

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 1214
Finance Committee Substitute Adopted 6/29/10
Third Edition Engrossed 6/30/10
House Committee Substitute Favorable 7/6/10

Short Title: Highway Patrol Motor Carrier Fine/Local Fees.

(Public)

Sponsors:

Referred to:

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO SPECIFIED DEFINITIONS THAT AFFECT THE APPLICABILITY OF STATE LAW CONCERNING MOTOR CARRIERS, IN ORDER TO COMPLY WITH FEDERAL MOTOR CARRIER ENFORCEMENT REGULATIONS AND MAINTAIN FEDERAL MOTOR CARRIER SAFETY ASSISTANCE PROGRAM FUNDING FOR THE STATE HIGHWAY PATROL'S MOTOR CARRIER SECTION; TO PROVIDE THAT THE AUTHORITY OF LAW ENFORCEMENT TO SEIZE AND DETAIN A PROPERTY-HAULING VEHICLE PURSUANT TO G.S. 20-96 IS NOT AFFECTED BY A STATUTE OF LIMITATIONS; TO REQUIRE A PROPERTY-HAULING VEHICLE BE REGISTERED FOR THE MAXIMUM WEIGHT ALLOWED IN ORDER FOR THE VEHICLE TO BE ELIGIBLE FOR CERTAIN WEIGHT EXEMPTIONS IN G.S. 20-118; TO MAKE CHANGES TO THE ESTABLISHMENT, USE, AND REPORTING OF VEHICLE ESCORT FEES; TO ESTABLISH A THREE-YEAR STATUTE OF LIMITATIONS FOR ACTIONS RELATED TO CIVIL PENALTIES, CIVIL ASSESSMENTS, OR CIVIL FINES IMPOSED UNDER CHAPTER 20 OF THE GENERAL STATUTES, THE MOTOR VEHICLE LAWS OF THE STATE; AND TO ALLOW LOCAL GOVERNMENTS TO REFUND SPECIFIED UNUSED ASSESSMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01 reads as rewritten:

"§ 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:

...

(12b) 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.



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- 1 (12c) Gross Combination Weight Rating (GCWR). – Defined in 49 C.F.R. §
- 2 390.5.
- 3 (12d) Gross Vehicle Weight (GVW). – The total weight of a vehicle, including
- 4 passengers, fuel, cargo, and attachments.
- 5 (12e) Gross Combined Weight (GCW). – The total weight of a combination
- 6 (articulated) motor vehicle, including passengers, fuel, cargo, and
- 7 attachments.
- 8 ~~(12e)~~(12f) Hazardous Materials. – Any material that has been designated as
- 9 hazardous under 49 U.S.C. § 5103 and is required to be placarded under
- 10 Subpart F of Part 172 of Title 49 of the Code of Federal Regulations (~~4~~
- 11 ~~October 2007 Edition~~), or any quantity of a material listed as a select agent
- 12 or toxin under Part 73 of Title 42 of the Code of Federal Regulations (~~4~~
- 13 ~~October 2007 Edition~~)-Regulations.

14 "

15 **SECTION 2.** G.S. 20-96 is amended by adding a new subsection to read:

16 "(c) The authority of a law enforcement officer to seize a motor vehicle pursuant to

17 subsection (a) of this section shall not be affected by the statutes of limitations set out in

18 Chapter 1 of the North Carolina General Statutes."

19 **SECTION 3.** G.S. 20-118(c) reads as rewritten:

20 "(c) Exceptions. – The following exceptions apply to G.S. 20-118(b) and 20-118(e).

21 ...

- 22 (12) Subsections (b) and (e) of this section do not apply to a vehicle that meets all
- 23 of the conditions set out below:
- 24 a. Is hauling agricultural crops from the farm where the crop is grown
- 25 to any market within 150 miles of that farm.
- 26 b. Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 13.
- 27 b1. Does not operate on an interstate highway or exceed any posted
- 28 bridge weight limits during transportation or hauling of agricultural
- 29 products.
- 30 c. Does not exceed a single-axle weight of 22,000 pounds, a
- 31 tandem-axle weight of 42,000 pounds, or a gross weight of 90,000
- 32 pounds.
- 33 d. Is registered pursuant to G.S. 20-88 for the maximum weight allowed
- 34 for the vehicle configuration as listed in subsection (b) of this
- 35 section.

36 ...

- 37 (14) Subsections (b) and (e) of this section do not apply to a vehicle that meets all
- 38 of the conditions below, but all other enforcement provisions of this Article
- 39 remain applicable:
- 40 a. Is hauling aggregates from a distribution yard or a State-permitted
- 41 production site located within a North Carolina county contiguous to
- 42 the North Carolina State border to a destination in another state
- 43 adjacent to that county as verified by a weight ticket in the driver's
- 44 possession and available for inspection by enforcement personnel.
- 45 b. Does not operate on an interstate highway or exceed any posted
- 46 bridge weight limits.
- 47 c. Does not exceed 69,850 pounds gross vehicle weight and 53,850
- 48 pounds per axle grouping for tri-axle vehicles. For purposes of this
- 49 subsection, a tri-axle vehicle is a single power unit vehicle with a
- 50 three consecutive axle group on which the respective distance
- 51 between any two consecutive axles of the group, measured

1 longitudinally center to center to the nearest foot, does not exceed
2 eight feet. For purposes of this subsection, the tolerance provisions of
3 subsection (h) of this section do not apply, and vehicles must be
4 licensed in accordance with G.S. 20-88.

5 d. Repealed by Session Laws 2001-47, s. 10, effective December 16,
6 2001.

7 e. Is registered pursuant to G.S. 20-88 for the maximum weight allowed
8 for the vehicle configuration as listed in subsection (b) of this
9 section.

10 (15) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle
11 combination that meets all of the conditions below, but all other enforcement
12 provisions of this Article remain applicable:

13 a. Is hauling wood residuals, including wood chips, sawdust, mulch, or
14 tree bark from any site; is hauling raw logs to first market; or is
15 transporting bulk soil, bulk rock, sand, sand rock, or asphalt millings
16 from a site that does not have a certified scale for weighing the
17 vehicle.

18 b. Does not operate on an interstate highway, a posted light-traffic road,
19 except as provided by subdivision (c)(5) of this section, or exceed
20 any posted bridge weight limits.

21 c. Does not exceed a maximum gross weight 4,000 pounds in excess of
22 what is allowed in subsection (b) of this section.

23 d. Does not exceed a single-axle weight of more than 22,000 pounds
24 and a tandem-axle weight of more than 42,000 pounds.

25 e. Is registered pursuant to G.S. 20-88 for the maximum weight allowed
26 for the vehicle configuration as listed in subsection (b) of this
27 section."

28 **SECTION 4.** G.S. 20-196.4 reads as rewritten:

29 **"§ 20-196.4. Oversized and hazardous shipment escort fee.**

30 (a) Every person, firm, corporation, or entity required by the North Carolina
31 Department of Transportation or any federal agency or commission to have a law enforcement
32 escort provided by the State Highway Patrol for the transport of any oversized load or
33 hazardous shipment by road or rail shall pay to the Department of Crime Control and Public
34 Safety a fee covering the full cost to administer, plan, and carry out the escort within this State.

35 (b) If the State Highway Patrol provides an escort to accompany the transport of
36 oversized loads or hazardous shipments by road or rail at the request of any person, firm,
37 corporation, or entity that is not required to have a law enforcement escort pursuant to
38 subsection (a) of this section, then the requester shall pay to the Department of Crime Control
39 and Public Safety a fee covering the full cost to administer, plan, and carry out the escort within
40 this State.

41 ~~(c) The Department of Crime Control and Public Safety shall comply with the~~
42 ~~provisions of G.S. 12-3.1(a)(2) when establishing fees to implement this section.~~
43 A fee established under this section is subject to G.S. 12-3.1. The full cost of an escort includes costs
44 for vehicle or equipment maintenance required before or after an escort to ensure the visibility
45 and safety of the law enforcement escort and the motoring public.

46 (d) All fees collected pursuant to this section shall be placed in a special Escort Fee
47 ~~Account and shall remain unencumbered and unexpended until appropriated by the General~~
48 ~~Assembly Account.~~ Revenue in the account is annually appropriated to the Department to
49 reimburse the Department for its expenses in providing escorts under this section.

50 ~~(e) The Department shall report quarterly on the funds in the special account to the~~
51 ~~Chairs of the Joint Legislative Transportation Oversight Committee, to the Chairs of the House~~

1 of ~~Representatives Appropriations Subcommittee on Transportation and the Senate~~
2 ~~Appropriations Subcommittee on Department of Transportation, and to the Chairs of the Senate~~
3 ~~and House of Representatives Appropriations Subcommittees on Justice and Public Safety."~~

4 **SECTION 5.** G.S. 20-376(5) reads as rewritten:

5 "(5) Intrastate motor carrier. – Any person, firm, or corporation that operates or
6 controls a ~~commercial~~ motor vehicle as ~~defined in G.S. 20-4.01(3d) in~~
7 ~~intrastate commerce~~ in intrastate commerce when the vehicle:

8 a. Is a vehicle having a gross vehicle weight rating (GVWR) or gross
9 combination weight rating (GCWR) or gross vehicle weight (GVW)
10 or gross combination weight (GCW) of 26,001 pounds or more,
11 whichever is greater.

12 b. Is designed or used to transport 16 or more passengers, including the
13 driver.

14 c. Is used in transporting a hazardous material in a quantity requiring
15 placarding pursuant to 49 C.F.R. Parts 170 through 185."

16 **SECTION 6.** G.S. 1-52 is amended by adding a new subdivision to read:

17 "(20) Upon a liability for a civil penalty, civil assessment, or civil fine imposed
18 pursuant to Chapter 20 of the General Statutes."

19 **SECTION 7.** A local government that imposed an assessment prior to 2005 to
20 finance a capital project that has been assumed by another unit of local government may return
21 unused assessments to the person that paid the assessment.

22 **SECTION 8.** Sections 3 and 5 of this act become effective October 1, 2010, and
23 apply to offenses committed on or after that date. The remainder of this act is effective when it
24 becomes law.