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## Motor Vehicles

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More than thirty bills dealing with motor vehicles or highway safety were considered during the 1998 session of the General Assembly. Less than half of these were enacted into law, and some of those were of a technical nature of primary interest to automobile dealers and government officials who regulate the various aspects of the automobile and trucking industries. This chapter summarizes the motor vehicle legislation that is of general public interest or historical significance.

As has been the case in the last several sessions, most of the significant motor vehicle legislation deals with strengthening and clarifying North Carolina's impaired driving laws. The remainder of the changes consist mostly of fine-tuning a law that already seems to meet with the approval of most members of the motoring public. While some tightening of the driving while impaired (DWI) laws in the years ahead is likely, other significant changes to G.S. Chapter 20 are unlikely.

### **Driving While Impaired**

In 1997, the Governor's DWI Task Force recommended a major revision of the law authorizing seizure and sale of vehicles driven by persons who repeatedly drive while impaired. The law enacting the Governor's DWI recommendations (S.L. 1997-379) had an immediate effect, but its implementation caused substantial problems for court officials, school boards, and financial institutions that hold liens on vehicles driven by DWI offenders. In 1998, the Governor's DWI Task Force proposed substantial revisions to the 1997 DWI amendments and, in addition, recommended enactment of a "zero tolerance" policy for drivers of some vehicles. The Governor's 1998 DWI proposals were enacted by the 1998 General Assembly, with relatively few substantive changes, as S.L. 1998-182 (S 1336), as amended by S.L. 1998-217 (S 1279). The legislature's major addition was to raise the maximum fines for those convicted of impaired driving.

### **Forfeiture of Vehicles in DWI Cases**

The basic operation of the 1997 DWI amendments with respect to forfeiture of motor vehicles in DWI cases was fairly clear. A vehicle was subject to forfeiture if it was driven by a person (a) who was

charged with a specified impaired driving offense and (b) whose driver's license was revoked, at the time of that offense, for specified conduct involving impaired driving. The law enforcement officer lodging the charge was directed to seize the vehicle, and the judicial official reviewing the charge had to determine if there was probable cause to support the charge and the seizure. When the vehicle was seized, it was towed to a site designated by the local school board. That site could be a commercial site owned by an entity contracting with the school board or the school board's site. The vehicle generally was held until the court entered a judgment or otherwise disposed of the impaired driving charge that supported the seizure. If the person charged was not convicted of the specified impaired driving offense, the vehicle was returned to its owner. If the driver was convicted, the court had to conduct a hearing to determine if the vehicle should be forfeited. If the court ordered the vehicle forfeited, the school board could keep the vehicle or sell it. The 1997 DWI amendments included provisions for vehicle owners (other than the driver charged with impaired driving) and lienholders to obtain pretrial release of the vehicle. [Lienholders are parties who loan money to a person to purchase a vehicle and who retain a security interest (lien) in the vehicle until the loan is paid.] If the vehicle's owner (who was not the driver) could demonstrate to the court in a forfeiture hearing that he or she did not know the defendant's driver's license was revoked or that the vehicle was driven without permission, the owner could recover the vehicle permanently. (This type of owner is hereafter referred to as an "innocent owner.")

As state and local officials administered the 1997 law, several things became obvious. First, a large number of vehicles were potentially subject to the law. Second, vehicles seized under the new law often were not owned by the driver who was charged with impaired driving and often did not have a high sale value. Third, the vehicles were not being disposed of quickly. Fourth, the mechanisms for an innocent owner or a lienholder to recover a seized vehicle were not effective. These factors led to some concern on the part of school officials, who worried about the rising costs and administrative burdens involved in storing seized vehicles, and ultimately to a number of news stories suggesting that the law was not serving one of its intended purposes—to provide financial assistance to school systems by giving them the proceeds of the sales of the vehicles.

The 1998 amendments failed to address the basic desire of the school boards, which was to transfer all responsibilities for the vehicles to some law enforcement agency, but did address most of the other concerns with respect to implementation of the 1997 law. It also authorized the state Department of Public Instruction to enter into a contract with a private entity to tow, store, and sell all vehicles seized under the law. If that happens, school boards will be relieved of many of the administrative burdens about which they have expressed concerns.

The 1998 changes to the DWI vehicle seizure law address the law's scope and coverage, the manner in which pretrial release of seized vehicles is handled, the timely disposition of these cases, the fees charged for storing seized vehicles, and the means of storing and selling seized vehicles.

**Coverage.** S.L. 1998-182 does not alter the law's basic approach to determining whether a vehicle may be seized because of impaired driving. For a vehicle to be subject to seizure, (a) the driver must be charged with a specified offense and (b) at the time the driver is charged with the offense, his or her driver's license must have been revoked for specified conduct involving impaired driving. Instead of changing these conditions, S.L. 1998-182 extends the law's coverage by expanding the specified offenses and specified license revocations that trigger the seizure of a motor vehicle.

Under the 1997 law, the first of the two required elements for seizing a vehicle was satisfied if the vehicle was driven by a person who was charged with impaired driving or habitual impaired driving. Under S.L. 1998-182, this first element is satisfied if the driver is charged with impaired driving, or habitual impaired driving, *impaired driving in a commercial vehicle, or homicide arising from impaired driving.*

Under the 1997 law, the second element required for seizure of a vehicle was satisfied if the defendant's driver's license was, at the time of the specified offense, revoked for any one of several activities related to impaired driving. Under S.L. 1998-182, the types of license

revocations that will satisfy the second element are extended to include revocations imposed for conviction of the felony offense of habitual impaired driving.

S.L. 1998-182 also enacts two exceptions to the DWI vehicle seizure law. If a vehicle is reported as stolen, or is a rental vehicle driven by an unauthorized driver, the vehicle should not be seized, even if the law's two basic requirements for seizure exist.

**Pretrial Release of Vehicle.** The 1997 vehicle seizure law allowed release of a seized vehicle before trial to an innocent owner or a lienholder. A "defendant-owner" (that is, an owner of a vehicle who was driving the vehicle at the time it was seized) had no right to get his or her vehicle back before his or her trial for impaired driving. S.L. 1998-182 makes substantial changes to the rules regarding pretrial release of seized vehicles.

Under the 1997 law, an innocent owner was allowed to obtain possession of his or her vehicle pending the defendant's trial for impaired driving or at a forfeiture hearing after the defendant's trial. To do so, the innocent owner was required to file an acknowledgement indicating that he or she understood the unlawful nature of the defendant's conduct that led to the seizure and that, if this type of conduct occurred again involving the same driver and the same vehicle, he or she would not be eligible to recover the vehicle. In order to obtain pretrial release of the vehicle, an innocent owner was also required to post a bond equal to twice the value of the vehicle. That bond could not be posted by a bail bondsman but had to be provided by a commercial bonding company. The acknowledgement requirement was not changed by the 1998 amendments.

The bonding requirement for innocent owners in the 1997 law proved problematic due to the amount of the required bond and the fact that few commercial bonding companies were interested in writing that kind of bond. Thus, many innocent owners were unable to obtain pretrial release of their vehicles. In some counties, court officials read ambiguous provisions in the forfeiture statutes as allowing them to release seized vehicles to an owner permanently before the defendant's trial if they were satisfied that the vehicle's owner was in fact an innocent owner. Most court officials, however, did not interpret the statutes in that way and therefore required innocent owners to post the bond for pretrial release of the vehicle or wait until the court resolved the criminal case.

S.L. 1998-182 radically changes the procedure for pretrial release of seized vehicles. S.L. 1998-182 retains an innocent owner's right to obtain pretrial release of his or her vehicle but reduces the bond amount to the vehicle's actual value and allows bail bondsmen to write these bonds. In addition, S.L. 1998-182 allows an innocent owner to petition the court at any time for the permanent release of his or her vehicle. If the district attorney's office consents to the release, the vehicle is released permanently. If that office does not consent, the court must promptly hold a hearing to determine if the owner is an innocent owner and return the vehicle to the owner if he or she is an innocent owner. The owner also may seek possession of his or her vehicle at a post-trial forfeiture hearing regardless of whether he or she asked for pretrial release of the vehicle.

Under the 1997 law, lienholders were entitled to pretrial release of a seized vehicle under the same rules as innocent owners. They were not entitled to permanent possession of the vehicle even if the loan was in default. They were not entitled to permanent release at a forfeiture hearing unless the lien was equal to or greater than the vehicle's value.

S.L. 1998-182 changes those rules dramatically. A lienholder now may apply for permanent pretrial release. If the vehicle owner is in default on the loan and the loan contract allows for repossession and sale in that instance, the lienholder is entitled to repossess the seized vehicle. If the loan is not in default, the lienholder's rights under the loan contract and lien may not be enforced until the forfeited vehicle is sold.

S.L. 1998-182 also gives defendant-owners a limited opportunity for pretrial release of their vehicles. A defendant-owner may seek pretrial release of his or her vehicle if the vehicle was seized because of an error in determining whether his or her driver's license was, at the time of the alleged impaired driving offense, revoked for one of the types of impaired driving conduct specified in the vehicle seizure law. If the defendant-owner believes that the seizure was in error because he or she is not guilty of the impaired driving offense, that determination cannot be made until his or her trial on

the impaired driving charge. A defendant-owner may not regain temporary possession of his or her vehicle pending trial by posting a bond, as innocent owners may do.

**Expedited Processing of Forfeiture Cases.** The combination of large numbers of vehicle seizures and the inability of the vehicle owners to recover their vehicles led inexorably to the large buildup of vehicles in storage. In most counties, the possession of a seized vehicle could not be permanently and finally determined until the court entered a judgment in or otherwise disposed of the underlying criminal charge. That, in turn, led to questions about why it takes so long to dispose of impaired driving cases. S.L. 1998-182 does not answer that question, but it does include provisions intended to speed up the disposition of cases involving seized vehicles. Under those provisions, these cases, if they are in the district court, must be scheduled for trial at the next court date of the officer making the arrest, or within thirty days, whichever is sooner. To continue the case past that court date, a party must file a written motion seeking the continuance and the court must find, in writing, that there is a compelling reason to continue the case. In addition, after disposition of the criminal charge, any forfeiture hearing "shall be heard by the court immediately, or as soon thereafter as feasible." For cases in superior court, there is no similar rule, but parties may request a review to determine if the vehicle should be released.

"No-shows" are another problem. Under the 1997 statute, a forfeiture hearing could not be held unless the defendant was convicted of the impaired driving offense. Under North Carolina law, a criminal trial cannot be held unless the defendant is present. If a defendant in an impaired driving case failed to appear for trial and could not be found, the seized vehicle was left in limbo. It could not be returned without a hearing, and the forfeiture hearing could not be held until the defendant was tried for the impaired driving charge. Under North Carolina law, the trial cannot be held unless the defendant is present.

For vehicles seized on or after December 1, 1998, S.L. 1998-182 addresses the "no-show" problem by authorizing a court to hold a vehicle forfeiture hearing if the defendant in the impaired driving case fails, for a period of at least sixty days, to appear for trial as ordered. At this hearing, the State must prove, by the greater weight of the evidence, that the defendant committed the charged offense and that his or her license was revoked for a covered revocation. If the State proves this, the vehicle is forfeited (unless an innocent owner or lienholder is entitled to the vehicle). The court's decision regarding forfeiture of the vehicle, however, does not convict the defendant of the underlying impaired driving charge. After the forfeiture hearing, a "no-show" defendant remains subject to arrest and trial on the impaired driving charge. If the defendant is subsequently tried and acquitted on the impaired driving charge, there is no provision for the return of the forfeited vehicle or of any proceeds that the school board received from the vehicle's sale.

**Fees for Towing and Storage.** Questions about the circumstances in which fees for towing and storage of seized vehicles apply arose almost immediately after the 1997 statute took effect. S.L. 1998-182 answers those questions with one simple, sweeping answer: If a vehicle is seized, the towing fee and any storage fees are *always* assessed against the vehicle's owner (or lienholder), but an innocent owner or lienholder may recover these costs from the defendant in some cases.

An extreme case will illustrate the point. Mr. Green leaves town on a two-month vacation. The next day, a thief breaks into Mr. Green's home and steals Mr. Green's car from the garage. The thief's driver's license has been revoked for specified conduct involving impaired driving. While driving Mr. Green's car, the thief is arrested for impaired driving, and Mr. Green's car is seized under the DWI vehicle seizure law. When Mr. Green returns from his vacation, he receives a notice that his stolen vehicle has been recovered (and seized because of the thief's impaired driving). As an innocent owner, he can recover his vehicle after he pays the towing charge and fees for two-months' storage (which may be as high as \$600).

S.L. 1998-182 adds a requirement that the court order a defendant convicted of the underlying offense to pay any towing or storage fees that are not paid when the vehicle is sold. The requirement to pay towing and storage fees must be included as restitution in any criminal judgment, and the clerk must enter a civil judgment against the defendant for the amount of these

unpaid fees. Restitution payments may be directed to the vehicle's owner, the school board, or a lienholder, as appropriate. A defendant's obligation to pay towing and storage fees applies "to the extent" that those costs are not covered by the sale of the vehicle. It is not clear, however, whether this language requires that there be a sale before the restitution requirement and docketing of the judgment are triggered. In any event, a court may, in its discretion, order a defendant to pay restitution even if the vehicle is not forfeited or sold.

The maximum storage fee under the 1997 law was \$5 per day; school boards, however, were prohibited from charging any storage fees for vehicles stored on their own property. S.L. 1998-182 raises the maximum allowable storage fee to \$10 per day and allows a school board to assess a storage fee if it stores the vehicle on its own property. The likely result of this fee increase, combined with the delays that often result in impaired driving cases, is that in many cases owners of seized vehicles will be assessed thousands of dollars in storage fees.

**Sale of Seized Vehicles.** Many of the vehicles seized under the 1997 law have relatively little value. They often are old and in poor shape. In those cases, the towing and storage fees (which may be hundreds or thousands of dollars) easily may exceed the vehicle's value. S.L. 1998-182 addresses this problem in three ways. First, it allows the school board to sell a seized vehicle before trial if the vehicle is worth \$1,500 or less and the vehicle has been held for at least ninety days. This sale does not require the owner's consent. Second, the school board may sell the vehicle whenever the towing and storage fees exceed 85 percent of the vehicle's value. This, too, may be done without the owner's consent. In both instances, any funds remaining after the towing and storage fees are paid are retained by the clerk and are subject to forfeiture in a forfeiture hearing. Court approval is not required for these sales, but to provide documentation and facilitate the transfer of title to the vehicle, some school boards may seek court approval before selling seized vehicles under this new authority. Finally, with the owner's consent, the vehicle may be sold at any time. This usually would be done to limit the amount of fees owed to the storage facility. The provisions of S.L. 1998-182 regarding sale of seized vehicles apply to vehicles held on or after October 15, 1998.

Sale of vehicles, under any scenario, is a time-consuming and potentially costly process for the school boards. The 1997 statute required the school boards to use a judicial sale procedure that is commonly used to dispose of property that is the subject of civil actions. It is not, however, a procedure that is used by school boards. S.L. 1998-182 authorizes the school board to sell seized vehicles using a procedure they already use for the disposal of surplus property, with some modifications to provide notice to the interested parties, and repeals the requirement that seized vehicles be sold under the judicial sale procedures.

In addition, S.L. 1998-182 authorizes the State Board of Education to contract with one or more private entities for regional or statewide towing, storage, and sales of seized vehicles. If such a contract is entered into, the school boards in the counties covered by the contract will no longer provide these services. The rules that apply to school boards with respect to the sale of forfeited vehicles appear to apply to the contractor, although that will likely be dealt with in the contract itself. Thus, the contractor, like the school board, must give ten days notice to the owner and lienholder before conducting any sale and must allow the lienholder to purchase the vehicle without making a cash payment if the lienholder's bid is the highest bid for the vehicle.

**Miscellaneous Changes.** S.L. 1998-182 makes other important changes to the DWI vehicle seizure law. If a seized vehicle is wrecked as a result of an accident occurring during the conduct that led to the charge, S.L. 1998-182 provides that the proceeds of any insurance settlement are paid to the clerk of court. Those proceeds are subject to forfeiture in the same manner as a vehicle.

S.L. 1998-182 also redefines "owner" to mean the person in whose name a registration card or title certificate is issued at the time of seizure. That is an important definition because it determines who can claim to be an innocent owner. In many cases, there is a substantial gap in time between the date that a vehicle title is transferred and the date that the title certificate issued by the Division of Motor Vehicles (DMV) shows that person as the vehicle's owner on the title certificate. During that gap, it may be unclear who can exercise the right to seek relief as an innocent owner.

When a vehicle is seized, notice must be given to a number of people or agencies (such as, innocent owners, lienholders, the school board, the district attorney, the DMV, and insurance companies). S.L. 1998-182 tries to streamline that notice process. It directs the officer seizing the vehicle to notify a state executive agency designated by the Governor and requires that agency to notify the owner, lienholder, DMV, and, if the vehicle is wrecked, the appropriate insurance company of their rights and responsibilities in the matter. (The Governor has designated the Division of Motor Vehicles as the executive agency to provide the notices required by S.L. 1998-182.) In addition, when a magistrate finds probable cause for a seizure, the magistrate must notify the clerk of court, who in turn notifies the district attorney and school board that the vehicle has been seized.

### **Zero Tolerance**

For twenty-five years, North Carolina has used alcohol concentrations (the amount of alcohol in the blood or breath, measured by approved scientific methods) as an indication of guilt of various impaired driving offenses. For many years, the alcohol concentration generally used to determine guilt was 0.10; in 1994, that figure was reduced to 0.08. For special classes of drivers, however, lower levels were established. In 1988, the “per se level” (i.e., the level of alcohol concentration at which a person was guilty of a crime simply by driving at that level) for drivers of commercial vehicles was set at 0.04. In 1983, a “zero tolerance” level was established for drivers under age eighteen. (The law was subsequently amended to apply to drivers under the age of twenty-one.) This meant that if a young driver had any alcohol in his or her body while driving, he or she committed a crime. This year, the trend toward lower per se levels and imposing greater restrictions on special categories of drivers continued.

**Drivers of Commercial Vehicles.** As noted, drivers of commercial vehicles are already subject to a per se level of 0.04. S.L. 1998-182, codified as G.S. 20-138.2A, establishes a new crime of driving a commercial vehicle with any alcohol concentration. The new crime is a Class 3 misdemeanor punishable by a fine only for a first offense. For a second or subsequent conviction, the punishment is the same as for impaired driving. A person convicted of this new offense also receives a ten-day disqualification for the first offense. Disqualification takes away the legal right to drive a commercial vehicle but does not affect one’s right to drive a noncommercial vehicle. For second or subsequent offenses, the disqualification increases to one year and then to life, and there is also a one-year revocation. A revocation takes away the legal right to drive any motor vehicle. This new offense is a lesser included offense of impaired driving in a commercial vehicle. It is also interesting in that an alcohol concentration as evidenced by a valid chemical test result is required to prove the crime. That is different from the zero tolerance offense for young drivers, in which evidence of the odor of alcohol and other circumstantial evidence is sufficient in some cases to establish that the crime has been committed.

**Drivers of School Buses, School Activity Buses, and Child Care Vehicles.** A similar zero tolerance crime covers drivers of school buses, school activity buses, and child care vehicles. The elements of the offense are the similar to the zero tolerance offense for drivers of commercial vehicles, and the punishment is the same. The main difference is that a conviction does not also trigger the assessment of a disqualification. Conviction does result in a ten-day revocation of the defendant’s license and a one-year revocation for any subsequent convictions. It is codified as G.S. 20-138.2B. The new offense defines child care vehicles to ensure that a vehicle that is being used for private purposes, such as a weekend family outing by a child care facility operator, is not covered during that private usage.

**Young Drivers.** S.L. 1998-182 does not change the zero tolerance offense for drivers under age twenty-one but does provide more serious consequences with respect to the licensing privileges of young drivers who are charged with that offense. Since 1983, a young person’s driver’s license was revoked if he or she was *convicted* under the zero tolerance law, but not at the time that he or she was *charged*. [A young person’s driver’s license was revoked at the time of the charge if he or she had an alcohol concentration of 0.08 or more (0.04 or more if driving a

commercial vehicle) or if he or she refused to submit to a chemical test.] S.L. 1998-182, however, now requires the revocation of the driver's license of a driver who is under age twenty-one and is *charged* with violating the zero tolerance law. The revocation is usually for thirty days but can be much longer in certain circumstances.

### **Punishment for Impaired Driving**

S.L. 1998-182 changes the punishment for both impaired driving and commercial vehicle impaired driving. Those convicted of commercial vehicle impaired driving are now punished under the same provisions that apply to impaired drivers of noncommercial vehicles.

S.L. 1998-182 also amends G.S. 20-179, which establishes the punishment for impaired driving, to double the maximum fines allowed. Under S.L. 1998-182, the maximum fine for Level 1 offenders (the most serious) is \$4,000 and the maximum fine for Level 5 offenders (the least serious) is \$200. This change will also affect those punished for commercial vehicle impaired driving and for second offenses of the two new zero tolerance provisions, since they use this statute to specify which punishments may and must be imposed.

## **Driver's License Law**

### **Graduated Licenses**

In 1997, North Carolina adopted and implemented a new "graduated" driver's license system for persons under eighteen years of age. There are now three levels of licensing for this age group: a limited learner's permit, followed by a limited provisional license, followed by a full provisional license. The stated purpose of this new system is to ensure that a person under eighteen years of age has both driving instruction and experience before obtaining a regular driver's license. G.S. 20-11. Basically, the system has worked well, but some fine-tuning was thought to be necessary and was enacted by S.L. 1998-149 (H 1474). The changes contained in that act, some of which were effective on September 18, 1998, and the rest on December 1, 1998, are briefly summarized below.

A new section, G.S. 20-11(h1), provides that a person between the ages of sixteen and eighteen who has been a resident of another state and has a restricted driver's license issued by that state may obtain one of the following upon becoming a resident of North Carolina.

1. The person may obtain a limited provisional license if he or she has completed a driver education program that meets North Carolina's standards, held the restricted license from the other state for at least twelve months, and has not been convicted during the preceding six months of a moving violation or a seat belt infraction.
2. The person may obtain a limited learner's permit if he or she has completed a driver education program that meets North Carolina standards but did not hold a restricted license from the other state for at least twelve months or was convicted during the preceding six months of a motor vehicle violation or a seat belt infraction.

New G.S. 20-11(h2) provides that at age fifteen, a person who was a resident of another state and has an unrestricted or restricted driver's license issued by that state may obtain a limited learner's permit if he or she has completed a driver education program that meets North Carolina standards.

G.S. 20-11(i) was amended to provide that an application for a permit or a license must be signed by the applicant's parent or guardian, or a person approved by the applicant's parent or guardian, or a person approved by the DMV. Previously this section had provided that the application had to be signed by the applicant's parent or guardian if the parent or guardian resided in North Carolina or, if the applicant's parent or guardian did not reside in North Carolina, by an adult approved by the DMV.

G.S. 20-11(k) was rewritten to provide that a supervising driver must be a parent or guardian or a responsible person approved by the parent or guardian (or by the DMV). Only two supervising drivers are allowed per teenage driver.

### **Disqualification**

S.L. 1998-149 also added provisions to G.S. 20-17.4 concerning disqualification to drive a commercial motor vehicle. A person may be disqualified to drive a commercial motor vehicle, even though his or her driver's license is not revoked. In addition, an out-of-service order, which is a temporary prohibition against driving a motor vehicle, applies only to commercial vehicles. Under new G.S. 20-17.4(g), the first violation of an out-of-service order results in a ninety-day disqualification to drive a commercial vehicle. (It does not prevent driving the family car or other noncommercial vehicle.) A second violation during a ten-year period results in a one-year disqualification; a third or subsequent violation in a ten-year period carries a three-year disqualification. A person convicted of violating an out-of-service order while transporting hazardous material or operating a commercial vehicle designed to transport more than fifteen passengers receives a 180-day disqualification for a first violation and a three-year disqualification for a second or subsequent violation.

### **Voter Registration**

S.L. 1998-149 has one provision not usually found in bills dealing with motor vehicles. Section 11.1 amends G.S. 163-82.19 (the statute governing voter registration at driver's license offices) to provide that the person taking the application to register to vote must ask if the applicant is an American citizen. If the applicant states that he or she is not a citizen of the United States (or declines to answer the question) "the person taking the application must inform the applicant that it is a felony for a person who is not a citizen of the United States to apply to register to vote." This provision is also discussed in Chapter 8 (Elections).

## **Motor Vehicle Registration**

### **Salvage Vehicles**

Section 27.8 of S.L. 1998-212 (S 1366) rewrites G.S. 30-71.3 to clarify the law concerning salvage vehicles. This act requires the "branding" of certificates of title and registration cards to indicate when a vehicle is a salvage motor vehicle, a rebuilt vehicle, a reconstructed vehicle, a flood vehicle, or a non-U.S.A. vehicle. Under certain conditions, a "branded" motor vehicle may be retitled with an "unbranded title" based upon a title application by the rebuilder, who supplies an affidavit showing parts replaced, the major components replaced, the hours of labor, and total cost of repair. An unbranded vehicle title may be issued only if the cost of repairs (parts and labor) does not exceed 75 percent of the vehicle's fair market retail value. The transfer of a branded vehicle without notice of that fact to the transferee is a Class 2 misdemeanor. The new G.S. 20-71.3 became effective July 1, 1998.

### **Special License Plates**

Special license plates, which were originally intended for vehicles driven by major statewide officeholders, have become an increasingly popular phenomenon in recent years. These plates are now available for many diverse groups, including military retirees, National Guard members, registers of deeds, and members of square dance clubs. This proliferation of plates may seem a bit silly to some, but it makes others happy and apparently does no real harm. Not surprisingly, additional special license plates were authorized by the 1998 General Assembly. Special license

plates now may be issued to an Eagle Scout (or to his parents) and to a young woman who has been certified as a “Girl Scout Gold Award recipient” by the Girl Scouts of the U.S.A. S.L. 1998-160 (H 1518). A new “Native American” plate (bearing a phrase or insignia representing Native Americans) may be issued to any registered owner of an motor vehicle. S.L. 1998-155 (H 1082). Special plates also were authorized for military personnel or former military personnel who have received a bronze star, a silver star, or a distinguished flying cross. S.L. 1998-163 (H 55).

## **Other Motor Vehicle Legislation**

### **Rules of the Road**

Apart from the impaired driving changes (discussed above), there was only one significant change with respect to the state’s traffic laws. S.L. 1998-149 (H 1474) amends G.S. 20-217(a) to prohibit passing a stopped school bus in a “public vehicular area.” (For decades it has been unlawful to pass a stopped school bus on a public street.)

### **DMV Records**

Section 27.18 of S.L. 1998-212 directs the Division of Motor Vehicles to continue its current policy of not disclosing the personal information concerning drivers and motor vehicle owners contained in its records prior to January 1, 2000. This mandate was to have expired July 1, 1999.

### **Bills That Failed to Pass**

As is the case in most sessions of the General Assembly, several interesting motor vehicle proposals failed to be enacted. These failed bills can be significant because they often reappear a session or so later, sometimes with considerably more support. Among those that failed to pass in 1998 were

- House Bill 30, which would have allowed persons over age twenty-one to ride a motorcycle without a helmet;
- House Bill 1752, which would have amended G.S. 20-183 to provide that no law enforcement officer operating an unmarked vehicle at night may stop another vehicle for a rule of the road violation, except when the officer has probable cause to believe that a felony or an impaired driving offense had been committed; and
- House Bill 594, which would have provided that any person “who in the unlawful operation of a motor vehicle commits a felony which causes a pregnant woman to suffer a miscarriage or stillbirth” is guilty of a felony one class higher than the felony committed.

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