

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL 749*
Committee Substitute Favorable 6/1/05
Committee Substitute #2 Favorable 7/6/06
Senate Finance Committee Substitute Adopted 7/19/06

Short Title: DOT Agreeemnts/No Sticker Fee/Ltd. Driv. Priv.

(Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO ENTER INTO CERTAIN HIGHWAY FINANCING AGREEMENTS, TO REQUIRE AGREEMENTS INVOLVING DEPARTMENT FUNDS TO BE APPROVED BY THE BOARD OF TRANSPORTATION, TO PROVIDE THAT REPLACEMENT INSPECTION STICKERS FOR USE ON A REPLACED WINDSHIELD ARE NOT SUBJECT TO THE INSPECTION STICKER FEE, AND TO ALLOW PERSONS WHO ARE CONVICTED OF CERTAIN DRIVING WHILE LICENSE REVOKED OFFENSES TO OBTAIN A LIMITED DRIVING PRIVILEGE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 136-18 reads as rewritten:

"§ 136-18. Powers of Department of Transportation.

The said Department of Transportation ~~shall be~~ is vested with the following powers:

...

(39) To enter into partnership agreements with the North Carolina Turnpike Authority, private entities, and authorized political subdivisions to finance, by tolls and other financing methods authorized by law, the cost of acquiring, constructing, equipping, maintaining, and operating highways, roads, streets, and bridges in this State. An agreement entered into under this subdivision requires the concurrence of the Board of Transportation."

SECTION 1.(b) G.S. 136-89.183(a)(17) reads as rewritten:

"(17) To enter into partnership agreements, ~~agreements with the Department of Transportation,~~ agreements with political subdivisions of the State, and agreements with private entities, and to expend such funds as it deems necessary, pursuant to such agreements, for the purpose of

1 financing the cost of acquiring, constructing, equipping, operating, or
2 maintaining any Turnpike Project. An agreement entered under this
3 subdivision requires the concurrence of the Board of Transportation if
4 the Department of Transportation is a party to the agreement."

5 **SECTION 1.(c)** G.S. 143B-350(f) reads as rewritten:

6 "(f) Duties of the Board. – The Board of Transportation ~~shall have~~ has the
7 following duties and powers:

- 8 (1) To formulate policies and priorities for all modes of transportation
9 under the Department of ~~Transportation;~~ Transportation.
- 10 (2) To advise the Secretary on matters to achieve the maximum public
11 benefit in the performance of the functions assigned to the
12 ~~Department;~~ Department.
- 13 (3) To ascertain the transportation needs and the alternative means to
14 provide for these needs through an integrated system of transportation
15 taking into consideration the social, economic and environmental
16 impacts of the various ~~alternatives;~~ alternatives.
- 17 (4) To approve a schedule of all major transportation improvement
18 projects and their anticipated cost for a period of seven years into the
19 future. This schedule is designated the Transportation Improvement
20 Program; it must be published and copies must be available for
21 distribution. The document that contains the Transportation
22 Improvement Program, or a separate document that is published at the
23 same time as the Transportation Improvement Program, must include
24 the anticipated funding sources for the improvement projects included
25 in the Program, a list of any changes made from the previous year's
26 Program, and the reasons for the ~~changes;~~ changes.
- 27 (5) To consider and advise the Secretary of Transportation upon any other
28 transportation matter that the Secretary may refer to ~~it;~~ it.
- 29 (6) To assist the Secretary of Transportation in the performance of his
30 duties in the development of programs and approve priorities for
31 programs within the ~~Department;~~ Department.
- 32 (7) To allocate all highway construction and maintenance funds
33 appropriated by the General Assembly as well as federal-aid funds
34 which may be ~~available;~~ available.
- 35 (8) To approve all highway construction ~~programs;~~ programs.
- 36 (9) To approve all highway construction projects and construction plans
37 for the construction of ~~projects;~~ projects.
- 38 (10) To review all statewide maintenance ~~functions;~~ functions.
- 39 (11) To award all highway construction ~~contracts;~~ contracts.
- 40 (12) To authorize the acquisition of rights-of-way for highway
41 improvement projects, including the authorization for acquisition of
42 property by eminent ~~domain;~~ domain.
- 43 (12a) To approve partnership agreements with the North Carolina Turnpike
44 Authority, private entities, and authorized political subdivisions to

1 finance, by tolls and other financing methods authorized by law, the
 2 cost of acquiring, constructing, equipping, maintaining, and operating
 3 highways, roads, streets, and bridges in this State.

4 (13) To promulgate rules, regulations, and ordinances concerning all
 5 transportation functions assigned to the Department."

6 **SECTION 2.** G.S. 20-183.7(a) reads as rewritten:

7 "(a) Fee Amount. – When a fee applies to an inspection of a vehicle or the
 8 issuance of an inspection sticker, the fee must be collected. The following fees apply to
 9 an inspection of a vehicle and the issuance of an inspection sticker:

| <u>Type</u> | <u>Inspection</u> | <u>Sticker</u> |
|----------------------|-------------------|----------------|
| Safety Only | \$ 8.25 | \$0.85 |
| Emissions and Safety | 23.50 | 6.50. |

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 15 The fee for performing an inspection of a vehicle applies when an inspection is
 16 performed, regardless of whether the vehicle passes the inspection. The fee for an
 17 inspection sticker applies when an inspection sticker is put on a vehicle. The fee for an
 18 inspection sticker does not apply to a replacement inspection sticker for use on a
 19 windshield replaced by a business registered with the Division pursuant to
 20 G.S. 20-183.6. The fee for inspecting after-factory tinted windows shall be ten dollars
 21 (\$10.00), and the fee applies only to an inspection performed with a light meter after a
 22 safety inspection mechanic determined that the window had after-factory tint. A safety
 23 inspection mechanic shall not inspect an after-factory tinted window of a vehicle for
 24 which the Division has issued a medical exception permit pursuant to G.S. 20-127(f).

25 A vehicle that is inspected at an inspection station and fails the inspection is entitled
 26 to be reinspected at the same station at any time within 30 days of the failed inspection
 27 without paying another inspection fee.

28 The inspection fee for an emissions and safety inspection set out in this subsection is
 29 the maximum amount that an inspection station or an inspection mechanic may charge
 30 for an emissions and safety inspection of a vehicle. An inspection station or an
 31 inspection mechanic may charge the maximum amount or any lesser amount for an
 32 emissions and safety inspection of a vehicle. The inspection fee for a safety only
 33 inspection set out in this subsection may not be increased or decreased. The sticker fees
 34 set out in this subsection may not be increased or decreased."

35 **SECTION 3.(a)** Article 3 of Chapter 20 of the General Statutes is amended
 36 by adding a new section to read:

37 "**§ 20-20.1. Limited driving privilege for certain revocations.**

38 (a) Definitions. – As used in this section, the following definitions apply:

39 (1) Limited driving privilege. – A judgment issued by a court authorizing
 40 a person with a revoked drivers license to drive under the terms and
 41 conditions authorized under this section.

42 (2) Nonfleet private passenger motor vehicle. – As defined in Article 40 of
 43 Chapter 58 of the General Statutes.

- 1 (3) Nonstandard working hours. – Any time other than 6 A.M. until 8
2 P.M. on Monday through Friday.
- 3 (4) Offense involving impaired driving. – As defined in
4 G.S. 20-4.01(24a).
- 5 (5) Standard working hours. – Any time from 6 A.M. until 8 P.M. on
6 Monday through Friday.
- 7 (b) Eligibility. – The court, for good cause shown, may issue a limited driving
8 privilege to a person whose North Carolina drivers license is permanently revoked
9 under G.S. 20-28(a) or G.S. 20-28.1 if all of the following conditions apply:
- 10 (1) The person has no other current drivers license revocations other than
11 the revocation under G.S. 20-28(a) or G.S. 20-28.1.
- 12 (2) The person has complied with the permanent revocation for at least
13 two years immediately preceding the motion for a limited driving
14 privilege.
- 15 (3) The person has no unresolved or outstanding motor vehicle offenses or
16 motor vehicle charges or unpaid motor vehicle fines or penalties in this
17 or any other state.
- 18 (4) The person has not held a limited driving privilege issued under this
19 section at any time during the three years prior to the filing of the
20 current action.
- 21 (c) Ineligibility. – A person is not eligible to receive a limited driving privilege
22 under this section if any of the following conditions apply:
- 23 (1) The person is eligible to receive a limited driving privilege under any
24 other provision of law.
- 25 (2) The person's drivers license was revoked for an offense involving
26 impaired driving at the time the person was charged under
27 G.S. 20-28(a) or G.S. 20-28.1.
- 28 (3) The person's drivers license is revoked under G.S. 20-17.1.
- 29 (4) The person is not eligible to receive a North Carolina drivers license
30 under G.S. 20-9(f).
- 31 (5) The Division has refused to issue a drivers license to the person under
32 G.S. 20-9(e).
- 33 (6) The person's drivers license issued by another state has been revoked
34 by that state for any reason or the person's North Carolina drivers
35 license has been revoked under any interstate compact or agreement.
- 36 (d) Scope of Privilege. – A limited driving privilege must restrict the holder to
37 essential driving related to one or more of the purposes listed in this subsection. Any
38 driving that is not related to the purposes authorized in this subsection is unlawful even
39 though done at times and upon routes that may be authorized by the privilege. Except as
40 otherwise provided, all driving must be for a purpose and done within the restrictions
41 specified in the privilege.
- 42 The permissible purposes for a limited driving privilege are: (i) travel to and from
43 the person's employment and in the course of employment; (ii) necessary maintenance
44 of the person's household; and (iii) emergency medical care for the person or for an

1 immediate family member of the person who resides in the same household with the
2 person. Driving related to emergency medical care is authorized at any time and without
3 restriction as to routes.

4 (e) Jurisdiction. – A motion for a limited driving privilege under this section is
5 separate from any action that resulted in the initial revocation and is a civil action filed
6 in district court in the county of the person's residence as reflected by the Division's
7 records. The costs required under G.S. 7A-305(a3) apply to this action.

8 (f) Motion. – A motion for a limited driving privilege requested under this
9 section must include a copy of the person's driving history. The motion must also
10 include a sworn statement that there are no outstanding or unresolved charges, no
11 unpaid fines, and no violations in this or any other state that could result in the
12 revocation of the person's drivers license, and that the person has complied with the
13 current revocation for the time period required under subdivision (b)(2) of this section
14 immediately preceding the person's motion for a limited driving privilege under this
15 section.

16 (g) Employment Driving in Standard Working Hours. – The court may authorize
17 driving for employment-related purposes during standard working hours without
18 specifying the times and routes in which the driving must occur. If the person is not
19 required to drive for essential employment-related purposes except during standard
20 working hours, the limited driving privilege must prohibit driving during nonstandard
21 working hours unless the driving is for emergency medical care or is authorized by
22 subsection (i) of this section. The limited driving privilege must state the name and
23 address of the applicant's place of work or employer and may include other information
24 and restrictions applicable to work-related driving in the discretion of the court.

25 (h) Employment Driving in Nonstandard Working Hours. – If a person is
26 required to drive during nonstandard working hours for an essential employment-related
27 purpose and the person provides to the court documentation of that fact, the court may
28 authorize the person to drive for that purpose during those hours. If the person is
29 self-employed, the documentation must be attached to or made a part of the limited
30 driving privilege. The limited driving privilege must state the name and address of the
31 person's place of employment or employer and may include other information and
32 restrictions applicable to work-related driving, in the discretion of the court. If the court
33 determines that it is necessary for the person to drive during nonstandard working hours
34 for an employment-related purpose, the court may authorize the person to drive subject
35 to these limitations:

36 (1) If the person is required to drive to and from a specific place of
37 employment at regular times, the limited driving privilege must
38 specify the general times and routes in which the person will be
39 driving to and from work and restrict driving to those times and routes.

40 (2) If the person is required to drive to and from work at a specific place
41 but is unable to specify the times during which the driving will occur,
42 the limited driving privilege must specify the general routes which the
43 person will be driving to and from work and restrict the driving to
44 those general routes.

1 (3) If the person is required to drive to and from work at regular times but
2 is unable to specify the places at which work is to be performed, the
3 limited driving privilege must specify the general times and
4 geographic boundaries in which the person will be driving and restrict
5 driving to those times and within those boundaries.

6 (4) If the person can specify neither the times nor places in which the
7 person will be driving to and from work, or if the person is required to
8 drive during these nonstandard working hours as a condition of
9 employment, the limited driving privilege must specify the geographic
10 boundaries in which the person will drive and restrict driving to within
11 those boundaries.

12 (i) Household Maintenance. – A limited driving privilege may not allow driving
13 for maintenance of the household except during standard working hours. The limited
14 driving privilege may contain any additional restrictions on that driving, in the
15 discretion of the court.

16 (j) Proof of Financial Responsibility. – A person applying for a limited driving
17 privilege under this section must provide to the court proof of financial responsibility,
18 and a limited driving privilege must be conditioned upon the maintenance of financial
19 responsibility during the period of the limited driving privilege. The Commissioner may
20 require that certificates required by this subsection be on a form approved by the
21 Commissioner. Nothing in this subsection precludes any person from showing proof of
22 financial responsibility in any other manner authorized by Articles 9A and 13 of this
23 Chapter. This subsection does not apply to a person who does not own a currently
24 registered motor vehicle and who does not operate a nonfleet private passenger motor
25 vehicle that is owned by another person and that is not insured under a commercial
26 motor vehicle liability insurance policy. If this subsection applies, the person must sign
27 a written certificate to that effect. The Division shall furnish the certificate. Any
28 material misrepresentation made by the person on the certificate shall be grounds for the
29 court to revoke the limited driving privilege granted under this section.

30 Proof of financial responsibility shall be in one of the following forms:

31 (1) A written certificate or electronically transmitted facsimile of the
32 certificate issued by an insurance carrier duly authorized to do
33 business in this State certifying that there is in effect a nonfleet private
34 passenger motor vehicle liability policy for the benefit of the person
35 required to furnish proof of financial responsibility. The certificate or
36 facsimile shall state the effective date and expiration date of the
37 nonfleet private passenger motor vehicle liability policy and must state
38 the date that the certificate or facsimile is issued. The certificate or
39 facsimile must remain effective proof of financial responsibility for a
40 period of 30 consecutive days following the date the certificate or
41 facsimile is issued but must not in and of itself constitute a binder or
42 policy of insurance.

43 (2) A binder for or policy of nonfleet private passenger motor vehicle
44 liability insurance under which the applicant is insured, provided that

1 the binder or policy states the effective date and expiration date of the
2 nonfleet private passenger motor vehicle liability policy.

3 (k) Other Restrictions. – The court must include in all limited driving privileges a
4 restriction that the holder of the privilege not consume alcohol while driving or drive at
5 any time while the holder has remaining in the holder's body any alcohol or controlled
6 substance previously consumed, unless the controlled substance was lawfully obtained
7 and taken in therapeutically appropriate amounts. The court may impose any other
8 reasonable restrictions or conditions necessary to achieve the purposes of this section.

9 (l) Term. – The term of a limited driving privilege issued under this section shall
10 be one year. Upon the expiration of the term of the limited driving privilege or after
11 three years from the date of the permanent revocation, the person may apply to the
12 Division for a license under G.S. 20-28(c) or G.S. 20-28.1(c).

13 (m) Notification. – The clerk of court must send a copy of any limited driving
14 privilege issued in the county to the Division. A limited driving privilege that is not
15 authorized by this section or that does not contain the limitations required by law is
16 invalid.

17 (n) Modification. – A court may modify or revoke a person's limited driving
18 privilege issued under this section upon a showing that the circumstances have changed
19 sufficiently to justify modification or revocation. If the judge who issued the privilege is
20 not presiding in the court in which the privilege was issued, a presiding judge in that
21 court may modify or revoke the privilege. The judge must indicate in the order of
22 modification or revocation the reasons for the order, or the judge must make specific
23 findings indicating the reason for the order, and those findings must be entered in the
24 record of the case. When a court issues an order of modification or revocation, the clerk
25 must send a copy of the order to the Division.

26 (o) Effect of Violation. – A violation of a limited driving privilege issued under
27 this section constitutes the offense of driving while license revoked under G.S. 20-28.
28 Whenever a person is charged with operating a motor vehicle in violation of the limited
29 driving privilege, the limited driving privilege must be suspended pending the final
30 disposition of the charge."

31 **SECTION 3.(b)** G.S. 7A-305 is amended by adding a new subsection to
32 read:

33 "(a3) In every motion to obtain a limited driving privilege filed under G.S. 20-20.1,
34 a cost of one hundred dollars (\$100.00) shall be assessed against the person filing the
35 motion. Costs collected by the clerk under this subsection shall be remitted to the State
36 Treasurer. The State Treasurer must credit one-half of the assessed cost to the Highway
37 Fund and the remaining one-half of the assessed cost to the Court Information
38 Technology Fund established under G.S. 7A-343.2. Costs assessed under this subsection
39 are in addition to any other costs assessed under this section."

40 **SECTION 4.** Section 1 of this act becomes effective August 1, 2006.
41 Section 2 of this act becomes effective July 1, 2007. Section 3 of this act becomes
42 effective December 1, 2006, and applies to permanent revocations that occurred before,
43 on, or after that date. The remainder of this act is effective when it becomes law.