

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-195
HOUSE BILL 1210**

AN ACT TO FACILITATE OBTAINING FEDERAL WAIVERS THAT ARE NECESSARY TO ENSURE ADEQUATE GASOLINE SUPPLIES THROUGHOUT THE STATE; TO ALLOW THE GOVERNOR TO ENABLE BUSINESSES THAT SELL ITEMS CONSUMED OR USED TO SUSTAIN LIFE, HEALTH, SAFETY, OR ECONOMIC WELL-BEING TO BE EXEMPT FROM LOCAL CURFEWS; AND TO MAKE VARIOUS OTHER CHANGES THAT WILL FACILITATE POPULACE ACCESS TO EMERGENCY SUPPLIES AND SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 166A of the General Statutes is amended by adding a new section to read:

"§ 166A-6.03. Ensuring availability of emergency supplies and utility services.

(a) Executive Order. – In addition to any other powers conferred on the Governor by law, whenever a curfew has been imposed, the Governor may declare by executive order that the health, safety, or economic well-being of persons or property in this State require that persons transporting essentials in commerce to the curfew area, or assisting in ensuring their availability, and persons assisting in restoring utility services, be allowed to enter or remain in areas from which they would otherwise be excluded for the limited purpose of delivering the essentials, assisting in ensuring their availability, or assisting in restoring utility services.

(b) Maximum Hours of Service Waiver. – As part of an executive order issued pursuant to subsection (a) of this section, or independently of such an order, the Governor may declare by executive order that the health, safety, or economic well-being of persons or property in this State require that the maximum of hours of service prescribed by the Department of Crime Control and Public Safety pursuant to G.S. 20-381 and similar rules be waived for persons transporting essentials or assisting in the restoration of utility services.

(c) Certification System. – The Secretary of Crime Control and Public Safety shall develop a system pursuant to which a person who transports essentials in commerce, or assists in ensuring their availability, and persons who assist in the restoring of utility services can be certified as such. The certification system shall allow for both predisaster declaration and postdisaster declaration certification and may include an annually renewable precertification. The Secretary shall only allow those who routinely transport or distribute essentials or assist in the restoring of utility services to be certified. A certification of the employer shall constitute a certification of the employer's employees. The Secretary shall create an easily recognizable indicium of certification in order to assist local officials' efforts to determine which persons have received certification by the system established under this subsection.

(d) Notwithstanding the existence of any curfew, a person who is certified pursuant to the system established under subsection (c) of this section shall be allowed to enter or remain in the curfew area for the limited purpose of delivering or assisting in the distribution of essentials or assisting in the restoration of utility services and shall be allowed to provide service that exceeds otherwise applicable hours of service maximums, to the extent authorized by an executive order executed pursuant to subsection (a) of this section. Nothing in this section prohibits law enforcement or other local officials from specifying the permissible route of ingress or egress for persons with certifications.

(e) If the Governor declares the existence of an abnormal market disruption with respect to petroleum pursuant to G.S. 75-38(f), the Governor shall contemporaneously seek all applicable waivers under the federal Clean Air Act, 42 U.S.C. § 7401, et seq., and any other applicable federal law to facilitate the transportation of fuel within this State in order to address



or prevent a fuel supply emergency in this State. Waiver requests shall be directed to the appropriate federal agencies and shall seek waivers of the following:

- (1) The Reformulated Gasoline requirements throughout the State.
 - (2) The Federal and State Implementation Plan summertime gasoline requirements (low RVP) throughout the State.
 - (3) Any other waiver that will, if obtained, facilitate the transportation of fuel within this State.
- (f) Definitions. – The following definitions apply in this section:
- (1) Curfew. – Any restriction on ingress and egress to an area that is covered by a state of disaster declared pursuant to this Article or a locally declared state of emergency declared pursuant to Article 36A of Chapter 14 of the General Statutes, or any restriction on the movement of persons within such an area.
 - (2) Curfew area. – The area that is subject to a curfew.
 - (3) Essentials. – Any goods that are consumed or used as a direct result of an emergency or which are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being of persons or their property. The Secretary of Crime Control and Public Safety shall determine what goods constitute essentials for purposes of this section."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of June, 2009.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 11:44 a.m. this 26th day of June, 2009