

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

**SENATE BILL 1632  
RATIFIED BILL**

AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS REQUESTED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE VARIOUS OTHER TECHNICAL CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.

The General Assembly of North Carolina enacts:

**PART I. TECHNICAL CHANGES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.**

**SECTION 1.** G.S. 1-75.4(6) reads as rewritten:

"(6) Local Property. – In any action which arises out of:

- a. A promise, made anywhere to the plaintiff or to some third party for the plaintiff's benefit, by the defendant to create in either party an interest in, or protect, acquire, dispose of, use, rent, own, control or possess by either party real property situated in this State; or
- b. A claim to recover for any benefit derived by the defendant through the use, ownership, control or possession by the defendant of tangible property situated within this State either at the time of the first use, ownership, control or possession or at the time the action is commenced; or
- c. A claim that the defendant return, restore, or account to the plaintiff for any asset or thing of value which was within this State at the time the defendant acquired possession or control over it; or
- d. A claim related to a loan made in this State or deemed to have been made in this State under G.S. 24-2.1, regardless of the situs of the lender, assignee, or other holder of the loan note and regardless of whether the loan payment or fee is received through a loan servicer, provided that: (i) the loan was made to a borrower who is a resident of this State, (ii) the loan is incurred by the borrower primarily for personal, family, or household purposes, and (iii) the loan is secured by a mortgage or deed of trust on real property situated in this State upon which there is located or there is to be located a structure or structures designed principally for occupancy of from one to four families."

**SECTION 2.** G.S. 7A-177(b) reads as rewritten:

"(b) In addition to the basic training course required ~~in~~ under subsection (a) of this section, continuing education courses shall be provided at such times and locations as necessary to assure that they are conveniently available to all magistrates without extensive travel to other parts of the State."

**SECTION 3.** G.S. 7A-498.8(b) reads as rewritten:

"(b) The appellate defender shall perform such duties as may be directed by the Office of Indigent Defense Services, including:

- (1) Representing indigent persons subsequent to conviction in trial courts. The Office of Indigent Defense Services may, following consultation with the appellate defender and consistent with the resources available to the appellate defender to ensure quality criminal defense services by the appellate defender's office, assign appeals, or authorize the appellate defender to assign appeals, to a local public defender's office or to private assigned counsel.
- (2) Maintaining a clearinghouse of materials and a repository of briefs prepared by the appellate defender to be made available to private counsel representing indigents in criminal cases.
- (3) Providing continuing legal education training to assistant appellate defenders and to private counsel representing indigents in criminal cases, including capital cases, as resources are available.
- (4) Providing consulting services to attorneys representing defendants in capital cases.
- (5) Recruiting qualified members of the private bar who are willing to provide representation in State and federal death penalty postconviction proceedings.
- (6) In the appellate defender's discretion, serving as counsel of record for indigent defendants in capital cases in State court.
- (6a) In the appellate defender's discretion, serving as counsel of record for indigent defendants in the United States Supreme Court pursuant to a petition for writ of certiorari of the decision on direct appeal by a court of the North Carolina Appellate Division.
- (7) Undertaking other direct representation and consultation in capital cases pending in federal court only to the extent that such work is fully federally funded."

**SECTION 4.** G.S. 7A-796(19) reads as rewritten:

"(19) ~~The local program director provided for in G.S. 7A-798; and Any local drug treatment coordinator; and~~".

**SECTION 5.** G.S. 14-208.41(b) reads as rewritten:

"(b) Any person described by G.S. 14-208.40(a)(2) who is ordered by the court pursuant to G.S. 14-208.40A or ~~required by the Department pursuant to G.S. 14-208.40B~~ to enroll in a satellite-based monitoring program shall do so with the Division of Community Corrections office in the county where the person resides. The person shall remain enrolled in the satellite-based monitoring program for the period of time ordered by the court ~~or the period of time specified by the Department.~~court."

**SECTION 6.** G.S. 18B-902(h) reads as rewritten:

"(h) Recycling Plan Required. – Each applicant for an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages permit shall prepare and submit with the application a plan for the collection and recycling of all recyclable beverage containers of all beverages to be sold at retail on the premises."

**SECTION 7.** G.S. 18B-903(b2) reads as rewritten:

"(b2) Recycling Plan Required. – Each person holding an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages permit shall submit, along with the annual registration or renewal application, a current plan for the collection and recycling of all recyclable beverage containers of all beverages sold at retail on the premises."

**SECTION 8.** G.S. 19A-62(c) reads as rewritten:

"(c) Report. – In February of each year, the Department must report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. The report must contain information regarding all revenues and expenditures of the Spay/Neuter Account."

**SECTION 9.** G.S. 20-19(e) reads as rewritten:

"(e) When a person's license is revoked under (i) G.S. 20-17(a)(2) and the person has two or more previous offenses involving impaired driving for which ~~he~~ the person has been convicted, and the most recent offense occurred within the five years immediately preceding the date of the offense for which ~~his~~ the person's license is being revoked, or (ii) G.S. 20-17(a)(9) due to a violation of G.S. 20-141.4(a4), the revocation is permanent. ~~The~~

(e1) Notwithstanding subsection (e) of this section, the Division may, however, may conditionally restore the person's license of a person to whom subsection (e) applies after it has been revoked for at least three years under this subsection (e) if he the person provides the Division with satisfactory proof that of all of the following:

- (1) In the three years immediately preceding the person's application for a restored license, ~~he~~ the person has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or ~~drugs;~~ and drugs.
- (2) ~~He~~ The person is not currently an excessive user of alcohol, drugs, or prescription drugs, or unlawfully using any controlled substance.

(e2) Notwithstanding subsection (e) of this section, the ~~The~~ Division may conditionally restore the ~~person's~~ license of a person to whom subsection (e) applies after it has been revoked for at least 24 months under G.S. 20-17(a)(2) if the person provides the Division with satisfactory proof ~~that of all of the following:~~

- (1) ~~He~~ The person has not consumed any alcohol for the 12 months preceding the restoration while being monitored by a continuous alcohol monitoring device of a type approved by the Department of Correction.
- (2) ~~He~~ The person has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs.
- (3) ~~He~~ The person is not currently an excessive user of drugs or prescription drugs.
- (4) ~~He~~ The person is not unlawfully using any controlled substance.

(e3) If the Division restores the a person's license, license under subsection (e1) or (e2) of this section, it may place reasonable conditions or restrictions on the person for any period up to five years from the date of restoration."

**SECTION 10.** G.S. 20-38.7(d) reads as rewritten:

"(d) Following a new sentencing hearing in district court pursuant to subsection (c) of this section, a defendant has a right of appeal to the superior court only if:

- (1) The sentence is based upon additional facts considered by the district court that were not considered in the previously vacated ~~judgment,~~ sentence, and
- (2) The defendant would be entitled to a jury determination of those facts pursuant to G.S. 20-179.

A defendant who has a right of appeal under this subsection, gives notice of appeal, and subsequently withdraws the appeal shall have the sentence imposed by the district court reinstated by the district court as a final judgment that is not subject to further appeal."

**SECTION 11.** G.S. 20-171.21 reads as rewritten:

**"§ 20-171.21. Penalties.**

Any person violating any of the provisions of this Part shall be responsible for an infraction and may be subject to a ~~fine~~ penalty of not more than two hundred dollars (\$200.00)."

**SECTION 12.** G.S. 58-24-185(a) reads as rewritten:

"(a) Nothing contained in this Article shall be so construed as to affect or apply to:

- (1) Grand or subordinate lodges of societies, orders or associations now doing business in this State which provide benefits exclusively through local or subordinate lodges;
- (2) Orders, societies or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, insuring only their own members and their families, and the ladies' societies or ladies' auxiliaries to such orders, societies or associations;
- (3) Domestic societies which limit their membership to employees of a particular city or town, designated firm, business house or corporation which provide for a death benefit of not more than five hundred dollars (\$500.00) or disability benefits of not more than three hundred fifty dollars (\$350.00) to any person in any one year, or both;
- (4) Domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than five hundred dollars (\$500.00) or for disability benefits of not more than three hundred fifty dollars (\$350.00) to any one person in any one year, or both; ~~or~~
- (5) An association of local lodges of a society now doing business in this State which provides death benefits not exceeding five hundred dollars (\$500.00) to any one person, provided, that the Commissioner may authorize the payment of death benefits not exceeding three thousand dollars (\$3,000) to any one person, or may authorize disability benefits not exceeding three hundred dollars (\$300.00), or may authorize both payments, in any one year to any one ~~person-person; or~~

....  
**SECTION 13.** G.S. 58-84-35(6) reads as rewritten:

"(6) To provide for educational benefits to firemen and their dependents who otherwise qualify for benefits from the ~~Firemen's Relief Fund~~ Firefighters' Relief Fund as set forth in Article 85 of this Chapter."

**SECTION 14.** G.S. 90-18.5(b) reads as rewritten:

"(b) Anesthesiologist assistants are authorized to provide anesthesia services under the supervision of an anesthesiologist licensed under Article 1 of this Chapter under the following conditions:

- (1) The North Carolina Medical Board has adopted rules governing the provision of anesthesia services by an anesthesiologist assistant consistent with the requirements of subsection (c) of this section.
- (2) The anesthesiologist assistant holds a current license issued by the Board or is a student anesthesiologist assistant participating in a training program leading to certification by the National Commission for Certification of Anesthesiologist Assistants and licensure as an anesthesiologist assistant under ~~G.S. 90-11(a1)~~ G.S. 90-9.4."

**SECTION 15.** G.S. 105-163.9 reads as rewritten:

**"§ 105-163.9. (Effective January 1, 2008) Refund of overpayment to withholding agent.**

A withholding agent who pays the Secretary more under this Article than the Article requires the agent to pay may obtain a refund of the overpayment by filing a request for a refund with the Secretary. No refund is allowed, however, if the withholding agent withheld the amount of the overpayment from the wages or compensation of the agent's employees or contractors. A withholding agent must file a request for a refund within the time period set in ~~G.S.~~ G.S. 105-241.6. Interest accrues on a refund as provided in G.S. 105-241.21."

**SECTION 16.** G.S. 105-249.2(b) reads as rewritten:

"(b) Disaster. – The penalties in ~~G.S. 105-236(2), (3), and (4)~~ G.S. 105-236(a)(2), (3), and (4) may not be assessed for any period in which the time for filing a federal

return or report or for paying a federal tax is extended under section 7508A of the Code because of a presidentially declared disaster. For the purpose of this section, "presidentially declared disaster" has the same meaning as in section 1033(h)(3) of the Code."

**SECTION 17.** G.S. 108A-25.2 reads as rewritten:

**"§ 108A-25.2. Exemption from limitations for individuals convicted of certain drug-related felonies.**

Individuals convicted of Class H or I controlled substance felony offenses in this State shall be eligible to participate in the Work First Program and ~~and~~ the food and nutrition services program:

- (1) Six months after release from custody if no additional controlled substance felony offense is committed during that period and successful completion of or continuous active participation in a required substance abuse treatment program determined appropriate by the area mental health authority; or
- (2) If not committed to custody, six months after the date of conviction if no additional controlled substance felony offense is committed during that period and successful completion of or continuous active participation in a required substance abuse treatment program determined appropriate by the area mental health authority.

A county department of social services shall require individuals who are eligible for Work First Program assistance and electronic food and nutrition benefits pursuant to this section to undergo substance abuse treatment as a condition for receiving Work First Program or electronic food and nutrition benefits, if funds and programs are available and to the extent allowed by federal law."

**SECTION 18.** G.S. 108A-53(a) reads as rewritten:

"(a) Any person, whether provider or recipient or person representing himself as such, who knowingly obtains or attempts to obtain, or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any electronic food and nutrition benefit to which that person is not entitled in the amount of four hundred dollars (\$400.00) or less shall be guilty of a Class 1 misdemeanor. Whoever knowingly obtains or attempts to obtain, or aids or abets any person to obtain by means of making a willfully false statement or representation or by impersonation or by failing to disclose material facts or in any manner not authorized by this Part or the regulations issued pursuant thereto, transfers with intent to defraud any electronic food and nutrition benefit to which he is not entitled in an amount more than four hundred dollars (\$400.00) shall be guilty of a Class I felony."

**SECTION 19.** G.S. 115C-366(a3)(1) reads as rewritten:

"(a3) A student who is not a domiciliary of a local school administrative unit may attend, without the payment of tuition, the public schools of that unit if all of the following apply:

- (1) The student resides with an adult, who is a domiciliary of that unit, as a result of any one of the following:
  - a. The death, serious illness, or incarceration of a parent or legal guardian,
  - b. The abandonment by a parent or legal guardian of the complete control of the student as evidenced by the failure to provide substantial financial support and parental guidance,
  - c. Abuse or neglect by the parent or legal guardian,
  - d. The physical or mental condition of the parent or legal guardian is such that he or she cannot provide adequate care and supervision of the student,

- e. The relinquishment of physical custody and control of the student by the student's parent or legal guardian upon the recommendation of the department of social services or the Division of Mental Health, ~~or~~
- f. The loss or uninhabitability of the student's home as the result of a natural disaster, or
- g. The parent or legal guardian is on active military duty and is deployed out of the local school administrative unit in which the student resides. For purposes of this sub-subdivision, the term "active duty" does not include periods of active duty for training for less than 30 days. Assignment under this sub-subdivision is only available if some evidence of the deployment is tendered with the affidavits required under subdivision (3) of this subsection."

**SECTION 20.** G.S. 120-103.1(i)(3)b. reads as rewritten:

- "b. The hearing shall be ~~legislator~~ open to the public, except for matters that could otherwise be considered in closed session under G.S. 143-318.11, matters involving minors, or matters involving a personnel record. In any event, the deliberations by the Commission on a complaint may be held in closed session."

**SECTION 21.** G.S. 138A-12(f) reads as rewritten:

"(f) Dismissal of Complaint After Preliminary Inquiry. – If the Commission determines at the end of its preliminary inquiry that (i) the individual who is the subject of the complaint is not a covered person or legislative employee subject to the Commission's jurisdiction and authority under this Chapter, or (ii) the complaint does not allege facts sufficient to constitute a violation within the jurisdiction of the Commission under subsection (b) ~~if~~ of this section, the Commission shall dismiss the complaint."

**SECTION 22.** G.S. 143-652.2(g) reads as rewritten:

"(g) Initial appointments to the Commission under this ~~reenacted~~ section shall be for terms commencing July 1, 2007."

**SECTION 23.** G.S. 143-722(b) reads as rewritten:

"(b) Any non-State entity as that term is defined in G.S. 143C-1-1 that receives, uses, or expends any funds from the Commission is subject to the applicable reporting requirements of ~~G.S. 143-6-14~~ G.S. 143C-6-14."

**SECTION 24.** G.S. 143A-44.1 reads as rewritten:

**"§ 143A-44.1. Creation.**

There is hereby created a Department of Public Instruction. The head of the Department of Public Instruction is the State Board of Education. Any provision of G.S. 143A-9 to the contrary notwithstanding, the appointment of the State Board of Education shall be as prescribed in ~~Article IV, Section 4(1)~~ Article IX, Section (4)(1) of the Constitution."

**SECTION 25.** G.S. 143B-139.5B reads as rewritten:

**"§ 143B-139.5B. Department of Health and Human Services – provision for joint training.**

The Department of Health and Human Services shall offer joint training of Division of Health Service Regulation consultants, county DSS adult home specialists, and adult care home providers. The training shall be offered no fewer than two times per year, and subject matter of the training should be based on one or more of the 10 deficiencies cited most frequently in the State during the immediately preceding calendar year. The joint training shall be designed to reduce inconsistencies experienced by providers in the survey process, to increase objectivity by ~~DFS-DHSR~~ consultants and DSS specialists in conducting surveys, and to promote a higher degree of understanding between facility staff and ~~DFS-DHSR~~ consultants and DSS specialists in what is expected during the survey process."

**SECTION 26.(a)** G.S. 143B-437.11 is recodified as G.S. 143B-437.012.

**SECTION 26.(b)** G.S. 150B-1(d) reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

..  
(18) The Department of Commerce and the Economic Investment Committee in developing criteria and administering the Job Maintenance and Capital Development Fund under ~~G.S. 143B-437.11~~ G.S. 143B-437.012."

**SECTION 27.** G.S. 143D-8 reads as rewritten:

**"§ 143D-8. Internet-Internal control documentation.**

Each State agency shall maintain documentation, as prescribed by the State Controller, of the system of internal control within that agency. All internal control documentation shall be available upon request for examination by the State Controller and the State Auditor."

**SECTION 28.** G.S. 147-86.30(c) reads as rewritten:

"(c) Priority Use of Funds. – As soon as practicable after the beginning of each fiscal year, the State Treasurer must certify in writing to the chair of the Commission the estimated amount of debt service anticipated to be paid during the fiscal year for special indebtedness authorized by the State Capital Facilities Act of 2004, Part 1 of S.L. 2004-124. The chair of the Commission must issue a warrant from the Fund to the General Fund for the lesser of (i) one-half of the amount certified by the Treasurer and (ii) the applicable percentage of the Fund's receipts for the current fiscal year. For fiscal years beginning before July 1, 2007, the applicable percentage is thirty percent (30%). For fiscal years beginning on or after July 1, 2007, the applicable percentage is sixty-five percent (65%).

~~G.S. 143C-9-3"~~

**SECTION 29.** G.S. 163-278.27(a1) reads as rewritten:

"(a1) A violation of ~~G.S. 278.32~~ G.S. 163-278.32 by making a certification knowing the information to be untrue is a Class I felony."

**SECTION 30.** The introductory language of Section 3 of S.L. 2007-177 reads as rewritten:

~~"SECTION 3. G.S. 122C-430.30~~ G.S. 122C-430 reads as rewritten:"

**SECTION 31.** The introductory language of Section 2 of S.L. 2007-318 reads as rewritten:

~~"SECTION 2. G.S. 105-153A-155(g)~~ G.S. 153A-155(g) reads as rewritten:"

**SECTION 32.** Section 44 of S.L. 2007-348 reads as rewritten:

**"SECTION 44.** Sections 17, 23, 39, 40 and 41 of this act are effective January 1, 2007. Section 9 of this act is effective July 1, 2007. Sections 8, 11, 15, 20, 22, 25, ~~34~~ and 42 of this act become effective October 1, 2007. Section 18 of this act becomes effective December 1, 2007. Section 34 of this act becomes effective January 1, 2008. The remainder of this act is effective when this act becomes law."

**SECTION 33.(a)** Section 1(c) of S.L. 2007-391 reads as rewritten:

**"SECTION 1.(c)** ~~This act~~ section becomes effective December 1, 2007, and applies to offenses committed on or after that date."

**SECTION 33.(b)** Section 6(f) of S.L. 2007-391 reads as rewritten:

**"SECTION 6.(f)** ~~Subsections 7(b) through 7(e) of~~ Subsections 6(b) through 6(e) of this section become effective January 1, 2008. The remainder of this section is effective when this act becomes law."

## **PART II. OTHER CHANGES**

**SECTION 34.(a)** G.S. 14-71(b) reads as rewritten:

"(b) If a person knowingly receives or possesses property in the custody of a law enforcement agency that was explicitly represented to the person by an agent of the law enforcement agency or a person authorized to act on behalf of a law enforcement

agency as stolen, the person is guilty of a Class H felony and may be indicted, tried, and punished in any county in which the person received or possessed the property."

**SECTION 34.(b)** G.S. 14-72.11 reads as rewritten:

**"§ 14-72.11. Larceny from a merchant.**

A person is guilty of a Class H felony if the person commits larceny against a merchant under any of the following circumstances:

- (1) If the property taken has a value of more than two hundred dollars (\$200.00), by using an exit door erected and maintained to comply with the requirements of ~~29 C.F.R. § 1910 Subpart E, 29 C.F.R. § 1910.36 and 29 C.F.R. § 1910.37~~ upon which door has been placed a notice, sign, or poster providing information about the felony offense and punishment provided under this subsection, to exit the premises of a store.
- (2) By removing, destroying, or deactivating a component of an antishoplifting or inventory control device to prevent the activation of any antishoplifting or inventory control device.
- (3) By affixing a product code created for the purpose of fraudulently obtaining goods or merchandise from a merchant at less than its actual sale price.
- (4) When the property is infant formula valued in excess of one hundred dollars (\$100.00). As used in this subsection, the term "infant formula," has the same meaning as found in 21 U.S.C. § 321(z)."

**SECTION 34.(c)** G.S. 14-86.6 reads as rewritten:

**"§ 14-86.6. Organized retail theft.**

(a) A person is guilty of a Class H felony if the person:

- (1) Conspires with another person to commit theft of retail property from a retail ~~establishment, establishments,~~ with a value exceeding one thousand five hundred dollars (\$1,500) aggregated over a 90-day period, with the intent to sell that retail property for monetary or other gain, and who takes or causes that retail property to be placed in the control of a retail property fence or other person in exchange for consideration.
- (2) Receives or possesses any retail property that has been taken or stolen in violation of subdivision (1) of this subsection while knowing or having reasonable grounds to believe the property is stolen.

(b) Any interest a person has acquired or maintained in violation of this section shall be subject to forfeiture pursuant to the procedures for forfeiture set out in G.S. 18B-504."

**SECTION 35.** G.S. 15A-145(a) reads as rewritten:

**"§ 15A-145. Expunction of records for first offenders under the age of 18 at the time of conviction of misdemeanor; expunction of certain other misdemeanors.**

(a) Whenever any person who has (i) not yet attained the age of 18 years and has not previously been convicted of any felony, or misdemeanor other than a traffic violation, under the laws of the United States, the laws of this State or any other state, pleads guilty to or is guilty of a misdemeanor other than a traffic violation, or (ii) not yet attained the age of 21 years and has not previously been convicted of any felony, or misdemeanor other than a traffic violation, under the laws of the United States, the laws of this State or any other state, pleads guilty to or is guilty of a misdemeanor possession of alcohol pursuant to G.S. 18B-302(b)(1), he may file a petition in the court where he was convicted for expunction of the misdemeanor from his criminal record. The petition cannot be filed earlier ~~than~~ than: (i) two years after the date of the ~~conviction~~ conviction, or (ii) the completion of any period of probation, whichever occurs later, and the petition shall contain, but not be limited to, the following:



- (1) An affidavit by the petitioner that he has been of good behavior for the two-year period since the date of conviction of the misdemeanor in question and has not been convicted of any felony, or misdemeanor other than a traffic violation, under the laws of the United States or the laws of this State or any other state.
- (2) Verified affidavits of two persons who are not related to the petitioner or to each other by blood or marriage, that they know the character and reputation of the petitioner in the community in which he lives and that his character and reputation are good.
- (3) A statement that the petition is a motion in the cause in the case wherein the petitioner was convicted.
- (4) Affidavits of the clerk of superior court, chief of police, where appropriate, and sheriff of the county in which the petitioner was convicted and, if different, the county of which the petitioner is a resident, showing that the petitioner has not been convicted of a felony or misdemeanor other than a traffic violation under the laws of this State at any time prior to the conviction for the misdemeanor in question or during the two-year period following that conviction.
- (5) An affidavit by the petitioner that no restitution orders or civil judgments representing amounts ordered for restitution entered against him are outstanding.

The petition shall be served upon the district attorney of the court wherein the case was tried resulting in conviction. The district attorney shall have 10 days thereafter in which to file any objection thereto and shall be duly notified as to the date of the hearing of the petition.

The judge to whom the petition is presented is authorized to call upon a probation officer for any additional investigation or verification of the petitioner's conduct during the two-year period that he deems desirable."

**SECTION 35.5.** G.S. 18B-1006.1 reads as rewritten:

**"§ 18B-1006.1. Additional requirement for certain permittees to recycle beverage containers.**

Holders of on-premises malt beverage permits, on-premises unfortified wine permits, on-premises fortified wine permits, and mixed beverages permits shall separate, store, and provide for the collection for recycling of all recyclable beverage containers of all beverages sold at retail on the premises. A permittee has satisfied the requirements of this section if it implements a recycling program that meets the minimum standards of the model recycling program developed by the Commission pursuant to G.S. 130A-309.14(m). Failure to comply with the requirements of this section shall not be grounds for revocation of a permit. A conviction for violation of this section shall not constitute an alcoholic beverage offense within the meaning of G.S. 18B-900(a)(4)."

**SECTION 36.(a)** G.S. 20-138.2A(b2) reads as rewritten:

"(b2) Alcohol Screening Test. – Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violation of subsection (a) of this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the ~~Commission for Public Health, Department of Health and Human Services,~~ and the screening test is conducted in accordance with the applicable regulations of the ~~Commission-Department~~ as to its manner and use."

**SECTION 36.(b)** G.S. 20-138.2B(b2) reads as rewritten:

"(b2) Alcohol Screening Test. – Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violation of subsection (a) of this section, and the results of an alcohol screening test or the driver's

refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the ~~Commission for Public Health, Department of Health and Human Services~~, and the screening test is conducted in accordance with the applicable regulations of the ~~Commission-Department~~ as to its manner and use."

**SECTION 36.(c)** G.S. 20-179.3(j) reads as rewritten:

"(j) Effect of Violation of Restriction. – A holder of a limited driving privilege who violates any of its restrictions commits the offense of driving while his license is revoked under G.S. 20-28(a) and is subject to punishment and license revocation as provided in that section. If a law-enforcement officer has reasonable grounds to believe that the holder of a limited driving privilege has consumed alcohol while driving or has driven while he has remaining in his body any alcohol previously consumed, the suspected offense of driving while license is revoked is an alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2. If a holder of a limited driving privilege is charged with driving while license revoked by violating a restriction contained in his limited driving privilege, and a judicial official determines that there is probable cause for the charge, the limited driving privilege is suspended pending the resolution of the case, and the judicial official must require the holder to surrender the limited driving privilege. The judicial official must also notify the holder that he is not entitled to drive until his case is resolved.

Notwithstanding any other provision of law, an alcohol screening test may be administered to a driver suspected of violating this section, and the results of an alcohol screening test or the driver's refusal to submit may be used by a law enforcement officer, a court, or an administrative agency in determining if alcohol was present in the driver's body. No alcohol screening tests are valid under this section unless the device used is one approved by the ~~Commission for Public Health, Department of Health and Human Services~~, and the screening test is conducted in accordance with the applicable regulations of the ~~Commission-Department~~ as to the manner of its use."

**SECTION 37.(a)** G.S. 32A-25.1 reads as rewritten:

"§ 32A-25.1. **Statutory form health care power of attorney.**

(a) The use of the following form in the creation of a health care power of attorney is lawful and, when used, it shall meet the requirements of and be construed in accordance with the provisions of this Article:

### **HEALTH CARE POWER OF ATTORNEY**

**NOTE: YOU SHOULD USE THIS DOCUMENT TO NAME A PERSON AS YOUR HEALTH CARE AGENT IF YOU ARE COMFORTABLE GIVING THAT PERSON BROAD AND SWEEPING POWERS TO MAKE HEALTH CARE DECISIONS FOR YOU. THERE IS NO LEGAL REQUIREMENT THAT ANYONE EXECUTE A HEALTH CARE POWER OF ATTORNEY.**

***EXPLANATION:** You have the right to name someone to make health care decisions for you when you cannot make or communicate those decisions. This form may be used to create a health care power of attorney, and meets the requirements of North Carolina law. However, you are not required to use this form, and North Carolina law allows the use of other forms that meet certain requirements. If you prepare your own health care power of attorney, you should be very careful to make sure it is consistent with North Carolina law.*

*This document gives the person you designate as your health care agent **broad powers** to make health care decisions for you when you cannot make the decision yourself or cannot communicate your decision to other people. You should discuss your wishes concerning life-prolonging measures, mental health treatment, and other health care*

*decisions with your health care agent. Except to the extent that you express specific limitations or restrictions in this form, your health care agent may make any health care decision you could make yourself.*

*This form does not impose a duty on your health care agent to exercise granted powers, but when a power is exercised, your health care agent will be obligated to use due care to act in your best interests and in accordance with this document.*

*This Health Care Power of Attorney form is intended to be valid in any jurisdiction in which it is presented, but places outside North Carolina may impose requirements that this form does not meet.*

*If you want to use this form, you must complete it, sign it, and have your signature witnessed by two qualified witnesses and proved by a notary public. Follow the instructions about which choices you can initial very carefully. **Do not sign this form until** two witnesses and a notary public are present to watch you sign it. You then should give a copy to your health care agent and to any alternates you name. You should consider filing it with the Advance Health Care Directive Registry maintained by the North Carolina Secretary of State: <http://www.nclifelinks.org/ahcdr/>*

## **1. Designation of Health Care Agent.**

I, \_\_\_\_\_, being of sound mind, hereby appoint the following person(s) to serve as my health care agent(s) to act for me and in my name (in any way I could act in person) to make health care decisions for me as authorized in this document. My designated health care agent(s) shall serve alone, in the order named.

A. Name: \_\_\_\_\_ Home Telephone: \_\_\_\_\_  
Home Address: \_\_\_\_\_ Work Telephone: \_\_\_\_\_  
\_\_\_\_\_ Cellular Telephone: \_\_\_\_\_

B. Name: \_\_\_\_\_ Home Telephone: \_\_\_\_\_  
Home Address: \_\_\_\_\_ Work Telephone: \_\_\_\_\_  
\_\_\_\_\_ Cellular Telephone: \_\_\_\_\_

C. Name: \_\_\_\_\_ Home Telephone: \_\_\_\_\_  
Home Address: \_\_\_\_\_ Work Telephone: \_\_\_\_\_  
\_\_\_\_\_ Cellular Telephone: \_\_\_\_\_

Any successor health care agent designated shall be vested with the same power and duties as if originally named as my health care agent, and shall serve any time his or her predecessor is not reasonably available or is unwilling or unable to serve in that capacity.

## **2. Effectiveness of Appointment.**

My designation of a health care agent expires only when I revoke it. Absent revocation, the authority granted in this document shall become effective when and if one of the physician(s) listed below determines that I lack capacity to make or communicate decisions relating to my health care, and will continue in effect during that incapacity, or until my death, except if I authorize my health care agent to exercise my rights with respect to anatomical gifts, autopsy, or disposition of my remains, this authority will continue after my death to the extent necessary to exercise that authority.

1. \_\_\_\_\_ (Physician)

2. \_\_\_\_\_ (*Physician*)

If I have not designated a physician, or no physician(s) named above is reasonably available, the determination that I lack capacity to make or communicate decisions relating to my health care shall be made by my attending physician.

### **3. Revocation.**

Any time while I am competent, I may revoke this power of attorney in a writing I sign or by communicating my intent to revoke, in any clear and consistent manner, to my health care agent or my health care provider.

### **4. General Statement of Authority Granted.**

Subject to any restrictions set forth in Section 65 below, I grant to my health care agent full power and authority to make and carry out all health care decisions for me. These decisions include, but are not limited to:

- A. Requesting, reviewing, and receiving any information, verbal or written, regarding my physical or mental health, including, but not limited to, medical and hospital records, and to consent to the disclosure of this information.
- B. Employing or discharging my health care providers.
- C. Consenting to and authorizing my admission to and discharge from a hospital, nursing or convalescent home, hospice, long-term care facility, or other health care facility.
- D. Consenting to and authorizing my admission to and retention in a facility for the care or treatment of mental illness.
- E. Consenting to and authorizing the administration of medications for mental health treatment and electroconvulsive treatment (ECT) commonly referred to as "shock treatment."
- F. Giving consent for, withdrawing consent for, or withholding consent for, X-ray, anesthesia, medication, surgery, and all other diagnostic and treatment procedures ordered by or under the authorization of a licensed physician, dentist, podiatrist, or other health care provider. This authorization specifically includes the power to consent to measures for relief of pain.
- G. Authorizing the withholding or withdrawal of life-prolonging measures.
- H. Providing my medical information at the request of any individual acting as my attorney-in-fact under a durable power of attorney or as a Trustee or successor Trustee under any Trust Agreement of which I am a Grantor or Trustee, or at the request of any other individual whom my health care agent believes should have such information. I desire that such information be provided whenever it would expedite the prompt and proper handling of my affairs or the affairs of any person or entity for which I have some responsibility. In addition, I authorize

my health care agent to take any and all legal steps necessary to ensure compliance with my instructions providing access to my protected health information. Such steps shall include resorting to any and all legal procedures in and out of courts as may be necessary to enforce my rights under the law and shall include attempting to recover attorneys' fees against anyone who does not comply with this health care power of attorney.

- I. To the extent I have not already made valid and enforceable arrangements during my lifetime that have not been revoked, exercising any right I may have to authorize an autopsy or direct the disposition of my remains.
- J. Taking any lawful actions that may be necessary to carry out these decisions, including, but not limited to: (i) signing, executing, delivering, and acknowledging any agreement, release, authorization, or other document that may be necessary, desirable, convenient, or proper in order to exercise and carry out any of these powers; (ii) granting releases of liability to medical providers or others; and (iii) incurring reasonable costs on my behalf related to exercising these powers, provided that this health care power of attorney shall not give my health care agent general authority over my property or financial affairs.

## 5. Special Provisions and Limitations.

(Notice: The authority granted in this document is intended to be as broad as possible so that your health care agent will have authority to make any decisions you could make to obtain or terminate any type of health care treatment or service. If you wish to limit the scope of your health care agent's powers, you may do so in this section. If none of the following are initialed, there will be no special limitations on your agent's authority.)

- A. Limitations about Artificial Nutrition or Hydration: In exercising the authority to make health care decisions on my behalf, my health care agent:  
\_\_\_\_\_ shall NOT have the authority to withhold artificial nutrition (such as through tubes) OR may exercise that authority only in accordance with the following special provisions:  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Initial)

\_\_\_\_\_ shall NOT have the authority to withhold artificial hydration (such as through tubes) OR may exercise that authority only in accordance with the following special provisions:  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Initial)

**NOTE: If you initial either block but do not insert any special provisions, your health care agent shall have NO AUTHORITY to withhold artificial nutrition or hydration.**

- B. Limitations Concerning Health Care Decisions. In exercising the authority to make health care decisions on my behalf, the authority of my health care agent is subject to the following special provisions: (Here you may include any specific

\_\_\_\_\_  
(Initial)

provisions you deem appropriate such as: your own definition of when life-prolonging measures should be withheld or discontinued, or instructions to refuse any specific types of treatment that are inconsistent with your religious beliefs, or are unacceptable to you for any other reason.)

---

**NOTE: DO NOT initial unless you insert a limitation.**

---

\_\_\_\_\_  
*(Initial)*

- C. Limitations Concerning Mental Health Decisions. In exercising the authority to make mental health decisions on my behalf, the authority of my health care agent is subject to the following special provisions: (Here you may include any specific provisions you deem appropriate such as: limiting the grant of authority to make only mental health treatment decisions, your own instructions regarding the administration or withholding of psychotropic medications and electroconvulsive treatment (ECT), instructions regarding your admission to and retention in a health care facility for mental health treatment, or instructions to refuse any specific types of treatment that are unacceptable to you.)

---

**NOTE: DO NOT initial unless you insert a limitation.**

---

\_\_\_\_\_  
*(Initial)*

- D. Advance Instruction for Mental Health Treatment. (Notice: This health care power of attorney may incorporate or be combined with an advance instruction for mental health treatment, executed in accordance with Part 2 of Article 3 of Chapter 122C of the General Statutes, which you may use to state your instructions regarding mental health treatment in the event you lack capacity to make or communicate mental health treatment decisions. Because your health care agent's decisions must be consistent with any statements you have expressed in an advance instruction, you should indicate here whether you have executed an advance instruction for mental health treatment):

---

**NOTE: DO NOT initial unless you insert a limitation.**

---

\_\_\_\_\_  
*(Initial)*

- E. Autopsy and Disposition of Remains. In exercising the authority to make decisions regarding autopsy and disposition of remains on my behalf, the authority of my health care agent is subject to the following special provisions and limitations. (Here you may include any specific limitations you deem appropriate such as: limiting the grant of authority and the scope of authority, or instructions regarding burial or cremation):

---

**NOTE: DO NOT initial unless you insert a limitation.**

---

## 6. Organ Donation.

To the extent I have not already made valid and enforceable arrangements during my lifetime that have not been revoked, my health care agent may exercise any right I may have to:

\_\_\_\_\_  
(Initial) donate any needed organs or parts; or

\_\_\_\_\_  
(Initial) donate only the following organs or parts:

**NOTE: DO NOT INITIAL BOTH BLOCKS ABOVE.**

\_\_\_\_\_  
(Initial) donate my body for anatomical study if needed.

\_\_\_\_\_  
(Initial) In exercising the authority to make donations, my health care agent is subject to the following special provisions and limitations: (Here you may include any specific limitations you deem appropriate such as: limiting the grant of authority and the scope of authority, or instructions regarding gifts of the body or body parts.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
**NOTE: DO NOT initial unless you insert a limitation.**

**NOTE: NO AUTHORITY FOR ORGAN DONATION IS GRANTED IN THIS INSTRUMENT WITHOUT YOUR INITIALS.**

## **7. Guardianship Provision.**

If it becomes necessary for a court to appoint a guardian of my person, I nominate the persons designated in Section 1, in the order named, to be the guardian of my person, to serve without bond or security. The guardian shall act consistently with G.S. 35A-1201(a)(5).

## **8. Reliance of Third Parties on Health Care Agent.**

- A. No person who relies in good faith upon the authority of or any representations by my health care agent shall be liable to me, my estate, my heirs, successors, assigns, or personal representatives, for actions or omissions in reliance on that authority or those representations.
- B. The powers conferred on my health care agent by this document may be exercised by my health care agent alone, and my health care agent's signature or action taken under the authority granted in this document may be accepted by persons as fully authorized by me and with the same force and effect as if I were personally present, competent, and acting on my own behalf. All acts performed in good faith by my health care agent pursuant to this power of attorney are done with my consent and shall have the same validity and effect as if I were present and exercised the powers myself, and shall inure to the benefit of and bind me, my estate, my heirs, successors, assigns, and personal representatives. The authority of my health care agent pursuant to this power of attorney shall be superior to and binding upon my family, relatives, friends, and others.

**9. Miscellaneous Provisions.**

- A. Revocation of Prior Powers of Attorney. I revoke any prior health care power of attorney. The preceding sentence is not intended to revoke any general powers of attorney, some of the provisions of which may relate to health care; however, this power of attorney shall take precedence over any health care provisions in any valid general power of attorney I have not revoked.
- B. Jurisdiction, Severability, and Durability. This Health Care Power of Attorney is intended to be valid in any jurisdiction in which it is presented. The powers delegated under this power of attorney are severable, so that the invalidity of one or more powers shall not affect any others. This power of attorney shall not be affected or revoked by my incapacity or mental incompetence.
- C. Health Care Agent Not Liable. My health care agent and my health care agent's estate, heirs, successors, and assigns are hereby released and forever discharged by me, my estate, my heirs, successors, assigns, and personal representatives from all liability and from all claims or demands of all kinds arising out of my health care agent's acts or omissions, except for my health care agent's willful misconduct or gross negligence.
- D. No Civil or Criminal Liability. No act or omission of my health care agent, or of any other person, entity, institution, or facility acting in good faith in reliance on the authority of my health care agent pursuant to this Health Care Power of Attorney shall be considered suicide, nor the cause of my death for any civil or criminal purposes, nor shall it be considered unprofessional conduct or as lack of professional competence. Any person, entity, institution, or facility against whom criminal or civil liability is asserted because of conduct authorized by this Health Care Power of Attorney may interpose this document as a defense.
- E. Reimbursement. My health care agent shall be entitled to reimbursement for all reasonable expenses incurred as a result of carrying out any provision of this directive.

By signing here, I indicate that I am mentally alert and competent, fully informed as to the contents of this document, and understand the full import of this grant of powers to my health care agent.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_ (SEAL)

I hereby state that the principal, \_\_\_\_\_, being of sound mind, signed (or directed another to sign on the principal's behalf) the foregoing health care power of attorney in my presence, and that I am not related to the principal by blood or marriage, and I would not be entitled to any portion of the estate of the principal under any existing will or codicil of the principal or as an heir under the Intestate Succession Act, if the principal died on this date without a will. I also state that I am not the principal's attending physician, nor a licensed health care provider or mental health treatment



provider who is (1) an employee of the principal's attending physician or mental health treatment provider, (2) an employee of the health facility in which the principal is a patient, or (3) an employee of a nursing home or any adult care home where the principal resides. I further state that I do not have any claim against the principal or the estate of the principal.

Date: \_\_\_\_\_ Witness: \_\_\_\_\_

Date: \_\_\_\_\_ Witness: \_\_\_\_\_

\_\_\_\_\_ COUNTY, \_\_\_\_\_ STATE

Sworn to (or affirmed) and subscribed before me this day by \_\_\_\_\_  
(type/print name of signer)

\_\_\_\_\_  
(type/print name of witness)

\_\_\_\_\_  
(type/print name of witness)

Date: \_\_\_\_\_  
(Official Seal)

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_, Notary Public  
Printed or typed name

My commission expires: \_\_\_\_\_

(b) Use of the statutory form prescribed in this section is an optional and nonexclusive method for creating a health care power of attorney and does not affect the use of other forms of health care powers of attorney, including previous statutory forms."

**SECTION 37.(b)** G.S. 90-21.13(c) reads as rewritten:

"(c) The following persons, in the order indicated, are authorized to consent to medical treatment on behalf of a patient who is comatose or otherwise lacks capacity to make or communicate health care decisions:

- (1) A guardian of the patient's person, or a general guardian with powers over the patient's person, appointed by a court of competent jurisdiction pursuant to Article 5 of Chapter 35A of the General Statutes; provided that, if the patient has a health care agent appointed pursuant to a valid health care power of attorney, the health care agent shall have the right to exercise the authority to the extent granted in the health care power of attorney and to the extent provided in G.S. ~~32A-19(b)~~ 32A-19(a) unless the Clerk has suspended the authority of that health care agent in accordance with G.S. 35A-1208(a);
- (2) A health care agent appointed pursuant to a valid health care power of attorney, to the extent of the authority granted;
- (3) An attorney-in-fact, with powers to make health care decisions for the patient, appointed by the patient pursuant to Article 1 or Article 2 of Chapter 32A of the General Statutes, to the extent of the authority granted;
- (4) The patient's spouse;

- (5) A majority of the patient's reasonably available parents and children who are at least 18 years of age;
- (6) A majority of the patient's reasonably available siblings who are at least 18 years of age; or
- (7) An individual who has an established relationship with the patient, who is acting in good faith on behalf of the patient, and who can reliably convey the patient's wishes."

**SECTION 37.(c)** This section is effective when it becomes law. Nothing in this section shall affect the validity of a health care power of attorney executed before, on, or after the effective date of this section.

**SECTION 38.(a)** G.S. 58-55-35(a) reads as rewritten:

"(a) Whenever long-term care insurance provides coverage for the facilities, services, or physical or mental conditions listed below, unless otherwise defined in the policy and certificate, and approved by the Commissioner, such facilities, services, or conditions are defined as follows:

- (1) "Adult care home" shall be defined in accordance with the terms of ~~G.S. 131D-2(a)(3)~~.G.S. 131D-2(1b).
- (1a) "Adult day care program" shall be defined in accordance with the provisions of G.S. 131D-6(b).
- (2) "Chore" services include the performance of tasks incidental to activities of daily living that do not require the services of a trained homemaker or other specialist. Such services are provided to enable individuals to remain in their own homes and may include such services as: assistance in meeting basic care needs such as meal preparation; shopping for food and other necessities; running necessary errands; providing transportation to essential service facilities; care and cleaning of the house, grounds, clothing, and linens.
- (3) "Combination home" shall be defined in accordance with the terms of ~~G.S. 131E-101(1)~~.G.S. 131E-101(1a).
- (4) Repealed by Session Laws 1995, c. 535, s. 3.
- (5) "Family care home" shall be defined in accordance with the terms of G.S. 131D-2(a)(5).
- (6) Renumbered.
- (7) Repealed by Session Laws 1995, c. 535, s. 3.
- (8) "Home health services" shall be defined in accordance with the terms of G.S. 131E-136(3).
- (9) "Homemaker services" means supportive services provided by qualified para-professionals who are trained, equipped, assigned, and supervised by professionals within the agency to help maintain, strengthen, and safeguard the care of the elderly in their own homes. These standards must, at a minimum, meet standards established by the North Carolina Division of Social Services and may include: Providing assistance in management of household budgets; planning nutritious meals; purchasing and preparing foods; housekeeping duties; consumer education; and basic personal and health care.
- (10) "Hospice" shall be defined in accordance with the terms of G.S. 131E-176(13a).
- (11) "Intermediate care ~~facility~~"facility for the mentally retarded" shall be defined in accordance with the terms of ~~G.S. 131E-176(14b)~~.G.S. 131E-176(14a).
- (12) "Nursing home" shall be defined in accordance with the terms of G.S. 131E-101(6).
- (13) "Respite care, institutional" means provision of temporary support to the primary caregiver of the aged, disabled, or handicapped individual by taking over the tasks of that person for a limited period of time. The

insured receives care for the respite period in an institutional setting, such as a nursing home, family care home, rest home, or other appropriate setting.

- (14) "Respite care, non-institutional" means provision of temporary support to the primary caregiver of the aged, disabled, or handicapped individual by taking over the tasks of that person for a limited period of time in the home of the insured or other appropriate community location.
- (15) "Skilled Nursing Facility" shall be defined in accordance with the terms of ~~G.S. 131E-176(23)~~ G.S. 135-40.1(18).
- (16) "Supervised living facility for developmentally disabled adults" means a residential facility, as defined in G.S. 122C-3(14), which has two to nine developmentally disabled adult residents."

**SECTION 38.(b)** G.S. 131E-231 reads as rewritten:

**"§ 131E-231. Definitions.**

As used in this Article, unless otherwise specified:

- (1) "Long-term care facility" means a nursing home as defined in G.S. 131E-101(6) and an adult care home as defined in ~~G.S. 131D-2(a)(3)~~ G.S. 131D-2(a)(1b) or ~~G.S. 131E-101(4)~~ G.S. 131E-101(4).
- (2) "Resident" means a person who has been admitted to a long-term care facility.
- (3) "Respondent" means the person or entity holding a license pursuant to G.S. 131E-102 or G.S. 131D-2 or a person or entity operating a long-term care facility subject to licensure without a license."

**SECTION 40.(a)** G.S. 90-270.69(8) reads as rewritten:

"The Board shall have the following powers and duties:

- ...  
(8) Establish reasonable fees for applications, ~~limited permits~~, initial and renewal licenses, and other services provided by the Board."

**SECTION 40.(b)** G.S. 90-270.73(d) is repealed.

**SECTION 40.(c)** G.S. 90-270.78(a) reads as rewritten:

"(a) It is unlawful for any person who is not licensed in accordance with this Article or whose license has been suspended, revoked or not renewed by the Board to:

- (1) Engage in the practice of occupational therapy.
- (2) Orally, in writing, in print or by sign, or in any other manner, directly or by implication, represent that he or she is engaging in occupational therapy.
- (3) Use in connection with his or her name or place of business the words "occupational therapist", "occupational therapy assistant", "occupational therapist ~~limited permittee~~", or "~~occupational therapy assistant limited permittee~~", or the letters "O.T.", "O.T./L.", "O.T.A.", "~~O.T.A./L.~~", "~~O.T./L.P.~~", or "~~O.T.A./L.P.~~" or "O.T.A./L." or any other words, letters, abbreviations or insignia indicating or implying that the person is an occupational therapist, ~~occupational therapy assistant~~, ~~occupational therapist limited permittee~~, or ~~occupational therapy assistant limited permittee~~, or occupational therapy assistant."

**SECTION 41.** G.S. 90-285.1(2) reads as rewritten:

- "(2) Has violated the provisions of ~~Part B~~ Part 2 of Article 6 of Chapter 131E of the General Statutes and rules promulgated thereunder;".

**SECTION 42.** G.S. 105-164.4B(d)(2) reads as rewritten:

- "(2) Direct mail. – Direct mail that meets one of the conditions of this subdivision is sourced to the location where the property is delivered. In all other cases, direct mail is sourced in accordance with the principles set out in ~~subsection (a)~~ subdivision (a)(3) of this section.

- a. Direct mail purchased pursuant to a direct pay permit.
- b. When the purchaser provides the seller with information to show the jurisdictions to which the direct mail is to be delivered."

**SECTION 43.** G.S. 115C-284 reads as rewritten:

**"§ 115C-284. Method of selection and requirements.**

(a) Principals and supervisors shall be elected by the local boards of education upon the recommendation of the superintendent, in accordance with the provisions of G.S. 115C-276(j).

(b) In the city administrative units, principals shall be elected by the board of education of such administrative unit upon the recommendation of the superintendent of city schools.

(b1) To qualify for certification as a school administrator, an individual must meet all of the following requirements:

- (1) Submit a complete application to the State Board.
- (2) Pay the applicable fee.
- (3) Have a bachelor's degree from an accredited college or accredited university.
- (4) Have one of the following:
  - a. A graduate degree from a public school administration program that meets the public school administration program approval standards established by the State Board of Education.
  - b. A master's degree from an accredited college or accredited university and, by December 31, 1999, have completed a public school administration program that meets the public school administration program approval standards set by the State Board of Education.
  - c. Education and training determined by the State Board of Education as equivalent.
- (5) Pass the exam adopted by the State Board.

....  
**SECTION 44.** G.S. 138A-3(24) reads as rewritten:

"(24) Nonprofit corporation or organization with which associated. – Any not for profit corporation, organization, or association, incorporated or otherwise, that is organized or operating in the State primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes and of which the person or any member of the person's immediate family is a director, officer, governing board member, employee, lobbyist registered as under Chapter 120C of the General Statutes, or independent contractor. Nonprofit corporation or organization with which associated shall not include any board, entity, or other organization created by this State or by any political subdivision of this State."

**SECTION 44.5.(a)** Section 4 of S.L. 2008-56 is repealed.

**SECTION 44.5.(b)** Section 7 of S.L. 2008-56 reads as rewritten:

**"SECTION 7.** The Governor's Crime Commission shall develop the criteria for eligibility for funds appropriated for gang prevention and intervention. The criteria shall include a matching requirement of twenty-five percent (25%), one-half of which may be in in-kind contributions, and presentation of a written plan for the services to be provided by the funds. Funds shall be available to public and private entities or agencies for juvenile and adult programs that meet the criteria established by the Governor's Crime Commission. The Commission shall identify the cities and towns that do not have full-time parks and recreation staff, and provide targeted outreach and information to public and private agencies, and non-profit organizations, in those cities, towns, and unincorporated areas about their eligibility for these funds.

The Governor's Crime Commission shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 15, 2009, on this program. The report shall include all of the following:

- (1) The grant award process.
- (2) A description of each grant awarded.
- (3) The performance criteria for evaluating grant programs.
- (4) A list of State grants awarded in the 2008 grant cycle.

The Governor's Crime Commission shall review the level of gang activity throughout the State and assess the progress and accomplishments of the State, and of local governments, in preventing the proliferation of gangs and addressing the needs of juveniles who have been identified as being associated with gang activity.

The Governor's Crime Commission shall develop recommendations concerning the establishment of priorities and needed improvements with respect to gang prevention to the General Assembly on or before March 1 of each year."

**SECTION 45.** Section 2 of S.L. 2007-169 reads as rewritten:

"**SECTION 2.** Notwithstanding G.S. 143-52.1 and S.L. 2006-203, through ~~December 31, 2008, June 30, 2009,~~ the members of the Advisory Budget Commission in office on June 30, 2007, shall continue to be eligible for appointment to the Board of Awards, and vacancies may be filled by the appointing authority. Through ~~December 31, 2008, June 30, 2009,~~ the Secretary of Administration shall appoint the Board of Awards from among those eligible."

**SECTION 45.5.** If House Bill 15, 2007 Regular Session, becomes law, then Section 2 of that act is amended by deleting the following:

"**SECTION 26.21.(a)** G.S. 115C-302.1(d) reads as rewritten:"

**SECTION 45.8.** If House Bill 359, 2007 Regular Session, becomes law, G.S. 115C-47(51), as enacted by Section 3 of House Bill 359, reads as rewritten:

"(51) Assist with Student Voter Registration. – Local boards of education shall ensure that voter registration forms are distributed in a timely manner prior to the voter registration deadline for each primary and general election to all enrolled students 17 years of age and older, in compliance with G.S. 163-82.23. Local boards of education shall require that schools submit completed forms on the student applicant's behalf to the county board of elections and that schools report to the county board of elections by the twentieth day before a primary or election, the number of students who have received voter applications and the number of completed applications which have been submitted by the school."

**SECTION 46.** If House Bill 1003, 2007 Regular Session, becomes law, G.S. 15A-1344(f)(2), as enacted by House Bill 1003, reads as rewritten:

"(2) The court finds that the probationer did violate one or more conditions of probation prior to the expiration of the period of probation."

**SECTION 47.** If House Bill 1113, 2007 Regular Session, becomes law, then G.S. 143-299.1A(c), as enacted by House Bill 1113, reads as rewritten:

"(c) This section does not apply to a unit of local government or its officers, employees, or agents."

**SECTION 47.3.** If House Bill 1366 and Senate Bill 1541, 2007 Regular Session, both become law, then Article 29B of Chapter 115C of the General Statutes as enacted by House Bill 1366 is recodified as Article 29C of Chapter 115C of the General Statutes, G.S. 115C-407.5 through G.S. 115C-407.8 as enacted by that law are recodified as G.S. 115C-407.15 through G.S. 115C-407.18, and any cross-reference to those sections contained in House Bill 1366 shall be construed accordingly.

**SECTION 47.5.(a)** If House Bill 1770, 2007 Regular Session, becomes law, then G.S. 153A-210.2(b), as enacted by Section 2 of that bill, reads as rewritten:

"(b) Costs. – The board of commissioners must determine a project's total estimated cost. In addition to the costs allowed under G.S. 153A-193, the costs may include any expenses allowed under G.S. 159-84. ~~A preliminary assessment roll may be prepared, and an assessment may be imposed before the costs are incurred, based on the estimated cost.~~ A preliminary assessment roll may be prepared before the costs are incurred based on the estimated cost of the project."

**SECTION 47.5.(b)** If House Bill 1770, 2007 Regular Session, becomes law, then G.S. 160A-239.2, as enacted by Section 3 of that bill, reads as rewritten:

**"§ 160A-239.2. Assessments.**

(a) Projects. – The council of a city may make special assessments as provided in this Article against benefited property within the city for the purpose of financing the capital costs of projects for which bonds may be issued under any of the following:

- (1) G.S. 159-48(b)(17), sanitary sewer systems.
- (2) G.S. 159-48(b)(19), storm sewers and flood control facilities.
- (3) G.S. 159-48(b)(21), water systems.
- (4) G.S. 159-48(b)(23), public transportation facilities.
- (5) G.S. 159-48(c)(4), school facilities.
- (6) G.S. 159-48(d)(5), streets and sidewalks.

(b) Costs. – The city council must determine a project's total estimated cost. In addition to the costs allowed under G.S. 153A-193, the costs may include any expenses allowed under G.S. 159-84. ~~An assessment may be imposed before the costs are incurred, based on the estimated cost.~~ A preliminary assessment roll may be prepared before the costs are incurred based on the estimated cost of the project.

(c) Method. – The city council must establish an assessment method that will most accurately assess each lot or parcel of land according to the benefits conferred upon it by the project for which the assessment is made. In addition to the bases upon which assessments may be made under ~~G.S. 153A-186, G.S. 160A-218~~, the council may select any other method designed to allocate the costs in accordance with benefits conferred."

**SECTION 47.6.** If House Bill 1889 and Senate Bill 1878, 2007 Regular Session, both become law, then G.S. 105-277.15 as enacted by Senate Bill 1878 is recodified as G.S. 105-277.16.

**SECTION 47.7.** If House Bill 2314, 2007 Regular Session, becomes law, then G.S. 136-44.53(d), as amended by Section 5 of that bill, reads as rewritten:

"(d) In exercising the authority granted by this section, a local government is authorized to expend its funds for the protection of rights-of-way shown on a duly adopted transportation corridor official map whether the right-of-way to be acquired is located inside or outside ~~a~~ the municipal corporate limits."

**SECTION 48.** If House Bill 2436, 2007 Regular Session, and Senate Bill 2015, 2007 Regular Session, become law, then Section 11 of Senate Bill 2015 is repealed.

**SECTION 49.** If House Bill 2443, 2007 Regular Session, becomes law, then Section 2.1 of that act is amended by deleting "135.38.5A." and substituting "135-38.5A."

**SECTION 49.5.** If House Bill 2443, 2007 Regular Session, becomes law, then G.S. 135-39.24 as amended by Section 3(q) of House Bill 2443 is amended by designating the second subsection "(d)" of G.S. 135-39.24 as "(e)" and relettering the remaining subsections accordingly.

**SECTION 49.6.** If House Bill 2463 and House Bill 2188, 2007 Regular Session, both become law, then G.S. 53-243.11(16) as enacted by House Bill 2188 is recodified as G.S. 53-243.11(16A).

**SECTION 49.7.** If House Bill 2623, 2007 Regular Session, becomes law, then any mention in that act, including an amendment to Section 13.6B of S.L. 2008-107, to the "2008 Regular Session" shall be construed as a mention to the 2007 Regular Session.

**SECTION 50.** If Senate Bill 1800, 2007 Regular Session, becomes law, then G.S. 20-305(5)a., as amended by Section 3 of that bill, reads as rewritten:

"a. This section does not apply:

1. To the relocation of an existing new motor vehicle dealer within that dealer's relevant market area, provided that the relocation not be at a site within 10 miles of a licensed new motor vehicle dealer for the same line make of motor vehicle. If this sub-subdivision is applicable, only dealers trading in the same line-make of vehicle that are located within the 10-mile radius shall be entitled to notice from the manufacturer and have the protest rights afforded under this ~~section; or~~ section.
2. If the proposed additional new motor vehicle dealer is to be established at or within two miles of a location at which a former licensed new motor vehicle dealer for the same line make of new motor vehicle had ceased operating within the previous two ~~years;~~ years.
3. To the relocation of an existing new motor vehicle dealer within two miles of the existing site of the new motor vehicle dealership if the franchise has been operating on a regular basis from the existing site for a minimum of three years immediately preceding the ~~relocation;~~ relocation.
4. To the relocation of an existing new motor vehicle dealer if the proposed site of the relocated new motor vehicle dealership is further away from all other new motor vehicle dealers of the same line make in that relevant market ~~area; or~~ area."

**SECTION 51.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of July, 2008.

---

Marc Basnight  
President Pro Tempore of the Senate

---

Joe Hackney  
Speaker of the House of Representatives

---

Michael F. Easley  
Governor

Approved \_\_\_\_\_m. this \_\_\_\_\_ day of \_\_\_\_\_, 2008