

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

H

1

HOUSE BILL 1038

Short Title: Highway Safety Omnibus/Addit'l Magistrates. (Public)

Sponsors: Representatives Logan, Brown, Carney, and Hunt (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Appropriations, if favorable, Rules, Calendar, and Operations of the House

May 26, 2022

A BILL TO BE ENTITLED
AN ACT TO INCREASE STATE TROOPERS IN MECKLENBURG COUNTY, TO
INCREASE MAGISTRATES IN MECKLENBURG COUNTY, TO REVISE CERTAIN
PENALTIES FOR FAILURE TO STOP FOR A SCHOOL BUS AND TO AUTHORIZE
THE USE OF VEHICLE REGISTRATION AS PRIMA FACIE EVIDENCE OF
RESPONSIBILITY, AND TO APPROPRIATE FUNDS.

The General Assembly of North Carolina enacts:

INCREASE TROOPERS IN MECKLENBURG COUNTY

SECTION 1.(a) There is appropriated from the General Fund to the State Highway Patrol the sum of eight hundred twenty-one thousand eighty-nine dollars (\$821,089) in recurring funds for the 2022-2023 fiscal year, and six hundred sixty thousand dollars (\$660,000) in nonrecurring funds for the 2022-2023 fiscal year, to be used to fund 12 full-time State Trooper positions.

SECTION 1.(b) Notwithstanding G.S. 20-192 and any rules and regulations created pursuant to that statute, the State Trooper positions funded in this act shall result in an increase of at least 12 State Troopers assigned to State Highway Patrol District H5 of Troop H.

SECTION 1.(c) This section becomes effective July 1, 2022.

INCREASE MAGISTRATES IN MECKLENBURG COUNTY

SECTION 2.(a) G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

County	Magistrates Min.	Additional Seats of Court
...		
Mecklenburg	26.50 <u>28.50</u>	
...."		

SECTION 2.(b) There is appropriated from the General Fund to the Administrative Office of the Courts the sum of one hundred forty-two thousand one hundred fifty dollars (\$142,150) in recurring funds for the 2022-2023 fiscal year and six thousand fifty-six dollars (\$6,056) in nonrecurring funds for the 2022-2023 fiscal year to be used to hire two additional magistrates to serve in Mecklenburg County pursuant to subsection (a) of this section.

SECTION 2.(c) This section becomes effective July 1, 2022.



**INCREASE OF FINES FOR FAILURE TO STOP FOR A SCHOOL BUS AND
EXPANSION OF WHAT CONSTITUTES PRIMA FACIE EVIDENCE IN THOSE
CASES**

SECTION 3.(a) G.S. 20-217 reads as rewritten:

**"§ 20-217. Motor vehicles to stop for properly marked and designated school buses in
certain instances; evidence of identity of driver.**

...

(e) Except as provided in subsection (g) of this section, any person violating this section shall be guilty of a Class 1 misdemeanor and shall pay a minimum fine of ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000). A person who violates subsection (a) of this section shall not receive a prayer for judgment continued under any circumstances.

...

(g) Any person who willfully violates subsection (a) of this section and strikes any person shall be guilty of a Class I felony and shall pay a minimum fine of ~~one thousand two hundred fifty dollars (\$1,250)~~ two thousand two hundred fifty dollars (\$2,250). Any person who willfully violates subsection (a) of this section and strikes any person, resulting in the death of that person, shall be guilty of a Class H felony and shall pay a minimum fine of ~~two thousand five hundred dollars (\$2,500)~~ three thousand five hundred dollars (\$3,500).

...

(i) Whenever evidence is presented in any court or administrative hearing of the fact that a vehicle was operated in violation of this section, it shall be prima facie evidence that the vehicle was operated by the person in whose name the vehicle was registered at the time of the violation according to the Division's records. If the vehicle is rented, then proof of that rental shall be prima facie evidence that the vehicle was operated by the renter of the vehicle at the time of the violation."

SECTION 3.(b) This section becomes effective December 1, 2022, and applies to offenses committed on or after that date.

**FUND THE RECORDING AND STORAGE OF VIDEO FROM DEPARTMENT OF
TRANSPORTATION HIGHWAY CAMERAS**

SECTION 4.(a) Of the funds appropriated from the General Fund to the Department of Transportation for the 2022-2023 fiscal year, the sum of ten million dollars (\$10,000,000) in recurring funds is allocated to be used by the Department to record and store video from the Department's highway cameras.

SECTION 4.(b) G.S. 132-1.1 is amended by adding a new subsection to read:

"(i) Highway camera video records stored by the Department of Transportation may not be disclosed except as provided in G.S. 132-1.7B."

SECTION 4.(c) Chapter 132 of the General Statutes is amended by adding a new section to read:

"§ 132-1.7B. Highway camera video records.

(a) Definitions. – The following definitions apply in this section:

(1) Disclose or disclosure. – To make a recording available for viewing or listening to by the person requesting disclosure, at a time and location chosen by the custodial law enforcement agency. This term does not include the release of a recording.

(2) Highway camera. – A Department of Transportation video or digital camera, located on highway right-of-way, for the purpose of monitoring vehicle traffic.

(3) Personal representative. – A parent, court-appointed guardian, spouse, or attorney of a person whose image or voice is in the recording. If a person whose image or voice is in the recording is deceased, the term also means the

personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the deceased person's attorney; or the parent or guardian of a surviving minor child of the deceased.

(4) Recording. – A visual, or visual and audio, recording captured by a highway camera.

(5) Release. – To provide a copy of a recording.

(b) Public Record Classification. – Recordings under this section are not public records, as defined by G.S. 132-1.

(c) Disclosure; General. – Recordings shall be disclosed only as provided by this section. A person requesting disclosure of a recording must make a written request to the Department of Transportation. The request shall include the name of the person making the request, date and approximate time of the activity captured in the recording, or otherwise identify the activity with reasonable particularity sufficient to identify the recording to which the request refers. The Department may only disclose a recording to the following:

(1) A person whose image or voice is in the recording.

(2) A personal representative of an adult person whose image or voice is in the recording, if the adult person has consented to the disclosure.

(3) A personal representative of a minor or of an adult person under lawful guardianship whose image or voice is in the recording.

(4) A personal representative of a deceased person whose image or voice is in the recording.

(5) A personal representative of an adult person who is incapacitated and unable to provide consent to disclosure.

When disclosing the recording, the Department shall disclose only those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to this subsection shall not record or copy the recording.

(d) Disclosure; Factors for Consideration. – Upon receipt of the written request for disclosure, as promptly as possible, the Department must either disclose the portion of the recording relevant to the person's request or notify the requestor of the decision not to disclose the recording to the requestor. The Department may consider any of the following factors in determining if a recording is disclosed:

(1) If the person requesting disclosure of the recording is a person authorized to receive disclosure pursuant to subsection (c) of this section.

(2) If the recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.

(3) If disclosure would reveal information regarding a person that is of a highly sensitive personal nature.

(4) If disclosure may harm the reputation or jeopardize the safety of a person.

(5) If disclosure would create a serious threat to the fair, impartial, and orderly administration of justice.

(6) If confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.

(e) Appeal of Disclosure Denial. – If a law enforcement agency denies disclosure pursuant to subsection (d) of this section, or has failed to provide disclosure more than three business days after the request for disclosure, the person seeking disclosure may apply to the superior court in any county where any portion of the recording was made for a review of the denial of disclosure. The court may conduct an in-camera review of the recording. The court may order the disclosure of the recording only if the court finds that the Department abused its discretion in denying the request for disclosure. The court may only order disclosure of those portions of the recording that are relevant to the person's request. A person who receives

disclosure pursuant to this subsection shall not record or copy the recording. An order issued pursuant to this subsection may not order the release of the recording.

In any proceeding pursuant to this subsection, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any proceeding: (i) the head of the Department, (ii) any law enforcement agency personnel whose image or voice is in the recording and the head of that person's employing law enforcement agency, and (iii) the district attorney. Actions brought pursuant to this subsection shall be set down for hearing as soon as practicable, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(f) Release of Recordings; General; Court Order Required. – Recordings shall only be released pursuant to court order. Any person requesting release of a recording may file an action in the superior court in any county where any portion of the recording was made for an order releasing the recording. The request for release must state the date and approximate time of the activity captured in the recording or otherwise identify the activity with reasonable particularity sufficient to identify the recording to which the action refers. The court may conduct an in-camera review of the recording. In determining whether to order the release of all or a portion of the recording, in addition to any other standards the court deems relevant, the court shall consider the applicability of all of the following standards:

- (1) Release is necessary to advance a compelling public interest.
- (2) The recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
- (3) The person requesting release is seeking to obtain evidence to determine legal issues in a current or potential court proceeding.
- (4) Release would reveal information regarding a person that is of a highly sensitive personal nature.
- (5) Release may harm the reputation or jeopardize the safety of a person.
- (6) Release would create a serious threat to the fair, impartial, and orderly administration of justice.
- (7) Confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.
- (8) There is good cause shown to release all portions of a recording.

The court shall release only those portions of the recording that are relevant to the person's request and may place any conditions or restrictions on the release of the recording that the court, in its discretion, deems appropriate.

In any proceeding pursuant to this subsection, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any proceeding: (i) the head of the Department, (ii) any law enforcement agency personnel whose image or voice is in the recording and the head of that person's employing law enforcement agency, and (iii) the district attorney. Actions brought pursuant to this subsection shall be set down for hearing as soon as practicable, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(g) Release of Recordings; Law Enforcement Purposes. – Notwithstanding the requirements of subsections (c), (f), and (g) of this section, the Department shall disclose or release a recording to a district attorney (i) for review of potential criminal charges, (ii) in order to comply with discovery requirements in a criminal prosecution, (iii) for use in criminal proceedings in district court, or (iv) for any other law enforcement purpose and may disclose or release a recording for suspect identification or apprehension or to locate a missing or abducted person.

(h) Retention of Recordings. – The Department shall not be required to retain any recording subject to the provisions of this section for more than 30 days, unless a court of competent jurisdiction orders otherwise.

(i) No civil liability shall arise from compliance with the provisions of this section, provided that the acts or omissions are made in good faith and do not constitute gross negligence, willful or wanton misconduct, or intentional wrongdoing.

(j) Fee for Copies. – The Department may charge a fee to offset the cost incurred by it to make a copy of a recording for release. The fee shall not exceed the actual cost of making the copy.

(k) Attorneys' Fees. – The court may not award attorneys' fees to any party in any action brought pursuant to this section.

(l) Use of Recordings. – Recordings subject to this section may not be used for fines or private investigation.

(m) Elected Official. – No elected official may review recordings subject to this section, unless they meet the criteria in subsection (c) of this section. This subsection does not apply to a county sheriff or district attorney if review of the recordings is within the scope of a criminal investigation."

SECTION 4.(d) This section becomes effective July 1, 2022.

EFFECTIVE DATE

SECTION 5. Except as otherwise provided, this act is effective when it becomes law.