

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

(Public)

Sponsors:

Referred to:

May 19, 2010

A BILL TO BE ENTITLED

1 AN ACT TO MAKE CHANGES TO SPECIFIED DEFINITIONS THAT AFFECT THE
2 APPLICABILITY OF STATE LAW CONCERNING MOTOR CARRIERS, IN ORDER
3 TO COMPLY WITH FEDERAL MOTOR CARRIER ENFORCEMENT REGULATIONS
4 AND MAINTAIN FEDERAL MOTOR CARRIER SAFETY ASSISTANCE PROGRAM
5 FUNDING FOR THE STATE HIGHWAY PATROL'S MOTOR CARRIER SECTION;
6 TO PROVIDE THAT THE AUTHORITY OF LAW ENFORCEMENT TO SEIZE AND
7 DETAIN A PROPERTY-HAULING VEHICLE PURSUANT TO G.S. 20-96 IS NOT
8 AFFECTED BY A STATUTE OF LIMITATIONS; TO REQUIRE A
9 PROPERTY-HAULING VEHICLE BE REGISTERED FOR THE MAXIMUM WEIGHT
10 ALLOWED IN ORDER FOR THE VEHICLE TO BE ELIGIBLE FOR CERTAIN
11 WEIGHT EXEMPTIONS IN G.S. 20-118; TO MAKE CHANGES TO THE
12 ESTABLISHMENT, USE, AND REPORTING OF VEHICLE ESCORT FEES; TO
13 ESTABLISH A THREE-YEAR STATUTE OF LIMITATIONS FOR ACTIONS
14 RELATED TO CIVIL PENALTIES, CIVIL ASSESSMENTS, OR CIVIL FINES
15 IMPOSED UNDER CHAPTER 20 OF THE GENERAL STATUTES, THE MOTOR
16 VEHICLE LAWS OF THE STATE; AND TO ALLOW LOCAL GOVERNMENTS TO
17 REFUND SPECIFIED UNUSED ASSESSMENTS.
18

19 The General Assembly of North Carolina enacts:

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

21 **"§ 20-4.01. Definitions.**

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

24 ...

25 (12b) Gross Vehicle Weight Rating (GVWR). – The value specified by the
26 manufacturer as the maximum loaded weight a vehicle is capable of safely
27 hauling. The GVWR of a combination vehicle is the GVWR of the power
28 unit plus the GVWR of the towed unit or units. When a vehicle is
29 determined by an enforcement officer to be structurally altered in any way
30 from the manufacturer's original design in an attempt to increase the hauling
31 capacity of the vehicle, the GVWR of that vehicle shall be deemed to be the
32 greater of the license weight or the total weight of the vehicle or
33 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.

(12c) Gross Combination Weight Rating (GCWR). – Defined in 49 C.F.R. § 390.5.

(12d) Gross Vehicle Weight (GVW). – The total weight of a vehicle, including passengers, fuel, cargo, and attachments.

(12e) Gross Combined Weight (GCW). – The total weight of a combination (articulated) motor vehicle, including passengers, fuel, cargo, and attachments.

~~(12e)~~(12f) 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 (~~4 October 2007 Edition~~), 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 (~~4 October 2007 Edition~~).Regulations.

...."

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

"(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."

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

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

...

(12) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the conditions set out below:

- a. Is hauling agricultural crops from the farm where the crop is grown to any market within 150 miles of that farm.
- 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. 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.
- d. Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration as listed in subsection (b) of this section.

...

(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

1 three consecutive axle group on which the respective distance
2 between any two consecutive axles of the group, measured
3 longitudinally center to center to the nearest foot, does not exceed
4 eight feet. For purposes of this subsection, the tolerance provisions of
5 subsection (h) of this section do not apply, and vehicles must be
6 licensed in accordance with G.S. 20-88.

7 d. Repealed by Session Laws 2001-47, s. 10, effective December 16,
8 2001.

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

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

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

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

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

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

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

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

31 **"§ 20-196.4. Oversized and hazardous shipment escort fee.**

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

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

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

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

1 (e) ~~The Department shall report quarterly on the funds in the special account to the~~
2 ~~Chairs of the Joint Legislative Transportation Oversight Committee, to the Chairs of the House~~
3 ~~of Representatives Appropriations Subcommittee on Transportation and the Senate~~
4 ~~Appropriations Subcommittee on Department of Transportation, and to the Chairs of the Senate~~
5 ~~and House of Representatives Appropriations Subcommittees on Justice and Public Safety."~~

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

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

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

14 b. Is designed or used to transport 16 or more passengers, including the
15 driver.

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

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

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

21 **SECTION 7.** A local government that imposed an assessment prior to 2007 to
22 finance a capital project that has been assumed by another unit of local government may return
23 unused assessments to the person that paid the assessment.

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