

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 115*

Committee Substitute Favorable 4/14/97

Senate Judiciary Committee Substitute Adopted 8/19/97

Senate Finance Committee Substitute #2 Adopted 8/20/97

Short Title: 1997 Technical Corrections.

(Public)

Sponsors:

Referred to:

February 12, 1997

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

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

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

- 4 (1) Verbally informs another that he is a sworn law-enforcement officer,
5 whether or not the representation refers to a particular agency;
6 (2) Displays any badge or identification signifying to a reasonable
7 individual that the person is a sworn law-enforcement officer, whether
8 or not the badge or other identification refers to a particular law-
9 enforcement agency; or
10 (3) Unlawfully operates a vehicle on a public street, highway or public
11 vehicular area with an operating red light as defined in G.S. ~~20-130.1(a)-~~
12 20-130.1(a); or
13 (4) Unlawfully operates a vehicle on a public street, highway, or public
14 vehicular area with an operating blue light as defined in G.S. 20-
15 130.1(c)."

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

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

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

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

38 "(h) 'Goods' includes all things which are movable at the time the security
39 interest attaches or which are fixtures (G.S. 25-9-313), but does not
40 include money, documents, instruments, investment property,
41 ~~commodity contracts,~~ accounts, chattel paper, general intangibles, or
42 minerals or the like (including oil and gas) before extraction.
43 "Goods" also includes standing timber which is to be cut and removed

1 under a conveyance or contract for sale, the unborn young of animals,
2 and growing crops;"

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

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

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

13 "(1) A security interest is perfected when it has attached and when all of the
14 applicable steps required for perfection have been taken. Such steps are specified in G.S.
15 25-9-115, 25-9-302, 25-9-304, 25-9-305 and 25-9-306. If such steps are taken before the
16 security interest attaches, it is perfected at the time it attaches."

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

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

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

41 "(a) Except as extended by subsection (b) of this section, this Article applies to a
42 nonvested property interest or a power of appointment that is created on or after October
43 1, 1995. For purposes of this section, a nonvested property interest or a power of

1 appointment created by the exercise of a power of appointment is created when the power
2 is irrevocably exercised or when a revocable exercise becomes irrevocable."

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

4 **"§ 68-42. Stock running at large prohibited; certain ponies excepted.**

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

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

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

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

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

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

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

32 "15. ~~Psilocyn~~ Psilocin."

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

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

35 (1) The Commissioner of Agriculture;

36 (2) Four members appointed by the General Assembly upon the
37 recommendation of the President Pro Tempore ~~of~~ of the Senate in
38 accordance with G.S. 120-121, one of whom shall be designated to
39 serve as chairman as provided in subsection (d) of this section; and

40 (3) Four members appointed by the General Assembly upon the
41 recommendation of the Speaker of the House of Representatives in
42 accordance with G.S. 120-121."

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

1 "(4) 'Site evaluation' means an investigation to determine if a site meets all
2 federal and State standards as evidenced by the Waste Management
3 Facility Site Evaluation Report on file with the Soil and Water
4 Conservation District office or a comparable report certified by a
5 professional engineer or a comparable report certified by a technical
6 specialist approved by the North Carolina Soil and Water Conservation
7 Commission.

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

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

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

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

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

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

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

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

40 "(d) No member of the General Assembly, no officer or employee of the State, and
41 no officer or employee of an institution under the jurisdiction of the State Board and no
42 spouse of any of those persons, shall be eligible to serve on the State Board. Furthermore,

1 no person who within the prior ~~5~~-five years has been an employee of the Department of
2 Community Colleges shall be eligible to serve on the State Board."

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

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

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

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

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

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

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

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

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

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

42 (1) Beach erosion control and flood and hurricane protection works.

43 (2) Fire protection.

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

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

37 Section 26. Section 2 of Chapter 627 of the 1995 Session Laws reads as
38 rewritten:

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

41 Section 27. The Revisor of Statutes is authorized to renumber or reletter those
42 sections and any parts of sections of the General Statutes that have been published in the
43 General Statutes of North Carolina prior to the 1997 Session of the 1997 General

1 Assembly and have a number or letter designation that is not compatible with the General
2 Assembly's computer program database to be implemented in 1997 or 1998. This
3 authority is in addition to the authority contained in G.S. 164-10.

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

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

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

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

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

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

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

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

40 "(a) A motor vehicle that is driven by a person in violation of G.S. 20-138.1 or G.S.
41 20-138.5 is subject to seizure if at the time of the violation the drivers license of the
42 person driving the motor vehicle was revoked as a result of a prior impaired drivers

1 ~~driving license revocation. The revocation of a person's drivers license is an impaired drivers~~
2 ~~license revocation for purposes of this section if the revocation is pursuant to:~~

- 3 (1) ~~G.S. 20-13.2, 20-16(a)(8b), 20-16.2, 20-16.5, 20-17(a)(2), 20-17(a)(12),~~
4 ~~or 20-17.2; or~~
5 (2) ~~G.S. 20-16(a)(7), 20-17(a)(1), or 20-17(a)(9) if the offense involved~~
6 ~~impaired driving revocation as defined in G.S. 20-28.2(a)."~~

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

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

- 11 (1) ~~a motorcycle learner's permit, a~~ A full provisional license with a
12 motorcycle learner's permit; and a motorcycle endorsement, or a
13 (2) A regular drivers license with a motorcycle learner's permit; or
14 (3) Either:
15 a. A full provisional license; or
16 b. A regular drivers license, and with a motorcycle endorsement.

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

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

- 21 (1) ~~passing~~ Passing a road test and test;
22 (2) ~~Passing a written or oral test concerning a motorcycle~~ motorcycles; and
23 (3) ~~must pay~~ Paying the fee for a motorcycle endorsement.

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

25 Section 33. Effective December 1, 1997, G.S. 20-7(a2), as enacted by Section
26 9 of S.L. 1997-16, reads as rewritten:

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

- 29 (1) A person who is at least 16 years old but less than 18 years old and has a
30 ~~limited provisional license or a full provisional license~~ issued by the
31 Division.
32 (2) A person who is at least 18 years old and has a license issued by the
33 Division.

34 To obtain a motorcycle learner's permit, an applicant ~~must~~ shall pass a vision test, a
35 road sign test, and a written test specified by the Division. A motorcycle learner's permit
36 expires 18 months after it is issued. The holder of a motorcycle learner's permit may not
37 drive a motorcycle with a passenger. ~~The holder of a motorcycle learner's permit who has a~~
38 ~~limited provisional license may drive the motorcycle only at a time when the license holder~~
39 ~~could drive a motor vehicle without supervision under G.S. 20-11.~~ The fee for a motorcycle
40 learner's permit is the amount set in G.S. 20-7(1) for a learner's permit."

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

43 "**§ 20-28.6. Forfeiture of right of registration.**

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

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

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

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

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

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

- 1 (1) Use the identification code of another to gain access to an emissions
2 analyzer.
- 3 (2) Keep inspection stickers and other compliance documents in a manner
4 that makes them easily accessible to individuals who are not inspection
5 mechanics.
- 6 (3) Put an emissions inspection sticker on a vehicle that is required to have
7 one of the following emissions control devices but does not have it:
8 a. Catalytic converter.
9 b. PCV valve.
10 c. Thermostatic air control.
11 d. Oxygen sensor.
12 e. Unleaded gas restrictor.
13 f. Gasoline tank cap.
14 g. Air injection system.
15 h. Evaporative emissions system.
16 i. Exhaust gas recirculation (EGR) valve.
- 17 (4) Put an emissions inspection sticker on a vehicle without performing a
18 visual inspection of the vehicle's exhaust system and checking the
19 exhaust system for leaks.
- 20 (5) Impose no fee for an emissions inspection of a vehicle or the issuance of
21 an emissions inspection sticker or impose a fee for one of these actions
22 in an amount that differs from the amount set in ~~G.S. 20-187.3~~ G.S. 20-
23 183.7."

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

25 "(1) Federal safety regulations. – The federal motor carrier safety regulations
26 contained in 49 ~~U.S.C. Subchapter B, Parts 350 through 399~~ C.F.R. Parts
27 382 and 390 through 398."

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

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

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

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

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

1 **"§ 53-212.1. Bank agent for deposit institution affiliate.**

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

12 Section 40. (a) The catch line for G.S. 58-51-61, as enacted in Section 1 of S.L.
13 1997-312, reads as rewritten:

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

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

18 "(a2) Notwithstanding G.S. 58-50-123(c), the standard health plan developed and
19 approved under G.S. 58-50-125 shall provide coverage for reconstructive breast surgery
20 resulting from a mastectomy at least equal to the coverage required by ~~G.S. 58-51-61.~~ G.S.
21 58-51-62."

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

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

26 **"§ 58-31-45. Report required of Commissioner.**

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

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

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

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

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

38 Section 43.1. (a) If Senate Bill 929, 1997 Session becomes law, then G.S. 110-
39 91(1) as rewritten by Section 8 of that act reads as rewritten:

40 "(1) Medical Care and Sanitation. – The Commission for Health Services
41 shall adopt rules which establish minimum sanitation standards for child
42 care centers and their personnel. The sanitation rules adopted by the
43 Commission for Health Services shall cover such matters as the

1 cleanliness of floors, walls, ceilings, storage spaces, utensils, and other
2 facilities; adequacy of ventilation; sanitation of water supply, lavatory
3 facilities, toilet facilities, sewage disposal, food protection facilities,
4 bactericidal treatment of eating and drinking utensils, and solid-waste
5 storage and disposal; methods of food preparation and serving;
6 infectious disease control; sleeping facilities; and other items and
7 facilities as are necessary in the interest of the public health. The
8 Commission for Health Services shall allow child care ~~facilities~~-centers
9 to use domestic kitchen equipment, provided appropriate temperature
10 levels for heating, cooling, and storing are maintained. Child care
11 centers that fry foods shall use commercial hoods. These rules shall be
12 developed in consultation with the Department.

13 The Commission shall adopt rules for child care facilities to
14 establish minimum requirements for child and staff health assessments
15 and medical care procedures. These rules shall be developed in
16 consultation with the Department of Environment, Health, and Natural
17 Resources. Each child shall have a health assessment before being
18 admitted or within 30 days following admission to a child care facility.
19 The assessment shall be done by: (i) a licensed physician, (ii) the
20 physician's authorized agent who is currently approved by the North
21 Carolina Medical Board, or comparable certifying board in any state
22 contiguous to North Carolina, (iii) a certified nurse practitioner, or (iv) a
23 public health nurse meeting the Department of Environment, Health,
24 and Natural Resources' Standards for Early Periodic Screening,
25 Diagnosis, and Treatment Program. However, no health assessment
26 shall be required of any staff or child who is and has been in normal
27 health when the staff, or the child's parent, guardian, or full-time
28 custodian objects in writing to a health assessment on religious grounds
29 which conform to the teachings and practice of any recognized church
30 or religious denomination.

31 Organizations that provide prepared meals to child care centers only
32 are considered child care centers for purposes of compliance with
33 appropriate sanitation standards."

34 (b) This section becomes effective at the same time as Section 8 of Senate Bill
35 929, 1997 Session becomes effective.

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

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

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

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

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

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

23 **"§ 120-70.80. Creation and membership of Joint Legislative Education Oversight**
24 **Committee.**

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

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

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

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

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

42 "(a) The President Pro Tempore of the Senate and the Speaker of the House of
43 Representatives shall each designate a cochair of the Joint Legislative Education

1 Oversight Committee. The Committee shall meet at least once a quarter and may meet at
2 other times upon the joint call of the cochairs."

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

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

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

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

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

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

1 patient. An ambulatory surgical facility may be operated as a part of a
2 physician or dentist's office, provided the facility is licensed under G.S.
3 Chapter 131E, Article 6, Part D, but the performance of incidental,
4 limited ambulatory surgical procedures which do not constitute an
5 ambulatory surgical program as defined in subdivision (1a) and which
6 are performed in a physician or dentist's office does not make that office
7 an ambulatory surgical facility."

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

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

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

41 Section 51. Section 8 of Chapter 1436 of the 1957 Session Laws, as rewritten
42 by Section 6 of Chapter 622 of the 1981 Session Laws and by Section 1 of S.L. 1997-
43 163, reads as rewritten:

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

- 3 (1) Twenty-five dollars (\$25.00) if the applicant is a resident of North
4 Carolina; or
5 (2) Two hundred fifty dollars (\$250.00) if the applicant is not a resident of
6 North Carolina.

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

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

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

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

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

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

21 "Section 1. ~~Subsection (f) of Chapter 33 of the 1993 Session Laws~~ G.S. 113-
22 291.9(g) is repealed."

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

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

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

29 Section 56. Unless otherwise provided, this act is effective when it becomes
30 law.