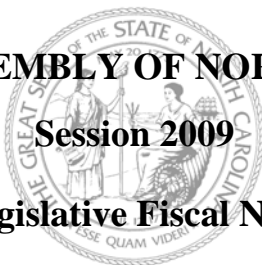


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Fiscal Note

BILL NUMBER: Senate Bill 931 (Second Edition)

SHORT TITLE: Commercial Drivers License Changes.

SPONSOR(S): Senator Goss

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
REVENUES	\$0	\$0	\$0	\$0	\$0
EXPENDITURES					
Division of Motor Vehicles	\$180,115	\$26,537	\$26,537	\$26,537	\$26,537
Administrative Office of the Courts			Indeterminate fiscal impact		
Department of Correction			No significant fiscal impact anticipated		
POSITIONS (cumulative):	0	0	0	0	0
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Division of Motor Vehicles					
EFFECTIVE DATE: Sections 1, 2, and 5 of this act are effective when this act becomes law.					

BILL SUMMARY:

S 931. COMMERCIAL DRIVERS LICENSE CHANGES.

This bill amends GS 20-4.01(4a)b. by defining out-of-state offenses to include any prayer for judgment continued including payment of a fine or costs, if the offender holds a commercial drivers license or if the offense occurs in a commercial motor vehicle (Section 1). It amends GS 20-4.01(7b), expanding the definition of employer (Section 2). It also enacts GS 20-17.4(c1) providing that a person is disqualified from driving a commercial vehicle for life if that person has had a commercial driver's license reinstated in the past and is convicted of another major disqualifying offense (Section 3). It amends GS 20-36 (ten-year-old convictions not considered) to except offenses by the holder of a commercial driver's license involving noncommercial motor vehicle from that provision (Section 4). The bill amends GS 20-37.12(d) to provide that a person who is not a resident of North Carolina who holds a commercial drivers license (1) issued by the person's state of residence or (2) recognized by the federal government that grants the privilege of

driving a commercial motor vehicle is permitted to drive a commercial motor vehicle in this state without further examination or licensure (Section 5). It amends GS 20-37.19(b) to provide that no employer shall knowingly allow, permit, or authorize a driver to drive a commercial motor vehicle during any period in which the driver, the commercial vehicle being operated, or the motor carrier operation is subject to an out-of-service order (Section 6). It amends GS 20-37.21(a) pertaining to penalties to provide that violators are subject to civil penalties as provided in 49 C.F.R. 383.53(b) (Section 7).

ASSUMPTIONS AND METHODOLOGY:

Division of Motor Vehicles

According to the Division of Motor Vehicles (DMV), this bill will require three major changes to the State Automated Driver License System (SADLS), all necessitating a high level of effort.

1. The State Automated Driver License System (SADLS) must be changed to begin counting Out-of-state prayer for judgment violations as convictions if the driver was driving a Commercial Motor Vehicle at the time of offense or if the driver is a CDL Holder in a classified vehicle or Commercial Motor Vehicle. This includes convictions that have any payment of a fine or court costs. These convictions will be posted to the driving record and processed for subsequent adjudicative actions.
2. The State Automated Driver License System (SADLS) must be changed to create new system functionality to execute when a disqualification is being posted to a driving record. This new process will have to determine if the driver was previously disqualified and then reinstated and then receives a subsequent major conviction. If that is found to be the case, an additional lifetime disqualification will have to be posted to the driving record with no provision for a hearing or reinstatement of the Commercial Driver's License privilege. The driver would never again be issued a valid CDL in NC.
3. The State Automated Driver License System (SADLS) must be changed to adjudicate all convictions by a CDL Holder regardless of the age of the conviction.

The DMV estimates that a total of 1496 hours will be required to make the necessary changes to SADLS. At a cost of \$85 per hour, this results in a total DMV cost of \$127,160 for system development. DMV adds an additional \$21,165 for ITS costs, plus an additional 20 percent, or \$31,790 as a change budget. The total development cost is estimated at \$180,115.

The DMV estimates that 165 hours of system maintenance will be required each year, again, at \$85 an hour for a total of \$14,025. An additional \$3,506 has been added for ITS costs. Annual operations costs are based on five percent of development costs, or \$9,006. The result is a total annual cost of \$26,537.

Fiscal Research Division considers the DMV's cost estimate high. The estimate of the number of hours required seems excessive, especially for planning and design. Additionally, using a standard ITS cost of 25 percent of the project development costs seems arbitrary.

Administrative Office of the Courts

In 2008, AOC data reveal 573 defendants charged with Class 3 misdemeanor commercial driving violations. AOC cannot determine the number of employers of commercial drivers charged with violations that would be affected by this bill. Some sections of this bill have the potential to increase the number of cases and the time required to dispose of cases. However, AOC cannot determine the increase in cases or time that would result from the proposed legislation. One section of the bill also has the potential to reduce the number of violations by commercial drivers and therefore reduce the number of charges. AOC cannot project the overall impact of this legislation on the court system.

Section 2: Definition of employer expanded. Violation of G.S. 20-37.19 by an employer is punishable as an infraction with a fine and an additional civil penalty. Expanding the definition of employer could increase the number of people covered under this statute and therefore could result in an increase in the number of employer violations, which would in turn increase court caseload. The number of current cases is unknown.

Section 3: Disqualification for life without possibility of reinstatement. Disqualification for another major disqualifying offense after a commercial driver's license reinstatement. This change may result in a more vigorous defense of a second charge, thus increase the time required to dispose of cases.

Section 5: Recognition of out-of-state commercial drivers license. This change could result in fewer violations by commercial drivers of no operator's license. In 2008, there were 347 defendants charged with this Class 3 misdemeanor.

Section 6: Expansion of employer prohibitions in G.S. 20-37.19. This change could result in more violations and therefore increase court caseload. Violation is an infraction punishable with a penalty between \$500 and \$1,000 and an additional civil penalty between \$2,750 and \$11,000.

In FY 2007-08, a typical misdemeanor case took approximately 87 days to dispose in District Court. Any increase in judicial caseload without accompanying resources could be expected to further delay the disposition of cases.

Department of Correction

The Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing, or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

The Sentencing Commission reports that the Class 3 misdemeanor offense referenced in this bill currently exists under current law, and thus they anticipate no change to the prison population due to the passage of this bill.

SOURCES OF DATA: North Carolina Department of Transportation, Administrative Office of the Courts, Department of Correction

TECHNICAL CONSIDERATIONS: Section 1 requires programming changes, which cannot be implemented immediately upon passage of the bill.

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