

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

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 must notify Division of actions on insurance policies.**

9 (a) Notice Required. – An insurer must 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 must notify the Division as required by subdivision
19 (1) or (2) of subsection (a) of this section within 20 business days. An insurer must
20 notify the Division as required by subdivision (3) of subsection (a) of this section
21 immediately.

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

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

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

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

6 "**§ 20-311. ~~Revocation of registration when financial responsibility not in~~**
7 **effect. Action by the Division when notified of a lapse in financial**
8 **responsibility.**

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

15 ~~The vehicle for which registration has been revoked pursuant to this section may be~~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

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

28 (1) Division correction. – If the owner responds within the required time
29 and the response establishes that the owner has not had a lapse in
30 financial responsibility, the Division must correct its records.

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

34 a. The owner had a lapse in financial responsibility, but the owner
35 now has financial responsibility.

36 b. The vehicle was not involved in an accident during the lapse in
37 financial responsibility.

38 c. The owner did not operate the vehicle during the lapse with
39 knowledge that the owner had no financial responsibility for the
40 vehicle.

41 (3) Penalty and revocation. – If the owner responds within the required
42 time and the response establishes any of the following, the Division
43 must assess the owner a penalty in the amount set in subsection (b) of

1 this section and revoke the registration of the owner's vehicle for the
 2 period set in subsection (c) of this section:

3 a. The owner had a lapse in financial responsibility and still does
 4 not have financial responsibility.

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

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

16 (b) Penalty Amount. – The following table determines the amount of a penalty
 17 payable under this section by an owner who has had a lapse in financial responsibility;
 18 the amount is based on the number of times the owner has been assessed a penalty under
 19 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>\$75.00</u> |
| <u>One</u> | <u>\$150.00</u> |
| <u>Two or More</u> | <u>\$250.00</u> |

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

34 (d) Revocation Notice. – When the Division revokes the registration of an
 35 owner's vehicle, it must notify the owner of the revocation. The notice must inform the
 36 owner of the following:

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

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

42 (3) That the registration of the vehicle cannot be renewed while the
 43 registration is revoked.

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

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

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

12 "**§ 20-316. Divisional hearings upon lapse of liability insurance coverage.**

13 Any person whose registration plate has been revoked under G.S. ~~20-309(e) or~~
14 20-311 may request a hearing. Upon receipt of such request, the Division ~~shall,~~must, as
15 early as practical, afford ~~him~~ an opportunity for hearing. ~~Upon such~~ At the hearing the
16 duly authorized agents of the Division may administer oaths and issue subpoenas for the
17 attendance of witnesses and the production of relevant books and documents. If it
18 appears that continuous financial responsibility existed for the vehicle involved, or if it
19 appears the lapse of financial responsibility is not reasonably attributable to the neglect
20 or fault of the person whose registration plate was revoked, the Division ~~shall~~must
21 withdraw its order of revocation and such person may retain the registration plate.
22 Otherwise, the order of revocation shall be affirmed and the registration plate
23 surrendered."

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

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

41 Commission contracts entered into by the Division under this subsection shall
42 provide for the payment of compensation on a per transaction basis. The collection of
43 the highway use tax shall be considered a separate transaction for which one dollar and
44 twenty-seven cents (\$1.27) compensation shall be paid. The performance at the same

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

4 A transaction is any of the following activities:

5 ...

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

9 ..."

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

12 **SECTION 6.** This act becomes effective January 1, 2007, and applies to
13 lapses occurring on or after that date.