

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

**H.B. 165**  
**Feb 25, 2021**  
**HOUSE PRINCIPAL CLERK**

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HOUSE BILL DRH40116-MW-53

Short Title: DOT Legislative Changes.-AB (Public)

Sponsors: Representative B. Jones.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CHANGES TO LAWS, AS RECOMMENDED BY THE DEPARTMENT  
3 OF TRANSPORTATION.

4 The General Assembly of North Carolina enacts:

6 **PART I. DEPARTMENT OF TRANSPORTATION**

8 **ELIMINATE CAP ON PUBLIC PRIVATE PARTNERSHIPS**

9 **SECTION 1.1.** G.S. 136-18(39a)a. reads as rewritten:

10 "(39a) a. The Department of Transportation ~~or Turnpike Authority, as~~  
11 ~~applicable,~~ may authorize the Turnpike Authority and the Division of  
12 Motor Vehicles to enter into up to three agreements each with a private  
13 entity as provided under subdivision (39) of this section for which the  
14 provisions of this section apply."

16 **REPEAL LIMIT ON FUNDS TO PAY MAP ACT SETTLEMENT COSTS**

17 **SECTION 1.2.** Section 1.4(a) of S.L. 2019-251 is repealed.

19 **AUTHORIZE LICENSE PLATE READERS ON DEPARTMENT RIGHT-OF-WAY**

20 **SECTION 1.3.** Subdivision (2) of G.S. 136-18 is amended by adding a new  
21 sub-subdivision to read:

22 "h. At the request of a State or local law enforcement agency, to enter into  
23 an encroachment agreement for the placement of automatic license  
24 plate readers in existing right-of-way of the Department. Nothing in  
25 this sub-subdivision shall require the Department to purchase  
26 additional right-of-way for this purpose or to enter into an  
27 encroachment agreement where the integrity of the infrastructure or  
28 the safety of the public will be impacted by the installation, operation,  
29 or repair of the automatic license plate reader or its structural support."

31 **REVISIONS TO HIGHWAY MAINTENANCE IMPROVEMENT PROGRAM**

32 **SECTION 1.4.** G.S. 143B-350(f)(4a) reads as rewritten:

33 "(4a) To approve a schedule of State highway maintenance projects and their  
34 anticipated cost. This schedule is designated the Highway Maintenance  
35 Improvement Program and is established in G.S. 136-44.3A. The Board shall  
36 publish the schedule on the Department's ~~Web site by April 1~~ website by June



1           1 of each year. The document that contains the Highway Maintenance  
2           Improvement Program shall include the anticipated funding sources for the  
3           improvement projects included in the Highway Maintenance Improvement  
4           Program, ~~a list of any changes made from the previous year's Highway~~  
5           ~~Maintenance Improvement Program, and the reasons for the~~  
6           ~~changes.~~Program."

7           **SECTION 1.5.** G.S. 136-44.3A reads as rewritten:

8           "**§ 136-44.3A. Highway Maintenance Improvement Program.**

9           (a) Definitions. – The following definitions apply in this Article:

10           (1) ~~Cape seal treatment. — A chip seal treatment followed by a slurry seal~~  
11           ~~treatment.~~

12           (2) ~~Chip seal treatment. — A type of pavement preservation treatment applied to~~  
13           ~~existing asphalt pavement. The treatment involves spraying an asphalt~~  
14           ~~emulsion onto the roadway, applying a layer of aggregate chips, and rolling~~  
15           ~~the chips into the emulsion. This term includes single, double, and triple chip~~  
16           ~~seal treatments.~~

17           (3) Highway Maintenance Improvement Program. – The schedule of State  
18           highway maintenance projects required under G.S. 143B-350(f)(4a).

19           (4) Highway Maintenance Improvement Program Needs Assessment. – A report  
20           of the amount of funds ~~needed, the number of affected lane miles, and the~~  
21           ~~percentage of the primary and secondary system roads that are rated to need a~~  
22           ~~resurfacing or pavement preservation treatment within the Highway~~  
23           ~~Maintenance Improvement Program's five year time period but are not~~  
24           ~~programmed due to funding constraints.~~needed and the quantity of work to be  
25           accomplished to meet and sustain the performance standards for the State  
26           highway system in each of the maintenance program categories.

27           (5) ~~Microsurfacing treatment. — A type of pavement preservation treatment that~~  
28           ~~involves mixing fine aggregate, asphalt emulsion, minerals, water, and a~~  
29           ~~polymer additive, and applying the mixture to the roadway.~~

30           (6) Pavement preservation treatment. – Includes full-width surface treatments  
31           used to extend or renew the pavement life.

32           (7) Rehabilitation. – A contract resurfacing maintenance program that involves  
33           applying multiple layers of pavement that exceed two inches.

34           (8) Resurfacing. – A contract resurfacing program that involves applying one  
35           layer that does not exceed two inches of pavement.

36           (9) ~~Slurry seal treatment. — A type of pavement preservation treatment that~~  
37           ~~involves mixing fine aggregate, asphalt emulsion, minerals, and water, and~~  
38           ~~applying the mixture to the roadway.~~

39           ...

40           (c) Highway Maintenance Improvement Program. – After the annual inspection of roads  
41           within the State highway system, ~~each highway division shall determine and report to the Chief~~  
42           ~~Engineer on (i) the need for rehabilitation, resurfacing, or pavement preservation treatments, (ii)~~  
43           ~~the need for bridge and general maintenance, and (iii) projected changes to the condition of~~  
44           ~~pavement on primary and secondary roads for each year over a five year period. The Chief~~  
45           ~~Engineer shall establish a five year priority list for each highway division based on the Chief~~  
46           ~~Engineer's estimate of need. In addition, the Chief Engineer shall establish a five year~~  
47           ~~improvement schedule, sorted by county, for rehabilitation, resurfacing, and pavement~~  
48           ~~preservation treatment activities. The schedule shall be based on the amount of funds~~  
49           ~~appropriated to the contract resurfacing program and the pavement preservation program in the~~  
50           ~~fiscal year preceding the issuance of the Highway Maintenance Improvement Program for all~~  
51           ~~five years of the Highway Maintenance Improvement Program. State funding for the Highway~~

1 ~~Maintenance Improvement Program shall be limited to funds appropriated from the State~~  
2 ~~Highway Fund system, all of the following shall occur:~~

3 (1) The Chief Engineer shall establish the annual cost to meet and sustain the  
4 performance standards for pavement, bridge, and general maintenance  
5 activities for the State highway system.

6 (2) The Division Engineer for each highway division shall determine and report  
7 to the Chief Engineer a five-year improvement schedule, sorted by county, for  
8 pavement, bridge, and general maintenance activities within each highway  
9 division. The schedule shall be based on the amount of funds appropriated to  
10 the pavement, bridge, and general maintenance programs in the fiscal year  
11 preceding the issuance of the Highway Maintenance Improvement Program  
12 for all five years of the Highway Maintenance Improvement Program. State  
13 funding for the Highway Maintenance Improvement Program shall be limited  
14 to funds appropriated from the State Highway Fund.

15 ...

16 (g) Report. – The Department shall submit the Highway Maintenance Improvement  
17 Program and Highway Maintenance Improvement Program Needs Assessment to the General  
18 Assembly by ~~April 1~~ June 1 of each year. If the General Assembly is in session, the Department  
19 shall report to the House of Representatives Appropriations Subcommittee on Transportation,  
20 the Senate Appropriations Committee on Transportation, and the Fiscal Research Division. If the  
21 General Assembly is not in session, the Department shall report to the Joint Legislative  
22 Transportation Oversight Committee and the Fiscal Research Division."  
23

## 24 EXEMPT PORTS AUTHORITY FROM STATUTORY REQUIREMENTS TO OBTAIN 25 CONSULTANT SERVICE CONTRACTS

26 SECTION 1.6. G.S. 143-64.24 is amended by adding a new subdivision to read:

27 (9) The North Carolina State Ports Authority. The North Carolina State Ports  
28 Authority may only contract to obtain the services of a consultant after the  
29 proposed contract is approved by the Board of the North Carolina State Ports  
30 Authority.

## 31 PART II. DIVISION OF MOTOR VEHICLES

### 32 INSURANCE COMPANIES TO SUBMIT FORMS ELECTRONICALLY

33 SECTION 2.1. G.S. 20-309.2(c) reads as rewritten:

34 (c) Form of Notice. – ~~Any insurer with twenty five million dollars (\$25,000,000) or more~~  
35 ~~in annual vehicle insurance premium volume shall submit the notices required under this section~~  
36 ~~by electronic means. All other insurers may shall submit the notices required under this section~~  
37 ~~by either paper or electronic means."~~  
38

### 39 ONLINE RENEWAL OF VARIOUS DMV CREDENTIALS

40 SECTION 2.2. Article 1 of Chapter 20 of the General Statutes is amended by adding  
41 a new section to read:

#### 42 "§ 20-4.04 Online renewal of credentials issued by the Division.

43 (a) Pursuant to G.S. 20-2(b), the Commissioner of Motor Vehicles may authorize the  
44 online renewal of any credential issued by the Division not already authorized by statute. For  
45 purposes of this section, "credential" means any license, permit, certificate, registration, or plate  
46 issued by the Division.

47 (b) No later than 30 days after establishing online renewal capability for any credential  
48 authorized under this section, the Division shall submit a report to the Joint Legislative  
49 Transportation Oversight Committee and the Fiscal Research Division."  
50  
51

**EXTEND DMV EMERGENCY RULE AUTHORITY**

**SECTION 2.3.** Section 3.20 of S.L. 2020-97 is amended by adding a new subsection to read:

"SECTION 3.20.(g) Notwithstanding the expiration dates in subsections (e) and (f) of this section, the Division of Motor Vehicles authority to adopt emergency rules under this section shall expire 30 days after Executive Order No. 116 is rescinded or September 30, 2021, whichever is earlier."

**HANDICAPPED PLACARD ONLINE RENEWAL**

**SECTION 2.4.** G.S. 20-37.6(c1) reads as rewritten:

"(c1) Application and Renewal; Medical Certification. – The initial application for a distinguishing license plate, removable windshield placard, or temporary removable windshield placard shall be accompanied by a certification of a licensed physician, a licensed ophthalmologist, a licensed optometrist, a licensed physician assistant, a licensed nurse practitioner, or the Division of Services for the Blind that the applicant or person in the applicant's custody or care is handicapped or by a disability determination by the United States Department of Veterans Affairs that the applicant or person in the applicant's custody or care is handicapped. For an initial application for a temporary removable windshield placard only, the certification that the applicant is handicapped may be made by a licensed certified nurse midwife. The application for a temporary removable windshield placard shall contain additional certification to include the period of time the certifying authority determines the applicant will have the disability. Distinguishing license plates shall be renewed annually, but subsequent applications shall not require a medical certification that the applicant is handicapped, except that a registered owner that certified pursuant to subsection (b) of this section that the registered owner is the guardian or parent of a handicapped person must recertify every five years. Removable windshield placards shall be renewed every five years, and, except for a person certified as totally and permanently disabled at the time of the initial application or a prior renewal under this subsection, the renewal shall require a medical recertification that the person is handicapped; provided that a medical certification shall not be required to renew any placard that expires after the person to whom it is issued is 80 years of age. Temporary removable windshield placards shall expire no later than six months after issuance. The Division shall offer renewal of handicapped credentials in person and online on the Division's website."

**LIMITED REGISTRATION PLATES/DEALER TO NOTIFY PURCHASER OF OUTSTANDING PENALTIES, FEES, AND TOLLS**

**SECTION 2.5.** G.S. 20-79.1A(a)(1) reads as rewritten:

"(1) A person who applies, either directly or through a dealer licensed under Article 12 of this Chapter, for a title to a motor vehicle and a registration plate for the vehicle and who submits payment for the applicable title and registration fees but does not submit payment for any municipal corporation property taxes on the vehicle. A person who submits payment for municipal corporation property taxes receives an annual registration plate. A dealer shall notify the person purchasing a vehicle of any outstanding civil penalties, fees, tolls, and obligations owed that are of record and that are known by the dealer at the time the dealer applies for a title to a motor vehicle and a registration plate for the vehicle under this section."

**CDL DISQUALIFICATION FOR HUMAN TRAFFICKING**

**SECTION 2.6.** G.S. 20-37.14A reads as rewritten:

1 "§ 20-37.14A. Prohibit issuance or renewal of certain categories of commercial drivers  
2 licenses to sex offenders.~~offenders and persons convicted of human trafficking.~~

3 (a) Effective December 1, 2009, the Division shall not issue or renew a commercial  
4 drivers license with a P or S endorsement to any person who is required to register under Article  
5 27A of Chapter 14 of the General Statutes.

6 ...

7 (d) Human Trafficking Violations. – The Division shall disqualify from operating a  
8 commercial motor vehicle for life a person who uses a commercial motor vehicle in committing  
9 a felony involving an act or practice described in 22 U.S.C. § 7102(9). For purposes of this  
10 subsection, "disqualify" means to deny, revoke, suspend, or cancel a commercial vehicle license."

11  
12 **PRE-DEPRIVATION HEARING/AUTOMATIC RESTORATION/DRIVERS LICENSE**

13 **SECTION 2.7.** G.S. 20-24.1 reads as rewritten:

14 "§ 20-24.1. Revocation for failure to appear or pay fine, ~~penalty~~ penalty, or costs for motor  
15 vehicle offenses.

16 (a) ~~The Division must revoke the driver's license of a person upon receipt of notice from~~  
17 ~~a court that the person was charged with a motor vehicle offense and he:~~Upon receipt of notice  
18 from the court, the Division shall revoke the drivers license of a person who was charged with a  
19 motor vehicle offense and failed to do either of the following:

20 (1) ~~failed to appear, after being notified to do so, when the case was called for a~~  
21 ~~trial or hearing; or~~Appear, after being notified to do so, when the case was  
22 called for a trial or hearing.

23 (2) ~~failed to pay a fine, penalty, or court costs ordered by the court.~~Pay a fine,  
24 penalty, or court costs ordered by the court.

25 Revocation orders entered under the authority of this section are effective on the sixtieth day  
26 after the order is mailed or personally delivered to the person. Before the effective date of the  
27 revocation order issued pursuant to this section, a person whose license is to be revoked under  
28 subdivision (2) of subsection (a) may request a pre-deprivation hearing. If that person requests a  
29 pre-deprivation hearing, then the Division shall provide a pre-deprivation hearing to determine  
30 the person's financial status. Once the Division determines the person's financial status, the  
31 person may or may not be declared indigent. If the Division declares the person indigent, any  
32 costs and fees associated with the pre-deprivation hearing shall be waived for the person and the  
33 Division shall restore the person's license as provided in subsection (c) of this section. If the  
34 Division declares the person not indigent, the person must pay any costs and fees associated with  
35 the pre-deprivation hearing and may seek relief in subsection (f) of this section, if eligible, or,  
36 otherwise, satisfy the requirements in subsection (c) of this section.

37 ...

38 (c) ~~If the person satisfies the conditions of subsection (b) that are applicable to his case~~  
39 ~~before the effective date of the revocation order, the revocation order and any entries on his~~  
40 ~~driving record relating to it shall be deleted and the person does not have to pay the restoration~~  
41 ~~fee set by G.S. 20-7(i1).~~The Division shall delete the revocation order and any entries on the  
42 person's driving record relating to the revocation order and the Division shall not require the  
43 person to pay the restoration fee set by G.S. 20-7(i1) if the person: (i) is declared indigent by the  
44 Division under subdivision (2) of subsection (a) of this section or (ii) satisfies the conditions of  
45 subsection (b) that are applicable to the person's case before the effective date of the revocation  
46 order. This action shall be taken automatically, without need for an in-person transaction at a  
47 Division office. For all other revocation orders issued pursuant to this section, G.S. 50-13.12  
48 G.S. 50-13.12, or G.S. 110-142.2, the person must pay the restoration fee and satisfy any other  
49 applicable requirements of this Article before the person may be relicensed. The Division shall  
50 accept payment of the restoration fee both online and in person at a Division office. After the

1 restoration fee and other applicable requirements to restore the license are satisfied, the Division  
2 shall automatically, without need for an in-person transaction, restore the license.

3 ...."  
4

## 5 **DWI HEARING CHANGE**

6 **SECTION 2.8.(a)** G.S. 20-16.2(d) reads as rewritten:

7 "(d) Consequences of Refusal; Right to Hearing before Division; Issues. – Upon receipt  
8 of a properly executed affidavit required by subsection (c1), the Division shall expeditiously  
9 notify the person charged that the person's license to drive is revoked for 12 months, effective on  
10 the tenth calendar day after the mailing of the revocation order unless, before the effective date  
11 of the order, the person requests in writing a hearing before the Division. Except for the time  
12 referred to in G.S. 20-16.5, if the person shows to the satisfaction of the Division that his or her  
13 license was surrendered to the court, and remained in the court's possession, then the Division  
14 shall credit the amount of time for which the license was in the possession of the court against  
15 the 12-month revocation period required by this subsection. If the person properly requests a  
16 hearing, the person retains his or her license, unless it is revoked under some other provision of  
17 law, until the hearing is held, the person withdraws the request, or the person fails to appear at a  
18 scheduled hearing. The hearing officer may subpoena any witnesses or documents that the  
19 hearing officer deems necessary. The person may request the hearing officer to subpoena the  
20 charging officer, the chemical analyst, or both to appear at the hearing if the person makes the  
21 request in writing at least three days before the hearing. The person may subpoena any other  
22 witness whom the person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to  
23 the issuance and service of all subpoenas issued under the authority of this section. The hearing  
24 officer is authorized to administer oaths to witnesses appearing at the hearing. The hearing shall  
25 be conducted in ~~the county where the charge was brought,~~ a location designated by the Division,  
26 and shall be limited to consideration of ~~whether~~ whether the following conditions have been met:

- 27 (1) The person was charged with an implied-consent offense or the driver had an  
28 alcohol concentration restriction on the drivers license pursuant to  
29 ~~G.S. 20-19;~~ G.S. 20-19.  
30 (2) A law enforcement officer had reasonable grounds to believe that the person  
31 had committed an implied-consent offense or violated the alcohol  
32 concentration restriction on the drivers ~~license;~~ license.  
33 (3) The implied-consent offense charged involved death or critical injury to  
34 another person, if this allegation is in the ~~affidavit;~~ affidavit.  
35 (4) The person was notified of the person's rights as required by subsection ~~(a);~~  
36 ~~and~~ (a).  
37 (5) The person willfully refused to submit to a chemical analysis.

38 If the Division finds that the conditions specified in this subsection are met, it shall order the  
39 revocation sustained. If the Division finds that any of the conditions (1), (2), (4), or (5) is not  
40 met, it shall rescind the revocation. If it finds that condition (3) is alleged in the affidavit but is  
41 not met, it shall order the revocation sustained if that is the only condition that is not met; in this  
42 instance subsection (d1) does not apply to that revocation. If the revocation is sustained, the  
43 person shall surrender his or her license immediately upon notification by the Division."

44 **SECTION 2.8.(b)** This section becomes effective October 1, 2021, and applies to  
45 hearings requested on or after that date.  
46

## 47 **PART III. EFFECTIVE DATE**

48 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes  
49 law.