

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 2000-109
HOUSE BILL 1854

AN ACT TO SET THE PUBLIC UTILITY REGULATORY FEES AND THE INSURANCE REGULATORY CHARGE, TO INCREASE COURT COSTS, TO INCREASE JAIL FEES FOR PERSONS PAYING JAIL FEES PURSUANT TO PROBATIONARY SENTENCES, TO INCREASE THE FEE IMPOSED FOR EMERGENCY PLANNING, TO AUTHORIZE CERTAIN CHANGES IN PERMITS FOR OVERSIZE LOADS AND ESTABLISH PENALTIES FOR PERMIT VIOLATIONS, TO AUTHORIZE AGENCIES TO PROVIDE ACCESS TO SERVICES THROUGH ELECTRONIC AND DIGITAL TRANSACTIONS AND TO IMPOSE A FEE FOR THOSE TRANSACTIONS, AND TO REPEAL THE SUNSET OF THE WHITE GOODS TAX AND DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY ISSUES RELATED TO THE SCRAP TIRE DISPOSAL TAX AND THE WHITE GOODS DISPOSAL TAX.

The General Assembly of North Carolina enacts:

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PART I. PUBLIC UTILITY REGULATORY FEE

Section 1. The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is nine-hundredths percent (0.09%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2000.

PART II. NORTH CAROLINA ELECTRIC MEMBERSHIP CORPORATION
REGULATORY FEE

Section 2. The annual fee imposed on The North Carolina Electric Membership Corporation under G.S. 62-302(b1) for the 2000-2001 fiscal year is two hundred thousand dollars (\$200,000).

PART III. INSURANCE REGULATORY CHARGE

Section 3. The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is seven percent (7%) for the 2000 calendar year.

PART IV. COURT COSTS FOR TECHNOLOGY

Section 4.(a) G.S. 7A-304(a)(4) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

...

(4) For support of the General Court of Justice, the sum of ~~sixty-one dollars (\$61.00)~~ sixty-five dollars (\$65.00) in the district court, including cases before a magistrate, and the sum of ~~sixty-eight dollars (\$68.00)~~ seventy-two dollars (\$72.00) in the superior court, to be remitted to the State Treasurer.

... "

Section 4.(b) G.S. 7A-305(a)(2) reads as rewritten:

"(a) In every civil action in the superior or district court the following costs shall be assessed:

...

(2) For support of the General Court of Justice, the sum of ~~fifty-five dollars (\$55.00)~~ fifty-nine dollars (\$59.00) in the superior court, and the sum of ~~forty dollars (\$40.00)~~ forty-four dollars (\$44.00) in the district court except that if the case is assigned to a magistrate the sum shall be ~~twenty-eight dollars (\$28.00)~~ thirty-three dollars (\$33.00). Sums collected under this subsection shall be remitted to the State Treasurer.

... "

Section 4.(c) G.S. 7A-306(a) and (b) read as rewritten:

"§ 7A-306. Costs in special proceedings.

(a) In every special proceeding in the superior court, the following costs shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of ten dollars (\$10.00) to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same

purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.

- (2) For support of the General Court of Justice the sum of ~~twenty-six dollars (\$26.00)~~, thirty dollars (\$30.00). In addition, in proceedings involving land, except boundary disputes, if the fair market value of the land involved is over one hundred dollars (\$100.00), there shall be an additional sum of thirty cents (30¢) per one hundred dollars (\$100.00) of value, or major fraction thereof, not to exceed a maximum additional sum of two hundred dollars (\$200.00). Fair market value is determined by the sale price if there is a sale, the appraiser's valuation if there is no sale, or the appraised value from the property tax records if there is neither a sale nor an appraiser's valuation. Sums collected under this subsection shall be remitted to the State Treasurer.

(b) The facilities fee and ~~twenty-six dollars (\$26.00)~~ thirty dollars (\$30.00) of the General Court of Justice fee are payable at the time the proceeding is initiated.

... "

Section 4.(d) G.S. 7A-307(a) and (b) read as rewritten:

"(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, and of trusts under wills and under powers of attorney, and in collections of personal property by affidavit, the following costs shall be assessed:

- (1) For the use of the courtroom and related judicial facilities, the sum of ten dollars (\$10.00), to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.
- (2) For support of the General Court of Justice, the sum of ~~twenty-six dollars (\$26.00)~~, thirty dollars (\$30.00), plus an additional forty cents (40¢) per one hundred dollars (\$100.00), or major fraction thereof, of the gross estate, not to exceed three thousand dollars (\$3,000). Gross estate shall include the fair market value of all personalty when received, and all proceeds from the sale of realty coming into the hands of the fiduciary, but shall not include the value of realty. In collections of personal property by affidavit, the fee based on the gross estate shall be computed from the information in the final affidavit of collection made pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed. In all other cases, this fee shall be computed from the information reported in the inventory and shall be paid when the inventory is filed with the clerk. If additional gross estate, including income, comes into the hands of the fiduciary after the filing of the inventory, the fee for such additional value shall be assessed and paid upon the filing of any account or report disclosing such additional value. For each filing the minimum fee shall be ~~ten dollars (\$10.00)~~.

fifteen dollars (\$15.00). Sums collected under this subsection shall be remitted to the State Treasurer.

- (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross estate, not to exceed three thousand dollars (\$3,000), shall not be assessed on personalty received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A of the General Statutes. Instead, a fee of ~~fifteen dollars (\$15.00)~~ twenty dollars (\$20.00) shall be assessed on the filing of each annual and final account.
- (2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs shall be assessed when the estate is administered or settled pursuant to G.S. 28A-25-6.
- (3) For probate of a will without qualification of a personal representative, the clerk shall assess a facilities fee as provided in subdivision (1) of this subsection and shall assess for support of the General Court of Justice, the sum of ~~seventeen dollars (\$17.00)~~ twenty dollars (\$20.00).

(b) In collections of personal property by affidavit, the facilities fee and ~~twenty-six dollars (\$26.00)~~ thirty dollars (\$30.00) of the General Court of Justice fee shall be paid at the time of filing the qualifying affidavit pursuant to G.S. 28A-25-1. In all other cases, these fees shall be paid at the time of filing of the first inventory. If the sole asset of the estate is a cause of action, ~~the thirty dollars (\$30.00)~~ these fees shall be paid at the time of the qualification of the fiduciary.

... "

Section 4.(e) G.S. 7A-308(a)(1) reads as rewritten:

"(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

- (1) Foreclosure under power of sale in deed of trust or mortgage
~~\$30.00~~ \$40.00

If the property is sold under the power of sale, an additional amount will be charged, determined by the following formula: thirty cents (30¢) per one hundred dollars (\$100.00), or major fraction thereof, of the final sale price. If the amount determined by the formula is less than ten dollars (\$10.00), a minimum ten dollar (\$10.00) fee will be collected. If the amount determined by the formula is more than two hundred dollars (\$200.00), a maximum two hundred dollar (\$200.00) fee will be collected."

PART V. JAIL FEE FOR LOCAL GOVERNMENTS

Section 5. G.S. 7A-313 reads as rewritten:

"§ 7A-313. Uniform jail fees.

~~Only persons~~ Persons who are lawfully confined in jail awaiting ~~trial, or who are ordered to pay jail fees pursuant to a probationary sentence,~~ trial shall be liable to the

county or municipality maintaining the jail in the sum of five dollars (\$5.00) for each 24 hours' confinement, or fraction thereof, except that a person so confined shall not be liable for this fee if the case or proceeding against him is dismissed, or if acquitted, or if judgment is arrested, or if probable cause is not found, or if the grand jury fails to return a true bill.

Persons who are ordered to pay jail fees pursuant to a probationary sentence shall be liable to the county or municipality maintaining the jail at the same per diem rate paid by the Department of Correction to local jails for maintaining a prisoner, as set by the General Assembly in its appropriations acts."

PART VI. INCREASE FEE FOR EMERGENCY PLANNING

Section 6. G.S. 166A-6.1(b) reads as rewritten:

"(b) Every person, firm, corporation or municipality who is licensed to construct or who is operating a fixed nuclear facility for the production of electricity shall pay to the Department of Crime Control and Public Safety, for the use of the Division of Radiation Protection ~~Division~~—of the Department of Environment and Natural Resources, an annual fee of ~~eighteen thousand dollars (\$18,000)~~ thirty-six thousand dollars (\$36,000) for each fixed nuclear facility ~~which that~~ is located within this State or has a Plume Exposure Pathway Emergency Planning Zone of which any part is located within this State. This fee shall be applied to the costs of planning and implementing emergency response activities as are required by the Federal Emergency Management Agency for the operation of nuclear facilities. ~~Said This~~ fee is to be paid no later than July 31 of each year."

PART VII. OVERSIZE LOAD PERMITS AND PENALTIES

Section 7.(a) G.S. 20-119(d) reads as rewritten:

"(d) ~~Violation~~ For each violation of any of the terms or conditions of a special permit issued under this section ~~shall be a Class 3 misdemeanor. A person convicted of a Class 3 misdemeanor under this section shall be subject to a fine of not more than five hundred dollars (\$500.00).~~ the Department of Transportation may assess a separate civil penalty against the registered owner of the vehicle as follows:

- (1) A fine of five hundred dollars (\$500.00) for any of the following: operating without a permit, moving a load off the route specified in the permit, falsifying information to obtain a permit, failing to comply with dimension restrictions of a permit, or failing to comply with escort vehicle requirements.
- (2) A fine of two hundred fifty dollars (\$250.00) for moving loads beyond the distance allowances of an annual permit covering the movement of house trailers from the retailer's premises or for operating in violation of time of travel restrictions.
- (3) A fine of one hundred dollars (\$100.00) for any other violation of the permit conditions or requirements imposed by applicable regulations.

The Department of Transportation may refuse to issue additional permits or suspend existing permits if there are repeated violations of subdivision (1) or (2) of this subsection."

Section 7.(b) G.S. 20-140 is amended by adding a new subsection to read:

"(f) A person is guilty of the Class 2 misdemeanor of reckless driving if the person drives a commercial motor vehicle carrying a load that is subject to the permit requirements of G.S. 20-119 upon a highway or any public vehicular area either:

(1) Carelessly and heedlessly in willful or wanton disregard of the rights or safety of others; or

(2) Without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property."

Section 7.(c) G.S. 20-141 is amended by adding a new subsection to read:

"(j3) A person is guilty of a Class 2 misdemeanor if the person drives a commercial motor vehicle carrying a load that is subject to the permit requirements of G.S. 20-119 upon a highway or any public vehicular area at a speed in excess of 15 miles per hour above either:

(1) The posted speed; or

(2) The restricted speed, if any, of the permit, or if no permit was obtained, the speed that would be applicable to the load if a permit had been obtained."

Section 7.(d) G.S. 20-16(c) reads as rewritten:

"(c) The Division shall maintain a record of convictions of every person licensed or required to be licensed under the provisions of this Article as an operator and shall enter therein records of all convictions of such persons for any violation of the motor vehicle laws of this State and shall assign to the record of such person, as of the date of commission of the offense, a number of points for every such conviction in accordance with the following schedule of convictions and points, except that points shall not be assessed for convictions resulting in suspensions or revocations under other provisions of laws: Further, any points heretofore charged for violation of the motor vehicle inspection laws shall not be considered by the Division of Motor Vehicles as a basis for suspension or revocation of driver's license:

Schedule of Point Values

Passing stopped school bus.....	5
Reckless driving.....	4
Hit and run, property damage only	4
Following too close.....	4
Driving on wrong side of road.....	4
Illegal passing	4
Running through stop sign.....	3
Speeding in excess of 55 miles per hour	3
Failing to yield right-of-way.....	3
Running through red light.....	3
No driver's license or license expired more than one year	3

Failure to stop for siren.....	3
Driving through safety zone	3
No liability insurance.....	3
Failure to report accident where such report is required	3
Speeding in a school zone in excess of the posted school zone speed limit	3
All other moving violations	2
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle	1

Schedule of Point Values for Violations While
Operating a Commercial Motor Vehicle

Passing stopped school bus.....	8
Rail-highway crossing violation	6
<u>Careless and reckless driving in violation of G.S. 20-</u> <u>140(f)</u>	<u>6</u>
<u>Speeding in violation of G.S. 20-141(j3)</u>	<u>6</u>
Reckless driving.....	5
Hit and run, property damage only	5
Following too close.....	5
Driving on wrong side of road.....	5
Illegal passing	5
Running through stop sign.....	4
Speeding in excess of 55 miles per hour	4
Failing to yield right-of-way.....	4
Running through red light.....	4
No driver's license or license expired more than one year	4
Failure to stop for siren.....	4
Driving through safety zone	4
No liability insurance.....	4
Failure to report accident where such report is required	4
Speeding in a school zone in excess of the posted school zone speed limit.....	4
Possessing alcoholic beverages in the passenger area of a commercial motor vehicle	4
All other moving violations	3
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle	1

The above provisions of this subsection shall only apply to violations and convictions which take place within the State of North Carolina. The Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle shall not apply to any commercial motor vehicle known as an "aerial lift truck" having a hydraulic arm and bucket station, and to any commercial motor vehicle known as a "line truck" having

a hydraulic lift for cable, if the vehicle is owned, operated by or under contract to a public utility, electric or telephone membership corporation or municipality and used in connection with installation, restoration or maintenance of utility services.

No points shall be assessed for conviction of the following offenses:

- Overloads
- Over length
- Over width
- Over height
- Illegal parking
- Carrying concealed weapon
- Improper plates
- Improper registration
- Improper muffler
- Improper display of license plates or dealers' tags
- Unlawful display of emblems and insignia
- Failure to display current inspection certificate.

In case of the conviction of a licensee of two or more traffic offenses committed on a single occasion, such licensee shall be assessed points for one offense only and if the offenses involved have a different point value, such licensee shall be assessed for the offense having the greater point value.

Upon the restoration of the license or driving privilege of such person whose license or driving privilege has been suspended or revoked because of conviction for a traffic offense, any points that might previously have been accumulated in the driver's record shall be cancelled.

Whenever any licensee accumulates as many as seven points or accumulates as many as four points during a three-year period immediately following reinstatement of his license after a period of suspension or revocation, the Division may request the licensee to attend a conference regarding such licensee's driving record. The Division may also afford any licensee who has accumulated as many as seven points or any licensee who has accumulated as many as four points within a three-year period immediately following reinstatement of his license after a period of suspension or revocation an opportunity to attend a driver improvement clinic operated by the Division and, upon the successful completion of the course taken at the clinic, three points shall be deducted from the licensee's conviction record; provided, that only one deduction of points shall be made on behalf of any licensee within any five-year period.

When a license is suspended under the point system provided for herein, the first such suspension shall be for not more than 60 days; the second such suspension shall not exceed six months and any subsequent suspension shall not exceed one year.

Whenever the driver's license of any person is subject to suspension under this subsection and at the same time also subject to suspension or revocation under other provisions of laws, such suspensions or revocations shall run concurrently.

In the discretion of the Division, a period of probation not to exceed one year may be substituted for suspension or for any unexpired period of suspension under subsections (a)(1) through (a)(10a) of this section. Any violation of probation during the

probation period shall result in a suspension for the unexpired remainder of the suspension period. Any accumulation of three or more points under this subsection during a period of probation shall constitute a violation of the condition of probation."

Section 7.(e) G.S. 20-17.4(d) reads as rewritten:

"(d) Less Than a Year. – A person is disqualified from driving a commercial motor vehicle for 60 days if that person is convicted of two serious traffic violations, or 120 days if convicted of three or more serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period. For purposes of this subsection, a 'serious violation' includes violations of G.S. 20-140(f) and G.S. 20-141(j3)."

Section 7.(f) G.S. 20-119(b) reads as rewritten:

"(b) Upon the issuance of a special permit for an oversize or overweight vehicle by the Department of Transportation in accordance with this section, the applicant shall pay to the Department for a single trip permit a fee of ten-twelve dollars (\$10.00) (\$12.00) for a single trip permit and fifty dollars (\$50.00) for an annual permit issued for a single vehicle. ~~Any person who operates more than one vehicle may obtain an annual permit for all oversize or overweight vehicles operated by the person upon payment of an annual fee based on the following schedule:~~

No. of Vehicles	Annual Permit Rate Per Vehicle
First 50	\$50.00
51 to 100	40.00
101 to 150	30.00
Over 150	20.00

~~Any vehicle required to obtain an overweight permit shall not be charged an additional fee for oversize. Any vehicle required to obtain an oversize permit shall not be charged an additional fee for overweight.~~ for each dimension over lawful dimensions, including height, length, width, and weight up to 132,000 pounds. For overweight vehicles, the applicant shall pay to the Department for a single trip permit in addition to the fee imposed by the previous sentence a fee of three dollars (\$3.00) per 1,000 pounds over 132,000 pounds.

Upon the issuance of an annual permit for a single vehicle, the applicant shall pay a fee in accordance with the following schedule:

<u>Commodity:</u>	<u>Annual Fee:</u>
<u>Annual Permit to Move House Trailers</u>	<u>\$200.00</u>
<u>Annual Permit to Move Other Commodities</u>	<u>\$100.00</u>

In addition to the fees set out in this subsection, applications for permits that require an engineering study for pavement or structures or other special conditions or considerations shall be accompanied by a nonrefundable application fee of one hundred dollars (\$100.00).

This subsection ~~shall~~ does not apply to farm equipment or machinery being used at the time for agricultural purposes, nor to the moving of a house as provided for by the license and permit requirements of Article 16 of this Chapter. Fees will not be assessed

for permits for oversize and overweight vehicles issued to any agency of the United States Government or the State of North Carolina, its agencies, institutions, subdivisions, or municipalities if the vehicle is registered in the name of the agency."

Section 7.(g) It is the intent of the General Assembly that the permit fees provided in G.S. 20-119 shall be adjusted periodically to assure that the revenue generated by the fees is equal to the cost to the Department of administering the Oversize/Overweight Permit Unit Program within the Division of Highways. At least every two years, the Department shall review and compare the revenue generated by the permit fees and the cost of administering the program, and shall report to the Joint Legislative Transportation Oversight Committee created in G.S. 120-70.50 its recommendations for adjustments to the permit fees to bring the revenues and the costs into alignment.

PART VIII. FEES FOR ACCESS TO AGENCY SERVICES THROUGH ELECTRONIC AND DIGITAL TRANSACTIONS

Section 8. Article 11A of Chapter 66 of the General Statutes is amended by adding a new section to read:

"§ 66-58.12. Agencies may provide access to services through electronic and digital transactions; fees authorized.

(a) Public agencies are encouraged to maximize citizen and business access to their services through the use of electronic and digital transactions. A public agency may determine, through program and transaction analysis, which of its services may be made available to the public through electronic means, including the Internet. The agency shall identify any inhibitors to electronic transactions between the agency and the public, including legal, policy, financial, or privacy concerns and specific inhibitors unique to the agency or type of transaction. An agency shall not provide a transaction through the Internet that is impractical, unreasonable, or not permitted by laws pertaining to privacy or security.

(b) An agency may charge a fee to cover its costs of permitting a person to complete a transaction through the World Wide Web or other means of electronic access. The fee may be applied on a per transaction basis and may be calculated either as a flat fee or a percentage fee, as determined under an agreement between a person and a public agency. The fee may be collected by the agency or by its third party agent.

(c) The fee imposed under subsection (b) of this section must be approved by the Information Resource Management Commission, in consultation with the Joint Legislative Commission on Governmental Operations. The revenue derived from the fee must be credited to a nonreverting agency reserve account. The funds in the account may be expended only for e-commerce initiatives and projects approved by the Information Resource Management Commission, in consultation with the Joint Select Committee on Information Technology. For purposes of this subsection, the term 'public agencies' does not include a county, unit, special district, or other political subdivision of government.

(d) This section does not apply to the Judicial Department."

PART IX. WHITE GOODS SUNSET REPEAL

Section 9.(a) Section 11 of Chapter 471 of the 1993 Session Laws, as amended by Section 15.1(b) of Chapter 769 of the 1993 Session Laws and Section 7 of S.L. 1998-24, reads as rewritten:

"Sec. 11. Sections 1 through 5 of this act and this section become effective January 1, 1994. ~~Section 3 of this act expires July 1, 2001. Section 6 of this act becomes effective July 1, 2001. Sections 7, 8, and 9 of this act become effective July 1, 2002.~~

~~The repeal of the tax imposed by Section 3 of this act does not affect the rights or liabilities of the State, a taxpayer, or another person that arose during the time the tax was in effect.~~—The first report submitted by the Department to the Environmental Review Commission under G.S. 130A-309.85, as enacted by this act, shall cover the period from January 1, 1994, to June 30, 1994."

Section 9.(b) The Department of Environment and Natural Resources shall study issues related to the scrap tire disposal tax and the white goods disposal tax. This study shall include an evaluation of whether the amount of the scrap tire disposal tax and the amount of the white goods disposal tax should be altered and whether the distribution of the proceeds of these taxes should be reapportioned. The Department shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission no later than October 1, 2000.

PART X. EFFECTIVE DATES

Section 10.(a) Public Utility Regulatory Fee. – Section 1 of this act becomes effective July 1, 2000.

Section 10.(b) North Carolina Electric Membership Corporation Regulatory Fee. – Section 2 of this act becomes effective July 1, 2000.

Section 10.(c) Insurance Regulatory Charge. – Section 3 of this act is effective when it becomes law.

Section 10.(d) Increase Court Costs. – Section 4 of this act becomes effective July 15, 2000, and applies to all costs assessed or collected on and after that date.

Section 10.(e) Jail Fees for Local Governments. – Section 5 of this act becomes effective July 1, 2000, and applies to sentences or portions of sentences being served on or after that date.

Section 10.(f) Increase Fee for Emergency Planning. – Section 6 of this act becomes effective July 1, 2000.

Section 10.(g) Oversize Load Permits and Penalties. – Section 7(f) of this act becomes effective October 1, 2000. The first report required by Section 7(g) of this act is due December 1, 2002.

Section 10.(h) Fees for Access to Agency Services Through Electronic and Digital Transactions. – Section 8 is effective when it becomes law.

Section 10.(i) White Goods Sunset Repeal. – Section 9 of this act is effective when it becomes law.

Section 10.(j) Remainder. – The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 10:09 a.m. this 13th day of July, 2000