



# HOUSE BILL 959: Department of Transportation Proposed Legislative Changes.

2015-2016 General Assembly

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<b>Committee:</b>		<b>Date:</b>	July 29, 2016
<b>Introduced by:</b>		<b>Prepared by:</b>	Giles Perry Staff Attorney
<b>Analysis of:</b>	S.L. 2016-90		

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**OVERVIEW:** *S.L. 2016-90, as amended by Secs. 35.20(g) and 35.21(c) of S.L. 2016-94, makes various changes to the transportation and motor vehicles laws of the State, as follows:*

### Department of Transportation (DOT) Related Changes

- *Exempts small DOT projects with a cost of \$250,000 or less from the local consultation requirement.*
- *Authorizes DOT to also allow placement of non-utility owned or operated communications or data transmission infrastructure on DOT right-of-way, and directs DOT to study the issue of administrative fees for encroachments.*
- *Modifies weight limits applicable to metal commodities and steel coils, and extends certain federal weight exemptions to the State's highways.*
- *Delays the sunset of a law authorizing DOT to participate, in limited circumstances, in private developer contracts for State highway system engineering, design, or construction of improvements.*

### Turnpike Authority Related Changes

- *Authorizes the Turnpike Authority to send bills for tolls via electronic mail, if the registered owner consents.*
- *Requires the Authority to report the number of one-time toll facility users who are charged more than \$50 in penalties and fees to the Joint Legislative Transportation Oversight Committee by January 31, 2017, and in its annual report thereafter.*

### Bicycle Related Changes

- *Repeals a requirement for DOT to maintain certain off-road cycling records.*
- *Requires bicycles to have a red rear light or that the operator wear reflective clothing when operating at night.*
- *Authorizes the passing of a slower moving bicycle or moped, even where passing is otherwise prohibited, in certain circumstances.*
- *Increases the penalties for unsafe traffic movements that cause injury to bicycles.*
- *Clarifies the required hand signals for bicycle turning and stopping.*

### Division of Motor Vehicles (DMV) Related Changes

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- *Amends State commercial driver's license laws to conform with federal requirements.*
- *Provides that the registration of a motor vehicle renewed by means other than a renewal sticker expires at midnight on February 15 of each year.*
- *Sets the period of validity for all temporary driving certificates at 60 days, and allows a certificate to be used for identification purposes when conducting business with the DMV.*
- *Eliminates the requirement for sign and symbol and vision testing when a person is renewing a driver's license remotely via the internet or at a DMV kiosk.*
- *Makes changes to the law governing DMV notices sent by e-mail.*
- *Requires DMV to provide an option for indicating ownership by joint tenancy with right of survivorship on applications for registration and certificate of title.*
- *Amends the applicability of the requirement for DMV to inspect out-of-state vehicles such that the requirements applies only to 1980 model year or older vehicles.*
- *Repeals the requirement for the owner of a registered motor vehicle to sign their vehicle registration card.*
- *Revises the definition of an autocycle to include vehicles without an airbag, and with partially enclosed seating within the definition.*
- *Authorizes moped liability insurers to cede moped liability insurance coverage to the North Carolina Reinsurance Facility.*
- *Defines "electric assisted bicycles," and exempts them from the definition of motor vehicles.*
- *Clarifies the definition of moped to include mopeds powered by electricity or alternative fuel, but does not include motor-driven bicycles or electric assisted bicycles.*
- *Allows use of dealer plates by employees of independent dealers, and by immediate family members of independent dealers and their employees.*
- *Provides that law enforcement may provide an uncertified copy of an accident report to an insurance agent or driver upon being provided with evidence that a certified copy of the accident report has been requested from DMV and the applicable fee has been paid.*

## Unmanned Aircraft Change

- *Changes the authorized minimum age for operation of a commercial unmanned aircraft system from age 17 to age 16, the same age as authorized under recently adopted federal rules.*

## Map Act Related Changes

- *Clarifies how Map Act-related litigation damages and costs will be funded.*
- *Places a one-year moratorium on the filing of any new transportation corridor official maps.*
- *Rescinds all adopted transportation corridor official maps.*
- *Changes the rate of interest that DOT must pay on condemnation-related judgments, from 8%, to the prime lending rate at the time of the taking, not to exceed 8%.*
- *Directs DOT to study the development of a process that equitably balances the interest of the State in protecting proposed transportation corridors from development, the property rights of affected landowners, and the taxpayers of the State.*

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*This act became effective July 11, 2106, and several provisions have different effective dates. Please see the full summary for more detail.*

## **PRIOR LAW AND BILL ANALYSIS:**

### **PART I. DIVISION OF HIGHWAYS**

#### **Small Transportation Projects/Local Consultation**

**Section 1.** Prior law required the Department of Transportation to consult with local governments affected by a planned transportation project before taking action. However, consultation is not required for small projects with a cost of \$150,000 or less. This section increases that dollar amount from \$150,000 to \$250,000, exempting small projects with a cost of \$250,000 or less from the local consultation requirement.

#### **Broadband and Fiber Optic in DOT Right-of-Way/Fees**

**Section 2.** Prior law authorized DOT to locate and acquire ROW for placement of utility lines operated by regulated public utilities or local governments.

Section 2(a) authorizes DOT to also allow placement of non-utility owned or operated communications or data transmission infrastructure on DOT right-of-way. This section also clarifies that no agreement for use of Department right-of-way shall abrogate the Department's ownership and control of the right of way, and clarifies that DOT can use existing ROW for placement of utilities.

Section 2(b) directs DOT to study the issue of administrative fees for encroachments, and report to the Joint Legislative Transportation Oversight Committee by December 1, 2016.

Section 2 becomes effective when it becomes law.

#### **Weight Limits Applicable to Metal Commodities and Steel Coils, and Extending Certain Federal Weight Exemptions to the State's Highways**

**Section 2.1.** This section makes the following changes:

- Section 2.1(a) authorizes a higher weight limit for vehicles transporting metal commodities: up to 22,000 lbs. single axle and 42,000 lbs. tandem axle; maximum gross weight 90,000 lbs.
- Section 2.1(a) also extends additional federal weight allowances for natural gas powered vehicles, emergency vehicles, heavy duty towing vehicles, and vehicles with idle reduction technology, priorly applicable only to interstate highways in the State, to all State roads, except for posted bridges or roads, or unless specifically prohibited by NC DOT.
- Section 2.1(b) authorizes DOT to issue an overweight or overwidth permit for the transport of up to three steel coils on one truck.

This section becomes effective October 1, 2016.

**Section 2.3.** This section delays the sunset of G.S. 136-28.6A, first enacted in 2009. This law authorizes DOT to participate, in limited circumstances, in private developer contracts for State highway system engineering, design, or construction of improvements. The Department's participation under this law is limited to the lesser of ten percent (10%) of the contract, or \$250,000. DOT is required to annually report, not later than March 1, to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Transportation Oversight Committee on all agreements entered into between the

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Department and a private developer for participation in private engineering and construction contracts under this section. The authorization provided by this section now expires July 1, 2017.

## **PART II. NORTH CAROLINA TURNPIKE AUTHORITY**

### **Allow Electronic Billing for Tolls**

**Section 3.** Prior law authorized Turnpike Authority toll bills to be sent by first class mail. This section authorizes the Turnpike Authority to send bills for tolls via electronic mail, rather than by first-class mail, if the registered owner or person who had custody of the vehicle consents in writing.

### **Turnpike Authority Report on One-Time Facility User Fees**

**Section 3.1.** This section requires the Authority to report to the Joint Legislative Transportation Oversight Committee the number of one-time toll facility users who are charged more than \$50 in penalties and fees.

### **Repeal NCTA Semiannual Reports to JLTOC**

**Section 4.** Prior law required the Turnpike Authority submit semi-annual reports, and more frequent reports if requested, on its activities to the Joint Legislative Transportation Oversight Committee. This section repeals that requirement. The Authority continues to be required by statute to submit annual reports on its activities to the General Assembly.

## **PART III. DIVISION OF BICYCLE AND PEDESTRIAN TRANSPORTATION**

### **Repeal requirement to Maintain Off-Road Cycling Records**

**Section 5.** Prior law required that notice of State land restricted or removed from use by bicyclists be filed with the Division of Bicycle and Pedestrian Transportation of the Department of Transportation. This section repeals that requirement. Also, this section repeals the requirement that the Division keep records of State lands open and available for use by bicyclists.

### **Bicycle must have red rear light or operator must wear reflective vest when operated at night**

**Section 5.1.** Prior law required bicycles to have a rear reflector or red light when used at night. This section requires a red rear light or reflective vest or clothing visible from a distance of at least 300 feet from the rear of a bicycle when operated at night.

### **Bicycle safety law revisions**

**Section 5.5.** Section 5.5 (a) and (b) authorize passing of a slower moving bicycle or moped, even where passing is otherwise prohibited, if the other requirements of these sections are met. Section 5.5(c) increases the penalties for unsafe traffic movements that cause injury to bicycles, and clarifies the required hand signals for turning and stopping.

This section becomes effective October 1, 2016, and applies to offenses occurring on or after that date.

## **PART IV. DIVISION OF MOTOR VEHICLES**

### **Commercial Driver's License Changes**

**Section 6.** This section amends State commercial driver's license laws to conform with federal requirements as follows:

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- Delete a provision allowing the Division of Motor Vehicles to issue a restricted instruction permit to an applicant for certification as a school bus driver.
- Make commercial learner's permits valid for 180 days with no limit on renewal. Priorly, permits are valid for 6 months but are limited to one renewal in a two-year period.
- Increase commercial driver's license disqualification periods for convictions of violating out-of-service orders, and require violations to be committed in a commercial motor vehicle.
- Establish statutory authority for the Division to issue intrastate medical waivers to individuals not able to meet federal medical qualification standards for commercial driver's license holders. The waiver authorizes intrastate operation of a commercial motor vehicle subject to regulation by the Division. This is prior practice by the Division.

This section becomes effective January 1, 2017, and applies to offenses committed on or after that date.

## **Extend Registration Period for Certain Plates**

**Section 7.** Prior law provided that the registration of a motor vehicle renewed by means of a renewal sticker expires at midnight on the last day of the month designated on the sticker. This section provides that the registration of a motor vehicle renewed by means other than a renewal sticker (typically a new registration plate) expires at midnight on February 15 of each year. This section becomes effective October 1, 2016 and applies to registration renewals on or after that date.

## **Temporary Driving Certificate Use/Uniformity**

**Section 8.** Prior law provided that a temporary driving certificate is valid for 60 days for an applicant seeking a commercial driver's license and 20 days for an applicant seeking a non-commercial driver's license. In addition, prior law prohibited the use of a temporary driving certificate for identification purposes. This section sets the period of validity for all temporary driving certificates at 60 days and allows a certificate to be used for identification purposes when conducting business with the DMV. This section becomes effective January 1, 2017, and the change to period of validity applies to certificates issued on or after that date.

## **DMV Driver's License Testing Requirements/Remote Renewal**

**Section 9** eliminates the prior statutory requirement for sign and symbol and vision testing when a person is renewing a driver's license remotely via the internet or at a DMV kiosk. Sign and symbol testing will still be required for initial issuance of a drivers' license, and vision testing will be done for required in-person, in-office renewal. This section becomes effective October 1, 2016.

## **DMV/Electronic Notice**

**Section 10** Prior law authorized DMV to send notice of vehicle registration renewal by e-mail, if the customer has consented. This section (i) specifies that a person who has provided an e-mail address to DMV shall notify the Division of any change or discontinuance of that e-mail address within 30 days after the change or discontinuance; (ii) clarifies prior law limiting disclosure of personal information in DMV motor vehicle records to provide that e-mail addresses provided to DMV are personal information; and (iii) provides that instead of providing notice by personal delivery or United States mail, DMV may give notice for *any* DMV business by e-mail, if the person to be notified has consented to receiving notices via electronic means, and has provided the Division an e-mail address for receiving the notices. This section becomes effective October 1, 2016.

## **DMV to provide option for joint tenancy with right of survivorship on application for registration and certificate of title**

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**Section 10.5.** This section requires DMV to place a pre-printed "joint tenancy with right of survivorship" option on its application for a motor vehicle title form. This change allows vehicles to pass to the surviving owner outside of probate.

## **DMV/Inspection of Pre-1981 Motor Vehicles/Titling**

**Section 11.** Prior law required DMV to inspect out-of-state vehicles that are 35 years or older prior to issuing an initial NC title for the vehicle. Section 11 changes the requirement to vehicles from the 1980 model year or older. This section becomes effective January 1, 2017.

## **Repeal Signature Requirement/Registration Card**

**Section 12.** Prior law made it an infraction for the owner of a registered motor vehicle to fail to sign their vehicle registration card with pen and ink upon receipt. This section repeals that requirement. This section becomes effective December 1, 2016, and applies to registration cards issued on or after that date.

## **Revise Definition of "Autocycle"**

**Section 12.5.** This section amends the definition of an autocycle to include vehicles without an airbag, and with partially enclosed seating within the definition.

## **Moped Insurance Changes**

**Section 12.6** authorizes moped liability insurers to cede moped liability insurance coverage to the North Carolina Reinsurance Facility.

## **Amend Moped Definition**

**Section 13** establishes a definition for "electric assisted bicycles", and exempts them from the definition of motor vehicles. In addition, this section moves the definition of "moped" to Chapter 20 of the General Statutes, clarifies that the definition includes mopeds powered by electricity or alternative fuel, but does not include motor-driven bicycles or electric assisted bicycles. This section also makes several conforming changes to related statutes.

This section becomes effective December 1, 2016, and applies to offenses committed on or after that date.

## **Allow dealer plates for employees of independent dealers and family members**

**Section 13.5.** This section authorizes use of dealer plates by employees of independent dealers, and by immediate family members of independent dealers and their employees.

## **Law enforcement to provide accident report to insurer**

**Section 13.8.** This section provides that law enforcement may provide an uncertified copy of an accident report to an insurance agent or driver upon being provided with evidence that a certified copy of the accident report has been requested from the DMV and the applicable fee has been paid.

## **PART V. UNMANNED AIRCRAFT SYSTEM TECHNICAL CHANGE**

**Section 14.5.** This section change changes the authorized minimum age for operation of a commercial unmanned aircraft system from age 17 to age 16, the same age as authorized under recently adopted federal rules (14 CFR Part 107, issued June 21, 2016).

## **PART VI. MAP ACT CHANGES**

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## **Funding of Map Act Claims.**

**Section 15** clarified how Map Act-related litigation damages and costs will be funded. This section provides that Map Act-related litigation damages and costs will be funded as follows:

- For projects covered by a map that are funded, or programmed to be funded, under STI, the funds will come from the tier under STI in which the project is funded.
- For projects covered by a map that were not funded, or are not programmed to be funded under STI, the funds will come from the regional allocation of funds under STI for the region of the project covered by the map.

## **One Year Moratorium on New Maps under Map Act.**

**Section 16.** This section places a one-year moratorium on the filing of any new transportation corridor official maps from July 1, 2016 to July 1, 2017.

## **All Map Act Corridor Maps Rescinded.**

**Section 17** rescinds all transportation corridor official maps, and provides that all restrictions of those maps shall no longer apply to properties or portions of properties within the affected transportation corridors. This section also requires DOT to post notice of the rescission of the maps with specified city and county offices in affected jurisdictions, and on DOT's website.

## **Modification of DOT Condemnation Interest Rate.**

**Section 18** changes the rate of interest that DOT must pay on condemnation related judgments, from the prior 8%, to the prime lending rate at the time of the talking, not to exceed 8%. This section is effective for causes of action filed on or after July 11, 2016

## **DOT Study of Process for Protecting Transportation Corridors.**

**Section 19** directs DOT to study the development of a process that equitably balances the interest of the State in protecting proposed transportation corridors from development, the property rights of affected landowners, and the taxpayers of the State. Beginning October 1, 2016, the Department is directed to report quarterly to the Joint Legislative Transportation Oversight Committee and the General Assembly on its progress in completing the study required under this section. By July 1, 2017, the Department is directed to submit a final report to the Joint Legislative Transportation Oversight Committee and the General Assembly detailing its findings and recommendations, including any legislative proposals.

**EFFECTIVE DATE:** Except as otherwise provided, this act is effective when it becomes law.

**BACKGROUND:** House Bill 959, as introduced, was recommended by the Joint Legislative Transportation Oversight Committee.