



HOUSE BILL 165: Department of Transportation Legislative Changes.

2021-2022 General Assembly

Committee:		Date:	February 2, 2022
Introduced by:		Prepared by:	Howard Marsilio Staff Attorney
Analysis of:	S.L. 2021-185		

OVERVIEW: *S.L. 2021-185 makes various changes to the transportation laws of this State, and more specifically:*

- *Requires the North Carolina Department of Transportation (NCDOT) to study right-of-way planning and acquisition procedures.*
- *Repeals the Map Act damages monetary cap enacted by S.L. 2019-251.*
- *Modifies the fiscal-year look back period for Transportation Investment Strategy Formula variance.*
- *Expands application of division need project alternate quantitative criteria within the Transportation Investment Strategy Formula for time-critical job creation opportunities.*
- *Increases cost threshold for the NCDOT small project informal bidding authority.*
- *Amends non-State dollar cost-share exemption under the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund for certain channel dredging projects, as enacted by S.L. 2021-108.*
- *Modifies and clarifies requirements for NCDOT litter removal coordination with right-of-way mowing.*
- *Requires all insurers to submit certain motor vehicle liability policy notifications to the Division of Motor Vehicles (DMV) electronically.*
- *Clarifies the DMV must offer in person and online renewals for handicapped credentials.*
- *Requires the DMV to disqualify persons from operating a commercial motor vehicle for certain convictions of severe forms of trafficking in persons to comply with federal law.*
- *Clarifies DMV dealer and inspection license hearing transfer feasibility study requirements enacted by S.L. 2021-134.*
- *Delays the implementation date of certain implied consent offense revocation timing modifications enacted by S.L. 2021-134.*
- *Extends DMV's authority, as enacted by S.L. 2021-13, to promulgate emergency rules to modify road test requirements during the coronavirus emergency.*
- *Modifies DMV procedures that relate to motor vehicle insurance lapse and requires the DMV to submit a plan to create a system to allow electronic submission of certain insurance documentation.*

Jeffrey Hudson
Director



Legislative Analysis
Division
919-733-2578

House Bill 165

Page 2

- *Clarifies NCDOT and Turnpike Authority designated managed lane use violations are punishable as infractions.*
- *Amends passenger bus length restrictions to authorize longer articulated buses.*
- *Authorizes commercial driver training schools to administer Level 2 provisional license road tests.*
- *Authorizes Durham charter schools meeting certain conditions to utilize on-street right-of-way for temporary student loading and unloading.*
- *Eliminates the notarized signature requirement for an owner-retained salvage form.*

Except as otherwise provided, this act became effective November 23, 2021. The provision regarding the DMV road test rule making authority became effective September 30, 2021. The provisions regarding managed lanes and commercial driver training schools became effective December 1, 2021.

CURRENT LAW/BILL ANALYSIS:

Section 1 – Requires the NCDOT to study right-of-way acquisition planning and procedures for State highway system projects to improve collaboration and address the concerns of impacted persons and entities, with a focus on projects that impact businesses or commercial properties. The Department must report findings to the North Carolina General Assembly no later than 180 days after this act became law.

Section 2 – Section 1.4(a) of S.L. 2019-251 limited the NCDOT to \$150 million per fiscal year to pay compensation for Map Act damages. This section repeals this monetary cap.

Section 3 – Currently, Article 14B of Chapter 136 sets out various laws that relate to the Transportation Investment Strategy Formula which the NCDOT uses for transportation project planning using certain funds. The NCDOT may vary formula requirements in accordance with statutory limits. This section expands the prior fiscal year variance consideration window by removing the 5-year look back period limitation. This section became effective November 23, 2021, and applies to State Transportation Improvement Program plan updates on or after that date.

Section 3.5 – Currently, Article 14B of Chapter 136 sets out various laws that relate to the Transportation Investment Strategy Formula which the NCDOT uses for transportation project planning using certain funds. For highway division need projects, the NCDOT must utilize alternative quantitative criteria for Department requested projects in support of time-critical job creation opportunities classified as transformative under the Job Development Investment Grant (JDIG) program established by law. This section amends and expands the application of this alternative quantitative criteria for time-critical job creation opportunities with eligibility requirement modifications.

Section 4 – Current law authorizes the NCDOT to utilize informal bidding to contract with Small Business Enterprises for construction and repair projects that are less than \$500,000. This section increases the dollar threshold for project eligibility for this authorization to \$1 million. This section became effective November 23, 2021, and applies to solicitations for bids issued by the NCDOT on or after that date.

Section 5 – Section 2 of S.L. 2021-108, effective August 16, 2021, created an exemption from the non-State dollar cost-share requirement under the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund for dredging projects located, in whole or part, in a development tier one area for a ferry channel maintained by the NCDOT. This section amends the exemption to apply to ferry channels "used" by NCDOT rather than those that are "maintained" by NCDOT.

House Bill 165

Page 3

Section 6 – Current law outlines the NCDOT's responsibility for scheduling debris and trash removal from right-of-way prior to mowing. This section further clarifies these responsibilities as it relates to highways on the primary and secondary road systems and further requires the Department to report to the Joint Legislative Transportation Oversight Committee on the effectiveness of the Litter Management System website and its impact on litter management programs. This section became effective November 23, 2021, and subsection (a) of this section applies to contracts entered into on or after January 1, 2022.

Section 7 – Current law requires insurers that provide motor vehicle liability policies to notify the Division of Motor Vehicles (DMV) of new/replacement policy issuance, policy terminations, and reinstatements. An insurer with \$25 million or more premium volume must submit notices electronically, but all others can submit paper or electronic notices. This section amends the notice requirement to require all insurers to submit all notices for these purposes electronically to the DMV.

Section 8 – This section clarifies that the DMV must offer the options of in-person and online handicap credential renewals.

Section 9 – Current law lists circumstances that disqualify a person from driving a commercial motor vehicle for various spans of time. This section amends State law to disqualify persons from operating a commercial motor vehicle for life based on a conviction of a felony involving a form of severe human trafficking that involves use of a commercial motor vehicle, as required by federal law.

Section 10 – Section 2 of S.L. 2021-134, effective September 2, 2021, required DMV, in consultation with the Office of Administrative Hearings (OAH) and the Attorney General, to study the feasibility of transferring motor vehicle dealer license hearings and safety and emissions inspection hearings to the OAH. This section clarifies that DMV and OAH would be jointly responsible for the feasibility study and amends the deadline for the study from January 31, 2022, to March 31, 2022.

Section 11 – Section 9 of S.L. 2021-134, effective October 1, 2021, modified the effective dates for DMV license revocations orders, for implied consent offense chemical analysis refusals and license restriction violations after driving while impaired convictions, from the 10th day after mailing to the 30th day after mailing. This section amends and delays the effective date of those changes from October 1, 2021, to February 1, 2022.

Section 11.5 – Subsection (g) of Section 3.20 of S.L. 2020-97, as enacted by Section 3 of S.L. 2021-13, authorizes the DMV to promulgate emergency rules to modify road test requirements during the coronavirus emergency and provides for their expiration 30 days after Executive Order No. 116 is rescinded or September 30, 2021, whichever was earlier. This section extends the expiration date of these rules to expire 30 days after Executive Order No. 116 is rescinded or December 31, 2022, whichever is earlier. This section became effective September 30, 2021.

Section 12 – Current law requires the DMV to notify a vehicle owner by mail when they receive evidence the owner no longer has financial responsibility for the vehicle and sets out owner response deadlines and lapse penalties. This section modifies DMV procedures that relate to insurance lapses, which include authorizing electronic notification of lapses, preventing the DMV from assessing a penalty when certain lapses occur, and requiring the DMV to develop and submit a plan by March 1, 2022, to create a system to allow electronic submission of certain insurance documentation.

House Bill 165

Page 4

Section 13 – Current law authorizes the North Carolina Turnpike Authority and the NCDOT to designate managed (e.g. HOV, HOT, etc.) lanes within their respective systems. Additional authority, requirements, and conditions for these lanes are set out by various statutes and rules. This section clarifies that violations of use requirements and conditions for Turnpike Authority designated lanes are infractions and further clarifies that violations that relate to Department designated managed lanes are infractions. This section became effective December 1, 2021, and applies to offenses committed on or after that date.

Section 14 – Generally, vehicle length, width, and load capacity restrictions are set by various laws and rules, and current law exempts single vehicle passenger buses operated by units of local government that are 45 feet or less in length from certain restrictions. This section expands this exemption to authorize operation of articulated passenger buses with an overall length of 65 feet or less in length.

Section 15 – Current law requires individuals seeking a Level 2 provisional license as part of the State's graduated licensing program to pass a road test administered by the DMV. This section authorizes commercial driver training schools that are regulated and certified by the DMV to administer those road tests in addition to the DMV.

Section 15.5 – This section authorizes charter schools in the City of Durham that are chartered prior to 2005 and meet other conditions to utilize street right-of-way for temporary motor vehicle queuing to load or unload students as long as it does not block driveway access or the movement of through traffic on streets adjacent to the charter school location. This section became effective December 1, 2021.

Section 16 – Current law requires that an owner electing to keep a salvage vehicle after the insurance claims process must notarize an owner-retained salvage form provided by the insurer. This section eliminates the notarization requirement on that owner-retained salvage form and authorizes execution of the form manually or with an electronic signature that complies with Article 40 of Chapter 66 of the General Statutes (The Uniform Electronic Transactions Act).

EFFECTIVE DATE: Except as otherwise provided, this act became effective November 23, 2021. Section 11.5 of this act became effective September 30, 2021. Sections 13 and 15.5 of this act became effective December 1, 2021.