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SENATE BILL 1469*
House Committee Substitute Favorable 6/30/94
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Short Title: Exempt Utility Trucks.

(Public)

Sponsors:

Referred to:

May 25, 1994

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

"§ 20-51. Exempt from registration.

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

- (1) Any such vehicle driven or moved upon a highway in conformance with the provisions of this Article relating to manufacturers, dealers, or nonresidents.
- (2) Any such vehicle which is driven or moved upon a highway only for the purpose of crossing such highway from one property to another.
- (3) Any implement of husbandry, farm tractor, road construction or maintenance machinery or other vehicle which is not self-propelled

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

1 motor vehicles and is drawn by a motor vehicle in the same manner as
2 a trailer.

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

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

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

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

16 "**§ 105-449.47. Registration of vehicles.**

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

21 Upon application, the Secretary shall register a motor carrier and shall issue at least
22 one identification marker for each motor vehicle operated by the motor carrier. A copy
23 of the registration of a motor carrier shall be carried in each motor vehicle operated by
24 the motor carrier when the vehicle is in this State. An identification marker shall be
25 clearly displayed at all times and shall be affixed to the vehicle for which it was issued
26 in the place and manner designated by the Secretary. Registrations and identification
27 markers required by this section shall be issued on a calendar year basis. The Secretary
28 may renew a registration or an identification marker without issuing a new registration
29 or identification marker. All identification markers issued by the Secretary remain the
30 property of the State. The Secretary may withhold or revoke a registration or an
31 identification marker when a motor carrier fails to comply with this Article or Article
32 36A of this Subchapter.

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

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

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

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

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

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

17 **"§ 62-77. Recommended decision of panel of ~~three~~ commissioners, single**
18 **commissioner or examiner.**

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

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

26 **"§ 62-78. Proposed findings, briefs, exceptions, orders, expediting cases, and other**
27 **procedure.**

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

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

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

1 the time specified to a recommended decision or order, such recommended decision or
2 order shall become the order of the Commission and shall immediately become
3 effective unless the order is stayed or postponed by the Commission; provided, the
4 Commission may, on its own motion, review any such matter and take action thereon as
5 if exceptions thereto had been filed.

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

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

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

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

31 Sec. 7.1. G.S. 62-60.1 reads as rewritten:

32 "**§ 62-60.1. Commission to sit in panels of ~~three-~~ three or five.**

33 (a) The Utilities Commission shall sit in panels of three commissioners ~~each~~ or
34 five commissioners, as determined by the chairman, unless the chairman by order shall
35 set the proceeding for hearing by the full Commission.

36 (b) Any order or decision made unanimously by a panel of ~~three-~~ commissioners
37 shall constitute the order or decision of the Commission, except as otherwise provided
38 in this Chapter; provided, however, ~~that~~ where the panel consisted of three
39 commissioners, upon motion of any three commissioners not sitting on the panel, or
40 where the panel consisted of five commissioners, upon motion of any one commissioner
41 not sitting on the panel, made within 10 days of issuance of such order or decision of the
42 panel, with notice to parties of record, the order or decision of the panel shall thereby be
43 stayed and the full Commission shall review the order or decision of the panel and shall
44 within 30 days of said motion either affirm or modify the order or decision of the panel

1 or remand the matter to the panel for further proceedings; provided that the foregoing
2 shall not limit the right of parties to seek review of such order or decision under G.S.
3 62-90.

4 (c) In the event an order or decision of the panel ~~of three~~ is not made
5 unanimously, such order or decision shall be a recommended order only, subject to
6 review by the full Commission, with all commissioners eligible to participate in the
7 final arguments and decision. Review shall take place in accordance with the provisions
8 of G.S. 62-78 and the Commission shall decide the matter in controversy and make
9 appropriate order or decision thereon within 60 days of the date of the recommended
10 order. If within the filing period specified by the panel no exception has been filed by a
11 party, or if the Commission within the same period has not advised the parties that it
12 will conduct a review upon its own motion, the recommended order or decision shall
13 become the final order or decision of the Commission. Nothing in this section shall
14 amend or repeal the provisions of G.S. 62-134.

15 (d) This section shall become effective July 1, 1975, and shall not affect the
16 utilization of or the procedures outlined for utilization of a hearing commissioner or a
17 hearing examiner as provided for elsewhere in Chapter 62."

18 Sec. 7.2. G.S. 62-71(a) reads as rewritten:

19 "(a) All formal hearings before the Commission, a panel of ~~three~~ commissioners,
20 a commissioner or an examiner shall be public, and shall be conducted in accordance
21 with such rules as the Commission may prescribe. A full and complete record shall be
22 kept of all proceedings on any formal hearing, and all testimony shall be taken by a
23 reporter appointed by the Commission. Any party to a proceeding shall be entitled to a
24 copy of the record or any part thereof upon the payment of the reasonable cost thereof
25 as determined by the Commission."

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