

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 119*
Judiciary I Committee Substitute Adopted 4/28/15

Short Title: GSC Technical Corrections 2015.

(Public)

Sponsors:

Referred to:

February 27, 2015

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

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 14-269 reads as rewritten:

7 "§ 14-269. Carrying concealed weapons.

8 (a) It shall be unlawful for any person willfully and intentionally to carry concealed
9 about his or her person any bowie knife, dirk, dagger, slung shot, loaded cane, metallic
10 knuckles, razor, ~~shurikin, shuriken~~, stun gun, or other deadly weapon of like kind, except when
11 the person is on the person's own premises.

12 (a1) It shall be unlawful for any person willfully and intentionally to carry concealed
13 about his or her person any pistol or gun except in the following circumstances:

14 (1) The person is on the person's own premises.

15 (2) The deadly weapon is a handgun, the person has a concealed handgun permit
16 issued in accordance with Article 54B of this Chapter or considered valid
17 under G.S. 14-415.24, and the person is carrying the concealed handgun in
18 accordance with the scope of the concealed handgun permit as set out in
19 G.S. 14-415.11(c).

20 (3) The deadly weapon is a handgun and the person is a military permittee as
21 defined under G.S. 14-415.10(2a) who provides to the law enforcement
22 officer proof of deployment as required under G.S. 14-415.11(a).

23 ...

24 (b1) It is a defense to a prosecution under this section that:

25 (1) The weapon was not a firearm;

26 (2) The defendant was engaged in, or on the way to or from, an activity in which
27 ~~he~~ the defendant legitimately used the weapon;

28 (3) The defendant possessed the weapon for that legitimate use; and

29 (4) The defendant did not use or attempt to use the weapon for an illegal
30 purpose.

31 The burden of proving this defense is on the defendant.

32"

33 SECTION 2. G.S. 14-313 reads as rewritten:

34 "§ 14-313. Youth access to tobacco products, tobacco-derived products, vapor products,
35 and cigarette wrapping papers.

36 ...



1 (b) Sale or distribution to persons under the age of 18 years. – If any person shall
2 distribute, or aid, assist, or abet any other person in distributing tobacco products or cigarette
3 wrapping papers to any person under the age of 18 years, or if any person shall purchase
4 tobacco products or cigarette wrapping papers on behalf of a person under the age of 18 years,
5 the person shall be guilty of a Class 2 misdemeanor; provided, however, that it shall not be
6 unlawful to distribute tobacco products or cigarette wrapping papers to an employee when
7 required in the performance of the employee's duties. Retail distributors of tobacco products
8 shall prominently display near the point of sale a sign in letters at least five-eighths of an inch
9 high which states the following:

10 N.C. LAW STRICTLY PROHIBITS
11 THE PURCHASE OF TOBACCO PRODUCTS, TOBACCO-DERIVED PRODUCTS,
12 VAPOR PRODUCTS, AND CIGARETTE WRAPPING PAPERS
13 BY PERSONS UNDER THE AGE OF 18.
14 PROOF OF AGE REQUIRED.

15 Failure to post the required sign shall be an infraction punishable by a fine of twenty-five
16 dollars (\$25.00) for the first offense and seventy-five dollars (\$75.00) for each succeeding
17 offense.

18 A person engaged in the sale of tobacco products or cigarette wrapping papers shall demand
19 proof of age from a prospective purchaser if the person has reasonable grounds to believe that
20 the prospective purchaser is under 18 years of age. Failure to demand proof of age as required
21 by this subsection is a Class 2 misdemeanor if in fact the prospective purchaser is under 18
22 years of age. Retail distributors of tobacco products or cigarette wrapping papers shall train
23 their sales employees in the requirements of this law. Proof of any of the following shall be a
24 defense to any action brought under this subsection:

- 25 (1) The defendant demanded, was shown, and reasonably relied upon proof of
26 age in the case of a retailer, or any other documentary or written evidence of
27 age in the case of a nonretailer.
28 (2) The defendant relied on the electronic system established and operated by
29 the Division of Motor Vehicles pursuant to G.S. 20-37.02.
30 (3) The defendant relied on a biometric identification system that demonstrated
31 (i) the purchaser's age to be at least the required age for the purchase and (ii)
32 the purchaser had previously registered with the seller or seller's agent a
33 drivers license, a special identification card issued under ~~G.S. 20-377.7,~~
34 G.S. 20-37.7, a military identification card, or a passport showing the
35 purchaser's date of birth and bearing a physical description of the person
36 named on the card.

37 ...

38 (e) Statewide uniformity. – It is the intent of the General Assembly to prescribe this
39 uniform system for the regulation of tobacco products and cigarette wrapping papers to ensure
40 the eligibility for and receipt of any federal funds or grants that the State now receives or may
41 receive relating to the provisions of ~~G.S. 14-313,~~ this section. To ensure uniformity, no political
42 subdivisions, boards, or agencies of the State nor any county, city, municipality, municipal
43 corporation, town, township, village, nor any department or agency thereof, may enact
44 ordinances, rules or regulations concerning the sale, distribution, display or promotion of (i)
45 tobacco products or cigarette wrapping papers on or after September 1, 1995, or (ii)
46 tobacco-derived products or vapor products on or after August 1, 2013. This subsection does
47 not apply to the regulation of vending machines, nor does it prohibit the Secretary of Revenue
48 from adopting rules with respect to the administration of the tobacco products taxes levied
49 under Article 2A of Chapter 105 of the General Statutes.

50"

51 **SECTION 3.** G.S. 15A-1340.16(f) reads as rewritten:

1 "(f) ~~[Notice to State Treasurer of Finding.]~~ Notice to State Treasurer of Finding. – If
2 the court determines that an aggravating factor under subdivision (9) of subsection (d) of this
3 section has been proven, the court shall notify the State Treasurer of the fact of the conviction
4 as well as the finding of the aggravating factor. The indictment charging the defendant with the
5 underlying offense must include notice that the State seeks to prove the defendant acted in
6 accordance with subdivision (9) of subsection (d) of this section and that the State will seek to
7 prove that as an aggravating factor."

8 **SECTION 4.** G.S. 18B-302(d) reads as rewritten:

9 "(d) Defense. – It shall be a defense to a violation of subsection (a) of this section if the
10 seller:

11 ...

12 (3) Shows that at the time of purchase, the purchaser utilized a biometric
13 identification system that demonstrated (i) the purchaser's age to be at least
14 the required age for the purchase and (ii) the purchaser had previously
15 registered with the seller or seller's agent a drivers license, a special
16 identification card issued under ~~G.S. 20-377.7,~~ G.S. 20-37.7, a military
17 identification card, or a passport showing the purchaser's date of birth and
18 bearing a physical description of the person named on the document."

19 **SECTION 5.(a)** G.S. 20-115 reads as rewritten:

20 "**§ 20-115. Scope and effect of regulations in this ~~title.~~Part.**

21 It shall be unlawful for any person to drive or move or for the owner to cause or knowingly
22 permit to be driven or moved on any highway any vehicle or vehicles of a size or weight
23 exceeding the limitations stated in this ~~title, Part,~~ or any vehicle or vehicles which are not so
24 constructed or equipped as required in this ~~title,Part,~~ or the rules and regulations of the
25 Department of Transportation adopted pursuant ~~thereto to this Part~~ and the maximum size and
26 weight of vehicles ~~herein~~ specified in this Part shall be lawful throughout this State, and local
27 authorities shall have no power or authority to alter ~~said the~~ limitations except as express
28 authority may be granted in this Article."

29 **SECTION 5.(b)** G.S. 106-549.21(d) and (e) read as rewritten:

30 "(d) No article subject to this ~~title~~ Article shall be sold or offered for sale by any person,
31 firm, or corporation, in intrastate commerce, under any name or other marking or labeling
32 which is false or misleading, or in any container of a misleading form or size, but established
33 trade names and other marking and labeling and containers which are not false or misleading,
34 and which are approved by the Commissioner or ~~his~~ the Commissioner's authorized
35 representative, are permitted.

36 (e) If the Commissioner or ~~his~~ the Commissioner's authorized representative has reason
37 to believe that any marking or labeling or the size or form of any container in use or proposed
38 for use with respect to any article subject to this ~~title~~ Article is false or misleading in any
39 particular, ~~he~~ the Commissioner or representative may direct that ~~such~~ this use be withheld
40 unless the marking, labeling, or container is modified in such a manner as he may prescribe
41 the Commissioner or representative prescribes so that it will not be false or misleading. If the
42 person, firm, or corporation using or proposing to use the marking, labeling or container does
43 not accept the determination of the Commissioner or ~~his~~ the Commissioner's authorized
44 representative, ~~such~~ the person, firm, or corporation may request a hearing, but the use of the
45 marking, labeling, or container shall, if the Commissioner so directs, be withheld pending
46 hearing and final determination by the Commissioner. A person who uses or proposes to use
47 the marking, labeling, or container and who does not accept the determination of the
48 Commissioner may commence a contested case under G.S. 150B-23. If directed by the
49 Commissioner, the marking, labeling, or container may not be used pending a final decision."

50 **SECTION 6.** G.S. 20-183.2(a1) reads as rewritten:

1 "(a1) Safety Inspection Exceptions. – The following vehicles shall not be subject to a
2 safety inspection pursuant to this Article:

- 3 (1) Historic vehicles, as described in ~~G.S. 20-79.4(b)(88)~~ G.S. 20-79.4(b)(90).
- 4 (2) Buses titled to a local board of education and subject to the school bus
5 inspection requirements specified by the State Board of Education and
6 G.S. 115C-248."

7 **SECTION 7.** G.S. 62-36B is recodified as G.S. 62-36.01.

8 **SECTION 8.** G.S. 66-372(e) reads as rewritten:

- 9 "(e) All service agreements used in this State by a service agreement company shall:
- 10 (1) Not contain provisions that allow the company to cancel the agreement in its
11 discretion other than for nonpayment of premiums or for a direct violation of
12 the agreement by the consumer where the service agreement states that
13 violation of the agreement would subject the agreement to cancellation;
 - 14 (2) With respect to a motor vehicle service agreement as defined in
15 ~~G.S. 66-370(b)(1)~~, G.S. 66-370(b)(5), provide for a right of assignability by
16 the consumer to a subsequent purchaser before expiration of coverage if the
17 subsequent purchaser meets the same criteria for motor vehicle service
18 agreement acceptability as the original purchaser; and
 - 19 (3) Contain a cancellation provision allowing the consumer to cancel at any time
20 after purchase and receive a pro rata refund less any claims paid on the
21 agreement and a reasonable administrative fee, not to exceed ten percent
22 (10%) of the amount of the pro rata refund."

23 **SECTION 9.** G.S. 90-89(5) reads as rewritten:

- 24 "(5) Stimulants. – Unless specifically excepted or unless listed in another
25 schedule, any material, compound, mixture, or preparation that contains any
26 quantity of the following substances having a stimulant effect on the central
27 nervous system, including its salts, isomers, and salts of isomers:
- 28 a. Aminorex. Some trade or other names: aminoxaphen;
29 2-amino-5-phenyl-2-oxazoline; ~~_____ or~~
30 4,5-dihydro-5-phenyl-2-oxazolamine. ~~_____ or~~
31 4,5-dihydro-5-phenyl-2-oxazolamine.
 - 32 ...
 - 33 j. A compound, other than bupropion, that is structurally derived from
34 2-amino-1-phenyl-1-propanone by modification in any of the
35 following ways: (i) by substitution in the phenyl ring to any extent
36 with alkyl, alkoxy, alkylendioxy, haloalkyl, or halide substituents,
37 whether or not further substituted in the phenyl ring by one or more
38 other univalent substituents; (ii) by substitution at the 3-position with
39 an alkyl substituent; or (iii) by substitution at the nitrogen atom with
40 alkyl or ~~diakyl~~ dialkyl groups or by inclusion of the nitrogen atom in
41 a cyclic structure.

42 "...."

43 **SECTION 10.** G.S. 131E-154.13 reads as rewritten:

44 "§ 131E-154.13. Definitions.

45 The following definitions apply in this Part, unless otherwise specified:

- 46 ...
- 47 (3) NC NOVA Partner Team. – The entity responsible for developing the
48 criteria and protocols for the NC NOVA special licensure designation. The
49 Partner Team is inclusive of representatives from the following
50 organizations: Association for Home and Hospice Care of North Carolina,
51 Direct Care Workers Association of North Carolina, Duke University

1 Gerontological Nursing Program, Friends of Residents in Long Term Care,
2 North Carolina Assisted Living Association, North Carolina Association of
3 Long Term Care Facilities, ~~North Carolina Association of Non-Profit Homes~~
4 ~~for the Aging, LeadingAge North Carolina,~~ North Carolina Department of
5 Health and Human Services, North Carolina Foundation for Advanced
6 Health Programs, North Carolina Health Care Facilities Association, The
7 Carolinas Center for Medical Excellence, and the University of North
8 Carolina at Chapel Hill – Institute on Aging.

9"

10 **SECTION 11.** G.S. 143C 6 23(f1) reads as rewritten:

11 "(f) Suspension and Recovery of Funds to Grant Recipients for Noncompliance. – The
12 Office of State Budget and Management, after consultation with the administering State
13 agency, shall have the power to suspend disbursement of grant funds to grantees or
14 subgrantees, to prevent further use of grant funds already disbursed, and to recover grant funds
15 already disbursed for noncompliance with rules adopted pursuant to subsection (d) of this
16 section. If the grant funds are a pass through of funds granted by an agency of the United
17 States, then the Office of State Budget and Management must consult with the granting agency
18 of the United States and the State agency that is the recipient of the pass through funds prior to
19 taking the actions authorized by this subsection.

20 (f1) Return of Grant Funds. – Except as otherwise required by federal law, a grantee or
21 subgrantee shall return to the State all affected grant funds and interest earned on those funds if
22 any of the following occurs:

- 23 (1) The funds are in the possession or control of a grantee and are not expended,
24 made subject to an encumbrance, or disbursed to a subgrantee by August 31
25 immediately following the fiscal year in which the funds are appropriated by
26 the General Assembly, or a different period set forth in the terms of the
27 applicable appropriation or federal grant.
- 28 (2) The funds remain unexpended at the time that the grantee or subgrantee
29 dissolves, ceases operations, or otherwise indicates that it does not intend to
30 spend the funds.
- 31 (3) The Office of State Budget and Management seeks to recover the funds
32 pursuant to subsection (f) of this ~~act~~section."

33 **SECTION 12.** G.S. 150B-21.1(a)(12) is repealed.

34 **SECTION 13.** G.S. 150B-21.3(b2) reads as rewritten:

35 "(b2) Objection. – Any person who objects to the adoption of a permanent rule may
36 submit written comments to the agency. If the objection is not resolved prior to adoption of the
37 rule, a person may submit written objections to the Commission. If the Commission receives
38 written objections from 10 or more persons, no later than 5:00 P.M. of the day following the
39 day the Commission approves the rule, clearly requesting review by the legislature in
40 accordance with instructions ~~contained in the notice pursuant to G.S. 150B-21.2(c)(9), posted~~
41 on the agency's Web site pursuant to G.S. 150B-19.1(c)(4), and the Commission approves the
42 rule, the rule will become effective as provided in subsection (b1) of this section. The
43 Commission shall notify the agency that the rule is subject to legislative disapproval on the day
44 following the day it receives 10 or more written objections. When the requirements of this
45 subsection have been met and a rule is subject to legislative disapproval, the agency may adopt
46 the rule as a temporary rule if the rule would have met the criteria listed in G.S. 150B-21.1(a)
47 at the time the notice of text for the permanent rule was published in the North Carolina Register.
48 If the Commission receives objections from 10 or more persons clearly requesting review by
49 the legislature, and the rule objected to is one of a group of related rules adopted by the agency
50 at the same time, the agency that adopted the rule may cause any of the other rules in the group

1 to become effective as provided in subsection (b1) of this section by submitting a written
2 statement to that effect to the Commission before the other rules become effective."

3 **SECTION 14.** G.S. 150B-23.2(d) reads as rewritten:

4 "(d) ~~Wavier~~ Waiver or Refund. – The Office of Administrative Hearings shall by rule
5 provide for the fee to be waived in a contested case in which the petition is filed in forma
6 pauperis and supported by such proofs as are required in G.S. 1-110 and in a contested case
7 involving a mandated federal cause of action. The Office of Administrative Hearings shall by
8 rule provide for the fee to be refunded in a contested case in which the losing party is the
9 State."

10 **SECTION 15.** G.S. 161-22.3 reads as rewritten:

11 "**§ 161-22.3. Minimum standards for land records management.**

12 In addition to the recording and indexing procedures set forth in this Article, the register of
13 deeds shall follow the rules specifying minimum standards and procedures in land records
14 management adopted by the Department of Secretary of State pursuant to
15 ~~G.S. 143-345.6(b1)~~; G.S. 147-54.3(b1)."

16 **SECTION 16.(a)** Section 2 of S.L. 2010-32 is codified as G.S. 39A-4.

17 **SECTION 16.(b)** G.S. 39A-4, as created by Section 16(a) of this act, reads as
18 rewritten:

19 "**§ 39A-4. Applicability; interpretation.**

20 (a) This Chapter applies to (i) any transfer fee covenant that is recorded after July 1,
21 2010; (ii) any lien that is filed to enforce a transfer fee covenant that is recorded after July 1,
22 2010, or purports to secure payment of a transfer fee that is recorded after July 1, 2010; and (iii)
23 any agreement imposing a private transfer fee obligation entered into after July 1, 2010.

24 (b) Nothing in this ~~act~~ Chapter shall be interpreted to mean that a transfer fee covenant
25 recorded prior to ~~the effective date of this act~~ July 1, 2010, is valid or enforceable."

26 **SECTION 16.(c)** Section 3 of S.L. 2010-32 reads as rewritten:

27 "**SECTION 3.** This act is effective when it becomes ~~law and applies to: (i) any transfer fee~~
28 ~~covenant that is recorded after the effective date of this act; (ii) any lien that is filed to enforce a~~
29 ~~transfer fee covenant that is recorded after the effective date of this act or purports to secure~~
30 ~~payment of a transfer fee that is recorded after the effective date of this act; and (iii) any~~
31 ~~agreement imposing a private transfer fee obligation entered into after the effective date of this~~
32 ~~act.~~ law."

33 **SECTION 17.** The introductory language of Section 3 of S.L. 2014-76 reads as
34 rewritten:

35 "**SECTION 3.** ~~G.S. 94-133(a)~~ G.S. 95-133(a) reads as rewritten:"

36 **SECTION 18.** This act is effective when it becomes law.