

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1117

Short Title: Sex Offender Can't Drive Bus with Children. (Public)

Sponsors: Representatives Tucker; Faison, Justice, Justus, McLawhorn, Parmon, Starnes, and Wray.

Referred to: Transportation, if favorable, Judiciary II.

April 7, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE DIVISION OF MOTOR VEHICLES SHALL NOT ISSUE OR RENEW COMMERCIAL DRIVERS LICENSES WITH ENDORSEMENTS THAT QUALIFY A PERSON TO DRIVE A COMMERCIAL PASSENGER VEHICLE OR SCHOOL BUS FOR ANYONE REQUIRED TO REGISTER UNDER THE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-208.19. Commercial drivers license restrictions.

(a) The Division of Motor Vehicles, in compliance with G.S. 20-37.14A, shall not issue or renew a commercial drivers license with a P or S endorsement to any person required to register under this Article.

(b) The Division of Motor Vehicles, in compliance with G.S. 20-37.13(f) shall not issue a commercial driver learner's permit with a P or S endorsement to any person required to register under this Article.

(c) A person who is convicted of a violation that requires registration under Article 27A of Chapter 14 of the General Statutes is disqualified under G.S. 20-17.4 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.

(d) A person who drives a commercial passenger vehicle or a school bus and who does not have a 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 shall be punished as provided by G.S. 20-27.1."

SECTION 2. G.S. 20-17.4 is amended by adding a new subsection to read:

"(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



1 license expires, provided the person does not commit a subsequent offense that requires
2 registration under Article 27A of Chapter 14 of the General Statutes."

3 **SECTION 3.** Article 2 of Chapter 20 of the General Statutes is amended by adding
4 a new section to read:

5 **"§ 20-17.9. Revocation of commercial drivers license with a P or S endorsement upon**
6 **conviction of certain offenses.**

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

13 **SECTION 4.** Article 2 of Chapter 20 of the General Statutes is amended by adding
14 a new section to read:

15 **"§ 20-27.1. Unlawful for sex offender to drive commercial passenger vehicle or school bus**
16 **without appropriate commercial license or while disqualified.**

17 A person who drives a commercial passenger vehicle or a school bus and who does not
18 have a valid commercial drivers license with a P or S endorsement because the person was
19 convicted of a violation that requires registration under Article 27A of Chapter 14 of the
20 General Statutes is guilty of a Class F felony."

21 **SECTION 5.** G.S. 20-37.13 is amended by adding a new subsection to read:

22 "(f) Notwithstanding subsection (e) of this section, a commercial driver learner's permit
23 with a P or S endorsement shall not be issued to any person who is required to register under
24 Article 27A of Chapter 14 of the General Statutes."

25 **SECTION 6.** Article 2C of Chapter 20 of the General Statutes is amended by
26 adding a new section to read:

27 **"§ 20-37.14A. Prohibit issuance or renewal of certain categories of commercial drivers**
28 **licenses to sex offenders.**

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

32 (b) The Division shall not issue a commercial drivers license with a P or S endorsement
33 to an applicant until the Division has searched both the statewide registry and the National Sex
34 Offender Public Registry to determine if the person is currently registered as a sex offender in
35 North Carolina or another state.

36 (1) If the Division finds that the person is currently registered as a sex offender
37 in either North Carolina or another state, the Division, in compliance with
38 subsection (a) of this section, shall not issue a commercial drivers license
39 with a P or S endorsement to the person.

40 (2) If the Division is unable to access either the statewide registry or all of the
41 states' information contained in the National Sex Offender Public Registry,
42 but the person is otherwise qualified to obtain a commercial drivers license
43 with a P or S endorsement, then the Division shall issue the commercial
44 drivers license with the P or S endorsement but shall first require the person
45 to sign an affidavit stating that the person does not appear on either the
46 statewide registry or the National Sex Offender Public Registry. The
47 Division shall search the statewide registry and the National Sex Offender
48 Public Registry for the person within a reasonable time after access to the
49 statewide registry or the National Sex Offender Public Registry is restored.
50 If the person does appear in either registry, the person is in violation of this
51 section, and the Division shall immediately cancel the commercial drivers

1 license and shall promptly notify the sheriff of the county where the person
2 resides of the offense.

3 (3) Any person denied a commercial license with a P or S endorsement or who
4 is disqualified from driving a commercial motor vehicle that requires a
5 commercial drivers license with a P or S endorsement by the Division
6 pursuant to this subsection shall have a right to file a petition within 30 days
7 thereafter for a hearing in the matter, in the superior court of the county
8 where the person resides, or to the resident judge of the district or judge
9 holding the court of that district, or special or emergency judge holding a
10 court in such district. The court or judge is vested with jurisdiction to hear
11 the petition, and it shall be the duty of the judge or court to set the matter for
12 hearing upon 30 days' written notice to the Division, and thereupon to take
13 testimony and examine into the facts of the case and to determine whether
14 the petitioner is entitled to a commercial drivers license with a P or S
15 endorsement under the provisions of this subsection.

16 (c) Any person who makes a false affidavit, or who knowingly swears or affirms
17 falsely, to any matter or thing required by the terms of this section to be affirmed to or sworn is
18 guilty of a Class I felony."

19 **SECTION 7.** This act becomes effective December 1, 2009. This act applies to
20 persons whose initial registration under Article 27A of Chapter 14 of the General Statutes
21 occurs on or after December 1, 2009, and to persons who are registered under Article 27A of
22 Chapter 14 of the General Statutes prior to December 1, 2009, and continue to be registered on
23 or after December 1, 2009. The criminal penalties enacted by this act apply to offenses
24 occurring on or after December 1, 2009.