

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 115*
Committee Substitute Favorable 4/14/97
Senate Judiciary Committee Substitute Adopted 8/19/97

Short Title: 1997 Technical Corrections.

(Public)

Sponsors:

Referred to: Finance.

February 12, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES
3 TO THE GENERAL STATUTES AND SESSION LAWS AS RECOMMENDED
4 BY THE GENERAL STATUTES COMMISSION, AND TO MAKE OTHER
5 TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE
6 GENERAL STATUTES AND SESSION LAWS.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 7A-650(b1) reads as rewritten:

9 "(b1) At the dispositional hearing or a subsequent hearing in the case of a juvenile
10 who has been adjudicated delinquent, undisciplined, abused, neglected, or dependent, if
11 the court finds that it is in the best interest of the juvenile for the parent to be directly
12 involved in the juvenile's treatment, the court may order the parent to participate in
13 medical, psychiatric, psychological, or other treatment of the juvenile-juvenile. The cost
14 of the treatment shall be paid pursuant to G.S. 7A-647(3)a."

15 Section 2. G.S. 14-277(a) reads as rewritten:

16 "(a) No person shall falsely represent to another that he is a sworn law-enforcement
17 officer. As used in this section, a person represents that he is a sworn law-enforcement
18 officer if he:

- 1 (1) Verbally informs another that he is a sworn law-enforcement officer,
2 whether or not the representation refers to a particular agency;
3 (2) Displays any badge or identification signifying to a reasonable
4 individual that the person is a sworn law-enforcement officer, whether
5 or not the badge or other identification refers to a particular law-
6 enforcement agency; ~~or~~
7 (3) Unlawfully operates a vehicle on a public street, highway or public
8 vehicular area with an operating red light as defined in G.S. ~~20-130.1(a).~~
9 20-130.1(a); or
10 (4) Unlawfully operates a vehicle on a public street, highway, or public
11 vehicular area with an operating blue light as defined in G.S. 20-
12 130.1(c)."

13 Section 3. G.S. 15A-401(b) reads as rewritten:

14 "(b) Arrest by Officer Without a Warrant. –

- 15 (1) Offense in Presence of Officer. – An officer may arrest without a
16 warrant any person who the officer has probable cause to believe has
17 committed a criminal offense in the officer's presence.
18 (2) Offense Out of Presence of Officer. – An officer may arrest without a
19 warrant any person who the officer has probable cause to believe:
20 a. Has committed a felony; or
21 b. Has committed a misdemeanor, and:
22 1. Will not be apprehended unless immediately arrested, or
23 2. May cause physical injury to himself or others, or damage
24 to property unless immediately arrested; or
25 c. Has committed a misdemeanor under G.S. 14-72.1, 14-134.3, 20-
26 138.1, or 20-138.2; or
27 d. Has committed a misdemeanor under G.S. 14-33(a), ~~G.S. 14-~~
28 ~~33(b)(1), or G.S. 14-33(b)(2)-14-33(c)(1), or 14-33(c)(2)~~ when the
29 offense was committed by a person who is the spouse or former
30 spouse of the alleged victim or by a person with whom the
31 alleged victim is living or has lived as if married.
32 (3) Repealed by Session Laws 1991, c. 150."

33 Section 4. G.S. 25-9-105(1)(h), as amended by Section 3 of S.L. 1997-181,
34 reads as rewritten:

35 "(h) 'Goods' includes all things which are movable at the time the security
36 interest attaches or which are fixtures (G.S. 25-9-313), but does not
37 include money, documents, instruments, investment property,
38 ~~commodity contracts, accounts, chattel paper, general intangibles, or~~
39 minerals or the like (including oil and gas) before extraction.
40 "Goods" also includes standing timber which is to be cut and removed
41 under a conveyance or contract for sale, the unborn young of animals,
42 and growing crops;".

1 Section 5. G.S. 25-9-312(7), as amended by Section 16 of S.L. 1997-181,
2 reads as rewritten:

3 "(7) If future advances are made while a security interest is perfected by filing, the
4 taking of possession, or under G.S. 25-9-115 or G.S. 25-9-116 on investment property,
5 the security interest has the same priority for the purposes of subsection (5) or G.S. 25-9-
6 115(5) with respect to the future advances as it does with respect to the first advance. If a
7 commitment is made before or while the security interest is so perfected, the security
8 interest has the same priority with respect to advances made pursuant thereto. In other
9 cases a perfected security interest has priority from the date the advance is made."

10 Section 6. G.S. 25-9-303(1) reads as rewritten:

11 "(1) A security interest is perfected when it has attached and when all of the
12 applicable steps required for perfection have been taken. Such steps are specified in G.S.
13 25-9-115, 25-9-302, 25-9-304, 25-9-305 and 25-9-306. If such steps are taken before the
14 security interest attaches, it is perfected at the time it attaches."

15 Section 7. G.S. 28A-18-2(a) reads as rewritten:

16 "(a) When the death of a person is caused by a wrongful act, neglect or default of
17 another, such as would, if the injured person had lived, have entitled him to an action for
18 damages therefor, the person or corporation that would have been so liable, and his or
19 their personal representatives or collectors, shall be liable to an action for damages, to be
20 brought by the personal representative or collector of the decedent; and this
21 notwithstanding the death, and although the wrongful act, neglect or default, causing the
22 death, amounts in law to a felony. The personal representative or collector of the
23 decedent who pursues an action under this section may pay from the assets of the estate
24 the reasonable and necessary expenses, not including attorneys' fees, incurred in pursuing
25 the action. At the termination of the action, any amount recovered shall be applied first to
26 the reimbursement of the estate for the expenses incurred in pursuing the action, then to
27 the payment of attorneys' fees, and shall then be distributed as provided in this section.
28 The amount recovered in such action is not liable to be applied as assets, in the payment
29 of debts or legacies, except as to burial expenses of the deceased, and reasonable hospital
30 and medical expenses not exceeding four thousand five hundred dollars (\$4,500) incident
31 to the injury resulting in death, except that the amount applied for hospital and medical
32 expenses shall not exceed fifty percent (50%) of the amount of damages recovered after
33 deducting attorneys' ~~fees.~~ fees, but shall be disposed of as provided in the Intestate
34 Succession Act. All claims filed for such services shall be approved by the clerk of the
35 superior court and any party adversely affected by any decision of said clerk as to said
36 claim may appeal to the superior court in term ~~time, but shall be disposed of as provided in~~
37 ~~the Intestate Succession Act. time.~~"

38 Section 8. G.S. 41-19(a) reads as rewritten:

39 "(a) Except as extended by subsection (b) of this section, this Article applies to a
40 nonvested property interest or a power of appointment that is created on or after October
41 1, 1995. For purposes of this section, a nonvested property interest or a power of
42 appointment created by the exercise of a power of appointment is created when the power
43 is irrevocably exercised or when a revocable exercise becomes irrevocable."

1 Section 9. G.S. 68-42 reads as rewritten:

2 **"§ 68-42. Stock running at large prohibited; certain ponies excepted.**

3 From and after July 1, 1958, it shall be unlawful for any person, firm or corporation to
4 allow his or its horses, cattle, goats, sheep, or hogs to run free or at large along the outer
5 banks of this State. This Article shall not apply to horses known as marsh ponies or banks
6 ponies on Ocracoke Island, Hyde County. This Article shall not apply to horses known as
7 marsh ponies or banks ponies on ~~Shackelford~~-Shackleford Banks between Beaufort Inlet
8 and Barden's Inlet in Carteret County. Saving and excepting those animals known as
9 'banker ponies' on the island of Ocracoke owned by the Boy Scouts and not exceeding 35
10 in number."

11 Section 10. G.S. 68-43 reads as rewritten:

12 **"§ 68-43. Authority of Secretary of Environment, Health, and Natural Resources to**
13 **remove or confine ponies on Ocracoke Island and ~~Shackelford~~-Shackleford**
14 **Banks.**

15 Notwithstanding any other provisions of this Article, the Secretary of Environment,
16 Health, and Natural Resources shall have authority to remove or cause to be removed
17 from Ocracoke Island and ~~Shackelford~~-Shackleford Banks all ponies known as banks
18 ponies or marsh ponies if and when he determines that such action is essential to prevent
19 damage to the island. In the event such a determination is made, the Secretary, in lieu of
20 removing all ponies, may require that they be restricted to a certain area or corralled so as
21 to prevent damage to the island. In the event such action is taken, the Secretary is
22 authorized to take such steps and act through his duly designated employees or such other
23 persons as, in his opinion, he deems necessary and he may accept any assistance provided
24 by or through the National Park Service."

25 Section 11. G.S. 81A-26(a)(4) reads as rewritten:

26 "(4) The identity of the commodity in the most descriptive terms
27 commercially practicable, including any quality representation made in
28 connection with the sale,"

29 Section 12. G.S. 90-89(c)15. reads as rewritten:

30 "15. ~~Psilocyn~~-Psilocin."

31 Section 14. G.S. 106-727(b) reads as rewritten:

32 "(b) The Commission shall consist of nine members, as follows:

- 33 (1) The Commissioner of Agriculture;
- 34 (2) Four members appointed by the General Assembly upon the
35 recommendation of the President Pro Tempore ~~of~~-of the Senate in
36 accordance with G.S. 120-121, one of whom shall be designated to
37 serve as chairman as provided in subsection (d) of this section; and
- 38 (3) Four members appointed by the General Assembly upon the
39 recommendation of the Speaker of the House of Representatives in
40 accordance with G.S. 120-121."

41 Section 15. G.S. 106-802(4) reads as rewritten:

42 "(4) 'Site evaluation' means an investigation to determine if a site meets all
43 federal and State standards as evidenced by the Waste Management

1 Facility Site Evaluation Report on file with the Soil and Water
2 Conservation District office or a comparable report certified by a
3 professional engineer or a comparable report certified by a technical
4 specialist approved by the North Carolina Soil and Water Conservation
5 Commission.

6 ~~Department of Environment, Health and Natural Resources".~~

7 Section 16. G.S. 115C-81.2(e) reads as rewritten:

8 "(e) The State Board of Education shall report to the Joint Legislative Education
9 Oversight Committee by December 31, 1996, and annually thereafter on the
10 comprehensive plan developed under ~~Section 1 of Session Laws 1995 (Reg. Sess., 1996), c.~~
11 ~~716, s. 1.~~ subsection (a) of this section. The first report shall include revisions made to the
12 standard course of study, teacher certification standards, and teacher education programs.
13 Subsequent reports shall address the effectiveness, based on factors including improved
14 student performance in reading, of the implementation of the plan. The State Board may
15 make recommendations to the General Assembly in any of its reports."

16 Section 17. G.S. 115C-302(f) reads as rewritten:

17 "(f) A teacher may use annual leave, personal leave, or leave without pay to care
18 for a newborn child or for a child placed with the teacher for adoption or foster care. The
19 leave may be for consecutive workdays during the first 12 months after the date of birth
20 or placement of the child, unless ~~the~~ the teacher and local board of education agree
21 otherwise."

22 Section 18. G.S. 115D-2.1(b)(3) reads as rewritten:

23 "(3) The Governor shall appoint to the State Board four members from the
24 State at large and one member from each of the six Trustee Association
25 Regions defined in ~~G.S. 115D-63~~ G.S. 115D-62. The initial
26 appointments by the Governor shall be made effective July 1, 1980, or
27 as soon as feasible thereafter. In order to establish regularly overlapping
28 terms, the initial appointments by the Governor shall be made so that
29 three expire June 30, 1981, three expire June 30, 1983, and four expire
30 June 30, 1985. Each subsequent regular appointment by the Governor
31 shall be for a term of six years and until a successor is appointed and
32 qualifies. Any vacancy occurring among his appointees before the
33 expiration of term shall be filled by appointment of the Governor; the
34 member so appointed shall meet the same residential qualification, if
35 any, as the member whom he succeeds and shall serve for the remainder
36 of the unexpired term of that member."

37 Section 19. G.S. 115D-2.1(d) reads as rewritten:

38 "(d) No member of the General Assembly, no officer or employee of the State, and
39 no officer or employee of an institution under the jurisdiction of the State Board and no
40 spouse of any of those persons, shall be eligible to serve on the State Board. Furthermore,
41 no person who within the prior ~~5~~ five years has been an employee of the Department of
42 Community Colleges shall be eligible to serve on the State Board."

43 Section 20. G.S. 131D-2(a1)(4) reads as rewritten:

1 "(4) Individuals whose health needs cannot be met in the specific adult care
2 home as determined by the ~~residence~~, residence, and".

3 Section 21. G.S. 131D-20(6) reads as rewritten:

4 "(6) 'Group home for developmentally disabled adults' means ~~and an~~ an adult
5 care home which has two to nine developmentally disabled adult
6 residents."

7 Section 22. G.S. 143B-153(3)b. reads as rewritten:

8 "b. For the inspection and licensing of adult care homes for aged or
9 disabled persons as provided by G.S. 131D-2(b) and for
10 personnel requirements of staff employed in ~~adult care homes~~
11 adult care homes;"

12 Section 23. G.S. 148-32.1(b) reads as rewritten:

13 "(b) In the event that the custodian of the local confinement facility certifies in
14 writing to the clerk of the superior court in the county in which said local confinement
15 facility is located that the local confinement facility is filled to capacity, or that the
16 facility cannot reasonably accommodate any more prisoners due to segregation
17 requirements for particular prisoners, or that the custodian anticipates, in light of local
18 experiences, an influx of temporary prisoners at that time, or if the local confinement
19 facility does not meet the minimum standards published pursuant to G.S. 153A-221, any
20 judge of the district court in the district court district as defined in G.S. 7A-133 where the
21 facility is located, or any superior court judge who has jurisdiction pursuant to G.S. 7A-
22 47.1 or G.S. 7A-48 in a district or set of districts as defined in G.S. 7A-41.1 where the
23 facility is located may order that the prisoner be transferred to any other qualified local
24 confinement facility within that district or within another such district where space is
25 available, including a satellite jail unit operated pursuant to G.S. 153A-230.3 if the
26 prisoner is a non-violent misdemeanor, which local facility shall accept the transferred
27 prisoner, if the prison population has exceeded a manageable level as provided for in G.S.
28 148-4.1(a). If no such local confinement facility is available, then any such judge may
29 order the prisoner transferred to such camp or facility as the proper authorities of the
30 Department of Correction shall designate, notwithstanding that the term of imprisonment
31 of the prisoner is 90 days or less. In no event, however, shall a prisoner whose term of
32 imprisonment is less than 30 days be assigned or ordered transferred to any such camp or
33 facility."

34 Section 24. G.S. 153A-301(a) reads as rewritten:

35 "(a) The board of commissioners of any county may define any number of service
36 districts in order to finance, provide, or maintain for the districts one or more of the
37 following services, facilities and functions in addition to or to a greater extent than those
38 financed, provided or maintained for the entire county:

- 39 (1) Beach erosion control and flood and hurricane protection works.
40 (2) Fire protection.
41 (3) Recreation.
42 (4) Sewage collection and disposal systems of all types, including septic
43 tank systems or other on-site collection or disposal facilities or systems.

- 1 (5) Solid waste collection and disposal systems.
2 (6) Water supply and distribution systems.
3 (7) Ambulance and rescue.
4 (8) Watershed improvement projects, including but not limited to watershed
5 improvement projects as defined in ~~General Statutes Chapter 139; Chapter~~
6 139 of the General Statutes; drainage projects, including but not limited
7 to the drainage projects provided for by ~~General Statutes Chapter 156;~~
8 Chapter 156 of the General Statutes; and water resources development
9 projects, including but not limited to the federal water resources
10 development projects provided for by ~~General Statutes Chapter 143,~~
11 Article 21. Article 21 of Chapter 143 of the General Statutes.
12 (9) Cemeteries.
13 (10) Law enforcement if all of the following apply:
14 a. The population of the county is over ~~five hundred thousand~~
15 500,000 according to the most recent federal decennial census.
16 b. The county has an interlocal agreement with a city in the county
17 under which the city provides law enforcement services in the
18 entire unincorporated area of the county.
19 c. The county will pay to the city the following percentages of the
20 city-county police department budget if there are no significant
21 changes to the city's statutory annexation authority:
22 1. 9.60% for fiscal years 1995-96 and 1996-97.
23 2. 7.60% for fiscal years 1997-98 and 1998-99.
24 3. 5.60% for fiscal years 1999-2000 and 2000-2001.
25 4. 3.60% for fiscal years 2001-02 and 2002-03.
26 5. 1.60% for fiscal years 2003-04 and 2004-05.
27 Provided, if the difference between the ratio of the population in
28 the unincorporated area to the total population served by the city-
29 county police department and the rate for the current year as
30 stated above is greater than fifteen percent (15%), ~~the~~ the
31 county's agreement to pay such percentages can be amended to
32 reflect that difference."

33 Section 25. Chapter 261 of the 1995 Session Laws is repealed.

34 Section 26. Section 2 of Chapter 627 of the 1995 Session Laws reads as
35 rewritten:

36 "Sec. 2. G.S. ~~413-133(e)~~ 113-133.1(e) is amended by deleting the words
37 'Currituck: Session Laws 1959, Chapter 545.'"

38 Section 27. The Revisor of Statutes is authorized to renumber or reletter those
39 sections and any parts of sections of the General Statutes that have been published in the
40 General Statutes of North Carolina prior to the 1997 Session of the 1997 General
41 Assembly and have a number or letter designation that is not compatible with the General
42 Assembly's computer program database to be implemented in 1997 or 1998. This
43 authority is in addition to the authority contained in G.S. 164-10.

1 Section 28. Effective January 1, 1998, G.S. 1-339.25(a), as amended by
2 Section 18 of S.L. 1997-83 and Section 1 of S.L. 1997-119, reads as rewritten:

3 "(a) An upset bid is an advanced, increased or raised bid in a public sale by auction
4 whereby a person offers to purchase real property theretofore sold for an amount
5 exceeding the reported sale price by a minimum of five percent (5%) thereof, but in any
6 event with a minimum increase of seven hundred fifty dollars (\$750.00). ~~the the the~~—An
7 upset bid shall be made by delivering to the clerk of superior court, with whom the report
8 of the sale was filed, a deposit in cash or by certified check or cashier's check satisfactory
9 to the clerk in an amount greater than or equal to five percent (5%) of the amount of the
10 upset bid but in no event less than seven hundred fifty dollars (\$750.00). The deposit
11 required by this section shall be filed with the clerk of the superior court, with whom the
12 report of sale was filed, by the close of normal business hours on the tenth day after the
13 filing of the report of sale, and if the tenth day shall fall upon a Sunday or legal holiday or
14 upon a day in which the office of the clerk is not open for the regular dispatch of its
15 business, the deposit may be made on the day following when ~~said the~~ office is open for
16 the regular dispatch of its business. An upset bid need not be in writing, and the timely
17 deposit with the clerk of the required amount, together with an indication to the clerk as
18 to the sale to which it is applicable, is sufficient to constitute the upset bid, subject to the
19 provisions of subsection (b) of this section."

20 Section 29. G.S. 20-4.01(27)d1. reads as rewritten:

21 "d1. Moped. ~~Vehicles having~~ A vehicle that has two or three wheels
22 ~~and operable pedals and equipped with wheels, no external shifting~~
23 ~~device, and a motor which that does not exceed 50 cubic~~
24 ~~centimeters piston displacement and cannot propel the vehicle at~~
25 ~~a speed greater than 20 miles per hour on a level surface."~~

26 Section 30. G.S. 20-28.2(a), as amended by Section 1.1 of S.L. 1997-379,
27 reads as rewritten:

28 "(a) Meaning of 'Impaired Driving License Revocation'. – The revocation of a
29 person's driver's license is an impaired driving license revocation if the revocation is
30 pursuant to:

- 31 (1) G.S. 20-13.2, 20-16(a)(8b), 20-16.2, 20-16.5, 20-17(a)(2), 20-17(a)(12),
32 or 20-17.2; or
33 (2) G.S. 20-16(a)(7), ~~20-17(1), or 20-17(9),~~ 20-17(a)(1), or 20-17(a)(9), if the
34 offense involves impaired driving."

35 Section 31. G.S. 20-28.3(a), as enacted by Section 1.2 of S.L. 1997-379, reads
36 as rewritten:

37 "(a) A motor vehicle that is driven by a person in violation of G.S. 20-138.1 or G.S.
38 20-138.5 is subject to seizure if at the time of the violation the drivers license of the
39 person driving the motor vehicle was revoked as a result of a prior impaired ~~drivers~~
40 driving license revocation. ~~The revocation of a person's drivers license is an impaired drivers~~
41 ~~license revocation for purposes of this section if the revocation is pursuant to:~~

- 42 (1) ~~G.S. 20-13.2, 20-16(a)(8b), 20-16.2, 20-16.5, 20-17(a)(2), 20-17(a)(12),~~
43 ~~or 20-17.2; or~~

1 (2) ~~G.S. 20-16(a)(7), 20-17(a)(1), or 20-17(a)(9) if the offense involved~~
2 ~~impaired driving, revocation as defined in G.S. 20-28.2(a)."~~

3 Section 32. Effective December 1, 1997, G.S. 20-7(a1), as amended by
4 Section 8 of S.L. 1997-16, reads as rewritten:

5 "(a1) Motorcycles and Mopeds. – To drive a motorcycle, a person ~~must have~~ shall
6 have:

7 (1) ~~a motorcycle learner's permit, a~~ A full provisional license with a
8 ~~motorcycle learner's permit; and a motorcycle endorsement, or a~~

9 (2) A regular drivers license with a motorcycle learner's permit; or

10 (3) Either:

11 a. A full provisional license; or

12 b. A regular drivers license, and with a motorcycle endorsement.

13 Subsection (a2) of this section sets forth the requirements for a motorcycle learner's
14 permit.

15 To obtain a motorcycle endorsement, a person ~~must~~ shall demonstrate competence to
16 drive a motorcycle ~~by~~ by:

17 (1) ~~passing~~ Passing a road test and test;

18 (2) Passing a written or oral test concerning a motorcycle; and

19 (3) ~~must pay~~ Paying the fee for a motorcycle endorsement.

20 Neither a drivers license nor a motorcycle endorsement is required to drive a moped."

21 Section 33. Effective December 1, 1997, G.S. 20-7(a2), as enacted by Section
22 9 of S.L. 1997-16, reads as rewritten:

23 "(a2) Motorcycle Learner's Permit. – The following persons are eligible for a
24 motorcycle learner's permit:

25 (1) A person who is at least 16 years old but less than 18 years old and has a
26 ~~limited provisional license or a~~ full provisional license issued by the
27 Division.

28 (2) A person who is at least 18 years old and has a license issued by the
29 Division.

30 To obtain a motorcycle learner's permit, an applicant ~~must~~ shall pass a vision test, a
31 road sign test, and a written test specified by the Division. A motorcycle learner's permit
32 expires 18 months after it is issued. The holder of a motorcycle learner's permit may not
33 drive a motorcycle with a passenger. ~~The holder of a motorcycle learner's permit who has a~~
34 ~~limited provisional license may drive the motorcycle only at a time when the license holder~~
35 ~~could drive a motor vehicle without supervision under G.S. 20-11.~~ The fee for a motorcycle
36 learner's permit is the amount set in G.S. 20-7(l) for a learner's permit."

37 Section 34. (a) G.S. 20-28.6, as enacted in Section 1.5 of S.L. 1997-379, reads
38 as rewritten:

39 **"§ 20-28.6. Forfeiture of right of registration.**

40 (a) A person convicted of violating G.S. 20-138.1 or G.S. 20-138.5 while the
41 person's drivers license is revoked as a result of a prior impaired drivers license
42 revocation as defined in G.S. 20-28.3 forfeits the right to register or have registered a
43 motor vehicle in the person's name until the person's drivers license is restored. The trial

1 judge at the sentencing hearing on the person's charge of violating G.S. 20-138.1 or G.S.
2 20-138.5 while the person's drivers license is revoked as a result of a prior impaired
3 drivers license revocation as defined in G.S. 20-28.3 shall order the defendant's rights of
4 registration forfeited for the period the defendant's drivers license is revoked. The
5 defendant shall be ordered to surrender the registration on all motor vehicles registered in
6 the defendant's name to the Division within 10 days of the date of the order. Information
7 in the order pertaining to the registration of motor vehicles shall be transmitted
8 electronically or otherwise by the clerk of superior court to the Division. The Division
9 shall not thereafter register a motor vehicle in the defendant's name until the defendant's
10 drivers license has been restored.

11 (b) A registered owner other than the operator of the vehicle that is seized pursuant
12 to G.S. 20-28.3 who is not an innocent party pursuant to G.S. 20-28.2 forfeits the right to
13 register or have registered in the person's name the motor vehicle seized, until the drivers
14 license of the person whose driving violation resulted in the motor vehicle being seized is
15 restored. The trial judge on the person's charge of violating G.S. 20-138.1 or G.S. 20-
16 138.5 while the person's drivers license is revoked as a result of a prior impaired drivers
17 license revocation as defined in G.S. 20-28.3 shall order the registered owner's rights of
18 registration for the seized motor vehicle forfeited for the period the defendant's drivers
19 license is revoked after an opportunity for a hearing and a determination that the
20 requirements of subsections (a) through (c) of G.S. 20-28.2 exist. The registered owner
21 shall be ordered to surrender the registration on the motor vehicle seized to the Division
22 within 10 days of the date of the order. Information in the order pertaining to the
23 registration of motor vehicles shall be transmitted electronically or otherwise by the clerk
24 of superior court to the Division. The Division shall not thereafter register the motor
25 vehicle seized in the registered owner's name until the defendant's drivers license has
26 been restored."

27 (b) G.S. 20-139.1(b5), as enacted in Section 5.4 of S.L. 1997-379, reads as
28 rewritten:

29 "(b5) Subsequent Tests Allowed. – A person may be requested, pursuant to G.S. 20-
30 16.2, to submit to a chemical analysis of the person's blood or other bodily fluid or
31 substance in addition to or in lieu of a chemical analysis of the breath, in the discretion of
32 the charging officer. If a subsequent chemical analysis is requested pursuant to this
33 subsection, the person shall again be advised of the implied consent rights in accordance
34 with G.S. 20-16.2(a). A person's willful refusal to submit to a chemical analysis of the
35 blood or other bodily fluid or substance is a willful refusal under G.S. 20-16.2."

36 Section 35. G.S. 20-183.8C(b), as amended by Section 7 of S.L. 1997-29,
37 reads as rewritten:

38 "(b) Type II. – It is a Type II violation for an emissions self-inspector, an emissions
39 inspection station, or an emissions inspection mechanic to do any of the following:

40 (1) Use the identification code of another to gain access to an emissions
41 analyzer.

- 1 (2) Keep inspection stickers and other compliance documents in a manner
2 that makes them easily accessible to individuals who are not inspection
3 mechanics.
- 4 (3) Put an emissions inspection sticker on a vehicle that is required to have
5 one of the following emissions control devices but does not have it:
6 a. Catalytic converter.
7 b. PCV valve.
8 c. Thermostatic air control.
9 d. Oxygen sensor.
10 e. Unleaded gas restrictor.
11 f. Gasoline tank cap.
12 g. Air injection system.
13 h. Evaporative emissions system.
14 i. Exhaust gas recirculation (EGR) valve.
- 15 (4) Put an emissions inspection sticker on a vehicle without performing a
16 visual inspection of the vehicle's exhaust system and checking the
17 exhaust system for leaks.
- 18 (5) Impose no fee for an emissions inspection of a vehicle or the issuance of
19 an emissions inspection sticker or impose a fee for one of these actions
20 in an amount that differs from the amount set in ~~G.S. 20-187.3~~ G.S. 20-
21 183.7."

22 Section 36. G.S. 20-376(1) reads as rewritten:

23 "(1) Federal safety regulations. – The federal motor carrier safety regulations
24 contained in 49 ~~U.S.C. Subchapter B, Parts 350 through 399~~ C.F.R. Parts
25 382 and 390 through 398."

26 Section 37. G.S. 20-381(1a) reads as rewritten:

27 "(1a) To set safety standards for vehicles of motor carriers engaged in foreign,
28 interstate, or intrastate commerce over the highways of this State and for
29 the safe operation of these vehicles. The Division may ~~stop and inspect a~~
30 ~~vehicle stop, enter upon, and perform inspections of motor carriers'~~
31 vehicles in operation to determine if it is in compliance with these
32 standards and may conduct any investigations and tests it finds
33 necessary to promote the safety of equipment and the safe operation on
34 the highway of these vehicles."

35 Section 38. G.S. 20-381(3) reads as rewritten:

36 "(3) To relieve the highways of all undue burdens and safeguard traffic
37 thereon by adopting and enforcing rules and orders designed and
38 calculated to minimize the dangers attending transportation on the
39 highways of all hazardous ~~materials~~ materials and other commodities."

40 Section 39. Effective June 27, 1997, G.S. 53-212.1, as amended by Section 2.1
41 of S.L. 1997-241, reads as rewritten:

42 "**§ 53-212.1. Bank agent for deposit institution affiliate.**

1 A bank may act as the agent of any depository institution affiliate in receiving
2 deposits, renewing time deposits, closing loans, servicing loans, and receiving payments
3 on loans and other obligations, without being deemed a branch of such affiliate, in
4 accordance with Section 101(d) of the Reigle-Neal Interstate Banking and Branching
5 Efficiency Act of 1994. An affiliate for the purposes of this section shall include (i) an
6 affiliate as defined in Section 2(k) of the Bank Holding Company Act of 1956, as
7 amended (12 U.S.C. § 1841(k)), and (ii) an affiliate as defined in Section 23A(b)(1) of
8 the Federal Reserve Act, as amended (~~12 U.S.C. § 37c(b)(1)~~) (~~but (12 U.S.C. § 371c(b)(1)),~~
9 but without regard to whether the bank or the affiliate is a member of the Federal Reserve
10 System)-System."

11 Section 40. (a) The catch line for G.S. 58-51-61, as enacted in Section 1 of S.L.
12 1997-312, reads as rewritten:

13 "~~§ 58-51-61.~~ **§ 58-51-62. Coverage for reconstructive breast surgery resulting from**
14 **mastectomy."**

15 (b) G.S. 58-50-155(a2), as enacted in Section 4 of S.L. 1997-312, reads as
16 rewritten:

17 "(a2) Notwithstanding G.S. 58-50-123(c), the standard health plan developed and
18 approved under G.S. 58-50-125 shall provide coverage for reconstructive breast surgery
19 resulting from a mastectomy at least equal to the coverage required by ~~G.S. 58-51-61.~~ G.S.
20 58-51-62."

21 (c) Subsection (a) of this section is effective retroactively to July 10, 1997.
22 Subsection (b) of this section becomes effective January 1, 1998.

23 Section 41. If Senate Bill 843 of the 1997 General Assembly becomes law,
24 G.S. 58-31-45 reads as rewritten:

25 "**§ 58-31-45. Report required of Commissioner.**

26 The Commissioner must submit to the Governor a full report of his official action
27 under this Article, with such recommendations as commend themselves to ~~him, and it shall~~
28 ~~be embodied in or attached to his biennial report to the General Assembly.~~ him."

29 Section 42. G.S. 58-68-45(b)(3), as enacted by S.L. 97-259, reads as rewritten:

30 "(3) Violation of participation or contribution rules. – The policyholder has
31 failed to comply with a material plan provision relating to employer
32 contribution or group participation rules, as permitted under ~~G.S. 58-68-~~
33 ~~40(e)~~ G.S. 58-68-40(d) in the case of the small group market or pursuant
34 to this Chapter in the case of the large group market."

35 Section 43. (a) G.S. 105-305(b), (d), and (e) are repealed.

36 (b) This section becomes effective July 1, 1997.

37 Section 44. G.S. 113-291.3(b)(8), as enacted by Section 15 of S.L. 1997-142,
38 reads as rewritten:

39 "(8) The ~~sale of the~~ edible parts of deer raised domestically in another state
40 may be transported into this State and resold as a meat product for
41 human consumption when the edible parts have passed inspection in the
42 other state by that state's inspection agency or the United States
43 Department of Agriculture."

1 Section 45. G.S. 120-34(a) reads as rewritten:

2 "(a) The Legislative Services Commission shall publish all laws and joint
3 resolutions passed at each session of the General Assembly. The laws and joint
4 resolutions shall be kept separate and indexed separately. Each volume shall contain a
5 certificate from the Secretary of State stating that the volume was printed under the
6 direction of the Legislative Services Commission from ratified acts and resolutions on
7 file in the Office of the Secretary of State. The Commission may publish the Session
8 Laws and House and Senate Journals of extra and special sessions of the General
9 Assembly in the same volume or volumes as those of regular sessions of the General
10 Assembly. In printing, the signatures of the presiding officers and the Governor shall be
11 omitted.

12 The enrolling clerk or the Legislative Services Office shall assign to each bill that
13 becomes law a number in the order the bill became law, and the laws shall be printed in
14 the Session Laws in that order. The number shall be preceded by the ~~letters 'S.L.'~~ phrase
15 'Session Law' or the letters 'S.L.' followed by the calendar year it was ordered enrolled,
16 followed by a hyphen and the sequential law number. Laws of Extra Sessions shall so
17 indicate. In the case of any bill required to be presented to the Governor, and which
18 became law, the Session Laws shall carry, below the date of ratification, editorial notes as
19 to what time and what date the bill became law. In any case where the Governor has
20 returned a bill to the General Assembly with objections, those objections shall be printed
21 verbatim in the Session Laws, regardless of whether or not the bill became law
22 notwithstanding the objections."

23 Section 46. (a) G.S. 120-70.80 reads as rewritten:

24 "**§ 120-70.80. Creation and membership of Joint Legislative Education Oversight**
25 **Committee.**

26 The Joint Legislative Education Oversight Committee is established. The Committee
27 consists of 16 members as follows:

- 28 (1) Eight members of the Senate appointed by the President Pro Tempore of
29 the Senate, at least two of whom are members of the minority party; and
30 (2) Eight members of the House of Representatives appointed by the
31 Speaker of the House of Representatives, at least three of whom are
32 members of the minority party.

33 Terms on the Committee are for two years and begin on the convening of the General
34 Assembly in each odd-numbered year, except the terms of the initial members, which
35 begin on appointment and end on the day of the convening of the 1991 General
36 Assembly. Members may complete a term of service on the Committee even if they do
37 not seek reelection or are not reelected to the General Assembly, but resignation or
38 removal from service in the General Assembly constitutes resignation or removal from
39 service on the Committee.

40 A member continues to serve until his successor is appointed. A vacancy shall be
41 filled within 30 days by the officer who made the original appointment."

42 (b) G.S. 120-70.82(a) reads as rewritten:

1 "(a) The President Pro Tempore of the Senate and the Speaker of the House of
2 Representatives shall each designate a cochair of the Joint Legislative Education
3 Oversight Committee. The Committee shall meet at least once a quarter and may meet at
4 other times upon the joint call of the cochairs."

5 Section 47. G.S. 122C-261(d) reads as rewritten:

6 "(d) If the affiant is a physician or eligible psychologist, the affiant may execute the
7 affidavit before any official authorized to administer oaths. This affiant is not required to
8 appear before the clerk or magistrate for this purpose. This affiant's examination shall
9 comply with the requirements of the initial examination as provided in G.S. 122C-263(c).
10 If the physician or eligible psychologist recommends outpatient commitment and the
11 clerk or magistrate finds probable cause to believe that the respondent meets the criteria
12 for outpatient commitment, the clerk or magistrate shall issue an order that a hearing
13 before a district court judge be held to determine whether the respondent will be
14 involuntarily committed. ~~If a physician or eligible psychologist recommends outpatient~~
15 ~~commitment, the clerk or magistrate~~ The physician or eligible psychologist shall provide the
16 respondent with written notice of any scheduled appointment and the name, address, and
17 telephone number of the proposed outpatient treatment physician or center. If the
18 physician or eligible psychologist recommends inpatient commitment and the clerk or
19 magistrate finds probable cause to believe that the respondent meets the criteria for
20 inpatient commitment, the clerk or magistrate shall issue an order for transportation to or
21 custody at a 24-hour facility described in G.S. 122C-252. However, if the clerk or
22 magistrate finds probable cause to believe that the respondent, in addition to being
23 mentally ill, is also mentally retarded, the clerk or magistrate shall contact the area
24 authority before issuing the order and the area authority shall designate the facility to
25 which the respondent is to be transported. If a physician or eligible psychologist executes
26 an affidavit for inpatient commitment of a respondent, a second physician shall be
27 required to perform the examination required by G.S. 122C-266."

28 Section 48. G.S. 130A-412.1(g), as enacted by Section 2 of S.L. 1997-192,
29 reads as rewritten:

30 "(g) Hospitals and hospital personnel shall not be subject to civil or criminal
31 liability nor to discipline for unprofessional conduct for actions taken in good faith to
32 comply with this section. This subsection shall not provide immunity from ~~a~~-civil
33 liability arising from gross negligence."

34 Section 49. (a) G.S. 131E-146(1) reads as rewritten:

35 "(1) 'Ambulatory surgical facility' means a facility designed for the
36 provision of ~~an ambulatory surgical program~~ a specialty ambulatory
37 surgical program or a multispecialty ambulatory surgical program. An
38 ambulatory surgical facility serves patients who require local, regional
39 or general anesthesia and a period of post-operative observation. An
40 ambulatory surgical facility may only admit patients for a period of less
41 than 24 hours and must provide at least ~~one~~ two designated operating
42 ~~room~~ rooms and at least one designated recovery room, have available
43 the necessary equipment and trained personnel to handle emergencies,

1 provide adequate quality assurance and assessment by an evaluation and
2 review committee, and maintain adequate medical records for each
3 patient. An ambulatory surgical facility may be operated as a part of a
4 physician or dentist's office, provided the facility is licensed under G.S.
5 Chapter 131E, Article 6, Part D, but the performance of incidental,
6 limited ambulatory surgical procedures which do not constitute an
7 ambulatory surgical program as defined in subdivision (1a) and which
8 are performed in a physician or dentist's office does not make that office
9 an ambulatory surgical facility."

10 (b) This section conforms the definition of the term "ambulatory surgical
11 facility" in the Ambulatory Surgical Facility Licensure Act to the definition of the same
12 term in G.S. 131E-176, to reflect the amendment made to that statute by Section 2 of
13 Chapter 7 of the 1993 Session Laws. However, ambulatory surgical facilities with only
14 one operating room developed prior to the effective date of Chapter 7 of the 1993 Session
15 Laws may still be licensed as if this section had not been enacted.

16 Section 50. Effective October 1, 1997, G.S. 143-215.84(e), as enacted by
17 Section 4 of S.L. 1997-394, reads as rewritten:

18 ~~"(e)~~ (f) In order to reduce or eliminate the danger to public health or the
19 environment posed by a discharge or release of oil or a hazardous substance, an owner,
20 operator, or other responsible party may impose restrictions on the current or future use
21 of the real property comprising any part of the site if the restrictions meet the
22 requirements of this subsection. The restrictions must be agreed to by the owner of the
23 real property, included in a remedial action plan for the site that has been approved by the
24 Secretary, and implemented as a part of the remedial action program for the site. The
25 Secretary may approve restrictions included in a remedial action plan in accordance with
26 standards determined: (i) pursuant to rules for remediation of soil or groundwater
27 contamination adopted by the Commission; (ii) with respect to the cleanup of a discharge
28 or release from a petroleum underground storage tank, pursuant to rules adopted by the
29 Commission pursuant to G.S. 143-215.94V; or (iii) as provided in G.S. 130A-310.3(d).
30 Restrictions may apply to activities on, over, or under the land, including, but not limited
31 to, use of groundwater, building, filling, grading, excavating, and mining. Any approved
32 restriction shall be enforced by any owner, operator, or other party responsible for the oil
33 or hazardous substance discharge site. Any land-use restriction may also be enforced by
34 the Department through the remedies provided in this Article, Part 2 of Article 1 of
35 Chapter 130A of the General Statutes, or by means of a civil action. The Department
36 may enforce any land-use restriction without first having exhausted any available
37 administrative remedies. A land-use restriction may also be enforced by any unit of local
38 government having jurisdiction over any part of the site. A land-use restriction shall not
39 be declared unenforceable due to lack of privity of estate or contract, due to lack of
40 benefit to particular land, or due to lack of any property interest in particular land. Any
41 person who owns or leases a property subject to a land-use restriction under this Part
42 shall abide by the land-use restriction."

1 Section 51. Section 8 of Chapter 1436 of the 1957 Session Laws, as rewritten
2 by Section 6 of Chapter 622 of the 1981 Session Laws and by Section 1 of S.L. 1997-
3 163, reads as rewritten:

4 "Sec. 8. To obtain a license for either a stationary bush blind or a floating bush blind,
5 the applicant shall apply in writing to the clerk to the Game Commission enclosing:

6 (1) Twenty-five dollars (\$25.00) if the applicant is a resident of North
7 Carolina; or

8 (2) Two hundred fifty dollars (\$250.00) if the applicant is not a resident of
9 North Carolina.

10 In addition to ~~the~~this nonrefundable application fee, each application shall be
11 accompanied by a nonrefundable processing fee of ten dollars (\$10.00). Applicants shall
12 submit proof of North Carolina residency along with each application.

13 Applicants who are not residents of North Carolina but who were the holders of
14 licensed blinds for the 1996-97 waterfowl season shall be charged as North Carolina
15 residents for all subsequent renewals of that application. However, this exemption
16 terminates if the blind license is not renewed during any subsequent annual renewal
17 period and is not transferable to any different blind location.

18 Float blinds when licensed shall bear the license number or tag, and the same shall be
19 displayed in a prominent or conspicuous place upon the blind."

20 Section 52. Section 1 of S.L. 1997-11 reads as rewritten:

21 "Section 1. That part of Section 1 of Chapter ~~6-7~~ of the Session Laws of the 1991
22 Extra Session which rewrote G.S. 163-201(a) is repealed."

23 Section 53. Section 1 of S.L. 1997-97 reads as rewritten:

24 "Section 1. ~~Subsection (f) of Chapter 33 of the 1993 Session Laws~~ G.S. 113-
25 291.9(g) is repealed."

26 Section 54. The prefatory language of Section 1 of S.L. 1997-172 reads as
27 rewritten:

28 "Section 1. The title of Article 5 of Chapter ~~30-130A~~ of the General Statutes reads as
29 rewritten:"

30 Section 55. Section 7(a) of S.L. 1997-221 is amended by adding quotation
31 marks at the end.

32 Section 56. Unless otherwise provided, this act is effective when it becomes
33 law.