

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 729

Short Title: Technology to Catch Uninsured Motorists. (Public)

Sponsors: Senators Goolsby, Brown, Meredith; and Harrington.

Referred to: Insurance.

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO ALLOW LAW ENFORCEMENT AGENCIES AND OFFICERS TO USE
ADVANCED ELECTRONIC VERIFICATION TECHNOLOGY TO IDENTIFY MOTOR
VEHICLES BEING OPERATED ON THE PUBLIC STREETS AND HIGHWAYS AND
PUBLIC VEHICULAR AREAS WITHOUT THE REQUIRED FINANCIAL
RESPONSIBILITY.

Whereas, a significant number of motor vehicles are operating on the public
highways of North Carolina without financial responsibility as defined by Chapter 20 of the
North Carolina General Statutes; and

Whereas, the operation of motor vehicles without financial responsibility
substantially increases the risk of harm to the motoring public; and

Whereas, there is currently technology which would enable law enforcement
quickly and accurately to identify motor vehicles operating on the public highways of North
Carolina without financial responsibility, thereby significantly reducing the risk of harm to the
motoring public; and

Whereas, the General Assembly of North Carolina finds that as a matter of public
policy that the implementation of such technology is in the best interests of public safety on the
public highways of North Carolina; Now, therefore,
The General Assembly of North Carolina enacts:

SECTION 1. Article 13 of Chapter 20 of the General Statutes is amended by
adding a new section to read:

"§ 20-309.3. Use of electronic verification systems to verify financial responsibility.

(a) Authorization. – Electronic verification systems may be used by the law
enforcement agencies and officers to electronically identify motor vehicles operating on the
public streets and highways and public vehicular areas without financial responsibility as
required pursuant to G.S. 20-309.

(b) Definition. – As used in this section, an electronic verification system is a mobile or
fixed device (i) consisting of an electronically automated camera and sensor and (ii) capable of
producing one or more digital photographs of a motor vehicle violating the financial
responsibility laws established pursuant to G.S. 20-309.

(c) Minimum Standards. – An electronic verification system authorized for use by this
section shall produce at least one photograph that clearly shows a recorded image of the vehicle
registration number and state of issuance and the date, time, and location of the violation.

(d) Signage. – The Department of Transportation may provide notice of the presence of
electronic verification systems by posting conspicuous warning signs along State-maintained
highways. All warning signs shall be consistent with a statewide standard adopted by the
Department of Transportation.



1 (e) Use. – An electronic verification system authorized for use by this section shall be
2 approved by the Secretary of Crime Control and Public Safety.

3 (f) Penalty. – Except as provided by subsection (j) of this section, a violation of
4 G.S. 20-309 that is detected by an electronic verification system is a noncriminal violation for
5 which a civil penalty shall be assessed and for which no points authorized by G.S. 20-16(c)
6 shall be assigned to the owner or driver of the vehicle nor insurance points as authorized by
7 G.S. 58-36-65. The civil penalty shall be three hundred dollars (\$300.00).

8 (g) Clear Proceeds of Penalties. – The clear proceeds of all civil penalties, civil
9 forfeitures, and civil fines that are collected by the Department of Transportation pursuant to
10 this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with
11 G.S. 115C-457.2.

12 (h) Notification of Violation. – The Division of Motor Vehicles shall issue to the
13 registered owner of a motor vehicle cited for a financial responsibility violation detected by an
14 electronic verification system a notice of the violation containing all of the information listed in
15 this subsection. The notice shall be delivered by first-class United States mail at the address on
16 the current registration of the vehicle's owner and is deemed served on the registered owner
17 five days after the mailing. The notice of the violation shall contain all of the following:

18 (1) The vehicle registration number and state of issuance.

19 (2) The date, time, and location of the violation.

20 (3) The process for paying the civil penalty or contesting the owner's
21 responsibility for the violation.

22 (i) Liability. – The registered owner of a vehicle cited for a financial responsibility
23 violation detected by an electronic verification system shall be responsible for any penalty
24 imposed under this section unless, within 30 days of service of the notification of violation, the
25 owner provides to the Division of Motor Vehicles a sworn affidavit containing the information
26 listed in one of the subdivisions of this subsection. If the registered owner fails to pay the civil
27 penalty or fails to respond to the notice within 30 days of service of the violation of
28 notification, the owner waives the right to contest responsibility for the violation, is subject to
29 the civil penalty of three hundred dollars (\$300.00), and shall have the registered owner's
30 drivers license and registration revoked indefinitely until the civil penalty is paid and proof of
31 financial responsibility is provided to the Division.

32 The sworn affidavit shall contain one of the following:

33 (1) The name and address of the person or persons who had or may have had
34 actual physical control of the vehicle at the time of the violation.

35 (2) A statement that at the time of the violation the vehicle was under the control
36 of a person unknown to the owner, without the owner's permission. A
37 statement provided under this subdivision shall be accompanied by
38 documentation verifying that the owner reported to appropriate law
39 enforcement officials the theft or other loss of the vehicle before the date of
40 the violation.

41 (j) Notification of Criminal Charges. – If a law enforcement officer cites, pursuant to
42 G.S. 15A-302, or arrests, pursuant to G.S. 15A-401, an owner of a vehicle who is also cited by
43 an electronic verification system in use for detecting violations of G.S. 20-309, then the officer
44 shall notify the Division of Motor Vehicles within 48 hours of the citation or arrest. Upon
45 notification, the Division shall not issue a notice of violation pursuant to subsection (h) of this
46 section. If it is determined that a notice of violation was issued in error after proper notification,
47 no penalty may be imposed, and any penalty already paid shall be refunded.

48 (k) Administrative Hearings. – The Division of Motor Vehicles shall establish an
49 administrative nonjudicial hearing process to review challenges to penalties assessed pursuant
50 to this section.

1 (l) Appeal. – A person dissatisfied with the decision of the Division may appeal the
2 decision to the district court of Wake County, or the county in which the violation occurred, by
3 filing a notice of the appeal with the Clerk of Superior Court in Wake County or the county
4 where the violation occurred within 30 days of notification of a final decision by the Division.
5 An appeal under this section is for a trial de novo before the district court."

6 **SECTION 2.** Article 13 of Chapter 20 of the General Statutes is amended by
7 adding a new section to read:

8 **"§ 20-309.4. Results of electronic verification systems; admissibility.**

9 (a) Admissibility. – The results of the use of an electronic verification system satisfying
10 the requirements of subsection (b) of this section and authorized by G.S. 20-309.3 shall be
11 admissible as prima facie evidence for the purpose of establishing that the operator of the
12 vehicle failed to maintain in full force and effect a policy of financial responsibility as required
13 by G.S. 20-309.

14 (b) Calibration and Testing. – All electronic verification systems shall be calibrated and
15 tested at regular intervals pursuant to standards established by the Department of Crime Control
16 and Public Safety. A written certificate by a certified technician meeting the standards
17 established by the Department of Crime Control and Public Safety showing that a test was
18 made within the required testing period and that the system was accurate shall be competent
19 and prima facie evidence of those facts.

20 (c) Judicial Notice. – In every proceeding in which the results of an electronic
21 verification system are sought to be admitted for the purpose of enforcement of G.S. 20-309,
22 notice shall be taken of the rules approving the electronic speed-measuring system and the
23 procedures for calibration or testing for accuracy of the system."

24 **SECTION 3.** G.S. 20-311 reads as rewritten:

25 **"§ 20-311. Action by the Division when notified of a lapse in financial responsibility.**

26 (a) Action. – When the Division receives evidence, by a notice of termination of a
27 motor vehicle liability policy or otherwise, that the owner of a motor vehicle registered or
28 required to be registered in this State does not have financial responsibility for the operation of
29 the vehicle, the Division shall send the owner a letter. The letter shall notify the owner of the
30 evidence and inform the owner that the owner shall respond to the letter within 10 days of the
31 date on the letter and explain how the owner has met the duty to have continuous financial
32 responsibility for the vehicle. Based on the owner's response, the Division shall take the
33 appropriate action listed:

34 (1) Division correction. – If the owner responds within the required time and the
35 response establishes that the owner has not had a lapse in financial
36 responsibility, the Division shall correct its records.

37 (2) Penalty only. – If the owner responds within the required time and the
38 response establishes all of the following, the Division shall assess the owner
39 a penalty in the amount set in subsection (b) of this section:

40 a. The owner had a lapse in financial responsibility, but the owner now
41 has financial responsibility.

42 b. The vehicle was not involved in an accident during the lapse in
43 financial responsibility.

44 c. The owner did not operate the vehicle during the lapse with
45 knowledge that the owner had no financial responsibility for the
46 vehicle.

47 (3) Penalty and revocation. – If the owner responds within the required time and
48 the response establishes any of the following, the Division shall assess the
49 owner a penalty in the amount set in subsection (b) of this section and
50 revoke the registration of the owner's vehicle and the owner's drivers license
51 for the period set in subsection (c) of this section:

- a. The owner had a lapse in financial responsibility and still does not have financial responsibility.
- b. The owner now has financial responsibility even though the owner had a lapse, but the vehicle was involved in an accident during the lapse, the owner operated the vehicle during the lapse with knowledge that the owner had no financial responsibility for the vehicle, or both.

(4) Revocation pending response. – If the owner does not respond within the required time, the Division shall assess the owner a penalty in the amount set in subsection (b) of this section and revoke the registration of the owner's vehicle and the owner's drivers license for the period set in subsection (c) of this section. When the owner responds, the Division shall take the appropriate action listed in subdivisions (1) through (3) of this subsection as if the response had been timely.

(b) Penalty Amount. – ~~The following table determines the~~The amount of a penalty payable under this section by an owner who has had a lapse in financial responsibility shall be three hundred dollars (\$300.00).~~responsibility; the amount is based on the number of times the owner has been assessed a penalty under this section during the three year period before the date the owner's current lapse began:~~

Number of Lapses in Previous Three Years	Penalty Amount
None	\$50.00
One	\$100.00
Two or More	\$150.00

(c) Revocation Period. – The revocation period for a revocation based on a response that establishes that a vehicle owner does not have financial responsibility is indefinite and ends when the owner pays all assessed fines, penalties, and restoration fees and obtains financial responsibility or transfers the vehicle to an owner who has financial responsibility. The minimum revocation period for a revocation based on a response that establishes the occurrence of an accident during a lapse in financial responsibility or the knowing operation of a vehicle without financial responsibility is 30 days. The revocation period for a revocation based on failure of a vehicle owner to respond is indefinite and ends when the owner ~~responds~~responds and pays all assessed fines, penalties, and restoration fees and obtains financial responsibility or transfers the vehicle to an owner who has financial responsibility.

(d) Revocation Notice. – When the Division revokes the registration of an owner's vehicle, it shall notify the owner of the revocation. The notice shall inform the owner of the following:

- (1) That the owner shall return the vehicle's registration plate and registration card to the Division, if the owner has not done so already, and that failure to do so is a Class 2 misdemeanor under G.S. 20-45.
- (2) That the vehicle's registration plate and registration card are subject to seizure by a law enforcement officer.
- (3) That the registration of the vehicle cannot be renewed while the registration is revoked.
- (4) That the owner shall pay any penalties assessed, a restoration fee, and the fee for a registration plate when the owner applies to the Division to register a vehicle whose registration was revoked.
- (5) That the owner's drivers license is revoked until compliance with the provisions of this section.

(e) Registration After Revocation. – A vehicle whose registration has been revoked may not be registered during the revocation period in the name of the owner, a child of the owner, the owner's spouse, or a child of the owner's spouse. This restriction does not apply to a

1 spouse who is living separate and apart from the owner. At the end of a revocation period, a
2 vehicle owner who has financial responsibility may apply to register a vehicle whose
3 registration was revoked. The owner shall pay any penalty assessed, a restoration fee of fifty
4 dollars (\$50.00), and the fee for a registration plate.

5 (e1) Restoration of Drivers License. – A person whose drivers license has been revoked
6 pursuant to this section may have his or her license restored after all fines and penalties
7 assessed pursuant to this section and a restoration fee established pursuant to G.S. 20-7(i1) have
8 been paid.

9 (f) Clear Proceeds of Penalties. – The clear proceeds of all civil penalties, civil
10 forfeitures, and civil fines that are collected by the Department of Transportation pursuant to
11 this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with
12 G.S. 115C-457.2.

13 (g) Notwithstanding the penalty and restoration fee provisions of this section, any
14 monetary penalty or restoration fee shall be waived for any person who, at the time of
15 notification of a lapse in coverage, was deployed as a member of the United States Armed
16 Forces outside of the continental United States for a total of 45 or more days. In addition, no
17 insurance points under the Safe Driver Incentive Plan shall be assessed for any violation for
18 which a monetary penalty or restoration fee is waived pursuant to this subsection. Any person
19 qualifying under this subsection shall:

- 20 (1) Have an affirmative defense to any criminal charge based upon the failure to
21 return any registration card or registration plate to the Division;
- 22 (2) Upon reregistration, receive without cost from the Division all necessary
23 registration cards or plates; and
- 24 (3) Upon notice of revocation, be permitted to transfer the vehicle's registration
25 immediately to his or her spouse, child, or spouse's child, notwithstanding
26 the provisions of subsection (e) of this section."

27 **SECTION 4.** The Department of Crime Control and Public Safety shall implement
28 the use of such technology no later than January 1, 2012. The Department of Crime Control and
29 Public Safety shall request proposals for contracts to provide electronic verification system
30 services from private service providers offering such technology. The Department shall set as
31 minimum standards the following:

- 32 (1) Provide to the current law enforcement mobile units and provide to
33 additional mobile units operated by law enforcement officers technological
34 equipment with the capacity to identify at least eighty percent (80%) of the
35 motor vehicles being operated on public streets and highways and public
36 vehicular areas without financial responsibility during a 12-month cycle.
- 37 (2) Provide to law enforcement agencies and officers technological equipment
38 that has the capacity to identify motor vehicles being operated without
39 financial responsibility within five seconds from the time such motor
40 vehicles are identified.
- 41 (3) Provide technological capability, which would enable the Division of Motor
42 Vehicles to take the appropriate action as provided in G.S. 20-309.3, in real
43 time, after a motor vehicle is identified as operating on the public streets and
44 highways and public vehicular areas without financial responsibility.
- 45 (4) Have technological capability that would enable the Division of Motor
46 Vehicles to notify the owner within a reasonable amount of time that such
47 motor vehicle was operating on the public highways of North Carolina
48 without financial responsibility.
- 49 (5) Provide such technological capability to the Department of Crime Control
50 and Public Safety for a duration of no less than five years.

1 (6) Not receive any public funding for providing the Department of Crime
2 Control and Public Safety such technological capability until such
3 technology is implemented and operational.

4 **SECTION 5.** This act is effective when it becomes law. Prosecutions for offenses
5 committed before the effective date of this act are not abated or affected by this act, and the
6 statutes that would be applicable but for this act remain applicable to those prosecutions.