

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1469*
House Committee Substitute Favorable 6/30/94

Short Title: Exempt Utility Trucks.

(Public)

Sponsors:

Referred to:

May 25, 1994

A BILL TO BE ENTITLED

1 AN ACT TO EXEMPT FROM REGISTRATION AND THE MOTOR FUEL TAX
2 VEHICLES REGISTERED IN ANOTHER STATE AND OPERATED
3 TEMPORARILY IN THIS STATE BY A UTILITY PROVIDER OR ITS
4 CONTRACTOR FOR THE PURPOSE OF RESTORATION OF UTILITY
5 SERVICES IN AN EMERGENCY OUTAGE AS RECOMMENDED BY THE
6 JOINT LEGISLATIVE UTILITY REVIEW COMMITTEE, AND TO GRANT
7 AUTHORITY TO THE CHAIRMAN OF THE PUBLIC UTILITIES
8 COMMISSION TO APPOINT PANELS OF FIVE COMMISSIONERS TO HEAR
9 CERTAIN MATTERS.
10

11 The General Assembly of North Carolina enacts:

12 Section 1. G.S. 20-51 reads as rewritten:

13 **"§ 20-51. Exempt from registration.**

14 The following shall be exempt from the requirement of registration and certificate of
15 title:

- 16 (1) Any such vehicle driven or moved upon a highway in conformance
17 with the provisions of this Article relating to manufacturers, dealers, or
18 nonresidents.
19 (2) Any such vehicle which is driven or moved upon a highway only for
20 the purpose of crossing such highway from one property to another.
21 (3) Any implement of husbandry, farm tractor, road construction or
22 maintenance machinery or other vehicle which is not self-propelled
23 that was designed for use in work off the highway and which is

- 1 operated on the highway for the purpose of going to and from such
2 nonhighway projects.
- 3 (4) Any vehicle owned and operated by the government of the United
4 States.
- 5 (5) Farm tractors equipped with rubber tires and trailers or semitrailers
6 when attached thereto and when used by a farmer, his tenant, agent, or
7 employee in transporting his own farm implements, farm supplies, or
8 farm products from place to place on the same farm, from one farm to
9 another, from farm to market, or from market to farm. This exemption
10 shall extend also to any tractor, implement of husbandry, and trailer or
11 semitrailer while on any trip within a radius of 10 miles from the point
12 of loading, provided that the vehicle does not exceed a speed of 35
13 miles per hour. This section shall not be construed as granting any
14 exemption to farm tractors, implements of husbandry, and trailers or
15 semitrailers which are operated on a for-hire basis, whether money or
16 some other thing of value is paid or given for the use of such tractors,
17 implements of husbandry, and trailers or semitrailers.
- 18 (6) Any trailer or semitrailer attached to and drawn by a properly licensed
19 motor vehicle when used by a farmer, his tenant, agent, or employee in
20 transporting unginning cotton, peanuts, soybeans, corn, hay, tobacco,
21 silage, cucumbers, potatoes, fertilizers or chemicals purchased or
22 owned by such farmer or tenant for personal use in implementing
23 husbandry or irrigation pipes and equipment owned by such farmer or
24 tenant from place to place on the same farm, from one farm to another,
25 from farm to gin, from farm to dryer, or from farm to market, and
26 when not operated on a for-hire basis. The term 'transporting' as used
27 herein shall include the actual hauling of said products and all
28 unloaded travel in connection therewith.
- 29 (7) Those small farm trailers known generally as tobacco-handling trailers,
30 tobacco trucks or tobacco trailers when used by a farmer, his tenant,
31 agent or employee, when transporting or otherwise handling tobacco in
32 connection with the pulling, tying or curing thereof.
- 33 (8) Any vehicle which is driven or moved upon a highway only for the
34 purpose of crossing or traveling upon such highway from one side to
35 the other provided the owner or lessee of the vehicle owns the fee or a
36 leasehold in all the land along both sides of the highway at the place or
37 crossing.
- 38 (9) Mopeds as defined in G.S. 20-4.01(27)d1.
- 39 (10) Devices which are designed for towing private passenger motor
40 vehicles or vehicles not exceeding 5,000 pounds gross weight. These
41 devices are known generally as 'tow dollies.' A tow dolly is a two-
42 wheeled device without motive power designed for towing disabled
43 motor vehicles and is drawn by a motor vehicle in the same manner as
44 a trailer.

1 (11) Devices generally called converter gear or dollies consisting of a
2 tongue attached to either a single or tandem axle upon which is
3 mounted a fifth wheel and which is used to convert a semitrailer to a
4 full trailer for the purpose of being drawn behind a truck tractor and
5 semitrailer.

6 (12) Motorized wheelchairs or similar vehicles not exceeding 1,000 pounds
7 gross weight when used for pedestrian purposes by a handicapped
8 person with a mobility impairment as defined in G.S. 20-37.5.

9 (13) Any vehicle registered in another state and operated temporarily within
10 this State by a public utility, a governmental or cooperative provider of
11 utility services, or a contractor for one of these entities for the purpose
12 of restoring utility services in an emergency outage."

13 Sec. 2. G.S. 105-449.47 reads as rewritten:

14 **"§ 105-449.47. Registration of vehicles.**

15 (a) Requirement. – A motor carrier may not operate or cause to be operated in
16 this State any vehicle listed in the definition of motor carrier unless both the motor
17 carrier and the motor vehicle are registered with the Secretary for purposes of the tax
18 imposed by this Article.

19 Upon application, the Secretary shall register a motor carrier and shall issue at least
20 one identification marker for each motor vehicle operated by the motor carrier. A copy
21 of the registration of a motor carrier shall be carried in each motor vehicle operated by
22 the motor carrier when the vehicle is in this State. An identification marker shall be
23 clearly displayed at all times and shall be affixed to the vehicle for which it was issued
24 in the place and manner designated by the Secretary. Registrations and identification
25 markers required by this section shall be issued on a calendar year basis. The Secretary
26 may renew a registration or an identification marker without issuing a new registration
27 or identification marker. All identification markers issued by the Secretary remain the
28 property of the State. The Secretary may withhold or revoke a registration or an
29 identification marker when a motor carrier fails to comply with this Article or Article
30 36A of this Subchapter.

31 (b) Exemption. – This section does not apply to the operation of a vehicle that is
32 registered in another state and is operated temporarily in this State by a public utility, a
33 governmental or cooperative provider of utility services, or a contractor for one of these
34 entities for the purpose of restoring utility services in an emergency outage."

35 Sec. 3. G.S. 62-13(b) reads as rewritten:

36 "(b) The chairman shall determine whether matters pending before the
37 Commission shall be considered or heard initially by the full Commission, a panel of
38 ~~three~~ commissioners, a hearing commissioner, or a hearing examiner. Subject to the
39 rules of the Commission, the chairman shall assign members of the Commission to
40 proceedings and shall assign members to preside at proceedings before the full
41 Commission or a panel of ~~three~~ commissioners."

42 Sec. 4. G.S. 62-76(a) reads as rewritten:

43 "(a) Except as otherwise provided in this Chapter, any matter requiring a hearing
44 shall be heard and decided by the Commission or shall be referred by the chairman to a

1 panel of five commissioners, a panel of three commissioners or commissioners, one of
2 the commissioners-commissioners, or a qualified member of the Commission staff as
3 examiner for hearing, report and recommendation of an appropriate order or decision
4 thereon. Subject to the limitations prescribed in this Article, a panel of five
5 commissioners or three commissioners, a hearing commissioner or an examiner to
6 whom a hearing has been referred by order of the chairman shall have all the rights,
7 duties, powers and jurisdiction conferred by this Chapter upon the Commission. The
8 chairman, in his discretion, may direct any hearing by the Commission or any panel,
9 commissioner or examiner to be held in such place or places within the State as he may
10 determine to be in the public interest and as will best serve the convenience of interested
11 parties. Before any member of the Commission staff enters upon the performance of
12 duties as an examiner, he shall first take, subscribe to and file with the Commission an
13 oath similar to the oath required of members of the Commission."

14 Sec. 5. G.S. 62-77 reads as rewritten:

15 **"§ 62-77. Recommended decision of panel of ~~three~~-commissioners, single**
16 **commissioner or examiner.**

17 Any report, order or decision made or recommended by a panel of ~~three~~
18 commissioners, commissioner or examiner with respect to any matter referred for
19 hearing shall be in writing and shall set forth separately findings of fact and conclusions
20 of law and shall be filed with the Commission. A copy of such recommended order,
21 report and findings shall be served upon the parties who have appeared in the
22 proceeding."

23 Sec. 6. G.S. 62-78 reads as rewritten:

24 **"§ 62-78. Proposed findings, briefs, exceptions, orders, expediting cases, and other**
25 **procedure.**

26 (a) Prior to each decision or order by the Commission in a proceeding initially
27 heard by it and prior to any recommended decision or order of a panel of ~~three~~
28 commissioners, commissioner or examiner, the parties shall be afforded an opportunity
29 to submit, within the time prescribed by order entered in the cause, unless further
30 extended by order of the Commission, for the consideration of the Commission, panel,
31 commissioner or examiner, as the case may be, proposed findings of fact and
32 conclusions of law and briefs or, in its discretion, oral arguments in lieu thereof.

33 (b) Within the time prescribed by the panel of ~~three~~-commissioners,
34 commissioner, or examiner, the parties shall be afforded an opportunity to file
35 exceptions to the recommended decision or order and a brief in support thereof,
36 provided the time so fixed shall be not less than 15 days from the date of such
37 recommended decision or order. The record shall show the ruling upon each requested
38 finding and conclusion or exception.

39 (c) In all proceedings in which a panel of ~~three~~-commissioners, commissioner or
40 examiner has filed a report, recommended decision or order to which exceptions have
41 been filed, the Commission, before making its final decision or order, shall afford the
42 party or parties an opportunity for oral argument. When no exceptions are filed within
43 the time specified to a recommended decision or order, such recommended decision or
44 order shall become the order of the Commission and shall immediately become

1 effective unless the order is stayed or postponed by the Commission; provided, the
2 Commission may, on its own motion, review any such matter and take action thereon as
3 if exceptions thereto had been filed.

4 (d) When exceptions are filed, as herein provided, it shall be the duty of the
5 Commission to consider the same and if sufficient reason appears therefor, to grant such
6 review or make such order or hold or authorize such further hearing or proceeding as
7 may be necessary or proper to carry out the purposes of this Chapter. The Commission,
8 after review, upon the whole record, or as supplemented by a further hearing, shall
9 decide the matter in controversy and make appropriate order or decision thereon.

10 (e) The Commission may expedite the hearing and decision of any case if the
11 public interest so requires by the use of pretrial conferences, daily transcripts of
12 evidence, trial briefs, and prompt oral argument, and by granting priority to the hearing
13 and decision of such case."

14 Sec. 7. G.S. 62-81(a) reads as rewritten:

15 "(a) All cases or proceedings, declared to be or properly classified as general rate
16 cases under G.S. 62-137, or any proceedings which will substantially affect any utility's
17 overall level of earnings or rate of return, shall be set for trial or hearing by the
18 ~~Commission, Commission or a panel of five commissioners, as determined by the~~
19 chairman, which trial or hearing shall be set to commence within six months of the
20 institution or filing thereof, and all such cases or proceedings shall be tried or heard and
21 decided, with the issuance of a final order, by the Commission within nine months of
22 the institution or filing thereof. All such cases or proceedings shall be tried or heard and
23 decided in accordance with the rate-making procedure set forth in G.S. 62-133 and such
24 cases shall be given priority over all other cases or proceedings pending before the
25 Commission. In all such cases the Commission or panel shall make a transcript of the
26 evidence and testimony presented and received by it and shall furnish a copy thereof to
27 any party so requesting by the third business day after the taking of such evidence and
28 testimony."

29 Sec. 8. This act becomes effective October 1, 1994.