



HOUSE BILL 650: Omnibus DMV Bill.

2021-2022 General Assembly

Committee:	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	Date:	August 9, 2021
Introduced by:	Reps. B. Jones, Iler, Shepard	Prepared by:	Wendy Ray
Analysis of:	PCS to Second Edition H650-CSSU-23		Staff Attorney

OVERVIEW: *The Proposed Committee Substitute (PCS) for House Bill 650 would make various changes to laws related to motor vehicles and motor vehicle dealers, including:*

- *Making clarifying changes to motor vehicle sales representative licensing provisions and modifying how and when civil penalties apply for violations of the dealer licensing law.*
- *Modifying the grounds for denying and revoking licenses under the dealer licensing law, providing affirmative defenses for certain grounds, and limiting the ability to deny or revoke the license of a business entity under certain circumstances.*
- *Directing the Division of Motor Vehicles to study the feasibility of transferring licensing hearings under the dealer licensing law and hearings related to safety and emissions inspection licensing and violations from the Division to the Office of Administrative Hearings.*
- *Providing an exemption from the prohibition on making color copies of drivers licenses for licensed lenders and motor vehicle dealers with regard to loan applications.*
- *Requiring replacement of dealer registration plates every three years.*
- *Requiring the Division to send a temporary license to a dealer for display during the time a license continues to be valid while an application for renewal is being reviewed.*
- *Clarifying laws related to satisfaction, release, and renewal of security interests in manufactured homes.*
- *Modifying requirements for applications for notations of security interests submitted by regulated lenders – makes permanent the same modifications that were put into place temporarily last year.*
- *Requiring electronic lien system contractors to have specific experience.*
- *Changing effective dates for certain license revocations by the Division from the tenth day after mailing of the order to the thirtieth day after mailing.*
- *Clarifying that used vehicles sold by an auctioneer pursuant to court proceedings are not required to be inspected prior to sale, as is required for used vehicles being sold at retail by a dealer.*
- *Exempting up to five Division technology modernization projects from Department of Information Technology requirements.*

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- *Extending a temporary modification, enacted this year, reducing the amount of time a person must hold a Level 1 permit before applying for a Level 2 license under graduated driver licensing until December 31, 2022.*

CURRENT LAW AND BILL ANALYSIS: The PCS for House Bill 650 would make changes to laws related to the Motor Vehicle Dealers and Manufacturers Licensing Law (Article 12 of Chapter 20) and other laws in Chapter 20 related to motor vehicles.

Licensing under Article 12. Article 12 of Chapter 20 requires licensing of motor vehicle dealers, sales representatives, manufacturers, factory branches, factory representatives, distributors, distributor branches, distributor representatives, and wholesalers engaging in business in North Carolina. The Division of Motor Vehicles is responsible for regulating licensees.

Section 1.1 of the bill would provide that applicants for licenses would be subject to civil penalties for violations of the licensing law that apply to licensees, rather than the penalties that apply to persons operating as licensees without a license.

Section 1.2 would modify some grounds for denying, suspending, placing on probation, or revoking a license, and it would create affirmative defenses for some grounds based on underlying violations or offenses if the licensee is determined not to be responsible for the underlying violations or offense.

Section 1.3 would provide that the Division is authorized to deny, suspend, place on probation, or revoke a license of a business entity if more than 50% of the ownership of the business engaged in prohibited conduct or if damages caused by a violation are not satisfied, but an owner of a business entity could not be penalized for a violation by the business licensee unless he or she personally engaged in the violation or knowingly omitted a duty.

Study transfer of hearings from the Division to Office of Administrative Hearings. Under current law, a person denied a license under the dealer licensing law may request a hearing. Those hearings are conducted by the Division. Before the Division suspends, places on probation, or revokes a license under the dealer licensing law, the Division must provide a hearing. Under Article 3A of Chapter 20 (Safety and Emissions Inspection Program) individuals and licensees subject to certain actions by the Division may also request hearings, which are conducted by the Division.

Section 2 would direct the Division, in consultation with the Office of Administrative Hearings and the Attorney General, to study the feasibility of transferring all of these hearings from the Division to the Office of Administrative Hearings. The Division would be required to report its findings to Transportation Oversight and Fiscal Research by January 31, 2022.

Exception to prohibition on color copies of drivers license. Current law prohibits any person from making a color photocopy or reproduction of a drivers license, learner's permit, or special identification card. Section 3 would provide an exception to this prohibition for licensed lenders and licensed motor vehicle dealers who make the copies in the ordinary course of business for loan applications.

Dealer plate replacement. G.S. 20-79 provides for registration plates issuable to licensed motor vehicle dealers with specific requirements for issuance and use. Registration plates generally, under G.S. 20-63.1, are required to be replaced every seven years. Section 4 would require dealer plates to be replaced every three years.

Temporary license for dealer during renewal process. When a licensee under the dealer licensing law has submitted an application for renewal in a timely manner but the Division has not acted on the application before the license would otherwise expire, the license remains valid for the 30-day period the Division

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has to review the application and make a determination. Section 5 would require the Division to send a temporary license to the licensee for display during this period of extended validity.

Manufactured homes. Existing law sets out requirements related to satisfaction, release, and renewal of security interests in manufactured homes. Sections 6.1 through 6.4 would make clarifying changes to those laws, provide commission contractors with the same protection the Division has in handling transactions, and streamline the process for owners of manufactured homes to get clear title when a secured party has not released the lien after the underlying debt has been satisfied.

Modified requirements for applications for notations of security interests. Last year, S.L. 2020-77 temporarily modified requirements for applications for notations of security interests by allowing a debtor to sign an application electronically and without notarization and allowing a secured party to sign instead of the debtor without signed documentary evidence of the debtor's interest, as long as the application was submitted by a licensed or regulated lender in the State having a lienholder identification number issued by the Division. Section 7 would make these modifications to the law permanent.

Electronic lien system contractors. G.S. 20-58.4A sets out provisions applicable to the statewide electronic lien system implemented by the Division. It provides qualified vendors and service providers must have experience in directly providing electronic solutions to motor vehicle departments. Section 8 would require they more specifically have experience in providing electronic lien and title solutions.

Amend effective date for license revocations. Under current law, the Division is required to revoke a person's license under certain circumstances when the person is charged with an implied-consent offense or has violated a restriction placed on a license after conviction for driving while impaired. These revocations are effective on the tenth calendar day after the mailing of the order by the Division unless the person requests a hearing before the Division prior to the effective date. Section 9 would extend the effective date for these revocations to the thirtieth day after mailing, providing additional time for the person to receive the notification and request a hearing.

Clarify pre-sale inspection not required for vehicles sold pursuant to court proceedings. Current law requires used motor vehicles to be inspected before being offered for sale at retail by a motor vehicle dealer. Section 10 would clarify that this inspection requirement does not apply to an auctioneer selling a used vehicle pursuant to a judgment or order of a court.

Exempt certain Division projects from Department of Information Technology requirements. Generally, the Department of Information Technology provides oversight and requirements for projects and procurement of information technology goods and services for State agencies, including the Department of Transportation. Section 11 would exempt up to five Division of Motor Vehicles technology modernization projects from those requirements. The Department of Transportation would be required to report to the Joint Legislative Transportation Oversight Committee, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division within 30 days of entering into a contract for a project authorized under this provision.

Extend Level 2 license requirement modification expiration date. Legislation enacted earlier this year (S.L. 2021-24) temporarily reduced the amount of time a person must hold a Level 1 limited learner's permit before being eligible to apply for a Level 2 limited provisional license from 12 months to 6 months. An applicant would still have to meet all other requirements for a Level 2. The provision is set to expire on December 31, 2021. Section 12 would extend the expiration date of that modification to December 31, 2022.

EFFECTIVE DATE: The act would become effective October 1, 2021.