

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 740

Short Title: Transit Drug Testing.

(Public)

Sponsors: Representatives Coates and Cole (Primary Sponsors).

Referred to: Transportation.

March 17, 2005

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE PUBLIC TRANSIT OPERATORS AND OTHER
2 EMPLOYERS OF PERSONS WHO OPERATE COMMERCIAL MOTOR
3 VEHICLES WHO ARE SUBJECT TO FEDERAL DRUG AND ALCOHOL
4 TESTING TO REPORT TO THE DIVISION OF MOTOR VEHICLES ANY
5 FEDERALLY REQUIRED POSITIVE DRUG AND ALCOHOL TEST RESULT,
6 AND TO DISQUALIFY THOSE PERSONS FROM OPERATING A
7 COMMERCIAL MOTOR VEHICLE OR OTHER PUBLIC TRANSIT VEHICLES
8 UNTIL SUCCESSFUL COMPLETION OF TREATMENT.
9

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** G.S. 20-37.19 reads as rewritten:

12 "**§ 20-37.19. Employer responsibilities.**

13 (a) Each employer shall require the applicant to provide the information specified
14 in G.S. 20-37.18(c).

15 (b) No employer shall knowingly allow, permit, or authorize a driver to drive a
16 commercial motor vehicle during any period:

17 (1) In which the driver has had his commercial driver license suspended,
18 revoked, or cancelled by any state, is currently disqualified from
19 driving a commercial vehicle, or is subject to an out-of-service order in
20 any state; or

21 (2) In which the driver has more than one driver license.

22 (c) The employer of any employee who tests positive in a drug or alcohol test
23 required under 49 C.F.R. Part 382 and 49 C.F.R. Part 655 shall notify the Division of
24 Motor Vehicles in writing within five business days following the employer's receipt of
25 confirmation of a positive drug test. The notification shall include the driver's name,
26 address, drivers license number, social security number, and results of the drug or
27 alcohol test."

28 **SECTION 2.** G.S. 20-17.4 is amended by adding a new subsection to read:

1 "(l) Disqualification for Testing Positive in a Drug or Alcohol Test. – Upon
2 receipt of notice of a positive drug or alcohol test, pursuant to G.S. 20-37.19(c), the
3 Division shall disqualify a driver from operating a commercial motor vehicle until
4 receipt of proof of successful completion of assessment and treatment by a substance
5 abuse professional in accordance with 49 C.F.R. § 382.503."

6 **SECTION 3.** Chapter 20 of the General Statutes is amended by adding a
7 new section to read:

8 **"§ 20-37.20A. Driving record notation for testing positive in a drug or alcohol test.**

9 Upon receipt of notice pursuant to G.S. 20-37.19(c) of positive result in an alcohol
10 or drug test of a person holding a commercial drivers license, and subject to any appeal
11 of the disqualification pursuant to G.S. 20-37.20B, the Division shall place a notation on
12 the driving record of the driver. A notation of a disqualification pursuant to
13 G.S. 20-17.4(l) shall be retained on the record of a person for a period of two years
14 following the end of any disqualification of that person."

15 **SECTION 4.** Chapter 20 of the General Statutes is amended by adding a
16 new section to read:

17 **"§ 20-37.20B. Appeal of disqualification for testing positive in a drug or alcohol**
18 **test.**

19 Following receipt of notice pursuant to G.S. 20-37.19(c) of a positive test in an
20 alcohol or drug test, the Division shall notify the driver of the pending disqualification
21 of the driver to operate a commercial vehicle and the driver's right to a hearing if
22 requested within 20 days of the date of the notice. If the Division receives no request for
23 a hearing, the disqualification shall become effective at the end of the 20-day period. If
24 the driver requests a hearing, the disqualification shall be stayed pending outcome of the
25 hearing. The hearing shall take place at the offices of the Division of Motor Vehicles in
26 Raleigh. The hearing shall be limited to issues of testing procedure and protocol. A copy
27 of a positive test result accompanied by certification by the testing officer of the
28 accuracy of the laboratory protocols that resulted in the test result shall be prima facie
29 evidence of a confirmed positive test result. The decision of the Division hearing officer
30 may be appealed in accordance with the procedure of G.S. 20-19(c6)."

31 **SECTION 5.** This act becomes effective December 1, 2005.