

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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SENATE DRS75176-MA-313 (3/12)

Short Title: Clarify Inspection Station Responsibilities. (Public)

Sponsors: Senator Hoyle.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY INSPECTION STATION AND SELF-INSPECTOR
3 RESPONSIBILITIES AND NOTICE REQUIREMENTS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 20-183.7A reads as rewritten:

6 "(a) Kinds of Violations. – The civil penalty schedule established in this section applies
7 to safety self-inspectors, safety inspection stations, and safety inspection mechanics. The
8 schedule categorizes safety violations into serious (Type I), minor (Type II), and technical
9 (Type III) violations. A serious violation is a violation of this Part or a rule adopted to
10 implement this Part that directly affects the safety or emissions reduction benefits of the safety
11 inspection program. A minor violation is a violation of this Part or a rule adopted to implement
12 this Part that reflects negligence or carelessness in conducting a safety inspection or complying
13 with the safety inspection requirements but does not directly affect the safety benefits or
14 emission reduction benefits of the safety inspection program. A technical violation is a
15 violation that is not a serious violation, a minor violation, or another type of offense under this
16 Part.

17 (b) Penalty Schedule. – The Division must take the following action for a violation:

18 (1) Type I. – For a first or second Type I violation within three years by a safety
19 self-inspector or a safety inspection station, assess a civil penalty of two
20 hundred fifty dollars (\$250.00) and suspend the license of the business for
21 six months. For a third or subsequent Type I violation within three years by
22 a safety self-inspector or a safety inspection station, assess a civil penalty of
23 one thousand dollars (\$1,000) and revoke the license of the business for two
24 years. For a first or second Type I violation within seven years by a safety
25 inspection mechanic, assess a civil penalty of one hundred dollars (\$100.00)
26 and suspend the mechanic's license for six months. For a third or subsequent
27 Type I violation within seven years by a safety inspection mechanic, assess a
28 civil penalty of two hundred fifty dollars (\$250.00) and revoke the
29 mechanic's license for two years.

30 (2) Type II. – For a first or second Type II violation within three years by a
31 safety self-inspector or a safety inspection station, assess a civil penalty of
32 one hundred dollars (\$100.00). For a third or subsequent Type II violation
33 within three years by a safety self-inspector or a safety inspection station,
34 assess a civil penalty of two hundred fifty dollars (\$250.00) and suspend the
35 license of the business for 90 days. For a first or second Type II violation



1 within seven years by a safety inspection mechanic, assess a civil penalty of
2 fifty dollars (\$50.00). For a third or subsequent Type II violation within
3 seven years by a safety inspection mechanic, assess a civil penalty of one
4 hundred dollars (\$100.00) and suspend the mechanic's license for 90 days.

- 5 (3) Type III. – For a first or second Type III violation within seven years by a
6 safety self-inspector, a safety inspection station, or a safety inspection
7 mechanic, send a warning letter. For a third or subsequent Type III violation
8 within seven years by the same safety license holder, assess a civil penalty of
9 twenty-five dollars (\$25.00).

10 (c) Station or Self-Inspector Responsibility. – It is the responsibility of a safety
11 inspection station and a safety self-inspector to supervise the safety inspection mechanics it
12 employs. A violation by a safety inspection mechanic is considered a violation by the station or
13 self-inspector for whom the mechanic is employed. An inspection station or self-inspector
14 charged with a violation resulting from the actions of an inspection mechanic shall not result in
15 a suspension or revocation of the station or self-inspector license if the station or self-inspector
16 establishes that the inspection station or self-inspector has implemented and maintained
17 reasonable procedures to ensure compliance with this Article and the violation was committed
18 by an inspection mechanic without prior actual knowledge of the inspection station or
19 self-inspector license holder.

20 (d) Multiple Violations. – If a safety self-inspector, a safety inspection station, or a
21 safety inspection mechanic commits two or more violations in the course of a single safety
22 inspection, the Division shall take only the action specified for the most significant violation. In
23 any case where an inspection station or self-inspector is charged with a violation due to the
24 actions of an inspection mechanic, and the Division believes multiple violations by the
25 inspection mechanic occurred, the Division shall only charge an inspection station or
26 self-inspector with one violation.

27 (e) Mechanic Training. – A safety inspection mechanic whose license has been
28 suspended or revoked must retake the course required under G.S. 20-183.4 and successfully
29 complete the course before the mechanic's license can be reinstated. Failure to successfully
30 complete this course continues the period of suspension or revocation until the course is
31 completed successfully."

32 **SECTION 2.** G.S. 20-183.8B reads as rewritten:

33 "(a) Kinds of Violations. – The civil penalty schedule established in this section applies
34 to emissions self-inspectors, emissions inspection stations, and emissions inspection mechanics.
35 The schedule categorizes emissions violations into serious (Type I), minor (Type II), and
36 technical (Type III) violations.

37 A serious violation is a violation of this Part or a rule adopted to implement this Part that
38 directly affects the emission reduction benefits of the emissions inspection program. A minor
39 violation is a violation of this Part or a rule adopted to implement this Part that reflects
40 negligence or carelessness in conducting an emissions inspection or complying with the
41 emissions inspection requirements but does not directly affect the emission reduction benefits
42 of the emissions inspection program. A technical violation is a violation that is not a serious
43 violation, a minor violation, or another type of offense under this Part.

44 (b) Penalty Schedule. – The Division must take the following action for a violation:

- 45 (1) Type I. – For a first or second Type I violation by an emissions
46 self-inspector or an emissions inspection station, assess a civil penalty of two
47 hundred fifty dollars (\$250.00) and suspend the license of the business for
48 six months. For a third or subsequent Type I violation within three years by
49 an emissions self-inspector or an emissions inspection station, assess a civil
50 penalty of one thousand dollars (\$1,000) and revoke the license of the
51 business for two years.

1 For a first or second Type I violation by an emissions inspection
2 mechanic, assess a civil penalty of one hundred dollars (\$100.00) and
3 suspend the mechanic's license for six months. For a third or subsequent
4 Type I violation within seven years by an emissions inspection mechanic,
5 assess a civil penalty of two hundred fifty dollars (\$250.00) and revoke the
6 mechanic's license for two years.

- 7 (2) Type II. – For a first or second Type II violation by an emissions
8 self-inspector or an emissions inspection station, assess a civil penalty of one
9 hundred dollars (\$100.00). For a third or subsequent Type II violation within
10 three years by an emissions self-inspector or an emissions inspection station,
11 assess a civil penalty of two hundred fifty dollars (\$250.00) and suspend the
12 license of the business for 90 days.

13 For a first or second Type II violation by an emissions inspection
14 mechanic, assess a civil penalty of fifty dollars (\$50.00). For a third or
15 subsequent Type II violation within seven years by an emissions inspection
16 mechanic, assess a civil penalty of one hundred dollars (\$100.00) and
17 suspend the mechanic's license for 90 days.

- 18 (3) Type III. – For a first or second Type III violation by an emissions
19 self-inspector, an emissions inspection station, or an emissions inspection
20 mechanic, send a warning letter. For a third or subsequent Type III violation
21 within three years by the same emissions license holder, assess a civil
22 penalty of twenty-five dollars (\$25.00).

23 (c) Station or Self-Inspector Responsibility. – It is the responsibility of an emissions
24 inspection station and an emissions self-inspector to supervise the emissions mechanics it
25 employs. A violation by an emissions inspector mechanic is considered a violation by the
26 station or self-inspector for whom the mechanic is employed. An inspection station or
27 self-inspector charged with a violation resulting from the actions of an inspection mechanic
28 shall not result in a suspension or revocation of the station or self-inspector license if the station
29 or self-inspector establishes that the inspection station or self-inspector has implemented and
30 maintained reasonable procedures to ensure compliance with this Article and the violation was
31 committed by an inspection mechanic without prior actual knowledge of the inspection station
32 or self-inspector license holder.

33 (c1) Multiple Violations. – If an emissions self-inspector, an emissions inspection
34 station, or an emissions inspection mechanic commits two or more violations in the course of a
35 single emissions inspection, the Division shall take only the action specified for the most
36 significant violation. In any case where an inspection station or self-inspector is charged with a
37 violation due to the actions of an inspection mechanic, and the Division believes multiple
38 violations by the inspection mechanic occurred, the Division shall only charge an inspection
39 station or self-inspector with one violation.

40 (d) Missing Stickers. – The Division must assess a civil penalty against an emissions
41 inspection station, a windshield replacement station, or an emissions self-inspector that cannot
42 account for an emissions inspection sticker issued to it. A station or a self-inspector cannot
43 account for a sticker when the sticker is missing and the station or self-inspector cannot
44 establish reasonable grounds for believing the sticker was stolen or destroyed by fire or another
45 accident.

46 (d1) Penalty for Missing Stickers. – The amount of the penalty is twenty-five dollars
47 (\$25.00) for each missing sticker. If a penalty is imposed under subsection (b) of this section as
48 the result of missing stickers, the monetary penalty that applies is the higher of the penalties
49 required under this subsection and subsection (b); the Division may not assess a monetary
50 penalty as a result of missing stickers under both this subsection and subsection (b) of this

1 section. Imposition of a monetary penalty under this subsection does not affect suspension or
2 revocation of a license required under subsection (b) of this section.

3 (e) Mechanic Training. – An emissions inspection mechanic whose license has been
4 suspended or revoked must retake the course required under G.S. 20-183.4A and successfully
5 complete the course before the mechanic's license can be reinstated. Failure to successfully
6 complete this course continues the period of suspension or revocation until the course is
7 completed successfully."

8 **SECTION 3.** G.S.20-183.8F(a) reads as rewritten:

9 "(a) Finding of Violation. – When an auditor of the Division finds that a violation has
10 occurred that could result in the suspension or revocation of an inspection station license, a
11 self-inspector license, a mechanic license, or the registration of a person engaged in the
12 business of replacing windshields, the auditor must give the affected license holder written
13 notice of the finding. The notice must be given within five business days after the completion
14 of the investigation that resulted in the discovery of the violation. The notice must state the
15 period of suspension or revocation that could apply to the violation and any monetary penalty
16 that could apply to the violation. The notice must also inform the license holder of the right to a
17 hearing if the Division charges the license holder with the violation. Failure to comply with the
18 notice requirements of this section shall result in the dismissal of the violation against the
19 licensee."

20 **SECTION 4.** G.S.20-183.8G(f) reads as rewritten:

21 "(f) Decision. – Except as otherwise provided in this Article, a A decision made after a
22 hearing on the imposition of a monetary penalty against a motorist for an emissions violation or
23 on a Type I, II, or III emissions violation by an emissions license holder must uphold any
24 monetary penalty, license suspension, license revocation, or warning required
25 by ~~G.S. 20-183.8A~~ G.S. 20-183.7A, 20-183.8A, or G.S. 20-183.8B, respectively, if the decision
26 contains a finding that the motorist or license holder committed the act for which the monetary
27 penalty, license suspension, license revocation, or warning was imposed. A decision made after
28 a hearing on any other action may uphold or modify the action."

29 **SECTION 5.** G.S. 20-183.8G is amended by adding a new subsection to read:

30 "(f1) Offers in Compromise. – In any case where an inspection station or self-inspector is
31 charged with an administrative violation due to the actions of an inspection mechanic and the
32 Division imposes a suspension or revocation for the inspection station or self-inspector, the
33 Commissioner may accept from the license holder an offer in compromise to pay a penalty of
34 not more than two thousand dollars (\$2,000) to the Division in lieu of the suspension or
35 revocation. The Commissioner may accept an offer in compromise or suspend or revoke the
36 inspection license, but may not impose both."

37 **SECTION 6.** This act becomes effective December 1, 2009, and applies to
38 offenses committed on or after that date.