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## Motor Vehicles

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As in most previous sessions, the 2005 General Assembly enacted many bills affecting the operation of motor vehicles. The most comprehensive bills, however, did not pass. In the interim between the 2004 and 2005 sessions, Governor Easley appointed a special Task Force on Driving While Impaired. The task force's report led to the introduction of House Bill 1048 and Senate Bill 1069. The House of Representatives passed House Bill 1048, and thus it is eligible for consideration in the 2006 short session. The bill as it passed the House makes many substantive changes to the impaired driving statutes and would be the most extensive revision made to those statutes since the passage in 1983 of The Safe Roads Act.

This chapter summarizes the session's enacted bills that directly affect the operation of motor vehicles on the state's public roads. Bills affecting a single local government (for example, bills concerning the use of golf carts in cities and towns, regulating junked vehicles, or making motor vehicle laws applicable to private roads in subdivisions) and bills affecting the business operations of entities that sell or repair motor vehicles are not included in this summary.

### **Rules of the Road**

#### **Accident Investigations**

Two bills amend the criminal and infractions statutes regulating driver conduct when accidents or other traffic disruptions occur. The first of these, S.L. 2005-460 (H 217), was enacted in response to a highly publicized fatal accident, after which it became apparent that it was not a crime for a passenger to drive a vehicle that had been involved in an accident away from the scene of the accident. The act addresses this problem by making it a felony for any passenger to leave the scene of an accident or collision unless (1) the passenger leaves only temporarily to seek assistance or (2) remaining at the scene would place the passenger or others at significant risk of injury. The act also makes it a misdemeanor for a passenger to fail to provide the driver of any vehicle other than the one in which the passenger was riding the usual identification that is transferred at accident scenes.

S.L. 2005-460 also clarifies and reinforces the duties of drivers involved in accidents. Even before the law's enactment, drivers were required to stop, provide information to other drivers, report most accidents to law enforcement authorities, and, if appropriate, seek medical assistance. S.L. 2005-460

also provides that a driver may not have the vehicle he or she drove removed from the scene until an investigating law enforcement officer allows the removal.

The new act does not make any changes in the types of accidents covered by the hit-and-run statutes. The law applies only to offenses in which the driver knew there was an accident or collision and the accident resulted in death or injury to persons or damage to property. In accidents involving only property damage, the driver is required to report the accident to law enforcement only if at least \$1,000 total damage was sustained. In less serious accidents, drivers must stop and exchange information but are not required to contact law enforcement before they leave the scene. S.L. 2005-460 does not affect the rule providing that, when an accident does not result in any personal injury, operable vehicles must be moved to the shoulder of the street or highway pending investigation.

S.L. 2005-189 (H 288) amends G.S. 20-157(f), which was enacted in 2001 in response to the needs of emergency personnel working at accident scenes or at other times when emergency vehicles are present. This statute, known as the “move over” law, requires a driver to move to the lane of traffic away from an emergency or law enforcement vehicle or slow down if the driver has to stay in the lane nearest the vehicle. S.L. 2005-189 expands the types of vehicles covered to include *public service vehicles*, defined as vehicles assisting in the towing or moving of disabled vehicles. It also increases the penalties for violations of G.S. 20-157, which regulates the conduct of drivers when they are approached by emergency vehicles: most violations are infractions, punishable by a \$250 penalty; violations resulting in more than \$500 damage to property near an emergency vehicle or in personal injury to an emergency service worker are Class 1 misdemeanors; violations resulting in serious injury to an emergency service worker are Class I felonies. The Division of Motor Vehicles can suspend the driver’s license of any driver convicted of the felony, for up to six months, and a judge can issue a limited driving privilege for persons whose licenses are suspended under that section in the same terms and conditions applicable to limited privileges issued in speeding cases.

### **School Bus Passing Rules**

Under current law, it is a Class 2 misdemeanor to pass a school bus stopped for the purpose of receiving or discharging passengers. S.L. 2005-204 (H 1400) raises that classification to a Class 1 misdemeanor and makes it a Class I felony to violate the bus-passing law and willfully strike a person, causing serious bodily injury. S.L. 2005-204 also eliminates the requirement that the sign indicating that the bus is a school bus be marked by letters eight inches high—the sign must be visible, but no minimum size is specified. The driver’s license consequences for the misdemeanor offense are not changed—a conviction carries five driver’s license points for a noncommercial vehicle and eight points for a commercial vehicle. There are no driver’s license consequences for a conviction of the felony offense contained in S.L. 2005-204, but G.S. 20-17, which requires the Department of Motor Vehicles to revoke the driver’s license of any person for a felony conviction in which a motor vehicle was used, would apply to those convictions.

### **Speeding to Elude Arrest**

When a person is driving a vehicle for the purpose of eluding apprehension, he or she is not likely to observe normal rules of safety. Because the risk of harm is so great, the legislature made the offense of speeding to elude arrest a felony if certain aggravating factors are present. If no such factors are present, the offense is a misdemeanor. S.L. 2005-341 (H 1279) amends that law to impose higher penalties if the offense results in the death of another person. If the offense would have been a misdemeanor had the death not occurred, the offense is now a Class H felony. If the offense would have been a felony, the death raises it to a Class E felony.

### **All-Terrain Vehicles**

All-terrain vehicles (ATVs) , often referred to as “four-wheelers,” are motorized off-highway vehicles designed to travel on three or four low-pressure tires and having a seat designed to be straddled by the operator and handlebars for steering control. In the past North Carolina has not

regulated these vehicles. There have been statutes that make it a criminal offense to operate “utility vehicles” on a highway, because the vehicles can’t be registered and aren’t exempted from registration, an indirect way of regulating the vehicles. S.L. 2005-282 (S 189) adds several new statutes to regulate ATVs. The act prohibits the operation of ATVs by children under eight and allows children under twelve and under sixteen to operate specially sized vehicles (70 cc’s and 90 cc’s piston displacement, respectively) and allows drivers over sixteen but under eighteen to drive regular-sized ATVs only when supervised by someone over eighteen. Any person who owned an ATV before August 15, 2005, is exempt from the new age requirements applicable to twelve- and sixteen-year-olds.

S.L. 2005-282 also prohibits operation of ATVs on highways and streets. Since none of the traditional rules of the road or laws concerning required equipment apply on private property, the statutes make it an infraction to violate some of these more serious rules—those involving driving while impaired, reckless driving, use of headlights, and rules requiring brakes, mufflers, and spark arresters. Effective January 1, 2006, any potential operator born after January 1, 1990, must also have a safety class certificate from the All-Terrain Vehicle Safety Institute before he or she may operate the vehicle legally. There are, however, exceptions from this requirement for ATV operation in farming or hunting activities. There are no driver’s license consequences for convictions under these new statutes.

## Regulatory Changes

### Drivers’ Licenses

The driver’s license laws consist of one set of rules applicable to the drivers of noncommercial vehicles and another set of more restrictive rules applicable to the drivers of commercial vehicles. Commercial vehicles are large (over 26,000 lbs.), tow large trailers (over 10,000 lbs.), or carry large numbers of passengers (over sixteen) or certain hazardous materials. Drivers of any of these types of vehicles must have a special commercial driver’s license. S.L. 2005-349 makes several changes to the commercial driver’s license laws.

S.L. 2005-349 (H 670) makes numerous changes to the laws governing commercial driver’s licensees, to bring North Carolina’s statutes into compliance with federal mandates. Such compliance is necessary for the state to remain fully eligible to receive federal highway funds. The changes generally make the state laws more strict or punitive.

Most penalties imposed by the Division of Motor Vehicles affecting drivers’ licenses are the result of a conviction for an offense involving a motor vehicle. S.L. 2005-349 includes in the definition of *conviction* any prayers for judgment continued for individuals having a commercial driver’s license or driving a commercial motor vehicle. A prayer for judgment continued is a sentence deferral procedure often used in motor vehicle cases to postpone indefinitely the imposition of a sentence. Noncommercial drivers must accumulate three prayers for judgment continued before they count as convictions. The definition of conviction applicable to the out-of-state conduct of any driver (commercial or noncommercial) is also amended to include no contest pleas.

Noncommercial licensees who move to North Carolina have a sixty-day grace period to obtain a North Carolina license. S.L. 2005-349 reduces that period for commercial licensees to thirty days.

G.S. 20-17.4 sets out the rules governing license disqualifications. Disqualifications are special license actions taken by the Department of Motor Vehicles to prohibit a person from driving a commercial vehicle. They do not, by themselves, prohibit the driver from driving a noncommercial vehicle. As originally enacted several years ago, G.S. 20-17.4 required that the conduct leading to the disqualification must have occurred in a commercial vehicle, unless the statute specifically provided otherwise. S.L. 2005-349 reverses that rule, so that a commercial driver who commits an offense in his or her private automobile, off the job, will be treated for disqualification purposes in the same manner as if he or she had been driving a commercial vehicle. It also adds as grounds for disqualification the following: civil revocations under G.S. 20-16.5 or similar statutes in other jurisdiction, if the offense

occurred in a commercial vehicle; convictions of death by vehicle or manslaughter occurring while the person was operating a motor vehicle; and driving a commercial vehicle while the person's license is revoked or the person is disqualified from driving a commercial vehicle.

S.L. 2005-349 also reverses another rule. It provides that multiple disqualifications for serious violations of traffic regulations run consecutively to other disqualifications; the general rule for most license actions is that multiple periods of revocation run concurrently.

S.L. 2005-349 exempts some commercial license records from yet another rule applicable to most other drivers. G.S. 20-36 provides that, in determining the suspension or revocation of a person's driving privilege, the Department of Motor Vehicles may use the driving records for incidents occurring in the most recent ten-year period only. S.L. 2005-349 eliminates that ten-year limit for offenses occurring in a commercial vehicle.

Finally, S.L. 2005-349 imposes civil penalties (in addition to any criminal punishments) on a person convicted of driving a commercial vehicle without a license and on employers who knowingly permit certain individuals to drive a commercial vehicle or permit a driver of a commercial vehicle to violate portions of the law dealing with railroad crossings. The same conduct by an employer may also be prosecuted in criminal court; upon conviction, the employer is guilty of an infraction.

S.L. 2005-156 (H 740) also amends the commercial driver's license laws. It requires employers to notify the Department of Motor Vehicles when an employee subject to federal drug testing rules for transit operators tests positive for drugs. Any person testing positive for drugs under this procedure is disqualified from driving a commercial vehicle until the person proves that he or she has been assessed and treated. The person has a right of appeal to the Department of Motor Vehicles.

### **ADETS Changes**

For several years the General Assembly has directed the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services to review various aspects of the education and treatment programs in which convicted impaired drivers must participate. In the 2003–04 biennium, the committee focused on the treatment programs. In this biennium the review shifted to the Alcohol and Drug Education Traffic School (ADETS) program. (ADETS attendance is required of persons convicted of impaired driving who do not need substance abuse treatment.) As a result of its review, the committee recommended changes to the minimum qualifications for those teaching in the program. In response, the General Assembly enacted S.L. 2005-312 (H 35), which creates new statutory minimum qualifications for ADETS instructors, beginning January 1, 2009; after that date each instructor must be a certified substance abuse counselor, certified clinical addiction specialist, or certified substance abuse prevention consultant, as those terms are defined by statute. S.L. 2005-312 also directs the Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services to amend its rules to do two things—raise the minimum number of hours required of participants to sixteen and limit the maximum class size to twenty. To reflect what will likely be increased costs to programs to implement these changes, S.L. 2005-312 raises the fee assessed for ADETS from \$75 to \$160. The percentage of that fee that must be sent to the Department of Health and Human Services to administer the program is raised from 5 to 10 percent. The fee increase will fund another mandate of S.L. 2005-312—the development of an ongoing outcomes evaluation study of persons participating in substance abuse treatment or ADETS as a result of an impaired driving conviction. The fee increase will not become effective until the rules regarding hours and class size are adopted.

## **Registration and Equipment**

### **Specialized (Affinity) Plates**

For the past several years, the General Assembly has authorized specialized license plates for various groups and organizations. Typically the plates carry an additional fee of from \$20 to \$30, the

proceeds of which support the administration of the special license plate program and the group or organization represented on the plate. This year S.L. 2005-216 (H 85) authorizes twenty-four new plates. Some are exempt from the requirement that the plate contain the "First in Flight" logo in addition to the design representing the cause supported by the plate. Some of the plates will include special images while others will use only words to identify the charity or cause. Typically, the Division of Motor Vehicles may not issue a specific special plate until it has received at least three hundred requests for that plate. The new plates are as follows:

1. Air Medal Recipient
2. Alpha Phi Alpha Fraternity
3. ARC of North Carolina
4. Autism Society of North Carolina
5. Buddy Pelletier Surfing Foundation
6. Coastal Conservation Association
7. Cold War Veteran
8. Corvette Club
9. Guilford Battleground Company
10. Marine Corps League
11. National Multiple Sclerosis Society
12. National Wild Turkey Federation
13. North Carolina Aquariums
14. North Carolina Libraries
15. North Carolina Museum of Natural Sciences
16. North Carolina Trout Unlimited
17. North Carolina Wildlife Habitat Foundation
18. Operation Enduring Freedom
19. Operation Iraqi Freedom
20. SCUBA
21. Shag Dancing
22. Share the Road
23. Tar Heel Classic Thunderbird Club
24. Watermelon

### **Red and Blue Light Prohibition**

Current law prohibits a private individual from possessing the type of red or blue light used by emergency personnel to warn motorists they are approaching and on emergency business. S.L. 2005-152 (H 355) amends these laws to clarify that they apply to any red or blue light that faces forward and is installed on a vehicle after the vehicle's initial manufacture.

### **Weight and Size Regulations**

The relationship between weight and size restrictions on vehicles using North Carolina's roads and the condition of those roads received a great deal of media coverage during the 2005 session. No legislation was passed to lower any of the maximum weights or sizes, but a couple of new laws modify some of the related rules. The first of these, S.L. 2005-361 (H 669), makes the following changes:

1. It authorizes law enforcement officers to detain property-hauling vehicles operated in violation of the statute allowing the use of special permits to exceed the basic size and weight limits.
2. It prohibits the operation of a vehicle when its load extends more than 14 feet beyond the rear of the vehicle, unless the property being transported is forestry products or utility poles.
3. It shifts the authority to impose civil penalties for violations from the Department of Transportation to the Department of Crime Control and Public Safety and limits the amount of fees assessed for various permit violations to \$25,000.

4. It deletes the authority of the Department of Transportation to issue permits to exceed the statutory number of units that may be operated as a combination of vehicles.

S.L. 2005-248 (S 832) allows wreckers to take disabled vehicles up to fifty miles for repair, parking, or storage, even if the combination exceeds statutory weight limits. The former law allowed towing to the “nearest feasible point.”

### **Seizure of Registration and License Documents**

S.L. 2005-357 (H 1404) authorizes any sworn law enforcement officer who has jurisdiction to seize a certificate of title, registration card or plate, permit, or license if the officer has notice from the Division of Motor Vehicles that the item has been revoked or cancelled. If the item is needed for a criminal prosecution, the officer must retain the item as evidence, but otherwise the officer must turn the item over to the Department of Motor Vehicles. The officer must turn a registration plate over within forty-eight hours of its seizure.

### **Bills Eligible for Consideration in 2006**

As noted in the introduction to this chapter, House Bill 1048, a major rewrite of the impaired driving laws, passed the House and will be eligible for action by the Senate in the 2006 short session. Other bills eligible for consideration in the short session include the following:

1. House Bill 267, which establishes an eight-year renewal cycle for drivers’ licenses issued to young adults and allows Internet renewal in some circumstances
2. House Bill 643, which prohibits the possession of some devices intended to impede the use of traffic monitoring and detection systems
3. House Bill 666, which modifies the penalties for violation of restrictions on the use of high-occupancy vehicle lanes
4. Senate Bill 61, which raises the punishment for convictions of felony death by vehicle
5. Senate Bill 217, which requires a driver’s license revocation for certain convictions of illegal use of alcohol by underage persons
6. Senate Bill 603, which exempts transportation of home-building and land development products from the weight limits otherwise imposed for light-traffic roads
7. Senate Bill 774, which requires all passengers in vehicles subject to the seat belt law to use seat belts
8. Senate Bill 881, which deals with the procedures and penalties imposed when a person allows his or her vehicle liability insurance to lapse
9. Senate Bill 1077, which shortens the period for which a motorcycle learner’s permit can be issued and sets the permit fee
10. Senate Bill 1087, which allows judges to issue limited driving privileges to certain drivers convicted of driving while license revoked

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