

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**HOUSE BILL 670\***  
**Committee Substitute Favorable 5/5/05**  
**Senate Commerce Committee Substitute Adopted 8/10/05**  
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Short Title: CDL/Federal Compliance.-AB

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Sponsors:

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Referred to:

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March 16, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS GOVERNING COMMERCIAL DRIVERS  
LICENSES IN ORDER TO COMPLY WITH FEDERAL LAW.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-4.01(4a) reads as rewritten:

"(4a) Conviction. – A conviction for an offense committed in North Carolina or another state:

a. In-State. When referring to an offense committed in North Carolina, the term means any of the following:

1. A final conviction of a criminal offense, including a no contest plea.
2. A determination that a person is responsible for an infraction, including a no contest plea.
3. An unvacated forfeiture of cash in the full amount of a bond required by Article 26 of Chapter 15A of the General Statutes.
4. A third or subsequent prayer for judgment continued within any five-year period.
5. Any prayer for judgment continued if the offender holds a commercial drivers license or if the offense occurs in a commercial motor vehicle.

b. Out-of-State. When referring to an offense committed outside North Carolina, the term means any of the following:

1. An unvacated adjudication of guilt.
2. A determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal.

- 1 3. An unvacated forfeiture of bail or collateral deposited to
- 2 secure the person's appearance in court.
- 3 4. A violation of a condition of release without bail,
- 4 regardless of whether or not the penalty is rebated,
- 5 suspended, or probated.
- 6 5. A final conviction of a criminal offense, including a no
- 7 contest plea."

8 **SECTION 2.** G.S. 20-4.01(12b) reads as rewritten:

9 "(12b) Gross Vehicle Weight Rating (GVWR). – The value specified by the  
10 manufacturer as the maximum loaded weight a vehicle is capable of  
11 safely hauling. The GVWR of a combination vehicle is the GVWR of  
12 the power unit plus the GVWR of the towed unit or units. When a  
13 vehicle is determined by an enforcement officer to be structurally  
14 altered in any way from the manufacturer's original design in an  
15 attempt to increase the hauling capacity of the vehicle, the GVWR of  
16 that vehicle shall be deemed to be the greater of the license weight or  
17 the total weight of the vehicle or combination of vehicles for the  
18 purpose of enforcing this Chapter. For the purpose of classification of  
19 commercial drivers license and skills testing, the manufacturer's  
20 GVWR shall be used."

21 **SECTION 3.** G.S. 20-4.01(41a) reads as rewritten:

22 "(41a) Serious Traffic Violation. – A conviction of one of the following  
23 offenses when operating a commercial or other motor vehicle:  
24 a. Excessive speeding, involving a single charge of any speed 15  
25 miles per hour or more above the posted speed limit.  
26 b. Careless and reckless driving.  
27 c. A violation of any State or local law relating to motor vehicle  
28 traffic control, other than a parking violation, arising in  
29 connection with a fatal accident.  
30 d. Improper or erratic lane changes.  
31 e. Following the vehicle ahead too closely.  
32 f. Driving a commercial motor vehicle without obtaining a  
33 commercial drivers license.  
34 g. Driving a commercial motor vehicle without a commercial  
35 drivers license in the driver's possession.  
36 h. Driving a commercial motor vehicle without the proper class of  
37 commercial drivers license or endorsements for the specific  
38 vehicle group being operated or for the passenger or type of  
39 cargo being transported."

40 **SECTION 4.** G.S. 20-7(a) reads as rewritten:

41 "(a) License Required. – To drive a motor vehicle on a highway, a person must be  
42 licensed by the Division under this Article or Article 2C of this Chapter to drive the  
43 vehicle and must carry the license while driving the vehicle. The Division issues regular

1 drivers licenses under this Article and issues commercial drivers licenses under Article  
2 2C.

3 A license authorizes the holder of the license to drive any vehicle included in the  
4 class of the license and any vehicle included in a lesser class of license, except a vehicle  
5 for which an endorsement is required. To drive a vehicle for which an endorsement is  
6 required, a person must obtain both a license and an endorsement for the vehicle. A  
7 regular drivers license is considered a lesser class of license than its commercial  
8 counterpart.

9 The classes of regular drivers licenses and the motor vehicles that can be driven with  
10 each class of license are:

11 (1) Class A. – A Class A license authorizes the holder to drive any of the  
12 following:

13 a. A Class A motor vehicle that is exempt under G.S. 20-37.16  
14 from the commercial drivers license requirements.

15 b. A Class A motor vehicle that has a combined GVWR of less  
16 than 26,001 pounds and includes as part of the combination a  
17 towed unit that has a GVWR of at least 10,001 pounds.

18 (2) Class B. – A Class B license authorizes the holder to drive any Class B  
19 motor vehicle that is exempt under G.S. 20-37.16 from the commercial  
20 drivers license requirements.

21 (3) Class C. – A Class C license authorizes the holder to drive any of the  
22 following:

23 a. A Class C motor vehicle that is not a commercial motor vehicle.

24 b. When operated by a volunteer member of a fire department, a  
25 rescue squad, or an emergency medical service (EMS) in the  
26 performance of duty, a Class A or Class B fire-fighting, rescue,  
27 or EMS motor vehicle or a combination of these vehicles.

28 The Commissioner may assign a unique motor vehicle to a class that is different  
29 from the class in which it would otherwise belong.

30 A person holding a commercial drivers license issued by another jurisdiction must  
31 apply for a transfer and obtain a North Carolina issued commercial drivers license  
32 within 30 days of becoming a resident. Any other A-new resident of North Carolina who  
33 has a drivers license issued by another jurisdiction must obtain a license from the  
34 Division within 60 days after becoming a resident."

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

36 "**§ 20-15. Authority of Division to cancel ~~license~~ license or endorsement.**

37 (a) The Division shall have authority to cancel any driver's license upon  
38 determining that the licensee was not entitled to the issuance thereof hereunder, or that  
39 said licensee failed to give the required or correct information in his application, or  
40 committed fraud in making such application.

41 (b) Upon such cancellation, the licensee must surrender the license so cancelled  
42 to the Division.

43 (c) Any person whose license is canceled under this section for failure to give the  
44 required or correct information, or for committing fraud, in an application for a

1 commercial drivers license shall be prohibited from reapplying for a commercial drivers  
2 license for a period of 60 days from the date of cancellation.

3 (d) The Division shall have authority to revoke an H endorsement of a  
4 commercial drivers license holder if the person with the endorsement is determined by  
5 the federal Transportation Security Administration to constitute a security threat, as  
6 specified in 49 C.F.R. § 1572.5(d)(4)."

7 **SECTION 6.** G.S. 20-17.4 reads as rewritten:

8 **"§ 20-17.4. Disqualification to drive a commercial motor vehicle.**

9 (a) One Year. – Any of the following disqualifies a person from driving a  
10 commercial motor vehicle for one ~~year~~:year if committed by a person holding a  
11 commercial drivers license, or, when applicable, committed while operating a  
12 commercial motor vehicle by a person who does not hold a commercial drivers license:

13 (1) A first conviction of G.S. 20-138.1, driving while impaired, for a  
14 holder of a commercial drivers license that occurred while the person  
15 was driving a motor vehicle that is not a commercial motor vehicle.

16 (2) A first conviction of G.S. 20-138.2, driving a commercial motor  
17 vehicle while impaired.

18 (3) A first conviction of G.S. 20-166, hit and ~~run~~, ~~run, involving a~~  
19 ~~commercial motor vehicle driven by the person.~~

20 (4) A first conviction of a felony in the commission of which a  
21 commercial motor vehicle was ~~used~~ used or the first conviction of a  
22 felony in which any motor vehicle is used by a holder of a commercial  
23 drivers license.

24 (5) Refusal to submit to a chemical test when charged with an  
25 implied-consent offense, as defined in ~~G.S. 20-16.2~~, ~~G.S. 20-16.2, that~~  
26 ~~occurred while the person was driving a commercial motor vehicle.~~

27 (6) A second or subsequent conviction, as defined in G.S. 20-138.2A(d),  
28 of driving a commercial motor vehicle after consuming alcohol under  
29 G.S. 20-138.2A.

30 (7) A civil license revocation under G.S. 20-16.5, or a substantially similar  
31 revocation obtained in another jurisdiction, arising out of a charge that  
32 occurred while the person was operating a commercial motor vehicle.

33 (8) A first conviction of vehicular homicide under G.S. 20-141.4 or  
34 vehicular manslaughter under G.S. 14-18 occurring while the person  
35 was operating a commercial motor vehicle.

36 (9) Driving a commercial motor vehicle during a period when the person's  
37 commercial drivers license is revoked, suspended, cancelled, or the  
38 driver is otherwise disqualified from operating a commercial motor  
39 vehicle.

40 (a1) Ten-Day Disqualification. – A person who is convicted for a first offense of  
41 driving a commercial motor vehicle after consuming alcohol under G.S. 20-138.2A is  
42 disqualified from driving a commercial motor vehicle for 10 days.

43 (b) Modified Life. – A person who has been disqualified from driving a  
44 commercial motor vehicle for a conviction or refusal described in subsection (a) who, as

1 the result of a separate incident, is subsequently convicted of an offense or commits an  
2 act requiring disqualification under subsection (a) is disqualified for life. The Division  
3 may adopt guidelines, including conditions, under which a disqualification for life under  
4 this subsection may be reduced to 10 years.

5 (b1) Life Without Reduction. – A person is disqualified from driving a  
6 commercial motor vehicle for life, without the possibility of reinstatement after 10  
7 years, if that person is convicted of a third or subsequent violation of G.S. 20-138.2, a  
8 fourth or subsequent violation of G.S. 20-138.2A, or if the person refuses to submit to a  
9 chemical test a third time when charged with an implied-consent offense, as defined in  
10 G.S. 20-16.2, that occurred while the person was driving a commercial motor vehicle.

11 (c) Life. – A person is disqualified from driving a commercial motor vehicle for  
12 life if that person uses a commercial motor vehicle in the commission of any felony  
13 involving the manufacture, distribution, or dispensing of a controlled substance, or  
14 possession with intent to manufacture, distribute, or dispense a controlled substance.

15 (d) Less Than a Year. – A person is disqualified from driving a commercial  
16 motor vehicle for 60 days if that person is convicted of two serious traffic violations, or  
17 120 days if convicted of three or more serious traffic violations, committed in a  
18 commercial motor vehicle arising from separate incidents occurring within a three-year  
19 period. This disqualification shall be in addition to, and shall be served at the end of,  
20 any other prior disqualification. For purposes of this subsection, a "serious violation"  
21 includes violations of G.S. 20-140(f) and G.S. 20-141(j3).

22 (e) Three Years. – A person is disqualified from driving a commercial motor  
23 vehicle for three years if that person is convicted of an offense or commits an act  
24 requiring disqualification under subsection (a) and the offense or act occurred while the  
25 person was transporting a hazardous material that required the motor vehicle driven to  
26 be placarded.

27 (f) Revocation Period. – A person is disqualified from driving a commercial  
28 motor vehicle for the period during which the person's regular or commercial drivers  
29 license is ~~revoked~~ revoked, suspended, or cancelled.

30 (g) Violation of Out-of-Service Order. – Any person convicted for violating an  
31 out-of-service order, except as described in subsection (h) of this section, shall be  
32 disqualified as follows:

- 33 (1) A person is disqualified from driving a commercial vehicle for a  
34 period of 90 days if convicted of a first violation of an out-of-service  
35 order.
- 36 (2) A person is disqualified for a period of one year if convicted of a  
37 second violation of an out-of-service order during any 10-year period,  
38 arising from separate incidents.
- 39 (3) A person is disqualified for a period of three years if convicted of a  
40 third or subsequent violation of an out-of-service order during any  
41 10-year period, arising from separate incidents.

42 (h) Violation of Out-of-Service Order; Special Rule for Hazardous Materials and  
43 Passenger Offenses. – Any person convicted for violating an out-of-service order while  
44 transporting hazardous materials or while operating a commercial vehicle designed or

1 used to transport more than 15 passengers, including the driver, shall be disqualified as  
2 follows:

3 (1) A person is disqualified for a period of 180 days if convicted of a first  
4 violation of an out-of-service order.

5 (2) A person is disqualified for a period of three years if convicted of a  
6 second or subsequent violation of an out-of-service order during any  
7 10-year period, arising from separate incidents.

8 (i) Disqualification for Out-of-State Violations. – The Division shall withdraw  
9 the privilege to operate a commercial vehicle of any resident of this State or person  
10 transferring to this State upon receiving notice of the person's conviction or  
11 Administrative Per Se Notice in another state for an offense that, if committed in this  
12 State, would be grounds for ~~disqualification.~~ disqualification, even if the offense  
13 occurred in another jurisdiction prior to being licensed in this State where no action had  
14 been taken at that time in the other jurisdiction. The period of disqualification shall be  
15 the same as if the offense occurred in this State.

16 (j) Disqualification of Persons Without Commercial Drivers Licenses. – Any  
17 person convicted of an offense that requires disqualification under this section, but who  
18 does not hold a commercial drivers license, shall be disqualified from operating a  
19 commercial vehicle in the same manner as if the person held a valid commercial drivers  
20 license.

21 (k) Disqualification for Railroad Grade Crossing Offenses. – Any person  
22 convicted of a violation of G.S. 20-142.1 through G.S. 20-142.5, when the driver is  
23 operating a commercial motor vehicle, shall be disqualified from driving a commercial  
24 motor vehicle as follows:

25 (1) A person is disqualified for a period of 60 days if convicted of a first  
26 violation of a railroad grade crossing offense listed in this subsection.

27 (2) A person is disqualified for a period of 120 days if convicted during  
28 any three-year period of a second violation of any combination of  
29 railroad grade crossing offenses listed in this subsection.

30 (3) A person is disqualified for a period of one year if convicted during  
31 any three-year period of a third or subsequent violation of any  
32 combination of railroad grade crossing offenses listed in this  
33 subsection.

34 (m) Disqualifications of Drivers Who Are Determined to Constitute an Imminent  
35 Hazard. – The Division shall withdraw the privilege to operate a commercial motor  
36 vehicle for any resident of this State for a period of 30 days in accordance with 49  
37 C.F.R. § 383.52."

38 **SECTION 7.** G.S. 20-36 reads as rewritten:

39 **"§ 20-36. Ten-year-old convictions not considered.**

40 ~~Except for a second or subsequent conviction for violating G.S. 20-138.2, a third or~~  
41 ~~subsequent violation of G.S. 20-138.2A, or a second failure to submit to a chemical test~~  
42 ~~when charged with an implied consent offense, as defined in G.S. 20-16.2, that occurred~~  
43 ~~while the person was driving a commercial motor vehicle, Except for offenses occurring~~  
44 ~~in a commercial motor vehicle, or a second failure to submit to a chemical test when~~

1 charged with an implied-consent offense, as defined in G.S. 20-16.2, that occurred  
2 while the person was driving a commercial motor vehicle, no conviction of any other  
3 violation of the motor vehicle laws shall be considered by the Division in determining  
4 whether any person's driving privilege shall be suspended or revoked or in determining  
5 the appropriate period of suspension or revocation after 10 years has elapsed from the  
6 date of that conviction."

7 **SECTION 8.** G.S. 20-37.13 reads as rewritten:

8 **"§ 20-37.13. Commercial drivers license qualification standards.**

9 (a) No person shall be issued a commercial drivers license unless he:

- 10 (1) Is a resident of this State;  
11 (2) Is 21 years of age;  
12 (3) Has passed a knowledge test and a skills test for driving a commercial  
13 motor vehicle that comply with minimum federal standards established  
14 by federal regulation enumerated in 49 C.F.R., Part 383, Subparts F, G  
15 and H; and  
16 (4) Has satisfied all other requirements of the Commercial Motor Vehicle  
17 Safety Act in addition to other requirements of this Chapter or federal  
18 regulation.

19 For the purpose of skills testing and determining commercial drivers license  
20 classification, only the manufacturer's GVWR shall be used.

21 The tests shall be prescribed and conducted by the Division. Provided, a person who  
22 is at least 18 years of age may be issued a commercial drivers license if he is exempt  
23 from, or not subject to, the age requirements of the federal Motor Carrier Safety  
24 Regulations contained in 49 C.F.R., Part 391, as adopted by the Division.

25 (b) The Division may permit a person, including an agency of this or another  
26 state, an employer, a private driver training facility, or an agency of local government,  
27 to administer the skills test specified by this section, provided:

- 28 (1) The test is the same as that administered by the Division; and  
29 (2) The third party has entered into an agreement with the Division which  
30 complies with the requirements of 49 C.F.R. § 383.75. The Division  
31 may charge a fee to applicants for third-party testing authority in order  
32 to investigate the applicants' qualifications and to monitor their  
33 program as required by federal law.

34 (c) Prior to October 1, 1992, the Division may waive the skills test for applicants  
35 licensed at the time they apply for a commercial drivers license if:

- 36 (1) For an application submitted by April 1, 1992, the applicant has not,  
37 and certifies that he has not, at any time during the two years  
38 immediately preceding the date of application done any of the  
39 following and for an application submitted after April 1, 1992, the  
40 applicant has not, and certifies that he has not, at any time during the  
41 two years preceding April 1, 1992:  
42 a. Had more than one drivers license, except during the 10-day  
43 period beginning on the date he is issued a drivers license, or  
44 unless, prior to December 31, 1989, he was required to have

- 1 more than one license by a State law enacted prior to June 1,  
2 1986;
- 3 b. Had any drivers license or driving privilege suspended,  
4 revoked, or cancelled;
- 5 c. Had any convictions involving any kind of motor vehicle for  
6 the offenses listed in G.S. 20-17 or had any convictions for the  
7 offenses listed in G.S. 20-17.4;
- 8 d. Been convicted of a violation of State or local laws relating to  
9 motor vehicle traffic control, other than a parking violation,  
10 which violation arose in connection with any reportable traffic  
11 accident; or
- 12 e. Refused to take a chemical test when charged with an implied  
13 consent offense, as defined in G.S. 20-16.2; and
- 14 (2) The applicant certifies, and provides satisfactory evidence, that he is  
15 regularly employed in a job requiring the operation of a commercial  
16 motor vehicle, and he either:
- 17 a. Has previously taken and successfully completed a skills test  
18 that was administered by a state with a classified licensing and  
19 testing system and the test was behind the wheel in a vehicle  
20 representative of the class and, if applicable, the type of  
21 commercial motor vehicle for which the applicant seeks to be  
22 licensed; or
- 23 b. Has operated for the relevant two-year period under subpart  
24 (1)a. of this subsection, a vehicle representative of the class and,  
25 if applicable, the type of commercial motor vehicle for which  
26 the applicant seeks to be licensed.
- 27 (d) A commercial drivers license or learner's permit shall not be issued to a  
28 person while he is subject to a disqualification from driving a commercial motor  
29 vehicle, or while his drivers license is suspended, revoked, or cancelled in any state; nor  
30 shall a commercial drivers license be issued unless the person who has applied for the  
31 license first surrenders all other drivers licenses issued by the Division or by another  
32 state. If a person surrenders a drivers license issued by another state, the Division must  
33 return the license to the issuing state for cancellation.
- 34 (e) A commercial driver learner's permit may be issued to an individual who  
35 holds a regular Class C drivers license and has passed the knowledge test for the class  
36 and type of commercial motor vehicle the individual will be driving. The permit is valid  
37 for a period not to exceed six months and may be renewed or reissued only once within  
38 a two-year period. The fee for a commercial driver learner's permit is the same as the  
39 fee set by G.S. 20-7 for a regular learner's permit. G.S. 20-7(m) governs the issuance of  
40 a restricted instruction permit for a prospective school bus driver."

41 **SECTION 9.** G.S. 20-37.16 reads as rewritten:

42 "**§ 20-37.16. Content of license; classifications and endorsements; fees.**



1 (a) A commercial drivers license must be marked "Commercial Drivers License"  
 2 or "CDL" and must contain the information required by G.S. 20-7 for a regular drivers  
 3 license.

4 (b) The classes of commercial drivers licenses are:

5 (1) Class A CDL – A Class A commercial drivers license authorizes the  
 6 holder to drive any Class A motor vehicle.

7 (2) Class B CDL – A Class B commercial drivers license authorizes the  
 8 holder to drive any Class B motor vehicle.

9 (3) Class C CDL – A Class C commercial drivers license authorizes the  
 10 holder to drive any Class C motor vehicle.

11 (c) Endorsements. – The endorsements required to drive certain motor vehicles  
 12 are as follows:

<u>Endorsement</u>	<u>Vehicles That Can Be Driven</u>
H	Vehicles, regardless of size or class, except tank vehicles, when transporting hazardous materials that require the vehicle to be placarded
M	Motorcycles
N	Tank vehicles not carrying hazardous materials
P	Vehicles carrying passengers
S	School bus
T	Double trailers
X	Tank vehicles carrying hazardous materials

23 To qualify for any of the above endorsements, an applicant shall pass a knowledge  
 24 test. To obtain an H or an X endorsement, an applicant must take a test. This  
 25 requirement applies when a person first obtains an H or an X endorsement and each  
 26 time a person renews an H or an X endorsement. An applicant who has an H or an X  
 27 endorsement issued by another state who applies for an H or an X endorsement must  
 28 take a test unless the person has passed a test that covers the information set out in 49  
 29 C.F.R. § 383.121 within the preceding two years.

30 (c1) The test for an S endorsement shall be waived by the Division for an  
 31 applicant who is currently licensed, has experience driving a school bus, has a good  
 32 driving record, and meets the requirements of this subsection. An applicant for a waiver  
 33 under this subsection shall verify that, during the two-year period immediately prior to  
 34 application for an S endorsement, the applicant met all of the following requirements:

35 (1) The applicant held a valid commercial drivers license with a passenger  
 36 vehicle endorsement to operate a school bus representative of the  
 37 group the applicant will be driving.

38 (2) The applicant did not have the applicant's drivers license or  
 39 commercial drivers license suspended, revoked, or cancelled, or the  
 40 applicant was not disqualified from operating a commercial motor  
 41 vehicle.

42 (3) The applicant was not convicted of a State law offense that  
 43 corresponds to the list of disqualifying offenses in 49 C.F.R. §  
 44 383.51(b) while operating a commercial motor vehicle or of any

1 offense in a noncommercial motor vehicle that would be a  
2 disqualifying offense under 49 C.F.R. § 383.51(b) if committed in a  
3 commercial motor vehicle.

4 (4) The applicant was not convicted of more than one of the serious traffic  
5 violations listed and defined in G.S. 20-4.01(41a) while operating any  
6 type of motor vehicle.

7 (5) The applicant was not convicted of a violation of State or local law  
8 relating to motor vehicle traffic control, other than a parking violation,  
9 arising in connection with any traffic accident.

10 (6) The applicant was not convicted of any motor vehicle traffic violation  
11 that resulted in an accident.

12 (7) The applicant was regularly employed as a school bus driver, operated  
13 a school bus representative of the group the applicant seeks to drive,  
14 and provides evidence of that employment.

15 (d) The fee for a Class A, B, or C commercial drivers license is ten dollars  
16 (\$10.00) for each year of the period for which the license is issued. The fee for each  
17 endorsement is one dollar and twenty-five cents (\$1.25) for each year of the period for  
18 which the endorsement is issued. The fees required under this section do not apply to  
19 employees of the Driver License Section of the Division who are designated by the  
20 Commissioner.

21 (e) The requirements for a commercial drivers license do not apply to vehicles  
22 used for personal use such as recreational vehicles. A commercial drivers license is also  
23 waived for the following classes of vehicles as permitted by regulation of the United  
24 States Department of Transportation:

25 (1) Vehicles owned or operated by the Department of Defense, including  
26 the National Guard, while they are driven by active duty military  
27 personnel, or members of the National Guard when on active duty, in  
28 the pursuit of military purposes.

29 (2) Any vehicle when used as firefighting or emergency equipment for the  
30 purpose of preserving life or property or to execute emergency  
31 governmental functions.

32 (3) A farm vehicle that meets all of the following criteria:

33 a. Is controlled and operated by the farmer or the farmer's  
34 employee and used exclusively for farm use.

35 b. Is used to transport either agricultural products, farm  
36 machinery, or farm supplies, both to or from a farm.

37 c. Is not used in the operations of a for-hire motor carrier.

38 d. Is used within 150 miles of the farmer's farm.

39 A farm vehicle includes a forestry vehicle that meets the listed criteria  
40 when applied to the forestry operation.

41 (f) For the purposes of this section, the term "school bus" has the same meaning  
42 as in 49 C.F.R. § 383.5."

43 **SECTION 10.** G.S. 20-37.21 reads as rewritten:

44 **"§ 20-37.21. Penalties.**

1 (a) Any person who drives a commercial motor vehicle in violation of  
2 G.S. 20-37.12 shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be  
3 fined not less than two hundred fifty dollars (\$250.00) for a first offense and not less  
4 than five hundred dollars (\$500.00) for a second or subsequent offense. In addition,  
5 upon conviction, the person shall be subject to a civil penalty of not less than one  
6 thousand one hundred dollars (\$1,100) for the first offense and not more than two  
7 thousand seven hundred fifty dollars (\$2,750) for a second or subsequent offense.

8 (b) Any person who violates G.S. 20-37.18 shall have committed an infraction  
9 and, upon being found responsible, shall pay a penalty of not less than one hundred  
10 dollars (\$100.00) nor more than five hundred dollars (\$500.00).

11 (c) Any employer who violates G.S. 20-37.19 shall have committed an infraction  
12 and, upon being found responsible, shall pay a penalty of not less than five hundred  
13 dollars (\$500.00) nor more than one thousand dollars (\$1,000). In addition, upon  
14 conviction, the employer shall be subject to a civil penalty of not less than two thousand  
15 seven hundred fifty dollars (\$2,750) nor more than eleven thousand dollars (\$11,000).

16 (d) An employer who knowingly allows, requires, permits, or otherwise  
17 authorizes an employee to violate any railroad grade requirements contained in  
18 G.S. 20-142.1 through G.S. 20-142.5 shall pay a civil penalty of not more than ten  
19 thousand dollars (\$10,000)."

20 **SECTION 11.** G.S. 20-141(j3) reads as rewritten:

21 "(j3) A person is guilty of a Class 2 misdemeanor if the person drives a  
22 commercial motor vehicle carrying a load that is subject to the permit requirements of  
23 G.S. 20-119 upon a highway or any public vehicular area at a speed ~~in excess of~~ 15  
24 miles per hour or more above either:

- 25 (1) The posted speed; or  
26 (2) The restricted speed, if any, of the permit, or if no permit was  
27 obtained, the speed that would be applicable to the load if a permit had  
28 been obtained."

29 **SECTION 12.** G.S. 20-142.1 reads as rewritten:

30 **"§ 20-142.1. Obedience to railroad signal.**

31 (a) Whenever any person driving a vehicle approaches a railroad grade crossing  
32 under any of the circumstances stated in this section, the driver of the vehicle shall stop  
33 within 50 feet, but not less than 15 feet from the nearest rail of the railroad and shall not  
34 proceed until he can do so safely. These requirements apply when:

- 35 (1) A clearly visible electrical or mechanical signal device gives warning  
36 of the immediate approach of a railroad train;  
37 (2) A crossing gate is lowered or when a human flagman gives or  
38 continues to give a signal of the approach or passage of a railroad  
39 train;  
40 (3) A railroad train approaching within approximately 1500 feet of the  
41 highway crossing emits a signal audible from that distance, and the  
42 railroad train is an immediate hazard because of its speed or nearness  
43 to the crossing; or

1 (4) An approaching railroad train is plainly visible and is in hazardous  
2 proximity to the crossing.

3 (b) No person shall drive any vehicle through, around, or under any crossing gate  
4 or barrier at a railroad crossing while the gate or barrier is closed or is being opened or  
5 closed, nor shall any pedestrian pass through, around, over, or under any crossing gate  
6 or barrier at a railroad crossing while the gate or barrier is closed or is being opened or  
7 closed.

8 (c) When stopping as required at a railroad crossing, the driver shall keep as far  
9 to the right of the highway as possible and shall not form two lanes of traffic unless the  
10 roadway is marked for four or more lanes of traffic.

11 (d) Any person who violates any provisions of this section shall be guilty of an  
12 infraction and punished in accordance with G.S. 20-176. Violation of this section shall  
13 not constitute negligence per se.

14 (e) An employer who knowingly allows, requires, permits, or otherwise  
15 authorizes a driver of a commercial motor vehicle to violate this section shall be guilty  
16 of an infraction. Such employer will also be subject to a civil penalty under  
17 G.S. 20-37.21."

18 **SECTION 13.** G.S. 20-142.2 reads as rewritten:

19 **"§ 20-142.2. Vehicles stop at certain grade crossing.**

20 The Department of Transportation may designate particularly dangerous highway  
21 crossings of railroads and erect stop signs at those crossings. When a stop sign is erected  
22 at a highway crossing of a railroad, the driver of any vehicle shall stop within 50 feet  
23 but not less than 15 feet from the nearest rail of such grade crossing and shall proceed  
24 only upon exercising due care. Any person who violates this section shall be guilty of an  
25 infraction and punished in accordance with G.S. 20-176. Violation of this section shall  
26 not constitute negligence per se. An employer who knowingly allows, requires, permits,  
27 or otherwise authorizes a driver of a commercial motor vehicle to violate this section  
28 shall be guilty of an infraction. Such employer will also be subject to a civil penalty  
29 under G.S. 20-37.21."

30 **SECTION 14.** G.S. 20-142.3 reads as rewritten:

31 **"§ 20-142.3. Certain vehicles must stop at railroad grade crossing.**

32 (a) Before crossing at grade any track or tracks of a railroad, the driver of any  
33 school bus, any activity bus, any motor vehicle carrying passengers for compensation,  
34 any commercial motor vehicle listed in 49 C.F.R. § 392.10, and any motor vehicle with  
35 a capacity of 16 or more persons shall stop the vehicle within 50 feet but not less than  
36 15 feet from the nearest rail of the railroad. While stopped, the driver shall listen and  
37 look in both directions along the track for any approaching train and shall not proceed  
38 until the driver can do so safely. Upon proceeding, the driver of the vehicle shall cross  
39 the track in a gear that allows the driver to cross the track without changing gears and  
40 the driver shall not change gears while crossing the track or tracks.

41 (b) Except for school buses and activity buses, the provisions of this section shall  
42 not require the driver of a vehicle to stop:

43 (1) At railroad tracks used exclusively for industrial switching purposes  
44 within a business district.

- 1 (2) At a railroad grade crossing which a police officer or crossing flagman  
2 directs traffic to proceed.
- 3 (3) At a railroad grade crossing protected by a gate or flashing signal  
4 designed to stop traffic upon the approach of a train, when the gate or  
5 flashing signal does not indicate the approach of a train.
- 6 (4) At an abandoned railroad grade crossing which is marked with a sign  
7 indicating that the rail line is abandoned.
- 8 (5) At an industrial or spur line railroad grade crossing marked with a sign  
9 reading "Exempt" erected by or with the consent of the appropriate  
10 State or local authority.

11 (c) A person violating the provisions of this section shall be guilty of an  
12 infraction and punished in accordance with G.S. 20-176. Violation of this section shall  
13 not constitute negligence per se.

14 (d), (e) Repealed by Session Laws 2001-487, s. 50(g).

15 (e) An employer who knowingly allows, requires, permits, or otherwise  
16 authorizes a driver of a commercial motor vehicle to violate this section shall be guilty  
17 of an infraction. Such employer will also be subject to a civil penalty under  
18 G.S. 20-37.21."

19 **SECTION 15.** G.S. 20-142.4 reads as rewritten:

20 "**§ 20-142.4. Moving heavy equipment at railroad grade crossing.**

21 (a) No person shall operate or move any crawler-type tractor, crane, or roller or  
22 any equipment or structure having a normal operating speed of five or less miles per  
23 hour upon or across any tracks at a railroad crossing without first complying with this  
24 section.

25 (b) Notice of any intended crossing described in subsection (a) of this section  
26 shall be given to a superintendent of the railroad and a reasonable time be given to the  
27 railroad to provide protection at the crossing.

28 (c) Before making any crossing described in subsection (a) of this section, the  
29 person operating or moving the vehicle or equipment shall:

- 30 (1) Stop the vehicle or equipment not less than 15 feet nor more than 50  
31 feet from the nearest rail of the railroad;
- 32 (2) While stopped, shall listen and look both directions along the track for  
33 any approaching train and for signals indicating the approach of a  
34 train; and
- 35 (3) Shall not proceed until the crossing can be made safely.

36 (d) No crossing described in subsection (a) of this section shall be made when  
37 warning is given by automatic signal or crossing gates or a flagman or otherwise of the  
38 immediate approach of a railroad train or car.

39 (e) Subsection (c) of this section shall not apply at any railroad crossing where  
40 State or local authorities have determined that trains are not operating during certain  
41 periods or seasons of the year and have erected an official sign carrying the legend  
42 "Exempt".

1 (f) Any person who violates any provision of this section shall be guilty of an  
2 infraction and punished in accordance with G.S. 20-176. Violation of this section shall  
3 not constitute negligence per se.

4 (g) An employer who knowingly allows, requires, permits, or otherwise  
5 authorizes a driver of a commercial motor vehicle to violate this section shall be guilty  
6 of an infraction. Such employer will also be subject to a civil penalty under  
7 G.S. 20-37.21."

8 **SECTION 16.** G.S. 20-142.5 reads as rewritten:

9 **"§ 20-142.5. Stop when traffic obstructed.**

10 No driver shall enter an intersection or a marked crosswalk or drive onto any  
11 railroad grade crossing unless there is sufficient space on the other side of the  
12 intersection, crosswalk, or railroad grade crossing to accommodate the vehicle he is  
13 operating without obstructing the passage of other vehicles, pedestrians, or railroad  
14 trains, notwithstanding the indication of any traffic control signal to proceed. Any  
15 person who violates any provision of this section shall be guilty of an infraction and  
16 punished in accordance with G.S. 20-176. Violation of this section shall not constitute  
17 negligence per se.

18 An employer who knowingly allows, requires, permits, or otherwise authorizes a  
19 driver of a commercial motor vehicle to violate this section shall be guilty of an  
20 infraction. Such employer will also be subject to a civil penalty under G.S. 20-37.21."

21 **SECTION 17.** This act becomes effective September 30, 2005, and applies  
22 to offenses committed on or after that date.