

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 881
Commerce Committee Substitute Adopted 6/29/05
Finance Committee Substitute Adopted 8/9/05
House Committee Substitute Favorable 6/26/06
House Committee Substitute #2 Favorable 7/13/06
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Short Title: Lapse in Liability Insurance.

(Public)

Sponsors:

Referred to:

March 23, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE THE PENALTIES FOR OPERATING A MOTOR VEHICLE
3 WITHOUT HAVING IN FULL FORCE AND EFFECT A LIABILITY
4 INSURANCE POLICY PROVIDING FINANCIAL RESPONSIBILITY.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 13 of Chapter 20 of the General Statutes is amended by
7 adding a new section to read:

8 **"§ 20-309.2. Insurer shall notify Division of actions on insurance policies.**

9 (a) Notice Required. – An insurer shall notify the Division upon any of the
10 following with regard to a motor vehicle liability policy:

11 (1) Issues a new or replacement policy.

12 (2) Terminates a policy, either by cancellation or failure to renew, unless
13 the same insurer issues a replacement policy complying with this
14 Article at the same time the insurer terminates the old policy and no
15 lapse in coverage results.

16 (3) Reinstates a policy after the insurer has notified the Division of a
17 cancellation or termination.

18 (b) Time Period. – An insurer shall notify the Division as required by subsection
19 (a) of this section within 20 business days.

20 (c) Form of Notice. – Any insurer with twenty-five million dollars (\$25,000,000)
21 or more in annual vehicle insurance premium volume shall submit the notices required
22 under this section by electronic means. All other insurers may submit the notices
23 required under this section by either paper or electronic means.

1 (d) Trade Secret Protection. – The names of insureds and the beginning date and
2 termination date of insurance coverage provided to the Division by an insurer under this
3 section constitutes a designated trade secret under G.S. 132-1.2.

4 (e) Civil Penalty. – The Commissioner of Insurance may assess a civil penalty of
5 two hundred dollars (\$200.00) against an insurer that fails to notify the Division as
6 required by this section. The Commissioner may waive the penalty if the insurer
7 establishes good cause for the failure."

8 **SECTION 2.** G.S. 20-311 reads as rewritten:

9 "**§ 20-311. Revocation of registration when financial responsibility not in**
10 **effect.Action by the Division when notified of a lapse in financial**
11 **responsibility.**

12 Upon receipt of evidence that financial responsibility for the operation of any motor
13 ~~vehicle registered or required to be registered in this State is not or was not in effect at~~
14 ~~the time of operation or certification that insurance was in effect, the Division shall~~
15 ~~revoke the owner's registration plate issued for the vehicle at the time of operation or~~
16 ~~certification that insurance was in effect or the current registration plate for the vehicle~~
17 ~~in the year registration has changed for 30 days.~~

18 The vehicle for which registration has been revoked pursuant to this section may be
19 registered at the end of the 30 day revocation period upon certification of financial
20 responsibility and payment by the vehicle owner of a fifty dollar (\$50.00)
21 administrative fee in addition to appropriate license fees. In no event may such vehicle
22 be registered prior to payment of the fifty dollar (\$50.00) administrative fee.

23 (a) Action. – When the Division receives evidence, by a notice of termination of
24 a motor vehicle liability policy or otherwise, that the owner of a motor vehicle
25 registered or required to be registered in this State does not have financial responsibility
26 for the operation of the vehicle, the Division shall send the owner a letter. The letter
27 shall notify the owner of the evidence and inform the owner that the owner shall
28 respond to the letter within 10 days of the date on the letter and explain how the owner
29 has met the duty to have continuous financial responsibility for the vehicle. Based on
30 the owner's response, the Division shall take the appropriate action listed:

31 (1) Division correction. – If the owner responds within the required time
32 and the response establishes that the owner has not had a lapse in
33 financial responsibility, the Division shall correct its records.

34 (2) Penalty only. – If the owner responds within the required time and the
35 response establishes all of the following, the Division shall assess the
36 owner a penalty in the amount set in subsection (b) of this section:

37 a. The owner had a lapse in financial responsibility, but the owner
38 now has financial responsibility.

39 b. The vehicle was not involved in an accident during the lapse in
40 financial responsibility.

41 c. The owner did not operate the vehicle during the lapse with
42 knowledge that the owner had no financial responsibility for the
43 vehicle.

1 (3) Penalty and revocation. – If the owner responds within the required
 2 time and the response establishes any of the following, the Division
 3 shall assess the owner a penalty in the amount set in subsection (b) of
 4 this section and revoke the registration of the owner's vehicle for the
 5 period set in subsection (c) of this section:

6 a. The owner had a lapse in financial responsibility and still does
 7 not have financial responsibility.

8 b. The owner now has financial responsibility even though the
 9 owner had a lapse, but the vehicle was involved in an accident
 10 during the lapse, the owner operated the vehicle during the
 11 lapse with knowledge that the owner had no financial
 12 responsibility for the vehicle, or both.

13 (4) Revocation pending response. – If the owner does not respond within
 14 the required time, the Division shall revoke the registration of the
 15 owner's vehicle for the period set in subsection (c) of this section.
 16 When the owner responds, the Division shall take the appropriate
 17 action listed in subdivisions (1) through (3) of this subsection as if the
 18 response had been timely.

19 (b) Penalty Amount. – The following table determines the amount of a penalty
 20 payable under this section by an owner who has had a lapse in financial responsibility;
 21 the amount is based on the number of times the owner has been assessed a penalty under
 22 this section during the three-year period before the date the owner's current lapse began:

<u>Number of Lapses in Previous Three Years</u>	<u>Penalty Amount</u>
<u>None</u>	<u>\$50.00</u>
<u>One</u>	<u>\$100.00</u>
<u>Two or More</u>	<u>\$150.00</u>

29 (c) Revocation Period. – The revocation period for a revocation based on a
 30 response that establishes that a vehicle owner does not have financial responsibility is
 31 indefinite and ends when the owner obtains financial responsibility or transfers the
 32 vehicle to an owner who has financial responsibility. The revocation period for a
 33 revocation based on a response that establishes the occurrence of an accident during a
 34 lapse in financial responsibility or the knowing operation of a vehicle without financial
 35 responsibility is 30 days. The revocation period for a revocation based on failure of a
 36 vehicle owner to respond is indefinite and ends when the owner responds.

37 (d) Revocation Notice. – When the Division revokes the registration of an
 38 owner's vehicle, it shall notify the owner of the revocation. The notice shall inform the
 39 owner of the following:

40 (1) That the owner shall return the vehicle's registration plate and
 41 registration card to the Division, if the owner has not done so already,
 42 and that failure to do so is a Class 2 misdemeanor under G.S. 20-45.

43 (2) That the vehicle's registration plate and registration card are subject to
 44 seizure by a law enforcement officer.

1 (3) That the registration of the vehicle cannot be renewed while the
2 registration is revoked.

3 (4) That the owner shall pay any penalties assessed, a restoration fee, and
4 the fee for a registration plate when the owner applies to the Division
5 to register a vehicle whose registration was revoked.

6 (e) Registration After Revocation. – A vehicle whose registration has been
7 revoked may not be registered during the revocation period in the name of the owner, a
8 child of the owner, the owner's spouse, or a child of the owner's spouse. This restriction
9 does not apply to a spouse who is living separate and apart from the owner. At the end
10 of a revocation period, a vehicle owner who has financial responsibility may apply to
11 register a vehicle whose registration was revoked. The owner shall pay any penalty
12 assessed, a restoration fee of fifty dollars (\$50.00), and the fee for a registration plate."

13 **SECTION 3.** G.S. 20-316 reads as rewritten:

14 "**§ 20-316. Divisional hearings upon lapse of liability insurance coverage.**

15 Any person whose registration plate has been revoked under G.S. ~~20-309(e) or~~
16 20-311 may request a hearing. Upon receipt of such request, the Division shall, as early
17 as practical, afford ~~him~~ an opportunity for hearing. ~~Upon such~~ At the hearing the duly
18 authorized agents of the Division may administer oaths and issue subpoenas for the
19 attendance of witnesses and the production of relevant books and documents. If it
20 appears that continuous financial responsibility existed for the vehicle involved, or if it
21 appears the lapse of financial responsibility is not reasonably attributable to the neglect
22 or fault of the person whose registration plate was revoked, the Division shall withdraw
23 its order of revocation and such person may retain the registration plate. Otherwise, the
24 order of revocation shall be affirmed and the registration plate surrendered."

25 **SECTION 4.** G.S. 20-63(h) reads as rewritten:

26 "(h) **Commission Contracts for Issuance of Plates and Certificates.** – All
27 registration plates, registration certificates, and certificates of title issued by the
28 Division, outside of those issued from the Raleigh offices of the Division and those
29 issued and handled through the United States mail, shall be issued insofar as practicable
30 and possible through commission contracts entered into by the Division for the issuance
31 of the plates and certificates in localities throughout North Carolina with persons, firms,
32 corporations or governmental subdivisions of the State of North Carolina. The Division
33 shall make a reasonable effort in every locality, except as noted above, to enter into a
34 commission contract for the issuance of the plates and certificates and a record of these
35 efforts shall be maintained in the Division. In the event the Division is unsuccessful in
36 making commission contracts, it shall issue the plates and certificates through the
37 regular employees of the Division. Whenever registration plates, registration
38 certificates, and certificates of title are issued by the Division through commission
39 contract arrangements, the Division shall provide proper supervision of the distribution.
40 Nothing contained in this subsection will allow or permit the operation of fewer outlets
41 in any county in this State than are now being operated.

42 Commission contracts entered into by the Division under this subsection shall
43 provide for the payment of compensation on a per transaction basis. The collection of
44 the highway use tax shall be considered a separate transaction for which one dollar and

1 twenty-seven cents (\$1.27) compensation shall be paid. The performance at the same
2 time of one or more of the remaining transactions listed in this subsection shall be
3 considered a single transaction for which one dollar and forty-three cents (\$1.43)
4 compensation shall be paid.

5 A transaction is any of the following activities:

- 6 ...
7 (7) Receipt of the civil penalty imposed by ~~G.S. 20-309~~ G.S. 20-311 for a
8 lapse in financial responsibility or receipt of the restoration fee
9 imposed by that statute.

10 ..."

11 **SECTION 5.** The following statutes are repealed: G.S. 20-309(e), 20-312,
12 and 20-316.1.

13 **SECTION 6.** This act becomes effective July 1, 2008, and applies to lapses
14 occurring on or after that date.