

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 129

Short Title: Transfer DMV to CCPS.

(Public)

Sponsors: Representatives Thompson, Justus; Buchanan, Creech, Esposito, and Kiser.

Referred to: Rules, Calendar and Operations of the House.

February 13, 1997

A BILL TO BE ENTITLED

1
2 AN ACT TO ESTABLISH THE MOTOR VEHICLE ENFORCEMENT DIVISION OF
3 THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, TO
4 TRANSFER THE DUTIES OF THE ENFORCEMENT SECTION OF THE
5 DIVISION OF MOTOR VEHICLES OF THE DEPARTMENT OF
6 TRANSPORTATION TO THE MOTOR VEHICLE ENFORCEMENT DIVISION,
7 AND TO GRANT THE ENFORCEMENT OFFICERS OF THE MOTOR VEHICLE
8 ENFORCEMENT DIVISION THE AUTHORITY TO ASSIST IN THE
9 ENFORCEMENT OF LAWS WHEN A CRIME HAS BEEN COMMITTED IN
10 THEIR PRESENCE OR WHEN A STATE OR LOCAL LAW ENFORCEMENT
11 AGENCY HAS REQUESTED THEIR ASSISTANCE.

12 The General Assembly of North Carolina enacts:

13 Section 1. The statutory authority, powers, duties and functions, records,
14 personnel, property, unexpended balances of appropriations, allocations or other funds,
15 including the functions of budgeting and purchasing, of the Enforcement Section of the
16 Division of Motor Vehicles, Department of Transportation, are transferred to the
17 Department of Crime Control and Public Safety, and shall be established as the Motor
18 Vehicle Enforcement Division of the Department of Crime Control and Public Safety.

19 Section 2. G.S. 20-4, 20-49, and 20-381(1b) are repealed.

1 Section 3. Chapter 20 of the General Statutes is amended by adding a new
2 Article to read:

3 "ARTICLE 4A.

4 "Motor Vehicle Enforcement Division.

5 **"§ 20-196.11. Motor Vehicle Enforcement Division established.**

6 (a) The Motor Vehicle Enforcement Division of the Department of Crime Control
7 and Public Safety is established. The Secretary of Crime Control and Public Safety,
8 through Motor Vehicle Enforcement, shall ensure the enforcement of all provisions of
9 Chapter 20 that assign enforcement duties to the Commissioner of Motor Vehicles, the
10 Division of Motor Vehicles, or the Secretary of Crime Control and Public Safety, as
11 specified in subsections (b) and (c) of this section.

12 (b) The primary enforcement duty of Motor Vehicle Enforcement is the
13 enforcement of the vehicle weight restrictions set forth in G.S. 20-118. In performing this
14 duty, Motor Vehicle Enforcement shall make maximum effective use of permanent weigh
15 stations and portable scales.

16 (c) The secondary enforcement duties of Motor Vehicle Enforcement are as
17 follows and are listed in the order of importance:

18 (1) Enforcement of the motor carrier safety regulations.

19 (2) Enforcement of the emissions inspection program.

20 (3) Inspection of salvage vehicles.

21 (4) Providing security at rest areas.

22 (5) Other enforcement duties assigned to the Commissioner of Motor
23 Vehicles or Motor Vehicle Enforcement.

24 (d) Motor Vehicle Enforcement shall not undertake an enforcement duty that is not
25 listed in this section unless a law specifically authorizes the Division of Motor Vehicles,
26 the Commissioner of Motor Vehicles, or the Secretary of Crime Control and Public
27 Safety to do so, or the duty is undertaken as a condition of receiving federal funds.

28 **"§ 20-196.12. Police authority of Motor Vehicle Enforcement.**

29 (a) The Secretary of Crime Control and Public Safety and the officers of Motor
30 Vehicle Enforcement, as designated by the Secretary, and all members of the Highway
31 Patrol have the following powers and duties:

32 (1) Of peace officers for the purpose of enforcing the provisions of this
33 Article and of any other law regulating the operation of vehicles or the
34 use of the highways.

35 (2) To make arrests upon view and without warrant for any violation
36 committed in their presence of any of the provisions of this Article or
37 other laws regulating the operation of vehicles or the use of the
38 highways.

39 (3) At all time to direct all traffic in conformance with law, and in the event
40 of a fire or other emergency or to expedite traffic or to insure safety, to
41 direct traffic as conditions may require, notwithstanding the provisions
42 of law.

- 1 (4) When on duty, upon reasonable belief that any vehicle is being operated
2 in violation of any provision of this Article or of any other law
3 regulating the operation of vehicles, to require the driver thereof to stop
4 and exhibit his drivers license and the registration card issued for the
5 vehicle, and submit to an inspection of such vehicle, the registration
6 plates and registration card thereon or to an inspection and test of the
7 equipment of such vehicle.
- 8 (5) To inspect any vehicle of a type required to be registered hereunder in
9 any public garage or repair shop or in any place where such vehicles are
10 held for sale or wrecking, for the purpose of locating stolen vehicles and
11 investigating the title and registration thereof.
- 12 (6) To serve all warrants relating to the enforcement of the laws regulating
13 the operation of vehicles or the use of the highways.
- 14 (7) To investigate traffic accidents and secure testimony of witnesses or of
15 persons involved.
- 16 (8) To investigate reported thefts of motor vehicles, trailers, and
17 semitrailers and make arrest for thefts thereof.
- 18 (9) For the purpose of determining compliance with the provisions of this
19 Chapter, to inspect all files and records of the persons hereinafter
20 designated and required to be kept under the provisions of this Chapter
21 or of the registrations of the Division:
- 22 a. Persons dealing in or selling and buying new, used, or junked
23 motor vehicles and motor vehicle parts; and
- 24 b. Persons operating garages or other places where motor vehicles
25 are repaired, dismantled, or stored.
- 26 (b) In addition to the enforcement authority granted in subsection (a) of this
27 section, the officers of Motor Vehicle Enforcement have the authority to enforce criminal
28 laws under the following circumstances:
- 29 (1) When the officer has probable cause to believe that a person has
30 committed a criminal offense in the officer's presence and at the time of
31 the violation the officer is engaged in the enforcement of laws otherwise
32 within the officer's jurisdiction; or
- 33 (2) When the officer is asked to provide temporary assistance by the head
34 of a State or local law enforcement agency or that person's designee and
35 the request is within the scope of that agency's subject matter
36 jurisdiction.
- 37 While acting pursuant to this subsection, an officer shall have the same powers
38 invested in law enforcement officers by statute or common law. When acting pursuant to
39 subdivision (2) of this subsection, an officer shall not be considered an officer, employee,
40 or agent for the State or local law enforcement agency or designee asking for temporary
41 assistance. Nothing in this subsection shall be construed to expand the authority of
42 officers to initiate or conduct independent investigations into violations of criminal laws

1 outside the scope of the subject matter jurisdiction of the operation of vehicles and the
2 use of the highways."

3 Section 4. G.S. 20-4.01 is amended by adding a new subdivision to read:

4 "(23a) Motor Vehicle Enforcement. – The Motor Vehicle Enforcement
5 Division of the Department of Crime Control and Public Safety."

6 Section 5. G.S. 143-166.13(a) reads as rewritten:

7 "(a) The following persons who are subject to the Criminal Justice Training and
8 Standards Act are entitled to benefits under this Article:

- 9 (1) State Government Security Officers, Department of Administration;
- 10 (2) State Correctional Officers, Department of Corrections;
- 11 (3) State Probation and Parole Officers, Department of Corrections;
- 12 (4) Sworn State Law-Enforcement Officers with the power of arrest,
13 Department of Corrections;
- 14 (5) Alcohol Law-Enforcement Agents, Department of Crime Control and
15 Public Safety;
- 16 (6) State Highway Patrol Officers, Department of Crime Control and Public
17 Safety;
- 18 (7) State Legislative Building Special Police, General Assembly;
- 19 (8) Sworn State Law-Enforcement Officers with the power of arrest,
20 Department of Human Resources;
- 21 (9) Youth Correctional Officers, Department of Human Resources;
- 22 (10) Insurance Investigators, Department of Insurance;
- 23 (11) State Bureau of Investigation Officers and Agents, Department of
24 Justice;
- 25 (12) Director and Assistant Director, License and Theft Enforcement
26 Section, Division of Motor Vehicles, Department of Transportation;
- 27 (13) ~~Members of License and Theft Enforcement Section, Division of Motor~~
28 ~~Vehicles, Department of Transportation, designated by the~~
29 ~~Commissioner of Motor Vehicles as either "inspectors" or uniformed~~
30 ~~weigh station personnel; the Motor Vehicle Enforcement Division of the~~
31 Department of Crime Control and Public Safety;
- 32 (14) Utilities Commission Transportation Inspectors and Special
33 Investigators;
- 34 (15) North Carolina Ports Authority Police, Department of Commerce;
- 35 (16) Sworn State Law-Enforcement Officers with the power of arrest,
36 Department of Environment, Health, and Natural Resources;
- 37 (17) Sworn State Law-Enforcement Officers with the power of arrest,
38 Department of Crime Control and Public Safety."

39 Section 6. G.S. 143B-476(a) reads as rewritten:

40 "(a) The head of the Department of Crime Control and Public Safety is the
41 Secretary of Crime Control and Public Safety, who shall be known as the Secretary. The
42 Secretary shall have such powers and duties as are conferred on him by this Chapter,

1 delegated to him by the Governor, and conferred on him by the Constitution and laws of
2 this State. These powers and duties include:

- 3 (1) Accepting gifts, bequests, devises, grants, matching funds and other
4 considerations from private or governmental sources for use in
5 promoting the work of the Governor's Crime Commission;
- 6 (2) Making grants for use in pursuing the objectives of the Governor's
7 Crime Commission;
- 8 (3) Adopting rules as may be required by the federal government for federal
9 grants-in-aid for criminal justice purposes;
- 10 (4) Ascertaining the State's duties concerning grants to the State by the Law
11 Enforcement Assistance Administration of the United States
12 Department of Justice, and developing and administering a plan to
13 ensure that the State fulfills its duties; ~~and~~
- 14 (5) Administering the Assistance Program for Victims of Rape and Sex
15 ~~Offenses.~~ Offenses; and
- 16 (6) Ensuring enforcement of all provisions of Chapter 20 that assign
17 enforcement duties to the Commissioner of Motor Vehicles, the
18 Division of Motor Vehicles, or the Secretary of Crime Control and
19 Public Safety."

20 Section 7. G.S. 20-71.3 reads as rewritten:

21 **"§ 20-71.3. Titles and registration cards to be branded.**

22 Motor Vehicle certificates of title and registration cards issued pursuant to G.S. 20-57
23 shall be branded. As used herein 'branded' means that the title and registration card shall
24 contain a designation that discloses if the vehicle is classified as (a) Flood Vehicle, (b)
25 Non-U.S.A. Vehicle, (c) Reconstructed Vehicle, (d) Salvage Motor Vehicle, or (e)
26 Salvage Rebuilt Vehicle or other classification authorized by law. Any motor vehicle
27 damaged by collision or other occurrence which is to be retitled in this State shall be
28 subject to preliminary and final inspections by the ~~Enforcement Section of the Division,~~
29 Motor Vehicle Enforcement Division of the Department of Crime Control and Public
30 Safety and the Division shall refuse to issue a title to a vehicle which has not undergone a
31 preliminary inspection. Any motor vehicle which has been branded in another state shall
32 be branded with the nearest applicable brand specified in this section, except that no junk
33 vehicle or vehicle that has been branded junk in another state shall be titled or registered.
34 A motor vehicle titled in another state and damaged by collision or other occurrence may
35 be repaired and an unbranded title issued in North Carolina only if the cost of repairs,
36 including parts and labor, does not exceed seventy-five percent (75%) of its fair market
37 retail value. The Commissioner shall prepare necessary forms and may adopt regulations
38 required to carry out the provisions of this Part 3A. The title shall reflect the branding
39 until surrendered to or cancelled by the Commissioner."

40 Section 8. G.S. 20-128.1(c) reads as rewritten:

41 "(c) The provisions of this section shall be enforceable by all persons designated in
42 ~~G.S. 20-49;~~ G.S. 20-196.12; by all law-enforcement officers of this State within their
43 respective jurisdictions; by the personnel of local air pollution control agencies within

1 their respective jurisdictions; and by personnel of State air pollution control agencies
2 throughout the State."

3 Section 9. G.S. 20-383 reads as rewritten:

4 **"§ 20-383. Inspectors and officers given enforcement authority.**

5 Only designated inspectors and officers of ~~the Division~~ Motor Vehicle Enforcement
6 shall have the authority to enforce the provisions of this Article and provisions of Chapter
7 62 applicable to motor transportation, and they are empowered to make complaint for the
8 issue of appropriate warrants, informations, presentments or other lawful process for the
9 enforcement and prosecution of violations of the transportation laws against all offenders,
10 whether they be regulated motor carriers or not, and to appear in court or before the
11 North Carolina Utilities Commission and offer evidence at the trial pursuant to such
12 processes."

13 Section 10. G.S. 20-39(g) reads as rewritten:

14 "(g) The Commissioner, notwithstanding any other provision of this Chapter, may
15 lawfully to the extent necessary provide law-enforcement officers of ~~the Division~~ Motor
16 Vehicle Enforcement on special undercover assignments with motor vehicle operator's
17 licenses and motor vehicle registration plates under assumed names using false or
18 fictitious addresses. The Commissioner shall be responsible for the request for issuance
19 and use thereof. The Commissioner may direct the immediate return of any operator's
20 license or registration plate issued pursuant to this section."

21 Section 11. (a) The Secretary of Crime Control and Public Safety and the
22 Commissioner of Motor Vehicles shall review the enforcement authority of the
23 Commissioner and the Division and shall report to the 1998 Regular Session of the 1997
24 General Assembly by March 1, 1998, on any legislative revisions necessary to implement
25 fully the transfer mandated by this act.

26 (b) The Governor, as chief executive officer of the State, in accordance with
27 Article III of the Constitution of North Carolina and subject to the Constitution and laws
28 of this State, is responsible for formulating and administering the policies of the
29 executive branch. In the event that a conflict arises in connection with the enforcement of
30 the provisions of Chapter 20 as a result of the provisions of this act, the conflict shall be
31 resolved by the Governor and the decision of the Governor shall be final.

32 Section 12. This act becomes effective July 1, 1997.