



HOUSE BILL 650: Omnibus Division of Motor Vehicles Bill.

2021-2022 General Assembly

Committee:		Date:	February 23, 2022
Introduced by:		Prepared by:	Wendy Ray
Analysis of:	S.L. 2021-134		Staff Attorney

OVERVIEW: *S.L. 2021-134 makes 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, motor vehicle dealers with regard to loan applications, and federally insured depository institutions.*
- *Requiring replacement of dealer registration plates every three years.*
- *Permitting surviving military spouses to renew special plates based on military service.*
- *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.*

The provision permitting surviving military spouses to renew special registration plates became effective December 1, 2021. The provision regarding electronic lien system contractor experience became effective January 15, 2022. As amended by S.L. 2021-185, the provision regarding license revocation effective dates became effective February 1, 2022. The remainder of the act became effective October 1, 2021.

CURRENT LAW AND BILL ANALYSIS: S.L. 2021-134 makes 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 act provides that applicants for licenses are 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 modifies some grounds for denying, suspending, placing on probation, or revoking a license, and creates affirmative defenses for some grounds based on underlying violations or offenses.

Section 1.3 provides 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 may 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.

As amended by S.L. 2021-185, Section 2 of this act directs the Division and the Office of Administrative Hearings, in consultation with the Attorney General, to study the feasibility of transferring all of these hearings from the Division to the Office of Administrative Hearings. The Division is required to report its findings to Transportation Oversight and Fiscal Research by March 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 provides an exception to this prohibition for licensed lenders, licensed motor vehicle dealers who make the copies in the ordinary course of business for loan applications, or federally insured depository institutions who make copies in the ordinary course of business.

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 requires dealer plates to be replaced every three years.

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Permit surviving military spouses to renew special plates. The Division issues several special registration plates to individuals based upon military service. Section 4.5 allows the surviving spouse of a person who had one of these special plates issued to continue to renew the plate as long as the surviving spouse does not remarry.

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 has to review the application and make a determination. Section 5 requires 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 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 makes 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 requires 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 extends 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. As amended by S.L. 2021-185, the effective date of this provision was February 1, 2022.

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 clarifies 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 exempts up to five Division of Motor Vehicles technology modernization projects from those requirements. The Department of Transportation is 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.

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Extend Level 2 license requirement modification expiration date. Previously enacted legislation (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 must still meet all other requirements for a Level 2 license. The provision was set to expire on December 31, 2021. Section 12 extends the expiration date of that modification to December 31, 2022.

EFFECTIVE DATE: The provision permitting surviving military spouses to renew special registration plates became effective December 1, 2021. The provision regarding electronic lien system contractor experience became effective January 15, 2022. As amended by S.L. 2021-185, the provision regarding license revocation effective dates became effective February 1, 2022. The remainder of the act became effective October 1, 2021.