



SENATE BILL 321: Federal Motor Carrier Safety/PRISM.

2019-2020 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	July 22, 2019
Introduced by:	Sen. T. Alexander	Prepared by:	Howard Marsilio
Analysis of:	PCS to Second Edition S321-CSBH-28		Jeremy Ray Staff Attorneys

OVERVIEW: *Senate Bill 321 would make various changes to the motor vehicle laws of this State to incorporate requirements of the Federal Motor Carrier Safety Administration's (FMCSA) Performance and Registration Information Systems Management (PRISM) Program.*

Senate Bill 321 was formerly titled "Motorcycles/Face Masks." The PCS removes the previous language found in Senate Bill 321 and replaces it with the contents of Senate Bill 105 – Federal Motor Carrier Safety/PRISM.

CURRENT LAW: G.S. 20-4.01 defines "motor carrier" as either a for-hire motor carrier or a private motor carrier. Under federal law generally, motor carriers operate commercial motor vehicles that (1) has a gross weight rating of 10,001 pounds or more; (2) is designed or used to transport more than 8 passengers (including the driver) for compensation; or is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or (4) is used in transporting material found by the Secretary of Transportation to be hazardous under federal law.

G.S. 20-54 outlines the grounds for which NCDMV is authorized to refuse registration or issuance of a certificate of title for motor vehicles. Currently G.S. 20-54(9), authorizes NCDMV to refuse a registration when an applicant motor carrier is subject to a Federal Motor Carrier Safety Administration (FMCSA) or NCDMV order to cease operations, for an imminent hazard as defined under federal law.

G.S. 20-110 outlines the grounds for which NCDMV is authorized to rescind and cancel a registration issued by NCDMV. Currently G.S. 20-110(m), authorizes NCDMV to rescind and cancel registrations of vehicles of a motor carrier subject to a Federal Motor Carrier Safety Administration or NCDMV order to cease operations for an imminent hazard as defined under federal law.

G.S. 20-377 establishes that the North Carolina Department of Public Safety (NCDPS) "shall have and exercise such general power and authority to supervise and control the motor carriers of the State as may be necessary to carry out the laws providing for their regulation..." G.S. 20-381 outlines the specific duties of the NCDPS related to motor carriers. As part of their duties, subdivisions (4) and (5) of that section, authorize NCDPS to prohibit the operation of intrastate motor carriers based on their own finding that a motor carrier poses an imminent hazard, or based on an order from the FMCSA ceasing operations based on an imminent hazard as defined under federal law.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

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BILL ANALYSIS: **Section 1** of the bill would authorize the NCDMV to collect and maintain necessary motor carrier or commercial motor vehicle data in compliance with Performance and Registration Information Systems Management (PRISM) program.

Section 2 and Section 3 of the bill amends G.S. 20-54 and G.S. 20-110 respectively. Section 2 of the bill would amend G.S. 20-54(9), by striking the language specifying that the order must be based on an imminent hazard, and would give NCDMV the broader authority to refuse registration based on any order of the FMCSA or the Division.

Section 3 of the bill would amend G.S. 20-110(m), by striking the language specifying that the order must be based on an imminent hazard, and would give NCDMV the broader authority to rescind and cancel registrations based on any order of the FMCSA or the Division.

Both Sections 2 and 3 of the bill add additional grounds for refusing to issue registrations, or rescinding and cancelling existing registrations if:

- the applicant fails to disclose material information required, or if the applicant has made a materially false statement on the application;
- the applicant has applied as a subterfuge for the real party in interest who has been issued a federal out of service order;
- the applicant's business is operated, managed, or otherwise controlled by or affiliated with a person who is ineligible for registration, including the applicant entity, a relative, family member, corporate officer, or shareholder; or
- a vehicle that has been assigned for safety to a commercial motor carrier who has been prohibited from operating by the Federal Motor Carrier Safety Administration or a carrier whose business is operated, managed, or otherwise controlled by or affiliated with a person who is ineligible for registration, including the owner, a relative, family member, corporate officer, or shareholder.

Section 4 of the bill would amend G.S. 20-381 by removing the imminent hazard criteria and allowing NCDPS to prohibit the operations of intrastate carriers when subject to an out-of-service order issued by the FMCSA or the Department of Public Safety, and giving NCDPS authority to enforce any order of the FMCSA and clarifying their authority to seize registration plates pursuant to G.S. 20-45 of an intrastate motor carrier whose registration was rescinded and cancelled under Section 2 and 3 of this act.

EFFECTIVE DATE: This act is effective 90 days after it becomes law.