

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1070

Short Title: Transfer I/M program to DEHNR.

(Public)

Sponsors: Senator Kinnaird.

Referred to: Transportation.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO TRANSFER THE MOTOR VEHICLE EMISSIONS INSPECTION PROGRAM FROM THE DIVISION OF MOTOR VEHICLES OF THE DEPARTMENT OF TRANSPORTATION TO THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. Part 2 of Article 3A of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-183.1A. Administration of safety inspection program and emissions inspection program; definitions.

(a) Administration. – The Division administers the safety inspection program established by this Part. The Department of Environment, Health, and Natural Resources administers the emissions inspection program established by this Part.

(b) In addition to the definitions in G.S. 20-4.01, the following definitions apply in this Part:

(1) DEHNR. – The Department of Environment, Health, and Natural Resources.

(2) Reserved for future codification purposes."

Section 2. G.S. 20-183.4A reads as rewritten:

1 **"§ 20-183.4A. License required to perform emissions inspection; qualifications for**
2 **license.**

3 (a) License Required. – An emissions inspection must be performed by one of the
4 following methods:

5 (1) At a station that has an emissions inspection station license issued by ~~the~~
6 ~~Division-DEHNR~~ and by a mechanic who is employed by the station and
7 has an emissions inspection mechanic license issued by ~~the Division-~~
8 DEHNR.

9 (2) At a place of business of a person who has an emissions self-inspector
10 license issued by ~~the Division-DEHNR~~ and by an individual who has an
11 emissions inspection mechanic license.

12 (b) Station Qualifications. – An applicant for a license as an emissions inspection
13 station must meet all of the following requirements:

14 (1) Have a license as a safety inspection station.

15 (2) Have an emissions analyzer approved by the Environmental
16 Management Commission.

17 (3) Have equipment to transfer information on emissions inspections to ~~the~~
18 ~~Division-DEHNR~~ by electronic means.

19 (4) Regularly employ at least one mechanic who has an emissions
20 inspection mechanic license.

21 (c) Mechanic Qualifications. – An applicant for a license as an emissions
22 inspection mechanic must meet all of the following requirements:

23 (1) Have a license as a safety inspection mechanic.

24 (2) Have successfully completed an eight-hour course approved by ~~the~~
25 ~~Division-DEHNR~~ that teaches students about the causes and effects of
26 the air pollution problem, the purpose of the emissions inspection
27 program, the vehicle emission standards established by the federal
28 Environmental Protection Agency, the emission control devices on
29 vehicles, how to conduct an emissions inspection using an emissions
30 analyzer approved by the Environmental Management Commission, and
31 any other topic required by 40 C.F.R. § 51.367 to be included in the
32 course. Successful completion requires a passing score on a written test
33 and on a hands-on test in which the student is required to conduct an
34 emissions inspection of a motor vehicle.

35 (d) Self-Inspector Qualifications. – An applicant for a license as an emissions self-
36 inspector must meet all of the following requirements:

37 (1) Have a license as a safety self-inspector.

38 (2) Operate a fleet of at least 10 vehicles that are subject to an emissions
39 inspection.

40 (3) Have, or have a contract with a person who has, an emissions analyzer
41 approved by the Environmental Management Commission.

- 1 (4) Regularly employ or contract with an individual who has an emissions
2 inspection mechanic license and who will perform an emissions
3 inspection on the vehicles that are part of the self-inspector's fleet."

4 Section 3. G.S. 20-183.4B reads as rewritten:

5 **"§ 20-183.4B. Application for license; duration of license; renewal of mechanic**
6 **license.**

7 (a) Application. – An applicant for a license issued under this Part must complete
8 an application form provided by the ~~Division~~agency that issues the license. The
9 application must contain the applicant's name and address and any other information
10 needed by the ~~Division~~agency to determine whether the applicant is qualified for the
11 license. The ~~Division~~agency must review an application for a license to determine if the
12 applicant qualifies for the license. If the applicant meets the qualifications, the ~~Division~~
13 agency must issue the license. If the applicant does not meet the qualifications, the
14 ~~Division~~agency must deny the application and notify the applicant in writing of the
15 reason for the denial.

16 (b) Duration of License. – A safety inspection mechanic license expires four years
17 after the date it is issued. An emissions mechanic inspection license expires two years
18 after the date it is issued. A safety inspection station license, an emissions inspection
19 station license, and a self-inspector license are effective until surrendered by the license
20 holder or suspended or revoked by the ~~Division~~agency that issued the license.

21 (c) Renewal of Mechanic License. – A safety or an emissions inspection mechanic
22 may apply to renew a license by filing an application with the ~~Division~~agency that issues
23 the license on a form provided by ~~the Division~~that agency. To renew an emissions
24 inspection mechanic license, an applicant must have successfully completed a four-hour
25 emissions refresher course approved by ~~the Division~~DEHNR within nine months of
26 applying for renewal. Successful completion requires a passing score on a written test and
27 on a hands-on test in which the student is required to conduct an emissions inspection of
28 a motor vehicle."

29 Section 4. G.S. 20-183.5 reads as rewritten:

30 **"§ 20-183.5. When a vehicle that fails an emissions inspection may obtain a waiver**
31 **from the inspection requirement.**

32 (a) Requirements. —~~The Division~~DEHNR may issue a waiver for a vehicle that
33 meets all of the following requirements:

- 34 (1) Fails an emissions inspection because it passes the visual inspection part
35 of the inspection but fails the exhaust emissions analysis part of the
36 inspection.
- 37 (2) Has documented repairs costing at least the waiver amount made to the
38 vehicle to correct the cause of the failure. The waiver amount is
39 seventy-five dollars (\$75.00) if the vehicle is a pre-1981 model and is
40 two hundred dollars (\$200.00) if the vehicle is a 1981 or newer model.
- 41 (3) Is reinspected and again fails the inspection because it passes the visual
42 inspection part of the inspection but fails the exhaust emissions analysis
43 part of the inspection.

1 (4) Meets any other waiver criteria required by 40 C.F.R. § 51.360.

2 (b) Procedure. – To obtain a waiver, a person must contact a local enforcement
3 office of ~~the Division-DEHNR~~ or a designated agent of DEHNR. Before issuing a
4 waiver, an employee or agent of the Division-DEHNR must review the inspection receipts
5 issued for the inspections of the vehicle, review the documents establishing what repairs
6 were made to the vehicle and at what cost, review any statement denying warranty
7 coverage of the repairs made, and do a visual inspection of the vehicle, if appropriate, to
8 determine if the documented repairs were made. ~~The Division-DEHNR~~ or its agent must
9 issue a waiver if it determines that the vehicle qualifies for a waiver. A person to whom a
10 waiver is issued must present the waiver to the self-inspector or inspection station
11 performing the inspection to obtain an inspection sticker.

12 (c) Repairs. – The following repairs and their costs cannot be considered in
13 determining whether the cost of repairs made to a vehicle equals or exceeds the waiver
14 amount:

15 (1) Repairs covered by a warranty that applies to the vehicle.

16 (2) Repairs needed as a result of tampering with an emission control device
17 of the vehicle.

18 (3) If the vehicle is a 1981 or newer model, repairs made by an individual
19 who is not engaged in the business of repairing vehicles.

20 (d) Sticker Expiration. – An inspection sticker put on a vehicle after the vehicle
21 receives a waiver from the requirement of passing the emissions inspection expires at the
22 same time it would if the vehicle had passed the emissions inspection."

23 Section 5. G.S. 20-183.6, as amended by Senate Bill 260 of the 1997 General
24 Assembly, reads as rewritten:

25 **"§ 20-183.6. Businesses that replace windshields must register with Division to get**
26 **inspection stickers.**

27 A person who is engaged in the business of replacing windshields on vehicles that are
28 subject to inspection under this Part may register with the Division and DEHNR to obtain
29 replacement inspection stickers for use on replaced windshields. A replacement
30 inspection sticker put on a windshield that has been replaced must contain the same
31 information and expire at the same time as the inspection sticker it replaces. A person
32 who puts a replacement inspection sticker on a replaced windshield must remove the
33 inspection sticker from the windshield that was replaced, attach the removed inspection
34 sticker to a copy of the statement given the vehicle owner for replacing the windshield,
35 and keep that copy of the statement until 18 months after the sticker was removed.

36 A person registered under this section must keep records of replacement stickers put
37 on replaced windshields and must be able to account for all inspection stickers received
38 from the ~~Division-DEHNR~~. ~~The Division-DEHNR~~ Either agency may suspend or
39 revoke the registration of a person under this section if the person fails to keep records
40 required by ~~the Division-it~~ or is unable to account for inspection stickers received from the
41 ~~Division-it~~. An auditor of the Division-either agency may review the records of a person
42 registered under this section during normal business hours.

1 A person who is registered under this section and has a safety inspection station
2 license or an emissions inspection station license must keep the records of the inspection
3 stickers used on replaced windshields separate from the records of the inspection stickers
4 used on vehicles inspected. A person who is registered under this section and has an
5 inspection station license may not inspect a vehicle whose windshield is being replaced
6 unless the inspection sticker on the windshield has expired or expires at the end of the
7 month in which the windshield is being replaced and the person has the vehicle owner's
8 permission to inspect the vehicle."

9 Section 6. G.S. 20-183.6A reads as rewritten:

10 **"§ 20-183.6A. ~~Administration of~~ Duties of agency administering inspection program;**
11 **duties of license holders.**

12 (a) Division. —~~The Division is responsible for administering the safety inspection~~
13 ~~and the emissions inspection programs. —In exercising this responsibility, the Division~~
14 ~~administering the safety inspection program or the emissions inspection program, the~~
15 Division and DEHNR must:

- 16 (1) Conduct performance audits, record audits, and equipment audits of
17 those licensed to perform inspections to ensure that inspections are
18 performed properly.
- 19 (2) Ensure that ~~Division personnel~~ those who audit license holders are
20 knowledgeable about audit procedures and about the requirements of
21 both the safety inspection and the emissions inspection programs.
- 22 (3) Perform an emissions inspection on a vehicle when requested to do so
23 by a vehicle owner so the owner can compare the result of the
24 inspection performed by the ~~Division~~ agency with the result of an
25 inspection performed at an emissions inspection station.
- 26 (4) Investigate complaints about a person licensed to perform inspections
27 and reports of irregularities in performing inspections.
- 28 (5) Establish written procedures for the issuance of inspection stickers to
29 persons licensed to perform inspections.
- 30 (6) Submit information and reports to the federal Environmental Protection
31 Agency as required by 40 C.F.R. Part 51.

32 (b) License Holders. — A person who is licensed by the Division under this Part
33 must post the license at the place required by the ~~Division~~ issuing agency and must keep a
34 record of inspections performed. The inspection record must identify the vehicle that was
35 inspected, indicate the type of inspection performed and the date of inspection, and
36 contain any other information required by the ~~Division~~ agency that administers the
37 inspection program. A self-inspector or an inspection station must send its records of
38 inspections to the ~~Division~~ agency that administers the inspection program in the form and
39 at the time required by ~~the Division~~ that agency. An auditor or agent of the Division or
40 DEHNR may review the inspection records of a person licensed by ~~the Division~~ it under
41 this Part during normal business hours."

42 Section 7. G.S. 20-183.7, as amended by Senate Bill 260 of the 1997 General
43 Assembly, reads as rewritten:

"§ 20-183.7. Fees for performing an inspection and putting an inspection sticker on a vehicle; use of civil penalties.

(a) Fee Amount. – When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type		Inspection Sticke r
Safety Only, Safety Without After-Factory Tinted Window	\$ 8.25 \$1.00	
	<u>\$.50</u>	
Safety Only, Safety With After- Factory Tinted Window	18.25 1.00	
	<u>.50</u>	
Emissions and Safety, Without After Factory Tinted Window	17.00 <u>8.75</u> 2.40	
	<u>1.90.</u>	
Emissions and Safety, With After Factory Tinted Window	27.00 2.40.	

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 inspection sticker applies when an inspection sticker is put on a vehicle. The fee for performing an inspection of a vehicle with a tinted window applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint.

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 30 days of the failed inspection without paying another inspection fee.

(b) Self-Inspector. – The fee for an inspection does not apply to an inspection performed by a self-inspector. The fee for putting an inspection sticker on a vehicle applies to an inspection performed by a self-inspector.

(c) Fee Distribution. – Fees collected for inspection stickers are payable to the ~~Division of Motor Vehicles~~ agency that administers the inspection program. The amount of each fee listed in the table below shall be credited to the Highway Fund, the Emissions Program Account established in subsection (d) of this section, 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 Environment, Health, and Natural Resources:

<u>Recipient</u>	<u>Safety</u>	<u>Sticker</u>	<u>Highway Fund</u>
.75 <u>.25</u> .00			
Emissions Program Account	.00		1.80
Volunteer Rescue/EMS Fund	.15		15 <u>.00</u>

1 Rescue Squad Workers' Relief

2 Fund ~~.10 +0.00~~

3 Division of Air Quality

.00

~~.35.~~

4 ~~.10.~~

5 (d) Account. – The Emissions Program Account is created as a nonreverting
6 account within ~~the Highway Fund-DEHNR. The Division-DEHNR~~ shall administer the
7 Account. Revenue in the Account may be used only to fund the vehicle emissions
8 inspection and maintenance program.

9 (e) Civil Penalties. – Civil penalties collected under the safety inspection program
10 in this Part shall be credited to the Highway Fund as nontax revenue. Civil penalties
11 collected under the emissions inspection program in this Part shall be credited to the
12 General Fund as nontax revenue."

13 Section 8. G.S. 20-183.8A reads as rewritten:

14 **"§ 20-183.8A. Civil penalties against motorists for emissions violations.**

15 ~~The Division-DEHNR~~ must assess a civil penalty against a person who owns or leases
16 a vehicle that is subject to an emissions inspection and who does any of the following:

17 (1) Fails to have the vehicle inspected within four months after it is required
18 to be inspected under this Part.

19 (2) Instructs or allows a person to tamper with an emission control device
20 of the vehicle so as to make the device inoperative or fail to work
21 properly.

22 (3) Incorrectly states the county of registration of the vehicle to avoid
23 having an emissions inspection of the vehicle.

24 The amount of penalty is one hundred dollars (\$100.00) if the vehicle is a pre-1981
25 vehicle and two hundred fifty dollars (\$250.00) if the vehicle is a 1981 or newer model
26 vehicle. As provided in G.S. 20-54, the registration of a vehicle may not be renewed until
27 a penalty imposed under this subsection has been paid."

28 Section 9. G.S. 20-183.8B, as amended by Senate Bill 260 of the 1997
29 General Assembly, reads as rewritten:

30 **"§ 20-183.8B. Civil penalties against license holders and suspension or revocation of**
31 **license for emissions violations.**

32 (a) Kinds of Violations. – The civil penalty schedule established in this section
33 applies to emissions self-inspectors, emissions inspection stations, and emissions
34 inspection mechanics. The schedule categorizes emissions violations into serious (Type
35 I), minor (Type II), and technical (Type III) violations.

36 A serious violation is a violation of this Part or a rule adopted to implement this Part
37 that directly affects the emission reduction benefits of the emissions inspection program.
38 A minor violation is a violation of this Part or a rule adopted to implement this Part that
39 reflects negligence or carelessness in conducting an emissions inspection or complying
40 with the emissions inspection requirements but does not directly affect the emission
41 reduction benefits of the emissions inspection program. A technical violation is a
42 violation that is not a serious violation, a minor violation, or another type of offense
43 under this Part.

1 (b) Penalty Schedule. —~~The Division~~ DEHNR must take the following action for a
2 violation:

- 3 (1) Type I. — For a first or second Type I violation by an emissions self-
4 inspector or an emissions inspection station, assess a civil penalty of
5 two hundred fifty dollars (\$250.00) and suspend the license of the
6 business for six months. For a third or subsequent Type I violation
7 within three years by an emissions self-inspector or an emissions
8 inspection station, assess a civil penalty of one thousand dollars
9 (\$1,000) and revoke the license of the business for two years.

10 For a first or second Type I violation by an emissions inspection
11 mechanic, assess a civil penalty of one hundred dollars (\$100.00) and
12 suspend the mechanic's license for six months. For a third or subsequent
13 Type I violation within seven years by an emissions inspection
14 mechanic, assess a civil penalty of two hundred fifty dollars (\$250.00)
15 and revoke the mechanic's license for two years.

- 16 (2) Type II. — For a first or second Type II violation by an emissions self-
17 inspector or an emissions inspection station, assess a civil penalty of one
18 hundred dollars (\$100.00). For a third or subsequent Type II violation
19 within three years by an emissions self-inspector or an emissions
20 inspection station, assess a civil penalty of two hundred fifty dollars
21 (\$250.00) and suspend the license of the business for 90 days.

22 For a first or second Type II violation by an emissions inspection
23 mechanic, assess a civil penalty of fifty dollars (\$50.00). For a third or
24 subsequent Type II violation within seven years by an emissions
25 inspection mechanic, assess a civil penalty of one hundred dollars
26 (\$100.00) and suspend the mechanic's license for 90 days.

- 27 (3) Type III. — For a first or second Type III violation by an emissions self-
28 inspector, an emissions inspection station, or an emissions inspection
29 mechanic, send a warning letter. For a third or subsequent Type III
30 violation within three years by the same emissions license holder, assess
31 a civil penalty of twenty-five dollars (\$25.00).

32 (c) Station or Self-Inspector Responsibility. — It is the responsibility of an
33 emissions inspection station and an emissions self-inspector to supervise the emissions
34 mechanics it employs. A violation by an emissions inspector mechanic is considered a
35 violation by the station or self-inspector for whom the mechanic is employed.

36 (d) Missing Stickers. —~~The Division~~ DEHNR must assess a civil penalty against
37 an emissions inspection station or an emissions self-inspector that cannot account for an
38 emissions inspection sticker issued to it. A station or a self-inspector cannot account for a
39 sticker when the sticker is missing and the station or self-inspector cannot establish
40 reasonable grounds for believing the sticker was stolen or destroyed by fire or another
41 accident.

42 The amount of the penalty is twenty-five dollars (\$25.00) for each missing sticker. If a
43 penalty is imposed under subsection (b) of this section as the result of missing stickers,

1 the monetary penalty that applies is the higher of the penalties required under this
2 subsection and subsection (b); ~~the Division-DEHNR~~ may not assess a monetary penalty as
3 a result of missing stickers under both this subsection and subsection (b). Imposition of a
4 monetary penalty under this subsection does not affect suspension or revocation of a
5 license required under subsection (b).

6 (e) Mechanic Training. – An emissions inspection mechanic whose license has
7 been suspended or revoked must retake the course required under G.S. 20-183.4A and
8 successfully complete the course before the mechanic's license can be reinstated. Failure
9 to successfully complete this course continues the period of suspension or revocation
10 until the course is completed successfully."

11 Section 10. G.S. 20-183.8C, as amended by Senate Bill 260 of the 1997
12 General Assembly, reads as rewritten:

13 **"§ 20-183.8C. Acts that are Type I, II, or III emissions violations.**

14 (a) Type I. – It is a Type I violation for an emissions self-inspector, an emissions
15 inspection station, or an emissions inspection mechanic to do any of the following:

16 (1) Put an emissions inspection sticker on a vehicle without performing an
17 emissions inspection of the vehicle.

18 (1a) Put an emissions inspection sticker on a vehicle after performing an
19 emissions inspection of the vehicle and determining that the vehicle did
20 not pass the inspection.

21 (2) Use a test-defeating strategy when conducting an emissions inspection,
22 such as holding the accelerator pedal down slightly during an idle test,
23 disconnecting or crimping a vacuum hose to effect a passing result, or
24 changing the emission standards for a vehicle by incorrectly entering the
25 vehicle type or model year to achieve a passing result.

26 (3) Allow a person who is not licensed as an emissions inspection mechanic
27 to perform an emissions inspection for a self-inspector or at an
28 emissions station.

29 (4) Sell or otherwise give an inspection sticker to another other than as the
30 result of a vehicle inspection in which the vehicle passed the inspection
31 or for which the vehicle received a waiver.

32 (5) Be unable to account for five or more inspection stickers at any one time
33 upon the request of an auditor of ~~the Division-DEHNR~~.

34 (6) Perform a safety-only inspection on a vehicle that is subject to both a
35 safety and an emissions inspection.

36 (7) Transfer an inspection sticker from one vehicle to another.

37 (b) Type II. – It is a Type II violation for an emissions self-inspector, an emissions
38 inspection station, or an emissions inspection mechanic to do any of the following:

39 (1) Use the identification code of another to gain access to an emissions
40 analyzer.

41 (2) Keep inspection stickers and other compliance documents in a manner
42 that makes them easily accessible to individuals who are not inspection
43 mechanics.

- 1 (3) Put an emissions inspection sticker on a vehicle that is required to have
2 one of the following emissions control devices but does not have it:
3 a. Catalytic converter.
4 b. PCV valve.
5 c. Thermostatic air control.
6 d. Oxygen sensor.
7 e. Unleaded gas restrictor.
8 f. Gasoline tank cap.
9 g. Air injection system.
10 h. Evaporative emissions system.
11 i. Exhaust gas recirculation (EGR) valve.
12 (4) Put an emissions inspection sticker on a vehicle without performing a
13 visual inspection of the vehicle's exhaust system and checking the
14 exhaust system for leaks.
15 (5) Impose no fee for an emissions inspection of a vehicle or the issuance of
16 an emissions inspection sticker or impose a fee for one of these actions
17 in an amount that differs from the amount set in G.S. 20-187.3.

18 (c) Type III. – It is a Type III violation for an emissions self-inspector, an
19 emissions inspection station, or an emissions inspection mechanic to do any of the
20 following:

- 21 (1) Fail to post an emissions license issued by ~~the Division~~ DEHNR.
22 (2) Fail to send information on emissions inspections to ~~the Division~~
23 DEHNR at the time or in the form required by ~~the Division~~ DEHNR.
24 (3) Fail to post emissions information required by federal law to be posted.
25 (4) Fail to put the required information on an inspection sticker in a legible
26 manner using ink.
27 (5) Fail to put the required information on an inspection receipt in a legible
28 manner.
29 (6) Fail to maintain an emissions analyzer maintenance log.

30 (d) Other Acts. – The lists in this section of the acts that are Type I, Type II, or
31 Type III violations are not the only acts that are one of these types of violations. ~~The~~
32 ~~Division~~ DEHNR may designate other acts that are a Type I, Type II, or Type III
33 violation."

34 Section 11. G.S. 20-183.8D, as amended by Senate Bill 260 of the 1997
35 General Assembly, reads as rewritten:

36 "**§ 20-183.8D. Suspension or revocation of license.**

37 (a) Safety. – The Division may suspend or revoke a safety self-inspector license, a
38 safety inspection station license, and a safety inspection mechanic license issued under
39 this Part if the license holder fails to comply with this Part or a rule adopted by the
40 Commissioner to implement this Part.

41 (b) Emissions. —~~The Division~~ DEHNR may suspend or revoke an emissions self-
42 inspector license, an emissions inspection station license, and an emissions inspection
43 mechanic license issued under this Part for any of the following reasons:

1 (1) The suspension or revocation is imposed under G.S. 20-183.8B.

2 (2) Failure to pay a civil penalty imposed under G.S. 20-183.8B within 30
3 days after it is imposed."

4 Section 12. G.S. 20-183.8D.1, as enacted by Senate Bill 260 of the 1997
5 General Assembly, reads as rewritten:

6 "**§ 20-183.8D.1. Requirements for giving certain emissions license holders notice of
7 violations and for taking summary action.**

8 (a) Finding of Violation. – When an auditor of ~~the Division~~ DEHNR finds that an
9 emissions violation has occurred that could result in the suspension or revocation of an
10 emissions inspection station license, an emissions self-inspector license, or an emissions
11 mechanic license, the auditor must give the affected license holder written notice of the
12 finding. The notice must be given within five business days after the violation occurred.
13 The notice must state the period of suspension or revocation that could apply to the
14 violation and any monetary penalty that could apply to the violation. The notice must
15 also inform the license holder of the right to a hearing if ~~the Division~~ DEHNR charges the
16 license holder with the violation.

17 (b) Notice of Charges. – When ~~the Division~~ DEHNR decides to charge an
18 emissions inspection station, an emissions self-inspector, or an emissions mechanic with
19 a violation that could result in the suspension or revocation of the person's emissions
20 license, an auditor of ~~the Division~~ that agency must deliver a written statement of the
21 charges to the affected license holder. The statement of charges must inform the license
22 holder of this right, instruct the person on how to obtain a hearing, and inform the license
23 holder of the effect of not requesting a hearing. The license holder has the right to a
24 hearing before the license is suspended or revoked. G.S. 20-183.8E sets out the
25 procedure for obtaining a hearing.

26 (c) Exception for Summary Action. – The right granted by subsection (b) of this
27 section to have a hearing before an emissions license is suspended or revoked does not
28 apply if ~~the Division~~ DEHNR summarily suspends or revokes the license after a judge has
29 reviewed and authorized the proposed action. A license issued to an emissions inspection
30 station, an emissions self-inspector, or an emissions mechanic is a substantial property
31 interest that cannot be summarily suspended or revoked without judicial review."

32 Section 13. G.S. 20-183.8E, as amended by Senate Bill 260 of the 1997
33 General Assembly, reads as rewritten:

34 "**§ 20-183.8E. Administrative and judicial review.**

35 (a) Right to Hearing. – A person who applies for a license or registration under
36 this Part or who has a license or registration issued under this Part has the right to a
37 hearing when any of the following occurs:

38 (1) The Division or DEHNR denies the person's application for a license or
39 registration.

40 (2) ~~The Division~~ DEHNR delivers to the person a written statement of
41 charges of an emissions violation that could result in the suspension or
42 revocation of the person's emissions license.

1 (3) The Division or DEHNR summarily suspends or revokes the person's
2 license following review and authorization of the proposed adverse
3 action by a judge.

4 (4) The Division or DEHNR assesses a civil penalty against the person.

5 (5) The Division or DEHNR issues a warning letter to the person.

6 (6) The Division or DEHNR cancels the person's registration.

7 (b) Hearing After Statement of Charges. – When an emissions license holder
8 receives a statement of charges of an emissions violation that could result in the
9 suspension or revocation of the person's emissions license, the person can obtain a
10 hearing by making a request for a hearing. The person must make the request to ~~the~~
11 ~~Division-DEHNR~~ within 10 days after receiving the statement of the charges. A person
12 who does not request a hearing within this time limit waives the right to a hearing.

13 ~~The Division-DEHNR~~ must hold a hearing requested under this subsection within three
14 business days after receiving the request unless the person requesting the hearing asks for
15 additional time to prepare for the hearing. A person may ask for no more than seven
16 additional business days to prepare. If the additional time requested is within this limit,
17 ~~the Division-DEHNR~~ must grant a person the additional time requested. The hearing must
18 be held at the location designated by ~~the Division-DEHNR~~. Suspension or revocation of
19 the license is stayed until a decision is made following the hearing.

20 If a person does not request a hearing within the time allowed for making the request,
21 the proposed suspension or revocation becomes effective the day after the time for
22 making the request ends. If a person requests a hearing but does not attend the hearing,
23 the proposed suspension or revocation becomes effective the day after the date set for the
24 hearing.

25 (c) Hearing After Summary Action. – When the Division or DEHNR summarily
26 suspends a license issued under this Part after judicial review and authorization of the
27 proposed action, the person whose license was suspended or revoked may obtain a
28 hearing by filing with the ~~Division-appropriate agency~~ a written request for a hearing.
29 The request must be filed within 10 days after the person was notified of the summary
30 action. The ~~Division-agency~~ must hold a hearing requested under this subsection within
31 14 days after receiving the request.

32 (d) All Other Hearings. – When this section gives a person the right to a hearing
33 and subsection (b) or (c) of this section does not apply to the hearing, the person may
34 obtain a hearing by filing with the ~~Division-appropriate agency~~ a written request for a
35 hearing. The request must be filed within 10 days after the person receives written notice
36 of the action for which a hearing is requested. The Division must hold a hearing within
37 90 days after the Division receives the request. A request made to DEHNR for a hearing
38 is governed by Article 3 of Chapter 150B of the General Statutes.

39 (e) Review of Division Decision by Commissioner. – The Commissioner may
40 conduct a hearing required to be held by the Division under this section or may designate
41 a person to conduct the hearing. When a person designated by the Commissioner holds a
42 hearing and makes a decision, the person who requested the hearing has the right to
43 request the Commissioner to review the decision. The procedure set by the Division

1 governs the review by the Commissioner of a decision made by a person designated by
2 the Commissioner.

3 (f) Decision. – A decision made after a hearing on the imposition of a monetary
4 penalty against a motorist for an emissions violation or on a Type I, II, or III emissions
5 violation by an emissions license holder must uphold any monetary penalty, license
6 suspension, license revocation, or warning required by G.S. 20-183.8A or G.S. 20-
7 183.8B, respectively, if the decision contains a finding that the motorist or license holder
8 committed the act for which the monetary penalty, license suspension, license revocation,
9 or warning was imposed. A decision made after a hearing on any other action may
10 uphold or modify the action.

11 (g) Judicial Review. – Article 4 of Chapter 150B of the General Statutes governs
12 judicial review of an administrative decision made under this section."

13 Section 14. G.S. 143-215.106 reads as rewritten:

14 **"§ 143-215.106. Administration of air quality program.**

15 The Department shall administer the air quality program of the State. The air quality
16 program of the State includes the emissions inspection program administered under G.S.
17 20-128.2 and Part 2 of Article 3A of Chapter 20 of the General Statutes."

18 Section 15. G.S. 143-215.111 reads as rewritten:

19 **"§ 143-215.111. General powers of Commission; auxiliary powers.**

20 In addition to the specific powers prescribed elsewhere in this Article and the
21 applicable general powers prescribed in G.S. 143-215.3, and for the purpose of carrying
22 out its duties, the Commission shall have the power:

- 23 (1) To make a continuing study of the effects of the emission of air
24 contaminants from motor vehicles on the quality of the outdoor
25 atmosphere of the State and the several areas thereof, and make
26 recommendations to the General Assembly and other appropriate public
27 and private bodies for the control of such air contaminants.
- 28 (2) To consult, upon request, with any person proposing to construct,
29 install, or otherwise acquire an air pollution source or air-cleaning
30 device for the control of air contaminants concerning the efficacy of
31 such device, or the air problem which may be related to such source, or
32 device; provided, however, that nothing in any such consultation shall
33 be construed to relieve any person from compliance with this Article
34 and Article 21, rules adopted pursuant thereto, or any other provision of
35 law.
- 36 (3) To encourage local units of government to handle air pollution problems
37 within their respective jurisdictions and on a cooperative basis, and to
38 provide such local units technical and consultative assistance to the
39 maximum extent possible.
- 40 (4) To establish procedures providing for public notice, public comment,
41 and public hearings on applications for permits required by Title V to
42 meet the requirements of Title V and implementing regulations adopted
43 by the United States Environmental Protection Agency.

1 (5) To establish procedures providing for notice to the Administrator of the
2 United States Environmental Protection Agency and affected states of
3 proposals to issue permits required by Title V and allowing affected
4 states the opportunity to submit written comment as required by section
5 505(a) of Title V (42 U.S.C. § 7661d) and implementing regulations
6 adopted by the United States Environmental Protection Agency.

7 (6) To adopt rules to implement the emissions inspection program
8 administered under G.S. 20-128.2 and Part 2 of Article 3A of Chapter
9 20 of the General Statutes."

10 Section 16. The balance in the Emissions Program Account on 30 June 1998 is
11 transferred from the Division of Motor Vehicles of the Department of Transportation to
12 the Department of Environment, Health, and Natural Resources.

13 Section 17. Forty positions in the Division of Motor Vehicles are eliminated.
14 Thirty positions in the Department of Environment, Health, and Natural Resources are
15 established to implement this act.

16 Section 18. The Division of Motor Vehicles of the Department of
17 Transportation and the Department of Transportation shall jointly report to the
18 Environmental Review Commission on a quarterly basis on the implementation of this
19 act. The first quarterly report under this section is due 1 October 1998.

20 Section 19. This act becomes effective 1 July 1998.