

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2003**

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**SENATE BILL 370\***

Short Title: CDL/DWI Changes.

(Public)

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Sponsors: Senators Gulley; and Carpenter.

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Referred to: Judiciary I.

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March 11, 2003

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO BRING STATE LAW INTO COMPLIANCE WITH RECENTLY  
3 ADOPTED FEDERAL REGULATIONS CONCERNING THE EFFECT OF  
4 VIOLATION OF IMPAIRED DRIVING, RAILROAD CROSSING SAFETY,  
5 AND OTHER STATE LAWS ON COMMERCIAL DRIVERS LICENSES, AND  
6 REQUIRING A NEW "S" ENDORSEMENT FOR PERSONS OPERATING  
7 SCHOOL BUSES, AS RECOMMENDED BY THE JOINT LEGISLATIVE  
8 TRANSPORTATION OVERSIGHT COMMITTEE.

9 The General Assembly of North Carolina enacts:

10           **SECTION 1.** G.S. 20-4.01(4a) reads as rewritten:

11           "(4a) Conviction. – A conviction for an offense committed in North Carolina  
12           or another state:

13           a.     In-State. When referring to an offense committed in North  
14           Carolina, the term means any of the following:

- 15                   1.     A final conviction of a criminal offense, including a no  
16                            contest plea.
- 17                   2.     A determination that a person is responsible for an  
18                            infraction, including a no contest plea.
- 19                   3.     An unvacated forfeiture of cash in the full amount of a  
20                            bond required by Article 26 of Chapter 15A of the  
21                            General Statutes.
- 22                   4.     A third or subsequent prayer for judgment continued  
23                            within any five-year period.
- 24                   5.     For the purpose of disqualification only, a prayer for  
25                            judgment continued, when the offense occurs in a  
26                            commercial vehicle or the offender holds a commercial  
27                            drivers license.

28           b.     Out-of-State. When referring to an offense committed outside  
29           North Carolina, the term means any of the following:

1. An unvacated adjudication of guilt.
2. A determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal.
3. An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.
4. A violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated."

**SECTION 2.** G.S. 20-4.01(41a) reads as rewritten:

"(41a) Serious Traffic Violation. – A conviction of one of the following offenses when operating a commercial motor vehicle:

- a. Excessive speeding, involving a single charge of any speed 15 miles per hour or more above the posted speed limit.
- b. Careless and reckless driving.
- c. A violation of any State or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident.
- d. Improper or erratic lane changes.
- e. Following the vehicle ahead too closely.
- f. Driving a commercial motor vehicle without obtaining a commercial drivers license.
- g. Driving a commercial motor vehicle without a commercial drivers license in the driver's possession.
- h. Driving a commercial motor vehicle without the proper class of commercial drivers license or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported."

**SECTION 3.** G.S. 20-16.5(e) reads as rewritten:

"(e) Procedure if Report Filed with Judicial Official When Person Is Present. – If a properly executed revocation report concerning a person is filed with a judicial official when the person is present before that official, the judicial official shall, after completing any other proceedings involving the person, determine whether there is probable cause to believe that each of the conditions of subsection (b) has been met. If he determines that there is such probable cause, he shall enter an order revoking the person's driver's license for the period required in this subsection. The judicial official shall order the person to surrender his license and if necessary may order a law-enforcement officer to seize the license. The judicial official shall give the person a copy of the revocation order. In addition to setting it out in the order the judicial official shall personally inform the person of his right to a hearing as specified in subsection (g), and that his license remains revoked pending the hearing. The revocation under this subsection begins at the time the revocation order is issued and continues until the person's license has been surrendered for the period specified in this subsection, and the person has paid the applicable costs. The period of revocation is 30 days, if there are no

1 pending offenses for which the person's license had been or is revoked under this  
2 section. If the offense occurs in a commercial motor vehicle or if the person holds a  
3 commercial license, the period of disqualification shall not be less than one year. If at  
4 the time of the current offense, the person has one or more pending offenses for which  
5 his license had been or is revoked under this section, the revocation shall remain in  
6 effect until a final judgment, including all appeals, has been entered for the current  
7 offense and for all pending offenses. In no event, may the period of revocation under  
8 this subsection be less than 30 days. If within five working days of the effective date of  
9 the order, the person does not surrender his license or demonstrate that he is not  
10 currently licensed, the clerk shall immediately issue a pick-up order. The pick-up order  
11 shall be issued to a member of a local law-enforcement agency if the charging officer  
12 was employed by the agency at the time of the charge and the person resides in or is  
13 present in the agency's territorial jurisdiction. In all other cases, the pick-up order shall  
14 be issued to an officer or inspector of the Division. A pick-up order issued pursuant to  
15 this section is to be served in accordance with G.S. 20-29 as if the order had been issued  
16 by the Division."

17 **SECTION 4.** G.S. 20-17.4 is amended by adding a new subsection to read:

18 "(k) Disqualification for Railroad Grade Crossing Offenses. – Any person  
19 convicted of violation of G.S. 20-142.1 through G.S. 20-142.5, when the driver is  
20 operating a commercial motor vehicle, shall be disqualified from driving a commercial  
21 motor vehicle as follows:

- 22 (1) A person is disqualified for a period of 60 days if convicted of a first  
23 violation of a railroad grade crossing offense listed in this subsection.  
24 (2) A person is disqualified for a period of 120 days if convicted during  
25 any 3-year period of a second violation of any combination of railroad  
26 grade crossing offenses listed in this section.  
27 (3) A person is disqualified for a period of one year if convicted during  
28 any 3-year period of a third or subsequent violation of any  
29 combination of railroad grade crossing offense listed in this  
30 subsection."

31 **SECTION 5.** G.S. 20-37.12 is amended by adding a new subsection to read:

32 "(f) A person shall not be convicted of failing to carry a commercial drivers  
33 license if, by the date the person is required to appear in court for the violation, the  
34 person produces to the court a commercial drivers license issued to the person that was  
35 valid on the date of the offense."

36 **SECTION 6.** G.S. 20-37.16 reads as rewritten:

37 "**§ 20-37.16. Content of license; classifications and endorsements; fees.**

38 (a) A commercial drivers license must be marked "Commercial Drivers License"  
39 or "CDL" and must contain the information required by G.S. 20-7 for a regular drivers  
40 license.

41 (b) The classes of commercial drivers licenses are:

- 42 (1) Class A CDL – A Class A commercial drivers license authorizes the  
43 holder to drive any Class A motor vehicle.

- 1 (2) Class B CDL – A Class B commercial drivers license authorizes the
- 2 holder to drive any Class B motor vehicle.
- 3 (3) Class C CDL – A Class C commercial drivers license authorizes the
- 4 holder to drive any Class C motor vehicle.

5 (c) Endorsements. – The endorsements required to drive certain motor vehicles  
6 are as follows:

| <u>Endorsement</u> | <u>Vehicles That Can Be Driven</u>  |
|--------------------|---|
| H                  | Vehicles, regardless of size or class, except tank vehicles, when transporting hazardous materials that require the vehicle to be placarded |
| M                  | Motorcycles   |
| N                  | Tank vehicles not carrying hazardous materials  |
| P                  | Vehicles carrying passengers  |
| <u>S</u>           | <u>School bus</u>   |
| T                  | Double trailers   |
| X                  | Tank vehicles carrying hazardous materials.   |

7 To obtain an ~~H or H~~, S or an X endorsement, an applicant must take a test. This  
8 requirement applies when a person first obtains an ~~H or H~~, S or an X endorsement and  
9 each time a person renews an ~~H or H~~, S or an X endorsement. An applicant who has an  
10 H or an X endorsement issued by another state who applies for an H or an X  
11 endorsement must take a test unless the person has passed a test that covers the  
12 information set out in 49 C.F.R. § 383.121 within the preceding two years. An applicant  
13 who has an S endorsement issued by another state who applies for an S endorsement  
14 shall take a test unless the person has passed a test that covers the information set out in  
15 49 C.F.R. § 383.123 within the preceding two years.

16 (d) The fee for a Class A, B, or C commercial drivers license is ten dollars  
17 (\$10.00) for each year of the period for which the license is issued. The fee for each  
18 endorsement is one dollar and twenty-five cents (\$1.25) for each year of the period for  
19 which the endorsement is issued. The fees required under this section do not apply to a  
20 ~~person whose license is restricted to driving a school bus or school activity bus or to~~  
21 ~~employees of the Driver License Section of the Division who are designated by the~~  
22 ~~Commissioner.~~

23 (e) The requirements for a commercial drivers license do not apply to vehicles  
24 used for personal use such as recreational vehicles. A commercial drivers license is also  
25 waived for the following classes of vehicles as permitted by regulation of the United  
26 States Department of Transportation:

- 27 (1) Vehicles owned or operated by the Department of Defense, including
- 28 the National Guard, while they are driven by active duty military
- 29 personnel, or members of the National Guard when on active duty, in
- 30 the pursuit of military purposes.
- 31 (2) Any vehicle when used as firefighting or emergency equipment for the
- 32 purpose of preserving life or property or to execute emergency
- 33 governmental functions.
- 34 (3) A farm vehicle that meets all of the following criteria:

- a. Is controlled and operated by the farmer or the farmer's employee and used exclusively for farm use.
- b. Is used to transport either agricultural products, farm machinery, or farm supplies, both to or from a farm.
- c. Is not used in the operations of a for-hire motor carrier.
- d. Is used within 150 miles of the farmer's farm.

A farm vehicle includes a forestry vehicle that meets the listed criteria when applied to the forestry operation."

**SECTION 7.** G.S. 20-37.16 is amended by adding a new subsection to read:

"(c1) The test for an S endorsement may be waived by the Division for an applicant who is currently licensed, has experience driving a school bus, has a good driving record, and meets the requirements of this subsection. An applicant for a waiver under this subsection shall verify that, during the two-year period immediately prior to application for an S endorsement, that the applicant met all of the following requirements:

- (1) The applicant held a valid commercial drivers license with a passenger vehicle endorsement to operate a school bus representative of the group the applicant will be driving.
- (2) The applicant did not have the applicant's drivers license or commercial drivers license suspended, revoked, or cancelled or the applicant was not disqualified from operating a commercial motor vehicle.
- (3) The applicant was not convicted of a State law offense that corresponds to the list of disqualifying offenses in 49 C.F.R. § 383.51(b) while operating a commercial motor vehicle or of any offense in a noncommercial motor vehicle that would be a disqualifying offense under 49 C.F.R. § 383.51(b) if committed in a commercial motor vehicle.
- (4) The applicant was not convicted of more than one of the serious traffic violations listed and defined in G.S. 20-4.01(41a) while operating any type of motor vehicle.
- (5) The applicant was not convicted of a violation of State or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident.
- (6) The applicant was not convicted of any motor vehicle traffic violation that resulted in an accident.
- (7) The applicant was regularly employed as a school bus driver, operated a school bus representative of the group the applicant seeks to drive, and provides evidence of that employment."

**SECTION 8.** Sections 4 and 8 of this act become effective October 1, 2003. Section 7 of this act becomes effective January 1, 2005, and expires September 30, 2005. The remainder of this act becomes effective January 1, 2005.