


N.C. Gen. Stat. § 20-4.01

Current through Session Laws 2023-105 of the 2023 Regular Session of the General Assembly, but does not reflect possible future codification directives from the Revisor of Statutes pursuant to G.S. 164-10.

General Statutes of North Carolina > Chapter 20. Motor Vehicles. (Arts. 1 — 18) > Article 1. Division of Motor Vehicles. (§§ 20-1 — 20-4.04)

Notice

 This section has more than one version with varying effective dates.

§ 20-4.01. Definitions.

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

(1) Airbag. — A motor vehicle inflatable occupant restraint system device that is part of a supplemental restraint system.

(1a) Alcohol. — Any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.

(1b) Alcohol Concentration. — The concentration of alcohol in a person, expressed either as:

- a. Grams of alcohol per 100 milliliters of blood; or
- b. Grams of alcohol per 210 liters of breath.

The results of a defendant's alcohol concentration determined by a chemical analysis of the defendant's breath or blood shall be reported to the hundredths. Any result between hundredths shall be reported to the next lower hundredth.

(1c) All-Terrain Vehicle or ATV. — A motorized vehicle 50 inches or less in width that is designed to travel on three or more low-pressure tires and manufactured for off-highway use. The terms "all-terrain vehicle" or "ATV" do not include a golf cart or a utility vehicle, as defined in this section, or a riding lawn mower.

(1d) Business District. — The territory prescribed as such by ordinance of the Board of Transportation.

(2) Canceled. — As applied to drivers' licenses and permits, a declaration that a license or permit which was issued through error or fraud, or to which G.S. 20-15(a) applies, is void and terminated.

(2a) Class A Motor Vehicle. — A combination of motor vehicles that meets either of the following descriptions:

- a. Has a combined GVWR of at least 26,001 pounds and includes as part of the combination a towed unit that has a GVWR of at least 10,001 pounds.
- b. Has a combined GVWR of less than 26,001 pounds and includes as part of the combination a towed unit that has a GVWR of at least 10,001 pounds.

(2b) Class B Motor Vehicle. — Any of the following:

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- a. A single motor vehicle that has a GVWR of at least 26,001 pounds.
- b. A combination of motor vehicles that includes as part of the combination a towing unit that has a GVWR of at least 26,001 pounds and a towed unit that has a GVWR of less than 10,001 pounds.

(2c) Class C Motor Vehicle. — Any of the following:

- a. A single motor vehicle not included in Class B.
- b. A combination of motor vehicles not included in Class A or Class B.

(3) Repealed by Session Laws 1979, c. 667, s. 1.

(3a) Chemical Analysis. — A test or tests of the breath, blood, or other bodily fluid or substance of a person to determine the person's alcohol concentration or presence of an impairing substance, performed in accordance with G.S. 20-139.1, including duplicate or sequential analyses.

(3b) Chemical Analyst. — A person granted a permit by the Department of Health and Human Services under G.S. 20-139.1 to perform chemical analyses.

(3c) Commercial Drivers License (CDL). — A license issued by a state to an individual who resides in the state that authorizes the individual to drive a class of commercial motor vehicle. A "nonresident commercial drivers license (NRCDL)" is issued by a state to an individual who resides in a foreign jurisdiction.

(3d) Commercial Motor Vehicle. — Any of the following motor vehicles that are designed or used to transport passengers or property:

- a. A Class A motor vehicle that has a combined GVWR of at least 26,001 pounds and includes as part of the combination a towed unit that has a GVWR of at least 10,001 pounds.
- b. A Class B motor vehicle.
- c. A Class C motor vehicle that meets either of the following descriptions:
 - 1. Is designed to transport 16 or more passengers, including the driver.
 - 2. Is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.
- d. Repealed by Session Laws 1999, c. 330, s. 9, effective December 1, 1999.

(4) Commissioner. — The Commissioner of Motor Vehicles.**(4a) Conviction.** — A conviction for an offense committed in North Carolina or another state:

- a. In-State. When referring to an offense committed in North Carolina, the term means any of the following:
 - 1. A final conviction of a criminal offense, including a no contest plea.
 - 2. A determination that a person is responsible for an infraction, including a no contest plea.
 - 3. An unvacated forfeiture of cash in the full amount of a bond required by Article 26 of Chapter 15A of the General Statutes.
 - 4. A third or subsequent prayer for judgment continued within any five-year period.
 - 5. Any prayer for judgment continued if the offender holds a commercial drivers license or if the offense occurs in a commercial motor vehicle.
- b. Out-of-State. When referring to an offense committed outside North Carolina, the term means any of the following:
 - 1. An unvacated adjudication of guilt.

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2. A determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal.
3. An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.
4. A violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.
5. A final conviction of a criminal offense, including a no contest plea.
6. Any prayer for judgment continued, including any payment of a fine or court costs, if the offender holds a commercial drivers license or if the offense occurs in a commercial motor vehicle.

(4b) Counterfeit supplemental restraint system component. — A replacement supplemental restraint system component, including an airbag, that displays a mark identical to, or substantially similar to, the genuine mark of a motor vehicle manufacturer or a supplier of parts to the manufacturer of a motor vehicle, without authorization from the manufacturer or supplier.

(4c) Crash. — Any event that results in injury or property damage attributable directly to the motion of a motor vehicle or its load. The terms collision, accident, and crash and their cognates are synonymous.

(5) Dealer. — Every person engaged in the business of buying, selling, distributing, or exchanging motor vehicles, trailers, or semitrailers in this State, and having an established place of business in this State.

The terms "motor vehicle dealer," "new motor vehicle dealer," and "used motor vehicle dealer" as used in Article 12 of this Chapter have the meaning set forth in G.S. 20-286.

(5a) Dedicated natural gas vehicle. — A four-wheeled motor vehicle that meets each of the following requirements:

- a. Is made by a manufacturer primarily for use on public streets, roads, and highways and meets National Highway Traffic Safety Administration standards included in 49 C.F.R. § 571.
- b. Has not been modified from original manufacturer specifications with regard to power train or any manner of powering the vehicle.
- c. Is powered solely by natural gas.
- d. Is rated at not more than 8,500 pounds unloaded gross vehicle weight.
- e. Has a maximum speed capability of at least 65 miles per hour.

(5b) Disqualification. — A withdrawal of the privilege to drive a commercial motor vehicle.

(6) Division. — The Division of Motor Vehicles acting directly or through its duly authorized officers and agents.

(7) Driver. — The operator of a vehicle, as defined in subdivision (25). The terms "driver" and "operator" and their cognates are synonymous.

(7a) Electric Assisted Bicycle. — A bicycle with two or three wheels that is equipped with a seat or saddle for use by the rider, fully operable pedals for human propulsion, and an electric motor of no more than 750 watts, whose maximum speed on a level surface when powered solely by such a motor is no greater than 20 miles per hour.

(7b) Electric Personal Assistive Mobility Device. — A self-balancing nontandem two-wheeled device, designed to transport one person, with a propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

(7c) Employer. — Any person who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle and would be subject to the alcohol and controlled substance testing provisions of 49 C.F.R. § 382 and also includes any consortium or third-party administrator administering the alcohol and controlled substance testing program on behalf of owner-operators subject to the provisions of 49 C.F.R. § 382.

(8) Essential Parts. — All integral and body parts of a vehicle of any type required to be registered hereunder, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

(9) Established Place of Business. — Except as provided in G.S. 20-286, the place actually occupied by a dealer or manufacturer at which a permanent business of bargaining, trading, and selling motor vehicles is or will be carried on and at which the books, records, and files necessary and incident to the conduct of the business of automobile dealers or manufacturers shall be kept and maintained.

(10) Explosives. — Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructible effects on contiguous objects or of destroying life or limb.

(11) Farm Tractor. — Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(11a) For-Hire Motor Carrier. — A person who transports passengers or property by motor vehicle for compensation.

(12) Foreign Vehicle. — Every vehicle of a type required to be registered hereunder brought into this State from another state, territory, or country, other than in the ordinary course of business, by or through a manufacturer or dealer and not registered in this State.

(12a) Fuel cell electric vehicle. — A four-wheeled motor vehicle that does not have the ability to be propelled by a gasoline engine and that meets each of the following requirements:

- a. Is made by a manufacturer primarily for use on public streets, roads, and highways and meets National Highway Traffic Safety Administration standards included in 49 C.F.R. § 571.
- b. Has not been modified from original manufacturer specifications with regard to power train or any manner of powering the vehicle.
- c. Uses hydrogen and a fuel cell to produce electricity on board to power an electric motor to propel the vehicle.
- d. Is rated at not more than 8,500 pounds unloaded gross vehicle weight.
- e. Has a maximum speed capability of at least 65 miles per hour.

(12b) Golf Cart. — A vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour.

(12c) Gross Combination Weight Rating (GCWR). — Defined in 49 C.F.R. § 390.5.

(12d) Gross Combined Weight (GCW). — The total weight of a combination (articulated) motor vehicle, including passengers, fuel, cargo, and attachments.

(12e) Gross Vehicle Weight (GVW). — The total weight of a vehicle, including passengers, fuel, cargo, and attachments.

(12f) Gross Vehicle Weight Rating (GVWR). — The value specified by the manufacturer as the maximum loaded weight a vehicle is capable of safely hauling. The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units. When a vehicle is determined by

an enforcement officer to be structurally altered in any way from the manufacturer's original design in an attempt to increase the hauling capacity of the vehicle, the GVWR of that vehicle shall be deemed to be the greater of the license weight or the total weight of the vehicle or combination of vehicles for the purpose of enforcing this Chapter. For the purpose of classification of commercial drivers license and skills testing, the manufacturer's GVWR shall be used.

(12g) Hazardous Materials. — Any material that has been designated as hazardous under 49 U.S.C. § 5103 and is required to be placarded under Subpart F of Part 172 of Title 49 of the Code of Federal Regulations, or any quantity of a material listed as a select agent or toxin under Part 73 of Title 42 of the Code of Federal Regulations.

(12h) High-Mobility Multipurpose Wheeled Vehicle (HMMWV). — A four-wheel drive vehicle produced for military or government use and commonly referred to as a "HMMWV" or "Humvee".

(13) Highway. — The entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic. The terms "highway" and "street" and their cognates are synonymous.

(14) House Trailer. — Any trailer or semitrailer designed and equipped to provide living or sleeping facilities and drawn by a motor vehicle. This term shall not include a manufactured home as defined in subdivision (18a) of this section.

(14a) Impairing Substance. — Alcohol, controlled substance under Chapter 90 of the General Statutes, any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances.

(15) Implement of Husbandry. — Every vehicle which is designed for agricultural purposes and used exclusively in the conduct of agricultural operations.

(15a) Inoperable Vehicle. — A motor vehicle that is substantially disassembled and for this reason is mechanically unfit or unsafe to be operated or moved upon a public street, highway, or public vehicular area.

(16) Intersection. — The area embraced within the prolongation of the lateral curblines or, if none, then the lateral edge of roadway lines of two or more highways which join one another at any angle whether or not one such highway crosses the other.

Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event that such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

(17) License. — Any driver's license or any other license or permit to operate a motor vehicle issued under or granted by the laws of this State including:

- a. Any temporary license or learner's permit;
- b. The privilege of any person to drive a motor vehicle whether or not such person holds a valid license; and
- c. Any nonresident's operating privilege.

(18) Local Authorities. — Every county, municipality, or other territorial district with a local board or body having authority to adopt local police regulations under the Constitution and laws of this State.

(18a) Manufactured Home. — Defined in G.S. 143-143.9(6).

(19) Manufacturer. — Every person, resident, or nonresident of this State, who manufactures or assembles motor vehicles.

(20) Manufacturer's Certificate. — A certification on a form approved by the Division, signed by the manufacturer, indicating the name of the person or dealer to whom the therein-described vehicle is

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transferred, the date of transfer and that such vehicle is the first transfer of such vehicle in ordinary trade and commerce. The description of the vehicle shall include the make, model, year, type of body, identification number or numbers, and such other information as the Division may require.

(21) Metal Tire. — Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

(21a) Repealed by Session Laws 2016-90, s. 13(a), effective December 1, 2016, and applicable to offenses committed on or after that date.

(21b) Motor Carrier. — A for-hire motor carrier or a private motor carrier.

(22) Motorcycle. — A type of passenger vehicle as defined in G.S. 20-4.01(27).

(23) Motor Vehicle. — Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. Except as specifically provided otherwise, this term shall not include mopeds or electric assisted bicycles.

(23a) Neighborhood occupantless vehicle. — A low-speed vehicle that is also a fully autonomous vehicle, designed to be operated without an occupant and used to transport cargo. A fully autonomous vehicle is defined in G.S. 20-400.

(23b) Nonfunctional airbag. — A replacement airbag that meets any of the following criteria:

- a. The airbag was previously deployed or damaged.
- b. The airbag has an electric fault that is detected by the vehicle's airbag diagnostic systems when the installation procedure is completed and the vehicle is returned to the customer who requested the work to be performed or when ownership is intended to be transferred.
- c. The airbag includes a part or object, including a supplemental restraint system component that is installed in a motor vehicle to mislead the owner or operator of the motor vehicle into believing that a functional airbag has been installed.
- d. The airbag is subject to the prohibitions of 49 U.S.C. § 30120(j).

(24) Nonresident. — Any person whose legal residence is in some state, territory, or jurisdiction other than North Carolina or in a foreign country.

(24a) Offense Involving Impaired Driving. — Any of the following offenses:

- a. Impaired driving under G.S. 20-138.1.
- b. Any offense set forth under G.S. 20-141.4 when conviction is based upon impaired driving or a substantially similar offense under previous law.
- c. First or second degree murder under G.S. 14-17 or involuntary manslaughter under G.S. 14-18 when conviction is based upon impaired driving or a substantially similar offense under previous law.
- d. An offense committed in another jurisdiction which prohibits substantially similar conduct prohibited by the offenses in this subsection.
- e. A repealed or superseded offense substantially similar to impaired driving, including offenses under former G.S. 20-138 or G.S. 20-139.
- f. Impaired driving in a commercial motor vehicle under G.S. 20-138.2, except that convictions of impaired driving under G.S. 20-138.1 and G.S. 20-138.2 arising out of the same transaction shall be considered a single conviction of an offense involving impaired driving for any purpose under this Chapter.
- g. Habitual impaired driving under G.S. 20-138.5.

A conviction under former G.S. 20-140(c) is not an offense involving impaired driving.

(24b) On-track equipment. — Any railcar, rolling stock, equipment, vehicle, or other device that is operated on stationary rails.

(25) Operator. — A person in actual physical control of a vehicle which is in motion or which has the engine running. The terms “operator” and “driver” and their cognates are synonymous.

(25a) Out of Service Order. — A declaration that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service.

(26) Owner. — A person holding the legal title to a vehicle, or in the event a vehicle is the subject of a chattel mortgage or an agreement for the conditional sale or lease thereof or other like agreement, with the right of purchase upon performance of the conditions stated in the agreement, and with the immediate right of possession vested in the mortgagor, conditional vendee or lessee, said mortgagor, conditional vendee or lessee shall be deemed the owner for the purpose of this Chapter. For the purposes of this Chapter, the lessee of a vehicle owned by the government of the United States shall be considered the owner of said vehicle.

(27) Passenger Vehicles. —

- a. Ambulances. — Vehicles equipped for transporting wounded, injured, or sick persons.
- b. Autocycle. — A three-wheeled motorcycle that has a steering wheel, pedals, seat safety belts for each occupant, antilock brakes, completely or partially enclosed seating that does not require the operator to straddle or sit astride, and is otherwise manufactured to comply with federal safety requirements for motorcycles.
- c. Child care vehicles. — Vehicles under the direction and control of a child care facility, as defined in G.S. 110-86(3), and driven by an owner, employee, or agent of the child care facility for the primary purpose of transporting children to and from the child care facility, or to and from a place for participation in an event or activity in connection with the child care facility.
- d. Common carriers of passengers. — Vehicles operated under a certificate of authority issued by the Utilities Commission for operation on the highways of this State between fixed termini or over a regular route for the transportation of persons for compensation.
- e. Excursion passenger vehicles. — Vehicles transporting persons on sight-seeing or travel tours.
- f. For-hire passenger vehicles. — Vehicles transporting persons for compensation. This classification shall not include the following:
 - 1. Vehicles operated as ambulances.
 - 2. Vehicles operated by the owner where the costs of operation are shared by the passengers.
 - 3. Vehicles operated pursuant to a ridesharing arrangement as defined in G.S. 136-44.21.
 - 4. Vehicles transporting students for the public school system under contract with the State Board of Education.
 - 5. Vehicles leased to the United States of America or any of its agencies on a nonprofit basis.
 - 6. Vehicles used for human service.
 - 7. Vehicles used for volunteer transportation.
 - 8. Vehicles operated in a TNC service, excluding vehicles operated in connection with a brokering transportation network company, regulated under Article 10A of Chapter 20 of the General Statutes.
- g. Low-speed vehicle. — A four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but less than 25 miles per hour.

g1. Mini-truck. — A motor vehicle designed, used, or maintained primarily for the transportation of property and having four wheels, an engine displacement of 660cc or less, an overall length of 130 inches or less, an overall height of 78 inches or less, and an overall width of 60 inches or less.

g2. Modified utility vehicle. — A motor vehicle that (i) is manufactured or upfitted by a licensed manufacturer, dealer, or person or business otherwise engaged in vehicle manufacturing or modification for off-road use with equipment required by G.S. 20-121.1(2a), except a vehicle identification number, and (ii) has four wheels, an overall length of 110 inches or greater, an overall width of 58 inches or greater, an overall height of 60 inches or greater, a maximum speed capability of 40 miles per hour or greater, and does not require an operator or passenger to straddle a seat. “Modified utility vehicle” does not include an all-terrain vehicle, golf cart, or utility vehicle, as defined in this section, or a riding lawn mower.

h. Motorcycles. — Vehicles having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including autocycles, motor scooters, and motor-driven bicycles, but excluding tractors and utility vehicles equipped with an additional form of device designed to transport property, three-wheeled vehicles while being used by law-enforcement agencies, electric assisted bicycles, and mopeds as defined in sub-subdivision d1. of this subdivision.

i. Motor-driven bicycle. — A vehicle with two or three wheels, a steering handle, one or two saddle seats, pedals, and a motor that cannot propel the vehicle at a speed greater than 20 miles per hour on a level surface. This term shall not include an electric assisted bicycle as defined in subdivision (7a) of this section.

j. Moped. — A vehicle, other than a motor-driven bicycle or electric assisted bicycle, that has two or three wheels, no external shifting device, a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 30 miles per hour on a level surface. The motor may be powered by electricity, alternative fuel, motor fuel, or a combination of each.

k. Motor home or house car. — A vehicular unit, designed to provide temporary living quarters, built into as an integral part, or permanently attached to, a self-propelled motor vehicle chassis or van. The vehicle must provide at least four of the following facilities: cooking, refrigeration or icebox, self-contained toilet, heating or air conditioning, a portable water supply system including a faucet and sink, separate 110-125 volt electrical power supply, or an LP gas supply.

l. Private passenger vehicles. — All other passenger vehicles not included in the above definitions.

m. School activity bus. — A vehicle, generally painted a different color from a school bus, whose primary purpose is to transport school students and others to or from a place for participation in an event other than regular classroom work. The term includes a public, private, or parochial vehicle that meets this description.

n. School bus. — A vehicle whose primary purpose is to transport school students over an established route to and from school for the regularly scheduled school day, that is equipped with alternately flashing red lights on the front and rear and a mechanical stop signal, that is painted primarily yellow below the roofline, and that bears the plainly visible words “School Bus” on the front and rear. The term includes a public, private, or parochial vehicle that meets this description.

o. U-drive-it passenger vehicles. — Passenger vehicles included in the definition of U-drive-it vehicles set forth in this section.

(28) Person. — Every individual, firm, partnership, association, corporation, governmental agency, or combination thereof of whatsoever form or character.

(28a) Personal delivery device. — An electrically powered device intended for transporting cargo that is equipped with automated driving technology that enables device operation with or without the remote

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support and supervision of a human and that does not exceed (i) a weight of 500 pounds, excluding cargo, (ii) a length of 40 inches, and (iii) a width of 30 inches.

(28b) Plug-in electric vehicle. — A four-wheeled motor vehicle that does not have the ability to be propelled by a gasoline engine and that meets each of the following requirements:

- a. Is made by a manufacturer primarily for use on public streets, roads, and highways and meets National Highway Traffic Safety Administration standards included in 49 C.F.R. § 571.
- b. Has not been modified from original manufacturer specifications with regard to power train or any manner of powering the vehicle.
- c. Is rated at not more than 8,500 pounds unloaded gross vehicle weight.
- d. Has a maximum speed capability of at least 65 miles per hour.
- e. Draws electricity from a battery that has all of the following characteristics:
 - 1. A capacity of not less than four kilowatt hours.
 - 2. Capable of being recharged from an external source of electricity.

(29) Pneumatic Tire. — Every tire in which compressed air is designed to support the load.

(29a) Private Motor Carrier. — A person who transports passengers or property by motor vehicle in interstate commerce and is not a for-hire motor carrier.

(30) Private Road or Driveway. — Every road or driveway not open to the use of the public as a matter of right for the purpose of vehicular traffic.

(31) Property-Hauling Vehicles. —

- a. Vehicles used for the transportation of property.
- b., c. Repealed by Session Laws 1995 (Regular Session, 1996), c. 756, s. 4.
- d. Semitrailers. — Vehicles without motive power designed for carrying property or persons and for being drawn by a motor vehicle, and so constructed that part of their weight or their load rests upon or is carried by the pulling vehicle.
- e. Trailers. — Vehicles without motive power designed for carrying property or persons wholly on their own structure and to be drawn by a motor vehicle, including “pole trailers” or a pair of wheels used primarily to balance a load rather than for purposes of transportation.
- f. Repealed by Session Laws 1995 (Regular Session, 1996), c. 756, s. 4.
- g. A fifth-wheel trailer, recreational vehicle, semitrailer, or trailer used exclusively or primarily to transport vehicles in connection with motorsports competition events is not a property-hauling vehicle.

(31a) Provisional Licensee. — A person under the age of 18 years.

(32) Public Vehicular Area. — Any area within the State of North Carolina that meets one or more of the following requirements:

- a. The area is used by the public for vehicular traffic at any time, including by way of illustration and not limitation any drive, driveway, road, roadway, street, alley, or parking lot upon the grounds and premises of any of the following:
 - 1. Any public or private hospital, college, university, school, orphanage, church, or any of the institutions, parks or other facilities maintained and supported by the State of North Carolina or any of its subdivisions.

2. Any service station, drive-in theater, supermarket, store, restaurant, or office building, or any other business, residential, or municipal establishment providing parking space whether the business or establishment is open or closed.

3. Any property owned by the United States and subject to the jurisdiction of the State of North Carolina. (The inclusion of property owned by the United States in this definition shall not limit assimilation of North Carolina law when applicable under the provisions of Title 18, United States Code, section 13).

b. The area is a beach area used by the public for vehicular traffic.

c. The area is a road used by vehicular traffic within or leading to a gated or non-gated subdivision or community, whether or not the subdivision or community roads have been offered for dedication to the public.

d. The area is a portion of private property used by vehicular traffic and designated by the private property owner as a public vehicular area in accordance with G.S. 20-219.4.

(32a) Ramp Meter. — A traffic control device that consists of a circular red and circular green display placed at a point along an interchange entrance ramp.

(32b) Recreational Vehicle. — A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motive power or is mounted on, or towed by, another vehicle. The basic entities are camping trailer, fifth-wheel travel trailer, motor home, travel trailer, and truck camper. This term shall not include a manufactured home as defined in G.S. 143-143.9(6). The basic entities are defined as follows:

a. Camping trailer. — A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

b. Fifth-wheel trailer. — A vehicular unit mounted on wheels designed to provide temporary living quarters for recreational, camping, or travel use, of a size and weight that does not require a special highway movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

c. Motor home. — As defined in G.S. 20-4.01(27)k.

d. Travel trailer. — A vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of a size or weight that does not require a special highway movement permit when towed by a motorized vehicle.

e. Truck camper. — A portable unit that is constructed to provide temporary living quarters for recreational, camping, or travel use, consisting of a roof, floor, and sides and is designed to be loaded onto and unloaded from the bed of a pickup truck.

(32c) Regular Drivers License. — A license to drive a commercial motor vehicle that is exempt from the commercial drivers license requirements or a noncommercial motor vehicle.

(33)

a. Flood Vehicle. — A motor vehicle that has been submerged or partially submerged in water to the extent that damage to the body, engine, transmission, or differential has occurred.

b. Non-U.S.A. Vehicle. — A motor vehicle manufactured outside of the United States and not intended by the manufacturer for sale in the United States.

c. Reconstructed Vehicle. — A motor vehicle of a type required to be registered hereunder that has been materially altered from original construction due to removal, addition or substitution of new or used essential parts; and includes glider kits and custom assembled vehicles.

d. Salvage Motor Vehicle. — Any motor vehicle damaged by collision or other occurrence to the extent that the cost of repairs to the vehicle and rendering the vehicle safe for use on the public streets and highways would exceed seventy-five percent (75%) of its fair retail market value, whether or not the motor vehicle has been declared a total loss by an insurer. Repairs shall include the cost of parts and labor. Fair market retail values shall be as found in the NADA Pricing Guide Book or other publications approved by the Commissioner.

e. Salvage Rebuilt Vehicle. — A salvage vehicle that has been rebuilt for title and registration.

f. Junk Vehicle. — A motor vehicle which is incapable of operation or use upon the highways and has no resale value except as a source of parts or scrap, and shall not be titled or registered.

(33a) Relevant Time after the Driving. — Any time after the driving in which the driver still has in his body alcohol consumed before or during the driving.

(33b) Reportable Crash. — A crash involving a motor vehicle that results in one or more of the following:

a. Death or injury of a human being.

b. Total property damage of one thousand dollars (\$1,000) or more, or property damage of any amount to a vehicle seized pursuant to G. S. 20-28.3.

(33c) Reserve components of the Armed Forces of the United States. — The organizations listed in Title 10 United States Code, section 10101, which specifically includes the Army and Air National Guard.

(34) Resident. — Any person who resides within this State for other than a temporary or transitory purpose for more than six months shall be presumed to be a resident of this State; but absence from the State for more than six months shall raise no presumption that the person is not a resident of this State.

(35) Residential District. — The territory prescribed as such by ordinance of the Department of Transportation.

(36) Revocation or Suspension. — Termination of a licensee's or permittee's privilege to drive or termination of the registration of a vehicle for a period of time stated in an order of revocation or suspension. The terms "revocation" or "suspension" or a combination of both terms shall be used synonymously.

(37) Road Tractors. — Vehicles designed and used for drawing other vehicles upon the highway and not so constructed as to carry any part of the load, either independently or as a part of the weight of the vehicle so drawn.

(38) Roadway. — That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. In the event a highway includes two or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

(39) Safety Zone. — Traffic island or other space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

(40) Security Agreement. — Written agreement which reserves or creates a security interest.

(41) Security Interest. — An interest in a vehicle reserved or created by agreement and which secures payments or performance of an obligation. The term includes but is not limited to the interest of a chattel mortgagee, the interest of a vendor under a conditional sales contract, the interest of a trustee under a chattel deed of trust, and the interest of a lessor under a lease intended as security. A security interest is "perfected" when it is valid against third parties generally.

(41a) Serious Traffic Violation. — A conviction of one of the following offenses when operating a commercial or other motor vehicle:

- a. Excessive speeding, involving a single charge of any speed 15 miles per hour or more above the posted speed limit.
- b. Careless and reckless driving.
- c. A violation of any State or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident.
- d. Improper or erratic lane changes.
- e. Following the vehicle ahead too closely.
- f. Driving a commercial motor vehicle without obtaining a commercial drivers license.
- g. Driving a commercial motor vehicle without a commercial drivers license in the driver's possession.
- h. Driving a commercial motor vehicle without the proper class of commercial drivers license or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported.
- i. Unlawful use of a mobile telephone under G.S. 20-137.4A or Part 390 or Part 392 of Title 49 of the Code of Federal Regulations while operating a commercial motor vehicle.

(42) Solid Tire. — Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(43) Specially Constructed Vehicles. — Motor vehicles required to be registered under this Chapter and that fit within one of the following categories:

- a. **Replica vehicle.** — A vehicle, excluding motorcycles, that when assembled replicates an earlier year, make, and model vehicle.
- b. **Street rod vehicle.** — A vehicle, excluding motorcycles, manufactured prior to 1949 that has been materially altered or has a body constructed from nonoriginal materials.
- c. **Custom-built vehicle.** — A vehicle, including motorcycles, reconstructed or assembled by a nonmanufacturer from new or used parts that has an exterior that does not replicate or resemble any other manufactured vehicle. This category also includes any motorcycle that was originally sold unassembled and manufactured from a kit or that has been materially altered or that has a body constructed from nonoriginal materials.

(44) Special Mobile Equipment. — Defined in G.S. 105-164.3.

(44a) Specialty Vehicles. — Vehicles of a type required to be registered under this Chapter that are modified from their original construction for an educational, emergency services, or public safety use.

(45) State. — A state, territory, or possession of the United States, District of Columbia, Commonwealth of Puerto Rico, a province of Canada, or the Sovereign Nation of the Eastern Band of the Cherokee Indians with tribal lands, as defined in 18 U.S.C. § 1151, located within the boundaries of the State of North Carolina. For provisions in this Chapter that apply to commercial drivers licenses, "state" means a state of the United States and the District of Columbia.

(46) Street. — A highway, as defined in subdivision (13). The terms "highway" and "street" and their cognates are synonymous.

(46a) Supplemental restraint system. — A passive inflatable motor vehicle occupant crash protection system designed for use in conjunction with a seat belt assembly as defined in 49 C.F.R. § 571.209, and includes one or more airbags and all components required to ensure that an airbag works as designed by the vehicle manufacturer, including both of the following:

- a. The airbag operates as designed in the event of a crash.
- b. The airbag is designed in accordance with federal motor vehicle safety standards for the specific make, model, and year of the motor vehicle in which it is or will be installed.

(47) Suspension. — Termination of a licensee's or permittee's privilege to drive or termination of the registration of a vehicle for a period of time stated in an order of revocation or suspension. The terms "revocation" or "suspension" or a combination of both terms shall be used synonymously.

(48) Truck Tractors. — Vehicles designed and used primarily for drawing other vehicles and not so constructed as to carry any load independent of the vehicle so drawn.

(48a) (Effective until December 31, 2024) U-drive-it vehicles. — The following vehicles that are either rented to a person, to be operated by that person, or loaned by a franchised motor vehicle dealer, with or without charge, to a customer of that dealer who is having a vehicle serviced or repaired by the dealer:

- a. A private passenger vehicle other than the following:
 - 1. A private passenger vehicle of nine-passenger capacity or less that is rented for a term of one year or more.
 - 2. A private passenger vehicle that is rented to public school authorities for driver-training instruction.
- b. A property-hauling vehicle under 7,000 pounds that does not haul products for hire and that is rented for a term of less than one year.
- c. Motorcycles.

(48a) (Effective December 31, 2024) U-drive-it vehicles. — The following vehicles that are rented to a person, to be operated by that person:

- a. A private passenger vehicle other than the following:
 - 1. A private passenger vehicle of nine-passenger capacity or less that is rented for a term of one year or more.
 - 2. A private passenger vehicle that is rented to public school authorities for driver-training instruction.
- b. A property-hauling vehicle under 7,000 pounds that does not haul products for hire and that is rented for a term of less than one year.
- c. Motorcycles.

(48b) Under the Influence of an Impairing Substance. — The state of a person having his physical or mental faculties, or both, appreciably impaired by an impairing substance.

(48c) Utility Vehicle. — A motor vehicle that is (i) designed for off-road use and (ii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include an all-terrain vehicle or golf cart, as defined in this section, or a riding lawn mower.

(49) Vehicle. — Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided, that for the purposes of this Chapter bicycles and electric assisted bicycles shall be deemed vehicles and every rider of a bicycle or an electric assisted bicycle upon a highway shall be subject to the provisions of this Chapter applicable to the driver of a vehicle except those which by their nature can have no application. This term shall not include a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including on sidewalks, and is limited by design to 15 miles per hour when the device is being operated by a person with a mobility impairment, or who uses the device for mobility enhancement. This term shall not

include (i) an electric personal assistive mobility device as defined in subdivision (7b) of this section or (ii) a personal delivery device as defined by this section. Unless the context requires otherwise, and except as provided under G.S. 20-109.2, 47-20.6, or 47-20.7, a manufactured home shall be deemed a vehicle.

(50) Wreckers. — Vehicles with permanently attached cranes used to move other vehicles; provided, that said wreckers shall be equipped with adequate brakes for units being towed.

History

1973, c. 1330, s. 1; 1975, cc. 94, 208; c. 716, s. 5; c. 743; c. 859, s. 1; 1977, c. 313; c. 464, s. 34; 1979, c. 39; c. 423, s. 1; c. 574, ss. 1-4; c. 667, s. 1; c. 680; 1981, c. 606, s. 3; c. 792, s. 2; 1983, c. 435, s. 8; 1983 (Reg. Sess., 1984), c. 1101, ss. 1-3; 1985, c. 509, s. 6; 1987, c. 607, s. 2; c. 658, s. 1; 1987 (Reg. Sess., 1988), c. 1069; c. 1105, s. 1; c. 1112, ss. 1-3; 1989, c. 455, ss. 1, 2; c. 727, s. 219(1); c. 771, ss. 1, 18; 1991, c. 449, s. 2; c. 726, ss. 1-4; 1991 (Reg. Sess., 1992), c. 1015, s. 1; 1993 (Reg. Sess., 1994), c. 761, s. 22; 1995, c. 191, s. 1; 1995 (Reg. Sess., 1996), c. 756, ss. 2-4; 1997-379, s. 5.1; 1997-443, s. 11A.8; 1997-456, s. 27; 1998-149, s. 1; 1998-182, ss. 1, 1.1, 26; 1998-217, s. 62(e); 1999-330, s. 9; 1999-337, s. 28(c)-(e); 1999-406, s. 14; 1999-452, ss. 1-5; 2000-155, s. 9; 2000-173, s. 10(c); 2001-212, s. 2; 2001-341, ss. 1, 2; 2001-356, ss. 1, 2; 2001-441, s. 1; 2001-487, ss. 50(a), 51; 2002-72, s. 19(b); 2002-98, ss. 1-3; 2003-397, s. 1; 2005-282, s. 1; 2005-349, ss. 1-3; 2006-253, s. 8; 2007-56, s. 4; 2007-382, ss. 2, 3; 2007-455, s. 1; 2007-493, s. 1; 2008-156, s. 1; 2009-274, s. 1; 2009-405, ss. 1, 4; 2009-416, ss. 1, 2; 2010-129, s. 1; 2011-95, s. 1; 2011-206, s. 1; 2013-410, s. 47.5; 2014-58, s. 10(a), (c), (d); 2014-115, s. 28.3; 2015-125, s. 1; 2015-163, s. 1; 2015-232, s. 1.1(a); 2015-237, s. 2; 2016-59, s. 1; 2016-90, ss. 12.5(a), 13(a); 2016-94, s. 35.20(a); 2017-69, s. 2.1(a); 2017-102, s. 5.2(a), (b); 2018-27, s. 4.5(b); 2018-42, s. 3(b); 2019-34, s. 1; 2019-36, s. 1; 2019-155, s. 1; 2019-227, s. 1(a), (b); 2020-40, s. 1; 2020-51, s. 1(b); 2020-73, s. 1; 2021-33, s. 1; 2021-179, s. 1; 2023-63, s. 3.

Annotations

Notes

Subdivision (48a) Set Out Twice.

The first version of subdivision (48a) set out above is effective until December 31, 2024. The second version of subdivision (48a) set out above is effective December 31, 2024.

Editor's Note.

Subdivisions (0.1), (0.2) and (1) were redesignated as subdivisions (1a), (1b) and (1c) and the subunits of subdivision (33) were renumbered pursuant to Session Laws 1997-456, s. 27 which authorized the Revisor of Statutes to renumber or reletter sections and parts of sections having a number or letter designation that is incompatible with the General Assembly's computer database.

Subdivisions (48a) and (48b) were designated as such under the direction of the Revisor of Statutes.

Sections 20-138, 20-139, and 20-140(c), referred to in this section, were repealed by Session Laws 1983, c. 435, s. 23.

Session Laws 1999-406, s. 18, states that this act does not obligate the General Assembly to appropriate additional funds, and that this act shall be implemented with funds available or appropriated to the Department of Transportation and the Administrative Office of the Courts.

N.C. Gen. Stat. § 20-4.01

Subdivisions (5a), defining “Dedicated natural gas vehicle” and (12a), defining “Fuel cell electric vehicle” were originally enacted by Session Laws 2011-206, s. 1, as subdivisions (28b) and (28c), respectively. At the direction of the Revisor of Statutes, they were redesignated to maintain alphabetical order, and former subdivisions (5a) and (12)(a) through (12)(f) were redesignated accordingly.

Session Laws 2015-232, s. 1.1(b), as amended by Session Laws 2018-27, s. 4.5(b) and 2018-42, s. 3(b), and by Session Laws 2020-51, s. 1(b), made the amendments to subdivision (48a) by Session Laws 2015-232, s. 1.1(a), effective August 25, 2015, and expire December 31, 2024.

The bracketed words “[The basic entities are defined as follows:]” were added at the end of the first paragraph of subdivision (32b) at the direction of the Revisor of Statutes. The omission was subsequently corrected in amendment by Session Laws 2017-102, s. 5.2(a).

Session Laws 2017-102, s. 5.2(b) provides: “The Revisor of Statutes is authorized to reletter the definitions in G.S. 20-4.01(27) and G.S. 20-4.01(32b) to place them in alphabetical order. The Revisor of Statutes may conform any citations that change as a result of the relettering.” Pursuant to that authority, sub-subdivisions (27)a. through h. and (32b)a. through e. were reordered to maintain alphabetical order. The reference in subdivision (32b)c. was conformed.

Session Laws 2018-27, s. 5, is a severability clause.

Session Laws 2019-36, s. 6, made subdivision (24b), as added by Session Laws 2019-36, s. 1, effective December 1, 2019, and applicable to offenses committed on or after that date.

Session Laws 2019-155, s. 4, makes the amendments to this section by Session Laws 2019-155, s. 1, effective October 1, 2019, and applicable to offenses committed on or after that date.

Session Laws 2020-73, s. 7, made the enactment of subdivision (28a), the renumbering of former subdivision (28a) as subdivision (28b), and the amendment of subdivision (49) by Session Laws 2020-73, s. 1, effective December 1, 2020, and applicable to offenses committed on or after that date.

Session Laws 2023-86, s. 2(b), made subdivision (49a) of this section, as added by Session Laws 2023-86, s. 2(a), effective July 10, and applicable to wood residual (i) transported, (ii) stored, or (iii) otherwise interacted with on or after that date.

Session Laws 2023-63, s. 18(a), is a severability clause.

Effect of Amendments.

Session Laws 2003-397, s. 1, effective January 1, 2005, added subdivisions (41a)f. through h.

Session Laws 2006-253, s. 8, effective December 1, 2006, and applicable to offenses committed on or after December 1, 2006, rewrote subdivisions (32) and (45).

Session Laws 2007-56, s. 4, effective May 23, 2007, and applicable to drivers licenses issued or renewed on or after that date, substituted “fraud, or to which G.S. 20-15(a)(3) applies,” for “fraud” in subdivision (2).

Session Laws 2007-382, s. 2, in the first sentence of subdivision (27)d4, inserted “plainly visible” before “words” and deleted “in letters at least 8 inches in height” following “front and rear” at the end of the sentence. For effective date and applicability, see Editor’s note.

Session Laws 2007-382, s. 3, in the first sentence of subdivision (27)d4, inserted “that is painted primarily yellow below the roofline.” For effective date and applicability, see Editor’s note.

Session Laws 2007-455, s. 1, effective December 1, 2007, inserted “gated or non-gated” and inserted “or community” twice in subdivision (32)c.

N.C. Gen. Stat. § 20-4.01

Session Laws 2007-493, s. 1, effective August 30, 2007, substituted “Any offense set forth” for “Death by vehicle” in subdivision (24a)b. For applicability provisions, see Editor’s note.

Session Laws 2008-156, s. 1, effective August 3, 2008, rewrote subdivision (12c); and added the last sentence in subdivision (45).

Session Laws 2009-274, s. 1, effective July 10, 2009, and applicable to all licenses expiring on or after that date, added subdivision (33c).

Session Laws 2009-405, ss. 1 and 4, effective October 1, 2009, added subdivision (15a) and rewrote subdivision (43).

Session Laws 2009-416, ss. 1, 2, effective March 31, 2010 and applicable to offenses committed on or after that date, added subdivision (4a)b 6 and added the language following “commercial motor vehicle” in subsection (7b).

Session Laws 2010-129, s. 1, effective July 21, 2010, added subdivisions (12c) through (12e); and redesignated former subdivision (12c) as subdivision (12f), therein twice deleting “(1 October 2007 Edition)” following “Code of Federal Regulations.”

Session Laws 2011-95, s. 1, effective May 26, 2011, added subdivision (28a).

Session Laws 2011-206, s. 1, effective June 23, 2011, added subdivisions (28b) and (28c).

Session Laws 2013-410, s. 47.5, effective August 23, 2013, rewrote subdivisions (1c) and (48c), which formerly read “All-Terrain Vehicle or ATV. — A motorized off-highway vehicle designed to travel on three or four low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control” and “Utility Vehicle. — Vehicle designed and manufactured for general maintenance, security, recreational, and landscaping purposes, but does not include vehicles designed and used primarily for the transportation of persons or property on a street or highway” respectively.

Session Laws 2014-58, s. 10(a), (c), and (d), effective December 1, 2014, inserted subdivision (32a), and redesignated former subdivisions (32a) and (32b) as present subdivisions (32b) and (32c). See Editor’s note for applicability.

Session Laws 2014-115, s. 28.3, effective August 11, 2014, added subdivision (41a)i.

Session Laws 2015-125, s. 1, effective July 1, 2016, substituted “Except as specifically provided otherwise, this term” for “This” in the second sentence of subdivision (23). For applicability, see editor’s note.

Session Laws 2015-163, s. 1, effective October 1, 2015, added subdivision (27)a; renumbered former subdivision (27)a as subdivision (27)a1; and inserted “autocycles” in subdivision (27)d. For applicability, see editor’s note.

Session Laws 2015-232, s. 1.1(a), as amended by Session Laws 2018-27, s. 4.5(b), Session Laws 2018-42, s. 3(b), and Session Laws 2020-51, s. 1(b), inserted “or loaned by a franchised motor vehicle dealer, with or without charge, to a customer of that dealer who is having a vehicle serviced or repaired by the dealer” at the end of the first paragraph of subdivision (48a). For effective date and expiration, see editor’s note.

Session Laws 2015-237, s. 2, effective October 1, 2015, in subdivision (27)b, added the subdivision (27)b.1 through 7 designations, added subdivision (27)b.8, and made minor stylistic changes.

Session Laws 2016-59, s. 1, effective July 1, 2017, added the second sentence in subdivision (14); added subdivision (18a); added the third sentence in subdivision (32b); and added the last sentence in subdivision (49).

Session Laws 2016-90, s. 12.5(a), effective July 11, 2016, in subdivision (27)a., substituted “antilock brakes, completely or partially enclosed seating” for “antilock brakes, air bag protection, completely enclosed seating.”

Session Laws 2016-90, s. 13(a), effective December 1, 2016, added subdivision (7a) and renumbered former subdivisions (7a) and (7b) as subdivisions (7b) and (7c) accordingly; deleted former subdivision (21a) pertaining to mopeds; in subdivision (23), substituted “mopeds or electric assisted bicycles” for “mopeds as defined in G.S. 20-4.01(27)d1”; added subdivision (27)c2.; in subdivision (27)d., substituted “agencies, electric assisted bicycles” for “agencies,” “sub-subdivision d1” for “subdivision d1,” and “subdivision” for “subsection”; rewrote subdivision (27)d1, and, in subdivision (49), substituted “bicycles and electric assisted bicycles shall be deemed vehicles and every rider of a bicycle or an electric assisted bicycle” for “bicycles shall be deemed vehicles and every rider of a bicycle” in the first sentence proviso, and substituted “subdivision (7b) of this section” for “G.S. 20-4.01(7a)” at the end of the last sentence. See editor’s note for applicability.

Session Laws 2016-94, s. 35.20(a), effective July 1, 2016, substituted “G.S. 20-15(a)” for “G.S. 20-15(a)(3)” near the end of subdivision (2). See editor’s note for applicability.

Session Laws 2017-69, s. 2.1(a), effective June 28, 2017, added subdivision (12h).

Session Laws 2017-102, s. 5.2(a), effective July 12, 2017, added “The basic entities are defined as follows” at the end of the introductory paragraph in subdivision (32b).

Session Laws 2019-34, s. 1, effective June 21, 2019, added subsection (27)g1.

Session Laws 2019-36, s. 1, added subdivision (24b). For effective date and applicability, see editor’s note.

Session Laws 2019-155, s. 1, effective October 1, 2019, added subdivisions (1), (4b), (23a) and (46a); and designated former subdivision (4b) as (4c). For effective date and applicability, see editor’s note.

Session Laws 2019-34, s. 1(a) and (b), effective September 27, 2019, inserted ‘does not have the ability to be propelled by a gasoline engine and that’ in the introductory paragraph of subdivisions (12a) and (28a).

Session Laws 2020-40, s. 1, effective October 1, 2020, added sub-subdivision (27)g2.

Session Laws 2020-73, s. 1, added subdivision (28a); renumbered former subdivision (28a) as subdivision (28b); and, in subdivision (49), added clause (ii) and made related stylistic changes. For effective date and applicability, see editor’s note.

Session Laws 2021-33, s. 1, effective October 1, 2021, in subdivision (27)g2, inserted “or upfitted by a licensed manufacturer, dealer, or person or business otherwise engaged in vehicle manufacturing or modification”, substituted “G.S. 20-121.1(2a)” for “G.S. 20-121.1(2)”, deleted “an engine displacement greater than 2,400 cubic centimeters,” following “has four wheels”, substituted “110” for “142” and “60” for “70”.

Session Laws 2021-179, s. 1, effective December 1, 2021, added subsection (23a) and redesignated former subsection (23a) as (23b).

Session Laws 2023-86, s. 2(a), added subdivision (49a). For effective date and applicability, see editor’s note.

Session Laws 2023-63, s. 3, effective June 27, 2023, added sub-subdivision (31)g.

CASE NOTES

I. In General

II. Types of Vehicles

III. Highways

IV. Involving Alcohol

I. In General

Constitutionality. —

For case reaffirming the constitutionality of G.S. 20-138.1(a)(2) and subdivision (33a) of this section, see *State v. Denning*, 316 N.C. 523, 342 S.E.2d 855, 1986 N.C. LEXIS 2153 (1986).

In construing a homeowners association's declaration of covenants, conditions and restrictions (CC&Rs), property owners' reliance on G.S. 20-4.01(32a) and (27)d2, and G.S. 20-354.2

(defining travel trailer, camping trailer, motor vehicle, and motor home or house car) was misplaced; the statutes were enacted between six and sixteen years after the association's CC&Rs (referring to campers and all similar property) were drafted and recorded. The statutory provisions were not material to the issue of the drafters' intent in 1985 when the CC&Rs were drafted and recorded. *Schwartz v. Banbury Woods Homeowners Ass'n*, 196 N.C. App. 584, 675 S.E.2d 382, 2009 N.C. App. LEXIS 528 (2009).

Business District. —

As to what constituted a business district within the meaning of subdivision (1) of former G.S. 20-38, see *Mitchell v. Melts*, 220 N.C. 793, 18 S.E.2d 406, 1942 N.C. LEXIS 549 (1942); *Hinson v. Dawson*, 241 N.C. 714, 86 S.E.2d 585, 1955 N.C. LEXIS 453 (1955); *Black v. Penland*, 255 N.C. 691, 122 S.E.2d 504, 1961 N.C. LEXIS 659 (1961).

Driver. —

Although distinctions may have been made between driving and operating in prior case law and prior statutes regulating motor vehicles, such a distinction is not supportable under G.S. 20-138.1. Since "driver" is defined in this section simply as an "operator" of a vehicle, the legislature intended the two words to be synonymous. *State v. Coker*, 312 N.C. 432, 323 S.E.2d 343, 1984 N.C. LEXIS 1818 (1984).

Although a distinction may have been made between driving and operating in prior case law and statutes regulating vehicles, no such distinction is supportable under this section since a "driver" is defined as an "operator." It is clear that the legislature intended the two words to be synonymous. *State v. Dellinger*, 73 N.C. App. 685, 327 S.E.2d 609, 1985 N.C. App. LEXIS 3396 (1985).

Impairing Substance. —

State of North Carolina presented sufficient evidence to prove the elements of driving while under the influence of an impairing substance as defendant collided with the rear end of another vehicle in a restaurant drive-thru, officers noted signs of impairment, defendant admitted to having earlier consumed alprazolam, an officer testified that defendant indicated impairment in a HGN test, and another officer who performed a drug recognition evaluation testified that defendant was impaired by a central nervous system depressant. *State v. Fincher*, 259 N.C. App. 159, 814 S.E.2d 606, 2018 N.C. App. LEXIS 349 (2018).

Operator

includes a person in the driver's seat of a motor vehicle when the engine is running. *State v. Carter*, 15 N.C. App. 391, 190 S.E.2d 241, 1972 N.C. App. LEXIS 1924 (1972).

In a prosecution for driving under the influence and driving while license was revoked, evidence that defendant was seated behind the wheel of a car which had the motor running was sufficient to prove that defendant was the operator of the car under subdivision (25). *State v. Turner*, 29 N.C. App. 163, 223 S.E.2d 530, 1976 N.C. App. LEXIS 2402 (1976).

Although distinctions may have been made between driving and operating in prior case law and prior statutes regulating motor vehicles, such a distinction is not supportable under G.S. 20-138.1. Since “driver” is defined in this section simply as an “operator” of a vehicle, the legislature intended the two words to be synonymous. *State v. Coker*, 312 N.C. 432, 323 S.E.2d 343, 1984 N.C. LEXIS 1818 (1984).

A horseback rider is an “operator” who is in “control of a vehicle which is in motion” where the horse is ridden upon a street, highway or public vehicular area. *State v. Dellinger*, 73 N.C. App. 685, 327 S.E.2d 609, 1985 N.C. App. LEXIS 3396 (1985).

Evidence held sufficient for a reasonable jury to infer that defendant, who was found asleep in driver's seat in car which had run off the road and into a fence, was under the influence of an impairing substance when he drove the vehicle. *State v. Mack*, 81 N.C. App. 578, 345 S.E.2d 223, 1986 N.C. App. LEXIS 2332 (1986).

Owner. —

This section defines “owner” and former G.S. 20-279.1 defined “owner” in essentially the same way. *Nationwide Mut. Ins. Co. v. Hayes*, 276 N.C. 620, 174 S.E.2d 511, 1970 N.C. LEXIS 734 (1970).

A defendant who advanced money for the purchase of a used car as security took a title-retaining contract on the vehicle and permitted its delivery to the purchasers, one of whom was operating it when an accident occurred, could not be liable to the persons injured, since a conditional vendee, lessee, or mortgagor of a motor vehicle is deemed to be the owner, and liability on the part of the defendant could arise only by application of the doctrine of respondeat superior. Such facts do not show the necessary relationship. *High Point Sav. & Trust Co. v. King*, 253 N.C. 571, 117 S.E.2d 421, 1960 N.C. LEXIS 684 (1960).

Where the owner of trucks leased them to another corporation under an agreement requiring lessor to carry insurance and maintain the vehicles and giving lessee control over the operation of the trucks with right to use same exclusively for the transportation and delivery of lessee's goods, the lessor was not a contract carrier within the meaning of the statutes as they stood in 1949, since the lessor merely leased its vehicles and was not a carrier of any kind, and lessee was solely a private carrier, and therefore lessor was not liable for additional assessment at the “for-hire” rates under the statute. *Equipment Fin. Corp. v. Scheidt*, 249 N.C. 334, 106 S.E.2d 555, 1959 N.C. LEXIS 354 (1959).

Where the vendee paid the entire purchase price, had exclusive possession and use of the vehicle, obtained the insurance coverage for it, and paid the premium therefor, this sufficed to give him a clear equitable interest in the vehicle, and that equitable interest sufficed, under the particular facts and circumstances, to make him the “owner” of the vehicle within the coverage intent of the policy, interpreted in light of the purpose and intent of Article 9A, the Motor Vehicle Safety and Financial Responsibility Act of 1953. *Ohio Cas. Ins. Co. v. Anderson*, 59 N.C. App. 621, 298 S.E.2d 56, 1982 N.C. App. LEXIS 3206 (1982), cert. denied, 307 N.C. 698, 301 S.E.2d 101, 1983 N.C. LEXIS 1233 (1983).

Except under special circumstances not present in this case, the statute limits the definition of the word “owner” to the person holding legal title. *Jenkins v. Aetna Cas. & Sur. Co.*, 324 N.C. 394, 378 S.E.2d 773, 1989 N.C. LEXIS 254 (1989).

Where evidence established that buyer paid four hundred dollars (\$400.00) cash as the total price for a car and took immediate possession of the vehicle, but never received the certificate of title, buyer was not the “owner” of the car as that term is defined in G.S. 20-4.01(26); therefore, provision in insurance policy excluding coverage for liability arising from the use of a vehicle “owned” by buyer did not apply. *Jenkins v. Aetna Cas. & Sur. Co.*, 324 N.C. 394, 378 S.E.2d 773, 1989 N.C. LEXIS 254 (1989).

Although a vehicle's owner gave the vehicle to her son, she never transferred title, and thus at the time of a later accident the owner remained the legal owner of the vehicle; a trial court erred in holding that the owner's insurance policy terminated when the son's policy was issued on the same car because the automatic termination clause in the owner's policy's only applied if the owner obtained other insurance, and since the owner's policy and the son's

policy were procured by different persons, the owner's policy did not automatically terminate. *Progressive Am. Ins. Co. v. State Farm Mut. Auto. Ins. Co.*, 184 N.C. App. 688, 647 S.E.2d 111, 2007 N.C. App. LEXIS 1625 (2007).

Under G.S. 25-2-509(3), a buyer bore the risk of loss of a mobile home that was destroyed by fire for G.S. 20-4.01(26) purposes as: (1) *Nationwide Mutual Insurance Co. v. Hayes*, 174 S.E.2d 511 (N.C. 1970), did not apply to the breach of contract case; (2) the risk of loss passed to the buyer on the buyer's receipt of the mobile home; and (3) when the sales agreement was executed, the buyer accepted the mobile home and the seller made tender of delivery due to an as is, where is clause in the agreement. *Singletary v. P & A Invs., Inc.*, 212 N.C. App. 469, 712 S.E.2d 681, 2011 N.C. App. LEXIS 1055 (2011).

In a case in which defendant was convicted of felony conversion, the trial court erred by denying defendant's motion to dismiss as the State did not produce sufficient evidence that the alleged victim owned the vehicle because the alleged victim never received title to the vehicle; without title to the vehicle, the alleged victim did not meet the definition of owner; a lien encumbered the vehicle that the alleged victim could not remove; and ownership was essential to establishing the elements of felony conversion. *State v. Falana*, 254 N.C. App. 329, 802 S.E.2d 582, 2017 N.C. App. LEXIS 492 (2017).

For purposes of tort law and liability insurance coverage, no ownership passes

to the purchaser of a motor vehicle which requires registration until: (1) The owner executes, in the presence of a person authorized to administer oaths, an assignment and warranty of title on the reverse of the certificate of title, including the name and address of the transferee; (2) there is an actual or constructive delivery of the motor vehicle; and (3) the duly assigned certificate of title is delivered to the transferee (or lienholder in secured transactions). *Jenkins v. Aetna Cas. & Sur. Co.*, 324 N.C. 394, 378 S.E.2d 773, 1989 N.C. LEXIS 254 (1989).

Since actual title had not passed, an insurer had to provide coverage to its insured while driving a non-owned vehicle, even though the insured was in the process of buying the vehicle, as North Carolina required actual title to pass for ownership under G.S. 20-4.01(26); the insurer was responsible to a passenger who was injured in a collision with a non-owned vehicle being driven by the insured. *Hernandez v. Nationwide Mut. Ins. Co.*, 171 N.C. App. 510, 615 S.E.2d 425, 2005 N.C. App. LEXIS 1360 (2005).

Definition of "Owner" Applies to Article 9A. —

The definition of "owner" in subdivision (26) of this section applies throughout this Chapter, and thus to Article 9A, the Motor Vehicle Safety and Financial Responsibility Act of 1953, unless the context otherwise requires. It thus must be read into every liability insurance policy within the purview of Article 9A, unless the context otherwise requires. *Ohio Cas. Ins. Co. v. Anderson*, 59 N.C. App. 621, 298 S.E.2d 56, 1982 N.C. App. LEXIS 3206 (1982), cert. denied, 307 N.C. 698, 301 S.E.2d 101, 1983 N.C. LEXIS 1233 (1983).

Deletion of "Owner" from G.S. 20-279.1 Was Merely to Avoid Repetition. —

Prior to 1973 the definition of "owner" appeared in G.S. 20-279.1(9) (repealed in 1973), which was applicable solely to Article 9A, the Motor Vehicle Safety and Financial Responsibility Act of 1953. The General Assembly placed this definition in this section. The apparent purpose was to eliminate unnecessary repetition of this definition in separate articles of this Chapter, not to make the definition inapplicable to Article 9A. *Ohio Cas. Ins. Co. v. Anderson*, 59 N.C. App. 621, 298 S.E.2d 56, 1982 N.C. App. LEXIS 3206 (1982), cert. denied, 307 N.C. 698, 301 S.E.2d 101, 1983 N.C. LEXIS 1233 (1983).

One who does not hold legal title to a vehicle cannot obtain owner's liability insurance thereon.

Nationwide Mut. Ins. Co. v. Edwards, 67 N.C. App. 1, 312 S.E.2d 656, 1984 N.C. App. LEXIS 3004 (1984).

Public Vehicular Area. —

Evidence held to permit a finding that at the time in question portion of park grounds legally in use as a parking lot was a “public vehicular area” within the meaning and intent of that phrase as used in subdivision (32), so as to permit a conviction under G.S. 20-138.1(a) for impaired driving thereon. *State v. Carawan*, 80 N.C. App. 151, 341 S.E.2d 96, 1986 N.C. App. LEXIS 2145 (1986).

Evidence held sufficient to permit a finding that handicapped or wheelchair ramp in motel parking lot in front of motel door upon which most of defendant’s car had been stopped was part of a “public vehicular area” within the meaning and intent of that phrase as used in subdivision (32). *State v. Mabe*, 85 N.C. App. 500, 355 S.E.2d 186, 1987 N.C. App. LEXIS 2609 (1987).

Area where an accident between plaintiff and defendant’s truck occurred was a public vehicular area and not a roadway. The accident occurred in the traffic lane of a parking lot generally open to and used by the public for vehicular traffic upon the premises of a business establishment which provided parking space for its customers. Although the lot was held open for use by the public, there was no evidence that the general public had a legally enforceable right to use the lot. *Corns v. Hall*, 112 N.C. App. 232, 435 S.E.2d 88, 1993 N.C. App. LEXIS 1061 (1993).

Street in mobile home park, owned by one individual who had divided the property into lots for lease, that was not marked as private, and was available for use by residents, their guests and other visitors, was a public vehicular area within the meaning of subsection (32). *State v. Turner*, 117 N.C. App. 457, 451 S.E.2d 19, 1994 N.C. App. LEXIS 1261 (1994).

Where the evidence established that a private club was licensed by the State to serve alcohol to guests of members as well as to members themselves, the club’s parking lot could be used as a thoroughfare by members of the general public, there were no signs posted in the club’s parking lot prohibiting the public from parking there and no signs posted stating that the parking lot was private property, nor was there any security or membership cards allowing members exclusive access to the parking lot, the evidence was sufficient to support a peremptory instruction that the club’s parking lot was a “public vehicular area” as a matter of law. *State v. Snyder*, 343 N.C. 61, 468 S.E.2d 221, 1996 N.C. LEXIS 152 (1996).

A sign prohibiting loitering in a parking lot did not change the nature of the property; thus, a car wash was still a business providing parking for its customers, and as such, the premises was a “public vehicular area” under this section. *State v. Robinette*, 124 N.C. App. 212, 476 S.E.2d 387, 1996 N.C. App. LEXIS 995 (1996).

Defendant’s possession of an open container of alcohol in his car in a gas station parking lot was not illegal since a parking lot of a service station was a public vehicular area and the open container law only prohibited open containers on highways and highway right-of-ways. *State v. Coleman*, 228 N.C. App. 76, 743 S.E.2d 62, 2013 N.C. App. LEXIS 672 (2013).

Officer’s belief that possession of an open container of alcohol in a car in a public vehicular area was illegal could not support a Terry stop since the belief was unreasonable given that the open container law was neither novel nor complex and clearly prohibited the possession of an open container only on highways and highway right-of-ways, and the distinction between a highway and a public vehicular area was familiar to law enforcement officers. *State v. Coleman*, 228 N.C. App. 76, 743 S.E.2d 62, 2013 N.C. App. LEXIS 672 (2013).

Trial court erred in denying defendant’s motion to dismiss the charge of habitual impaired driving because there was no evidence concerning the ownership of the vacant lot where defendant operated a moped or that the lot had been designated as a public vehicular area by the owner; in order to show an area meets the definition of public vehicular area there must be some evidence demonstrating the property is similar in nature to those examples provided by the General Assembly in the statute. *State v. Ricks*, 237 N.C. App. 359, 764 S.E.2d 692, 2014 N.C. App. LEXIS 1147 (2014).

Definition of a public vehicular area contemplates areas generally open to and used by the public for vehicular traffic as a matter of right or areas used for vehicular traffic that are associated with places generally open to and

used by the public, such as driveways and parking lots to institutions and businesses open to the public. *State v. Ricks*, 237 N.C. App. 359, 764 S.E.2d 692, 2014 N.C. App. LEXIS 1147 (2014).

Even assuming there was sufficient evidence to allow the jury to decide whether a vacant lot was a public vehicular area, the trial court erred in abbreviating the definition of public vehicular area in the instructions and by preventing defendant from arguing his position in accordance with the statute; the entire definition of public vehicular area is significant to a determination of whether an area meets the definition, and the examples are not separable from the statute. *State v. Ricks*, 237 N.C. App. 359, 764 S.E.2d 692, 2014 N.C. App. LEXIS 1147 (2014).

Trial court properly denied defendant's motion to suppress because the driving and parking area adjacent to fuel pumps at a service station was a "public vehicular area" under the definition provided in subsection (32)(a); therefore, the automobile exception to the warrant requirement applied to the search of defendant's SUV parked at the gas pumps, and the officers only needed probable cause to search defendant's vehicle. *State v. Parker*, 2022-NCCOA-655, 2022 N.C. App. LEXIS 657 (October 4, 2022).

Driving or parking area adjacent to a fuel pump at a service station is a "public vehicular area"; the definition specifically notes "driveways" and "parking lots" on the premises of stores generally and service stations specifically are included, so these portions of the definition would apply to the area between the entry to the service station property, off the roadway, up to the area adjacent to the gas pumps. *State v. Parker*, 2022-NCCOA-655, 2022 N.C. App. LEXIS 657 (October 4, 2022).

Public vehicular areas at a "service station" should include the paved area adjacent to the fuel pumps; the inclusion of a more specific reference to "service station" in the definition in addition to "stores" and other business or retail establishments with parking areas indicates that the only remaining unique aspect of a service station, the driving/parking area near gas pumps, is also included. *State v. Parker*, 2022-NCCOA-655, 2022 N.C. App. LEXIS 657 (October 4, 2022).

"Reportable Crash." —

Defendant was properly convicted of giving false information for a motor vehicle crash report in violation of G.S. 20-279.31(b) because, inter alia, an accident in which defendant was involved was a "reportable crash," under the provisions of G.S. 20-4.01(33b). *State v. Hernandez*, 188 N.C. App. 193, 655 S.E.2d 426, 2008 N.C. App. LEXIS 76 (2008).

Contact Not Required for Accident. —

Defendant's motion to dismiss the two felony hit and run charges was properly denied because contact was not required in order for an accident to occur; and, even if defendant could not have seen behind the trailer and even if there was no contact between the motorcycle's front tire and the trailer, the circumstantial evidence was sufficient to accept a conclusion that defendant knew, or reasonably should have known, that the vehicle he was driving was involved in a crash and that someone was killed or seriously injured as a result. *State v. Gibson*, 276 N.C. App. 230, 855 S.E.2d 533, 2021- NCCOA-69, 2021 N.C. App. LEXIS 80 (2021).

Residential District. —

For cases construing earlier statutory definitions of "residential district," see *Reid v. City Coach Co.*, 215 N.C. 469, 2 S.E.2d 578, 1939 N.C. LEXIS 296 (1939); *Mitchell v. Melts*, 220 N.C. 793, 18 S.E.2d 406, 1942 N.C. LEXIS 549 (1942); *Goddard v. Williams*, 251 N.C. 128, 110 S.E.2d 820, 1959 N.C. LEXIS 533 (1959), overruled, *Young v. Woodall*, 343 N.C. 459, 471 S.E.2d 357, 1996 N.C. LEXIS 339 (1996).

Revocation. —

The contention that a revocation remains in effect not only throughout the period stated in the order of revocation but also until the person whose license was revoked applies for a restoration of his license and pays the restoration

fee required is contrary to the definition of “revocation” in this section. *Ennis v. Garrett*, 279 N.C. 612, 184 S.E.2d 246, 1971 N.C. LEXIS 897 (1971).

Where petitioner, who was driving without his license, was stopped and charged with driving while impaired, and then appeared before a magistrate who revoked his driver’s license for 10 days, petitioner’s license had been validly revoked when he was stopped the next day; thus, he was properly charged with committing a moving violation during a period of revocation by operating a motor vehicle. *Eibergen v. Killens*, 124 N.C. App. 534, 477 S.E.2d 684, 1996 N.C. App. LEXIS 1148 (1996).

When a person’s driver’s license is suspended or revoked, it is the surrendering of the privilege to drive, not the license card itself, that is of significance. *Eibergen v. Killens*, 124 N.C. App. 534, 477 S.E.2d 684, 1996 N.C. App. LEXIS 1148 (1996).

As the terms “revoked” and “suspended” with respect to defendant’s driver’s license were used interchangeably in statutes pursuant to G.S. 20-4.01(47), defendant’s claim that there was a fatal variance between the indictment, which indicated that defendant’s license was revoked, and the proof offered at trial that defendant’s license was suspended, lacked merit. *State v. Lloyd*, 187 N.C. App. 174, 652 S.E.2d 299, 2007 N.C. App. LEXIS 2253 (2007), cert. denied, 363 N.C. 586, 683 S.E.2d 214, 2009 N.C. LEXIS 823 (2009).

“Service Station.” —

Plain meaning of “service station” is a gas station, and gas stations sell gas dispensed from fuel pumps to the public, so by its plain meaning the definition of “public vehicular area” includes the area for driving or parking adjacent to gas pumps; the primary purpose of the area adjacent to gas pumps at a service station is to be used by the public for vehicular traffic, and gas pumps provide fuel for vehicles. *State v. Parker*, 2022-NCCOA-655, 2022 N.C. App. LEXIS 657 (October 4, 2022).

“Street.” —

Trial court did not err in denying defendant’s motion to suppress evidence a police officer seized from his vehicle pursuant to a traffic stop because the trial court’s findings supported its conclusion that the officer had reasonable suspicion that defendant had violated G.S. 20-129 by failing to have taillights in proper working order; considering the totality of the circumstances, the officer reasonably believed that a street in an apartment complex was a public road for purposes of G.S. 20-129(a)(4) and that under the weather conditions at the time of the stop, defendant was required to have his taillights on while his windshield wipers were in use, and the officer’s reasonable, albeit assumed to be mistaken, belief did not render the stop unconstitutional. *State v. Hopper*, 692 S.E.2d 166, 2010 N.C. App. LEXIS 641 (N.C. Ct. App. 2010), op. withdrawn, 2010 N.C. App. LEXIS 1793 (N.C. Ct. App. May 3, 2010), sub. op., 205 N.C. App. 175, 695 S.E.2d 801, 2010 N.C. App. LEXIS 1156 (2010).

Expunction. —

Inasmuch as felonious speeding to elude arrest is not an offense involving impaired driving per G.S. 20-4.01(24a), the trial court made an error of law in determining that defendant was ineligible for expunction of the offense of fleeing to elude arrest. *State v. Neira*, 270 N.C. App. 359, 840 S.E.2d 890, 2020 N.C. App. LEXIS 165 (2020).

Proof of Impaired Driving. —

In a case in which defendant passed a tow truck on the shoulder and struck and killed the victim, the trial court erred in denying his motions to dismiss the driving while impaired charge because the trooper formed his opinion of impairment entirely through passive observation of defendant, and he did not request defendant to perform any of the several field tests officers often use to gauge a motorist’s impairment; he did not ask defendant if or when he had ingested any impairing substances; and trooper’s observations occurred about five hours after the collision occurred. *State v. Nazzal*, 270 N.C. App. 345, 840 S.E.2d 881, 2020 N.C. App. LEXIS 166 (2020).

II. Types of Vehicles

Vehicles — Legislative Intent. —

The North Carolina legislature intended the provisions of the traffic laws of North Carolina applicable to the drivers of “vehicles” to apply to horseback riders irrespective of whether a horse is a vehicle. *State v. Dellinger*, 73 N.C. App. 685, 327 S.E.2d 609, 1985 N.C. App. LEXIS 3396 (1985).

“Commercial Motor Vehicle”. —

The defendant’s contention that he did not violate this section because he was not driving a “commercial motor vehicle” was without merit; the tractor-trailer was a commercial vehicle within the statutory definition although the defendant was driving it for his own private use and although he had detached the trailer portion of the tractor-trailer. *State v. Jones*, 140 N.C. App. 691, 538 S.E.2d 228, 2000 N.C. App. LEXIS 1257 (2000).

Farm Tractor. —

Farm tractors are not to be considered motor vehicles within the provisions of the Uniform Driver’s License Act or the Motor Vehicle Safety and Financial Responsibility Act. *Brown v. Fidelity & Cas. Co.*, 241 N.C. 666, 86 S.E.2d 433, 1955 N.C. LEXIS 445 (1955) (decided under repealed G.S. 20-226) .

The Motor Vehicles Act expressly defines a “farm tractor” as a “motor vehicle.” Therefore, an instruction imparting to a farm tractor and trailer on a highway special hazard status per se and rendering a motorist who collides with a farm tractor and trailer on a highway negligent per se, regardless of the circumstances or the conduct of the tractor-trailer operator constituted prejudicial error. *Davis v. Gamble*, 55 N.C. App. 617, 286 S.E.2d 629, 1982 N.C. App. LEXIS 2241 (1982).

Construing the definitions of “farm tractor” and “vehicle” together in pari materia, it is apparent that the General Assembly intended that while farm tractors are motor implements of husbandry, they were vehicles within the meaning of former G.S. 20-138 when operated upon a highway by one under the influence of intoxicating liquor or narcotic drugs. *State v. Green*, 251 N.C. 141, 110 S.E.2d 805, 1959 N.C. LEXIS 528 (1959).

Trucks. —

Trucks, even if used for private purposes, are not private passenger type autos. *Harleysville Mut. Ins. Co. v. Packer*, 60 F.3d 1116, 1995 U.S. App. LEXIS 20236 (4th Cir. 1995).

Motorcycle. —

The definition of the term “motorcycle” in former G.S. 20-38 did not describe the “mailster,” a class of motor vehicle generally known as a “motor scooter.” *LeCroy v. Nationwide Mut. Ins. Co.*, 251 N.C. 19, 110 S.E.2d 463, 1959 N.C. LEXIS 506 (1959).

The statutory definition of the term “motorcycle” has no application in an action based on an insurance contract’s interpretation of the word “automobile.” *LeCroy v. Nationwide Mut. Ins. Co.*, 251 N.C. 19, 110 S.E.2d 463, 1959 N.C. LEXIS 506 (1959).

Statutory definition cited in *Anderson v. Life & Casualty Ins. Co.*, 197 N.C. 72, 147 S.E. 693, 1929 N.C. LEXIS 149 (1929) (holding that the expression “motor-driven car” in an insurance policy excluded a motorcycle) .

Electric Scooter Fell Within Statutory Definition of Vehicle. —

Defendant’s electric scooter, which was not self-balancing, with its two wheels in tandem, and which did not fall within the two statutory exceptions from a vehicle under G.S. 20-138.1(e) with regard to horses, bicycles, and lawnmowers or G.S. 20-4.01(49) as to transportation for a person with a mobility impairment, fell within the legislature’s definition of vehicle in G.S. 20-4.01(49) and, because the evidence at trial showed that his breath

alcohol concentration following arrest was 0.13, there was sufficient evidence to uphold defendant's conviction for impaired driving under G.S. 20-138.1. *State v. Crow*, 175 N.C. App. 119, 623 S.E.2d 68, 2005 N.C. App. LEXIS 2747 (2005).

Low-boy trailer and Mack truck were not private passenger motor vehicles

as they did not have a pickup body and were not delivery sedans nor panel trucks. *Nationwide Mut. Ins. Co. v. Mabe*, 342 N.C. 482, 467 S.E.2d 34, 1996 N.C. LEXIS 21 (1996).

A mobile home is a motor vehicle

and is subject to the mandatory provisions of the statutes relating to the registration of motor vehicles in this State. *King Homes, Inc. v. Bryson*, 273 N.C. 84, 159 S.E.2d 329, 1968 N.C. LEXIS 561 (1968).

It is clear under North Carolina law that a mobile home is a "motor vehicle" for purposes of the statutes dealing with registration and ownership of motor vehicles. *In re Meade*, 174 B.R. 49, 1994 Bankr. LEXIS 2222 (Bankr. M.D.N.C. 1994).

Mobile Home Is a Motor Vehicle for Purposes of Perfecting Security Interest. —

Plaintiff's argument that owner no longer intended to operate her mobile home upon the highway did not nullify defendant's properly perfected security interest in the mobile home. *Peoples Sav. & Loan Assoc. v. Citicorp Acceptance Co.*, 103 N.C. App. 762, 407 S.E.2d 251, 1991 N.C. App. LEXIS 936 (1991).

Modular Home. —

Although the title to a modular home is initially acquired through a bill of sale, once installed title must pass by way of a real property deed unlike a mobile home or trailer which passes by transfer of a certificate of origin and motor vehicle title. *Briggs v. Rankin*, 127 N.C. App. 477, 491 S.E.2d 234, 1997 N.C. App. LEXIS 988 (1997), *aff'd*, 348 N.C. 686, 500 S.E.2d 663, 1998 N.C. LEXIS 331 (1998).

Bicycle as Vehicle. —

A bicycle is a vehicle and its rider is a driver within the meaning of the motor vehicle law. *Lowe v. Futrell*, 271 N.C. 550, 157 S.E.2d 92, 1967 N.C. LEXIS 1238 (1967); *Sadler v. Purser*, 12 N.C. App. 206, 182 S.E.2d 850, 1971 N.C. App. LEXIS 1328 (1971); *Townsend v. Frye*, 30 N.C. App. 634, 228 S.E.2d 56, 1976 N.C. App. LEXIS 2328, cert. denied, 291 N.C. 178, 229 S.E.2d 689, 1976 N.C. LEXIS 964 (1976).

Trial court did not err by declining to give the jury the bicyclist's first proposed special instruction because it was not a correct statement of law, as the statutes the bicyclist relied on were limited to pedestrians, and the ordinary meaning of pedestrian had long been understood to be a person traveling on foot, not a person bicycling, and bicycles were explicitly classified as vehicles, not pedestrians, under G.S. 20-4.01(49). *Barrow v. Sargent*, 278 N.C. App. 164, 862 S.E.2d 688, 2021- NCCOA-295, 2021 N.C. App. LEXIS 304 (2021).

The operation of a bicycle upon a public highway is governed by the rules governing motor vehicles insofar as the nature of the vehicle permits. *Webb v. Felton*, 266 N.C. 707, 147 S.E.2d 219, 1966 N.C. LEXIS 1425 (1966).

A bicycle is deemed a vehicle, and the rider of a bicycle upon the highway is subject to the applicable provisions of the statutes relating to motor vehicles. *Van Dyke v. Atlantic Greyhound Corp.*, 218 N.C. 283, 10 S.E.2d 727, 1940 N.C. LEXIS 138 (1940).

A bicycle is a vehicle, and is subject to the provisions of Article 3 of this Chapter, except those which by their nature can have no application. *Tarrant v. Pepsi-Cola Bottling Co.*, 221 N.C. 390, 20 S.E.2d 565, 1942 N.C. LEXIS 474 (1942); *Oxendine v. Lowry*, 260 N.C. 709, 133 S.E.2d 687, 1963 N.C. LEXIS 807 (1963).

N.C. Gen. Stat. § 20-4.01

In interpreting an underinsured motorist excess provision, a bicycle involved in an accident with a car was considered to be a vehicle pursuant to G.S. 20-4.01(49), since it was operated upon a highway. *Sitzman v. Gov't Emples. Ins. Co.*, 182 N.C. App. 259, 641 S.E.2d 838, 2007 N.C. App. LEXIS 585 (2007).

Trial court did not err by declining to give the jury the bicyclist's first proposed special instruction because it was not a correct statement of law, as the statutes the bicyclist relied on were limited to pedestrians, and the ordinary meaning of pedestrian had long been understood to be a person traveling on foot, not a person bicycling, and bicycles were explicitly classified as vehicles, not pedestrians, under N.C. Gen. Stat. § 20-4.01(49). *Barrow v. Sargent*, 278 N.C. App. 164, 862 S.E.2d 688, 2021- NCCOA-295, 2021 N.C. App. LEXIS 304 (2021).

Handcart. —

A handcart, being moved solely by human power, is excluded from the category of vehicles defined in subdivision (38) of former G.S. 20-38 (now subdivision (49) of this section). *Lewis v. Watson*, 229 N.C. 20, 47 S.E.2d 484, 1948 N.C. LEXIS 409 (1948).

When neither named insured owned a rental car, as defined in G.S. 20-4.04(26), which was being driven by a family member when it was involved in a motor vehicle accident, a trial court erred in granting summary judgment to plaintiff insurer in its declaratory action against defendant insurer because it was impossible to determine which insurer's policy provided primary coverage due to the identical wording in the "excess" clauses of their respective policies; thus, the "excess" clauses were mutually repugnant and neither clause was given effect. *Integon Nat'l Ins. Co. v. Phillips*, 212 N.C. App. 623, 712 S.E.2d 381, 2011 N.C. App. LEXIS 1228 (2011).

School Activity Bus. —

North Carolina Industrial Commission did not have jurisdiction over a driver's action to recover for the alleged negligence of a local board of education employee in the operation of an activity bus because the waiver of governmental immunity provided in the Tort Claims Act did not apply; the school activity bus did not meet the requirement of the statute that the Commission had jurisdiction over a public school bus or school transportation service vehicle. *Irving v. Charlotte-Mecklenburg Bd. of Educ.*, 368 N.C. 609, 781 S.E.2d 282, 2016 N.C. LEXIS 30 (2016).

Bus the school employee was driving was an activity bus because the evidence showed that at the time in question the bus was not being used to transport a student to and from school for the regularly scheduled school day but was instead being used to transport a student from their place of residence at the school to their place of residence at home, outside of the regularly scheduled school day, on a route which was approximately six and a half hours round trip. *Sharpe-Johnson v. Nc Dep't of Pub. Instruction E.* N.C. Sch. for the Deaf, 280 N.C. App. 74, 867 S.E.2d 188, 2021- NCCOA-562, 2021 N.C. App. LEXIS 582 (2021).

III. Highways**Construction of Subdivision (13). —**

The definition of "highway" in subdivision (13) is to be construed so as to give its terms their plain and ordinary meaning. *Smith v. Powell*, 293 N.C. 342, 238 S.E.2d 137, 1977 N.C. LEXIS 940 (1977).

The legislature has provided that, unless the context requires otherwise, the word "highway" is to be given the same connotation in all of the provisions of Chapter 20, whether they be penal, remedial or otherwise. Thus, the well known principles of statutory construction that a penal statute is to be strictly construed and a statute designed to promote safety is to be liberally construed have no application. *Smith v. Powell*, 293 N.C. 342, 238 S.E.2d 137, 1977 N.C. LEXIS 940 (1977).

"Highway" Distinguished from Roadway. —

The definitions of “highway” and “roadway,” considered together, show that the legislature in defining “highway” intended to make it clear that the entire “width” between the right-of-way lines is included in a “highway” as distinguished from a “roadway.” *Smith v. Powell*, 293 N.C. 342, 238 S.E.2d 137, 1977 N.C. LEXIS 940 (1977).

Definition of “Highway” Is Concerned with Width, Not Depth. —

While it is true that a “highway” or a “street” is not limited to its surface so far as the right of the State to use, maintain and protect it from damage and private use are concerned, and in this sense, it includes not only the entire thickness of the pavement and the prepared base upon which it rests but also so much of the depth as may not unfairly be used as streets are used for the laying therein of drainage systems and conduits for sewer, water and other services, nevertheless, the primary concern of the legislature in defining “highway” as used in Chapter 20 was with the “width,” not the depth. “Width” means “the lineal extent of a thing from side to side.” *Smith v. Powell*, 293 N.C. 342, 238 S.E.2d 137, 1977 N.C. LEXIS 940 (1977).

Portion of Sidewalk as Highway. —

The portion of a sidewalk between a street and a filling station, open to the use of the public as a matter of right for the purposes of vehicular traffic, was a “highway” within the meaning of former G.S. 20-138, prohibiting drunken driving. *State v. Perry*, 230 N.C. 361, 53 S.E.2d 288, 1949 N.C. LEXIS 645 (1949).

Portion of Sidewalk Not a Highway. —

Trial court did not err by declining the bicyclist’s proposed instruction on the definition of highway because he failed to show that it was supported by the evidence, as he failed to present evidence supporting the inference that the particular sidewalk upon which he was riding his bicycle was part of the highway, as there was no evidence that the sidewalk was between property or right-of-way lines of the property upon which the road was located, nor was there evidence that the sidewalk was crossed by drivers to access a parking lot open to the public for vehicular traffic. *Barrow v. Sargent*, 278 N.C. App. 164, 862 S.E.2d 688, 2021- NCCOA-295, 2021 N.C. App. LEXIS 304 (2021).

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Area beneath Highway Bridge Not “Highway”. —

A petitioner who drove a motor vehicle only within the limits of the area beneath a highway bridge did not drive on a “highway” as that term is used in G.S. 20-16.2. *Smith v. Powell*, 293 N.C. 342, 238 S.E.2d 137, 1977 N.C. LEXIS 940 (1977).

Emergency strip adjacent to interstate highways

falls within the literal language of the definition of “highway” as contained in this section. *State v. Kelley*, 65 N.C. App. 159, 308 S.E.2d 720, 1983 N.C. App. LEXIS 3402 (1983).

Intersection. —

With reference to the right-of-way as between two vehicles approaching and entering an intersection, the law of this State makes no distinction between a “T” intersection and one at which the two highways cross each other completely. *Dawson v. Jennette*, 278 N.C. 438, 180 S.E.2d 121, 1971 N.C. LEXIS 988 (1971).

Where one public highway joins another, but does not cross it, the point where they join is an intersection of public highways. *Goss v. Williams*, 196 N.C. 213, 145 S.E. 169, 1928 N.C. LEXIS 322 (1928).

When the failure to explain the law so the jury could apply it to the facts is specifically called to the court's attention by a juror's request for information, it should tell the jury how to find the intersection of the streets as fixed by statute, and how, when the motorist reaches the intersection, he is required to drive in making a left turn. *Pearsall v. Duke Power Co.*, 258 N.C. 639, 129 S.E.2d 217, 1963 N.C. LEXIS 448 (1963).

IV. Involving Alcohol

Alcohol Concentration. —

Police officer who had been issued a permit to perform chemical analysis under the authority of G.S. 20-139.1(b) by the Department of Human Resources was permitted by subdivision (0.2) of this section (now subdivision (1b)) to express alcohol concentration in terms of 210 liters of breath, as well as 100 milliliters of blood. *State v. Midgett*, 78 N.C. App. 387, 337 S.E.2d 117, 1985 N.C. App. LEXIS 4294 (1985).

“Chemical analyst”

for purposes of G.S. 20-139.1 includes a person who was validly licensed by the Department of Human Resources to perform chemical analyses immediately prior to the enactment of the Safe Roads Act. To hold otherwise would mean that an individual licensed to perform chemical analyses under one statute would automatically lose his license when the testing procedures are merely recodified in another statute. Obviously the legislature did not intend that result. *State v. Dellinger*, 73 N.C. App. 685, 327 S.E.2d 609, 1985 N.C. App. LEXIS 3396 (1985).

Driving While Impaired. —

Sufficient evidence supported a conviction of driving while impaired, G.S. 20-138.1, because a trooper testified that the reading on the Intoxilyzer 5000 rounded down, that he administered the Intoxilyzer test two times, and that each administration showed defendant's BAC to be .08. *State v. Arrington*, 215 N.C. App. 161, 714 S.E.2d 777, 2011 N.C. App. LEXIS 1739 (2011) (decided under former G.S. 143B-262.4).

Defendant's impaired driving charge was not dismissed because, (1) under the corpus delicti rule, defendant's admission was corroborated with a wrecked vehicle, a shoe matching defendant's shoe in the vehicle's driver's side footwell, the absence of others in the area, defendant's consistent injury, and the lack of another explanation for the wreck, and (2) defendant's blood alcohol level was above the statutory limit. *State v. Hines*, 259 N.C. App. 358, 816 S.E.2d 182, 2018 N.C. App. LEXIS 429 (2018).

Context of finding the existence of a grossly aggravating factor based upon a prior driving while impaired conviction in superior court requires an interpretation that a “prior conviction” not be limited to only those not pending on direct appeal in the appellate courts; because there is no language limiting that definition to a “final” conviction or only those not challenged on appeal, the courts have no authority to interpret the statute as imposing such a limitation. *State v. Cole*, 262 N.C. App. 466, 822 S.E.2d 456, 2018 N.C. App. LEXIS 1154 (2018).

Evidence was sufficient to support defendant's conviction of driving while impaired because the officer found defendant in the driver's seat of a stationary vehicle with the engine running, the officer testified that defendant was apparently sleeping, there was a strong odor of alcohol on the defendant's breath, the defendant's speech was slurred, officers saw an alcohol bottle between the defendant's legs, defendant admitted that the defendant had consumed alcohol, defendant's blood test results indicated that the blood contained alcohol, THC, THCA, amphetamine, and methamphetamine, and defendant refused to submit to an intoxilyzer test. *State v. Hoque*, 269 N.C. App. 347, 837 S.E.2d 464, 2020 N.C. App. LEXIS 15 (2020).

Offense Involving Impaired Driving — Similar Offense in Another Jurisdiction. —

Although the definitions of “impairment” under North Carolina and New York laws are not identical and the statutes do not “mirror” one another, they are “substantially equivalent”; consequently, the trial court did not err in determining that defendant's prior conviction under New York law was a grossly aggravating factor in sentencing

him under North Carolina law. *State v. Parisi*, 135 N.C. App. 222, 519 S.E.2d 531, 1999 N.C. App. LEXIS 975 (1999).

Under Influence of Impairing Substance. —

The offense of impaired driving is proven by evidence that defendant drove a vehicle on any highway in this State while his physical or mental faculties, or both, were “appreciably impaired by an impairing substance.” *State v. George*, 77 N.C. App. 580, 335 S.E.2d 768, 1985 N.C. App. LEXIS 4172 (1985).

Where the tortfeasor rear-ended the injured party’s vehicle, the trial court erred in granting the tortfeasor’s motion for summary judgment on the injured party’s punitive damages claim, because the tortfeasor failed to show that he was not under the influence of an impairing substance under G.S. 20-4.01(14a), where he admitted to drinking two beers and taking three prescription drugs before the accident; the tortfeasor offered no evidence that the prescription drugs, mixed with alcohol, were not an impairing substance. *Byrd v. Adams*, 152 N.C. App. 460, 568 S.E.2d 640, 2002 N.C. App. LEXIS 1067 (2002).

Admissible trial evidence established beyond a reasonable doubt that defendant was driving a vehicle while under the influence of alcohol in violation of G.S. 20-138.1; evidence showing that defendant was under the influence of alcohol included, inter alia: (1) weaving; (2) erratic braking; (3) driving 70 MPH in a 50 MPH zone; (4) the strong odor of alcohol on defendant’s person; (5) defendant’s unsteady balance; and (6) his statement that he had consumed alcohol. *United States v. Van Hazel*, 468 F. Supp. 2d 792, 2006 U.S. Dist. LEXIS 94757 (E.D.N.C. 2006).

Lab report of defendant’s blood sample indicated that three of the drugs found in defendant’s blood were listed in N.C. Gen. Stat. ch. 90 as Schedule II controlled substances, and therefore were impairing substances under G.S. 20-4.01(14a). *State v. Braswell*, 222 N.C. App. 176, 729 S.E.2d 697, 2012 N.C. App. LEXIS 961 (2012).

Opinion Notes

OPINIONS OF ATTORNEY GENERAL

Trailers designed to run upon the highways

and pulled by a self-propelled vehicle are motor vehicles for the purposes of this Chapter. See opinion of the Attorney General to Clyde R. Cook, Jr., Asst. Comm’r of Motor Vehicles, 60 N.C. Op. Att’y Gen. 90 (1992).

“Public vehicular area”

includes streets leading into privately owned trailer parks which rent, lease and sell individual lots. See opinion of Attorney General to Mr. Henry A. Harkey, Assistant District Attorney, 45 N.C. Op. Att’y Gen. 284 (1976).

The parking lot of the restaurant

is within the definition of “public vehicular area” under subdivision (32) of this section when the restaurant is closed. See opinion of Attorney General to Mr. James C. Yeatts, III, Assistant District Attorney, 17-B Judicial District, 52 N.C. Op. Att’y Gen. 6 (1982).

Section 20-217, a safety statute designed to prevent the passing of a school bus

displaying its mechanical stop signal while receiving or discharging passengers, has no application to a “public vehicular area.” See opinion of Attorney General to Mr. Alan Leonard, District Attorney, Twenty-Ninth Judicial District, — N.C.A.G. — (Mar. 9, 1987).

Vehicle which is constructive total loss now defined as salvage vehicle under this section.

See opinion of Attorney General to Mr. James E. Rhodes, Director, Vehicle Registration Section, Division of Motor Vehicles, North Carolina Department of Transportation, — N.C.A.G. — (May 20, 1988).

As to treatment by insurer of wrecked vehicle as constructive total loss,

thereby declaring it a total loss, so as to harmonize subdivision (33)(d) and G.S. 20-109.1(a)(1). See opinion of Attorney General to Mr. James E. Rhodes, Director, Vehicle Registration Section, Division of Motor Vehicles, North Carolina Department of Transportation, — N.C.A.G. — (May 20, 1988).

New definition of salvage motor vehicle enacted by Session Laws 1987, c. 607 in subdivision (33)(d) and G.S. 20-109.1 must be read in pari materia.

See opinion of Attorney General to Mr. James E. Rhodes, Director, Vehicle Registration Section, Division of Motor Vehicles, North Carolina Department of Transportation, — N.C.A.G. — (May 20, 1988).

Private carriers operated by drivers employed in logging operations are entitled to the exemption for “farm” vehicles under G.S. 20-37.16(e)(3) if

agricultural or forest products being transported were raised and grown by farmer/forester and he does not engage in business of buying products for resale. Then he and his employees could transport such forest products within 150 miles of farm in vehicles not used in common or contract motor carrier operations without obtaining a commercial driver's license. Conversely, if forest products were not raised and grown by forester, or he engages in buying forest products for resale, transporting of those products by him or his employees would not be exempt from commercial driver's license requirements for, as to those forest products, forester was not a farmer. See opinion of Attorney General to Rep. Beverly M. Purdue, 3rd District: Craven, Lenoir, Pamlico Counties, 60 N.C. Op. Att'y Gen. 30 (1990).

Research References & Practice Aids

Cross References.

As to designation of an area of private property as a public vehicular area, see G.S. 20-219.4.

Legal Periodicals.

For note discussing the definition of “driving” under the North Carolina Safe Roads Act, in light of *State v. Fields*, 77 N.C. App. 404, 335 S.E.2d 69 (1985), see 64 N.C.L. Rev. 127 (1986).