

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE DRS55119-MA-36 (12/09)

Short Title: Commercial and Other M/V Law Changes.-AB

(Public)

Sponsors: Senators Brunstetter and Jenkins (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY LICENSE PLATE COVER REQUIREMENTS, TO MODIFY WINDOW TINTING RESTRICTIONS FOR MOTOR CARRIERS SUBJECT TO THE PROVISIONS OF TITLE 49 OF THE FEDERAL CODE, TO CLARIFY TEXTING FOR MOTOR CARRIERS SUBJECT TO TITLE 49 OF THE FEDERAL CODE, TO CREATE A VEHICLE SEIZURE PROCESS FOR VEHICLES USED IN FELONY SPEEDING TO ELUDE LAW ENFORCEMENT OFFICER CASES, TO REQUIRE REDACTION OF CERTAIN VEHICLES CRASH REPORT INFORMATION, AND TO PROVIDE FOR CIVILIAN EMPLOYEES TO MANAGE OR OPERATE PERMANENT WEIGH STATIONS FOR THE STATE HIGHWAY PATROL.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-28.3 reads as rewritten:

"§ 20-28.3. **Seizure, impoundment, forfeiture of motor vehicles for offenses involving impaired driving while license revoked or without license and ~~insurance.~~insurance, and for felony speeding to elude arrest.**

(a) Motor Vehicles Subject to ~~Seizure.~~Seizure for Impaired Driving Offenses. – A motor vehicle that is driven by a person who is charged with an offense involving impaired driving is subject to seizure if:

(1) At the time of the violation, the drivers license of the person driving the motor vehicle was revoked as a result of a prior impaired driving license revocation as defined in G.S. 20-28.2(a); or

(2) At the time of the violation:

a. The person was driving without a valid drivers license, and

b. The driver was not covered by an automobile liability policy.

For the purposes of this subsection, a person who has a complete defense, pursuant to G.S. 20-35, to a charge of driving without a drivers license, shall be considered to have had a valid drivers license at the time of the violation.

(a1) Motor Vehicles Subject to Seizure for Felony Speeding to Elude Arrest. – A motor vehicle that is driven by a person who is charged with the offense of felony speeding to elude arrest pursuant to G.S. 20-141.5(b).

(b) Duty of Officer. – If the charging officer has probable cause to believe that a motor vehicle driven by the defendant may be subject to forfeiture under this section, the officer shall seize the motor vehicle and have it impounded. If the officer determines prior to seizure that the motor vehicle had been reported stolen, the officer shall not seize the motor vehicle pursuant to this section. If the officer determines prior to seizure that the motor vehicle was a rental vehicle



1 driven by a person not listed as an authorized driver on the rental contract, the officer shall not  
2 seize the motor vehicle pursuant to this section, but shall make a reasonable effort to notify the  
3 owner of the rental vehicle that the vehicle was stopped and that the driver of the vehicle was  
4 not listed as an authorized driver on the rental contract. Probable cause may be based on the  
5 officer's personal knowledge, reliable information conveyed by another officer, records of the  
6 Division, or other reliable ~~source-sources~~. The seizing officer shall notify the ~~executive agency~~  
7 ~~designated under subsection (b1) of this section~~ Division as soon as practical but no later than  
8 24 hours after seizure of the motor vehicle of the seizure in accordance with procedures  
9 established by the executive agency designated under subsection (b1) of this section.

10 (b1) Written Notification of Impoundment. – Within 48 hours of receipt within regular  
11 business hours of the notice of seizure, ~~an executive agency designated by the Governor shall~~  
12 ~~issue written notification of impoundment to the Division,~~ the Division shall issue written  
13 notification of impoundment to any lienholder of record and to any motor vehicle owner who  
14 was not operating the motor vehicle at the time of the offense. A notice of seizure received  
15 outside regular business hours shall be considered to have been received at the start of the next  
16 business day. The notification of impoundment shall be sent by first-class mail to the most  
17 recent address contained in the Division's records. If the motor vehicle is registered in another  
18 state, notice shall be sent to the address shown on the records of the state where the motor  
19 vehicle is registered. This written notification shall provide notice that the motor vehicle has  
20 been seized, state the reason for the seizure and the procedure for requesting release of the  
21 motor vehicle. Additionally, if the motor vehicle was damaged ~~while the defendant operator~~  
22 ~~was committing an offense involving impaired driving while the operator was committing an~~  
23 offense resulting in seizure or incident to the seizure, the ~~agency~~ Division shall issue written  
24 notification of the seizure to the owner's insurance company of record and to any other  
25 insurance companies that may be insuring other motor vehicles involved in the accident. The  
26 Division shall prohibit title to a seized motor vehicle from being transferred by a motor vehicle  
27 owner unless authorized by court order.

28 ...

29 (k) County Board of Education Right to Appear and Participate in Proceedings. – The  
30 attorney for the county board of education shall be given notice of all proceedings regarding  
31 offenses ~~involving impaired driving~~ related to a motor vehicle subject to ~~forfeiture~~ forfeiture  
32 under this section. However, the notice requirement under this subsection does not apply to  
33 proceedings conducted under G.S. 20-28.3(e1). The attorney for the county board of education  
34 shall also have the right to appear and to be heard on all issues relating to the seizure,  
35 possession, release, forfeiture, sale, and other matters related to the seized vehicle under this  
36 section. With the prior consent of the county board of education, the district attorney may  
37 delegate to the attorney for the county board of education any or all of the duties of the district  
38 attorney under this section. Clerks of superior court, law enforcement agencies, and all other  
39 agencies with information relevant to the seizure, impoundment, release, or forfeiture of motor  
40 vehicles are authorized and directed to provide county boards of education with access to that  
41 information and to do so by electronic means when existing technology makes this type of  
42 transmission possible.

43 (l) Payment of Fees Upon Conviction. – If the driver of a motor vehicle seized pursuant  
44 to this section is convicted ~~of an offense involving impaired driving,~~ of the underlying offense  
45 leading to the seizure of a motor vehicle pursuant to this section, the defendant shall be ordered  
46 to pay as restitution to the county board of education, the motor vehicle owner, or the  
47 lienholder the cost paid or owing for the towing, storage, and sale of the motor vehicle to the  
48 extent the costs were not covered by the proceeds from the forfeiture and sale of the motor  
49 vehicle. If the underlying offense is for felony speeding to elude arrest pursuant to  
50 G.S. 20-141.5(b), and the conviction is based on a plea agreement or a reduced charge to  
51 misdemeanor speeding to elude arrest pursuant to G.S. 20-141.5(a), the defendant shall be

1 ordered to pay as restitution to the county board of education, the motor vehicle owner, or the  
2 lienholder the cost paid or owing for the towing and storage of the motor vehicle. In addition, a  
3 civil judgment for the costs under this section in favor of the party to whom the restitution is  
4 owed shall be docketed by the clerk of superior court. If the defendant is sentenced to an active  
5 term of imprisonment, the civil judgment shall become effective and be docketed when the  
6 defendant's conviction becomes final. If the defendant is placed on probation, the civil  
7 judgment in the amount found by a judge during the probation revocation or termination  
8 hearing to be due shall become effective and be docketed by the clerk when the defendant's  
9 probation is revoked or terminated.

10 ...."

11 **SECTION 2.** G.S. 20-63(g) reads as rewritten:

12 "(g) Alteration, Disguise, or Concealment of Numbers. – Any operator of a motor  
13 vehicle who shall willfully mutilate, bend, twist, cover or cause to be covered or partially  
14 covered by any bumper, light, spare tire, tire rack, strap, or other device, or who shall paint,  
15 enamel, emboss, stamp, print, perforate, or alter or add to or cut off any part or portion of a  
16 registration plate or the figures or letters thereon, or who shall place or deposit or cause to be  
17 placed or deposited any oil, grease, or other substance upon such registration plates for the  
18 purpose of making dust adhere thereto, or who shall deface, disfigure, change, or attempt to  
19 change any letter or figure thereon, or who shall display a number plate in other than a  
20 horizontal upright position, shall be guilty of a Class 2 misdemeanor. Any operator of a motor  
21 vehicle who shall willfully cover or cause to be covered any part or portion of a registration  
22 plate or the figures or letters thereon by any device designed or intended to prevent or interfere  
23 with the taking of a clear photograph of a registration plate by a traffic control or toll collection  
24 system using cameras commits an infraction and shall be penalized under G.S. 14-3.1. Any  
25 operator of a motor vehicle who shall otherwise intentionally cover any number or registration  
26 renewal sticker on a registration plate with any material that makes the number or registration  
27 renewal sticker illegible commits an infraction and shall be penalized under G.S. 14-3.1. Any  
28 operator of a motor vehicle who covers any registration plate with any frame or transparent,  
29 clear, or color-tinted cover that covers any portion of the registration letters or numbers ~~makes~~  
30 ~~a number or letter~~ included in the vehicle's registration, the State name on the plate, or a  
31 number or month on the registration renewal sticker on the plate ~~illegible~~ commits an infraction  
32 and shall be penalized under G.S. 14-3.1."

33 **SECTION 3.** G.S. 20-127 reads as rewritten:

34 **§ 20-127. Windows and windshield wipers.**

35 ...

36 (b) Window Tinting Restrictions. – A window of a vehicle that is operated on a  
37 highway or a public vehicular area shall comply with this subsection. The windshield of the  
38 vehicle may be tinted only along the top of the windshield and the tinting may not extend more  
39 than five inches below the top of the windshield or below the AS1 line of the windshield,  
40 whichever measurement is longer. Provided, however, an untinted clear film which does not  
41 obstruct vision but which reduces or eliminates ultraviolet radiation from entering a vehicle  
42 may be applied to the windshield. Any other window of the vehicle may be tinted in  
43 accordance with the following restrictions:

- 44 (1) The total light transmission of the tinted window shall be at least thirty-five  
45 percent (35%). A vehicle window that, by use of a light meter approved by  
46 the Commissioner, measures a total light transmission of more than  
47 thirty-two percent (32%) is conclusively presumed to meet this restriction.
- 48 (2) The light reflectance of the tinted window shall be twenty percent (20%) or  
49 less.
- 50 (3) Tinted film or another material used to tint the window shall be nonreflective  
51 and shall not be red, yellow, or amber.

1        (b1) Notwithstanding subsection (b) of this section, a window of a vehicle that is  
2 operated on a public street or highway and which is subject to the provisions of Part 393 of  
3 Title 49 of the Code of Federal Regulations shall comply with the provisions of that Part.

4        (c) Tinting Exceptions. – The window tinting restrictions in subsection (b) of this  
5 section apply without exception to the windshield of a vehicle. The window tinting restrictions  
6 in subdivisions (b)(1) and (b)(2) of this section do not apply to any of the following vehicle  
7 windows:

- 8            (1) A window of an excursion passenger vehicle, as defined in  
9            G.S. 20-4.01(27)a.
- 10           (2) ~~A window of a for hire passenger vehicle, as defined in G.S. 20-4.01(27)b.~~
- 11           (3) ~~A window of a common carrier of passengers, as defined in~~  
12 ~~G.S. 20-4.01(27)e.~~
- 13           (4) A window of a motor home, as defined in G.S. 20-4.01(27)d2.
- 14           (5) A window of an ambulance, as defined in G.S. 20-4.01(27)f.
- 15           (6) The rear window of a property-hauling vehicle, as defined in  
16           G.S. 20-4.01(31).
- 17           (7) A window of a limousine.
- 18           (8) A window of a law enforcement vehicle.
- 19           (9) A window of a multipurpose vehicle that is behind the driver of the vehicle.  
20           A multipurpose vehicle is a passenger vehicle that is designed to carry 10 or  
21           fewer passengers and either is constructed on a truck chassis or has special  
22           features designed for occasional off-road operation. A minivan and a pickup  
23           truck are multipurpose vehicles.
- 24           (10) A window of a vehicle that is registered in another state and meets the  
25           requirements of the state in which it is registered.
- 26           (11) A window of a vehicle for which the Division has issued a medical  
27           exception permit under subsection (f) of this section.

28        ...."

29        **SECTION 4.** G.S. 20-137.4A is amended by adding a new subsection to read:

30        "(a1) Motor Carrier Offense. – It shall be unlawful for any person to operate a  
31 commercial motor vehicle subject to Parts 390 or 392 of Title 49 of the Code of Federal  
32 Regulations on a public street or highway or public vehicular area while using a mobile  
33 telephone or other electronic device in violation of those Parts."

34        **SECTION 5.** G.S. 20-141.5 reads as rewritten:

35        "**§ 20-141.5. Speeding to elude arrest.**

36        ...

37        (f) Each law enforcement agency shall adopt a policy applicable to the pursuit of  
38 fleeing or eluding motorists. Each policy adopted pursuant to this subsection shall specifically  
39 include factors to be considered by an officer in determining when ~~it is advisable to break off a~~  
40 ~~chase to stop and apprehend a suspect. to initiate or terminate a pursuit.~~ The Attorney General  
41 shall develop a model policy or policies to be considered for use by law enforcement agencies.

42        (g) If a person is convicted of a violation of subsection (b) of this section, the motor  
43 vehicle that was driven by the defendant at the time the defendant committed the offense of  
44 felony speeding to elude arrest becomes property subject to forfeiture in accordance with the  
45 procedure set out in G.S. 20-28.2. In applying the procedure set out in that statute, an owner or  
46 a holder of a security interest is considered an innocent party with respect to a motor vehicle  
47 subject to forfeiture under this subsection if the defendant drove the motor vehicle without the  
48 consent of the owner or the holder of the security interest."

49        **SECTION 6.** G.S. 20-166.1(i) reads as rewritten:

50        (i) Effect of Report. – A report of an accident made under this section by a person who  
51 is not a law enforcement officer is without prejudice, is for the use of the Division, and shall

1 not be used in any manner as evidence, or for any other purpose in any trial, civil or criminal,  
2 arising out of the accident. Any other report of an accident made under this section may be used  
3 in any manner as evidence, or for any other purpose, in any trial, civil or criminal, as permitted  
4 under the rules of evidence. At the demand of a court, the Division must give the court a  
5 properly executed certificate stating that a particular accident report has or has not been filed  
6 with the Division solely to prove a compliance with this section.

7 ~~The reports made by persons who are not law enforcement officers or medical examiners~~  
8 ~~are not public records. The reports made by law enforcement officers and medical examiners~~  
9 ~~are public records and are open to inspection by the general public at all reasonable times.~~  
10 pursuant to this section are public records within the meaning of G.S. 132-1. Reports made  
11 pursuant to this section may not be released to any person making a request unless and until  
12 personal identifying information has been redacted from the report in compliance with the  
13 provisions of the federal Drivers Privacy Protection Act, 18 U.S.C. § 2721(b)(11) and (12), and  
14 G.S. 20-43.1. The Division must give a certified copy of one of these reports to a member of  
15 the general public who requests a copy any person entitled to a copy of such report and who  
16 pays the fee set in G.S. 20-42."

17 **SECTION 7.** G.S. 20-383 reads as rewritten:

18 "**§ 20-383. Inspectors and officers given enforcement authority.**

19 ~~Only designated inspectors and officers of the Department of Crime Control and Public~~  
20 ~~Safety~~ The State Highway patrol and other agents or employees of the Department of Crime  
21 Control and Public Safety designated by the Secretary of Crime Control and Public Safety shall  
22 have the authority to enforce the provisions of this Article and provisions of Chapter 62  
23 applicable to motor transportation, and they are empowered to make complaint for the issue of  
24 appropriate warrants, informations, presentments or other lawful process for the enforcement  
25 and prosecution of violations of the transportation laws against all offenders, whether they be  
26 regulated motor carriers or not, and to appear in court or before the North Carolina Utilities  
27 Commission and offer evidence at the trial pursuant to such processes."

28 **SECTION 8.** Sections 6 and 7 of this act are effective when this act becomes law.  
29 Sections 1, 2, 3, 4, and 5 of this act become effective December 1, 2011, and apply to offenses  
30 committed on or after that date.