

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE BILL 764

Short Title: Motor Vehicle Civil Penalty/District Court. (Public)

Sponsors: Senators Bingham, B. Jackson, and Brock (Primary Sponsors).

Referred to: Judiciary II.

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO ALLOW JUDICIAL REVIEW OF CIVIL PENALTIES ON MOTOR VEHICLES IMPOSED BY THE DEPARTMENT OF PUBLIC SAFETY IN THE DISTRICT COURT OF THE COUNTY IN WHICH THE PENALTY WAS ASSESSED, AS RECOMMENDED BY THE AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 20-178.1 reads as rewritten:

"§ 20-178.1. Payment and review of civil penalty imposed by Department of Public Safety.

...

(c) Judicial Review. – Except as provided in subsection (c1) of this section, any Any person who is dissatisfied with the decision of the Secretary and who has paid the penalty in full within 30 days of the notice of decision, as required by subsection (b) of this section, may, within 60 days of the decision, bring an action for refund of the penalty against the Department in the Superior Court of Wake County or in the superior court of the county in which the civil penalty was assessed. The court shall review the Secretary's decision and shall make findings of fact and conclusions of law. The hearing shall be conducted by the court without a jury. In reviewing the case, the court shall not give deference to the prior decision of the Secretary. A superior court may award attorneys' fees to a prevailing plaintiff only upon a showing of bad faith on the part of the Department, and any order for attorneys' fees must be supported by findings of fact and conclusions of law.

(c1) Judicial Review. – Any person operating a truck or other motor vehicle transporting supplies, material, or equipment necessary to carry out a farming or forestry operation who is dissatisfied with the decision of the Secretary and who has paid the penalty in full within 30 days of the notice of decision, as required by subsection (b) of this section, may, within 60 days of the decision, bring an action for refund of the penalty against the Department in the district court of the county in which the civil penalty was assessed. The court shall review the Secretary's decision and shall make findings of fact and conclusions of law. The hearing shall be conducted by the court without a jury. In reviewing the case, the court shall not give deference to the prior decision of the Secretary. A district court may award attorneys' fees to a prevailing plaintiff only upon a showing of bad faith on the part of the Department, and any order for attorneys' fees must be supported by findings of fact and conclusions of law.

...."

**SECTION 2.** This act becomes effective October 1, 2014, and applies to penalties assessed on or after that date.

