

Motor Vehicles

The 2008 session was short, and the General Assembly made no substantive changes to the laws and procedures governing impaired driving offenses. Nonetheless, motor vehicle legislation occupied center stage at the conclusion of the session after Governor Easley vetoed House Bill 2167, which authorized the towing without a permit of boats and boat trailers less than 10 feet wide. The General Assembly promptly reconvened and overrode the governor's veto, the first veto override in the state's history.

Much of the other 2008 legislative action affecting motor vehicle law was more mundane, yet nonetheless important. The General Assembly amended state law to conform with federal requirements under the Real ID Act of 2005 and the Motor Carrier Safety Improvement Act of 1999 and adopted administrative procedures to govern the levying of tolls for travel on North Carolina roads, fees that have not been part of highway funding in the state's recent history.

Towing of Wider Boats and Boat Trailers

Though few outside the boating industry or legislative process might have predicted the attention, the motor vehicle legislation that garnered the most press coverage in 2008 was a bill permitting wider boats and boat trailers on state roads. Before the enactment of S.L. 2008-229 (H 2167), boats and boat trailers up to 102 inches wide could be transported at any time on North Carolina roads. To transport a wider boat or boat trailer, a driver had to obtain a single trip permit from the North Carolina Department of Transportation (DOT).

S.L. 2008-229 enacts G.S. 20-116(m), authorizing the towing of boats and boat trailers without a permit as long as they are less than 120 inches wide. In addition, boats and boat trailers up to 114 inches wide may be towed on any road at any time, day or night, and any day of the week.

Boats and boat trailers 114 to 120 inches wide may be towed any day of the week, including weekends and holidays, from sunup to sundown. Boats and boat trailers more than 102 inches wide but less than 120 inches wide must be equipped with at least two operable amber lights on the widest point of the boat and boat trailer so that the dimensions are clearly marked and visible.

Amended G.S. 20-119(g) requires DOT to issue annual overweight permits for boats or boat trailers whose outside width is 120 inches or more. Such a permit allows the boat or boat trailer to be towed in daylight hours only.

Governor Easley vetoed the bill on the basis that it would "put[] families at a risk on the highways and would result in death or serious injury."¹ The governor noted that the state has "60,000 miles of narrow two lane roads that cannot accommodate the 9-1/2 foot width and maintains roughly 1,000 bridges 18-foot wide or less, which would require a 9-1/2 foot boat to cross the center line in violation of N.C.G.S. 20-146, and into oncoming traffic."

Because the General Assembly had adjourned when the governor vetoed House Bill 2167, the governor called a reconvened session for consideration of the vetoed bill as required by Article 11, Section 22, of the North Carolina Constitution. Both houses approved the bill by three-fifths majority, and it became law on August 27, 2008.

Combination Vehicles and Weight Limits

S.L. 2008-221 (S 1695) amends G.S. 20-7(a)(3) effective September 1, 2008, to provide that a Class C license authorizes license holders who are at least eighteen years old to drive a combination of noncommercial motor vehicles with a gross vehicle weight rating of more than 10,000

1. Governor's Objections and Veto Message, August 17, 2008.

pounds but less than 26,001 pounds. G.S. 20-88(b)(3) is amended to authorize the use of registration plates issued for farm vehicles on trucks and truck-tractors operated primarily (was, exclusively) for transporting farm products and supplies.

Amendments to G.S. 20-115.1(b) permit motor vehicle combinations consisting of a semitrailer no more than 53 feet long and a truck-tractor to be operated on all primary highway routes in North Carolina as long as the motor vehicle combination complies with the weight requirements in G.S. 20-118 and meets certain additional requirements. Previously, such motor vehicle combinations could only be operated on interstate highways and federal-aid primary system highways. Amended G.S. 20-115.1(b) permits DOT to prohibit motor vehicle combinations on portions of the state highway system. DOT must document any such prohibition by submitting a report to the General Assembly within six months confirming through traffic engineering studies that (1) such combinations cannot be safely accommodated and (2) the route does not have sufficient capacity to handle these vehicle combinations. Pursuant to amended G.S. 20-115.1(g), DOT is no longer required to obtain consent from a municipal governing body before designating state highway system roads within a municipality for use by certain vehicle combinations.

G.S. 20-116 prohibits, subject to certain exceptions, combinations of vehicles that are coupled together (that is, a tractor and a trailer) from exceeding more than 60 feet in length. An exception applies to combinations that include semitrailers under a certain length. Pursuant to amended G.S. 20-116(e), combination vehicles may exceed 60 feet in length if the semitrailer is no longer than 53 feet (was, 48 feet).

Amendments to G.S. 20-116(j) permit self-propelled grain combines and farm equipment no more than 25 feet wide (was, 18 feet wide) to be operated on state highways, except for fully controlled access highways or highways that are part of the National System of Interstate and Defense Highways. New G.S. 20-116(j)(7) provides that combines and farm equipment more than 10 feet wide must be operated on the highway "in the designed transport position that minimizes equipment width" but specifies that there is no requirement that equipment and appurtenances be removed.

G.S. 20-118(c)(12) exempts certain vehicles hauling agricultural crops from the farm to market from the weight and load limitations generally applicable to vehicles. Amendments to this provision eliminate the requirement that the market be within 35 miles of the farm, instead specifying that the hauling must be "from the farm where the crop is grown to the closest market." Amended G.S. 20-118(c)(12) simplifies the weight requirements applicable to such vehicles, mandating a single-axle weight of no more than 22,000 pounds, a tandem-axle weight of no more than 42,000 pounds, or a gross weight of 90,000 pounds. Amendments

to G.S. 20-118(k) increase the permissible weight of vehicles used to take cotton from the farm to a cotton gin from 44,000 to 50,000 pounds.

Amendments to G.S. 20-118(c)(15) exempt vehicles hauling raw logs to first market from generally applicable weight requirements and incorporate provisions of G.S. 20-118(c)(5) permitting certain limited light-traffic road travel.

Trailer Frames

S.L. 2008-160 (H 2570) enacts new G.S. 20-115.1(j) authorizing manufacturers of trailer frames to move frames that are no more than 14 feet wide on public streets and highways to locations where the manufacturing process will be completed that are within 3 miles of the first place of manufacture. Manufacturers must obtain a permit for moving such trailer frames pursuant to amended G.S. 20-119(b), which imposes a \$200 annual fee for the permit.

Real ID Requirements

Despite the introduction of identical bills in the North Carolina House of Representatives and the North Carolina Senate declaring an intention to ignore the Real ID Act of 2005 as an unfunded federal mandate,² legislators continued to amend state driver's license laws to meet the requirements of this federal act. Specifically, the General Assembly enacted laws requiring background checks of employees involved in producing driver's licenses and eliminated a religious-based exception to the requirement that a person's picture appear on his or her driver's license.

Background Checks of Certain DMV Employees

S.L. 2008-202 (S 1799) enacts new G.S. 114-19.24, which permits the Division of Motor Vehicles (DMV) to obtain the criminal history of certain individuals who are (or will be) involved in manufacturing or producing driver's licenses and identification cards or who have (or will have) the ability to affect identity information that appears on such cards. DMV may request criminal history information from the Department of Justice (DOJ) for applicants for employment, current employees, contractual employees or applicants, and employees of a contractor who meet the above criteria. DMV must provide along with the criminal history request a copy of the person's fingerprints and a form signed by the person who is the subject

2. See House Bill 2136, An Act to Prevent the State of North Carolina from Participating in or Complying with the Real ID Act of 2005 (filed May 15, 2008); S 1786, An Act to Prevent the State of North Carolina from Participating in or Complying with the Real ID Act of 2005 (filed May 20, 2008).

of the record check consenting to the criminal record check and the use of the fingerprints. New G.S. 114-19.24(b)(2) requires that the form signed by the subject further “consent[] to” “any other identifying information required by the State and National Repositories” and “[a]ny additional information required by the Department of Justice.” It is unclear whether the subject must consent to the release of such information or whether the form must contain this additional information. The latter interpretation seems more likely.

DOJ must send the fingerprints provided by DMV to the State Bureau of Investigation (SBI) for a search of the state’s criminal history record file, and the SBI must send a set of fingerprints to the FBI for a national criminal history record check.

DMV must keep all information obtained pursuant to G.S. 114-19.24 confidential. DOJ may charge a fee to offset its cost in conducting a criminal record check. The fee may not exceed the cost of locating, editing, researching, and retrieving the information.

Laser Engraved Pictures on Driver’s Licenses

S.L. 2008-202 amends G.S. 20-7(n) to permit a driver’s license to contain a “properly applied laser engraved picture on polycarbonate material” in lieu of a color photograph. The act also eliminates the exception to requiring photographs on licenses for applicants for whom the taking of photographs violates their religious convictions. The Real ID Act does not permit any such exception to the requirement that a driver’s license contain a person’s picture.

Mailing of Driver’s Licenses

G.S. 20-7(f)(5) was enacted in 2006 to require, beginning July 1, 2008, pursuant to the Real ID Act of 2005, that DMV produce driver’s licenses at a central location and mail them by first class mail to the residence address provided by the applicant. Before this date, drivers could renew or apply for licenses at any DMV office and obtain the license card on-site. S.L. 2008-202 amends G.S. 20-7(f)(5) to permit DMV to mail the license to a post office box rather than the applicant’s residence address if the applicant is ineligible for mail delivery by the United States Postal Service at the applicant’s address. If the United States Postal Service documents that it does not deliver to the residential address provided by the applicant and DMV has verified the applicant’s residential address by other means, DMV may mail the driver’s license to the post office box provided by the applicant. In addition, an applicant whose only mailing address before July 1, 2008, was a post office box in North Carolina may continue to receive the license at that post office box if DMV verifies the applicant’s residential address.

Passengers in the Back of Pickup Trucks

S.L. 2008-216 (H 2340) amends G.S. 20-135.2B by raising the minimum age at which children can ride in the open bed or cargo area of a vehicle (such as the back of a pickup truck) from twelve to sixteen years old. The act also removes the exception for vehicles operated in a county with no incorporated area with a population exceeding 3,500. The amendments were effective October 1, 2008.

Inspections

Safety Inspections

S.L. 2008-190 (S 1787) amends G.S. 20-183.4(b)(4) to require that an applicant for a license as a safety inspection station have DMV-approved equipment and software that will electronically transfer safety inspection information to DMV. Amendments to G.S. 20-183.4C require that vehicles acquired outside North Carolina by North Carolina residents along with vehicles owned by new residents of North Carolina be inspected before (was, within ten days after) the vehicle is registered with DMV. Likewise, used vehicles acquired by private sale within North Carolina must be inspected before they are registered with DMV (was, within thirty days after registration with DMV), unless the vehicle has received a passing inspection within the previous twelve months.

S.L. 2008-172 (H 2265) amends G.S. 20-183.2(a1) to exempt buses owned by a local board of education and subject to the State Board of Education school bus inspection requirements from safety inspections required of other vehicles.

Limited Liability for Child Passenger Safety Technicians

S.L. 2008-178 (H 2341) enacts new G.S. 20-137.5, which limits liability for the acts of certified child passenger safety technicians and child safety seat education and check program sponsoring organizations when technicians and sponsoring organizations act in good faith and provide free services. The act became effective October 1, 2008, for any cause of action arising on or after that date. Inspections, installation, adjustment, and education provided in conjunction with the for-profit sale of child safety seats are not covered. Acts by safety technicians or sponsoring organizations that constitute willful misconduct or gross negligence are likewise exempted from the protection afforded by the act.

Vehicle Inspections

Amendments in S.L. 2008-190 to G.S. 20-183.4C(b) authorize DMV to issue a three-day trip permit that allows a person to drive an insured vehicle with an expired inspection or registration. Formerly, the provision

authorized the issuance of a one-way trip permit for vehicles with expired inspection stickers (but not expired registrations) to be driven to an inspection station. Under the amended statute, the permit authorizes the person to drive the vehicle described in the permit only from the place the vehicle is parked to an inspection station, repair shop, or DMV or tag agent office. Other amendments to subsection (b) allow DMV to issue a 10-day temporary permit authorizing a person to drive a vehicle that failed an emissions—but not a safety—inspection. These provisions became effective October 1, 2008.

Commercial Driver's License Disqualification

S.L. 2008-175 (H 2308) amends several provisions of G.S. Chapter 20 pertaining to commercial driver's licenses to comply with federal regulations. These changes are required for North Carolina to retain authority to issue commercial driver's licenses and its eligibility for Motor Carrier Safety Assistance Program grant funds.³ Amended G.S. 20-17.4(a) (7) disqualifies a person from driving a commercial vehicle for a year if the person's license is civilly revoked for impaired driving regardless of whether the driving giving rise to the civil revocation occurred in a commercial motor vehicle. Amended G.S. 20-17.4(c) provides for a lifetime disqualification for commercial driver's license holders who manufacture, distribute, or dispense a controlled substance or who possess a controlled substance with the intent to manufacture, distribute, or dispense the substance. Previously, commercial license holders were disqualified only if the commercial vehicle was used in the commission of the drug trafficking crime. Likewise, amended G.S. 20-17.4(d) provides for 60- or 120-day disqualifications for commercial driver's license holders who are convicted of two or three serious traffic violations, respectively, arising from separate incidents within a three-year period, regardless of whether the offenses were committed in a commercial vehicle. Previously, the traffic convictions had to involve driving a commercial vehicle to trigger a disqualification. Amendments to G.S. 20-17.4(l) require DMV, upon receiving notice of a positive drug or alcohol test, to disqualify the holder of a commercial license from operating a commercial motor vehicle for a minimum of thirty days *and* until receipt of proof of successful completion of assessment and treatment by a substance abuse professional in accordance with 49 C.F.R. 382.503. Formerly there was no minimum disqualification period. Amendments to G.S. 20-37.20A require that a disqualification based upon a positive drug or alcohol test remain on the license holder's records for three years (was, two years) after the disqualification.

3. See 49 U.S.C.A. § 31312; 49 U.S.C.A. § 31102 note.

These amendments are effective December 1, 2008, and apply to offenses committed on or after that date.

Driver's Licenses

New Format for Underage Licenses

S.L. 2008-217 (H 2487) amends G.S. 20-7(n) to require that driver's licenses and identification cards issued for persons twenty-one years old and older be printed in a horizontal format, while those issued for persons under the age of twenty-one be printed in a vertical format. The formatting is designed to assist clerks selling age-restricted products such as alcoholic beverages and tobacco. The act requires that the Office of the State Controller, with the support of the Office of State Budget and Management, identify and make efforts to secure any matching funds or other resources to assist in subsidizing this initiative. The act was effective October 1, 2008, and applies to driver's licenses and special identification cards issued or renewed after that date.

One-Stop Shops

Section 25.3 of S.L. 2008-107 (H 2436) (Modify Appropriations Act of 2007), as amended by S.L. 2008-118 (H 2438) (2008 Budget Technical Corrections), prohibits DMV from opening driver's license issuance and vehicle registration issuance and renewal one-stop shops until the General Assembly has considered and appropriated funds for these one-stop shops. DOT must develop a plan that thoroughly outlines the operational procedures of combined function centers designated as one-stop shops. The plan may contain recommendations regarding making changes to G.S. 20-63(h) (provision requiring that the DMV contract with outside parties for the issuance of registration plates, registration certificates, and certificates of title) to expand DMV services. The plan must include a justification for each proposed one-stop shop location. DMV must analyze the anticipated number of transactions and consider the impact on commission contracts for independent license plate agents and other interested parties. DMV must report to the General Assembly by October 31, 2008.

Competency Determinations

S.L. 2008-182 (H 2391) amends G.S. 20-17.1(a), which requires the Commissioner of Motor Vehicles, upon receiving notice that a person has been adjudicated incompetent, to determine whether the person is competent to operate a motor vehicle. If the commissioner determines that the person is not competent to safely operate a motor vehicle, the commissioner must revoke the person's driving privilege. Amendments to G.S. 20-17.1(a) require the commissioner, in making this determination,

to consider the clerk of court's recommendation regarding whether the incompetent person should be allowed to retain his or her driving privilege. The amendments became effective on October 1, 2008, and apply to any person adjudicated incompetent on or after that date.

Criminal Offenses

Hit and Run

S.L. 2008-128 (S 944) amends G.S. 20-166 to replace the terms "accident" and "collision" with the term "crash." Amendments distinguish leaving the scene of a crash resulting in serious bodily injury, as that term is defined in G.S. 14-32.4, from leaving the scene of a crash resulting in injury. A person who leaves the scene of a crash resulting in serious bodily injury commits a Class F felony, whereas a person who leaves the scene of a crash resulting in injury commits a Class H felony. The act is effective December 1, 2008, and applies to offenses committed on or after that date.

Court Costs

S.L. 2008-118 (H 2438) amends G.S. 20-20.1(d) and G.S. 7A-305 to clarify that civil action court costs apply only to petitions for limited driving privileges made pursuant to G.S. 20-20.1 (applicable to persons seeking a privilege for a driving-while-license-revoked revocation) or in cases in which the conviction resulting in the revocation occurred in a different county. A \$100 processing fee remains applicable to all limited driving privileges issued under G.S. Chapter 20.

S.L. 2008-107 (H 2436), as amended by S.L. 2008-118 (H 2438), enacts new G.S. 7A-304(a)(2a), which increases the court costs in criminal actions by \$1 to support the upgrade, maintenance, and operation of the judicial and county courthouse phone systems. The cost increase was effective July 20, 2008, and applies to all costs assessed and collected on or after that date. However, in misdemeanor or infraction cases for which the citation or other criminal process was issued before July 20, 2008, but which are disposed of on or after that date by written appearance, waiver of trial, or hearing and guilty plea pursuant to the schedule of waiveable offenses promulgated by the Conference of Chief District Court Judges, court costs are the lesser of those specified in G.S. 7A-304(a) or in the notice portion of the defendant's copy of the citation or other criminal process.

Promotion of Blended Fuels

In a summer when gasoline prices topped \$4 a gallon, the General Assembly passed legislation designed to reduce dependence on foreign oil by promoting the use of blended fuels in automobiles. S.L. 2008-222 (S 1339) enacts new G.S. 75-90, which requires gasoline suppliers to offer

gasoline for sale to distributors and retailers that is not pre-blended with fuel alcohol (defined as alcohol, methanol, or fuel grade ethanol) and that is suitable for subsequent blending with fuel alcohol. G.S. 75-90(c) provides that any provision of a public contract restricting or preventing a distributor or retailer from blending gasoline with fuel alcohol or from qualifying for any state or federal tax credit due to blenders is void as contrary to public policy. Existing contracts are not affected, but the provisions apply to modifications, amendments, or renewals of existing contracts as well as to new contracts.

Turnpike Authority and Tolls

The North Carolina Turnpike Authority was created in 2002 to manage projects for toll roads and bridges,⁴ but tolls have yet to be levied on North Carolina highways. The General Assembly enacted administrative procedures this session to govern the collection of tolls for travel on turnpike projects—a necessary step in implementing toll charges in the state. In addition, the General Assembly re-named certain turnpike projects, including renaming "Triangle Parkway" as "Triangle Expressway" to include N.C. 540, Triangle Parkway, and the Western Wake Freeway in Wake and Durham counties. G.S. 136-89.187, as amended by S.L. 2008-225 (S 1697), permits a segment of N.C. 540 under construction as of July 1, 2006, located in Wake County and extending from the N.C. 54 exit on N.C. 540 to the N.C. 55 exit on N.C. 540, to be converted to a toll route while prohibiting the conversion of any other segment of the nontolled State Highway System to a toll facility. S.L. 2008-225 also enacts new G.S. 136-89.183A, setting forth the legislature's findings that a mid-Currituck bridge is needed to connect the Currituck County mainland with the Currituck County Outer Banks and directing that the bridge be built in a manner that protects the natural environment and quality of life on the Outer Banks as well as the character of the existing road system.

Collection of Tolls

S.L. 2008-225 enacts G.S. Chapter 136, Article 6H, Part 2, entitled Collection of Tolls on Turnpike Projects. New G.S. 136-89.210 through G.S. 136-89.218 set forth the procedures and requirements for imposing and collecting a toll for a motor vehicle driven on a turnpike.

G.S. 136-89.211 prohibits the Turnpike Authority (Authority) from setting open road tolls (meaning that there is not a way to pay a toll in cash while driving on the highway) that vary for the same class of motor vehicle depending upon the method by which the Authority identifies the vehicle but permits the Authority to allow a discount of up to 35 percent for a vehicle equipped with an electronic toll collection responder. The

4. S.L. 2002-133.

Authority is also prohibited from exempting motor vehicles other than law enforcement vehicles and emergency fire, rescue, or medical services vehicles from payment of a toll for use of a turnpike project.

New G.S. 136-89.212 provides that a motor vehicle driven on a turnpike project is subject to a toll imposed by the Authority for the project. If the toll is an open road toll, the registered owner of the vehicle is liable for payment of the toll unless the registered owner establishes that the motor vehicle was in the care, custody, and control of another person when it was driven on the turnpike. A person may establish that the vehicle was in the control of another person by submitting to the Authority a sworn affidavit stating one of the following:

1. the name and address of the person who had care, custody, and control of the motor vehicle when it was driven on the turnpike;⁵
2. the motor vehicle was stolen;⁶
3. the person transferred the vehicle to another person before it was driven on the turnpike.⁷

Payment and Billing of Tolls

New G.S. 136-89.213 permits the Authority to contract with one or more providers to collect tolls. The Authority may exchange information that identifies motor vehicles and their owners with DMV, another state, another toll operator, or a toll collection-related organization. Identifying information obtained by the Authority through an agreement is not a public record and is subject to the disclosure limitations in the federal Driver's Privacy Protection Act.

If the turnpike project uses an open road tolling system, the Authority must operate a facility in the immediate vicinity of the project that accepts payment of the toll. The Authority must place signs on the turnpike that notify drivers, before the toll is incurred, that they are approaching a highway for which a toll is required. The signs must also list the methods that can be used to pay the toll and provide directions to the nearby facility to pay the bill in cash.

New G.S. 136-89.214 sets forth billing procedures for open road tolls. If a motor vehicle travels on a turnpike that uses an open road tolling system and a toll is not paid within fifteen days after the travel, the Authority must send a bill for the toll by first-class mail to the registered

5. If the vehicle was leased under a long-term lease or rental, a copy of the lease or other written evidence of the agreement must be submitted with the affidavit.
6. The affidavit must be supported by an insurance or police report or other written evidence of the theft.
7. The affidavit must be supported by documentary evidence of the transfer.

owner of the motor vehicle. The Authority must send the bill within ninety days after the travel occurs; if the bill is not sent within the required time, the Authority waives collection of the toll. The Authority must establish a billing period for tolls that is at least fifteen days, and a bill for a billing period must include all unpaid tolls incurred by the same person during the billing period. Bills must include the following information:

1. the name and address of the registered owner of the motor vehicle;
2. the date, time, and segment of the turnpike on which the travel occurred;
3. an electronic image of the vehicle's registration plate if the Authority captured such an image;
4. the amount due and an explanation of how payment may be made;
5. the date by which the toll must be paid to avoid a processing fee of a stated amount;
6. a statement that a vehicle owner who has unpaid tolls is subject to a civil penalty and may not renew the vehicle's registration until the tolls and civil penalties are paid;
7. a clear and concise explanation of how to contest liability for the toll.

New G.S. 136-89.215 requires that a person who receives a bill for an unpaid road toll pay the bill or send a written request for review of the toll to the Authority within thirty days. If the person fails to act within thirty days, the Authority may add a processing fee not to exceed the lesser of \$6 or the costs of identifying the owner of a motor vehicle that is the subject of an unpaid toll and billing for the toll. A person may not be charged more than \$48 in processing fees in a calendar year.

G.S. 136-89.216 imposes a civil penalty of \$25 for failure to pay an open road toll within thirty days after the end of the first or second six-month period in a year. The Authority must send notice by first-class mail to a person assessed a civil penalty under this section. A person who is assessed a civil penalty must pay the unpaid toll for which the penalty is imposed, the processing fee, and the civil penalty within thirty days after receiving the notice. The clear proceeds of the penalty must be credited to the Civil Penalty and Forfeiture Fund established in G.S. 115C-457.1.

G.S. 136-89.218 provides that a person may contest liability for an unpaid road toll by sending a request for review to the Authority within thirty days after receiving the bill for the toll. After thirty days the right to review is waived. If a person submits a timely request for review, the Authority may not collect the disputed toll and any processing fee until the review process concludes. If the Authority conducts an informal review and determines the person is liable, it must send the person a

notice of its determination. The person may contest this determination by filing a petition with the Office of Administrative Hearings (OAH). Article 4 of G.S. Chapter 150B provides for judicial review of a final decision made in a contested case before OAH.

Amendments to G.S. 20-63(g), effective December 1, 2008, add toll collection systems to those systems for which it is an infraction to willfully cover a registration plate to interfere with the taking of a clear photograph of the registration plate.

Registration Block for Unpaid Toll

G.S. 136-89.217 requires the Authority to notify the Commissioner of Motor Vehicles of a person who owes a toll, a processing fee, or a civil penalty and requires the commissioner to withhold the registration renewal of any vehicle registered in that person's name upon receiving such notice. Corresponding amendments to G.S. 20-54 provide that beginning January 1, 2011, DMV must refuse to register or issue a certificate of title for a vehicle upon notification by the Authority that the owner has failed to pay tolls, fees, and civil penalties owed to the Authority. A person whose registration renewal is blocked for an unpaid toll may pay DMV the amount owed. DMV must remit this amount to the Authority, which in turn must reimburse DMV for the costs it incurs in collecting tolls, fees, and civil penalties.

Commercial Vehicles

S.L. 2008-156 (S 1800) amends the definition of *hazardous materials* in G.S. 20-4.01(12c) to conform to federal law. Amendments to the definition of "state" provide that for purposes of G.S. Chapter 20 provisions applicable to commercial licenses, *state* means a state of the United States and the District of Columbia.

All-Terrain Vehicles

S.L. 2008-156 (S 1800) enacts new G.S. 20-171.25, which permits certain natural gas company employees and contractors to use motorized all-terrain vehicles on public highways and rights-of-way.

S.L. 2008-91 (H 133) enacts new G.S. 20-171.22(c) to except from otherwise applicable regulations all-terrain vehicles driven by persons at least sixteen years old in an ocean beach area where the use of all-terrain vehicles is allowed. *Ocean beach area* is the area adjacent to the ocean and ocean inlets subject to public trust rights.

Smoking Ban in State Vehicles

S.L. 2008-149 (S 1681), which requires that state-controlled passenger-carrying vehicles be smoke free and permits local governments to require the same of local government vehicles, is summarized in Chapter 12, "Health."

Technical Corrections

Section 9 of S.L. 2008-187 (S 1632) divides G.S. 20-19(e) (governing permanent license revocations for impaired driving) into subsections (e), (e1), (e2), and (e3).

Section 10 of S.L. 2008-187 amends the implied consent offense procedures in G.S. 20-38.7(d) to permit a defendant to appeal from a new sentencing hearing in district court if the sentence is based upon additional facts considered by the district court that were not considered in the previously vacated *sentence (was, judgment)* and the defendant would be entitled to a jury determination of those facts pursuant to G.S. 20-179.

Section 11 of S.L. 2008-187 amends G.S. 20-171.21 to provide that any person convicted of violating laws governing the operation of all-terrain vehicles may be subject to a *penalty (was, fine)* of \$200.

Local Legislation

S.L. 2008-99 (H 2093) amends G.S. 20-171.24(f) to add the towns of Lowell and Manteo to the list of cities where municipal employees may use all-terrain vehicles on highways with posted speeds of 35 miles per hour or less.

S.L. 2008-71 (S 1598) amends G.S. 160A-300.5 to add New Hanover County as well as the cities of Locust and Wilmington and the towns of Beulaville, Butner, Erwin, Hobgood, Mayodan, Mount Olive, Oakboro, Oriental, Pineville, and the Village of Pinehurst to the list of local governments permitted to regulate the operation of golf carts on public streets or highways within the city limits and on property owned or leased by the city. Permissible regulation includes requiring the registration of golf carts, charging a fee for registration, specifying who is authorized to operate golf carts, and specifying the required equipment, load limits, and the hours and method of operation of golf carts. New G.S. 160A-300.5(d) broadens the definition of *city* for these purposes to include a city, town, village, or county and defines *county* as any unincorporated area within the county boundary. Section 2 of the act provides that the Town of Mayodan may not enact ordinances regulating golf carts until a public hearing is held and the governing body votes to approve adoption of such ordinances.

S.L. 2008-100 (H 2155) establishes a no-wake speed zone in the Intracoastal Waterway adjacent to the towns of Holden Beach and Oak Island and provides that the act is enforceable under G.S. 75A-17 as if it were a provision of G.S. Chapter 75A. Operation of a vessel at greater than a no-wake speed in areas designated by the act and marked is a Class 3 misdemeanor.

Study Bills

S.L. 2008-121 (H 93) directs DOT to study issues related to the vehicular transportation of individuals in wheelchairs. The study must review appropriate ways to transport passengers remaining seated in wheelchairs while in motor vehicles and develop guidelines for the

installation and use of wheelchair tie-down systems. DOT must report its findings and recommendations to the North Carolina Study Commission on Aging and the Joint Legislative Transportation Oversight Committee by February 1, 2009.

S.L. 2008-181 (H 2431) permits the Environmental Review Commission, in consultation with the Division of Air Quality of the Department of Environment and Natural Resources, to study the costs and benefits of adopting the California motor vehicle emissions standards in this state, including the projected emissions, the projected increase in costs to sellers and purchasers of new vehicles, and the projected reduction in quantity and cost of fuel under the plan.

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