

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 924
Committee Substitute Favorable 4/29/15
Senate Judiciary I Committee Substitute Adopted 7/23/15
Senate Rules and Operations of the Senate Committee Substitute Adopted 9/23/15

Short Title: Highway Safety/Other Changes.

(Public)

Sponsors:

Referred to:

April 20, 2015

A BILL TO BE ENTITLED

AN ACT TO CLARIFY WHEN A LAW ENFORCEMENT OFFICER IS REQUIRED TO REQUEST A BLOOD SAMPLE WHEN CHARGING THE OFFENSE OF MISDEMEANOR DEATH BY VEHICLE, CLARIFY THE LAW GOVERNING PROHIBITED USE OF RED AND BLUE LIGHTS, REPEAL CERTAIN MANDATORY REPORTING REGARDING PSEUDOEPHEDRINE PRODUCTS, CLARIFY THE SUBPOENA AUTHORITY OF THE DIRECTOR OF THE SBI, PROVIDE FOR UPSET BIDS FOR LEASES OF MINERAL DEPOSITS ON STATE LANDS, INCREASE THE COST LIMIT ON WORK THAT CAN BE PERFORMED BY GOVERNMENTAL FORCE ACCOUNT LABOR, AND REPEAL THE DONATE LIFE NC MATCHING FUNDS REQUIREMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-139.1(b5) reads as rewritten:

"(b5) Subsequent Tests Allowed. – A person may be requested, pursuant to G.S. 20-16.2, to submit to a chemical analysis of the person's blood or other bodily fluid or substance in addition to or in lieu of a chemical analysis of the breath, in the discretion of a law enforcement officer; except that a person charged with a violation of G.S. 20-141.4 shall be ~~requested~~ requested, at any relevant time after the driving, to provide a blood sample in addition to or in lieu of a chemical analysis of the breath. However, if a breath sample shows an alcohol concentration of .08 or more, then requesting a blood sample shall be in the discretion of a law enforcement officer. If a subsequent chemical analysis is requested pursuant to this subsection, the person shall again be advised of the implied consent rights in accordance with G.S. 20-16.2(a). A person's willful refusal to submit to a chemical analysis of the blood or other bodily fluid or substance is a willful refusal under G.S. 20-16.2. If a person willfully refuses to provide a blood sample under this subsection, and the person is charged with a violation of G.S. 20-141.4, then a law enforcement officer with probable cause to believe that the offense involved impaired driving or was an alcohol-related offense made subject to the procedures of G.S. 20-16.2 shall seek a warrant to obtain a blood sample. The failure to obtain a blood sample pursuant to this subsection shall not be grounds for the dismissal of a charge and is not an appealable issue."

SECTION 2. G.S. 20-130.1 reads as rewritten:

"§ 20-130.1. Use of red or blue lights on vehicles prohibited; exceptions.

(a) It is unlawful for any person to install or activate or operate a red light in or on any vehicle in this State. As used in this subsection, unless the context requires otherwise, "red



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light" means an operable red light not sealed in the manufacturer's original package which: (i) is designed for use by an emergency vehicle or is similar in appearance to a red light designed for use by an emergency vehicle; and (ii) can be operated by use of the vehicle's battery, vehicle's electrical system, or a dry cell battery. As used in this subsection, the term "red light" shall also mean any ~~forward-facing~~ red light installed on a vehicle after initial manufacture of the vehicle.

...
 (c) It is unlawful for any person to possess a blue light or to install, activate, or operate a blue light in or on any vehicle in this State, except for a publicly owned vehicle used for law enforcement purposes or any other vehicle when used by law enforcement officers in the performance of their official duties. As used in this subsection, unless the context requires otherwise, "blue light" means any ~~forward-facing~~ blue light installed on a vehicle after initial manufacture of the vehicle; or an operable blue light which:

- (1) Is not (i) being installed on, held in inventory for the purpose of being installed on, or held in inventory for the purpose of sale for installation on a vehicle on which it may be lawfully operated or (ii) installed on a vehicle which is used solely for the purpose of demonstrating the blue light for sale to law enforcement personnel;
- (1a) Is designed for use by an emergency vehicle, or is similar in appearance to a blue light designed for use by an emergency vehicle; and
- (2) Can be operated by use of the vehicle's battery, the vehicle's electrical system, or a dry cell battery.

...."

SECTION 3. G.S. 106-145.13 is repealed.

SECTION 4. G.S. 15A-298 reads as rewritten:

"§ 15A-298. Subpoena authority.

~~Pursuant to rules issued by the State Bureau of Investigation, the~~ The Director of the State Bureau of Investigation or the Director's designee may issue an administrative subpoena to a communications common carrier or an electronic communications service to compel production of business records if the records:

- (1) Disclose information concerning local or long-distance toll records or subscriber information; and
- (2) Are material to an active criminal investigation being conducted by the State Bureau of Investigation."

SECTION 5. G.S. 146-9 reads as rewritten:

"§ 146-9. Disposition of mineral deposits in State lands not under water.

(a) The Department of Administration may sell, lease, or otherwise dispose of mineral rights or deposits in the vacant and unappropriated lands, swamplands, and lands acquired by the State by virtue of being sold for taxes, not lying beneath the waters of the State, at such times, upon such consideration, in such portions, and upon such terms as are deemed proper by the Department and approved by the Governor and Council of State. Every instrument conveying such rights shall be executed in the manner required of deeds by G.S. 146-74 through 146-78, and shall be approved by the Governor and Council of State as therein provided, or by the agency designated by the Governor and Council of State to approve conveyances of such rights. The net proceeds of dispositions of all such mineral rights or deposits shall be paid into the State Literary Fund.

(b) Notwithstanding subsection (a) of this section, or any other provision of law, prior to expiration of a lease of mineral deposits in State lands, the Department of Administration or other entity designated by the Department shall solicit competitive bids for lease of such mineral deposits, which shall include a process for upset bids as described in this subsection. An upset bid is an increased or raised bid whereby a person offers to lease such mineral rights

1 for an amount exceeding the highest bid received in response to the initial solicitation for
2 competitive bids, or the last upset bid, as applicable, by a minimum of five percent (5%). The
3 process shall provide that the Department or other designated entity that issued the solicitation
4 for competitive bids shall issue a notice of high bid to the person submitting the highest bid in
5 response to the initial solicitation for competitive bids, or the person submitting the last upset
6 bid, as applicable, and any other bidders that have submitted a bid in an amount seventy-five
7 percent (75%) or more of the highest bid received in response to the initial solicitation for
8 competitive bids, or the last upset bid, as applicable, of the highest bid received at that point
9 within 10 days of the closure of the bidding period, as provided in the solicitation for
10 competitive bids, through notice delivered by any means authorized under G.S. 1A-1, Rule 4.
11 Thereafter, an upset bid may be made by delivering to the Department or other designated
12 entity, subject to all of the following requirements and conditions:

13 (1) With a deposit in cash, certified check, or cashier's check in an amount
14 greater than or equal to five percent (5%) of the amount of the highest bid
15 received in response to the initial solicitation for competitive bids, or the last
16 upset bid, as applicable. The deposit required by this section shall be filed by
17 the close of normal business hours on the tenth day after issuance of the
18 Department or other designated entity's notice of high bid. If the tenth day
19 falls upon a weekend or legal holiday, the deposit may be made and the
20 notice of upset bid may be filed on the first business day following that day.
21 There may be successive upset bids, each of which shall be followed by a
22 period of 10 days for a further upset bid.

23 (2) The Department or other designated entity may require an upset bidder to
24 deposit a cash bond, or, in lieu thereof at the option of the bidder, a surety
25 bond, approved by the Department or other designated entity. The
26 compliance bond shall be in an amount the Department or other designated
27 entity deems adequate, but in no case greater than the amount of the bid of
28 the person being required to furnish the bond, less the amount of any
29 required deposit. The compliance bond shall be payable to the State of North
30 Carolina and shall be conditioned on the principal obligor's compliance with
31 the bid.

32 (3) At the time that an upset bid is submitted pursuant to this subsection,
33 together with a compliance bond if one is required, the upset bidder shall file
34 a notice of upset bid with the Department or other designated entity. The
35 notice of upset bid shall include all of the following:

36 a. State the name, address, and telephone number of the upset bidder.

37 b. Specify the amount of the upset bid.

38 c. Provide that the lease shall remain open for a period of 10 days after
39 the date on which the notice of upset bid is filed for the filing of
40 additional upset bids as permitted by law.

41 d. Be signed by the upset bidder or the attorney or the agent of the upset
42 bidder.

43 (4) When an upset bid is made as provided in this subsection, the Department or
44 other designated entity shall notify to the highest prior bidder, and any other
45 bidders that have submitted a bid in an amount seventy-five percent (75%)
46 or more of the current high bid received in response to the initial solicitation
47 for competitive bids, or the last upset bid, as applicable.

48 (5) When an upset bid is made as provided in this subsection, the last prior
49 bidder is released from any further obligation on account of the bid, and any
50 deposit or bond provided by the last prior bidder shall be released.

1 (6) Any person offering to lease of mineral deposits in State lands by upset bid
2 as permitted in this subsection is subject to and bound by the terms of the
3 original notice of lease.

4 (c) The Department of Administration shall require that any lessee of mineral deposits
5 in State lands diligently conduct continuous mining operations for minerals subject to the lease
6 throughout the entire term of the lease.

7 (d) The Department of Administration shall adopt rules to implement subsection (c) of
8 this section."

9 **SECTION 6.** G.S. 143-135 reads as rewritten:

10 "**§ 143-135. Limitation of application of Article.**

11 Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus,
12 supplies, materials or equipment, this Article shall not apply to construction or repair work
13 undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is
14 performed by duly elected officers or agents using force account qualified labor on the
15 permanent payroll of the agency concerned and (ii) when either the total cost of the project,
16 including without limitation all direct and indirect costs of labor, services, materials, supplies
17 and equipment, does not exceed ~~one hundred twenty five thousand dollars (\$125,000)~~five
18 hundred thousand dollars (\$500,000) or the total cost of labor on the project does not exceed
19 ~~fifty thousand dollars (\$50,000);~~two hundred thousand dollars (\$200,000); provided that, for
20 The University of North Carolina and its constituent institutions, force account qualified labor
21 may be used (i) when the work is performed by duly elected officers or agents using force
22 account qualified labor on the permanent payroll of the university and (ii) when either the total
23 cost of the project, including, without limitation, all direct and indirect costs of labor, services,
24 materials, supplies, and equipment, does not exceed two hundred thousand dollars (\$200,000)
25 or the total cost of labor on the project does not exceed one hundred thousand dollars
26 (\$100,000). This force account work shall be subject to the approval of the Director of the
27 Budget in the case of State agencies, of the responsible commission, council, or board in the
28 case of subdivisions of the State. Complete and accurate records of the entire cost of such work,
29 including without limitation, all direct and indirect costs of labor, services, materials, supplies
30 and equipment performed and furnished in the prosecution and completion thereof, shall be
31 maintained by such agency, commission, council or board for the inspection by the general
32 public. Construction or repair work undertaken pursuant to this section shall not be divided for
33 the purposes of evading the provisions of this Article."

34 **SECTION 6.5.** Section 27.8 of S.L. 2015-241 is repealed.

35 **SECTION 7.** Sections 1 and 2 of this act become effective December 1, 2015, and
36 apply to offenses committed on or after that date. The remainder of this act is effective when
37 this act becomes law and applies to offenses committed on or after that date. Prosecutions for
38 offenses committed before the effective date of this act are not abated or affected by this act,
39 and the statutes that would be applicable but for this act remain applicable to those
40 prosecutions.