

Article 6.

Ferries, etc., and Toll Bridges.

§ 136-82. Department of Transportation to establish and maintain ferries.

(a) Powers of Department. – The Department of Transportation is vested with authority to provide for the establishment and maintenance of ferries connecting the parts of the State highway system, whenever in its discretion the public good may require, and shall prescribe and collect tolls on ferry routes in accordance with subsection (b) of this section. In addition, and to accomplish the purpose of this section, the Department of Transportation is authorized to acquire, own, lease, charter, or otherwise control all necessary vessels, boats, terminals, or other facilities required for the proper operation of the ferries or to enter into contracts with persons, firms, or corporations for the operation thereof and to pay the reasonable sums that in the opinion of the Department of Transportation represent the fair value of the public service rendered.

(b) Tolling of Certain Ferry Routes. – The Board of Transportation shall establish tolls on the passenger-only Hatteras-Ocracoke ferry route. The Board of Transportation shall continue tolling the following ferry routes:

- (1) Southport-Fort Fisher.
- (2) Cedar Island-Ocracoke.
- (3) Swan Quarter-Ocracoke.

(b1) Untolled Ferry Routes. – Except as provided in subsection (b) of this section, ferry routes are exempt from tolls. The Board of Transportation shall not establish tolls on a ferry route exempt from tolls.

(b2) Emergency Suspension of Tolling. – The Secretary of Transportation may suspend the collection of tolls for any ferry route serving an emergency area, as declared pursuant to G.S. 166A-19.20 or G.S. 166A-19.22, for the duration of the state of emergency.

(c) Revisions of Tolls. – The Board of Transportation may change toll rates or toll-setting methodology. The Department of Transportation shall report to the Fiscal Research Division, the Joint Legislative Transportation Oversight Committee, and all affected local transportation planning organizations 30 days prior to any change in toll rates or change in the toll setting methodology by the Board of Transportation.

(c1) Reserved for future codification purposes.

(c2) Ferry Capital Special Fund. – The Ferry Capital Special Fund is established as a special fund separate from the Highway Fund within the Department of Transportation.

(d) Use of Toll Proceeds. – The Department of Transportation shall deposit the proceeds from tolls collected on North Carolina Ferry System routes and route-generated receipts authorized under subsection (f) of this section to fund codes within the Ferry Capital Special Fund for each of the Highway Divisions in which system terminals are located and fares are earned. For the purposes of this subsection, fares are earned based on the terminals from which a passenger trip originates and terminates. Commuter pass receipts shall be deposited proportionately to each fund code based on the distribution of trips originating and terminating in each Highway Division. The proceeds deposited to each fund code shall be used exclusively for prioritized North Carolina Ferry System ferry passenger vessel replacement projects in the Division in which the proceeds are earned. Proceeds may be used to fund ferry passenger vessel replacement projects or supplement funds allocated for ferry passenger vessel replacement projects approved in the Transportation Improvement Program.

(e) Repealed by Session Laws 2016-94, s. 35.1(a), effective July 1, 2016.

(f) Authority to Generate Certain Receipts. – The Department of Transportation, notwithstanding any other provision of law, may operate or contract for the following receipt-generating activities. The proceeds collected on North Carolina Ferry System routes from receipts generated under this subsection shall be deposited and used in accordance with subsection (d) of this section. The proceeds collected from receipts generated from the Shipyard

shall be deposited and used in accordance with subsection (f1) of this section. [The activities are as follows:]

- (1) Operation of, concessions on the ferries and at ferry facilities to provide to passengers on the ferries food, drink, and other refreshments, personal comfort items, Internet access, and souvenirs publicizing the ferry system.
- (2) Sponsorships, including, but not limited to, the sale of naming rights to any ferry vessel, ferry route, or ferry facility.
- (3) Advertising on or within any ferry vessel or at any ferry facility, including, but not limited to, display advertising and advertising delivered to passengers through the use of video monitors, public address systems installed in passenger areas, and other electronic media.
- (4) Any other receipt-generating activity not otherwise forbidden by applicable law pertaining to public health or safety.

The Department may issue rules to implement this subsection.

(f1) Use of Receipts Generated From Shipyard. – The Department of Transportation shall deposit the proceeds from receipts generated under subsection (f) of this section from activities performed by the North Carolina State Shipyard to a fund code within the Ferry Capital Special Fund to be used exclusively for improvements to the Shipyard, including equipment and associated infrastructure.

(f2) Ferry Systemwide Fund Code and Disposition of Marine Vessels. – There is created in the Ferry Capital Special Fund a Ferry Systemwide fund code. The funds in this fund code shall be used for the acquisition or construction of marine vessels to maintain existing service capacity by replacing marine vessels that have reached the end of their useful life, as determined by the Department of Transportation. The Department of Transportation shall decommission and dispose of a marine vessel subject to replacement in a timely manner after the replacement marine vessel is operationalized. Notwithstanding any provision of law to the contrary, any proceeds received from the disposition of a marine vessel shall be deposited to the fund code established under this subsection. Nothing in this subsection shall be construed as prohibiting the Department of Transportation from using funds held in the fund code established under this subsection to supplement funds deposited to a fund code under subsection (d) of this section to use exclusively for prioritized Ferry System ferry passenger vessel replacement projects in the Highway Division in which the funds deposited to the fund code under subsection (d) of this section are earned. For purposes of this subsection, the term "marine vessels" means tugs, barges, dredges, and ferries other than passenger-only vessels.

(f3) Priority Boarding Fee for Certain Vehicles. – For vehicles providing commercial goods and services, the Department of Transportation shall charge an annual fee of one hundred fifty dollars (\$150.00) for an annual pass that entitles the vehicle or vehicles owned by the person issued the annual pass to priority when boarding a ferry vessel. Except as authorized under this subsection, the Department of Transportation shall not provide priority boarding to a ferry vessel to any vehicle providing commercial goods and services.

(g) Confidentiality of Personal Information. – Identifying information obtained by the Department related to operation of the ferry system is not a public record under Chapter 132 of the General Statutes and is subject to the disclosure limitations in 18 U.S.C. § 2721 of the federal Driver's Privacy Protection Act. The Department shall maintain the confidentiality of all information required to be kept confidential under 18 U.S.C. § 2721(a), as well as any financial information, transaction history, and information related to the collection of a toll or user fee from a person, including, but not limited to, photographs or other recorded images or automatic vehicle identification or driver account information generated by radio-frequency identification or other electronic means. The Department may use identifying information only for purposes of collecting and enforcing tolls. Nothing in this section is intended to limit the right of any person to

examine that person's own account information, or the right of any party, by authority of a proper court order, to inspect and examine identifying information.

(h) Transfer of Funds. – Notwithstanding G.S. 136-44.2(f), G.S. 136-44.2(f1), and any other provision of law to the contrary, beginning with the 2021-2022 fiscal year, no later than 45 days after the first day of the fiscal year, the Department of Transportation shall transfer from the Highway Fund to the Ferry Capital Special Fund all unexpended funds appropriated to the Ferry Division's budget from the prior fiscal year. Any funds categorized as unencumbered shall be deposited in the Ferry Systemwide fund code. Any funds categorized as encumbered shall be deposited into a specified fund code for encumbrances.

(i) Semiannual Report. – No later than March 1 and September 1 of each year, the Ferry Division shall submit a report to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division that contains the total cost to operate each ferry route. (1927, c. 223; 1933, c. 172, s. 17; 1957, c. 65, s. 11; 1973, c. 507, s. 5; 1977, c. 464, s. 7.1; 1989, c. 752, s. 101; 1995, c. 211, s. 1; 2011-145, s. 31.30(a); 2012-142, s. 24.18(a); 2013-360, s. 34.13(b); 2014-58, s. 11(a); 2014-115, s. 56.5; 2015-241, s. 29.23A; 2016-94, s. 35.1(a); 2017-57, s. 34.28B; 2018-136, 3rd Ex. Sess., s. 5.14; 2021-180, s. 41.15(a); 2022-6, s. 19.3.)