

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE DRS65172-RW-26A* (3/7)

Short Title: Commercial Drivers License Changes.-AB (Public)

Sponsors: Senator Jenkins.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS GOVERNING COMMERCIAL DRIVERS
LICENSES.

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. For purposes of disqualification of a commercial drivers license only, 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.
3. An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.
4. A violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.
5. A final conviction of a criminal offense, including a no contest plea when the offense occurs in a commercial motor vehicle or the offender holds a commercial drivers license.

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

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

SECTION 3. G.S. 20-15 reads as rewritten:

"§ 20-15. Authority of Division to cancel license.

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

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

(c) Any person whose license is canceled under this section for failure to give the required or correct information, or for committing fraud, in an application for a commercial drivers license shall be prohibited from reapplying for a commercial drivers license for a period of 60 days from the date of cancellation."

SECTION 4. G.S. 20-17.4 reads as rewritten:

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

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

- 1 (1) A first conviction of G.S. 20-138.1, driving while impaired, for a
2 holder of a commercial drivers license that occurred while the person
3 was driving a motor vehicle that is not a commercial motor vehicle.
- 4 (2) A first conviction of G.S. 20-138.2, driving a commercial motor
5 vehicle while impaired.
- 6 (3) A first conviction of ~~G.S. 20-166. G.S. 20-166, hit and run, involving a~~
7 ~~commercial motor vehicle driven by the person.~~
- 8 (4) A first conviction of a felony in the commission of which a
9 commercial motor vehicle was used or the first conviction of a felony
10 in which any motor vehicle is used by a holder of a commercial drivers
11 license.
- 12 (5) Refusal to submit to a chemical test when charged with an
13 implied-consent offense, as defined in G.S. 20-16.2. G.S. 20-16.2, that
14 ~~occurred while the person was driving a commercial motor vehicle.~~
- 15 (6) A second or subsequent conviction, as defined in G.S. 20-138.2A(d),
16 of driving a commercial motor vehicle after consuming alcohol under
17 G.S. 20-138.2A.
- 18 (7) A civil license revocation under G.S. 20-16.5, or a substantially similar
19 revocation obtained in another jurisdiction, arising out of a charge that
20 occurred while the person was operating a commercial motor vehicle.
- 21 (8) A first conviction of vehicular homicide under G.S. 20-141.4 or
22 vehicular manslaughter under G.S. 14-1.8 occurring while the person
23 was operating a commercial motor vehicle.
- 24 (9) Driving a commercial motor vehicle during a period when the person's
25 commercial drivers license is revoked, suspended, cancelled, or the
26 driver is otherwise disqualified from operating a commercial motor
27 vehicle.

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

31 (b) Modified Life. – A person who has been disqualified from driving a
32 commercial motor vehicle for a conviction or refusal described in subsection (a) who, as
33 the result of a separate incident, is subsequently convicted of an offense or commits an
34 act requiring disqualification under subsection (a) is disqualified for life. The Division
35 may adopt guidelines, including conditions, under which a disqualification for life under
36 this subsection may be reduced to 10 years.

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

43 (c) Life. – A person is disqualified from driving a commercial motor vehicle for
44 life if that person uses a commercial motor vehicle in the commission of any felony

1 involving the manufacture, distribution, or dispensing of a controlled substance, or
2 possession with intent to manufacture, distribute, or dispense a controlled substance.

3 (d) Less Than a Year. – A person is disqualified from driving a commercial
4 motor vehicle for 60 days if that person is convicted of two serious traffic violations, or
5 120 days if convicted of three or more serious traffic violations, committed in a
6 commercial motor vehicle arising from separate incidents occurring within a three-year
7 period. This disqualification shall be in addition to, and shall be served at the end of,
8 any other prior disqualification. For purposes of this subsection, a "serious violation"
9 includes violations of G.S. 20-140(f) and G.S. 20-141(j3).

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

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

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

21 (1) A person is disqualified from driving a commercial vehicle for a
22 period of 90 days if convicted of a first violation of an out-of-service
23 order.

24 (2) A person is disqualified for a period of one year if convicted of a
25 second violation of an out-of-service order during any 10-year period,
26 arising from separate incidents.

27 (3) A person is disqualified for a period of three years if convicted of a
28 third or subsequent violation of an out-of-service order during any
29 10-year period, arising from separate incidents.

30 (h) Violation of Out-of-Service Order; Special Rule for Hazardous Materials and
31 Passenger Offenses. – Any person convicted for violating an out-of-service order while
32 transporting hazardous materials or while operating a commercial vehicle designed or
33 used to transport more than 15 passengers, including the driver, shall be disqualified as
34 follows:

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

37 (2) A person is disqualified for a period of three years if convicted of a
38 second or subsequent violation of an out-of-service order during any
39 10-year period, arising from separate incidents.

40 (i) Disqualification for Out-of-State Violations. – The Division shall withdraw
41 the privilege to operate a commercial vehicle of any resident of this State or person
42 transferring to this State upon receiving notice of the person's conviction or
43 Administrative Per Se Notice in another state for an offense that, if committed in this
44 State, would be grounds for ~~disqualification~~, disqualification, even if the offense

1 occurred in another jurisdiction prior to being licensed in this State where no action had
2 been taken at that time in the other jurisdiction. The period of disqualification shall be
3 the same as if the offense occurred in this State. The period of disqualification shall be
4 the same as if the offense occurred in this State.

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

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

- 14 (1) A person is disqualified for a period of 60 days if convicted of a first
15 violation of a railroad grade crossing offense listed in this subsection.
- 16 (2) A person is disqualified for a period of 120 days if convicted during
17 any three-year period of a second violation of any combination of
18 railroad grade crossing offenses listed in this subsection.
- 19 (3) A person is disqualified for a period of one year if convicted during
20 any three-year period of a third or subsequent violation of any
21 combination of railroad grade crossing offenses listed in this
22 subsection.

23 (l) Disqualifications of Drivers to Constitute an Imminent Hazard. – The
24 division shall withdraw the privilege to operate a commercial motor vehicle for any
25 resident of this State for a period of 30 days in accordance with 49 C.F.R. § 383.52."

26 **SECTION 5.** G.S. 20-36 reads as rewritten:

27 **"§ 20-36. Ten-year-old convictions not considered.**

28 ~~Except for a second or subsequent conviction for violating G.S. 20-138.2, a third or~~
29 ~~subsequent violation of G.S. 20-138.2A, or a second failure to submit to a chemical test~~
30 ~~when charged with an implied consent offense, as defined in G.S. 20-16.2, that occurred~~
31 ~~while the person was driving a commercial motor vehicle, Except for offenses occurring~~
32 in a commercial motor vehicle, or a second failure to submit to a chemical test when
33 charged with an implied-consent offense, as defined in G.S. 20-16.2, that occurred
34 while the person was driving a commercial motor vehicle, no conviction of any other
35 violation of the motor vehicle laws shall be considered by the Division in determining
36 whether any person's driving privilege shall be suspended or revoked or in determining
37 the appropriate period of suspension or revocation after 10 years has elapsed from the
38 date of that conviction. conviction, except for offenses occurring in a commercial motor
39 vehicle."

40 **SECTION 6.** G.S. 20-37.13 reads as rewritten:

41 **"§ 20-37.13. Commercial drivers license qualification standards.**

- 42 (a) No person shall be issued a commercial drivers license unless he:
- 43 (1) Is a resident of this State;
 - 44 (2) Is 21 years of age;

- 1 (3) Has passed a knowledge test and a skills test for driving a commercial
2 motor vehicle that comply with minimum federal standards established
3 by federal regulation enumerated in 49 C.F.R., Part 383, Subparts F, G
4 and H; and
5 (4) Has satisfied all other requirements of the Commercial Motor Vehicle
6 Safety Act in addition to other requirements of this Chapter or federal
7 regulation.
8 (5) For the purpose of skills testing and determining commercial drivers
9 license classification only the manufacturer's GVWR shall be used.

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

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

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

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

- 25 (1) For an application submitted by April 1, 1992, the applicant has not,
26 and certifies that he has not, at any time during the two years
27 immediately preceding the date of application done any of the
28 following and for an application submitted after April 1, 1992, the
29 applicant has not, and certifies that he has not, at any time during the
30 two years preceding April 1, 1992:
31 a. Had more than one drivers license, except during the 10-day
32 period beginning on the date he is issued a drivers license, or
33 unless, prior to December 31, 1989, he was required to have
34 more than one license by a State law enacted prior to June 1,
35 1986;
36 b. Had any drivers license or driving privilege suspended,
37 revoked, or cancelled;
38 c. Had any convictions involving any kind of motor vehicle for
39 the offenses listed in G.S. 20-17 or had any convictions for the
40 offenses listed in G.S. 20-17.4;
41 d. Been convicted of a violation of State or local laws relating to
42 motor vehicle traffic control, other than a parking violation,
43 which violation arose in connection with any reportable traffic
44 accident; or

- e. Refused to take a chemical test when charged with an implied consent offense, as defined in G.S. 20-16.2; and
- (2) The applicant certifies, and provides satisfactory evidence, that he is regularly employed in a job requiring the operation of a commercial motor vehicle, and he either:
 - a. Has previously taken and successfully completed a skills test that was administered by a state with a classified licensing and testing system and the test was behind the wheel in a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed; or
 - b. Has operated for the relevant two-year period under subpart (1)a. of this subsection, a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed.

(d) A commercial drivers license or learner's permit shall not be issued to a person while he is subject to a disqualification from driving a commercial motor vehicle, or while his drivers license is suspended, revoked, or cancelled in any state; nor shall a commercial drivers license be issued unless the person who has applied for the license first surrenders all other drivers licenses issued by the Division or by another state. If a person surrenders a drivers license issued by another state, the Division must return the license to the issuing state for cancellation.

(e) A commercial driver learner's permit may be issued to an individual who holds a regular Class C drivers license and has passed the knowledge test for the class and type of commercial motor vehicle the individual will be driving. The permit is valid for a period not to exceed six months and may be renewed or reissued only once within a two-year period. The fee for a commercial driver learner's permit is the same as the fee set by G.S. 20-7 for a regular learner's permit. G.S. 20-7(m) governs the issuance of a restricted instruction permit for a prospective school bus driver."

SECTION 7. G.S. 20-37.16 reads as rewritten:

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

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

(b) The classes of commercial drivers licenses are:

- (1) Class A CDL – A Class A commercial drivers license authorizes the holder to drive any Class A motor vehicle.
- (2) Class B CDL – A Class B commercial drivers license authorizes the holder to drive any Class B motor vehicle.
- (3) Class C CDL – A Class C commercial drivers license authorizes the holder to drive any Class C motor vehicle.

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

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

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

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

- 22 (1) The applicant held a valid commercial drivers license with a passenger
23 vehicle endorsement to operate a school bus representative of the
24 group the applicant will be driving.
- 25 (2) The applicant did not have the applicant's drivers license or
26 commercial drivers license suspended, revoked, or cancelled, or the
27 applicant was not disqualified from operating a commercial motor
28 vehicle.
- 29 (3) The applicant was not convicted of a State law offense that
30 corresponds to the list of disqualifying offenses in 49 C.F.R. §
31 383.51(b) while operating a commercial motor vehicle or of any
32 offense in a noncommercial motor vehicle that would be a
33 disqualifying offense under 49 C.F.R. § 383.51(b) if committed in a
34 commercial motor vehicle.
- 35 (4) The applicant was not convicted of more than one of the serious traffic
36 violations listed and defined in G.S. 20-4.01(41a) while operating any
37 type of motor vehicle.
- 38 (5) The applicant was not convicted of a violation of State or local law
39 relating to motor vehicle traffic control, other than a parking violation,
40 arising in connection with any traffic accident.
- 41 (6) The applicant was not convicted of any motor vehicle traffic violation
42 that resulted in an accident.

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

4 (d) The fee for a Class A, B, or C commercial drivers license is ten dollars
5 (\$10.00) for each year of the period for which the license is issued. The fee for each
6 endorsement is one dollar and twenty-five cents (\$1.25) for each year of the period for
7 which the endorsement is issued. The fees required under this section do not apply to
8 employees of the Driver License Section of the Division who are designated by the
9 Commissioner.

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

14 (1) Vehicles owned or operated by the Department of Defense, including
15 the National Guard, while they are driven by active duty military
16 personnel, or members of the National Guard when on active duty, in
17 the pursuit of military purposes.

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

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

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

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

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

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

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

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

32 **SECTION 8.** G.S. 20-37.21 reads as rewritten:

33 **"§ 20-37.21. Penalties.**

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

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

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

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

10 **SECTION 9.** G.S. 20-142.1 reads as rewritten:

11 **"§ 20-142.1. Obedience to railroad signal.**

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

- 16 (1) A clearly visible electrical or mechanical signal device gives warning
17 of the immediate approach of a railroad train;
- 18 (2) A crossing gate is lowered or when a human flagman gives or
19 continues to give a signal of the approach or passage of a railroad
20 train;
- 21 (3) A railroad train approaching within approximately 1500 feet of the
22 highway crossing emits a signal audible from that distance, and the
23 railroad train is an immediate hazard because of its speed or nearness
24 to the crossing; or
- 25 (4) An approaching railroad train is plainly visible and is in hazardous
26 proximity to the crossing.

27 (b) No person shall drive any vehicle through, around, or under any crossing gate
28 or barrier at a railroad crossing while the gate or barrier is closed or is being opened or
29 closed, nor shall any pedestrian pass through, around, over, or under any crossing gate
30 or barrier at a railroad crossing while the gate or barrier is closed or is being opened or
31 closed.

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

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

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

41 **SECTION 10.** G.S. 20-142.2 reads as rewritten:

42 **"§ 20-142.2. Vehicles stop at certain grade crossing.**

43 The Department of Transportation may designate particularly dangerous highway
44 crossings of railroads and erect stop signs at those crossings. When a stop sign is erected

1 at a highway crossing of a railroad, the driver of any vehicle shall stop within 50 feet
2 but not less than 15 feet from the nearest rail of such grade crossing and shall proceed
3 only upon exercising due care. Any person who violates this section shall be guilty of an
4 infraction and punished in accordance with G.S. 20-176. Violation of this section shall
5 not constitute negligence per se. An employer who knowingly allows, requires, permits,
6 or otherwise authorizes a driver to violate this section shall be guilty of an infraction.
7 Such employer will also be subject to a civil penalty under G.S. 20-37.21."

8 **SECTION 11.** G.S. 20-142.3 reads as rewritten:

9 **"§ 20-142.3. Certain vehicles must stop at railroad grade crossing.**

10 (a) Before crossing at grade any track or tracks of a railroad, the driver of any
11 school bus, any activity bus, any motor vehicle carrying passengers for compensation,
12 any commercial motor vehicle listed in 49 C.F.R. § 392.10, and any motor vehicle with
13 a capacity of 16 or more persons shall stop the vehicle within 50 feet but not less than
14 15 feet from the nearest rail of the railroad. While stopped, the driver shall listen and
15 look in both directions along the track for any approaching train and shall not proceed
16 until the driver can do so safely. Upon proceeding, the driver of the vehicle shall cross
17 the track in a gear that allows the driver to cross the track without changing gears and
18 the driver shall not change gears while crossing the track or tracks.

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

- 21 (1) At railroad tracks used exclusively for industrial switching purposes
22 within a business district.
- 23 (2) At a railroad grade crossing which a police officer or crossing flagman
24 directs traffic to proceed.
- 25 (3) At a railroad grade crossing protected by a gate or flashing signal
26 designed to stop traffic upon the approach of a train, when the gate or
27 flashing signal does not indicate the approach of a train.
- 28 (4) At an abandoned railroad grade crossing which is marked with a sign
29 indicating that the rail line is abandoned.
- 30 (5) At an industrial or spur line railroad grade crossing marked with a sign
31 reading "Exempt" erected by or with the consent of the appropriate
32 State or local authority.

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

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

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

40 **SECTION 12.** G.S. 20-142.4 reads as rewritten:

41 **"§ 20-142.4. Moving heavy equipment at railroad grade crossing.**

42 (a) No person shall operate or move any crawler-type tractor, crane, or roller or
43 any equipment or structure having a normal operating speed of five or less miles per

1 hour upon or across any tracks at a railroad crossing without first complying with this
2 section.

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

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

8 (1) Stop the vehicle or equipment not less than 15 feet nor more than 50
9 feet from the nearest rail of the railroad;

10 (2) While stopped, shall listen and look both directions along the track for
11 any approaching train and for signals indicating the approach of a
12 train; and

13 (3) Shall not proceed until the crossing can be made safely.

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

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

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

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

27 **SECTION 13.** G.S. 20-142.5 reads as rewritten:

28 "**§ 20-142.5. Stop when traffic obstructed.**

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

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

40 **SECTION 14.** This act becomes effective December 1, 2005, and applies to
41 offenses committed on or after that date.