

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2013

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HOUSE BILL 786

Committee Substitute Favorable 5/2/13

Short Title: RECLAIM NC Act.

(Public)

Sponsors:

Referred to:

April 11, 2013

A BILL TO BE ENTITLED

AN ACT TO ENACT THE REASONABLE ENACTMENT OF COMPREHENSIVE LEGISLATION ADDRESSING IMMIGRATION MATTERS IN NORTH CAROLINA (RECLAIM NC) ACT.

Whereas, the North Carolina General Assembly recognizes that the issue of immigration is the responsibility of the federal government; and

Whereas, the federal government has failed to address the need for enforcement of existing immigration laws or to act decisively to correct, amend, and reform existing immigration procedures and policies; and

Whereas, federal courts have consistently upheld the authority of the federal government to restrict the efforts of states to uphold and enforce federal immigration laws in order to protect their citizens and their economies; and

Whereas, the federal government has endowed illegally present aliens with certain entitlements to be provided by the various states via unfunded mandates; and

Whereas, those unfunded mandates and the failure to address illegal immigration places an unwarranted strain on our State's law enforcement agencies, educational institutions, and social safety nets, and undermines our trust in the rule of law; and

Whereas, the General Assembly of North Carolina recognizes its responsibility to protect and defend the citizens and the economy of the State of North Carolina; and

Whereas, North Carolina recognizes that the greatness of this State is the result of appreciating, incorporating, and welcoming the vast diversity of immigrants who lawfully assimilate into the culture and fabric that is North Carolina; and

Whereas, we do now encourage the North Carolina congressional delegation to exert the strongest effort possible to enact appropriate federal legislation to secure our nation's borders, uphold existing immigration laws, and reform the procedures and policies regarding the immigration process in order to facilitate an even and orderly process for those wishing to immigrate to our country; and

Whereas, we encourage the President to work in a dedicated and cooperative fashion with Congress to restore dignity and transparency to the immigration process; and

Whereas, the wealth, beauty, and strength of North Carolina rests not only with her natural attributes of mountains, beaches, and abundant resources but in the character of her people and their ability to address problems and challenges before them with an objective resolve tempered with a sense of fairness and consideration for all people; Now, therefore, The General Assembly of North Carolina enacts:

PART I. SHORT TITLE



1 **SECTION 1.** This act shall be known and may be cited as "The Reasonable
2 Enactment of Comprehensive Legislation Addressing Immigration Matters in North Carolina
3 Act" or as "The RECLAIM NC Act".
4

5 **PART II. INCREASE PENALTIES FOR POSSESSION, MANUFACTURE, OR SALE**
6 **OF FALSE IDENTIFICATION DOCUMENTS**

7 **SECTION 2.(a)** G.S. 14-100.1 reads as rewritten:

8 "**§ 14-100.1. Possession or manufacture Possession, manufacture, or sale of certain**
9 **fraudulent forms of identification.**

10 (a) Except as otherwise made unlawful by G.S. 20-30, it shall be unlawful for any
11 person to knowingly ~~possess or manufacture~~possess, manufacture, or sell a false or fraudulent
12 form of identification as defined in this section for the purpose of deception, fraud, or other
13 criminal conduct.

14 (b) Except as otherwise made unlawful by G.S. 20-30, it shall be unlawful for any
15 person to knowingly obtain a form of identification by the use of false, fictitious, or fraudulent
16 information.

17 (c) Possession of a form of identification obtained in violation of subsection (b) of this
18 section shall constitute a violation of subsection (a) of this section.

19 (d) For purposes of this section, a "form of identification" means any of the following
20 or any replica thereof:

21 (1) An identification card containing a picture, issued by any department,
22 agency, or subdivision of the State of North Carolina, the federal
23 government, or any other state.

24 (2) A military identification card containing a picture.

25 (3) A passport.

26 (4) An alien registration card containing a picture.

27 (e) A violation of this section shall be punished as a ~~Class 1 misdemeanor~~Class I
28 felony, except that the following violations of this section shall be published as a Class I
29 misdemeanor:

30 (1) A violation based on the mere possession of a false or fraudulent form of
31 identification, rather than the manufacture or sale of a false or fraudulent
32 form of identification.

33 (2) A violation by a person under the age of 21 for the purpose of the underage
34 purchase of alcohol.

35 (3) A violation by a person under the age of 18 for the purpose of the underage
36 purchase of tobacco products or cigarette wrapping papers."

37 **SECTION 2.(b)** G.S. 20-30 reads as rewritten:

38 "**§ 20-30. Violations of license, learner's permit, restricted drivers permit, or special**
39 **identification card provisions.**

40 (a) Unlawful Acts. – It shall be unlawful for any person to commit any of the following
41 acts:

42 (1) To display or cause to be displayed or to have in possession a driver's
43 license, learner's permit, restricted drivers permit, or special identification
44 card, knowing the same to be fictitious or to have been canceled, revoked,
45 suspended or altered.

46 (2) To counterfeit, sell, lend to, or knowingly permit the use of, by one not
47 entitled thereto, a driver's license, learner's permit, restricted drivers permit,
48 or special identification card.

49 (3) To display or to represent as one's own a drivers license, learner's permit,
50 restricted drivers permit, or special identification card not issued to the
51 person so displaying same.

- 1 (4) To fail or refuse to surrender to the Division upon demand any driver's
2 license, learner's permit, restricted drivers permit, or special identification
3 card that has been suspended, canceled or revoked as provided by law.
- 4 (5) To use a false or fictitious name or give a false or fictitious address in any
5 application for a driver's license, learner's permit, restricted drivers permit,
6 or special identification card, or any renewal or duplicate thereof, or
7 knowingly to make a false statement or knowingly conceal a material fact or
8 otherwise commit a fraud in any such application, or for any person to
9 procure, or knowingly permit or allow another to commit any of the
10 foregoing acts. Any license, learner's permit, restricted drivers permit, or
11 special identification card procured as aforesaid shall be void from the
12 issuance thereof, and any moneys paid therefor shall be forfeited to the State.
13 ~~Any person violating the provisions of this subdivision shall be guilty of a~~
14 ~~Class I misdemeanor.~~
- 15 (6) To make a color photocopy or otherwise make a color reproduction of a
16 drivers license, learner's permit, restricted drivers permit, or special
17 identification card which has been color-photocopied or otherwise
18 reproduced in color, unless such color photocopy or other color reproduction
19 was authorized by the Commissioner. It shall be lawful to make a black and
20 white photocopy of a drivers license, learner's permit, restricted drivers
21 permit, or special identification card or otherwise make a black and white
22 reproduction of a drivers license, learner's permit, restricted drivers permit,
23 or special identification card.
- 24 (7) To sell or offer for sale any reproduction or facsimile or simulation of a
25 driver's license, learner's permit, restricted drivers permit, or special
26 identification card. The provisions of this subdivision shall not apply to
27 agents or employees of the Division while acting in the course and scope of
28 their employment. ~~Any~~ Notwithstanding subsection (c) of this section, a
29 person, firm or corporation violating the provisions of this subsection
30 subdivision shall be guilty of a Class H felony.
- 31 (8) To possess more than one commercial drivers license or to possess a
32 commercial drivers license and a regular drivers ~~license~~ license or restricted
33 drivers permit. Any commercial drivers license other than the one most
34 recently issued is subject to immediate seizure by any law enforcement
35 officer or judicial official. Any regular drivers license possessed at the same
36 time as a commercial drivers license is subject to immediate seizure by any
37 law enforcement officer or judicial official.
- 38 (9) To present, display, or use a drivers license, learner's permit, restricted
39 drivers permit, or special identification card that contains a false or fictitious
40 name in the commission or attempted commission of a felony. ~~Any person~~
41 ~~violating the provisions of this subdivision shall be guilty of a Class I felony.~~
- 42 (b) General Penalty. – Except as otherwise provided in subsections (a) and (c) of this
43 section, a violation of this section shall be punished as a Class I felony.
- 44 (c) Penalty in Certain Cases. – A violation of this section by a person under the age of
45 21 for the purpose of the underage purchase of alcohol shall be punished as a Class 1
46 misdemeanor. A violation of this section by a person under the age of 18 for the purpose of the
47 underage purchase of tobacco products or cigarette wrapping papers shall be punished as a
48 Class 2 misdemeanor."

49 **SECTION 2.(c)** G.S. 143-341(8)i.5. reads as rewritten:

- 50 "5. Upon proper requisition, proper showing of need for use on
51 State business only, and proper showing of proof that all

1 persons who will be driving the motor vehicle have valid
2 drivers' licenses, to assign economically suitable
3 transportation, either on a temporary or permanent basis, to
4 any State employee or agency. An agency assigned a motor
5 vehicle may not allow a person to operate that motor vehicle
6 unless that person displays to the agency and allows the
7 agency to copy that person's valid driver's license.
8 Notwithstanding ~~G.S. 20-30(6)~~, G.S. 20-30(a)(6), persons or
9 agencies requesting assignment of motor vehicles may
10 photostat or otherwise reproduce drivers' licenses for
11 purposes of complying with this subpart.

12 As used in this subpart, "economically suitable
13 transportation" means the most cost-effective standard vehicle
14 in the State motor fleet, unless special towing provisions are
15 required by the agency. The Department may not assign any
16 employee or agency a motor vehicle that is not economically
17 suitable. The Department shall not approve requests for
18 vehicle assignment or reassignment when the purpose of that
19 assignment or reassignment is to provide any employee with
20 a newer or lower mileage vehicle because of his or her rank,
21 management authority, or length of service or because of any
22 non-job-related reason. The Department shall not assign
23 "special use" vehicles, such as four-wheel drive vehicles or
24 law enforcement vehicles, to any agency or individual except
25 upon written justification, verified by historical data, and
26 accepted by the Secretary. The Department may provide law
27 enforcement vehicles only to those agencies which have
28 statutory pursuit authority."
29

30 PART III. CREATION OF REBUTTABLE PRESUMPTION AGAINST THE 31 PRETRIAL RELEASE OF CERTAIN UNDOCUMENTED ALIENS

32 SECTION 3.(a) G.S. 15A-533 reads as rewritten:

33 "§ 15A-533. Right to pretrial release in capital and noncapital cases.

34 (a) A defendant charged with any crime, whether capital or noncapital, who is alleged
35 to have committed this crime while still residing in or subsequent to his escape or during an
36 unauthorized absence from involuntary commitment in a mental health facility designated or
37 licensed by the Department of Health and Human Services, and whose commitment is
38 determined to be still valid by the judge or judicial officer authorized to determine pretrial
39 release to be valid, has no right to pretrial release. In lieu of pretrial release, however, the
40 individual shall be returned to the treatment facility in which he was residing at the time of the
41 alleged crime or from which he escaped or absented himself for continuation of his treatment
42 pending the additional proceedings on the criminal offense.

43 (b) A defendant charged with a noncapital offense must have conditions of pretrial
44 release determined, in accordance with G.S. 15A-534.

45 (c) A judge may determine in his discretion whether a defendant charged with a capital
46 offense may be released before trial. If he determines release is warranted, the judge must
47 authorize release of the defendant in accordance with G.S. 15A-534.

48 (d) There shall be a rebuttable presumption that no condition of release will reasonably
49 assure the appearance of the person as required and the safety of the community if a judicial
50 official finds the following:

- 1 (1) There is reasonable cause to believe that the person committed an offense
2 involving trafficking in a controlled substance;
- 3 (2) The drug trafficking offense was committed while the person was on pretrial
4 release for another offense; and
- 5 (3) The person has been previously convicted of a Class A through E felony or
6 an offense involving trafficking in a controlled substance and not more than
7 five years has elapsed since the date of conviction or the person's release
8 from prison for the offense, whichever is later.

9 (e) There shall be a rebuttable presumption that no condition of release will reasonably
10 assure the appearance of the person as required and the safety of the community, if a judicial
11 official finds the following:

- 12 (1) There is reasonable cause to believe that the person committed an offense for
13 the benefit of, at the direction of, or in association with, any criminal street
14 gang, as defined in G.S. 14-50.16;
- 15 (2) The offense described in subdivision (1) of this subsection was committed
16 while the person was on pretrial release for another offense; and
- 17 (3) The person has been previously convicted of an offense described in
18 G.S. 14-50.16 through G.S. 14-50.20, and not more than five years has
19 elapsed since the date of conviction or the person's release for the offense,
20 whichever is later.

21 (f) There shall be a rebuttable presumption that no condition of release will reasonably
22 assure the appearance of the person as required and the safety of the community if the person is
23 unlawfully present in the United States and a judicial official finds either of the following:

- 24 (1) There is reasonable cause to believe that the person committed one or more
25 of the following offenses:
- 26 a. A sex offense. As used in this sub-subdivision, a "sex offense" is any
27 offense upon conviction of which the offense becomes a reportable
28 conviction, as that term is defined in G.S. 14-208.6(4).
- 29 b. A violent felony, as that term is defined in G.S. 14-7.7(b), or any
30 criminal offense other than a violation of G.S. 14-33(a) that includes
31 assault as an essential element of the offense or as an aggravating
32 factor in sentencing.
- 33 c. A driving offense. As used in this sub-subdivision, the term "driving
34 offense" means any violation that requires a mandatory drivers
35 license revocation upon a first conviction.
- 36 d. A drug offense. As used in this sub-subdivision, the term "drug
37 offense" means a violation of G.S. 90-95, other than a violation for
38 mere possession of a controlled substance.
- 39 e. A gang offense. As used in this sub-subdivision, the term "gang
40 offense" means any violation of Article 13A of Chapter 14 of the
41 General Statutes.

42 (2) There is reasonable cause to believe that the person committed an offense
43 not listed in subdivision (f)(1) of this section and United States Immigration
44 and Customs Enforcement has guaranteed that, in all such cases in this State,
45 it will issue a detainer for the initiation of removal proceedings and agree to
46 reimburse the State for the cost of incarceration from the time of the
47 issuance of the detainer.

48 Persons who are considered for bond under the provisions of ~~subsections (d) and (e)~~ subsection
49 (d), (e), or (f) of this section may only be released by a district or superior court judge upon a
50 finding that there is a reasonable assurance that the person will appear and release does not
51 pose an unreasonable risk of harm to the community."

1 **SECTION 3.(b)** Article 26 of Chapter 15A of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 15A-534.7. Pretrial release of certain undocumented aliens.**

4 In all cases in which the defendant is an alien who (i) is not lawfully present in the United
5 States and (ii) is charged with a felony or a Class A1 misdemeanor, the judicial official shall
6 require the defendant to execute a secured appearance bond as a condition of pretrial release, as
7 described in G.S. 15A-534(a)(4)."

8
9 **PART IV. REIMBURSEMENT OF COST OF INCARCERATING UNDOCUMENTED**
10 **ALIENS**

11 **SECTION 4.(a)** Chapter 148 of the General Statutes is amended by adding a new
12 section to read:

13 **"§ 148-2.1. Reimbursement of incarceration costs by prisoners who are unlawfully**
14 **present in the United States.**

15 (a) Undocumented Alien Prisoner Defined. – For purposes of this section, the term
16 "undocumented alien prisoner" means an inmate who is 18 years or older and who is
17 unlawfully present in the United States.

18 (b) Reimbursement Required. – An undocumented alien prisoner who is in the custody
19 of the Division of Adult Correction of the Department of Public Safety after conviction of a
20 crime shall reimburse the State for the actual cost of the prisoner's incarceration, as determined
21 by the Division. The reimbursement shall be collected by the Division and remitted to the
22 General Fund.

23 (c) Outstanding Amounts. – If an undocumented alien prisoner has not made the full
24 reimbursement required by this section upon the prisoner's release, the Division shall calculate
25 the amount of reimbursement that is outstanding and give a verified statement of that amount to
26 the prisoner. Any reimbursement that remains unpaid shall constitute a "debt" within the
27 meaning of G.S. 105A-2 and may be set off against any North Carolina income tax refund due
28 the prisoner in accordance with Chapter 105A of the General Statutes. The Department of
29 Revenue shall pursue collection of the debt through setoff for at least 10 years from the time of
30 the prisoner's release or termination or until the debt is satisfied.

31 (d) Inclusion in Judgment. – In sentencing an individual who will be subject to the
32 requirements of subsection (b) of this section, a judge may include in the judge's order a
33 requirement that the sentenced individual pay an amount estimated to be sufficient to cover the
34 total actual cost of incarcerating the prisoner over the entirety of the prisoner's incarceration.
35 The Department of Public Safety shall develop a system that enables judges to quickly and
36 accurately estimate the appropriate amount. Any amount paid by a prisoner in satisfaction of a
37 term in a court order imposed pursuant to this section shall be credited against the amount the
38 prisoner owes under this section."

39 **SECTION 4.(b)** G.S. 148-33.1(f) reads as rewritten:

40 "(f) A prisoner who is convicted of a felony and who is granted work-release privileges
41 shall give his work-release earnings, less standard payroll deductions required by law, to the
42 Division of Adult Correction of the Department of Public Safety. A prisoner who is convicted
43 of a misdemeanor, is committed to a local confinement facility, and is granted work-release
44 privileges by order of the sentencing court shall give his work-release earnings, less standard
45 payroll deductions required by law, to the custodian of the local confinement facility. Other
46 misdemeanants granted work-release privileges shall give their work-release earnings, less
47 standard payroll deductions required by law, to the Division of Adult Correction of the
48 Department of Public Safety. The Division of Adult Correction of the Department of Public
49 Safety or the sentencing court, as appropriate, shall determine the amount to be deducted from
50 a prisoner's work-release earnings to pay for the cost of the prisoner's keep and to accumulate a
51 reasonable sum to be paid the prisoner when he is paroled or discharged from prison. The

1 Division or sentencing court shall also determine the amount to be disbursed by the Division or
2 clerk of court, as appropriate, for each of the following:

- 3 (1) To pay travel and other expenses of the prisoner made necessary by his
4 employment;
- 5 (2) To provide a reasonable allowance to the prisoner for his incidental personal
6 expenses;
- 7 (3) To make payments for the support of the prisoner's dependents in
8 accordance with an order of a court of competent jurisdiction, or in the
9 absence of a court order, in accordance with a determination of dependency
10 status and need made by the local department of social services in the county
11 of North Carolina in which such dependents reside;
- 12 (3a) To make restitution or reparation as provided in G.S. 148-33.2.
- 13 (4) To comply with an order from any court of competent jurisdiction regarding
14 the payment of an obligation of the prisoner in connection with any
15 judgment rendered by the court.
- 16 (5) To comply with a written request by the prisoner to withhold an amount,
17 when the request has been granted by the Division or the sentencing court, as
18 appropriate.
- 19 (6) To reimburse the State for the actual cost of the prisoner pursuant to
20 G.S. 148-2.1.

21 Any balance of his earnings remaining at the time the prisoner is released from prison shall
22 be paid to him. The Social Services Commission is authorized to promulgate uniform rules and
23 regulations governing the duties of county social services departments under this section."
24

25 **PART V. AUTHORIZE IMMIGRATION STATUS CHECKS FOR CERTAIN** 26 **PERSONS WHO ARE LAWFULLY STOPPED, DETAINED, OR ARRESTED**

27 **SECTION 5.** Article 23 of Chapter 15A of the General Statutes is amended by
28 adding a new section to read:

29 **"§ 15A-506. Immigration status checks of persons lawfully stopped, detained, or arrested.**

30 (a) Definitions. – The following definitions apply in this section:

- 31 (1) Law enforcement officer or agency. – A law enforcement officer or law
32 enforcement agency of this State, of a county, of a municipality, or of any
33 other political subdivision of this State.
- 34 (2) Any other law. – An ordinance of a county or municipality of this State or a
35 State law other than this section.

36 (b) Verification of Status Authorized. – Following any lawful stop, detention, or arrest
37 made by a law enforcement officer or agency in the enforcement of any other law, where
38 reasonable suspicion exists that the person stopped, detained, or arrested is an alien who is
39 unlawfully present in the United States, the law enforcement officer or agency may make a
40 reasonable attempt to verify the immigration status of the person with the federal government
41 pursuant to subsection (c) of this section.

42 (c) Verification Procedure. – Verification of a person's immigration status under this
43 section shall be made as promptly as possible and within 24 hours of the stop, detention, or
44 arrest, in accordance with G.S. 64-9.

45 (d) Exceptions. – This section shall not apply, and verification of a person's
46 immigration status shall not be sought, if any of the following conditions are satisfied:

- 47 (1) It is not practicable to verify the person's immigration status.
- 48 (2) Verifying the person's immigration status may hinder or obstruct an
49 investigation.
- 50 (3) The person provides the law enforcement officer or agency with any of the
51 following:

- 1 a. A valid North Carolina drivers license.
2 b. A valid North Carolina identification card.
3 c. A valid North Carolina restricted drivers permit.
4 d. A valid North Carolina restricted identification card.
5 e. A valid tribal enrollment card or other form of tribal identification.
6 f. Any valid United States federal, State, or local government issued
7 identification, if the issuing entity requires proof of lawful presence
8 in the United States before issuance.
9 (4) The person contacted the law enforcement officer or agency in good faith for
10 any of the following reasons:
11 a. To act as a witness to a crime.
12 b. To report criminal activity.
13 c. To seek assistance as a victim of a crime.
14 (e) Consistency With Federal Law. – This section shall be implemented in a manner
15 consistent with federal laws regulating immigration, protecting the civil rights of all persons,
16 and respecting the privileges and immunities of United States citizens.
17 (f) Conduct Not Authorized by Section. – This section shall not be construed to
18 authorize any of the following:
19 (1) Extending the period that a person is detained or held in custody. A person
20 shall not be detained solely because the person's immigration status has not
21 yet been verified in accordance with this section.
22 (2) Consideration of race, color, or national origin in the enforcement of this
23 section, except to the extent permitted by the United States or North
24 Carolina Constitutions."
25

26 **PART VI. MISCELLANEOUS PROVISIONS**

27 **SECTION 6.** Article 1 of Chapter 64 of the General Statutes is amended by adding
28 the following new sections to read:

29 **"§ 64-9. Permissible methods of verifying immigration status.**

30 Verification of a person's immigration status pursuant to this Chapter or any other provision
31 of State law shall be made consistently with federal law and may be made by any of the
32 following methods, as applicable:

- 33 (1) Pursuant to 8 U.S.C. §§ 1373(c) and 1644 or any other provision of federal
34 law.
35 (2) By a law enforcement officer who is authorized by the federal government to
36 verify or ascertain an alien's immigration status.
37 (3) In any other manner authorized by the federal government.

38 **"§ 64-10. Admissibility of immigration status records in courts of this State.**

39 (a) A verification of an alien's immigration status received from the federal government
40 pursuant to G.S. 64-9 shall constitute proof of that alien's status. A court of this State shall
41 consider only a verification of immigration status made pursuant to G.S. 64-9 in determining
42 whether an alien is lawfully present in the United States.

43 (b) Any record that relates to the immigration status of a person is admissible in any
44 court of this State without further foundation or testimony from a custodian of records if all of
45 the following apply:

- 46 (1) The record is certified as authentic by the federal government agency that is
47 responsible for maintaining the record.
48 (2) The State notifies the person at least 15 business days before the proceeding
49 at which the evidence would be used of its intention to introduce the record
50 into evidence under this section, and provides a copy of the record to the
51 person.

1 (3) The person fails to file a written objection with the court, with a copy to the
2 State, at least five business days before the proceeding at which the record
3 would be used that the person objects to the introduction of the record into
4 evidence.

5 If the person's attorney of record, or that person if he or she is not represented by an
6 attorney, fails to file a written objection as provided in this subsection, then the record may be
7 admitted into evidence without the testimony of the custodian of records. Upon filing a timely
8 objection, the admissibility of the record shall be determined and governed by the appropriate
9 rules of evidence.

10 **"§ 64-11. Law enforcement transport of certain unlawfully present aliens.**

11 Notwithstanding any other provision of law, a State or local law enforcement agency may
12 securely transport an alien who is in the agency's custody and whom the agency has verified is
13 unlawfully present in the United States to a federal facility in this State or to any other point of
14 transfer into federal custody that is outside the jurisdiction of the law enforcement agency. A
15 law enforcement agency shall obtain judicial or executive authorization from the Governor
16 before securely transporting an alien who is unlawfully present in the United States to a point
17 of transfer that is outside this State.

18 **"§ 64-12. Construction and severability.**

19 (a) Construction. – This Chapter shall be construed in a manner consistent with federal
20 law.

21 (b) Severability. – The provisions of this Chapter are severable. If any part of this
22 Chapter is declared invalid or unconstitutional, such declaration shall not affect the remainder.
23 If any particular interpretation or application of the provisions of this Chapter is declared
24 invalid or unconstitutional, such declaration shall not affect other interpretations or
25 applications."

26
27 **PART VII. PROHIBIT THE USE OF CERTAIN DOCUMENTS FOR**
28 **IDENTIFICATION PURPOSES**

29 **SECTION 7.(a)** Chapter 15A of the General Statutes is amended by adding a new
30 Article to read:

31 "Article 18.

32 "Identification Documents.

33 **"§ 15A-306. Certain documents not acceptable as identification.**

34 (a) The following documents shall not be acceptable for use in determining a person's
35 actual identity or residency by a justice, judge, clerk, magistrate, law enforcement officer, or
36 other government official:

37 (1) A matricula consular or other similar document, other than a valid passport,
38 issued by a consulate or embassy of another country.

39 (2) An identity document issued or created by any person, organization, county,
40 city, or other local authority, except where expressly authorized to be used
41 for this purpose by the General Assembly.

42 (b) No local government or law enforcement agency may establish, by policy or
43 ordinance, the acceptability of any of the documents described in subsection (a) of this section
44 as a form of identification to be used to determine the identity or residency of any person. Any
45 local government policy or ordinance that contradicts this section is hereby repealed."

46 **SECTION 7.(b)** G.S. 20-7(b4) reads as rewritten:

47 "(b4) Examples of documents that are reasonably reliable indicators of residency include,
48 but are not limited to, any of the following:

49 (1) A pay stub with the payee's address.

50 (2) A utility bill showing the address of the applicant-payor.

- 1 (3) A contract for an apartment, house, modular unit, or manufactured home
- 2 with a North Carolina address signed by the applicant.
- 3 (4) A receipt for personal property taxes paid.
- 4 (5) A receipt for real property taxes paid to a North Carolina locality.
- 5 (6) A current automobile insurance policy issued to the applicant and showing
- 6 the applicant's address.
- 7 (7) A monthly or quarterly financial statement from a North Carolina regulated
- 8 financial institution.
- 9 ~~(8) A matricula consular or substantially similar document issued by the~~
- 10 ~~Mexican Consulate for North Carolina.~~
- 11 ~~(9) A document similar to that described in subsection (8) of this section, issued~~
- 12 ~~by the consulate or embassy of another country. This subdivision only~~
- 13 ~~applies if the Division has consulted with the United State Department of~~
- 14 ~~State and is satisfied with the reliability of such document."~~

15 **SECTION 7.(c)** G.S. 58-2-164(c) reads as rewritten:

16 "(c) The insurer and its agent shall also take reasonable steps to verify that the

17 information provided by an applicant regarding the applicant's address and the place the motor

18 vehicle is garaged is correct. The insurer may take its own reasonable steps to verify residency

19 or eligible risk status or may rely upon the agent verification of residency or eligible risk status

20 to meet the insurer's verification obligations under this section. The agent shall retain copies of

21 any items obtained under this section as required under the record retention rules adopted by

22 the Commissioner and in accordance with G.S. 58-2-185. The agent may satisfy the

23 requirements of this section by obtaining reliable proof of North Carolina residency from the

24 applicant or the applicant's status as an eligible risk. Reliable proof of residency or eligible risk

25 includes but is not limited to:

- 26 (1) A pay stub with the payee's address.
- 27 (2) A utility bill showing the address of the applicant-payor.
- 28 (3) A lease for an apartment, house, modular unit, or manufactured home with a
- 29 North Carolina address signed by the applicant.
- 30 (4) A receipt for personal property taxes paid.
- 31 (5) A receipt for real property taxes paid to a North Carolina locality.
- 32 (6) A monthly or quarterly financial statement from a North Carolina regulated
- 33 financial institution.
- 34 (7) A valid unexpired North Carolina driver's license.
- 35 ~~(8) A matricula consular or substantially similar document issued by the~~
- 36 ~~Mexican Consulate for North Carolina.~~
- 37 ~~(9) A document similar to that described in subdivision (8) of this section,~~
- 38 ~~issued by the consulate or embassy of another country that would be~~
- 39 ~~accepted by the North Carolina Division of Motor Vehicles as set forth in~~
- 40 ~~G.S. 20-7(b4)(9).~~
- 41 (10) A valid North Carolina vehicle registration.
- 42 (11) A valid military ID.
- 43 (12) A valid student ID for a North Carolina school or university."

44 **SECTION 7.(d)** G.S. 108A-55.3(b) reads as rewritten:

45 "(b) An applicant may meet the requirements of subsection (a) of this section by

46 providing at least two of the following documents:

- 47 (1) A valid North Carolina drivers license or other identification card issued by
- 48 the North Carolina Division of Motor Vehicles.
- 49 (2) A current North Carolina rent or mortgage payment receipt, or current utility
- 50 bill in the name of the applicant or the applicant's legal spouse showing a
- 51 North Carolina address.

- 1 (3) A valid North Carolina motor vehicle registration in the applicant's name
2 and showing the applicant's current address.
- 3 (4) A document showing that the applicant is employed in this State.
- 4 (5) One or more documents proving that the applicant's domicile in the
5 applicant's prior state of domicile has ended, such as closing of a bank
6 account, termination of employment, or sale of a home.
- 7 (6) The tax records of the applicant or the applicant's legal spouse, showing a
8 current North Carolina address.
- 9 (7) A document showing that the applicant has registered with a public or
10 private employment service in this State.
- 11 (8) A document showing that the applicant has enrolled the applicant's children
12 in a public or private school or child care facility located in this State.
- 13 (9) A document showing that the applicant is receiving public assistance or
14 other services requiring proof of domicile, other than medical assistance, in
15 this State.
- 16 (10) Records from a health department or other health care provider located in
17 this State showing the applicant's current North Carolina address.
- 18 (11) A written declaration made under penalty of perjury from a person who has
19 a social, family, or economic relationship with the applicant and who has
20 personal knowledge of the applicant's intent to live in North Carolina
21 permanently or for an indefinite period of time or that the applicant is
22 residing in North Carolina to seek employment or with a job commitment.
- 23 (12) Current North Carolina voter registration card.
- 24 (13) A document from the U.S. Department of Veterans Affairs, U.S. Department
25 of Defense, or the U.S. Department of Homeland Security verifying the
26 applicant's intent to live in North Carolina permanently or for an indefinite
27 period of time or that the applicant is residing in North Carolina to seek
28 employment or with a job commitment.
- 29 (14) Official North Carolina school records, signed by school officials, or
30 diplomas issued by North Carolina schools, including secondary schools,
31 community colleges, colleges, and universities verifying the applicant's
32 intent to live in North Carolina permanently or for an indefinite period of
33 time or that the applicant is residing in North Carolina to seek employment
34 or with a job commitment.
- 35 (15) ~~A document issued by the Mexican consular or other foreign consulate
36 verifying the applicant's intent to live in North Carolina permanently or for
37 an indefinite period of time or that the applicant is residing in North Carolina
38 to seek employment or with a job commitment."~~

40 PART VIII. E-VERIFY CHANGES

41 SECTION 8.(a) G.S. 153A-449 reads as rewritten:

42 "**§ 153A-449. Contracts with private ~~entities~~entities; contractors must use E-Verify.**

43 (a) Authority. – A county may contract with and appropriate money to any person,
44 association, or corporation, in order to carry out any public purpose that the county is
45 authorized by law to engage in.

46 (b) Contractors Must Use E-Verify. – No county may enter into a contract unless the
47 contractor and the contractor's subcontractors comply with the requirements of Article 2 of
48 Chapter 64 of the General Statutes."

49 SECTION 8.(b) G.S. 160A-20.1 reads as rewritten:

50 "**§ 160A-20.1. Contracts with private ~~entities~~entities; contractors must use E-Verify.**

1 (a) Authority. – A city may contract with and appropriate money to any person,
2 association, or corporation, in order to carry out any public purpose that the city is authorized
3 by law to engage in.

4 (b) Contractors Must Use E-Verify. – No city may enter into a contract unless the
5 contractor and the contractor's subcontractors comply with the requirements of Article 2 of
6 Chapter 64 of the General Statutes."

7 **SECTION 8.(c)** G.S. 143-129 is amended by adding a new subsection to read:

8 "(j) No contract subject to this section may be awarded by any board or governing body
9 of the State, institution of State government, or any political subdivision of the State unless the
10 contractor and the contractor's subcontractors comply with the requirements of Article 2 of
11 Chapter 64 of the General Statutes."

12 **SECTION 8.(d)** Article 3 of Chapter 143 of the General Statutes is amended by
13 adding a new section to read:

14 "**§ 143-48.5. Contractors must use E-Verify.**

15 No contract subject to the provisions of this Article may be entered into unless the
16 contractor and the contractor's subcontractors comply with the requirements of Article 2 of
17 Chapter 64 of the General Statutes."

18 **SECTION 8.(e)** G.S. 147-33.95 is amended by adding a new subsection to read:

19 "(g) No contract subject to the provisions of this Part may be entered into unless the
20 contractor and the contractor's subcontractors comply with the requirements of Article 2 of
21 Chapter 64 of the General Statutes."

22 **SECTION 8.(f)** G.S. 64-25(3) reads as rewritten:

23 "**§ 64-25. Definitions.**

24 The following definitions apply in this Article:

25 ...

26 (3) Employee. – Any individual who provides services or labor for an employer
27 in this State for wages or other remuneration. The term shall not include an
28 individual whose term of employment is customarily (i) affected by the
29 seasonality of the industry in which the individual is employed or (ii) less
30 than year-round.

31 "

32 **SECTION 8.(g)** G.S. 64-26(c) is repealed.

33 **SECTION 8.(h)** Article 2 of Chapter 64 of the General Statutes is amended by
34 adding a new section to read:

35 "**§ 64-39. No employer penalties if employee holds restricted drivers permit or restricted**
36 **identification card.**

37 The Commissioner shall not hold any hearing, issue any order, make any notification, or
38 impose any penalty under this Article if a violation or alleged violation of G.S. 64-26 was with
39 respect to an employee who possesses a valid restricted drivers permit or a valid restricted
40 identification card."

41 **SECTION 8.(i)** Subsections (a) through (e) of this section become effective in
42 accordance with the following schedule and apply to all bids submitted and all contracts
43 entered into on or after that date:

44 (1) October 1, 2013, for contractors that employ 500 or more employees as of
45 that date, and their subcontractors.

46 (2) January 1, 2014, for contractors that employ 100 or more employees but
47 fewer than 500 employees as of that date, and their subcontractors.

48 (3) July 1, 2014, for all other contractors and subcontractors.

49 **SECTION 8.(j)** Subsections (f) through (j) of this section are effective when they
50 become law.

1 **PART IX. REQUIRE UNDOCUMENTED ALIEN DRIVERS TO OBTAIN**
2 **RESTRICTED DRIVERS PERMITS**

3 **SECTION 9.(a)** G.S. 20-4.01 is amended by adding a new subdivision to read:

4 "(4c) Criminal history. – A history of conviction of a state or federal crime,
5 whether a misdemeanor or felony, that includes the criminal offenses set
6 forth in any of the following Articles of Chapter 14 of the General Statutes:
7 Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A,
8 Endangering Executive and Legislative Officers; Article 6, Homicide;
9 Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10,
10 Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use
11 of Explosive or Incendiary Device or Material; Article 14, Burglary and
12 Other Housebreakings; Article 15, Arson and Other Burnings; Article 16,
13 Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False
14 Pretenses and Cheats; Article 19A, Obtaining Property or Services by False
15 or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial
16 Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article
17 26, Offenses Against Public Morality and Decency; Article 26A, Adult
18 Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29,
19 Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses
20 Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39,
21 Protection of Minors; Article 40, Protection of the Family; Article 59, Public
22 Intoxication; and Article 60, Computer Related Crime. The crimes also
23 include possession or sale of drugs in violation of the North Carolina
24 Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes,
25 and alcohol-related offenses, including sale to underage persons in violation
26 of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1
27 through G.S. 20-138.5, but shall not include disturbing the public peace,
28 misdemeanor possession of marijuana, worthless checks, misdemeanor
29 larceny, shoplifting, or public drunkenness. The term shall include a final
30 conviction in another state or in a federal jurisdiction of an offense which is
31 substantially similar to any of the offenses listed in this subdivision."

32 **SECTION 9.(b)** G.S. 20-7(f)(3) reads as rewritten:

33 "(3) Duration of ~~license~~ license, permit, or identification card for certain other
34 drivers: individuals. – The durations listed in subdivisions (1), (2) and (2a) of
35 this subsection are valid unless one of the following conditions is satisfied:
36 a. ~~the~~ The Division determines that a license of shorter duration should
37 be issued when the applicant holds valid documentation issued by, or
38 under the authority of, the United States government that
39 demonstrates the applicant's legal presence of limited duration in the
40 United States. In no event shall a license of limited duration expire
41 later than the expiration of the authorization for the applicant's legal
42 presence in the United States.
43 b. The Division determines that a restricted drivers permit or a
44 restricted identification card should be issued pursuant to subdivision
45 (t) of this section. In no event shall a restricted drivers permit or a
46 restricted identification card expire later than one year after the date
47 of issuance."

48 **SECTION 9.(c)** G.S. 20-7(i) reads as rewritten:

49 "(i) Fees. – The fee for a regular drivers ~~license~~ license, restricted drivers permit, or
50 restricted identification card is the amount set in the following table multiplied by the number
51 of years in the period for which the license is issued:

<u>Class of Regular License</u>	<u>Fee for Each Year</u>
Class A	\$4.00
Class B	\$4.00
Class C	\$4.00

The fee for a motorcycle endorsement is one dollar and seventy-five cents (\$1.75) for each year of the period for which the endorsement is issued. The fee for an initial one-year restricted drivers permit or for an initial one-year restricted identification card shall be an amount set by the Secretary of Transportation that shall not be lower than the actual cost of processing the relevant application and furnishing the permit or card. The fee for a renewal of a restricted drivers permit or a restricted identification card shall be twenty-five dollars (\$25.00). The appropriate fee shall be paid before a person receives a regular drivers license-license, restricted identification card, restricted drivers permit, or an endorsement."

SECTION 9.(d) G.S. 20-7 is amended by adding the following new subsections to read:

"(t) Notwithstanding the requirements of subsection (b1) of this section that an applicant present a valid social security number, the Division shall issue a restricted drivers permit or a restricted identification card under subsection (f) of this section to an applicant present in the United States who meets all of the following requirements:

- (1) The applicant is not lawfully present in the United States.
- (2) The applicant agrees to a criminal history check and that check shows that the applicant does not have a criminal history. The criminal history check shall include the taking of the applicant's fingerprints.
- (3) The applicant submits a valid birth certificate, passport from another country, or a copy of the federal W-2 or W-7 Internal Revenue Service form most recently submitted to the Internal Revenue Service by the applicant. G.S. 15A-306 shall not apply to documents presented pursuant to this subdivision.
- (4) The applicant demonstrates (i) that the applicant has been a resident of North Carolina for at least one year and (ii) that the period of residency began prior to April 1, 2013.
- (5) The applicant meets all other requirements for a drivers license, including proof of financial responsibility. For purposes of this section, the insurance policy that is the basis of proof of financial responsibility shall have been prepaid for a period that is at least as long as the entire period during which the restricted drivers permit will be effective. This subdivision does not apply to applications for a restricted identification card.

(u) Notwithstanding the requirements of subsection (n) of this section addressing background colors and borders and in addition to the other requirements of this section, a restricted drivers permit or a restricted identification card issued under subsection (t) of this section shall do all of the following:

- (1) Be printed in a vertical format, that distinguishes them from the horizontal format.
- (2) Bear an identifying number for the license holder assigned by the Division, the first character of which shall be a letter that is only assigned to restricted drivers permit holders and restricted identification cards.
- (3) Bear a distinguishing mark or other designation on the face of the permit or identification card clearly denoting the limited duration of the permit or identification card and clearly distinguishing it from other forms of licenses of limited duration and identification cards of limited duration.

1 (4) Bear the permit or identification card holder's thumbprint in a manner that is
2 electronically readable by properly equipped law enforcement officers and
3 agencies.

4 (5) Bear a clearly legible statement that the permit or identification card (i) is
5 not valid as a means of demonstrating eligibility for voter registration or for
6 public benefits; (ii) does not legitimize the holder's presence in the United
7 States or the State of North Carolina; and (iii) is not valid for any other
8 purpose.

9 (v) Wherever the laws of this State refer to a "drivers license," the term shall also be
10 construed to refer to a restricted drivers permit, except when the law being construed confers a
11 benefit, privilege, or right for which lawful presence is a prerequisite."

12 **SECTION 9.(e)** G.S. 20-15 reads as rewritten:

13 **"§ 20-15. Authority of Division to cancel license or endorsement.**

14 (a) The Division shall have authority to cancel any driver's license upon determining
15 any of the following:

16 (1) The licensee was not entitled to the issuance of the license under this
17 Chapter.

18 (2) The licensee failed to give the required or correct information on the license
19 application or committed fraud in making the application.

20 (3) The licensee is no longer authorized under federal law to be legally present
21 in the United States. States, except that the Division shall not cancel a
22 restricted drivers permit pursuant to this subdivision.

23 (a1) The Division shall cancel and revoke the restricted drivers permit of a person who is
24 convicted of violating G.S. 20-313.

25 (b) Upon such cancellation, the licensee must surrender the license so cancelled to the
26 Division.

27 (c) Any person whose license is canceled under this section for failure to give the
28 required or correct information, or for committing fraud, in an application for a commercial
29 drivers license shall be prohibited from reapplying for a commercial drivers license for a period
30 of 60 days from the date of cancellation.

31 (d) The Division shall have authority to revoke an H endorsement of a commercial
32 drivers license holder if the person with the endorsement is determined by the federal
33 Transportation Security Administration to constitute a security threat, as specified in 49 C.F.R.
34 § 1572.5(d)(4)."

35 **SECTION 9.(f)** Article 13 of Chapter 20 of the General Statutes is amended by
36 adding a new section to read:

37 **"§ 20-309.3. No refund of insurance policy premiums for holders of restricted drivers**
38 **permits.**

39 When an insurer receives a request to refund any funds to an insured as a result of the
40 cancellation of a liability insurance policy on a motor vehicle, the insurer shall first inquire with
41 the Division of Motor Vehicles as to whether the insured currently has a valid restricted drivers
42 permit and shall refuse to refund any funds if the Division of Motor Vehicles confirms that the
43 person has a valid restricted drivers permit. The Division shall promptly respond to any
44 inquiries made pursuant to this section."

45
46 **PART X. AUTHORIZE IMPOUNDMENT AND SALE OF VEHICLES FOR DRIVING**
47 **WHILE LICENSE REVOKED, DRIVING WITHOUT A LICENSE, AND DRIVING**
48 **WHILE FAILING TO MAINTAIN FINANCIAL RESPONSIBILITY**

49 **SECTION 10.** Article 2 of Chapter 20 of the General Statutes is amended by
50 adding a new section to read:

1 "§ 20-28.10. Seizure, impoundment, forfeiture of motor vehicles for certain other offenses
2 under this Chapter.

3 (a) Authority. – A vehicle driven by a person who commits any of the following
4 offenses shall be subject to seizure, impoundment, and forfeiture:

5 (1) A violation of G.S. 20-313.

6 (2) Driving without a license under G.S. 20-7 or driving without a restricted
7 drivers permit under G.S. 20-7.

8 (b) Exceptions. – If any of the following conditions are satisfied, a vehicle shall not
9 become subject to an order of forfeiture under this section:

10 (1) The underlying violation is a violation of G.S. 20-313 and the defendant
11 tenders proof of financial responsibility that satisfies the requirements of
12 G.S. 20-7(c1) to the judge.

13 (2) The underlying violation is driving without a license under G.S. 20-35 or
14 driving without a restricted drivers permit under G.S. 20-35 and the
15 defendant presents the judge with the defendant's valid drivers license or
16 restricted drivers permit.

17 (c) Governing Law and Procedures. – The laws and procedures governing the seizure,
18 impoundment, and forfeiture of vehicles under this section shall be the same as those set forth
19 in G.S. 20-28.2 through G.S. 20-28.9. Wherever those statutes refer to a particular underlying
20 offense, they shall, for purposes of this section, be construed to refer to the applicable violation
21 of subsection (a) of this section. Furthermore, for purposes of this section, an innocent owner
22 shall be a person who did not know and had no reason to know that the defendant was engaging
23 in a violation of subsection (a) of this section."

24
25 **PART XI. EFFECTIVE DATE AND SEVERABILITY CLAUSE**

26 **SECTION 11.(a)** Sections 2, 3, 4, 5, and 10 of this act become effective December
27 1, 2013, and apply to offenses committed on or after that date. Sections 7 and 9 of this act
28 become effective October 1, 2013. Except as otherwise provided, the remainder of this act is
29 effective when it becomes law.

30 **SECTION 11.(b)** The provisions of this act are severable. If any part of this act is
31 declared invalid or unconstitutional, such declaration shall not affect the remainder. If any
32 particular interpretation or application of the provisions of this act is declared invalid or
33 unconstitutional, such declaration shall not affect other interpretations or applications.