



# HOUSE BILL 206: Various Transportation Changes.

2019-2020 General Assembly

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<b>Committee:</b>		<b>Date:</b>	January 2, 2020
<b>Introduced by:</b>		<b>Prepared by:</b>	Wendy Ray
<b>Analysis of:</b>	S.L. 2019-199		Staff Attorney

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**OVERVIEW:** *S.L. 2019-199 amends various transportation laws of this State as follows:*

- *Reenacts, and removes an expiration date for, a provision first enacted in 2009 authorizing the Department of Transportation to participate in private developer contracts for engineering, design, or construction of improvements in limited circumstances.*
- *Clarifies various provisions within current law that proceeds from the disposition of real property, facilities, and products owned by the Department of Transportation are to be credited to the State Highway Fund.*
- *Amends the Neuse River Basin Riparian Buffer Rule.*
- *Authorizes the Department of Transportation to enter into airspace encroachment agreements with FirstHealth of the Carolinas, Pinehurst related to State Road 1208, Page Road.*
- *Enacts a new Airport Improvement Program to provide for allocation of funds to airports.*
- *Authorizes the Department of Transportation to enter into Public Private Partnership (P3) agreements with private entities related to Department-owned communications infrastructure within interstate right-of-way.*
- *Requires the State agency for State surplus property to develop a pilot program to conduct public auctions for Department of Transportation surplus property without requiring the Department to move property to centralized auction locations.*
- *Authorizes the Division of Motor Vehicles to waive license restoration fees under certain circumstances when a licensee has been issued a subsequent license.*
- *Clarifies that parking spaces for handicapped persons include clearly marked access aisles, and all statutory provisions, restrictions, and penalties applicable to spaces also apply to those aisles.*
- *Authorizes airport operators to charge fees and regulate peer-to-peer vehicle sharing providers.*
- *Authorizes the Department of Transportation to sell listed parcels of property without being subject to certain statutory requirements.*

*This act became effective August 21, 2019, except for the Airport Improvement Program provision, which became effective July 1, 2019, and the license restoration fee waiver and peer-to-peer vehicle sharing provisions, which became effective October 1, 2019.*

## CURRENT LAW/BILL ANALYSIS:

**Reenact authorization for partnership with private developers.** This provision was first enacted in 2009 and expired in 2011. It was subsequently reenacted in 2014, with an expiration of 2016, and then was

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extended in 2016. It expired last on July 1, 2017. This act reenacts the provision, which authorizes the Department of Transportation 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 10% of the contract or \$250,000. The Department is required to report annually on all agreements entered into.

**Proceeds from property disposition to highway fund.** Generally, current law provides that all funds and property collected by the Department of Transportation go to the State Highway Fund, and this specifically includes real property originally purchased with funds from the State Highway Fund. This act clarifies that the disposition of proceeds for real property owned by the Department go to the State Highway Fund, regardless of the original source of funds. It also clarifies that no State Land Fund deductions apply to the lease, rentals, or easements of lands, and timber owned by the Department, and these proceeds go to the State Highway Fund.

**Neuse River Basin Riparian Buffer Rule.** The Neuse River Basin Riparian Buffer Rule under the North Carolina Administrative Code ("Rule") outlines a management strategy for maintaining and protecting existing riparian buffers in the Neuse River Basin. The Rule designates certain airport facility uses and their designation under the Rule as "exempt", "allowable", "allowable with mitigation", or "prohibited". This act amends the definition of "airport facilities" for purposes of the Rule and designates uses of airport impacted properties as allowable with mitigation.

**Authorization to permit airspace encroachment for FirstHealth of the Carolinas, Pinehurst.** The act authorizes the Department of Transportation to enter into airspace encroachment agreements with FirstHealth of the Carolinas, Pinehurst, for the purpose of construction of a parking facility, which would encroach on airspace over State Road 1208, Page Road. Agreements must be approved by the Board of Transportation and are subject to additional requirements of the Department and this act.

**Airport Improvement Program.** The 2017 budget appropriated funds for infrastructure improvements at the State's commercial service airports and further directed the Division of Aviation to assess airport funding needs and to develop a formula for allocating future funds to airports based on their needs and economic output. This act implements recommendations resulting from that assessment and enacts a new Airport Improvement Program to provide for allocation of funding to eligible airports based on a biennial economic impact study conducted by the Department.

**Authorization for public-private partnerships for Department-owned communications infrastructure within highway right-of-way.** The Department has authority to utilize public-private partnerships under the procedures set out in G.S. 136-18(39) and (39a) for transportation infrastructure projects. This act creates a specific authority for the Department to enter into public-private partnership (P3) agreements with private entities only related to communications infrastructure supporting transportation infrastructure, which includes the fiber optic trunk lines (and related facilities), owed by the Department and located within the right-of-way on the Interstate system. More specifically, this allows the Department to utilize P3 agreements as a way to finance communications infrastructure supporting transportation infrastructure with the additional potential to lease out excess capacity (if available). The authority pursuant to this section is limited to projects that receive federal discretionary grants. The act also adds reporting requirements and makes conforming changes to existing law to the extent there is overlap with current procedures.

**Surplus property auction pilot.** The North Carolina Department of Administration is designated as the State agency for State surplus property, which includes managing the Department of Transportation's surplus property. The act requires the State agency for State surplus property to conduct a three-auction pilot program specifically for the Department's surplus property, which includes surplus equipment and

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motor vehicles. This pilot program requires the State agency for State surplus property to issue a Request for Proposal to solicit a private, licensed auction company to hold three separate live auctions, located in three locations across the State, via live simulcast or other electronic means. Information and documents (e.g. pictures and videos) must be available for inspection prior to auctions so that motor vehicles and equipment are not required to be moved to centralized live auction locations.

**License restoration fee waiver authority.** Licensees who have had their licenses revoked are required by statute to pay a \$65 or \$130 restoration fee, depending on circumstances. Prior to this act, the Division of Motor Vehicles did not have authority to waive the restoration fee. This act gives the Division limited authority to waive the restoration fee when the fee remains unpaid for more than 10 years and the person owing the fee has been issued a drivers license by the Division since the effective date of the revocation.

**Handicapped parking spaces/access aisle clarification.** Current law requires parking spaces for handicapped persons to be designated with appropriate signage/markings and provides penalties for parking in designated spaces without authorization. This act clarifies that all provisions, restrictions, and penalties applicable to parking in spaces designated for handicapped persons also apply to clearly marked access aisles.

**Peer-to-peer vehicle sharing.** Prior to this act, there were no statutes related to peer-to-peer vehicle sharing. This act creates a new article within the motor vehicle laws relating to peer-to-peer vehicle sharing, which is the authorized use of a shared vehicle by an individual other than the owner through a peer-to-peer vehicle sharing program for compensation. This act codifies applicable definitions and authorizes airport operators to charge airport facility usage fees, require identifying decals for shared vehicles on their property, require purchase of vehicle monitoring equipment, create auditing requirements, and designate shared vehicle staging lots.

**Sale of certain Department of Transportation property.** This act authorizes the Department to sell five listed parcels of property in Wake County with exemptions from certain statutory provisions that generally apply to sales of State property. The properties listed in the section are not subject to the Department of Administration's assessment of present and future need for the land, they may not be offered at less than fair market value to a public entity or nonprofit, and there is a cap of \$50,000 on the service charge paid into the State Land Fund. The service charge is capped by statute at 10% of the gross amount received from the sale, but for these properties it is capped at 10% of the gross amount received or \$50,000, whichever is less.

**EFFECTIVE DATE:** The section of this act implementing the Airport Improvement Program became effective July 1, 2019. The sections of this act providing for license restoration fee waiver authority and peer-to-peer vehicle sharing regulation became effective October 1, 2019. The remainder of the act became effective August 21, 2019.