

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

H

4

HOUSE BILL 165  
Committee Substitute Favorable 5/5/21  
Third Edition Engrossed 5/6/21  
Senate Transportation Committee Substitute Adopted 9/22/21

Short Title: DOT Legislative Changes.-AB

(Public)

Sponsors:

Referred to:

March 1, 2021

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE VARIOUS CHANGES TO THE TRANSPORTATION AND MOTOR  
3 VEHICLE LAWS OF THE STATE.

4 The General Assembly of North Carolina enacts:

5  
6 **PART I. DEPARTMENT OF TRANSPORTATION**

7  
8 **MODIFY CAP ON CERTAIN PUBLIC PRIVATE PARTNERSHIPS**

9 **SECTION 1.** G.S. 136-18(39a)a. reads as rewritten:

10 "(39a) a. The Department of Transportation ~~or~~ and Turnpike Authority, as  
11 ~~applicable~~, may enter into up to three agreements each with a private  
12 entity as provided under subdivision (39) of this section for which the  
13 provisions of this section apply."  
14

15 **MODIFY LIMIT ON FUNDS TO PAY MAP ACT SETTLEMENT COSTS**

16 **SECTION 2.(a)** Section 1.4(a) of S.L. 2019-251 reads as rewritten:

17 "**SECTION 1.4.(a)** Limitation on Funds to Pay Map Act Settlement Costs. – The  
18 Department of Transportation may use no more than ~~one hundred fifty million dollars~~  
19 ~~(\$150,000,000)~~ three hundred million dollars (\$300,000,000) each fiscal year to pay  
20 compensation for damages arising from the Department's recordation of a transportation corridor  
21 map under Article 2E of Chapter 136 of the General Statutes (Map Act). This limitation does not  
22 apply to the payment of compensation for Map Act damages arising from a Turnpike project. For  
23 purposes of this section, the term "Turnpike project" has the same meaning as in  
24 G.S. 136-89.181."

25 **SECTION 2.(b)** Section 1.4(a) of S.L. 2019-251, as amended by subsection (a) of  
26 this section, reads as rewritten:

27 "**SECTION 1.4.(a)** Limitation on Funds to Pay Map Act Settlement Costs. – The  
28 Department of Transportation may use no more than ~~three hundred million dollars~~  
29 ~~(\$300,000,000)~~ five million dollars (\$5,000,000) each fiscal year to pay compensation for  
30 damages arising from the Department's recordation of a transportation corridor map under Article  
31 2E of Chapter 136 of the General Statutes (Map Act). This limitation does not apply to the  
32 payment of compensation for Map Act damages arising from a Turnpike project. For purposes  
33 of this section, the term "Turnpike project" has the same meaning as in G.S. 136-89.181."



1           **SECTION 2.(c)** Subsection (b) of this section becomes effective July 1, 2022. The  
2 remainder of this section is effective when it becomes law.

#### 3 4 **STI CHANGES**

5           **SECTION 3.(a)** G.S. 136-189.11(e) reads as rewritten:

6           "(e) Authorized Formula Variance. – The Department may vary from the Formula set forth  
7 in this section if it complies with the following:

8           (1) Limitation on variance. – The Department, in obligating funds in accordance  
9 with this section, shall ensure that the percentage amount obligated to  
10 Statewide Strategic Mobility Projects, Regional Impact Projects, and Division  
11 Need Projects does not vary by more than fifteen percent (15%) over any  
12 five-year period and ten percent (10%) over any 10-year period from the  
13 percentage required to be allocated to each of those categories by this section.  
14 Funds obligated among distribution regions or divisions pursuant to this  
15 section may vary up to fifteen percent (15%) over any five-year period and  
16 ten percent (10%) over any 10-year period.

17           (2) Calculation of Variance. – Each year, the Secretary shall calculate the amount  
18 of Regional Impact and Division Need funds allocated in that year to each  
19 division and region, the amount of funds obligated, and the amount the  
20 obligations exceeded or were below the allocation. In calculating the amount  
21 of funds obligated, the Secretary shall include any amount used as repayment  
22 for funds advanced pursuant to G.S. 136-186. The target amounts obtained  
23 according to the Formula set forth in this section shall be adjusted to account  
24 for any differences between allocations and obligations reported for the  
25 previous ~~five~~-fiscal years. The new target amounts shall be used to fulfill the  
26 requirements of subdivision (1) of this subsection for the next update of the  
27 Transportation Improvement Program. The adjustment to the target amount  
28 shall be allocated by Distribution Region or Division, as applicable."

29           **SECTION 3.(b)** This section is effective when it becomes law and applies to State  
30 Transportation Improvement Program plan updates on or after that date.

#### 31 32 **SMALL PROJECT BIDDING INCREASE AND EXPANSION**

33           **SECTION 4.(a)** G.S. 136-28.10 reads as rewritten:

34           "**§ 136-28.10. Highway Fund and Highway Trust Fund Small Project Bidding.**

35           (a) Notwithstanding the provisions of G.S. 136-28.4(b), for Highway Fund or Highway  
36 Trust Fund construction and repair projects of ~~five hundred thousand dollars (\$500,000)~~ one  
37 million dollars (\$1,000,000) or less, and maintenance projects of ~~five hundred thousand dollars~~  
38 ~~(\$500,000)~~ one million dollars (\$1,000,000) or less per year, the Board of Transportation may,  
39 after soliciting and receiving at least three informal bids in writing from Small Business  
40 Enterprises, award contracts to the lowest responsible bidder. The Department of Transportation  
41 may identify projects likely to attract increased participation by Small Business Enterprises, and  
42 restrict the solicitation and award to those bidders. The Board of Transportation may delegate  
43 full authority to award contracts, adopt necessary rules, and administer the provisions of this  
44 section to the Secretary of Transportation.

45           ...."

46           **SECTION 4.(b)** This section is effective when it becomes law and applies to  
47 solicitations for bids issued by the Department of Transportation on or after that date.

#### 48 49 **CLARIFY FERRY CHANNEL DREDGE COST-SHARE EXEMPTION**

50           **SECTION 5.** G.S. 143-215.73F(c1), as enacted by S.L. 2021-108, reads as rewritten:

1 "(c1) Cost-Share Exemption for DOT Ferry Channel Projects. – Notwithstanding the  
2 cost-share requirements of subdivision (1) of subsection (c) of this section, no cost-share shall be  
3 required for dredging projects located, in whole or part, in a development tier one area for a ferry  
4 channel ~~maintained~~used by the North Carolina Department of Transportation."  
5

## 6 LITTER CLEANUP

7 **SECTION 6.(a)** G.S. 136-28.12 reads as rewritten:

8 "**§ 136-28.12. Litter removal coordinated with mowing of highway rights-of-way.**

9 ~~The Department of Transportation shall, to the extent practicable, schedule the removal of~~  
10 ~~debris, trash, and litter from highways and highway rights of way prior to the mowing of~~  
11 ~~highway rights of way. The Department of Transportation shall include as a term of any contract~~  
12 ~~that it enters into for the mowing of a highway right of way that the contracting party shall, to~~  
13 ~~the extent practicable, coordinate with the scheduled removal of debris, trash, and litter from the~~  
14 ~~highway and highway right of way prior to the mowing of the highway right of way.~~

15 (a) For State-maintained roads, the Department of Transportation shall coordinate litter  
16 removal and mowing as follows:

17 (1) If the highway right-of-way to be mowed is part of the primary road system,  
18 the Department shall schedule the removal of litter before the right-of-way is  
19 mowed.

20 (2) If the highway right-of-way to be mowed is part of the secondary road system,  
21 the Department shall schedule, to the extent practicable, the removal of litter  
22 before the right-of-way is mowed.

23 (b) The Department shall require as a term of any contract to mow or remove litter that  
24 the contracting party agree to the provisions in subsection (a) of this section."

25 **SECTION 6.(b)** Report on Litter Management System. – On or before January 15,  
26 2022, the Department of Transportation shall report to the Joint Legislative Transportation  
27 Oversight Committee and the Fiscal Research Division on the effectiveness of the Department's  
28 Litter Management System website and interactive map, including impacts on participation in  
29 litter management programs.

30 **SECTION 6.(c)** This section is effective when it becomes law. Subsection (a) of this  
31 section applies to contracts entered into on or after January 1, 2022.  
32

## 33 PART II. DIVISION OF MOTOR VEHICLES

### 34 35 INSURANCE COMPANIES TO SUBMIT POLICY NOTIFICATIONS TO DIVISION 36 ELECTRONICALLY

37 **SECTION 7.** G.S. 20-309.2(c) reads as rewritten:

38 "(c) Form of Notice. – ~~Any insurer with twenty five million dollars (\$25,000,000) or more~~  
39 ~~in annual vehicle insurance premium volume shall submit the notices required under this section~~  
40 ~~by electronic means. All other insurers may shall submit the notices required under this section~~  
41 ~~by either paper or electronic means."~~  
42

### 43 HANDICAPPED PLACARD ONLINE RENEWAL

44 **SECTION 8.** G.S. 20-37.6(c1) reads as rewritten:

45 "(c1) Application and Renewal; Medical Certification. – The initial application for a  
46 distinguishing license plate, removable windshield placard, or temporary removable windshield  
47 placard shall be accompanied by a certification of a licensed physician, a licensed  
48 ophthalmologist, a licensed optometrist, a licensed physician assistant, a licensed nurse  
49 practitioner, or the Division of Services for the Blind that the applicant or person in the applicant's  
50 custody or care is handicapped or by a disability determination by the United States Department  
51 of Veterans Affairs that the applicant or person in the applicant's custody or care is handicapped.

1 For an initial application for a temporary removable windshield placard only, the certification  
2 that the applicant is handicapped may be made by a licensed certified nurse midwife. The  
3 application for a temporary removable windshield placard shall contain additional certification  
4 to include the period of time the certifying authority determines the applicant will have the  
5 disability. Distinguishing license plates shall be renewed annually, but subsequent applications  
6 shall not require a medical certification that the applicant is handicapped, except that a registered  
7 owner that certified pursuant to subsection (b) of this section that the registered owner is the  
8 guardian or parent of a handicapped person must recertify every five years. Removable  
9 windshield placards shall be renewed every five years, and, except for a person certified as totally  
10 and permanently disabled at the time of the initial application or a prior renewal under this  
11 subsection, the renewal shall require a medical recertification that the person is handicapped;  
12 provided that a medical certification shall not be required to renew any placard that expires after  
13 the person to whom it is issued is 80 years of age. Temporary removable windshield placards  
14 shall expire no later than six months after issuance. The Division shall offer renewal of  
15 handicapped credentials in person and online on the Division's website."

## 17 **DISQUALIFICATION FOR LIFE FROM DRIVING A CMV FOR CERTAIN** 18 **CONVICTIONS OF SEVERE FORMS OF TRAFFICKING IN PERSONS**

19 **SECTION 9.** G.S. 20-17.4 is amended by adding a new subsection to read:

20 "(c2) Life. – A person shall be disqualified from driving a commercial motor vehicle for  
21 life, without the possibility of reinstatement, if convicted of a major disqualifying offense as  
22 defined in 49 C.F.R. § 383.51(b)(10)."

## 24 **CLARIFY STUDY TRANSFER OF DMV HEARINGS**

25 **SECTION 10.(a)** Section 2(a) of S.L. 2021-134 reads as rewritten:

26 "**SECTION 2.(a)** ~~The Division of Motor Vehicles, Vehicles and the Office of Administrative~~  
27 Hearings, in consultation with the Office of Administrative Hearings and the Attorney General,  
28 shall study the feasibility of transferring (i) dealer license hearings pursuant to G.S. 20-296 and  
29 (ii) safety and emissions inspection hearings pursuant to Article 3A of Chapter 20 of the General  
30 Statutes from the Division of Motor Vehicles to the Office of Administrative Hearings. The study  
31 shall:

32 ...."

33 **SECTION 10.(b)** Section 2(b) of S.L. 2021-134 reads as rewritten:

34 "**SECTION 2.(b)** ~~By January 31, 2022, March 31, 2022,~~ the Division of Motor Vehicles  
35 shall submit the findings of the study to the Joint Legislative Transportation Oversight  
36 Committee and the Fiscal Research Division."

## 38 **DELAY AMENDMENT OF EFFECTIVE DATE FOR CERTAIN LICENSE** 39 **REVOICATIONS**

40 **SECTION 11.** Section 9(d) of S.L. 2021-134 reads as rewritten:

41 "**SECTION 9.(d)** This section becomes effective ~~October 1, 2021,~~ February 1, 2022, and  
42 applies to notifications of revocations mailed by the Division of Motor Vehicles on or after that  
43 date."

## 45 **PART III. MISCELLANEOUS**

### 47 **LAPSE IN FINANCIAL RESPONSIBILITY**

48 **SECTION 12.(a)** G.S. 20-309.2 is amended by adding a new subsection to read:

49 "(a1) Division Records. – The Division shall ensure that its records accurately reflect the  
50 insurance coverage status of each owner of a motor vehicle registered or required to be registered  
51 in this State by reconciling all notices received under this section pertaining to that motor vehicle

1 owner. A termination notice received under subdivision (2) of subsection (a) of this section shall  
2 not be recorded as a lapse in financial responsibility or initiate action by the Division under  
3 G.S. 20-311 if an earlier notice received by the Division under this section establishes that the  
4 owner of the motor vehicle has met the duty to have continuous financial responsibility for the  
5 vehicle, as required under G.S. 20-309, through a motor vehicle liability policy that is not the  
6 subject of the later termination notice."

7 **SECTION 12.(b)** G.S. 20-311(a) reads as rewritten:

8 "(a) Action. – When the Division receives evidence, by a notice of termination of a motor  
9 vehicle liability policy or otherwise, that the owner of a motor vehicle registered or required to  
10 be registered in this State does not have financial responsibility for the operation of the vehicle,  
11 the Division shall ~~send~~ notify the owner a letter, electronically or by mail. The letter shall notify  
12 notice shall inform the owner of the evidence demonstrating lapse and ~~inform the owner~~ that the  
13 owner ~~shall~~ must respond to the ~~letter notice~~ within 10 days of the date ~~on the letter and the notice~~  
14 was sent. The owner's response must explain how the owner has met the duty to have continuous  
15 financial responsibility for the vehicle. Based on the owner's response, the Division shall take the  
16 appropriate action listed:

17 ...

18 (5) No penalty. – If the owner responds within the required time and the response  
19 establishes all of the following, the Division shall not assess the owner a  
20 penalty:

21 a. The owner sold the vehicle under G.S. 20-62.1 or transferred title  
22 under G.S. 20-72 or G.S. 20-109.1 within 10 days of the termination  
23 of financial responsibility for the vehicle.

24 b. The owner did not operate or allow the vehicle to be operated during  
25 the lapse because the vehicle was either (i) unable to be driven due to  
26 damage or mechanical defect or (ii) no longer in the possession of the  
27 owner as a result of a sale or transfer for which there was a delay  
28 between physical transfer of the vehicle and completion of the  
29 paperwork required under G.S. 20-62.1, 20-72, or 20-109.1.

30 c. The owner has returned the North Carolina registration plate or has  
31 submitted an affidavit indicating that the North Carolina registration  
32 plate has been lost, stolen, or destroyed."

33 **SECTION 12.(c)** The Division of Motor Vehicles shall develop a plan to implement  
34 a system for accepting documentation from insurers required under G.S. 20-309.2 in an  
35 electronic format that allows for immediate transmission of insurance coverage status for owners  
36 of motor vehicles registered or required to be registered in this State. The plan shall also provide  
37 for electronic submission of all documentation required to be submitted by insurers to the  
38 Division in order to license an individual or register a motor vehicle in this State. The Division  
39 shall report to the Chairs of the House of Representatives and Senate Transportation Committees,  
40 the House of Representatives Insurance Committee, and the Senate Commerce and Insurance  
41 Committee on or before March 1, 2022, detailing the plan developed in accordance with this  
42 section.

## 43 44 **MANAGED LANE RESTRICTION ENFORCEMENT**

45 **SECTION 13.(a)** G.S. 136-89.199 reads as rewritten:

46 "**§ 136-89.199. Designation of high-occupancy toll and managed lanes.**

47 (a) Authority. – Notwithstanding any other provision of this Article, the Authority may  
48 designate one or more lanes of any highway, or portion thereof, within the State, including lanes  
49 that may previously have been designated as HOV lanes under G.S. 20-146.2, as high-occupancy  
50 toll (HOT) or other type of managed lanes; provided, however, that such designation shall not  
51 reduce the number of existing non-toll general purpose lanes. In making such designations, the

1 Authority shall specify the high-occupancy requirement or other conditions for use of such lanes,  
2 which may include restricting vehicle types, access controls, or the payment of tolls for vehicles  
3 that do not meet the high-occupancy requirements or conditions for use.

4 (b) Reporting. – At least 90 days prior to the letting of a contract for the designation of a  
5 HOT lane or other type of managed lane under subsection (a) of this section, the Authority shall  
6 submit a report to the Joint Legislative Transportation Oversight Committee detailing (i) the  
7 reasoning for the designation of the HOT lane or other type of managed lane and (ii) the terms  
8 of the contract that will be let. The reporting requirement in this subsection does not apply to any  
9 project proposed by the Authority that is subject to the reporting requirement set forth in  
10 G.S. 136-89.183(a)(2).

11 (c) Penalty. – Violation of a use requirement or use condition for lanes designated under  
12 subsection (a) of this section is an infraction."

13 **SECTION 13.(b)** G.S. 20-176(a1) reads as rewritten:

14 "(a1) A person who does any of the following is responsible for an infraction:

- 15 (1) Fails to carry the registration card in the vehicle, in violation of G.S. 20-57(c).
- 16 (2) Repealed by Session Laws 2016-90, s. 12(b), effective December 1, 2016, and  
17 applicable to registration cards issued on or after that date.
- 18 (3) Fails to notify the Division of an address change for a vehicle registration card  
19 within 60 days after the change occurs, in violation of G.S. 20-67.
- 20 (4) Operates a motor vehicle in violation of G.S. 20-146.2."

21 **SECTION 13.(c)** This section becomes effective December 1, 2021, and applies to  
22 offenses committed on or after that date.

## 23 24 **MAXIMUM BUS LENGTH**

25 **SECTION 14.** G.S. 20-116(l) reads as rewritten:

26 "~~(l)~~ Nothing in this section shall be construed to prevent the operation of passenger buses  
27 that are owned and operated by units of local government, operated as a single vehicle ~~only~~ and  
28 having an overall length of 45 feet or ~~less~~, less or as an articulated vehicle and having an overall  
29 length of 65 feet or less, on public streets or highways. The Department of Transportation may  
30 prevent the operation of buses that are authorized under this subsection if the operation of such  
31 buses on a street or highway presents a hazard to passengers of the buses or to the motoring  
32 public."

## 33 34 **COMMERCIAL DRIVER TRAINING SCHOOL ROAD TEST AUTHORIZATION**

35 **SECTION 15.(a)** G.S. 20-11(d)(3), as amended by S.L. 2021-24, reads as rewritten:

36 "(3) Passes a road test administered by the ~~Division~~ Division or by a commercial  
37 driver training school certified by the Division to administer road tests."

38 **SECTION 15.(b)** G.S. 20-320 reads as rewritten:

### 39 **"§ 20-320. Definitions.**

40 As used in this Article:

- 41 (1) "Commercial driver training school" or "school" means a business enterprise  
42 conducted by an individual, association, partnership or corporation which  
43 educates or trains persons to operate or drive motor ~~vehicles~~ vehicles,  
44 administers road tests pursuant to G.S. 20-329, or which furnishes educational  
45 materials to prepare an applicant for an examination given by the State for a  
46 driver's license or learner's permit, and charges a consideration or tuition for  
47 such service or materials.
- 48 (2) "Commissioner" means the Commissioner of Motor Vehicles.
- 49 (3) "Instructor" means any person who operates a commercial driver training  
50 school or who teaches, conducts classes, gives demonstrations, administers  
51 road tests, or supervises practical training of persons learning to operate or

1 drive motor vehicles in connection with operation of a commercial driver  
2 training school."

3 **SECTION 15.(c)** Article 14 of Chapter 20 of the General Statutes is amended by  
4 adding a new section to read:

5 "**§ 20-329. Commercial driver training school road test certification.**

6 (a) A licensed commercial driver training school is authorized to administer road tests  
7 required for licensure under G.S. 20-11(d)(3) only when certified under this section by the  
8 Division.

9 (b) A person that successfully passes a road test required for licensure administered by a  
10 commercial driver training school may submit proof to the Division that the person passed the  
11 road test, in a format specified by the Division, for the purpose of meeting the requirement of  
12 G.S. 20-11(d)(3).

13 (c) The Commissioner may adopt rules for school certification to administer road tests,  
14 including requirements concerning location, equipment, instructors, schedule of fees and  
15 charges, insurance, bond or other security in such sum and with such provisions as the  
16 Commissioner deems necessary to protect adequately the interests of the public, and such other  
17 matters as the Commissioner may prescribe."

18

19 **PART IV. EFFECTIVE DATE**

20 **SECTION 16.** Except as otherwise provided, this act is effective when it becomes  
21 law.