

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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SENATE BILL 783

Short Title: Clarify Inspection Station Responsibilities. (Public)

Sponsors: Senator Hoyle.

Referred to: Finance.

March 25, 2009

A BILL TO BE ENTITLED
AN ACT TO CLARIFY INSPECTION STATION AND SELF-INSPECTOR
RESPONSIBILITIES AND NOTICE REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-183.7A reads as rewritten:

"(a) Kinds of Violations. – The civil penalty schedule established in this section applies to safety self-inspectors, safety inspection stations, and safety inspection mechanics. The schedule categorizes safety violations into serious (Type I), minor (Type II), and technical (Type III) violations. A serious violation is a violation of this Part or a rule adopted to implement this Part that directly affects the safety or emissions reduction benefits of the safety inspection program. A minor violation is a violation of this Part or a rule adopted to implement this Part that reflects negligence or carelessness in conducting a safety inspection or complying with the safety inspection requirements but does not directly affect the safety benefits or emission reduction benefits of the safety inspection program. A technical violation is a violation that is not a serious violation, a minor violation, or another type of offense under this Part.

(b) Penalty Schedule. – The Division must take the following action for a violation:

(1) Type I. – For a first or second Type I violation within three years by a safety self-inspector or a safety inspection station, assess a civil penalty of two hundred fifty dollars (\$250.00) and suspend the license of the business for six months. For a third or subsequent Type I violation within three years by a safety self-inspector or a safety inspection station, assess a civil penalty of one thousand dollars (\$1,000) and revoke the license of the business for two years. For a first or second Type I violation within seven years by a safety inspection mechanic, assess a civil penalty of one hundred dollars (\$100.00) and suspend the mechanic's license for six months. For a third or subsequent Type I violation within seven years by a safety inspection mechanic, assess a civil penalty of two hundred fifty dollars (\$250.00) and revoke the mechanic's license for two years.

(2) Type II. – For a first or second Type II violation within three years by a safety self-inspector or a safety inspection station, assess a civil penalty of one hundred dollars (\$100.00). For a third or subsequent Type II violation within three years by a safety self-inspector or a safety inspection station, assess a civil penalty of two hundred fifty dollars (\$250.00) and suspend the license of the business for 90 days. For a first or second Type II violation within seven years by a safety inspection mechanic, assess a civil penalty of fifty dollars (\$50.00). For a third or subsequent Type II violation within



1 seven years by a safety inspection mechanic, assess a civil penalty of one
2 hundred dollars (\$100.00) and suspend the mechanic's license for 90 days.

- 3 (3) Type III. – For a first or second Type III violation within seven years by a
4 safety self-inspector, a safety inspection station, or a safety inspection
5 mechanic, send a warning letter. For a third or subsequent Type III violation
6 within seven years by the same safety license holder, assess a civil penalty of
7 twenty-five dollars (\$25.00).

8 (c) Station or Self-Inspector Responsibility. – It is the responsibility of a safety
9 inspection station and a safety self-inspector to supervise the safety inspection mechanics it
10 employs. A violation by a safety inspection mechanic is considered a violation by the station or
11 self-inspector for whom the mechanic is employed. An inspection station or self-inspector
12 charged with a violation resulting from the actions of an inspection mechanic shall not result in
13 a suspension or revocation of the station or self-inspector license if the station or self-inspector
14 establishes that the inspection station or self-inspector has implemented and maintained
15 reasonable procedures to ensure compliance with this Article and the violation was committed
16 by an inspection mechanic without prior actual knowledge of the inspection station or
17 self-inspector license holder.

18 (d) Multiple Violations. – If a safety self-inspector, a safety inspection station, or a
19 safety inspection mechanic commits two or more violations in the course of a single safety
20 inspection, the Division shall take only the action specified for the most significant violation. In
21 any case where an inspection station or self-inspector is charged with a violation due to the
22 actions of an inspection mechanic, and the Division believes multiple violations by the
23 inspection mechanic occurred, the Division shall only charge an inspection station or
24 self-inspector with one violation.

25 (e) Mechanic Training. – A safety inspection mechanic whose license has been
26 suspended or revoked must retake the course required under G.S. 20-183.4 and successfully
27 complete the course before the mechanic's license can be reinstated. Failure to successfully
28 complete this course continues the period of suspension or revocation until the course is
29 completed successfully."

30 **SECTION 2.** G.S. 20-183.8B reads as rewritten:

31 "(a) Kinds of Violations. – The civil penalty schedule established in this section applies
32 to emissions self-inspectors, emissions inspection stations, and emissions inspection mechanics.
33 The schedule categorizes emissions violations into serious (Type I), minor (Type II), and
34 technical (Type III) violations.

35 A serious violation is a violation of this Part or a rule adopted to implement this Part that
36 directly affects the emission reduction benefits of the emissions inspection program. A minor
37 violation is a violation of this Part or a rule adopted to implement this Part that reflects
38 negligence or carelessness in conducting an emissions inspection or complying with the
39 emissions inspection requirements but does not directly affect the emission reduction benefits
40 of the emissions inspection program. A technical violation is a violation that is not a serious
41 violation, a minor violation, or another type of offense under this Part.

42 (b) Penalty Schedule. – The Division must take the following action for a violation:

- 43 (1) Type I. – For a first or second Type I violation by an emissions
44 self-inspector or an emissions inspection station, assess a civil penalty of two
45 hundred fifty dollars (\$250.00) and suspend the license of the business for
46 six months. For a third or subsequent Type I violation within three years by
47 an emissions self-inspector or an emissions inspection station, assess a civil
48 penalty of one thousand dollars (\$1,000) and revoke the license of the
49 business for two years.

50 For a first or second Type I violation by an emissions inspection
51 mechanic, assess a civil penalty of one hundred dollars (\$100.00) and

1 suspend the mechanic's license for six months. For a third or subsequent
2 Type I violation within seven years by an emissions inspection mechanic,
3 assess a civil penalty of two hundred fifty dollars (\$250.00) and revoke the
4 mechanic's license for two years.

- 5 (2) Type II. – For a first or second Type II violation by an emissions
6 self-inspector or an emissions inspection station, assess a civil penalty of one
7 hundred dollars (\$100.00). For a third or subsequent Type II violation within
8 three years by an emissions self-inspector or an emissions inspection station,
9 assess a civil penalty of two hundred fifty dollars (\$250.00) and suspend the
10 license of the business for 90 days.

11 For a first or second Type II violation by an emissions inspection
12 mechanic, assess a civil penalty of fifty dollars (\$50.00). For a third or
13 subsequent Type II violation within seven years by an emissions inspection
14 mechanic, assess a civil penalty of one hundred dollars (\$100.00) and
15 suspend the mechanic's license for 90 days.

- 16 (3) Type III. – For a first or second Type III violation by an emissions
17 self-inspector, an emissions inspection station, or an emissions inspection
18 mechanic, send a warning letter. For a third or subsequent Type III violation
19 within three years by the same emissions license holder, assess a civil
20 penalty of twenty-five dollars (\$25.00).

21 (c) Station or Self-Inspector Responsibility. – It is the responsibility of an emissions
22 inspection station and an emissions self-inspector to supervise the emissions mechanics it
23 employs. A violation by an emissions inspector mechanic is considered a violation by the
24 station or self-inspector for whom the mechanic is employed. An inspection station or
25 self-inspector charged with a violation resulting from the actions of an inspection mechanic
26 shall not result in a suspension or revocation of the station or self-inspector license if the station
27 or self-inspector establishes that the inspection station or self-inspector has implemented and
28 maintained reasonable procedures to ensure compliance with this Article and the violation was
29 committed by an inspection mechanic without prior actual knowledge of the inspection station
30 or self-inspector license holder.

31 (c1) Multiple Violations. – If an emissions self-inspector, an emissions inspection
32 station, or an emissions inspection mechanic commits two or more violations in the course of a
33 single emissions inspection, the Division shall take only the action specified for the most
34 significant violation. In any case where an inspection station or self-inspector is charged with a
35 violation due to the actions of an inspection mechanic, and the Division believes multiple
36 violations by the inspection mechanic occurred, the Division shall only charge an inspection
37 station or self-inspector with one violation.

38 (d) Missing Stickers. – The Division must assess a civil penalty against an emissions
39 inspection station, a windshield replacement station, or an emissions self-inspector that cannot
40 account for an emissions inspection sticker issued to it. A station or a self-inspector cannot
41 account for a sticker when the sticker is missing and the station or self-inspector cannot
42 establish reasonable grounds for believing the sticker was stolen or destroyed by fire or another
43 accident.

44 (d1) Penalty for Missing Stickers. – The amount of the penalty is twenty-five dollars
45 (\$25.00) for each missing sticker. If a penalty is imposed under subsection (b) of this section as
46 the result of missing stickers, the monetary penalty that applies is the higher of the penalties
47 required under this subsection and subsection (b); the Division may not assess a monetary
48 penalty as a result of missing stickers under both this subsection and subsection (b) of this
49 section. Imposition of a monetary penalty under this subsection does not affect suspension or
50 revocation of a license required under subsection (b) of this section.

1 (e) Mechanic Training. – An emissions inspection mechanic whose license has been
2 suspended or revoked must retake the course required under G.S. 20-183.4A and successfully
3 complete the course before the mechanic's license can be reinstated. Failure to successfully
4 complete this course continues the period of suspension or revocation until the course is
5 completed successfully."

6 **SECTION 3.** G.S.20-183.8F(a) reads as rewritten:

7 "(a) Finding of Violation. – When an auditor of the Division finds that a violation has
8 occurred that could result in the suspension or revocation of an inspection station license, a
9 self-inspector license, a mechanic license, or the registration of a person engaged in the
10 business of replacing windshields, the auditor must give the affected license holder written
11 notice of the finding. The notice must be given within five business days after the completion
12 of the investigation that resulted in the discovery of the violation. The notice must state the
13 period of suspension or revocation that could apply to the violation and any monetary penalty
14 that could apply to the violation. The notice must also inform the license holder of the right to a
15 hearing if the Division charges the license holder with the violation. Failure to comply with the
16 notice requirements of this section shall result in the dismissal of the violation against the
17 licensee."

18 **SECTION 4.** G.S.20-183.8G(f) reads as rewritten:

19 "(f) Decision. – Except as otherwise provided in this Article, a decision made after a
20 hearing on the imposition of a monetary penalty against a motorist for an emissions violation or
21 on a Type I, II, or III emissions violation by an emissions license holder must uphold any
22 monetary penalty, license suspension, license revocation, or warning required
23 by ~~G.S. 20-183.8A~~ G.S. 20-183.7A, 20-183.8A, or G.S. 20-183.8B, respectively, if the decision
24 contains a finding that the motorist or license holder committed the act for which the monetary
25 penalty, license suspension, license revocation, or warning was imposed. A decision made after
26 a hearing on any other action may uphold or modify the action."

27 **SECTION 5.** G.S. 20-183.8G is amended by adding a new subsection to read:

28 "(f1) Offers in Compromise. – In any case where an inspection station or self-inspector is
29 charged with an administrative violation due to the actions of an inspection mechanic and the
30 Division imposes a suspension or revocation for the inspection station or self-inspector, the
31 Commissioner may accept from the license holder an offer in compromise to pay a penalty of
32 not more than two thousand dollars (\$2,000) to the Division in lieu of the suspension or
33 revocation. The Commissioner may accept an offer in compromise or suspend or revoke the
34 inspection license, but may not impose both."

35 **SECTION 6.** This act becomes effective December 1, 2009, and applies to
36 offenses committed on or after that date.