

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

2

HOUSE BILL 213  
Committee Substitute Favorable 3/30/95

Short Title: Delinquent Truck Penalties & Taxes.

(Public)

Sponsors:

Referred to:

February 16, 1995

A BILL TO BE ENTITLED

AN ACT CONCERNING THE COLLECTION OF DELINQUENT TRUCK  
PENALTIES AND ASSESSED TAXES AND THE CONSOLIDATION OF THE  
VARIOUS PROVISIONS CONCERNING OVERWEIGHT VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-88 is amended by adding a new subsection to read:

"(k) A person may not drive a vehicle on a highway if the vehicle's gross weight exceeds its declared gross weight. A vehicle driven in violation of this subsection is subject to the axle-group weight penalties set in G.S. 20-118(e). The penalties apply to the amount by which the vehicle's gross weight exceeds its declared weight."

Sec. 2. G.S. 20-96 reads as rewritten:

**"§ 20-96. Overloading-Collection of delinquent penalties and taxes.**

~~It is the intent of this section that every owner of a motor vehicle shall procure license in advance to cover the empty weight and maximum load which may be carried. Any owner failing to do so, and whose vehicle shall be found in operation on the highway over the weight for which such vehicle is licensed, shall pay the penalties prescribed in G.S. 20-118(e)(3). Nonresidents operating under the provisions of G.S. 20-83 shall be subject to the additional tax provided in this section when their vehicles are operated in excess of the licensed weight or, regardless of the licensed weight, in excess of the~~

1 maximum weight provided for in G.S. 20-118. Any resident or nonresident owner of a  
2 vehicle that is found in operation on a highway designated by the Board of Transportation  
3 as a light traffic highway, and along which signs are posted showing the maximum legal  
4 weight on said highway with a load in excess of the weight posted for said highway, shall  
5 be subject to the penalties provided in G.S. 20-118(e)(1). Any person who shall willfully  
6 violate the provisions of this section shall be guilty of a Class 2 misdemeanor in addition  
7 to being liable for the additional tax herein prescribed.

8 Any peace officer who discovers that a property-hauling vehicle  
9 used for the transportation of property is being operated on the highways with an overload  
10 as described in this section or which is equipped with improper registration plates, or the owner  
11 of which is liable for any overload penalties or assessments applicable to the vehicle and due and  
12 unpaid for more than 30 days, is hereby authorized to seize said property-hauling vehicle and  
13 hold the same until the overload has been removed or proper registration plates therefor have  
14 been secured and attached thereto and the penalties owed under this section and G.S. 20-118.3  
15 have been paid. Any peace officer seizing a property-hauling vehicle under this provision, may,  
16 when necessary, store said vehicle and the owner thereof shall be responsible for all reasonable  
17 storage charges thereon. When any property-hauling vehicle is seized, held, unloaded or  
18 partially unloaded under this provision, the load or any part thereof shall be cared for by the  
19 owner or operator of the vehicle without any liability on the part of the officer or of the State or  
20 any municipality because of damage to or loss of such load or any part thereof, and that the  
21 owner of the vehicle is more than 30 days overdue in paying any of the following may  
22 detain the vehicle:

23 (1) A penalty previously assessed under this Chapter against the owner for a  
24 violation attributable to the failure of a vehicle to comply with this  
25 Chapter.

26 (2) A tax or penalty previously assessed against the owner under Article  
27 36B of Chapter 105 of the General Statutes.

28 The officer may detain the vehicle until the delinquent penalties and taxes are paid.  
29 When necessary, an officer who detains a vehicle under this section may have the vehicle  
30 stored. The owner of a vehicle that is detained or stored under this section is responsible  
31 for the care of any property being hauled by the vehicle and for any storage charges. The  
32 State is not liable for damage to or loss of the property being hauled."

33 Sec. 3. G.S. 20-118(e)(3) reads as rewritten:

34 "(3) Except as provided in subdivision (4) of this subsection, for a violation  
35 of an axle-group weight limit set in subdivision (b)(3) or (b)(4) of this  
36 section, the Department of Transportation shall assess a civil penalty  
37 against the owner or registrant of the motor vehicle in accordance with  
38 the following schedule: for the first 2,000 pounds or any part thereof,  
39 two cents (2¢) per pound; for the next 3,000 pounds or any part thereof,  
40 four cents (4¢) per pound; for each pound in excess of 5,000 pounds, ten  
41 cents (10¢) per pound. These penalties apply separately to each axle-  
42 group weight limit violated. The penalty shall be assessed on each  
43 pound of weight in excess of the maximum permitted."

44 Sec. 4. G.S. 20-118.1 reads as rewritten:

1 ~~"§ 20-118.1. Peace officer may weigh vehicle and require removal of excess load;~~  
2 ~~refusal to permit weighing. Officers may weigh vehicles and require~~  
3 ~~overloads to be removed.~~

4 Any peace officer having reason to believe that the weight of a vehicle and load is  
5 unlawful is authorized to weigh the same either by means of North Carolina Department  
6 of Transportation portable or stationary scales, and may require that such vehicle be  
7 driven to the nearest North Carolina Department of Transportation stationary scales or  
8 stationary scales approved by the North Carolina Department of Agriculture in the event  
9 such scales are within five miles. The officer may then require the driver to unload  
10 immediately such portion of the load as may be necessary to decrease the gross weight of  
11 such vehicle to the maximum therefor specified in this Article. All material so unloaded  
12 shall be cared for by the owner or operator of such vehicle at the risk of such owner or  
13 operator. Any person who refuses to permit a vehicle being operated by him to be  
14 weighed as in this section provided or who refuses to drive said vehicle upon the scales  
15 provided for weighing for the purpose of being weighed, shall be guilty of a Class 2  
16 misdemeanor. No vehicle more than two miles from a North Carolina Department of  
17 Transportation stationary scales may be required to be driven to such scales unless the  
18 peace officer knows or reasonably suspects the vehicle has driven so as to avoid being  
19 weighed at the scales.

20 A law enforcement officer may stop and weigh a vehicle to determine if the vehicle's  
21 weight is in compliance with the vehicle's declared gross weight and the weight limits set  
22 in this Part. The officer may require the driver of the vehicle to drive to a scale located  
23 within five miles of where the officer stopped the vehicle.

24 If the vehicle's weight exceeds the amount allowable, the officer may detain the  
25 vehicle until the overload has been removed. Any property removed from a vehicle  
26 because the vehicle was overloaded is the responsibility of the owner or operator of the  
27 vehicle. The State is not liable for damage to or loss of the removed property.

28 Failure to permit a vehicle to be weighed or to remove an overload is a misdemeanor  
29 of the Class set in G.S. 20-176. An officer must weigh a vehicle with a scale that has  
30 been approved by the Department of Agriculture."

31 Sec. 5. G.S. 20-183.11 is repealed.

32 Sec. 6. This act is effective upon ratification.