

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-156
HOUSE BILL 740**

AN ACT TO REQUIRE PUBLIC TRANSIT OPERATORS AND OTHER EMPLOYERS OF PERSONS WHO OPERATE COMMERCIAL MOTOR VEHICLES WHO ARE SUBJECT TO FEDERAL DRUG AND ALCOHOL TESTING TO REPORT TO THE DIVISION OF MOTOR VEHICLES ANY FEDERALLY REQUIRED POSITIVE DRUG AND ALCOHOL TEST RESULT, AND TO DISQUALIFY THOSE PERSONS FROM OPERATING A COMMERCIAL MOTOR VEHICLE OR OTHER PUBLIC TRANSIT VEHICLES UNTIL SUCCESSFUL COMPLETION OF TREATMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-37.19 reads as rewritten:

"§ 20-37.19. Employer responsibilities.

(a) Each employer shall require the applicant to provide the information specified in G.S. 20-37.18(c).

(b) No employer shall knowingly allow, permit, or authorize a driver to drive a commercial motor vehicle during any period:

(1) In which the driver has had his commercial driver license suspended, revoked, or cancelled by any state, is currently disqualified from driving a commercial vehicle, or is subject to an out-of-service order in any state; or

(2) In which the driver has more than one driver license.

(c) The employer of any employee who tests positive in a drug or alcohol test required under 49 C.F.R. Part 382 and 49 C.F.R. Part 655 shall notify the Division of Motor Vehicles in writing within five business days following the employer's receipt of confirmation of a positive drug test. The notification shall include the driver's name, address, drivers license number, social security number, and results of the drug or alcohol test."

SECTION 2. G.S. 20-17.4 is amended by adding a new subsection to read:

"(l) Disqualification for Testing Positive in a Drug or Alcohol Test. – Upon receipt of notice of a positive drug or alcohol test, pursuant to G.S. 20-37.19(c), the Division shall disqualify a driver from operating a commercial motor vehicle until receipt of proof of successful completion of assessment and treatment by a substance abuse professional in accordance with 49 C.F.R. § 382.503."

SECTION 3. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-37.20A. Driving record notation for testing positive in a drug or alcohol test.

Upon receipt of notice pursuant to G.S. 20-37.19(c) of positive result in an alcohol or drug test of a person holding a commercial drivers license, and subject to any appeal of the disqualification pursuant to G.S. 20-37.20B, the Division shall place a notation on the driving record of the driver. A notation of a disqualification pursuant to G.S. 20-17.4(l) shall be retained on the record of a person for a period of two years following the end of any disqualification of that person."

SECTION 4. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-37.20B. Appeal of disqualification for testing positive in a drug or alcohol test.

Following receipt of notice pursuant to G.S. 20-37.19(c) of a positive test in an alcohol or drug test, the Division shall notify the driver of the pending disqualification of the driver to operate a commercial vehicle and the driver's right to a hearing if requested within 20 days of the date of the notice. If the Division receives no request for a hearing, the disqualification shall become effective at the end of the 20-day period. If the driver requests a hearing, the disqualification shall be stayed pending outcome of the hearing. The hearing shall take place at the offices of the Division of Motor Vehicles in Raleigh. The hearing shall be limited to issues of testing procedure and protocol. A copy of a positive test result accompanied by certification by the testing officer of the accuracy of the laboratory protocols that resulted in the test result shall be prima facie evidence of a confirmed positive test result. The decision of the Division hearing officer may be appealed in accordance with the procedure of G.S. 20-19(c6)."

SECTION 5. This act becomes effective December 1, 2005.

In the General Assembly read three times and ratified this the 28th day of June, 2005.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 7:01 p.m. this 5th day of July, 2005