

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

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**SENATE BILL 368**

Short Title: Various Changes in Motor Vehicle Law.-AB (Public)

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Sponsors: Senators Jenkins and Snow.

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Referred to: Commerce.

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March 4, 2009

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY THE REQUIREMENTS FOR A RETIRED STATE HIGHWAY  
2 PATROL SPECIAL REGISTRATION PLATE, TO PROVIDE FOR THE RECOVERY  
3 OF CIVIL PENALTIES ASSESSED BY THE DEPARTMENT OF CRIME CONTROL  
4 AND PUBLIC SAFETY, TO REQUIRE THAT ALL MOTOR VEHICLES USED IN  
5 INTRASTATE COMMERCE WEIGHING MORE THAN TWENTY-SIX THOUSAND  
6 ONE POUNDS BE MARKED, TO MODIFY THE REQUIREMENTS FOR FLAGS AND  
7 LIGHTING, WHEN HEADLAMPS WOULD BE REQUIRED TO BE USED ON LOADS  
8 THAT ARE PROJECTING FROM THE END OR SIDES OF A COMMERCIAL MOTOR  
9 VEHICLE OR A MOTOR VEHICLE WEIGHING MORE THAN TEN THOUSAND  
10 POUNDS AND ENGAGED IN COMMERCE, TO REQUIRE SAFE TIRES ON  
11 COMMERCIAL MOTOR VEHICLES AS REQUIRED BY PART 393 OF TITLE 49 OF  
12 THE CODE OF FEDERAL REGULATIONS, TO MAKE A CHANGE TO THE WEIGHT  
13 AND SIZE PENALTY PROVISIONS TO ALLOW FOR THE ASSESSMENT OF A  
14 CIVIL PENALTY FOR ONLY THAT AMOUNT OF WEIGHT IN EXCESS OF THE  
15 PERMITTED AMOUNT, TO REQUIRE THE DEPARTMENT OF CRIME CONTROL  
16 AND PUBLIC SAFETY TO ASSESS CIVIL FINES FOR VIOLATIONS OF THE  
17 SPECIAL PERMIT REQUIREMENTS OF G.S. 20-119, AND TO PREVENT MOTOR  
18 CARRIERS FROM OPERATING VEHICLES THAT HAVE BEEN DECLARED  
19 "OUT-OF-SERVICE," TO REQUIRE BRAKES AS STANDARD EQUIPMENT FOR  
20 SEMITRAILERS BEING PULLED BY TRACTOR TRUCKS AND OTHER PULL  
21 UNITS, TO REQUIRE THAT OWNERS OF MOTORCYCLES MAINTAIN IN GOOD  
22 WORKING ORDER DIRECTIONAL SIGNALS INSTALLED BY THE  
23 MANUFACTURER, TO MODIFY THE SEAT BELT EXEMPTION PROVIDED FOR  
24 GARBAGE AND RECYCLING TRUCK OPERATORS AND PASSENGERS TO  
25 COMPLY WITH THE PROVISIONS OF FEDERAL REGULATION 49 C.F.R. 392.16,  
26 TO PROHIBIT THE OPERATION OF A DIGITAL VIDEO DISC PLAYER AT ANY  
27 POINT FORWARD OF THE BACK OF A DRIVER'S SEAT WHILE OPERATING A  
28 MOTOR VEHICLE, AND TO INCREASE THE CAP ON THE MAXIMUM  
29 ALLOWABLE SUPERVISORY PERSONNEL IN THE STATE HIGHWAY PATROL  
30 FROM TWENTY-ONE PERCENT TO TWENTY-THREE PERCENT, AS REQUESTED  
31 BY THE STATE HIGHWAY PATROL.  
32

33 The General Assembly of North Carolina enacts:

34 **SECTION 1.** G.S. 20-79.4(104) reads as rewritten:

35 "(104) Retired State Highway Patrol. – The plate authorized by this subdivision  
36 shall bear the phrase "SHP, Retired." The Division may not issue the plate



1 authorized by this subdivision unless it receives at least 300 applications for  
2 the plate. The plate is issuable to one of the following:

- 3 a. An individual who has retired from the North Carolina State  
4 Highway Patrol, presenting to the Division, along with the  
5 application for the plate, a copy of the retiree's retired identification  
6 card or letter of retirement.  
7 b. The surviving spouse of a person who had a ~~retired highway patrol~~  
8 ~~plate at the time of death so long as the surviving spouse continues to~~  
9 ~~renew the plate and does not remarry.~~retired from the State Highway  
10 Patrol who, along with the application for the plate, presents a copy  
11 of the deceased retiree's identification card or letter of retirement and  
12 certifies in writing that the retiree is deceased and that the applicant  
13 is not remarried.  
14 e. ~~The surviving spouse of a person who qualified for a retired highway~~  
15 ~~patrol plate so long as the surviving spouse applies for the plate~~  
16 ~~within ninety (90) days of the qualifying spouse's death and does not~~  
17 ~~remarry."~~

18 SECTION 2. Chapter 20 of the General Statutes is amended by adding a new  
19 section to read:

20 "**§ 20-91.4. Civil penalties; procedures for recovery.**

21 (a) Unless collection of penalties is made pursuant to G.S. 20-96, G.S. 20-382.2, or  
22 some other statutory provision, any person or entity that does not deny liability for a civil  
23 penalty assessed pursuant to this Article shall make payment within 30 calendar days of the  
24 date the penalty is assessed. Payment shall be made to the Division of Motor Vehicles, Fiscal  
25 Section. A penalty payable pursuant to this section that remains unpaid for more than 30 days  
26 following the date of assessment shall be delinquent and shall be subject to the maximum  
27 allowable late penalties and interest as a past-due account pursuant to G.S. 147-86.23.

28 (b) Any person or entity who denies liability for a penalty imposed under this Article  
29 may pay the penalty under protest and request an informal review by the Secretary of the  
30 Department of Crime Control and Public Safety or his designee. A request for informal review  
31 must be made within 30 days of the assessment of a civil penalty, must be made in writing,  
32 must certify that payment has been paid to the Division of Motor Vehicles, Fiscal Section, and  
33 must contain sufficient information for the Secretary of Crime Control and Public Safety to  
34 determine the specific basis upon which liability is being challenged.

35 (c) Upon receiving a request for informal review, the Secretary of Crime Control and  
36 Public Safety, or his designee, shall review the record and determine whether the civil penalty  
37 was assessed in error. If, after reviewing the record, the Secretary, or his designee, determines  
38 that the assessment was issued in error, the penalty, or the appropriate amount thereof, shall be  
39 refunded.

40 (d) Any person or entity who is dissatisfied with the decision of the Secretary of Crime  
41 Control and Public Safety pursuant to subsection (c) of this section may, within 60 days of such  
42 decision, bring an action for refund of the penalty against the Department of Crime Control and  
43 Public Safety in the Superior Court of Wake County or in the superior court of the county in  
44 which the civil penalty was assessed."

45 SECTION 3. G.S. 20-101(b) reads as rewritten:

46 "(b) A motor vehicle that is not subject to 49 C.F.R. Part 390, has a gross vehicle weight  
47 rating of more than 10,000 ~~pounds, but less than 26,001 pounds,~~pounds and is used in intrastate  
48 commerce, and is not a farm vehicle, as further described in G.S. 20-118(c)(4), (c)(5), or  
49 (c)(12), shall have the name of the owner printed on the side of the vehicle in letters not less  
50 than three inches in height."

51 SECTION 4. G.S. 20-117 reads as rewritten:

1 **"§ 20-117. Flag or light at end of load.**

2 (a) General Provisions. – Whenever the load on any vehicle shall extend more than four  
3 feet beyond the rear of the bed or body thereof, there shall be displayed at the end of such load,  
4 in such position as to be clearly visible at all times from the rear of such load, a red or orange  
5 flag not less than ~~12~~18 inches both in length and width, except that from sunset to sunrise there  
6 shall be displayed at the end of any such load ~~a red or an~~ amber light plainly visible under  
7 normal atmospheric conditions at least 200 feet from the rear of such vehicle. At no time shall a  
8 load extend more than 14 feet beyond the rear of the bed or body of the vehicle, with the  
9 exception of vehicles transporting forestry products or utility poles.

10 (b) Commercial Motor Vehicles. – Notwithstanding the provisions of subsection (a) of  
11 this section, a commercial motor vehicle, or a motor vehicle with a GVWR of 10,001 pounds or  
12 more that is engaged in commerce, that is being used to tow a load or that has a load that  
13 protrudes from the rear or sides of the vehicle shall comply with the provisions of 49 C.F.R.  
14 393."

15 **SECTION 5.** G.S. 20-122.1 reads as rewritten:

16 **"§ 20-122.1. Motor vehicles to be equipped with safe tires.**

17 (a) Every motor vehicle subject to safety equipment inspection in this State and  
18 operated on the streets and highways of this State shall be equipped with tires which are safe  
19 for the operation of the motor vehicle and which do not expose the public to needless hazard.  
20 Tires shall be considered unsafe if cut so as to expose tire cord, cracked so as to expose tire  
21 cord, or worn so as to expose tire cord or there is a visible tread separation or chunking or the  
22 tire has less than two thirty-seconds inch tread depth at two or more locations around the  
23 circumference of the tire in two adjacent major tread grooves, or if the tread wear indicators are  
24 in contact with the roadway at two or more locations around the circumference of the tire in  
25 two adjacent major tread grooves: Provided, the two thirty- seconds tread depth requirements of  
26 this section shall not apply to dual wheel trailers. ~~Provided further that as to trucks owned by~~  
27 ~~farmers and operated exclusively in the carrying and transportation of the owner's farm~~  
28 ~~products which are approved for daylight use only and which are equipped with dual wheels,~~  
29 ~~the tread depth requirements of this section shall not apply to more than one wheel in each set~~  
30 ~~of dual wheels.~~ For the purpose of this section, the following definitions shall apply:

- 31 (1) "Chunking" – separation of the tread from the carcass in particles which may  
32 range from very small size to several square inches in area.  
33 (2) "Cord" – strands forming a ply in a tire.  
34 (3) "Tread" – portion of tire which comes in contact with road.  
35 (4) "Tread depth" – the distance from the base of the tread design to the top of  
36 the tread.

37 (a1) Any motor vehicle that has a GVWR of at least 10,001 pounds or more and is  
38 operated on the streets or highways of this State shall be equipped with tires that are safe for the  
39 operation of the vehicle and do not expose the public to needless hazard. Tires shall be  
40 considered unsafe if cut so as to expose tire cord, cracked so as to expose tire cord, or worn so  
41 as to expose tire cord, or there is a visible tread separation or chunking, or if the steering axle  
42 tire has less than four thirty-seconds inch tread depth at any location around the circumference  
43 of the tire on any major tread groove, or if any nonsteering axle tire has less than two  
44 thirty-seconds inch tread depth around the circumference of the tire in any major tread groove,  
45 or if the tread wear indicators are in contact with the roadway at any location around the  
46 circumference of the tire on any major tread groove.

47 (b) The driver of any vehicle who is charged with a violation of this section shall be  
48 allowed 15 calendar days within which to bring the tires of such vehicle in conformance with  
49 the requirements of this section. It shall be a defense to any such charge that the person arrested  
50 produce in court, or submit to the prosecuting attorney prior to trial, a certificate from an  
51 official safety inspection equipment station showing that within 15 calendar days after such

1 arrest, the tires on such vehicle had been made to conform with the requirements of this section  
2 or that such vehicle had been sold, destroyed, or permanently removed from the highways.  
3 Violation of this section shall not constitute negligence per se."

4 **SECTION 6.** G.S. 20-118(e)(3) reads as rewritten:

5 "(3) If an axle-group weight of a vehicle exceeds the weight limit set in  
6 subdivision (b)(3) of this section plus any tolerance allowed in subsection (h)  
7 of this section or axle-group weights or gross weights authorized by special  
8 permit under G.S. 20-119(a), the Department of Crime Control and Public  
9 Safety shall assess a civil penalty against the owner or registrant of the  
10 motor vehicle. The penalty shall be assessed on the number of pounds by  
11 which the axle-group weight exceeds the limit set in subdivision  
12 ~~(b)(3)~~, (b)(3) of this section, or by a special permit issued pursuant to  
13 G.S. 20-119, as follows: for the first 2,000 pounds or any part thereof, two  
14 cents (2¢) per pound; for the next 3,000 pounds or any part thereof, four  
15 cents (4¢) per pound; for each pound in excess of 5,000 pounds, ten cents  
16 (10¢) per pound. Tolerance pounds in excess of the limit set in subdivision  
17 (b)(3) are subject to the penalty if the vehicle exceeds the tolerance allowed  
18 in subsection (h) of this section. These penalties apply separately to each  
19 axle-group weight limit violated. Notwithstanding any provision to the  
20 contrary, a vehicle with a special permit that is subject to additional penalties  
21 under this subsection based on a violation of any of the permit restrictions  
22 set out in G.S. 20-119(d1) shall be assessed a civil penalty, not to exceed  
23 twenty-five thousand dollars (\$25,000), based on the number of pounds by  
24 which the axle-group weight exceeds the limit set in subdivision (b)(3) of  
25 this section."

26 **SECTION 7.** G.S. 20-119(d) reads as rewritten:

27 "(d) For each violation of any of the terms or conditions of a special permit issued or  
28 where a permit is required but not obtained under this section the Department of Crime Control  
29 and Public Safety ~~may~~ shall assess a civil penalty for each violation against the registered  
30 owner of the vehicle as follows:

- 31 (1) A fine of five hundred dollars (\$500.00) for any of the following: operating  
32 without the issuance of a permit, moving a load off the route specified in the  
33 permit, falsifying information to obtain a permit, failing to comply with  
34 dimension restrictions of a permit, or failing to comply with the number of  
35 properly certified escort vehicles required.
- 36 (2) A fine of two hundred fifty dollars (\$250.00) for moving loads beyond the  
37 distance allowances of an annual permit covering the movement of house  
38 trailers from the retailer's premises or for operating in violation of time of  
39 travel restrictions.
- 40 (3) A fine of one hundred dollars (\$100.00) for any other violation of the permit  
41 conditions or requirements imposed by applicable regulations.

42 The Department of Transportation may refuse to issue additional permits or suspend  
43 existing permits if there are repeated violations of subdivision (1) or (2) of this subsection. ~~In~~  
44 ~~addition to the penalties provided by this subsection, a civil penalty in accordance with~~  
45 ~~G.S. 20-118(e)(1) and (3) may be assessed if a vehicle is operating without the issuance of a~~  
46 ~~required permit, operating off permitted route of travel, operating without the proper number of~~  
47 ~~certified escorts as determined by the actual loaded weight of the vehicle combination, fails to~~  
48 ~~comply with travel restrictions of the permit, or operating with improper license. Fees assessed~~  
49 ~~for permit violations under this subsection shall not exceed a maximum of twenty-five~~  
50 ~~thousand dollars (\$25,000)."~~

51 **SECTION 8.** G.S. 20-119 is amended by adding a new subsection to read:

1        "(d1) In addition to the penalties that may be assessed pursuant to subsection (d) of this  
2 section, the Department of Crime Control and Public Safety shall assess a civil penalty, not to  
3 exceed twenty-five thousand dollars (\$25,000), in accordance with G.S. 20-118(e)(1) and (3)  
4 against the registered owner of the vehicle for any of the following:

- 5            (1) Operating without the issuance of a required permit.
- 6            (2) Operating off permitted route of travel.
- 7            (3) Operating without the proper number of certified escorts as determined by  
8 the actual loaded weight or size of the vehicle combination.
- 9            (4) Failing to comply with travel restrictions of the permit.
- 10           (5) Operating without the proper vehicle registration or license for the class of  
11 vehicle being operated.

12 A violation of this subsection constitutes operating a vehicle without a special permit."

13        **SECTION 9.** G.S. 20-381(a)(2a) reads as rewritten:

14        "(2a) To prohibit the use by a motor carrier of any motor vehicle or motor vehicle  
15 equipment the Department of Crime Control and Public Safety ~~finds~~ finds,  
16 by reason of its mechanical condition or loading, would be likely to cause a  
17 crash or breakdown unsafe for use in the transportation of passengers or  
18 property on a highway. If an agent of the Department of Crime Control and  
19 Public Safety finds a motor vehicle of a motor carrier in actual use upon the  
20 highways in the transportation of passengers or property that, by reason of  
21 its mechanical condition or loading, would be likely to cause a crash or  
22 breakdown, to be unsafe or any parts thereof or any equipment thereon to be  
23 unsafe and is of the opinion that further use of such vehicle, parts or  
24 equipment are imminently dangerous, the agent shall declare the vehicle  
25 "Out-of-Service." The agent shall ~~may~~ require the operator thereof to  
26 discontinue its use and to substitute therefor a safe vehicle, parts or  
27 equipment at the earliest possible time and place, having regard for both the  
28 convenience and the safety of the passengers or property. When an inspector  
29 or agent stops a motor vehicle on the highway, under authority of this  
30 section, and the motor vehicle is declared "Out-of-Service," no motor carrier  
31 operator shall require, or permit, any person to operate, nor shall any person  
32 operate, any motor vehicle equipment declared "Out-of-Service" until all  
33 repairs required by the "Out-of-Service" notice have been satisfactorily  
34 completed in operative condition and its further movement is not dangerous  
35 to the passengers or property or to the users of the highways, it shall be the  
36 duty of the inspector or agent to guide the vehicle to the nearest point of  
37 substitution or correction of the defect. Such agents or inspectors shall also  
38 have the right to stop any motor vehicle which is being used upon the public  
39 highways for the transportation of passengers or property by a motor carrier  
40 subject to the provisions of this Article and to eject therefrom any driver or  
41 operator who shall be operating or be in charge of such motor vehicle while  
42 under the influence of alcoholic beverages or impairing substances. It shall  
43 be the duty of all inspectors and agents of the Department of Crime Control  
44 and Public Safety to make a written report, upon a form prescribed by the  
45 Department of Crime Control and Public Safety, of inspections of all motor  
46 equipment and a copy of each such written report, disclosing defects in such  
47 equipment, shall be served promptly upon the motor carrier operating the  
48 same, either in person by the inspector or agent or by mail. Such agents and  
49 inspectors shall also make and serve a similar written report in cases where a  
50 motor vehicle is operated in violation of this Chapter or, if the motor vehicle

1 is subject to regulation by the North Carolina Utilities Commission, of  
2 Chapter 62 of the General Statutes."

3 **SECTION 10.** G.S. 20-124(e1) reads as rewritten:

4 "(e1) Every motor truck and ~~tractor-truck~~truck-tractor with semitrailer attached, shall be  
5 equipped with brakes acting on all wheels, except trucks and truck-tractors having three or  
6 more axles need not have brakes on the front wheels, ~~except that when such vehicles are~~  
7 ~~equipped with at least two steerable axles, the wheels of one steerable axle need not have~~  
8 ~~brakes.~~wheels if it was manufactured prior to July 25, 1980. However, such trucks and  
9 truck-tractors must be capable of complying with the performance requirements of  
10 G.S. 20-124(e)."

11 **SECTION 11.** G.S. 20-124(g) reads as rewritten:

12 "(g) The provisions of this section shall not apply to any trailer ~~or semitrailer~~ when used  
13 by a farmer, his tenant, agent, or employee under such circumstances that such trailer ~~or~~  
14 ~~semitrailer~~was not equipped with brakes from the manufacturer and is exempt from registration  
15 by the provisions of G.S. 20-51."

16 **SECTION 12.** G.S. 20-125.1(d) reads as rewritten:

17 "(d) Nothing in this section shall apply to ~~motoreycles~~motorcycles unless the  
18 motorcycle was equipped with electrical or mechanical directional signals from the  
19 manufacturer."

20 **SECTION 13.** G.S. 20-135.2A(c)(8) reads as rewritten:

21 "(8) A ~~driver or~~ passenger of a residential garbage or recycling truck while the  
22 truck is operating during collection ~~rounds, and while traveling to and from~~  
23 ~~garbage and recycling material loading and unloading locations.~~rounds."

24 **SECTION 14.** G.S. 20-136.1 reads as rewritten:

25 "**§ 20-136.1. Location of ~~television viewers.~~television, computer, or video disc players,**  
26 **monitors, and screens.**

27 No person shall drive any motor vehicle upon a public street or highway or public vehicular  
28 area, equipped with any television viewer, screen, or other means of visually receiving a  
29 television broadcast while operating, using, or viewing any television, computer, or video disc  
30 player which is located in the motor vehicle at any point forward of the back of the driver's  
31 seat, or which is visible to the driver while operating the motor vehicle. This section does not  
32 apply to the use of global positioning systems, turn-by-turn navigation displays, or similar  
33 navigation devices. The provisions of this section shall not apply to law enforcement or  
34 emergency personnel while in the performance of their official duties."

35 **SECTION 15.** G.S. 20-185(a) reads as rewritten:

36 "(a) The State Highway Patrol shall consist of a commanding officer, who shall be  
37 appointed by the Governor and whose rank shall be designated by the Governor, and such  
38 additional subordinate officers and members as the Secretary of Crime Control and Public  
39 Safety, with the approval of the Governor, shall direct. Members of the State Highway Patrol  
40 shall be appointed by the Secretary, with the approval of the Governor, and shall serve at the  
41 pleasure of the Governor and Secretary. The commanding officer, other officers and members  
42 of the State Highway Patrol shall be paid such salaries as may be established by the Division of  
43 Personnel of the Department of Administration. Notwithstanding any other provision of this  
44 Article, the number of supervisory personnel of the State Highway Patrol shall not exceed a  
45 number equal to ~~twenty-one percent (21%)~~twenty-three percent (23%) of the personnel actually  
46 serving as uniformed highway patrolmen. Nothing in the previous sentence is intended to  
47 require the demotion, reassignment or change in status of any member of the State Highway  
48 Patrol presently assigned in a supervisory capacity. If a reduction in the number of Highway  
49 Patrol personnel assigned in supervisory capacity is required in order for the State Highway  
50 Patrol to meet the mandatory maximum percentage of supervisory personnel as set out in the  
51 fourth sentence of this subsection, that reduction shall be achieved through normal attrition

1 resulting from supervisory personnel resigning, retiring or voluntarily transferring from  
2 supervisory positions."

3 **SECTION 16.** G.S. 20-382.2(d) reads as rewritten:

4 "(d) Proceeds. – A penalty imposed under this section is payable to the Department of  
5 Crime Control and Public Safety. ~~Penalties collected under this section shall be credited to the~~  
6 ~~Highway Fund as nontax revenue.~~ The clear proceeds of all civil penalties, civil forfeitures, and  
7 civil fines that are collected by the Department pursuant to this section shall be remitted to the  
8 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

9 **SECTION 17.** Section 6 of this act is effective when this act becomes law. The  
10 remaining sections of this act become effective October 1, 2009, and apply to offenses  
11 committed on or after that date.