the same shall be placed under said sheriff's constructive possession if delivery of actual possession is impractical, and the vehicle shall be held by the sheriff pending the trial of the person or persons arrested for operating such motor vehicle in violation of subsection (a) of this section. The sheriff shall restore the seized motor vehicle to the owner upon execution by the owner of a good and valid bond, with sufficient sureties, in an amount double the value of the property, which bond shall be approved by said sheriff and shall be conditioned on the return of the motor vehicle to the custody of the sheriff on the day of trial of the person or persons accused. Upon the acquittal of the person charged with operating said motor vehicle willfully in prearranged speed competition with another motor vehicle, the sheriff shall return the motor vehicle to the owner thereof.

Notwithstanding the provisions for sale set out above, on petition by a lienholder, the court, in its discretion and upon such terms and conditions as it may prescribe, may allow reclamation of the vehicle by the lienholder. The lienholder shall file with the court an accounting of the proceeds of any subsequent sale of the vehicle and pay into the court any proceeds received in excess of the amount of the lien.

Upon conviction of the operator of said motor vehicle of a violation of subsection (a) of this section, the court shall order a sale at public auction of said motor vehicle and the officer making the sale, after deducting the expenses of keeping the motor vehicle, the fee for the seizure, and the costs of the sale, shall pay all liens, according to their priorities, which are established, by intervention or otherwise, at said hearing or in other proceeding brought for said purpose, as being bona fide, and shall pay the balance of the proceeds to the proper officer of the county who receives fines and forfeitures to be used for the school fund of the county. All liens against a motor vehicle sold under the provisions of this section shall be transferred from the motor vehicle to the proceeds of its sale. If, at the time of hearing, or other proceeding in which the

matter is considered, the owner of the vehicle can establish to the satisfaction of the court that said motor vehicle was used in prearranged speed competition with another motor vehicle on a street or highway without the knowledge or consent of the owner, and that the owner had no reasonable grounds to believe that the motor vehicle would be used for such purpose, the court shall not order a sale of the vehicle but shall restore it to the owner, and the said owner shall, at his request, be entitled to a trial by jury upon such issues.

If the owner of said motor vehicle cannot be found, the taking of the same, with a description thereof, shall be advertised in some newspaper published in the city or county where taken, or, if there be no newspaper published in such city or county, in a newspaper having circulation in the county, once a week for two weeks and by handbills posted in three public places near the place of seizure, and if said owner shall not appear within 10 days after the last publication of the advertisement, the property shall be sold, or otherwise disposed of in the manner set forth in this section.

When any vehicle confiscated under the provisions of this section is found to be specially equipped or modified from its original manufactured condition so as to increase its speed, the court shall, prior to sale, order that the special equipment or modification be removed and destroyed and the vehicle restored to its original manufactured condition. However, if the court should find that such equipment and modifications are so extensive that it would be impractical to restore said vehicle to its original manufactured condition, then the court may order that the vehicle be turned over to such governmental agency or public official within the territorial jurisdiction of the court as the court shall see fit, to be used in the performance of official duties only, and not for resale, transfer, or disposition other than as junk: Provided, that nothing herein contained shall affect the rights of lienholders and other claimants to said vehicles as set out in this section. (1955, c. 1156; 1957, c. 1358; 1961, c. 354; 1963, c. 318; 1967, c. 446; 1969, c. 186, s. 3; 1973, c. 1330, s. 8; 1975, c. 716, s. 5; 1979, c. 667, s. 31; 1993, c. 539, ss. 368-370; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 163, ss. 8, 9.)

§ 20-141.4. Felony and misdemeanor death by vehicle; felony serious injury by vehicle; aggravated offenses; repeat felony death by vehicle.

(a) Repealed by Session Laws 1983, c. 435, s. 27.

(a1) Felony Death by Vehicle. – A person commits the offense of felony death by vehicle if:

- (1) The person unintentionally causes the death of another person,
- (2) The person was engaged in the offense of impaired driving under G.S. 20-138.1 or G.S. 20-138.2, and
- (3) The commission of the offense in subdivision (2) of this subsection is the proximate cause of the death.

(a2) Misdemeanor Death by Vehicle. – A person commits the offense of misdemeanor death by vehicle if:

- (1) The person unintentionally causes the death of another person,
- (2) The person was engaged in the violation of any State law or local ordinance applying to the operation or use of a vehicle or to the regulation of traffic, other than impaired driving under G.S. 20-138.1, and
- (3) The commission of the offense in subdivision (2) of this subsection is the proximate cause of the death.

(a3) Felony Serious Injury by Vehicle. – A person commits the offense of felony serious injury by vehicle if:

- (1) The person unintentionally causes serious injury to another person,
- (2) The person was engaged in the offense of impaired driving under G.S. 20-138.1 or G.S. 20-138.2, and
- (3) The commission of the offense in subdivision (2) of this subsection is the proximate cause of the serious injury.

(a4) Aggravated Felony Serious Injury by Vehicle. – A person commits the offense of aggravated felony serious injury by vehicle if:

- (1) The person unintentionally causes serious injury to another person,
- (2) The person was engaged in the offense of impaired driving under G.S. 20-138.1 or G.S. 20-138.2,
- (3) The commission of the offense in subdivision (2) of this subsection is the proximate cause of the serious injury, and
- (4) The person has a previous conviction involving impaired driving, as defined in G.S. 20-4.01(24a), within seven years of the date of the offense.

(a5) Aggravated Felony Death by Vehicle. – A person commits the offense of aggravated felony death by vehicle if:

- (1) The person unintentionally causes the death of another person,
- (2) The person was engaged in the offense of impaired driving under G.S. 20-138.1 or G.S. 20-138.2,
- (3) The commission of the offense in subdivision (2) of this subsection is the proximate cause of the death, and
- (4) The person has a previous conviction involving impaired driving, as defined in G.S. 20-4.01(24a), within seven years of the date of the offense.

(a6) Repeat Felony Death by Vehicle Offender. – A person commits the offense of repeat felony death by vehicle if:

- (1) The person commits an offense under subsection (a1) or subsection (a5) of this section; and
- (2) The person has a previous conviction under:
 - a. Subsection (a1) of this section;
 - b. Subsection (a5) of this section; or
 - c. G.S. 14-17 or G.S. 14-18, and the basis of the conviction was the unintentional death of another person while engaged in the offense of impaired driving under G.S. 20-138.1 or G.S. 20-138.2.The pleading and proof of previous convictions shall be in accordance with the provisions of G.S. 15A-928.

(b) Punishments. – Unless the conduct is covered under some other provision of law providing greater punishment, the following classifications apply to the offenses set forth in this section:

- (1) Repeat felony death by vehicle is a Class B2 felony.
- (1a) Aggravated felony death by vehicle is a Class D felony. Notwithstanding the provisions of G.S. 15A-1340.17, the court shall sentence the defendant in the aggravated range of the appropriate Prior Record Level.

- (2) Felony death by vehicle is a Class D felony. Notwithstanding the provisions of G.S. 15A-1340.17, intermediate punishment is authorized for a defendant who is a Prior Record Level I offender.
- (3) Aggravated felony serious injury by vehicle is a Class E felony.
- (4) Felony serious injury by vehicle is a Class F felony.
- (5) Misdemeanor death by vehicle is a Class A1 misdemeanor.

(c) No Double Prosecutions. – No person who has been placed in jeopardy upon a charge of death by vehicle may be prosecuted for the offense of manslaughter arising out of the same death; and no person who has been placed in jeopardy upon a charge of manslaughter may be prosecuted for death by vehicle arising out of the same death. (1973, c. 1330, s. 9; 1983, c. 435, s. 27; 1993, c. 285, s. 10; c. 539, ss. 371, 1259; 1994, Ex. Sess., c. 24, s. 14(c); 2006-253, s. 14; 2007-493, s. 15; 2009-528, s. 1; 2012-165, s. 2, 3.)

§ 20-141.5. Speeding to elude arrest; seizure and sale of vehicles.

(a) It shall be unlawful for any person to operate a motor vehicle on a street, highway, or public vehicular area while fleeing or attempting to elude a law enforcement officer who is in the lawful performance of his duties. Except as provided in subsection (b) of this section, violation of this section shall be a Class 1 misdemeanor.

(b) If two or more of the following aggravating factors are present at the time the violation occurs, violation of this section shall be a Class H felony.

- (1) Speeding in excess of 15 miles per hour over the legal speed limit.
- (2) Gross impairment of the person's faculties while driving due to:
 - a. Consumption of an impairing substance; or
 - b. A blood alcohol concentration of 0.14 or more within a relevant time after the driving.
- (3) Reckless driving as proscribed by G.S. 20-140.
- (4) Negligent driving leading to an accident causing:
 - a. Property damage in excess of one thousand dollars (\$1,000); or
 - b. Personal injury.
- (5) Driving when the person's drivers license is revoked.
- (6) Driving in excess of the posted speed limit, during the days and hours when the posted limit is in effect, on school property or in an area designated as a school zone pursuant to G.S. 20-141.1, or in a highway work zone as defined in G.S. 20-141(j2).
- (7) Passing a stopped school bus as proscribed by G.S. 20-217.
- (8) Driving with a child under 12 years of age in the vehicle.

(b1) When a violation of subsection (a) of this section is the proximate cause of the death of any person, the person violating subsection (a) of this section shall be guilty of a Class H felony. When a violation of subsection (b) of this section is the proximate cause of the death of any person, the person violating subsection (b) of this section shall be guilty of a Class E felony.

(c) Whenever evidence is presented in any court or administrative hearing of the fact that a vehicle was operated in violation of this section, it shall be prima facie evidence that the vehicle was operated by the person in whose name the vehicle was registered at the time of the violation, according to the Division's records. If the vehicle is rented, then proof of that rental shall be prima facie evidence that the vehicle was operated by the renter of the vehicle at the time of the violation.

(d) The Division shall suspend, for up to one year, the drivers license of any person convicted of a misdemeanor under this section. The Division shall revoke, for two years, the drivers license of any person convicted of a felony under this section if the person was convicted on the basis of the presence of two of the aggravating factors listed in subsection (b) of this section. The Division shall revoke, for three years, the drivers license of any person convicted of a felony under this section if the person was convicted on the basis of the presence of three or more aggravating factors listed in subsection (b) of this section. In the case of a first felony conviction under this section where only two aggravating factors were present, the licensee may apply to the sentencing court for a limited driving privilege after a period of 12 months of revocation, provided the operator's license has not also been revoked or suspended under any other provision of law. A limited driving privilege issued under this subsection shall be valid for the period of revocation remaining in the same manner and under the terms and conditions prescribed in G.S. 20-16.1(b). If the person's license is revoked under any other statute, the limited driving privilege issued pursuant to this subsection is invalid.

(e) When the probable cause of the law enforcement officer is based on the prima facie evidence rule set forth in subsection (c) above, the officer shall make a reasonable effort to contact the registered owner of the vehicle prior to initiating criminal process.

(f) Each law enforcement agency shall adopt a policy applicable to the pursuit of fleeing or eluding motorists. Each policy adopted pursuant to this subsection shall specifically include factors to be considered by an officer in determining when to initiate or terminate a pursuit. The Attorney General shall develop a model policy or policies to be considered for use by law enforcement agencies.

(g) through (j) Repealed by Session Laws 2013-243, s. 6, effective December 1, 2013, and applicable to offenses committed on or after that date.

(k) If a person is convicted of a violation of subsection (b) or (b1) of this section, the motor vehicle that was driven by the defendant at the time the defendant committed the offense of felony speeding to elude arrest becomes property subject to forfeiture in accordance with the procedure set out in G.S. 20-28.2, 20-28.3, 20-28.4, and 20-28.5. (1997-443, s. 19.26(a); 2005-341, s. 1; 2011-271, s. 1; 2013-243, ss. 6, 7.)

§ 20-141.6. Aggressive Driving.

(a) Any person who operates a motor vehicle on a street, highway, or public vehicular area is guilty of aggressive driving if the person:

- (1) Violates either G.S. 20-141 or G.S. 20-141.1, and
- (2) Drives carelessly and heedlessly in willful or wanton disregard of the rights or safety of others.

(b) For the purposes of this section only, in order to prove a violation of subsection (a)(2), the State must show that the person committed two or more of the below specified offenses while in violation of subsection (a)(1):

- (1) Running through a red light in violation of G.S. 20-158(b)(2) or (b)(3), or G.S. 20-158(c)(2) or (c)(3).
- (2) Running through a stop sign in violation of G.S. 20-158(b)(1) or (c)(1).
- (3) Illegal passing in violation of G.S. 20-149 or G.S. 20-150.
- (4) Failing to yield right-of-way in violation of G.S. 20-155, 20-156, 20-158(b)(4) or (c)(4) or 20-158.1.
- (5) Following too closely in violation of G.S. 20-152.

- (c) A person convicted of aggressive driving is guilty of a Class 1 misdemeanor.
- (d) The offense of reckless driving under G.S. 20-140 is a lesser-included offense of the offense set forth in this section. (2004-193, s. 1.)

§ 20-142: Repealed by Session Laws 1991, c. 368, s. 2.

§ 20-142.1. Obedience to railroad signal.

(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of the vehicle shall stop within 50 feet, but not less than 15 feet from the nearest rail of the railroad and shall not proceed until he can do so safely. These requirements apply when:

- (1) A clearly visible electrical or mechanical signal device gives warning of the immediate approach of a railroad train;
- (2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
- (3) A railroad train approaching within approximately 1500 feet of the highway crossing emits a signal audible from that distance, and the railroad train is an immediate hazard because of its speed or nearness to the crossing; or
- (4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.

(b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed, nor shall any pedestrian pass through, around, over, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.

(c) When stopping as required at a railroad crossing, the driver shall keep as far to the right of the highway as possible and shall not form two lanes of traffic unless the roadway is marked for four or more lanes of traffic.

(d) Any person who violates any provisions of this section shall be guilty of an infraction and punished in accordance with G.S. 20-176. Violation of this section shall not constitute negligence per se.

(e) An employer who knowingly allows, requires, permits, or otherwise authorizes a driver of a commercial motor vehicle to violate this section shall be guilty of an infraction. Such employer will also be subject to a civil penalty under G.S. 20-37.21. (1991, c. 368, s. 1; 2005-349, s. 12.)

§ 20-142.2. Vehicles stop at certain grade crossing.

The Department of Transportation may designate particularly dangerous highway crossings of railroads and erect stop signs at those crossings. When a stop sign is erected at a highway crossing of a railroad, the driver of any vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such grade crossing and shall proceed only upon exercising due care. Any person who violates this section shall be guilty of an infraction and punished in accordance with G.S. 20-176. Violation of this section shall not constitute negligence per se. An employer who knowingly allows, requires, permits, or otherwise authorizes a driver of a commercial motor vehicle to violate this section shall be guilty of an infraction. Such employer will also be subject to a civil penalty under G.S. 20-37.21. (1991, c. 368, s. 1; 2005-349, s. 13.)

§ 20-142.3. Certain vehicles must stop at railroad grade crossing.

(a) Before crossing at grade any track or tracks of a railroad, the driver of any school bus, any activity bus, any motor vehicle carrying passengers for compensation, any commercial motor vehicle listed in 49 C.F.R. § 392.10, and any motor vehicle with a capacity of 16 or more persons shall stop the vehicle within 50 feet but not less than 15 feet from the nearest rail of the railroad. While stopped, the driver shall listen and look in both directions along the track for any approaching train and shall not proceed until the driver can do so safely. Upon proceeding, the driver of the vehicle shall cross the track in a gear that allows the driver to cross the track without changing gears and the driver shall not change gears while crossing the track or tracks.

(b) Except for school buses and activity buses, the provisions of this section shall not require the driver of a vehicle to stop:

- (1) At railroad tracks used exclusively for industrial switching purposes within a business district.
- (2) At a railroad grade crossing which a police officer or crossing flagman directs traffic to proceed.
- (3) At a railroad grade crossing protected by a gate or flashing signal designed to stop traffic upon the approach of a train, when the gate or flashing signal does not indicate the approach of a train.
- (4) At an abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned.
- (5) At an industrial or spur line railroad grade crossing marked with a sign reading "Exempt" erected by or with the consent of the appropriate State or local authority.

(c) A person violating the provisions of this section shall be guilty of an infraction and punished in accordance with G.S. 20-176. Violation of this section shall not constitute negligence per se.

(d),(e) Repealed by Session Laws 2001-487, s. 50(g).

(f) An employer who knowingly allows, requires, permits, or otherwise authorizes a driver of a commercial motor vehicle to violate this section shall be guilty of an infraction. Such employer will also be subject to a civil penalty under G.S. 20-37.21. (1991, c. 368, s. 1; 1999-274, ss. 1, 2; 2001-487, s. 50(g); 2005-349, s. 14.)

§ 20-142.4. Moving heavy equipment at railroad grade crossing.

(a) No person shall operate or move any crawler-type tractor, crane, or roller or any equipment or structure having a normal operating speed of five or less miles per hour upon or across any tracks at a railroad crossing without first complying with this section.

(b) Notice of any intended crossing described in subsection (a) of this section shall be given to a superintendent of the railroad and a reasonable time be given to the railroad to provide protection at the crossing.

(c) Before making any crossing described in subsection (a) of this section, the person operating or moving the vehicle or equipment shall:

- (1) Stop the vehicle or equipment not less than 15 feet nor more than 50 feet from the nearest rail of the railroad;
- (2) While stopped, shall listen and look both directions along the track for any approaching train and for signals indicating the approach of a train; and
- (3) Shall not proceed until the crossing can be made safely.

(d) No crossing described in subsection (a) of this section shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car.

(e) Subsection (c) of this section shall not apply at any railroad crossing where State or local authorities have determined that trains are not operating during certain periods or seasons of the year and have erected an official sign carrying the legend "Exempt".

(f) Any person who violates any provision of this section shall be guilty of an infraction and punished in accordance with G.S. 20-176. Violation of this section shall not constitute negligence per se.

(g) An employer who knowingly allows, requires, permits, or otherwise authorizes a driver of a commercial motor vehicle to violate this section shall be guilty of an infraction. Such employer will also be subject to a civil penalty under G.S. 20-37.21. (1991, c. 368, s. 1; 2005-349, s. 15.)

§ 20-142.5. Stop when traffic obstructed.

No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle he is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains, notwithstanding the indication of any traffic control signal to proceed. Any person who violates any provision of this section shall be guilty of an infraction and punished in accordance with G.S. 20-176. Violation of this section shall not constitute negligence per se.

An employer who knowingly allows, requires, permits, or otherwise authorizes a driver of a commercial motor vehicle to violate this section shall be guilty of an infraction. Such employer will also be subject to a civil penalty under G.S. 20-37.21. (1991, c. 368, s. 1; 2005-349, s. 16.)

§§ 20-143 through 20-143.1: Repealed by Session Laws 1991, c. 368, s. 2.

§ 20-144. Special speed limitation on bridges.

It shall be unlawful to drive any vehicle upon any public bridge, causeway or viaduct at a speed which is greater than the maximum speed which can with safety to such structure be maintained thereon, when such structure is signposted as provided in this section.

The Department of Transportation, upon request from any local authorities, shall, or upon its own initiative may, conduct an investigation of any public bridge, causeway or viaduct, and if it shall thereupon find that such structure cannot with safety to itself withstand vehicles traveling at the speed otherwise permissible under this Article, the Division shall determine and declare the maximum speed of vehicles which such structure can withstand, and shall cause or permit suitable signs stating such maximum speed to be erected and maintained at a distance of 100 feet beyond each end of such structure. The findings and determination of the Department of Transportation shall be conclusive evidence of the maximum speed which can with safety to any such structure be maintained thereon. (1937, c. 407, s. 106; 1957, c. 65, s. 11; 1973, c. 507, ss. 5, 21; 1975, c. 716, s. 5; 1977, c. 464, s. 34.)

§ 20-145. When speed limit not applicable.

The speed limitations set forth in this Article shall not apply to vehicles when operated with due regard for safety under the direction of the police in the chase or apprehension of violators of

the law or of persons charged with or suspected of any such violation, nor to fire department or fire patrol vehicles when traveling in response to a fire alarm, nor to public or private ambulances and rescue squad emergency service vehicles when traveling in emergencies, nor to vehicles operated by county fire marshals and civil preparedness coordinators when traveling in the performances of their duties, nor to any of the following when either operated by a law enforcement officer in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation, when traveling in response to a fire alarm, or for other emergency response purposes: (i) a vehicle operated by the Division of Marine Fisheries of the Department of Environmental Quality or the Division of Parks and Recreation of the Department of Natural and Cultural Resources or (ii) a vehicle operated by the North Carolina Forest Service of the Department of Agriculture and Consumer Services. This exemption shall not, however, protect the driver of any such vehicle from the consequence of a reckless disregard of the safety of others. (1937, c. 407, s. 107; 1947, c. 987; 1971, c. 5; 1977, c. 52, s. 3; 1985, c. 454, s. 5; 2013-415, s. 1(c); 2015-241, s. 14.30(gg).)

§ 20-146. Drive on right side of highway; exceptions.

(a) Upon all highways of sufficient width a vehicle shall be driven upon the right half of the highway except as follows:

- (1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
- (2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
- (3) Upon a highway divided into three marked lanes for traffic under the rules applicable thereon; or
- (4) Upon a highway designated and signposted for one-way traffic.

(a1) Self-propelled grain combines or other self-propelled farm equipment shall be operated to the right of the centerline except as provided in G.S. 20-116(j)(4).

(b) Upon all highways any vehicle proceeding at less than the legal maximum speed limit shall be driven in the right-hand lane then available for thru traffic, or as close as practicable to the right-hand curb or edge of the highway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn.

(c) Upon any highway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the centerline of the highway, except when authorized by official traffic-control devices designating certain lanes to the left side of the center of the highway for use by traffic not otherwise permitted to use such lanes or except as permitted under subsection (a)(2) hereof.

(d) Whenever any street has been divided into two or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply.

- (1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.
- (2) Upon a street which is divided into three or more lanes and provides for the two-way movement of traffic, a vehicle shall not be driven in the center lane

except when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, or in the preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control device.

(3) Official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the street and drivers of vehicles shall obey the direction of every such device.

(4) Official traffic-control devices may be installed prohibiting the changing of lanes on sections of streets, and drivers of vehicles shall obey the directions of every such device.

(e) Notwithstanding any other provisions of this section, when appropriate signs have been posted, it shall be unlawful for any person to operate a motor vehicle over and upon the inside lane, next to the median of any dual-lane highway at a speed less than the posted speed limit when the operation of said motor vehicle over and upon said inside lane shall impede the steady flow of traffic except when preparing for a left turn. "Appropriate signs" as used herein shall be construed as including "Slower Traffic Keep Right" or designations of similar import. (1937, c. 407, s. 108; 1965, c. 678, s. 2; 1973, c. 1330, s. 3; 1975, c. 593; 1985, c. 764, s. 25; 1985 (Reg. Sess., 1986), c. 852, s. 17; 2001-487, s. 11; 2015-263, s. 6(b).)

§ 20-146.1. Operation of motorcycles.

(a) All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection shall not apply to motorcycles operated two abreast in a single lane.

(b) Motorcycles shall not be operated more than two abreast in a single lane. For purposes of this subsection, the term "motorcycle" shall not include autocycles. Autocycles shall not be operated more than one abreast in a single lane. (1965, c. 909; 1973, c. 1330, s. 14; 1975, c. 786; 2015-163, s. 12.)

§ 20-146.2. Rush hour traffic lanes authorized.

(a) HOV Lanes. – The Department of Transportation may designate one or more travel lanes as high occupancy vehicle (HOV) lanes on streets and highways on the State Highway System and cities may designate one or more travel lanes as high occupancy vehicle (HOV) lanes on streets on the Municipal Street System. HOV lanes shall be reserved for vehicles with a specified number of passengers as determined by the Department of Transportation or the city having jurisdiction over the street or highway. When HOV lanes have been designated, and have been appropriately marked with signs or other markers, they shall be reserved for privately or publicly operated buses, and automobiles or other vehicles containing the specified number of persons. Where access restrictions are applied on HOV lanes through designated signing and pavement markings, vehicles shall only cross into or out of an HOV lane at designated openings. A motor vehicle shall not travel in a designated HOV lane if the motor vehicle has more than three axles, regardless of the number of occupants. HOV lane restrictions shall not apply to any of the following:

(1) Motorcycles.

- (2) Vehicles designed to transport 15 or more passengers, regardless of the actual number of occupants.
- (3) Emergency vehicles. As used in this subdivision, the term "emergency vehicle" means any law enforcement, fire, police, or other government vehicle, and any public and privately owned ambulance or emergency service vehicle, when responding to an emergency.
- (4) Plug-in electric vehicles as defined in G.S. 20-4.01(28a), regardless of the number of passengers in the vehicle. These vehicles must be able to travel at the posted speed limit while operating in the HOV lane.
- (5) Dedicated natural gas vehicles as defined in G.S. 20-4.01(5a), regardless of the number of passengers in the vehicle. These vehicles must be able to travel at the posted speed limit while operating in the HOV lane.
- (6) Fuel cell electric vehicles as defined in G.S. 20-4.01(12a), regardless of the number of passengers in the vehicle. These vehicles must be able to travel at the posted speed limit while operating in the HOV lane.

(a1) Transitway Lanes. – The Department of Transportation may designate one or more travel lanes as a transitway on streets and highways on the State Highway System and cities may designate one or more travel lanes as a transitway on streets on the Municipal Street System. Transitways shall be reserved for public transportation vehicles as determined by the Department of Transportation or the city having jurisdiction over the street or highway. When transitways have been designated, and they have been appropriately marked with signs or other markers, they shall be reserved for privately or publicly operated transportation vehicles as determined by the Department or the city having jurisdiction.

(b) Temporary Peak Traffic Shoulder Lanes. – The Department of Transportation may modify, upgrade, and designate shoulders of controlled access facilities and partially controlled access facilities as temporary travel lanes during peak traffic periods. When these shoulders have been appropriately marked, it shall be unlawful to use these shoulders for stopping or emergency parking. Emergency parking areas shall be designated at other appropriate areas, off these shoulders, when available.

(c) Directional Flow Peak Traffic Lanes. – The Department of Transportation may designate travel lanes for the directional flow of peak traffic on streets and highways on the State Highway System and cities may designate travel lanes for the directional flow of peak traffic on streets on the Municipal Street System. These travel lanes may be designated for time periods by the agency controlling the streets and highways. (1987, c. 547, s. 1; 1999-350, s. 1; 2003-184, s. 5; 2011-95, s. 2; 2011-206, s. 2; 2012-194, s. 10.)

§ 20-147. Keep to the right in crossing intersections or railroads.

In crossing an intersection of highways or the intersection of a highway by a railroad right-of-way, the driver of a vehicle shall at all times cause such vehicle to travel on the right half of the highway unless such right side is obstructed or impassable. (1937, c. 407, s. 109.)

§ 20-147.1. Passenger vehicle towing other vehicles to keep right.

Whenever a noncommercial passenger vehicle as defined in G.S. 20-4.01(27)l. is towing another vehicle as defined in G.S. 20-4.01(49), the driver of the towing vehicle shall at all times cause that vehicle to travel on the right half of the highway, and upon any highway having four or more lanes for moving traffic and providing for two-way movement of traffic, the vehicle

shall not be driven in the left-most lane of the right half of the highway except when overtaking and passing another vehicle proceeding in the same direction, when preparing for a left turn, or the right lanes are obstructed or impassable. These towing vehicles shall also comply with all signage for vehicles of three or more axles erected pursuant to G.S. 20-146(d)(3). (2004-124, s. 30.6(a); 2004-199, s. 56; 2017-102, s. 5.2(b).)

§ 20-148. Meeting of vehicles.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other at least one half of the main-traveled portion of the roadway as nearly as possible. (1937, c. 407, s. 110.)

§ 20-149. Overtaking a vehicle.

(a) The driver of any such vehicle overtaking another vehicle proceeding in the same direction shall pass at least two feet to the left thereof, and shall not again drive to the right side of the highway until safely clear of such overtaken vehicle. This subsection shall not apply when the overtaking and passing is done pursuant to the provisions of G.S. 20-150(e) or G.S. 20-150.1.

(b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle while being lawfully overtaken on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

Failure to comply with this subsection:

- (1) Is a Class 1 misdemeanor when the failure is the proximate cause of a collision resulting in serious bodily injury.
- (2) Is a Class 2 misdemeanor when the failure is the proximate cause of a collision resulting in bodily injury or property damage.
- (3) Is, in all other cases, an infraction. (1937, c. 407, s. 111; 1955, c. 913, s. 3; 1959, c. 247; 1973, c. 1330, s. 15; 1995, c. 283, s. 1; 2016-90, s. 5.5(b).)

§ 20-150. Limitations on privilege of overtaking and passing.

(a) The driver of a vehicle shall not drive to the left side of the center of a highway, in overtaking and passing another vehicle proceeding in the same direction, unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety.

(b) The driver of a vehicle shall not overtake and pass another vehicle proceeding in the same direction upon the crest of a grade or upon a curve in the highway where the driver's view along the highway is obstructed within a distance of 500 feet.

(c) The driver of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction at any railway grade crossing nor at any intersection of highway unless permitted so to do by a traffic or police officer. For the purposes of this section the words "intersection of highway" shall be defined and limited to intersections designated and marked by the Department of Transportation by appropriate signs, and street intersections in cities and towns.

(d) The driver of a vehicle shall not drive to the left side of the centerline of a highway upon the crest of a grade or upon a curve in the highway where such centerline has been placed upon such highway by the Department of Transportation, and is visible.

(e) The driver of a vehicle shall not overtake and pass another on any portion of the highway which is marked by signs, markers or markings placed by the Department of

Transportation stating or clearly indicating that passing should not be attempted. The prohibition in this section shall not apply when the overtaking and passing is done in accordance with all of the following:

- (1) The slower moving vehicle to be passed is a bicycle or a moped.
- (2) The slower moving vehicle is proceeding in the same direction as the faster moving vehicle.
- (3) The driver of the faster moving vehicle either (i) provides a minimum of four feet between the faster moving vehicle and the slower moving vehicle or (ii) completely enters the left lane of the highway.
- (4) The operator of the slower moving vehicle is not (i) making a left turn or (ii) signaling in accordance with G.S. 20-154 that he or she intends to make a left turn.
- (5) The driver of the faster moving vehicle complies with all other applicable requirements set forth in this section.

(f) The foregoing limitations shall not apply upon a one-way street nor to the driver of a vehicle turning left in or from an alley, private road, or driveway. (1937, c. 407, s. 112; 1955, c. 862; c. 913, s. 2; 1957, c. 65, s. 11; 1969, c. 13; 1973, c. 507, s. 5; c. 1330, s. 16; 1977, c. 464, s. 34; 1979, c. 472; 2016-90, s. 5.5(a).)

§ 20-150.1. When passing on the right is permitted.

The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

- (1) When the vehicle overtaken is in a lane designated for left turns;
- (2) Upon a street or highway with unobstructed pavement of sufficient width which have been marked for two or more lanes of moving vehicles in each direction and are not occupied by parked vehicles;
- (3) Upon a one-way street, or upon a highway on which traffic is restricted to one direction of movement when such street or highway is free from obstructions and is of sufficient width and is marked for two or more lanes of moving vehicles which are not occupied by parked vehicles;
- (4) When driving in a lane designating a right turn on a red traffic signal light. (1953, c. 679.)

§ 20-151: Repealed by Session Laws 1995, c. 283, s. 2.

§ 20-152. Following too closely.

(a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(b) The driver of any motor vehicle traveling upon a highway outside of a business or residential district and following another motor vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor vehicle from overtaking and passing another motor vehicle. This provision shall not apply to funeral processions.

(c) Subsections (a) and (b) of this section shall not apply to the driver of any non-leading commercial motor vehicle traveling in a platoon on any roadway where the Department of

Transportation has by traffic ordinance authorized travel by platoon. For purposes of this subsection, the term "platoon" means a group of individual commercial motor vehicles traveling at close following distances in a unified manner through the use of an electronically interconnected braking system. (1937, c. 407, s. 114; 1949, c. 1207, s. 4; 1973, c. 1330, s. 17; 2017-169, s. 1.)

§ 20-153. Turning at intersections.

(a) Right Turns. – Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(b) Left Turns. – The driver of a vehicle intending to turn left at any intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of that vehicle, and, after entering the intersection, the left turn shall be made so as to leave the intersection in a lane lawfully available to traffic moving in the direction upon the roadway being entered.

(c) Local authorities and the Department of Transportation, in their respective jurisdictions, may modify the foregoing method of turning at intersections by clearly indicating by buttons, markers, or other direction signs within an intersection the course to be followed by vehicles turning thereat, and it shall be unlawful for any driver to fail to turn in a manner as so directed. (1937, c. 407, s. 115; 1955, c. 913, s. 5; 1973, c. 1330, s. 18; 1977, c. 464, s. 34; 1997-405, s. 1.)

§ 20-154. Signals on starting, stopping or turning.

(a) The driver of any vehicle upon a highway or public vehicular area before starting, stopping or turning from a direct line shall first see that such movement can be made in safety, and if any pedestrian may be affected by such movement shall give a clearly audible signal by sounding the horn, and whenever the operation of any other vehicle may be affected by such movement, shall give a signal as required in this section, plainly visible to the driver of such other vehicle, of the intention to make such movement. The driver of a vehicle shall not back the same unless such movement can be made with safety and without interfering with other traffic.

(a1) A person who violates subsection (a) of this section and causes a motorcycle or bicycle operator to change travel lanes or leave that portion of any public street or highway designated as travel lanes shall be responsible for an infraction and shall be assessed a fine of not less than two hundred dollars (\$200.00). A person who violates subsection (a) of this section that results in a crash causing property damage or personal injury to a motorcycle or bicycle operator or passenger shall be responsible for an infraction and shall be assessed a fine of not less than five hundred dollars (\$500.00) unless subsection (a2) of this section applies.

(a2) A person who violates subsection (a) of this section and the violation results in a crash causing property damage in excess of five thousand dollars (\$5,000) or a serious bodily injury as defined in G.S. 20-160.1(b) to a motorcycle or bicycle operator or passenger shall be responsible for an infraction and shall be assessed a fine of not less than seven hundred fifty dollars (\$750.00). A violation of this subsection shall be treated as a failure to yield right-of-way to a motorcycle or bicycle, as applicable, for purposes of assessment of points under G.S. 20-16(c). In addition, the trial judge shall have the authority to order the license of any driver violating this subsection suspended for a period not to exceed 30 days. If a judge orders suspension of a person's drivers license pursuant to this subsection, the judge may allow the licensee a limited driving privilege for a period not to exceed the period of suspension. The

limited driving privilege shall be issued in the same manner and under the terms and conditions prescribed in G.S. 20-16.1(b)(1), (2), (3), (4), (5), and G.S. 20-16.1(g).

(b) The signal herein required shall be given by means of the hand and arm in the manner herein specified, or by any mechanical or electrical signal device approved by the Division, except that when a vehicle is so constructed or loaded as to prevent the hand and arm signal from being visible, both to the front and rear, the signal shall be given by a device of a type which has been approved by the Division.

Except as otherwise provided in subsection (b1) of this section, whenever the signal is given the driver shall indicate his intention to start, stop, or turn by extending the hand and arm from and beyond the left side of the vehicle as hereinafter set forth.

Left turn – hand and arm horizontal, forefinger pointing.

Right turn – upper arm horizontal, forearm and hand pointed upward.

Stop – upper arm horizontal, forearm and hand pointed downward.

All hand and arm signals shall be given from the left side of the vehicle and all signals shall be maintained or given continuously for the last 100 feet traveled prior to stopping or making a turn. Provided, that in all areas where the speed limit is 45 miles per hour or higher and the operator intends to turn from a direct line of travel, a signal of intention to turn from a direct line of travel shall be given continuously during the last 200 feet traveled before turning.

Any motor vehicle in use on a highway shall be equipped with, and required signal shall be given by, a signal lamp or lamps or mechanical signal device when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds 24 inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds 14 feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles except combinations operated by farmers in hauling farm products.

(b1) Notwithstanding the requirement set forth in subsection (b) of this section that a driver signal a right turn by extending his or her hand and arm from beyond the left side of the vehicle, an operator of a bicycle may signal his or her intention to make a right turn by extending his or her hand and arm horizontally, with the forefinger pointing, from beyond the right side of the bicycle.

(c) No person shall operate over the highways of this State a right-hand-drive motor vehicle or a motor vehicle equipped with the steering mechanism on the right-hand side thereof unless said motor vehicle is equipped with mechanical or electrical signal devices by which the signals for left turns and right turns may be given. Such mechanical or electrical devices shall be approved by the Division.

(d) A violation of this section shall not constitute negligence per se. (1937, c. 407, s. 116; 1949, c. 1016, s. 1; 1951, cc. 293, 360; 1955, c. 1157, s. 9; 1957, c. 488, s. 2; 1965, c. 768; 1973, c. 1330, s. 19; 1975, c. 716, s. 5; 1981, c. 599, s. 4; 1985, c. 96; 2011-361, s. 1; 2013-366, s. 5(a); 2016-90, s. 5.5(c).)

§ 20-155. Right-of-way.

(a) When two vehicles approach or enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(b) The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the

opposite direction which is within the intersection or so close as to constitute an immediate hazard.

(c) The driver of any vehicle upon a highway within a business or residence district shall yield the right-of-way to a pedestrian crossing such highway within any clearly marked crosswalk, or any regular pedestrian crossing included in the prolongation of the lateral boundary lines of the adjacent sidewalk at the end of a block, except at intersections where the movement of traffic is being regulated by traffic officers or traffic direction devices.

(d) The driver of any vehicle approaching but not having entered a traffic circle shall yield the right-of-way to a vehicle already within such traffic circle. (1937, c. 407, s. 117; 1949, c. 1016, s. 2; 1955, c. 913, ss. 6, 7; 1967, c. 1053; 1973, c. 1330, s. 20.)

§ 20-156. Exceptions to the right-of-way rule.

(a) The driver of a vehicle about to enter or cross a highway from an alley, building entrance, private road, or driveway shall yield the right-of-way to all vehicles approaching on the highway to be entered.

(b) The driver of a vehicle upon the highway shall yield the right-of-way to police and fire department vehicles and public and private ambulances, vehicles used by an organ procurement organization or agency for the recovery or transportation of human tissues and organs for transplantation or a vehicle operated by a transplant coordinator who is an employee of an organ procurement organization or agency when the transplant coordinator is responding to a call to recover or transport human tissues or organs for transplantation, and to rescue squad emergency service vehicles and vehicles operated by county fire marshals and civil preparedness coordinators, and to a vehicle operated by the Division of Marine Fisheries of the Department of Environmental Quality or the Division of Parks and Recreation of the Department of Natural and Cultural Resources when used for law enforcement, firefighting, or other emergency response purpose, and to a vehicle operated by the North Carolina Forest Service of the Department of Agriculture and Consumer Services when used for a law enforcement, firefighting, or other emergency response purpose, when the operators of said vehicles are giving a warning signal by appropriate light and by bell, siren or exhaust whistle audible under normal conditions from a distance not less than 1,000 feet. When appropriate warning signals are being given, as provided in this subsection, an emergency vehicle may proceed through an intersection or other place when the emergency vehicle is facing a stop sign, a yield sign, or a traffic light which is emitting a flashing strobe signal or a beam of steady or flashing red light. This provision shall not operate to relieve the driver of a police or fire department vehicle, or a vehicle owned or operated by the Department of Environmental Quality, or the Department of Agriculture and Consumer Services, or public or private ambulance or vehicles used by an organ procurement organization or agency for the recovery or transportation of human tissues and organs for transplantation or a vehicle operated by a transplant coordinator who is an employee of an organ procurement organization or agency when the transplant coordinator is responding to a call to recover or transport human tissues or organs for transplantation, or rescue squad emergency service vehicle or county fire marshals or civil preparedness coordinators from the duty to drive with due regard for the safety of all persons using the highway, nor shall it protect the driver of any such vehicle or county fire marshal or civil preparedness coordinator from the consequence of any arbitrary exercise of such right-of-way. (1937, c. 407, s. 118; 1971, cc. 78, 106; 1973, c. 1330, s. 21; 1977, c. 52, s. 4; c. 438, s. 3; 1985, c. 427; 1989, c. 537, s. 3; 2013-415, s. 1(d); 2015-241, ss. 14.30(u), (hh).)

§ 20-157. Approach of law enforcement, fire department or rescue squad vehicles or ambulances; driving over fire hose or blocking fire-fighting equipment; parking, etc., near law enforcement, fire department, or rescue squad vehicle or ambulance.

(a) Upon the approach of any law enforcement or fire department vehicle or public or private ambulance or rescue squad emergency service vehicle, or a vehicle operated by the Division of Marine Fisheries of the Department of Environmental Quality, or the Division of Parks and Recreation of the Department of Natural and Cultural Resources, or the North Carolina Forest Service of the Department of Agriculture and Consumer Services when traveling in response to a fire alarm or other emergency response purpose, giving warning signal by appropriate light and by audible bell, siren or exhaust whistle, audible under normal conditions from a distance not less than 1000 feet, the driver of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb, clear of any intersection of streets or highways, and shall stop and remain in such position unless otherwise directed by a law enforcement or traffic officer until the law enforcement or fire department vehicle, or the vehicle operated by the Division of Marine Fisheries of the Department of Environmental Quality, or the Division of Parks and Recreation of the Department of Natural and Cultural Resources, or the North Carolina Forest Service of the Department of Agriculture and Consumer Services, or the public or private ambulance or rescue squad emergency service vehicle shall have passed. Provided, however, this subsection shall not apply to vehicles traveling in the opposite direction of the vehicles herein enumerated when traveling on a four-lane limited access highway with a median divider dividing the highway for vehicles traveling in opposite directions, and provided further that the violation of this subsection shall be negligence per se. Violation of this subsection is a Class 2 misdemeanor.

(b) It shall be unlawful for the driver of any vehicle other than one on official business to follow any fire apparatus traveling in response to a fire alarm closer than one block or to drive into or park such vehicle within one block where fire apparatus has stopped in answer to a fire alarm.

(c) Outside of the corporate limits of any city or town it shall be unlawful for the driver of any vehicle other than one on official business to follow any fire apparatus traveling in response to a fire alarm closer than 400 feet or to drive into or park such vehicle within a space of 400 feet from where fire apparatus has stopped in answer to a fire alarm.

(d) It shall be unlawful to drive a motor vehicle over a fire hose or any other equipment that is being used at a fire at any time, or to block a fire-fighting apparatus or any other equipment from its source of supply regardless of its distance from the fire.

(e) It shall be unlawful for the driver of a vehicle, other than one on official business, to park and leave standing such vehicle within 100 feet of law enforcement or fire department vehicles, public or private ambulances, or rescue squad emergency vehicles which are engaged in the investigation of an accident or engaged in rendering assistance to victims of such accident.

(f) When an authorized emergency vehicle as described in subsection (a) of this section or any public service vehicle is parked or standing within 12 feet of a roadway and is giving a warning signal by appropriate light, the driver of every other approaching vehicle shall, as soon as it is safe and when not otherwise directed by an individual lawfully directing traffic, do one of the following:

- (1) Move the vehicle into a lane that is not the lane nearest the parked or standing authorized emergency vehicle or public service vehicle and continue traveling

in that lane until safely clear of the authorized emergency vehicle. This paragraph applies only if the roadway has at least two lanes for traffic proceeding in the direction of the approaching vehicle and if the approaching vehicle may change lanes safely and without interfering with any vehicular traffic.

- (2) Slow the vehicle, maintaining a safe speed for traffic conditions, and operate the vehicle at a reduced speed and be prepared to stop until completely past the authorized emergency vehicle or public service vehicle. This paragraph applies only if the roadway has only one lane for traffic proceeding in the direction of the approaching vehicle or if the approaching vehicle may not change lanes safely and without interfering with any vehicular traffic.

For purposes of this section, "public service vehicle" means a vehicle that (i) is being used to assist motorists or law enforcement officers with wrecked or disabled vehicles, (ii) is being used to install, maintain, or restore utility service, including electric, cable, telephone, communications, and gas, (iii) is being used in the collection of refuse, solid waste, or recycling, or (iv) is a highway maintenance vehicle owned and operated by or contracted by the State or a local government and is operating an amber-colored flashing light authorized by G.S. 20-130.2. Violation of this subsection shall be negligence per se.

(g) Except as provided in subsections (a), (h), and (i) of this section, violation of this section shall be an infraction punishable by a fine of two hundred fifty dollars (\$250.00).

(h) A person who violates this section and causes damage to property in the immediate area of the authorized emergency vehicle or public service vehicle in excess of five hundred dollars (\$500.00), or causes injury to a law enforcement officer, a firefighter, an emergency vehicle operator, an Incident Management Assistance Patrol member, a public service vehicle operator, or any other emergency response person in the immediate area of the authorized emergency vehicle or public service vehicle is guilty of a Class 1 misdemeanor.

(i) A person who violates this section and causes serious injury or death to a law enforcement officer, a firefighter, an emergency vehicle operator, an Incident Management Assistance Patrol member, a public service vehicle operator, or any other emergency response person in the immediate area of the authorized emergency vehicle or public service vehicle is guilty of a Class I felony. The Division may suspend, for up to six months, the driver's license of any person convicted under this subsection. If the Division suspends a person's license under this subsection, a judge may allow the licensee a limited driving privilege for a period not to exceed the period of suspension, provided the person's license has not also been revoked or suspended under any other provision of law. The limited driving privilege shall be issued in the same manner and under the terms and conditions prescribed in G.S. 20-16.1(b). (1937, c. 407, s. 119; 1955, cc. 173, 744; 1971, c. 366, ss. 1, 2; 1985, c. 764, s. 31; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1993, c. 539, s. 372; 1994, Ex. Sess., c. 24, s. 14(c); 2001-331, s. 1; 2005-189, s. 1; 2006-259, s. 9; 2007-360, s. 1; 2010-132, s. 12; 2012-14, s. 1; 2013-415, s. 1(e); 2015-26, s. 3; 2015-241, s. 14.30(ii).)

§ 20-157.1. Funeral processions.

(a) As used in this section, a "funeral procession" means two or more vehicles accompanying the remains of a deceased person, or traveling to the church, chapel, or other location at which the funeral services are to be held, in which the lead vehicle is either a State or local law enforcement vehicle, other vehicle designated by a law enforcement officer or the

funeral director, or the lead vehicle displays a flashing amber or purple light, sign, pennant, flag, or other insignia furnished by a funeral home indicating a funeral procession.

(b) Each vehicle in the funeral procession shall be operated with its headlights illuminated, if so equipped, and its hazard warning signal lamps illuminated, if so equipped.

(c) The operator of the lead vehicle in a funeral procession shall comply with all traffic-control signals, but when the lead vehicle in a funeral procession has progressed across an intersection in accordance with the traffic-control sign or signal, or when directed to do so by a law enforcement officer or a designee of a law enforcement officer or the funeral director, or when the lead vehicle is a law enforcement vehicle which progresses across the intersection while giving appropriate warning by light or siren, all vehicles in the funeral procession may proceed through the intersection without stopping, except that the operator of each vehicle shall exercise reasonable care towards any other vehicle or pedestrian on the highway. An operator of a vehicle that is not part of the funeral procession shall not join the funeral procession for the purpose of securing the right-of-way granted by this subsection.

(d) Operators of vehicles in a funeral procession shall drive on the right-hand side of the roadway and shall follow the vehicle ahead as closely as reasonable and prudent having due regard for speed and existing conditions.

(e) Operators of vehicles in a funeral procession shall yield the right-of-way to law enforcement vehicles, fire protection vehicles, rescue vehicles, ambulances, and other emergency vehicles giving appropriate warning signals by light or siren and shall yield the right-of-way when directed to do so by a law enforcement officer.

(f) Operators of vehicles in a funeral procession shall proceed at the posted minimum speed, except that the operator of such vehicle shall exercise reasonable care having due regard for speed and existing conditions.

(g) The operator of a vehicle proceeding in the opposite direction as a funeral procession may yield to the funeral procession. If the operator chooses to yield to the procession, the operator must do so by reducing speed, or by stopping completely off the roadway when meeting the procession or while the procession passes, so that operators of other vehicles proceeding in the opposite direction of the procession can continue to travel without leaving their lane of traffic.

(h) The operator of a vehicle proceeding in the same direction as a funeral procession shall not pass or attempt to pass the funeral procession, except that the operator of such a vehicle may pass a funeral procession when the highway has been marked for two or more lanes of moving traffic in the same direction of the funeral procession.

(i) An operator of a vehicle shall not knowingly drive between vehicles in a funeral procession by crossing their path unless directed to do so by a person authorized to direct traffic. When a funeral procession is proceeding through a steady or strobe-beam stoplight emitting a red light as permitted by subsection (c), an operator of a vehicle that is not in the funeral procession shall not enter the intersection knowing a funeral procession is in progress, even if facing a steady or strobe-beam stoplight emitting a green light, unless the operator can do so safely without crossing the path of the funeral procession.

(j) Nothing in this section shall be construed to prevent State or local law enforcement officers from escorting funeral processions in law enforcement vehicles.

(k) A violation of this section shall not constitute negligence per se.

(l) To the extent that a local government unit's ordinance is in direct conflict with any part of this statute, the ordinance shall control and prevail over the conflicting part.

(m) A violation of this section shall not be considered a moving violation for purposes of G.S. 58-36-65 or G.S. 58-36-75. (1999-441, s. 1.)

§ 20-158. Vehicle control signs and signals.

(a) The Department of Transportation, with reference to State highways, and local authorities, with reference to highways under their jurisdiction, are hereby authorized to control vehicles:

- (1) At intersections, by erecting or installing stop signs requiring vehicles to come to a complete stop at the entrance to that portion of the intersection designated as the main traveled or through highway. Stop signs may also be erected at three or more entrances to an intersection.
 - (2) At appropriate places other than intersections, by erecting or installing stop signs requiring vehicles to come to a complete stop.
 - (3) At intersections and other appropriate places, by erecting or installing steady-beam traffic signals and other traffic control devices, signs, or signals. All steady-beam traffic signals emitting alternate red and green lights shall be arranged so that the red light in vertical-arranged signal faces shall appear above, and in horizontal-arranged signal faces shall appear to the left of all yellow and green lights.
 - (4) At intersections and other appropriate places, by erecting or installing flashing red or yellow lights.
- (b) Control of Vehicles at Intersections. –
- (1) When a stop sign has been erected or installed at an intersection, it shall be unlawful for the driver of any vehicle to fail to stop in obedience thereto and yield the right-of-way to vehicles operating on the designated main-traveled or through highway. When stop signs have been erected at three or more entrances to an intersection, the driver, after stopping in obedience thereto, may proceed with caution.
 - (2)
 - a. When a traffic signal is emitting a steady red circular light controlling traffic approaching an intersection, an approaching vehicle facing the red light shall come to a stop and shall not enter the intersection. After coming to a complete stop and unless prohibited by an appropriate sign, that approaching vehicle may make a right turn.
 - b. Any vehicle that turns right under this subdivision shall yield the right-of-way to:
 1. Other traffic and pedestrians using the intersection; and
 2. Pedestrians who are moving towards the intersection, who are in reasonably close proximity to the intersection, and who are preparing to cross in front of the traffic that is required to stop at the red light.
 - c. Failure to yield to a pedestrian under this subdivision shall be an infraction, and the court may assess a penalty of not more than five hundred dollars (\$500.00) and not less than one hundred dollars (\$100.00).
 - d. Repealed by Session Laws 2014-58, s. 4, effective July 7, 2014.

- (2a) When a traffic signal is emitting a steady yellow circular light on a traffic signal controlling traffic approaching an intersection or a steady yellow arrow light on a traffic signal controlling traffic turning at an intersection, vehicles facing the yellow light are warned that the related green light is being terminated or a red light will be immediately forthcoming. When the traffic signal is emitting a steady green light, vehicles may proceed with due care through the intersection subject to the rights of pedestrians and other vehicles as may otherwise be provided by law.
 - (3) When a flashing red light has been erected or installed at an intersection, approaching vehicles facing the red light shall stop and yield the right-of-way to vehicles in or approaching the intersection. The right to proceed shall be subject to the rules applicable to making a stop at a stop sign.
 - (4) When a flashing yellow light has been erected or installed at an intersection, approaching vehicles facing the yellow flashing light may proceed through the intersection with caution, yielding the right-of-way to vehicles in or approaching the intersection.
 - (5) When a stop sign, traffic signal, flashing light, or other traffic-control device authorized by subsection (a) of this section requires a vehicle to stop at an intersection, the driver shall stop (i) at an appropriately marked stop line, or if none, (ii) before entering a marked crosswalk, or if none, (iii) before entering the intersection at the point nearest the intersecting street where the driver has a view of approaching traffic on the intersecting street.
 - (6) When a traffic signal is not illuminated due to a power outage or other malfunction, vehicles shall approach the intersection and proceed through the intersection as though such intersection is controlled by a stop sign on all approaches to the intersection. This subdivision shall not apply if the movement of traffic at the intersection is being directed by a law enforcement officer, another authorized person, or another type of traffic control device.
- (c) Control of Vehicles at Places other than Intersections. –
- (1) When a stop sign has been erected or installed at a place other than an intersection, it shall be unlawful for the driver of any vehicle to fail to stop in obedience thereto and yield the right-of-way to pedestrians and other vehicles.
 - (2) When a traffic signal has been erected or installed at a place other than an intersection, and is emitting a steady red light, vehicles facing the red light shall come to a complete stop. When the traffic signal is emitting a steady yellow light, vehicles facing the light shall be warned that a red light will be immediately forthcoming and that vehicles may not proceed through such a red light. When the traffic signal is emitting a steady green light, vehicles may proceed subject to the rights of pedestrians and other vehicles as may otherwise be provided by law.
 - (3) When a flashing red light has been erected or installed at a place other than an intersection, approaching vehicles facing the light shall stop and yield the right-of-way to pedestrians or other vehicles.
 - (4) When a flashing yellow light has been erected or installed at a place other than an intersection, approaching vehicles facing the light may proceed with caution, yielding the right-of-way to pedestrians and other vehicles.

- (5) When a traffic signal, stop sign, or other traffic control device authorized by subsection (a) requires a vehicle to stop at a place other than an intersection, the driver shall stop at an appropriately marked stop line, or if none, before entering a marked crosswalk, or if none, before proceeding past the traffic control device.
- (6) When a ramp meter is displaying a circular red display, vehicles facing the red light must stop. When a ramp meter is displaying a circular green display, a vehicle may proceed for each lane of traffic facing the meter. When the display is dark or not emitting a red or green display, a vehicle may proceed without stopping. A violation of this subdivision is an infraction. No drivers license points or insurance surcharge shall be assessed as a result of a violation of this subdivision.

(d) No failure to stop as required by the provisions of this section shall be considered negligence or contributory negligence per se in any action at law for injury to person or property, but the facts relating to such failure to stop may be considered with the other facts in the case in determining whether a party was guilty of negligence or contributory negligence.

(e) Defense. – It shall be a defense to a violation of sub-subdivision (b)(2)a. of this section if the operator of a motorcycle, as defined in G.S. 20-4.01(27)h., shows all of the following:

- (1) The operator brought the motorcycle to a complete stop at the intersection or stop bar where a steady red light was being emitted in the direction of the operator.
- (2) The intersection is controlled by a vehicle actuated traffic signal using an inductive loop to activate the traffic signal.
- (3) No other vehicle that was entitled to have the right-of-way under applicable law was sitting at, traveling through, or approaching the intersection.
- (4) No pedestrians were attempting to cross at or near the intersection.
- (5) The motorcycle operator who received the citation waited a minimum of three minutes at the intersection or stop bar where the steady red light was being emitted in the direction of the operator before entering the intersection. (1937, c. 407, s. 120; 1941, c. 83; 1949, c. 583, s. 2; 1955, c. 384, s. 1; c. 913, s. 7; 1957, c. 65, s. 11; 1973, c. 507, s. 5; c. 1191; c. 1330, s. 22; 1975, c. 1; 1977, c. 464, s. 34; 1979, c. 298, s. 1; 1989, c. 285; 2004-141, ss. 1, 2; 2004-172, ss. 2, 5; 2006-264, s. 6; 2007-260, s. 1; 2007-360, ss. 2, 3; 2014-58, ss. 4, 10(b); 2017-102, s. 5.2(b).)

§ 20-158.1. Erection of "yield right-of-way" signs.

The Department of Transportation, with reference to State highways, and cities and towns with reference to highways and streets under their jurisdiction, are authorized to designate main-traveled or through highways and streets by erecting at the entrance thereto from intersecting highways or streets, signs notifying drivers of vehicles to yield the right-of-way to drivers of vehicles approaching the intersection on the main-traveled or through highway. Notwithstanding any other provisions of this Chapter, except G.S. 20-156, whenever any such yield right-of-way signs have been so erected, it shall be unlawful for the driver of any vehicle to enter or cross such main-traveled or through highway or street unless he shall first slow down and yield right-of-way to any vehicle in movement on the main-traveled or through highway or

street which is approaching so as to arrive at the intersection at approximately the same time as the vehicle entering the main-traveled or through highway or street. No failure to so yield the right-of-way shall be considered negligence or contributory negligence per se in any action at law for injury to person or property, but the facts relating to such failure to yield the right-of-way may be considered with the other facts in the case in determining whether either party in such action was guilty of negligence or contributory negligence. (1955, c. 295; 1957, c. 65, s. 11; 1973, c. 507, s. 5; c. 1330, s. 23; 1977, c. 464, s. 34.)

§ 20-158.2. Control of vehicles on Turnpike System.

The North Carolina Turnpike Authority may control vehicles at appropriate places by erecting traffic control devices to collect tolls. (2002-133, s. 2.)

§ 20-158.3. Emergency entry to controlled access roads.

Any person, association, or other legal entity having responsibility for a controlled access system on a road that is a public vehicular area shall provide a means of immediate access to all emergency service vehicles, which shall include law enforcement, fire, rescue, ambulance, and first responder vehicles. This section shall not apply to any entity where federal regulations and requirements on its activities preempt application of State regulations or requirements. (2007-455, s. 2.)

§ 20-159. Repealed by Session Laws 1973, c. 1330, s. 39.

§ 20-160. Driving through safety zone or on sidewalks prohibited.

- (a) The driver of a vehicle shall not at any time drive through or over a safety zone.
- (b) No person shall drive any motor vehicle upon a sidewalk or sidewalk area except upon a permanent or temporary driveway. (1937, c. 407, s. 122; 1973, c. 1330, s. 24.)

§ 20-160.1. Failure to yield causing serious bodily injury; penalties.

(a) Unless the conduct is covered under some other law providing greater punishment, a person who commits the offense of failure to yield while approaching or entering an intersection, turning at a stop or yield sign, entering a roadway, upon the approach of an emergency vehicle, or at highway construction or maintenance shall be punished under this section. When there is serious bodily injury but no death resulting from the violation, the violator shall be fined five hundred dollars (\$500.00) and the violator's drivers license or commercial drivers license shall be suspended for 90 days.

(b) As used in this section, "serious bodily injury" means bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty. (2004-172, s. 1.)

§ 20-161. Stopping on highway prohibited; warning signals; removal of vehicles from public highway.

(a) No person shall park or leave standing any vehicle, whether attended or unattended, upon the main-traveled portion of any highway or highway bridge with the speed limit posted less than 45 miles per hour unless the vehicle is disabled to such an extent that it is impossible to avoid stopping and temporarily leaving the vehicle upon the paved or main traveled portion of

the highway or highway bridge. This subsection shall not apply to a solid waste vehicle stopped on a highway while engaged in collecting garbage as defined in G.S. 20-118(c)(5)g. or recyclable material as defined in G.S. 130A-290(a)(26).

(a1) No person shall park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled portion of any highway or highway bridge with the speed limit posted 45 miles per hour or greater unless the vehicle is disabled to such an extent that it is impossible to avoid stopping and temporarily leaving the vehicle upon the paved or main-traveled portion of the highway or highway bridge. This subsection shall not apply to a solid waste vehicle stopped on a highway while engaged in collecting garbage as defined in G.S. 20-118(c)(5)g. or recyclable material as defined in G.S. 130A-290(a)(26).

(b) No person shall park or leave standing any vehicle upon the shoulder of a public highway unless the vehicle can be clearly seen by approaching drivers from a distance of 200 feet in both directions and does not obstruct the normal movement of traffic.

(c) The operator of any truck, truck tractor, trailer or semitrailer which is disabled upon any portion of the highway shall display warning devices of a type and in a manner as required under the rules and regulations of the United States Department of Transportation as adopted by the Division of Motor Vehicles. Such warning devices shall be displayed as long as the vehicle is disabled.

(d) The owner of any vehicle parked or left standing in violation of law shall be deemed to have appointed any investigating law-enforcement officer his agent:

- (1) For the purpose of removing the vehicle to the shoulder of the highway or to some other suitable place; and
- (2) For the purpose of arranging for the transportation and safe storage of any vehicle which is interfering with the regular flow of traffic or which otherwise constitutes a hazard, in which case the officer shall be deemed a legal possessor of the vehicle within the meaning of G.S. 44A-2(d).

(e) When any vehicle is parked or left standing upon the right-of-way of a public highway, including rest areas, for a period of 24 hours or more, the owner shall be deemed to have appointed any investigating law-enforcement officer his agent for the purpose of arranging for the transportation and safe storage of such vehicle and such investigating law-enforcement officer shall be deemed a legal possessor of the motor vehicle within the meaning of that term as it appears in G.S. 44A-2(d).

(f) An investigating law enforcement officer, with the concurrence of the Department of Transportation, or the Department of Transportation, with the concurrence of an investigating law enforcement officer, may immediately remove or cause to be removed from the State highway system any wrecked, abandoned, disabled, unattended, burned, or partially dismantled vehicle, cargo, or other personal property interfering with the regular flow of traffic or which otherwise constitutes a hazard. In the event of a motor vehicle crash involving serious personal injury or death, no removal shall occur until the investigating law enforcement officer determines that adequate information has been obtained for preparation of a crash report. No state or local law enforcement officer, Department of Transportation employee, or person or firm contracting or assisting in the removal or disposition of any such vehicle, cargo, or other personal property shall be held criminally or civilly liable for any damage or economic injury related to carrying out or enforcing the provisions of this section.

(g) The owner shall be liable for any costs incurred in the removal, storage, and subsequent disposition of a vehicle, cargo, or other personal property under the authority of this

section. (1937, c. 407, s. 123; 1951, c. 1165, s. 1; 1971, c. 294, s. 1; 1973, c. 1330, s. 25; 1985, c. 454, s. 6; 2003-310, s. 1; 2007-360, ss. 4, 5; 2009-104, s. 1; 2010-132, ss. 13, 14, 15; 2015-231, s. 1.)

§ 20-161.1. Regulation of night parking on highways.

No person parking or leaving standing a vehicle at night on a highway or on a side road entering into a highway shall permit the bright lights of said vehicle to continue burning when such lights face oncoming traffic. (1953, c. 1052.)

§ 20-161.2: Repealed by Session Laws 1983, c. 420, s. 1.

§ 20-162. Parking in front of private driveway, fire hydrant, fire station, intersection of curb lines or fire lane.

(a) No person shall park a vehicle or permit it to stand, whether attended or unattended, upon a highway in front of a private driveway or within 15 feet in either direction of a fire hydrant or the entrance to a fire station, nor within 25 feet from the intersection of curb lines or if none, then within 15 feet of the intersection of property lines at an intersection of highways; provided, that local authorities may by ordinance decrease the distance within which a vehicle may park in either direction of a fire hydrant.

(b) No person shall park a vehicle or permit it to stand, whether attended or unattended, upon any public vehicular area, street, highway or roadway in any area designated as a fire lane. This prohibition includes designated fire lanes in shopping center or mall parking lots and all other public vehicular areas. Provided, however, persons loading or unloading supplies or merchandise may park temporarily in a fire lane located in a shopping center or mall parking lot as long as the vehicle is not left unattended. The prima facie rule of evidence created by G.S. 20-162.1 is applicable to prosecutions for violation of this section. The owner of a vehicle parked in violation of this subsection shall be deemed to have appointed any State, county or municipal law-enforcement officer as his agent for the purpose of arranging for the transportation and safe storage of such vehicle. No law-enforcement officer removing such a vehicle shall be held criminally or civilly liable in any way for any acts or omissions arising out of or caused by carrying out or enforcing any provisions of this subsection, unless the conduct of the officer amounts to wanton misconduct or intentional wrongdoing. (1937, c. 407, s. 124; 1939, c. 111; 1979, c. 552; 1981, c. 574, s. 1.)

§ 20-162.1. Prima facie rule of evidence for enforcement of parking regulations.

(a) Whenever evidence shall be presented in any court of the fact that any automobile, truck, or other vehicle was found upon any street, alley or other public place contrary to and in violation of the provisions of any statute or of any municipal or Department of Transportation ordinance limiting the time during which any such vehicle may be parked or prohibiting or otherwise regulating the parking of any such vehicle, it shall be prima facie evidence in any court in the State of North Carolina that such vehicle was parked and left upon such street, alley or public way or place by the person, firm or corporation in whose name such vehicle is then registered and licensed according to the records of the department or agency of the State of North Carolina, by whatever name designated, which is empowered to register such vehicles and to issue licenses for their operation upon the streets and highways of this State; provided, that no evidence tendered or presented under the authorization contained in this section shall be

admissible or competent in any respect in any court or tribunal, except in cases concerned solely with violation of statutes or ordinances limiting, prohibiting or otherwise regulating the parking of automobiles or other vehicles upon public streets, highways, or other public places.

Any person found responsible for an infraction pursuant to this section shall be subject to a penalty of not more than five dollars (\$5.00).

(b) The prima facie rule of evidence established by subsection (a) shall not apply to the registered owner of a leased or rented vehicle parked in violation of law when the owner can furnish sworn evidence that the vehicle was, at the time of the parking violation, leased or rented, to another person or company. In those instances, the owner of the vehicle shall furnish sworn evidence to the courts within 30 days after notification of the violation in accordance with this subsection.

If the notification is given to the owner of the vehicle within 90 days after the date of the violation, the owner shall include in the sworn evidence the name and address of the person or company that leased or rented the vehicle. If notification is given to the owner of the vehicle after 90 days have elapsed from the date of the violation, the owner is not required to include the name or address of the lessee or renter of the vehicle in the sworn evidence. (1953, c. 879, ss. 1, 11/2; c. 978; 1955, c. 566, s. 1; 1983, c. 753; 1985, c. 764, s. 32; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1987, c. 736, s. 1; 1989, c. 243, s. 2; 2001-259, s. 1.)

§§ 20-162.2 through 20-162.3. Transferred to §§ 20-219.2, 20-219.3 by Session Laws 1973, c. 1330, s. 36.

§ 20-163. Unattended motor vehicles.

No person driving or in charge of a motor vehicle shall permit it to stand unattended on a public highway or public vehicular area without first stopping the engine, effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway. (1937, c. 407, s. 125; 1973, c. 1330, s. 26.)

§ 20-164. Repealed by Session Laws 1973, c. 1330, s. 39.

§ 20-165: Repealed by Session Laws 1995, c. 379, s. 6.

§ 20-165.1. One-way traffic.

In all cases where the Department of Transportation has heretofore, or may hereafter lawfully designate any highway or other separate roadway, under its jurisdiction for one-way traffic and shall erect appropriate signs giving notice thereof, it shall be unlawful for any person to willfully drive or operate any vehicle on said highway or roadway except in the direction so indicated by said signs. (1957, c. 1177; 1973, c. 507, s. 5; c. 1330, s. 28; 1977, c. 464, s. 34.)

§ 20-166. Duty to stop in event of a crash; furnishing information or assistance to injured person, etc.; persons assisting exempt from civil liability.

- (a) The driver of any vehicle who knows or reasonably should know:
- (1) That the vehicle which he or she is operating is involved in a crash; and
 - (2) That the crash has resulted in serious bodily injury, as defined in G.S. 14-32.4, or death to any person;

shall immediately stop his or her vehicle at the scene of the crash. The driver shall remain with the vehicle at the scene of the crash until a law-enforcement officer completes the investigation of the crash or authorizes the driver to leave and the vehicle to be removed, unless remaining at the scene places the driver or others at significant risk of injury.

Prior to the completion of the investigation of the crash by a law enforcement officer, or the consent of the officer to leave, the driver may not facilitate, allow, or agree to the removal of the vehicle from the scene for any purpose other than to call for a law enforcement officer, to call for medical assistance or medical treatment as set forth in subsection (b) of this section, or to remove oneself or others from significant risk of injury. If the driver does leave for a reason permitted by this subsection, then the driver must return with the vehicle to the accident scene within a reasonable period of time, unless otherwise instructed by a law enforcement officer. A willful violation of this subsection shall be punished as a Class F felony.

(a1) The driver of any vehicle who knows or reasonably should know:

- (1) That the vehicle which he or she is operating is involved in a crash; and
- (2) That the crash has resulted in injury;

shall immediately stop his or her vehicle at the scene of the crash. The driver shall remain with the vehicle at the scene of the crash until a law enforcement officer completes the investigation of the crash or authorizes the driver to leave and the vehicle to be removed, unless remaining at the scene places the driver or others at significant risk of injury.

Prior to the completion of the investigation of the crash by a law enforcement officer, or the consent of the officer to leave, the driver may not facilitate, allow, or agree to the removal of the vehicle from the scene for any purpose other than to call for a law enforcement officer, to call for medical assistance or medical treatment as set forth in subsection (b) of this section, or to remove oneself or others from significant risk of injury. If the driver does leave for a reason permitted by this subsection, then the driver must return with the vehicle to the crash scene within a reasonable period of time, unless otherwise instructed by a law enforcement officer. A willful violation of this subsection shall be punished as a Class H felony.

(b) In addition to complying with the requirements of subsections (a) and (a1) of this section, the driver as set forth in subsections (a) and (a1) shall give his or her name, address, driver's license number and the license plate number of the vehicle to the person struck or the driver or occupants of any vehicle collided with, provided that the person or persons are physically and mentally capable of receiving such information, and shall render to any person injured in such crash reasonable assistance, including the calling for medical assistance if it is apparent that such assistance is necessary or is requested by the injured person. A violation of this subsection is a Class 1 misdemeanor.

(c) The driver of any vehicle, when the driver knows or reasonably should know that the vehicle which the driver is operating is involved in a crash which results:

- (1) Only in damage to property; or
- (2) In injury or death to any person, but only if the operator of the vehicle did not know and did not have reason to know of the death or injury;

shall immediately stop the vehicle at the scene of the crash. If the crash is a reportable crash, the driver shall remain with the vehicle at the scene of the crash until a law enforcement officer completes the investigation of the crash or authorizes the driver to leave and the vehicle to be removed, unless remaining at the scene places the driver or others at significant risk of injury.

Prior to the completion of the investigation of the crash by a law enforcement officer, or the consent of the officer to leave, the driver may not facilitate, allow, or agree to the removal of the

vehicle from the scene, for any purpose other than to call for a law enforcement officer, to call for medical assistance or medical treatment, or to remove oneself or others from significant risk of injury. If the driver does leave for a reason permitted by this subsection, then the driver must return with the vehicle to the accident scene within a reasonable period of time, unless otherwise instructed by a law enforcement officer. A willful violation of this subsection is a Class 1 misdemeanor.

(c1) In addition to complying with the requirement of subsection (c) of this section, the driver as set forth in subsection (c) shall give his or her name, address, driver's license number and the license plate number of his vehicle to the driver or occupants of any other vehicle involved in the crash or to any person whose property is damaged in the crash. If the damaged property is a parked and unattended vehicle and the name and location of the owner is not known to or readily ascertainable by the driver of the responsible vehicle, the driver shall furnish the information required by this subsection to the nearest available peace officer, or, in the alternative, and provided the driver thereafter within 48 hours fully complies with G.S. 20-166.1(c), shall immediately place a paper-writing containing the information in a conspicuous place upon or in the damaged vehicle. If the damaged property is a guardrail, utility pole, or other fixed object owned by the Department of Transportation, a public utility, or other public service corporation to which report cannot readily be made at the scene, it shall be sufficient if the responsible driver shall furnish the information required to the nearest peace officer or make written report thereof containing the information by U.S. certified mail, return receipt requested, to the North Carolina Division of Motor Vehicles within five days following the collision. A violation of this subsection is a Class 1 misdemeanor.

(c2) Notwithstanding subsections (a), (a1), and (c) of this section, if a crash occurs on a main lane, ramp, shoulder, median, or adjacent area of a highway, each vehicle shall be moved as soon as possible out of the travel lane and onto the shoulder or to a designated accident investigation site to complete the requirements of this section and minimize interference with traffic if all of the following apply:

- (1) The crash has not resulted in injury or death to any person or the drivers did not know or have reason to know of any injury or death.
- (2) Each vehicle can be normally and safely driven. For purposes of this subsection, a vehicle can be normally and safely driven if it does not require towing and can be operated under its own power and in its usual manner, without additional damage or hazard to the vehicle, other traffic, or the roadway.

(d) Any person who renders first aid or emergency assistance at the scene of a motor vehicle crash on any street or highway to any person injured as a result of the accident, shall not be liable in civil damages for any acts or omissions relating to the services rendered, unless the acts or omissions amount to wanton conduct or intentional wrongdoing.

(e) The Division of Motor Vehicles shall revoke the drivers license of a person convicted of violating subsection (a) or (a1) of this section for a period of one year, unless the court makes a finding that a longer period of revocation is appropriate under the circumstances of the case. If the court makes this finding, the Division of Motor Vehicles shall revoke that person's drivers license for two years. Upon a first conviction only for a violation of subsection (a1) of this section, a trial judge may allow limited driving privileges in the manner set forth in G.S. 20-179.3(b)(2) during any period of time during which the drivers license is revoked. (1937, c. 407, s. 128; 1939, c. 10, ss. 1, 11/2; 1943, c. 439; 1951, cc. 309, 794, 823; 1953, cc. 394, 793; c.

1340, s. 1; 1955, c. 913, s. 8; 1965, c. 176; 1967, c. 445; 1971, c. 958, s. 1; 1973, c. 507, s. 5; 1975, c. 716, s. 5; 1977, c. 464, s. 34; 1979, c. 667, s. 32; 1983, c. 912, s. 1; 1985, c. 324, ss. 1-4; 1993, c. 539, ss. 373-375, 1260; 1994, Ex. Sess., c. 24, s. 14(c); 2003-310, s. 2; 2003-394, s. 1; 2005-460, s. 1; 2008-128, s. 1.)

§ 20-166.1. Reports and investigations required in event of accident.

(a) Notice of Accident. – The driver of a vehicle involved in a reportable accident must immediately, by the quickest means of communication, notify the appropriate law enforcement agency of the accident. If the accident occurred in a city or town, the appropriate agency is the police department of the city or town. If the accident occurred outside a city or town, the appropriate agency is the State Highway Patrol or the sheriff's office or other qualified rural police of the county where the accident occurred.

(b) Insurance Verification. – When requested to do so by the Division, the driver of a vehicle involved in a reportable accident must furnish proof of financial responsibility.

(c) Parked Vehicle. – The driver of a motor vehicle that collides with another motor vehicle left parked or unattended on a highway of this State must report the collision to the owner of the parked or unattended motor vehicle. This requirement applies to an accident that is not a reportable accident as well as to one that is a reportable accident. The report may be made orally or in writing, must be made within 48 hours of the accident, and must include the following:

- (1) The time, date, and place of the accident.
- (2) The driver's name, address, and driver's license number.
- (3) The registration plate number of the vehicle being operated by the driver at the time of the accident.

If the driver makes a written report to the owner of the parked or unattended vehicle and the report is not given to the owner at the scene of the accident, the report must be sent to the owner by certified mail, return receipt requested, and a copy of the report must be sent to the Division.

(d) Repealed by Session Laws 1995, c. 191, s. 2.

(e) Investigation by Officer. – The appropriate law enforcement agency must investigate a reportable accident. A law-enforcement officer who investigates a reportable accident, whether at the scene of the accident or by subsequent investigations and interviews, must make a written report of the accident within 24 hours of the accident and must forward it as required by this subsection. The report must contain information on financial responsibility for the vehicle driven by the person whom the officer identified as at fault for the accident.

If the officer writing the report is a member of the State Highway Patrol, the officer must forward the report to the Division. If the officer is not a member of the State Highway Patrol, the officer must forward the report to the local law enforcement agency for the area where the accident occurred. A local law enforcement agency that receives an accident report must forward it to the Division within 10 days after receiving the report. Upon request of the driver of the motor vehicle involved in the accident or the insurance agent or company identified by the driver under subsection (b) of this section, and notwithstanding any provision of Chapter 132 of the General Statutes to the contrary, the officer writing the report may forward an uncertified copy of the report to the insurance agent or company identified by the driver under subsection (b) of this section if evidence satisfactory to the officer is provided showing a certified copy of the report has been requested from the Division and the applicable fee set in G.S. 20-42 has been paid.

Nothing in this section shall prohibit a law enforcement agency from providing to the public accident reports or portions of accident reports that are public records.

When a person injured in a reportable accident dies as a result of the accident within 12 months after the accident and the death was not reported in the original report, the law enforcement officer investigating the accident must file a supplemental report that includes the death.

(f) Medical Personnel. – A county medical examiner must report to the Division the death of any person in a reportable accident and the circumstances of the accident. The medical examiner must file the report within five days after the death. A hospital must notify the medical examiner of the county in which the accident occurred of the death within the hospital of any person who dies as a result of injuries apparently sustained in a reportable accident.

(g) Repealed by Session Laws 1987, c. 49.

(h) Forms. – The Division shall provide forms or procedures for submitting crash data to persons required to make reports under this section and the reports shall be made in a format approved by the Commissioner. The following information shall be included about a reportable crash:

- (1) The cause of the crash.
- (2) The conditions existing at the time of the crash.
- (3) The persons and vehicles involved, except that the name and address of a minor child involved in a school bus crash who is a passenger on a school bus may only be disclosed to (i) the local board of education, (ii) the State Board of Education, (iii) the parent or guardian of the child, (iv) an insurance company investigating a claim arising out of the crash, (v) an attorney representing a person involved in the crash, and (vi) law enforcement officials investigating the crash. As used in this subdivision, school bus also includes a school activity bus as defined by G.S. 20-4.01(27).
- (4) Whether the vehicle has been seized and is subject to forfeiture under G.S. 20-28.2.

(i) Effect of Report. – A report of an accident made under this section by a person who is not a law enforcement officer is without prejudice, is for the use of the Division, and shall not be used in any manner as evidence, or for any other purpose in any trial, civil or criminal, arising out of the accident. Any other report of an accident made under this section may be used in any manner as evidence, or for any other purpose, in any trial, civil or criminal, as permitted under the rules of evidence. At the demand of a court, the Division must give the court a properly executed certificate stating that a particular accident report has or has not been filed with the Division solely to prove a compliance with this section.

The reports made by persons who are not law enforcement officers or medical examiners are not public records. The reports made by law enforcement officers and medical examiners are public records and are open to inspection by the general public at all reasonable times. The Division must give a certified copy of one of these reports to a member of the general public who requests a copy and pays the fee set in G.S. 20-42.

(j) Statistics. – The Division may periodically publish statistical information on motor vehicle accidents based on information in accident reports. The Division may conduct detailed research to determine more fully the cause and control of accidents and may conduct experimental field tests within areas of the State from time to time to prove the practicability of various ideas advanced in traffic control and accident prevention.

(k) **Punishment.** – A violation of any provision of this section is a misdemeanor of the Class set in G.S. 20-176. (1953, c. 1340, s. 2; 1955, c. 913, s. 9; 1963, c. 1249; 1965, c. 577; 1971, c. 55; c. 763, s. 1; c. 958, ss. 2, 3; 1973, c. 1133, ss. 1, 2; c. 1330, s. 29; 1975, c. 307; c. 716, s. 5; 1979, c. 667, s. 33; 1981, c. 690, s. 14; 1983, c. 229, ss. 1, 2; 1985, c. 764, s. 33; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1987, c. 49; 1993, c. 539, ss. 376, 377; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 191, s. 2; 1998-182, s. 12.1; 1999-452, s. 19; 2012-147, s. 1; 2016-90, s. 13.8.)

§ 20-166.2. Duty of passenger to remain at the scene of an accident.

(a) The passenger of any vehicle who knows or reasonably should know that the vehicle in which he or she is a passenger is involved in an accident or collision shall not willfully leave the scene of the accident by acting as the driver of a vehicle involved in the accident until a law enforcement officer completes the investigation of the accident or collision or authorizes the passenger to leave, unless remaining at the scene places the passenger or others at significant risk of injury.

Prior to the completion of the investigation of the accident by a law enforcement officer, or the consent of the officer to leave, the passenger may not facilitate, allow, or agree to the removal of the vehicle from the scene, for any purpose other than to call for a law enforcement officer, to call for medical assistance or medical treatment as set forth in subsection (b) of this section, or to remove oneself or others from a significant risk of injury. If the passenger does leave the scene of an accident by driving a vehicle involved in the accident for a reason permitted by this subsection, the passenger must return with the vehicle to the accident scene within a reasonable period of time, unless otherwise instructed by a law enforcement officer. A willful violation of this subsection is a Class H felony if the accident or collision is described in G.S. 20-166(a). A willful violation of this subsection is a Class 1 misdemeanor if the accident or collision is a reportable accident described in G.S. 20-166(c).

(b) In addition to complying with the requirement of subsection (a) of this section, the passenger shall give the passenger's name, address, drivers license number, and the license plate number of the vehicle in which the passenger was riding, if possible, to the person struck or the driver or occupants of any vehicle collided with, provided that the person or persons are physically and mentally capable of receiving the information, and shall render to any person injured in the accident or collision reasonable assistance, including the calling for medical assistance if it is apparent that such assistance is necessary or is requested by the injured person. A violation of this subsection is a Class 1 misdemeanor. (2005-460, s. 2.)

§ 20-166.3. Limit storage duration for vehicle damaged as a result of a collision.

(a) **Limited Duration of Storage.** – A motor vehicle that is towed and stored at the direction of a law enforcement agency following a collision may be held for evidence for not more than 20 days without a court order. Absent a court order, the vehicle must be released to the vehicle owner, insurer, or lien holder upon payment of the towing and storage fees.

(b) **Application.** – This section shall not apply to a motor vehicle (i) seized as a result of a violation of law or (ii) abandoned by the owner. (2015-188, s. 1.)

§ 20-167. Vehicles transporting explosives.

Any person operating any vehicle transporting any explosive as a cargo or part of a cargo upon a highway shall at all times comply with the rules and regulations of the United States

Department of Transportation as adopted by the Division of Motor Vehicles. (1937, c. 407, s. 129; 1985, c. 454, s. 7.)

§ 20-167.1. Transportation of spent nuclear fuel.

(a) No person, firm or corporation shall transport upon the highways of this State any spent nuclear fuel unless such person, firm, or corporation notifies the State Highway Patrol in advance of transporting the spent nuclear fuel.

(b) The provisions of this section shall apply whether or not the fuel is for delivery in North Carolina and whether or not the shipment originated in North Carolina.

(c) The Radiation Protection Commission is authorized to adopt, promulgate, amend, and repeal rules and regulations necessary to implement the provisions of this section.

(d) Any person, firm or corporation violating any provision of this section is guilty of a Class 3 misdemeanor and shall be punished only by a fine of not less than five hundred dollars (\$500.00), and each unauthorized shipment shall constitute a separate offense. (1977, c. 839, s. 1; 1985, c. 764, s. 33.1; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1993, c. 539, s. 378; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-168. Drivers of State, county, and city vehicles subject to the provisions of this Article.

(a) Subject to the exceptions in subsection (b), the provisions of this Article applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the State or any political subdivision thereof.

(b) While actually engaged in maintenance or construction work on the highways, but not while traveling to or from such work, drivers of vehicles owned or operated by the State or any political subdivision thereof are exempt from all provisions of this Article except:

- (1) G.S. 20-138.1. Impaired driving.
- (2) Repealed by Session Laws 1983, c. 435, s. 28.
- (3) G.S. 20-139.1. Procedures governing chemical analyses; admissibility; evidentiary provisions; controlled-drinking programs.
- (4) G.S. 20-140. Reckless driving.
- (5) Repealed by Session Laws 1983, c. 435, s. 38.
- (6) G.S. 20-141. Speed restrictions.
- (7) G.S. 20-141.3. Unlawful racing on streets and highways.
- (8) G.S. 20-141.4. Felony and misdemeanor death by vehicle. (1937, c. 407, s. 130; 1973, c. 1330, s. 30; 1981, c. 412, s. 4; c. 747, s. 66; 1983, c. 435, s. 28.)

§ 20-169. Powers of local authorities.

Local authorities, except as expressly authorized by G.S. 20-141 and 20-158, shall have no power or authority to alter any speed limitations declared in this Article or to enact or enforce any rules or regulations contrary to the provisions of this Article, except that local authorities shall have power to provide by ordinances for any of the following:

- (1) Regulating traffic by means of traffic or semaphores or other signaling devices on any portion of the highway where traffic is heavy or continuous.
- (2) Prohibiting other than one-way traffic upon certain highways.
- (3) Regulating the use of the highways by processions or assemblages.
- (4) Regulating the speed of vehicles on highways in public parks.

- (5) Authorizing law enforcement or fire department vehicles, ambulances, and rescue squad emergency service vehicles, equipped with a siren to preempt any traffic signals upon city streets within local authority boundaries or, with the approval of the Department of Transportation, on State highways within the boundaries of local authorities. The Department of Transportation shall respond to requests for approval within 60 days of receipt of a request.

Signs shall be erected giving notices of the special limits and regulations under subdivisions (1) through (4) of this section. (1937, c. 407, s. 131; 1949, c. 947, s. 2; 1955, c. 384, s. 2; 1963, c. 559; 1973, c. 507, s. 5; 1979, c. 298, s. 2; 1991, c. 530, s. 5; 1999-310, s. 1.)

§ 20-170. This Article not to interfere with rights of owners of real property with reference thereto.

Nothing in this Article shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner, and not as matter of right from prohibiting such use nor from requiring other or different or additional conditions than those specified in this Article or otherwise regulating such use as may seem best to such owner. (1937, c. 407, s. 132.)

§ 20-171. Traffic laws apply to persons riding animals or driving animal-drawn vehicles.

Every person riding an animal or driving any animal drawing a vehicle upon a highway shall be subject to the provisions of this Article applicable to the driver of a vehicle, except those provisions of the Article which by their nature can have no application. (1939, c. 275.)

Part 10A. Operation of Bicycles.

§ 20-171.1. Definitions.

As used in this Part, except where the context clearly requires otherwise, the words and expressions defined in this section shall be held to have the meanings here given to them:

Bicycle. – A nonmotorized vehicle with two or three wheels tandem, a steering handle, one or two saddle seats, and pedals by which the vehicle is propelled, or an electric assisted bicycle, as defined in G.S. 20-4.01(7a). (1977, c. 1123, s. 1; 2016-90, s. 13(c).)

§ 20-171.2. Bicycle racing.

(a) Bicycle racing on the highways is prohibited except as authorized in this section.

(b) Bicycle racing on a highway shall not be unlawful when a racing event has been approved by State or local authorities on any highway under their respective jurisdictions. Approval of bicycle highway racing events shall be granted only under conditions which assure reasonable safety for all race participants, spectators and other highway users, and which prevent unreasonable interference with traffic flow which would seriously inconvenience other highway users.

(c) By agreement with the approving authority, participants in an approved bicycle highway racing event may be exempted from compliance with any traffic laws otherwise applicable thereto, provided that traffic control is adequate to assure the safety of all highway users. (1977, c. 1123, s. 1.)

§ 20-171.3. Reserved for future codification purposes.

§ 20-171.4. Reserved for future codification purposes.

§ 20-171.5. Reserved for future codification purposes.

Part 10B. Child Bicycle Safety Act.

§ 20-171.6. Short title.

This Article shall be known and may be cited as the "Child Bicycle Safety Act." (2001-268, s. 1.)

§ 20-171.7. Legislative findings and purpose.

(a) The General Assembly finds and declares that:

- (1) Disability and death of children resulting from injuries sustained in bicycling accidents are a serious threat to the public health, welfare, and safety of the people of this State, and the prevention of that disability and death is a goal of all North Carolinians.
- (2) Head injuries are the leading cause of disability and death from bicycling accidents.
- (3) The risk of head injury from bicycling accidents is significantly reduced for bicyclists who wear proper protective bicycle helmets; yet helmets are worn by fewer than five percent (5%) of child bicyclists nationwide.
- (4) The risk of head injury or of any other injury to a small child who is a passenger on a bicycle operated by another person would be significantly reduced if any child passenger sat in a separate restraining seat.

(b) The purpose of this Article is to reduce the incidence of disability and death resulting from injuries incurred in bicycling accidents by requiring that while riding on a bicycle on the public roads, public bicycle paths, and other public rights-of-way of this State, all bicycle operators and passengers under the age of 16 years wear approved protective bicycle helmets; that all bicycle passengers who weigh less than 40 pounds or are less than 40 inches in height be seated in separate restraining seats; and that no person who is unable to maintain an erect, seated position shall be a passenger in a bicycle restraining seat, and all other bicycle passengers shall be seated on saddle seats. (2001-268, s. 1.)

§ 20-171.8. Definitions.

As used in this Article, the following terms have the following meanings:

- (1) "Bicycle" means a human-powered vehicle with two wheels in tandem designed to transport, by the action of pedaling, one or more persons seated on one or more saddle seats on its frame. This term also includes a human-powered vehicle, designed to transport by the action of pedaling which has more than two wheels where the vehicle is used on a public roadway, public bicycle path, or other public right-of-way, but does not include a tricycle.
- (2) "Operator" means a person who travels on a bicycle seated on a saddle seat from which that person is intended to and can pedal the bicycle.
- (3) "Other public right-of-way" means any right-of-way other than a public roadway or public bicycle path that is under the jurisdiction and control of this

State or a local political subdivision of the State and is designed for use and used by vehicular and/or pedestrian traffic.

- (4) "Passenger" means a person who travels on a bicycle in any manner except as an operator.
- (5) "Protective bicycle helmet" means a piece of headgear that meets or exceeds the impact standards for protective bicycle helmets set by the American National Standards Institute (ANSI) or the Snell Memorial Foundation.
- (6) "Public bicycle path" means a right-of-way under the jurisdiction and control of this State or a local political subdivision of the State for use primarily by bicycles and pedestrians.
- (7) "Public roadway" means a right-of-way under the jurisdiction and control of this State or a local political subdivision of the State for use primarily by motor vehicles.
- (8) "Restraining seat" means a seat separate from the saddle seat of the operator of the bicycle that is fastened securely to the frame of the bicycle and is adequately equipped to restrain the passenger in such seat and protect such passenger from the moving parts of the bicycle.
- (9) "Tricycle" means a three-wheeled, human-powered vehicle designed for use as a toy by a single child under the age of six years, the seat of which is no more than two feet from ground level. (2001-268, s. 1.)

§ 20-171.9. Requirements for helmet and restraining seat use.

With regard to any bicycle used on a public roadway, public bicycle path, or other public right-of-way:

(a) It shall be unlawful for any parent or legal guardian of a person below the age of 16 to knowingly permit that person to operate or be a passenger on a bicycle unless at all times when the person is so engaged he or she wears a protective bicycle helmet of good fit fastened securely upon the head with the straps of the helmet.

(b) It shall be unlawful for any parent or legal guardian of a person below the age of 16 to knowingly permit that person to be a passenger on a bicycle unless all of the following conditions are met:

- (1) The person is able to maintain an erect, seated position on the bicycle.
- (2) Except as provided in subdivision (3) of this subsection, the person is properly seated alone on a saddle seat (as on a tandem bicycle).
- (3) With respect to any person who weighs less than 40 pounds, or is less than 40 inches in height, the person can be and is properly seated in and adequately secured to a restraining seat.

(c) No negligence or liability shall be assessed on or imputed to any party on account of a violation of subsection (a) or (b) of this section.

(d) Violation of this section shall be an infraction. Except as provided in subsection (e) of this section, any parent or guardian found responsible for violation of this section may be ordered to pay a civil fine of up to ten dollars (\$10.00), inclusive of all penalty assessments and court costs.

(e) In the case of a first conviction of this section, the court may waive the fine upon receipt of satisfactory proof that the person responsible for the infraction has purchased or

otherwise obtained, as appropriate, a protective bicycle helmet or a restraining seat, and uses and intends to use it whenever required under this section. (2001-268, s. 1.)

§ 20-171.10: Reserved for future codification purposes.

§ 20-171.11: Reserved for future codification purposes.

§ 20-171.12: Reserved for future codification purposes.

§ 20-171.13: Reserved for future codification purposes.

§ 20-171.14: Reserved for future codification purposes.

Part 10C. Operation of All-Terrain Vehicles.

§ 20-171.15. Age restrictions.

(a) It is unlawful for any parent or legal guardian of a person less than eight years of age to knowingly permit that person to operate an all-terrain vehicle.

(b) Repealed by Session Laws 2015-286, s. 3.13(a), effective October 22, 2015.

(c) It is unlawful for any parent or legal guardian of a person less than 16 years of age to knowingly permit that person to operate an all-terrain vehicle in violation of the Age Restriction Warning Label affixed by the manufacturer as required by the applicable American National Standards Institute/Specialty Vehicle Institute of America (ANSI/SVIA) design standard.

(d) It is unlawful for any parent or legal guardian of a person less than 16 years of age to knowingly permit that person to operate an all-terrain vehicle unless the person is under the continuous visual supervision of a person 18 years of age or older while operating the all-terrain vehicle.

(e) Subsection (c) of this section does not apply to any parent or legal guardian of a person born on or before August 15, 1997, who permits that person to operate an all-terrain vehicle and who establishes proof that the parent or legal guardian owned the all-terrain vehicle prior to August 15, 2005. (2005-282, s. 2; 2015-286, s. 3.13(a).)

§ 20-171.16. Passengers.

No operator of an all-terrain vehicle shall carry a passenger, except on those vehicles specifically designed by the manufacturer to carry passengers in addition to the operator. (2005-282, s. 2.)

§ 20-171.17. Prohibited acts by sellers.

No person shall knowingly sell or offer to sell an all-terrain vehicle:

- (1) For use by a person under the age of eight years.
- (2) In violation of the Age Restriction Warning Label affixed by the manufacturer as required by the applicable American National Standards Institute/Specialty Vehicle Institute of America (ANSI/SVIA) design standard for use by a person less than 16 years of age.
- (3) Repealed by Session Laws 2015-286, s. 3.13(b), effective October 22, 2015. (2005-282, s. 2; 2015-286, s. 3.13(b).)

§ 20-171.18. Equipment requirements.

Every all-terrain vehicle sold, offered for sale, or operated in this State shall meet the following equipment standards:

- (1) It shall be equipped with a brake system maintained in good operating condition.
- (2) It shall be equipped with an effective muffler system maintained in good working condition.
- (3) It shall be equipped with a United States Forest Service qualified spark arrester maintained in good working condition. (2005-282, s. 2.)

§ 20-171.19. Prohibited acts by owners and operators.

(a) No person shall operate an all-terrain vehicle on a public street or highway or public vehicular area when such operation is otherwise permitted by law, unless the person wears eye protection and a safety helmet meeting United States Department of Transportation standards for motorcycle helmets.

(a1) No person under 18 years of age shall operate an all-terrain vehicle off a public street or highway or public vehicular area unless the person wears eye protection and a safety helmet meeting United States Department of Transportation standards for motorcycle helmets.

(a2) Notwithstanding subsection (a1) of this section, a person who is under 18 years of age and employed by a supplier of retail electric service, while engaged in power line inspection, may operate an all-terrain vehicle while wearing both of the following:

- (1) Head protection equipped with a chin strap that conforms to the standards applicable to suppliers of retail electric service adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor.
- (2) Eye protection that conforms to the standards applicable to suppliers of retail electric service adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor.

(b) No owner shall authorize an all-terrain vehicle to be operated contrary to this Part.

(c) No person shall operate an all-terrain vehicle while under the influence of alcohol, any controlled substance, or a prescription or nonprescription drug that impairs vision or motor coordination.

(d) No person shall operate an all-terrain vehicle in a careless or reckless manner so as to endanger or cause injury or damage to any person or property.

(e) Except as otherwise permitted by law, no person shall operate an all-terrain vehicle on any public street, road, or highway except for purposes of crossing that street, road, or highway.

(f) Except as otherwise permitted by law, no person shall operate an all-terrain vehicle at anytime on an interstate or limited-access highway.

(g) No person shall operate an all-terrain vehicle during the hours of darkness, from one-half hour after sunset to one-half hour before sunrise and at anytime when visibility is reduced due to insufficient light or atmospheric conditions, without displaying a lighted headlamp and taillamp, unless the use of lights is prohibited by other applicable laws. (2005-282, s. 2; 2006-259, s. 10(a); 2011-68, s. 1; 2013-410, s. 4.2.)

§ 20-171.20. Safety training and certificate.

Effective October 1, 2006, every all-terrain vehicle operator born on or after January 1, 1990, shall possess a safety certificate indicating successful completion of an all-terrain vehicle safety course sponsored or approved by the All-Terrain Vehicle Safety Institute or by another all-terrain vehicle safety course approved by the Commissioner of Insurance. The North Carolina Community College System is authorized to provide all-terrain vehicle safety training, approved by the Commissioner, to persons less than 18 years of age. (2005-282, s. 2; 2007-433, s. 4.)

§ 20-171.21. Penalties.

Any person violating any of the provisions of this Part shall be responsible for an infraction and may be subject to a penalty of not more than two hundred dollars (\$200.00). (2005-282, s. 2; 2008-187, s. 11.)

§ 20-171.22. Exceptions.

(a) The provisions of this Part do not apply to any owner, operator, lessor, or renter of a farm or ranch, or that person's employees or immediate family or household members, when operating an all-terrain vehicle while engaged in farming operations.

(a1) Any person may operate an all-terrain vehicle or utility vehicle on a public street or highway while engaged in farming operations.

(b) The provisions of this Part do not apply to any person using an all-terrain vehicle for hunting or trapping purposes if the person is otherwise lawfully engaged in those activities.

(c) The provisions of G.S. 20-171.19(a1) do not apply to any person 16 years of age or older if the person is otherwise lawfully using the all-terrain vehicle on any ocean beach area where such vehicles are allowed by law. As used in this subsection, "ocean beach area" means the area adjacent to the ocean and ocean inlets that is subject to public trust rights. Natural indicators of the landward extent of the ocean beaches include, but are not limited to, the first line of stable, natural vegetation; the toe of the frontal dune; and the storm trash line. (2005-282, s. 2; 2008-91, s. 1; 2011-68, s. 2; 2015-263, s. 8.)

§ 20-171.23. Motorized all-terrain vehicles of law enforcement officers and fire, rescue, and emergency medical services permitted on certain highways.

(a) Law enforcement officers acting in the course and scope of their duties may operate motorized all-terrain vehicles owned or leased by the agency, or under the direct control of the incident commander, on: (i) public highways where the speed limit is 35 miles per hour or less; and (ii) nonfully controlled access highways with higher speeds for the purpose of traveling from a speed zone to an adjacent speed zone where the speed limit is 35 miles per hour or less.

(b) Fire, rescue, and emergency medical services personnel acting in the course and scope of their duties may operate motorized all-terrain vehicles and owned or leased by fire, rescue, or emergency medical services departments, or under the direct control of the incident commander, on: (i) public highways where the speed limit is 35 miles per hour or less; and (ii) nonfully controlled access highways with higher speeds for the purpose of traveling from a speed zone to an adjacent speed zone where the speed limit is 35 miles per hour or less.

(c) This Part and all other State laws governing the operation of all-terrain vehicles apply to the operation of all-terrain vehicles authorized by this section.

(d) An all-terrain vehicle operated pursuant to this section shall be equipped with operable front and rear lights and a horn.

(e) A person operating an all-terrain vehicle pursuant to this section shall observe posted speed limits and shall not exceed the manufacturer's recommended speed for the vehicle.

(f) A person operating an all-terrain vehicle pursuant to this section shall carry an official identification card or badge.

(g) For purposes of this section, the term "motorized all-terrain vehicle" has the same meaning as in G.S. 14-159.3, except that the term also includes utility vehicles, as defined in this Chapter. (2007-433, s. 1; 2015-26, ss. 1, 2.1.)

§ 20-171.24. Motorized all-terrain vehicle use by municipal and county employees permitted on certain highways.

(a) Municipal and county employees may operate motorized all-terrain vehicles owned or leased by the agency on: (i) public highways where the speed limit is 35 miles per hour or less; and (ii) nonfully controlled access highways with higher speeds for the purpose of traveling from a speed zone to an adjacent speed zone where the speed limit is 35 miles per hour or less.

(b) This Part and all other State laws governing the operation of all-terrain vehicles apply to the operation of all-terrain vehicles authorized by this section.

(c) An all-terrain vehicle operated pursuant to this section shall be equipped with operable front and rear lights and a horn.

(d) A person operating an all-terrain vehicle pursuant to this section shall observe posted speed limits and shall not exceed the manufacturer's recommended speed for the vehicle.

(e) A person operating an all-terrain vehicle pursuant to this section shall carry an official identification card or badge.

(e1) For purposes of this section, the term "motorized all-terrain vehicle" has the same meaning as in G.S. 14-159.3, except that the term also includes utility vehicles, as defined in this Chapter.

(f) Repealed by Session Laws 2015-26, s. 2, effective May 21, 2015. (2007-433, s. 2; 2008-99, s. 1; 2010-19, s. 1; 2010-46, s. 1; 2014-32, s. 1; 2015-26, ss. 2, 2.1; 2017-102, s. 7.)

§ 20-171.25. Motorized all-terrain vehicle use by certain employees of natural gas utilities permitted on public highways and rights-of-way.

(a) Natural gas utility employees and contractors engaged in pipeline safety, leak survey, and patrolling activities, acting in the course and scope of their employment, may operate motorized all-terrain vehicles owned or leased by the utility on public highways and rights-of-way only to the extent necessary to perform those activities.

(b) This Part and all other State laws governing the operation of all-terrain vehicles apply to the operation of all-terrain vehicles authorized by this section.

(c) An all-terrain vehicle operated pursuant to this section shall be equipped with operable front and rear lights and a horn.

(d) A person operating an all-terrain vehicle pursuant to this section shall observe posted speed limits and shall not exceed the manufacturer's recommended speed for the vehicle.

(e) A person operating an all-terrain vehicle pursuant to this section shall carry an official company identification card or badge. (2008-156, s. 2.)

§ 20-171.26. Motorized all-terrain vehicle use by disabled sportsmen.

(a) Persons qualified under the Disabled Sportsmen Program, pursuant to G.S. 113-296, are authorized to transverse public roadways using an all-terrain vehicle while engaging in

licensed hunting or fishing activities. Use of the all-terrain vehicle shall be limited to driving across the roadway, in a perpendicular fashion, without travel in either direction along the roadway.

(b) This Part and all other State laws governing the operation of all-terrain vehicles apply to the operation of all-terrain vehicles authorized by this section.

(c) An all-terrain vehicle operated pursuant to this section shall be equipped with operable front and rear lights and a horn.

(d) A person operating an all-terrain vehicle pursuant to this section shall observe posted speed limits and shall not exceed the manufacturer's recommended speed for the vehicle.

(e) A person operating an all-terrain vehicle pursuant to this section shall carry evidence of membership in the Disabled Sportsmen Program and the appropriate license to engage in the hunting or fishing activity. (2010-146, s. 1.)

Part 11. Pedestrians' Rights and Duties.

§ 20-172. Pedestrians subject to traffic-control signals.

(a) The Board of Transportation, with reference to State highways, and local authorities, with reference to highways under their jurisdiction, are hereby authorized to erect or install, at intersections or other appropriate places, special pedestrian control signals exhibiting the words or symbols "WALK" or "DON'T WALK" as a part of a system of traffic-control signals or devices.

(b) Whenever special pedestrian-control signals are in place, such signals shall indicate as follows:

- (1) WALK. – Pedestrians facing such signal may proceed across the highway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.
- (2) DON'T WALK. – No pedestrian shall start to cross the highway in the direction of such signal, but any pedestrian who has partially completed his crossing on the "WALK" signal shall proceed to a sidewalk or safety island while the "DON'T WALK" signal is showing.

(c) Where a system of traffic-control signals or devices does not include special pedestrian-control signals, pedestrians shall be subject to the vehicular traffic-control signals or devices as they apply to pedestrian traffic.

(d) At places without traffic-control signals or devices, pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in Part 11 of this Article. (1937, c. 407, s. 133; 1973, c. 507, s. 5; c. 1330, s. 31; 1987, c. 125.)

§ 20-173. Pedestrians' right-of-way at crosswalks.

(a) Where traffic-control signals are not in place or in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at or near an intersection, except as otherwise provided in Part 11 of this Article.

(b) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(c) The driver of a vehicle emerging from or entering an alley, building entrance, private road, or driveway shall yield the right-of-way to any pedestrian, or person riding a bicycle,

approaching on any sidewalk or walkway extending across such alley, building entrance, road, or driveway. (1937, c. 407, s. 134; 1973, c. 1330, s. 32.)

§ 20-174. Crossing at other than crosswalks; walking along highway.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

(d) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway. Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the extreme left of the roadway or its shoulder facing traffic which may approach from the opposite direction. Such pedestrian shall yield the right-of-way to approaching traffic.

(e) Notwithstanding the provisions of this section, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway, and shall give warning by sounding the horn when necessary, and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway. (1937, c. 407, s. 135; 1973, c. 1330, s. 33.)

§ 20-174.1. Standing, sitting or lying upon highways or streets prohibited.

(a) No person shall willfully stand, sit, or lie upon the highway or street in such a manner as to impede the regular flow of traffic.

(b) Violation of this section is a Class 2 misdemeanor. (1965, c. 137; 1969, c. 1012; 1993 (Reg. Sess., 1994), c. 761, s. 17.)

§ 20-174.2. Local ordinances; pedestrians gathering, picketing, or protesting on roads or highways.

(a) A municipality or a county may adopt an ordinance regulating the time, place, and manner of gatherings, picket lines, or protests by pedestrians that occur on State roadways and State highways.

(b) Nothing in this section shall permit a municipality or a county to impose restrictions or prohibitions on the activities of any of the following persons who are engaged in construction or maintenance, or in making traffic or engineering surveys:

(1) Licensees, employees, or contractors of the Department of Transportation.

(2) Licensees, employees, or contractors of a municipality. (2007-360, s. 6.)

§ 20-175. Pedestrians soliciting rides, employment, business or funds upon highways or streets.

(a) No person shall stand in any portion of the State highways, except upon the shoulders thereof, for the purpose of soliciting a ride from the driver of any motor vehicle.

(b) No person shall stand or loiter in the main traveled portion, including the shoulders and median, of any State highway or street, excluding sidewalks, or stop any motor vehicle for

the purpose of soliciting employment, business or contributions from the driver or occupant of any motor vehicle that impedes the normal movement of traffic on the public highways or streets: Provided that the provisions of this subsection shall not apply to licensees, employees or contractors of the Department of Transportation or of any municipality engaged in construction or maintenance or in making traffic or engineering surveys.

(c) Repealed by Session Laws 1973, c. 1330, s. 39.

(d) Local governments may enact ordinances restricting or prohibiting a person from standing on any street, highway, or right-of-way excluding sidewalks while soliciting, or attempting to solicit, any employment, business, or contributions from the driver or occupants of any vehicle. No local government may enact or enforce any ordinance that prohibits engaging in the distribution of newspapers on the non-traveled portion of any street or highway except when those distribution activities impede the normal movement of traffic on the street or highway. This subsection does not permit additional restrictions or prohibitions on the activities of licensees, employees, or contractors of the Department of Transportation or of any municipality engaged in construction or maintenance or in making traffic or engineering surveys except as provided in subsection (e) of this section.

(e) A local government shall have the authority to grant authorization for a person to stand in, on, or near a street or State roadway, within the local government's municipal corporate limits, to solicit a charitable contribution if the requirements of this subsection are met.

A person seeking authorization under this subsection to solicit charitable contributions shall file a written application with the local government. This application shall be filed not later than seven days before the date the solicitation event is to occur. If there are multiple events or one event occurring on more than one day, each event shall be subject to the application and permit requirements of this subsection for each day the event is to be held, to include the application fee.

The application must include:

- (1) The date and time when the solicitation is to occur;
- (2) Each location at which the solicitation is to occur; and
- (3) The number of solicitors to be involved in the solicitation at each location.

This subsection does not prohibit a local government from charging a fee for a permit, but in no case shall the fee be greater than twenty-five dollars (\$25.00) per day per event.

The applicant shall also furnish to the local government advance proof of liability insurance in the amount of at least two million dollars (\$2,000,000) to cover damages that may arise from the solicitation. The insurance coverage must provide coverage for claims against any solicitor and agree to hold the local government harmless.

A local government, by acting under this section, does not waive, or limit, any immunity or create any new liability for the local government. The issuance of an authorization under this section and the conducting of the solicitation authorized are not considered governmental functions of the local government.

In the event the solicitation event or the solicitors shall create a nuisance, delay traffic, create threatening or hostile situations, any law enforcement officer with proper jurisdiction may order the solicitations to cease. Any individual failing to follow a law enforcement officer's lawful order to cease solicitation shall be guilty of a Class 2 misdemeanor. (1937, c. 407, s. 136; 1965, c. 673; 1973, c. 507, s. 5; c. 1330, s. 39; 1977, c. 464, s. 34; 2005-310, s. 1; 2006-250, ss. 7(a), 7(b); 2008-223, s. 1.)

Part 11A. Blind Pedestrians – White Canes or Guide Dogs.

§ 20-175.1. Public use of white canes by other than blind persons prohibited.

It shall be unlawful for any person, except one who is wholly or partially blind, to carry or use on any street or highway, or in any other public place, a cane or walking stick which is white in color or white tipped with red. (1949, c. 324, s. 1.)

§ 20-175.2. Right-of-way at crossings, intersections and traffic-control signal points; white cane or guide dog to serve as signal for the blind.

At any street, road or highway crossing or intersection, where the movement of traffic is not regulated by a traffic officer or by traffic-control signals, any blind or partially blind pedestrian shall be entitled to the right-of-way at such crossing or intersection, if such blind or partially blind pedestrian shall extend before him at arm's length a cane white in color or white tipped with red, or if such person is accompanied by a guide dog. Upon receiving such a signal, all vehicles at or approaching such intersection or crossing shall come to a full stop, leaving a clear lane through which such pedestrian may pass, and such vehicle shall remain stationary until such blind or partially blind pedestrian has completed the passage of such crossing or intersection. At any street, road or highway crossing or intersection, where the movement of traffic is regulated by traffic-control signals, blind or partially blind pedestrians shall be entitled to the right-of-way if such person having such cane or accompanied by a guide dog shall be partly across such crossing or intersection at the time the traffic-control signals change, and all vehicles shall stop and remain stationary until such pedestrian has completed passage across the intersection or crossing. (1949, c. 324, s. 2.)

§ 20-175.3. Rights and privileges of blind persons without white cane or guide dog.

Nothing contained in this Part shall be construed to deprive any blind or partially blind person not carrying a cane white in color or white tipped with red, or being accompanied by a guide dog, of any of the rights and privileges conferred by law upon pedestrians crossing streets and highways, nor shall the failure of such blind or partially blind person to carry a cane white in color or white tipped with red, or to be accompanied by a guide dog, upon the streets, roads, highways or sidewalks of this State, be held to constitute or be evidence of contributory negligence by virtue of this Part. (1949, c. 324, s. 3.)

§ 20-175.4: Repealed by Session Laws 1973, c. 1330, s. 39.

Part 11B. Pedestrian Rights and Duties of Persons with a Mobility Impairment.

§ 20-175.5. Use of motorized wheelchairs or similar vehicles not exceeding 1000 pounds gross weight.

While a person with a mobility impairment as defined in G.S. 20-37.5 operates a motorized wheelchair or similar vehicle not exceeding 1000 pounds gross weight in order to provide that person with the mobility of a pedestrian, that person is subject to all the laws, ordinances, regulations, rights and responsibilities which would otherwise apply to a pedestrian, but is not subject to Part 10 of this Article or any other law, ordinance or regulation otherwise applicable to motor vehicles. (1991, c. 206, s. 1.)

Part 11C. Electric Personal Assistive Mobility Devices.

§ 20-175.6. Electric personal assistive mobility devices.

- (a) Electric Personal Assistive Mobility Device. – As defined in G.S. 20-4.01(7b).
- (b) Exempt From Registration. – As provided in G.S. 20-51.
- (c) Use of Device. – An electric personal assistive mobility device may be operated on public highways with posted speeds of 25 miles per hour or less, sidewalks, and bicycle paths. A person operating an electric personal assistive mobility device on a sidewalk, roadway, or bicycle path shall yield the right-of-way to pedestrians and other human-powered devices. A person operating an electric personal assistive mobility device shall have all rights and duties of a pedestrian, including the rights and duties set forth in Part 11 of this Article.
- (d) Municipal Regulation. – For the purpose of assuring the safety of persons using highways and sidewalks, municipalities having jurisdiction over public streets, sidewalks, alleys, bridges, and other ways of public passage may by ordinance regulate the time, place, and manner of the operation of electric personal assistive mobility devices, but shall not prohibit their use. (2002-98, s. 5; 2016-90, s. 13(d).)

Part 12. Sentencing; Penalties.

§ 20-176. Penalty for misdemeanor or infraction.

- (a) Violation of a provision of Part 9, 10, 10A, or 11 of this Article is an infraction unless the violation is specifically declared by law to be a misdemeanor or felony. Except as otherwise provided in subsection (a1) of this section, violation of the remaining Parts of this Article is a misdemeanor unless the violation is specifically declared by law to be an infraction or a felony.
 - (a1) A person who does any of the following is responsible for an infraction:
 - (1) Fails to carry the registration card in the vehicle, in violation of G.S. 20-57(c).
 - (2) Repealed by Session Laws 2016-90, s. 12(b), effective December 1, 2016, and applicable to registration cards issued on or after that date.
 - (3) Fails to notify the Division of an address change for a vehicle registration card within 60 days after the change occurs, in violation of G.S. 20-67.
 - (b) Unless a specific penalty is otherwise provided by law, a person found responsible for an infraction contained in this Article may be ordered to pay a penalty of not more than one hundred dollars (\$100.00).
 - (c) Unless a specific penalty is otherwise provided by law, a person convicted of a misdemeanor contained in this Article is guilty of a Class 2 misdemeanor. A punishment is specific for purposes of this subsection if it contains a quantitative limit on the term of imprisonment or the amount of fine a judge can impose.
 - (c1) Repealed by Session Laws 2014-100, s. 16C.1(c), effective October 1, 2014.
 - (c2) Repealed by Session Laws 2013-385, s. 5, effective December 1, 2013.
 - (d) For purposes of determining whether a violation of an offense contained in this Chapter constitutes negligence per se, crimes and infractions shall be treated identically. (1937, c. 407, s. 137; 1951, c. 1013, s. 7; 1957, c. 1255; 1967, c. 674, s. 3; 1969, c. 378, s. 3; 1973, c. 1330, s. 34; 1975, c. 644; 1985, c. 764, s. 20; 1985 (Reg. Sess., 1986), c. 852, ss. 7, 17; c. 1014, s. 202; 1993, c. 539, s. 379; 1994, Ex. Sess., c. 24, s. 14(c); 2013-360, s. 18B.14(h); 2013-385, s. 5; 2014-100, s. 16C.1(c); 2016-90, s. 12(b).)

§ 20-177. Penalty for felony.

Any person who shall be convicted of a violation of any of the provisions of this Article herein or by the laws of this State declared to constitute a felony shall, unless a different penalty

is prescribed herein or by the laws of this State, be punished as a Class I felon. (1937, c. 407, s. 138; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14.)

§ 20-178. Penalty for bad check.

When any person, firm, or corporation shall tender to the Division any uncertified check for payment of any tax, fee or other obligation due by him under the provisions of this Article, and the bank upon which such check shall be drawn shall refuse to pay it on account of insufficient funds of the drawer on deposit in such bank, and such check shall be returned to the Division, an additional tax shall be imposed by the Division upon such person, firm or corporation, which additional tax shall be equal to ten percent (10%) of the tax or fee in payment of which such check was tendered: Provided, that in no case shall the additional tax be less than ten dollars (\$10.00); provided, further, that no additional tax shall be imposed if, at the time such check was presented for payment, the drawer had on deposit in any bank of this State funds sufficient to pay such check and by inadvertence failed to draw the check upon such bank, or upon the proper account therein. The additional tax imposed by this section shall not be waived or diminished by the Division. (1937, c. 407, s. 139; 1953, c. 1144; 1975, c. 716, s. 5; 1981, c. 690, s. 24.)

§ 20-178.1. Payment and review of civil penalty imposed by Department of Public Safety.

(a) Procedure. – A person who is assessed a civil penalty under this Article by the Department of Public Safety must pay the penalty within 30 calendar days after the date the penalty was assessed or make a written request within this time limit to the Department for a Departmental review of the penalty. A person who does not submit a request for review within the required time waives the right to a review and hearing on the penalty.

(b) Department Review. – Any person who denies liability for a penalty imposed by the Department may request an informal review by the Secretary of the Department or the Secretary's designee. The request must be made in writing and must contain sufficient information for the Secretary, or the Secretary's designee, to determine the specific basis upon which liability is being challenged. Upon receiving a request for informal review, the Secretary, or the Secretary's designee, shall review the record and determine whether the penalty was assessed in error. If, after reviewing the record, the Secretary, or the Secretary's designee, determines that the assessment or a portion thereof was not issued in error, the penalty must be paid within 30 days of the notice of decision.

(c) Judicial Review. – Any person who is dissatisfied with the decision of the Secretary and who has paid the penalty in full within 30 days of the notice of decision, as required by subsection (b) of this section, may, within 60 days of the decision, bring an action for refund of the penalty against the Department in the Superior Court of Wake County or in the superior court of the county in which the civil penalty was assessed. The court shall review the Secretary's decision and shall make findings of fact and conclusions of law. The hearing shall be conducted by the court without a jury. In reviewing the case, the court shall not give deference to the prior decision of the Secretary. A superior court may award attorneys' fees to a prevailing plaintiff only upon a showing of bad faith on the part of the Department, and any order for attorneys' fees must be supported by findings of fact and conclusions of law.

(d) Interest. – Interest accrues on a penalty that is overdue. A penalty is overdue if it is not paid within the time required by this section. Interest is payable on a penalty assessed in error from the date the penalty was paid. The interest rate set in G.S. 105-241.21 applies to interest payable under this section.

(e) The clear proceeds of all civil penalties assessed by the Department pursuant to this Article, minus any fees paid as interest, filing fees, attorneys' fees, or other necessary costs of court associated with the defense of penalties imposed by the Department pursuant to this Article shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (2009-376, s. 2(a); 2011-145, s. 19.1(g).)

§ 20-179. Sentencing hearing after conviction for impaired driving; determination of grossly aggravating and aggravating and mitigating factors; punishments.

(a) Sentencing Hearing Required. – After a conviction under G.S. 20-138.1, G.S. 20-138.2, a second or subsequent conviction under G.S. 20-138.2A, or a second or subsequent conviction under G.S. 20-138.2B, or when any of those offenses are remanded back to district court after an appeal to superior court, the judge shall hold a sentencing hearing to determine whether there are aggravating or mitigating factors that affect the sentence to be imposed. The following apply:

- (1) The court shall consider evidence of aggravating or mitigating factors present in the offense that make an aggravated or mitigated sentence appropriate. The State bears the burden of proving beyond a reasonable doubt that an aggravating factor exists, and the offender bears the burden of proving by a preponderance of the evidence that a mitigating factor exists.
 - (2) Before the hearing the prosecutor shall make all feasible efforts to secure the defendant's full record of traffic convictions, and shall present to the judge that record for consideration in the hearing. Upon request of the defendant, the prosecutor shall furnish the defendant or the defendant's attorney a copy of the defendant's record of traffic convictions at a reasonable time prior to the introduction of the record into evidence. In addition, the prosecutor shall present all other appropriate grossly aggravating and aggravating factors of which the prosecutor is aware, and the defendant or the defendant's attorney may present all appropriate mitigating factors. In every instance in which a valid chemical analysis is made of the defendant, the prosecutor shall present evidence of the resulting alcohol concentration.
- (a1) Jury Trial in Superior Court; Jury Procedure if Trial Bifurcated. –
- (1) Notice. – If the defendant appeals to superior court, and the State intends to use one or more aggravating factors under subsections (c) or (d) of this section, the State must provide the defendant with notice of its intent. The notice shall be provided no later than 10 days prior to trial and shall contain a plain and concise factual statement indicating the factor or factors it intends to use under the authority of subsections (c) and (d) of this section. The notice must list all the aggravating factors that the State seeks to establish.
 - (2) Aggravating factors. – The defendant may admit to the existence of an aggravating factor, and the factor so admitted shall be treated as though it were found by a jury pursuant to the procedures in this section. If the defendant does not so admit, only a jury may determine if an aggravating factor is present. The jury impaneled for the trial may, in the same trial, also determine if one or more aggravating factors is present, unless the court determines that the interests of justice require that a separate sentencing proceeding be used to make that determination. If the court determines that a

separate proceeding is required, the proceeding shall be conducted by the trial judge before the trial jury as soon as practicable after the guilty verdict is returned. The State bears the burden of proving beyond a reasonable doubt that an aggravating factor exists, and the offender bears the burden of proving by a preponderance of the evidence that a mitigating factor exists.

- (3) Convening the jury. – If prior to the time that the trial jury begins its deliberations on the issue of whether one or more aggravating factors exist, any juror dies, becomes incapacitated or disqualified, or is discharged for any reason, an alternate juror shall become a part of the jury and serve in all respects as those selected on the regular trial panel. An alternate juror shall become a part of the jury in the order in which the juror was selected. If the trial jury is unable to reconvene for a hearing on the issue of whether one or more aggravating factors exist after having determined the guilt of the accused, the trial judge shall impanel a new jury to determine the issue.
 - (4) Jury selection. – A jury selected to determine whether one or more aggravating factors exist shall be selected in the same manner as juries are selected for the trial of criminal cases.
- (a2) Jury Trial on Aggravating Factors in Superior Court. –
- (1) Defendant admits aggravating factor only. – If the defendant admits that an aggravating factor exists, but pleads not guilty to the underlying charge, a jury shall be impaneled to dispose of the charge only. In that case, evidence that relates solely to the establishment of an aggravating factor shall not be admitted in the trial.
 - (2) Defendant pleads guilty to the charge only. – If the defendant pleads guilty to the charge, but contests the existence of one or more aggravating factors, a jury shall be impaneled to determine if the aggravating factor or factors exist.
- (a3) Procedure When Jury Trial Waived. – If a defendant waives the right to a jury trial under G.S. 15A-1201, the trial judge shall make all findings that are conferred upon the jury under the provisions of this section.
- (b) Repealed by Session Laws 1983, c. 435, s. 29.
 - (c) Determining Existence of Grossly Aggravating Factors. – At the sentencing hearing, based upon the evidence presented at trial and in the hearing, the judge, or the jury in superior court, must first determine whether there are any grossly aggravating factors in the case. Whether a prior conviction exists under subdivision (1) of this subsection, or whether a conviction exists under subdivision (d)(5) of this section, shall be matters to be determined by the judge, and not the jury, in district or superior court. If the sentencing hearing is for a case remanded back to district court from superior court, the judge shall determine whether the defendant has been convicted of any offense that was not considered at the initial sentencing hearing and impose the appropriate sentence under this section. The judge must impose the Aggravated Level One punishment under subsection (f3) of this section if it is determined that three or more grossly aggravating factors apply. The judge must impose the Level One punishment under subsection (g) of this section if it is determined that the grossly aggravating factor in subdivision (4) of this subsection applies or two of the other grossly aggravating factors apply. If the judge does not find that the aggravating factor at subdivision (4) of this subsection applies, then the judge must impose the Level Two punishment under subsection (h) of this section if it is determined that only one of the other grossly aggravating factors applies. The grossly aggravating factors are:

- (1) A prior conviction for an offense involving impaired driving if:
 - a. The conviction occurred within seven years before the date of the offense for which the defendant is being sentenced; or
 - b. The conviction occurs after the date of the offense for which the defendant is presently being sentenced, but prior to or contemporaneously with the present sentencing; or
 - c. The conviction occurred in district court; the case was appealed to superior court; the appeal has been withdrawn, or the case has been remanded back to district court; and a new sentencing hearing has not been held pursuant to G.S. 20-38.7.

Each prior conviction is a separate grossly aggravating factor.

- (2) Driving by the defendant at the time of the offense while the defendant's driver's license was revoked pursuant to G.S. 20-28(a1).
- (3) Serious injury to another person caused by the defendant's impaired driving at the time of the offense.
- (4) Driving by the defendant while (i) a child under the age of 18 years, (ii) a person with the mental development of a child under the age of 18 years, or (iii) a person with a physical disability preventing unaided exit from the vehicle was in the vehicle at the time of the offense.

In imposing an Aggravated Level One, a Level One, or a Level Two punishment, the judge may consider the aggravating and mitigating factors in subsections (d) and (e) of this section in determining the appropriate sentence. If there are no grossly aggravating factors in the case, the judge must weigh all aggravating and mitigating factors and impose punishment as required by subsection (f) of this section.

(c1) **Written Findings.** – The court shall make findings of the aggravating and mitigating factors present in the offense. If the jury finds factors in aggravation, the court shall ensure that those findings are entered in the court's determination of sentencing factors form or any comparable document used to record the findings of sentencing factors. Findings shall be in writing.

(d) **Aggravating Factors to Be Weighed.** – The judge, or the jury in superior court, shall determine before sentencing under subsection (f) of this section whether any of the aggravating factors listed below apply to the defendant. The judge shall weigh the seriousness of each aggravating factor in the light of the particular circumstances of the case. The factors are:

- (1) Gross impairment of the defendant's faculties while driving or an alcohol concentration of 0.15 or more within a relevant time after the driving. For purposes of this subdivision, the results of a chemical analysis presented at trial or sentencing shall be sufficient to prove the person's alcohol concentration, shall be conclusive, and shall not be subject to modification by any party, with or without approval by the court.
- (2) Especially reckless or dangerous driving.
- (3) Negligent driving that led to a reportable accident.
- (4) Driving by the defendant while the defendant's driver's license was revoked.
- (5) Two or more prior convictions of a motor vehicle offense not involving impaired driving for which at least three points are assigned under G.S. 20-16 or for which the convicted person's license is subject to revocation, if the convictions occurred within five years of the date of the offense for which the

defendant is being sentenced, or one or more prior convictions of an offense involving impaired driving that occurred more than seven years before the date of the offense for which the defendant is being sentenced.

- (6) Conviction under G.S. 20-141.5 of speeding by the defendant while fleeing or attempting to elude apprehension.
- (7) Conviction under G.S. 20-141 of speeding by the defendant by at least 30 miles per hour over the legal limit.
- (8) Passing a stopped school bus in violation of G.S. 20-217.
- (9) Any other factor that aggravates the seriousness of the offense.

Except for the factor in subdivision (5) of this subsection the conduct constituting the aggravating factor shall occur during the same transaction or occurrence as the impaired driving offense.

(e) **Mitigating Factors to Be Weighed.** – The judge shall also determine before sentencing under subsection (f) of this section whether any of the mitigating factors listed below apply to the defendant. The judge shall weigh the degree of mitigation of each factor in light of the particular circumstances of the case. The factors are:

- (1) Slight impairment of the defendant's faculties resulting solely from alcohol, and an alcohol concentration that did not exceed 0.09 at any relevant time after the driving.
- (2) Slight impairment of the defendant's faculties, resulting solely from alcohol, with no chemical analysis having been available to the defendant.
- (3) Driving at the time of the offense that was safe and lawful except for the impairment of the defendant's faculties.
- (4) A safe driving record, with the defendant's having no conviction for any motor vehicle offense for which at least four points are assigned under G.S. 20-16 or for which the person's license is subject to revocation within five years of the date of the offense for which the defendant is being sentenced.
- (5) Impairment of the defendant's faculties caused primarily by a lawfully prescribed drug for an existing medical condition, and the amount of the drug taken was within the prescribed dosage.
- (6) The defendant's voluntary submission to a mental health facility for assessment after being charged with the impaired driving offense for which the defendant is being sentenced, and, if recommended by the facility, voluntary participation in the recommended treatment.
- (6a) Completion of a substance abuse assessment, compliance with its recommendations, and simultaneously maintaining 60 days of continuous abstinence from alcohol consumption, as proven by a continuous alcohol monitoring system. The continuous alcohol monitoring system shall be of a type approved by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
- (7) Any other factor that mitigates the seriousness of the offense.

Except for the factors in subdivisions (4), (6), (6a), and (7) of this subsection, the conduct constituting the mitigating factor shall occur during the same transaction or occurrence as the impaired driving offense.

(f) **Weighing the Aggravating and Mitigating Factors.** – If the judge or the jury in the sentencing hearing determines that there are no grossly aggravating factors, the judge shall weigh

all aggravating and mitigating factors listed in subsections (d) and (e) of this section. If the judge determines that:

- (1) The aggravating factors substantially outweigh any mitigating factors, the judge shall note in the judgment the factors found and the judge's finding that the defendant is subject to the Level Three punishment and impose a punishment within the limits defined in subsection (i) of this section.
- (2) There are no aggravating and mitigating factors, or that aggravating factors are substantially counterbalanced by mitigating factors, the judge shall note in the judgment any factors found and the finding that the defendant is subject to the Level Four punishment and impose a punishment within the limits defined in subsection (j) of this section.
- (3) The mitigating factors substantially outweigh any aggravating factors, the judge shall note in the judgment the factors found and the judge's finding that the defendant is subject to the Level Five punishment and impose a punishment within the limits defined in subsection (k) of this section.

It is not a mitigating factor that the driver of the vehicle was suffering from alcoholism, drug addiction, diminished capacity, or mental disease or defect. Evidence of these matters may be received in the sentencing hearing, however, for use by the judge in formulating terms and conditions of sentence after determining which punishment level shall be imposed.

(f1) Aider and Abettor Punishment. – Notwithstanding any other provisions of this section, a person convicted of impaired driving under G.S. 20-138.1 under the common law concept of aiding and abetting is subject to Level Five punishment. The judge need not make any findings of grossly aggravating, aggravating, or mitigating factors in such cases.

(f2) Limit on Consolidation of Judgments. – Except as provided in subsection (f1) of this section, in each charge of impaired driving for which there is a conviction the judge shall determine if the sentencing factors described in subsections (c), (d) and (e) of this section are applicable unless the impaired driving charge is consolidated with a charge carrying a greater punishment. Two or more impaired driving charges may not be consolidated for judgment.

(f3) Aggravated Level One Punishment. – A defendant subject to Aggravated Level One punishment may be fined up to ten thousand dollars (\$10,000) and shall be sentenced to a term of imprisonment that includes a minimum term of not less than 12 months and a maximum term of not more than 36 months. Notwithstanding G.S. 15A-1371, a defendant sentenced to a term of imprisonment pursuant to this subsection shall not be eligible for parole. However, the defendant shall be released from the Statewide Misdemeanant Confinement Program on the date equivalent to the defendant's maximum imposed term of imprisonment less four months and shall be supervised by the Section of Community Supervision of the Division of Adult Correction and Juvenile Justice under and subject to the provisions of Article 84A of Chapter 15A of the General Statutes and shall also be required to abstain from alcohol consumption for the four-month period of supervision as verified by a continuous alcohol monitoring system. For purposes of revocation, violation of the requirement to abstain from alcohol or comply with the use of a continuous alcohol monitoring system shall be deemed a controlling condition under G.S. 15A-1368.4.

The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least 120 days. If the defendant is placed on probation, the judge shall impose as requirements that the defendant (i) abstain from alcohol consumption for a minimum of 120 days to a maximum of the term of

probation, as verified by a continuous alcohol monitoring system pursuant to subsection (h1) of this section, and (ii) obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation.

(g) Level One Punishment. – A defendant subject to Level One punishment may be fined up to four thousand dollars (\$4,000) and shall be sentenced to a term of imprisonment that includes a minimum term of not less than 30 days and a maximum term of not more than 24 months. The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least 30 days. A judge may reduce the minimum term of imprisonment required to a term of not less than 10 days if a condition of special probation is imposed to require that a defendant abstain from alcohol consumption and be monitored by a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, for a period of not less than 120 days. If the defendant is monitored on an approved continuous alcohol monitoring system during the pretrial period, up to 60 days of pretrial monitoring may be credited against the 120-day monitoring requirement for probation. If the defendant is placed on probation, the judge shall impose a requirement that the defendant obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation.

(h) Level Two Punishment. – A defendant subject to Level Two punishment may be fined up to two thousand dollars (\$2,000) and shall be sentenced to a term of imprisonment that includes a minimum term of not less than seven days and a maximum term of not more than 12 months. The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least seven days or to abstain from consuming alcohol for at least 90 consecutive days, as verified by a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. If the defendant is subject to Level Two punishment based on a finding that the grossly aggravating factor in subdivision (1) or (2) of subsection (c) of this section applies, the conviction for a prior offense involving impaired driving occurred within five years before the date of the offense for which the defendant is being sentenced and the judge suspends all active terms of imprisonment and imposes abstention from alcohol as verified by a continuous alcohol monitoring system, then the judge must also impose as an additional condition of special probation that the defendant must complete 240 hours of community service. If the defendant is monitored on an approved continuous alcohol monitoring system during the pretrial period, up to 60 days of pretrial monitoring may be credited against the 90-day monitoring requirement for probation. If the defendant is placed on probation, the judge shall impose a requirement that the defendant obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation.

(h1) Alcohol Abstinence as Condition of Probation for Level One and Level Two Punishments. – The judge may impose, as a condition of probation for defendants subject to Level One or Level Two punishments, that the defendant abstain from alcohol consumption for a minimum of 30 days, to a maximum of the term of probation, as verified by a continuous alcohol monitoring system. The defendant's abstinence from alcohol shall be verified by a continuous

alcohol monitoring system of a type approved by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(h2) Repealed by Session Laws 2011-191, s. 1, effective December 1, 2011, and applicable to offenses committed on or after that date.

(h3) Repealed by Session Laws 2012-146, s. 9, effective December 1, 2012.

(i) Level Three Punishment. – A defendant subject to Level Three punishment may be fined up to one thousand dollars (\$1,000) and shall be sentenced to a term of imprisonment that includes a minimum term of not less than 72 hours and a maximum term of not more than six months. The term of imprisonment may be suspended. However, the suspended sentence shall include the condition that the defendant:

- (1) Be imprisoned for a term of at least 72 hours as a condition of special probation; or
- (2) Perform community service for a term of at least 72 hours; or
- (3) Repealed by Session Laws 2006-253, s. 23, effective December 1, 2006, and applicable to offenses committed on or after that date.
- (4) Any combination of these conditions.

If the defendant is placed on probation, the judge shall impose a requirement that the defendant obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation.

(j) Level Four Punishment. – A defendant subject to Level Four punishment may be fined up to five hundred dollars (\$500.00) and shall be sentenced to a term of imprisonment that includes a minimum term of not less than 48 hours and a maximum term of not more than 120 days. The term of imprisonment may be suspended. However, the suspended sentence shall include the condition that the defendant:

- (1) Be imprisoned for a term of 48 hours as a condition of special probation; or
- (2) Perform community service for a term of 48 hours; or
- (3) Repealed by Session Laws 2006-253, s. 23, effective December 1, 2006, and applicable to offenses committed on or after that date.
- (4) Any combination of these conditions.

If the defendant is placed on probation, the judge shall impose a requirement that the defendant obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation.

(k) Level Five Punishment. – A defendant subject to Level Five punishment may be fined up to two hundred dollars (\$200.00) and shall be sentenced to a term of imprisonment that includes a minimum term of not less than 24 hours and a maximum term of not more than 60 days. The term of imprisonment may be suspended. However, the suspended sentence shall include the condition that the defendant:

- (1) Be imprisoned for a term of 24 hours as a condition of special probation; or
- (2) Perform community service for a term of 24 hours; or
- (3) Repealed by Session Laws 2006-253, s. 23, effective December 1, 2006, and applicable to offenses committed on or after that date.
- (4) Any combination of these conditions.

If the defendant is placed on probation, the judge shall impose a requirement that the defendant obtain a substance abuse assessment and the education or treatment required by

G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation.

(k1) Credit for Inpatient Treatment. – Pursuant to G.S. 15A-1351(a), the judge may order that a term of imprisonment imposed as a condition of special probation under any level of punishment be served as an inpatient in a facility operated or licensed by the State for the treatment of alcoholism or substance abuse where the defendant has been accepted for admission or commitment as an inpatient. The defendant shall bear the expense of any treatment unless the trial judge orders that the costs be absorbed by the State. The judge may impose restrictions on the defendant's ability to leave the premises of the treatment facility and require that the defendant follow the rules of the treatment facility. The judge may credit against the active sentence imposed on a defendant the time the defendant was an inpatient at the treatment facility, provided such treatment occurred after the commission of the offense for which the defendant is being sentenced. This section shall not be construed to limit the authority of the judge in sentencing under any other provisions of law.

(k2) Probationary Requirement for Abstinence and Use of Continuous Alcohol Monitoring. – The judge may order that as a condition of special probation for any level of offense under G.S. 20-179 the defendant abstain from alcohol consumption, as verified by a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(k3) Continuous Alcohol Monitoring During Probation. – The court, in the sentencing order, may authorize probation officers to require defendants to submit to continuous alcohol monitoring for assessment purposes if the defendant has been required to abstain from alcohol consumption during the term of probation and the probation officer believes the defendant is consuming alcohol. The defendant shall bear the costs of the continuous alcohol monitoring system if the use of the system has been authorized by a judge in accordance with this subsection.

(k4) Continuous Alcohol Monitoring Exception. – Notwithstanding the provisions of subsections (g), (h), (k2), and (k3) of this section, if the court finds, upon good cause shown, that the defendant should not be required to pay the costs of the continuous alcohol monitoring system, the court shall not impose the use of a continuous alcohol monitoring system unless the local governmental entity responsible for the incarceration of the defendant in the local confinement facility agrees to pay the costs of the system.

(l) Repealed by Session Laws 1989, c. 691.

(m) Repealed by Session Laws 1995, c. 496, s. 2.

(n) Time Limits for Performance of Community Service. – If the judgment requires the defendant to perform a specified number of hours of community service, a minimum of 24 hours must be ordered.

(o) Evidentiary Standards; Proof of Prior Convictions. – In the sentencing hearing, the State shall prove any grossly aggravating or aggravating factor beyond a reasonable doubt, and the defendant shall prove any mitigating factor by the greater weight of the evidence. Evidence adduced by either party at trial may be utilized in the sentencing hearing. Except as modified by this section, the procedure in G.S. 15A-1334(b) governs. The judge may accept any evidence as to the presence or absence of previous convictions that the judge finds reliable but shall give prima facie effect to convictions recorded by the Division or any other agency of the State of North Carolina. A copy of such conviction records transmitted by the police information network in general accordance with the procedure authorized by G.S. 20-26(b) is admissible in evidence

without further authentication. If the judge decides to impose an active sentence of imprisonment that would not have been imposed but for a prior conviction of an offense, the judge shall afford the defendant an opportunity to introduce evidence that the prior conviction had been obtained in a case in which the defendant was indigent, had no counsel, and had not waived the right to counsel. If the defendant proves by the preponderance of the evidence all three above facts concerning the prior case, the conviction may not be used as a grossly aggravating or aggravating factor.

(p) Limit on Amelioration of Punishment. – For active terms of imprisonment imposed under this section:

- (1) The judge may not give credit to the defendant for the first 24 hours of time spent in incarceration pending trial.
- (2) The defendant shall serve the mandatory minimum period of imprisonment and good or gain time credit may not be used to reduce that mandatory minimum period.
- (3) The defendant may not be released on parole unless the defendant is otherwise eligible, has served the mandatory minimum period of imprisonment, and has obtained a substance abuse assessment and completed any recommended treatment or training program or is paroled into a residential treatment program.

With respect to the minimum or specific term of imprisonment imposed as a condition of special probation under this section, the judge may not give credit to the defendant for the first 24 hours of time spent in incarceration pending trial.

(q) Repealed by Session Laws 1991, c. 726, s. 20.

(r) Supervised Probation Terminated. – Unless a judge in the judge's discretion determines that supervised probation is necessary, and includes in the record that the judge has received evidence and finds as a fact that supervised probation is necessary, and states in the judgment that supervised probation is necessary, a defendant convicted of an offense of impaired driving shall be placed on unsupervised probation if the defendant meets three conditions. These conditions are that the defendant (i) has not been convicted of an offense of impaired driving within the seven years preceding the date of this offense for which the defendant is sentenced, (ii) is being sentenced under subsections (i), (j), and (k) of this section, and (iii) has obtained any necessary substance abuse assessment and completed any recommended treatment or training program.

When a judge determines in accordance with the above procedures that a defendant should be placed on supervised probation, the judge shall authorize the probation officer to modify the defendant's probation by placing the defendant on unsupervised probation upon the completion by the defendant of the following conditions of the suspended sentence:

- (1) Community service; or
- (2) Repealed by Session Laws 1995 c. 496, s. 2.
- (3) Payment of any fines, court costs, and fees; or
- (4) Any combination of these conditions.

(s) Method of Serving Sentence. – The judge in the judge's discretion may order a term of imprisonment to be served on weekends, even if the sentence cannot be served in consecutive sequence. However, if the defendant is ordered to a term of 48 hours or more, or has 48 hours or more remaining on a term of imprisonment, the defendant shall be required to serve 48

continuous hours of imprisonment to be given credit for time served. All of the following apply to a sentence served under this subsection:

- (1) Credit for any jail time shall only be given hour for hour for time actually served. The jail shall maintain a log showing number of hours served.
- (2) The defendant shall be refused entrance and shall be reported back to court if the defendant appears at the jail and has remaining in the defendant's body any alcohol as shown by an alcohol screening device or controlled substance previously consumed, unless lawfully obtained and taken in therapeutically appropriate amounts.
- (3) If a defendant has been reported back to court under subdivision (2) of this subsection, the court shall hold a hearing. The defendant shall be ordered to serve the defendant's jail time immediately and shall not be eligible to serve jail time on weekends if the court determines that, at the time of entrance to the jail, at least one of the following apply:
 - a. The defendant had previously consumed alcohol in the defendant's body as shown by an alcohol screening device.
 - b. The defendant had a previously consumed controlled substance in the defendant's body.

It shall be a defense to an immediate service of sentence of jail time and ineligibility for weekend service of jail time if the court determines that alcohol or controlled substance was lawfully obtained and was taken in therapeutically appropriate amounts.

(t) Repealed by Session Laws 1995, c. 496, s. 2. (1937, c. 407, s. 140; 1947, c. 1067, s. 18; 1967, c. 510; 1969, c. 50; c. 1283, ss. 1-5; 1971, c. 619, s. 16; c. 1133, s. 1; 1975, c. 716, s. 5; 1977, c. 125; 1977, 2nd Sess., c. 1222, s. 1; 1979, c. 453, ss. 1, 2; c. 903, ss. 1, 2; 1981, c. 466, ss. 4-6; 1983, c. 435, s. 29; 1983 (Reg. Sess., 1984), c. 1101, ss. 21-29, 36; 1985, c. 706, s. 1; 1985 (Reg. Sess., 1986), c. 1014, s. 201(d); 1987, c. 139; c. 352, s. 1; c. 797, ss. 1, 2; 1989, c. 548, ss. 1, 2; c. 691, ss. 1-3, 4.1; 1989 (Reg. Sess., 1990), c. 1031, ss. 1, 2; c. 1039, s. 6; 1991, c. 636, s. 19(b), (c); c. 726, ss. 20, 21; 1993, c. 285, s. 9; 1995, c. 191, s. 3; c. 496, ss. 2-7; c. 506, ss. 11-13; 1997-379, ss. 2.1-2.8; 1997-443, s. 19.26(c); 1998-182, ss. 25, 31-35; 2006-253, s. 23; 2007-165, ss. 2, 3; 2007-493, ss. 6, 20, 26; 2009-372, s. 14; 2010-97, s. 2; 2011-145, s. 19.1(h), (k); 2011-191, s. 1; 2011-329, s. 1; 2012-146, s. 9; 2012-194, s. 51.5; 2013-348, s. 2; 2014-100, s. 16C.1(d); 2015-186, s. 6; 2015-264, ss. 38(b), 86; 2015-289, s. 2; 2017-102, s. 7.1; 2017-186, s. 2(nnnn).)

§ 20-179.1. Presentence investigation of persons convicted of offense involving impaired driving.

When a person has been convicted of an offense involving impaired driving, the trial judge may request a presentence investigation to determine whether the person convicted would benefit from treatment for habitual use of alcohol or drugs. If the person convicted objects, no presentence investigation may be ordered, but the judge retains his power to order suitable treatment as a condition of probation, and must do so when required by statute. (1973, c. 612; 1981, c. 412, s. 4; c. 747, s. 66; 1983, c. 435, s. 29.)

§ 20-179.2: Repealed by Session Laws 1995, c. 496, s. 8.

§ 20-179.3. Limited driving privilege.

(a) Definition of Limited Driving Privilege. – A limited driving privilege is a judgment issued in the discretion of a court for good cause shown authorizing a person with a revoked driver's license to drive for essential purposes related to any of the following:

- (1) The person's employment.
- (2) The maintenance of the person's household.
- (3) The person's education.
- (4) The person's court-ordered treatment or assessment.
- (5) Community service ordered as a condition of the person's probation.
- (6) Emergency medical care.
- (7) Religious worship.

(b) Eligibility. –

- (1) A person convicted of the offense of impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege if:
 - a. At the time of the offense the person held either a valid driver's license or a license that had been expired for less than one year;
 - b. At the time of the offense the person had not within the preceding seven years been convicted of an offense involving impaired driving;
 - c. Punishment Level Three, Four, or Five was imposed for the offense of impaired driving;
 - d. Subsequent to the offense the person has not been convicted of, or had an unresolved charge lodged against the person for, an offense involving impaired driving; and
 - e. The person has obtained and filed with the court a substance abuse assessment of the type required by G.S. 20-17.6 for the restoration of a drivers license.

A person whose North Carolina driver's license is revoked because of a conviction in another jurisdiction substantially similar to impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege if the person would be eligible for it had the conviction occurred in North Carolina. Eligibility for a limited driving privilege following a revocation under G.S. 20-16.2(d) is governed by G.S. 20-16.2(e1).

- (2) Any person whose licensing privileges are forfeited pursuant to G.S. 15A-1331.1 is eligible for a limited driving privilege if the court finds that at the time of the forfeiture, the person held either a valid drivers license or a drivers license that had been expired for less than one year and
 - a. The person is supporting existing dependents or must have a drivers license to be gainfully employed; or
 - b. The person has an existing dependent who requires serious medical treatment and the defendant is the only person able to provide transportation to the dependent to the health care facility where the dependent can receive the needed medical treatment.

The limited driving privilege granted under this subdivision must restrict the person to essential driving related to the purposes listed above, and any driving that is not related to those purposes is unlawful even though done at times and upon routes that may be authorized by the privilege.

(c) Privilege Not Effective until after Compliance with Court-Ordered Revocation. – A person convicted of an impaired driving offense may apply for a limited driving privilege at the time the judgment is entered. A person whose license is revoked because of a conviction in another jurisdiction substantially similar to impaired driving under G.S. 20-138.1 may apply for a limited driving privilege only after having completed at least 60 days of a court-imposed term of nonoperation of a motor vehicle, if the court in the other jurisdiction imposed such a term of nonoperation.

(c1) Privilege Restrictions for High-Risk Drivers. – Notwithstanding any other provision of this section, any limited driving privilege issued to a person convicted of an impaired driving offense with an alcohol concentration of 0.15 or more at the time of the offense shall:

- (1) Not become effective until at least 45 days after the final conviction under G.S. 20-138.1;
- (2) Require the applicant to comply with the ignition interlock requirements of subsection (g5) of this section; and
- (3) Restrict the applicant to driving only to and from the applicant's place of employment, the place the applicant is enrolled in school, the applicant's place of religious worship, any court ordered treatment or substance abuse education, and any ignition interlock service facility.

For purposes of this subsection, the results of a chemical analysis presented at trial or sentencing shall be sufficient to prove a person's alcohol concentration, shall be conclusive, and shall not be subject to modification by any party, with or without approval by the court.

(d) Application for and Scheduling of Subsequent Hearing. – The application for a limited driving privilege made at any time after the day of sentencing must be filed with the clerk in duplicate, and no hearing scheduled may be held until a reasonable time after the clerk files a copy of the application with the district attorney's office. The hearing must be scheduled before:

- (1) The presiding judge at the applicant's trial if that judge is assigned to a court in the district court district as defined in G.S. 7A-133 or superior court district or set of districts as defined in G.S. 7A-41.1, as the case may be, in which the conviction for impaired driving was imposed.
- (2) The senior regular resident superior court judge of the superior court district or set of districts as defined in G.S. 7A-41.1 in which the conviction for impaired driving was imposed, if the presiding judge is not available within the district and the conviction was imposed in superior court.
- (3) The chief district court judge of the district court district as defined in G.S. 7A-133 in which the conviction for impaired driving was imposed, if the presiding judge is not available within the district and the conviction was imposed in district court.

If the applicant was convicted of an offense in another jurisdiction, the hearing must be scheduled before the chief district court judge of the district court district as defined in G.S. 7A-133 in which he resides. G.S. 20-16.2(e1) governs the judge before whom a hearing is scheduled if the revocation was under G.S. 20-16.2(d). The hearing may be scheduled in any county within the district court district as defined in G.S. 7A-133 or superior court district or set of districts as defined in G.S. 7A-41.1, as the case may be.

(e) Limited Basis for and Effect of Privilege. – A limited driving privilege issued under this section authorizes a person to drive if the person's license is revoked solely under G.S. 20-17(a)(2) or as a result of a conviction in another jurisdiction substantially similar to

impaired driving under G.S. 20-138.1; if the person's license is revoked under any other statute, the limited driving privilege is invalid.

(f) Overall Provisions on Use of Privilege. – Every limited driving privilege must restrict the applicant to essential driving related to the purposes listed in subsection (a), and any driving that is not related to those purposes is unlawful even though done at times and upon routes that may be authorized by the privilege. If the privilege is granted, driving related to emergency medical care is authorized at any time and without restriction as to routes, but all other driving must be for a purpose and done within the restrictions specified in the privilege.

(f1) Definition of "Standard Working Hours". – Under this section, "standard working hours" are 6:00 A.M. to 8:00 P.M. on Monday through Friday.

(g) Driving for Work-Related Purposes in Standard Working Hours. – In a limited driving privilege, the court may authorize driving for work-related purposes during standard working hours without specifying the times and routes in which the driving must occur. If the applicant is not required to drive for essential work-related purposes except during standard working hours, the limited driving privilege must prohibit driving during nonstandard working hours unless the driving is for emergency medical care or is authorized by subsection (g2). The limited driving privilege must state the name and address of the applicant's place of work or employer, and may include other information and restrictions applicable to work-related driving in the discretion of the court.

(g1) Driving for Work-Related Purposes in Nonstandard Hours. – If the applicant is required to drive during nonstandard working hours for an essential work-related purpose, the applicant must present documentation of that fact before the judge may authorize the applicant to drive for this purpose during those hours. If the applicant is self-employed, the documentation must be attached to or made a part of the limited driving privilege. If the judge determines that it is necessary for the applicant to drive during nonstandard hours for a work-related purpose, the judge may authorize the applicant to drive subject to these limitations:

- (1) If the applicant is required to drive to and from a specific place of work at regular times, the limited driving privilege must specify the general times and routes in which the applicant will be driving to and from work, and restrict driving to those times and routes.
- (2) If the applicant is required to drive to and from work at a specific place, but is unable to specify the times at which that driving will occur, the limited driving privilege must specify the general routes in which the applicant will be driving to and from work, and restrict the driving to those general routes.
- (3) If the applicant is required to drive to and from work at regular times but is unable to specify the places at which work is to be performed, the limited driving privilege must specify the general times and geographic boundaries in which the applicant will be driving, and restrict driving to those times and within those boundaries.
- (4) If the applicant can specify neither the times nor places in which the applicant will be driving to and from work, or if the applicant is required to drive during these nonstandard working hours as a condition of employment, the limited driving privilege must specify the geographic boundaries in which the applicant will drive and restrict driving to that within those boundaries.

The limited driving privilege must state the name and address of the applicant's place of work or employer, and may include other information and restrictions applicable to work-related driving, in the discretion of the court.

(g2) A limited driving privilege may not allow driving for maintenance of the household except during standard working hours, and the limited driving privilege may contain any additional restrictions on that driving, in the discretion of the court. The limited driving privilege must authorize driving essential to the completion of any community work assignments, course of instruction at an Alcohol and Drug Education Traffic School, or substance abuse assessment or treatment, to which the applicant is ordered by the court as a condition of probation for the impaired driving conviction. If this driving will occur during nonstandard working hours, the limited driving privilege must specify the same limitations required by subsection (g1) for work-related driving during those hours, and it must include or have attached to it the name and address of the Alcohol and Drug Education Traffic School, the community service coordinator, or mental health treatment facility to which the applicant is assigned. Driving for educational purposes other than the course of instruction at an Alcohol and Drug Education Traffic School is subject to the same limitations applicable to work related driving under subsections (g) and (g1). Driving to and from the applicant's place of religious worship is subject to the same limitations applicable to work-related driving under subsections (g) and (g1) of this section.

(g3) Ignition Interlock Allowed. – A judge may include all of the following in a limited driving privilege order:

- (1) A restriction that the applicant may operate only a designated motor vehicle.
- (2) A requirement that the designated motor vehicle be equipped with a functioning ignition interlock system of a type approved by the Commissioner. The Commissioner shall not unreasonably withhold approval of an ignition interlock system and shall consult with the Division of Purchase and Contract in the Department of Administration to ensure that potential vendors are not discriminated against.
- (3) A requirement that the applicant personally activate the ignition interlock system before driving the motor vehicle.

(g4) The restrictions set forth in subsection (g3) and (g5) of this section do not apply to a motor vehicle that meets all of the following requirements:

- (1) Is owned by the applicant's employer.
- (2) Is operated by the applicant solely for work-related purposes.
- (3) Its owner has filed with the court a written document authorizing the applicant to drive the vehicle, for work-related purposes, under the authority of a limited driving privilege.

(g5) Ignition Interlock Required. – If a person's drivers license is revoked for a conviction of G.S. 20-138.1, and the person had an alcohol concentration of 0.15 or more, a judge shall include all of the following in a limited driving privilege order:

- (1) A restriction that the applicant may operate only a designated motor vehicle.
- (2) A requirement that the designated motor vehicle be equipped with a functioning ignition interlock system of a type approved by the Commissioner, which is set to prohibit driving with an alcohol concentration of greater than 0.00. The Commissioner shall not unreasonably withhold approval of an ignition interlock system and shall consult with the Division of

Purchase and Contract in the Department of Administration to ensure that potential vendors are not discriminated against.

- (3) A requirement that the applicant personally activate the ignition interlock system before driving the motor vehicle.

For purposes of this subsection, the results of a chemical analysis presented at trial or sentencing shall be sufficient to prove a person's alcohol concentration, shall be conclusive, and shall not be subject to modification by any party, with or without approval by the court.

(h) Other Mandatory and Permissive Conditions or Restrictions. – In all limited driving privileges the judge shall also include a restriction that the applicant not consume alcohol while driving or drive at any time while the applicant has remaining in the applicant's body any alcohol or controlled substance previously consumed, unless the controlled substance was lawfully obtained and taken in therapeutically appropriate amounts. The judge may impose any other reasonable restrictions or conditions necessary to achieve the purposes of this section.

(i) Modification or Revocation of Privilege. – A judge who issues a limited driving privilege is authorized to modify or revoke the limited driving privilege upon a showing that the circumstances have changed sufficiently to justify modification or revocation. If the judge who issued the privilege is not presiding in the court in which the privilege was issued, a presiding judge in that court may modify or revoke a privilege in accordance with this subsection. The judge must indicate in the order of modification or revocation the reasons for the order, or the judge must make specific findings indicating the reason for the order and those findings must be entered in the record of the case.

(j) Effect of Violation of Restriction. – A person holding a limited driving privilege who violates any of its restrictions commits the offense of driving while license is revoked for impaired driving under G.S. 20-28(a1) and is subject to punishment and license revocation as provided in that section. If a law-enforcement officer has reasonable grounds to believe that the person holding a limited driving privilege has consumed alcohol while driving or has driven while the person has remaining in the person's body any alcohol previously consumed, the suspected offense of driving while license is revoked is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2. If a person holding a limited driving privilege is charged with driving while license revoked by violating a restriction contained in the limited driving privilege, and a judicial official determines that there is probable cause for the charge, the limited driving privilege is suspended pending the resolution of the case, and the judicial official must require the person to surrender the limited driving privilege. The judicial official must also notify the person that the person is not entitled to drive until the case is resolved.

Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violating this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the Department of Health and Human Services, and the screening test is conducted in accordance with the applicable regulations of the Department as to the manner of its use.

(j1) Effect of Violation of Community Service Requirement. – Section of Community Corrections of the Division of Adult Correction and Juvenile Justice staff shall report significant violations of the terms of a probation judgment related to community service to the court that ordered the community service. The court shall then conduct a hearing to determine if there was a willful failure to comply. The hearing may be held in the district where the requirement was

imposed, where the alleged violation occurred, or where the probationer resides. If the court determines that there was a willful failure to pay the prescribed fee or to complete the work as ordered within the applicable time limits, the court shall revoke any limited driving privilege issued in the impaired driving case until community service requirements have been met. In addition, the court may take any further action authorized by Article 82 of Chapter 15A of the General Statutes for violation of a condition of probation.

(k) Copy of Limited Driving Privilege to Division; Action Taken if Privilege Invalid. – The clerk of court or the child support enforcement agency must send a copy of any limited driving privilege issued in the county to the Division. A limited driving privilege that is not authorized by this section, G.S. 20-16.2(e1), 20-16.1, 50-13.12, or 110-142.2, or that does not contain the limitations required by law, is invalid. If the limited driving privilege is invalid on its face, the Division must immediately notify the court and the person holding the privilege that it considers the privilege void and that the Division records will not indicate that the person has a limited driving privilege.

(l) Any judge granting limited driving privileges under this section shall, prior to granting such privileges, be furnished proof and be satisfied that the person being granted such privileges is financially responsible. Proof of financial responsibility shall be in one of the following forms:

- (1) A written certificate or electronically-transmitted facsimile thereof from any insurance carrier duly authorized to do business in this State certifying that there is in effect a nonfleet private passenger motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. The certificate or facsimile shall state the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy and shall state the date that the certificate or facsimile is issued. The certificate or facsimile shall remain effective proof of financial responsibility for a period of 30 consecutive days following the date the certificate or facsimile is issued but shall not in and of itself constitute a binder or policy of insurance or
- (2) A binder for or policy of nonfleet private passenger motor vehicle liability insurance under which the applicant is insured, provided that the binder or policy states the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy.

The preceding provisions of this subsection do not apply to applicants who do not own currently registered motor vehicles and who do not operate nonfleet private passenger motor vehicles that are owned by other persons and that are not insured under commercial motor vehicle liability insurance policies. In such cases, the applicant shall sign a written certificate to that effect. Such certificate shall be furnished by the Division. Any material misrepresentation made by such person on such certificate shall be grounds for suspension of that person's license for a period of 90 days.

For the purpose of this subsection "nonfleet private passenger motor vehicle" has the definition ascribed to it in Article 40 of General Statute Chapter 58.

The Commissioner may require that certificates required by this subsection be on a form approved by the Commissioner. Such granting of limited driving privileges shall be conditioned upon the maintenance of such financial responsibility during the period of the limited driving privilege. Nothing in this subsection precludes any person from showing proof of financial responsibility in any other manner authorized by Articles 9A and 13 of this Chapter. (1983, c.

435, s. 31; 1983 (Reg. Sess., 1984), c. 1101, ss. 30-33; 1985, c. 706, s. 2; 1987, c. 869, s. 13; 1987 (Reg. Sess., 1988), c. 1037, s. 78; 1989, c. 436, s. 6; 1994, Ex. Sess., c. 20, s. 3; 1995, c. 506, ss. 1, 2; c. 538, s. 2(h); 1995 (Reg. Sess., 1996), c. 756, s. 31; 1997-379, s. 5.6; 1999-406, ss. 4-6; 2000-155, ss. 7, 11-13; 2001-487, s. 55; 2007-182, s. 2; 2007-493, ss. 24, 29, 30; 2008-187, s. 36(c); 2009-372, s. 15; 2011-145, s. 19.1(k); 2012-194, s. 45(c); 2015-185, s. 2(a); 2015-186, s. 5; 2015-264, s. 86; 2017-186, s. 2(oooo).)

§ **20-179.4:** Repealed by Session Laws 2009-372, s. 16, effective December 1, 2009, and applicable to offenses committed on or after that date.

§ **20-180. Repealed by Session Laws 1973, c. 1330, s. 39.**

§ **20-181. Penalty for failure to dim, etc., beams of headlamps.**

Any person operating a motor vehicle on the highways of this State, who shall fail to shift, depress, deflect, tilt or dim the beams of the headlamps thereon whenever another vehicle is met on such highways or when following another vehicle at a distance of less than 200 feet, except when engaged in the act of overtaking and passing may, upon a determination of responsibility for the offense, be required to pay a penalty of not more than ten dollars (\$10.00). (1939, c. 351, s. 3; 1955, c. 913, s. 1; 1987, c. 581, s. 5.)

§ **20-182: Repealed by Session Laws 1983, c. 912, s. 2.**

§ **20-183. Duties and powers of law-enforcement officers; warning by local officers before stopping another vehicle on highway; warning tickets.**

(a) It shall be the duty of the law-enforcement officers of the State and of each county, city, or other municipality to see that the provisions of this Article are enforced within their respective jurisdictions, and any such officer shall have the power to arrest on sight or upon warrant any person found violating the provisions of this Article. Such officers within their respective jurisdictions shall have the power to stop any motor vehicle upon the highways of the State for the purpose of determining whether the same is being operated in violation of any of the provisions of this Article. Provided, that when any county, city, or other municipal law-enforcement officer operating a motor vehicle overtakes another vehicle on the highways of the State, outside of the corporate limits of cities and towns, for the purpose of stopping the same or apprehending the driver thereof, for a violation of any of the provisions of this Article, he shall, before stopping such other vehicle, sound a siren or activate a special light, bell, horn, or exhaust whistle approved for law-enforcement vehicles under the provisions of G.S. 20-125(b).

(b) In addition to other duties and powers heretofore existing, all law-enforcement officers charged with the duty of enforcing the motor vehicle laws are authorized to issue warning tickets to motorists for conduct constituting a potential hazard to the motoring public which does not amount to a definite, clear-cut, substantial violation of the motor vehicle laws. Each warning ticket issued shall contain information necessary to identify the offender, and shall be signed by the issuing officer. A copy of each warning ticket issued shall be delivered to the offender. Information from issued warning tickets shall be made available to the Drivers License Section of the Division of Motor Vehicles in a manner approved by the Commissioner but shall not be filed with or in any manner become a part of the offender's driving record. Warning tickets issued as well as the fact of issuance shall be privileged information and available only to

authorized personnel of the Division for statistical and analytical purposes. (1937, c. 407, s. 143; 1961, c. 793; 1965, cc. 537, 999; 1975, c. 716, s. 5; 1998-149, s. 9.2.)

Article 3A.

Safety and Emissions Inspection Program.

Part 1. Safe Use of Streets and Highways.

§ 20-183.1: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 754, s. 3.

Part 2. Safety and Emissions Inspections of Certain Vehicles

§ 20-183.2. Description of vehicles subject to safety or emissions inspection; definitions.

(a) Safety. – A motor vehicle is subject to a safety inspection in accordance with this Part if it meets all of the following requirements:

- (1) It is subject to registration with the Division under Article 3 of this Chapter.
- (2) It is not subject to inspection under 49 C.F.R. Part 396, the federal Motor Carrier Safety Regulations.
- (3) It is not a trailer whose gross weight is less than 4,000 pounds or a house trailer.

(a1) Safety Inspection Exceptions. – The following vehicles shall not be subject to a safety inspection pursuant to this Article:

- (1) Historic vehicles, as described in G.S. 20-79.4(b)(90).
- (2) Buses titled to a local board of education and subject to the school bus inspection requirements specified by the State Board of Education and G.S. 115C-248.

(b) Emissions. – A motor vehicle is subject to an emissions inspection in accordance with this Part if it meets all of the following requirements:

- (1) It is subject to registration with the Division under Article 3 of this Chapter, except for motor vehicles operated on a federal installation as provided in sub-subdivision e. of subdivision (5) of this subsection.
- (2) It is not a trailer whose gross weight is less than 4,000 pounds, a house trailer, or a motorcycle.
- (3) **(Effective until contingency met – see note)** It is (i) a 1996 or later model and older than the three most recent model years or (ii) a 1996 or later model and has 70,000 miles or more on its odometer.
- (3) **(Contingent effective date – see note)** It is (i) a vehicle with a model year within 20 years of the current year and older than the three most recent model years or (ii) a vehicle with a model year within 20 years of the current year and has 70,000 miles or more on its odometer.
- (4) Repealed by Session Laws 1999-328, s. 3.11, effective July 21, 1999.
- (5) It meets any of the following descriptions:
 - a. It is required to be registered in an emissions county.
 - b. It is part of a fleet that is operated primarily in an emissions county.
 - c. It is offered for rent in an emissions county.
 - d. It is a used vehicle offered for sale by a dealer in an emissions county.
 - e. It is operated on a federal installation located in an emissions county and it is not a tactical military vehicle. Vehicles operated on a federal

installation include those that are owned or leased by employees of the installation and are used to commute to the installation and those owned or operated by the federal agency that conducts business at the installation.

- f. It is otherwise required by 40 C.F.R. Part 51 to be subject to an emissions inspection.
- (6) It is not licensed at the farmer rate under G.S. 20-88(b).
- (7) It is not a new motor vehicle, as defined in G.S. 20-286(10)a. and has been a used motor vehicle, as defined in G.S. 20-286(10)b., for 12 months or more. However, a motor vehicle that has been leased or rented, or offered for lease or rent, is subject to an emissions inspection when it either:
 - a. Has been leased or rented, or offered for lease or rent, for 12 months or more.
 - b. Is sold to a consumer-purchaser.
- (8) It is not a privately owned, nonfleet motor home or house car, as defined in G.S. 20-4.01(27)k., that is built on a single chassis, has a gross vehicle weight of more than 10,000 pounds, and is designed primarily for recreational use.
- (9) It is not a plug-in electric vehicle as defined in G.S. 20-4.01(28a).
- (10) It is not a fuel cell electric vehicle as defined in G.S. 20-4.01(12a).
- (c) Definitions. – The following definitions apply in this Part:
 - (1) Electronic inspection authorization. – An inspection authorization that is generated electronically through the electronic accounting system that creates a unique nonduplicating authorization number assigned to the vehicle's inspection receipt upon successful passage of an inspection. The term "electronic inspection authorization" shall include the term "inspection sticker" during the transition period to use of electronic inspection authorizations.
 - (2) Emissions county. – A county listed in G.S. 143-215.107A(c) and certified to the Commissioner of Motor Vehicles as a county in which the implementation of a motor vehicle emissions inspection program will improve ambient air quality.
 - (3) Federal installation. – An installation that is owned by, leased to, or otherwise regularly used as the place of business of a federal agency. (1965, c. 734, s. 1; 1967, c. 692, s. 1; 1969, c. 179, s. 2; cc. 219, 386; 1973, c. 679, s. 2; 1975, c. 683; c. 716, s. 5; 1979, c. 77; 1989, c. 467; 1991, c. 394, s. 1; c. 761, s. 7; 1993 (Reg. Sess., 1994), c. 754, s. 1; 1995, c. 163, s. 10; 1997-29, s. 12; 1999-328, s. 3.11; 2000-134, ss. 7, 7.1, 9, 11; 2001-504, ss. 4, 5, 6, 10; 2004-167, s. 10; 2004-199, s. 59; 2006-255, s. 1; 2007-503, s. 2; 2008-172, s. 1; 2009-570, s. 33; 2011-95, s. 3; 2011-206, s. 3; 2012-199, s. 1; 2012-200, s. 12(b); 2013-410, s. 5; 2015-264, s. 9; 2017-10, s. 3.5(b); 2017-102, s. 5.2(b).)

§ 20-183.3. Scope of safety inspection and emissions inspection.

(a) Safety. – A safety inspection of a motor vehicle consists of an inspection of the following equipment to determine if the vehicle has the equipment required by Part 9 of Article 3 of this Chapter and if the equipment is in a safe operating condition:

- (1) Brakes, as required by G.S. 20-124.

- (2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.
- (3) Horn, as required by G.S. 20-125(a).
- (4) Steering mechanism, as required by G.S. 20-123.1.
- (5) Windows and windshield wipers, as required by G.S. 20-127. To determine if a vehicle window meets the window tinting restrictions, a safety inspection mechanic must first determine, based on use of an automotive film check card or knowledge of window tinting techniques, if after-factory tint has been applied to the window. If after-factory tint has been applied, the mechanic must use a light meter approved by the Commissioner to determine if the window meets the window tinting restrictions.
- (6) Directional signals, as required by G.S. 20-125.1.
- (7) Tires, as required by G.S. 20-122.1.
- (8) Mirrors, as required by G.S. 20-126.
- (9) Exhaust system and emissions control devices, as required by G.S. 20-128. For a vehicle that is subject to an emissions inspection in addition to a safety inspection, a visual inspection of the vehicle's emissions control devices is included in the emissions inspection rather than the safety inspection.

(b) Repealed by Laws 2000-134, s. 12, effective January 1, 2006.

(b1) Emissions. – An emissions inspection of a motor vehicle consists of a visual inspection of the vehicle's emissions control devices to determine if the devices are present, are properly connected, and are the correct type for the vehicle and an analysis of data provided by the on-board diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any deterioration or malfunction in the operation of the vehicle that violates standards for the model year of the vehicle set by the Environmental Management Commission. To pass an emissions inspection a vehicle must pass both the visual inspection and the OBD analysis. When an emissions inspection is performed on a vehicle, a safety inspection must be performed on the vehicle as well.

(c) Reinspection After Failure. – The scope of a reinspection of a vehicle that has been repaired after failing an inspection is the same as the original inspection unless the vehicle is presented for reinspection within 60 days of failing the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was a safety inspection, the reinspection is limited to an inspection of the equipment that failed the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was an emissions inspection, the reinspection is limited to the portion of the inspection the vehicle failed and any other portion of the inspection that would be affected by repairs made to correct the failure. (1965, c. 734, s. 1; 1969, c. 378, s. 2; 1971, c. 455, s. 2; c. 478, ss. 1, 2; 1979, 2nd Sess., c. 1180, s. 3; 1981 (Reg. Sess., 1982), c. 1261, s. 1; 1989, c. 391, s. 2; 1991, c. 654, s. 2; 1993 (Reg. Sess., 1994), c. 754, s. 1; 1995, c. 473, s. 2; 2000-134, ss. 8, 10, 12; 2001-504, s. 7; 2007-364, s. 1.)

§ 20-183.4. License required to perform safety inspection; qualifications for license.

(a) License Required. – A safety inspection must be performed by one of the following methods:

- (1) At a station that has a safety inspection station license issued by the Division and by a mechanic who is employed by the station and has a safety inspection mechanic license issued by the Division.

- (2) At a place of business of a person who has a safety self-inspector license issued by the Division and by an individual who has a safety inspection mechanic license issued by the Division.
- (b) Station Qualifications. – An applicant for a license as a safety inspection station must meet all of the following requirements:
- (1) Have a place of business that has adequate facilities, space, and equipment to conduct a safety inspection. A place of business designated in a station license that has been suspended or revoked cannot be the designated place for any other license applicant during the period of the suspension or revocation, unless the Division finds that operation of the place of business as an inspection station during this period by the license applicant would not defeat the purpose of the suspension or revocation because the license applicant has no connection with the person whose license was suspended or revoked or because of another reason. A finding made by the Division under this subdivision must be set out in a written statement that includes the finding and the reason for the finding.
 - (2) Regularly employ at least one mechanic who has a safety inspection mechanic license.
 - (3) Designate the individual who will be responsible for the day-to-day operation of the station. The individual designated must be of good character and have a reputation for honesty.
 - (4) Have equipment and software approved by the Division to transfer information on safety inspections to the Division by electronic means. During the initial implementation of the electronic inspection process, the vendor selected by the Division shall provide the equipment and software at no cost to a station that holds a license on October 1, 2008.
- (c) Mechanic Qualifications. – An applicant for a license as a safety inspection mechanic must meet all of the following requirements:
- (1) Have successfully completed an eight-hour course approved by the Division that teaches students about the safety equipment a motor vehicle is required to have to pass a safety inspection and how to conduct a safety inspection using equipment to electronically transmit the vehicle information and inspection results.
 - (2) Have a drivers license.
 - (3) Be of good character and have a reputation for honesty.
- (d) Self-Inspector Qualifications. – An applicant for a license as a safety self-inspector must meet all of the following requirements:
- (1) Operate a fleet of at least 10 vehicles that are subject to a safety inspection.
 - (2) Regularly employ or contract with an individual who has a safety inspection mechanic license and who will perform a safety inspection on the vehicles that are part of the self-inspector's fleet. (1965, c. 734, s. 1; 1967, c. 692, s. 2; 1975, c. 716, s. 5; 1993 (Reg. Sess., 1994), c. 754, s. 1; 1997-29, s. 1; 2007-503, s. 3; 2008-190, s. 2.)

§ 20-183.4A. License required to perform emissions inspection; qualifications for license.

(a) License Required. – An emissions inspection must be performed by one of the following methods:

- (1) At a station that has an emissions inspection station license issued by the Division and by a mechanic who is employed by the station and has an emissions inspection mechanic license issued by the Division.
- (2) At a place of business of a person who has an emissions self-inspector license issued by the Division and by an individual who has an emissions inspection mechanic license.

(b) Station Qualifications. – An applicant for a license as an emissions inspection station must meet all of the following requirements:

- (1) Have a license as a safety inspection station.
- (2) Repealed by Session Law 2000-134, s. 15, effective January 1, 2006.
- (2a) Have equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission.
- (3) Have equipment and software to transfer information on emissions inspections to the Division by electronic means. During the initial implementation of the electronic inspection process, the vendor selected by the Division shall provide the software at no cost to a station that holds a license on October 1, 2008.
- (4) Regularly employ at least one mechanic who has an emissions inspection mechanic license.

(c) Mechanic Qualifications. – An applicant for a license as an emissions inspection mechanic must meet all of the following requirements:

- (1) Have a license as a safety inspection mechanic.
- (2) Repealed by Session Law 2000-134, s. 15, effective January 1, 2006.
- (2a) Have successfully completed an eight-hour course approved by the Division that teaches students about the causes and effects of the air pollution problem, the purpose of the emissions inspection program, the vehicle emission standards established by the United States Environmental Protection Agency, the emission control devices on vehicles, how to conduct an emissions inspection using equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission, and any other topic required by 40 C.F.R. § 51.367 to be included in the course. Successful completion requires a passing score on a written test and on a hands-on test in which the student is required to conduct an emissions inspection of a motor vehicle.

(d) Self-Inspector Qualifications. – An applicant for a license as an emissions self-inspector must meet all of the following requirements:

- (1) Have a license as a safety self-inspector.
- (2) Operate a fleet of at least 10 vehicles that are subject to an emissions inspection.
- (3) Repealed by Session Law 2000-134, s. 15, effective January 1, 2006.
- (3a) Have, or have a contract with a person who has, equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission.

- (4) Regularly employ or contract with an individual who has an emissions inspection mechanic license and who will perform an emissions inspection on the vehicles that are part of the self-inspector's fleet. (1993 (Reg. Sess., 1994), c. 754, s. 1; 2000-134, ss. 13, 14, 15; 2007-503, s. 4.)

§ 20-183.4B. Application for license; duration of license; renewal of mechanic license.

(a) Application. – An applicant for a license issued under this Part must complete an application form provided by the Division. The application must contain the applicant's name and address and any other information needed by the Division to determine whether the applicant is qualified for the license. The Division must review an application for a license to determine if the applicant qualifies for the license. If the applicant meets the qualifications, the Division must issue the license. If the applicant does not meet the qualifications, the Division must deny the application and notify the applicant in writing of the reason for the denial.

(b) Duration of License. – A safety inspection mechanic license expires four years after the date it is issued. An emissions mechanic inspection license expires two years after the date it is issued. A safety inspection station license, an emissions inspection station license, and a self-inspector license are effective until surrendered by the license holder or suspended or revoked by the Division.

(c) Renewal of Mechanic License. – A safety or an emissions inspection mechanic may apply to renew a license by filing an application with the Division on a form provided by the Division. To renew an emissions inspection mechanic license, an applicant must have successfully completed a four-hour emissions refresher course approved by the Division within nine months of applying for renewal. Successful completion requires a passing score on a written test and on a hands-on test in which the student is required to conduct an emissions inspection of a motor vehicle. (1993 (Reg. Sess., 1994), c. 754, s. 1.)

§ 20-183.4C. When a vehicle must be inspected; 10-day temporary license plate.

(a) Inspection. – A vehicle that is subject to a safety inspection, an emissions inspection, or both must be inspected as follows:

- (1) A new vehicle must be inspected before it is sold at retail in this State. Upon purchase, a receipt approved by the Division must be provided to the new owner certifying compliance.
- (1a) A new motor vehicle dealer who is also licensed pursuant to this Article may, notwithstanding subdivision (1) of this section, examine the safety and emissions control devices on a new motor vehicle and perform such services necessary to ensure the motor vehicle conforms to the required specifications established by the manufacturer and contained in its predelivery check list. The completion of the predelivery inspection procedure required or recommended by the manufacturer on a new motor vehicle shall constitute the inspection required by subdivision (1) of this section. For the purposes of this subdivision, the date of inspection shall be deemed to be the date of the sale of the motor vehicle to a purchaser.
- (2) A used vehicle must be inspected before it is offered for sale at retail in this State by a dealer. Upon purchase, a receipt approved by the Division must be provided to the new owner certifying compliance.
- (3) Repealed by Session Law 2007-503, s. 5, effective October 1, 2008.

- (4) Except as authorized by the Commissioner for a single period of time not to exceed 12 months from the initial date of registration, a new or used vehicle acquired by a resident of this State from outside the State must be inspected before the vehicle is registered with the Division.
- (5) Except as authorized by the Commissioner for a single period of time not to exceed 12 months from the initial date of registration, a vehicle owned by a new resident of this State who transfers the registration of the vehicle from the resident's former home state to this State must be inspected before the vehicle is registered with the Division.
- (5a) Repealed by Session Law 2007-503, s. 5, effective October 1, 2008.
- (6) A vehicle that has been inspected in accordance with this Part must be inspected by the last day of the month in which the registration on the vehicle expires.
- (7) A vehicle that is required to be inspected in accordance with this Part may be inspected 90 days prior to midnight of the last day of the month as designated by the vehicle registration sticker.
- (8) A new or used vehicle acquired from a retailer or a private sale in this State and registered with the Division with a new registration or a transferred registration must be inspected in accordance with this Part when the current registration expires unless it has received a passing inspection within the previous 12 months.
- (9) Repealed by Session Laws 2010-97, s. 3, effective July 20, 2010.
- (10) An unregistered vehicle may be registered with the Division in accordance with G.S. 20-50(b) for a period not to exceed 10 days prior to the vehicle receiving a passing inspection in accordance with this Part.
- (11) A person who owns a vehicle located outside of this State when its emissions inspection becomes due may obtain an emissions inspection in the jurisdiction where the vehicle is located, in lieu of a North Carolina emissions inspection, as long as the inspection meets the requirements of 40 C.F.R. § 51.

(b) Temporary License Plate. – The Division may issue a temporary license plate under and in accordance with G.S. 20-50(b) that is valid for 10 days to a person that authorizes the person to drive a vehicle whose inspection authorization or registration has expired.

(c) Exemption. – The Division may issue a temporary exemption from the inspection requirements of this Article for any vehicle that has been determined by the Division to be principally garaged, as defined under G.S. 58-37-1(11), in this State and is primarily operated outside a county subject to emissions inspection requirements or outside of this State. (1993 (Reg. Sess., 1994), c. 754, s. 1; 1997-29, s. 2; 2001-504, s. 11; 2007-481, s. 2; 2007-503, s. 5; 2008-190, s. 3; 2009-319, s. 2; 2010-97, s. 3; 2015-241, s. 29.35(a).)

§ 20-183.4D. Procedure when a vehicle is inspected.

(a) Receipt. – When a safety inspection mechanic or an emissions inspection mechanic inspects a vehicle, the mechanic must give the person who brought the vehicle in for inspection an inspection receipt. The inspection receipt must state the date of the inspection, identify the mechanic performing the inspection, identify the station or self-inspector where the inspection was performed, and list the components of the inspection performed and indicate for each

component whether the vehicle passed or failed. A vehicle that fails a component of an inspection may be repaired at any repair facility chosen by the owner or operator of the vehicle.

(b) Electronic Inspection Authorization. – When a vehicle that is subject to a safety inspection only passes the safety inspection, the safety inspection mechanic who performed the inspection must issue an electronic inspection authorization to the vehicle at the place designated by the Division. When a vehicle that is subject to both a safety inspection and an emissions inspection passes both inspections or passes the safety inspection and has a waiver for the emissions inspection, the emissions mechanic performing the inspection must issue an electronic inspection authorization to the vehicle at the place designated by the Division.

(c), (d) Repealed by Session Law 2007-503, s. 6, effective October 1, 2008.

(e) When Electronic Inspection Authorization Expires. – An electronic inspection authorization issued under this Part expires at midnight of the last day of the month designated by the vehicle registration sticker of the following year. (1993 (Reg. Sess., 1994), c. 754, s. 1; 2007-503, s. 6.)

§ 20-183.5. When a vehicle that fails an emissions inspection may obtain a waiver from the inspection requirement.

(a) Requirements. – The Division may issue a waiver for a vehicle, excluding a vehicle owned or being held for retail sale by a motor vehicle dealer, that meets all of the following requirements:

- (1) Fails an emissions inspection because it passes the visual inspection but fails the analysis of data provided by the on-board diagnostic (OBD) equipment.
- (2) Has documented repairs costing at least the waiver amount made to the vehicle to correct the cause of the failure. The waiver amount is two hundred dollars (\$200.00).
- (3) Is reinspected and again fails the inspection because it passes the visual inspection but fails the analysis of data provided by the on-board diagnostic (OBD) equipment.
- (4) Meets any other waiver criteria required by 40 C.F.R. § 51.360, or as designated by the Division.

(b) Procedure. – To obtain a waiver, a person must contact a local enforcement office of the Division. Before issuing a waiver, an employee of the Division must review the inspection receipts issued for the inspections of the vehicle, review the documents establishing what repairs were made to the vehicle and at what cost, review any statement denying warranty coverage of the repairs made, and do a visual inspection of the vehicle, if appropriate, to determine if the documented repairs were made. The Division must issue a waiver if it determines that the vehicle qualifies for a waiver. A person to whom a waiver is issued must present the waiver to the self-inspector or inspection station performing the inspection to obtain an electronic inspection authorization.

(c) Repairs. – The following repairs and their costs cannot be considered in determining whether the cost of repairs made to a vehicle equals or exceeds the waiver amount:

- (1) Repairs covered by a warranty that applies to the vehicle.
- (2) Repairs needed as a result of tampering with an emission control device of the vehicle.
- (3) Repairs made by an individual who is not professionally engaged in the business of repairing vehicles.

(4) OBD diagnostics without corresponding repairs.

(d) Electronic Inspection Authorization. – An electronic inspection authorization issued to a vehicle after the vehicle receives a waiver from the requirement of passing the emissions inspection expires at the same time it would if the vehicle had passed the emissions inspection. (1965, c. 734, s. 1; 1993 (Reg. Sess., 1994), c. 754, s. 1; 2000-134, ss. 16, 17; 2007-503, s. 7.)

§ 20-183.5A. When a vehicle that fails a safety inspection because of missing emissions control devices may obtain a waiver.

(a) Requirements. – The Division may issue a waiver for a vehicle that meets all of the following requirements:

- (1) Fails a safety inspection because it does not have one or more emissions control devices.
- (2) Has documented repairs within the previous calendar year to replace missing emissions control devices costing at least the waiver amount made to the vehicle to correct the cause of the failure. The waiver amount is two hundred dollars (\$200.00) if the vehicle is a 1996 or newer model.

(b) Procedure. – To obtain a waiver, a person must contact a local enforcement office of the Division. Before issuing a waiver, an employee of the Division must review the inspection receipts issued for the inspections of the vehicle, review the documents establishing what repairs were made to the vehicle and at what cost, review any statement denying warranty coverage of the repairs made, and do a visual inspection of the vehicle, if appropriate, to determine if the documented repairs were made. The Division must issue a waiver if it determines that the vehicle qualifies for a waiver. A person to whom a waiver is issued must present the waiver to the self-inspector or inspection station performing the inspection to obtain an electronic inspection authorization.

(c) Repairs. – The following repairs and their costs cannot be considered in determining whether the cost of repairs made to a vehicle equals or exceeds the waiver amount:

- (1) Repairs covered by a warranty that applies to the vehicle.
- (2) Repairs needed as a result of tampering with an emission control device of the vehicle.
- (3) Repairs made by an individual who is not professionally engaged in the business of repairing vehicles.

(d) Electronic Inspection Authorization Expiration. – An electronic inspection authorization issued to a vehicle after the vehicle receives a waiver from the requirement of passing the safety inspection expires at the same time it would if the vehicle had passed the safety inspection. (2001-504, s. 9; 2007-503, ss. 8, 9.)

§ 20-183.6: Repealed by Session Laws 2007-503, s. 10, effective October 1, 2008, and applicable to offenses committed on or after that date.

§ 20-183.6A. Administration of program; duties of license holders.

(a) Division. – The Division is responsible for administering the safety inspection and the emissions inspection programs. In exercising this responsibility, the Division must:

- (1) Conduct performance audits, record audits, and equipment audits of those licensed to perform inspections to ensure that inspections are performed properly.

- (2) Ensure that Division personnel who audit license holders are knowledgeable about audit procedures and about the requirements of both the safety inspection and the emissions inspection programs.
- (3) Perform an emissions inspection on a vehicle when requested to do so by a vehicle owner so the owner can compare the result of the inspection performed by the Division with the result of an inspection performed at an emissions inspection station.
- (4) Investigate complaints about a person licensed to perform inspections and reports of irregularities in performing inspections.
- (5) Establish written procedures for the issuance of electronic inspection authorizations to persons licensed to perform electronic inspection authorizations.
- (6) Submit information and reports to the federal Environmental Protection Agency as required by 40 C.F.R. Part 51.

(b) License Holders. – A person who is licensed by the Division under this Part must post the license at the place required by the Division and must keep a record of inspections performed. The inspection record must identify the vehicle that was inspected, indicate the type of inspection performed and the date of inspection, and contain any other information required by the Division. A self-inspector or an inspection station must send its records of inspections to the Division in the form and at the time required by the Division. An auditor of the Division may review the inspection records of a person licensed by the Division under this Part during normal business hours. (1993 (Reg. Sess., 1994), c. 754, s. 1; 2007-503, s. 11.)

§ 20-183.7. Fees for performing an inspection and issuing an electronic inspection authorization to a vehicle; use of civil penalties.

(a) Fee Amount. – When a fee applies to an inspection of a vehicle or the issuance of an electronic inspection authorization, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an electronic inspection authorization:

<u>Type</u>	<u>Inspection</u>	<u>Authorization</u>
Safety Only	\$12.75	\$.85
Emissions and Safety	23.75	6.25.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an electronic inspection authorization applies when an electronic inspection authorization is issued to a vehicle. The fee for inspecting after-factory tinted windows shall be ten dollars (\$10.00), and the fee applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint. A safety inspection mechanic shall not inspect an after-factory tinted window of a vehicle for which the Division has issued a medical exception permit pursuant to G.S. 20-127(f).

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within 60 days of the failed inspection without paying another inspection fee.

The inspection fee for an emissions and safety inspection set out in this subsection is the maximum amount that an inspection station or an inspection mechanic may charge for an emissions and safety inspection of a vehicle. An inspection station or an inspection mechanic may charge the maximum amount or any lesser amount for an emissions and safety inspection of

a vehicle. The inspection fee for a safety only inspection set out in this subsection may not be increased or decreased. The authorization fees set out in this subsection may not be increased or decreased.

(b) Self-Inspector. – The fee for an inspection does not apply to an inspection performed by a self-inspector. The fee for issuing an electronic inspection authorization to a vehicle applies to an inspection performed by a self-inspector.

(c) Fee Distribution. – Fees collected for electronic inspection authorizations are payable to the Division of Motor Vehicles. The amount of each fee listed in the table below shall be credited to the Highway Fund, the Volunteer Rescue/EMS Fund established in G.S. 58-87-5, the Rescue Squad Workers' Relief Fund established in G.S. 58-88-5, and the Division of Air Quality of the Department of Environmental Quality:

<u>Recipient</u>	<u>Safety Only Electronic Authorization</u>	<u>Emissions and Safety Electronic Authorization</u>
Highway Fund	.55	5.30
Volunteer Rescue/EMS Fund	.18	.18
Rescue Squad Workers' Relief Fund	.12	.12
Division of Air Quality	.00	.65.

(d) Repealed by Session Laws 2013-360, s. 34.15(c), effective July 1, 2013.

(d1) Repealed by Session Laws 2013-360, s. 34.15(b), effective June 30, 2014.

(d2) Repealed by Session Laws 2001-504, s. 3, effective July 1, 2007.

(e) Civil Penalties. – Civil penalties collected under this Part shall be credited to the Highway Fund as nontax revenue.

(f) Inspection Stations Required to Post Fee Information. – The Division shall approve the form and style of one or more standard signs to be used to display the information required by this subsection. The Division shall require that one or more of the standard signs be conspicuously posted at each inspection station in a manner reasonably calculated to make the information on the sign readily available to each person who presents a motor vehicle to the station for inspection. The sign shall include the following information:

- (1) The maximum and minimum amounts of the inspection fee authorized by this section.
- (2) The amount of the inspection fee charged by the inspection station and a statement that clearly indicates that the amount of the inspection fee is determined by the inspection station, that the inspection fee is retained by the inspection station to compensate the station for performing the inspection, and that the inspection fee is not paid to the State.
- (3) The amount of the electronic inspection authorization fee, if the motor vehicle passes the inspection, a statement that the electronic inspection authorization fee is paid to the State, and a brief summary of the purposes for which the electronic inspection authorization fee is collected.
- (4) The total fee to be charged if the motor vehicle passes the inspection.
- (5) A statement that a vehicle that fails an inspection may be reinspected at the same station within 60 days of the inspection without payment of another inspection fee.

(g) Information on Receipt. – The information set out in subdivisions (1) through (5) of subsection (f) of this section shall be set out in not smaller than 12 point type and shall be shown graphically in the form of a pie chart on the inspection receipt.

(h) Subsections (f) and (g) of this section apply only to inspection stations that perform both emissions and safety inspections. (1965, c. 734, s. 1; 1969, c. 1242; 1973, c. 1480; 1975, c. 547; c. 716, s. 5; c. 875, s. 4; 1979, c. 688; 1979, 2nd Sess., c. 1180, ss. 5, 6; 1981, c. 690, s. 17; 1981 (Reg. Sess., 1982), c. 1261, s. 2; 1985, c. 415, ss. 1-6; 1985 (Reg. Sess., 1986), c. 1018, s. 8; 1987, c. 584, ss. 1-3; 1987 (Reg. Sess., 1988), c. 1062, ss. 3-5; 1989, c. 391, s. 3; c. 534, s. 3; 1989 (Reg. Sess., 1990), c. 1066, s. 33(b); 1991 (Reg. Sess., 1992), c. 943, s. 1; 1993, c. 385, s. 1; 1993 (Reg. Sess., 1994), c. 754, s. 1; 1995, c. 473, s. 3; 1995 (Reg. Sess., 1996), c. 743, s. 1; 1997-29, s. 4; 1997-443, s. 11A.123; 2000-75, s. 3; 2001-504, ss. 1-3; 2006-230, s. 2; 2007-364, s. 2; 2007-503, s. 12; 2009-319, s. 3; 2010-96, s. 7; 2011-145, s. 6A.15; 2013-302, s. 1; 2013-360, s. 34.15(b), (c); 2015-241, s. 14.30(u).)

§ 20-183.7A. Penalties applicable to license holders and suspension or revocation of license for safety violations.

(a) Kinds of Violations. – The civil penalty schedule established in this section applies to safety self-inspectors, safety inspection stations, and safety inspection mechanics. The schedule categorizes safety violations into serious (Type I), minor (Type II), and technical (Type III) violations. A serious violation is a violation of this Part or a rule adopted to implement this Part that directly affects the safety or emissions reduction benefits of the safety inspection program. A minor violation is a violation of this Part or a rule adopted to implement this Part that reflects negligence or carelessness in conducting a safety inspection or complying with the safety inspection requirements but does not directly affect the safety benefits or emission reduction benefits of the safety inspection program. A technical violation is a violation that is not a serious violation, a minor violation, or another type of offense under this Part.

(b) Penalty Schedule. – The Division must take the following action for a violation:

- (1) Type I. – For a first or second Type I violation within three years by a safety self-inspector or a safety inspection station, assess a civil penalty of two hundred fifty dollars (\$250.00) and suspend the license of the business for 180 days. For a third or subsequent Type I violation within three years by a safety self-inspector or a safety inspection station, assess a civil penalty of one thousand dollars (\$1,000) and revoke the license of the business for two years. For a first or second Type I violation within seven years by a safety inspection mechanic, assess a civil penalty of one hundred dollars (\$100.00) and suspend the mechanic's license for six months. For a third or subsequent Type I violation within seven years by a safety inspection mechanic, assess a civil penalty of two hundred fifty dollars (\$250.00) and revoke the mechanic's license for two years.
- (2) Type II. – For a first or second Type II violation within three years by a safety self-inspector or a safety inspection station, assess a civil penalty of one hundred dollars (\$100.00). For a third or subsequent Type II violation within three years by a safety self-inspector or a safety inspection station, assess a civil penalty of two hundred fifty dollars (\$250.00) and suspend the license of the business for 90 days. For a first or second Type II violation within seven years by a safety inspection mechanic, assess a civil penalty of fifty dollars

(\$50.00). For a third or subsequent Type II violation within seven years by a safety inspection mechanic, assess a civil penalty of one hundred dollars (\$100.00) and suspend the mechanic's license for 90 days.

- (3) Type III. – For a first or second Type III violation within seven years by a safety self-inspector, a safety inspection station, or a safety inspection mechanic, send a warning letter. For a third or subsequent Type III violation within seven years by the same safety license holder, assess a civil penalty of twenty-five dollars (\$25.00).

(c) Station or Self-Inspector Responsibility. – It is the responsibility of a safety inspection station and a safety self-inspector to supervise the safety inspection mechanics it employs. A violation by a safety inspection mechanic is considered a violation by the station or self-inspector for whom the mechanic is employed. The Division may stay a term of suspension for a first occurrence of a Type I violation for a station if the station agrees to follow the reasonable terms and conditions of the stay as determined by the Division. In determining whether to suspend a first occurrence violation for a station, the Division may consider the supervision provided by the station over the individual or individuals who committed the violation, action that has been taken to remedy future violations, or prior knowledge of the station as to the acts committed by the individual or individuals who committed the violation, or a combination of these factors. The monetary penalty shall not be stayed or reduced.

(d) Multiple Violations in a Single Safety Inspection. – If a safety self-inspector, a safety inspection station, or a safety inspection mechanic commits two or more violations in the course of a single safety inspection, the Division shall take only the action specified for the most significant violation.

(d1) Multiple Violations in Separate Safety Inspections. – In the case of two or more violations committed in separate safety inspections, considered at one time, the Division shall consider each violation as a separate occurrence and shall impose a separate penalty for each violation as a first, second, or third or subsequent violation as found in the applicable penalty schedule. The Division may in its discretion direct that any suspensions for the first, second, or third or subsequent violations run concurrently. If the Division does not direct that the suspensions run concurrently, they shall run consecutively. Nothing in this section shall prohibit or limit a reviewing court's ability to affirm, reverse, remand, or modify the Division's decisions, whether discretionary or otherwise, pursuant to Article 4 of Chapter 150B of the General Statutes.

(e) Mechanic Training. – A safety inspection mechanic whose license has been suspended or revoked must retake the course required under G.S. 20-183.4 and successfully complete the course before the mechanic's license can be reinstated. Failure to successfully complete this course continues the period of suspension or revocation until the course is completed successfully. (2001-504, s. 12; 2013-302, s. 2.)

§ 20-183.7B. Acts that are Type I, II, or III safety violations.

(a) Type I. – It is a Type I violation for a safety self-inspector, a safety inspection station, or a safety inspection mechanic to do any of the following:

- (1) Issue a safety electronic inspection authorization to a vehicle without performing a safety inspection of vehicle.

- (2) Issue a safety electronic inspection authorization to a vehicle after performing a safety inspection of the vehicle and determining that the vehicle did not pass the inspection.
- (3) Allow a person who is not licensed as a safety inspection mechanic to perform a safety inspection for a self-inspector or at a safety station.
- (4) Sell, issue, or otherwise give an electronic inspection authorization to another, other than as the result of a vehicle inspection in which the vehicle passed the inspection.
- (5) Repealed by Session Laws 2013-302, s. 3, effective October 1, 2013, and applicable to violations occurring on or after that date.
- (6) Perform a safety-only inspection on a vehicle that is subject to both a safety and an emissions inspection.
- (7) Repealed by Session Laws 2013-302, s. 3, effective October 1, 2013, and applicable to violations occurring on or after that date.
- (8) Conduct a safety inspection of a vehicle without driving the vehicle and without raising the vehicle and without opening the hood of the vehicle to check equipment located therein.
- (9) Solicit or accept anything of value to pass a vehicle other than as provided in this Part.

(b) Type II. – It is a Type II violation for a safety self-inspector, a safety inspection station, or a safety inspection mechanic to do any of the following:

- (1) Issue a safety electronic inspection authorization to a vehicle without driving the vehicle and checking the vehicle's braking reaction, foot brake pedal reserve, and steering free play.
- (2) Issue a safety electronic inspection authorization to a vehicle without raising the vehicle to free each wheel and checking the vehicle's tires, brake lines, parking brake cables, wheel drums, exhaust system, and the emissions equipment.
- (3) Issue a safety electronic inspection authorization to a vehicle without raising the hood and checking the master cylinder, horn mounting, power steering, and emissions equipment.
- (4) Conduct a safety inspection of a vehicle outside the designated inspection area.
- (5) Issue a safety electronic inspection authorization to a vehicle with inoperative equipment, or with equipment that does not conform to the vehicle's original equipment or design specifications, or with equipment that is prohibited by any provision of law.
- (6) Issue a safety electronic inspection authorization to a vehicle without performing a visual inspection of the vehicle's exhaust system.
- (7) Issue a safety electronic inspection authorization to a vehicle without checking the exhaust system for leaks.
- (8) Issue a safety electronic inspection authorization to a vehicle that is required to have any of the following emissions control devices but does not have the device:
 - a. Catalytic converter.
 - b. PCV valve.

- c. Thermostatic air control.
 - d. Oxygen sensor.
 - e. Unleaded gas restrictor.
 - f. Gasoline tank cap or capless fuel system.
 - g. Air injection system.
 - h. Evaporative emissions system.
 - i. Exhaust gas recirculation (EGR) valve.
- (9) Issue a safety electronic inspection authorization to a vehicle after failing to inspect four or more of following:
- a. Emergency brake.
 - b. Horn.
 - c. Headlight high beam indicator.
 - d. Inside rearview mirror.
 - e. Outside rearview mirror.
 - f. Turn signals.
 - g. Parking lights.
 - h. Headlights – operation and lens.
 - i. Headlights – aim.
 - j. Stoplights.
 - k. Taillights.
 - l. License plate lights.
 - m. Windshield wiper.
 - n. Windshield wiper blades.
 - o. Window tint.
- (10) Impose no fee for a safety inspection of a vehicle or the issuance of a safety electronic inspection authorization or impose a fee for one of these actions in an amount that differs from the amount set in G.S. 20-183.7.
- (c) Type III. – It is a Type III violation for a safety self-inspector, a safety inspection station, or a safety inspection mechanic to do any of the following:
- (1) Fail to post a safety inspection station license issued by the Division.
 - (2) Fail to send information on safety inspections to the Division at the time or in the form required by the Division.
 - (3) Fail to post all safety information required by federal law and by the Division.
 - (4) Fail to put the required information on an inspection receipt in a legible manner using ink.
 - (5) Issue a receipt that is signed by a person other than the safety inspection mechanic.
 - (6) Repealed by Session Laws 2013-302, s. 3, effective October 1, 2013, and applicable to violations occurring on or after that date.
 - (7) Issue a safety electronic inspection authorization to a vehicle after having failed to inspect three or fewer of the following:
 - a. Emergency brake.
 - b. Horn.
 - c. Headlight high beam indicator.
 - d. Inside rearview mirror.
 - e. Outside rearview mirror.

- f. Turn signals.
- g. Parking lights.
- h. Headlights – operation and lens.
- i. Headlights – aim.
- j. Stoplights.
- k. Taillights.
- l. License plate lights.
- m. Windshield wiper.
- n. Windshield wiper blades.
- o. Window tint.

(d) Other Acts. – The lists in this section of the acts that are Type I, Type II, or Type III violations are not the only acts that are one of these types of violations. The Division may designate other acts that are a Type I, Type II, or Type III violation. (2001-504, s. 12; 2007-503, s. 13; 2013-302, s. 3.)

§ 20-183.8. Infractions and criminal offenses for violations of inspection requirements.

(a) Infractions. – A person who does any of the following commits an infraction and, if found responsible, is liable for a penalty of up to fifty dollars (\$50.00):

- (1) Operates a motor vehicle that is subject to inspection under this Part on a highway or public vehicular area in the State when the vehicle has not been inspected in accordance with this Part, as evidenced by the vehicle's lack of a current electronic inspection authorization or otherwise.
- (2) Allows an electronic inspection authorization to be issued to a vehicle owned or operated by that person, knowing that the vehicle was not inspected before the electronic inspection authorization was issued or was not inspected properly.
- (3) Issues an electronic inspection authorization on a vehicle, knowing or having reasonable grounds to know that an inspection of the vehicle was not performed or was performed improperly. A person who is cited for a civil penalty under G.S. 20-183.8B for an emissions violation involving the inspection of a vehicle may not be charged with an infraction under this subdivision based on that same vehicle.
- (4) Alters the original certified configuration or data link connectors of a vehicle in such a way as to make an emissions inspection by analysis of data provided by on-board diagnostic (OBD) equipment inaccurate or impossible.

(b) Defenses to Infractions. – Any of the following is a defense to a violation under subsection (a) of this section:

- (1) The vehicle was continuously out of State for at least the 30 days preceding the date the electronic inspection authorization expired and a current electronic inspection authorization was obtained within 10 days after the vehicle came back to the State.
- (2) The vehicle displays a dealer license plate or a transporter plate, the dealer repossessed the vehicle or otherwise acquired the vehicle within the last 10 days, and the vehicle is being driven from its place of acquisition to the dealer's place of business or to an inspection station.
- (3) Repealed by Session Laws 1997-29, s. 5.

- (4) The charged infraction is described in subdivision (a)(1) of this section, the vehicle is subject to a safety inspection or an emissions inspection and the vehicle owner establishes in court that the vehicle was inspected after the citation was issued and within 30 days of the expiration date of the inspection sticker that was on the vehicle or the electronic inspection authorization was issued to the vehicle when the citation was issued.

(b1) A person who performs a safety inspection without a license, as required under G.S. 20-183.4, or an emissions inspection without a license, as required under G.S. 20-183.4A, is guilty of a Class 3 misdemeanor.

(c) Felony. – A person who does any of the following commits a Class I felony:

- (1) Forges an inspection sticker or inspection receipt.
- (2) Buys, sells, issues, or possesses a forged inspection sticker or electronic inspection authorization.
- (3) Buys, sells, issues, or possesses an electronic inspection authorization other than as the result of either of the following:
 - a. Having a license as an inspection station, a self-inspector, or an inspection mechanic and obtaining the electronic inspection authorization from the Division through an electronic authorization vendor in the course of business.
 - b. A vehicle inspection in which the vehicle passed the inspection or for which the vehicle received a waiver.
- (4) Solicits or accepts anything of value in order to pass a vehicle that fails a safety or emissions inspection.
- (5) Fails a vehicle for any reason not authorized by law. (1965, c. 734, s. 1; 1967, c. 692, s. 3; 1969, c. 179, s. 1; c. 620; 1973, cc. 909, 1322; 1975, c. 716, s. 5; 1979, 2nd Sess., c. 1180, s. 4; 1985, c. 764, s. 23; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1993 (Reg. Sess., 1994), c. 754, s. 1; 1997-29, s. 5; 1999-452, s. 25; 2001-504, s. 13; 2007-503, s. 14; 2009-319, s. 5.)

§ 20-183.8A. Civil penalties against motorists for emissions violations; waiver.

(a) Civil Penalties. – The Division must assess a civil penalty against a person who owns or leases a vehicle that is subject to an inspection and who engages in any of the emissions violations set out in this subsection. As provided in G.S. 20-54, the registration of a vehicle may not be renewed until a penalty imposed under this subsection has been paid. The civil penalties and violations are as follows:

- (1) Fifty dollars (\$50.00) for failure to have the vehicle inspected within four months after it is required to be inspected under this Part.
- (2) Two hundred fifty dollars (\$250.00) for instructing or allowing a person to tamper with an emission control device of the vehicle so as to make the device inoperative or fail to work properly.
- (3) Two hundred fifty dollars (\$250.00) for incorrectly stating the vehicle's county of registration to avoid having an emissions inspection of the vehicle.

(b) Waiver. – The Division must waive the civil penalty assessed under subdivision (a)(1) of this section against a person who establishes the following:

- (1) The person was continuously out of the State on active military duty from the date the electronic authorization expired to the date the four-month grace period expired.
- (2) No person operated the vehicle from the date the electronic authorization expired to the date the four-month grace period expired.
- (3) The person obtained a current electronic authorization within 30 days after returning to the State. (1993 (Reg. Sess., 1994), c. 754, ss. 1, 8; 1998-212, s. 27.6(b); 2007-364, ss. 3, 4; 2007-503, s. 15; 2009-319, s. 4.)

§ 20-183.8B. Civil penalties against license holders and suspension or revocation of license for emissions violations.

(a) **Kinds of Violations.** – The civil penalty schedule established in this section applies to emissions self-inspectors, emissions inspection stations, and emissions inspection mechanics. The schedule categorizes emissions violations into serious (Type I), minor (Type II), and technical (Type III) violations.

A serious violation is a violation of this Part or a rule adopted to implement this Part that directly affects the emission reduction benefits of the emissions inspection program. A minor violation is a violation of this Part or a rule adopted to implement this Part that reflects negligence or carelessness in conducting an emissions inspection or complying with the emissions inspection requirements but does not directly affect the emission reduction benefits of the emissions inspection program. A technical violation is a violation that is not a serious violation, a minor violation, or another type of offense under this Part.

(b) **Penalty Schedule.** – The Division must take the following action for a violation:

- (1) **Type I.** – For a first or second Type I violation by an emissions self-inspector or an emissions inspection station, assess a civil penalty of two hundred fifty dollars (\$250.00) and suspend the license of the business for 180 days. For a third or subsequent Type I violation within three years by an emissions self-inspector or an emissions inspection station, assess a civil penalty of one thousand dollars (\$1,000) and revoke the license of the business for two years. For a first or second Type I violation by an emissions inspection mechanic, assess a civil penalty of one hundred dollars (\$100.00) and suspend the mechanic's license for 180 days. For a third or subsequent Type I violation within seven years by an emissions inspection mechanic, assess a civil penalty of two hundred fifty dollars (\$250.00) and revoke the mechanic's license for two years.
- (2) **Type II.** – For a first or second Type II violation by an emissions self-inspector or an emissions inspection station, assess a civil penalty of one hundred dollars (\$100.00). For a third or subsequent Type II violation within three years by an emissions self-inspector or an emissions inspection station, assess a civil penalty of two hundred fifty dollars (\$250.00) and suspend the license of the business for 90 days. For a first or second Type II violation by an emissions inspection mechanic, assess a civil penalty of fifty dollars (\$50.00). For a third or subsequent Type II violation within seven years by an emissions inspection mechanic, assess a civil penalty of one hundred dollars (\$100.00) and suspend the mechanic's license for 90 days.

- (3) Type III. – For a first or second Type III violation by an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic, send a warning letter. For a third or subsequent Type III violation within three years by the same emissions license holder, assess a civil penalty of twenty-five dollars (\$25.00).

(c) Station or Self-Inspector Responsibility. – It is the responsibility of an emissions inspection station and an emissions self-inspector to supervise the emissions mechanics it employs. A violation by an emissions inspector mechanic is considered a violation by the station or self-inspector for whom the mechanic is employed. The Division may stay a term of suspension for a first occurrence of a Type I violation for a station if the station agrees to follow the reasonable terms and conditions of the stay as determined by the Division. In determining whether to suspend a first occurrence violation for a station, the Division may consider the supervision provided by the station over the individual or individuals who committed the violation, action that has been taken to remedy future violations, or prior knowledge of the station as to the acts committed by the individual or individuals who committed the violation, or a combination of these factors. The monetary penalty shall not be stayed or reduced.

(c1) Multiple Violations in a Single Emissions Inspection. – If an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic commits two or more violations in the course of a single emissions inspection, the Division shall take only the action specified for the most significant violation.

(c2) Multiple Violations in Separate Emissions Inspections. – In the case of two or more violations committed in separate emissions inspections, considered at one time, the Division shall consider each violation as a separate occurrence and shall impose a separate penalty for each violation as a first, second, or third or subsequent violation as found in the applicable penalty schedule. The Division may in its discretion direct that any suspensions for the first, second, or third or subsequent violations run concurrently. If the Division does not direct that the suspensions run concurrently, they shall run consecutively. Nothing in this section shall prohibit or limit a reviewing court's ability to affirm, reverse, remand, or modify the Division's decisions, whether discretionary or otherwise, pursuant to Article 4 of Chapter 150B of the General Statutes.

(d), (d1) Repealed by Session Laws 2013-302, s. 4, effective October 1, 2013, and applicable to violations occurring on or after that date.

(e) Mechanic Training. – An emissions inspection mechanic whose license has been suspended or revoked must retake the course required under G.S. 20-183.4A and successfully complete the course before the mechanic's license can be reinstated. Failure to successfully complete this course continues the period of suspension or revocation until the course is completed successfully. (1993 (Reg. Sess., 1994), c. 754, s. 1; 1997-29, s. 6; 2001-504, s. 14; 2013-302, s. 4.)

§ 20-183.8C. Acts that are Type I, II, or III emissions violations.

(a) Type I. – It is a Type I violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

- (1) Issue an emissions electronic inspection authorization on a vehicle without performing an emissions inspection of the vehicle.

- (1a) Issue an emissions electronic inspection authorization to a vehicle after performing an emissions inspection of the vehicle and determining that the vehicle did not pass the inspection.
 - (2) Use a test-defeating strategy when conducting an emissions inspection by changing the emission standards for a vehicle by incorrectly entering the vehicle type or model year, or using data provided by the on-board diagnostic (OBD) equipment of another vehicle to achieve a passing result.
 - (3) Allow a person who is not licensed as an emissions inspection mechanic to perform an emissions inspection for a self-inspector or at an emissions station.
 - (4) Sell, issue, or otherwise give an electronic inspection authorization to another other than as the result of a vehicle inspection in which the vehicle passed the inspection or for which the vehicle received a waiver.
 - (5) Repealed by Session Laws 2013-302, s. 5, effective October 1, 2013, and applicable to violations occurring on or after that date.
 - (6) Perform a safety-only inspection on a vehicle that is subject to both a safety and an emissions inspection.
 - (7) Repealed by Session Laws 2013-302, s. 5, effective October 1, 2013, and applicable to violations occurring on or after that date.
- (b) Type II. – It is a Type II violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:
- (1) Use the identification code of another to gain access to an emissions analyzer or to equipment to analyze data provided by on-board diagnostic (OBD) equipment.
 - (2) Keep compliance documents in a manner that makes them easily accessible to individuals who are not inspection mechanics.
 - (3) Issue a safety electronic inspection authorization or an emissions electronic inspection authorization on a vehicle that is required to have one of the following emissions control devices but does not have it:
 - a. Catalytic converter.
 - b. PCV valve.
 - c. Thermostatic air control.
 - d. Oxygen sensor.
 - e. Unleaded gas restrictor.
 - f. Gasoline tank cap or capless fuel system.
 - g. Air injection system.
 - h. Evaporative emissions system.
 - i. Exhaust gas recirculation (EGR) valve.
 - (4) Issue a safety electronic inspection authorization or an emissions electronic inspection authorization on a vehicle without performing a visual inspection of the vehicle's exhaust system and checking the exhaust system for leaks.
 - (5) Impose no fee for an emissions inspection of a vehicle or the issuance of an emissions electronic inspection authorization or impose a fee for one of these actions in an amount that differs from the amount set in G.S. 20-183.7.
 - (6) Issue an emissions electronic inspection authorization to a vehicle with a faulty Malfunction Indicator Lamp (MIL) or to a vehicle that has been made inoperable.

(c) Type III. – It is a Type III violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

- (1) Fail to post an emissions license issued by the Division.
- (2) Fail to send information on emissions inspections to the Division at the time or in the form required by the Division.
- (3) Fail to post emissions information required by federal law to be posted.
- (4) Repealed by Session Laws 2007-503, s. 16, effective October 1, 2008.
- (5) Fail to put the required information on an inspection receipt in a legible manner.
- (6) Repealed by Session Laws 2007-503, s. 16, effective October 1, 2008.

(d) Other Acts. – The lists in this section of the acts that are Type I, Type II, or Type III violations are not the only acts that are one of these types of violations. The Division may designate other acts that are a Type I, Type II, or Type III violation. (1993 (Reg. Sess., 1994), c. 754, s. 1; 1995, c. 163, s. 11; 1997-29, s. 7; 1997-456, s. 35; 2000-134, ss. 18, 19; 2001-504, ss. 15, 16, 19; 2007-503, s. 16; 2013-302, s. 5.)

§ 20-183.8D. Suspension or revocation of license.

(a) Safety. – The Division may suspend or revoke a safety self-inspector license, a safety inspection station license, and a safety inspection mechanic license issued under this Part if the license holder fails to comply with this Part or a rule adopted by the Commissioner to implement this Part.

(b) Emissions. – The Division may suspend or revoke an emissions self-inspector license, an emissions inspection station license, and an emissions inspection mechanic license issued under this Part for any of the following reasons:

- (1) The suspension or revocation is imposed under G.S. 20-183.8B.
- (2) Failure to pay a civil penalty imposed under G.S. 20-183.8B within 30 days after it is imposed. (1993 (Reg. Sess., 1994), c. 754, s. 1; 1997-29, s. 8.)

§ 20-183.8E: Recodified as G.S. 20-183.8G at the direction of the Revisor of Statutes.

§ 20-183.8F. Requirements for giving license holders notice of violations and for taking summary action.

(a) Repealed by Session Laws 2011-145, s. 28.23B(a), effective July 1, 2011.

(b) Notice of Charges. – When the Division decides to charge an inspection station, a self-inspector, or a mechanic with a violation that could result in the suspension or revocation of the person's license, the Division must deliver a written statement of the charges to the affected license holder. The statement of charges must inform the license holder of the right to request a hearing, instruct the person on how to obtain a hearing, and inform the license holder of the effect of not requesting a hearing. The license holder has the right to a hearing before the license is suspended or revoked. G.S. 20-183.8G sets out the procedure for obtaining a hearing.

(c) Exception for Summary Action. – The right granted by subsection (b) of this section to have a hearing before a license is suspended or revoked does not apply if the Division summarily suspends or revokes the license after a judge has reviewed and authorized the proposed action. A license issued to an inspection station, a self-inspector, or a mechanic is a substantial property interest that cannot be summarily suspended or revoked without judicial review.

(d) A notice or statement prepared pursuant to this section or an order of the Division that is directed to a mechanic may be served on the mechanic by delivering a copy of the notice, statement, or order to the station or to the place of business of the self-inspector where the mechanic is employed. Delivery under this section to any person may be made via certified mail or by hand delivery. (1997-29, s. 9; 1999-328, s. 3.13; 2001-504, s. 17; 2011-145, s. 28.23B(a).)

§ 20-183.8G. Administrative and judicial review.

(a) Right to Hearing. – A person who applies for a license or registration under this Part or who has a license or registration issued under this Part has the right to a hearing when any of the following occurs:

- (1) The Division denies the person's application for a license or registration.
- (2) The Division delivers to the person a written statement of charges of a violation that could result in the suspension or revocation of the person's license.
- (3) The Division summarily suspends or revokes the person's license following review and authorization of the proposed adverse action by a judge.
- (4) The Division assesses a civil penalty against the person.
- (5) The Division issues a warning letter to the person.
- (6) The Division cancels the person's registration.

(b) Hearing After Statement of Charges. – When a license holder receives a statement of charges of a violation that could result in the suspension or revocation of the person's license, the person can obtain a hearing by making a request for a hearing. The person must make the request to the Division within 10 days after receiving the statement of the charges. A person who does not request a hearing within this time limit waives the right to a hearing.

The Division must hold a hearing requested under this subsection within 30 days after receiving the request, unless the matter is continued for good cause. The hearing must be held at the location designated by the Division. Suspension or revocation of the license is stayed until a decision is made following the hearing.

If a person does not request a hearing within the time allowed for making the request, the proposed suspension or revocation becomes effective the day after the time for making the request ends. If a person requests a hearing but does not attend the hearing, the proposed suspension or revocation becomes effective the day after the date set for the hearing.

(c) Hearing After Summary Action. – When the Division summarily suspends a license issued under this Part after judicial review and authorization of the proposed action, the person whose license was suspended or revoked may obtain a hearing by filing with the Division a written request for a hearing. The request must be filed within 10 days after the person was notified of the summary action. The Division must hold a hearing requested under this subsection within 14 days after receiving the request.

(d) All Other Hearings. – When this section gives a person the right to a hearing and subsection (b) or (c) of this section does not apply to the hearing, the person may obtain a hearing by filing with the Division a written request for a hearing. The request must be filed within 10 days after the person receives written notice of the action for which a hearing is requested. The Division must hold a hearing within 90 days after the Division receives the request, unless the matter is continued for good cause.

(e) Review by Commissioner. – The Commissioner may conduct a hearing required under this section or may designate a person to conduct the hearing. When a person designated

by the Commissioner holds a hearing and makes a decision, the person who requested the hearing has the right to request the Commissioner to review the decision. The procedure set by the Division governs the review by the Commissioner of a decision made by a person designated by the Commissioner.

(f) **Decision.** – Upon the Commissioner's review of a decision made after a hearing on the imposition of a monetary penalty against a motorist for an emissions violation or on a Type I, II, or III violation by a license holder, the Commissioner must uphold any monetary penalty, license suspension, license revocation, or warning required by G.S. 20-183.7A, G.S. 20-183.8A or G.S. 20-183.8B, respectively, if the decision is based on evidence presented at the hearing that supports the hearing officer's determination that the motorist or license holder committed the act for which the monetary penalty, license suspension, license revocation, or warning was imposed. Pursuant to the authority under G.S. 20-183.7A(c) and G.S. 20-183.8B(c), the Commissioner may order a suspension for a first occurrence Type I violation of a station to be stayed upon reasonable compliance terms to be determined by the Commissioner. Pursuant to the authority under G.S. 20-183.7A(d1) and G.S. 183.8B(c2), the Commissioner may order the suspensions against a license holder to run consecutively or concurrently. The Commissioner may uphold, dismiss, or modify a decision made after a hearing on any other action.

(g) **Judicial Review.** – Article 4 of Chapter 150B of the General Statutes governs judicial review of an administrative decision made under this section. (1993 (Reg. Sess., 1994), c. 754, s. 1; 1997-29, s. 10; 1999-328, s. 3.14; 1999-456, s. 69; 2009-550, s. 3.1; 2011-145, s. 28.23B(b); 2013-302, s. 6; 2014-58, s. 1.)

Article 3B.

Permanent Weigh Stations and Portable Scales.

§ 20-183.9. Establishment and maintenance of permanent weigh stations.

The Department of Public Safety is hereby authorized, empowered and directed to equip and operate permanent weigh stations equipped to weigh vehicles using the streets and highways of this State to determine whether such vehicles are being operated in accordance with legislative enactments relating to weights of vehicles and their loads. The permanent weigh stations shall be established at such locations on the streets and highways in this State as will enable them to be used most advantageously in determining the weight of vehicles and their loads. The Department of Transportation shall be responsible for the maintenance and upkeep of all permanent weigh stations established pursuant to this section. (1951, c. 988, s. 1; 1957, c. 65, s. 11; 1973, c. 507, s. 5; 1977, c. 464, ss. 34, 37; 1979, c. 76; 2002-159, s. 31.5(b); 2002-190, s. 7; 2004-124, s. 18.3(b); 2006-66, s. 21.8; 2011-145, s. 19.1(g).)

§ 20-183.10. Operation of the permanent weigh stations by the Department of Public Safety, State Highway Patrol, uniformed personnel.

The permanent weigh stations to be established pursuant to the provisions of this Article shall be operated by the Department of Public Safety, State Highway Patrol, who shall assign a sufficient number of sworn and nonsworn personnel to the various weigh stations. Sworn personnel of the State Highway Patrol shall supervise all nonsworn personnel assigned to weigh stations. The sworn and nonsworn personnel shall have authority to weigh vehicles and to assess civil penalties pursuant to Article 3, Part 9 of this Chapter and shall wear uniforms to be selected and furnished by the Department of Public Safety, State Highway Patrol. The uniformed sworn

and nonsworn personnel assigned to the various permanent weigh stations shall weigh vehicles and complete various reports as may be necessary for recording violations relating to the weight of vehicles and their loads. The uniformed officers assigned to the various permanent weigh stations shall have the powers of peace officers for the purpose of enforcing the provisions of this Chapter and in making arrests, serving process, and appearing in court in all matters and things relating to the weight of vehicles and their loads. (1951, c. 988, s. 2; 1975, c. 716, s. 5; 1977, c. 319; 2002-159, s. 31.5(b); 2002-190, s. 8; 2004-124, s. 18.3(c); 2011-145, s. 19.1(g), (p); 2015-241, s. 16A.7(j).)

§ 20-183.11: Repealed by Session Laws 1995, c. 109, s. 5.

§ 20-183.12: Repealed by Session Laws 1995, c. 163, s. 12.

Article 3C.

Vehicle Equipment Safety Compact.

§ 20-183.13. Compact enacted into law; form of Compact.

The Vehicle Equipment Safety Compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

VEHICLE EQUIPMENT SAFETY COMPACT

ARTICLE I. Findings and Purposes.

(a) The party states find that:

(1) Accidents and deaths on their streets and highways present a very serious human and economic problem with a major deleterious effect on the public welfare.

(2) There is a vital need for the development of greater interjurisdictional cooperation to achieve the necessary uniformity in the laws, rules, regulations and codes relating to vehicle equipment, and to accomplish this by such means as will minimize the time between the development of demonstrably and scientifically sound safety features and their incorporation into vehicles.

(b) The purposes of this Compact are to:

(1) Promote uniformity in regulation of and standards for equipment.

(2) Secure uniformity of law and administrative practice in vehicular regulation and related safety standards to permit incorporation of desirable equipment changes in vehicles in the interest of greater traffic safety.

(3) To provide means for the encouragement and utilization of research which will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in subdivision (a) of this article.

(c) It is the intent of this Compact to emphasize performance requirements and not to determine the specific detail of engineering in the manufacture of vehicles or equipment except to the extent necessary for the meeting of such performance requirements.

ARTICLE II. Definitions.

As used in this Compact:

(a) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(b) "State" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(c) "Equipment" means any part of a vehicle or any accessory for use thereon which affects the safety of operation of such vehicle or the safety of the occupants.

ARTICLE III. The Commission.

(a) There is hereby created an agency of the party states to be known as the "Vehicle Equipment Safety Commission" hereinafter called the Commission. The Commission shall be composed of one commissioner from each party state who shall be appointed, serve and be subject to removal in accordance with the laws of the state which he represents. If authorized by the laws of his party state, a commissioner may provide for the discharge of his duties and the performance of his functions on the Commission, either for the duration of his membership or for any lesser period of time, by an alternate. No such alternate shall be entitled to serve unless notification of his identity and appointment shall have been given to the Commission in such form as the Commission may require. Each commissioner, and each alternate, when serving in the place and stead of a commissioner, shall be entitled to be reimbursed by the Commission for expenses actually incurred in attending Commission meetings or while engaged in the business of the Commission.

(b) The commissioners shall be entitled to one vote each on the Commission. No action of the Commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the Commission are cast in favor thereof. Action of the Commission shall be only at a meeting at which a majority of the commissioners, or their alternates, are present.

(c) The Commission shall have a seal.

(d) The Commission shall elect annually, from among its members, a chairman, a vice-chairman and a treasurer. The Commission may appoint an Executive Director and fix his duties and compensation. Such Executive Director shall serve at the pleasure of the Commission, and together with the treasurer shall be bonded in such amount as the Commission shall determine. The Executive Director also shall serve as secretary. If there be no Executive Director, the Commission shall elect a secretary in addition to the other officers provided by this subdivision.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the Executive Director with approval of the Commission, or the Commission if there be no Executive Director, shall appoint, remove or discharge such personnel as may be necessary for the performance of the Commission's functions, and shall fix the duties and compensation of such personnel.

(f) The Commission may establish and maintain independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. Employees of the Commission shall be eligible for Social Security coverage in respect of old age and survivor's insurance provided that the Commission takes such steps as may be necessary pursuant to the laws of the United States, to participate in such program of insurance as a government agency or unit. The Commission may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The Commission may borrow, accept or contract for the services of personnel from any party state, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party states or their subdivisions.

(h) The Commission may accept for any of its purposes and functions under this Compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency and may receive, utilize and dispose of the same.

(i) The Commission may establish and maintain such facilities as may be necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.

(j) The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states. The bylaws shall provide for appropriate notice to the commissioners of all Commission meetings and hearings and the business to be transacted at such meetings or hearings. Such notice shall also be given to such agencies or officers of each party state as the laws of such party state may provide.

(k) The Commission annually shall make to the governor and legislature of each party state a report covering the activities of the Commission for the preceding year, and embodying such recommendations as may have been issued by the Commission. The Commission may make such additional reports as it may deem desirable.

ARTICLE IV. Research and Testing.

The Commission shall have power to:

(a) Collect, correlate, analyze and evaluate information resulting or derivable from research and testing activities in equipment and related fields.

(b) Recommend and encourage the undertaking of research and testing in any aspect of equipment or related matters when, in its judgment, appropriate or sufficient research or testing has not been undertaken.

(c) Contract for such equipment research and testing as one or more governmental agencies may agree to have contracted for by the Commission, provided that such governmental agency or agencies shall make available the funds necessary for such research and testing.

(d) Recommend to the party states changes in law or policy with emphasis on uniformity of laws and administrative rules, regulations or codes which would promote effective governmental action or coordination in the prevention of equipment-related highway accidents or the mitigation of equipment-related highway safety problems.

ARTICLE V. Vehicular Equipment.

(a) In the interest of vehicular and public safety, the Commission may study the need for or desirability of the establishment of or changes in performance requirements or restrictions for any item of equipment. As a result of such study, the Commission may publish a report relating to any item or items of equipment, and the issuance of such a report shall be a condition precedent to any proceedings or other action provided or authorized by this article. No less than 60 days after the publication of a report containing the results of such study, the Commission upon due notice shall hold a hearing or hearings at such place or places as it may determine.

(b) Following the hearing or hearings provided for in subdivision (a) of this article, and with due regard for standards recommended by appropriate professional and technical associations and agencies, the Commission may issue rules, regulations or codes embodying

performance requirements or restrictions for any item or items of equipment covered in the report, which in the opinion of the Commission will be fair and equitable and effectuate the purposes of this Compact.

(c) Each party state obligates itself to give due consideration to any and all rules, regulations and codes issued by the Commission and hereby declares its policy and intent to be the promotion of uniformity in the laws of the several party states relating to equipment.

(d) The Commission shall send prompt notice of its action in issuing any rule, regulation or code pursuant to this article to the appropriate motor vehicle agency of each party state and such notice shall contain the complete text of the rule, regulation or code.

(e) If the constitution of a party state requires, or if its statutes provide, the approval of the legislature by appropriate resolution or act may be made a condition precedent to the taking effect in such party state of any rule, regulation or code. In such event, the commissioner of such party state shall submit any Commission rule, regulation or code to the legislature as promptly as may be in lieu of administrative acceptance or rejection thereof by the party state.

(f) Except as otherwise specifically provided in or pursuant to subdivisions (e) and (g) of this article, the appropriate motor vehicle agency of a party state shall in accordance with its constitution or procedural laws adopt the rule, regulation or code within six months of the sending of the notice, and, upon such adoption, the rule, regulation or code shall have the force and effect of law therein.

(g) The appropriate motor vehicle agency of a party state may decline to adopt a rule, regulation or code issued by the Commission pursuant to this article if such agency specifically finds, after public hearing on due notice, that a variation from the Commission's rule, regulation or code is necessary to the public safety, and incorporates in such finding the reasons upon which it is based. Any such finding shall be subject to review by such procedure for review of administrative determinations as may be applicable pursuant to the laws of the party state. Upon request, the Commission shall be furnished with a copy of the transcript of any hearings held pursuant to this subdivision.

ARTICLE VI. Finance.

(a) The Commission shall submit to the executive head or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(b) Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The total amount of appropriations under any such budget shall be apportioned among the party states as follows: one third in equal shares; and the remainder in proportion to the number of motor vehicles registered in each party state. In determining the number of such registrations, the Commission may employ such source or sources of information as, in its judgment present the most equitable and accurate comparisons among the party states. Each of the Commission's budgets of estimated expenditures and requests for appropriations shall indicate the source or sources used in obtaining information concerning vehicular registrations.

(c) The Commission shall not pledge the credit of any party state. The Commission may meet any of its obligations in whole or in part with funds available to it under Article III(h) of this Compact, provided that the Commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it under Article III(h) hereof, the Commission shall

not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its rules. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual reports of the Commission.

(e) The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the Commission.

(f) Nothing contained herein shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

ARTICLE VII. Conflict of Interest.

(a) The Commission shall adopt rules and regulations with respect to conflict of interest for the commissioners of the party states, and their alternates, if any, and for the staff of the Commission and contractors with the Commission to the end that no member or employee or contractor shall have a pecuniary or other incompatible interest in the manufacture, sale or distribution of motor vehicles or vehicular equipment or in any facility or enterprise employed by the Commission or on its behalf for testing, conduct of investigations or research. In addition to any penalty for violation of such rules and regulations as may be applicable under the laws of the violator's jurisdiction of residence, employment or business, any violation of a Commission rule or regulation adopted pursuant to this article shall require the immediate discharge of any violating employee and the immediate vacating of membership, or relinquishing of status as a member on the Commission by any commissioner or alternate. In the case of a contractor, any violation of any such rule or regulation shall make any contract of the violator with the Commission subject to cancellation by the Commission.

(b) Nothing contained in this article shall be deemed to prevent a contractor for the Commission from using any facilities subject to his control in the performance of the contract even though such facilities are not devoted solely to work of or done on behalf of the Commission; nor to prevent such a contractor from receiving remuneration or profit from the use of such facilities.

ARTICLE VIII. Advisory and Technical Committees.

The Commission may establish such advisory and technical committees as it may deem necessary, membership on which may include private citizens and public officials, and may cooperate with and use the services of any such committees and the organizations which the members represent in furthering any of its activities.

ARTICLE IX. Entry into Force and Withdrawal.

(a) This Compact shall enter into force when enacted into law by any six or more states. Thereafter, this Compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE X. Construction and Severability.

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the Constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state participating herein, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters. (1963, c. 1167, s. 1.)

§ 20-183.14. Legislative findings.

The General Assembly finds that:

- (1) The public safety necessitates the continuous development, modernization and implementation of standards and requirements of law relating to vehicle equipment, in accordance with expert knowledge and opinion.
- (2) The public safety further requires that such standards and requirements be uniform from jurisdiction to jurisdiction, except to the extent that specific and compelling evidence supports variation.
- (3) The Division of Motor Vehicles, acting upon recommendations of the Vehicle Equipment Safety Commission and pursuant to the Vehicle Equipment Safety Compact provides a just, equitable and orderly means of promoting the public safety in the manner and within the scope contemplated by this Article. (1963, c. 1167, s. 2; 1975, c. 716, s. 5.)

§ 20-183.15. Approval of rules and regulations by General Assembly required.

Pursuant to Article V(e) of the Vehicle Equipment Safety Compact, it is the intention of this State and it is hereby provided that no rule, regulation or code issued by the Vehicle Equipment Safety Commission in accordance with Article V of the Compact shall take effect until approved by act of the General Assembly. (1963, c. 1167, s. 3.)

§ 20-183.16. Compact Commissioner.

The Commissioner of this State on the Vehicle Equipment Safety Commission shall be the Secretary of Transportation or such other officer of the Department of Transportation as the Secretary may designate. (1963, c. 1167, s. 4; 1975, c. 716, s. 5.)

§ 20-183.17. Cooperation of State agencies authorized.

Within appropriations available therefor, the departments, agencies and officers of the government of this State may cooperate with and assist the Vehicle Equipment Safety Commission within the scope contemplated by Article III(h) of the Compact. The departments, agencies and officers of the government of this State are authorized generally to cooperate with said Commission. (1963, c. 1167, s. 5.)

§ 20-183.18. Filing of documents.

Filing of documents as required by Article III(j) of the Compact shall be with the Secretary of State. (1963, c. 1167, s. 6.)

§ 20-183.19. Budget procedure.

Pursuant to Article VI(a) of the Compact, the Vehicle Equipment Safety Commission shall submit its budgets to the Director of the Budget. (1963, c. 1167, s. 7.)

§ 20-183.20. Inspection of financial records of Commission.

Pursuant to Article VI(e) of the Compact, the operations of the Vehicle Equipment Safety Commission shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. (1963, c. 1167, s. 8; 1983, c. 913, s. 6.)

§ 20-183.21. "Executive head" defined.

The term "executive head" as used in Article IX(b) of the Compact shall, with reference to this State, mean the Governor. (1963, c. 1167, s. 9.)

Article 3D.

Automatic License Plate Reader Systems.

§ 20-183.30. Definitions.

The following definitions apply in this Article:

- (1) Automatic license plate reader system. – A system of one or more mobile or fixed automated high-speed cameras used in combination with computer algorithms to convert images of license plates into computer-readable data. This term shall not include a traffic control photographic system, as that term is defined in G.S. 160A-300.1(a), or an open road tolling system, as that term is defined in G.S. 136-89.210(3).
- (2) Law enforcement agency. – Any agency or officer of the State of North Carolina or any political subdivision thereof who is empowered by the laws of this State to conduct investigations or to make arrests and any attorney, including the Attorney General of North Carolina, authorized by the laws of this State to prosecute or participate in the prosecution of those persons arrested or persons who may be subject to civil actions related to or concerning an arrest. (2015-190, s. 1.)

§ 20-183.31. Regulation of use.

(a) Any State or local law enforcement agency using an automatic license plate reader system must adopt a written policy governing its use before the automatic license plate reader system is operational. The policy shall address all of the following:

- (1) Databases used to compare data obtained by the automatic license plate reader system.
- (2) Data retention.
- (3) Sharing of data with other law enforcement agencies.
- (4) Training of automatic license plate reader system operators.
- (5) Supervisory oversight of automatic license plate reader system use.
- (6) Internal data security and access.
- (7) Annual or more frequent auditing and reporting of automatic license plate reader system use and effectiveness to the head of the agency responsible for operating the system.

- (8) Accessing data obtained by automatic license plate reader systems not operated by the law enforcement agency.
- (9) Any other subjects related to automatic license plate reader system use by the agency.
- (b) Data obtained by a law enforcement agency in accordance with this section or G.S. 20-183.32 shall be obtained, accessed, preserved, or disclosed only for law enforcement or criminal justice purposes.
- (c) Any law enforcement agency using an automatic license plate reader system must keep maintenance and calibration schedules and records for the system on file. (2015-190, s. 1.)

§ 20-183.32. Preservation and disclosure of records.

(a) Captured plate data obtained by an automatic license plate reader system, operated by or on behalf of a law enforcement agency for law enforcement purposes, shall not be preserved for more than 90 days after the date the data is captured.

(b) Notwithstanding subsection (a) of this section, data obtained by an automatic license plate reader may be preserved for more than 90 days pursuant to any of the following:

- (1) A preservation request under subsection (c) of this section.
- (2) A search warrant issued pursuant to Article 11 of Chapter 15A of the General Statutes.
- (3) A federal search warrant issued in compliance with the Federal Rules of Criminal Procedure.

(c) Upon the request of a law enforcement agency, the custodian of the captured plate data shall take all necessary steps to immediately preserve captured plate data in its possession. A requesting agency must specify in a written, sworn statement all of the following:

- (1) The location of the particular camera or cameras for which captured plate data must be preserved and the particular license plate for which captured plate data must be preserved.
- (2) The date or dates and time frames for which captured plate data must be preserved.
- (3) Specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data is relevant and material to an ongoing criminal or missing persons investigation or is needed to prove a violation of a motor carrier safety regulation.
- (4) The case and identity of the parties involved in that case.

After one year from the date of the initial preservation request, the captured plate data obtained by an automatic license plate reader system shall be destroyed according to the custodian's own record or data retention policy, unless the custodian receives within that period another preservation request under this subsection, in which case the retention period established under this subsection shall reset.

(d) A law enforcement agency that uses an automatic license plate reader system in accordance with G.S. 20-183.31 shall update the system from the databases specified therein every 24 hours if such updates are available or as soon as practicable after such updates become available.

(e) Captured plate data obtained in accordance with this Article is confidential and not a public record as that term is defined in G.S. 132-1. Data shall not be disclosed except to a federal, State, or local law enforcement agency for a legitimate law enforcement or public safety

purpose pursuant to a written request from the requesting agency. Written requests may be in electronic format. Nothing in this subsection shall be construed as requiring the disclosure of captured plate data if a law enforcement agency determines that disclosure will compromise an ongoing investigation. Captured plate data shall not be sold for any purpose. (2015-190, s. 1.)

Article 4.

State Highway Patrol.

§ 20-184. Patrol under supervision of Department of Public Safety.

The Secretary of Public Safety, under the direction of the Governor, shall have supervision, direction and control of the State Highway Patrol. The Secretary shall establish in the Department of Public Safety a State Highway Patrol Division, prescribe regulations governing the Division, and assign to the Division such duties as the Secretary may deem proper. (1935, c. 324, s. 2; 1939, c. 387, s. 1; 1941, c. 36; 1975, c. 716, s. 5; 1977, c. 70, ss. 13, 14, 15; 2011-145, s. 19.1(g), (hh); 2015-241, s. 16A.7(i).)

§ 20-185. Personnel; appointment; salaries.

(a) The State Highway Patrol shall consist of a commanding officer, who shall be appointed by the Governor and whose rank shall be designated by the Governor, and such additional subordinate officers and members as the Secretary of Public Safety, with the approval of the Governor, shall direct. Members of the State Highway Patrol shall be appointed by the Secretary, with the approval of the Governor, and shall serve at the pleasure of the Governor and Secretary. The commanding officer, other officers and members of the State Highway Patrol shall be paid such salaries as may be established by the Division of Personnel of the Department of Administration. Notwithstanding any other provision of this Article, the number of supervisory personnel of the State Highway Patrol shall not exceed a number equal to twenty-one percent (21%) of the personnel actually serving as uniformed highway patrolmen. Nothing in the previous sentence is intended to require the demotion, reassignment or change in status of any member of the State Highway Patrol presently assigned in a supervisory capacity. If a reduction in the number of Highway Patrol personnel assigned in supervisory capacity is required in order for the State Highway Patrol to meet the mandatory maximum percentage of supervisory personnel as set out in the fourth sentence of this subsection, that reduction shall be achieved through normal attrition resulting from supervisory personnel resigning, retiring or voluntarily transferring from supervisory positions.

(a1) Applicants for employment as a State Trooper shall be at least 21 years of age and not more than 39 years of age as of the first day of patrol school. Highway Patrol enforcement personnel hired on or after July 1, 2013, shall retire not later than the end of the month in which their 62nd birthday falls.

(b) to (f) Repealed by Session Laws 1979, 2nd Session, c. 1272, s. 2.

(g), (h) Struck out by Session Laws 1961, c. 833, s. 6.2.

(i) Positions in the State Highway Patrol approved by the General Assembly in the first fiscal year of a biennium to be added in the second fiscal year of a biennium may not be filled before adjustments to the budget for the second fiscal year of the budget are enacted by the General Assembly. If a position to be added in the State Highway Patrol for the second fiscal year of the biennium requires training, no applicant may be trained to fill the position until the budget adjustments for the second fiscal year are enacted by the General Assembly. (1929, c.

218, s. 1; 1931, c. 381; 1935, c. 324, s. 1; 1937, c. 313, s. 1; 1941, c. 36; 1947, c. 461, s. 1; 1953, c. 1195, s. 1; 1955, c. 372; 1957, c. 1394; 1959, cc. 370, 1320; 1961, c. 833, s. 6.2; 1973, c. 59; 1975, c. 61, ss. 1, 2; c. 716, s. 5; 1977, c. 70, ss. 6-8, 13; c. 329, ss. 1-3; cc. 749, 889; 1979, 2nd Sess., c. 1272, s. 2; 1989 (Reg. Sess., 1990), c. 1066, s. 133; 2011-145, s. 19.1(g), (p); 2013-289, s. 9; 2015-241, s. 16A.7(j).)

§ 20-186. Oath of office.

Each member of the State Highway Patrol shall subscribe and file with the Secretary of Public Safety an oath of office for the faithful performance of his duties. (1929, c. 218, s. 2; 1937, c. 339, s. 1; 1941, c. 36; 1977, c. 70, s. 9; 2011-145, s. 19.1(g).)

§ 20-187. Orders and rules for organization and conduct.

The Secretary of Public Safety is authorized and empowered to make all necessary orders, rules and regulations for the organization, assignment, and conduct of the members of the State Highway Patrol. Such orders, rules and regulations shall be subject to the approval of the Governor. (1929, c. 218, ss. 1, 3; 1931, c. 381; 1933, c. 214, ss. 1, 2; 1939, c. 387, s. 2; 1941, c. 36; 1977, c. 70, s. 13; 2011-145, s. 19.1(g).)

§ 20-187.1. Awards.

(a) The patrol commander shall appoint an awards committee consisting of one troop commander, one troop executive officer, one district sergeant, one corporal, two troopers and one member of patrol headquarters staff. All committee members shall serve for a term of one year. The member from patrol headquarters staff shall serve as secretary to the committee and shall vote only in case of ties. The committee shall meet at such times and places designated by the patrol commander.

(b) The award to be granted under the provisions of this section shall be the North Carolina State Highway Patrol award of honor. The North Carolina State Highway Patrol award of honor is awarded in the name of the people of North Carolina and by the Governor to a person who, while a member of the North Carolina State Highway Patrol, distinguishes himself conspicuously by gallantry and intrepidity at the risk of personal safety and beyond the call of duty while engaged in the preservation of life and property. The deed performed must have been one of personal bravery and self-sacrifice so conspicuous as to clearly distinguish the individual above his colleagues and must have involved risk of life. Proof of the performance of the service will be required and each recommendation for the award of this decoration will be considered on the standard of extraordinary merit.

(c) Recipients of the awards hereinabove provided for will be entitled to receive a framed certificate of the award and an insignia designed to be worn as a part of the State Highway Patrol uniform.

(d) The awards committee shall review and investigate all reports of outstanding service and shall make recommendations to the patrol commander with respect thereto. The committee shall consider members of the Patrol for the awards created by this section when properly recommended by any individual having personal knowledge of an act, achievement or service believed to warrant the award of a decoration. No recommendation shall be made except by majority vote of all members of the committee. All recommendations of the committee shall be in writing and shall be forwarded to the patrol commander.

(e) Upon receipt of a recommendation of the committee, the patrol commander shall inquire into the facts of the matter and shall reduce his recommendation to writing. The patrol commander shall forward his recommendation, together with the recommendation of the committee, to the Secretary of Public Safety. The Secretary shall have final authority to approve or disapprove recommendations affecting the issuance of all awards except the award of honor. All recommendations for the award of honor shall be forwarded to the Governor for final approval or disapproval.

(f) The patrol commander shall, with the approval of the Secretary, establish all necessary rules and regulations to fully implement the provisions of this section and such rules and regulations shall include, but shall not be limited to, the following:

- (1) Announcement of awards
- (2) Presentation of awards
- (3) Recording of awards
- (4) Replacement of awards
- (5) Authority to wear award insignias. (1967, c. 1179; 1971, c. 848; 1977, c. 70, s. 13; 2011-145, s. 19.1(g).)

§ 20-187.2. Badges and service side arms of deceased or retiring members of State, city and county law-enforcement agencies; weapons of active members.

(a) Surviving spouses, or in the event such members die unsurvived by a spouse, surviving children of members of North Carolina State, city and county law-enforcement agencies killed in the line of duty or who are members of such agencies at the time of their deaths, and retiring members of such agencies shall receive upon request and at no cost to them, the badge worn or carried by such deceased or retiring member. The governing body of a law-enforcement agency may, in its discretion, also award to a retiring member or surviving relatives as provided herein, upon request, the service side arm of such deceased or retiring members, at a price determined by such governing body, upon determining that the person receiving the weapon is not ineligible to own, possess, or receive a firearm under the provisions of State or federal law, or if the weapon has been rendered incapable of being fired. Governing body shall mean for county and local alcohol beverage control officers, the county or local board of alcoholic control; for all other law-enforcement officers with jurisdiction limited to a municipality or town, the city or town council; for all other law-enforcement officers with countywide jurisdiction, the board of county commissioners; for all State law-enforcement officers, the head of the department.

(b) Active members of North Carolina State law-enforcement agencies, upon change of type of weapons, may purchase the weapon worn or carried by such member at a price which shall be the average yield to the State from the sale of similar weapons during the preceding year.

(c) For purposes of this section, certified probation and parole officers shall be considered members of a North Carolina State law enforcement agency. (1971, c. 669; 1973, c. 1424; 1975, c. 44; 1977, c. 548; 1979, c. 882; 1987, c. 122; 2013-369, s. 19; 2016-77, s. 9(b).)

§ 20-187.3. Quotas prohibited.

(a) The Secretary of Public Safety shall not make or permit to be made any order, rule, or regulation requiring the issuance of any minimum number of traffic citations, or ticket quotas, by any member or members of the State Highway Patrol. Pay and promotions of members of the Highway Patrol shall be based on their overall job performance and not on the basis of the

volume of citations issued or arrests made. Members of the Highway Patrol shall be subject to salary classes, ranges and longevity pay for service as are applicable to other State employees generally. Beginning July 1, 1985, and annually thereafter, each member of the Highway Patrol shall be granted a salary increase in an amount corresponding to the increments between steps within the salary range established for the class to which the member's position is assigned by the State Human Resources Commission, not to exceed the maximum of each applicable salary range.

(b) The Secretary of Public Safety, subject to the availability of funds as authorized by the Director of the Budget, may place a member of the State Highway Patrol in any step in the salary range for the class to which the member is assigned based on the member's rank so that no member is in a step lower than others of the same rank who have held that rank for less time than that member. (1981, c. 429; 1983 (Reg. Sess., 1984), c. 1034, ss. 106, 107; c. 1116, s. 89; 2011-145, s. 19.1(g); 2012-142, s. 25.2C(d); 2013-382, s. 9.1(c).)

§ 20-187.4. Disposition of retired service animals.

(a) Upon determination that any service animal is no longer fit or needed for public service, the State or unit of local government may transfer ownership of the animal at a price determined by the State or unit of local government and upon any other terms and conditions as the State or unit of local government deems appropriate, to any of the following individuals, if that individual agrees to accept ownership, care, and custody of the service animal:

- (1) The officer or employee who had normal custody and control of the service animal during the service animal's public service to the State or unit of local government.
- (2) A surviving spouse, or in the event such officer or employee dies unsurvived by a spouse, surviving children of the officer or employee killed in the line of duty who had normal custody and control of the service animal during the service animal's public service to the State or unit of local government.
- (3) An organization or program dedicated to the assistance or support of service animals retired from public service.

(b) For purposes of this section, the following definitions apply:

- (1) "Service animal." – Any horse, dog, or other animal owned by the State or a unit of local government that performs law enforcement, public safety, or emergency service functions.
- (2) "Unit of local government." – As defined in G.S. 159-7(b)(15). (2016-101, s. 1.)

§ 20-187.5. Trademark authorization.

The North Carolina Troopers Association is authorized to use all trademarks identifying the North Carolina State Highway Patrol held by the North Carolina Department of Public Safety or its Divisions. The use authorized under this section shall be limited to purposes that support the State Highway Patrol, employees of the State Highway Patrol, and the family members of the employees of the State Highway Patrol. (2017-57, s. 16B.8(a).)

§ 20-188. Duties of Highway Patrol.

The State Highway Patrol shall be subject to such orders, rules and regulations as may be adopted by the Secretary of Public Safety, with the approval of the Governor, and shall regularly

patrol the highways of the State and enforce all laws and regulations respecting travel and the use of vehicles upon the highways of the State and all laws for the protection of the highways of the State. To this end, the members of the Patrol are given the power and authority of peace officers for the service of any warrant or other process issuing from any of the courts of the State having criminal jurisdiction, and are likewise authorized to arrest without warrant any person who, in the presence of said officers, is engaged in the violation of any of the laws of the State regulating travel and the use of vehicles upon the highways, or of laws with respect to the protection of the highways, and they shall have jurisdiction anywhere within the State, irrespective of county lines. The State Highway Patrol shall enforce the provisions of G.S. 14-399.

The State Highway Patrol shall have full power and authority to perform such additional duties as peace officers as may from time to time be directed by the Governor, and such officers may at any time and without special authority, either upon their own motion or at the request of any sheriff or local police authority, arrest persons accused of highway robbery, bank robbery, murder, or other crimes of violence.

The Secretary of Public Safety shall direct the officers and members of the State Highway Patrol in the performance of such other duties as may be required for the enforcement of the motor vehicle laws of the State.

Members of the State Highway Patrol, in addition to the duties, power and authority hereinbefore given, shall have the authority throughout the State of North Carolina of any police officer in respect to making arrests for any crimes committed in their presence and shall have authority to make arrests for any crime committed on any highway.

Regardless of territorial jurisdiction, any member of the State Highway Patrol who initiates an investigation of an accident or collision may not relinquish responsibility for completing the investigation, or for filing criminal charges as appropriate, without clear assurance that another law-enforcement officer or agency has fully undertaken responsibility, and in such cases he shall render reasonable assistance to the succeeding officer or agency if requested.

The State Highway Patrol recognizes the need to utilize private wrecker services to remove vehicles from public roadways as part of its public safety responsibility. In order to assure that this public safety responsibility is accomplished, the Troop Commander shall include on the Highway Patrol's rotation wrecker list only those wrecker services which agree in writing to impose reasonable charges for work performed and present one bill to the owner or operator of any towed vehicle. Towing, storage, and related fees charged may not be greater than fees charged for the same service for nonrotation calls that provide the same service, labor, and conditions. (1929, c. 218, s. 4; 1933, c. 214, ss. 1, 2; 1935, c. 324, s. 3; 1939, c. 387, s. 2; 1941, c. 36; 1945, c. 1048; 1947, c. 1067, s. 20; 1973, c. 689; 1975, c. 716, s. 5; 1977, c. 70, ss. 10, 13; c. 887, s. 3; 2009-461, s. 3; 2011-145, s. 19.1(g).)

§ 20-189. Patrolmen assigned to Governor's office.

The Secretary of Public Safety, at the request of the Governor, shall assign and attach two members of the State Highway Patrol to the office of the Governor, there to be assigned such duties and perform such services as the Governor may direct. The salary of the State Highway Patrol members so assigned to the office of the Governor shall be paid from appropriations made to the office of the Governor and shall be fixed in an amount to be determined by the Governor. (1941, cc. 23, 36; 1965, c. 1159; 1977, c. 70, s. 13; 1983, c. 717, s. 6; 1985 (Reg. Sess., 1986), c. 955, ss. 2, 3; 2006-203, s. 15; 2011-145, s. 19.1(g); 2012-83, s. 30.)

§ 20-189.1. Lieutenant Governor Executive Protection Detail.

(a) Creation. – There is created within the Highway Patrol a Lieutenant Governor's Executive Protection Detail. The Lieutenant Governor shall submit the names of three sworn members in good standing of the North Carolina Highway Patrol to the Commander, and the Commander shall assign those officers to serve in the Lieutenant Governor's Executive Protection Detail. The Lieutenant Governor is authorized to remove any members of the detail, with or without cause. If the Lieutenant Governor removes a member of the detail, the Lieutenant Governor shall submit to the Commander the name of an officer to replace the member who has been removed and the Commander shall assign the replacement. Members of the Lieutenant Governor's Executive Protection Detail shall continue to be employed by the North Carolina Highway Patrol subject to the laws, rules, and regulations of the Highway Patrol. The North Carolina Highway Patrol shall provide vehicles necessary for the carrying out of the Detail's duties under this Article.

(b) Duties. – The members of the Lieutenant Governor's Executive Protection Detail shall protect the Lieutenant Governor and the Lieutenant Governor's immediate family and perform duties as assigned by the Lieutenant Governor relating to the protection of the Lieutenant Governor. (2017-57, s. 16B.4(a).)

§ 20-189.2. State Highway Patrol Security Detail.

The Speaker of the House of Representatives and the President Pro Tempore of the Senate, while traveling within the State on State business, may request a security detail. The request shall be made to the commander of the State Highway Patrol. If the request is made at least 48 hours in advance, the commander shall provide the detail. If the request is made less than 48 hours in advance, the commander shall provide the detail unless doing so would otherwise impair the ability of the State Highway patrol to perform its lawful duties. (2017-57, s. 16B.9.)

§ 20-190. Uniforms; motor vehicles and arms; expense incurred; color of vehicle.

The Department of Public Safety shall adopt some distinguishing uniform for the members of said State Highway Patrol, and furnish each member of the Patrol with an adequate number of said uniforms and each member of said Patrol force when on duty shall be dressed in said uniform. The Department of Public Safety shall likewise furnish each member of the Patrol with a suitable motor vehicle, and necessary arms, and provide for all reasonable expense incurred by said Patrol while on duty, provided, that not less than eighty-three percent (83%) of the number of motor vehicles operated on the highways of the State by members of the State Highway Patrol shall be painted a uniform color of black and silver. (1929, c. 218, s. 5; 1941, c. 36; 1955, c. 1132, ss. 1, 1 1/4, 1 3/4; 1957, c. 478, s. 1; c. 673, s. 1; 1961, c. 342; 1975, c. 716, s. 5; 1977, c. 70, s. 15; 1979, c. 229; 2011-145, s. 19.1(g).)

§ 20-190.1. Patrol vehicles to have sirens; sounding siren.

Every motor vehicle operated on the highways of the State by officers and members of the State Highway Patrol shall be equipped with a siren. Whenever any such officer or member operating any unmarked car shall overtake another vehicle on the highway after sunset of any day and before sunrise for the purpose of stopping the same or apprehending the driver thereof, he shall sound said siren before stopping such other vehicle. (1957, c. 478, s. 1 1/2.)

§ 20-190.2. Signs showing highways patrolled by unmarked vehicles.

The Department of Transportation shall erect or cause to be erected signs at all points where paved highways enter this State from adjacent states stating that the highways are patrolled by unmarked police vehicles. (1957, c. 673, s. 2; 1973, c. 507, s. 5; 1977, c. 464, s. 34.)

§ 20-190.3. Assignment of new highway patrol cars.

All new highway patrol cars, whether marked or unmarked, placed in service after July 1, 1985, shall be assigned to all members of the Highway Patrol. (1985, c. 757, s. 165; 1987, c. 738, s. 122; 1989, c. 752, s. 114.)

§ 20-191. Use of facilities.

Office space and other equipment and facilities of the Division of Motor Vehicles, Department of Transportation, presently being used by the State Highway Patrol shall continue to be used by the Patrol, and joint use of space, equipment and facilities between any division of the Department of Transportation and the State Highway Patrol may continue, unless such arrangements are changed by agreements between the Secretary of Public Safety and the Secretary of Transportation. (1929, c. 218, s. 6; 1937, c. 313, s. 1; 1941, c. 36; 1947, c. 461, s. 2; 1975, c. 716, s. 5; 1977, c. 70, s. 11; 2011-145, s. 19.1(g).)

§ 20-192. Shifting of personnel from one district to another.

The commanding officer of the State Highway Patrol under such rules and regulations as the Department of Public Safety may prescribe shall have authority from time to time to shift the forces from one district to another, or to consolidate more than one district force at any point for special purposes. Whenever a member of the State Highway Patrol is transferred from one point to another for the convenience of the State or otherwise than upon the request of the Highway Patrol member, the Department shall be responsible for transporting the household goods, furniture and personal apparel of the Highway Patrol member and members of the Highway Patrol member's household. (1929, c. 218, s. 7; 1937, c. 313, s. 1; 1941, c. 36; 1947, c. 461, s. 3; 1951, c. 285; 1975, c. 716, s. 5; 1977, c. 70, s. 15; 2011-145, s. 19.1(g); 2012-83, s. 31.)

§ 20-193: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 18.

§ 20-194. Defense of members and other State law-enforcement officers in civil actions; payment of judgments.

(a) Repealed by Session Laws 2011-145, s. 28.27(d), effective July 1, 2011.

(b) In the event that a member of the Highway Patrol or any other State law-enforcement officer is sued in a civil action as an individual for acts occurring while such member was alleged to be acting within the course and scope of his office, employment, service, agency or authority, which was alleged to be a proximate cause of the injury or damage complained of, the Attorney General is hereby authorized to defend such employee through the use of a member of his staff or, in his discretion, employ private counsel, subject to the provisions of Article 31A of Chapter 143 of the General Statutes and G.S. 147-17(a) through (c) and (d). Any judgment rendered as a result of said civil action against such member of the Highway Patrol or other State law-enforcement officer, for acts alleged to be committed within the course and scope of his office, employment, service, agency or authority shall be paid as an expense of administration up to the limit provided in the Tort Claims Act.

(c) The coverage afforded under this Article shall be excess coverage over any commercial liability insurance up to the limit of the Tort Claims Act. (1929, c. 218, s. 9; 1941, c. 36; 1957, c. 65, s. 11; 1973, c. 507, s. 5; c. 1323; 1975, c. 210; 1977, c. 70, s. 12; 2011-145, s. 28.27(d); 2017-57, s. 6.7(d).)

§ 20-195. Cooperation between Patrol and local officers.

The Secretary of Public Safety with the approval of the Governor, through the State Highway Patrol, shall encourage the cooperation between the Highway Patrol and the several municipal and county peace officers of the State for the enforcement of all traffic laws and the proper administration of the Uniform Drivers' License Law, and arrangements for compensation of special services rendered by such local officers out of the funds allotted to the State Highway Patrol may be made, subject to the approval of the Director of the Budget. (1935, c. 324, s. 5; 1939, c. 387, s. 3; 1941, c. 36; 1977, c. 70, ss. 13, 14; 2011-145, s. 19.1(g), (p); 2015-241, s. 16A.7(j).)

§ 20-196. Statewide radio system authorized; use of telephone lines in emergencies.

The Secretary of Public Safety, through the State Highway Patrol is hereby authorized and directed to set up and maintain a statewide radio system, with adequate broadcasting stations so situate as to make the service available to all parts of the State for the purpose of maintaining radio contact with the members of the State Highway Patrol and other officers of the State, to the end that the traffic laws upon the highways may be more adequately enforced and that the criminal use of the highways may be prevented. The Secretary of Public Safety, through the State Highway Patrol, is hereby authorized to establish a plan of operation in accordance with Federal Communication Commission rules so that all certified law-enforcement officers within the State may use the law enforcement emergency frequency of 155.475MHz.

The Secretary of Public Safety is likewise authorized and empowered to arrange with the various telephone companies of the State for the use of their lines for emergency calls by the members of the State Highway Patrol, if it shall be found practicable to arrange apparatus for temporary contact with said telephone circuits along the highways of the State.

In order to make this service more generally useful, the various boards of county commissioners and the governing boards of the various cities and towns are hereby authorized and empowered to provide radio receiving sets in the offices and vehicles of their various officers, and such expenditures are declared to be a legal expenditure of any funds that may be available for police protection. (1935, c. 324, s. 6; 1941, c. 36; 1957, c. 65, s. 11; 1973, c. 507, s. 5; 1975, c. 716, s. 5; 1977, c. 70, ss. 13, 14; c. 464, s. 34; 1983, c. 717, s. 7; 1987, c. 525; 2011-145, s. 19.1(g), (p); 2015-241, s. 16A.7(j).)

§ 20-196.1: Repealed by Session Laws 1998-212, s. 19.6(a).

§ 20-196.2. Use of aircraft to discover certain motor vehicle violations; declaration of policy.

The State Highway Patrol is hereby permitted the use of aircraft to discover violations of Part 10 of Article 3 of Chapter 20 of the General Statutes relating to operation of motor vehicles and rules of the road. It is hereby declared the public policy of North Carolina that the aircraft should be used primarily for accident prevention and should also be used incident to the issuance of

warning citations in accordance with the provisions of G.S. 20-183. (1967, c. 513; 1998-212, s. 19.6(b).)

§ 20-196.3. Who may hold supervisory positions over sworn members of the Patrol.

Notwithstanding any other provision of the General Statutes, only the following individuals may hold a supervisory position over sworn members of the Patrol:

- (1) The Governor.
- (2) The Secretary of Public Safety.
- (3) A uniformed member of the North Carolina State Highway Patrol who has met all requirements for employment within the Patrol, including completion of the basic Patrol school. (1975, c. 47; 1977, c. 70, s. 14.1; 2002-159, ss. 31.5(a), (b); 2002-190, s. 9; 2011-145, s. 19.1(g); 2013-289, s. 10; 2015-241, s. 16A.7(h).)

§ 20-196.4. Oversized and hazardous shipment escort fee.

(a) Every person, firm, corporation, or entity required by the North Carolina Department of Transportation or any federal agency or commission to have a law enforcement escort provided by the State Highway Patrol for the transport of any oversized load or hazardous shipment by road or rail shall pay to the Department of Public Safety a fee covering the full cost to administer, plan, and carry out the escort within this State.

(b) If the State Highway Patrol provides an escort to accompany the transport of oversized loads or hazardous shipments by road or rail at the request of any person, firm, corporation, or entity that is not required to have a law enforcement escort pursuant to subsection (a) of this section, then the requester shall pay to the Department of Public Safety a fee covering the full cost to administer, plan, and carry out the escort within this State.

(c) A fee established under this section is subject to G.S. 12-3.1. The full cost of an escort includes costs for vehicle or equipment maintenance required before or after an escort to ensure the visibility and safety of the law enforcement escort and the motoring public.

(d) All fees collected pursuant to this section shall be placed in a special Escort Fee Account. Revenue in the account is annually appropriated to the Department to reimburse the Department for its expenses in providing escorts under this section.

(e) Repealed by Session Laws 2010-129, s. 4, effective July 21, 2010. (2002-126, s. 26.17(a); 2010-129, s. 4; 2011-145, s. 19.1(g).)

§ 20-196.5. Report on gang prevention recommendations.

The State Highway Patrol, in conjunction with the State Bureau of Investigation and the Governor's Crime Commission, shall develop recommendations concerning the establishment of priorities and needed improvements with respect to gang prevention and shall report those recommendations to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety and to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety on or before March 1 of each year. (2015-241, s. 16B.3(a).)

Article 5.

Enforcement of Collection of Judgments against Irresponsible Drivers of Motor Vehicles.

§§ 20-197 through 20-211: Repealed by Session Laws 1947, c. 1006, s. 58.

Article 6.

Giving Publicity to Highway Traffic Laws through the Public Schools.

§§ 20-212 through 20-215: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 19.

Article 6A.

Motor Carriers of Migratory Farm Workers.

§ 20-215.1. Definitions.

The following definitions apply in this Article:

- (1) Migratory farm worker. – An individual who is employed in agriculture.
- (2) Motor carrier of migratory farm workers. – A person who for compensation transports at any one time in North Carolina five or more migratory farm workers to or from their employment by any motor vehicle, other than a passenger automobile or station wagon. The term does not include any of the following:
 - a. A migratory farm worker who is transporting his or her immediate family.
 - b. A carrier of passengers regulated by the North Carolina Utilities Commission or the United States Department of Transportation.
 - c. The transportation of migratory farm workers on a vehicle owned by a farmer when the migratory farm workers are employed or to be employed by the farmer to work on a farm owned or controlled by the farmer.
- (3) Repealed by Session Laws 1973, c. 1330, s. 39. (1961, c. 505, s. 1; 1973, c. 1330, s. 39; 1995 (Reg. Sess., 1996), c. 756, s. 17.)

§ 20-215.2. Power to regulate; rules and regulations establishing minimum standards.

Notwithstanding any other provisions of this Chapter the North Carolina Division of Motor Vehicles, hereinafter referred to as "Division," is hereby vested with the power and duty to make and enforce reasonable rules and regulations applicable to motor carriers of migratory farm workers to and from their places of employment. The rules promulgated shall establish minimum standards:

- (1) For the construction and equipment of such vehicles, including coupling devices, lighting equipment, exhaust systems, rear vision mirrors, brakes, steering mechanisms, tires, windshield wipers and warning devices.
- (2) For the operation of such vehicles, including driving rules, distribution of passengers and load, maximum hours of service for drivers, minimum requirements of age and skill of drivers, physical conditions of drivers and permits, licenses or other credentials required of drivers.
- (3) For the safety and comfort of passengers in such vehicles, including emergency kits, fire extinguishers, first-aid equipment, sidewalls, seating accommodations, tail gates or doors, rest and meal stops, maximum number of

passengers, and safe means of ingress and egress. (1961, c. 505, s. 2; 1975, c. 716, s. 5.)

§ 20-215.3: Repealed by Session Laws 1985, c. 454, s. 8.

§ 20-215.4. Violation of regulations a misdemeanor.

The violation of any rule or regulation promulgated by the Division hereunder by any person, firm or corporation shall be a Class 3 misdemeanor. (1961, c. 505, s. 4; 1975, c. 716, s. 5; 1993, c. 539, s. 381; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-215.5. Duties and powers of law-enforcement officers.

It shall be the duty of the law-enforcement officers of the State, and of each county, city or town, to enforce the rules promulgated hereunder in their respective jurisdictions; and such officers shall have the power to stop any motor vehicle upon the highways of this State for the purpose of determining whether or not such motor vehicle is being operated in violation of such rules. (1961, c. 505, s. 5.)

Article 7.

Miscellaneous Provisions Relating to Motor Vehicles.

§ 20-216. Passing horses or other draft animals.

Any person operating a motor vehicle shall use reasonable care when approaching or passing a horse or other draft animal whether ridden or otherwise under control. (1917, c. 140, s. 15; C.S., s. 2616; 1969, c. 401.)

§ 20-217. Motor vehicles to stop for properly marked and designated school buses in certain instances; evidence of identity of driver.

(a) When a school bus is displaying its mechanical stop signal or flashing red lights and the bus is stopped for the purpose of receiving or discharging passengers, the driver of any other vehicle that approaches the school bus from any direction on the same street, highway, or public vehicular area shall bring that other vehicle to a full stop and shall remain stopped. The driver of the other vehicle shall not proceed to move, pass, or attempt to pass the school bus until after the mechanical stop signal has been withdrawn, the flashing red stoplights have been turned off, and the bus has started to move.

(b) For the purpose of this section, a school bus includes a public school bus transporting children or school personnel, a public school bus transporting senior citizens under G.S. 115C-243, or a privately owned bus transporting children. This section applies only in the event the school bus bears upon the front and rear a plainly visible sign containing the words "school bus."

(c) Notwithstanding subsection (a) of this section, the driver of a vehicle traveling in the opposite direction from the school bus, upon any road, highway or city street that has been divided into two roadways, so constructed as to separate vehicular traffic between the two roadways by an intervening space (including a center lane for left turns if the roadway consists of at least four more lanes) or by a physical barrier, need not stop upon meeting and passing any school bus that has stopped in the roadway across the dividing space or physical barrier.

(d) It shall be unlawful for any school bus driver to stop and receive or discharge passengers or for any principal or superintendent of any school, routing a school bus, to authorize the driver of any school bus to stop and receive or discharge passengers upon any roadway described by subsection (c) of this section where passengers would be required to cross the roadway to reach their destination or to board the bus; provided, that passengers may be discharged or received at points where pedestrians and vehicular traffic are controlled by adequate stop-and-go traffic signals.

(e) Except as provided in subsection (g) of this section, any person violating this section shall be guilty of a Class 1 misdemeanor and shall pay a minimum fine of five hundred dollars (\$500.00). A person who violates subsection (a) of this section shall not receive a prayer for judgment continued under any circumstances.

(f) Expired.

(g) Any person who willfully violates subsection (a) of this section and strikes any person shall be guilty of a Class I felony and shall pay a minimum fine of one thousand two hundred fifty dollars (\$1,250). Any person who willfully violates subsection (a) of this section and strikes any person, resulting in the death of that person, shall be guilty of a Class H felony and shall pay a minimum fine of two thousand five hundred dollars (\$2,500).

(g1) The Division shall revoke, for a period of one year, the drivers license of a person convicted of a second misdemeanor violation under this section within a three-year period. The Division shall revoke, for a period of two years, the drivers license of a person convicted of a Class I felony violation under this section. The Division shall revoke, for a period of three years, the drivers license of a person convicted of a Class H felony violation under this section. The Division shall permanently revoke the drivers license of (i) a person convicted of a second felony violation under this section within any period of time and (ii) a person convicted of a third misdemeanor violation under this section within any period of time.

In the case of a first felony conviction under this section, the licensee may apply to the sentencing court for a limited driving privilege after a period of six months of revocation, provided the person's drivers license has not also been revoked or suspended under any other provision of law. A limited driving privilege issued under this subsection shall be valid for the period of revocation remaining in the same manner and under the terms and conditions prescribed in G.S. 20-16.1(b). If the person's drivers license is revoked or suspended under any other statute, the limited driving privilege issued pursuant to this subsection is invalid.

In the case of a permanent revocation of a person's drivers license for committing a third misdemeanor violation under this section within any period of time, the person may apply for a drivers license after two years. The Division may, with or without a hearing, issue a new drivers license upon satisfactory proof that the former licensee has not been convicted of a moving violation under this Chapter or the laws of another state. The Division may impose any restrictions or conditions on the new drivers license that the Division considers appropriate. Any conditions or restrictions imposed by the Division shall not exceed two years.

In the case of a permanent revocation of a person's drivers license for committing a second Class I felony violation under this section within any period of time, the person may apply for a drivers license after three years. The Division may, with or without a hearing, issue a new drivers license upon satisfactory proof that the former licensee has not been convicted of a moving violation under this Chapter or the laws of another state. The Division may impose any restrictions or conditions on the new drivers license that the Division considers appropriate. Any conditions or restrictions imposed by the Division shall not exceed three years.

Any person whose drivers license is revoked under this section is disqualified pursuant to G.S. 20-17.4 from driving a commercial motor vehicle for the period of time in which the person's drivers license remains revoked under this section.

(g2) Pursuant to G.S. 20-54, failure of a person to pay any fine or costs imposed pursuant to this section shall result in the Division withholding the registration renewal of a motor vehicle registered in that person's name. The clerk of superior court in the county in which the case was disposed shall notify the Division of any person who fails to pay a fine or costs imposed pursuant to this section within 20 days of the date specified in the court's judgment, as required by G.S. 20-24.2(a)(2). The Division shall continue to withhold the registration renewal of a motor vehicle until the clerk of superior court notifies the Division that the person has satisfied the conditions of G.S. 20-24.1(b) applicable to the person's case. The provisions of this subsection shall be in addition to any other actions the Division may take to enforce the payment of any fine imposed pursuant to this section.

(h) Automated school bus safety cameras, as defined in G.S. 115C-242.1, may be used to detect and prosecute violations of this section. Any photograph or video recorded by an automated school bus safety camera shall, if consistent with the North Carolina Rules of Evidence, be admissible as evidence in any proceeding alleging a violation of subsection (a) of this section. Failure to produce a photograph or video recorded by an automated school bus safety camera shall not preclude prosecution under this section. (1925, c. 265; 1943, c. 767; 1947, c. 527; 1955, c. 1365; 1959, c. 909; 1965, c. 370; 1969, c. 952; 1971, c. 245, s. 1; 1973, c. 1330, s. 35; 1977, 2nd Sess., c. 1280, s. 4; 1979, 2nd Sess., c. 1323; 1983, c. 779, s. 1; 1985, c. 700, s. 1; 1991, c. 290, s. 1; 1993, c. 539, s. 382; 1994, Ex. Sess., c. 24, s. 14(c); 1998-149, s. 10; 2005-204, s. 1; 2006-160, s. 1; 2006-259, s. 11(a); 2007-382, s. 1; 2009-147, ss. 1, 2; 2013-293, s. 2; 2017-188, s. 4.)

§ 20-217.1: Repealed by Session Laws 1983, c. 779, s. 2.

§ 20-218. Standard qualifications for school bus drivers; speed limit for school buses and school activity buses.

(a) Qualifications. – No person shall drive a school bus over the highways or public vehicular areas of North Carolina while it is occupied by one or more child passengers unless the person furnishes to the superintendent of the schools of the county in which the bus shall be operated a certificate from any representative duly designated by the Commissioner and from the Director of Transportation or a designee of the Director in charge of school buses in the county showing that the person has been examined by them and is fit and competent to drive a school bus over the highways and public vehicular areas of the State. The driver of a school bus must be at least 18 years of age and hold a Class A, B, or C commercial drivers license and a school bus driver's certificate. The driver of a school activity bus must meet the same qualifications as a school bus driver or must have a license appropriate for the class of vehicle being driven.

(b) Speed Limits. – It is unlawful to drive a school bus occupied by one or more child passengers over the highways or public vehicular areas of the State at a greater rate of speed than 45 miles per hour. It is unlawful to drive a school activity bus occupied by one or more child passengers over the highways or public vehicular areas of North Carolina at a greater rate of speed than 55 miles per hour.

(c) Punishment. – A person who violates this section commits a Class 3 misdemeanor. (1937, c. 397, ss. 1-3; 1941, c. 21; 1943, c. 440; 1945, c. 216; 1957, cc. 139, 595; 1971, c. 293;

1977, c. 791, ss. 1, 2; c. 1102; 1979, c. 31, ss. 1, 2; c. 667, s. 36; 1981, c. 30; 1987, c. 337, s. 1; 1989, c. 558, s. 1; c. 771, s. 6; 1991, c. 726, s. 22; 1993, c. 217, s. 1; 1993 (Reg. Sess., 1994), c. 761, s. 20; 2009-550, s. 3.2.)

§ 20-218.1: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 21.

§ 20-218.2. Speed limit for nonprofit activity buses.

It is unlawful to drive an activity bus that is owned by a nonprofit organization and is transporting persons in connection with nonprofit activities over the highways or public vehicular areas of North Carolina at a greater rate of speed than 55 miles per hour. A person who violates this section commits a Class 3 misdemeanor. (1969, c. 1000, s. 2; 1987, c. 337, s. 2; 1993 (Reg. Sess., 1994), c. 761, s. 23.)

§ 20-219: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 24.

§ 20-219.1. Repealed by Session Laws 1971, c. 294, s. 2.

§ 20-219.2. Removal of unauthorized vehicles from private lots.

(a) It shall be unlawful for any person other than the owner or lessee of a privately owned or leased parking space to park a motor or other vehicle in such private parking space without the express permission of the owner or lessee of such space if the private parking lot is clearly designated as such by legible signs no smaller than 24 inches by 24 inches prominently displayed at all entrances thereto, displaying the current name and current phone number of the towing and storage company, and, if individually owned or leased, the parking lot or spaces within the lot are clearly marked by signs setting forth the name of each individual lessee or owner. A vehicle parked in a privately owned parking space in violation of this section may be removed from such space upon the written request of the parking space owner or lessee to a place of storage and the registered owner of such motor vehicle shall become liable for removal and storage charges. Any person who removes a vehicle pursuant to this section shall not be held liable for damages for the removal of the vehicle to the owner, lienholder or other person legally entitled to the possession of the vehicle removed; however, any person who intentionally or negligently damages a vehicle in the removal of such vehicle, or intentionally or negligently inflicts injury upon any person in the removal of such vehicle, may be held liable for damages. The provisions of this section shall not apply until 72 hours after the required signs are posted.

(a1) If any vehicle is removed pursuant to this section and there is a place of storage within 15 miles, the vehicle shall not be transported for storage more than 15 miles from the place of removal. For all other vehicles, the vehicle shall not be transported for storage more than 25 miles from the place of removal.

(a2) Any person who tows or stores a vehicle subject to this section shall inform the owner in writing at the time of retrieval of the vehicle that the owner has the right to pay the amount of the lien asserted, request immediate possession, and contest the lien for towing charges pursuant to the provisions of G.S. 44A-4.

(a3) Any person who tows or stores a vehicle subject to this section shall not require any person retrieving a vehicle to sign any waiver of rights or other similar document as a condition of the release of the person's vehicle, other than a form acknowledging the release and receipt of the vehicle.

(b) Any person violating any of the provisions of this section shall be guilty of an infraction and upon conviction shall be only penalized not less than one hundred fifty dollars (\$150.00) in the discretion of the court.

(c) This section shall apply only to the Counties of Craven, Cumberland, Dare, Forsyth, Gaston, Guilford, Mecklenburg, New Hanover, Orange, Richmond, Robeson, Wake, Wilson and municipalities in those counties, and to the Cities of Durham, Jacksonville, Charlotte and Fayetteville.

(d) The provisions of this section shall not be interpreted to preempt the authority of any county or municipality to enact ordinances regulating towing from private lots, as authorized by general law. (1969, cc. 173, 288; 1971, c. 986; 1973, c. 183; c. 981, s. 1; c. 1330, s. 36; 1975, c. 575; 1979, c. 380; 1979, 2nd Sess., c. 1119; 1981 (Reg. Sess., 1982), c. 1251, s. 3; 1989, c. 417; c. 644, s. 1; 1993, c. 539, s. 383; 1994, Ex. Sess., c. 24, s. 14(c); 2008-68, s. 1; 2010-134, s. 1; 2013-190, s. 1; 2013-241, s. 2.)

§ 20-219.3. Removal of unauthorized vehicles from gasoline service station premises.

(a) No motor vehicle shall be left for more than 48 hours upon the premises of any gasoline service station without the consent of the owner or operator of the service station.

(b) The registered owner of any motor vehicle left unattended upon the premises of a service station in violation of subsection (a) shall be given notice by the owner or operator of said station of said violation. The notice given shall be by certified mail return receipt requested addressed to the registered owner of the motor vehicle.

(c) Upon the expiration of 10 days from the return of the receipt showing that the notice was received by the addressee, such vehicle left on the premises of a service station in violation of this section may be removed from the station premises to a place of storage and the registered owner of such vehicle shall become liable for the reasonable removal and storage charges and the vehicle subject to the storage lien created by G.S. 44A-1 et seq. Any person who removes a vehicle pursuant to this section shall not be held liable for damages for the removal of the vehicle to the owner, lienholder or other person legally entitled to the possession of the vehicle removed; however, any person who intentionally or negligently damages a vehicle in the removal of such vehicle, or intentionally or negligently inflicts injury upon any person in the removal of such vehicle, may be held liable for damages.

(d) In the alternative, the station owner or operator may charge for storage, assert a lien, and dispose of the vehicle under the terms of G.S. 44A-4(b) through (g). The proceeds from the sale of the vehicle shall be disbursed as provided in G.S. 44A-5. (1971, c. 1220; 1973, c. 1330, s. 36; 1989, c. 644, s. 2.)

§ 20-219.4. Public vehicular area designated.

(a) Any area of private property used for vehicular traffic may be designated by the property owner as a public vehicular area by registering the area with the Department of Transportation and by erecting signs identifying the area as a public vehicular area in conformity with rules adopted by the Department of Transportation.

(b) The Department of Transportation shall serve as a registry for registrations of public vehicular areas permitted under this section. The Department shall adopt rules for registration requirements and procedures. The Department shall also adopt rules governing the size and locations of signs designating public vehicular areas by private property owners in accordance

with this section. These rules shall ensure that signs erected pursuant to this provision shall be placed so as to provide reasonable notice to motorists.

(c) The Department shall charge a fee not to exceed five hundred dollars (\$500.00) per registration request authorized by this section. The Department may also charge the reasonable cost for furnishing a certified copy of a registration when requested. Funds collected under this subsection shall be used to cover the cost of maintaining the registry. (2001-441, s. 2.)

§§ 20-219.5 through 20-219.8. Reserved for future codification purposes.

Article 7A.

Post-Towing Procedures.

§ 20-219.9. Definitions.

As used in this Article, unless the context clearly requires otherwise:

- (1) "Tow" in any of its forms includes to remove a vehicle by any means including towing and to store the vehicle;
- (2) "Towner" means the person who towed the vehicle;
- (3) "Towing fee" means the fee charged for towing and storing. (1983, c. 420, s. 2.)

§ 20-219.10. Coverage of Article.

(a) This Article applies to each towing of a vehicle that is carried out pursuant to G.S. 115C-46(d) or G.S. 143-340(19), or pursuant to the direction of a law-enforcement officer except:

- (1) This Article applies to towings pursuant to G.S. 115D-21, 116-44.4, 116-229, 153A-132, 153A-132.2, 160A-303, and 160A-303.2 only insofar as specifically provided;
- (2) This Article does not apply to a seizure of a vehicle under G.S. 14-86.1, 18B-504, 90-112, 113-137, 20-28.2, 20-28.3, or to any other seizure of a vehicle for evidence in a criminal proceeding or pursuant to any other statute providing for the forfeiture of a vehicle;
- (3) This Article does not apply to a seizure of a vehicle pursuant to a levy under execution.

(b) A person who authorizes the towing of a vehicle covered by this Article, G.S. 115D-21, 116-44.4, 116-229, 153A-132, 153A-132.2, 160A-303 or 160A-303.2 is a legal possessor of the vehicle within the meaning of G.S. 44A-1(1). (1983, c. 420, s. 2; 1989, c. 743, s. 3; 1997-379, s. 1.7.)

§ 20-219.11. Notice and probable cause hearing.

(a) Whenever a vehicle with a valid registration plate or registration is towed as provided in G.S. 20-219.10, the authorizing person shall immediately notify the last known registered owner of the vehicle of the following:

- (1) A description of the vehicle;
- (2) The place where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to have the vehicle returned to him; and

- (5) The procedure the owner must follow to request a probable cause hearing on the towing.

If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within 24 hours; if the vehicle is not registered in this State, notice shall be given to the owner within 72 hours. This notice shall, if feasible, be given by telephone. Whether or not the owner is reached by telephone, notice shall be mailed to his last known address unless he or his agent waives this notice in writing.

(b) Whenever a vehicle with neither a valid registration plate nor registration is towed as provided in G.S. 20-219.10, the authorizing person shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information listed in subsection (a). Unless the owner has otherwise been given notice, it is presumed that the authorizing person has not made reasonable efforts, as required under this subsection, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at least seven days before the towing actually occurred; except, no pretowing notice need be given if the vehicle impeded the flow of traffic or otherwise jeopardized the public welfare so that immediate towing was necessary.

(c) The owner or any other person entitled to claim possession of the vehicle may request in writing a hearing to determine if probable cause existed for the towing. The request shall be filed with the magistrate in the county where the vehicle was towed. If there is more than one magistrate's office in that county, the request may be filed with the magistrate in the warrant-issuing office in the county seat or in any other office designated to receive requests by the chief district court judge. The magistrate shall set the hearing within 72 hours of his receiving the request. The owner, the person who requested the hearing if someone other than the owner, the tower, and the person who authorized the towing shall be notified of the time and place of the hearing.

(d) The owner, the tower, the person who authorized the towing, and any other interested parties may present evidence at the hearing. The person authorizing the towing and the tower may submit an affidavit in lieu of appearing personally, but the affidavit does not preclude that person from also testifying.

(e) The only issue at this hearing is whether or not probable cause existed for the towing. If the magistrate finds that probable cause did exist, the tower's lien continues. If the magistrate finds that probable cause did not exist, the tower's lien is extinguished.

(f) Any aggrieved party may appeal the magistrate's decision to district court. (1983, c. 420, s. 2.)

§ 20-219.12. Option to pay or post bond.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of his vehicle by:

- (1) Paying the towing fee, or
- (2) Posting a bond for double the amount of the towing fee. (1983, c. 420, s. 2.)

§ 20-219.13. Hearing on lien.

The tower may seek to enforce his lien or the owner may seek to contest the lien pursuant to Chapter 44A. (1983, c. 420, s. 2.)

§ 20-219.14. Payment to tower guaranteed.

Every agency whose law-enforcement officers act pursuant to this Article, G.S. 115D-21, 116-44.4, 116-229, 153A-132, or 160A-303 shall by contract or rules provide compensation to the tower if a court finds no probable cause existed for the towing. (1983, c. 420, s. 2.)

§ 20-219.15: Reserved for future codification purposes.

§ 20-219.16: Reserved for future codification purposes.

§ 20-219.17: Reserved for future codification purposes.

§ 20-219.18: Reserved for future codification purposes.

§ 20-219.19: Reserved for future codification purposes.

Article 7B.

Notification of Towing.

§ 20-219.20. Requirement to give notice of vehicle towing.

(a) Whenever a vehicle is towed at the request of a person other than the owner or operator of the vehicle, the tower shall provide the following information to the local law enforcement agency having jurisdiction through calling the 10-digit telephone number designated by the local law enforcement agency having jurisdiction prior to moving the vehicle:

- (1) A description of the vehicle.
- (2) The place from which the vehicle was towed.
- (3) The place where the vehicle will be stored.
- (4) The contact information for the person from whom the vehicle owner may retrieve the vehicle.

If the vehicle is impeding the flow of traffic or otherwise jeopardizing the public welfare so that immediate towing is necessary, the notice to the local law enforcement agency having jurisdiction may be provided by a tower within 30 minutes of moving the vehicle rather than prior to moving the vehicle. If a caller to a local law enforcement agency having jurisdiction can provide the information required under subdivisions (1) and (2) of this subsection, then a local law enforcement agency having jurisdiction shall provide to the caller the information provided under subdivisions (3) and (4) of this subsection. The local law enforcement agency having jurisdiction shall preserve the information required under this subsection for a period of not less than 30 days from the date on which the tower provided the information to the local law enforcement agency having jurisdiction.

(b) This section shall not apply to vehicles that are towed at the direction of a law enforcement officer or to vehicles removed from a private lot where signs are posted in accordance with G.S. 20-219.2(a).

(c) Violation of this section shall constitute an infraction subject to a penalty of not more than one hundred dollars (\$100.00). (2013-241, s. 1.)

Article 8.

Habitual Offenders.

§§ 20-220 through 20-231: Repealed by Session Laws 1977, c. 243, s. 1.

Article 8A.

Issuance of New Licenses to Persons Adjudged Habitual Offenders.

§ 20-231.1: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 25.

Articles 9.

Motor Vehicle Safety and Financial Responsibility Act.

§§ 20-232 through 20-279: Repealed by Session Laws 1953, c. 1300, s. 35.

Article 9A.

Motor Vehicle Safety and Financial Responsibility Act of 1953.

§ 20-279.1. Definitions.

The following words and phrases, when used in this Article, shall, for the purposes of this Article, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

- (1) Repealed by Session Laws 1973, c. 1330, s. 39.
- (2) Repealed by Session Laws 1991, c. 726, s. 20.
- (3) "Judgment": Any judgment which shall have become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.
- (4) to (6) Repealed by Session Laws 1973, c. 1330, s. 39.
- (6a) Motor vehicle. – This term includes mopeds, as that term is defined in G.S. 20-4.01.
- (7) "Nonresident's operating privilege": The privilege conferred upon a nonresident by the laws of this State pertaining to the operation by him of a motor vehicle in this State.
- (8) to (10) Repealed by Session Laws 1973, c. 1330, s. 39.
- (11) "Proof of financial responsibility": Proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of thirty thousand dollars (\$30,000) because of bodily injury to or death of one person in any one accident, and, subject to said limit

for one person, in the amount of sixty thousand dollars (\$60,000) because of bodily injury to or death of two or more persons in any one accident, and in the amount of twenty-five thousand dollars (\$25,000) because of injury to or destruction of property of others in any one accident. Nothing contained herein shall prevent an insurer and an insured from entering into a contract, not affecting third parties, providing for a deductible as to property damage at a rate approved by the Commissioner of Insurance.

- (12) Repealed by Session Laws 1973, c. 1330, s. 39. (1953, c. 1300, s. 1; 1955, c. 1152, s. 3; c. 1355; 1967, c. 277, s. 1; 1971, c. 1205, s. 1; 1973, c. 745, s. 1; c. 1330, s. 39; 1979, c. 832, s. 1; 1991, c. 469, s. 1; c. 726, s. 20; 1999-228, s. 1; 2015-125, s. 2.)

§ 20-279.2. Commissioner to administer Article; appeal to court.

(a) The Commissioner shall administer and enforce the provisions of this Article and may make rules and regulations necessary for its administration and shall provide for hearings upon request of persons aggrieved by orders or acts of the Commissioner under the provisions of this Article.

(b) Any person aggrieved by an order or act of the Commissioner requiring a suspension or revocation of his license under the provisions of this Article, or requiring the posting of security as provided in this Article, or requiring the furnishing of proof of financial responsibility, may file a petition in the superior court of the county in which the petitioner resides for a review, and the commencement of such a proceeding shall suspend the order or act of the Commissioner pending the final determination of the review. A copy of such petition shall be served upon the Commissioner, and the Commissioner shall have 20 days after such service in which to file answer. The appeal shall be heard in said county by the judge holding court in said county or by the resident judge. At the hearing upon the petition the judge shall sit without the intervention of a jury and shall receive such evidence as shall be deemed by the judge to be relevant and proper. Except as otherwise provided in this section, upon the filing of the petition herein provided for, the procedure shall be the same as in civil actions.

The matter shall be heard de novo and the judge shall enter his order affirming the act or order of the Commissioner, or modifying same, including the amount of bond or security to be given by the petitioner. If the court is of the opinion that the petitioner was probably not guilty of negligence or that the negligence of the other party was probably the sole proximate cause of the collision, the judge shall reverse the act or order of the Commissioner. Either party may appeal from such order to the Supreme Court in the same manner as in other appeals from the superior court and the appeal shall have the effect of further staying the act or order of the Commissioner requiring a suspension or revocation of the petitioner's license.

No act, or order given or rendered in any proceeding hereunder shall be admitted or used in any other civil or criminal action. (1953, c. 1300, s. 2.)

§ 20-279.3. Commissioner to furnish operating record.

The Commissioner shall upon request furnish any person a certified abstract of the operating record of any person required to comply with the provisions of this Article, which abstract shall also fully designate the motor vehicle, if any, registered in the name of such person, and if there shall be no record of any conviction of such person of violating any law relating to the operation

of a motor vehicle or of any injury or damage caused by such person, the Commissioner shall so certify. (1953, c. 1300, s. 3.)

§ 20-279.4: Repealed by Session Laws 1995, c. 191, s. 4.

§ 20-279.5. Security required unless evidence of insurance; when security determined; suspension; exceptions.

(a) When the Division receives a report of a reportable accident under G.S. 20-166.1, the Commissioner must determine whether the owner or driver of a vehicle involved in the accident must file security under this Article and, if so, the amount of security the owner or driver must file. The Commissioner must make this determination at the end of 20 days after receiving the report.

(b) The Commissioner shall, within 60 days after the receipt of such report of a motor vehicle accident, suspend the license of each operator and each owner of a motor vehicle in any manner involved in such accident, and if such operator or owner is a nonresident the privilege of operating a motor vehicle within this State, unless such operator or owner, or both, shall deposit security in the sum so determined by the Commissioner; provided, notice of such suspension shall be sent by the Commissioner to such operator and owner not less than 10 days prior to the effective date of such suspension and shall state the amount required as security; provided further, the provisions of this Article requiring the deposit of security and the suspension of license for failure to deposit security shall not apply to an operator or owner who would otherwise be required to deposit security in an amount not in excess of one hundred dollars (\$100.00). Where erroneous information is given the Commissioner with respect to the matters set forth in subdivisions (1), (2) or (3) of subsection (c) of this section or with respect to the ownership or operation of the vehicle, the extent of damage and injuries, or any other matters which would have affected the Commissioner's action had the information been previously submitted, he shall take appropriate action as hereinbefore provided, within 60 days after receipt by him of correct information with respect to said matters. The Commissioner, upon request and in his discretion, may postpone the effective date of the suspension provided in this section by 15 days if, in his opinion, such extension would aid in accomplishing settlements of claims by persons involved in accidents.

(c) This section shall not apply under the conditions stated in G.S. 20-279.6 nor:

- (1) To such operator or owner if such owner had in effect at the time of such accident an automobile liability policy with respect to the motor vehicle involved in such accident;
- (2) To such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident a motor vehicle liability policy or bond with respect to his operation of motor vehicles not owned by him;
- (3) To such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the Commissioner, covered by any other form of liability insurance policy or bond or sinking fund or group assumption of liability;
- (4) To any person qualifying as a self-insurer, nor to any operator for a self-insurer if, in the opinion of the Commissioner from the information furnished him, the operator at the time of the accident was probably operating

the vehicle in the course of the operator's employment as an employee or officer of the self-insurer; nor

- (5) To any employee of the United States government while operating a vehicle in its service and while acting within the scope of his employment, such operations being fully protected by the Federal Tort Claims Act of 1946, which affords ample security to all persons sustaining personal injuries or property damage through the negligence of such federal employee.

No such policy or bond shall be effective under this section unless issued by an insurance company or surety company authorized to do business in this State, except that if such motor vehicle was not registered in this State, or was a motor vehicle which was registered elsewhere than in this State at the effective date of the policy or bond, or the most recent renewal thereof, or if such operator not an owner was a nonresident of this State, such policy or bond shall not be effective under this section unless the insurance company or surety company if not authorized to do business in this State shall execute a power of attorney authorizing the Commissioner to accept service on its behalf of notice or process in any action upon such policy, or bond arising out of such accident, and unless said insurance company or surety company, if not authorized to do business in this State, is authorized to do business in the state or other jurisdiction where the motor vehicle is registered or, if such policy or bond is filed on behalf of an operator not an owner who was a nonresident of this State, unless said insurance company or surety company, if not authorized to do business in this State, is authorized to do business in the state or other jurisdiction of residence of such operator; provided, however, every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and cost, of not less than thirty thousand dollars (\$30,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than sixty thousand dollars (\$60,000) because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than twenty-five thousand dollars (\$25,000) because of injury to or destruction of property of others in any one accident. (1953, c. 1300, s. 5; 1955, cc. 138, 854; c. 855, s. 1; c. 1152, ss. 4-8; c. 1355; 1967, c. 277, s. 2; 1971, c. 763, s. 3; 1973, c. 745, s. 2; 1979, c. 832, s. 2; 1983, c. 691, s. 2; 1991, c. 469, s. 2; 1991 (Reg. Sess., 1992), c. 837, s. 10; 1995, c. 191, s. 5; 1999-228, s. 2.)

§ 20-279.6. Further exceptions to requirement of security.

The requirements as to security and suspension in G.S. 20-279.5 shall not apply:

- (1) To the operator or the owner of a motor vehicle involved in an accident wherein no injury or damage was caused to the person or property of anyone other than such operator or owner;
- (2) To the operator or the owner of a motor vehicle legally parked at the time of the accident;
- (3) To the owner of a motor vehicle if at the time of the accident the vehicle was being operated without his permission, express or implied, or was parked by a person who had been operating such motor vehicle without such permission;
- (4) If, prior to the date that the Commissioner would otherwise suspend the license or the nonresident's operating privilege under G.S. 20-279.5, there shall be filed with the Commissioner evidence satisfactory to him that the person who would otherwise have to file security has been released from

liability or been finally adjudicated not to be liable or has executed a duly acknowledged written agreement providing for the payment of an agreed amount, in installments or otherwise, with respect to all claims for injuries or damages resulting from the accident;

- (5) If, prior to the date that the Commissioner would otherwise suspend the license or the nonresident's operating privilege under G.S. 20-279.5, there shall be filed with the Commissioner evidence satisfactory to him that the person who would otherwise be required to file security has in any manner settled the claims of the other persons involved in the accident and if the Commissioner determines that, considering the circumstances of the accident and the settlement, the purposes of this Article and of protection of operators and owners of other motor vehicles are best accomplished by not requiring the posting of security or the suspension of the license. For the purpose of administering this subdivision, the Commissioner may consider a settlement made by an insurance company as the equivalent of a settlement made directly by the insured; nor
- (6) If, prior to the date that the Commissioner would otherwise suspend the license or the nonresident's operating privilege under G.S. 20-279.5, there shall be filed with the Commissioner evidence satisfactory to him that another person involved in the accident has been convicted by a court of competent jurisdiction of a crime involving the operation of a motor vehicle at the time of the accident, and if the Commissioner in his discretion determines, after considering the circumstances of the accident or the nature and the circumstances of the crime, that the purpose of this Article and of protection of operators and owners of other motor vehicles are best accomplished by not requiring the posting of security or the suspension of the license. (1953, c. 1300, s. 6; 1955, c. 1152, ss. 9, 10.)

§ 20-279.6A. Minors.

In determining whether or not any of the exceptions set forth in G.S. 20-279.6 have been satisfied, in the case of accidents involving minors, the Commissioner may accept, for the purpose of this Article only, as valid releases on account of claims for injuries to minors or damage to the property of minors releases which have been executed by the parent of the minor having custody of the minor or by the guardian of the minor if there be one. In the case of an emancipated minor, the Commissioner may accept a release signed by or a settlement agreed upon by the minor without the approval of the parents of the minor. If in the opinion of the Commissioner the circumstances of the accident, the nature and extent of the injuries or damage, or any other circumstances make it advisable for the best protection of the interest of the minor, the Commissioner may decline to accept such releases or settlements and may require the approval of the superior court. (1955, c. 1152, s. 11.)

§ 20-279.7. Duration of suspension.

The license and nonresident's operating privilege suspended as provided in G.S. 20-279.5 shall remain so suspended and shall not be renewed nor shall any such license be issued to such person until:

- (1) Such person shall deposit or there shall be deposited on his behalf the security required under G.S. 20-279.5;
- (2) One year shall have elapsed following the date of such suspension and evidence satisfactory to the Commissioner has been filed with him that during such period no action for damages arising out of the accident has been instituted; or
- (3) Evidence satisfactory to the Commissioner has been filed with him of a release from liability, or a final adjudication of nonliability, or a duly acknowledged written agreement, in accordance with subdivision (4) of G.S. 20-279.6 or a settlement accepted by the Commissioner as provided in subdivision (5) of G.S. 20-279.6, or a conviction accepted by the Commissioner as provided in subdivision (6) of G.S. 20-279.6; provided, if there is a default in the payment of any installment or sum under a duly acknowledged written agreement, the Commissioner shall, upon notice of the default, immediately suspend the license or nonresident's operating privilege of the defaulting person and may not restore it until:
 - a. That person deposits and thereafter maintains security as required under G.S. 20-279.5 in an amount determined by the Commissioner; or
 - b. That person files evidence satisfactory to the Commissioner of a new duly acknowledged written agreement or a settlement. (1953, c. 1300, s. 7; 1955, c. 1152, s. 12; 1983, c. 610, s. 1.)

§ 20-279.7A. Forms to carry statement concerning perjury.

A person who makes a false affidavit or falsely sworn or affirmed statement concerning information required to be submitted under this Article commits a Class I felony. The Division shall include a statement of this offense on a form that it provides under this Article and that must be completed under oath. (1983, c. 610, s. 3; 1993 (Reg. Sess., 1994), c. 761, s. 26.)

§ 20-279.8. Application to nonresidents, unlicensed drivers, unregistered motor vehicles and accidents in other states.

(a) In case the operator or the owner of a motor vehicle involved in an accident within this State has no license, or is a nonresident, he shall not be allowed a license until he has complied with the requirements of this Article to the same extent that it would be necessary if, at the time of the accident, he had held a license.

(b) When a nonresident's operating privilege is suspended pursuant to G.S. 20-279.5 or 20-279.7, the Commissioner shall transmit a certified copy of the record of such action to the official in charge of the issuance of licenses in the state in which such nonresident resides, if the law of such other state provides for action in relation thereto similar to that provided for in subsection (c) of this section.

(c) Upon receipt of such certification that the operating privilege of a resident of this State has been suspended or revoked in any such other state pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle accident, under circumstances which would require the Commissioner to suspend a nonresident's operating privilege had the accident occurred in this State the Commissioner shall suspend the license of such resident. Such suspension shall continue until

such resident furnishes evidence of his compliance with the law of such other state relating to the deposit of such security. (1953, c. 1300, s. 8.)

§ 20-279.9. Form and amount of security.

The security required under this Article shall be in such form and in such amount as the Commissioner may require but in no case in excess of the limits specified in G.S. 20-279.5 in reference to the acceptable limits of a policy or bond. The person depositing security shall specify in writing the person or persons on whose behalf the deposit is made and, at any time while such deposit is in the custody of the Commissioner or State Treasurer, the person depositing it may, in writing, amend the specification of the person or persons on whose behalf the deposit is made to include an additional person or persons; provided, however, that a single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident.

The Commissioner may reduce the amount of security ordered in any case if, in his judgment, the amount ordered is excessive. In case the security originally ordered has been deposited the excess deposited over the reduced amount ordered shall be returned to the depositor or his personal representative forthwith, notwithstanding the provisions of G.S. 20-279.10. (1953, c. 1300, s. 9.)

§ 20-279.10. Custody, disposition and return of security; escheat.

(a) Security deposited in compliance with the requirements of this Article shall be placed by the Commissioner in the custody of the State Treasurer and shall be applicable only to the payment of a judgment or judgments rendered against the person or persons on whose behalf the deposit was made, for damages arising out of the accident in question in an action at law, begun not later than one year after the date of such accident, or within one year after the date of deposit of any security under subdivision (3) of G.S. 20-279.7, or to the payment in settlement, agreed to by the depositor, of a claim or claims arising out of such accident. Such deposit or any balance thereof shall be returned to the depositor or his personal representative when evidence satisfactory to the Commissioner has been filed with him that there has been a release from liability, or a final adjudication of nonliability, or a duly acknowledged agreement, in accordance with subdivision (4) of G.S. 20-279.6, or a settlement accepted by the Commissioner as provided in subdivision (5) of G.S. 20-279.6, or a conviction accepted by the Commissioner as provided in subdivision (6) of G.S. 20-279.6, or whenever, after the expiration of one year from the date of the accident, or from the date of deposit of any security under subdivision (3) of G.S. 20-279.7, whichever is later, the Commissioner shall be given reasonable evidence that there is no such action pending and no judgment rendered in such action left unpaid.

(b) One year from the deposit of any security under the terms of this Article, the Commissioner shall notify the depositor thereof by registered mail addressed to his last known address that the depositor is entitled to a refund of the security upon giving reasonable evidence that no action at law for damages arising out of the accident in question is pending or that no judgment rendered in any such action remains unpaid. If, at the end of three years from the date of deposit, no claim therefor has been received, the Division shall notify the depositor thereof by registered mail and shall cause a notice to be posted at the courthouse door of the county in which is located the last known address of the depositor for a period of 60 days. Such notice shall contain the name of the depositor, his last known address, the date, amount and nature of the deposit, and shall state the conditions under which the deposit will be refunded. If, at the end

of two years from the date of posting of such notice, no claim for the deposit has been received, the Commissioner shall certify such fact together with the facts of notice to the State Treasurer. These deposits shall be turned over to the Escheat Fund of the Department of State Treasurer. (1953, c. 1300, s. 10; 1955, c. 1152, s. 13; 1967, c. 1227; 1975, c. 716, s. 5; 1981, c. 531, s. 16.)

§ 20-279.11. Matters not to be evidence in civil suits.

Neither the information on financial responsibility contained in an accident report, the action taken by the Commissioner pursuant to this Article, the findings, if any, of the Commissioner upon which the action is based, or the security filed as provided in this Article shall be referred to in any way, nor be any evidence of the negligence or due care of either party, at the trial of any action at law to recover damages. (1953, c. 1300, s. 11; 1995, c. 191, s. 6.)

§ 20-279.12. Courts to report nonpayment of judgments.

Whenever any person fails within 60 days to satisfy any judgment, upon the written request of the judgment creditor or his attorney it shall be the duty of the clerk of the court, or of the judge of a court which has no clerk, in which any such judgment is rendered within this State, to forward to the Commissioner immediately after the expiration of said 60 days, a certified copy of such judgment.

If the defendant named in any certified copy of a judgment reported to the Commissioner is a nonresident, the Commissioner shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident. (1953, c. 1300, s. 12.)

§ 20-279.13. Suspension for nonpayment of judgment; exceptions.

(a) The Commissioner, upon the receipt of a certified copy of a judgment, which has remained unsatisfied for a period of 60 days, shall forthwith suspend the license and any nonresident's operating privilege of any person against whom such judgment was rendered, except as hereinafter otherwise provided in this section and in G.S. 20-279.16.

(b) The Commissioner shall not, however, revoke or suspend the license of an owner or driver if the insurance carried by him was in a company which was authorized to transact business in this State and which subsequent to an accident involving the owner or operator and prior to settlement of the claim therefor went into liquidation, so that the owner or driver is thereby unable to satisfy the judgment arising out of the accident.

(c) If the judgment creditor consents in writing, in such form as the Commissioner may prescribe, that the judgment debtor be allowed license or nonresident's operating privilege, the same may be allowed by the Commissioner, in his discretion, for six months from the date of such consent and thereafter until such consent is revoked in writing notwithstanding default in the payment of such judgment, or of any installments thereof prescribed in G.S. 20-279.16. (1953, c. 1300, s. 13; 1965, c. 926, s. 1; 1969, c. 186, s. 4; 1979, c. 667, s. 37.)

§ 20-279.14. Suspension to continue until judgments satisfied.

Such license and nonresident's operating privilege shall remain so suspended and shall not be renewed, nor shall any such license be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment:

- (1) Is stayed, or
- (2) Is satisfied in full, or

- (3) Is subject to the exemptions stated in G.S. 20-279.13 or G.S. 20-279.16, or
- (4) Is barred from enforcement by the statute of limitations pursuant to G.S. 1-47,
- (5) Is discharged in bankruptcy. (1953, c. 1300, s. 14; 1969, c. 186, s. 5; 1975, c. 301.)

§ 20-279.15. Payment sufficient to satisfy requirements.

In addition to other methods of satisfaction provided by law, judgments herein referred to shall, for the purpose of this Article, be deemed satisfied:

- (1) When thirty thousand dollars (\$30,000) has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident; or
- (2) When, subject to such limit of thirty thousand dollars (\$30,000) because of bodily injury to or death of one person, the sum of sixty thousand dollars (\$60,000) has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or
- (3) When twenty-five thousand dollars (\$25,000) has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident;

Provided, however, payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section. (1953, c. 1300, s. 15; 1963, c. 1238; 1967, c. 277, s. 3; 1973, c. 745, s. 3; c. 889; 1979, c. 832, ss. 3-5; 1991, c. 469, s. 3; 1991 (Reg. Sess., 1992), c. 837, s. 10; 1999-228, s. 3.)

§ 20-279.16. Installment payment of judgments; default.

(a) A judgment debtor upon due notice to the judgment creditor may apply to the court in which such judgment was rendered for the privilege of paying such judgment in installments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order and fix the amounts and times of payment of the installments.

(b) The Commissioner shall not suspend a license or a nonresident's operating privilege, and shall restore any license or nonresident's operating privilege suspended following nonpayment of a judgment, when the judgment debtor obtains such an order permitting the payment of such judgment in installments, and while the payment of any said installment is not in default.

(c) In the event the judgment debtor fails to pay any installment as specified by such order, then upon notice of such default, the Commissioner shall forthwith suspend the license or nonresident's operating privilege of the judgment debtor until such judgment is satisfied, as provided in this Article. (1953, c. 1300, s. 16; 1969, c. 186, s. 6.)

§ 20-279.17. Repealed by Session Laws 1967, c. 866.

§ 20-279.18. Alternate methods of giving proof.

Proof of financial responsibility when required under this Article with respect to a motor vehicle or with respect to a person who is not the owner of a motor vehicle may be given by filing:

- (1) A certificate of insurance as provided in G.S. 20-279.19 or 20-279.20; or
- (2) A bond as provided in G.S. 20-279.24; or
- (3) A certificate of deposit of money or securities as provided in G.S. 20-279.25; or
- (4) A certificate of self-insurance, as provided in G.S. 20-279.33, supplemented by an agreement by the self-insurer that, with respect to accidents occurring while the certificate is in force, he will pay the same judgments and in the same amounts that an insurer would have been obligated to pay under an owner's motor vehicle liability policy if it had issued such a policy to said self-insurer. (1953, c. 1300, s. 18.)

§ 20-279.19. Certificate of insurance as proof.

Proof of financial responsibility may be furnished by filing with the Commissioner the written certificate of any insurance carrier duly authorized to do business in this State certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall give the effective date of such motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and shall designate by explicit description or by appropriate reference all motor vehicles covered thereby, unless the policy is issued to a person who is not the owner of a motor vehicle. The Commissioner may require that certificates filed pursuant to this section be on a form approved by the Commissioner. (1953, c. 1300, s. 19; 1955, c. 1152, s. 16.)

§ 20-279.20. Certificate furnished by nonresident as proof.

(a) The nonresident owner of a motor vehicle not registered in this State may give proof of financial responsibility by filing with the Commissioner a written certificate or certificates of an insurance carrier authorized to transact business in the state in which the motor vehicle or motor vehicles described in such certificate is registered, or if such nonresident does not own a motor vehicle, then in the state in which the insured resides, provided such certificate otherwise conforms to the provisions of this Article, and the Commissioner shall accept the same upon condition that said insurance carrier complies with the following provisions with respect to the policies so certified:

- (1) Said insurance carrier shall execute a power of attorney authorizing the Commissioner to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this State; and
- (2) Said insurance carrier shall agree in writing that such policies shall be deemed to conform with the laws of this State relating to the terms of motor vehicle liability policies issued herein.

(b) If any insurance carrier not authorized to transact business in this State, which has qualified to furnish proof of financial responsibility, defaults in any said undertakings or agreements, the Commissioner shall not thereafter accept as proof any certificate of said carrier whether theretofore filed or thereafter tendered as proof, so long as such default continues.

(c) The Commissioner may require that certificates and powers filed pursuant to this section be on forms approved by the Commissioner. (1953, c. 1300, s. 20; 1955, c. 1152, s. 17.)

§ 20-279.21. "Motor vehicle liability policy" defined.

(a) A "motor vehicle liability policy" as said term is used in this Article shall mean an owner's or an operator's policy of liability insurance, certified as provided in G.S. 20-279.19 or 20-279.20 as proof of financial responsibility, and issued, except as otherwise provided in G.S. 20-279.20, by an insurance carrier duly authorized to transact business in this State, to or for the benefit of the person named therein as insured.

(b) Except as provided in G.S. 20-309(a2), such owner's policy of liability insurance:

- (1) Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted;
- (2) Shall insure the person named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, or any other persons in lawful possession, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: thirty thousand dollars (\$30,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, sixty thousand dollars (\$60,000) because of bodily injury to or death of two or more persons in any one accident, and twenty-five thousand dollars (\$25,000) because of injury to or destruction of property of others in any one accident; and
- (3) No policy of bodily injury liability insurance, covering liability arising out of the ownership, maintenance, or use of any motor vehicle, shall be delivered or issued for delivery in this State with respect to any motor vehicle registered or principally garaged in this State unless coverage is provided therein or supplemental thereto, under provisions filed with and approved by the Commissioner of Insurance, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles and hit-and-run motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom. The limits of such uninsured motorist bodily injury coverage shall be equal to the highest limits of bodily injury liability coverage for any one vehicle insured under the policy; provided, however, that (i) the limits shall not exceed one million dollars (\$1,000,000) per person and one million dollars (\$1,000,000) per accident regardless of whether the highest limits of bodily injury liability coverage for any one vehicle insured under the policy exceed those limits and (ii) a named insured may purchase greater or lesser limits, except that the limits shall not be less than the bodily injury liability limits required pursuant to subdivision (2) of this subsection, and in no event shall an insurer be required by this subdivision to sell uninsured motorist bodily injury coverage at limits that exceed one million dollars (\$1,000,000) per person and one million dollars (\$1,000,000) per accident. When the policy is issued and renewed, the insurer shall notify the named insured as provided in subsection (m) of this section. The provisions shall include coverage for the protection of persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of injury to or

destruction of the property of such insured. The limits of such uninsured motorist property damage coverage shall be equal to the highest limits of property damage liability coverage for any one vehicle insured under the policy; provided, however, that (i) the limits shall not exceed one million dollars (\$1,000,000) per accident regardless of whether the highest limits of property damage liability coverage for any one vehicle insured under the policy exceed those limits and (ii) a named insured may purchase lesser limits, except that the limits shall not be less than the property damage liability limits required pursuant to subdivision (2) of this subsection. When the policy is issued and renewed, the insurer shall notify the named insured as provided in subsection (m) of this section. For uninsured motorist property damage coverage, the limits purchased by the named insured shall be subject, for each insured, to an exclusion of the first one hundred dollars (\$100.00) of such damages. The provision shall further provide that a written statement by the liability insurer, whose name appears on the certification of financial responsibility made by the owner of any vehicle involved in an accident with the insured, that the other motor vehicle was not covered by insurance at the time of the accident with the insured shall operate as a prima facie presumption that the operator of the other motor vehicle was uninsured at the time of the accident with the insured for the purposes of recovery under this provision of the insured's liability insurance policy.

If a person who is legally entitled to recover damages from the owner or operator of an uninsured motor vehicle is an insured under the uninsured motorist coverage of a policy that insures more than one motor vehicle, that person shall not be permitted to combine the uninsured motorist limit applicable to any one motor vehicle with the uninsured motorist limit applicable to any other motor vehicle to determine the total amount of uninsured motorist coverage available to that person. If a person who is legally entitled to recover damages from the owner or operator of an uninsured motor vehicle is an insured under the uninsured motorist coverage of more than one policy, that person may combine the highest applicable uninsured motorist limit available under each policy to determine the total amount of uninsured motorist coverage available to that person. The previous sentence shall apply only to insurance on nonfleet private passenger motor vehicles as described in G.S. 58-40-10(1) and (2).

In addition to the above requirements relating to uninsured motorist insurance, every policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance or use of any motor vehicle, which policy is delivered or issued for delivery in this State, shall be subject to the following provisions which need not be contained therein.

- a. A provision that the insurer shall be bound by a final judgment taken by the insured against an uninsured motorist if the insurer has been served with copy of summons, complaint or other process in the action against the uninsured motorist by registered or certified mail, return receipt requested, or in any manner provided by law; provided however, that the determination of whether a motorist is uninsured

may be decided only by an action against the insurer alone. The insurer, upon being served as herein provided, shall be a party to the action between the insured and the uninsured motorist though not named in the caption of the pleadings and may defend the suit in the name of the uninsured motorist or in its own name. The insurer, upon being served with copy of summons, complaint or other pleading, shall have the time allowed by statute in which to answer, demur or otherwise plead (whether the pleading is verified or not) to the summons, complaint or other process served upon it. The consent of the insurer shall not be required for the initiation of suit by the insured against the uninsured motorist: Provided, however, no action shall be initiated by the insured until 60 days following the posting of notice to the insurer at the address shown on the policy or after personal delivery of the notice to the insurer or its agent setting forth the belief of the insured that the prospective defendant or defendants are uninsured motorists. No default judgment shall be entered when the insurer has timely filed an answer or other pleading as required by law. The failure to post notice to the insurer 60 days in advance of the initiation of suit shall not be grounds for dismissal of the action, but shall automatically extend the time for the filing of an answer or other pleadings to 60 days after the time of service of the summons, complaint, or other process on the insurer.

- b. Where the insured, under the uninsured motorist coverage, claims that he has sustained bodily injury as the result of collision between motor vehicles and asserts that the identity of the operator or owner of a vehicle (other than a vehicle in which the insured is a passenger) cannot be ascertained, the insured may institute an action directly against the insurer: Provided, in that event, the insured, or someone in his behalf, shall report the accident within 24 hours or as soon thereafter as may be practicable, to a police officer, peace officer, other judicial officer, or to the Commissioner of Motor Vehicles. The insured shall also within a reasonable time give notice to the insurer of his injury, the extent thereof, and shall set forth in the notice the time, date and place of the injury. Thereafter, on forms to be mailed by the insurer within 15 days following receipt of the notice of the accident to the insurer, the insured shall furnish to insurer any further reasonable information concerning the accident and the injury that the insurer requests. If the forms are not furnished within 15 days, the insured is deemed to have complied with the requirements for furnishing information to the insurer. Suit may not be instituted against the insurer in less than 60 days from the posting of the first notice of the injury or accident to the insurer at the address shown on the policy or after personal delivery of the notice to the insurer or its agent. The failure to post notice to the insurer 60 days before the initiation of the suit shall not be grounds for dismissal of the action, but shall automatically extend the time for filing of an answer or other

pleadings to 60 days after the time of service of the summons, complaint, or other process on the insurer.

Provided under this section the term "uninsured motor vehicle" shall include, but not be limited to, an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability within the limits specified therein because of insolvency.

An insurer's insolvency protection shall be applicable only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect where the liability insurer of the tort-feasor becomes insolvent within three years after such an accident. Nothing herein shall be construed to prevent any insurer from affording insolvency protection under terms and conditions more favorable to the insured than is provided herein.

In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of coverage, the insurer making payment shall, to the extent thereof, be entitled to the proceeds of any settlement for judgment resulting from the exercise of any limits of recovery of that person against any person or organization legally responsible for the bodily injury for which the payment is made, including the proceeds recoverable from the assets of the insolvent insurer.

For the purpose of this section, an "uninsured motor vehicle" shall be a motor vehicle as to which there is no bodily injury liability insurance and property damage liability insurance in at least the amounts specified in subsection (c) of G.S. 20-279.5, or there is that insurance but the insurance company writing the insurance denies coverage thereunder, or has become bankrupt, or there is no bond or deposit of money or securities as provided in G.S. 20-279.24 or 20-279.25 in lieu of the bodily injury and property damage liability insurance, or the owner of the motor vehicle has not qualified as a self-insurer under the provisions of G.S. 20-279.33, or a vehicle that is not subject to the provisions of the Motor Vehicle Safety and Financial Responsibility Act; but the term "uninsured motor vehicle" shall not include:

- a. A motor vehicle owned by the named insured;
- b. A motor vehicle that is owned or operated by a self-insurer within the meaning of any motor vehicle financial responsibility law, motor carrier law or any similar law;
- c. A motor vehicle that is owned by the United States of America, Canada, a state, or any agency of any of the foregoing (excluding, however, political subdivisions thereof);
- d. A land motor vehicle or trailer, if operated on rails or crawler-treads or while located for use as a residence or premises and not as a vehicle; or
- e. A farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads.

For purposes of this section "persons insured" means the named insured and, while resident of the same household, the spouse of any named insured and relatives of either, while in a motor vehicle or otherwise, and any person who uses with the consent, expressed or implied, of the named insured, the motor

vehicle to which the policy applies and a guest in the motor vehicle to which the policy applies or the personal representative of any of the above or any other person or persons in lawful possession of the motor vehicle.

Notwithstanding the provisions of this subsection, no policy of motor vehicle liability insurance applicable solely to commercial motor vehicles as defined in G.S. 20-4.01(3d) or applicable solely to fleet vehicles shall be required to provide uninsured motorist coverage. When determining whether a policy is applicable solely to fleet vehicles, the insurer may rely upon the number of vehicles reported by the insured at the time of the issuance of the policy for the policy term in question. In the event of a renewal of the policy, when determining whether a policy is applicable solely to fleet vehicles, the insurer may rely upon the number of vehicles reported by the insured at the time of the renewal of the policy for the policy term in question. Any motor vehicle liability policy that insures both commercial motor vehicles as defined in G.S. 20-4.01(3d) and noncommercial motor vehicles shall provide uninsured motorist coverage in accordance with the provisions of this subsection in amounts equal to the highest limits of bodily injury and property damage liability coverage for any one noncommercial motor vehicle insured under the policy, subject to the right of the insured to purchase greater or lesser uninsured motorist bodily injury coverage limits and lesser uninsured motorist property damage coverage limits as set forth in this subsection. For the purpose of the immediately preceding sentence, noncommercial motor vehicle shall mean any motor vehicle that is not a commercial motor vehicle as defined in G.S. 20-4.01(3d), but that is otherwise subject to the requirements of this subsection.

- (4) Shall, in addition to the coverages set forth in subdivisions (2) and (3) of this subsection, provide underinsured motorist coverage, to be used only with a policy that is written at limits that exceed those prescribed by subdivision (2) of this subsection. The limits of such underinsured motorist bodily injury coverage shall be equal to the highest limits of bodily injury liability coverage for any one vehicle insured under the policy; provided, however, that (i) the limits shall not exceed one million dollars (\$1,000,000) per person and one million dollars (\$1,000,000) per accident regardless of whether the highest limits of bodily injury liability coverage for any one vehicle insured under the policy exceed those limits, (ii) a named insured may purchase greater or lesser limits, except that the limits shall exceed the bodily injury liability limits required pursuant to subdivision (2) of this subsection, and in no event shall an insurer be required by this subdivision to sell underinsured motorist bodily injury coverage at limits that exceed one million dollars (\$1,000,000) per person and one million dollars (\$1,000,000) per accident, and (iii) the limits shall be equal to the limits of uninsured motorist bodily injury coverage purchased pursuant to subdivision (3) of this subsection. When the policy is issued and renewed, the insurer shall notify the named insured as provided in subsection (m) of this section. An "uninsured motor vehicle," as described in subdivision (3) of this subsection, includes an "underinsured highway vehicle," which means a highway vehicle with respect to the ownership,

maintenance, or use of which, the sum of the limits of liability under all bodily injury liability bonds and insurance policies applicable at the time of the accident is less than the applicable limits of underinsured motorist coverage for the vehicle involved in the accident and insured under the owner's policy. For purposes of an underinsured motorist claim asserted by a person injured in an accident where more than one person is injured, a highway vehicle will also be an "underinsured highway vehicle" if the total amount actually paid to that person under all bodily injury liability bonds and insurance policies applicable at the time of the accident is less than the applicable limits of underinsured motorist coverage for the vehicle involved in the accident and insured under the owner's policy. Notwithstanding the immediately preceding sentence, a highway vehicle shall not be an "underinsured motor vehicle" for purposes of an underinsured motorist claim under an owner's policy insuring that vehicle unless the owner's policy insuring that vehicle provides underinsured motorist coverage with limits that are greater than that policy's bodily injury liability limits. For the purposes of this subdivision, the term "highway vehicle" means a land motor vehicle or trailer other than (i) a farm-type tractor or other vehicle designed for use principally off public roads and while not upon public roads, (ii) a vehicle operated on rails or crawler-treads, or (iii) a vehicle while located for use as a residence or premises. The provisions of subdivision (3) of this subsection shall apply to the coverage required by this subdivision. Underinsured motorist coverage is deemed to apply when, by reason of payment of judgment or settlement, all liability bonds or insurance policies providing coverage for bodily injury caused by the ownership, maintenance, or use of the underinsured highway vehicle have been exhausted. Exhaustion of that liability coverage for the purpose of any single liability claim presented for underinsured motorist coverage is deemed to occur when either (a) the limits of liability per claim have been paid upon the claim, or (b) by reason of multiple claims, the aggregate per occurrence limit of liability has been paid. Underinsured motorist coverage is deemed to apply to the first dollar of an underinsured motorist coverage claim beyond amounts paid to the claimant under the exhausted liability policy.

In any event, the limit of underinsured motorist coverage applicable to any claim is determined to be the difference between the amount paid to the claimant under the exhausted liability policy or policies and the limit of underinsured motorist coverage applicable to the motor vehicle involved in the accident. Furthermore, if a claimant is an insured under the underinsured motorist coverage on separate or additional policies, the limit of underinsured motorist coverage applicable to the claimant is the difference between the amount paid to the claimant under the exhausted liability policy or policies and the total limits of the claimant's underinsured motorist coverages as determined by combining the highest limit available under each policy; provided that this sentence shall apply only to insurance on nonfleet private passenger motor vehicles as described in G.S. 58-40-15(9) and (10). The underinsured motorist limits applicable to any one motor vehicle under a

policy shall not be combined with or added to the limits applicable to any other motor vehicle under that policy.

An underinsured motorist insurer may at its option, upon a claim pursuant to underinsured motorist coverage, pay moneys without there having first been an exhaustion of the liability insurance policy covering the ownership, use, and maintenance of the underinsured highway vehicle. In the event of payment, the underinsured motorist insurer shall be either: (a) entitled to receive by assignment from the claimant any right or (b) subrogated to the claimant's right regarding any claim the claimant has or had against the owner, operator, or maintainer of the underinsured highway vehicle, provided that the amount of the insurer's right by subrogation or assignment shall not exceed payments made to the claimant by the insurer. No insurer shall exercise any right of subrogation or any right to approve settlement with the original owner, operator, or maintainer of the underinsured highway vehicle under a policy providing coverage against an underinsured motorist where the insurer has been provided with written notice before a settlement between its insured and the underinsured motorist and the insurer fails to advance a payment to the insured in an amount equal to the tentative settlement within 30 days following receipt of that notice. Further, the insurer shall have the right, at its election, to pursue its claim by assignment or subrogation in the name of the claimant, and the insurer shall not be denominated as a party in its own name except upon its own election. Assignment or subrogation as provided in this subdivision shall not, absent contrary agreement, operate to defeat the claimant's right to pursue recovery against the owner, operator, or maintainer of the underinsured highway vehicle for damages beyond those paid by the underinsured motorist insurer. The claimant and the underinsured motorist insurer may join their claims in a single suit without requiring that the insurer be named as a party. Any claimant who intends to pursue recovery against the owner, operator, or maintainer of the underinsured highway vehicle for moneys beyond those paid by the underinsured motorist insurer shall before doing so give notice to the insurer and give the insurer, at its expense, the opportunity to participate in the prosecution of the claim. Upon the entry of judgment in a suit upon any such claim in which the underinsured motorist insurer and claimant are joined, payment upon the judgment, unless otherwise agreed to, shall be applied pro rata to the claimant's claim beyond payment by the insurer of the owner, operator or maintainer of the underinsured highway vehicle and the claim of the underinsured motorist insurer.

A party injured by the operation of an underinsured highway vehicle who institutes a suit for the recovery of moneys for those injuries and in such an amount that, if recovered, would support a claim under underinsured motorist coverage shall give notice of the initiation of the suit to the underinsured motorist insurer as well as to the insurer providing primary liability coverage upon the underinsured highway vehicle. Upon receipt of notice, the underinsured motorist insurer shall have the right to appear in defense of the claim without being named as a party therein, and without being named as a party may participate in the suit as fully as if it were a party. The underinsured

motorist insurer may elect, but may not be compelled, to appear in the action in its own name and present therein a claim against other parties; provided that application is made to and approved by a presiding superior court judge, in any such suit, any insurer providing primary liability insurance on the underinsured highway vehicle may upon payment of all of its applicable limits of liability be released from further liability or obligation to participate in the defense of such proceeding. However, before approving any such application, the court shall be persuaded that the owner, operator, or maintainer of the underinsured highway vehicle against whom a claim has been made has been apprised of the nature of the proceeding and given his right to select counsel of his own choice to appear in the action on his separate behalf. If an underinsured motorist insurer, following the approval of the application, pays in settlement or partial or total satisfaction of judgment moneys to the claimant, the insurer shall be subrogated to or entitled to an assignment of the claimant's rights against the owner, operator, or maintainer of the underinsured highway vehicle and, provided that adequate notice of right of independent representation was given to the owner, operator, or maintainer, a finding of liability or the award of damages shall be res judicata between the underinsured motorist insurer and the owner, operator, or maintainer of underinsured highway vehicle.

As consideration for payment of policy limits by a liability insurer on behalf of the owner, operator, or maintainer of an underinsured motor vehicle, a party injured by an underinsured motor vehicle may execute a contractual covenant not to enforce against the owner, operator, or maintainer of the vehicle any judgment that exceeds the policy limits. A covenant not to enforce judgment shall not preclude the injured party from pursuing available underinsured motorist benefits, unless the terms of the covenant expressly provide otherwise, and shall not preclude an insurer providing underinsured motorist coverage from pursuing any right of subrogation.

Notwithstanding the provisions of this subsection, no policy of motor vehicle liability insurance applicable solely to commercial motor vehicles as defined in G.S. 20-4.01(3d) or applicable solely to fleet vehicles shall be required to provide underinsured motorist coverage. When determining whether a policy is applicable solely to fleet vehicles, the insurer may rely upon the number of vehicles reported by the insured at the time of the issuance of the policy for the policy term in question. In the event of a renewal of the policy, when determining whether a policy is applicable solely to fleet vehicles, the insurer may rely upon the number of vehicles reported by the insured at the time of the renewal of the policy for the policy term in question. Any motor vehicle liability policy that insures both commercial motor vehicles as defined in G.S. 20-4.01(3d) and noncommercial motor vehicles shall provide underinsured motorist coverage in accordance with the provisions of this subsection in an amount equal to the highest limits of bodily injury liability coverage for any one noncommercial motor vehicle insured under the policy, subject to the right of the insured to purchase greater or lesser underinsured motorist bodily injury liability coverage limits as set forth

in this subsection. For the purpose of the immediately preceding sentence, noncommercial motor vehicle shall mean any motor vehicle that is not a commercial motor vehicle as defined in G.S. 20-4.01(3d), but that is otherwise subject to the requirements of this subsection.

(c) Such operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, and within 30 days following the date of its delivery to him of any motor vehicle owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

(d) Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this Article as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this Article.

(d1) Such motor vehicle liability policy shall provide an alternative method of determining the amount of property damage to a motor vehicle when liability for coverage for the claim is not in dispute. For a claim for property damage to a motor vehicle against an insurer, the policy shall provide that if:

- (1) The claimant and the insurer fail to agree as to the difference in fair market value of the vehicle immediately before the accident and immediately after the accident; and
- (2) The difference in the claimant's and the insurer's estimate of the diminution in fair market value is greater than two thousand dollars (\$2,000) or twenty-five percent (25%) of the fair market retail value of the vehicle prior to the accident as determined by the latest edition of the National Automobile Dealers Association Pricing Guide Book or other publications approved by the Commissioner of Insurance, whichever is less, then on the written demand of either the claimant or the insurer, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days after the demand. The appraisers shall then appraise the loss. Should the appraisers fail to agree, they shall then select a competent and disinterested appraiser to serve as an umpire. If the appraisers cannot agree upon an umpire within 15 days, either the claimant or the insurer may request that a magistrate resident in the county where the insured motor vehicle is registered or the county where the accident occurred select the umpire. The appraisers shall then submit their differences to the umpire. The umpire then shall prepare a report determining the amount of the loss and shall file the report with the insurer and the claimant. The agreement of the two appraisers or the report of the umpire, when filed with the insurer and the claimant, shall determine the amount of the damages. In preparing the report, the umpire shall not award damages that are higher or lower than the determinations of the appraisers. In no event shall appraisers or the umpire make any determination as to liability for damages or as to whether the policy provides coverage for claims asserted. The claimant or the insurer shall have 15 days from the filing of the report to reject the report and notify the other party of such rejection. If the report is not

rejected within 15 days from the filing of the report, the report shall be binding upon both the claimant and the insurer. Each appraiser shall be paid by the party selecting the appraiser, and the expenses of appraisal and umpire shall be paid by the parties equally. For purposes of this section, "appraiser" and "umpire" shall mean a person who as a part of his or her regular employment is in the business of advising relative to the nature and amount of motor vehicle damage and the fair market value of damaged and undamaged motor vehicles.

(e) Uninsured or underinsured motorist coverage that is provided as part of a motor vehicle liability policy shall insure that portion of a loss uncompensated by any workers' compensation law and the amount of an employer's lien determined pursuant to G.S. 97-10.2(h) or (j). In no event shall this subsection be construed to require that coverage exceed the applicable uninsured or underinsured coverage limits of the motor vehicle policy or allow a recovery for damages already paid by workers' compensation. The policy need not insure a loss from any liability for damage to property owned by, rented to, in charge of or transported by the insured.

(f) Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

(1) Except as hereinafter provided, the liability of the insurance carrier with respect to the insurance required by this Article shall become absolute whenever injury or damage covered by said motor vehicle liability policy occurs; said policy may not be canceled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy shall defeat or void said policy. As to policies issued to insureds in this State under the assigned risk plan or through the North Carolina Motor Vehicle Reinsurance Facility, a default judgment taken against such an insured shall not be used as a basis for obtaining judgment against the insurer unless counsel for the plaintiff has forwarded to the insurer, or to one of its agents, by registered or certified mail with return receipt requested, or served by any other method of service provided by law, a copy of summons, complaint, or other pleadings, filed in the action. The return receipt shall, upon its return to plaintiff's counsel, be filed with the clerk of court wherein the action is pending against the insured and shall be admissible in evidence as proof of notice to the insurer. The refusal of insurer or its agent to accept delivery of the registered mail, as provided in this section, shall not affect the validity of such notice and any insurer or agent of an insurer refusing to accept such registered mail shall be charged with the knowledge of the contents of such notice. When notice has been sent to an agent of the insurer such notice shall be notice to the insurer. The word "agent" as used in this subsection shall include, but shall not be limited to, any person designated by the insurer as its agent for the service of process, any person duly licensed by the insurer in the State as insurance agent, any general agent of the company in the State of North Carolina, and any employee of the company in a managerial or other responsible position, or the North Carolina Commissioner of Insurance; provided, where the return receipt is signed by an

employee of the insurer or an employee of an agent for the insurer, shall be deemed for the purposes of this subsection to have been received. The term "agent" as used in this subsection shall not include a producer of record or broker, who forwards an application for insurance to the North Carolina Motor Vehicle Reinsurance Facility.

The insurer, upon receipt of summons, complaint or other process, shall be entitled, upon its motion, to intervene in the suit against its insured as a party defendant and to defend the same in the name of its insured. In the event of such intervention by an insurer it shall become a named party defendant. The insurer shall have 30 days from the signing of the return receipt acknowledging receipt of the summons, complaint or other pleading in which to file a motion to intervene, along with any responsive pleading, whether verified or not, which it may deem necessary to protect its interest: Provided, the court having jurisdiction over the matter may, upon motion duly made, extend the time for the filing of responsive pleading or continue the trial of the matter for the purpose of affording the insurer a reasonable time in which to file responsive pleading or defend the action. If, after receiving copy of the summons, complaint or other pleading, the insurer elects not to defend the action, if coverage is in fact provided by the policy, the insurer shall be bound to the extent of its policy limits to the judgment taken by default against the insured, and noncooperation of the insured shall not be a defense.

If the plaintiff initiating an action against the insured has complied with the provisions of this subsection, then, in such event, the insurer may not cancel or annul the policy as to such liability and the defense of noncooperation shall not be available to the insurer: Provided, however, nothing in this section shall be construed as depriving an insurer of its defenses that the policy was not in force at the time in question, that the operator was not an "insured" under policy provisions, or that the policy had been lawfully canceled at the time of the accident giving rise to the cause of action.

Provided further that the provisions of this subdivision shall not apply when the insured has delivered a copy of the summons, complaint or other pleadings served on him to his insurance carrier within the time provided by law for filing answer, demurrer or other pleadings.

- (2) The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage;
- (3) The insurance carrier shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in subdivision (2) of subsection (b) of this section;
- (4) The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of the Article shall constitute the entire contract between the parties.

(g) Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a

motor vehicle liability policy and such excess or additional coverage shall not be subject to the provisions of this Article. With respect to a policy which grants such excess or additional coverage the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this section.

(h) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this Article.

(i) Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

(j) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

(k) Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

(l) A party injured by an uninsured motor vehicle covered under a policy in amounts less than those set forth in G.S. 20-279.5, may execute a contractual covenant not to enforce against the owner, operator, or maintainer of the uninsured vehicle any judgment that exceeds the liability policy limits, as consideration for payment of any applicable policy limits by the insurer where judgment exceeds the policy limits. A covenant not to enforce judgment shall not preclude the injured party from pursuing available uninsured motorist benefits, unless the terms of the covenant expressly provide otherwise, and shall not preclude an insurer providing uninsured motorist coverage from pursuing any right of subrogation.

(m) Every insurer that sells motor vehicle liability policies subject to the requirements of subdivisions (b)(3) and (b)(4) of this section shall, when issuing and renewing a policy, give reasonable notice to the named insured of all of the following:

- (1) The named insured is required to purchase uninsured motorist bodily injury coverage, uninsured motorist property damage coverage, and, if applicable, underinsured motorist bodily injury coverage.
- (2) The named insured's uninsured motorist bodily injury coverage limits shall be equal to the highest limits of bodily injury liability coverage for any one vehicle insured under the policy unless the insured elects to purchase greater or lesser limits for uninsured motorist bodily injury coverage.
- (3) The named insured's uninsured motorist property damage coverage limits shall be equal to the highest limits of property damage liability coverage for any one vehicle insured under the policy unless the insured elects to purchase lesser limits for uninsured motorist property damage coverage.
- (4) The named insured's underinsured motorist bodily injury coverage limits, if applicable, shall be equal to the highest limits of bodily injury liability coverage for any one vehicle insured under the policy unless the insured elects to purchase greater or lesser limits for underinsured motorist bodily injury coverage.
- (5) The named insured may purchase uninsured motorist bodily injury coverage and, if applicable, underinsured motorist coverage with limits up to one million dollars (\$1,000,000) per person and one million dollars (\$1,000,000) per accident.

An insurer shall be deemed to have given reasonable notice if it includes the following or substantially similar language on the policy's original and renewal declarations pages or in a

separate notice accompanying the original and renewal declarations pages in at least 12 point type:

NOTICE: YOU ARE REQUIRED TO PURCHASE UNINSURED MOTORIST BODILY INJURY COVERAGE, UNINSURED MOTORIST PROPERTY DAMAGE COVERAGE AND, IN SOME CASES, UNDERINSURED MOTORIST BODILY INJURY COVERAGE. THIS INSURANCE PROTECTS YOU AND YOUR FAMILY AGAINST INJURIES AND PROPERTY DAMAGE CAUSED BY THE NEGLIGENCE OF OTHER DRIVERS WHO MAY HAVE LIMITED OR ONLY MINIMUM COVERAGE OR EVEN NO LIABILITY INSURANCE. YOU MAY PURCHASE UNINSURED MOTORIST BODILY INJURY COVERAGE AND, IF APPLICABLE, UNDERINSURED MOTORIST COVERAGE WITH LIMITS UP TO ONE MILLION DOLLARS (\$1,000,000) PER PERSON AND ONE MILLION DOLLARS (\$1,000,000) PER ACCIDENT OR AT SUCH LESSER LIMITS YOU CHOOSE. YOU CANNOT PURCHASE COVERAGE FOR LESS THAN THE MINIMUM LIMITS FOR THE BODILY INJURY AND PROPERTY DAMAGE COVERAGE THAT ARE REQUIRED FOR YOUR OWN VEHICLE. IF YOU DO NOT CHOOSE A GREATER OR LESSER LIMIT FOR UNINSURED MOTORIST BODILY INJURY COVERAGE, A LESSER LIMIT FOR UNINSURED MOTORIST PROPERTY DAMAGE COVERAGE, AND/OR A GREATER OR LESSER LIMIT FOR UNDERINSURED MOTORIST BODILY INJURY COVERAGE, THEN THE LIMITS FOR THE UNINSURED MOTORIST BODILY INJURY COVERAGE AND, IF APPLICABLE, THE UNDERINSURED MOTORIST BODILY INJURY COVERAGE WILL BE THE SAME AS THE HIGHEST LIMITS FOR BODILY INJURY LIABILITY COVERAGE FOR ANY ONE OF YOUR OWN VEHICLES INSURED UNDER THE POLICY AND THE LIMITS FOR THE UNINSURED MOTORIST PROPERTY DAMAGE COVERAGE WILL BE THE SAME AS THE HIGHEST LIMITS FOR PROPERTY DAMAGE LIABILITY COVERAGE FOR ANY ONE OF YOUR OWN VEHICLES INSURED UNDER THE POLICY. IF YOU WISH TO PURCHASE UNINSURED MOTORIST AND, IF APPLICABLE, UNDERINSURED MOTORIST COVERAGE AT DIFFERENT LIMITS THAN THE LIMITS FOR YOUR OWN VEHICLE INSURED UNDER THE POLICY, THEN YOU SHOULD CONTACT YOUR INSURANCE COMPANY OR AGENT TO DISCUSS YOUR OPTIONS FOR OBTAINING DIFFERENT COVERAGE LIMITS. YOU SHOULD ALSO READ YOUR ENTIRE POLICY TO UNDERSTAND WHAT IS COVERED UNDER UNINSURED AND UNDERINSURED MOTORIST COVERAGES.

(n) Nothing in this section shall be construed to provide greater amounts of uninsured or underinsured motorist coverage in a liability policy than the insured has purchased from the insurer under this section.

(o) An insurer that fails to comply with subsection (m) of this section is subject to a civil penalty under G.S. 58-2-70. (1953, c. 1300, s. 21; 1955, c. 1355; 1961, c. 640; 1965, c. 156; c. 674, s. 1; c. 898; 1967, c. 277, s. 4; c. 854; c. 1159, s. 1; c. 1162, s. 1; c. 1186, s. 1; c. 1246, s. 1; 1971, c. 1205, s. 2; 1973, c. 745, s. 4; 1975, c. 326, ss. 1, 2; c. 716, s. 5; c. 866, ss. 1-4; 1979, cc. 190, 675; c. 832, ss. 6, 7; 1983, c. 777, ss. 1, 2; 1985, c. 666, s. 74; 1985 (Reg. Sess., 1986), c. 1027, ss. 41, 42; 1987, c. 529; 1987 (Reg. Sess., 1988), c. 975, s. 33; 1991, c. 469, s. 4; c. 636, s. 3; c. 646, ss. 1, 2; c. 761, s. 12.3; 1991 (Reg. Sess., 1992), c. 837, s. 9; 1997-396, ss. 2, 3; 1999-195, s. 1; 1999-228, s. 4; 2003-311, ss. 1, 2; 2008-124, ss. 1.1, 1.2; 2009-440, s. 1; 2009-561, s. 1; 2009-566, s. 28; 2015-135, s. 4.4.)

§ 20-279.22. Notice of cancellation or termination of certified policy.

When an insurance carrier has certified a motor vehicle liability policy under G.S. 20-279.19 or a policy under G.S. 20-279.20, the insurance so certified shall not be canceled or terminated until at least 20 days after a notice of cancellation or termination of the insurance so certified shall be filed in the office of the Commissioner, except that such a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates. (1953, c. 1300, s. 22.)

§ 20-279.23. Article not to affect other policies.

(a) This Article shall not be held to apply to or affect policies of automobile insurance against liability which may now or hereafter be required by any other law of this State, and such policies, if they contain an agreement or are endorsed to conform to the requirements of this Article, may be certified as proof of financial responsibility under this Article.

(b) This Article shall not be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance or use by persons in the insured's employ or on his behalf of motor vehicles not owned by the insured. (1953, c. 1300, s. 23.)

§ 20-279.24. Bond as proof.

(a) Proof of financial responsibility may be furnished by filing with the Commissioner the bond of a surety company duly authorized to transact business in the State or a bond with at least two individual sureties each owning real estate within this State, and together having equities in such real estate over and above any encumbrances thereon equal in value to at least twice the amount of such bond, which real estate shall be scheduled in the bond which shall be approved by the clerk of the superior court of the county wherein the real estate is situated. Such bond shall be conditioned for payments in amounts and under the same circumstances as would be required in a motor vehicle liability policy, and shall not be cancellable except after 20 days' written notice to the Commissioner. A certificate of the county tax supervisor or person performing the duties of the tax supervisor, showing the assessed valuation of each tract or parcel of real estate for tax purposes shall accompany a bond with individual sureties and, upon acceptance and approval by the Commissioner, the execution of such bond shall be proved before the clerk of the superior court of the county or counties wherein the land or any part thereof lies, and such bond shall be recorded in the office of the register of deeds of such county or counties. Such bond shall constitute a lien upon the real estate therein described from and after filing for recordation to the same extent as in the case of ordinary mortgages and shall be regarded as the equivalent of a mortgage or deed of trust. In the event of default in the terms of the bond the Commissioner may foreclose the lien thereof by making public sale upon publishing notice thereof as provided by G.S. 45-21.17; provided, that any such sale shall be subject to the provisions for upset or increased bids and resales and the procedure therefor as set out in Part 2 of Article 2A of Chapter 45 of the General Statutes. The proceeds of such sale shall be applied by the Commissioner toward the discharge of liability upon the bond, any excess to be paid over to the surety whose property was sold. The Commissioner shall have power to so sell as much of the property of either or both sureties described in the bond as shall be deemed necessary to discharge the liability under the bond, and shall not be required to apportion or prorate the liability as between sureties.

If any surety is a married person, his or her spouse shall be required to execute the bond, but only for the purpose of releasing any dower or curtesy interest in the property described in the

bond, and the signing of such bond shall constitute a conveyance of dower or curtesy interest, as well as the homestead exemption of the surety, for the purpose of the bond, and the execution of the bond shall be duly acknowledged as in the case of deeds of conveyance. The Commissioner may require a certificate of title of a duly licensed attorney which shall show all liens and encumbrances with respect to each parcel of real estate described in the bond and, if any parcel of such real estate has buildings or other improvements thereon, the Commissioner may, in his discretion, require the filing with him of a policy or policies of fire and other hazard insurance, with loss clauses payable to the Commissioner as his interest may appear. All costs and expenses in connection with furnishing such bond and the registration thereof, and the certificate of title, insurance and other necessary items of expense shall be borne by the principal obligor under the bond, except that the costs of foreclosure may be paid from the proceeds of sale.

(b) If such a judgment, rendered against the principal on such bond shall not be satisfied within 60 days after it has become final, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action or actions in the name of the State against the company or persons executing such bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed such bond. (1953, c. 1300, s. 24; 1993, c. 553, s. 10.)

§ 20-279.25. Money or securities as proof.

(a) Proof of financial responsibility may be evidenced by the certificate of the State Treasurer that the person named therein has deposited with him eighty-five thousand dollars (\$85,000) in cash, or securities such as may legally be purchased by savings banks or for trust funds of a market value of eighty-five thousand dollars (\$85,000). The State Treasurer shall not accept any such deposit and issue a certificate therefor and the Commissioner shall not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

(b) Such deposit shall be held by the State Treasurer to satisfy, in accordance with the provisions of this Article, any execution on a judgment issued against such person making the deposit for damages, including damages for care and loss of services because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use or operation of a motor vehicle after such deposit was made. Money or securities so deposited shall not be subject to attachment, garnishment, or execution unless such attachment, garnishment, or execution shall arise out of a suit for damages as aforesaid. (1953, c. 1300, s. 25; 1965, c. 358, s. 1; 1967, c. 277, s. 5; 1973, c. 745, s. 5; 1979, c. 832, s. 8; 1991, c. 469, s. 8; 1999-228, s. 5.)

§ 20-279.26. Owner may give proof for others.

Whenever any person required to give proof of financial responsibility hereunder is or later becomes an operator in the employ of any owner, or is or later becomes a member of the immediate family or household of the owner, the Commissioner shall accept proof given by such owner in lieu of proof by such other person to permit such other person to operate a motor vehicle for which the owner has given proof as herein provided. The Commissioner shall designate the restrictions imposed by this section on the face of such person's license. (1953, c. 1300, s. 26.)

§ 20-279.27. Substitution of proof.

The Commissioner shall consent to the cancellation of any bond or certificate of insurance or the Commissioner shall direct and the State Treasurer shall return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this Article. (1953, c. 1300, s. 27.)

§ 20-279.28. Other proof may be required.

Whenever any proof of financial responsibility filed under the provisions of this Article no longer fulfills the purposes for which required, the Commissioner shall for the purpose of this Article, require other proof as required by this Article, or whenever it appears that proof filed to cover any motor vehicle owned by a person does not cover all motor vehicles registered in the name of such person, the Commissioner shall require proof covering all such motor vehicles. The Commissioner shall suspend the license or the nonresident's operating privilege pending the filing of such other proof. (1953, c. 1300, s. 28.)

§ 20-279.29. Duration of proof; when proof may be canceled or returned.

The Commissioner shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the Commissioner shall direct and the State Treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this Article as proof of financial responsibility, or the Commissioner shall waive the requirement of filing proof, in any of the following events:

- (1) At any time after two years from the date such proof was required when, during the two-year period preceding the request, the Commissioner has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license, registration or nonresident's operating privilege of the person by or for whom such proof was furnished; or
- (2) In the event of the death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle; or
- (3) In the event the person who has given proof surrenders his license to the Commissioner.

Provided, however, that the Commissioner shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied or in the event the person who has filed such bond or deposited such money or securities, has, within one year immediately preceding such request, been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the Commissioner.

Whenever any person whose proof has been canceled or returned under subdivision (3) of this section applies for a license within a period of two years from the date proof was originally required, any such application shall be refused unless the applicant shall reestablish such proof for the remainder of such two-year period. (1953, c. 1300, s. 29.)

§ 20-279.30. Surrender of license.

Any person whose license shall have been suspended as herein provided, or whose policy of insurance or bond, when required under this Article, shall have been canceled or terminated, or who shall neglect to furnish other proof upon request of the Commissioner shall immediately return his license to the Commissioner. If any person shall fail to return to the Commissioner the license as provided herein, the Commissioner shall forthwith direct any peace officer to secure possession thereof and to return the same to the Commissioner. (1953, c. 1300, s. 30.)

§ 20-279.31. Other violations; penalties.

(a) The Commissioner shall suspend the license of a person who fails to report a reportable accident, as required by G.S. 20-166.1, until the Division receives a report and for an additional period set by the Commissioner. The additional period may not exceed 30 days.

(b) Any person who does any of the following commits a Class 1 misdemeanor:

- (1) Gives information required in a report of a reportable accident, knowing or having reason to believe the information is false.
- (2) Forges or without authority signs any evidence of proof of financial responsibility.
- (3) Files or offers for filing any evidence of proof of financial responsibility, knowing or having reason to believe that it is forged or signed without authority.

(c) Any person willfully failing to return a license as required in G.S. 20-279.30 is guilty of a Class 3 misdemeanor.

(c1) Any person who makes a false affidavit or knowingly swears or affirms falsely to any matter under G.S. 20-279.5, 20-279.6, or 20-279.7 is guilty of a Class I felony.

(d) Any person who shall violate any provision of this Article for which no penalty is otherwise provided is guilty of a Class 2 misdemeanor. (1953, c. 1300, s. 31; 1983, c. 610, s. 2; 1993, c. 539, ss. 384, 1261; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 191, s. 7.)

§ 20-279.32. Exceptions.

This Article does not apply to a motor vehicle registered under G.S. 20-382 by a for-hire motor carrier. This Article does not apply to any motor vehicle owned by the State of North Carolina, nor does it apply to the operator of a vehicle owned by the State of North Carolina who becomes involved in an accident while operating the state-owned vehicle if the Commissioner determines that the vehicle at the time of the accident was probably being operated in the course of the operator's employment as an employee or officer of the State. This Article does not apply to any motor vehicle owned by a county or municipality of the State of North Carolina, nor does it apply to the operator of a vehicle owned by a county or municipality of the State of North Carolina who becomes involved in an accident while operating such vehicle in the course of the operator's employment as an employee or officer of the county or municipality. This Article does not apply to the operator of a vehicle owned by a political subdivision, other than a county or municipality, of the State of North Carolina who becomes involved in an accident while operating such vehicle if the Commissioner determines that the vehicle at the time of the accident was probably being operated in the course of the operator's employment as an employee or officer of the subdivision providing that the Commissioner finds that the political subdivision has waived any immunity it has with respect to such accidents and has in force an insurance policy or other method of satisfying claims which may arise out of the accident. This Article does not apply to any motor vehicle owned by the federal government, nor does it apply to the

operator of a motor vehicle owned by the federal government who becomes involved in an accident while operating the government-owned vehicle if the Commissioner determines that the vehicle at the time of the accident was probably being operated in the course of the operator's employment as an employee or officer of the federal government. (1953, c. 1300, s. 32; 1955, c. 1152, s. 19; 1979, c. 667, s. 38; 1989, c. 485, s. 54; 1995 (Reg. Sess., 1996), c. 756, s. 18; 1999-330, s. 4.1.)

§ 20-279.32A. Exception of school bus drivers.

The provisions of this Article shall not apply to school bus drivers with respect to accidents or collisions in which they are involved while operating school buses in the course of their employment. (1955, c. 1282.)

§ 20-279.33. Self-insurers.

(a) Any person in whose name more than 25 motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the Commissioner as provided in subsection (b) of this section. For the purpose of this Article, the State of North Carolina shall be considered a self-insurer.

(b) The Commissioner may, in his discretion, upon the application of such a person, issue a certificate of self-insurance when he is satisfied that such person is possessed and will continue to be possessed of ability to pay judgments obtained against such person.

(c) Upon not less than five days' notice and a hearing pursuant to such notice, the Commissioner may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within 30 days after such judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance. (1953, c. 1300, s. 33.)

§ 20-279.33A. Religious organizations; self-insurance.

(a) Notwithstanding any other provision of this Article or Article 13 of this Chapter, any recognized religious organization having established tenets or teachings and that has been in existence at all times since December 31, 1950, may qualify as a self-insurer by obtaining a certificate of self-insurance from the Commissioner as provided in subsection (c) of this section if the Commissioner determines that all of the following conditions are met:

- (1) Members of the religious organization operate five or more vehicles that are registered in this State and are either owned or leased by them.
- (2) Members of the religious organization hold a common belief in mutual financial assistance in time of need to the extent that they share in financial obligations of other members who would otherwise be unable to meet their obligations.
- (3) The religious organization has met all of its insurance obligations for the five years preceding its application.
- (4) The religious organization is financially solvent and not subject to any actions in bankruptcy, trusteeship, receivership, or any other court proceeding in which the financial solvency of the religious organization is in question.
- (5) Neither the religious organization nor any of its participating members has any judgments arising out of the operation, maintenance, or use of a motor vehicle taken against them that have remained unsatisfied for more than 30 days after becoming final.

(6) There are no other factors that cause the Commissioner to believe that the religious organization and its participating members are not of sufficient financial ability to pay judgments against them.

(7) The religious organization and its participating members meet other requirements that the Commissioner by administrative rule prescribes.

(b) The Commissioner may, in the Commissioner's discretion, upon the application of a religious organization, issue a certificate of self-insurance when the Commissioner is satisfied that the religious organization is possessed and will continue to be possessed of an ability to pay any judgments that might be rendered against the religious organization. The certificate shall serve as evidence of insurance for the purposes of G.S. 20-7(c1), 20-13.2(e), 20-16.1, 20-19(k), and 20-179.3(l).

(c) A group issued a certificate of self-insurance under this section shall notify the Commissioner in writing if any person ceases to be a member of the group. The group shall notify the Commissioner within 10 days of the person's removal or departure from the group.

(d) The Commissioner may, at any time after the issuance of a certificate of self-insurance under this subsection, cancel the certificate by giving 30 days' written notice of cancellation to the religious organization whenever there is reason to believe that the religious organization to whom the certificate was issued is no longer qualified as a self-insurer under this section. (2006-145, s. 5.)

§ 20-279.34: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 27.

§ 20-279.35. Supplemental to motor vehicle laws; repeal of laws in conflict.

This Article shall in no respect be considered as a repeal of any of the motor vehicle laws of this State but shall be construed as supplemental thereto.

The "Motor Vehicle Safety and Responsibility Act" enacted by the 1947 Session of the General Assembly, being Chapter 1006 of the Session Laws of 1947 (G.S. 20-224 to 20-279), is hereby repealed except with respect to any accident or violation of the motor vehicle laws of this State occurring prior to January 1, 1954, or with respect to any judgment arising from such accident or violation, and as to such accidents, violations or judgments Chapter 1006 of the Session Laws of 1947 shall remain in full force and effect. Except as herein stated, all laws and clauses of laws in conflict with this Article are hereby repealed. (1953, c. 1300, s. 35.)

§ 20-279.36. Past application of Article.

This Article shall not apply with respect to any accident, or judgment arising therefrom, or violation of the motor vehicle laws of this State, occurring prior to January 1, 1954. (1953, c. 1300, s. 37.)

§ 20-279.37. Article not to prevent other process.

Nothing in this Article shall be construed as preventing the plaintiff in any action at law from relying for relief upon the other processes provided by law. (1953, c. 1300, s. 38.)

§ 20-279.38. Uniformity of interpretation.

This Article shall be so interpreted and construed as to effectuate its general purpose to make uniform the laws of those states which enact it. (1953, c. 1300, s. 39.)

§ 20-279.39. Title of Article.

This Article may be cited as the "Motor Vehicle Safety-Responsibility Act of 1953." (1953, c. 1300, s. 41.)

Article 10.

Financial Responsibility of Taxicab Operators.

§ 20-280. Filing proof of financial responsibility with governing board of municipality or county.

(a) Within 30 days after March 27, 1951, every person, firm or corporation engaging in the business of operating a taxicab or taxicabs within a municipality shall file with the governing board of the municipality in which such business is operated proof of financial responsibility as hereinafter defined.

No governing board of a municipality shall hereafter issue any certificate of convenience and necessity, franchise, license, permit or other privilege or authority to any person, firm or corporation authorizing such person, firm or corporation to engage in the business of operating a taxicab or taxicabs within the municipality unless such person, firm or corporation first files with said governing board proof of financial responsibility as hereinafter defined.

Within 30 days after the ratification of this section, every person, firm or corporation engaging in the business of operating a taxicab or taxicabs without the corporate limits of a municipality or municipalities, shall file with the board of county commissioners of the county in which such business is operated proof of financial responsibility as hereinafter defined.

No person, firm or corporation shall hereafter engage in the business of operating a taxicab or taxicabs without the corporate limits of a municipality or municipalities in any county unless such person, firm or corporation first files with the board of county commissioners of the county in which such business is operated proof of financial responsibility as hereinafter defined.

(b) As used in this section "proof of financial responsibility" shall mean a certificate of any insurance carrier duly authorized to do business in the State of North Carolina certifying that there is in effect a policy of liability insurance insuring the owner and operator of the taxicab business, his agents and employees while in the performance of their duties against loss from any liability imposed by law for damages including damages for care and loss of services because of bodily injury to or death of any person and injury to or destruction of property caused by accident and arising out of the ownership, use or operation of such taxicab or taxicabs, subject to limits (exclusive of interests and costs) with respect to each such motor vehicle as follows: one hundred thousand dollars (\$100,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, three hundred thousand dollars (\$300,000) because of bodily injury to or death of two or more persons in any one accident, and fifty thousand dollars (\$50,000) because of injury to or destruction of property of others in any one accident.

(c) Repealed by Session Laws 2017-137, s. 2.5, effective January 1, 2018. (1951, c. 406; 1965, c. 350, s. 1; 1967, c. 277, s. 7; 1973, c. 745, s. 6; 1979, c. 832, ss. 9, 10; 1991, c. 469, s. 5; 1999-228, s. 6; 2017-137, s. 2.5; 2017-212, s. 1.3.)

Article 10A.

Transportation Network Companies.

§ 20-280.1. Definitions.

The following definitions apply in this Article:

- (1) Airport operator. – Any person with police powers that owns or operates an airport.
- (2) Brokering transportation network company. – A transportation network company, as defined by this section, that exclusively dispatches TNC drivers that operate either of the following:
 - a. For-hire passenger vehicles regulated under G.S. 160A-304.
 - b. For-hire passenger vehicles regulated under G.S. 62-260(f) and subject to the requirements for security for protection of the public and safety of operation established for regulated motor common carriers.
- (3) Prearranged transportation services. – Transportation services available by advance request excluding for-hire passenger vehicles soliciting passengers for immediate transportation. No minimum waiting period is required between the advance request and the provision of the transportation services.
- (4) TNC driver. – An individual that uses a passenger vehicle in connection with a transportation network company's online-enabled application or platform to connect with passengers in exchange for payment of a fee to the transportation network company.
- (5) TNC service. – Prearranged transportation service provided by a TNC driver in connection with a transportation network company. The TNC service begins when the TNC driver accepts a ride request on the transportation network company's online-enabled application or platform and ends at the later of the following:
 - a. The time that the driver completes the transaction on the online-enabled application or platform.
 - b. The time that all passengers exit the vehicle and complete unloading of the vehicle.
- (6) Transportation network company (TNC). – Any person that uses an online-enabled application or platform to connect passengers with TNC drivers who provide prearranged transportation services. (2015-237, s. 1.)

§ 20-280.2. Permissible services and limitations.

(a) A transportation network company holding a valid permit issued under this Article and continuously meeting the requirements of this Article may operate in the State. The transportation network company may charge a fee for the TNC service. The fee must meet the following requirements:

- (1) The transportation network company's online-enabled application or platform must disclose the fee calculation method before a passenger makes a ride request.
- (2) The transportation network company's online-enabled application or platform must provide the option for a passenger to receive an estimated fee before the passenger makes a ride request.
- (3) The transportation network company must send an electronic receipt to the customer that includes the following:

- a. The locations where the TNC service started and ended.
 - b. The total time and distance of the TNC service.
 - c. An itemization and calculation of the total fee paid.
- (4) The fee must be paid electronically through the transportation network company's online-enabled application or platform. No cash may be exchanged for the TNC service.
- (b) A TNC driver may provide TNC service for compensation in the State. (2015-237, s. 1.)

§ 20-280.3. Permits.

- (a) Every transportation network company must obtain a permit from the Division before operating in the State. Every transportation network company must pay to the Division a nonrefundable application fee of five thousand dollars (\$5,000).
- (b) Every transportation network company must renew the permit annually and pay to the Division a nonrefundable renewal fee of five thousand dollars (\$5,000).
- (c) The Division must prescribe the form of the application for a permit and renewal of a permit.
- (d) The initial application and renewal application must require information sufficient to confirm compliance with this Article and include the following:
- (1) Proof of insurance meeting the requirements of G.S. 20-280.4. This subdivision does not apply to brokering transportation network companies.
 - (2) Resident agent for service of process.
 - (3) Proof the transportation network company is registered with the Secretary of State to do business in the State if the transportation network company is a foreign corporation.
 - (4) Policy of nondiscrimination based on customers' geographic departure point or destination.
 - (5) Policy of nondiscrimination based on customers' race, color, national origin, religious belief or affiliation, sex, disability, or age.
- (e) The Division may retain the fees collected under this section and use the funds for its operations. (2015-237, s. 1.)

§ 20-280.4. Financial responsibility.

- (a) Except as provided in subsection (n) of this section, TNC drivers or transportation network companies must maintain primary automobile insurance that meets all of the following requirements:
- (1) Recognizes that the driver is a TNC driver or uses a vehicle to transport passengers for compensation.
 - (2) The following automobile insurance requirements apply while a TNC driver is logged on to the transportation network company's online-enabled application or platform but is not providing TNC service:
 - a. Primary automobile liability insurance in the amount of at least fifty thousand dollars (\$50,000) because of death of or bodily injury to one person in any one accident and, subject to said limit for one person, one hundred thousand dollars (\$100,000) because of death of or bodily injury to two or more persons in any one accident, and at least

twenty-five thousand dollars (\$25,000) because of injury to or destruction of property of others in any one accident.

- b. Combined uninsured and underinsured motorist coverage, with limits for combined uninsured and underinsured motorist bodily injury coverage which at least equals the bodily injury liability limits of the policy, and which otherwise complies with the requirements of G.S. 20-279.21(b)(3) and (b)(4).
- (3) The following automobile insurance requirements apply while a TNC driver is engaged in TNC service:
- a. Primary automobile liability insurance in the amount of at least one million five hundred thousand dollars (\$1,500,000) because of death of one or more persons, bodily injury to one or more persons, injury to or destruction of property of others, or any combination thereof, in any one accident.
 - b. Combined uninsured and underinsured motorist coverage, with limits for combined uninsured and underinsured motorist bodily injury coverage of at least one million dollars (\$1,000,000), and which otherwise complies with the requirements of G.S. 20-279.21(b)(3) and (b)(4).
- (4) The coverage requirements of subdivisions (2) and (3) of this subsection may be satisfied by any of the following:
- a. Automobile insurance maintained by the TNC driver.
 - b. Automobile insurance maintained by the transportation network company.
 - c. Any combination of sub-subdivisions a. and b. of this subdivision.

(b) If insurance maintained by the TNC driver under subsection (a) of this section has lapsed or does not provide the required coverage, insurance maintained by the transportation network company must provide the coverage required under subsection (a) of this section beginning with the first dollar of a claim and must provide the defense of the claim.

(c) Insurance coverage under an automobile insurance policy maintained by the transportation network company must not be dependent on a personal automobile insurer denying a claim.

(d) Insurance required by this section may be placed with an insurer licensed in the State or with a surplus lines insurer eligible to write policies in the State.

(e) Insurance satisfying the requirements of this section satisfies the financial responsibility requirement for a motor vehicle.

(f) A TNC driver must carry proof of coverage satisfying the requirements of this section at all times during use of a vehicle in connection with a transportation network company's online-enabled application or platform. In the event of an accident, a TNC driver must provide insurance coverage information directly to interested parties, automobile insurers, and investigating police officers, upon request. Upon such request, a TNC driver must also disclose to directly interested parties, automobile insurers, and investigating police officers whether the TNC driver was logged on or off of the transportation network company's online-enabled application or platform at the time of the accident.

(g) Before any vehicle is used in connection with a transportation network company's online-enabled application or platform, a TNC driver must notify both the insurer of the vehicle

and any lienholder with an interest in the vehicle of the TNC driver's intent to use the vehicle in connection with a transportation network company's online-enabled application or platform.

(h) Transportation network companies must disclose in writing to potential TNC drivers the following before the TNC driver provides TNC service:

- (1) The insurance coverage, including the types of coverage and the limits for each coverage, that the transportation network company provides while the TNC driver uses a private passenger vehicle in connection with a transportation network company's online-enabled application or platform.
- (2) The TNC driver may not have any coverage under a personal automobile insurance policy while using the transportation network company's online-enabled application or platform.
- (3) The following notice in a distinctive clause: "If the vehicle with which you provide transportation network company services has a lien against it, you must notify the lienholder prior to providing transportation network company services of your intent to provide transportation services with the vehicle. You may disclose to the lienholder all insurance coverage information provided to you by the transportation network company. If you fail to provide the required insurance coverage under the terms of your contract with the lienholder or show evidence to the lienholder of the coverage provided by the transportation network company, you may violate the terms of your contract."

(i) Insurers that write automobile insurance in the State may exclude coverage under the policy issued to an owner or operator of a personal vehicle for any loss that occurs while the driver is logged on to a transportation network company's online-enabled application or platform or while the driver provides TNC service. This right to exclude all coverage applies to any coverage included in an automobile insurance policy, including all of the following:

- (1) Liability coverage for bodily injury and property damage.
- (2) Personal injury protection coverage.
- (3) Uninsured and underinsured motorist coverage.
- (4) Medical payments coverage.
- (5) Comprehensive physical damage coverage.
- (6) Collision physical damage coverage.

(j) Automobile insurers that exclude the coverage described in subsection (i) of this section have no duty to defend or indemnify any claim expressly excluded. An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy has a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of this section.

(k) No insurer is required to sell a policy of insurance providing the coverage required by this section.

(l) Notwithstanding G.S. 58-37-35(b)(1)e., no insurance policy providing coverage required by this section is cedable to the North Carolina Reinsurance Facility due solely to the requirements of this section.

(m) In a claims coverage investigation or accident, a TNC driver, transportation network companies, any insurer potentially providing coverage under this section, and other directly involved parties must exchange the following information:

- (1) Description of the coverage, exclusions, and limits provided under any insurance policy.

- (2) Precise times that a TNC driver logged on and off of the transportation network company's online-enabled application or platform in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident.
- (3) Precise times that a TNC driver provided TNC service in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident.

(n) This section does not apply to brokering transportation network companies. (2015-237, s. 1.)

§ 20-280.5. Safety requirements.

(a) The transportation network company must require TNC drivers have their vehicles inspected annually to meet State safety requirements. The Division may, by regulation, specify alternative inspections that are acceptable as equivalent inspections, such as an inspection performed in another state. This subsection does not apply to brokering transportation network companies.

(b) The transportation network company's online-enabled application or platform must provide the following information to customers after a ride request is accepted by a TNC driver:

- (1) Photograph of the TNC driver.
- (2) License plate number of the TNC driver's vehicle.
- (3) Description of the TNC driver's vehicle.
- (4) Approximate location of the TNC driver's vehicle displayed on a map.

(c) The transportation network company must maintain the following records:

- (1) The record of each TNC service provided in this State for one year from the date the TNC service occurred.
- (2) The record of each TNC driver in this State for one year from the date the TNC driver terminated their relationship with the transportation network company. (2015-237, s. 1.)

§ 20-280.6. Background checks.

(a) Prior to permitting an individual to act as a TNC driver, the transportation network company must do all of the following:

- (1) Require the individual to submit an application to the transportation network company, including, at a minimum, the following:
 - a. Address.
 - b. Age.
 - c. Drivers license number.
 - d. Driving history.
 - e. Motor vehicle registration.
 - f. Automobile liability insurance information.
- (2) Conduct, or have a third party conduct, a local and national criminal background check for each applicant, including, at a minimum, the following:
 - a. Multi-State/Multi-Jurisdiction Criminal Records Locator or other similar commercial nationwide database with validation (primary source search).
 - b. National Sex Offender Registry.

- (3) Review, or have a third party review, a driving history research report for such individual.
- (b) The transportation network company must confirm that every TNC driver continues to meet all the requirements of this section every five years starting from the date the TNC driver met all the requirements of this section.
- (c) The transportation network company must not permit an individual to act as a TNC driver if any of the following apply:
 - (1) Has had more than three moving violations in the prior three-year period or one major violation in the prior three-year period, including attempting to evade the police, reckless driving, or driving on a suspended or revoked license.
 - (2) Has been convicted within the past seven years of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, or a crime involving property damage, theft, acts of violence, or acts of terror.
 - (3) Is a match in the National Sex Offender Registry.
 - (4) Does not possess a valid drivers license.
 - (5) Does not possess proof of registration for the motor vehicle to be used to provide TNC services.
 - (6) Does not possess proof of automobile liability insurance for the motor vehicle to be used to provide TNC services.
 - (7) Is not at least 19 years of age.
- (d) This section does not apply to brokering transportation network companies. (2015-237, s. 1.)

§ 20-280.7. Authority of Division.

The Division may issue regulations to implement this Article. (2015-237, s. 1.)

§ 20-280.8. Presumption that TNC drivers are independent contractors.

A rebuttable presumption exists that a TNC driver is an independent contractor and not an employee. The presumption may be rebutted by application of the common law test for determining employment status. (2015-237, s. 1.)

§ 20-280.9. Airport operators.

- (a) An airport operator is authorized to charge transportation network companies and TNC drivers a reasonable fee for their use of the airport's facility.
- (b) An airport operator is authorized to require an identifying decal be displayed by TNC drivers.
- (c) An airport operator is authorized to require the purchase and use of equipment or establish other appropriate mechanisms for monitoring and auditing compliance, including having a transportation network company provide data for purposes of monitoring and auditing compliance.
- (d) An airport operator is authorized to designate a location where TNC drivers may stage on the airport operator's facility, drop off passengers, and pick up passengers. (2015-237, s. 1.)

§ 20-280.10. Statewide regulation.

(a) Notwithstanding any other provision of law and except as authorized by this Chapter, no county, city, airport operator, or other governmental agency is authorized to impose fees, require licenses, limit the operation of TNC services, or otherwise regulate TNC services. TNC services remain subject to all ordinances and local laws outside the scope of this Chapter, including parking and traffic regulation.

(b) Any contract provision or term of service in a transportation network company's contract with a State resident or person present in the State contrary to this Article is void as against public policy. (2015-237, s. 1.)

Article 11.

Liability Insurance Required of Persons Engaged in Renting Motor Vehicles.

§ 20-281. Liability insurance prerequisite to engaging in business; coverage of policy.

From and after July 1, 1953, it shall be unlawful for any person, firm or corporation to engage in the business of renting or leasing motor vehicles to the public for operation by the rentee or lessee unless such person, firm or corporation has secured insurance for his own liability and that of his rentee or lessee, in such an amount as is hereinafter provided, from an insurance company duly licensed to sell motor vehicle liability insurance in this State. Each such motor vehicle leased or rented must be covered by a policy of liability insurance insuring the owner and rentee or lessee and their agents and employees while in the performance of their duties against loss from any liability imposed by law for damages including damages for care and loss of services because of bodily injury to or death of any person and injury to or destruction of property caused by accident arising out of the operation of such motor vehicle, subject to the following minimum limits: thirty thousand dollars (\$30,000) because of bodily injury to or death of one person in any one accident, and sixty thousand dollars (\$60,000) because of bodily injury to or death of two or more persons in any one accident, and twenty-five thousand dollars (\$25,000) because of injury to or destruction of property of others in any one accident. Provided, however, that nothing in this Article shall prevent such operators from qualifying as self-insurers under terms and conditions to be prepared and prescribed by the Commissioner of Motor Vehicles or by giving bond with personal or corporate surety, as now provided by G.S. 20-279.24, in lieu of securing the insurance policy hereinbefore provided for. (1953, c. 1017, s. 1; 1955, c. 1296; 1965, c. 349, s. 1; 1967, c. 277, s. 8; 1973, c. 745, s. 7; 1979, c. 832, s. 11; 1991, c. 469, s. 6; 1999-228, s. 7.)

§ 20-282. Cooperation in enforcement of Article.

The provisions of this Article shall be enforced by the Commissioner of Motor Vehicles in cooperation with the Commissioner of Insurance, the North Carolina Automobile Rate Administrative Office and with all law-enforcement officers and agents and other agencies of the State and the political subdivisions thereof. (1953, c. 1017, s. 2.)

§ 20-283. Compliance with Article prerequisite to issuance of license plates.

No license plates shall be issued by the Division of Motor Vehicles to operate a motor vehicle, for lease or rent for operation by the rentee or lessee, until the applicant for such license plates demonstrates to the Commissioner of Motor Vehicles that he has complied with the provisions of this Article. (1953, c. 1017, s. 3; 1975, c. 716, s. 5.)

§ 20-284. Violation a misdemeanor.

Any person, firm or corporation violating the provisions of this Article shall be guilty of a Class 1 misdemeanor. (1953, c. 1017, s. 4; 1993, c. 539, s. 385; 1994, Ex. Sess., c. 24, s. 14(c).)

Article 12.

Motor Vehicle Dealers and Manufacturers Licensing Law.

§ 20-285. Regulation of motor vehicle distribution in public interest.

The General Assembly finds and declares that the distribution of motor vehicles in the State of North Carolina vitally affects the general economy of the State and the public interest and public welfare, and in the exercise of its police power, it is necessary to regulate and license motor vehicle manufacturers, distributors, dealers, salesmen, and their representatives doing business in North Carolina, in order to prevent frauds, impositions and other abuses upon its citizens and to protect and preserve the investments and properties of the citizens of this State. (1955, c. 1243, s. 1; 1983, c. 704, s. 1.)

§ 20-286. Definitions.

The following definitions apply in this Article:

- (1), (2) Repealed by Session Laws 1973, c. 1330, s. 39.
- (2a) Dealership facilities. – The real estate, buildings, fixtures and improvements devoted to the conduct of business under a franchise.
- (2b) Designated family member. – The spouse, child, grandchild, parent, brother, or sister of a dealer, who, in the case of a deceased dealer, is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will; or who has otherwise been designated in writing by a deceased dealer to succeed him in the motor vehicle dealership; or who under the laws of intestate succession of this State is entitled to inherit the interest; or who, in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property. The term includes the appointed and qualified personal representative and testamentary trustee of a deceased dealer.
- (3) Distributor. – A person, resident or nonresident of this State, who sells or distributes new motor vehicles to new motor vehicle dealers in this State, maintains a distributor representative in this State, controls any person, resident or nonresident, who in whole or in part offers for sale, sells or distributes any new motor vehicle to any motor vehicle dealer in this State.
- (4) Distributor branch. – A branch office maintained by a distributor for the sale of new motor vehicles to new motor vehicle dealers, or for directing or supervising the distributor's representatives in this State.
- (5) Distributor representative. – A person employed by a distributor or a distributor branch for the purpose of selling or promoting the sale of new motor vehicles or otherwise conducting the business of the distributor or distributor branch.
- (5a) Established office. – An office that meets the following requirements:

- a. Contains at least 96 square feet of floor space in a permanent enclosed building.
 - b. Is a place where the books, records, and files required by the Division under this Article are kept.
- (6) Established salesroom. – A salesroom that meets the following requirements:
- a. Contains at least 96 square feet of floor space in a permanent enclosed building.
 - b. Displays, or is located immediately adjacent to, a sign having block letters not less than three inches in height on contrasting background, clearly and distinctly designating the trade name of the business.
 - c. Is a place at which a permanent business of bartering, trading, and selling motor vehicles will be carried on in good faith on an ongoing basis whereby the dealer can be contacted by the public at reasonable times.
 - d. Is a place where the books, records, and files required by the Division under this Article are kept.

The term includes the area contiguous to or located within 500 feet of the premises on which the salesroom is located. The term does not include a tent, a temporary stand, or other temporary quarters. The minimum area requirement does not apply to any place of business lawfully in existence and duly licensed on or before January 1, 1978.

- (7) Factory branch. – A branch office, maintained for the sale of new motor vehicles to new motor vehicle dealers, or for directing or supervising the factory branch's representatives in this State.
 - (8) Factory representative. – A person employed by a manufacturer or a factory branch for the purpose of selling or promoting the sale of the manufacturer's motor vehicles or otherwise conducting the business of the manufacturer or factory branch.
 - (8a) Franchise. – A written agreement or contract between any new motor vehicle manufacturer, and any new motor vehicle dealer which purports to fix the legal rights and liabilities of the parties to such agreement or contract, and pursuant to which the dealer purchases and resells the franchised product or leases or rents the dealership premises.
 - (8b) Franchised motor vehicle dealer. – A dealer who holds a currently valid franchise as defined in G.S. 20-286(8a) with a manufacturer or distributor of new motor vehicles, trailers, or semitrailers.
 - (8c) Good faith. – Honesty in fact and the observation of reasonable commercial standards of fair dealing as defined and interpreted in G.S. 25-1-201(b)(20).
 - (8d) Independent motor vehicle dealer. – A dealer in used motor vehicles.
 - (8e) Manufacturer. – A person, resident or nonresident, who manufactures or assembles new motor vehicles, or who imports new motor vehicles for distribution through a distributor, including any person who acts for and is under the control of the manufacturer or assembler in connection with the distribution of the motor vehicles. Additionally, the term "manufacturer" shall include the terms "distributor" and "factory branch."
- (9) Repealed by Session Laws 1973, c. 1330, s. 39.

- (10) Motor vehicle. – Any motor propelled vehicle, trailer or semitrailer, required to be registered under the laws of this State. This term does not include mopeds, as that term is defined in G.S. 20-4.01.
- a. "New motor vehicle" means a motor vehicle that has never been the subject of a completed, successful, or conditional sale that was subsequently approved other than between new motor vehicle dealers, or between a manufacturer and a new motor vehicle dealer of the same franchise. For purposes of this subdivision, the use of a new motor vehicle by a new motor vehicle dealer for demonstration or service loaner purposes does not render the new motor vehicle a used motor vehicle, notwithstanding (i) the commencement of the manufacturer's original warranty as a result of the franchised dealer's use of the vehicle for demonstration or loaner purposes, or (ii) the dealer's receipt of incentive or warranty compensation or other reimbursement or consideration from a manufacturer, factory branch, distributor, distributor branch or from a third-party warranty, maintenance, or service contract company relating to the use of a vehicle as a demonstrator or service loaner.
 - b. "Used motor vehicle" means a motor vehicle other than a motor vehicle described in sub-subdivision a. of this subdivision.
- (11) Motor vehicle dealer or dealer. –
- a. A person who does any of the following:
 1. For commission, money, or other thing of value, buys, sells, or exchanges, whether outright or on conditional sale, bailment lease, chattel mortgage, or otherwise, five or more motor vehicles within any 12 consecutive months, regardless of who owns the motor vehicles.
 2. On behalf of another and for commission, money, or other thing of value, arranges, offers, attempts to solicit, or attempts to negotiate the sale, purchase, or exchange of an interest in five or more motor vehicles within any 12 consecutive months, regardless of who owns the motor vehicles.
 3. Engages, wholly or in part, in the business of selling new motor vehicles or new or used motor vehicles, or used motor vehicles only, whether or not the motor vehicles are owned by that person, and sells five or more motor vehicles within any 12 consecutive months.
 4. Offers to sell, displays, or permits the display for sale for any form of compensation five or more motor vehicles within any 12 consecutive months.
 5. Primarily engages in the leasing or renting of motor vehicles to others and sells or offers to sell those vehicles at retail.
 - b. The term "motor vehicle dealer" or "dealer" does not include any of the following:

1. Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court.
 2. Public officers while performing their official duties.
 3. Persons disposing of motor vehicles acquired for their own use or the use of a family member, and actually so used, when the vehicles have been acquired and used in good faith and not for the purpose of avoiding the provisions of this Article.
 4. Persons who sell motor vehicles as an incident to their principal business but who are not engaged primarily in the selling of motor vehicles. This category includes financial institutions who sell repossessed motor vehicles and insurance companies who sell motor vehicles to which they have taken title as an incident of payments made under policies of insurance, and auctioneers who sell motor vehicles for the owners or the heirs of the owners of those vehicles as part of an auction of other personal or real property or for the purpose of settling an estate or closing a business or who sell motor vehicles on behalf of a governmental entity, and who do not maintain a used car lot or building with one or more employed motor vehicle sales representatives.
 5. Persons manufacturing, distributing or selling trailers and semitrailers weighing not more than 2,500 pounds unloaded weight.
 6. A licensed real estate broker or salesman who sells a mobile home for the owner as an incident to the sale of land upon which the mobile home is located.
 7. An employee of an organization arranging for the purchase or lease by the organization of vehicles for use in the organization's business.
 8. Any publication, broadcast, or other communications media when engaged in the business of advertising, but not otherwise arranging for the sale of motor vehicles owned by others.
 9. Any person dealing solely in the sale or lease of vehicles designed exclusively for off-road use.
 10. Any real property owner who leases any interest in property for use by a dealer.
 11. Any person acquiring any interest in a motor vehicle for a family member.
 12. Any auctioneer licensed pursuant to Chapter 85B of the General Statutes employed to be an auctioneer of motor vehicles for a licensed motor vehicle dealer, while conducting an auction for that dealer.
- (12) Motor vehicle sales representative or salesman. – A person who is employed as a sales representative by, or has an agreement with, a motor vehicle dealer or a wholesaler to sell or exchange motor vehicles.

- (13) New motor vehicle dealer. – A motor vehicle dealer who buys, sells or exchanges, or offers or attempts to negotiate a sale or exchange of an interest in, or who is engaged, wholly or in part, in the business of selling, new or new and used motor vehicles.
- (13a) Person. – Defined in G.S. 20-4.01.
- (13b) Relevant market area or trade area. – The area within a radius of 20 miles around an existing dealer or the area of responsibility defined in the franchise, whichever is greater; except that, where a manufacturer is seeking to establish an additional new motor vehicle dealer the relevant market area shall be as follows:
- a. If the population in an area within a radius of 10 miles around the proposed site is 250,000 or more, the relevant market area shall be that area within the 10 mile radius; or
 - b. If the population in an area within a radius of 10 miles around the proposed site is less than 250,000, but the population in an area within a radius of 15 miles around the proposed site is 150,000 or more, the relevant market area shall be that area within the 15 mile radius; or
 - c. Except as defined in subparts a. and b., the relevant market area shall be the area within a radius of 20 miles around an existing dealer.
- In determining population for this definition the most recent census by the U.S. Bureau of the Census or the most recent population update either from Claritas Inc. or other similar recognized source shall be accumulated for all census tracts either wholly or partially within the relevant market area. In accumulating population for this definition, block group and block level data shall be used to apportion the population of census tracts which are only partially within the relevant market area so that population outside of the applicable radius is not included in the count.
- (14) Repealed by Session Laws 1973, c. 1330, s. 39.
- (15) Retail installment sale. – A sale of one or more motor vehicles to a buyer for the buyer's use and not for resale, in which the price thereof is payable in one or more installments over a period of time and in which the seller has either retained title to the goods or has taken or retained a security interest in the goods under a form of contract designated as a conditional sale, bailment lease, chattel mortgage or otherwise.
- (16) Used motor vehicle dealer. – A motor vehicle dealer who buys, sells or exchanges, or offers or attempts to negotiate a sale or exchange of an interest in, or who is engaged, wholly or in part, in the business of selling, used motor vehicles only.
- (17) Wholesaler. – A person who sells or distributes used motor vehicles to motor vehicle dealers in this State, has a sales representative in this State, or controls any person who in whole or in part offers for sale, sells, or distributes any used motor vehicle to a motor vehicle dealer in this State. The provisions of G.S. 20-302, 20-305.1, and 20-305.2 that apply to distributors also apply to wholesalers. (1955, c. 1243, s. 2; 1967, c. 1126, s. 1; c. 1173; 1973, c. 1330, s. 39; 1977, c. 560, s. 1; 1983, c. 312; c. 704, ss. 2, 3, 21; 1987, c. 381; 1991, c. 527, s. 1; c. 662, s. 1; 1991 (Reg. Sess., 1992), c. 819, s. 23; 1993, c. 331, s.

1; 1995, c. 234, s. 1; 1997-456, s. 27; 2003-254, s. 1; 2003-265, s. 1; 2005-409, s. 7; 2007-484, s. 6; 2015-125, s. 8; 2015-209, s. 1; 2015-232, s. 1.2; 2015-264, s. 42(a).)

§ 20-287. Licenses required; penalties.

(a) License Required. – It shall be unlawful for any new motor vehicle dealer, used motor vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler to engage in business in this State without first obtaining a license as provided in this Article. If any motor vehicle dealer acts as a motor vehicle sales representative, the dealer shall obtain a motor vehicle sales representative's license in addition to a motor vehicle dealer's license. A sales representative may have only one license. The license shall show the name of the dealer or wholesaler employing the sales representative. The following license holders may operate as a motor vehicle dealer without obtaining a motor vehicle dealer's license or paying an additional fee: a manufacturer, a factory branch, a distributor, and a distributor branch. Any of these license holders who operates as a motor vehicle dealer may sell motor vehicles at retail only at an established salesroom.

(b) Civil Penalty for Violations by Licensee. – In addition to any other punishment or remedy under the law for any violation of this section, the Division may levy and collect a civil penalty, in an amount not to exceed one thousand dollars (\$1,000) for each violation, against any person who has obtained a license pursuant to this section, if it finds that the licensee has violated any of the provisions of G.S. 20-285 through G.S. 20-303, Article 15 of this Chapter, or any statute or rule adopted by the Division relating to the sale of vehicles, vehicle titling, or vehicle registration.

(c) Civil Penalty for Violations by Person Without a License. – In addition to any other punishment or remedy under the law for any violation of this section, the Division may levy and collect a civil penalty, in an amount not to exceed five thousand dollars (\$5,000) for each violation, against any person who is required to obtain a license under this section and has not obtained the license, if it finds that the person has violated any of the provisions of G.S. 20-285 through G.S. 20-303, Article 15 of this Chapter, or any statute or rule adopted by the Division relating to the sale of vehicles, vehicle titling, or vehicle registration. (1955, c. 1243, s. 3; 1991, c. 662, s. 2; 2001-345, s. 1; 2005-99, s. 1.)

§ 20-288. Application for license; license requirements; expiration of license; bond.

(a) A new motor vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler may obtain a license by filing an application with the Division. An application must be on a form provided by the Division and contain the information required by the Division. An application for a license must be accompanied by the required fee and by an application for a dealer license plate.

(a1) A used motor vehicle dealer may obtain a license by filing an application, as prescribed in subsection (a) of this section, and providing the following:

- (1) The required fee.
- (2) Proof that the applicant, within the last 12 months, has completed a 12-hour licensing course approved by the Division if the applicant is seeking an initial license and a six-hour course approved by the Division if the applicant is

seeking a renewal license. The requirements of this subdivision do not apply to a used motor vehicle dealer the primary business of which is the sale of salvage vehicles on behalf of insurers or to a manufactured home dealer licensed under G.S. 143-143.11 who complies with the continuing education requirements of G.S. 143-143.11B. The requirement of this subdivision does not apply to persons age 62 or older as of July 1, 2002, who are seeking a renewal license. This subdivision also does not apply to an applicant who holds a license as a new motor vehicle dealer as defined in G.S. 20-286(13) and operates from an established showroom located in an area within a radius of 30 miles around the location of the established showroom for which the applicant seeks a used motor vehicle dealer license. An applicant who also holds a license as a new motor vehicle dealer may designate a representative to complete the licensing course required by this subdivision.

(3) If the applicant is an individual, proof that the applicant is at least 18 years of age and proof that all salespersons employed by the dealer are at least 18 years of age.

(4) The application for a dealer license plate.

(b) The Division shall require in such application, or otherwise, information relating to matters set forth in G.S. 20-294 as grounds for the refusing of licenses, and to other pertinent matters commensurate with the safeguarding of the public interest, all of which shall be considered by the Division in determining the fitness of the applicant to engage in the business for which he seeks a license.

(b1) The Division shall require in such license application and each application for renewal of license a certification that the applicant is familiar with the North Carolina Motor Vehicle Dealers and Manufacturers Licensing Law and with other North Carolina laws governing the conduct and operation of the business for which the license or license renewal is sought and that the applicant shall comply with the provisions of these laws, with the provisions of Article 12 of Chapter 20 of the General Statutes, and with other lawful regulations of the Division.

(c) All licenses that are granted shall be for a period of one year unless sooner revoked or suspended. The Division shall vary the expiration dates of all licenses that are granted so that an equal number of licenses expire at the end of each month, quarter, or other period consisting of one or more months to coincide with G.S. 20-79(c).

(d) To obtain a license as a wholesaler, an applicant who intends to sell or distribute self-propelled vehicles must have an established office in this State, and an applicant who intends to sell or distribute only trailers or semitrailers of more than 2,500 pounds unloaded weight must have a place of business in this State where the records required under this Article are kept.

To obtain a license as a motor vehicle dealer, an applicant who intends to deal in self-propelled vehicles must have an established salesroom in this State, and an applicant who intends to deal in only trailers or semitrailers of more than 2,500 pounds unloaded weight must have a place of business in this State where the records required under this Article are kept.

An applicant for a license as a manufacturer, a factory branch, a distributor, a distributor branch, a wholesaler, or a motor vehicle dealer must have a separate license for each established office, established salesroom, or other place of business in this State. An application for any of these licenses shall include a list of the applicant's places of business in this State.

(e) Each applicant approved by the Division for license as a motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch, or wholesaler shall furnish a corporate surety bond or cash bond or fixed value equivalent of the bond. The amount of the bond for an applicant for a motor vehicle dealer's license is fifty thousand dollars (\$50,000) for one established salesroom of the applicant and twenty-five thousand dollars (\$25,000) for each of the applicant's additional established salesrooms. The amount of the bond for other applicants required to furnish a bond is fifty thousand dollars (\$50,000) for one place of business of the applicant and twenty-five thousand dollars (\$25,000) for each of the applicant's additional places of business.

A corporate surety bond shall be approved by the Commissioner as to form and shall be conditioned that the obligor will faithfully conform to and abide by the provisions of this Article and Article 15. A cash bond or fixed value equivalent thereof shall be approved by the Commissioner as to form and terms of deposits as will secure the ultimate beneficiaries of the bond; and such bond shall not be available for delivery to any person contrary to the rules of the Commissioner. Any purchaser of a motor vehicle, including a motor vehicle dealer, who shall have suffered any loss or damage by the failure of any license holder subject to this subsection to deliver free and clear title to any vehicle purchased from a license holder or any other act of a license holder subject to this subsection that constitutes a violation of this Article or Article 15 of this Chapter shall have the right to institute an action to recover against the license holder and the surety. Every license holder against whom an action is instituted shall notify the Commissioner of the action within 10 days after served with process. Except as provided by G.S. 20-288(f) and (g), a corporate surety bond shall remain in force and effect and may not be canceled by the surety unless the bonded person stops engaging in business or the person's license is denied, suspended, or revoked under G.S. 20-294. That cancellation may be had only upon 30 days' written notice to the Commissioner and shall not affect any liability incurred or accrued prior to the termination of such 30-day period. This subsection does not apply to a license holder who deals only in trailers having an empty weight of 4,000 pounds or less. This subsection does not apply to manufacturers of, or dealers in, mobile or manufactured homes who furnish a corporate surety bond, cash bond, or fixed value equivalent thereof, pursuant to G.S. 143-143.12.

(f) A corporate surety bond furnished pursuant to this section or renewal thereof may also be canceled by the surety prior to the next premium anniversary date without the prior written consent of the license holder for the following reasons:

- (1) Nonpayment of premium in accordance with the terms for issuance of the surety bond; or
- (2) An act or omission by the license holder or his representative that constitutes substantial and material misrepresentation or nondisclosure of a material fact in obtaining the surety bond or renewing the bond.

Any cancellation permitted by this subsection is not effective unless written notice of cancellation has been delivered or mailed to the license holder and to the Commissioner not less than 30 days before the proposed effective date of cancellation. The notice must be given or mailed by certified mail to the license holder at its last known address. The notice must state the reason for cancellation. Cancellation for nonpayment of premium is not effective if the amount due is paid before the effective date set forth in the notice of cancellation. Cancellation of the surety shall not affect any liability incurred or accrued prior to the termination of the 30-day notice period.

(g) A corporate surety may refuse to renew a surety bond furnished pursuant to this section by giving or mailing written notice of nonrenewal to the license holder and to the Commissioner not less than 30 days prior to the premium anniversary date of the surety bond. The notice must be given or mailed by certified mail to the license holder at its last known address. Nonrenewal of the surety bond shall not affect any liability incurred or accrued prior to the premium anniversary date of the surety bond. (1955, c. 1243, s. 4; 1975, c. 716, s. 5; 1977, c. 560, s. 2; 1979, c. 254; 1981, c. 952, s. 3; 1985, c. 262; 1991, c. 495, s. 1; c. 662, s. 3; 1993, c. 440, s. 3; 1997-429, s. 1; 2001-345, s. 2; 2001-492, s. 4; 2003-254, s. 2; 2004-167, s. 9; 2004-199, s. 59; 2005-99, s. 2; 2006-105, s. 2.3; 2006-191, s. 1; 2006-259, s. 12; 2011-290, ss. 1, 2; 2017-148, s. 1.)

§ 20-289. License fees.

(a) The license fee for each fiscal year, or part thereof, shall be as follows:

- (1) For motor vehicle dealers, distributors, distributor branches, and wholesalers, ninety dollars (\$90.00) for each place of business.
- (2) For manufacturers, one hundred ninety-five dollars (\$195.00) and for each factory branch in this State, one hundred thirty dollars (\$130.00).
- (3) For motor vehicle sales representatives, twenty dollars (\$20.00).
- (4) For factory representatives, or distributor representatives, twenty dollars (\$20.00).
- (5) Repealed by Session Laws 1991, c. 662, s. 4.

(b) The fees collected under this section shall be credited to the Highway Fund. These fees are in addition to all other taxes and fees. (1955, c. 1243, s. 5; 1969, c. 593; 1977, c. 802, s. 8; 1981, c. 690, s. 16; 1991, c. 662, s. 4; c. 689, s. 335; 2005-276, s. 44.1(o); 2015-241, s. 29.30(p).)

§ 20-290. Licenses to specify places of business; display of license and list of salesmen; advertising.

(a) The license of a motor vehicle dealer shall list each of the dealer's established salesrooms in this State. A license of a manufacturer, factory branch, distributor, distributor branch, or wholesaler shall list each of the license holder's places of business in this State. A license shall be conspicuously displayed at each place of business. In the event the location of a business changes, the Division shall endorse the change of location on the license, without charge.

(b) Each dealer shall keep a current list of his licensed salesmen, showing the name of each licensed salesman, posted in a conspicuous place in each place of business.

(c) Whenever any licensee places an advertisement in any newspaper or publication, the licensee's name shall appear in the advertisement. (1955, c. 1243, s. 6; 1975, c. 716, s. 5; 1991, c. 662, s. 5; 2005-99, s. 3.)

§ 20-291. Representatives to carry license and display it on request; license to name employer.

Every person to whom a sales representative, factory representative, or distributor representative license is issued shall carry the license when engaged in business, and shall display it upon request. The license shall state the name of the representative's employer. If the representative changes employers, the representative shall immediately apply to the Division for

a license that states the name of the representative's new employer. The fee for issuing a license stating the name of a new employer is ten dollars (\$10.00). (1955, c. 1243, s. 7; 1975, c. 716, s. 5; 1991, c. 662, s. 6; c. 689, s. 336; 2005-99, s. 4; 2005-276, s. 44.1(r).)

§ 20-292. Dealers may display motor vehicles for sale at retail only at established salesrooms.

A new or used motor vehicle dealer may display a motor vehicle for sale at retail only at the dealer's established salesroom, unless the display is of a motor vehicle that meets any of the following descriptions:

- (1) Contains the dealer's name or other sales information and is used by the dealer as a "demonstrator" for transportation purposes.
- (2) Is displayed at a trade show or exhibit at which no selling activities relating to the vehicle take place.
- (3) Is displayed at the home or place of business of a customer at the request of the customer.

This section does not apply to recreational vehicles, house trailers, or boat, animal, camping, or other utility trailers. (1955, c. 1243, s. 8; 1991, c. 662, s. 7.)

§ 20-292.1. Supplemental temporary license for sale of antique and specialty vehicles.

Any dealer licensed as a motor vehicle dealer under this Article may apply to the Commissioner and receive, at no additional charge, a supplemental temporary license authorizing the off-premises sales of antique motor vehicles and specialty motor vehicles for a period not to exceed 10 consecutive calendar days. To obtain a temporary supplemental license for the off-premises sale of antique motor vehicles and specialty motor vehicles, the applicant shall:

- (1) Be licensed as a motor vehicle dealer under this Article.
- (2) Notify the applicable local office of the Division of the specific dates and location for which the license is requested.
- (3) Display a sign at the licensed location clearly identifying the dealer.
- (4) Keep and maintain the records required for the sale of motor vehicles under this Article.
- (5) Provide staff to work at the temporary location for the duration of the off-premises sale.
- (6) Meet any local government permitting requirements.
- (7) Have written permission from the property owner to sell at the location.

For purposes of this section, the term "antique motor vehicle" shall mean any motor vehicle for private use manufactured at least 25 years prior to the current model year, and the term "specialty motor vehicle" shall mean any model or series of motor vehicle for private use manufactured at least three years prior to the current model year of which no more than 5,000 vehicles were sold within the United States during the model year the vehicle was manufactured.

This section does not apply to a nonselling motor vehicle show or public display of new motor vehicles. (2003-113, s. 1.)

§ 20-293: Repealed by Session Laws 1993, c. 440, s. 10.

§ 20-294. Grounds for denying, suspending, placing on probation, or revoking licenses.

The Division may deny, suspend, place on probation, or revoke a license issued under this Article for any one or more of the following grounds:

- (1) Making a material misstatement in an application for a license.
- (2) Willfully and intentionally failing to comply with this Article, Article 15 of this Chapter, or G.S. 20-52.1, 20-75, 20-79.1, 20-79.2, 20-108, 20-109, or a rule adopted by the Division under this Article.
- (3) Failing to have an established salesroom, if the license holder is a motor vehicle dealer, or failing to have an established office, if the license holder is a wholesaler.
- (4) Willfully defrauding any retail buyer, to the buyer's damage, or any other person in the conduct of the licensee's business.
- (5) Employing 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) Using 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) Being convicted of an offense set forth under G.S. 20-106, 20-106.1, 20-107, or 20-112 while holding such a license or within five years next preceding the date of filing the application; or being convicted of a felony involving moral turpitude under the laws of this State, another state, or the United States.
- (10) Submitting a bad check to the Division of Motor Vehicles in payment of highway use taxes collected by the licensee.
- (11) Knowingly giving an incorrect certificate of title, or failing to give a certificate of title to a purchaser, a lienholder, or the Division, as appropriate, after a vehicle is sold.
- (12) Making a material misstatement in an application for a dealer license plate.
- (13) Failure to pay a civil penalty imposed under G.S. 20-287. (1955, c. 1243, s. 10; 1963, c. 1102; 1967, c. 1126, s. 2; 1975, c. 716, s. 5; 1977, c. 560, s. 3; 1983, c. 704, s. 4; 1985, c. 687; ss. 1, 2; 1991, c. 193, s. 2; 1993, c. 440, s. 11; 2001-345, ss. 3, 4; 2010-132, s. 16; 2014-108, s. 5(a).)

§ 20-295. Action on application.

The Division shall either grant or deny an application for a license within 30 days after receiving it. Any applicant denied a license shall, upon filing a written request within 30 days, be given a hearing at the time and place determined by the Commissioner or a person designated by the Commissioner. A hearing shall be public and shall be held with reasonable promptness. (1955, c. 1243, s. 11; 1975, c. 716, s. 5; 1993, c. 440, s. 1.)

§ 20-296. Notice and hearing upon denial, suspension, revocation, placing on probation, or refusal to renew license.

No license shall be suspended, revoked, denied, placed on probation, or renewal thereof refused, until a written notice of the complaint made has been furnished to the licensee against whom the same is directed, and a hearing thereon has been had before the Commissioner, or a person designated by him. At least 10 days' written notice of the time and place of such hearing shall be given to the licensee by certified mail with return receipt requested to his last known address as shown on his license or other record of information in possession of the Division. At any such hearing, the licensee shall have the right to be heard personally or by counsel. After hearing, the Division shall have power to suspend, revoke, place on probation, or refuse to renew the license in question. Immediate notice of any such action shall be given to the licensee in accordance with G.S. 1A-1, Rule 4(j) of the Rules of Civil Procedure. (1955, c. 1243, s. 12; 1975, c. 716, s. 5; 1981, c. 108; 2014-108, s. 6(a).)

§ 20-297. Retention and inspection of certain records.

(a) Vehicles. – A dealer must keep a record of all vehicles received by the dealer and all vehicles sold by the dealer. The records must contain the information that the Division requires and be made available for inspection by the Division within a reasonable period of time after being requested by the Division. A dealer may satisfy the record-keeping requirements contained in this subsection either by (i) keeping and maintaining written or paper records at the dealership facility where the vehicles were sold or at another site within this State provided that the location and the name of a designated contact agent are provided to the Division or (ii) maintaining electronic copies of the records required by this subsection, provided that the Division shall have access to these electronic records from a location within this State. For purposes of this section, the location where dealership written or electronic records are kept and maintained may be owned and operated by a party other than the dealer.

(b) Inspection. – The Division may inspect the pertinent books, records, letters, and contracts of a licensee relating to any written complaint made to the Division against the licensee.

(c) Records Format. – Any record required to be kept and maintained under this section may be converted to electronic form and retained by a dealer in electronic form without retention of the original or any copies of the record in paper or other nonelectronic form. (1955, c. 1243, s. 13; 1975, c. 716, s. 5; 1995, c. 163, s. 5; 2007-481, s. 3; 2016-74, s. 1.)

§ 20-297.1. Franchise-related form agreements.

(a) All franchise-related form agreements, as defined in this subsection, offered to a motor vehicle dealer in this State shall provide that all terms and conditions in the agreement inconsistent with any of the laws or rules of this State are of no force and effect. For purposes of this section, the term "franchise-related form agreements" means one or more contracts between a franchised motor vehicle dealer and a manufacturer, factory branch, distributor, or distributor branch, including a written communication from a manufacturer or distributor in which a duty is imposed on the franchised motor vehicle dealer under which:

- (1) The franchised motor vehicle dealer is granted the right to sell and service new motor vehicles manufactured or distributed by the manufacturer or distributor or only to service motor vehicles under the contract and a manufacturer's warranty;
- (2) The franchised motor vehicle dealer is a component of the manufacturer or distributor's distribution system as an independent business;

- (3) The franchised motor vehicle dealer is substantially associated with the manufacturer or distributor's trademark, trade name, and commercial symbol;
 - (4) The franchised motor vehicle dealer's business substantially relies on the manufacturer or distributor for a continued supply of motor vehicles, parts, and accessories; or
 - (5) Any right, duty, or obligation granted or imposed by this Chapter is affected.
- (b) Notwithstanding the terms of any franchise or agreement, it shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch to offer to a dealer, revise, modify, or replace a franchise-related form agreement, as defined above in this section, which agreement, modification, or replacement may adversely affect or alter the rights, obligations, or liability of a motor vehicle dealer or may adversely impair the sales, service obligations, investment, or profitability of any motor vehicle dealer located in this State, unless:
- (1) The manufacturer, factory branch, distributor, or distributor branch provides prior written notice by registered or certified mail to each affected dealer, the Commissioner, and the North Carolina Automobile Dealers Association, Inc., of the modification or replacement in the form and within the time frame set forth within this section and in subsection (c) of this section; and
 - (2) If a protest is filed under this section, the Commissioner approves the modification or replacement.
- (c) The notice required by subdivision (b)(1) of this section shall:
- (1) Be given not later than the 60th day before the effective date of the modification or replacement;
 - (2) Contain on its first page a conspicuous statement that reads: "NOTICE TO DEALER: YOU MAY BE ENTITLED TO FILE A PROTEST WITH THE COMMISSIONER OF THE NORTH CAROLINA DIVISION OF MOTOR VEHICLES AND HAVE A HEARING IN WHICH YOU MAY PROTEST THE PROPOSED INITIAL OFFERING, MODIFICATION, OR REPLACEMENT OF CERTAIN FRANCHISE-RELATED FORM AGREEMENTS UNDER THE TERMS OF THE MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSING LAW, IF YOU OPPOSE THIS ACTION"; and
 - (3) Contain a separate letter or statement that identifies all substantive modifications or revisions and the principal reasons for each such modification or revision.
- (d) A franchised dealer may file a protest with the Commissioner of the offering, modification, or replacement pursuant to this section not later than the latter of:
- (1) The 60th day after the date of the receipt of the notice; or
 - (2) The time specified in the notice.
- (e) After a protest is filed, the Commissioner shall determine whether the manufacturer, factory branch, distributor, or distributor branch has established by a preponderance of the evidence that there is good cause for the proposed offering, modification, or replacement. The prior franchise-related form agreement, if any, continues in effect until the Commissioner resolves the protest.
- (f) The Commissioner is authorized and directed to investigate and prevent violations of this section, including inconsistencies of any franchise-related form agreement with the provisions of this Article.

(g) Nothing contained in this section shall in any way limit a dealer's rights under any other provision of this Article or other applicable law. (1997-319, s. 1; 2005-409, s. 1.)

§ 20-298. Insurance.

It shall be unlawful for any dealer or salesman or any employee of any dealer, to coerce or offer anything of value to any purchaser of a motor vehicle to provide any type of insurance coverage on said motor vehicle. No dealer, salesman or representative of either shall accept any policy as collateral on any vehicle sold by him to secure an interest in such vehicle in any company not qualified under the insurance laws of this State: Provided, nothing in this Article shall prevent a dealer or his representative from requiring adequate insurance coverage on a motor vehicle which is the subject of an installment sale. (1955, c. 1243, s. 14.)

§ 20-299. Acts of officers, directors, partners, salesmen and other representatives.

(a) If a licensee is a copartnership or a corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director or partner of the copartnership or corporation has committed any act or omitted any duty which would be cause for refusing, suspending or revoking a license to such party as an individual. Each licensee shall be responsible for the acts of any or all of his salesmen while acting as his agent.

(b) Every licensee who is a manufacturer or a factory branch shall be responsible for the acts of any or all of its agents and representatives while acting in the conduct of said licensee's business whether or not such licensee approved, authorized, or had knowledge of such acts. (1955, c. 1243, s. 15; 1973, c. 559.)

§ 20-300. Appeals from actions of Commissioner.

Appeals from actions of the Commissioner shall be governed by the provisions of Chapter 150B of the General Statutes. (1955, c. 1243, s. 16; 1973, c. 1331, s. 3; 1987, c. 827, s. 1.)

§ 20-301. Powers of Commissioner.

(a) The Commissioner shall promote the interests of the retail buyer of motor vehicles.

(b) The Commissioner shall have power to prevent unfair methods of competition and unfair or deceptive acts or practices and other violations of this Article. Any franchised new motor vehicle dealer who believes that a manufacturer, factory branch, distributor, or distributor branch with whom the dealer holds a currently valid franchise has violated or is currently violating any provision of this Article may file a petition before the Commissioner setting forth the factual and legal basis for such violations. The Commissioner shall promptly forward a copy of the petition to the named manufacturer, factory branch, distributor, or distributor branch requesting a reply to the petition within 30 days. Allowing for sufficient time for the parties to conduct discovery, the Commissioner or his designee shall then hold an evidentiary hearing and render findings of fact and conclusions of law based on the evidence presented. Any parties to a hearing by the Commissioner concerning the establishment or relocating of a new motor vehicle dealer shall have a right of review of the decision in a court of competent jurisdiction pursuant to Chapter 150B of the General Statutes.

(c) The Commissioner shall have the power in hearings arising under this Article to enter scheduling orders and limit the time and scope of discovery; to determine the date, time, and place where hearings are to be held; to subpoena witnesses; to take depositions of witnesses; and to administer oaths.

(d) The Commissioner may, whenever he shall believe from evidence submitted to him that any person has been or is violating any provision of this Article, in addition to any other remedy, bring an action in the name of the State against that person and any other persons concerned or in any way participating in, or about to participate in practices or acts so in violation, to enjoin any persons from continuing the violations.

(e) The Commissioner may issue rules and regulations to implement the provisions of this section and to establish procedures related to administrative proceedings commenced under this section.

(f) In the event that a dealer, who is permitted or required to file a notice, protest, or petition before the Commissioner within a certain period of time in order to adjudicate, enforce, or protect rights afforded the dealer under this Article, voluntarily elects to appeal a policy, determination, or decision of the manufacturer through an appeals board or internal grievance procedure of the manufacturer, or to participate in or refer the matter to mediation, arbitration, or other alternative dispute resolution procedure or process established or endorsed by the manufacturer, the applicable period of time for the dealer to file the notice, protest, or petition before the Commissioner under this Article shall not commence until the manufacturer's appeal board or internal grievance procedure, mediation, arbitration, or appeals process of the manufacturer has been completed and the dealer has received notice in writing of the final decision or result of the procedure or process. Nothing, however, contained in this subsection shall be deemed to require that any dealer exhaust any internal grievance or other alternative dispute process required or established by the manufacturer before seeking redress from the Commissioner as provided in this Article.

(g) Notwithstanding any other statute, regulation, or rule or the existence of a pending legal or administrative proceeding in any other forum any franchised new motor vehicle dealer or any manufacturer, factory branch, distributor, or distributor branch may elect to file a petition before the Commissioner for resolution of any dispute that may arise with respect to any of the rights or obligations of the dealer or of the manufacturer, factory branch, distributor, or distributor branch related to a franchise or franchise-related form agreement. The Commissioner shall have the authority to apply principles of law, equity, and good faith in determining such matters. The filing of a petition by a dealer or a manufacturer, factory branch, distributor, or distributor branch pursuant to this section shall not preclude the party filing the petition from pursuing any other form of recourse it may have, either before the Commissioner or in another form, including any damages and injunctive relief. The Commissioner shall have the authority to receive and evaluate the facts in the matter of controversy and render a decision by entering an order which shall thereafter become binding and enforceable with respect to the parties, subject to the right of review of the decision in a court of competent jurisdiction pursuant to Chapter 150B of the General Statutes. (1955, c. 1243, s. 17; 1983, c. 704, s. 23; 1991, c. 510, s. 1; 1997-319, s. 2; 1999-335, s. 1; 2011-290, s. 3.)

§ 20-301.1. Notice of additional charges against dealer's account; informal appeals procedure.

(a) Notwithstanding the terms of any contract, franchise, novation, or agreement, it shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch to charge or assess one of its franchised motor vehicle dealers located in this State, or to charge or debit the account of the franchised motor vehicle dealer for merchandise, tools, or equipment, or other charges or amounts which total more [than] five thousand dollars (\$5,000), other than the

published cost of new motor vehicles, and merchandise, tools, or equipment specifically ordered by the franchised motor vehicle dealer, unless the franchised motor vehicle dealer receives a detailed itemized description of the nature and amount of each charge in writing at least 10 days prior to the date the charge or account debit is to become effective or due. For purposes of this subsection, the prior written notice required pursuant to this subsection includes, but is not limited to, all charges or debits to a dealer's account for advertising or advertising materials; advertising or showroom displays; customer informational materials; computer or communications hardware or software; special tools; equipment; dealership operation guides; Internet programs; and any additional charges or surcharges made or proposed for merchandise, tools, or equipment previously charged to the dealer; and any other charges or amounts which total more than five thousand dollars (\$5,000). If the franchised new motor vehicle dealer disputes all or any portion of an actual or proposed charge or debit to the dealer's account, the dealer may proceed as provided in G.S. 20-301(b) and G.S. 20-308.1. Upon the filing of a petition pursuant to G.S. 20-301(b) or a civil action pursuant to G.S. 20-308.1, the affected manufacturer, factory branch, distributor, or distributor branch shall not require payment from the dealer, or debit or charge the dealer's account, unless and until a final judgment supporting the payment or charge has been rendered by the Commissioner or court.

(b) Any franchised new motor vehicle dealer who seeks to challenge an actual or proposed charge, debit, payment, reimbursement, or credit to the franchised new motor vehicle dealer or to the franchised new motor vehicle dealer's account in an amount less than or equal to ten thousand dollars (\$10,000) and that is in violation of this Article or contrary to the terms of the franchise may, prior to filing a formal petition before the Commissioner as provided in G.S. 20-301(b) or a civil action in any court of competent jurisdiction under G.S. 20-308.1, request and obtain a mediated settlement conference as provided in this subsection. Unless objection to the timeliness of the franchised new motor vehicle dealer's request for mediation under this subsection is waived in writing by the affected manufacturer, factory branch, distributor, or distributor branch, a franchised new motor vehicle dealer's request to mediate must be sent to the Commissioner within 75 days after the franchised new motor vehicle dealer's receipt of written notice from a manufacturer, factory branch, distributor, or distributor branch of the charges, debits, payments, reimbursements, or credits challenged by the franchised new motor vehicle dealer. If the franchised new motor vehicle dealer has requested in writing that the manufacturer, factory branch, distributor, or distributor branch review the questioned charges, debits, payments, reimbursements, or credits, a franchised new motor vehicle dealer's request to mediate must be sent to the Commissioner within 30 days after the franchised new motor vehicle dealer's receipt of the final written determination on the issue from the manufacturer, factory branch, distributor, or distributor branch.

- (1) It is the policy and purpose of this subsection to implement a system of settlement events that are designed to reduce the cost of litigation under this Article to the general public and the parties, to focus the parties' attention on settlement rather than on trial preparation, and to provide a structured opportunity for settlement negotiations to take place.
- (2) The franchised new motor vehicle dealer shall send a letter to the Commissioner by certified or registered mail, return receipt requested, identifying the actual or proposed charges the franchised new motor vehicle dealer seeks to challenge and the reason or basis for the challenge. The charges, debits, payments, reimbursements, or credits challenged by the

franchised new motor vehicle dealer need not be related, and multiple issues may be resolved in a single proceeding. The franchised new motor vehicle dealer shall send a copy of the letter to the affected manufacturer, factory branch, distributor, or distributor branch, addressed to the current district, zone, or regional manager in charge of overseeing the dealer's operations, or the registered agent for acceptance of legal process in this State. Upon the mailing of a letter to the Commissioner and the manufacturer, factory branch, distributor, or distributor branch pursuant to this subsection, any chargeback to or any payment required of a franchised new motor vehicle dealer by a manufacturer, factory branch, distributor, or distributor branch shall be stayed during the pendency of the mediation. Upon the mailing of a letter to the Commissioner and manufacturer, factory branch, distributor, or distributor branch pursuant to this subsection, any statute of limitation or other time limitation for filing a petition before the Commissioner or civil action shall be tolled during the pendency of the mediation.

- (3) Upon receipt of the written request of the franchised new motor vehicle dealer, the Commissioner shall appoint a mediator and send notice of that appointment to the parties. A person is qualified to serve as mediator as provided by this subdivision if the person is certified to serve as a mediator under Rule 8 of the North Carolina Rules Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions and does not represent motor vehicle dealers or manufacturers, factory branches, distributors, or distributor branches. A mediator acting pursuant to this subdivision shall have judicial immunity in the same manner and to the same extent as a judge of the General Court of Justice.
- (4) The parties shall by written agreement select a venue and schedule for the mediated settlement conference conducted under this subsection. If the parties are unable to agree on a venue and schedule, the mediator shall select a venue and schedule. Except by written agreement of all parties, a mediation proceeding and mediated settlement conference under this subsection shall be held in North Carolina.
- (5) In this subsection, "mediation" means a nonbinding forum in which an impartial person, the mediator, facilitates communication between parties to promote reconciliation, settlement, or understanding among them. A mediator may not impose his or her own judgment on the issues for that of the parties.
- (6) At least 10 days prior to the mediated settlement conference, the affected manufacturer, factory branch, distributor, or distributor branch shall, by certified or registered mail, return receipt requested, send the mediator and the franchised new motor vehicle dealer a detailed response to the allegations raised in the franchised new motor vehicle dealer's written request. The mediation may be conducted by officers or employees of the parties themselves without the appearance of legal counsel. However, at least 10 days prior to the mediated settlement conference, either party may give notice to the other and to the mediator of its intention to appear at the mediation with legal counsel, in which event either party may appear at the mediation with legal counsel.

- (7) A mediation proceeding conducted pursuant to this subsection shall be complete not later than the sixtieth day after the date of the Commissioner's notice of the appointment of the mediator; this deadline may be extended by written agreement of the parties. The parties shall be solely responsible for the compensation and expenses of the mediator on a 50/50 basis. The Commissioner is not liable for the compensation paid or to be paid a mediator employed pursuant to this subsection.
- (8) A party may attend a mediated settlement conference telephonically in lieu of personal appearance. If a party or other person required to attend a mediated settlement conference fails to attend without good cause, the Commissioner may impose upon the party or person any appropriate monetary sanction, including the payment of fines, attorneys' fees, mediator fees, expenses, and loss of earnings incurred by persons attending the conference.
- (9) If the mediation fails to result in a resolution of the dispute, the franchised new motor vehicle dealer may proceed as provided in G.S. 20-301(b) and G.S. 20-308.1. Upon the filing of a petition pursuant to G.S. 20-301(b) or a civil action pursuant to G.S. 20-308.1, the affected manufacturer, factory branch, distributor, or distributor branch shall not require payment from the dealer, or debit or charge the dealer's account, unless and until a final judgment supporting the payment or charge has been rendered by the Commissioner or court. All communications made during a mediation proceeding, including, but not limited to, those communications made during a mediated settlement conference are presumed to be made in compromise negotiation and shall be governed by Rule 408 of the North Carolina Rules of Evidence. (2001-510, s. 1; 2011-290, s. 4.)

§ 20-302. Rules and regulations.

The Commissioner may make such rules and regulations, not inconsistent with the provisions of this Article, as he shall deem necessary or proper for the effective administration and enforcement of this Article, provided that a copy of such rules and regulations shall be mailed to each motor vehicle dealer licensee 30 days prior to the effective date of such rules and regulations. (1955, c. 1243, s. 18.)

§ 20-303. Installment sales to be evidenced by written instrument; statement to be delivered to buyer.

(a) Every retail installment sale shall be evidenced by one or more instruments in writing, which shall contain all the agreements of the parties and shall be signed by the buyer.

(b) For every retail installment sale, prior to or about the time of the delivery of the motor vehicle, the seller shall deliver to the buyer a written statement describing clearly the motor vehicle sold to the buyer, the cash sale price thereof, the cash paid down by the buyer, the amount credited the buyer for any trade-in and a description of the motor vehicle traded, the amount of the finance charge, the amount of any other charge specifying its purpose, the net balance due from the buyer, the terms of the payment of such net balance and a summary of any insurance protection to be effected. The written statement shall be signed by the buyer. (1955, c. 1243, s. 19; 2007-513, s. 1.)

§ 20-304. Coercion of retail dealer by manufacturer or distributor in connection with installment sales contract prohibited.

(a) It shall be unlawful for any manufacturer, wholesaler or distributor, or any officer, agent or representative of either, to coerce, or attempt to coerce, any retail motor vehicle dealer or prospective retail motor vehicle dealer in this State to sell, assign or transfer any retail installment sales contract, obtained by such dealer in connection with the sale by him in this State of motor vehicles manufactured or sold by such manufacturer, wholesaler, or distributor, to a specified finance company or class of such companies, or to any other specified persons, by any of the acts or means hereinafter set forth, namely:

- (1) By any statement, suggestion, promise or threat that such manufacturer, wholesaler, or distributor will in any manner benefit or injure such dealer, whether such statement, suggestion, threat or promise is expressed or implied, or made directly or indirectly,
- (2) By any act that will benefit or injure such dealer,
- (3) By any contract, or any expressed or implied offer of contract, made directly or indirectly to such dealer, for handling motor vehicles, on the condition that such dealer sell, assign or transfer his retail installment sales contract thereon, in this State, to a specified finance company or class of such companies, or to any other specified person,
- (4) By any expressed or implied statement or representation, made directly or indirectly, that such dealer is under any obligation whatsoever to sell, assign or transfer any of his retail sales contracts, in this State, on motor vehicles manufactured or sold by such manufacturer, wholesaler, or distributor to such finance company, or class of companies, or other specified person, because of any relationship or affiliation between such manufacturer, wholesaler, or distributor and such finance company or companies or such other specified person or persons.

(b) Any such statements, threats, promises, acts, contracts, or offers of contracts, when the effect thereof may be to lessen or eliminate competition, or tend to create a monopoly, are declared unfair trade practices and unfair methods of competition and against the public policy of this State, are unlawful and are hereby prohibited. (1955, c. 1243, s. 20.)

§ 20-305. Coercing dealer to accept commodities not ordered; threatening to cancel franchise; preventing transfer of ownership; granting additional franchises; terminating franchises without good cause; preventing family succession.

It shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch, or any field representative, officer, agent, or any representative whatsoever of any of them:

- (1) To require, coerce, or attempt to coerce any dealer to accept delivery of any motor vehicle or vehicles, parts or accessories therefor, or any other commodities, which shall not have been ordered by that dealer, or to accept delivery of any motor vehicle or vehicles which have been equipped in a manner other than as specified by the dealer.
- (2) To require, coerce, or attempt to coerce any dealer to enter into any agreement with such manufacturer, factory branch, distributor, or distributor branch, or representative thereof, or do any other act unfair to such dealer, by threatening

- to cancel any franchise existing between such manufacturer, factory branch, distributor, distributor branch, or representative thereof, and such dealer;
- (3) **(See Editor's note for applicability)** Unfairly without due regard to the equities of the dealer, and without just provocation, to cancel the franchise of such dealer;
- (4) Notwithstanding the terms of any franchise agreement, to prevent or refuse to approve the sale or transfer of the ownership of a dealership by the sale of the business, stock transfer, or otherwise, or the transfer, sale or assignment of a dealer franchise, or a change in the executive management or principal operator of the dealership, change in use of an existing facility to provide for the sales or service of one or more additional line-makes of new motor vehicles, or relocation of the dealership to another site within the dealership's relevant market area, if the Commissioner has determined, if requested in writing by the dealer within 30 days after receipt of an objection to the proposed transfer, sale, assignment, relocation, or change, and after a hearing on the matter, that the failure to permit or honor the transfer, sale, assignment, relocation, or change is unreasonable under the circumstances. No franchise may be transferred, sold, assigned, relocated, or the executive management or principal operators changed, or the use of an existing facility changed, unless the franchisor has been given at least 30 days' prior written notice as to the proposed transferee's name and address, financial ability, and qualifications of the proposed transferee, a copy of the purchase agreement between the dealership and the proposed transferee, the identity and qualifications of the persons proposed to be involved in executive management or as principal operators, and the location and site plans of any proposed relocation or change in use of a dealership facility. The franchisor shall send the dealership and the proposed transferee notice of objection, by registered or certified mail, return receipt requested, to the proposed transfer, sale, assignment, relocation, or change within 30 days after receipt of notice from the dealer, as provided in this section. The notice of objection shall state in detail all factual and legal bases for the objection on the part of the franchisor to the proposed transfer, sale, assignment, relocation, or change that is specifically referenced in this subdivision. An objection to a proposed transfer, sale, assignment, relocation, or change in the executive management or principal operator of the dealership or change in the use of the facility may only be premised upon the factual and legal bases specifically referenced in this subdivision or G.S. 20-305(11), as it relates to change in the use of a facility. A manufacturer's notice of objection which is based upon factual or legal issues that are not specifically referenced in this subdivision or G.S. 20-305(11) with respect to a change in the use of an existing facility as being issues upon which the Commissioner shall base his determination shall not be effective to preserve the franchisor's right to object to the proposed transfer sale, assignment, relocation, or change, provided the dealership or proposed transferee has submitted written notice, as required above, as to the proposed transferee's name and address, financial ability, and qualifications of the proposed transferee, a copy of the purchase agreement between the dealership and the proposed transferee, the identity and

qualifications of the persons proposed to be involved in the executive management or as principal operators, and the location and site plans of any proposed relocation or change in the use of an existing facility. Failure by the franchisor to send notice of objection within 30 days shall constitute waiver by the franchisor of any right to object to the proposed transfer, sale, assignment, relocation, or change. If the franchisor requires additional information to complete its review, the franchisor shall notify the dealership within 15 days after receipt of the proposed transferee's name and address, financial ability, and qualifications, a copy of the purchase agreement between the dealership and the proposed transferee, the identity and qualifications of the persons proposed to be involved in executive management or as principal operators, and the location and site plans of any proposed relocation or change in use of the dealership facility. If the franchisor fails to request additional information from the dealer or proposed transferee within 15 days of receipt of this initial information, the 30-day time period within which the franchisor may provide notice of objection shall be deemed to run from the initial receipt date. Otherwise, the 30-day time period within which the franchisor may provide notice of objection shall run from the date the franchisor has received the supplemental information requested from the dealer or proposed transferee; provided, however, that failure by the franchisor to send notice of objection within 60 days of the franchisor's receipt of the initial information from the dealer shall constitute waiver by the franchisor of any right to object to the proposed transfer, sale, assignment, relocation, or change. With respect to a proposed transfer of ownership, sale, or assignment, the sole issue for determination by the Commissioner and the sole issue upon which the Commissioner shall hear or consider evidence is whether, by reason of lack of good moral character, lack of general business experience, or lack of financial ability, the proposed transferee is unfit to own the dealership. For purposes of this subdivision, the refusal by the manufacturer to accept a proposed transferee who is of good moral character and who otherwise meets the written, reasonable, and uniformly applied business experience and financial requirements, if any, required by the manufacturer of owners of its franchised automobile dealerships is presumed to demonstrate the manufacturer's failure to prove that the proposed transferee is unfit to own the dealership. With respect to a proposed change in the executive management or principal operator of the dealership, the sole issue for determination by the Commissioner and the sole issue on which the Commissioner shall hear or consider evidence shall be whether, by reason of lack of training, lack of prior experience, poor past performance, or poor character, the proposed candidate for a position within the executive management or as principal operator of the dealership is unfit for the position. For purposes of this subdivision, the refusal by the manufacturer to accept a proposed candidate for executive management or as principal operator who is of good moral character and who otherwise meets the written, reasonable, and uniformly applied standards or qualifications, if any, of the manufacturer relating to the business experience and prior performance of executive management required by the

manufacturers of its dealers is presumed to demonstrate the manufacturer's failure to prove the proposed candidate for executive management or as principal operator is unfit to serve the capacity. With respect to a proposed change in use of a dealership facility to provide for the sales or service of one or more additional line-makes of new motor vehicles, the sole issue for determination by the Commissioner is whether the new motor vehicle dealer has a reasonable line of credit for each make or line of motor vehicle and remains in compliance with any reasonable capital standards and facilities requirements of the manufacturer or distributor. The reasonable facilities requirements of the manufacturer or distributor shall not include any requirement that a new motor vehicle dealer establish or maintain exclusive facilities, personnel, or display space. With respect to a proposed relocation or other proposed change, the issue for determination by the Commissioner is whether the proposed relocation or other change is unreasonable under the circumstances. For purposes of this subdivision, the refusal by the manufacturer to agree to a proposed relocation which meets the written, reasonable, and uniformly applied standards or criteria, if any, of the manufacturer relating to dealer relocations is presumed to demonstrate that the manufacturer's failure to prove the proposed relocation is unreasonable under the circumstances. The manufacturer shall have the burden of proof before the Commissioner under this subdivision. It is unlawful for a manufacturer to, in any way, condition its approval of a proposed transfer, sale, assignment, change in the dealer's executive management, principal operator, or appointment of a designated successor, on the existing or proposed dealer's willingness to construct a new facility, renovate the existing facility, acquire or refrain from acquiring one or more line-makes of vehicles, separate or divest one or more line-makes of vehicle, or establish or maintain exclusive facilities, personnel, or display space. It is unlawful for a manufacturer to, in any way, condition its approval of a proposed relocation on the existing or proposed dealer's willingness to acquire or refrain from acquiring one or more line-makes of vehicles, separate or divest one or more line-makes of vehicle, or establish or maintain exclusive facilities, personnel, or display space. The opinion or determination of a franchisor that the continued existence of one of its franchised dealers situated in this State is not viable, or that the dealer holds or fails to hold licensing rights for the sale of other line-makes of vehicles in a manner consistent with the franchisor's existing or future distribution or marketing plans, shall not constitute a lawful basis for the franchisor to fail or refuse to approve a dealer's proposed change in use of a dealership facility or relocation: provided, however, that nothing contained in this subdivision shall be deemed to prevent or prohibit a franchisor from failing to approve a dealer's proposed relocation on grounds that the specific site or facility proposed by the dealer is otherwise unreasonable under the circumstances. Approval of a relocation pursuant to this subdivision shall not in itself constitute the franchisor's representation or assurance of the dealer's viability at that location.

- (5) To enter into a franchise establishing an additional new motor vehicle dealer or relocating an existing new motor vehicle dealer into a relevant market area where the same line make is then represented without first notifying in writing the Commissioner and each new motor vehicle dealer in that line make in the relevant market area of the intention to establish an additional dealer or to relocate an existing dealer within or into that market area. Within 30 days of receiving such notice or within 30 days after the end of any appeal procedure provided by the manufacturer, any new motor vehicle dealer may file with the Commissioner a protest to the establishing or relocating of the new motor vehicle dealer. When a protest is filed, the Commissioner shall promptly inform the manufacturer that a timely protest has been filed, and that the manufacturer shall not establish or relocate the proposed new motor vehicle dealer until the Commissioner has held a hearing and has determined that there is good cause for permitting the addition or relocation of such new motor vehicle dealer.
- a. This section does not apply:
1. To the relocation of an existing new motor vehicle dealer within that dealer's relevant market area, provided that the relocation not be at a site within 10 miles of a licensed new motor vehicle dealer for the same line make of motor vehicle. If this sub-subdivision is applicable, only dealers trading in the same line-make of vehicle that are located within the 10-mile radius shall be entitled to notice from the manufacturer and have the protest rights afforded under this section.
 2. If the proposed additional new motor vehicle dealer is to be established at or within two miles of a location at which a former licensed new motor vehicle dealer for the same line make of new motor vehicle had ceased operating within the previous two years.
 3. To the relocation of an existing new motor vehicle dealer within two miles of the existing site of the new motor vehicle dealership if the franchise has been operating on a regular basis from the existing site for a minimum of three years immediately preceding the relocation.
 4. To the relocation of an existing new motor vehicle dealer if the proposed site of the relocated new motor vehicle dealership is further away from all other new motor vehicle dealers of the same line make in that relevant market area.
 5. Repealed by Session Laws 2008-156, s. 3, effective August 3, 2008.
- b. In determining whether good cause has been established for not entering into or relocating an additional new motor vehicle dealer for the same line make, the Commissioner shall take into consideration the existing circumstances, including, but not limited to:
1. The permanency of the investment of both the existing and proposed additional new motor vehicle dealers;

2. Growth or decline in population, density of population, and new car registrations in the relevant market area;
 3. Effect on the consuming public in the relevant market area;
 4. Whether it is injurious or beneficial to the public welfare for an additional new motor vehicle dealer to be established;
 5. Whether the new motor vehicle dealers of the same line make in that relevant market area are providing adequate competition and convenient customer care for the motor vehicles of the same line make in the market area which shall include the adequacy of motor vehicle sales and service facilities, equipment, supply of motor vehicle parts, and qualified service personnel;
 6. Whether the establishment of an additional new motor vehicle dealer or relocation of an existing new motor vehicle dealer in the relevant market area would increase competition in a manner such as to be in the long-term public interest; and
 7. The effect on the relocating dealer of a denial of its relocation into the relevant market area.
- c. The Commissioner shall try to conduct the hearing and render his final determination if possible, within 180 days after a protest is filed.
 - d. Any parties to a hearing by the Commissioner concerning the establishment or relocating of a new motor vehicle dealer shall have a right of review of the decision in a court of competent jurisdiction pursuant to Chapter 150B of the General Statutes.
 - e. In a hearing involving a proposed additional dealership, the manufacturer or distributor has the burden of proof under this section. In a proceeding involving the relocation of an existing dealership, the dealer seeking to relocate has the burden of proof under this section.
 - f. If the Commissioner determines, following a hearing, that good cause exists for permitting the proposed additional or relocated motor vehicle dealership, the dealer seeking the proposed additional or relocated motor vehicle dealership must, within two years, obtain a license from the Commissioner for the sale of vehicles at the relevant site, and actually commence operations at the site selling new motor vehicles of all line makes, as permitted by the Commissioner. Failure to obtain a permit and commence sales within two years shall constitute waiver by the dealer of the dealer's right to the additional or relocated dealership, requiring renotification, a new hearing, and a new determination as provided in this section. If the Commissioner fails to determine that good cause exists for permitting the proposed additional or relocated motor vehicle dealership, the manufacturer seeking the proposed additional dealership or dealer seeking to relocate may not again provide notice of its intention or otherwise attempt to establish an additional dealership or relocate to any location within 10 miles of the site of the original proposed additional dealership or relocation site

for a minimum of three years from the date of the Commissioner's determination.

- g. **(See Editor's note for applicability)** For purposes of this subdivision, the addition, creation, or operation of a "satellite" or other facility, not physically part of or contiguous to an existing licensed new motor vehicle dealer, whether or not owned or operated by a person or other entity holding a franchise as defined by G.S. 20-286(8a), at which warranty service work authorized or reimbursed by a manufacturer is performed or at which new motor vehicles are offered for sale to the public, shall be considered an additional new motor vehicle dealer requiring a showing of good cause, prior notification to existing new motor vehicle dealers of the same line make of vehicle within the relevant market area by the manufacturer and the opportunity for a hearing before the Commissioner as provided in this subdivision.
- (6) Notwithstanding the terms, provisions or conditions of any franchise or notwithstanding the terms or provisions of any waiver, to terminate, cancel or fail to renew any franchise with a licensed new motor vehicle dealer unless the manufacturer has satisfied the notice requirements of sub-subdivision c. of this subdivision and the Commissioner has determined, if requested in writing by the dealer within (i) the time period specified in G.S. 20-305(6)c.1.II., III., or IV., as applicable, or (ii) the effective date of the franchise termination specified or proposed by the manufacturer in the notice of termination, whichever period of time is longer, and after a hearing on the matter, that there is good cause for the termination, cancellation, or nonrenewal of the franchise and that the manufacturer has acted in good faith as defined in this act regarding the termination, cancellation or nonrenewal. When such a petition is made to the Commissioner by a dealer for determination as to the existence of good cause and good faith for the termination, cancellation or nonrenewal of a franchise, the Commissioner shall promptly inform the manufacturer that a timely petition has been filed, and the franchise in question shall continue in effect pending the Commissioner's decision. The Commissioner shall try to conduct the hearing and render a final determination within 180 days after a petition has been filed. If the termination, cancellation or nonrenewal is pursuant to G.S. 20-305(6)c.1.III. then the Commissioner shall give the proceeding priority consideration and shall try to render his final determination no later than 90 days after the petition has been filed. Any parties to a hearing by the Commissioner under this section shall have a right of review of the decision in a court of competent jurisdiction pursuant to Chapter 150B of the General Statutes. Any determination of the Commissioner under this section finding that good cause exists for the nonrenewal, cancellation, or termination of any franchise shall automatically be stayed during any period that the affected dealer shall have the right to judicial review or appeal of the determination before the superior court or any other appellate court and during the pendency of any appeal; provided, however, that within 30 days of entry of the Commissioner's order, the affected dealer provide such security as the reviewing court, in its

discretion, may deem appropriate for payment of such costs and damages as may be incurred or sustained by the manufacturer by reason of and during the pendency of the stay. Although the right of the affected dealer to such stay is automatic, the procedure for providing such security and for the award of damages, if any, to the manufacturer upon dissolution of the stay shall be in accordance with G.S. 1A-1, Rule 65(d) and (e). No such security provided by or on behalf of any affected dealer shall be forfeited or damages awarded against a dealer who obtains a stay under this subdivision in the event the ownership of the affected dealership is subsequently transferred, sold, or assigned to a third party in accordance with this subdivision or subdivision (4) of this section and the closing on such transfer, sale, or assignment occurs no later than 180 days after the date of entry of the Commissioner's order. Furthermore, unless and until the termination, cancellation, or nonrenewal of a dealer's franchise shall finally become effective, in light of any stay or any order of the Commissioner determining that good cause exists for the termination, cancellation, or nonrenewal of a dealer's franchise as provided in this subdivision, a dealer who receives a notice of termination, cancellation, or nonrenewal from a manufacturer as provided in this subdivision shall continue to have the same rights to assign, sell, or transfer the franchise to a third party under the franchise and as permitted under G.S. 20-305(4) as if notice of the termination had not been given by the manufacturer. Any franchise under notice or threat of termination, cancellation, or nonrenewal by the manufacturer which is duly transferred in accordance with G.S. 20-305(4) shall not be subject to termination by reason of failure of performance or breaches of the franchise on the part of the transferor.

- a. Notwithstanding the terms, provisions or conditions of any franchise or the terms or provisions of any waiver, good cause shall exist for the purposes of a termination, cancellation or nonrenewal when:
 1. There is a failure by the new motor vehicle dealer to comply with a provision of the franchise which provision is both reasonable and of material significance to the franchise relationship provided that the dealer has been notified in writing of the failure within 180 days after the manufacturer first acquired knowledge of such failure;
 2. If the failure by the new motor vehicle dealer relates to the performance of the new motor vehicle dealer in sales or service, then good cause shall be defined as the failure of the new motor vehicle dealer to comply with reasonable performance criteria established by the manufacturer if the new motor vehicle dealer was apprised by the manufacturer in writing of the failure; and
 - I. The notification stated that notice was provided of failure of performance pursuant to this section;
 - II. The new motor vehicle dealer was afforded a reasonable opportunity, for a period of not less than 180 days, to comply with the criteria; and

- III. The new motor vehicle dealer failed to demonstrate substantial progress towards compliance with the manufacturer's performance criteria during such period and the new motor vehicle dealer's failure was not primarily due to economic or market factors within the dealer's relevant market area which were beyond the dealer's control.
- b. The manufacturer shall have the burden of proof under this section.
 - c. Notification of Termination, Cancellation and Nonrenewal. –
 1. Notwithstanding the terms, provisions or conditions of any franchise prior to the termination, cancellation or nonrenewal of any franchise, the manufacturer shall furnish notification of termination, cancellation or nonrenewal to the new motor vehicle dealer as follows:
 - I. In the manner described in G.S. 20-305(6)c2 below; and
 - II. Not less than 90 days prior to the effective date of such termination, cancellation or nonrenewal; or
 - III. Not less than 15 days prior to the effective date of such termination, cancellation or nonrenewal with respect to any of the following:
 - A. Insolvency of the new motor vehicle dealer, or filing of any petition by or against the new motor vehicle dealer under any bankruptcy or receivership law;
 - B. Failure of the new motor vehicle dealer to conduct its customary sales and service operations during its customary business hours for seven consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer;
 - C. Revocation of any license which the new motor vehicle dealer is required to have to operate a dealership;
 - D. Conviction of a felony involving moral turpitude, under the laws of this State or any other state, or territory, or the District of Columbia.
 - IV. Not less than 180 days prior to the effective date of such termination, cancellation, or nonrenewal which occurs as a result of any change in ownership, operation, or control of all or any part of the business of the manufacturer, factory branch, distributor, or distributor branch whether by sale or transfer of assets, corporate stock or other equity interest, assignment, merger, consolidation, combination, joint venture,

redemption, operation of law or otherwise; or the termination, suspension, or cessation of a part or all of the business operations of the manufacturers, factory branch, distributor, or distributor branch; or discontinuance of the sale of the line-make or brand, or a change in distribution system by the manufacturer whether through a change in distributors or the manufacturer's decision to cease conducting business through a distributor altogether.

- V. Unless the failure by the new motor vehicle dealer relates to the performance of the new motor vehicle dealer in sales or service, not more than one year after the manufacturer first acquired knowledge of the basic facts comprising the failure.
2. Notification under this section shall be in writing; shall be by certified mail or personally delivered to the new motor vehicle dealer; and shall contain:
 - I. A statement of intention to terminate, cancel or not to renew the franchise;
 - II. A detailed statement of all of the material reasons for the termination, cancellation or nonrenewal; and
 - III. The date on which the termination, cancellation or nonrenewal takes effect.
 3. Notification provided in G.S. 20-305(6)c1II of 90 days prior to the effective date of such termination, cancellation or renewal may run concurrent with the 180 days designated in G.S. 20-305(6)a2II provided the notification is clearly designated by a separate written document mailed by certified mail or personally delivered to the new motor vehicle dealer.
- d. Payments.
1. Notwithstanding the terms of any franchise, agreement, or waiver, upon the termination, nonrenewal or cancellation of any franchise by the manufacturer or distributor, the cessation of business or the termination, nonrenewal, or cancellation of any franchise by any new motor vehicle dealer located in this State, or upon any of the occurrences set forth in G.S. 20-305(6)c.1.IV., the manufacturer or distributor shall purchase from and compensate the new motor vehicle dealer for all of the following:
 - I. Each new and unsold motor vehicle within the new motor vehicle dealer's inventory that has been acquired within 24 months of the effective date of the termination from the manufacturer or distributor or another same line-make dealer in the ordinary course of business, and which has not been substantially altered or damaged to the prejudice of the manufacturer or

distributor while in the new motor vehicle dealer's possession, and which has been driven less than 1,000 miles or, for purposes of a recreational vehicle motor home as defined in G.S. 20-4.01(32b)c., less than 1,500 miles following the original date of delivery to the dealer, and for which no certificate of title has been issued. For purposes of this sub-subdivision, the term "ordinary course of business" shall include inventory transfers of all new, same line-make vehicles between affiliated dealerships, or otherwise between dealerships having common or interrelated ownership, provided that the transfer is not intended solely for the purpose of benefiting from the termination assistance described in this sub-subdivision.

- II. Unused, undamaged and unsold supplies and parts purchased from the manufacturer or distributor or sources approved by the manufacturer or distributor, at a price not to exceed the original manufacturer's price to the dealer, provided such supplies and parts are currently offered for sale by the manufacturer or distributor in its current parts catalogs and are in salable condition.
- III. Equipment, signs, and furnishings that have not been substantially altered or damaged and that have been required by the manufacturer or distributor to be purchased by the new motor vehicle dealer from the manufacturer or distributor, or their approved sources.
- IV. Special tools that have not been altered or damaged, normal wear and tear excepted, and that have been required by the manufacturer or distributor to be purchased by the new motor vehicle dealer from the manufacturer or distributor, or their approved sources within five years immediately preceding the termination, nonrenewal or cancellation of the franchise. The amount of compensation which shall be paid to the new motor vehicle dealer by the manufacturer or distributor shall be the net acquisition price if the item was acquired in the 12 months preceding the date of receipt of the dealer's request for compensation; seventy-five percent (75%) of the net acquisition price if the item was acquired between 13 and 24 months preceding the dealer's request for compensation; fifty percent (50%) of the net acquisition price if the item was acquired between 25 and 36 months preceding the dealer's request for compensation; twenty-five percent (25%) of the net

acquisition price if the item was acquired between 37 and 60 months preceding the dealer's request for compensation.

2. The compensation provided above shall be paid by the manufacturer or distributor not later than 90 days after the manufacturer or distributor has received notice in writing from or on behalf of the new motor vehicle dealer specifying the elements of compensation requested by the dealer; provided the new motor vehicle dealer has, or can obtain, clear title to the inventory and has conveyed, or can convey, title and possession of the same to the manufacturer or distributor. Within 15 days after receipt of the dealer's written request for compensation, the manufacturer or distributor shall send the dealer detailed written instructions and forms required by the manufacturer or distributor to effectuate the receipt of the compensation requested by the dealer. The manufacturer or distributor shall be obligated to pay or reimburse the dealer for any transportation charges associated with the repurchase obligations of the manufacturer or distributor under this sub-subdivision. The manufacturer or distributor shall also compensate the dealer for any handling, packing, or similar payments contemplated in the franchise. In no event may the manufacturer or distributor charge the dealer any handling, restocking, or other similar costs or fees associated with items repurchased by the manufacturer under this sub-subdivision.
3. In addition to the other payments set forth in this section, if a termination, cancellation, or nonrenewal is premised upon any of the occurrences set forth in G.S. 20-305(6)c.1.IV., then the manufacturer or distributor shall be liable to the dealer for an amount at least equivalent to the fair market value of the franchise on (i) the date the franchisor announces the action which results in termination, cancellation, or nonrenewal; or (ii) the date the action which results in termination, cancellation, or nonrenewal first became general knowledge; or (iii) the day 18 months prior to the date on which the notice of termination, cancellation, or nonrenewal is issued, whichever amount is higher. Payment is due not later than 90 days after the manufacturer or distributor has received notice in writing from, or on behalf of, the new motor vehicle dealer specifying the elements of compensation requested by the dealer. Any contract, agreement, or release entered into between any manufacturer and any dealer in which the dealer waives the dealer's right to receive monetary compensation in any sum or amount not less than the fair market value of the franchise as provided in this subdivision, including any contract, agreement, or release in which the dealer would accept the right to

continue to offer and be compensated for service, parts, or both service and parts provided by the dealer in lieu of receiving all or a portion of the fair market value of the franchise, shall be voidable at the election of the dealer within 90 days of the effective date of the agreement. If the termination, cancellation, or nonrenewal is due to a manufacturer's change in distributors, but the line-make or brand in this State would continue to be sold through the new distributor, the manufacturer may avoid paying fair market value to the dealer if the new distributor or the manufacturer offers the dealer a franchise agreement with terms acceptable to the dealer.

e. Dealership Facilities Assistance upon Termination, Cancellation or Nonrenewal.

In the event of the occurrence of any of the events specified in G.S. 20-305(6)d.1. above, except termination, cancellation or nonrenewal for license revocation, conviction of a crime involving moral turpitude, or fraud by a dealer-owner:

1. Subject to sub-sub-subdivision 3. of this sub-subdivision, if the new motor vehicle dealer is leasing the dealership facilities from a lessor other than the manufacturer or distributor, the manufacturer or distributor shall pay the new motor vehicle dealer a sum equivalent to the rent for the unexpired term of the lease or three year's rent, whichever is less, or such longer term as is provided in the franchise agreement between the dealer and manufacturer; except that, in the case of motorcycle dealerships, the manufacturer shall pay the new motor vehicle dealer the sum equivalent to the rent for the unexpired term of the lease or one year's rent, whichever is less, or such longer term as provided in the franchise agreement between the dealer and manufacturer; or
2. Subject to sub-sub-subdivision 3. of this sub-subdivision, if the new motor vehicle dealer owns the dealership facilities, the manufacturer or distributor shall pay the new motor vehicle dealer a sum equivalent to the reasonable rental value of the dealership facilities for three years, or for one year in the case of motorcycle dealerships.
3. In order to be entitled to facilities assistance from the manufacturer or distributor, as provided in this sub-subdivision, the dealer, owner, or lessee, as the case may be, shall have the obligation to mitigate damages by listing the demised premises for lease or sublease with a licensed real estate agent within 30 days after the effective date of the termination of the franchise and thereafter by reasonably cooperating with said real estate agent in the performance of the agent's duties and responsibilities. In the event that the dealer, owner, or lessee is able to lease or sublease the demised

premises, the dealer shall be obligated to pay the manufacturer the net revenue received from such mitigation up to the total amount of facilities assistance which the dealer has received from the manufacturer pursuant to sub-subdivisions 1. and 2. To the extent and for such uses and purposes as may be consistent with the terms of the lease, a manufacturer who pays facilities assistance to a dealer under this sub-subdivision shall be entitled to occupy and use the dealership facilities during the years for which the manufacturer shall have paid rent under sub-subdivisions 1. and 2.

4. In the event the termination relates to fewer than all of the franchises operated by the dealer at a single location, the amount of facilities assistance which the manufacturer or distributor is required to pay the dealer under this sub-subdivision shall be based on the proportion of gross revenue received from the sale and lease of new vehicles by the dealer and from the dealer's parts and service operations during the three years immediately preceding the effective date of the termination (or any shorter period that the dealer may have held these franchises) of the line-makes being terminated, in relation to the gross revenue received from the sale and lease of all line-makes of new vehicles by the dealer and from the total of the dealer's and parts and service operations from this location during the same three-year period.
5. The compensation required for facilities assistance under this sub-subdivision shall be paid by the manufacturer or distributor within 90 days after the manufacturer or distributor has received notice in writing from, or on behalf of, a new motor vehicle dealer specifying the elements of compensation requested by the dealer.
- f. The provisions of sub-subdivision e. above shall not be applicable when the termination, nonrenewal, or cancellation of the franchise agreement by a new motor vehicle dealer is the result of the sale of assets or stock of the motor vehicle dealership. The provisions of sub-subdivisions d. and e. above shall not be applicable when the termination, nonrenewal, or cancellation of the franchise agreement is at the initiation of a new motor vehicle dealer of recreational vehicle motor homes, as defined in G.S. 20-4.01(32b)c., provided that at the time of the termination, nonrenewal, or cancellation, the recreational vehicle manufacturer or distributor has paid to the dealer all claims for warranty or recall work, including payments for labor, parts, and other expenses, which were submitted by the dealer 30 days or more prior to the date of termination, nonrenewal, or cancellation.
- g. A franchise shall continue in full force and operation notwithstanding a change, in whole or in part, of an established plan or system of distribution of the motor vehicles offered for sale under the franchise.

The appointment of a new manufacturer, factory branch, distributor, or distributor branch for motor vehicles offered for sale under the franchise agreement shall be deemed to be a change of an established plan or system of distribution.

Upon the occurrence of the change, the Division shall deny an application of a manufacturer, factory branch, distributor, or distributor branch for a license or license renewal unless the applicant for a license as a manufacturer, factory branch, distributor, or distributor branch offers to each motor vehicle dealer who is a party to a franchise for that line-make a new franchise agreement containing substantially the same provisions which were contained in the previous franchise agreement or files an affidavit with the Division acknowledging its undertaking to assume and fulfill the rights, duties, and obligations of its predecessor under the previous franchise agreement.

- (7) Notwithstanding the terms of any contract or agreement, to prevent or refuse to honor the succession to a dealership, including the franchise, by a motor vehicle dealer's designated successor as provided for under this subsection.
- a. Any owner of a new motor vehicle dealership may appoint by will, or any other written instrument, a designated successor to succeed in the respective ownership interest or interest as principal operator of the owner in the new motor vehicle dealership, including the franchise, upon the death or incapacity of the owner or principal operator. In order for succession to the position of principal operator to occur by operation of law in accordance with sub-subdivision c. below, the owner's choice of a successor must be approved by the dealer, in accordance with the dealer's bylaws, if applicable, either prior or subsequent to the death or incapacity of the existing principal operator.
 - b. Any objections by a manufacturer or distributor to an owner's appointment of a designated successor shall be asserted in accordance with the following procedure:
 1. Within 30 days after receiving written notice of the identity of the owner's designated successor and general information as to the financial ability and qualifications of the designated successor, the franchisor shall send the owner and designated successor notice of objection, by registered or certified mail, return receipt requested, to the appointment of the designated successor. The notice of objection shall state in detail all facts which constitute the basis for the contention on the part of the manufacturer or distributor that good cause, as defined in this sub-subdivision below, exists for rejection of the designated successor. Failure by the franchisor to send notice of objection within 30 days and otherwise as provided in this sub-subdivision shall constitute waiver by the franchisor of any right to object to the appointment of the designated successor.

2. Any time within 30 days of receipt of the manufacturer's notice of objection the owner or the designated successor may file a request in writing with the Commissioner that the Commissioner hold an evidentiary hearing and determine whether good cause exists for rejection of the designated successor. When such a request is filed, the Commissioner shall promptly inform the affected manufacturer or distributor that a timely request has been filed.
3. The Commissioner shall endeavor to hold the evidentiary hearing required under this sub-subdivision and render a determination within 180 days after receipt of the written request from the owner or designated successor. In determining whether good cause exists for rejection of the owner's appointed designated successor, the manufacturer or distributor has the burden of proving that the designated successor is a person who is not of good moral character or does not meet the franchisor's existing written and reasonable standards and, considering the volume of sales and service of the new motor vehicle dealer, uniformly applied minimum business experience standards in the market area.
4. Any parties to a hearing by the Commissioner concerning whether good cause exists for the rejection of the dealer's designated successor shall have a right of review of the decision in a court of competent jurisdiction pursuant to Chapter 150B of the General Statutes.
5. Nothing in this sub-subdivision shall preclude a manufacturer or distributor from, upon its receipt of written notice from an owner of the identity of the owner's designated successor, requiring that the designated successor promptly provide personal and financial data that is reasonably necessary to determine the financial ability and qualifications of the designated successor; provided, however, that such a request for additional information shall not delay any of the time periods or constraints contained herein.
6. In the event death or incapacity of the owner or principal operator occurs prior to the time a manufacturer or distributor receives notice of the owner's appointment of a designated successor or before the Commissioner has rendered a determination as provided above, the existing franchise shall remain in effect and the designated successor shall be deemed to have succeeded to all of the owner's or principal operator's rights and obligations in the dealership and under the franchise until a determination is made by the Commissioner or the rights of the parties have otherwise become fixed in accordance with this sub-subdivision.

- c. Except as otherwise provided in sub-subdivision d. of this subdivision, any designated successor of a deceased or incapacitated owner or principal operator of a new motor vehicle dealership appointed by such owner in substantial compliance with this section shall, by operation of law, succeed at the time of such death or incapacity to all of the rights and obligations of the owner or principal operator in the new motor vehicle dealership and under either the existing franchise or any other successor, renewal, or replacement franchise.
- d. Within 60 days after the death or incapacity of the owner or principal operator, a designated successor appointed in substantial compliance with this section shall give the affected manufacturer or distributor written notice of his or her succession to the position of owner or principal operator of the new motor vehicle dealership; provided, however, that the failure of the designated successor to give the manufacturer or distributor written notice as provided above within 60 days of the death or incapacity of the owner or principal operator shall not result in the waiver or termination of the designated successor's right to succeed to the ownership of the new motor vehicle dealership unless the manufacturer or distributor gives written notice of this provision to either the designated successor or the deceased or incapacitated owner's executor, administrator, guardian or other fiduciary by certified or registered mail, return receipt requested, and said written notice grants not less than 30 days time within which the designated successor may give the notice required hereunder, provided the designated successor or the deceased or incapacitated owner's executor, administrator, guardian or other fiduciary has given the manufacturer reasonable notice of death or incapacity. Within 30 days of receipt of the notice by the manufacturer or distributor from the designated successor provided in this sub-subdivision, the manufacturer or distributor may request that the designated successor complete the application forms generally utilized by the manufacturer or distributor to review the designated successor's qualifications to establish a successor dealership. Within 30 days of receipt of the completed forms, the manufacturer or distributor shall send a letter by certified or registered mail, return receipt requested, advising the designated successor of facts and circumstances which have changed since the manufacturer's or distributor's original approval of the designated successor, and which have caused the manufacturer or distributor to object to the designated successor. Upon receipt of such notice, the designated successor may either designate an alternative successor or may file a request for evidentiary hearing in accordance with the procedures provided in sub-subdivisions b.2.-5. of this subdivision. In any such hearing, the manufacturer or distributor shall be limited to facts and circumstances which did not exist at the time the designated successor was originally approved or evidence which

was originally requested to be produced by the designated successor at the time of the original request and was fraudulent.

- e. The designated successor shall agree to be bound by all terms and conditions of the franchise in effect between the manufacturer or distributor and the owner at the time of the owner's or principal operator's death or incapacity, if so requested in writing by the manufacturer or distributor subsequent to the owner's or principal operator's death or incapacity.
 - f. This section does not preclude an owner of a new motor vehicle dealership from designating any person as his or her successor by written instrument filed with the manufacturer or distributor, and, in the event there is an inconsistency between the successor named in such written instrument and the designated successor otherwise appointed by the owner consistent with the provisions of this section, and that written instrument has not been revoked by the owner of the new motor vehicle dealership in writing to the manufacturer or distributor, then the written instrument filed with the manufacturer or distributor shall govern as to the appointment of the successor.
- (8) To require, coerce, or attempt to coerce any new motor vehicle dealer in this State to order or accept delivery of any new motor vehicle with special features, accessories or equipment not included in the list price of those motor vehicles as publicly advertised by the manufacturer or distributor.
 - (9) To require, coerce, or attempt to coerce any new motor vehicle dealer in this State to purchase nondiagnostic computer equipment or programs, to participate monetarily in an advertising campaign or contest, or to purchase unnecessary or unreasonable quantities of any promotional materials, training materials, training programs, showroom or other display decorations, materials, computer equipment or programs, or special tools at the expense of the new motor vehicle dealer, provided that nothing in this subsection shall preclude a manufacturer or distributor from including an unitemized uniform charge in the base price of the new motor vehicle charged to the dealer where such charge is attributable to advertising costs incurred or to be incurred by the manufacturer or distributor in the ordinary courses of its business.
 - (10) To require, coerce, or attempt to coerce any new motor vehicle dealer in this State to change the capital structure of the new motor vehicle dealer or the means by or through which the new motor vehicle dealer finances the operation of the dealership provided that the new motor vehicle dealer at all times meets any reasonable capital standards determined by the manufacturer in accordance with uniformly applied criteria; and also provided that no change in the capital structure shall cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor, provided that said consent shall not be unreasonably withheld.
 - (11) To require, coerce, or attempt to coerce any new motor vehicle dealer in this State to refrain from participation in the management of, investment in, or the acquisition of any other line of new motor vehicle or related products;

Provided, however, that this subsection does not apply unless the new motor vehicle dealer maintains a reasonable line of credit for each make or line of new motor vehicle, and the new motor vehicle dealer remains in compliance with any reasonable capital standards and facilities requirements of the manufacturer. The reasonable facilities requirements shall not include any requirement that a new motor vehicle dealer establish or maintain exclusive facilities, personnel, or display space.

- (12) To require, coerce, or attempt to coerce any new motor vehicle dealer in this State to change location of the dealership, or to make any substantial alterations to the dealership premises or facilities, when to do so would be unreasonable, or without written assurance of a sufficient supply of new motor vehicles so as to justify such an expansion, in light of the current market and economic conditions.
- (13) To require, coerce, or attempt to coerce any new motor vehicle dealer in this State to prospectively assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability to be imposed by this law or to require any controversy between a new motor vehicle dealer and a manufacturer, distributor, or representative, to be referred to any person other than the duly constituted courts of the State or the United States of America, or to the Commissioner, if such referral would be binding upon the new motor vehicle dealer.
- (14) To delay, refuse, or fail to deliver motor vehicles or motor vehicle parts or accessories in reasonable quantities relative to the new motor vehicle dealer's facilities and sales potential in the new motor vehicle dealer's market area as determined in accordance with reasonably applied economic principles, or within a reasonable time, after receipt of an order from a dealer having a franchise for the retail sale of any new motor vehicle sold or distributed by the manufacturer or distributor, any new vehicle, parts or accessories to new vehicles as are covered by such franchise, and such vehicles, parts or accessories as are publicly advertised as being available or actually being delivered. The delivery to another dealer of a motor vehicle of the same model and similarly equipped as the vehicle ordered by a motor vehicle dealer who has not received delivery thereof, but who has placed his written order for the vehicle prior to the order of the dealer receiving the vehicle, shall be evidence of a delayed delivery of, or refusal to deliver, a new motor vehicle to a motor vehicle dealer within a reasonable time, without cause. Additionally, except as may be required by any consent decree of the Commissioner or other order of the Commissioner or court of competent jurisdiction, any sales objectives which a manufacturer, factory branch, distributor, or distributor branch establishes for any of its franchised dealers in this State must be reasonable, and every manufacturer, factory branch, distributor, or distributor branch must allocate its products within this State in a manner that does all of the following:
 - a. Provides each of its franchised dealers in this State an adequate supply of vehicles by series, product line, and model in a fair, reasonable, and equitable manner based on each dealer's historical selling pattern and

reasonable sales standards as compared to other same line-make dealers in the State.

- b. Allocates an adequate supply of vehicles to each of its dealers by series, product line, and model so as to allow the dealer to achieve any performance standards established by the manufacturer and distributor.
- c. Is fair and equitable to all of its franchised dealers in this State.
- d. Makes available to each of its franchised dealers in this State a minimum of one of each vehicle series, model, or product line that the manufacturer makes available to any dealer in this State and advertises in the State as being available for purchase.
- e. Does not unfairly discriminate among its franchised dealers in its allocation process.

This subsection is not violated, however, if such failure is caused solely by the occurrence of temporary international, national, or regional product shortages resulting from natural disasters, unavailability of parts, labor strikes, product recalls, and other factors and events beyond the control of the manufacturer that temporarily reduce a manufacturer's product supply. The willful or malicious maintenance, creation, or alteration of a vehicle allocation process or formula by a manufacturer, factory branch, distributor, or distributor branch that is in any part designed or intended to force or coerce a dealer in this State to close or sell the dealer's franchise, cause the dealer financial distress, or to relocate, update, or renovate the dealer's existing dealership facility shall constitute an unfair and deceptive trade practice under G.S. 75-1.1.

- (15) To refuse to disclose to any new motor vehicle dealer, handling the same line make, the manner and mode of distribution of that line make within the State.
- (16) To award money, goods, services, or any other benefit to any new motor vehicle dealership employee, either directly or indirectly, unless such benefit is promptly accounted for, and transmitted to, or approved by, the new motor vehicle dealer.
- (17) To increase prices of new motor vehicles which the new motor vehicle dealer had ordered and which the manufacturer or distributor has accepted for immediate delivery for private retail consumers prior to the new motor vehicle dealer's receipt of the written official price increase notification. A sales contract signed by a private retail consumer shall constitute evidence of each such order provided that the vehicle is in fact delivered to that customer. Price differences applicable to new model or series shall not be considered a price increase or price decrease. Price changes caused by either: (i) the addition to a new motor vehicle of required or optional equipment; or (ii) revaluation of the United States dollar, in the case of foreign-make vehicles or components; or (iii) an increase in transportation charges due to increased rates imposed by carriers; or (iv) new tariffs or duties imposed by the United States of America or any other governmental authority, shall not be subject to the provisions of this subsection.
- (18) To prevent or attempt to prevent a dealer from receiving fair and reasonable compensation for the value of the franchised business transferred in accordance with G.S. 20-305(4) above, or to prevent or attempt to prevent,

through the exercise of any contractual right of first refusal or otherwise, a dealer located in this State from transferring the franchised business to such persons or other entities as the dealer shall designate in accordance with G.S. 20-305(4). The opinion or determination of a manufacturer that the existence or location of one of its franchised dealers situated in this State is not viable or is not consistent with the manufacturer's distribution or marketing forecast or plans shall not constitute a lawful basis for the manufacturer to fail or refuse to approve a dealer's proposed transfer of ownership submitted in accordance with G.S. 20-305(4), or "good cause" for the termination, cancellation, or nonrenewal of the franchise under G.S. 20-305(6) or grounds for the objection to an owner's designated successor appointed pursuant to G.S. 20-305(7).

- (19) To offer any refunds or other types of inducements to any person for the purchase of new motor vehicles of a certain line make to be sold to the State or any political subdivision thereof without making the same offer available upon request to all other new motor vehicle dealers in the same line make within the State.
- (20) To release to any outside party, except under subpoena or as otherwise required by law or in an administrative, judicial or arbitration proceeding involving the manufacturer or new motor vehicle dealer, any confidential business, financial, or personal information which may be from time to time provided by the new motor vehicle dealer to the manufacturer, without the express written consent of the new motor vehicle dealer.
- (21) To deny any new motor vehicle dealer the right of free association with any other new motor vehicle dealer for any lawful purpose.
- (22) To unfairly discriminate among its new motor vehicle dealers with respect to warranty reimbursements or authority granted its new motor vehicle dealers to make warranty adjustments with retail customers.
- (23) To engage in any predatory practice against or unfairly compete with a new motor vehicle dealer located in this State.
- (24) To terminate any franchise solely because of the death or incapacity of an owner who is not listed in the franchise as one on whose expertise and abilities the manufacturer relied in the granting of the franchise.
- (25) To require, coerce, or attempt to coerce a new motor vehicle dealer in this State to either establish or maintain exclusive facilities, personnel, or display space.
- (26) To resort to or to use any false or misleading advertisement in the conducting of its business as a manufacturer or distributor in this State.
- (27) To knowingly make, either directly or through any agent or employee, any material statement which is false or misleading or conceal any material facts which induce any new motor vehicle dealer to enter into any agreement or franchise or to take any action which is materially prejudicial to that new motor vehicle dealer or his business.
- (28) To require, coerce, or attempt to coerce any new motor vehicle dealer to purchase or order any new motor vehicle as a precondition to purchasing, ordering, or receiving any other new motor vehicle or vehicles. Nothing

herein shall prevent a manufacturer from requiring that a new motor vehicle dealer fairly represent and inventory the full line of current model year new motor vehicles which are covered by the franchise agreement, provided that such inventory representation requirements are not unreasonable under the circumstances.

- (29) To require, coerce, or attempt to coerce any new motor vehicle dealer to sell, transfer, or otherwise issue stock or other ownership interest in the dealership corporation to a general manager or any other person involved in the management of the dealership other than the dealer principal or dealer operator named in the franchise, unless the dealer principal or dealer operator is an absentee owner who is not involved in the operation of the dealership on a regular basis.
- (30) To vary the price charged to any of its franchised new motor vehicle dealers located in this State for new motor vehicles based on the dealer's purchase of new facilities, supplies, tools, equipment, or other merchandise from the manufacturer, the dealer's relocation, remodeling, repair, or renovation of existing dealerships or construction of a new facility, the dealer's participation in training programs sponsored, endorsed, or recommended by the manufacturer, whether or not the dealer is dualled with one or more other line makes of new motor vehicles, or the dealer's sales penetration. Except as provided in this subdivision, it shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch, or any field representative, officer, agent, or any representative whatsoever of any of them to vary the price charged to any of its franchised new motor vehicle dealers located in this State for new motor vehicles based on the dealer's sales volume, the dealer's level of sales or customer service satisfaction, the dealer's purchase of advertising materials, signage, nondiagnostic computer hardware or software, communications devices, or furnishings, or the dealer's participation in used motor vehicle inspection or certification programs sponsored or endorsed by the manufacturer.

The price of the vehicle, for purposes of this subdivision shall include the manufacturer's use of rebates, credits, or other consideration that has the effect of causing a variance in the price of new motor vehicles offered to its franchised dealers located in the State.

Notwithstanding the foregoing, nothing in this subdivision shall be deemed to preclude a manufacturer from establishing sales contests or promotions that provide or award dealers or consumers rebates or incentives; provided, however, that the manufacturer complies with all of the following conditions:

- a. With respect to manufacturer to consumer rebates and incentives, the manufacturer's criteria for determining eligibility shall:
 - 1. Permit all of the manufacturer's franchised new motor vehicle dealers in this State to offer the rebate or incentive; and
 - 2. Be uniformly applied and administered to all eligible consumers.

- b. With respect to manufacturer to dealer rebates and incentives, the rebate or incentive program shall:
1. Be based solely on the dealer's actual or reasonably anticipated sales volume or on a uniform per vehicle sold or leased basis;
 2. Be uniformly available, applied, and administered to all of the manufacturer's franchised new motor vehicle dealers in this State; and
 3. Provide that any of the manufacturer's franchised new motor vehicle dealers in this State may, upon written request, obtain the method or formula used by the manufacturer in establishing the sales volumes for receiving the rebates or incentives and the specific calculations for determining the required sales volumes of the inquiring dealer and any of the manufacturer's other franchised new motor vehicle dealers located within 75 miles of the inquiring dealer.

Nothing contained in this subdivision shall prohibit a manufacturer from providing assistance or encouragement to a franchised dealer to remodel, renovate, recondition, or relocate the dealer's existing facilities, provided that this assistance, encouragement, or rewards are not determined on a per vehicle basis.

It is unlawful for any manufacturer to charge or include the cost of any program or policy prohibited under this subdivision in the price of new motor vehicles that the manufacturer sells to its franchised dealers or purchasers located in this State.

In the event that as of October 1, 1999, a manufacturer was operating a program that varied the price charged to its franchised dealers in this State in a manner that would violate this subdivision, or had in effect a documented policy that had been conveyed to its franchised dealers in this State and that varied the price charged to its franchised dealers in this State in a manner that would violate this subdivision, it shall be lawful for that program or policy, including amendments to that program or policy that are consistent with the purpose and provisions of the existing program or policy, or a program or policy similar thereto implemented after October 1, 1999, to continue in effect as to the manufacturer's franchised dealers located in this State until June 30, 2022.

In the event that as of June 30, 2001, a manufacturer was operating a program that varied the price charged to its franchised dealers in this State in a manner that would violate this subdivision, or had in effect a documented policy that had been conveyed to its franchised dealers in this State and that varied the price charged to its franchised dealers in this State in a manner that would violate this subdivision, and the program or policy was implemented in this State subsequent to October 1, 1999, and prior to June 30, 2001, and provided that the program or policy is in compliance with this subdivision as it existed as of June 30, 2001, it shall be lawful for that program or policy, including amendments to that program or policy that comply with this

subdivision as it existed as of June 30, 2001, to continue in effect as to the manufacturer's franchised dealers located in this State until June 30, 2022.

Any manufacturer shall be required to pay or otherwise compensate any franchise dealer who has earned the right to receive payment or other compensation under a program in accordance with the manufacturer's program or policy.

The provisions of this subdivision shall not be applicable to multiple or repeated sales of new motor vehicles made by a new motor vehicle dealer to a single purchaser under a bona fide fleet sales policy of a manufacturer, factory branch, distributor, or distributor branch.

- (31) Notwithstanding the terms of any contract, franchise, agreement, release, or waiver, to require that in any civil or administrative proceeding in which a new motor vehicle dealer asserts any claims, rights, or defenses arising under this Article or under the franchise, that the dealer or any nonprevailing party compensate the manufacturer or prevailing party for any court costs, attorneys' fees, or other expenses incurred in the litigation.
- (32) To require that any of its franchised new motor vehicle dealers located in this State pay any extra fee, purchase unreasonable or unnecessary quantities of advertising displays or other materials, or remodel, renovate, or recondition the dealers' existing facilities in order to receive any particular model or series of vehicles manufactured or distributed by the manufacturer for which the dealers have a valid franchise. Notwithstanding the foregoing, nothing contained in this subdivision shall be deemed to prohibit or prevent a manufacturer from requiring that its franchised dealers located in this State purchase special tools or equipment, stock reasonable quantities of certain parts, or participate in training programs which are reasonably necessary for those dealers to sell or service any model or series of vehicles.
- (33) To fail to reimburse a dealer located in this State in full for the actual cost of providing a loaner vehicle to any customer who is having a vehicle serviced at the dealership if the provision of such a loaner vehicle is required by the manufacturer.
- (34) To require, coerce, or attempt to coerce any new motor vehicle dealer in this State to participate monetarily in any training program whose subject matter is not expressly limited to specific information necessary to sell or service the models of vehicles the dealer is authorized to sell or service under the dealer's franchise with that manufacturer. Examples of training programs with respect to which a manufacturer is prohibited from requiring the dealer's monetary participation include, but are not limited to, those which purport to teach morale-boosting employee motivation, teamwork, or general principles of customer relations. A manufacturer is further prohibited from requiring the personal attendance of an owner or dealer principal of any dealership located in this State at any meeting or training program at which it is reasonably possible for another member of the dealer's management to attend and later relate the subject matter of the meeting or training program to the dealership's owners or principal operator.

- (35) Notwithstanding the terms of any franchise, agreement, waiver or novation, to limit the number of franchises of the same line make of vehicle that any franchised motor vehicle dealer, including its parent(s), subsidiaries, and affiliates, if any, may own or operate or attach any restrictions or conditions on the ownership or operation of multiple franchises of the same line make of motor vehicle without making the same limitations, conditions, and restrictions applicable to all of its other franchisees.
- (36) With regard to any manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof that owns and operates a new motor vehicle dealership, directly or indirectly through any subsidiary or affiliated entity as provided in G.S. 20-305.2, to unreasonably discriminate against any other new motor vehicle dealer in the same line make in any matter governed by the motor vehicle franchise, including the sale or allocation of vehicles or other manufacturer or distributor products, or the execution of dealer programs for benefits.
- (37) Subdivisions (11) and (25) of this section shall not apply to any manufacturer, manufacturer branch, distributor, distributor branch, or any affiliate or subsidiary thereof of new motor vehicles which manufactures or distributes exclusively new motor vehicles with a gross weight rating of 8,500 pounds or more, provided that the following conditions are met: (i) the manufacturer has, as of November 1, 1996, an agreement in effect with at least three of its franchised dealers within the State, and which agreement was, in fact, being enforced by the manufacturer, requiring the dealers to maintain separate and exclusive facilities for the vehicles it manufactures or distributes; and (ii) there existed at least seven dealerships (locations) of that manufacturer within the State as of January 1, 1999.
- (38) Notwithstanding the terms, provisions, or conditions of any agreement, franchise, novation, waiver, or other written instrument, to assign or change a franchised new motor vehicle dealer's area of responsibility under the franchise arbitrarily or without due regard to the present or projected future pattern of motor vehicle sales and registrations within the dealer's market and without having provided the affected dealer with written notice of the change in the dealer's area of responsibility and a detailed description of the change in writing by registered or certified mail, return receipt requested. A franchised new motor vehicle dealer who believes that a manufacturer, factory branch, distributor, or distributor branch with whom the dealer has entered into a franchise has assigned or changed the dealer's area of responsibility, is proposing to assign or change the dealer's area of responsibility arbitrarily or without due regard to the present or projected future pattern of motor vehicle sales and registrations within the dealer's market, or failed to provide the dealer with the notice required under this subdivision may file a petition within 60 days of receiving notice of a manufacturer, factory branch, distributor, or distributor branch's proposed assignment or change to the dealer's area of responsibility and have an evidentiary hearing before the Commissioner as provided in G.S. 20-301(b) contesting the franchised new motor vehicle dealer's assigned area of responsibility. In determining at the

evidentiary hearing whether a manufacturer, factory branch, distributor, or distributor branch has assigned or changed the dealer's area of responsibility or is proposing to assign or change the dealer's area of responsibility arbitrarily or without due regard to the present or projected future pattern of motor vehicle sales and registrations within the dealer's market, the Commissioner may take into consideration the relevant circumstances, including, but not limited to:

- a. The investment of time, money, or other resources made for the purpose of developing the market for the vehicles of the same line-make in the existing or proposed area of responsibility by the petitioning dealer, other same line-make dealers who would be affected by the change in the area of responsibility, or by the manufacturer, factory branch, distributor, distributor branch, or any dealer or regional advertising association.
- b. The present and future projected traffic patterns and drive times between consumers and the same line-make franchised dealers of the affected manufacturer, factory branch, distributor, or distributor branch who are located within the market.
- c. The historical and projected future pattern of new vehicle sales and registrations of the affected manufacturer, factory branch, distributor, or distributor branch within various portions of the area of responsibility and within the market as a whole.
- d. The growth or decline in population, density of population, and new car registrations in the market.
- e. If the affected manufacturer, factory branch, distributor, or distributor branch has removed territory from a dealer's area of responsibility or is proposing to remove territory from a dealer's area of responsibility, the projected economic effects, if any, that these changes in the dealer's area of responsibility will have on the petitioning dealer, other same line-make dealers, the public, and the manufacturer, factory branch, distributor, or distributor branch.
- f. The projected effects that the changes in the petitioning dealer's area of responsibility that have been made or proposed by the affected manufacturer, manufacturer branch, distributor, or distributor branch will have on the consuming public within the market.
- g. The presence or absence of natural geographical obstacles or boundaries, such as mountains and rivers.
- h. The proximity of census tracts or other geographic units used by the affected manufacturer, factory branch, distributor, or distributor branch in determining same line-make dealers' respective areas of responsibility.
- i. The public interest, consumer welfare, and customer convenience.
- j. The reasonableness of the change or proposed change to the dealer's area of responsibility considering the benefits and harm to the petitioning dealer, other same line-make dealers, and the manufacturer, factory branch, distributor, or distributor branch.

At the evidentiary hearing before the Commissioner, the affected manufacturer, factory branch, distributor, or distributor branch shall have the burden of proving that all portions of its current or proposed area of responsibility for the petitioning franchised new motor vehicle dealer are reasonable in light of the present or projected future pattern of motor vehicle sales and registrations within the franchised new motor vehicle dealer's market. A policy or protocol of a manufacturer, factory branch, distributor, or distributor branch that determines a dealer's area of responsibility based solely on the proximity of census tracts or other geographic units to its franchised dealers and the existence of natural boundaries fails to satisfy the burden of proof on the affected manufacturer, factory branch, distributor, or distributor branch under this subdivision. Upon the filing of a petition before the Commissioner under this subdivision, any changes in the petitioning franchised new motor vehicle dealer's area of responsibility that have been proposed by the affected manufacturer, factory branch, distributor, or distributor branch shall be stayed during the pendency of the determination by the Commissioner. If a protest is or has been filed under G.S. 20-305(5) and the franchised new motor vehicle dealer's area of responsibility is included in the relevant market area under the protest, any protest filed under this subdivision shall be consolidated with that protest for hearing and joint disposition of all of the protests. Nothing in this subdivision shall apply to the determination of whether good cause exists for the establishment by a manufacturer, factory branch, distributor, or distributor branch of an additional new motor vehicle dealer or relocation of an existing new motor vehicle dealer, which shall be governed in accordance with the requirements and criteria contained in G.S. 20-305(5) and not this subdivision.

- (39) Notwithstanding the terms, provisions, or conditions of any agreement, franchise, novation, waiver, or other written instrument, to require, coerce, or attempt to coerce any of its franchised motor vehicle dealers in this State to purchase, lease, erect, or relocate one or more signs displaying the name of the manufacturer or franchised motor vehicle dealer upon unreasonable or onerous terms or conditions or if installation of the additional signage would violate local signage or zoning laws to which the franchised motor vehicle dealer is subject. Any term, provision, or condition of any agreement, franchise, waiver, novation, or any other written instrument which is in violation of this subdivision shall be deemed null and void and without force and effect.
- (40) Notwithstanding the terms, provisions, or conditions of any agreement or franchise, to require any dealer to floor plan any of the dealer's inventory or finance the acquisition, construction, or renovation of any of the dealer's property or facilities by or through any financial source or sources designated by the manufacturer, factory branch, distributor, or distributor branch, including any financial source or sources that is or are directly or indirectly owned, operated, or controlled by the manufacturer, factory branch, distributor, or distributor branch.

- (41) Notwithstanding the terms, provisions, or conditions of any agreement or franchise, to use or consider the performance of any of its franchised new motor vehicle dealers located in this State relating to the sale of the manufacturer's new motor vehicles or ability to satisfy any minimum sales or market share quota or responsibility relating to the sale of the manufacturer's new motor vehicles in determining:
- a. The dealer's eligibility to purchase program, certified, or other used motor vehicles from the manufacturer;
 - b. The volume, type, or model of program, certified, or other used motor vehicles the dealer shall be eligible to purchase from the manufacturer;
 - c. The price or prices of any program, certified, or other used motor vehicles that the dealer shall be eligible to purchase from the manufacturer; or
 - d. The availability or amount of any discount, credit, rebate, or sales incentive the dealer shall be eligible to receive from the manufacturer for the purchase of any program, certified, or other used motor vehicles offered for sale by the manufacturer.
- (42) Notwithstanding the terms, provisions, or conditions of any agreement or waiver, to directly or indirectly condition the awarding of a franchise to a prospective new motor vehicle dealer, the addition of a line make or franchise to an existing dealer, the renewal of a franchise of an existing dealer, the approval of the relocation of an existing dealer's facility, or the approval of the sale or transfer of the ownership of a franchise on the willingness of a dealer, proposed new dealer, or owner of an interest in the dealership facility to enter into a site control agreement or exclusive use agreement. For purposes of this subdivision, the terms "site control agreement" and "exclusive use agreement" include any agreement that has the effect of either: (i) requiring that the dealer establish or maintain exclusive dealership facilities; or (ii) restricting the ability of the dealer, or the ability of the dealer's lessor in the event the dealership facility is being leased, to transfer, sell, lease, or change the use of the dealership premises, whether by sublease, lease, collateral pledge of lease, right of first refusal to purchase or lease, option to purchase, option to lease, or other similar agreement, regardless of the parties to such agreement. Any provision contained in any agreement entered into on or after August 26, 2009, that is inconsistent with the provisions of this subdivision shall be voidable at the election of the affected dealer, prospective dealer, or owner of an interest in the dealership facility.
- (43) Notwithstanding the terms, provisions, or conditions of any agreement, franchise, novation, waiver, or other written instrument, to require, coerce, or attempt to coerce any of its franchised motor vehicle dealers in this State to change the principal operator, general manager, or any other manager or supervisor employed by the dealer. Any term, provision, or condition of any agreement, franchise, waiver, novation, or any other written instrument that is inconsistent with this subdivision shall be deemed null and void and without force and effect.

- (44) Notwithstanding the terms, provisions, or conditions of any agreement or franchise, to require, coerce, or attempt to coerce any new motor vehicle dealer located in this State to refrain from displaying in the dealer's showroom or elsewhere within the dealership facility any sports-related honors, awards, photographs, displays, or other artifacts or memorabilia; provided, however, that such sports-related honors, awards, photographs, displays, or other artifacts or memorabilia (i) pertain to an owner, investor, or executive manager of the dealership; (ii) relate to professional sports; (iii) do not reference or advertise a competing brand of motor vehicles; and (iv) do not conceal or disparage any of the required branding elements that are part of the dealership facility.
- (45) Notwithstanding the terms, provisions, or conditions of any agreement or franchise, to discriminate against a new motor vehicle dealer located in this State for selling or offering for sale a service contract, debt cancellation agreement, maintenance agreement, or similar product not approved, endorsed, sponsored, or offered by the manufacturer, distributor, affiliate, or captive finance source. For purposes of this subdivision, discrimination includes any of the following:
- a. Requiring or coercing a dealer to exclusively sell or offer for sale service contracts, debt cancellation agreements, or similar products approved, endorsed, sponsored, or offered by the manufacturer, distributor, affiliate, or captive finance source.
 - b. Taking or threatening to take any adverse action against a dealer (i) because the dealer sells or offers for sale any service contracts, debt cancellation agreements, maintenance agreements, or similar products that have not been approved, endorsed, sponsored, or offered by the manufacturer, distributor, affiliate, or captive finance source or (ii) because the dealer fails to sell or offer for sale service contracts, debt cancellation agreements, maintenance agreements, or similar products approved, endorsed, sponsored, or offered by the manufacturer, distributor, their affiliate, or captive finance source.
 - c. Measuring a dealer's performance under a franchise in any part based upon the dealer's sale of service contracts, debt cancellation agreements, or similar products approved, endorsed, sponsored, or offered by the manufacturer, distributor, affiliate, or captive finance source.
 - d. Requiring a dealer to exclusively promote the sale of service contracts, debt cancellation agreements, or similar products approved, endorsed, sponsored, or offered by the manufacturer, distributor, affiliate, or captive finance source.
 - e. Considering the dealer's sale of service contracts, debt cancellation agreements, or similar products approved, endorsed, sponsored, or offered by the manufacturer, distributor, affiliate, or captive finance source in determining any of the following:
 1. The dealer's eligibility to purchase any vehicles, parts, or other products or services from the manufacturer or distributor.

2. The volume of vehicles or other parts or services the dealer shall be eligible to purchase from the manufacturer or distributor.
3. The price or prices of any vehicles, parts, or other products or services that the dealer shall be eligible to purchase from the manufacturer or distributor.
4. The availability or amount of any vehicle discount, credit, special pricing, rebate, or sales or service incentive the dealer shall be eligible to receive from the manufacturer, distributor, affiliate, or captive finance source in which the incentives are calculated or paid on a per-vehicle basis or any vehicle discount, credit, special pricing, or rebate that are calculated or paid on a per-vehicle basis.

For purposes of this subdivision, discrimination does not include, and nothing shall prohibit a manufacturer, distributor, affiliate, or captive finance source from, offering discounts, rebates, or other incentives to dealers who voluntarily sell or offer for sale service contracts, debt cancellation agreements, or similar products approved, endorsed, sponsored, or offered by the manufacturer, distributor, affiliate, or captive finance source; provided, however, that such discounts, rebates, or other incentives are based solely on the sales volume of the service contracts, debt cancellation agreements, or similar products sold by the dealer and do not provide vehicle sales or service incentives.

For purposes of this subdivision, a service contract provider or its representative shall not complete any sale or transaction of an extended service contract, extended maintenance plan, or similar product using contract forms that do not disclose the identity of the service contract provider.

- (46) To require, coerce, or attempt to coerce a dealer located in this State to purchase goods or services of any nature from a vendor selected, identified, or designated by a manufacturer, distributor, affiliate, or captive finance source when the dealer may obtain goods or services of substantially similar quality and design from a vendor selected by the dealer, provided the dealer obtains prior approval from the manufacturer, distributor, affiliate, or captive finance source, for the use of the dealer's selected vendor. Such approval by the manufacturer, distributor, affiliate, or captive finance source may not be unreasonably withheld. For purposes of this subdivision, the term "goods" does not include moveable displays, brochures, and promotional materials containing material subject to the intellectual property rights of a manufacturer or distributor, or special tools as reasonably required by the manufacturer, or parts to be used in repairs under warranty obligations of a manufacturer or distributor. If the manufacturer, distributor, affiliate, or captive finance source claims that a vendor chosen by the dealer cannot supply goods and services of substantially similar quality and design, the dealer may file a protest with the Commissioner. When a protest is filed, the Commissioner shall promptly inform the manufacturer, distributor, affiliate, or captive finance source that a protest has been filed. The Commissioner

shall conduct a hearing on the merits of the protest within 90 days following the filing of a response to the protest. The manufacturer, distributor, affiliate, or captive finance source shall bear the burden of proving that the goods or services chosen by the dealer are not of substantially similar quality and design to those required by the manufacturer, distributor, affiliate, or captive finance source.

- (47) To fail to provide to a dealer, if the goods or services to be supplied to the dealer by a vendor selected, identified, or designated by the manufacturer or distributor are signs or other franchisor image elements to be purchased or leased to the dealer, the right to purchase or lease the signs or other franchisor image elements of similar quality and design from a vendor selected by the dealer. This subdivision and subdivision (46) of this section shall not be construed to allow a dealer or vendor to violate directly or indirectly the intellectual property rights of the manufacturer or distributor, including, but not limited to, the manufacturer's or distributor's intellectual property rights in any trademarks or trade dress, or other intellectual property interests owned or controlled by the manufacturer or distributor, or to permit a dealer to erect or maintain signs that do not conform to the reasonable intellectual property right or trademark and trade dress usage guidelines of the manufacturer or distributor.
- (48) To unreasonably interfere with a dealer's independence in staffing the dealership by engaging in any of the following conduct: (i) requiring, coercing, or attempting to coerce a dealer located in this State to employ, appoint, or designate an individual to serve full-time or exclusively in any specific capacity, role, or job function at the dealership, other than the employment or appointment of a full-time general manager; (ii) requiring a dealer to employ, appoint, or designate an individual to serve full-time or exclusively in any specific capacity, role, or job function at the dealership, other than the employment or appointment of a full-time general manager, in order to participate in or qualify for any incentive program offered or sponsored by the manufacturer or distributor or to otherwise receive any discounts, credits, rebates, or incentives of any kind that are calculated or paid on a per-vehicle basis; or (iii) requiring that the dealer obtain the approval of the manufacturer or distributor prior to employing or appointing any individual in any capacity, role, or job function at the dealership, other than the employment or appointment of a full-time general manager. Except as expressly provided above, nothing contained in this subdivision shall be deemed to prevent or prohibit a manufacturer or distributor from requiring that a dealer employ a reasonable number of trained employees to sell and service the factory's vehicles.
- (49) A manufacturer or distributor may not charge a dealer more than a reasonable cost for any tool that the manufacturer or distributor sells to a dealer and designates as a special or essential tool. A manufacturer or distributor that collects tool fees as a convenience for the dealer and passes the payment through to a tool manufacturer or supplier which is not owned, operated, or controlled by the manufacturer, distributor, or affiliate shall not be considered

to be selling the tool provided that the manufacturer or distributor's involvement does not increase the cost of the special tool or essential tool. Nothing in this subdivision shall prohibit a manufacturer or distributor from charging a reasonable nominal fee in addition to the cost of the special or essential tool that includes manufacturer or distributor handling costs. For any special or essential tool that the manufacturer or distributor sells to the dealer at a price exceeding two hundred fifty dollars (\$250.00), the manufacturer or distributor shall disclose on an invoice or similar billing statement submitted to the dealer for the tool, the actual cost of the special or essential tool paid by the manufacturer or distributor. (1955, c. 1243, s. 21; 1973, c. 88, ss. 1, 2; 1983, c. 704, ss. 5-10; 1987, c. 827, s. 1; 1991, c. 510, ss. 2-4; 1993, c. 123, s. 1; c. 331, s. 2; 1995, c. 163, s. 13; c. 480, s. 3; 1997-319, s. 3; 1999-335, s. 2; 1999-336, s. 1; 2001-510, ss. 2, 6; 2003-113, ss. 2, 3, 4; 2005-409, s. 2; 2005-463, s. 2; 2007-513, ss. 2-4, 9, 12; 2008-156, s. 3; 2008-187, s. 50; 2009-338, ss. 1, 2, 5; 2009-496, s. 1; 2011-290, ss. 5-9; 2013-302, s. 7; 2014-58, ss. 10(e), (f); 2015-209, ss. 2, 3, 4, 5; 2017-102, s. 5.2(b); 2017-148, s. 2.)

§ 20-305.1. Automobile dealer warranty obligations.

(a) Each motor vehicle manufacturer, factory branch, distributor or distributor branch, shall specify in writing to each of its motor vehicle dealers licensed in this State the dealer's obligations for preparation, delivery and warranty service on its products, the schedule of compensation to be paid such dealers for parts, work, and service in connection with warranty service, and the time allowances for the performance of such work and service. In no event shall such schedule of compensation fail to include reasonable compensation for diagnostic work and associated administrative requirements as well as repair service and labor. Time allowances for the performance of warranty work and service shall be reasonable and adequate for the work to be performed. The compensation which must be paid under this section must be reasonable, provided, however, that under no circumstances may the reasonable compensation under this section be in an amount less than the dealer's current retail labor rate and the amount charged to retail customers for the manufacturer's or distributor's original parts for nonwarranty work of like kind, provided such amount is competitive with the retail rates charged for parts and labor by other franchised dealers within the dealer's market.

(a1) The retail rate customarily charged by the dealer for parts and labor may be established at the election of the dealer by the dealer submitting to the manufacturer or distributor 100 sequential nonwarranty customer-paid service repair orders which contain warranty-like parts, or 60 consecutive days of nonwarranty customer-paid service repair orders which contain warranty-like parts, whichever is less, covering repairs made no more than 180 days before the submission and declaring the average percentage markup. The average of the parts markup rate and the average labor rate shall both be presumed to be reasonable, however, a manufacturer or distributor may, not later than 30 days after submission, rebut that presumption by reasonably substantiating that the rate is unfair and unreasonable in light of the retail rates charged for parts and labor by all other franchised motor vehicle dealers in the dealer's market offering the same line-make vehicles. In the event there are no other franchised dealers offering the same line-make of vehicle in the dealer's market, the manufacturer or distributor may compare the dealer's retail rate for parts and labor with the retail rates charged for parts and labor

by other franchised dealers who are selling competing line-makes of vehicles within the dealer's market. The retail rate and the average labor rate shall go into effect 30 days following the manufacturer's approval, but in no event later than 60 days following the declaration, subject to audit of the submitted repair orders by the manufacturer or distributor and a rebuttal of the declared rate as described above. If the declared rate is rebutted, the manufacturer or distributor shall propose an adjustment of the average percentage markup based on that rebuttal not later than 30 days after such audit, but in no event later than 60 days after submission. If the dealer does not agree with the proposed average percentage markup, the dealer may file a protest with the Commissioner not later than 30 days after receipt of that proposal by the manufacturer or distributor. If such a protest is filed, the Commissioner shall inform the manufacturer or distributor that a timely protest has been filed and that a hearing will be held on such protest. In any hearing held pursuant to this subsection, the manufacturer or distributor shall have the burden of proving by a preponderance of the evidence that the rate declared by the dealer was unreasonable as described in this subsection and that the proposed adjustment of the average percentage markup is reasonable pursuant to the provisions of this subsection. If the dealer prevails at a protest hearing, the dealer's proposed rate, affirmed at the hearing, shall be effective as of 60 days after the date of the dealer's initial submission of the customer-paid service orders to the manufacturer or distributor. If the manufacturer or distributor prevails at a protest hearing, the rate proposed by the manufacturer or distributor, that was affirmed at the hearing, shall be effective beginning 30 days following issuance of the final order.

(a2) In calculating the retail rate customarily charged by the dealer for parts and labor, the following work shall not be included in the calculation:

- (1) Repairs for manufacturer or distributor special events, specials, coupons, or other promotional discounts for retail customer repairs.
- (2) Parts sold at wholesale or at reduced or specially negotiated rates for insurance repairs.
- (3) Engine assemblies.
- (4) Routine maintenance, including fluids, filters, alignments, flushes, oil changes, belts, and brake drums/rotors and shoes/pads not provided in the course of repairs.
- (5) Nuts, bolts, fasteners, and similar items that do not have an individual part number.
- (6) Tires and vehicle alignments.
- (7) Vehicle reconditioning.
- (8) Batteries and light bulbs.

(a3) If a manufacturer or distributor furnishes a part or component to a dealer, at no cost, to use in performing repairs under a recall, campaign service action, or warranty repair, the manufacturer or distributor shall compensate the dealer for the part or component in the same manner as warranty parts compensation under this section by compensating the dealer the average markup on the cost for the part or component as listed in the manufacturer's or distributor's price schedule less the cost for the part or component.

(a4) A manufacturer or distributor may not require a dealer to establish the retail rate customarily charged by the dealer for parts and labor by an unduly burdensome or time-consuming method or by requiring information that is unduly burdensome or time consuming to provide, including, but not limited to, part-by-part or transaction-by-transaction calculations.

(b) Notwithstanding the terms of any franchise agreement, it is unlawful for any motor vehicle manufacturer, factory branch, distributor, or distributor branch to fail to perform any of its warranty obligations with respect to a motor vehicle, to fail to fully compensate its motor vehicle dealers licensed in this State for warranty parts other than parts used to repair the living facilities of recreational vehicles, including motor homes, travel trailers, fifth-wheel trailers, camping trailers, and truck campers as defined in G.S. 20-4.01(32b), at the prevailing retail rate according to the factors in subsection (a) of this section, or, in service in accordance with the schedule of compensation provided the dealer pursuant to subsection (a) above, or to otherwise recover all or any portion of its costs for compensating its motor vehicle dealers licensed in this State for warranty parts and service either by reduction in the amount due to the dealer, or by separate charge, surcharge, or other imposition, and to fail to indemnify and hold harmless its franchised dealers licensed in this State against any judgment for damages or settlements agreed to by the manufacturer, including, but not limited to, court costs and reasonable attorneys' fees of the motor vehicle dealer, arising out of complaints, claims or lawsuits including, but not limited to, strict liability, negligence, misrepresentation, express or implied warranty, or rescission or revocation of acceptance of the sale of a motor vehicle as defined in G.S. 25-2-608, to the extent that the judgment or settlement relates to the alleged defective negligent manufacture, assembly or design of new motor vehicles, parts or accessories or other functions by the manufacturer, factory branch, distributor or distributor branch, beyond the control of the dealer. Any audit for warranty parts or service compensation shall only be for the 12-month period immediately following the date of the payment of the claim by the manufacturer, factory branch, distributor, or distributor branch. Any audit for sales incentives, service incentives, rebates, or other forms of incentive compensation shall only be for the 12-month period immediately following the date of the payment of the claim by the manufacturer, factory branch, distributor, or distributor branch pursuant to a sales incentives program, service incentives program, rebate program, or other form of incentive compensation program. Provided, however, these limitations shall not be effective in the case of fraudulent claims.

(b1) All claims made by motor vehicle dealers pursuant to this section for compensation for delivery, preparation, warranty and recall work including labor, parts, and other expenses, shall be paid by the manufacturer within 30 days after receipt of claim from the dealer. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval. Any claim not specifically disapproved in writing within 30 days after receipt shall be considered approved and payment is due immediately. No claim which has been approved and paid may be charged back to the dealer unless it can be shown that the claim was false or fraudulent, that the repairs were not properly made or were unnecessary to correct the defective condition, or the dealer failed to reasonably substantiate the claim either in accordance with the manufacturer's reasonable written procedures or by other reasonable means. A manufacturer or distributor shall not deny a claim or reduce the amount to be reimbursed to the dealer as long as the dealer has provided reasonably sufficient documentation that the dealer:

- (1) Made a good faith attempt to perform the work in compliance with the written policies and procedures of the manufacturer; and
- (2) Actually performed the work.

Notwithstanding the foregoing, a manufacturer shall not fail to fully compensate a dealer for warranty or recall work or make any chargeback to the dealer's account based on the dealer's failure to comply with the manufacturer's claim documentation procedure or procedures unless both of the following requirements have been met:

- (1) The dealer has, within the previous 12 months, failed to comply with the same specific claim documentation procedure or procedures; and
- (2) The manufacturer has, within the previous 12 months, provided a written warning to the dealer by certified United States mail, return receipt requested, identifying the specific claim documentation procedure or procedures violated by the dealer.

Nothing contained in this subdivision shall be deemed to prevent or prohibit a manufacturer from adopting or implementing a policy or procedure which provides or allows for the self-audit of dealers, provided, however, that if any such self-audit procedure contains provisions relating to claim documentation, such claim documentation policies or procedures shall be subject to the prohibitions and requirements contained in this subdivision. Notices sent by a manufacturer under a bona fide self-audit procedure shall be deemed sufficient notice to meet the requirements of this subsection provided that the dealer is given reasonable opportunity through self-audit to identify and correct any out-of-line procedures for a period of at least 60 days before the manufacturer conducts its own audit of the dealer warranty operations and procedures. A manufacturer may further not charge a dealer back subsequent to the payment of the claim unless a representative of the manufacturer has met in person at the dealership, or by telephone, with an officer or employee of the dealer designated by the dealer and explained in detail the basis for each of the proposed charge-backs and thereafter given the dealer's representative a reasonable opportunity at the meeting, or during the telephone call, to explain the dealer's position relating to each of the proposed charge-backs. In the event the dealer was selected for audit or review on the basis that some or all of the dealer's claims were viewed as excessive in comparison to average, mean, or aggregate data accumulated by the manufacturer, or in relation to claims submitted by a group of other franchisees of the manufacturer, the manufacturer shall, at or prior to the meeting or telephone call with the dealer's representative, provide the dealer with a written statement containing the basis or methodology upon which the dealer was selected for audit or review.

(b2) A manufacturer may not deny a motor vehicle dealer's claim for sales incentives, service incentives, rebates, or other forms of incentive compensation, reduce the amount to be paid to the dealer, or charge a dealer back subsequent to the payment of the claim unless it can be shown that the claim was false or fraudulent or that the dealer failed to reasonably substantiate the claim either in accordance with the manufacturer's reasonable written procedures or by other reasonable means.

(b3) (1) For purposes of this subsection, the term "manufacturer" shall include the terms "manufacturer," "manufacturer branch," "distributor," and "distributor branch," as those terms are defined in G.S. 20-286.

- (2) Notwithstanding the terms of any franchise or other agreement, or the terms of any program, policy, or procedure of any manufacturer, it shall be unlawful for any manufacturer to take or threaten to take any adverse action against a dealer located in this State, or to otherwise discriminate against any dealer located in this State when:
 - a. The dealer failed to ensure that the purchaser or lessee paid personal property tax on the vehicle purchased or leased from the dealer;
 - b. The dealer failed to ensure that the vehicle being purchased or leased had been permanently registered in this State or in any other state in which the dealer was not required to ensure that the vehicle's

permanent registration was processed or submitted at the time of the vehicle's purchase or lease;

- c. The manufacturer extrapolated the imposition of any adverse action based on a certain number or percentage of the vehicles sold or leased by a dealer over a specified period of time having been exported or brokered; or
- d. The dealer sold or leased a motor vehicle to a customer who either exported the vehicle to a foreign country or who resold the vehicle to a third party, unless:
 - 1. The dealer reasonably should have known that the customer intended to export or resell the motor vehicle prior to the customer's purchase or lease of the vehicle from the dealer;
 - 2. The vehicle sold or leased by the dealer was exported to a foreign country within 180 days after the date of sale or lease by the dealer; and
 - 3. The affected manufacturer provided written notification to the affected motor vehicle dealer of the resale or export within 12 months from the date of sale or lease.

Notwithstanding the provisions of sub-subdivision d. of this subdivision, a manufacturer may take adverse action against a dealer located in this State if the dealer sold or leased a motor vehicle to a customer who either exported the vehicle to a foreign country or who resold the vehicle to a third party and the dealer, prior to the customer's purchase or lease of the vehicle from the dealer, had actual knowledge that the customer intended to export or resell the motor vehicle.

- (3) The adverse action and discrimination prohibited under this subsection includes, but is not limited to, a manufacturer's actual or threatened:
 - a. Failure or refusal to allocate, sell, or deliver motor vehicles to the dealer;
 - b. Discrimination against any dealer in the allocation of vehicles;
 - c. Charging back or withholding payments or other compensation or consideration that a dealer is otherwise entitled to receive and that is not otherwise the subject of a dispute for warranty reimbursement or under a sales promotion, incentive program, contest, or other program or policy that would provide any compensation or support for the dealer;
 - d. Disqualification of a dealer from participating in, or discrimination against any dealer relating to, any sales promotion, incentive program, contest, or other program or policy that would provide any compensation or support for the dealer;
 - e. Termination of a franchise; or
 - f. The imposition of any fine, penalty, chargeback, or other disciplinary or punitive measure.
- (4) In any proceeding brought pursuant to this subsection, the affected manufacturer shall have the burden of proving that the dealer knew or

reasonably should have known that the customer intended to export or resell the motor vehicle prior to the customer's purchase or lease of the vehicle from the dealer, subject to the following provisions:

- a. There shall be a rebuttable presumption that the dealer, prior to the customer's purchase or lease of the vehicle, did not know nor should have reasonably known that the customer intended to export or resell the motor vehicle, if:
 1. Following the sale or lease, the dealer submitted the requisite documentation to the appropriate governmental entity to enable the vehicle to be titled, registered and, where applicable, sales or highway use tax paid in any state or territory within the United States in the name of a customer who was physically present at the dealership at or prior to the time of sale or lease; and
 2. The customer's identifying information was not included on a list of known or suspected exporters or resellers identified and made readily accessible to the dealer by the applicable manufacturer at the time of the sale or lease.
 - b. There shall be a rebuttable presumption that the dealer, prior to the customer's purchase or lease of the vehicle, knew or reasonably should have known that the customer intended to export or resell the motor vehicle if the customer's identifying information was included on a list of known or suspected exporters or resellers identified and made readily accessible to the dealer by the applicable manufacturer at the time of the sale or lease.
 - c. Nothing contained in subdivision (2) of this subsection shall be deemed to prevent or prohibit the Commissioner or the affected manufacturer from considering one or more of the factors delineated in sub-subdivisions a. through c. of subdivision (2) of this subsection in determining whether the dealer knew or reasonably should have known that the customer intended to export or resell the motor vehicle prior to the customer's purchase or lease of the vehicle from the dealer.
- (5) Any audit of a dealer by a manufacturer for sales or leases made to exporters or brokers shall only be for the 12-month period immediately preceding the audit.

(c) In the event there is a dispute between the manufacturer, factory branch, distributor, or distributor branch, and the dealer with respect to any matter referred to in subsection (a), (b), (b1), (b2), (b3), or (d) of this section, either party may petition the Commissioner in writing, within 30 days after either party has given written notice of the dispute to the other, for a hearing on the subject and the decision of the Commissioner shall be binding on the parties, subject to rights of judicial review and appeal as provided in Chapter 150B of the General Statutes; provided, however, that nothing contained herein shall give the Commissioner any authority as to the content of any manufacturer's or distributor's warranty. Upon the filing of a petition before the Commissioner under this subsection, any chargeback to or any payment required of a dealer by a manufacturer relating to warranty parts or service compensation, or to sales incentives, service incentives, rebates, other forms of incentive compensation, or the withholding or

chargeback of other compensation or support that a dealer would otherwise be eligible to receive shall be stayed during the pendency of the determination by the Commissioner.

(d) Transportation damages. –

- (1) Notwithstanding the terms, provisions or conditions of any agreement or franchise, the manufacturer is liable for all damages to motor vehicles before delivery to a carrier or transporter.
- (2) If a new motor vehicle dealer determines the method of transportation, the risk of loss passes to the dealer upon delivery of the vehicle to the carrier.
- (3) In every other instance, the risk of loss remains with the manufacturer until such time as the new motor vehicle dealer or his designee accepts the vehicle from the carrier.
- (4) Whenever a motor vehicle is damaged while in transit when the carrier or the means of transportation is designated by the manufacturer or distributor, or whenever a motor vehicle is otherwise damaged prior to delivery to the dealer, the dealer must:
 - a. Notify the manufacturer or distributor of such damage within three working days or within such additional time as authorized by the franchise agreement of the occurrence of the delivery of the motor vehicle as defined in subsection (1) of this section; and
 - b. Must request from the manufacturer or distributor authorization to repair the damages sustained or to replace the parts or accessories damaged.
- (5) In the event the manufacturer or distributor refuses or fails to authorize repair or replacement of any such damage within ten working days after receipt of notification of damage by the dealer, ownership of the motor vehicle shall revert to the manufacturer or distributor, and the dealer shall incur no obligation, financial or otherwise, for such damage to the motor vehicle.
- (5a) No manufacturer shall fail to disclose in writing to a new motor vehicle dealer, at the time of delivery of a new motor vehicle, the nature and extent of any and all damage and post-manufacturing repairs made to such motor vehicle while in the possession or under the control of the manufacturer if the cost of such post-manufacturing repairs exceeds three percent (3%) of the manufacturer's suggested retail price. A manufacturer is not required to disclose to a new motor vehicle dealer that any glass, tires or bumper of a new motor vehicle was damaged at any time if the damaged item has been replaced with original or comparable equipment.
- (6) Nothing in this subsection (d) shall relieve the dealer of the obligation to cooperate with the manufacturer as necessary in filing any transportation damage claim with the carrier.

(e) Damage/Repair Disclosure. – Notwithstanding the provisions of subdivision (d)(4) of this section and in supplementation thereof, a new motor vehicle dealer shall disclose in writing to a purchaser of the new motor vehicle prior to entering into a sales contract any damage and repair to the new motor vehicle if the damage exceeds five percent (5%) of the manufacturer's suggested retail price as calculated at the rate of the dealer's authorized warranty rate for labor and parts.

- (1) A new motor vehicle dealer is not required to disclose to a purchaser that any damage of any nature occurred to a new motor vehicle at any time if the total cost of all repairs fails to exceed five percent (5%) of the manufacturer's suggested retail price as calculated at the time the repairs were made based upon the dealer's authorized warranty rate for labor and parts and the damaged item has been replaced with original or comparable equipment.
- (2) If disclosure is not required under this section, a purchaser may not revoke or rescind a sales contract or have or file any cause of action or claim against the dealer or manufacturer for breach of contract, breach of warranty, fraud, concealment, unfair and deceptive acts or practices, or otherwise due solely to the fact that the new motor vehicle was damaged and repaired prior to completion of the sale.
- (3) For purposes of this section, "manufacturer's suggested retail price" means the retail price of the new motor vehicle suggested by the manufacturer including the retail delivered price suggested by the manufacturer for each accessory or item of optional equipment physically attached to the new motor vehicle at the time of delivery to the new motor vehicle dealer which is not included within the retail price suggested by the manufacturer for the new motor vehicle.

(f) The provisions of subsections (a), (b), (b1), (d) and (e) shall not apply to manufacturers and dealers of "motorcycles" as defined in G.S. 20-4.01(27).

(f1) The provisions of subsections (a), (b), (b1), (b2), and (c) of this section applicable to a motor vehicle manufacturer shall also apply to a component parts manufacturer. For purposes of this section, a component parts manufacturer means a person, resident, or nonresident of this State who manufactures or assembles new motor vehicle "component parts" and directly warrants the component parts to the consumer. For purposes of this section, component parts means an engine, power train, rear axle, or other part of a motor vehicle that is not warranted by the final manufacturer of the motor vehicle.

(f2) The provisions of subsections (d) and (e) of this section shall not apply to a State agency that assists the United States Department of Defense with purchasing, transferring, or titling a vehicle to another State agency, a unit of local government, a volunteer fire department, or a volunteer rescue squad.

(g) **Truck Dealer Cost Reimbursement.** – Every manufacturer, manufacturer branch, distributor, or distributor branch of new motor vehicles, or any affiliate or subsidiary thereof, which manufactures or distributes new motor vehicles with a gross vehicle weight rating of 16,000 pounds or more shall compensate its new motor vehicle dealers located in this State for the cost of special tools, equipment, and training for which its dealers are liable when the applicable manufacturer, manufacturer branch, distributor, or distributor branch sells a portion of its vehicle inventory to converters and other nondealer retailers. The purpose of this reimbursement is to compensate truck dealers for special additional costs these dealers are required to pay for servicing these vehicles when the dealers are excluded from compensation for these expenses at the point of sale. The compensation which shall be paid pursuant to this subsection shall be applicable only with respect to new motor vehicles with a gross vehicle weight rating of 16,000 pounds or more which are registered to end users within this State and that are sold by a manufacturer, manufacturer branch, distributor, or distributor branch to either of the following:

- (1) Persons or entities other than new motor vehicle dealers with whom the manufacturer, manufacturer branch, distributor, or distributor branch has entered into franchises.
- (2) Persons or entities that install custom bodies on truck chassis, including, but not limited to, mounted equipment or specialized bodies for concrete distribution, firefighting equipment, waste disposal, recycling, garbage disposal, buses, utility service, street sweepers, wreckers, and rollback bodies for vehicle recovery; provided, however, that no compensation shall be required to be paid pursuant to this subdivision with respect to vehicles sold for purposes of manufacturing or assembling school buses. Additionally, no compensation shall be required to be paid pursuant to this subdivision with respect to any vehicles that were sold to the end user by a franchised new motor vehicle dealer.

The amount of compensation that shall be payable by the applicable manufacturer, manufacturer branch, distributor, or distributor branch shall be nine hundred dollars (\$900.00) per new motor vehicle registered in this State whose chassis has a gross vehicle weight rating of 16,000 pounds or more. The compensation required pursuant to this subsection shall be paid by the applicable manufacturer, manufacturer branch, distributor, or distributor branch to its franchised new motor vehicle dealer in closest proximity to the registered address of the end user to whom the motor vehicle has been registered within 30 days after registration of the vehicle. Upon receiving a request in writing from one of its franchised dealers located in this State, a manufacturer, manufacturer branch, distributor, or distributor branch shall promptly make available to the dealer its records relating to the registered addresses of its new motor vehicles registered in this State for the previous 12 months and its payment of compensation to dealers as provided in this subsection.

(h) Notwithstanding the terms of any franchise agreement, it is unlawful for any motor vehicle manufacturer, factory branch, distributor, or distributor branch to deny a franchised new motor vehicle dealer the right to return any part or accessory that the dealer has not sold after 15 months where the part or accessory was not obtained through a specific order initiated by the franchised new motor vehicle dealer but instead was specified for, sold to, and shipped to the dealer pursuant to an automated ordering system, provided that such part or accessory is in the condition required for return to the manufacturer, factory branch, distributor, or distributor branch and the dealer returns the part within 60 days of it becoming eligible under this subsection. For purposes of this subsection, an "automated ordering system" shall be a computerized system required by the manufacturer that automatically specifies parts and accessories for sale and shipment to the dealer without specific order thereof initiated by the dealer. The manufacturer, factory branch, distributor, or distributor branch shall not charge a restocking or handling fee for any part or accessory being returned under this subsection. (1973, c. 88, s. 3; c. 1331, s. 3; 1983, c. 704, ss. 11-13; 1987, c. 827, s. 1; 1989, c. 614, ss. 1, 2; 1991, c. 561, ss. 1-4; 1993, c. 116, ss. 1, 2; 1995, c. 156, s. 1; 1997-319, s. 4; 1999-335, ss. 3, 3.1, 4; 2003-113, s. 5; 2003-258, s. 4; 2007-513, ss. 5-7, 11; 2009-338, ss. 3, 4; 2009-550, s. 2(c); 2011-290, s. 10; 2013-302, s. 10; 2015-209, ss. 6, 7, 8, 9; 2017-148, s. 3.)

§ 20-305.2. Unfair methods of competition.

(a) It is unlawful for any motor vehicle manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, to directly or indirectly through any subsidiary or

affiliated entity, own any ownership interest in, operate, or control any motor vehicle dealership in this State, provided that this section shall not be construed to prohibit:

- (1) The operation by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, of a dealership for a temporary period (not to exceed one year) during the transition from one owner or operator to another; or
- (2) The ownership or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, while in a bona fide relationship with an economically disadvantaged or other independent person, other than a manufacturer, factory branch, distributor, distributor branch, or an agent or affiliate thereof, who has made a bona fide, unencumbered initial investment of at least six percent (6%) of the total sales price that is subject to loss in the dealership and who can reasonably expect to acquire full ownership of the dealership within a reasonable period of time, not to exceed 12 years, and on reasonable terms and conditions; or
- (3) The ownership, operation or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, if such manufacturer, factory branch, distributor, distributor branch, or subsidiary has been engaged in the retail sale of motor vehicles through such dealership for a continuous period of three years prior to March 16, 1973, and if the Commissioner determines, after a hearing on the matter at the request of any party, that there is no independent dealer available in the relevant market area to own and operate the franchise in a manner consistent with the public interest; or
- (4) The ownership, operation, or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, if the Commissioner determines after a hearing on the matter at the request of any party, that there is no independent dealer available in the relevant market area to own and operate the franchise in a manner consistent with the public interest; or
- (5) The ownership, operation, or control of any facility (location) of a new motor vehicle dealer in this State at which the dealer sells only new and used motor vehicles with a gross weight rating of 8,500 pounds or more, provided that both of the following conditions have been met:
 - a. The facility is located within 35 miles of manufacturing or assembling facilities existing as of January 1, 1999, and is owned or operated by the manufacturer, manufacturing branch, distributor, distributor branch, or any affiliate or subsidiary thereof which assembles, manufactures, or distributes new motor vehicles with a gross weight rating of 8,500 pounds or more by such dealer at said location; and
 - b. The facility is located in the largest Standard Metropolitan Statistical Area (SMSA) in the State; or
- (6) As to any line make of motor vehicle for which there is in aggregate no more than 13 franchised new motor vehicle dealers (locations) licensed and in operation within the State as of January 1, 1999, the ownership, operation, or control of one or more new motor vehicle dealership trading solely in such

line make of vehicle by the manufacturer, factory branch, distributor, distributor branch, or subsidiary or affiliate thereof, provided however, that all of the following conditions are met:

- a. The manufacturer, factory branch, distributor, distributor branch, or subsidiary or affiliate thereof does not own directly or indirectly, in aggregate, in excess of forty-five percent (45%) interest in the dealership;
- b. At the time the manufacturer, factory branch, distributor, distributor branch, or subsidiary or affiliate thereof first acquires ownership or assumes operation or control with respect to any such dealership, the distance between the dealership thus owned, operated, or controlled and the nearest other new motor vehicle dealership trading in the same line make of vehicle, is no less than 35 miles;
- c. All the manufacturer's franchise agreements confer rights on the dealer of the line make to develop and operate within a defined geographic territory or area, as many dealership facilities as the dealer and manufacturer shall agree are appropriate; and
- d. That as of July 1, 1999, not fewer than half of the dealers of the line make within the State own and operate two or more dealership facilities in the geographic territory or area covered by the franchise agreement with the manufacturer.

(7) The ownership, operation, or control of a dealership that sells primarily recreational vehicles as defined in G.S. 20-4.01 by a manufacturer, factory branch, distributor, or distributor branch, or subsidiary thereof, if the manufacturer, factory branch, distributor, or distributor branch, or subsidiary thereof, owned, operated, or controlled the dealership as of October 1, 2001.

(b) Subsection (a) of this section does not apply to manufacturers or distributors of trailers or semitrailers that are not recreational vehicles as defined in G.S. 20-4.01.

(c) For purposes of subsection (d) of this section, the following definitions apply:

- (1) Former Franchisee. – A new motor vehicle dealer, as defined in G.S. 20-286(13), that has entered into a franchise, as defined in G.S. 20-286(8a) with a predecessor manufacturer and that has either:
 - a. Entered into a termination agreement or deferred termination agreement with a predecessor or successor manufacturer related to such franchise; or
 - b. Has had such franchise canceled, terminated, nonrenewed, noncontinued, rejected, nonassumed, or otherwise ended.
- (2) Relevant market area. – The area within a 10-, 15-, or 20-mile radius around the site of the previous franchisee's dealership facility, as determined in the same manner that the relevant market area is determined under G.S. 20-286(13b) when a manufacturer is seeking to establish an additional new motor vehicle dealer.
- (3) Successor manufacturer. – Any motor vehicle manufacturer, as defined in G.S. 20-286(8e), that, on or after January 1, 2009, acquires, succeeds to, or assumes any part of the business of another manufacturer, referred to as the "predecessor manufacturer," as the result of any of the following:

- a. A change in ownership, operation, or control of the predecessor manufacturer by sale or transfer of assets, corporate stock or other equity interest, assignment, merger, consolidation, combination, joint venture, redemption, court-approved sale, operation of law or otherwise.
- b. The termination, suspension, or cessation of a part or all of the business operations of the predecessor manufacturer.
- c. The discontinuance of the sale of the product line.
- d. A change in distribution system by the predecessor manufacturer, whether through a change in distributor or the predecessor manufacturer's decision to cease conducting business through a distributor altogether.

(d) For a period of four years from the date that a successor manufacturer acquires, succeeds to, or assumes any part of the business of a predecessor manufacturer, it shall be unlawful for such successor manufacturer to enter into a same line make franchise with any person, as defined in G.S. 20-4.01(28), or to permit the relocation of any existing same line make franchise, for a line make of the predecessor manufacturer that would be located or relocated within the relevant market area of a former franchisee who owned or leased a dealership facility in that relevant market area without first offering the additional or relocated franchise to the former franchisee, or the designated successor of such former franchisee in the event the former franchisee is deceased or disabled, at no cost and without any requirements or restrictions other than those imposed generally on the manufacturer's other franchisees at that time, unless one of the following applies:

- (1) As a result of the former franchisee's cancellation, termination, noncontinuance, or nonrenewal of the franchise, the predecessor manufacturer had consolidated the line make with another of its line makes for which the predecessor manufacturer had a franchisee with a then-existing dealership facility located within that relevant market area.
- (2) The successor manufacturer has paid the former franchisee, or the designated successor of such former franchisee in the event the former franchisee is deceased or disabled, the fair market value of the former franchisee's franchise calculated as prescribed in G.S. 20-305(6)d.3.
- (3) The successor manufacturer proves that the former franchisee, or the designated successor of such former franchisee in the event the former franchisee is deceased or disabled, by reason of lack of training, lack of prior experience, poor past performance, lack of financial ability, or poor character, is unfit to own or manage the dealership. A successor manufacturer who seeks to assert that a former franchisee is unfit to own or manage the dealership must file a petition seeking a hearing on this issue before the Commissioner and shall have the burden of proving lack of fitness at such hearing. The Commissioner shall try to conduct the hearing and render a final determination within 120 days after the manufacturer's petition has been filed. No successor dealer, other than the former franchisee, may be appointed or franchised by the successor manufacturer within the relevant market area until the Commissioner has held a hearing and rendered a determination on the

issue of the fitness of the previous franchisee to own or manage the dealership.

(e) For purposes of this section, an unfair method of competition includes any physical or mechanical warranty repair made or provided directly by a manufacturer or distributor to any motor vehicle located within this State requiring the direct participation of a dealer franchised by the manufacturer or distributor and without such dealer receiving reasonable compensation, equal to an amount no less than the amount provided in G.S. 20-305.1.

(f) No claim or cause of action may be brought against a dealer in this State arising out of any warranty repair, fix, repair, or update that was provided by the manufacturer or distributor without the direct involvement and participation of the dealer. Any manufacturer or distributor that provides or attempts to provide a warranty repair, fix, repair, update, or adjustment directly to any motor vehicle located within this State without the direct participation of a dealer franchised by the manufacturer or distributor shall fully indemnify and hold harmless any dealer located in this State for all claims, demands, judgments, damages, attorneys' fees, litigation expenses, and all other costs and expenses incurred by the dealer arising out of the actual or attempted warranty repair, fix, repair, update, or adjustment. (1973, c. 88, s. 3; 1983, c. 704, ss. 14, 15; 1999-335, s. 5; 2001-510, s. 3; 2002-72, ss. 19(d), 19(e); 2003-416, s. 11; 2009-496, s. 2; 2013-302, s. 8.)

§ 20-305.3. Hearing notice.

In every case of a hearing before the Commissioner authorized under this Article, the Commissioner shall give reasonable notice of each such hearing to all interested parties, and the Commissioner's decision shall be binding on the parties, subject to the rights of judicial review and appeal as provided in Chapter 150B of the General Statutes. The costs of such hearings shall be assessed by the Commissioner. (1973, c. 88, s. 3; c. 1331, s. 3; 1987, c. 827, s. 1.)

§ 20-305.4. Motor Vehicle Dealers' Advisory Board.

(a) The Motor Vehicle Dealers' Advisory Board shall consist of six members; three of which shall be appointed by the Speaker of the House of Representatives, and three of which shall be appointed by the President Pro Tempore of the Senate to consult with and advise the Commissioner with respect to matters brought before the Commissioner under the provisions of G.S. 20-304 through 20-305.4.

(b) Each member of the Motor Vehicle Dealers' Advisory Board shall be a resident of North Carolina. Three members of the Board shall be franchised dealers in new automobiles or trucks, duly licensed and engaged in business as such in North Carolina, provided that no two of such dealers may be franchised to sell automobiles or trucks manufactured or distributed by the same person or a subsidiary or affiliate of the same person. Three members of the Board shall not be motor vehicle dealers or employees of a motor vehicle dealer.

(c) The Speaker shall appoint two of the dealer members and one of the public members and shall fill any vacancy in said positions and the President Pro Tempore of the Senate shall appoint one of the dealer members and two of the public members and shall fill any vacancy in said positions. In making the initial appointments the Speaker shall designate that the two dealer members shall serve for one and three years respectively and the public member shall serve for two years, and in making the initial appointments the Lieutenant Governor shall designate that the dealer member shall serve for two years and the two public members shall serve for one and three years respectively.

(d) Two members of the first Board appointed shall serve for a period of three years, two members of the first Board shall serve for a period of two years, and two members of the first Board shall serve for a period of one year. Subsequent appointments shall be for terms of three years, except appointments to fill vacancies which shall be for the unexpired terms. Members of the Board shall meet at the call of the Commissioner and shall receive as compensation for their services seven dollars (\$7.00) for each day actually engaged in the exercise of the duties of the Board and such travel expenses and subsistence allowances as are generally allowed other State commissions and boards. (1973, c. 88, s. 3; 1995, c. 490, s. 36.)

§ 20-305.5. Recreational vehicle manufacturer warranty recall obligations.

(a) It is unlawful for any manufacturer, factory branch, distributor, or distributor branch that manufactures or distributes recreational vehicles to fail to fully compensate its dealers located in this State in accordance with this section for warranty or recall work performed by the dealers related to the living facilities of the vehicle, including all labor and parts used to repair such living facilities and any equipment, plumbing, appliances, and other options included by the manufacturer, factory branch, distributor, or distributor branch in the purchase price paid by the dealer for the vehicle. For purposes of this section, the term "recreational vehicle" includes motor homes, travel trailers, fifth-wheel trailers, camping trailers, and truck campers as defined by G.S. 20-4.01(32b). With respect to those portions of the living facilities of recreational vehicles and any equipment, plumbing, appliances, and other options that are part of such living facilities and that are included by the recreational vehicle manufacturer, factory branch, distributor, or distributor branch in the purchase price paid by the dealer for the vehicle, the term "warrantor" shall mean any manufacturer or distributor of such living facilities or any equipment, plumbing, appliances, and other options that are part of such living facilities that offers a warranty in writing to either the recreational vehicle dealer or to the ultimate purchaser of the recreational vehicle. The term "warrantor" does not include a person that provides a service contract, mechanical or other insurance, or an extended warranty sold for separate consideration by a dealer or other person not controlled by a warrantor. Notwithstanding the terms or conditions of any contract or agreement, it is unlawful for any recreational vehicle manufacturer, factory branch, distributor, or distributor branch to fail to fully and timely compensate any of its franchised recreational vehicle dealers located in this State in accordance with this section for all parts and labor used by such franchised dealers in making warranty or recall repairs to such living facilities of recreational vehicles, including any equipment, plumbing, appliances, and other options included by the recreational vehicle manufacturer, factory branch, distributor, or distributor branch in the purchase price paid by the dealer for the vehicle, to the extent that the individual components of such living facilities are not separately warranted by the manufacturers or distributors of such components. Notwithstanding the terms or conditions of any warranty, contract, or agreement, it is unlawful for any warrantor, as defined in this subdivision, to fail to fully and timely compensate any franchised recreational vehicle dealer located in this State in accordance with this section for all parts and labor used by such franchised recreational vehicle dealer in making warranty or recall repairs to any component parts of the living facilities of recreational vehicles manufactured or distributed by such warrantor, including any equipment, plumbing, appliances, and other options included by a recreational vehicle manufacturer, factory branch, distributor, or distributor branch in the purchase price paid by the dealer for the vehicle.

(b) Each warrantor as defined in this subdivision and each recreational vehicle manufacturer, factory branch, distributor, and distributor branch that sells or distributes

recreational vehicles in this State shall specify in writing to each recreational vehicle dealer licensed in this State who sells products manufactured or distributed by such warrantor or such recreational vehicle manufacturer, factory branch, distributor, or distributor branch, the recreational vehicle dealer's obligations for preparation, delivery, and warranty and recall service on its products, the schedule of compensation to be paid such dealers for parts, work, and service in connection with warranty or recall service, and the time allowances for the performance of such work and service. In no event shall such schedule of compensation fail to include reasonable compensation for diagnostic work and associated administrative requirements as well as repair service, labor, and transportation provided by the dealer to transport a recreational vehicle to and from a location at which the repairs can be made. Provided, however, that with respect to reimbursement for a recreational vehicle dealer's transportation expenses, the dealer is required to obtain the prior written authorization of the affected warrantor before incurring any transportation expenses, which authorization shall not be unreasonably denied by the warrantor, and provided further that any such request for transportation reimbursement must be denied by the warrantor within 5 business days of the warrantor's receipt of the dealer's request for reimbursement or the request shall be deemed authorized and allowed. Time allowances for the performance of warranty work and service shall be reasonable and adequate for the work to be performed. The compensation which must be paid under this section must be reasonable; provided, however, that under no circumstances may the reasonable compensation under this section be in an amount less than the recreational vehicle dealer's current retail labor rate for nonwarranty work of like kind, provided such amount is competitive with the retail rates charged for parts and labor by other franchised recreational dealers within the dealer's market.

(c) A warrantor may not require a dealer to establish the rate customarily charged by the recreational vehicle dealer for labor by an unduly burdensome or time-consuming method or by requiring information that is unduly burdensome or time-consuming to provide, including, but not limited to, part-by-part or transaction-by-transaction calculations.

(d) For any part, equipment, plumbing system or device, or appliance or option, a warrantor shall reimburse the dealer the cost of the part, equipment, plumbing system or device, appliance or option, plus a minimum of a thirty percent (30%) handling charge and pay the cost, if any, of freight to return the part, equipment, appliance, or option to the warrantor.

(e) If a warrantor furnishes a part or component to a dealer, at reduced or no cost, to use in performing repairs under a warranty or recall repair, the warrantor shall compensate the dealer for the part or component in the same manner as warranty parts compensation under this section, by compensating the dealer on the basis of a thirty percent (30%) handling charge for the part or component as listed in the warrantor's price schedule less the cost for the part or component.

(f) Notwithstanding the terms of any warranty, contract, or agreement, all claims made by recreational dealers pursuant to this section for compensation for delivery, preparation, warranty and recall work, and transportation costs, including labor, parts, and other expenses, shall be paid by the affected warrantor within 30 days after receipt of claim from the dealer. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval. Any claim not specifically disapproved in writing within 30 days after receipt shall be considered approved and payment is due immediately. No claim which has been approved and paid may be charged back to the dealer unless it can be shown that the claim was false or fraudulent, that the repairs were not properly made or were unnecessary to correct the defective condition, or the dealer failed to reasonably substantiate the claim either in accordance with the manufacturer's reasonable written procedures or by other reasonable means. A warrantor shall

not deny a claim or reduce the amount to be reimbursed to the dealer as long as the dealer has provided reasonably sufficient documentation that the dealer (i) made a good-faith attempt to perform the work in compliance with the written policies and procedures of the warrantor and (ii) actually performed the work.

Notwithstanding the foregoing, a warrantor shall not fail to fully compensate a dealer for warranty or recall work or make any chargeback to the dealer's account based on the dealer's failure to comply with the warrantor's claim documentation procedure or procedures unless both of the following requirements have been met:

- (1) The dealer has, within the previous 12 months, failed to comply with the same specific claim documentation procedure or procedures.
- (2) The warrantor has, within the previous 12 months, provided a written warning to the dealer by certified United States mail, return receipt requested, identifying the specific claim documentation procedure or procedures violated by the dealer.

(g) Every recreational vehicle manufacturer, factory branch, distributor, or distributor branch that manufactures or distributes recreational vehicles for sale in this State shall designate at least one of its employees knowledgeable in warranty administration who shall be the designated warranty contact person with whom its franchised dealers licensed in this State can communicate to assist them in filing and getting paid on warranty claims related to all component parts of all recreational vehicles such recreational vehicle manufacturer, factory branch, distributor, or distributor branch sells or distributes in this State. Each recreational vehicle manufacturer, factory branch, distributor, or distributor branch shall promptly notify, in writing, all of its franchised recreational vehicle dealers licensed in this State, the Commissioner, and the North Carolina Automobile Dealers Association, Incorporated, of the identity and contact information of the designated warranty contact person and any changes in this information. A recreational vehicle manufacturer or distributor that represents multiple suppliers or multiple line-makes of vehicles shall be permitted to designate a single individual as the designated warranty contact person for all such suppliers and line-makes of vehicles represented by such recreational vehicle manufacturer or distributor.

(h) It shall be unlawful for any warrantor or for any recreational vehicle manufacturer, factory branch, distributor, or distributor branch to recover or attempt to recover all or any portion of its costs for compensating recreational vehicle dealers licensed in this State for warranty or recall parts and service either by reduction in the amount due to the dealer or by separate charge, surcharge, or other imposition.

(i) It shall be unlawful for any recreational vehicle manufacturer, factory branch, distributor, or distributor branch to fail to indemnify and hold harmless its franchised dealers licensed in this State against any judgment for damages or settlements agreed to by the manufacturer, including, but not limited to, court costs and reasonable attorneys' fees of the recreational vehicle dealer, arising out of complaints, claims, or lawsuits, including, but not limited to, strict liability, negligence, misrepresentation, express or implied warranty, or rescission or revocation of acceptance of the sale of a vehicle as defined in G.S. 25-2-608, to the extent that the judgment or settlement relates to the alleged defective or negligent manufacture, assembly, or design of new recreational vehicles, parts, or accessories or other functions by the manufacturer, factory branch, distributor, or distributor branch beyond the control of the dealer. It shall be unlawful for any warrantor to fail to indemnify and hold harmless any recreational vehicle dealer located in this State who sold one or more products warranted by such warrantor

against any judgment for damages or settlements agreed to by the warrantor, including, but not limited to, court costs and reasonable attorneys' fees of the recreational vehicle dealer, arising out of complaints, claims, or lawsuits, including, but not limited to, strict liability, negligence, misrepresentation, express or implied warranty, or rescission or revocation of acceptance of the sale of a vehicle or vehicle part, component, or accessory, as defined in G.S. 25-2-608, to the extent that the judgment or settlement relates to the alleged defective or negligent manufacture, assembly, or design of a product warranted by the warrantor or other functions of the warrantor beyond the control of the dealer. Any audit for warranty or recall parts or service compensation shall only be for the 12-month period immediately following the date of the payment of the claim by the manufacturer, factory branch, distributor, distributor branch, or warrantor. Any audit for sales incentives, service incentives, rebates, or other forms of incentive compensation shall only be for the 12-month period immediately following the date of the payment of the claim by the manufacturer, factory branch, distributor, distributor branch, or warrantor. Provided, however, these limitations shall not be effective in the case of fraudulent claims.

(j) It shall be unlawful for any warrantor or for any recreational vehicle manufacturer, factory branch, distributor, or distributor branch to direct or encourage any owner or purchaser of a recreational vehicle to have warranty or recall service work or other repairs on a recreational vehicle made by a repair facility other than either the franchised dealer that sold the vehicle owner the recreational vehicle or the franchised dealer closest in proximity to such recreational vehicle owner or purchaser, provided that the recreational vehicle dealer who sold the vehicle to the owner or purchaser or who is located in closest proximity to such recreational vehicle owner or purchaser has sufficiently trained personnel and the necessary tools and equipment to make the required repairs to the vehicle, has not expressly stated in writing its desire to have the repairs made elsewhere, and is willing to make the repairs within a reasonable period of time after the necessary parts have been supplied to the dealer.

(k) In the event there is a dispute between a recreational vehicle dealer and a warrantor or a recreational vehicle manufacturer, factory branch, distributor, or distributor branch, with relating to any matter referred to in this section, either party may petition the Commissioner in writing, within 30 days after either party has given written notice of the dispute to the other, for a hearing on the subject and the decision of the Commissioner shall be binding on the parties, subject to rights of judicial review and appeal as provided in Chapter 150B of the General Statutes; provided, however, that nothing contained herein shall give the Commissioner any authority as to the content of any warrantor's warranty. Upon the filing of a petition before the Commissioner under this subsection, any chargeback to or any payment required of a recreational vehicle dealer by a warrantor or by a recreational vehicle manufacturer, factory branch, distributor, or distributor branch relating to warranty or recall parts or service compensation, or to sales incentives, service incentives, rebates, other forms of incentive compensation, or the withholding or chargeback of other compensation or support that a dealer would otherwise be eligible to receive, shall be stayed during the pendency of the determination by the Commissioner.

(l) The provisions of G.S. 20-305(4) through G.S. 20-305(28) and G.S. 20-305.2 to G.S. 20-305.4 shall not apply to manufacturers of or dealers in mobile or manufactured type housing or who sell or distribute only nonmotorized recreational trailers; provided, however, that unless specifically exempted, each of these provisions shall be applicable to all recreational vehicle manufacturers, factory branches, distributors, and distributor branches who sell or

distribute any motorized recreational vehicles in this State. The provisions of G.S. 20-305.1 shall not apply to manufacturers of or dealers in mobile or manufactured type housing.

(m) To the extent not expressly inconsistent with the provisions of this section, all of the terms and provisions of G.S. 20-305.1 shall be applicable to recreational vehicle dealers and to recreational vehicle manufacturers, factory branches, distributors, and distributor branches under this section. For purposes of this section and Article 12 of Chapter 20 of the General Statutes of North Carolina, the relationship between a recreational vehicle manufacturer or recreational vehicle distributor, on the one part, and a recreational vehicle dealer that is located within this State, on the other part, pursuant to which the recreational vehicle dealer purchases and resells new recreational vehicles from the recreational vehicle manufacturer or recreational vehicle distributor, shall be considered a "franchise", as this term is defined in G.S. 20-286(8a), whether or not the rights and responsibilities of the parties have been delineated in a written agreement or contract. (1973, c. 88, s. 4; 1983, c. 704, s. 18; 2017-148, s. 4.)

§ 20-305.6. Unlawful for manufacturers to unfairly discriminate among dealers.

Notwithstanding the terms of any contract, franchise, novation, or agreement, it shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch to do any of the following:

- (1) Discriminate against any similarly situated franchised new motor vehicle dealers in this State.
- (2) Unfairly discriminate against franchised new motor vehicle dealers located in this State who have dual facilities at which the vehicles distributed by the manufacturer, factory branch, distributor, or distributor branch are sold or serviced with one or more other line makes of vehicles.
- (3) Unfairly discriminate against one of its franchised new motor vehicle dealers in this State with respect to any aspect of the franchise agreement.
- (4) Use any financial services company or leasing company owned or controlled by the manufacturer or distributor to accomplish what would otherwise be illegal conduct on the part of the manufacturer or distributor pursuant to this section. This section shall not limit the right of the financial services or leasing company to engage in business practices in accordance with the trade. (2001-510, s. 4.)

§ 20-305.7. Protecting dealership data and consent to access dealership information.

(a) Except as expressly authorized in this section, no manufacturer, factory branch, distributor, or distributor branch shall require a new motor vehicle dealer to provide its customer lists, customer information, consumer contact information, transaction data, or service files. Any requirement by a manufacturer, factory branch, distributor, or distributor branch that a new motor vehicle dealer provide its customer lists, customer information, consumer contact information, transaction data, or service files as a condition to the dealer's participation in any incentive program or contest for a customer or dealer to receive any incentive payments otherwise earned under an incentive program or contest, for the dealer to obtain consumer or customer leads, or for the dealer to receive any other benefits, rights, merchandise, or services for which the dealer would otherwise be entitled to obtain under the franchise or any other contract or agreement, or which shall customarily be provided to dealers, shall be voidable at the option of the dealer, unless all of the following conditions are satisfied: (i) the customer

information requested relates solely to the specific program requirements or goals associated with such manufacturer's or distributor's own vehicle makes and does not require that the dealer provide general customer information or other information related to the dealer; (ii) such requirement is lawful and would also not require the dealer to allow any customer the right to opt out under the federal Gramm-Leach-Bliley Act, 15 U.S.C., Subchapter I, § 1608, et seq.; and (iii) the dealer is not required to allow the manufacturer or distributor or any third party to have direct access to the dealer's computer system, but the dealer is instead permitted to provide the same dealer, consumer, or customer data or information specified by the manufacturer or distributor by timely obtaining and pushing or otherwise furnishing the required data in a widely accepted file format such as comma delimited in accordance with subsection (g1) of this section. Nothing contained in this section shall limit the ability of the manufacturer, factory branch, distributor, or distributor branch to require that the dealer provide, or use in accordance with the law, such customer information related solely to such manufacturer's or distributor's own vehicle makes to the extent necessary to do any of the following:

- (1) Satisfy any safety or recall notice obligations.
- (2) Complete the sale and delivery of a new motor vehicle to a customer.
- (3) Validate and pay customer or dealer incentives.
- (4) Submit to the manufacturer, factory branch, distributor, or distributor branch claims for any services supplied by the dealer for any claim for warranty parts or repairs.

At the request of a manufacturer or distributor or of a third party acting on behalf of a manufacturer or distributor, a dealer may only be required to provide customer information related solely to such manufacturer's or distributor's own vehicle makes for reasonable marketing purposes, market research, consumer surveys, market analysis, and dealership performance analysis, but the dealer is only required to provide such customer information to the extent lawfully permissible; to the extent the requested information relates solely to specific program requirements or goals associated with such manufacturer's or distributor's own vehicle makes and does not require the dealer to provide general customer information or other information related to the dealer; and to the extent the requested information can be provided without requiring that the dealer allow any customer the right to opt out under the federal Gramm-Leach-Bliley Act, 15 U.S.C., Subchapter I, § 6801, et seq.

No manufacturer, factory branch, distributor, or distributor branch shall access or obtain dealer or customer data from or write dealer or customer data to a dealer management computer system utilized by a motor vehicle dealer located in this State, or require or coerce a motor vehicle dealer located in this State to utilize a particular dealer management computer system, unless the dealer management computer system allows the dealer to reasonably maintain the security, integrity, and confidentiality of the data maintained in the system. No manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or any third party acting on behalf of any manufacturer, factory branch, distributor, distributor branch, or dealer management computer system vendor shall prohibit a dealer from providing a means to regularly and continually monitor the specific data accessed from or written to the dealer's computer system and from complying with applicable State and federal laws and any rules or regulations promulgated thereunder. These provisions shall not be deemed to impose an obligation on a manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or any third party acting on behalf of any manufacturer, factory branch,

distributor, distributor branch, or dealer management computer system vendor to provide such capability.

(b) No manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or any third party acting on behalf of any manufacturer, factory branch, distributor, distributor branch, or dealer management computer system vendor may access or utilize customer or prospect information maintained in a dealer management computer system utilized by a motor vehicle dealer located in this State for purposes of soliciting any such customer or prospect on behalf of, or directing such customer or prospect to, any other dealer. The limitations in this subsection do not apply to:

- (1) A customer that requests a reference to another dealership;
- (2) A customer that moves more than 60 miles away from the dealer whose data was accessed;
- (3) Customer or prospect information that was provided to the dealer by the manufacturer, factory branch, distributor, or distributor branch; or
- (4) Customer or prospect information obtained by the manufacturer, factory branch, distributor, or distributor branch where the dealer agrees to allow the manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or any third party acting on behalf of any manufacturer, factory branch, distributor, distributor branch, or dealer management computer system vendor the right to access and utilize the customer or prospect information maintained in the dealer's dealer management computer system for purposes of soliciting any customer or prospect of the dealer on behalf of, or directing such customer or prospect to, any other dealer in a separate, stand-alone written instrument dedicated solely to such authorization.

No manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or any third party acting on behalf of any manufacturer, factory branch, distributor, distributor branch, or dealer management computer system vendor, may provide access to customer or dealership information maintained in a dealer management computer system utilized by a motor vehicle dealer located in this State, without first obtaining the dealer's prior express written consent, revocable by the dealer upon five business days written notice, to provide such access. Prior to obtaining said consent and prior to entering into an initial contract or renewal of a contract with a dealer located in this State, the manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or any third party acting on behalf of, or through any manufacturer, factory branch, distributor, distributor branch, or dealer management computer system vendor shall provide to the dealer a written list of all specific third parties to whom any data obtained from the dealer has actually been provided within the 12-month period ending November 1 of the prior year. The list shall further describe the scope and specific fields of the data provided. In addition to the initial list, a dealer management computer system vendor or any third party acting on behalf of, or through a dealer management computer system vendor shall provide to the dealer an annual list of third parties to whom said data is actually being provided on November 1 of each year and to whom said data has actually been provided in the preceding 12 months and describe the scope and specific fields of the data provided. Such list shall be provided to the dealer by January 1 of each year. Any dealer management computer system vendor's contract that directly relates to the transfer or accessing of dealer or dealer customer information must conspicuously state, "NOTICE TO

DEALER: THIS AGREEMENT RELATES TO THE TRANSFER AND ACCESSING OF CONFIDENTIAL INFORMATION AND CONSUMER RELATED DATA". Such consent does not change any such person's obligations to comply with the terms of this section and any additional State or federal laws (and any rules or regulations promulgated thereunder) applicable to them with respect to such access. In addition, no dealer management computer system vendor may refuse to provide a dealer management computer system to a motor vehicle dealer located in this State if the dealer refuses to provide any consent under this subsection.

(c) No dealer management computer system vendor, or third party acting on behalf of or through any dealer management computer system vendor, may access or obtain data from or write data to a dealer management computer system utilized by a motor vehicle dealer located in this State, unless the dealer management computer system allows the dealer to reasonably maintain the security, integrity, and confidentiality of the customer and dealership information maintained in the system. No dealer management computer system vendor, or third party acting on behalf of or through any dealer management computer system vendor, shall prohibit a dealer from providing a means to regularly and continually monitor the specific data accessed from or written to the dealer's computer system and from complying with applicable State and federal laws and any rules or regulations promulgated thereunder. These provisions shall not be deemed to impose an obligation on a manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or any third party acting on behalf of any manufacturer, factory branch, distributor, distributor branch, or dealer management computer system vendor to provide such capability.

(d) Any manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or any third party acting on behalf of or through any dealer management computer system vendor, having electronic access to customer or motor vehicle dealership data in a dealership management computer system utilized by a motor vehicle dealer located in this State shall provide notice to the dealer of any security breach of dealership or customer data obtained through such access, which at the time of the breach was in the possession or custody of the manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or third party. The disclosure notification shall be made without unreasonable delay by the manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or third party following discovery by the person, or notification to the person, of the breach. The disclosure notification shall describe measures reasonably necessary to determine the scope of the breach and corrective actions which may be taken in an effort to restore the integrity, security, and confidentiality of such data. Such measures and corrective actions shall be implemented as soon as practicable by all persons responsible for the breach.

(e) Nothing in this section shall preclude, prohibit, or deny the right of the manufacturer, factory branch, distributor, or distributor branch to receive customer or dealership information from a motor vehicle dealer located in this State for the purposes of complying with federal or State safety requirements or implementing steps related to manufacturer recalls at such times as necessary in order to comply with federal and State requirements or manufacturer recalls provided that receiving this information from the dealer does not impair, alter, or reduce the security, integrity, and confidentiality of the customer and dealership information collected or generated by the dealer.

(f) The following definitions apply to this section:

- (1) "Dealer management computer system" – A computer hardware and software system that is owned or leased by the dealer, including a dealer's use of Web applications, software, or hardware, whether located at the dealership or provided at a remote location and that provides access to customer records and transactions by a motor vehicle dealer located in this State and that allows such motor vehicle dealer timely information in order to sell vehicles, parts or services through such motor vehicle dealership.
- (2) "Dealer management computer system vendor" – A seller or reseller of dealer management computer systems, a person that sells computer software for use on dealer management computer systems, or a person who services or maintains dealer management computer systems, but only to the extent that each of the sellers, resellers, or other persons listed in this subdivision are engaged in such activities.
- (3) "Security breach" – An incident of unauthorized access to and acquisition of records or data containing dealership or dealership customer information where unauthorized use of the dealership or dealership customer information has occurred or is reasonably likely to occur or that creates a material risk of harm to a dealership or a dealership's customer. Any incident of unauthorized access to and acquisition of records or data containing dealership or dealership customer information, or any incident of disclosure of dealership customer information to one or more third parties which shall not have been specifically authorized by the dealer or customer, shall constitute a security breach.

(g) The provisions of G.S. 20-308.1(d) shall not apply to an action brought under this section against a dealer management computer system vendor.

(g1) Notwithstanding any of the terms or provisions contained in this section or in any consent, authorization, release, novation, franchise, or other contract or agreement, whenever any manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or any third party acting on behalf of or through, or approved, referred, endorsed, authorized, certified, granted preferred status, or recommended by, any manufacturer, factory branch, distributor, distributor branch, or dealer management computer system vendor requires that a new motor vehicle dealer provide any dealer, consumer, or customer data or information through direct access to a dealer's computer system, the dealer is not required to provide, and may not be required to consent to provide in any written agreement, such direct access to its computer system. The dealer may instead provide the same dealer, consumer, or customer data or information specified by the requesting party by timely obtaining and pushing or otherwise furnishing the requested data to the requesting party in a widely accepted file format such as comma delimited; provided that, when a dealer would otherwise be required to provide direct access to its computer system under the terms of a consent, authorization, release, novation, franchise, or other contract or agreement, a dealer that elects to provide data or information through other means may be charged a reasonable initial set-up fee and a reasonable processing fee based on the actual incremental costs incurred by the party requesting the data for establishing and implementing the process for the dealer. Any term or provision contained in any consent, authorization, release, novation, franchise, or other contract or agreement which is inconsistent with any term or provision contained in this subsection shall be voidable at the option of the dealer.

(g2) Notwithstanding the terms or conditions of any consent, authorization, release, novation, franchise, or other contract or agreement, every manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or any third party acting on behalf of or through any manufacturer, factory branch, distributor, distributor branch, or dealer management computer system vendor, having electronic access to consumer or customer data or other information in a computer system utilized by a new motor vehicle dealer, or who has otherwise been provided consumer or customer data or information by the dealer, shall fully indemnify and hold harmless any dealer from whom it has acquired such consumer or customer data or other information from all damages, costs, and expenses incurred by such dealer. Such indemnification by the manufacturer, factory branch, distributor, distributor branch, dealer management computer system vendor, or third party acting on behalf of these entities includes, but is not limited to, judgments, settlements, fines, penalties, litigation costs, defense costs, court costs, costs related to the disclosure of security breaches, and attorneys' fees arising out of complaints, claims, civil or administrative actions, and, to the fullest extent allowable under the law, governmental investigations and prosecutions to the extent caused by a security breach or the access, storage, maintenance, use, sharing, disclosure, or retention of such dealer's consumer or customer data or other information, or maintenance or services provided to any computer system utilized by a new motor vehicle dealer.

(h) This section shall apply to contracts entered into on or after November 1, 2005. (2005-409, s. 4; 2007-513, s. 10; 2011-290, s. 11; 2013-302, s. 9.)

§ 20-306. Unlawful for salesman to sell except for his employer; multiple employment; persons who arrange transactions involving the sale of new motor vehicles.

It shall be unlawful for any motor vehicle salesman licensed under this Article to sell or exchange or offer or attempt to sell or exchange any motor vehicle other than his own except for the licensed motor vehicle dealer or dealers by whom he is employed, or to offer, transfer or assign, any sale or exchange, that he may have negotiated, to any other dealer or salesman. A salesman may be employed by more than one dealer provided such multiple employment is clearly indicated on his license. It shall be unlawful for any person to, for a fee, commission, or other valuable consideration, arrange or offer to arrange a transaction involving the sale of a new motor vehicle; provided, however, this prohibition shall not be applicable to:

- (1) A franchised motor vehicle dealer as defined in G.S. 20-286(8b) who is licensed under this Article or a sales representative who is licensed under this Article when acting on behalf of the dealer;
- (2) A manufacturer who is licensed under this Article or bona fide employee of such manufacturer when acting on behalf of the manufacturer;
- (3) A distributor who is licensed under this Article or a bona fide employee of such distributor when acting on behalf of the distributor; or
- (4) At any point in the transaction the bona fide owner of the vehicle involved in the transaction. (1955, c. 1243, s. 22; 1993, c. 331, s. 3.)

§ 20-307. Article applicable to existing and future franchises and contracts.

The provisions of this Article shall be applicable to all franchises and contracts existing between dealers and manufacturers, factory branches, and distributors at the time of its ratification, and to all such future franchises and contracts. (1955, c. 1243, s. 23.)

§ 20-307.1. Jurisdiction.

A franchisee who is substantially and primarily engaged in the sale of motor vehicles or parts, materials, or components of motor vehicles, including batteries, tires, transmissions, mufflers, painting, lubrication or tune-ups may bring suit against any franchisor, engaged in commerce, in the General Court of Justice in the State of North Carolina that has proper venue. (1983, c. 704, s. 24.)

§ 20-308. Penalties.

Any person violating any of the provisions of this Article, except for G.S. 20-305.7, shall be guilty of a Class 1 misdemeanor. (1955, c. 1243, s. 24; 1993, c. 539, s. 386; 1994, Ex. Sess., c. 24, s. 14(c); 2005-409, s. 5.)

§ 20-308.1. Civil actions for violations.

(a) Notwithstanding the terms, provisions or conditions of any agreement or franchise or other terms or provisions of any novation, waiver or other written instrument, any motor vehicle dealer who is or may be injured by a violation of a provision of this Article, or any party to a franchise who is so injured in his business or property by a violation of a provision of this Article relating to that franchise, or an arrangement which, if consummated, would be in violation of this Article may, notwithstanding the initiation or pendency of, or failure to initiate an administrative proceeding before the Commissioner concerning the same parties or subject matter, bring an action for damages and equitable relief, including injunctive relief, in any court of competent jurisdiction with regard to any matter not within the jurisdiction of the Commissioner or that seeks relief wholly outside the authority or jurisdiction of the Commissioner to award.

(b) Where the violation of a provision of this Article can be shown to be willful, malicious, or wanton, or if continued multiple violations of a provision or provisions of this Article occur, the court may award punitive damages, attorneys' fees and costs in addition to any other damages under this Article.

(c) A new motor vehicle dealer, if he has not suffered any loss of money or property, may obtain final equitable relief if it can be shown that the violation of a provision of this Article by a manufacturer or distributor may have the effect of causing a loss of money or property.

(d) Any association that is comprised of a minimum of 400 new motor vehicle dealers, or a minimum of 10 motorcycle dealers, substantially all of whom are new motor vehicle dealers located within North Carolina, and which represents the collective interests of its members, shall have standing to file a petition before the Commissioner or a cause of action in any court of competent jurisdiction for itself, or on behalf of any or all of its members, seeking declaratory and injunctive relief. Prior to bringing an action, the association and manufacturer, factory branch, distributor, or distributor branch shall initiate mediation as set forth in G.S. 20-301.1(b). An action brought pursuant to this subsection may seek a determination whether one or more manufacturers, factory branches, distributors, or distributor branches doing business in this State have violated any of the provisions of this Article, or for the determination of any rights created or defined by this Article, so long as the association alleges an injury to the collective interest of its members cognizable under this section. A cognizable injury to the collective interest of the members of the association shall be deemed to occur if a manufacturer, factory branch, distributor, or distributor branch doing business in this State has engaged in any conduct or taken any action which actually harms or affects all of the franchised new motor vehicle dealers holding franchises with that manufacturer, factory branch, distributor, or distributor branch in

this State. With respect to any administrative or civil action filed by an association pursuant to this subsection, the relief granted shall be limited to declaratory and injunctive relief and in no event shall the Commissioner or court enter an award of monetary damages. (1983, c. 704, s. 16; 1991, c. 510, s. 5; 2001-510, s. 5; 2007-513, s. 8.)

§ 20-308.2. Applicability of this Article.

(a) Any person who engages directly or indirectly in purposeful contacts within this State in connection with the offering or advertising for sale, or has business dealings, with respect to a new motor vehicle sale within this State, shall be subject to the provisions of this Article and shall be subject to the jurisdiction of the courts of this State.

(b) The applicability of this Article shall not be affected by a choice of law clause in any franchise, agreement, waiver, novation, or any other written instrument.

(c) Any provision of any agreement, franchise, waiver, novation or any other written instrument which is in violation of any section of this Article shall be deemed null and void and without force and effect.

(d) It shall be unlawful for a manufacturer or distributor to use any subsidiary corporation, affiliated corporation, or any other controlled corporation, partnership, association or person to accomplish what would otherwise be illegal conduct under this Article on the part of the manufacturer or distributor.

(e) The provisions of this Article shall apply to all written agreements between a manufacturer, wholesaler, or distributor with a motor vehicle dealer including, but not limited to, the franchise offering, the franchise agreement, sales of goods, services or advertising, leases or deeds of trust of real or personal property, promises to pay, security interests, pledges, insurance contracts, advertising contracts, construction or installation contracts, servicing contracts, and all other such agreements between a motor vehicle dealer and a manufacturer, wholesaler, or distributor. (1983, c. 704, s. 17; 2005-409, s. 6.)

§§ 20-308.3 through 20-308.12. Reserved for future codification purposes.

Article 12A.

Motor Vehicle Captive Finance Source Law.

§ 20-308.13. Regulation of motor vehicle captive finance sources.

The General Assembly finds and declares that the distribution of motor vehicles in the State of North Carolina vitally affects the general economy of the State and the public interest and public welfare, and in the exercise of its police power, it is necessary to regulate motor vehicle captive finance sources doing business in North Carolina to protect and preserve the investments and properties of the citizens of this State. (2005-409, s. 3.)

§ 20-308.14. Definitions.

The definitions contained in G.S. 20-286 shall be applicable to the provisions of this Article. (2005-409, s. 3.)

§ 20-308.15. Prohibited contractual requirements imposed by manufacturer, distributor, or captive finance source.

It shall be unlawful for any manufacturer, factory branch, captive finance source, distributor, or distributor branch, or any field representative, officer, agent, or any representative of them, notwithstanding the terms, provisions, or conditions of any agreement or franchise, to require any of its franchised dealers located in this State to agree to any terms, conditions, or requirements that are set forth in subdivisions (1) through (8) below in order for any such dealer to sell to any captive finance source (defined below) any retail installment contract, loan, or lease of any motor vehicles purchased or leased by any of the dealer's customers ("contract for sale or lease"), or to be able to participate in, or otherwise, directly or indirectly, obtain the benefits of any consumer transaction incentive program payable to the consumer or the dealer and offered by or through any financial source that provides automotive-related loans or purchases retail installment contracts or lease contracts for motor vehicles in North Carolina and is, directly or indirectly, owned, operated, or controlled by such manufacturer, factory branch, distributor, or distributor branch ("captive finance source"):

- (1) Require a dealer to grant such captive finance source a power of attorney to do anything on behalf of the dealer other than sign the dealer's name on any check, draft, or other instrument received in payment or proceeds under any contract for the sale or lease of a motor vehicle that is made payable to the dealer but which is properly payable to the captive finance source, is for the purpose of correcting an error in a customer's finance application or title processing document, or is for the purpose of processing regular titling of the vehicle.
- (2) Require a dealer to warrant or guarantee the accuracy and completeness of any personal, financial, or credit information provided by the customer on the credit application and/or in the course of applying for credit other than to require that the dealer make reasonable inquiry regarding the accuracy and completeness of such information and represent that such information is true and correct to the best of the dealer's knowledge.
- (3) Require a dealer to repurchase, pay off, or guaranty any contract for the sale or lease of a motor vehicle or to require a dealer to indemnify, defend, or hold harmless the captive finance source for settlements, judgments, damages, litigation expenses, or other costs or expenses incurred by such captive finance source unless the obligation to repurchase, pay off, guaranty, indemnify, or hold harmless resulted directly from (i) the subject dealer's material breach of the terms of a written agreement with the captive finance source or the terms for the purchase of an individual contract for sale or lease that the captive finance source communicates to the dealer before each such purchase, except to the extent the breached terms are otherwise prohibited under subdivisions (1) through (8) of this section, or (ii) the subject dealer's violation of applicable law. For purposes of this section, the dealer may, however, contractually obligate itself to warrant the accuracy of the information provided on the finance contract, but such warranty can only be enforced if the captive finance source gives the dealer a reasonable opportunity to cure or correct any errors on the finance contract where cure or correction is possible. For purposes of this section, any allegation by a third party that would constitute a breach of the terms of a written agreement

between the dealer and a captive finance source shall be considered a material breach.

- (4) Notwithstanding the terms of any contract or agreement, treat a dealer's breach of an agreement between the dealer and a captive finance source with respect to the captive finance source's purchase of individual contracts for the sale or lease of a motor vehicle as a breach of such agreement with respect to purchase of other such contracts, nor shall such a breach, in and of itself, constitute a breach of any other agreement between the dealer and the captive finance source, or between the dealer and any affiliate of such captive finance source.
- (5) Require a dealer to waive any defenses that may be available to it under its agreements with the captive finance source or under any applicable laws.
- (6) Require a dealer to settle or contribute any of its own funds or financial resources toward the settlement of any multiparty or class action litigation without obtaining the dealer's voluntary and written consent subsequent to the filing of such litigation.
- (7) Require a dealer to contribute to any reserve or contingency account established or maintained by the captive finance source, for the financing of the sale or lease of any motor vehicles purchased or leased by any of the dealer's customers, in any amount or on any basis other than the reasonable expected amount of future finance reserve chargebacks to the dealer's account. This section shall not apply to or limit (i) reasonable amounts reserved and maintained related to the sale or financing of any products ancillary to the sale, lease, or financing of the motor vehicle itself; (ii) a delay or reduction in the payment of dealer's portion of the finance income pursuant to an agreement between the dealer and a captive finance source under which the dealer agrees to such delay or reduction in exchange for the limitation, reduction, or elimination of the dealer's responsibility for finance reserve chargebacks; or (iii) a chargeback to a dealer (or offset of any amounts otherwise payable to a dealer by the captive finance source) for any indebtedness properly owing from a dealer to the captive finance source as part of a specific program covered by this section, the terms of which have been agreed to by the dealer in advance, except to the extent such chargeback would otherwise be prohibited under subdivisions (1) through (8) of this section.
- (8) Require a dealer to repossess or otherwise gain possession of a motor vehicle at the request of or on behalf of the captive finance source. This section shall not apply to any requirements contained in any agreement between the dealer and the captive finance source wherein the dealer agrees to receive and process vehicles that are voluntarily returned by the customer or returned to the lessor at the end of the lease term.

Any clause or provision in any franchise or agreement between a dealer and a manufacturer, factory branch, distributor, or distributor branch, or between a dealer and any captive finance source, that is in violation of or that is inconsistent with any of the provisions of this section shall be voidable, to the

extent that it violates this section, at any time at the election of the dealer.
(2005-409, s. 3.)

§ 20-308.16. Powers of Commissioner.

(a) The Commissioner shall promote the interests of the retail buyer of motor vehicles.

(b) The Commissioner shall have power to prevent unfair or deceptive acts or practices and other violations of this Article. Any franchised new motor vehicle dealer who believes that a captive finance source with whom the dealer does business in North Carolina has violated or is currently violating any provision of this Article may file a petition before the Commissioner setting forth the factual and legal basis for such violations. The Commissioner shall promptly forward a copy of the petition to the named captive finance source requesting a reply to the petition within 30 days. Allowing for sufficient time for the parties to conduct discovery, the Commissioner or his designee shall then hold an evidentiary hearing and render findings of fact and conclusions of law based on the evidence presented.

(c) The Commissioner shall have the power in hearings arising under this Article to enter scheduling orders and limit the time and scope of discovery; to determine the date, time, and place where hearings are to be held; to subpoena witnesses; to take depositions of witnesses; and to administer oaths.

(d) The Commissioner may, whenever he shall believe from evidence submitted to him that any person has been or is violating any provision of this Article, in addition to any other remedy, bring an action in the name of the State against that person and any other persons concerned or in any way participating in, or about to participate in, practices or acts so in violation, to enjoin any persons from continuing the violations.

(e) The Commissioner may issue rules and regulations to implement the provisions of this section and to establish procedures related to administrative proceedings commenced under this section.

(f) In the event that a dealer, who is permitted or required to file a notice, protest, or petition before the Commissioner within a certain period of time in order to adjudicate, enforce, or protect rights afforded the dealer under this Article, voluntarily elects to appeal a policy, determination, or decision of the captive finance source through an appeals board or internal grievance procedure of the captive finance source, or to participate in or refer the matter to mediation, arbitration, or other alternative dispute resolution procedure or process established or endorsed by the captive finance source, the applicable period of time for the dealer to file the notice, protest, or petition before the Commissioner under this Article shall not commence until the captive finance source's appeal board or internal grievance procedure, mediation, arbitration, or appeals process of the captive finance source has been completed and the dealer has received notice in writing of the final decision or result of the procedure or process. Nothing, however, contained in this subsection shall be deemed to require that any dealer exhaust any internal grievance or other alternative dispute process required or established by the captive finance source before seeking redress from the Commissioner as provided in this Article. (2005-409, s. 3.)

§ 20-308.17. Rules and regulations.

The Commissioner may make such rules and regulations, not inconsistent with the provisions of this Article, as he shall deem necessary or proper for the effective administration and enforcement of this Article, provided that a copy of such rules and regulations shall be mailed to

each motor vehicle dealer licensee and captive finance source 30 days prior to the effective date of such rules and regulations. (2005-409, s. 3.)

§ 20-308.18. Hearing notice.

In every case of a hearing before the Commissioner authorized under this Article, the Commissioner shall give reasonable notice of each such hearing to all interested parties, and the Commissioner's decision shall be binding on the parties, subject to the rights of judicial review and appeal as provided in Chapter 150B of the General Statutes. The costs of such hearings shall be assessed by the Commissioner. (2005-409, s. 3.)

§ 20-308.19. Article applicable to existing and future agreements.

The provisions of this Article shall be applicable to all contracts and agreements existing between dealers and captive finance sources at the time of its ratification and to all such future contracts and agreements. (2005-409, s. 3.)

§ 20-308.20. Jurisdiction.

A new motor vehicle dealer located in this State may bring suit against any captive finance source engaged in commerce in this State in the General Court of Justice in the State of North Carolina that has proper venue. (2005-409, s. 3.)

§ 20-308.21. Civil actions for violations.

(a) Notwithstanding the terms, provisions, or conditions of any agreement or other terms or provisions of any novation, waiver, arbitration agreement, or other written instrument, any person who is or may be injured by a violation of a provision of this Article, or any party to an agreement who is so injured in his business or property by a violation of a provision of this Article relating to that agreement, or an arrangement which, if consummated, would be in violation of this Article may, notwithstanding the initiation or pendency of, or failure to initiate an administrative proceeding before the Commissioner concerning the same parties or subject matter, bring an action for damages and equitable relief, including injunctive relief, in any court of competent jurisdiction with regard to any matter not within the jurisdiction of the Commissioner or that seeks relief wholly outside the authority or jurisdiction of the Commissioner to award.

(b) Where the violation of a provision of this Article can be shown to be willful, malicious, or wanton, or if continued multiple violations of a provision or provisions of this Article occur, the court may award punitive damages, attorneys' fees and costs in addition to any other damages under this Article.

(c) A new motor vehicle dealer, if he has not suffered any loss of money or property, may obtain final equitable relief if it can be shown that the violation of a provision of this Article by a captive finance source may have the effect of causing a loss of money or property.

(d) Any association that is comprised of a minimum of 400 new motor vehicle dealers, or a minimum of 10 motorcycle dealers, substantially all of whom are new motor vehicle dealers located within North Carolina, and which represents the collective interests of its members, shall have standing to file a petition before the Commissioner or a cause of action in any court of competent jurisdiction for itself, or on behalf of any or all of its members, seeking declaratory and injunctive relief. Prior to bringing an action, the association and captive finance source shall initiate mediation as set forth in G.S. 20-301.1(b). An action brought pursuant to this subsection

may seek a determination whether one or more captive finance sources doing business in this State have violated any of the provisions of this Article, or for the determination of any rights created or defined by this Article, so long as the association alleges an injury to the collective interest of its members cognizable under this section. A cognizable injury to the collective interest of the members of the association shall be deemed to occur if a captive finance source doing business in this State has engaged in any conduct or taken any action which actually harms or affects all of the franchised new motor vehicle dealers holding agreements with that captive finance source in this State. With respect to any administrative or civil action filed by an association pursuant to this subsection, the relief granted shall be limited to declaratory and injunctive relief and in no event shall the Commissioner or court enter an award of monetary damages. (2005-409, s. 3.)

§ 20-308.22. Applicability of this Article.

(a) Any captive finance source who engages directly or indirectly in purposeful contacts within this State in connection with the offering or advertising the availability of financing for the sale or lease of motor vehicles within this State, or who has business dealings within this State, shall be subject to the provisions of this Article and shall be subject to the jurisdiction of the courts of this State.

(b) The applicability of this Article shall not be affected by a choice of law clause in any agreement, waiver, novation, or any other written instrument.

(c) Any provision of any agreement, waiver, novation, or any other written instrument which is in violation of any section of this Article shall be deemed null and void and without force and effect to the extent it violates this section.

(d) It shall be unlawful for a captive finance source to use any subsidiary corporation, affiliated corporation, or any other controlled corporation, partnership, association, or person to accomplish what would otherwise be illegal conduct under this Article on the part of the captive finance source. (2005-409, s. 3.)

Article 13.

The Vehicle Financial Responsibility Act of 1957.

§ 20-309. Financial responsibility prerequisite to registration; must be maintained throughout registration period.

(a) No motor vehicle shall be registered in this State unless the owner at the time of registration provides proof of financial responsibility for the operation of such motor vehicle, as provided in this Article. The owner of each motor vehicle registered in this State shall maintain financial responsibility continuously throughout the period of registration. For purposes of this Article, the term "motor vehicle" includes mopeds, as that term is defined in G.S. 20-4.01.

(a1) An owner of a commercial motor vehicle, as defined in G.S. 20-4.01(3d), shall have financial responsibility for the operation of the motor vehicle in an amount equal to that required for for-hire carriers transporting nonhazardous property in interstate or foreign commerce in 49 C.F.R. § 387.9.

(a2) Notwithstanding any other provision of this Chapter, an owner's policy of liability insurance issued to a foster parent or parents, which policy includes an endorsement excluding coverage for one or more foster children residing in the foster parent's or parents' household, may be certified as proof of financial responsibility, provided that each foster child for whom

coverage is excluded is insured in an amount equal to or greater than the minimum limits required by G.S. 20-279.21 under some other owner's policy of liability insurance or a named nonowner's policy of liability insurance. The North Carolina Rate Bureau shall establish, with the approval of the Commissioner of Insurance, a named driver exclusion endorsement or endorsements for foster children as described herein.

(b) Financial responsibility shall be a liability insurance policy or a financial security bond or a financial security deposit or by qualification as a self-insurer, as these terms are defined and described in Article 9A, Chapter 20 of the General Statutes of North Carolina, as amended.

(c) When it is certified that financial responsibility is a liability insurance policy, the Commissioner of Motor Vehicles may require that the owner produce records to prove the fact of such insurance, and failure to produce such records shall be prima facie evidence that no financial responsibility exists with regard to the vehicle concerned. It shall be the duty of insurance companies, upon request of the Division, to verify the accuracy of any owner's certification.

(c1) The proof of insurance required to demonstrate financial responsibility under subsection (c) of this section may be satisfied by producing records of insurance in either physical or electronic format. Acceptable electronic formats include display of electronic images on a mobile phone or other portable electronic device produced through an application or Web site of the insurer.

(d) When liability insurance with regard to any motor vehicle is terminated by cancellation or failure to renew, or the owner's financial responsibility for the operation of any motor vehicle is otherwise terminated, the owner shall forthwith surrender the registration certificate and plates of the vehicle to the Division of Motor Vehicles unless financial responsibility is maintained in some other manner in compliance with this Article.

(e) Repealed by Session Laws 2006-213, s. 5, effective July 1, 2008, and applicable to lapses occurring on or after that date.

(f) The Commissioner shall administer and enforce the provisions of this Article and may make rules and regulations necessary for its administration and shall provide for hearings upon request of persons aggrieved by orders or acts of the Commissioner under the provisions of this Article.

(g) Repealed by Session Laws 2007-484, s. 7(a), effective July 1, 2008, and applicable to lapses occurring on or after that date.

(h) Recodified as G.S. 20-311(g) by Session Laws 2007-484, s. 7(d), effective July 1, 2008, and applicable to lapses occurring on or after that date. (1957, c. 1393, s. 1; 1959, c. 1277, s. 1; 1963, c. 964, s. 1; 1965, c. 272; c. 1136, ss. 1, 2; 1967, c. 822, ss. 1, 2; c. 857, ss. 1, 2; 1971, c. 477, ss. 1, 2; c. 924; 1975, c. 302; c. 348, ss. 1-3; c. 716, s. 5; 1979, 2nd Sess., c. 1279, s. 1; 1981, c. 690, s. 25; 1983, c. 761, s. 146; 1983 (Reg. Sess., 1984), c. 1069, ss. 1, 2; 1985, c. 666, s. 84; 1991, c. 402, s. 1; 1999-330, s. 4; 1999-452, s. 20; 2000-140, s. 100(a); 2000-155, s. 20; 2005-276, s. 6.37(p); 2006-213, s. 5; 2006-264, s. 38; 2007-484, ss. 7(a), (d); 2009-550, s. 4; 2015-125, s. 3; 2015-135, s. 4.3; 2015-146, s. 4.)

§ 20-309.1: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 28.

§ 20-309.2. Insurer shall notify Division of actions on insurance policies.

(a) Notice Required. – An insurer shall notify the Division upon any of the following with regard to a motor vehicle liability policy:

- (1) Issues a new or replacement policy.
- (2) Terminates a policy, either by cancellation or failure to renew, unless the same insurer issues a replacement policy complying with this Article at the same time the insurer terminates the old policy and no lapse in coverage results.
- (3) Reinstates a policy after the insurer has notified the Division of a cancellation or termination.

(b) Time Period. – An insurer shall notify the Division as required by subsection (a) of this section within 20 business days.

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

(d) Trade Secret Protection. – The names of insureds and the beginning date and termination date of insurance coverage provided to the Division by an insurer under this section constitutes a designated trade secret under G.S. 132-1.2.

(e) Civil Penalty. – The Commissioner of Insurance may assess a civil penalty of two hundred dollars (\$200.00) against an insurer that fails to notify the Division as required by this section. The Commissioner may waive the penalty if the insurer establishes good cause for the failure.

(f) Clear Proceeds of Penalties. – The clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by the Department of Transportation pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (2006-213, s. 1; 2007-484, s. 7(b).)

§ 20-310: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 29.

§ 20-310.1. Repealed by Session Laws 1963, c. 964, s. 3.

§ 20-310.2: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 31.

§ 20-311. Action by the Division when notified of a lapse in financial responsibility.

(a) Action. – When the Division receives evidence, by a notice of termination of a motor vehicle liability policy or otherwise, that the owner of a motor vehicle registered or required to be registered in this State does not have financial responsibility for the operation of the vehicle, the Division shall send the owner a letter. The letter shall notify the owner of the evidence and inform the owner that the owner shall respond to the letter within 10 days of the date on the letter and explain how the owner has met the duty to have continuous financial responsibility for the vehicle. Based on the owner's response, the Division shall take the appropriate action listed:

- (1) Division correction. – If the owner responds within the required time and the response establishes that the owner has not had a lapse in financial responsibility, the Division shall correct its records.
- (2) Penalty only. – If the owner responds within the required time and the response establishes all of the following, the Division shall assess the owner a penalty in the amount set in subsection (b) of this section:

- a. The owner had a lapse in financial responsibility, but the owner now has financial responsibility.
 - b. The vehicle was not involved in an accident during the lapse in financial responsibility.
 - c. The owner did not operate the vehicle or allow the vehicle to be operated during the lapse with knowledge that the owner had no financial responsibility for the vehicle.
- (3) Penalty and revocation. – If the owner responds within the required time and the response establishes either of the following, the Division shall assess the owner a penalty in the amount set in subsection (b) of this section and revoke the registration of the owner's vehicle for the period set in subsection (c) of this section:
- a. The owner had a lapse in financial responsibility and still does not have financial responsibility.
 - b. The owner now has financial responsibility even though the owner had a lapse, but the response also establishes any of the following:
 - 1. The vehicle was involved in an accident during the lapse.
 - 2. The owner operated the vehicle during the lapse with knowledge that the owner had no financial responsibility for the vehicle.
 - 3. The owner allowed the vehicle to be operated during the lapse with knowledge that the owner had no financial responsibility for the vehicle.
- (4) Penalty and revocation for failure to respond. – Except as otherwise provided in this subdivision, if the owner does not respond within the required time, the Division shall assess a penalty in the applicable amount set forth in subsection (b) of this section and shall revoke the registration of the owner's vehicle for the period set in subsection (c) of this section. If the owner does not respond within the required time, but later responds and establishes that the owner has not had a lapse in financial responsibility, the Division shall correct its records, rescind any revocation under this subdivision of the registration of the owner's vehicle, and the owner shall not be responsible for any fee or penalty arising under this section from the owner's failure to timely respond.

(b) Penalty Amount. – The following table determines the amount of a penalty payable under this section by an owner who has had a lapse in financial responsibility; the amount is based on the number of times the owner has been assessed a penalty under this section during the three-year period before the date the owner's current lapse began:

Number of Lapses in Previous Three Years	Penalty Amount
None	\$50.00
One	\$100.00
Two or More	\$150.00

(c) Revocation Period. – The revocation period for a revocation based on a response that establishes that a vehicle owner does not have financial responsibility is indefinite and ends when the owner obtains financial responsibility or transfers the vehicle to an owner who has financial responsibility. The revocation period for a revocation based on a response that establishes the occurrence of an accident during a lapse in financial responsibility or the knowing

operation of a vehicle without financial responsibility is 30 days. The revocation period for a revocation based on failure of a vehicle owner to respond is indefinite and ends when the owner (i) establishes that the owner has not had a lapse in financial responsibility, (ii) obtains financial responsibility, or (iii) transfers the vehicle to an owner who has financial responsibility, whichever occurs first.

(d) Revocation Notice. – When the Division revokes the registration of an owner's vehicle, it shall notify the owner of the revocation. The notice shall inform the owner of the following:

- (1) That the owner shall return the vehicle's registration plate and registration card to the Division, if the owner has not done so already, and that failure to do so is a Class 2 misdemeanor under G.S. 20-45.
- (2) That the vehicle's registration plate and registration card are subject to seizure by a law enforcement officer.
- (3) That the registration of the vehicle cannot be renewed while the registration is revoked.
- (4) That the owner shall pay any penalties assessed within 30 days of the date of the notice, a restoration fee, and the fee for a registration plate when the owner applies to the Division to register a vehicle whose registration was revoked.
- (5) That failure of an owner to pay any penalty or fee assessed pursuant to this section shall result in the Division withholding the registration renewal of any motor vehicle registered in that owner's name.

(e) Registration After Revocation. – A vehicle whose registration has been revoked may not be registered during the revocation period in the name of the owner, a child of the owner, the owner's spouse, or a child of the owner's spouse. This restriction does not apply to a spouse who is living separate and apart from the owner. At the end of a revocation period, a vehicle owner who has financial responsibility may apply to register a vehicle whose registration was revoked. The owner shall provide proof of current financial responsibility and pay any penalty assessed, a restoration fee of fifty dollars (\$50.00), and the fee for a registration plate. Pursuant to G.S. 20-54, failure of an owner to pay any penalty or fee assessed pursuant to this section shall result in the Division withholding the registration renewal of any motor vehicle registered in that owner's name.

(f) Clear Proceeds of Penalties. – The clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by the Department of Transportation pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(g) Military Waiver. – Notwithstanding the penalty and restoration fee provisions of this section, any monetary penalty or restoration fee shall be waived for any person who, at the time of notification of a lapse in financial responsibility, was deployed as a member of the Armed Forces of the United States outside of the continental United States for a total of 45 or more days. In addition, no insurance points under the Safe Driver Incentive Plan shall be assessed for any violation for which a monetary penalty or restoration fee is waived pursuant to this subsection. All of the following apply to a person qualifying under this subsection:

- (1) The person shall have an affirmative defense to any criminal charge based upon the failure to return any registration card or registration plate to the Division.

- (2) Upon reregistration, the person shall receive without cost from the Division all necessary registration cards or plates.
- (3) Upon notice of revocation, the person shall be permitted to transfer the vehicle's registration immediately to his or her spouse, child, or spouse's child, notwithstanding the provisions of subsection (e) of this section.

(h) Applicability. – The penalty and revocation imposed under this section do not apply when the sole owner of a vehicle dies and that owner had financial responsibility for the vehicle as of the date of the owner's death. (1957, c. 1393, s. 3; 1959, c. 1277, s. 2; 1963, c. 964, s. 4; 1965, c. 205; c. 1136, s. 3; 1967, c. 822, s. 3; c. 857, s. 4; 1971, c. 477, s. 3; 1975, c. 348, s. 4; c. 716, s. 5; 1979, 2nd Sess., c. 1279, s. 2; 1983, c. 761, s. 147; 1983 (Reg. Sess., 1984), c. 1069, s. 2; 2006-213, s. 2; 2006-264, s. 38; 2007-484, ss. 7(c), (d); 2011-183, s. 24; 2015-241, s. 29.31(a).)

§ 20-312: Repealed by Session Laws 2006-213, s. 5, effective July 1, 2008, and applicable to lapses occurring on or after that date.

§ 20-313. Operation of motor vehicle without financial responsibility a misdemeanor.

(a) On or after July 1, 1963, any owner of a motor vehicle registered or required to be registered in this State who shall operate or permit such motor vehicle to be operated in this State without having in full force and effect the financial responsibility required by this Article shall be guilty of a Class 3 misdemeanor.

(b) Evidence that the owner of a motor vehicle registered or required to be registered in this State has operated or permitted such motor vehicle to be operated in this State, coupled with proof of records of the Division of Motor Vehicles indicating that the owner did not have financial responsibility applicable to the operation of the motor vehicle in the manner certified by him for purposes of G.S. 20-309, shall be prima facie evidence that such owner did at the time and place alleged operate or permit such motor vehicle to be operated without having in full force and effect the financial responsibility required by the provisions of this Article. (1957, c. 1393, s. 5; 1959, c. 1277, s. 3; 1963, c. 964, s. 5; 1975, c. 716, s. 5; 1993, c. 539, s. 388; 1994, Ex. Sess., c. 24, s. 14(c); 2013-360, s. 18B.14(l).)

§ 20-313.1. Making false certification or giving false information a misdemeanor.

(a) Any owner of a motor vehicle registered or required to be registered in this State who shall make a false certification concerning his financial responsibility for the operation of such motor vehicle shall be guilty of a Class 1 misdemeanor.

(b) Any person, firm, or corporation giving false information to the Division concerning another's financial responsibility for the operation of a motor vehicle registered or required to be registered in this State, knowing or having reason to believe that such information is false, shall be guilty of a Class 1 misdemeanor. (1963, c. 964, s. 6; 1975, c. 716, s. 5; 1993, c. 539, s. 389; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-314. Applicability of Article 9A; its provisions continued.

The provisions of Article 9A, Chapter 20 of the General Statutes, as amended, which pertain to the method of giving and maintaining proof of financial responsibility and which govern and define "motor vehicle liability policy" and assigned risk plans shall apply to filing and maintaining proof of financial responsibility required by this Article. It is intended that the

provisions of Article 9A, Chapter 20 of the General Statutes, as amended, relating to proof of financial responsibility required of each operator and each owner of a motor vehicle involved in an accident, and relating to nonpayment of a judgment as defined in G.S. 20-279.1, shall continue in full force and effect. (1957, c. 1393, s. 6; 1963, c. 964, s. 7.)

§ 20-315. Commissioner to administer Article; rules and regulations.

The Commissioner of Motor Vehicles shall administer and enforce the provisions of this Article relating to registration of motor vehicles and may make necessary rules and regulations for its administration. (1957, c. 1393, s. 7.)

§ 20-316. Divisional hearings upon lapse of liability insurance coverage.

Any person whose registration plate has been revoked under G.S. 20-311 may request a hearing. Upon receipt of such request, the Division shall, as early as practical, afford an opportunity for hearing. At the hearing the duly authorized agents of the Division may administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books and documents. If it appears that continuous financial responsibility existed for the vehicle involved, or if it appears the lapse of financial responsibility is not reasonably attributable to the neglect or fault of the person whose registration plate was revoked, the Division shall withdraw its order of revocation and such person may retain the registration plate. Otherwise, the order of revocation shall be affirmed and the registration plate surrendered. (1971, c. 1218, s. 1; 1973, c. 1144, ss. 1, 2; 1975, c. 716, s. 5; 2006-213, s. 3.)

§ 20-316.1: Repealed by Session Laws 2006-213, s. 5, effective July 1, 2008, and applicable to lapses occurring on or after that date.

§ 20-317. Insurance required by any other law; certain operators not affected.

This Article shall not be held to apply to or affect policies of automobile insurance against liability which may now or hereafter be required by any other law of this State, and such policies, if they contain an agreement or are endorsed to conform to the requirements of this Article, may be certified as proof of financial responsibility under this Article. This Article applies to vehicles of motor carriers required to register with the Division under G.S. 20-382 or G.S. 20-382.1 only to the extent that the amount of financial responsibility required by this Article exceeds the amount required by the United States Department of Transportation. (1957, c. 1393, s. 9; 1959, c. 1252, s. 1; 1975, c. 716, s. 5; 1995 (Reg. Sess., 1996), c. 756, s. 19.)

§ 20-318. Federal, State and political subdivision vehicles excepted.

This Article does not apply to any motor vehicle owned by the State of North Carolina or by a political subdivision of the State, nor to any motor vehicle owned by the federal government. (1957, c. 1393, s. 10.)

§ 20-319. Effective date.

This Article shall be effective from and after January 1, 1958. (1957, c. 1393, s. 12; 1961, c. 276.)

Article 13A.

Certification of Automobile Insurance Coverage by Insurance Companies.

§ 20-319.1. Company to forward certification within seven days after receipt of request.

Upon the receipt by an insurance company at its home office of a registered letter from an insured requesting that it certify to the North Carolina Division of Motor Vehicles whether or not a previously issued policy of automobile liability insurance was in full force and effect on a designated day, it shall be the duty of such insurance company to forward such certification within seven days. (1967, c. 908, s. 1; 1975, c. 716, s. 5.)

§ 20-319.2. Penalty for failure to forward certification.

If any insurance company shall without good cause fail to forward said certification within seven days after its receipt of such registered letter, the North Carolina Commissioner of Insurance shall be authorized in his discretion to impose a civil penalty upon said company in the amount of two hundred dollars (\$200.00) for such violation. (1967, c. 908, s. 2.)

Article 14.

Driver Training School Licensing Law.

§ 20-320. Definitions.

As used in this Article:

- (1) "Commercial driver training school" or "school" means a business enterprise conducted by an individual, association, partnership or corporation which educates or trains persons to operate or drive motor vehicles or which furnishes educational materials to prepare an applicant for an examination given by the State for a driver's license or learner's permit, and charges a consideration or tuition for such service or materials.
- (2) "Commissioner" means the Commissioner of Motor Vehicles.
- (3) "Instructor" means any person who operates a commercial driver training school or who teaches, conducts classes, gives demonstrations, or supervises practical training of persons learning to operate or drive motor vehicles in connection with operation of a commercial driver training school. (1965, c. 873; 1979, c. 667, s. 39.)

§ 20-321. Enforcement of Article by Commissioner.

(a) The Commissioner shall adopt and prescribe such regulations concerning the administration and enforcement of this Article as are necessary to protect the public. The Commissioner or his authorized representative shall have the duty of examining applicants for commercial driver training schools and instructor's licenses, licensing successful applicants, and inspecting school facilities, records, and equipment.

(b) The Commissioner shall administer and enforce the provisions of this Article, and may call upon the State Superintendent of Public Instruction for assistance in developing and formulating appropriate regulations. (1965, c. 873; 1973, c. 1331, s. 3; 1987, c. 69, c. 827, s. 3.)

§ 20-322. Licenses for schools necessary; regulations as to requirements.

(a) No commercial driver training school shall be established nor any such existing school be continued on or after July 1, 1965, unless such school applies for and obtains from the Commissioner a license in the manner and form prescribed by the Commissioner.

(b) Regulations adopted by the Commissioner shall state the requirements for a school license, including requirements concerning location, equipment, courses of instruction, instructors, financial statements, schedule of fees and charges, character and reputation of the operators, insurance, bond or other security in such sum and with such provisions as the Commissioner deems necessary to protect adequately the interests of the public, and such other matters as the Commissioner may prescribe. A driver education course offered to prepare an individual for a limited learner's permit or another provisional license must meet the requirements set in G.S. 115C-215 for the program of driver education offered in the public schools. (1965, c. 873; 1997-16, s. 4; 1997-443, s. 32.20; 2011-145, s. 28.37(e).)

§ 20-323. Licenses for instructors necessary; regulations as to requirements.

(a) No person shall act as an instructor on or after July 1, 1965, unless such person applies for and obtains from the Commissioner a license in the manner and form prescribed by the Commissioner.

(b) Regulations adopted by the Commissioner shall state the requirements for an instructor's license, including requirements concerning moral character, physical condition, knowledge of the courses of instruction, knowledge of the motor vehicle laws and safety principles, previous personal and employment records, and such other matters as the Commissioner may prescribe, for the protection of the public. (1965, c. 873.)

§ 20-324. Expiration and renewal of licenses; fees.

(a) Renewal. – A license issued under this Article expires two years after the date the license is issued. To renew a license, the license holder must file an application for renewal with the Division.

(b) Fees. – An application for an initial license or the renewal of a license must be accompanied by the application fee for the license. The application fee for a school license is eighty dollars (\$80.00). The application fee for an instructor license is sixteen dollars (\$16.00). The application fee for a license is not refundable. Fees collected under this section must be credited to the Highway Fund. (1965, c. 873; 1977, c. 802, s. 9; 1981, c. 690, s. 15; 1997-33, s. 1.)

§ 20-325. Cancellation, suspension, revocation, and refusal to issue or renew licenses.

The Commissioner may cancel, suspend, revoke, or refuse to issue or renew a school or instructor's license in any case where he finds the licensee or applicant has not complied with, or has violated any of the provisions of this Article or any regulation adopted by the Commissioner hereunder. A suspended or revoked license shall be returned to the Commissioner by the licensee, and its holder shall not be eligible to apply for a license under this Article until 12 months have elapsed since the date of such suspension or revocation. (1965, c. 873.)

§ 20-326. Exemptions from Article.

The provisions of this Article shall not apply to any person giving driver training lessons without charge, to employers maintaining driver training schools without charge for their

employees only, or to schools or classes conducted by colleges, universities and high schools. (1965, c. 873.)

§ 20-327. Penalties for violating Article or regulations.

Violation of any provision of this Article or any regulation promulgated pursuant hereto, shall constitute a Class 3 misdemeanor. (1965, c. 873; 1993, c. 539, s. 390; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-328. Administration of Article.

This Article shall be administered by the Division of Motor Vehicles with no additional appropriations. (1965, c. 873; 1973, c. 440; 1975, c. 716, s. 5.)

§§ 20-329 through 20-339. Reserved for future codification purposes.

Article 15.

Vehicle Mileage Act.

§ 20-340. Purpose.

This Article shall provide State remedies for persons injured by motor vehicle odometer alteration, and to provide purchasers of motor vehicles with information to assist them in determining the condition and value of such vehicles. Such remedies shall be in addition to remedies provided by the federal odometer law (Motor Vehicle Information and Cost Savings Act, Public Law 92-513, 86 Stat. 947, enacted October 20, 1972). (1973, c. 679, s. 1.)

§ 20-341. Definitions.

As used in this Article:

- (1) The term "odometer" means an instrument for measuring and recording the actual distance a motor vehicle travels while in operation; but shall not include any auxiliary odometer designed to be reset by the operator of the motor vehicle for the purpose of recording mileage on trips.
- (2) The term "repair and replacement" means to restore to a sound working condition by replacing the odometer or any part thereof or by correcting what is inoperative.
- (3) The term "transfer" means to change ownership by purchase, gift, or any other means.
- (4) The term "transferee" means any person to whom the ownership in a motor vehicle is transferred or any person who, as agent, accepts transfer of ownership in a motor vehicle for another by purchase, gift, or any means other than by creation of a security interest.
- (5) The term "transferor" means any person who or any person who, as agent, transfers his ownership in a motor vehicle by sale, gift or any means other than by creation of a security interest.
- (6) The term "lessee" means any person, or the agent for any person, to whom a motor vehicle has been leased for a term of at least four months.
- (7) The term "lessor" means any person, or the agent for any person, who has leased five or more vehicles in the past 12 months.

- (8) The term "mileage" means the actual distance that a vehicle has traveled. (1973, c. 679, s. 1; 1989, c. 482, s. 1.)

§ 20-342. Unlawful devices.

It is unlawful for any person knowingly to advertise for sale, to sell, to use, or to install or to have installed, any device which causes an odometer to register any mileage other than the true mileage driven. For the purposes of this section, the true mileage driven is that mileage driven by the vehicle as registered by the odometer within the manufacturer's designed tolerance. (1973, c. 679, s. 1.)

§ 20-343. Unlawful change of mileage.

It is unlawful for any person or his agent to disconnect, reset, or alter the odometer of any motor vehicle with the intent to change the number of miles indicated thereon. Whenever evidence shall be presented in any court of the fact that an odometer has been reset or altered to change the number of miles indicated thereon, it shall be prima facie evidence in any court in the State of North Carolina that the resetting or alteration was made by the person, firm or corporation who held title or by law was required to hold title to the vehicle in which the reset or altered odometer was installed at the time of such resetting or alteration or if such person has more than 20 employees and has specifically and in writing delegated responsibility for the motor vehicle to an agent, that the resetting or alteration was made by the agent. (1973, c. 679, s. 1; 1979, c. 696.)

§ 20-344. Operation of vehicle with intent to defraud.

It is unlawful for any person with the intent to defraud to operate a motor vehicle on any street or highway knowing that the odometer of such vehicle is disconnected or nonfunctional. (1973, c. 679, s. 1.)

§ 20-345. Conspiracy.

No person shall conspire with any other person to violate G.S. 20-342, 20-343, 20-344, 20-346, 20-347, or 20-347.1. (1973, c. 679, s. 1; 1989, c. 482, s. 7.)

§ 20-346. Lawful service, repair, or replacement of odometer.

Nothing in this Article shall prevent the service, repair, or replacement of an odometer, provided the mileage indicated thereon remains the same as before the service, repair, or replacement. Where the odometer is incapable of registering the same mileage as before such service, repair, or replacement, the odometer shall be adjusted to read zero and a notice in writing shall be attached to the left door frame of the vehicle by the owner or his agent specifying the mileage prior to repair or replacement of the odometer and the date on which it was repaired or replaced. Any removal or alteration of such notice so affixed shall be unlawful. (1973, c. 679, s. 1.)

§ 20-347. Disclosure requirements.

(a) In connection with the transfer of a motor vehicle, the transferor shall disclose the mileage to the transferee in writing on the title or on the document used to reassign the title. This written disclosure must be signed by the transferor, including the printed name, and shall contain the following information:

- (1) The odometer reading at the time of the transfer (not to include tenths of miles);
- (2) The date of the transfer;
- (3) The transferor's name and current address;
- (3a) The transferee's printed name, signature and current address;
- (4) The identity of the vehicle, including its make, model, body type, and vehicle identification number, and the license plate number most recently used on the vehicle; and
- (5) Certification by the transferor that to the best of his knowledge the odometer reading
 - a. Reflects the actual mileage; or
 - b. Reflects the amount of mileage in excess of the designed mechanical odometer limit; or
 - c. Does not reflect the actual mileage and should not be relied on.
- (6), (7) Repealed by Session Laws 1989, c. 482, s. 2.

(a1) Before executing any transfer of ownership document, each lessor of a leased motor vehicle shall notify the lessee in writing that the lessee is required to provide written disclosure to the lessor regarding mileage. In connection with the transfer of ownership of the leased motor vehicle, the lessee shall furnish to the lessor a written statement signed by the lessee containing the following information:

- (1) The printed name of the person making the disclosure;
- (2) The current odometer reading (not to include tenths of miles);
- (3) The date of the statement;
- (4) The lessee's printed name and current address;
- (5) The lessor's printed name, signature, and current address;
- (6) The identity of the vehicle, including its make, model, year, body type, and vehicle identification number;
- (7) The date that the lessor notified the lessee of the disclosure requirements and the date the lessor received the completed disclosure statement; and
- (8) Certification by the lessee that to the best of his knowledge the odometer reading:
 - a. Reflects the actual mileage;
 - b. Reflects the amount of mileage in excess of the designed mechanical odometer limit; or
 - c. Does not reflect the actual mileage and should not be relied on.

If the lessor transfers the leased vehicle without obtaining possession of it, the lessor may indicate on the title the mileage disclosed by the lessee under this subsection, unless the lessor has reason to believe that the disclosure by the lessee does not reflect the actual mileage of the vehicle.

(b) Repealed by Session Laws 1973, c. 1088.

(c) It shall be unlawful for any transferor to violate any rules under this section or to knowingly give a false statement to a transferee in making any disclosure required by such rules.

(d) The provisions of this disclosure statement section shall not apply to the following transfers:

- (1) A vehicle having a gross vehicle weight rating of more than 16,000 pounds.
- (2) A vehicle that is not self-propelled.

- (2a) A vehicle sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications.
- (3) A vehicle that is 10 years old or older.
- (4) A new vehicle prior to its first transfer for purposes other than resale.
- (5) A vehicle that is transferred by a State agency that assists the United States Department of Defense with purchasing, transferring, or titling a vehicle to another State agency, a unit of local government, a volunteer fire department, or a volunteer rescue squad. (1973, c. 679, s. 1; c. 1088; 1983, c. 387; 1989, c. 482, ss. 2-5; 1993, c. 553, s. 11; 2009-550, s. 2(d).)

§ 20-347.1. Odometer disclosure record retention.

(a) Dealers and distributors of motor vehicles who are required by this Part to execute an odometer disclosure statement shall retain, for five years, a photostat, carbon, or other facsimile copy of each odometer mileage statement which they issue or receive. They shall retain all odometer disclosure statements at their primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval.

(b) Lessors shall retain, for five years following the date they transfer ownership of the leased vehicle, each odometer disclosure statement which they receive from a lessee. They shall retain all odometer disclosure statements at their primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval.

(c) Each auction company shall establish and retain at its primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval, for five years following the date of sale of each motor vehicle, the following records:

- (1) The name of the most recent owner (other than the auction company);
- (2) The name of the buyer;
- (3) The vehicle identification number; and
- (4) The odometer reading on the date which the auction company took possession of the motor vehicle.

(d) Records required to be kept under this section shall be open to inspection and copying by law enforcement officers of the Division in order to determine compliance with this Article. (1989, c. 482, s. 6.)

§ 20-348. Private civil action.

(a) Any person who, with intent to defraud, violates any requirement imposed under this Article shall be liable in an amount equal to the sum of:

- (1) Three times the amount of actual damages sustained or one thousand five hundred dollars (\$1,500), whichever is the greater; and
- (2) In the case of any successful action to enforce the foregoing liability, the costs of the action together with reasonable attorney fees as determined by the court.

(b) An action to enforce any liability created under subsection (a) of this section may be brought in any court of the trial division of the General Court of Justice of the State of North Carolina within four years from the date on which the liability arises. (1973, c. 679, s. 1; 1981 (Reg. Sess., 1982), c. 1280, s. 1.)

§ 20-349. Injunctive enforcement.

Upon petition by the Attorney General of North Carolina, a violation of this Article may be enjoined as an unfair and deceptive trade practice, as prohibited by G.S. 75-1.1. (1973, c. 679, s. 1.)

§ 20-350. Criminal offense.

Any person, firm or corporation violating G.S. 20-343 shall be guilty of a Class I felony. A violation of any remaining provision of this Article shall be a Class 1 misdemeanor. (1973, c. 679, s. 1; 1989, c. 482, s. 7.1; 1993, c. 539, ss. 391, 1262; 1994, Ex. Sess., c. 24, s. 14(c).)

Article 15A.

New Motor Vehicles Warranties Act.

§ 20-351. Purpose.

This Article shall provide State and private remedies against motor vehicle manufacturers for persons injured by new motor vehicles failing to conform to express warranties. (1987, c. 385, s. 1.)

§ 20-351.1. Definitions.

As used in this Article:

- (1) "Consumer" means the purchaser, other than for purposes of resale, or lessee from a commercial lender, lessor, or from a manufacturer or dealer, of a motor vehicle, and any other person entitled by the terms of an express warranty to enforce the obligations of that warranty.
- (2) "Manufacturer" means any person or corporation, resident or nonresident, who manufactures or assembles or imports or distributes new motor vehicles which are sold in the State of North Carolina.
- (3) "Motor vehicle" includes a motor vehicle as defined in G.S. 20-4.01 that is sold or leased in this State, but does not include "house trailer" as defined in G.S. 20-4.01 or any motor vehicle that weighs more than 10,000 pounds.
- (4) "New motor vehicle" means a motor vehicle for which a certificate of origin, as required by G.S. 20-52.1 or a similar requirement in another state, has never been supplied to a consumer, or which a manufacturer, its agent, or its authorized dealer states in writing is being sold as a new motor vehicle. (1987, c. 385, s. 1; 1989, c. 43, s. 2; c. 519, s. 2; 2005-436, s. 1.)

§ 20-351.2. Require repairs; when mileage warranty begins to accrue.

(a) Express warranties for a new motor vehicle shall remain in effect at least one year or 12,000 miles. If a new motor vehicle does not conform to all applicable express warranties for a period of one year, or the term of the express warranties, whichever is greater, following the date of original delivery of the motor vehicle to the consumer, and the consumer reports the nonconformity to the manufacturer, its agent, or its authorized dealer during such period, the manufacturer shall make, or arrange to have made, repairs necessary to conform the vehicle to the express warranties, whether or not these repairs are made after the expiration of the applicable warranty period.

(b) Any express warranty for a new motor vehicle expressed in terms of a certain number of miles shall begin to accrue from the mileage on the odometer at the date of original delivery to the consumer. (1987, c. 385; 1989, c. 14.)

§ 20-351.3. Replacement or refund; disclosure requirement.

(a) When the consumer is the purchaser or a person entitled by the terms of the express warranty to enforce the obligations of the warranty, if the manufacturer is unable, after a reasonable number of attempts, to conform the motor vehicle to any express warranty by repairing or correcting, or arranging for the repair or correction of, any defect or condition or series of defects or conditions which substantially impair the value of the motor vehicle to the consumer, and which occurred no later than 24 months or 24,000 miles following original delivery of the vehicle, the manufacturer shall, at the option of the consumer, replace the vehicle with a comparable new motor vehicle or accept return of the vehicle from the consumer and refund to the consumer the following:

- (1) The full contract price including, but not limited to, charges for undercoating, dealer preparation and transportation, and installed options, plus the non-refundable portions of extended warranties and service contracts;
- (2) All collateral charges, including but not limited to, sales tax, license and registration fees, and similar government charges;
- (3) All finance charges incurred by the consumer after he first reports the nonconformity to the manufacturer, its agent, or its authorized dealer; and
- (4) Any incidental damages and monetary consequential damages.

(b) When consumer is a lessee, if the manufacturer is unable, after a reasonable number of attempts, to conform the motor vehicle to any express warranty by repairing or correcting, or arranging for the repair or correction of, any defect or condition or series of defects or conditions which substantially impair the value of the motor vehicle to the consumer, and which occurred no later than 24 months or 24,000 miles following original delivery of the vehicle, the manufacturer shall, at the option of the consumer, replace the vehicle with a comparable new motor vehicle or accept return of the vehicle from the consumer and refund the following:

- (1) To the consumer:
 - a. All sums previously paid by the consumer under the terms of the lease;
 - b. All sums previously paid by the consumer in connection with entering into the lease agreement, including, but not limited to, any capitalized cost reduction, sales tax, license and registration fees, and similar government charges; and
 - c. Any incidental and monetary consequential damages.
- (2) To the lessor, a full refund of the lease price, plus an additional amount equal to five percent (5%) of the lease price, less eighty-five percent (85%) of the amount actually paid by the consumer to the lessor pursuant to the lease. The lease price means the actual purchase cost of the vehicle to the lessor.

In the case of a refund, the leased vehicle shall be returned to the manufacturer and the consumer's written lease shall be terminated by the lessor without any penalty to the consumer. The lessor shall transfer title of the motor vehicle to the manufacturer as necessary to effectuate the consumer's rights pursuant to this Article, whether the consumer chooses vehicle replacement or refund.

(c) Refunds shall be made to the consumer, lessor, and any lienholders as their interests may appear. The refund to the consumer shall be reduced by a reasonable allowance for the consumer's use of the vehicle. A reasonable allowance for use is calculated from the number of miles used by the consumer up to the date of the third attempt to repair the same nonconformity which is the subject of the claim, or the twentieth cumulative business day when the vehicle is out of service by reason of repair of one or more nonconformities, whichever occurs first. The number of miles used by the consumer is multiplied by the purchase price of the vehicle or the lessor's actual lease price, and divided by 120,000.

(d) If a manufacturer, its agent, or its authorized dealer resells a motor vehicle that was returned pursuant to this Article or any other State's applicable law, regardless of whether there was any judicial determination that the motor vehicle had any defect or that it failed to conform to all express warranties, the manufacturer, its agent, or its authorized dealer shall disclose to the subsequent purchaser prior to the sale:

- (1) That the motor vehicle was returned pursuant to this Article or pursuant to the applicable law of any other State; and
- (2) The defect or condition or series of defects or conditions which substantially impaired the value of the motor vehicle to the consumer.

Any subsequent purchaser who purchases the motor vehicle for resale with notice of the return, shall make the required disclosures to any person to whom he resells the motor vehicle. (1987, c. 385, s. 1; 1989, c. 43, s. 1; c. 519, s. 1; 2005-436, s. 2.)

§ 20-351.4. Affirmative defenses.

It is an affirmative defense to any claim under this Article that an alleged nonconformity or series of nonconformities are the result of abuse, neglect, odometer tampering by the consumer or unauthorized modifications or alterations of a motor vehicle. (1987, c. 385.)

§ 20-351.5. Presumption.

(a) It is presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties if:

- (1) The same nonconformity has been presented for repair to the manufacturer, its agent, or its authorized dealer four or more times but the same nonconformity continues to exist; or
- (2) The vehicle was out of service to the consumer during or while awaiting repair of the nonconformity or a series of nonconformities for a cumulative total of 20 or more business days during any 12-month period of the warranty,

provided that the consumer has notified the manufacturer directly in writing of the existence of the nonconformity or series of nonconformities and allowed the manufacturer a reasonable period, not to exceed 15 calendar days, in which to correct the nonconformity or series of nonconformities. The manufacturer must clearly and conspicuously disclose to the consumer in the warranty or owners manual that written notification of a nonconformity is required before a consumer may be eligible for a refund or replacement of the vehicle and the manufacturer shall include in the warranty or owners manual the name and address where the written notification may be sent. Provided, further, that notice to the manufacturer shall not be required if the manufacturer fails to make the disclosures provided herein.

(b) The consumer may prove that a defect or condition substantially impairs the value of the motor vehicle to the consumer in a manner other than that set forth in subsection (a) of this section.

(c) The term of an express warranty, the one-year period, and the 20-day period shall be extended by any period of time during which repair services are not available to the consumer because of war, strike, or natural disaster. (1987, c. 385.)

§ 20-351.6. Civil action by the Attorney General.

Whenever, in his opinion, the interests of the public require it, it shall be the duty of the Attorney General upon his ascertaining that any of the provisions of this Article have been violated by the manufacturer to bring a civil action in the name of the State, or any officer or department thereof as provided by law, or in the name of the State on relation of the Attorney General. (1987, c. 385, s. 1.)

§ 20-351.7. Civil action by the consumer.

A consumer injured by reason of any violation of the provisions of this Article may bring a civil action against the manufacturer; provided, however, the consumer has given the manufacturer written notice of his intent to bring an action against the manufacturer at least 10 days prior to filing such suit. Nothing in this section shall prevent a manufacturer from requiring a consumer to utilize an informal settlement procedure prior to litigation if that procedure substantially complies in design and operation with the Magnuson-Moss Warranty Act, 15 USC § 2301 et seq., and regulations promulgated thereunder, and that requirement is written clearly and conspicuously, in the written warranty and any warranty instructions provided to the consumer. (1987, c. 385, s. 1.)

§ 20-351.8. Remedies.

In any action brought under this Article, the court may grant as relief:

- (1) A permanent or temporary injunction or other equitable relief as the court deems just;
- (2) Monetary damages to the injured consumer in the amount fixed by the verdict. Such damages shall be trebled upon a finding that the manufacturer unreasonably refused to comply with G.S. 20-351.2 or G.S. 20-351.3. The jury may consider as damages all items listed for refund under G.S. 20-351.3;
- (3) A reasonable attorney's fee for the attorney of the prevailing party, payable by the losing party, upon a finding by the court that:
 - a. The manufacturer unreasonably failed or refused to fully resolve the matter which constitutes the basis of such action; or
 - b. The party instituting the action knew, or should have known, the action was frivolous and malicious. (1987, c. 385.)

§ 20-351.9. Dealership liability.

No authorized dealer shall be held liable by the manufacturer for any refunds or vehicle replacements in the absence of evidence indicating that dealership repairs have been carried out in a manner substantially inconsistent with the manufacturers' instructions. This Article does not create any cause of action by a consumer against an authorized dealer. (1987, c. 385.)

§ 20-351.10. Preservation of other remedies.

This Article does not limit the rights or remedies which are otherwise available to a consumer under any other law. (1987, c. 385.)

§ 20-351.11. Manufacturer's warranty for State motor vehicles that operate on diesel fuel.

Every new motor vehicle purchased by the State that is designed to operate on diesel fuel shall be covered by an express manufacturer's warranty that allows the use of B-20 fuel, as defined in G.S. 143-58.4. This section does not apply if the intended use, as determined by the agency, of the new motor vehicle requires a type of vehicle for which an express manufacturer's warranty allows the use of B-20 fuel is not available. (2007-420, s. 1.)

§ 20-352. Reserved for future codification purposes.

§ 20-353. Reserved for future codification purposes.

Article 15B.

North Carolina Motor Vehicle Repair Act.

§ 20-354. Short title.

This act shall be known and may be cited as the "North Carolina Motor Vehicle Repair Act." (1999-437, s. 1.)

§ 20-354.1. Scope and application.

This act shall apply to all motor vehicle repair shops in North Carolina, except:

- (1) Any motor vehicle repair shop of a municipal, county, State, or federal government when carrying out the functions of the government.
- (2) Any person who engages solely in the repair of any of the following:
 - a. Motor vehicles that are owned, maintained, and operated exclusively by that person for that person's own use.
 - b. For-hire vehicles which are rented for periods of 30 days or less.
- (3) Any person who repairs only motor vehicles which are operated principally for agricultural or horticultural pursuits on farms, groves, or orchards and which are operated on the highways of this State only incidentally en route to or from the farms, groves, or orchards.
- (4) Motor vehicle auctions or persons in the performance of motor vehicle repairs solely for motor vehicle auctions.
- (5) Any motor vehicle repair shop in the performance of a motor vehicle repair if the cost of the repair does not exceed three hundred fifty dollars (\$350.00).
- (6) Any person or motor vehicle repair shop in the performance of repairs on commercial construction equipment or motor vehicles that have a GVWR of at least 26,001 pounds.
- (7) When a third party has waived in writing the right to receive written estimates from the motor vehicle repair shop; the third party indicates to the motor vehicle repair shop that the repairs will be paid for by the third party under an insurance policy, service contract, mechanical breakdown contract, or manufacturer's warranty; and the third party further indicates that the

customer's share of the cost of repairs, if any, will not exceed three hundred fifty dollars (\$350.00). (1999-437, s. 1; 2001-298, s. 1.)

§ 20-354.2. Definitions.

As used in this act:

- (1) "Customer" means the person who signs the written repair estimate or any other person whom that person designates as a person who may authorize repair work.
- (2) "Employee" means an individual who is employed full time or part time by a motor vehicle repair shop and performs motor vehicle repairs.
- (3) "Motor vehicle" means any automobile, truck, bus, recreational vehicle, motorcycle, motor scooter, or other motor-powered vehicle, but does not include trailers, mobile homes, travel trailers, or trailer coaches without independent motive power, or watercraft or aircraft.
- (4) "Motor vehicle repair" means all maintenance of and modification and repairs to motor vehicles and the diagnostic work incident to those repairs, including, but not limited to, the rebuilding or restoring of rebuilt vehicles, body work, painting, warranty work, shop supply fees, hazardous material disposal fees incident to a repair, and other work customarily undertaken by motor vehicle repair shops. Motor vehicle repair does not include the sale or installation of tires when authorized by the customer.
- (5) "Motor vehicle repair shop" means any person who, for compensation, engages or attempts to engage in the repair of motor vehicles owned by other persons and includes, but is not limited to:
 - a. Mobile motor vehicle repair shops.
 - b. Motor vehicle and recreational vehicle dealers.
 - c. Garages.
 - d. Service stations.
 - e. Self-employed individuals.
 - f. Truck stops.
 - g. Paint and body shops.
 - h. Brake, muffler, or transmission shops.
 - i. Shops doing glasswork.

Any person who engages solely in the maintenance or repair of the coach portion of a recreational vehicle is not a motor vehicle repair shop. (1999-437, s. 1; 2005-463, s. 1.)

§ 20-354.3. Written motor vehicle repair estimate and disclosure statement required.

(a) When any customer requests a motor vehicle repair shop to perform repair work on a motor vehicle, the cost of which repair work will exceed three hundred fifty dollars (\$350.00) to the customer, the shop shall prepare a written repair estimate, which is a form setting forth the estimated cost of repair work, including diagnostic work, before effecting any diagnostic work or repair. In determining under this section whether the cost of the repair work exceeds three hundred fifty dollars (\$350.00), the cost of the repair work shall consist of the cost of parts and labor necessary for the repair work and any charges for necessary diagnostic work and teardown, if any, and shall include any taxes, any other repair shop supplies or overhead, and any other extra services that are incidental to the repair work. The written repair estimate shall also include

a statement allowing the customer to indicate whether replaced parts should be saved for inspection or return and a statement indicating the daily charge for storing the customer's motor vehicle after the customer has been notified that the repair work has been completed.

(b) The information required by subsection (a) of this section need not be provided if the customer waives in writing his or her right to receive a written estimate. A customer may waive his or her right to receive any written estimates from a motor vehicle repair shop for a period of time specified by the customer in the waiver.

(c) Except as provided in subsection (e) of this section, a copy of the written repair estimate required by subsection (a) of this section shall be given to the customer before repair work is begun.

(d) If the customer leaves his or her motor vehicle at a motor vehicle repair shop during hours when the shop is not open, or if the motor vehicle repair shop reasonably believes that an accurate estimate of the cost of repairs cannot be made until after the diagnostic work has been completed, or if the customer permits the shop or another person to deliver the motor vehicle to the shop, there shall be an implied partial waiver of the written estimate; however, upon completion of the diagnostic work necessary to estimate the cost of repair, the shop shall notify the customer as required by G.S. 20-354.5(a).

(e) Nothing in this section shall be construed to require a motor vehicle repair shop to give a written estimate price if the motor vehicle repair shop does not agree to perform the requested repair. (1999-437, s. 1; 2001-298, s. 2; 2005-304, s. 1.)

§ 20-354.4. Charges for motor vehicle repair estimate; requirement of waiver of rights prohibited.

(a) Before proceeding with preparing an estimate, the shop shall do both of the following:

- (1) Disclose to the customer the amount, if any, of the charge for preparing the estimate.
- (2) Obtain a written authorization to prepare an estimate if there is a charge for that estimate.

(b) It is a violation of this Article for any motor vehicle repair shop to require that any person waive his or her rights provided in this Article as a precondition to the repair of his or her vehicle by the shop or to impose or threaten to impose any charge which is clearly excessive in relation to the work involved in making the price estimate for the purpose of inducing the customer to waive his or her rights provided in this Article. (1999-437, s. 1.)

§ 20-354.5. Notification of charges in excess of repair estimate; prohibited charges; refusal to return vehicle prohibited; inspection of parts.

(a) In the event that any of the following applies, the customer shall be promptly notified by telephone, telegraph, mail, or other means of the additional repair work and estimated cost of the additional repair work:

- (1) The written repair estimate contains only an estimate for diagnostic work necessary to estimate the cost of repair and such diagnostic work has been completed.
- (2) A determination is made by a motor vehicle repair shop that the actual charges for the repair work will exceed the written estimate by more than ten percent (10%).

- (3) An implied partial waiver exists for diagnostic work, and the diagnostic work has been completed.

When a customer is notified, he or she shall, orally or in writing, authorize, modify, or cancel the order for repair.

(b) If a customer cancels the order for repair or, after diagnostic work is performed, decides not to have the repairs performed, and if the customer authorizes the motor vehicle repair shop to reassemble the motor vehicle, the shop shall expeditiously reassemble the motor vehicle in a condition reasonably similar to the condition in which it was received.

After cancellation of the repair order or a decision by the customer not to have repairs made after diagnostic work has been performed, the shop may charge for and the customer is obligated to pay the cost of repairs actually completed that were authorized by the written repair estimate as well as the cost of diagnostic work and teardown, the cost of parts and labor to replace items that were destroyed by teardown, and the cost to reassemble the component or the vehicle, provided the customer was notified of these possible costs in the written repair estimate or at the time the customer authorized the motor vehicle repair shop to reassemble the motor vehicle.

(c) It is a violation of this Article for a motor vehicle repair shop to charge more than the written estimate and the amount by which the motor vehicle repair shop has obtained authorization to exceed the written estimate in accordance with subsections (a) or (b) of this section, plus ten percent (10%).

(d) It is a violation of this Article for any motor vehicle repair shop to refuse to return any customer's motor vehicle because the customer refused to pay for repair charges that exceed a written estimate and any amounts authorized by the customer in accordance with subsection (a) or (b) of this section by more than ten percent (10%), provided that the customer has paid the motor vehicle repair shop the amount of the estimate and the amounts authorized by the customer in accordance with subsections (a) and (b) of this section, plus ten percent (10%).

(e) Upon request made at the time the repair work is authorized by the customer, the customer is entitled to inspect parts removed from his or her vehicle or, if the shop has no warranty arrangement or exchange parts program with a manufacturer, supplier, or distributor, have them returned to him or her. A motor vehicle repair shop may discard parts removed from a customer's vehicle or sell them and retain the proceeds for the shop's own account if the customer fails to take possession of the parts at the shop within two business days after taking delivery of the repaired vehicle. (1999-437, s. 1; 2001-298, ss. 3, 4.)

§ 20-354.6. Invoice required of motor vehicle repair shop.

The motor vehicle repair shop shall provide each customer, upon completion of any repair, with a legible copy of an invoice for such repair. The invoice shall include the following information:

- (1) A statement indicating what was done to correct the problem or a description of the service provided.
- (2) An itemized description of all labor, parts, and merchandise supplied and the costs of all labor, parts, and merchandise supplied. No itemized description is required to be provided to the customer for labor, parts, and merchandise supplied when a third party has indicated to the motor vehicle repair shop that the repairs will be paid for under a service contract, under a mechanical breakdown contract, or under a manufacturer's warranty, without charge to the customer.

- (3) A statement identifying any replacement part as being used, rebuilt, or reconditioned, as the case may be. (1999-437, s. 1; 2001-298, s. 5; 2002-159, s. 32.)

§ 20-354.7. Required disclosure; signs; notice to customers.

A sign, at least 24 inches on each side, shall be posted in a manner conspicuous to the public.

The sign shall contain:

- (1) That the consumer has a right to receive a written estimate or to waive receipt of that estimate if the cost of repairs will exceed three hundred fifty dollars (\$350.00).
- (2) That the consumer may request, at the time the work order is taken, the return or inspection of all parts that have been replaced during the motor vehicle repair. (1999-437, s. 1.)

§ 20-354.8. Prohibited acts and practices.

It shall be a violation of this Article for any motor vehicle repair shop or employee of a motor vehicle repair shop to do any of the following:

- (1) Charge for repairs which have not been expressly or impliedly authorized by the customer.
- (2) Misrepresent that repairs have been made to a motor vehicle.
- (3) Misrepresent that certain parts and repairs are necessary to repair a vehicle.
- (4) Misrepresent that the vehicle being inspected or diagnosed is in a dangerous condition or that the customer's continued use of the vehicle may be harmful or cause great damage to the vehicle.
- (5) Fraudulently alter any customer contract, estimate, invoice, or other document.
- (6) Fraudulently misuse any customer's credit card.
- (7) Make or authorize in any manner or by any means whatever any written or oral statement which is untrue, deceptive, or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue, deceptive, or misleading, related to this Article.
- (8) Make fraudulent promises of a character likely to influence, persuade, or induce a customer to authorize the repair, service, or maintenance of a motor vehicle.
- (9) Substitute used, rebuilt, salvaged, or straightened parts for new replacement parts without notice to the motor vehicle owner and to his or her insurer if the cost of repair is to be paid pursuant to an insurance policy and the identity of the insurer or its claims adjuster is disclosed to the motor vehicle repair shop.
- (10) Cause or allow a customer to sign any work order that does not state the repairs requested by the customer.
- (11) Refuse to give to a customer a copy of any document requiring the customer's signature upon completion or cancellation of the repair work.
- (12) Rebuild or restore a rebuilt vehicle without the knowledge of the owner in a manner that does not conform to the original vehicle manufacturer's established repair procedures or specifications and allowable tolerances for the particular model and year.

- (13) Perform any other act that is a violation of this Article or that constitutes fraud or misrepresentation under this Article. (1999-437, s. 1.)

§ 20-354.9. Remedies.

Any customer injured by a violation of this Article may bring an action in the appropriate court for relief. The prevailing party in that action may be entitled to damages plus court costs and reasonable attorneys' fees. The customer may also bring an action for injunctive relief in the appropriate court. A violation of this Article is not punishable as a crime; however, this Article does not limit the rights or remedies which are otherwise available to a consumer under any other law. (1999-437, s. 1.)

§§ 20-354.10 through 20-355. Reserved for future codification purposes.

Article 16.

Professional Housemoving.

§ 20-356. Definitions.

As used in this Article, the following terms mean:

- (1) Department. – The Department of Transportation.
- (2) House. – A dwelling, building, or other structure in excess of 15 feet in width. Mobile homes, manufactured homes, or modular homes, or portions thereof, are not within this definition when being transported from the manufacturer or from a licensed retail dealer location to the first set-up site.
- (3) Housemover. – A person licensed under this Article.
- (4) Person. – An individual, corporation, partnership, association, or any other business entity.
- (5) Secretary. – The Secretary of the Department of Transportation.
- (6) Unsafe practices. – Any act that is determined by a final agency decision of an enforcing agency or by a court of competent jurisdiction to create a hazard to the motoring public, or any citations under the Occupational Safety and Health Act that have become a final order within the last three years for willful serious violations or for failing to abate serious violations, as defined in G.S. 95-127. (1977, c. 720, s. 1; 1979, c. 475, s. 2; 2001-424, s. 27.17(a); 2005-354, s. 1; 2008-89, s. 1.)

§ 20-357. Housemovers to be licensed.

All persons who engage in the profession of housemoving on roads and highways on the State Highway System shall be licensed by the Department. (1977, c. 720, s. 2.)

§ 20-358. Qualifications to become licensed.

The Department shall issue annual printed licenses to applicants meeting the following conditions:

- (1) The applicant must be at least 21 years of age; present acceptable evidence of good character and show sufficient housemoving experience on the application form furnished by the Department. Proof of creditable housemoving experience must be furnished at the time of application for those

applicants not previously licensed by the Department. Creditable housemoving experience means extensive and responsible training gained by the applicant while engaged actively and directly on a full-time basis in the moving of houses and structures on public roads and highways with at least five years of experience. Examples of the capacity in which a person may work in gaining experience include the following in building moving operations:

- a. Moving superintendent,
- b. Moving foreman, and
- c. General mechanic and helper in the housemoving profession or trade.

To comply with the requirement of proof of creditable housemoving experience, each applicant not previously licensed under this Article shall submit to the Department an affidavit from a certified public accountant that the applicant has documented employment records for a period of five continuous years from a person or persons licensed by this State or another state for housemoving. Each applicant not previously licensed under this Article shall also submit to the Department affidavits from a person or persons licensed in this State or another state in housemoving, who have employed the applicant in housemoving, providing in detail the applicant's full-time experience, including any supervisory duties and experience, in housemoving.

- (2) Repealed by Session Laws 1981, c. 818, s. 3.
- (3) The applicant must furnish proof that all of the vehicles, excluding "beams and dollies" and "hauling units," to be used in the movement of buildings, structures, or other extraordinary objects wider than 15 feet have met the requirements of G.S. 20-183.2 pertaining to the equipment inspection of motor vehicles; provided that the "beams and dollies" and "hauling units" are excluded from inspection under G.S. 20-183.2 and, further, are not required to be equipped with brakes.
- (4) The applicant must exhibit his federal employer's identification number.
- (5) The applicant must pay an annual license fee of one hundred dollars (\$100.00). (1977, c. 720, s. 3; 1981, c. 818, s. 3; 1991 (Reg. Sess., 1992), c. 813, s. 2; 2005-354, s. 2; 2008-89, s. 2.)

§ 20-359. Effective period of license.

A license issued hereunder shall be effective from date of issuance and expire on July 31 of each year and shall be renewable on an annual basis. (1977, c. 720, s. 4; 2005-354, s. 3.)

§ 20-359.1. Insurance requirements.

(a) No license shall be issued or renewed pursuant to this Article unless the applicant files with the Department a certificate or certificates of insurance, from an insurance company or companies authorized to do business in this State, providing:

- (1) Motor vehicle insurance for bodily injury to or death of one or more persons in any one accident and for injury to or destruction of property of others in any one accident with minimum coverage of three hundred fifty thousand dollars (\$350,000) combined single limit of liability;

- (2) Comprehensive general liability insurance with a minimum coverage of three hundred fifty thousand dollars (\$350,000) combined single limit of liability, including coverage of operations on North Carolina streets and highways that are not covered by motor vehicle insurance; and
- (3) Workers' compensation insurance that complies with Chapter 97 for all employees if the person is licensed as a professional housemover. The exemptions in G.S. 97-13 from the provisions of Chapter 97 shall not apply to licensed professional housemovers.

(b) The certificate or certificates shall provide for continuous coverage during the effective period of the license issued pursuant to this Article. At the time the certificate is filed, the applicant shall also file with the Department a current list of all motor vehicles covered by the certificate. The applicant shall file amendments to the list within 15 days of any changes.

(c) An insurance company issuing any insurance policy required by subsection (a) of this section shall notify the Department of any of the following events at least 30 days before its occurrence: (i) cancellation of the policy, (ii) nonrenewal of the policy, or (iii) any change in the policy.

(d) In addition to all coverages required by this section, the applicant shall file with the Department a copy of either: (i) a bond or other acceptable surety providing coverage in the amount of twenty-five thousand dollars (\$25,000) for the benefit of a person contracting with the housemover to move that person's structure for all claims for property damage arising from the movement of a structure pursuant to this Article, or (ii) a policy of cargo insurance in the amount of fifty thousand dollars (\$50,000). (1981, c. 818, s. 1; 1991 (Reg. Sess., 1992), c. 813, s. 1.)

§ 20-360. Requirements for permit.

(a) Persons licensed as professional housemovers shall also be required to secure a permit from the Department for every move undertaken on the State Highway System of roads; that permit shall be issued by the Department after determining that the applicant is (i) properly licensed, (ii) furnished special surety bonds as required by the Department, and (iii) complying with such other regulations as required by the Department.

(b) It shall be the duty of the applicant to see that the "beams and dollies" and "hauling units" used shall be constructed with proper material in a suitable manner and utilized so as to provide for the safety of the general public and the structure being relocated. Any violation of this duty may result in suspension or revocation of his license by the Department.

(c) A license shall not be required for an individual owner of a towing vehicle moving their own buildings from or to property owned individually by those persons; however, a permit will be required for all moves.

(d) Licensed housemovers shall furnish front and rear certified escort vehicles on all moves, one or both of which may be a marked police, sheriff or State Highway Patrol vehicle as determined by the issuing agent, or one or two properly equipped certified escort vehicles depending on the number of law-enforcement vehicles escorting the move; escort vehicles shall operate where possible at a distance of 300 feet from the structure being moved; that this interval will be closed in cities and other congested areas to protect other traffic from the swing of the load at corners and turns, and the certified escort vehicles shall comply with all restrictions as provided on the permit secured for movement of the structure. (1977, c. 720, s. 5; 1981, c. 818, s. 2; 2005-354, s. 4.)

§ 20-361. Application for permit and permit fee.

Application for a permit to move a structure must be made to the division or district engineer having jurisdiction at least two days prior to the date of the move. For good cause shown, this time may be waived by the district or division engineer. A travel plan and a permit application fee of twenty dollars (\$20.00) shall accompany the application. Division or district engineers are authorized to issue permits for individual moves of a structure or building whose width does not exceed 36 feet. The travel plan will show the proposed route, the time estimated for each segment of the move, a plan to handle traffic so that no one delay to other highway users shall exceed 20 minutes. The division or district engineers shall review the travel plan and if the route cannot accommodate the move due to roadway weight limits, bridge size or weight limits, or will cause undue interruption of traffic flow, the permit shall not be issued. The applicant may submit alternate plans if desired until an acceptable route is determined. If the width of the building or structure to be relocated is more than 36 feet, or if no acceptable travel plan has been filed, and the denial of the permit would cause a hardship, the application and travel plan may be submitted to the Department on appeal. After reviewing the route and travel plan, the Department may in its discretion issue the permit after considering the practical physical limitations of the route, the nature and purpose of the move, the size and weight of the structure, the distance the structure is to be moved, and the safety and convenience of the traveling public. A surety bond in an amount to cover the cost of any damage to the pavement, structures, bridges, roadway or other damages that may occur can be required if deemed necessary by the Department. (1977, c. 720, s. 6; 1991 (Reg. Sess., 1992), c. 813, s. 3.)

§ 20-362. Liability of housemovers.

The permittee assumes all responsibility for injury to persons or damage to property of any kind and agrees to hold the Department harmless for any claims arising out of his conduct or actions. (1977, c. 720, s. 7.)

§ 20-363. Removal and replacement of obstructions.

All obstructions, including mailboxes, traffic signals, signs, and utility lines will be removed immediately prior to and replaced immediately after the move at the expense of the mover. Any property, real or personal, to be removed, which is not located in the right-of-way, shall not be removed until the owner is notified and arrangements for and approval from the owner are obtained. (1977, c. 720, s. 8; 2008-89, s. 3.)

§ 20-364. Route changes.

Irrespective of the route shown on the permit, an alternate route will be followed:

- (1) If directed by a peace officer.
- (2) If directed by a uniformed officer assigned to a weigh station to follow a route to a weighing device.
- (3) If the specified route is officially detoured. Should a detour be encountered, the driver shall check with the office issuing permit on which he is traveling prior to proceeding. (1977, c. 720, s. 9; 2004-124, s. 18.3(d).)

§ 20-365. Loading or parking on right-of-way.

The object to be transported will not be loaded, unloaded, nor parked, day or night, on highway right-of-way without specific permission from the district or division engineer. (1977, c. 720, s. 10.)

§ 20-366. Effect of weather.

No move will be made when atmospheric conditions render visibility lower than safe for travel. Moves will not be made when highway is covered with snow or ice, or at any time travel conditions are considered unsafe by the Department or Highway Patrol or other law-enforcement officers having jurisdiction. (1977, c. 720, s. 11.)

§ 20-367. Obtaining license or permit by fraud.

The permit may be voided if any conditions of the permit are violated. Upon any violation, the permit must be surrendered and a new permit obtained before proceeding. Misrepresentation of information on application to obtain a license, fraudulently obtaining a permit, alteration of a permit, or unauthorized use of a permit will render the permit void. (1977, c. 720, s. 12.)

§ 20-368. Municipal regulations.

All moves on streets on the municipal system of streets shall comply with local regulations. (1977, c. 720, s. 13.)

§ 20-369. Out-of-state licenses and permits.

An out-of-state person, partnership, or corporation engaging in the structural moving business may apply to the Department for a license to engage in the housemoving profession in North Carolina, and obtain permits for moves by complying with the provisions of this Article and the regulations of the Department in the same manner as is required of North Carolina residents and by showing that the state in which the housemover operates his business extends similar privileges to housemovers licensed in North Carolina. (1977, c. 720, s. 14; 1979, c. 475, s. 1.)

§ 20-370. Speed limits.

The speed of moves will be that which is reasonable and prudent for the load, considering weight and bulk, under conditions existing at the time. (1977, c. 720, s. 15.)

§ 20-371. Penalties.

(a) Any person violating the provisions of this Article or the regulations of the Department governing housemoving shall be guilty of a Class 1 misdemeanor.

(b) The Department is hereby authorized in the name of the State to apply for relief by injunction, in the established manner provided in cases of civil procedure, without bond, to enforce the provisions of this Article, or to restrain any violation thereof. In such proceedings, it shall not be necessary to allege or prove either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from the continued violation thereof. (1977, c. 720, s. 16; 1993, c. 539, s. 392; 1994, Ex. Sess., c. 24, s. 14(c); 2008-89, s. 4.)

§ 20-372. Invalid section; severability.

If any of the provisions of this Article, or if the application of such provisions to any person or circumstance shall be held invalid, the remainder of this Article and the application of such

provision of this Article other than those as to which it is held valid, shall not be affected thereby. (1977, c. 720, s. 17.)

§ 20-373. Reserved for future codification purposes.

§ 20-374. Unsafe practices.

(a) If the Department determines that a housemover has engaged in unsafe practices, all licenses, permits, and authorizations issued to the person pursuant to this Article shall be revoked for a period of six months.

(b) Any person whose license, permit, or authorization issued under this Article is revoked pursuant to this section may request a hearing to be held before the Secretary or a person designated by the Secretary. The licensee shall be notified in writing no less than 10 days prior to the hearing of the time and place of the hearing. At the hearing, the parties shall be given an opportunity to present evidence on issues of fact, examine and cross-examine witnesses, and present arguments on issues of law. The decision of the Secretary or of the person designated by the Secretary shall be final. Any person aggrieved by the final decision may seek judicial review of the decision in accordance with the provisions of Article 4 of Chapter 150B of the General Statutes. (2008-89, s. 5.)

§ 20-375. Reserved for future codification purposes.

Article 17.

Motor Carrier Safety Regulation Unit.

Part 1. General Provisions.

§ 20-376. Definitions.

The following definitions apply in this Article:

- (1) Federal safety and hazardous materials regulations. – The federal motor carrier safety regulations contained in 49 C.F.R. Parts 171 through 180, 382, and 390 through 398.
- (2) Foreign commerce. – Commerce between any of the following:
 - a. A place in the United States and a place in a foreign country.
 - b. Places in the United States through any foreign country.
- (3) Interstate commerce. – As defined in 49 C.F.R. Part 390.5.
- (3a) Interstate motor carrier. – Any person, firm, or corporation that operates or controls a commercial motor vehicle as defined in 49 C.F.R. § 390.5 in interstate commerce.
- (4) Intrastate commerce. – As defined in 49 C.F.R. Part 390.5.
- (5) Intrastate motor carrier. – Any person, firm, or corporation that operates or controls a motor vehicle in intrastate commerce when the vehicle:
 - a. Is a vehicle having a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) or gross vehicle weight (GVW) or gross combination weight (GCW) of 26,001 pounds or more, whichever is greater.
 - b. Is designed or used to transport 16 or more passengers, including the driver.

- c. Is used in transporting a hazardous material in a quantity requiring placarding pursuant to 49 C.F.R. Parts 170 through 185. (1985, c. 454, s. 1; 1993 (Reg. Sess., 1994), c. 621, s. 5; 1995 (Reg. Sess., 1996), c. 756, s. 20; 1997-456, s. 36; 1998-149, s. 11; 1999-452, s. 21; 2002-152, s. 3; 2010-129, s. 5.)

Part 2. Authority and Powers of Department of Public Safety.

§ 20-377. General powers of Department of Public Safety.

The Department of Public Safety shall have and exercise such general power and authority to supervise and control the motor carriers of the State as may be necessary to carry out the laws providing for their regulation, and all such other powers and duties as may be necessary or incident to the proper discharge of its duties. (1985, c. 454, s. 1; 2002-159, s. 31.5(b); 2002-190, s. 2; 2011-145, s. 19.1(g).)

§ 20-378: Repealed by Session Laws 1995 (Regular Session, 1996), c. 756, s. 21.

§ 20-379. Department of Public Safety to audit motor carriers for compliance.

The Department of Public Safety must periodically audit each motor carrier to determine if the carrier is complying with this Article and, if the motor carrier is subject to regulation by the North Carolina Utilities Commission, with Chapter 62 of the General Statutes. In conducting the audit, the Department of Public Safety may examine a person under oath, compel the production of papers and the attendance of witnesses, and copy a paper for use in the audit. An employee of the Department of Public Safety may enter the premises of a motor carrier during reasonable hours to enforce this Article. When on the premises of a motor carrier, an employee of the Department of Public Safety may set up and use equipment needed to make the tests required by this Article. (1985, c. 454, s. 1; 1995 (Reg. Sess., 1996), c. 756, s. 22; 2002-159, s. 31.5(b); 2002-190, s. 2; 2011-145, s. 19.1(g).)

§ 20-380. Department of Public Safety may investigate accidents involving motor carriers and promote general safety program.

The Department of Public Safety may conduct a program of accident prevention and public safety covering all motor carriers with special emphasis on highway safety and transport safety and may investigate the causes of any accident on a highway involving a motor carrier. Any information obtained in an investigation shall be reduced to writing and a report thereof filed in the office of the Department of Public Safety, which shall be subject to public inspection but such report shall not be admissible in evidence in any civil or criminal proceeding arising from such accident. The Department of Public Safety may adopt rules for the safety of the public as affected by motor carriers and the safety of motor carrier employees. The Department of Public Safety shall cooperate with and coordinate its activities for motor carriers with other agencies and organizations engaged in the promotion of highway safety and employee safety. (1985, c. 454, s. 1; 1995 (Reg. Sess., 1996), c. 756, s. 23; 2002-159, s. 31.5(b); 2002-190, s. 2; 2011-145, s. 19.1(g).)

§ 20-381. Specific powers and duties of Department of Public Safety applicable to motor carriers; agricultural exemption.

(a) The Department of Public Safety has the following powers and duties concerning motor carriers:

- (1) To prescribe qualifications and maximum hours of service of drivers and their helpers.
- (1a) To set safety standards for vehicles of motor carriers engaged in foreign, interstate, or intrastate commerce over the highways of this State and for the safe operation of these vehicles. The Department of Public Safety may stop, enter upon, and perform inspections of motor carriers' vehicles in operation to determine compliance with these standards and may conduct any investigations and tests it finds necessary to promote the safety of equipment and the safe operation on the highway of these vehicles.
- (1b) To enforce this Article, rules adopted under this Article, and the federal safety and hazardous materials regulations.
- (2) To enter the premises of a motor carrier to inspect a motor vehicle or any equipment used by the motor carrier in transporting passengers or property.
- (2a) To prohibit the use by a motor carrier of any motor vehicle or motor vehicle equipment the Department of Public Safety finds, by reason of its mechanical condition or loading, would be likely to cause a crash or breakdown in the transportation of passengers or property on a highway. If an agent of the Department of Public Safety finds a motor vehicle of a motor carrier in actual use upon the highways in the transportation of passengers or property that, by reason of its mechanical condition or loading, would be likely to cause a crash or breakdown, the agent shall declare the vehicle "Out of Service." The agent shall require the operator thereof to discontinue its use and to substitute therefor a safe vehicle, parts or equipment at the earliest possible time and place, having regard for both the convenience and the safety of the passengers or property. When an inspector or agent stops a motor vehicle on the highway, under authority of this section, and the motor vehicle is declared "Out of Service," no motor carrier operator shall require, or permit, any person to operate, nor shall any person operate, any motor vehicle equipment declared "Out of Service" until all repairs required by the "Out of Service" notice have been satisfactorily completed. Such agents or inspectors shall also have the right to stop any motor vehicle which is being used upon the public highways for the transportation of passengers or property by a motor carrier subject to the provisions of this Article and to eject therefrom any driver or operator who shall be operating or be in charge of such motor vehicle while under the influence of alcoholic beverages or impairing substances. It shall be the duty of all inspectors and agents of the Department of Public Safety to make a written report, upon a form prescribed by the Department of Public Safety, of inspections of all motor equipment and a copy of each such written report, disclosing defects in such equipment, shall be served promptly upon the motor carrier operating the same, either in person by the inspector or agent or by mail. Such agents and inspectors shall also make and serve a similar written report in cases where a motor vehicle is operated in violation of this Chapter or, if the motor vehicle is subject to regulation by the North Carolina Utilities Commission, of Chapter 62 of the General Statutes.

- (3) To relieve the highways of all undue burdens and safeguard traffic thereon by adopting and enforcing rules and orders designed and calculated to minimize the dangers attending transportation on the highways of all hazardous materials and other commodities.
- (4) To determine the safety fitness of intrastate motor carriers, to assign safety ratings to intrastate motor carriers as defined in 49 C.F.R. § 385.3, to direct intrastate motor carriers to take remedial action when required, to prohibit the operation of intrastate motor carriers rated unsatisfactory, to determine whether the continued operations of intrastate motor carriers pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1), and to prohibit the operation of an intrastate motor carrier found to be an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).
- (5) To prohibit the intrastate operation of a motor carrier subject to an order issued by the Federal Motor Carrier Safety Administration to cease all operations based on a finding that the continued operations of the motor carrier pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).

(b) The definitions set out in 49 Code of Federal Regulations § 171.8 apply to this subsection. The transportation of an agricultural product, other than a Class 2 material, over local roads between fields of the same farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Parts 171 through 180 of 49 CFR as provided in 49 CFR § 173.5(a). The transportation of an agricultural product to or from a farm within 150 miles of the farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Subparts G and H of Part 172 of 49 CFR as provided in 49 CFR § 173.5(b).

(c) For purposes of 49 C.F.R. § 395.1(k) and any other federal law or regulation relating to hours-of-service rules for drivers engaged in the transportation of agricultural commodities and farm supplies for agricultural purposes, the terms "planting and harvesting season" and "planting and harvesting period" refer to the period from January 1 through December 31 of each year.

(d) The definitions set out in 49 C.F.R. § 390.5 apply to this subsection. A covered farm vehicle engaged in intrastate commerce is exempt from the requirements of 49 C.F.R. § 390.21. (1985, c. 454, s. 1; 1995 (Reg. Sess., 1996), c. 756, s. 24; 1997-456, ss. 37, 38; 1998-149, s. 12; 1998-165, s. 1; 1999-452, s. 22; 2002-152, ss. 4, 5; 2002-159, s. 31.5(b); 2002-190, s. 2; 2009-376, s. 9; 2011-145, s. 19.1(g); 2014-103, s. 5; 2017-108, s. 17.)

§ 20-382. For-hire motor carrier registration, insurance verification, and temporary trip permit authority.

(a) UCRA. – The Commissioner may enter into the Unified Carrier Registration Agreement (UCRA), established pursuant to Section 4305 of Public Law 109-73, and into agreements with jurisdictions participating in the UCRA to exchange information for any audit or enforcement activity required by the UCRA. Upon entry into the UCRA, the requirements set under the UCRA apply to the Division. If a requirement set under the UCRA conflicts with this section, the UCRA controls. Rules adopted to implement this section must ensure compliance with mandates of the Federal Motor Carrier Safety Administration and the United States Department of Transportation.

(a1) Carrier Registration. – A motor carrier may not operate a for-hire motor vehicle in interstate commerce in this State unless the motor carrier has complied with all of the following requirements:

- (1) Registered its operations with its base state.
- (1a) Done one of the following:
 - a. Filed a copy of the certificate of authority issued to it by the United States Department of Transportation allowing it to transport regulated items in this State and any amendments to that authority.
 - b. Certified to the Division that it carries only items that are not regulated by the United States Department of Transportation.
- (2) Verified, in accordance with subsection (b) of this section, that it has insurance for each for-hire motor vehicle it operates.
- (3) Paid the fees set in G.S. 20-385.

(b) Insurance Verification. – A motor carrier that operates a for-hire motor vehicle in interstate commerce in this State and is regulated by the United States Department of Transportation must verify to the Division that each for-hire motor vehicle the motor carrier operates in this State is insured in accordance with the requirements set by the United States Department of Transportation. A motor carrier that operates a for-hire motor vehicle in interstate commerce in this State and is exempt from regulation by the United States Department of Transportation must verify to the Division that each for-hire motor vehicle the motor carrier operates in this State is insured in accordance with the requirements set by the North Carolina Utilities Commission.

(c) Trip Permit. – A motor carrier that is not registered as required by this section may obtain an emergency trip permit. An emergency trip permit allows the motor carrier to operate a for-hire motor vehicle in this State for a period not to exceed 10 days. (1985, c. 454, s. 1; 1993 (Reg. Sess., 1994), c. 621, s. 1; 1995 (Reg. Sess., 1996), c. 756, s. 25; 2007-492, s. 3; 2010-97, s. 4.)

§ 20-382.1. Registration of for-hire intrastate motor carriers and verification that their vehicles are insured.

(a) Registration. – A for-hire motor carrier may not operate a for-hire motor vehicle in intrastate commerce in this State unless the motor carrier has complied with all of the following requirements:

- (1) For a motor carrier that hauls household goods, registered its operations with the State by doing one of the following:
 - a. Obtaining a certificate of authority from the North Carolina Utilities Commission.
 - b. Obtaining a certificate of exemption from the Division.
- (1a) For a motor carrier that does not haul household goods, registered its operations with the Division.
- (2) Verified, in accordance with subsection (b) of this section, that it has insurance for each for-hire motor vehicle it operates in this State.
- (3) Paid the fees set in G.S. 20-385.

(b) Insurance Verification. – A for-hire motor carrier that operates a for-hire vehicle in intrastate commerce in this State must verify to the Division that each for-hire motor vehicle it operates in this State is insured. To do this, the motor carrier must submit an insurance

verification form to the Division and must file annually with the Division a list of the for-hire vehicles it operates in this State. (1993 (Reg. Sess., 1994), c. 621, s. 2; 1995 (Reg. Sess., 1996), c. 756, s. 26.)

§ 20-382.2. Penalty for failure to comply with registration or insurance verification requirements.

(a) Acts. – A motor carrier who does any of the following is subject to a civil penalty of one thousand dollars (\$1,000):

- (1) Operates a for-hire motor vehicle in this State without registering its operations, as required by this Part.
- (2) Repealed by Session Laws 2007-492, s. 4, effective August 30, 2007.
- (3) Operates a for-hire motor vehicle in intrastate commerce in this State for which it has not verified it has insurance, as required by G.S. 20-382.1.

(b) Payment and Review. – When the Department of Public Safety finds that a for-hire motor vehicle is operated in this State in violation of the registration and insurance verification requirements of this Part, the Department must place the motor vehicle out of service until the motor carrier is in compliance and the penalty imposed under this section is paid unless the officer that imposes the penalty determines that operation of the motor vehicle will not jeopardize collection of the penalty. A motor carrier that denies liability for a penalty imposed under this section may pay the penalty under protest and follow the procedure in G.S. 20-178.1 for a departmental review of the penalty.

(c) Judicial Restriction. – A court of this State may not issue a restraining order or an injunction to restrain or enjoin the collection of a penalty imposed under this section or to permit the operation of a vehicle placed out of service under this section without payment of the penalty.

(d) Proceeds. – A penalty imposed under this section is payable to the Department of Transportation, Fiscal Section. The clear proceeds of all civil penalties assessed by the Department pursuant to this section, minus any fees paid as interest, filing fees, attorneys' fees, or other necessary costs of court associated with the defense of penalties imposed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1993 (Reg. Sess., 1994), c. 621, s. 3; 1997-466, s. 3; 2002-159, s. 31.5(b); 2002-190, ss. 2, 3; 2005-64, s. 1; 2007-492, s. 4; 2009-376, ss. 2(b), 14; 2011-145, s. 19.1(g).)

§ 20-383. Inspectors and officers given enforcement authority.

Only designated inspectors, officers, and personnel of the Department of Public Safety shall have the authority to enforce the provisions of this Article and provisions of Chapter 62 applicable to motor transportation, and they are empowered to make complaint for the issue of appropriate warrants, information, presentments or other lawful process for the enforcement and prosecution of violations of the transportation laws against all offenders, whether they be regulated motor carriers or not, and to appear in court or before the North Carolina Utilities Commission and offer evidence at the trial pursuant to such processes. (1985, c. 454, s. 1; 2002-159, s. 31.5(b); 2002-190, s. 2; 2011-145, s. 19.1(g); 2012-78, s. 10.)

§ 20-384. Penalty for certain violations.

A motor carrier who fails to conduct a safety inspection of a vehicle as required by Part 396 of the federal safety regulations or who fails to mark a vehicle that has been inspected as

required by that Part commits an infraction and, if found responsible, is liable for a penalty of up to fifty dollars (\$50.00). (1985, c. 454, s. 1; 1985 (Reg. Sess., 1986), c. 1018, s. 13; 1993 (Reg. Sess., 1994), c. 754, s. 6; 1995 (Reg. Sess., 1996), c. 756, s. 27.)

Part 3. Fees and Charges.

§ 20-385. Fee schedule.

(a) The fees listed in this section apply to a motor carrier. These fees are in addition to any fees required under the Unified Carrier Registration Agreement.

- (1) Repealed by Session Laws 2007-492, s. 5, effective August 30, 2007.
- (2) Application by an intrastate motor carrier for a certificate of exemption \$ 60.00
- (3) Certification by an interstate motor carrier that it is not regulated by the United States Department of Transportation 60.00
- (4) Application by an interstate motor carrier for an emergency trip permit 23.00

(b) Repealed by Session Laws 2007-492, s. 5, effective August 30, 2007. (1985, c. 454, s. 1; 1993 (Reg. Sess., 1994), c. 621, s. 4; 1995 (Reg. Sess., 1996), c. 756, s. 28; 2005-276, s. 44.1(p); 2007-492, s. 5; 2015-241, s. 29.30(q).)

§ 20-386. Fees, charges and penalties; disposition.

All fees and charges received by the Division under G.S. 20-385 shall be in addition to any other tax or fee provided by law and shall be placed in the Highway Fund. (1985, c. 454, s. 1.)

Part 4. Penalties and Actions.

§ 20-387. Motor carrier violating any provision of Article, rules or orders; penalty.

Any motor carrier which violates any of the provisions of this Article or refuses to conform to or obey any rule, order or regulation of the Division or Department of Public Safety shall, in addition to the other penalties prescribed in this Article forfeit and pay a sum up to one thousand dollars (\$1,000) for each offense, to be recovered in an action to be instituted in the Superior Court of Wake County, in the name of the State of North Carolina on the relation of the Department of Public Safety; and each day such motor carrier continues to violate any provision of this Article or continues to refuse to obey or perform any rule, order or regulation prescribed by the Division or Department of Public Safety shall be a separate offense. (1985, c. 454, s. 1; 2002-159, s. 31.5(b); 2002-159, s. 31.5(b); 2002-190, s. 10; 2011-145, s. 19.1(g).)

§ 20-388. Willful acts of employees deemed those of motor carrier.

The willful act of any officer, agent, or employee of a motor carrier, acting within the scope of his official duties of employment, shall, for the purpose of this Article, be deemed to be the willful act of the motor carrier. (1985, c. 454, s. 1.)

§ 20-389. Actions to recover penalties.

Except as otherwise provided in this Article, an action for the recovery of any penalty under this Article shall be instituted in Wake County, and shall be instituted in the name of the State of North Carolina on the relation of the Department of Public Safety against the person incurring such penalty; or whenever such action is upon the complaint of any injured person, it shall be

instituted in the name of the State of North Carolina on the relation of the Department of Public Safety upon the complaint of such injured person against the person incurring such penalty. Such action may be instituted and prosecuted by the Attorney General, the District Attorney of the Wake County Superior Court, or the injured person. The procedure in such actions, the right of appeal and the rules regulating appeals shall be the same as provided by law in other civil actions. (1985, c. 454, s. 1; 2002-159, s. 31.5(b); 2002-190, s. 2; 2011-145, s. 19.1(g).)

§ 20-390. Refusal to permit Department of Public Safety to inspect records made misdemeanor.

Any motor carrier, its officers or agents in charge thereof, that fails or refuses upon the written demand of the Department of Public Safety to permit its authorized representatives or employees to examine and inspect its books, records, accounts and documents, or its plant, property, or facilities, as provided for by law, shall be guilty of a Class 3 misdemeanor. Each day of such failure or refusal shall constitute a separate offense and each such offense shall be punishable only by a fine of not less than five hundred dollars (\$500.00) and not more than five thousand dollars (\$5,000). (1985, c. 454, s. 1; 1993, c. 539, s. 393; 1994, Ex. Sess., c. 24, s. 14(c); 2002-159, s. 31.5(b); 2002-190, s. 2; 2011-145, s. 19.1(g).)

§ 20-391. Violating rules, with injury to others.

If any motor carrier doing business in this State by its agents or employees shall be guilty of the violations of the rules and regulations provided and prescribed by the Division or the Department of Public Safety, and if after due notice of such violation given to the principal officer thereof, if residing in the State, or, if not, to the manager or superintendent or secretary or treasurer if residing in the State, or, if not, then to any local agent thereof, ample and full recompense for the wrong or injury done thereby to any person as may be directed by the Division or Department of Public Safety shall not be made within 30 days from the time of such notice, such motor carrier shall incur a penalty for each offense of five hundred dollars (\$500.00). (1985, c. 454, s. 1; 2002-159, s. 31.5(b); 2002-190, s. 11; 2011-145, s. 19.1(g).)

§ 20-392. Failure to make report; obstructing Division or Department of Public Safety.

Every officer, agent or employee of any motor carrier, who shall willfully neglect or refuse to make and furnish any report required by the Division or Department of Public Safety for the purposes of this Article, or who shall willfully or unlawfully hinder, delay or obstruct the Division or Department of Public Safety in the discharge of the duties hereby imposed upon it, shall forfeit and pay five hundred dollars (\$500.00) for each offense, to be recovered in an action in the name of the State. A delay of 10 days to make and furnish such report shall raise the presumption that the same was willful. (1985, c. 454, s. 1; 2002-159, s. 31.5(b); 2002-190, s. 12; 2011-145, s. 19.1(g).)

§ 20-393. Disclosure of information by employee of Department of Public Safety unlawful.

It shall be unlawful for any agent or employee of the Department of Public Safety knowingly and willfully to divulge any fact or information which may come to his knowledge during the course of any examination or inspection made under authority of this Article, except to the Department of Public Safety or as may be directed by the Department of Public Safety or upon approval of a request to the Department of Public Safety by the Utilities Commission or by a

court or judge thereof. (1985, c. 454, s. 1; 2002-159, s. 31.5(b); 2002-190, s. 2; 2011-145, s. 19.1(g).)

§ 20-394. Remedies for injuries cumulative.

The remedies given by this Article to persons injured shall be regarded as cumulative to the remedies otherwise provided by law against motor carriers. (1985, c. 454, s. 1.)

§ 20-395. Willful injury to property of motor carrier a misdemeanor.

If any person shall willfully do or cause to be done any act or acts whatever whereby any building, construction or work of any motor carrier, or any engine, machine or structure of any matter or thing appertaining to the same shall be stopped, obstructed, impaired, weakened, injured or destroyed, he shall be guilty of a Class 1 misdemeanor. (1985, c. 454, s. 1; 1993, c. 539, s. 394; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 20-396. Unlawful motor carrier operations.

(a) Any person, whether carrier, shipper, consignee, or any officer, employee, agent, or representative thereof, who by means of any false statement or representation, or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device, shall knowingly and willfully seek to evade or defeat regulations as in this Article provided for motor carriers, shall be deemed guilty of a Class 3 misdemeanor and only punished by a fine of not more than five hundred dollars (\$500.00) for the first offense and not more than two thousand dollars (\$2,000) for any subsequent offense.

(b) Any motor carrier, or other person, or any officer, agent, employee, or representative thereof, who shall willfully fail or refuse to make a report to the Division or Department of Public Safety as required by this Article, or other applicable law, or to make specific and full, true, and correct answer to any question within 30 days from the time it is lawfully required by the Division or Department of Public Safety so to do, or to keep accounts, records, and memoranda in the form and manner prescribed by the Division or Department of Public Safety or shall knowingly and willfully falsify, destroy, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully neglect or fail to make true and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, or person required under this Article to keep the same, or shall knowingly and willfully keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Division or Department of Public Safety with respect thereto, shall be deemed guilty of a Class 3 misdemeanor and be punished for each offense only by a fine of not more than five thousand dollars (\$5,000). As used in this subsection the words "kept" and "keep" shall be construed to mean made, prepared or compiled as well as retained. (1985, c. 454, s. 1; 1993, c. 539, s. 395; 1994, Ex. Sess., c. 24, s. 14(c); 2002-159, s. 31.5(b); 2002-190, s. 13; 2011-145, s. 19.1(g).)

§ 20-397. Furnishing false information to the Department of Public Safety; withholding information from the Department of Public Safety.

(a) Every person, firm or corporation operating under the jurisdiction of the Department of Public Safety or who is required by law to file reports with the Department of Public Safety who shall knowingly or willfully file or give false information to the Department of Public

Safety in any report, reply, response, or other statement or document furnished to the Department of Public Safety shall be guilty of a Class 1 misdemeanor.

(b) Every person, firm, or corporation operating under the jurisdiction of the Department of Public Safety or who is required by law to file reports with the Department of Public Safety who shall willfully withhold clearly specified and reasonably obtainable information from the Department of Public Safety in any report, response, reply or statement filed with the Department of Public Safety in the performance of the duties of the Department of Public Safety or who shall fail or refuse to file any report, response, reply or statement required by the Department of Public Safety in the performance of the duties of the Department of Public Safety shall be guilty of a Class 1 misdemeanor. (1985, c. 454, s. 1; 1993, c. 539, s. 396; 1994, Ex. Sess., c. 24, s. 14(c); 2002-159, s. 31.5(b); 2002-190, s. 2; 2011-145, s. 19.1(g).)

§ 20-398. Household goods carrier; marking or identification of vehicles.

(a) No carrier shall operate any motor vehicle upon a highway, public street, or public vehicular area within the State in the transportation of household goods for compensation unless the name or trade name and the North Carolina number assigned to the carrier by the North Carolina Utilities Commission appear on each side of the vehicle in letters and figures not less than three inches high. The North Carolina number assigned to the carrier shall also be placed on the rear left upper quadrant of the vehicle in letters and figures not less than three inches high. In case of a tractor-trailer unit, the side markings must be on the tractor and the rear markings must be on the trailer. The markings required may be printed on the vehicle or on durable placards securely fastened on the vehicle.

(b) Except as provided in subsection (b) of this section, the provisions of this section shall apply to every vehicle used by the carrier in his or her operation whether owned, rented, leased, or otherwise. However, if a vehicle is rented or leased, the words "Operated By" shall also appear above or preceding the name of the carrier, unless the vehicles are under permanent lease, in which case the name of the lessor and the words "Operated By" need not appear.

(c) The provisions of this section do not apply to carriers engaged only in interstate commerce. If the carrier is engaged in both interstate and intrastate commerce and is marked as required by the Federal Motor Carrier Safety Administration, then in that case, it will only be necessary for the carrier to print his or her North Carolina number in a conspicuous place near his or her name in letters and figures corresponding in size with Federal Motor Carrier Safety Administration regulations.

(d) Any person, whether carrier or any officer, employee, agent, or representative thereof, who violates this section shall be guilty of a Class 3 misdemeanor and punished only by a fine of not more than five hundred dollars (\$500.00) for the first offense and not more than two thousand dollars (\$2,000) for any subsequent offense. (2011-244, s. 1.)

Article 18.

Regulation of Fully Autonomous Vehicles.

§ 20-400. Definitions.

The following definitions apply in this Article:

- (1) Automated driving system. – The hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis,

- regardless of whether it is operating within a limited or unlimited operational design domain.
- (2) Dynamic driving task. – All of the real-time operational and tactical control functions required to operate a motor vehicle in motion or which has the engine running, such as:
 - a. Lateral vehicle motion control via steering.
 - b. Longitudinal motion control via acceleration and deceleration.
 - c. Monitoring the driving environment via object and event detection, recognition, classification, and response preparation.
 - d. Object and event response execution.
 - e. Maneuver planning.
 - f. Enhancing conspicuity via lighting, signaling, and gesturing.
 - (3) Fully autonomous vehicle. – A motor vehicle equipped with an automated driving system that will not at any time require an occupant to perform any portion of the dynamic driving task when the automated driving system is engaged. If equipment that allows an occupant to perform any portion of the dynamic driving task is installed, it must be stowed or made unusable in such a manner that an occupant cannot assume control of the vehicle when the automated driving system is engaged.
 - (4) Minimal risk condition. – An operating mode in which a fully autonomous vehicle with the automated driving system engaged achieves a reasonably safe state, bringing the vehicle to a complete stop, upon experiencing a failure of the automatic driving system that renders the vehicle unable to perform any portion of the dynamic driving task.
 - (5) Operator. – For the purposes of this Article, is a person as defined in G.S. 20-4.01. An operator does not include an occupant within a fully autonomous vehicle performing solely strategic driving functions.
 - (6) Operational design domain. – Specific conditions under which an automated driving system is limited to effectively operate, such as geographical limitations, roadway types, speed range, and environmental conditions.
 - (7) Strategic driving functions. – Control of navigational parameters such as trip scheduling or the selection of destinations and waypoints but does not include any portion of the dynamic driving task. (2017-166, s. 1.)

§ 20-401. Regulation of fully autonomous vehicles.

(a) Driver's License Not Required. – Notwithstanding the provisions of G.S. 20-7 and this Chapter, the operator of a fully autonomous vehicle with the automated driving system engaged is not required to be licensed to operate a motor vehicle.

(b) Vehicle Registration Card in Vehicle. – For a fully autonomous vehicle, the provisions of G.S. 20-49(4) and G.S. 20-57(c) are satisfied if the vehicle registration card is in the vehicle, physically or electronically, and readily available to be inspected by an officer or inspector.

(c) Parent or Legal Guardian Responsible for Certain Violations. – The parent or legal guardian of a minor is responsible for a violation of G.S. 20-135.2B, the prohibition on children in an open bed of a pickup, or G.S. 20-137.1, the child restraint law, if the violation occurs in a fully autonomous vehicle.

(d) Minimum Age for Unsupervised Minors in Fully Autonomous Vehicles. – It is unlawful for any parent or legal guardian of a person less than 12 years of age to knowingly permit that person to occupy a fully autonomous vehicle in motion or which has the engine running unless the person is under the supervision of a person 18 years of age or older.

(e) Registered Owner Responsible for Moving Violations. – The person in whose name the fully autonomous vehicle is registered is responsible for a violation of this Chapter that is considered a moving violation, if the violation involves a fully autonomous vehicle.

(f) Unattended Vehicle. – A vehicle shall not be considered unattended pursuant to G.S. 20-163 or any other provision of Chapter 20 of the General Statutes merely because it is a fully autonomous vehicle with the automated driving system engaged.

(g) Duty to Stop in the Event of a Crash. – If all of the following conditions are met when a fully autonomous vehicle is involved in a crash, then the provisions of subsections (a) through (c2) and subsection (e) of G.S. 20-166 and subsections (a) and (c) of G.S. 20-166.1 shall be considered satisfied, and no violation of those provisions shall be charged:

- (1) The vehicle or the operator of the vehicle promptly contacts the appropriate law enforcement agency to report the crash.
- (2) The vehicle or operator of the vehicle promptly calls for medical assistance, if appropriate.
- (3) For a reportable crash, the vehicle remains at the scene of the crash until vehicle registration and insurance information is provided to the parties affected by the crash and a law enforcement officer authorizes the vehicle to be removed.
- (4) For a nonreportable crash, the vehicle remains at the scene or in the immediate vicinity of the crash until vehicle registration and insurance information is provided to the parties affected by the crash.

(h) Operation. – A person may operate a fully autonomous vehicle if the vehicle meets all of the following requirements:

- (1) Unless an exception or exemption has been granted under applicable State or federal law, the vehicle:
 - a. Is capable of being operated in compliance with Articles 3, 3A, 7, 11, and 13 of this Chapter;
 - b. Complies with applicable federal law and regulations; and
 - c. Has been certified in accordance with federal regulations in 49 C.F.R. Part 567 as being in compliance with applicable federal motor vehicle safety standards and bears the required certification label or labels.
- (2) The vehicle has the capability to meet the requirements of subsection (g) of this section.
- (3) The vehicle can achieve a minimal risk condition.
- (4) The vehicle is covered by a motor vehicle liability policy meeting the applicable requirements of G.S. 20-279.21.
- (5) The vehicle is registered in accordance with Part 3 of Article 3 of this Chapter, and, if registered in this State, the vehicle shall be identified on the registration and registration card as a fully autonomous vehicle.

(i) Preemption. – No local government shall enact any local law or ordinance related to the regulation or operation of fully autonomous vehicles or vehicles equipped with an automated driving system, other than regulation specifically authorized in Chapter 153A and Chapter 160A

of the General Statutes that is not specifically related to those types of motor vehicles. (2017-166, s. 1.)

§ 20-402. Applicability to vehicles other than fully autonomous vehicles.

(a) Definitions. – As used in this section, a "request to intervene" means notification by a vehicle to the human operator that the operator should promptly begin or resume performance of part or all of the dynamic driving task.

(b) Applicability. – Operation of a motor vehicle equipped with an automated driving system capable of performing the entire dynamic driving task with the expectation that a human operator will respond appropriately to a request to intervene is lawful under this Chapter and subject to the provisions of this Chapter. (2017-166, s. 1.)

§ 20-403. Fully Autonomous Vehicle Committee.

(a) Committee Established. – There is hereby created a Fully Autonomous Vehicle Committee within the Department of Transportation.

(b) Membership. – The following persons shall serve on the Committee:

- (1) Secretary of Transportation, or the Secretary's designee.
- (2) The Secretary of Commerce, or the Secretary's designee.
- (3) The Commissioner of Insurance, or the Commissioner's designee.
- (4) A representative of the Highway Patrol, designated by the Commander.
- (5) A representative of the North Carolina Association of Chiefs of Police, designated by its Executive Director.
- (6) A representative of the North Carolina Sheriffs' Association, designated by its President.
- (7) A representative of the University of North Carolina Highway Safety Research Center, designated by the Director.
- (8) At least two representatives from the autonomous vehicle industry, designated by the Secretary of Transportation.
- (9) A representative of the Attorney General's Office, designated by the Attorney General, who is familiar with motor vehicle law.
- (10) A representative of local law enforcement, designated by the Secretary of Transportation.
- (11) A representative of the trucking industry, designated by the North Carolina Trucking Association.
- (12) A planner from an urban area, designated by the North Carolina League of Municipalities.
- (13) A planner from a rural area, designated by the North Carolina Association of County Commissioners.
- (14) Two members of the North Carolina Senate, designated by the President Pro Tempore of the Senate.
- (15) Two members of the North Carolina House of Representatives, designated by the Speaker of the House.

(c) Duties. – The Committee shall meet regularly, and at a minimum four times a year, to consider matters relevant to fully autonomous vehicle technology, review State motor vehicle law as they relate to the deployment of fully autonomous vehicles onto the State highway system and municipal streets, make recommendations concerning the testing of fully autonomous

vehicles, identify and make recommendations for Department of Transportation traffic rules and ordinances, and make recommendations to the General Assembly on any needed changes to State law.

(d) Staff. – The Department of Transportation shall provide staff and meeting space, from reasonably available resources, to the Committee. (2017-166, s. 1.)