

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1589*
Finance Committee Substitute Adopted 7/12/90

Short Title: Commercial Driver's Licenses.

(Public)

Sponsors:

Referred to:

June 6, 1990

A BILL TO BE ENTITLED
AN ACT TO AMEND THE COMMERCIAL DRIVER'S LICENSE ACT.
The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.01(12a) reads as rewritten:

"(12a) Gross Vehicle Weight Rating (GVWR). - The value specified by the manufacturer as the maximum loaded weight of a single or combination vehicle, or the registered gross weight of the vehicle, whichever is greater. The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units."

Sec. 2. G.S. 20-4.01(41a) reads as rewritten:

"(41a) Serious Traffic Violation. - A conviction when operating a commercial motor vehicle of:

- a. Excessive speeding, involving a single charge of any speed 15 miles per hour or more above the posted speed limit;
b. Careless and reckless driving;
c. A violation of any State or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal ~~accident~~-accident;
d. Improper or erratic lane changes; or
e. Following the vehicle ahead too closely."

Sec. 3. G.S. 20-9(a) reads as rewritten:

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1 "(a) A Class 'C' license shall not be issued to any person under 16 years of age, a
2 Class 'A' or 'B' license shall not be issued to any person under 18 years of age, and no
3 Class A, B, or C commercial driver license shall be issued to any person under 21 years
4 of age except as provided in G.S. 20-37.13(a) and G.S. 20-218(a). An endorsement to
5 transport hazardous materials shall not be issued to any person under 21 years of age."

6 Sec. 4. G.S. 20-17.4(a) reads as rewritten:

7 "(a) Any person is disqualified from driving a commercial motor vehicle for a
8 period of not less than one year if convicted of a first violation of:

- 9 (1) G.S. 20-138.1 or G.S. 20-138.2(a)(1) - Driving a commercial motor
10 vehicle while subject to an impairing substance;
- 11 (2) G.S. 20-138.2(a)(2) - Driving a commercial motor vehicle while the
12 alcohol concentration of the person's blood or breath is 0.04 or more;
- 13 (3) G.S. 20-166(a), (b), or (c) - ~~Felonious hit~~ Hit and run involving a
14 commercial motor vehicle driven by the person; or
- 15 (4) Using a commercial motor vehicle in the commission of any ~~felony~~; or
16 felony.
- 17 (5) ~~Refusal to submit to a chemical test to determine the driver's alcohol~~
18 ~~concentration while driving a commercial motor vehicle.~~

19 A person is also disqualified for a one-year period for refusing to submit to a chemical
20 test to determine the alcohol concentration of their blood or breath if charged with an
21 implied-consent offense in a commercial motor vehicle.

22 If any of the above violations occurred while transporting a hazardous material
23 required to be placarded, the person is disqualified for a period of not less than three
24 years."

25 Sec. 5. G.S. 20-17.4 is amended by adding a new subsection to read:

26 "(f) A person is disqualified from driving a commercial motor vehicle for a period
27 of at least 60 days if the Division determines that a person has knowingly submitted
28 false information or false certifications in an application for a commercial driver
29 license."

30 Sec. 6. G.S. 20-24(a) reads as rewritten:

31 "(a) Whenever any person is convicted of any offense for which this ~~Article~~
32 Chapter makes mandatory the revocation or disqualification of the driver's license of
33 such person by the Division, the court in which such conviction is had shall require the
34 surrender to it of all drivers' licenses then held by the person so convicted and the court
35 shall thereupon forward the same, together with a record of such conviction, to the
36 Division within 30 days.

37 The clerks of court, assistant clerks of court and deputy clerks of court in which any
38 person is convicted, and as a result thereof the revocation or suspension of the driver's
39 license of such person is required under the provisions of this Chapter, are hereby
40 designated as agents of the Division of Motor Vehicles for the purpose of receiving all
41 drivers' licenses required to be surrendered under this section, and are hereby authorized
42 to and shall give to such licensee a dated receipt for any such license surrendered, such
43 receipt to be upon such form as may be approved by the Commissioner of Motor
44 Vehicles. The original of such receipt shall be mailed forthwith to the Driver License

1 Section of the Division of Motor Vehicles together with the driver's license. Any
2 driver's license which has been surrendered and for which a receipt has been issued as
3 herein required shall be revoked or suspended as the case may be as of the date shown
4 upon the receipt issued to such person."

5 Sec. 7. G.S. 20-24(b) reads as rewritten:

6 "(b) Every court having jurisdiction over offenses committed under this
7 ~~Article~~Chapter, or any other law of this State regulating the operation of motor vehicles
8 on highways, shall forward to the Division a record of the conviction of any person in
9 said court for a violation of any of said laws, and may recommend the suspension of the
10 driver's license of the person so convicted. Every court shall also forward to the
11 Division a record of every conviction in which sentence is suspended on condition that
12 the defendant not operate a motor vehicle for a period of time, and such report shall
13 state the period of time for which such condition is imposed; provided that the
14 punishment for the violation of this subsection shall be the same as provided in G.S. 20-
15 7(o). The record of conviction may be forwarded to the Division by electronic data
16 processing means with the approval of the Commissioner."

17 Sec. 8. G.S. 20-26(a) reads as rewritten:

18 "(a) The Division shall keep a record of test, proceedings and orders pertaining to
19 all driver's licenses granted, refused, suspended or revoked. The Division shall keep
20 records of convictions as defined in G.S. 20-24(c) occurring outside North Carolina
21 only for the offenses of exceeding a stated speed limit of 55 miles per hour or more by
22 more than 15 miles per hour, driving while license suspended or revoked, careless and
23 reckless driving, engaging in prearranged speed competition, engaging willfully in
24 speed competition, hit-and-run driving resulting in damage to property, unlawfully
25 passing a stopped school bus, illegal transportation of alcoholic beverages, and the
26 offenses included in G.S. 20-17. Provided, the Division shall also record convictions
27 for speeding ~~in excess of~~ 15 miles or more per hour over the posted speed limit, improper
28 or erratic lane changes and following the vehicle ahead too closely occurring outside of
29 North Carolina if the vehicle involved is a commercial motor vehicle."

30 Sec. 9. G.S. 20-28(c) reads as rewritten:

31 "(c) Any person whose commercial driver license has been suspended or revoked
32 or who has been disqualified from operating a commercial motor vehicle as provided in
33 this Chapter who shall drive a commercial motor vehicle upon the highways or public
34 vehicular areas of this State while such license is under suspension, revocation, or
35 disqualification shall be guilty of a misdemeanor. Upon receipt of a record of a
36 violation of this section, the Division shall impose an additional disqualification period
37 in accordance with the provisions of subsection (a) of this section, or for a period of
38 time equal to the period for which the driver was suspended, revoked, or disqualified
39 when he violated this section."

40 Sec. 10. G.S. 20-37.12(a) reads as rewritten:

41 "(a) On or after April 1, 1992, unless extended by the Commissioner as permitted
42 by the United States Department of Transportation, no person shall operate a
43 commercial motor vehicle on the highways of this State unless he has first been issued
44 and is in immediate possession of a commercial driver license with applicable

1 endorsements valid for the vehicle he is driving; provided, a person may operate a
2 commercial motor vehicle after being issued and while in possession of a commercial
3 driver learner's permit and while accompanied by the holder of a commercial driver
4 license valid for the vehicle being driven.

5 All individuals holding a classified license under G.S. 20-7 that will expire prior to
6 April 1, 1992, must renew that license for a commercial driver license if they operate a
7 commercial motor vehicle that would require a commercial driver license after that date.
8 The Division may give credit toward the cost of the commercial driver license to those
9 individuals whose current classified license does not expire until after April 1, 1992,
10 based on the unexpired time remaining on the license."

11 Sec. 11. G.S. 20-37.13(c)(1)c. reads as rewritten:

12 "c. Had any convictions involving any kind of motor vehicle for
13 the offenses listed in G.S. 20-17 or G.S. 20-17.4, or refused to
14 submit to a chemical test as required by law; or".

15 Sec. 12. G.S. 20-37.13(d) reads as rewritten:

16 "(d) A commercial driver license or learner's permit shall not be issued to a person
17 while he is subject to a disqualification from driving a commercial motor vehicle, or
18 while his driver license is suspended, revoked, or cancelled in any state; nor shall a
19 commercial driver license be issued ~~by any other state~~ unless he first surrenders all other
20 driver licenses, which must be returned to the issuing states for cancellation."

21 Sec. 13. G.S. 20-37.13(e) reads as rewritten:

22 "(e) A commercial driver learner's permit may be issued to an individual who
23 holds a valid Class C driver license who has passed the ~~necessary tests required for that~~
24 license knowledge tests for the vehicle class and type he will be operating.

25 The permit is valid for a period not to exceed six months and may be renewed or
26 reissued only once within a two-year period. A restricted instruction permit for
27 prospective school bus drivers shall be issued pursuant to G.S. 20-7(m). The fee for the
28 issuance, reissuance, or renewal of a commercial driver learner's permit or school bus
29 restricted instruction permit shall be twenty dollars (\$20.00)."

30 Sec. 14. G.S. 20-37.15(a) reads as rewritten:

31 "(a) The application for a commercial driver license must include the following:

- 32 (1) The full name, current mailing address, and current residence address
33 of the applicant;
- 34 (2) A physical description of the person including sex, height, and eye and
35 hair color;
- 36 (3) Date of birth;
- 37 (4) The applicant's social security number;
- 38 (5) The applicant's signature;
- 39 (6) The applicant's color photograph;
- 40 (7) Certifications including those required by 49 C.F.R., Part 383.71(a);
- 41 (8) A consent to release driving record information; and
- 42 (9) Any other information required by the Division.

43 The application must be accompanied by a nonrefundable application fee of twenty
44 dollars ~~(\$20.00)-(\$20.00)~~, provided that this fee will be waived for:

1 (1) An individual who surrenders a valid commercial driver license
2 learner's permit when applying for a commercial driver license.

3 (2) An individual who is applying to renew his commercial drivers
4 license.

5 The application fee shall be ten dollars (\$10.00) for an applicant eligible for a waiver
6 under G.S. 20-37.13(c). This fee shall entitle the applicant to three attempts to pass the
7 written knowledge test without payment of a new fee. ~~No application fee shall be charged~~
8 to an applicant eligible for a waiver under G.S. 20-37.13(e)."

9 Sec. 15. G.S. 20-37.16(b) reads as rewritten:

10 "(b) Commercial driver licenses may be issued with the following classifications,
11 endorsements, and restrictions; the holder of a valid commercial driver license may
12 drive all vehicles in the class for which that license is issued, and all lesser classes of
13 vehicles except motorcycles. Vehicles that require an endorsement shall not be driven
14 unless the proper endorsement appears on the license.

15 Class A - Any combination of vehicles with a gross vehicle weight rating, GVWR,
16 of 26,001 pounds or more, provided the GVWR of the vehicle or vehicles being towed
17 is in excess of 10,000 pounds.

18 Class B - Any single vehicle with a GVWR of 26,001 pounds or more, and any such
19 vehicle towing a vehicle not in excess of 10,000 pounds.

20 Class C - ~~Any single vehicle with a GVWR of less than 26,001 pounds or any such~~
21 ~~vehicle towing a vehicle with a GVWR not in excess of 10,000 pounds comprising or~~
22 combination of vehicles not included within Class A or Class B above, but which are:

23 (1) Vehicles designed to transport 16 or more passengers, including the
24 driver; ~~and or~~

25 (2) Vehicles used in the transportation of hazardous materials that require
26 the vehicle to be placarded under 49 C.F.R., Part 172, Subpart F."

27 Sec. 16. G.S. 20-37.16(c) reads as rewritten:

28 "~~(c) Endorsements and restrictions will be noted on the license when appropriate in the~~
29 ~~following categories: The Commissioner may require and designate such restrictions as~~
30 he feels necessary to ensure the safety of North Carolina highways. The following
31 endorsements will be noted on the license, when appropriate:

32 (1) 'H' – Authorizes the driver to drive a vehicle transporting hazardous
33 materials.

34 (2) ~~"K" – Restricts the driver to vehicles not equipped with airbrakes.~~

35 (3) 'T' – Authorizes driving double trailers.

36 (4) 'P' – Authorizes driving vehicles carrying passengers.

37 (5) 'N' – Authorizes driving tank vehicles.

38 (6) 'X' – Represents a combination of hazardous materials and tank
39 vehicle endorsements.

40 (7) 'M' – Authorizes driving a motorcycle.

41 (8) ~~"S" – Authorizes driving a school bus.~~

42 Testing for a hazardous materials endorsement must include a written test. Any
43 renewal applicant wishing to retain the hazardous materials endorsement must pass the
44 required test. Anyone transferring a commercial driver license from another jurisdiction

1 to this State and wishing to retain the 'H' or 'X' endorsement must demonstrate the
2 knowledge required of a driver of a hazardous materials laden vehicle by having passed
3 a written test covering the information set out in 49 C.F.R., Part 383.121 within the
4 preceding two years."

5 Sec. 17. G.S. 20-37.16(d) reads as rewritten:

6 "(d) The fee for issuance or reissuance of a Class A, B, or C commercial driver
7 license is forty dollars (\$40.00). Any person applying for a special endorsement or
8 renewal under subsection (c) of this section shall pay an additional five dollars (\$5.00)
9 for each endorsement. The fee-fees required under this section shall be waived for
10 persons who drive no other commercial motor vehicle except a school bus or school
11 activity bus and for designated employees of the Driver License Section of the
12 Division."

13 Sec. 18. G.S. 20-138.2(f) reads as rewritten:

14 "(f) Limited Driving Privilege. – A person convicted of the offense of impaired
15 driving under this section is not eligible for a limited driving privilege to operate a
16 commercial motor vehicle. If a person is convicted under this section and under G.S.
17 20-138.1, he may be considered for a limited driving privilege for a noncommercial
18 motor vehicle if he meets the requirements of G.S. 20-179.3(b). Such a privilege shall
19 be for the purposes specified in G.S. 20-179.3(a) and issued according to the procedure
20 in G.S. 20-179.3(d) and subsections (f) through (k).

21 If a person is convicted under this section and he had ~~a blood~~ an alcohol
22 concentration below 0.10, he is nonetheless eligible to apply for a Class C
23 noncommercial license."

24 Sec. 19. G.S. 20-218(a) reads as rewritten:

25 "(a) No person shall drive or operate a school bus over the ~~public roads~~ highways
26 and public vehicular areas of North Carolina while the same is occupied by children
27 unless said person shall be fully trained in the operation of motor vehicles, and shall
28 furnish to the superintendent of the schools of the county in which said bus shall be
29 operated a certificate from any representative duly designated by the Commissioner of
30 Motor Vehicles, and the ~~chief mechanic~~ Director of Transportation or his designees in
31 charge of school buses in said county showing that he has been examined by them a
32 ~~representative duly designated by the Commissioner of Motor Vehicles, and said chief~~
33 ~~mechanic in charge of school buses in said county~~ and that he is a fit and competent person
34 to operate or drive a school bus over the ~~public roads~~ highways and public vehicular
35 areas of the State. The driver of a school bus ~~or school activity bus~~ must be at least 18
36 years of age and hold a Class 'A', 'B', or 'C' commercial driver license and a school bus
37 driver's certificate. The driver of a school activity bus must be licensed either as a
38 school bus driver as set forth herein or hold a license appropriate for the class of vehicle
39 being operated."

40 Sec. 20. G.S. 20-7(i) reads as rewritten:

41 "(i) The fee for issuance or reissuance of a Class 'C' license is ten dollars
42 (\$10.00). The fee for issuance or reissuance of a Class 'B' or Class 'A' license is fifteen
43 dollars (\$15.00). ~~A person receiving at the same time a driver's license and an endorsement~~
44 ~~pursuant to G.S. 20-7(a1) shall be charged only the fee required for the class of driver's license~~

1 ~~he is receiving.~~ Any person applying for a motorcycle endorsement or a renewal thereof
2 shall pay an additional fee of five dollars (\$5.00)."

3 Sec. 21. G.S. 20-7(l-1) is repealed.

4 Sec. 22. G.S. 20-7(m) reads as rewritten:

5 "(m) The Division upon receiving proper application may in its discretion issue a
6 restricted instruction permit effective for a school year or a lesser period to an applicant
7 who is enrolled in a driver-training program approved by the State Superintendent of Public
8 ~~Instruction even though the applicant has not yet reached the legal age to be eligible for a~~
9 ~~driver's license program:~~

10 (1) As provided for in G.S. 20-88.1 or approved by the State
11 Superintendent of Public Instruction even though the applicant has not
12 reached the legal age to be eligible for a driver's license.

13 (2) For certification as a school bus driver as provided for in G.S. 20-218
14 and G.S. 20-37.13.

15 ~~Such~~ Any restricted instruction permit issued under this subsection shall entitle the
16 permittee when he has such permit in his immediate possession to operate a specified
17 type or class of motor vehicle subject to the restrictions imposed by the Division. The
18 restrictions which the Division may impose on such permits include but are not limited
19 to restrictions to designated areas and highways and restrictions prohibiting operation
20 except when an approved instructor is occupying a seat beside the permittee. Restricted
21 instruction permits issued under this subsection shall not be required to bear a
22 distinguishing number or a picture of the permittee."

23 Sec. 23. G.S. 20-179(m) reads as rewritten:

24 "(m) Assessment and Treatment Required in Certain Cases. If a defendant being
25 sentenced under this section is placed on probation, he shall be required as a condition
26 of that probation to obtain a substance abuse assessment.

27 The judge shall require the defendant to obtain the assessment from an area mental
28 health agency, its designated agent, or a private facility licensed by the State for the
29 treatment of alcoholism and substance abuse. Unless a different time limit is specified in
30 the court's judgment, the defendant shall schedule the assessment within 30 days from
31 the date of the judgment. Any agency performing assessments shall give written
32 notification of its intention to do so to the area mental health authority in the catchment
33 area in which it is located and to the Department of Human Resources. The Secretary
34 of the Department of Human Resources may adopt rules to implement the provisions of
35 this subsection, and these rules may include provisions to allow defendant to obtain
36 assessments and treatment from agencies not located in North Carolina. The assessing
37 agency shall give the client a standardized test capable of providing uniform research
38 data, including, but not limited to, demographic information, defendant history,
39 assessment results and recommended interventions, approved by the Department of
40 Human Resources to determine chemical dependency. A clinical interview concerning
41 the general status of the defendant with respect to chemical dependency shall be
42 conducted by the assessing agency before making any recommendation for further
43 treatment. A recommendation made by the assessing agency shall be signed by a

1 'Certified Alcoholism, Drug Abuse or Substance Abuse Counselor', as defined by the
2 Department of Human Resources.

3 If the assessing agency recommends that the defendant participate in a treatment
4 program, the judge may require the defendant to do so, and he shall require the
5 defendant to execute a Release of Information authorizing the treatment agency to
6 report his progress to the court or the Department of Correction. The judge may order
7 the defendant to participate in an appropriate treatment program at the time he is
8 ordered to obtain an assessment, or he may order him to reappear in court when the
9 assessment is completed to determine if a condition of probation requiring participation
10 in treatment should be imposed. An order of the court shall not require the defendant to
11 participate in any treatment program for more than 90 days unless a longer treatment
12 program is recommended by the assessing agency and his alcohol concentration was .15
13 or greater as indicated by a chemical analysis taken when he was charged or this was a
14 second or subsequent offense within five years. At the time of sentencing the judge
15 shall require the defendant to pay one hundred twenty-five dollars (\$125.00). The
16 payment of the fee of one hundred twenty-five dollars (\$125.00) shall be (i) fifty dollars
17 (\$50.00) to the assessing agency and (ii) seventy-five dollars (\$75.00) to either a
18 treatment facility or to an alcohol and drug education traffic school depending upon the
19 recommendation made by the assessing agency. ~~G.S. 20-179(l) shall not apply to~~
20 ~~defendants sentenced under this section.~~ Fees received by the Area Mental Health, Mental
21 Retardation, and Substance Abuse Authorities under this section shall be administered
22 pursuant to G.S. 20-179.2(e), provided, however that the provisions of G.S. 20-179.2(c)
23 shall not apply to monies received under this section. The operators of the local alcohol
24 and drug education traffic school may change the length of time required to complete
25 the school in accordance with administrative costs, provided, however that the length
26 and the curriculum of the school shall be approved by the Commission for Mental
27 Health, Mental Retardation and Substance Abuse Services and in no event shall the
28 school be less than five hours in length. If the defendant is treated by an area mental
29 health facility, G.S. 122C-146 applies after receipt of the seventy-five dollar (\$75.00)
30 fee. If an area mental health facility or its contractor is providing treatment or education
31 services to a defendant pursuant to this subsection, the area facility or its contractor may
32 require that the defendant pay the fees prescribed by law for the services before it
33 certifies that the defendant has completed the recommended treatment or educational
34 program. Any determinations with regard to the defendant's ability to pay the
35 assessment fee shall be made by the judge.

36 In those cases in which no substance abuse handicap is identified, that finding shall
37 be filed with the court and the defendant shall be required to attend an alcohol and drug
38 education traffic school. When treatment is required, the treatment agency's progress
39 reports shall be filed with the court or the Department of Correction at intervals of no
40 greater than six months until the termination of probation or the treatment agency
41 determines and reports that no further treatment is appropriate. If the defendant is
42 required to participate in a treatment program and he completes the recommended
43 treatment, he does not have to attend the alcohol and drug education traffic school.
44 Upon the completion of the court-ordered assessment and court-ordered treatment or

1 school, the assessing or treatment agency or school shall give the Division of Motor
2 Vehicles the original of the certificate of completion, shall provide the defendant with a
3 copy of that certificate, and shall retain a copy of the certificate on file for a period of
4 five years. The Division of Motor Vehicles shall not reissue the driver's license of a
5 defendant ordered to obtain assessment, participate in a treatment program or school
6 unless it has received the original certificate of completion from the assessing or
7 treatment agency or school or a certificate of completion sent by the agency subsequent
8 to a court order as hereinafter provided; provided, however that a defendant may be
9 issued a limited driving privilege pursuant to G.S. 20-179.3. Unless the judge has
10 waived the fee, no certificate shall be issued unless the agency or school has received
11 the fifty dollar (\$50.00) fee and the seventy-five dollar (\$75.00) fee as appropriate. A
12 defendant may within 90 days after an agency decision to decline to certify, by filing a
13 motion in the criminal case, request that a judge presiding in the court in which he was
14 convicted review the decision of an assessment or treatment agency to decline to certify
15 that the defendant has completed the assessment or treatment. The agency whose
16 decision is being reviewed shall be notified at least 10 days prior to any hearing to
17 review its decision. If the judge determines that the defendant has obtained an
18 assessment, has completed the treatment, or has made an effort to do so that is
19 reasonable under the circumstances, as the case may be, the judge shall order that the
20 agency send a certificate of completion to the Division of Motor Vehicles.

21 The Department of Human Resources may approve programs offered in another
22 state if they are substantially similar to programs approved in this State, and if that state
23 recognizes North Carolina programs for similar purposes. The defendant shall be
24 responsible for the fees at the approved program."

25 Sec. 24. G.S. 20-4.19(c) reads as rewritten:

26 "(c) Upon the failure of the nonresident to comply with the citation, the law-
27 ~~enforcement officer shall obtain a warrant for his arrest and~~ Clerk of Court shall report the
28 noncompliance to the Division by either written notice or electronic data processing
29 means with the approval of the Commissioner. The report of noncompliance shall
30 clearly identify the nonresident; describe the violation, specifying the section of the
31 statute, code, or ordinance violated; indicate the location and date of offense; and
32 identify the vehicle involved; bear the signature of the law-enforcement officer; and contain
33 a copy of the personal recognizance signed by the nonresident."

34 Sec. 25. Section 19 of Chapter 771 of the 1989 Session Laws reads as
35 rewritten:

36 "~~Sec. 19. Sections 1 through 17 of this act shall become effective September 1, 1990.~~
37 Section 2 of this act shall become effective as follows: G.S. 20-37.21, created by this
38 section, shall become effective April 1, 1992; the remainder of this section shall become
39 effective September 1, 1990. Section 3 of this act shall become effective April 1, 1992.
40 Section 18 of this act shall become effective June 1, 1989. The remaining sections of
41 this act shall become effective September 1, 1990."

42 Sec. 26. Section 25 of this act is effective upon ratification. Section 24 of
43 this act shall become effective January 1, 1991. Section 5 of this act shall become

1 effective April 1, 1992. The remaining sections of this act shall become effective
2 September 1, 1990.