

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 206*

Short Title: DMV Head Is a DOT Deputy.

(Public)

Sponsors: Representative Bowie.

Referred to: Transportation.

February 17, 1997

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT A RECOMMENDATION OF THE PERFORMANCE AUDIT OF THE DIVISION OF MOTOR VEHICLES OF THE DEPARTMENT OF TRANSPORTATION BY ELIMINATING THE POSITION OF COMMISSIONER OF MOTOR VEHICLES AND ALLOWING THE SECRETARY OF TRANSPORTATION TO DESIGNATE A DEPUTY TO BE THE HEAD OF THE DIVISION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-1 reads as rewritten:

"§ 20-1. Division of Motor Vehicles established.

The Division of Motor Vehicles of the Department of Transportation is established. This Chapter sets out the powers and duties of the Division. The Secretary of Transportation shall administer the Division. The Secretary may delegate to a Deputy of the Department of Transportation or another employee of the Department any duty of the Secretary concerning the administration of the Division."

Section 2. G.S. 20-2 reads as rewritten:

"§ 20-2. ~~Commissioner of Motor Vehicles;~~ Authority to adopt rules.

(a) ~~Commissioner and Assistants. The Division of Motor Vehicles shall be administered by the Commissioner of Motor Vehicles, who shall be appointed by and serve at the pleasure of the Secretary of the Department of Transportation. The~~

1 Commissioner shall be paid an annual salary to be fixed by the General Assembly in the
2 Current Operations Appropriations Act and allowed his traveling expenses as allowed by
3 law.

4 In any action, proceeding, or matter of any kind, to which the Commissioner of Motor
5 Vehicles is a party or in which he may have an interest, all pleadings, legal notices, proof
6 of claim, warrants for collection, certificates of tax liability, executions, and other legal
7 documents, may be signed and verified on behalf of the Commissioner of Motor Vehicles
8 by the Assistant Commissioner of Motor Vehicles or by any director or assistant director
9 of any section of the Division of Motor Vehicles or by any other agent or employee of the
10 Division so authorized by the Commissioner of Motor Vehicles.

11 (b) Rules.—The Commissioner-Secretary may adopt rules to implement this
12 Chapter. Chapter 150B of the General Statutes governs the adoption of rules by the
13 Commissioner-Secretary."

14 Section 3. G.S. 20-3 is repealed.

15 Section 4. G.S. 20-4.01(4) is repealed.

16 Section 5. G.S. 20-4.01 is amended by adding a new subdivision in the
17 appropriate alphabetical order to read:

18 "(39a) Secretary. – The Secretary of the North Carolina Department of
19 Transportation."

20 Section 6. G.S. 20-4.2(2) is repealed.

21 Section 7. The following statutes are amended by deleting the word
22 "Commissioner", the phrase "Commissioner of Motor Vehicles", the phrase "State
23 Commissioner of Motor Vehicles", or the phrase "Commissioner of the Division of
24 Motor Vehicles" each time they appear and substituting the word "Secretary" :

25 G.S. 20-4.3

26 G.S. 20-4.4

27 G.S. 20-4.6

28 G.S. 20-4.10

29 G.S. 20-4.20

30 G.S. 20-4.22

31 G.S. 20-7

32 G.S. 20-9

33 G.S. 20-11

34 G.S. 20-13.2

35 G.S. 20-16.1

36 G.S. 20-17.1

37 G.S. 20-19

38 G.S. 20-24

39 G.S. 20-26

40 G.S. 20-29.1

41 G.S. 20-30

42 G.S. 20-37.12

43 G.S. 20-37.16

- 1 G.S. 20-37.23
- 2 G.S. 20-39
- 3 G.S. 20-40
- 4 G.S. 20-41
- 5 G.S. 20-42
- 6 G.S. 20-43
- 7 G.S. 20-43.4
- 8 G.S. 20-45
- 9 G.S. 20-47
- 10 G.S. 20-48
- 11 G.S. 20-50
- 12 G.S. 20-56
- 13 G.S. 20-57
- 14 G.S. 20-61
- 15 G.S. 20-63
- 16 G.S. 20-64
- 17 G.S. 20-64.2
- 18 G.S. 20-66
- 19 G.S. 20-71.2
- 20 G.S. 20-71.3
- 21 G.S. 20-71.4
- 22 G.S. 20-78
- 23 G.S. 20-83
- 24 G.S. 20-84
- 25 G.S. 20-84.2
- 26 G.S. 20-85.1
- 27 G.S. 20-86.1
- 28 G.S. 20-91
- 29 G.S. 20-91.1
- 30 G.S. 20-91.2
- 31 G.S. 20-94
- 32 G.S. 20-97
- 33 G.S. 20-99
- 34 G.S. 20-100
- 35 G.S. 20-108
- 36 G.S. 20-109.1
- 37 G.S. 20-114
- 38 G.S. 20-124
- 39 G.S. 20-125
- 40 G.S. 20-125.1
- 41 G.S. 20-126
- 42 G.S. 20-127
- 43 G.S. 20-128.2

1 G.S. 20-129
2 G.S. 20-129.2
3 G.S. 20-130
4 G.S. 20-133
5 G.S. 20-135.2
6 G.S. 20-135.2A
7 G.S. 20-135.2B
8 G.S. 20-135.4
9 G.S. 20-140.4
10 G.S. 20-141.3
11 G.S. 20-179.3
12 G.S. 20-183.3
13 G.S. 20-183.8D
14 G.S. 20-183.8E
15 G.S. 20-218
16 G.S. 20-279.2
17 G.S. 20-279.3
18 G.S. 20-279.5
19 G.S. 20-279.6
20 G.S. 20-279.6A
21 G.S. 20-279.7
22 G.S. 20-279.8
23 G.S. 20-279.9
24 G.S. 20-279.10
25 G.S. 20-279.11
26 G.S. 20-279.12
27 G.S. 20-279.13
28 G.S. 20-279.16
29 G.S. 20-279.19
30 G.S. 20-279.20
31 G.S. 20-279.22
32 G.S. 20-279.24
33 G.S. 20-279.25
34 G.S. 20-279.26
35 G.S. 20-279.27
36 G.S. 20-279.28
37 G.S. 20-279.29
38 G.S. 20-279.30
39 G.S. 20-279.31
40 G.S. 20-279.32
41 G.S. 20-279.33
42 G.S. 20-281
43 G.S. 20-283

1 G.S. 20-288
2 G.S. 20-295
3 G.S. 20-296
4 G.S. 20-300
5 G.S. 20-301
6 G.S. 20-302
7 G.S. 20-305
8 G.S. 20-305.1
9 G.S. 20-305.2
10 G.S. 20-305.3
11 G.S. 20-305.4
12 G.S. 20-308.1
13 G.S. 20-321
14 G.S. 20-322
15 G.S. 20-323
16 G.S. 20-324
17 G.S. 20-325
18 G.S. 20-382
19 G.S. 20-382.2.

20 Section 8. G.S. 20-49 reads as rewritten:

21 **"§ 20-49. Police authority of Division.**

22 ~~The Commissioner and such officers~~ Officers and inspectors of the Division as ~~he shall~~
23 ~~designate~~ designated by the Secretary and all members of the Highway Patrol shall have
24 the power:

- 25 (1) Of peace officers for the purpose of enforcing the provisions of this
26 Article and of any other law regulating the operation of vehicles or the
27 use of the highways.
- 28 (2) To make arrests upon view and without warrant for any violation
29 committed in their presence of any of the provisions of this Article or
30 other laws regulating the operation of vehicles or the use of the
31 highways.
- 32 (3) At all time to direct all traffic in conformance with law, and in the event
33 of a fire or other emergency or to expedite traffic or to insure safety, to
34 direct traffic as conditions may require, notwithstanding the provisions
35 of law.
- 36 (4) When on duty, upon reasonable belief that any vehicle is being operated
37 in violation of any provision of this Article or of any other law
38 regulating the operation of vehicles to require the driver thereof to stop
39 and exhibit his driver's license and the registration card issued for the
40 vehicle, and submit to an inspection of such vehicle, the registration
41 plates and registration card thereon or to an inspection and test of the
42 equipment of such vehicle.

- 1 (5) To inspect any vehicle of a type required to be registered hereunder in
2 any public garage or repair shop or in any place where such vehicles are
3 held for sale or wrecking, for the purpose of locating stolen vehicles and
4 investigating the title and registration thereof.
- 5 (6) To serve all warrants relating to the enforcement of the laws regulating
6 the operation of vehicles or the use of the highways.
- 7 (7) To investigate traffic accidents and secure testimony of witnesses or of
8 persons involved.
- 9 (8) To investigate reported thefts of motor vehicles, trailers and semitrailers
10 and make arrest for thefts thereof.
- 11 (9) For the purpose of determining compliance with the provisions of this
12 Chapter, to inspect all files and records of the persons hereinafter
13 designated and required to be kept under the provisions of this Chapter
14 or of the registrations of the Division:
- 15 a. Persons dealing in or selling and buying new, used or junked
16 motor vehicles and motor vehicle parts; and
- 17 b. Persons operating garages or other places where motor vehicles
18 are repaired, dismantled, or stored."

19 Section 9. G.S. 20-79.1(j) is repealed.

20 Section 10. G.S. 20-84.2 is amended by deleting the word "Commissioner's"
21 each time it appears and substituting the word "Secretary's".

22 Section 11. G.S. 20-88.01 reads as rewritten:

23 **"§ 20-88.01. Revocation of registration for failure to register for or comply with
24 road tax or pay civil penalty for buying or selling non-tax-paid fuel.**

25 (a) Road Tax. – The Secretary of Revenue may notify the ~~Commissioner~~Division
26 of those motor vehicles that are registered or are required to be registered under Article
27 36B of Chapter 105 and whose owners or lessees, as appropriate, are not in compliance
28 with Article 36B, 36C, or 36D of Chapter 105. When notified, the ~~Commissioner~~Division
29 shall withhold or revoke the registration plate for the vehicle.

30 (b) Non-tax-paid Fuel. – The Secretary of Revenue may notify the ~~Commissioner~~
31 Division of those motor vehicles for which a civil penalty imposed under G.S. 105-
32 449.118 has not been paid. When notified, the ~~Commissioner~~Division shall withhold or
33 revoke the registration plate of the vehicle."

34 Section 12. G.S. 20-279.21(b)(3)b. reads as rewritten:

- 35 "b. Where the insured, under the uninsured motorist coverage,
36 claims that he has sustained bodily injury as the result of
37 collision between motor vehicles and asserts that the identity of
38 the operator or owner of a vehicle (other than a vehicle in which
39 the insured is a passenger) cannot be ascertained, the insured may
40 institute an action directly against the insurer: Provided, in that
41 event, the insured, or someone in his behalf, shall report the
42 accident within 24 hours or as soon thereafter as may be
43 practicable, to a police officer, peace officer, other judicial

1 officer, or to the ~~Commissioner of Motor Vehicles~~ Division. The
2 insured shall also within a reasonable time give notice to the
3 insurer of his injury, the extent thereof, and shall set forth in the
4 notice the time, date and place of the injury. Thereafter, on forms
5 to be mailed by the insurer within 15 days following receipt of
6 the notice of the accident to the insurer, the insured shall furnish
7 to insurer any further reasonable information concerning the
8 accident and the injury that the insurer requests. If the forms are
9 not furnished within 15 days, the insured is deemed to have
10 complied with the requirements for furnishing information to the
11 insurer. Suit may not be instituted against the insurer in less than
12 60 days from the posting of the first notice of the injury or
13 accident to the insurer at the address shown on the policy or after
14 personal delivery of the notice to the insurer or its agent. The
15 failure to post notice to the insurer 60 days before the initiation
16 of the suit shall not be grounds for dismissal of the action, but
17 shall automatically extend the time for filing of an answer or
18 other pleadings to 60 days after the time of service of the
19 summons, complaint, or other process on the insurer."

20 Section 13. G.S. 20-282 reads as rewritten:

21 **"§ 20-282. Cooperation in enforcement of Article.**

22 The provisions of this Article shall be enforced by the ~~Commissioner of Motor Vehicles~~
23 Division in cooperation with the Commissioner of Insurance, the North Carolina
24 Automobile Rate Administrative Office and with all law-enforcement officers and agents
25 and other agencies of the State and the political subdivisions thereof."

26 Section 14. G.S. 20-309 reads as rewritten:

27 **"§ 20-309. Financial responsibility prerequisite to registration; must be maintained
28 throughout registration period.**

29 (a) No self-propelled motor vehicle shall be registered in this State unless the
30 owner at the time of registration has financial responsibility for the operation of such
31 motor vehicle, as provided in this Article. The owner of each motor vehicle registered in
32 this State shall maintain financial responsibility continuously throughout the period of
33 registration.

34 (b) Financial responsibility shall be a liability insurance policy or a financial
35 security bond or a financial security deposit or by qualification as a self-insurer, as these
36 terms are defined and described in Article 9A, Chapter 20 of the General Statutes of
37 North Carolina, as amended.

38 (c) When it is certified that financial responsibility is a liability insurance policy,
39 the ~~Commissioner of Motor Vehicles~~ Division may require ~~that~~ the owner to produce
40 records to prove the fact of ~~such~~ insurance, and failure to produce such records shall be
41 prima facie evidence that no financial responsibility exists with regard to the vehicle
42 concerned. It shall be the duty of insurance companies, upon request of the Division, to
43 verify the accuracy of any owner's certification.

1 (d) When liability insurance with regard to any motor vehicle is terminated by
2 cancellation or failure to renew, or the owner's financial responsibility for the operation
3 of any motor vehicle is otherwise terminated, the owner shall forthwith surrender the
4 registration certificate and plates of the vehicle to the Division of Motor Vehicles unless
5 financial responsibility is maintained in some other manner in compliance with this
6 Article.

7 (e) Upon termination by cancellation or otherwise of an insurance policy provided
8 in subsection (b) of this section, the insurer shall notify the Division of such termination;
9 provided, no cancellation notice is required if the insurer issues a new insurance policy
10 complying with this Article at the same time the insurer cancels or otherwise terminates
11 the old policy, no lapse in coverage results, and the insurer sends the certificate of
12 insurance form for the new policy to the Division. The Division, upon receiving notice of
13 cancellation or termination of an owner's financial responsibility as required by this
14 Article, shall notify such owner of such cancellation or termination, and such owner shall,
15 to retain the registration plate for the vehicle registered or required to be registered,
16 within 10 days from date of notice given by the Division either:

- 17 (1) Certify to the Division that he had financial responsibility effective on
18 or prior to the date of such termination; or
19 (2) In the case of a lapse in financial responsibility, pay a fifty dollar
20 (\$50.00) civil penalty; and certify to the Division that he now has
21 financial responsibility effective on the date of certification, that he did
22 not operate the vehicle in question during the period of no financial
23 responsibility with the knowledge that there was no financial
24 responsibility, and that the vehicle in question was not involved in a
25 motor vehicle accident during the period of no financial responsibility.

26 Failure of the owner to certify that he has financial responsibility as herein required
27 shall be prima facie evidence that no financial responsibility exists with regard to the
28 vehicle concerned and unless the owner's registration plate has on or prior to the date of
29 termination of insurance been surrendered to a representative of the Division by surrender
30 ~~to an agent or representative of the Division designated by the Commissioner, or depositing the~~
31 ~~same or deposited~~ in the United States mail, addressed to the Division of Motor Vehicles,
32 Raleigh, North Carolina, the Division shall revoke the vehicle's registration for 30 days.

33 In no case shall any vehicle, the registration of which has been revoked for failure to
34 have financial responsibility, be reregistered in the name of the registered owner, spouse,
35 or any child of the spouse, or any child of such owner within less than 30 days after the
36 date of receipt of the registration plate by the Division of Motor Vehicles, except that a
37 spouse living separate and apart from the registered owner may register such vehicle
38 immediately in such spouse's name. Additionally, as a condition precedent to the
39 reregistration of the vehicle by the registered owner, spouse, or any child of the spouse,
40 or any child of such owner, except a spouse living separate and apart from the registered
41 owner, the payment of a restoration fee of fifty dollars (\$50.00) and the appropriate fee
42 for a new registration plate is required. Any person, firm or corporation failing to give
43 notice of termination shall be subject to a civil penalty of two hundred dollars (\$200.00)

1 to be assessed by the Commissioner of Insurance upon a finding by the Commissioner of
2 Insurance that good cause is not shown for such failure to give notice of termination to
3 the Division.

4 (f) ~~The Commissioner shall administer and enforce the provisions of this Article~~
5 ~~and may make rules and regulations necessary for its administration and~~ Secretary shall
6 provide for hearings upon request of persons aggrieved by orders or acts of the
7 ~~Commissioner~~ Secretary under the provisions of this Article."

8 Section 15. G.S. 20-315 is repealed.

9 Section 16. G.S. 20-320(2) is repealed.

10 Section 17. G.S. 1-105 reads as rewritten:

11 **"§ 1-105. Service upon nonresident drivers of motor vehicles and upon the personal**
12 **representatives of deceased nonresident drivers of motor vehicles.**

13 The acceptance by a nonresident of the rights and privileges conferred by the laws
14 now or hereafter in force in this State permitting the operation of motor vehicles, as
15 evidenced by the operation of a motor vehicle by such nonresident on the public
16 highways of this State, or at any other place in this State, or the operation by such
17 nonresident of a motor vehicle on the public highways of this State or at any other place
18 in this State, other than as so permitted or regulated, shall be deemed equivalent to the
19 appointment by such nonresident of the ~~Commissioner of Motor Vehieles,~~ Secretary of the
20 Department of Transportation, or his successor in office, to be his true and lawful
21 attorney and the attorney of his executor or administrator, upon whom may be served all
22 summonses or other lawful process in any action or proceeding against him or his
23 executor or administrator, growing out of any accident or collision in which said
24 nonresident may be involved by reason of the operation by him, for him, or under his
25 control or direction, express or implied, of a motor vehicle on such public highways of
26 this State, or at any other place in this State, and said acceptance or operation shall be a
27 signification of his agreement that any such process against him or his executor or
28 administrator shall be of the same legal force and validity as if served on him personally,
29 or on his executor or administrator.

30 Service of such process shall be made in the following manner:

31 (1) By leaving a copy thereof, with a fee of ten dollars (\$10.00), in the
32 hands of the ~~Commissioner of Motor Vehieles,~~ Secretary of the
33 Department of Transportation, or in his office. Such service, upon
34 compliance with the other provisions of this section, shall be sufficient
35 service upon the said nonresident.

36 (2) Notice of such service of process and copy thereof must be forthwith
37 sent by certified or registered mail by plaintiff or the ~~Commissioner of~~
38 ~~Motor Vehieles~~ Secretary of the Department of Transportation to the
39 defendant, and the entries on the defendant's return receipt shall be
40 sufficient evidence of the date on which notice of service upon the
41 ~~Commissioner of Motor Vehieles~~ Secretary of the Department of
42 Transportation and copy of process were delivered to the defendant, on
43 which date service on said defendant shall be deemed completed. If the

1 defendant refuses to accept the certified or registered letter, service on
2 the defendant shall be deemed completed on the date of such refusal to
3 accept as determined by notations by the postal authorities on the
4 original envelope, and if such date cannot be so determined, then service
5 shall be deemed completed on the date that the certified or registered
6 letter is returned to the plaintiff or ~~Commissioner of Motor Vehicles,~~
7 Secretary of the Department of Transportation, as determined by postal
8 marks on the original envelope. If the certified or registered letter is not
9 delivered to the defendant because it is unclaimed, or because he has
10 removed himself from his last known address and has left no forwarding
11 address or is unknown at his last known address, service on the
12 defendant shall be deemed completed on the date that the certified or
13 registered letter is returned to the plaintiff or ~~Commissioner of Motor~~
14 ~~Vehicles.~~ Secretary of the Department of Transportation.

- 15 (3) The defendant's return receipt, or the original envelope bearing a
16 notation by the postal authorities that receipt was refused, and an
17 affidavit by the plaintiff that notice of mailing the registered letter and
18 refusal to accept was forthwith sent to the defendant by ordinary mail,
19 together with the plaintiff's affidavit of compliance with the provisions
20 of this section, must be appended to the summons or other process and
21 filed with said summons, complaint and other papers in the cause.

22 Provided, that where the nonresident motorist has died prior to the commencement of
23 an action brought pursuant to this section, service of process shall be made on the
24 executor or administrator of such nonresident motorist in the same manner and on the
25 same notice as is provided in the case of a nonresident motorist.

26 The court in which the action is pending shall order such continuance as may be
27 necessary to afford the defendant reasonable opportunity to defend the action."

28 Section 18. G.S. 8-37 reads as rewritten:

29 "**§ 8-37. Certificate of ~~Commissioner~~ Division of Motor Vehicles as to ownership of**
30 **automobile.**

31 In any civil or criminal action in which the ownership of a motor vehicle is relevant,
32 evidence as to the letters and numbers appearing upon the registration plate attached to
33 such vehicle or of the motor vehicle identification number, together with certified copies
34 of records furnished pursuant to G.S. 20-42 by the ~~Commissioner~~ Division of Motor
35 Vehicles showing the name of the owner of the vehicle to which such registration plate or
36 vehicle identification number is assigned, or a certified copy of the certificate of title for
37 such motor vehicle on file with the ~~Commissioner~~ Division of Motor Vehicles, is prima
38 facie evidence of the ownership of such motor vehicle."

39 Section 19. G.S. 44A-4(c) reads as rewritten:

40 "(c) Private Sale. – Sale by private sale may be made in any manner that is
41 commercially reasonable. If the property upon which the lien is claimed is a motor
42 vehicle, the sale may not be made until notice is given to the ~~Commissioner~~ Division of
43 Motor Vehicles pursuant to G.S. 20-114(c). Not less than 30 days prior to the date of the

1 proposed private sale, the lienor shall cause notice to be mailed, as provided in subsection
2 (f) hereof, to the person having legal title to the property, if reasonably ascertainable, to
3 the person with whom the lienor dealt if different, and to each secured party or other
4 person claiming an interest in the property who is actually known to the lienor or can be
5 reasonably ascertained. Notices provided pursuant to subsection (b) hereof shall be
6 sufficient for these purposes if such notices contain the information required by
7 subsection (f) hereof. The lienor shall not purchase, directly or indirectly, the property at
8 private sale and such a sale to the lienor shall be voidable."

9 Section 20. G.S. 44A-4(e) reads as rewritten:

10 "(e) Public Sale. –

11 (1) Not less than 20 days prior to sale by public sale the lienor:

12 a. Shall notify the ~~Commissioner~~Division of Motor Vehicles as
13 provided in G.S. 20-114(c) if the property upon which the lien is
14 claimed is a motor vehicle; and

15 a1. Shall cause notice to be mailed to the person having legal title to
16 the property if reasonably ascertainable, to the person with whom
17 the lienor dealt if different, and to each secured party or other
18 person claiming an interest in the property who is actually known
19 to the lienor or can be reasonably ascertained, provided that
20 notices provided pursuant to subsection (b) hereof shall be
21 sufficient for these purposes if such notices contain the
22 information required by subsection (f) hereof; and

23 b. Shall advertise the sale by posting a copy of the notice of sale at
24 the courthouse door in the county where the sale is to be held;
25 and shall publish notice of sale once a week for two consecutive weeks
26 in a newspaper of general circulation in the same county, the date of the
27 last publication being not less than five days prior to the sale. The notice
28 of sale need not be published if the vehicle has a market value of less
29 than three thousand five hundred dollars (\$3,500), as determined by the
30 schedule of values adopted by the ~~Commissioner~~Division of Motor
31 Vehicles under G.S. 105-187.3.

32 (2) A public sale must be held on a day other than Sunday and between the
33 hours of 10:00 A.M. and 4:00 P.M.:

34 a. In any county where any part of the contract giving rise to the
35 lien was performed, or

36 b. In the county where the obligation secured by the lien was
37 contracted for.

38 (3) A lienor may purchase at public sale."

39 Section 21. G.S. 66-58(b)(15) reads as rewritten:

40 "(15) The State Department of Correction is authorized to purchase and install
41 automobile license tag plant equipment for the purpose of
42 manufacturing license tags for the State and local governments and for
43 such other purposes as the Department may direct.

1 The ~~Commissioner~~ Division of Motor Vehicles, or such other authority
2 as may exercise ~~Vehicles and any other entity that exercises~~ the authority
3 to purchase automobile license tags is hereby directed to purchase from,
4 and to contract with, the State Department of Correction for the State
5 automobile license tag requirements from year to year.

6 The price to be paid to the State Department of Correction for such
7 tags shall be fixed and agreed upon by the Governor, the State
8 Department of Correction, and the ~~Motor Vehicle Commissioner, or such~~
9 ~~authority as may be authorized to purchase such supplies.~~ agency purchasing
10 the tags."

11 Section 22. G.S. 105-187.1 reads as rewritten:

12 **"§ 105-187.1. Definitions.**

13 The following definitions and the definitions in G.S. 105-164.3 apply to this Article:

- 14 (1) "~~Commissioner~~" means the Commissioner of Motor Vehicles.
15 (2) "~~Division~~" means the Division. – The Division of Motor Vehicles,
16 Department of Transportation.
17 (3) "~~Long-term~~ Long-term lease or rental" means a rental. – A lease or rental
18 made under a written agreement to lease or rent property to the same
19 person for a period of at least 365 continuous days.
20 (4) "~~Short-term~~ Short-term lease or rental" means a rental. – A lease or rental
21 that is not a long-term lease or rental."

22 Section 23. G.S. 105-187.3 reads as rewritten:

23 **"§ 105-187.3. Rate of tax.**

24 (a) Amount. – The rate of the use tax imposed by this Article is three percent (3%)
25 of the retail value of a motor vehicle for which a certificate of title is issued. The tax is
26 payable as provided in G.S. 105-187.4. The tax may not be more than one thousand
27 dollars (\$1,000) for each certificate of title issued for a Class A or Class B motor vehicle
28 that is a commercial motor vehicle, as defined in G.S. 20-4.01. The tax may not be more
29 than one thousand five hundred dollars (\$1,500) for each certificate of title issued for any
30 other motor vehicle.

31 (b) Retail Value. – The retail value of a motor vehicle for which a certificate of
32 title is issued because of a sale of the motor vehicle by a retailer is the sales price of the
33 motor vehicle, including all accessories attached to the vehicle when it is delivered to the
34 purchaser, less the amount of any allowance given by the retailer for a motor vehicle
35 taken in trade as a full or partial payment for the purchased motor vehicle. The retail
36 value of a motor vehicle for which a certificate of title is issued because of a sale of the
37 motor vehicle by a seller who is not a retailer is the market value of the vehicle, less the
38 amount of any allowance given by the seller for a motor vehicle taken in trade as a full or
39 partial payment for the purchased motor vehicle. A transaction in which two parties
40 exchange motor vehicles is considered a sale regardless of whether either party gives
41 additional consideration as part of the transaction. The retail value of a motor vehicle for
42 which a certificate of title is issued because of a reason other than the sale of the motor
43 vehicle is the market value of the vehicle. The market value of a vehicle is presumed to

1 be the value of the vehicle set in a schedule of values adopted by the ~~Commissioner~~.
2 Secretary of the Department of Transportation.

3 (c) Schedules. – In adopting a schedule of values for motor vehicles, the
4 ~~Commissioner~~ Secretary of the Department of Transportation shall adopt a schedule
5 whose values do not exceed the wholesale values of motor vehicles as published in a
6 recognized automotive reference manual."

7 Section 24. G.S. 105-187.4 reads as rewritten:

8 **"§ 105-187.4. Payment of tax.**

9 (a) Method. – The tax imposed by this Article must be paid to the ~~Commissioner~~
10 Division when applying for a certificate of title for a motor vehicle. The ~~Commissioner~~
11 Division may not issue a certificate of title for a vehicle until the tax imposed by this
12 Article has been paid. The tax may be paid in cash or by check.

13 (b) Sale by Retailer. – When a certificate of title for a motor vehicle is issued
14 because of a sale of the motor vehicle by a retailer, the applicant for the certificate of title
15 must attach a copy of the bill of sale for the motor vehicle to the application. A retailer
16 who sells a motor vehicle may collect from the purchaser of the vehicle the tax payable
17 upon the issuance of a certificate of title for the vehicle, apply for a certificate of title on
18 behalf of the purchaser, and remit the tax due on behalf of the purchaser. If a check
19 submitted by a retailer in payment of taxes collected under this section is not honored by
20 the financial institution upon which it is drawn because the retailer's account did not have
21 sufficient funds to pay the check or the retailer did not have an account at the institution,
22 the Division may suspend or revoke the license issued to the retailer under Article 12 of
23 Chapter 20 of the General Statutes."

24 Section 25. G.S. 105-187.8 reads as rewritten:

25 **"§ 105-187.8. Refund for return of purchased motor vehicle.**

26 When a purchaser of a motor vehicle returns the motor vehicle to the seller of the
27 motor vehicle within 90 days after the purchase and receives a vehicle replacement for
28 the returned vehicle or a refund of the price paid the seller, whether from the seller or the
29 manufacturer of the vehicle, the purchaser may obtain a refund of the privilege tax paid
30 on the certificate of title issued for the returned motor vehicle.

31 To obtain a refund, the purchaser must apply to the Division for a refund within 30
32 days after receiving the replacement vehicle or refund of the purchase price. The
33 application must be made on a form prescribed by the ~~Commission~~ Division and must be
34 supported by documentation from the seller of the returned vehicle."

35 Section 26. G.S. 105-187.10 reads as rewritten:

36 **"§ 105-187.10. Penalties and remedies.**

37 (a) Penalties. – The penalty for bad checks in G.S. 105-236(1) applies to a check
38 offered in payment of the tax imposed by this Article. In addition, if a check offered to
39 the Division in payment of the tax imposed by this Article is returned unpaid and the tax
40 for which the check was offered, plus the penalty imposed under G.S. 105-236(1), is not
41 paid within 30 days after the ~~Commissioner~~ Division demands its payment, the
42 ~~Commissioner~~ Division may revoke the registration plate of the vehicle for which a
43 certificate of title was issued when the check was offered.

1 (b) Unpaid Taxes. — The remedies for collection of taxes in G.S. 20-99 apply to
2 the taxes levied by this Article and collected by the ~~Commissioner~~ Division.

3 (c) Appeals. — A taxpayer who disagrees with the presumed value of a motor
4 vehicle must pay the tax based on the presumed value, but may appeal the value to the
5 ~~Commissioner~~ Secretary of the Department of Transportation. A taxpayer who appeals
6 the value must provide two estimates of the value of the ~~vehicle to the Commissioner~~
7 vehicle. If the ~~Commissioner~~ Secretary of the Department of Transportation finds that the
8 value of the vehicle is less than the presumed value of the vehicle, the ~~Commissioner~~
9 Division shall refund any overpayment of tax made by the taxpayer with interest at the
10 rate specified in G.S. 105-241.1 from the date of the overpayment."

11 Section 27. G.S. 105-449.54 reads as rewritten:

12 "**§ 105-449.54. ~~Commissioner of Motor Vehicles~~ Secretary of Department of**
13 **Transportation made process agent of nonresident motor carriers.**

14 The acceptance by a nonresident motor carrier of the rights and privileges conferred
15 by the laws now or hereafter in force in this State permitting the operation of motor
16 vehicles, as evidenced by the operation of a motor vehicle by such nonresident, either
17 personally or through an agent or employee, on the public highways of this State, or the
18 operation by such nonresident, either personally or through an agent or employee, of a
19 motor vehicle on the public highways of this State other than as so permitted or regulated,
20 shall be deemed equivalent to the appointment by such nonresident motor carrier of the
21 ~~Commissioner of Motor Vehicles~~ Secretary of the Department of Transportation, or his
22 successor in office, to be his true and lawful attorney and the attorney of his executor or
23 administrator, upon whom may be served all summonses or other lawful process or notice
24 in any action, assessment proceeding or other proceeding against him or his executor or
25 administrator, arising out of or by reason of any provisions of this Article relating to such
26 vehicle or relating to the liability for tax with respect to operation of such vehicle on the
27 highways of this State. Said acceptance or operation shall be a signification by such
28 nonresident motor carrier of his agreement that any such process against or notice to him
29 or his executor or administrator shall be of the same legal force and validity as if served
30 on him personally, or on his executor or administrator. All of the provisions of G.S. 1-
31 105 following the first paragraph thereof shall be applicable with respect to the service of
32 process or notice pursuant to this section."

33 Section 28. G.S. 110-91(a)(13) reads as rewritten:

34 "(13) Transportation. — All child day care facilities shall abide by North
35 Carolina law regulating the use of seat belts and child passenger
36 restraint devices. All vehicles operated by any facility staff person or
37 volunteer to transport children shall be properly equipped with
38 appropriate seat belts or child restraint devices as approved by the
39 ~~Commissioner of Motor Vehicles~~ Secretary of the Department of
40 Transportation. Each adult and child shall be restrained by an
41 appropriate seat safety belt or restraint device when the vehicle is in
42 motion. These restraint regulations do not apply to vehicles not
43 required by federal law to be equipped with seat restraints. All vehicles

1 used to transport children shall meet and maintain the safety inspection
2 standards of the Division of Motor Vehicles of the Department of
3 Transportation and the facility shall comply with all other applicable
4 State and federal laws and regulations concerning the operation of a
5 motor vehicle. Children may never be left unattended in a vehicle.

6 The ratio of adults to children in child day care vehicles may not
7 be less than the staff/child ratios prescribed by G.S. 110-91(7). The
8 Commission shall adopt standards for transporting children under the
9 age of two, including standards addressing this particular age's
10 staff/child ratio during transportation."

11 Section 29. G.S. 143-166.13(a)(13) reads as rewritten:

12 "(13) Members of License and Theft Enforcement Section, Division of Motor
13 Vehicles, Department of Transportation, designated by the ~~Commissioner~~
14 ~~of Motor Vehicles~~ Secretary of the Department of Transportation as
15 either 'inspectors' or uniformed weigh station personnel;".

16 Section 30. G.S. 147-33.2(8) reads as rewritten:

17 "(8) At any time when the General Assembly is not in session, suspend, or
18 modify, in whole or in part, generally or in its application to certain
19 classes of persons, firms, corporations or circumstances, any law, rule or
20 regulation with reference to the subjects hereinafter enumerated, when
21 he shall find and proclaim after such study, investigation or hearings as
22 he may direct, make or conduct, that the operation, enforcement or
23 application of such law, or any part thereof, materially hinders, impedes,
24 delays or interferes with the proper conduct of the war; said subjects
25 being as follows:

26 a. The use of the roads, streets, and highways of the State, with
27 particular reference to speed limits, weights and sizes of motor
28 vehicles, regulations of automobile lights and signals,
29 transportation of munitions or explosives and parking or
30 assembling of automobiles on highways or any other public place
31 within the State; provided that any changes in the laws referred to
32 in this subdivision shall be first approved by the Board of
33 ~~Transportation and the Commissioner of Motor Vehicles of the State;~~
34 Transportation;

35 b. Public health, insofar as suspension or modification of the laws
36 in reference thereto may be stipulated by the United States Public
37 Health Service or other authoritative agency of the United States
38 government as being essential in the interest of national safety
39 and in the successful prosecution of the war effort; provided that
40 such suspension or modification of public health laws shall first
41 be submitted to and approved by the Commission for Health
42 Services;

- 1 c. Labor and industry; provided, however, that any suspension or
2 modification of laws regulating labor and industry shall be only
3 such as are certified by the Commissioner of Labor of the State
4 as being necessary in the interest of national safety and in the
5 furtherance of the war program; and provided further that any
6 such changes as may result in an increase in the hours of
7 employment over and above the limits of the existing statutory
8 provisions shall carry provision for adequate additional
9 compensation; and provided, further, that no changes in such
10 laws or regulations shall be made as affecting existing contracts
11 between labor and management in this State except with the
12 approval of the contracting parties;
- 13 d. Whenever it should be certified by the Adjutant General of the
14 State that emergency conditions require such procedure, the
15 Governor, with the approval of the Council of State, shall have
16 the power to call up and mobilize State militia in addition to the
17 existing units of the State guard; to provide transportation and
18 facilities for mobilization and full utilization of the State guard,
19 or other units of militia, in such emergency; and to allocate from
20 the Contingency and Emergency Fund such amounts as may be
21 necessary for such purposes during the period of such
22 emergency;
- 23 e. Manufacture, sale, transportation, possession and use of
24 explosives or fireworks, or articles in simulation thereof, and the
25 sale, use and handling of firearms;".

26 Section 31. This act is effective when it becomes law.