

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**Session 2007**

**Legislative Incarceration Fiscal Note**

**(G.S. 120-36.7)**

**BILL NUMBER:** House Bill 414 (Third Edition)

**SHORT TITLE:** Amend Metals Products Regulations.

**SPONSOR(S):** Representative Braxton

	FISCAL IMPACT				
	Yes (X)	No ( )	No Estimate Available ( )		
	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>
<b>GENERAL FUND</b>					
<b>Correction</b>	<b>No significant impact anticipated. Amount cannot be determined. *See Assumptions and Methodology, p. 2-3</b>				
<b>Judicial</b>	<b>No significant impact anticipated. Amount cannot be determined. *See Assumptions and Methodology, p. 3</b>				
<b>TOTAL EXPENDITURES:</b>		<b>Amount cannot be determined.</b>			
<b>ADDITIONAL PRISON BEDS: (cumulative)*</b>		<b>Amount cannot be determined.</b>			
<b>POSITIONS: (cumulative)</b>		<b>Amount cannot be determined.</b>			
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>	Department of Correction; Judicial Branch; Local Government.				
<b>EFFECTIVE DATE:</b>	December 1, 2007.				
<i>*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.</i>					

**BILL SUMMARY:** H.B. 414 amends G.S. 66-11 to require a secondary metals recycler that purchases regulated metals to keep a record of a signed statement, which includes the delivery vehicle license plate number when the person delivering the metals does not have a driver's license. Requires the recycler to make receipts for the purchase of regulated metals available for pickup by the sheriff or chief of police each work day. Prohibits the recycler from purchasing regulated metals from minors. Requires the recycler to retain regulated metals for seven days after purchase before selling or disposing of them. Also requires the recycler to report any offers to sell

metals that the recycler suspects are stolen. Increases violations of the section from a Class 1 to a Class A1 misdemeanor. Makes conforming changes. Effective for offenses committed on or after December 1, 2007.

The second edition of the bill makes the following changes to the first: amends proposed G.S. 66-11(d1) to exempt iron and steel products from the requirement that metals be retained for seven days before they can be sold or altered.

The third edition of the bill modifies the proposed amendments to G.S. 66-11 as follows:

1. Requires a secondary metals recycler to make purchase receipts for the regulated metals property available for regular pickup, conditional upon request by the sheriff or the chief of police;
2. Limits a secondary metals recycler from purchasing or receiving regulated metals property from a minor, other than at a fixed location; excepts the purchase of aluminum beverage or food cans; and
3. Provides that the requirement to retain certain metals for seven days, before selling or altering those metals, applies only to secondary metals recycler owners convicted of a violation of G.S. Chapter 66 (commerce and business), G.S. 14-71 (receiving stolen goods), G.S. 14-71.1 (possessing stolen goods), or G.S. 14-72 (larceny of property).

*Source: Bill Digest H.B. 414 (02/28/0200)*

## **ASSUMPTIONS AND METHODOLOGY:**

### **General**

Given current resources, any new charge and/or conviction for the enhanced offense will generate some additional fiscal impact for the Courts and Corrections. However, the Administrative Office of the Courts does not currently have a specific offense code for violation of G.S. 66-11, indicating that offenses are infrequently charged and/or infrequently result in conviction. Thus, *Fiscal Research does not anticipate a significant fiscal impact due to this proposal.*

### **Department of Correction – Division of Prisons**

The Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing, or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Accordingly, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill. Based on the most recent prison population projections and estimated available bed capacity, *there are no surplus prison beds available over the immediate five-year horizon or beyond.*

Per structured sentencing, Class 1 misdemeanor active sentences may range from 1 to 120 days, dependent upon an offender's prior record level (active punishment authorized for prior record levels II-III); conversely, Class A1 misdemeanor active sentences may range from 1 to 150 days, and are authorized for all prior record levels. Accordingly, the proposed penalty enhancement could result in increased active sentencing for affected offenses, and longer terms of incarceration. In FY 2005-06, 20% of Class 1 misdemeanor convictions resulted in active sentences, with an average estimated time served of 31 days; 26% of Class A1 misdemeanor convictions resulted in active sentences, with an average estimated time served of 50 days.

Incarcerated Classes 1 and A1 misdemeanants typically serve their designated terms within local jails.<sup>1</sup> However, active sentences longer than 90 days are served in state prison. Thus, if active sentences for new convictions exceed 90 days in length, this proposal could have a slight impact on the state’s prison population. Similarly, to the extent that resultant active sentences exceed 30 days in length, the Department of Correction could assume some additional costs for county reimbursement. However, it is not known how many convictions and/or active sentences would occur for the enhanced offense. Accordingly, the impact on local jail and state prison populations is unknown.

**Department of Correction – Division of Community Corrections**

In FY 2005-06, 80% of Class 1 and 74% of Class A1 misdemeanor convictions resulted in either intermediate or community punishments – predominately special, intensive, or general supervision probation. *Assuming this penalty enhancement increases the active sentencing rate for violation of G.S. 66-11, the Division of Community Corrections could forego some of the supervision costs it might otherwise incur (less non-active sentencing).* However, it is not known how sentencing practices might differ under this enhancement (e.g. how many offenders would be sentenced to intermediate or community punishments, to which type, or for how long).

- Presently, general supervision of intermediate and community offenders by a probation officer costs DCC \$1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. DCC also incurs a daily cost of \$0.69 per offender sentenced to the Community Service Work Program.
- The daily cost per offender on intermediate sanction is much higher, ranging from \$7.71 to \$14.97 depending on the type of sanction.
- Intensive supervision probation is the most frequently used intermediate sanction, and costs an estimated \$14.97 per offender, per day; on average, intensive supervision lasts six-months, with general supervision assumed for a designated period thereafter.

**Judicial Branch**

There is presently no specific offense code for violation of G.S. 66-11, and therefore no data from which to estimate the number of charges for the affected offense. However, the Administrative Office of the Courts expects that any offense expansion/penalty enhancement will be accompanied by more vigorous defense and prosecution, and will thereby increase court-time requirements and the associated costs of case disposal. Table I shows the difference in estimated costs per Classes 1 and A1 misdemeanor trials and pleas, respectively.

<b>Table 1. Administrative Office of the Courts Cost Estimates Per Trial and Plea: FY 2007-08</b>				
<i>Offense Class</i>	<i>Trial</i>	<i>Plea</i>	<i>Change in Cost: Trial</i>	<i>Change in Cost: Plea</i>
Class 1 Misdemeanor	\$ 3,702	\$ 243	N/A	N/A
Class A1 Misdemeanor	\$ 4,215	\$ 245	\$ 513	\$2

<sup>1</sup> Active sentences between 1-90 days are served in local jails. The Department of Correction reimburses counties \$18 for each day that offenders are housed longer than 30 days (between 30 and 90). Sentences longer than 90 days are to be served in state prison; however, when bed shortages demand it, the State may lease needed beds from counties.

**SOURCES OF DATA:** Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; and Office of State Construction.

**TECHNICAL CONSIDERATIONS:** None

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