

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**HOUSE BILL 314
RATIFIED BILL**

**AN ACT TO TRANSFER THE DMV MOTOR VEHICLES ENFORCEMENT
SECTION FROM THE DEPARTMENT OF TRANSPORTATION TO THE
DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY.**

The General Assembly of North Carolina enacts:

SECTION 1. All statutory authority, powers, duties, and functions, including rulemaking, budgeting, purchasing, records, personnel, personnel positions, salaries, property, and unexpended balances of appropriations, allocations, reserves, support costs, and other funds allocated to the Department of Transportation, Division of Motor Vehicles Enforcement Section, for the regulation and enforcement of commercial motor vehicles, oversize and overweight vehicles, motor carrier safety, and mobile and manufactured housing are transferred to and vested in the Department of Crime Control and Public Safety. This transfer has all the elements of a Type I transfer as defined in G.S. 143A-6.

The Department of Crime Control and Public Safety shall be considered a continuation of the transferred portion of the Department of Transportation, Division of Motor Vehicles Enforcement Section, for the purpose of succession to all rights, powers, duties, and obligations of the Enforcement Section and of those rights, powers, duties, and obligations exercised by the Department of Transportation, Division of Motor Vehicles on behalf of the Enforcement Section. Where the Department of Transportation, the Division of Motor Vehicles, or the Enforcement Section, or any combination thereof are referred to by law, contract, or other document, that reference shall apply to the Department of Crime Control and Public Safety.

All equipment, supplies, personnel, or other properties rented or controlled by the Department of Transportation, Division of Motor Vehicles Enforcement Section for the regulation and enforcement of commercial motor vehicles, oversize and overweight vehicles, motor carrier safety, and mobile and manufactured housing shall be administered by the Department of Crime Control and Public Safety.

SECTION 2. The Revisor of Statutes shall substitute the term "Department of Crime Control and Public Safety" for the terms "Division", "Division of Motor Vehicles", and "Division of Motor Vehicles of the Department of Transportation" everywhere those terms appear in the following sections of the General Statutes:

G.S. 20-116(e)

G.S. 20-377

G.S. 20-379

G.S. 20-380

G.S. 20-381

G.S. 20-382.2

G.S. 20-383

G.S. 20-389

G.S. 20-390

G.S. 20-393

G.S. 20-397

The title of Part 2 of Article 17 of Chapter 20 of the General Statutes

G.S. 105-269.3.

SECTION 3. The Revisor of Statutes shall substitute the term "Secretary of Crime Control and Public Safety" for the terms "Commissioner" and "Commissioner of Motor Vehicles" everywhere those terms appear in the following sections of the General Statutes:

G.S. 20-17.7
G.S. 20-91.1
G.S. 20-91.2
G.S. 20-382.2.

SECTION 4. G.S. 20-4 is repealed.

SECTION 5. G.S. 20-49 reads as rewritten:

"§ 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 Crime Control and 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."

SECTION 6. G.S. 20-99(e) reads as rewritten:

"(e) The provisions, procedures, and remedies provided in this section apply to the collection of penalties imposed under the provisions of Article 3A of this Chapter and of G.S. 20-96, G.S. 20-118, or any other provisions of this Chapter imposing a tax or penalty for operation of a vehicle in excess of the weight limits provided in this Chapter

and the Commissioner ~~is and~~ the Secretary of the Department of Crime Control and Public Safety are authorized to collect such taxes or penalties by the use of the procedure established in subsections (a), (b), (c) and (d) of this section."

SECTION 7. G.S. 20-183.9 reads as rewritten:

"§ 20-183.9. Establishment and maintenance of permanent weighing stations.

The Department of ~~Transportation~~ Crime Control and Public Safety is hereby authorized, empowered and directed to ~~establish during the biennium ending June 30, 1953, not less than six nor more than 13~~ equip, operate, and maintain permanent weighing 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 weighing 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. ~~Said permanent weighing stations shall be equipped by the Department of Transportation and shall be maintained by said Department of Transportation."~~

SECTION 8. G.S. 20-183.10 reads as rewritten:

"§ 20-183.10. Operation by Division of Motor Vehicles; Department of Crime Control and Public Safety uniformed personnel with powers of peace officers.

The permanent weighing stations to be established pursuant to the provisions of this Article shall be operated by the ~~Division of Motor Vehicles, Department of Crime Control and Public Safety~~ and the personnel assigned to the various stations shall wear uniforms to be selected and furnished by the ~~Division of Motor Vehicles, Department of Crime Control and Public Safety~~. The uniformed officers assigned to the various permanent weighing 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.

~~There is hereby appropriated to the Division of Motor Vehicles out of the State Highway and Public Works Fund the sum of two hundred fifty thousand dollars (\$250,000) for each year of the biennium ending June 30, 1953. The funds appropriated in this paragraph shall be expended exclusively for the operation of the permanent weighing stations established pursuant to this Article."~~

SECTION 9. G.S. 20-196.3 reads as rewritten:

"§ 20-196.3. Who may hold supervisory positions over uniformed personnel.

Notwithstanding any other provision of the General Statutes of North Carolina, it shall be unlawful for any person other than the Governor and the Secretary of Crime Control and Public Safety and other than a uniformed member of the North Carolina State Highway Patrol who has met all requirements for employment within the Patrol, including but not limited to completion of the basic Patrol school, to hold any supervisory position over ~~uniformed personnel within sworn members of~~ the Patrol."

SECTION 10. G.S. 20-387 reads as rewritten:

"§ 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 Crime Control and 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 ~~Division; Department of Crime Control and 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 Crime Control and Public Safety shall be a separate offense."

SECTION 11. G.S. 20-391 reads as rewritten:

"§ 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~~, Division or the Department of Crime Control and 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 Crime Control and 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)."

SECTION 12. G.S. 20-392 reads as rewritten:

"§ 20-392. Failure to make report; obstructing ~~Division~~, Division or Department of Crime Control and 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 Crime Control and Public Safety for the purposes of this Article, or who shall willfully or unlawfully hinder, delay or obstruct the Division or Department of Crime Control and 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."

SECTION 13. G.S. 20-396(b) reads as rewritten:

"(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 Crime Control and 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 Crime Control and Public Safety so to do, or to keep accounts, records, and memoranda in the form and manner prescribed by the Division or Department of Crime Control and 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 Crime Control and 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."

SECTION 14. G.S. 143B-475(a) is amended by adding a new subdivision to read:

"(10) The Commercial Vehicle, Oversize/Overweight, Motor Carrier Safety Regulation and Mobile Home and Manufactured Housing regulatory and enforcement functions of the Department of Transportation, Division of Motor Vehicles Enforcement Section."

SECTION 15. G.S. 143B-476(a)(3) reads as rewritten:

"(3) Adopting rules as may be required by the federal government for federal grants-in-aid for criminal justice ~~purposes;~~ purposes and to implement and carry out the regulatory and enforcement duties assigned to the Department of Crime Control and Public Safety as provided by the various commercial vehicle, oversize/overweight, motor carrier safety, motor fuel, and mobile and manufactured home statutes."

SECTION 16. G.S. 150B-1(e) is amended by adding a new subdivision to read:

"(14) The Department of Crime Control and Public Safety for hearings and appeals authorized under Chapter 20 of the General Statutes."

SECTION 17. The Governor shall resolve any dispute between the Department of Transportation and the Department of Crime Control and Public Safety concerning the implementation of this act.

SECTION 18. This act becomes effective December 1, 2002.

In the General Assembly read three times and ratified this the 3rd day of October, 2002.

Marc Basnight
President Pro Tempore of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____ .m. this _____ day of _____, 2002