

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 196
Committee Substitute Favorable 3/22/17

Short Title: Zip Lines/Challenge Courses/Sanders' Law.

(Public)

Sponsors:

Referred to:

February 27, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE ZIP LINES AND CHALLENGE COURSES AND TO PROVIDE
3 THAT THE ACT SHALL BE ENTITLED "SANDERS' LAW."

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** This act shall be known as "Sanders' Law."

6 **SECTION 2.** Chapter 95 of the General Statutes is amended by adding a new
7 Article to read:

8 "Article 14C.

9 "Zip Line and Challenge Course Safety.

10 **"§ 95-112.1. Short title and legislative purpose.**

11 (a) This Article shall be known as the "Zip Line and Challenge Course Safety Act of
12 North Carolina."

13 (b) The General Assembly finds that zip lining and participating in challenge courses is
14 practiced by a large number of North Carolinians and visitors to our State and that the industry
15 is growing rapidly.

16 (c) The General Assembly finds that there are inherent risks in zip lining and
17 participating in challenge courses which should be understood by each participant and which
18 are essentially impossible to eliminate by the zip line or challenge course operator.

19 (d) The General Assembly finds that although most zip lines and challenge courses are
20 operated in a safe manner, those which are not impose a substantial probability of serious and
21 preventable injury to the public. Protection of the public from exposure to such unsafe
22 conditions and the prevention of injuries is in the best interest and welfare of the people of the
23 State.

24 (e) It is the intent of this Article that zip lines, aerial adventure parks, canopy tours,
25 challenge courses, or other similar devices shall be designed, constructed, assembled or
26 disassembled, maintained, and operated so as to prevent injuries.

27 **"§ 95-112.2. Scope.**

28 (a) This Article governs the design, construction, installation, plans review, testing,
29 inspection, certification, operation, use, maintenance, alteration, relocation, and investigation of
30 accidents involving zip lines, aerial adventure parks, canopy tours, challenge courses, or other
31 similar devices.

32 (b) This Article does not apply to any zip line, aerial adventure park, canopy tour,
33 challenge course, or other similar devices (i) installed at a private residence that is not open to
34 the public and for which no fee is charged or (ii) operated by a government entity solely for law
35 enforcement or military training purposes.

36 **"§ 95-112.3. Definitions.**



1 The following definitions apply in this Article:

- 2 (1) ACCT. – Association for Challenge Course Technology.
3 (2) Aerial adventure park. – A self-guided challenge course that is open to the
4 public.
5 (3) Annual gross volume. – The gross receipts resulting from all types of sales
6 made and business done by operation of a regulated device during a
7 12-month period.
8 (4) Bureau. – Elevator and Amusement Device Bureau of the North Carolina
9 Department of Labor.
10 (5) Canopy tour. – A belayed aerial recreational or educational, guided or
11 self-guided, traverse or discovery tour of the forest canopy, flora and fauna,
12 and related ecologically significant areas most commonly by means of a
13 series of zip lines or aerial walkways with platforms.
14 (6) Challenge course. – Any apparatus or facility specifically designed or
15 constructed, or both, for the use of individuals or teams, which through high
16 or low nonspotted, spotted, or belayed activities, under trained facilitated
17 supervision, guided or self-guided, are utilized as elements of experiential
18 learning programs or curriculums or as adventure/challenge recreational
19 components or courses. Such facility or facilities usually consists of one or
20 more elements that challenge participants and include zip line tours, canopy
21 tours, or aerial adventure/trekking parks.
22 (7) Challenge course standards. – Any standard adopted pursuant to
23 G.S. 95-112.5.
24 (8) Chief. – The Chief of the Elevator and Amusement Device Bureau of the
25 North Carolina Department of Labor.
26 (9) Commissioner. – Commissioner of Labor of North Carolina.
27 (10) ERCA. – European Ropes Course Association.
28 (11) Imminent danger. – Practice or condition which could reasonably be
29 expected to cause death or serious injury to participants, operators, or the
30 general public.
31 (12) Operator. – Any person, partnership, corporation, or other commercial
32 entity, and their agents, officers, employees, or representatives, who has
33 operational responsibility for any regulated device.
34 (13) Owner. – Any person who owns a regulated device, the authorized agent of
35 that person, or any person who is leasing the regulated device from that
36 person.
37 (14) Participant. – Any person who engages in activities on a regulated device
38 individually or in a group activity supervised by an operator of a regulated
39 device.
40 (15) Person. – Any individual, association, partnership, firm, corporation, private
41 organization, or other entity, however organized. The term "person" also
42 shall include the State of North Carolina or any political subdivision thereof
43 or any unit of local government.
44 (16) PRCA. – Professional Ropes Course Association.
45 (17) Qualified inspector. – A professional inspector who is certified by the
46 Bureau pursuant to G.S. 95-112.8, or a person employed by the Bureau who
47 meets the training and experience requirements of a qualified inspector
48 pursuant to G.S. 95-112.8.
49 (18) Regulated device. – A zip line, aerial adventure park, canopy tour, challenge
50 course, or other similar device subject to the provisions of this Article as set
51 forth in G.S. 95-112.2.

- 1 (19) Serious injury. – An injury that is directly related to any mechanical,
2 electrical, operational, or structural malfunction of a regulated device that
3 results in death, loss of consciousness, or requires medical treatment other
4 than first aid by a physician or other medical professional for which a record
5 is created.
- 6 (20) Third-party inspector. – A qualified inspector, as defined in this section, not
7 directly employed by the owner or operator, manufacturer or vendor of the
8 regulated device, and not offering other services to the owner or operator of
9 the regulated device.
- 10 (21) Zip line. – A lifeline suspended between support structures that enables a
11 person attached to a pulley to traverse from a starting point to a terminus
12 propelled by the force of gravity or a passive method of controlled
13 acceleration.
- 14 (22) Zip line tour. – A belayed recreational or educational, guided or self-guided,
15 course or tour traversing areas of scenic, ecological, and/or cultural
16 significance. Zip line tours typically involve action or activity systems such
17 as zip lines, platforms, landing areas, and connecting trails.

18 **"§ 95-112.4. Powers and duties of Commissioner.**

19 The Commissioner of Labor is hereby empowered to do all of the following:

- 20 (1) To delegate to the Chief of the Elevator and Amusement Device Bureau
21 such powers, duties, and responsibilities as the Commissioner determines
22 will best serve the public interest in the safe operation of zip lines, aerial
23 adventure parks, canopy tours, challenge courses, or other similar devices.
- 24 (2) To supervise the Chief of the Elevator and Amusement Device Bureau in the
25 exercise of powers, duties and responsibilities delegated pursuant to
26 subdivision (1) of this section.
- 27 (3) To adopt, modify, or revoke such rules as are necessary for the purpose of
28 carrying out the provisions of this Article including those governing the
29 design, construction, installation, plans review, testing, inspection,
30 certification, operation, use, maintenance, alteration, and relocation of
31 regulated devices. The rules adopted pursuant to this rule-making authority
32 shall conform to good engineering and safety standards, formulas, and
33 practices.
- 34 (4) To enforce rules adopted under authority of this Article.
- 35 (5) To require inspection and testing for all new, modified, and relocated
36 regulated devices. Regulated devices shall be inspected at least once
37 annually.
- 38 (6) To require maintenance and periodic inspections and tests of all regulated
39 devices.
- 40 (7) To issue certificates of operation which certify for use such regulated
41 devices as are found to be in compliance with this Article and the rules
42 adopted thereunder.
- 43 (8) To have reasonable access, with or without notice, to the regulated devices
44 subject to the provisions of this Article during reasonable hours for purposes
45 of inspection or testing.
- 46 (9) To obtain an Administrative Search and Inspection Warrant in accordance
47 with the provisions of Article 4A of Chapter 15 of the General Statutes.
- 48 (10) To investigate accidents involving regulated devices to determine the cause
49 of the accident. The Commissioner shall have full subpoena powers in
50 conducting the investigation.

- 1 (11) To institute proceedings in the civil courts of this State when a provision of
2 this Article or the rules adopted thereunder has been violated.
- 3 (12) To adopt, modify, or revoke rules governing the qualifications of inspectors.
- 4 (13) To grant exceptions from the requirements of the rules adopted under
5 authority of this Article when such exceptions will not expose the public to
6 an unsafe condition likely to result in serious personal injury or property
7 damage.
- 8 (14) To require that before any regulated device is erected in this State, or before
9 any additions or alterations which substantially change the regulated device
10 are made, or before the physical spacing between regulated devices is
11 changed, the owner or the owner's authorized agent shall have the plans,
12 diagrams, specifications, or stress analyses of the regulated device approved
13 by a professional engineer licensed in North Carolina.
- 14 (15) To prohibit the use of any regulated device which is found upon inspection
15 to expose the public to an unsafe condition likely to cause personal injury or
16 property damage. Such a device shall be made operational only upon the
17 Commissioner's determination that it has been made safe.
- 18 (16) To order the payment of all civil penalties provided by this Article. The clear
19 proceeds of funds collected pursuant to a civil penalty order shall be remitted
20 to the Civil Penalty and Forfeiture Fund in accordance with
21 G.S. 115C-457.2.
- 22 (17) To coordinate enforcement and inspection activity relative to equipment,
23 regulated devices, and operations covered by this Article in order to
24 minimize duplication of liability or regulatory responsibility on the part of
25 the employer or owner.
- 26 (18) To charge reasonable fees for:
- 27 a. The issuance of certificates of operation for regulated devices.
- 28 b. The inspection by the Bureau of regulated devices.
- 29 c. A qualified inspector designation.

30 **"§ 95-112.5. Adoption of standards.**

31 The following standards and subsequent amendments and editions are adopted and
32 incorporated by reference. The design, manufacture, installation, operation, and maintenance of
33 all regulated devices must conform to one of the following standards, except where otherwise
34 specifically provided in this Article or in rules adopted pursuant to this Article:

- 35 (1) The Association for Challenge Course Technology (ACCT) ANSI/ACCT
36 03-2016 Challenge Course and Canopy/Zip Line Tour Standard.
- 37 (2) The Professional Ropes Course Association (PRCA) ANSI/PRCA
38 1.0-3-2014 Ropes Challenge Course Installation, Operation & Training
39 Standard.
- 40 (3) The European Ropes Course Association (ERCA) European Ropes Course
41 Standard (EN 15567-2:2014).
- 42 (4) The American Society for Testing and Materials (ASTM) F2959-14
43 Standard Practice for Special Requirements for Aerial Adventure Courses.

44 **"§ 95-112.6. Certificate of operation requirements.**

45 (a) An owner of a regulated device shall annually submit an application for a certificate
46 of operation to the Commissioner and shall request a certificate of operation for each regulated
47 device at least 30 days before the expiration of the certificate.

48 (b) An owner of a regulated device shall submit the application on forms provided by
49 the Commissioner.

1 (c) An owner of a regulated device shall include in the initial application certification
2 from a professional engineer licensed in North Carolina indicating that the design of the
3 regulated device has been approved by the professional engineer.

4 (d) An owner of a regulated device shall include in the initial application certification
5 from a professional engineer licensed in North Carolina indicating that the installation of the
6 regulated device has been approved by the professional engineer.

7 (e) The owner of a regulated device shall include in any subsequent application
8 certification from a professional engineer licensed in North Carolina indicating that any
9 additions or alterations which substantially change the regulated device have been approved by
10 the professional engineer.

11 (f) An owner of a regulated device shall include the following information on the initial
12 as well as the annual application:

13 (1) The name, address, telephone number, e-mail address (if applicable), and
14 Web site address (if applicable) of the owner.

15 (2) Registration of the regulated device, including its location, dates of
16 operation, date of installation, and the name and address of the installer of
17 the equipment.

18 (3) Documentation of the existence of a commercial general liability insurance
19 policy in compliance with G.S. 95-112.15.

20 (4) If the regulated device incorporates any live trees, documentation that each
21 tree has been inspected and found to be in good health within the past twelve
22 months by an arborist certified by the International Society of Arboriculture
23 or other professional with equivalent expertise to ensure the good health and
24 stability of the trees.

25 (5) An inspection report completed no more than 60 days prior to submission of
26 the application prepared by a third-party, qualified inspector pursuant to
27 G.S. 95-112.7(a). The inspection report must include proof of abatement of
28 all deficiencies found in the inspection.

29 (6) Signed certification of compliance with the record-keeping requirements of
30 this Article.

31 (7) Signed certification of compliance with applicable federal, State, and local
32 safety, fire, health, or building codes or standards.

33 (g) An owner of a regulated device shall include the certificate of operation fee with the
34 certificate of application.

35 (h) A certificate of operation for a regulated device expires one year after date of
36 issuance.

37 (i) If any requirement of this section is already met as a condition of liability insurance
38 coverage obtained pursuant to G.S. 95-112.15, the owner may submit documentation of
39 compliance with that requirement to the Commissioner.

40 **"§ 95-112.7. Annual inspection; issuance of certificate of operation.**

41 (a) A third-party, qualified inspector shall inspect a regulated device and determine that
42 it is in compliance with the provisions of this Article and any rules adopted pursuant to this
43 Article before a certificate of operation may be issued.

44 (b) The operator of the device shall post a copy of the certificate of operation in close
45 proximity to the entry to the device where it is readily visible to participants.

46 **"§ 95-112.8. Qualified inspector designation; qualifications and certification of qualified**
47 **inspectors.**

48 (a) A person applying for designation as a qualified inspector shall make application
49 biennially on a form provided by the Commissioner.

50 (b) An applicant shall furnish documentation of the following with the application:

1 (1) Current Professional Inspector Certification from the ACCT or a
2 substantially equivalent certification as defined in the challenge course
3 standards or experience and training that the Commissioner has determined
4 in advance are substantially equivalent to the requirements set forth in the
5 challenge course standards.

6 (2) The applicant must report to the Commissioner any lapse in professional
7 inspector certification. Lapse in professional inspector certification will
8 result in immediate suspension of the individual's qualified inspector
9 designation until such time that the individual provides renewal
10 documentation.

11 (c) An applicant for designation as a qualified inspector shall include the application fee
12 with the application.

13 **"§ 95-112.9. Pre-opening inspection and test; training; emergency evacuation plan;**
14 **records; revocation of certificate of operation.**

15 (a) An owner of a regulated device shall conduct a pre-opening inspection and test of
16 the regulated device in accordance with challenge course standards, prior to admitting the
17 participants, each day the regulated device is intended to be used.

18 (b) An owner of a regulated device shall train employees on the operation of the
19 regulated device in accordance with Part 1.3 of the ANSI/PRCA 2014 Ropes Challenge Course
20 Installation, Operation & Training Standard or a substantially similar standard.

21 (c) An owner of a regulated device shall have an emergency evacuation plan for the
22 regulated device in accordance with challenge course standards.

23 (d) An owner of a regulated device shall maintain for at least the previous 12 months a
24 signed record of the required pre-opening inspection and test, training provided to employees,
25 emergency evacuation plan, and such other pertinent information as the Commissioner may
26 require by rule or regulation.

27 (e) The Commissioner may refuse to issue or renew or may revoke, suspend, or amend
28 the certificate of operation for any regulated device upon failure by the owner or the owner's
29 authorized agent to make the required pre-opening inspection and test, to train employees, to
30 maintain an emergency evacuation plan, or to maintain the required records.

31 **"§ 95-112.10. Noncomplying devices; appeal.**

32 (a) Whenever the Commissioner determines that the operation of a regulated device is
33 exposing the public to an unsafe condition likely to result in serious personal injury or property
34 damage, the Commissioner immediately may order in writing that the use of the device be
35 stopped or limited until such time as the Commissioner determines that the device has been
36 made safe for use by the public.

37 (b) Whenever the Commissioner determines that the provisions of this Article or the
38 rules and regulations adopted thereunder have not been complied with, the Commissioner may
39 refuse to issue or renew or may revoke, suspend, or amend a certificate of operation.

40 (c) Any action taken under this section by the Commissioner shall be final unless
41 within 15 days after receipt of notice thereof by certified mail with return receipt, by signature
42 confirmation as provided by the U.S. Postal Service, by a designated delivery service
43 authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery, the
44 person against whom such action was taken files a petition for a contested case under Chapter
45 150B of the General Statutes.

46 **"§ 95-112.11. Operation without certificate; operation not in accordance with Article or**
47 **rules and regulations; operation after refusal to issue or after revocation of**
48 **certificate.**

49 (a) No person shall operate or permit to be operated or use any regulated device without
50 a valid certificate of operation.

1 (b) No person shall operate or permit to be operated or use any regulated device
2 otherwise than in accordance with this Article and the rules and regulations adopted thereunder.

3 (c) No person shall operate or permit to be operated or use any regulated device after
4 the Commissioner has refused to issue or has revoked the certificate of operation for such
5 device.

6 **"§ 95-112.12. Operation of unsafe device.**

7 No person shall operate, permit to be operated, or use any regulated device if such person
8 knows or reasonably should know that the operation or use will expose the public to an unsafe
9 condition that is likely to result in personal injury or property damage.

10 **"§ 95-112.13. Accidents; shut down; reporting.**

11 (a) If a participant or member of the general public is involved in an accident related to
12 the operation of a regulated device that results in a serious injury or a fatality, the owner or
13 operator shall immediately shut down the operation of the device and secure the safety of other
14 participants and the general public.

15 (b) An owner or operator shall ensure that the scene of a serious injury or fatality is left
16 intact from the time of the accident and shall ensure that the regulated device involved is not
17 removed from the scene of the accident without written authorization from the Commissioner.

18 (c) The owner, operator, and any employees who witnessed the accident or who
19 operated the regulated device when the accident occurred shall be available to be interviewed
20 by the Commissioner or the Commissioner's designated representative.

21 (d) The owner of any regulated device shall notify the Commissioner of any of the
22 following occurrences involving such device within 24 hours of the occurrence:

23 (1) Any occurrence resulting in death or injury requiring medical treatment,
24 other than first aid, by a physician. First aid means the one-time treatment or
25 observation of scratches, cuts not requiring stitches, burns, splinters, and
26 contusions, or a diagnostic procedure, including examination and X-rays,
27 which does not ordinarily require medical treatment even though provided
28 by a physician or other licensed personnel.

29 (2) Any occurrence resulting in damage to the regulated device indicating a
30 substantial defect in design, mechanics, structure, or equipment, affecting
31 the future safe operation of the device. No reporting is required in the case of
32 normal wear and tear.

33 (e) After the owner of the regulated device notifies the Commissioner of a serious
34 injury or fatality, the Commissioner shall, with reasonable promptness, advise the owner
35 whether the regulated device shall remain shut down pending investigation and inspection or
36 whether it can be placed back in service. In deciding whether the device shall remain shut down
37 or whether it can be placed back in service, the Commissioner's sole consideration shall be the
38 safety of participants and the general public.

39 (f) The Commissioner, without delay, after notification and determination that an
40 occurrence involving injury or damage specified in subsection (a) of this section has occurred,
41 shall make a complete and thorough investigation of the occurrence. The report of the
42 investigation shall be placed on file in the office of the Bureau and shall give in detail all facts
43 and information available. The owner may submit for inclusion in the file results of
44 investigations independent of the department's investigation.

45 (g) No person, following an occurrence involving a regulated device specified in
46 subsection (a) of this section, shall operate, attempt to operate, use or move, or attempt to move
47 such device or part thereof, without the approval of the Commissioner, unless so as to prevent
48 injury to any person or persons.

49 (h) No person, following an occurrence involving a regulated device specified in
50 subsection (a) of this section, shall remove or attempt to remove from the premises any
51 damaged or undamaged part of such device or repair or attempt to repair any damaged part

1 necessary to a complete and thorough investigation. The department must initiate its
2 investigation within 24 hours of being notified.

3 (i) The owner of a regulated device involved in an occurrence specified in subsection
4 (a) of this section shall document the accident, to include the full name, address, and telephone
5 number of the injured person, a description of his or her injuries, the identification of the device
6 involved, the names and addresses of the owner and employees who witnessed the accident,
7 and any other pertinent information describing the events leading up to the accident.

8 (j) An owner or operator shall keep a record of every accident or fatality with the
9 certificate of inspection, which shall be readily accessible to the general public. The record
10 shall include the following information:

11 (1) The date of every accident or fatality.

12 (2) A description of the type of accident.

13 (3) The number of people injured or killed.

14 (4) A description of the types of injuries.

15 (k) The owner of a regulated device shall retain all reports, documents, photographs,
16 and records required by this Article for not less than three years from the date of the
17 unscheduled cessation in operation of the device, imminent danger notification involving the
18 device, or serious injury or fatality resulting from operation or use of the device.

19 (l) If an owner violates any provision of this section of the Article, the Commissioner
20 may permanently revoke the certificate of operation.

21 **"§ 95-112.14. Operator age requirement; operator impairment.**

22 (a) Any operator of a regulated device shall be at least 18 years of age. An operator
23 shall be in attendance at all times the device is in operation.

24 (b) No person shall operate a regulated device while under the influence of alcohol or
25 any other impairing substance as defined by G.S. 20-4.01(14a). It shall be a violation of this
26 subsection to knowingly permit the operation of any regulated device while the operator is
27 under the influence of an impairing substance.

28 **"§ 95-112.15. Liability insurance.**

29 (a) No owner shall operate a regulated device unless at the time there is in existence a
30 contract of insurance providing coverage of not less than one million dollars (\$1,000,000) per
31 occurrence against liability for injury to persons or property arising out of the operation or use
32 of such device. The insurance contract to be provided must be by any insurer or surety that is
33 acceptable to the North Carolina Insurance Commissioner and authorized to transact business
34 in this State.

35 (b) No certificate of operation shall be issued by the Commissioner until such time as
36 the owner provides proof of the required contract of insurance.

37 (c) The Commissioner shall have the right to request from the owner of a regulated
38 device proof of the required contract of insurance, and upon failure of the owner or the owner's
39 authorized agent to provide such proof, the Commissioner shall have the right to prevent the
40 commencement of or to stop the operation of the device until such time as proof is provided.

41 (d) The Commissioner shall not accept any commercial general liability insurance
42 policy unless it obligates the insurer to give written notice to the insured at least 15 days before
43 any proposed cancellation, suspension, or nonrenewal of the policy. The owner or the owner's
44 authorized agent shall immediately notify the Commissioner upon receipt of notice of
45 cancellation, suspension, or nonrenewal of the policy.

46 **"§ 95-112.16. Violations; civil penalties; appeal; criminal penalties.**

47 (a) Any person who violates G.S. 95-112.11(a) or (b) (Operation without certificate;
48 operation not in accordance with Article) is subject to a civil penalty not to exceed one
49 thousand two hundred fifty dollars (\$1,250) for each section of this Article or rule or regulation
50 adopted pursuant to this Article violated and for each day each regulated device is so operated
51 or used.

1 **(b)** Any person who violates G.S. 95-112.11(c) (Operation after refusal to issue or after
2 revocation of license), G.S. 95-112.13 (Accidents, shut down, reporting), G.S. 95-112.14(a)
3 (Operators; age requirement), or G.S. 95-112.15 (Liability insurance) is subject to a civil
4 penalty not to exceed two thousand five hundred dollars (\$2,500) for each day each regulated
5 device is so operated or used.

6 **(c)** Any person who violates G.S. 95-112.12 (Operation of unsafe device) or
7 G.S. 95-112.14(b) (Operator impairment) is subject to a civil penalty not to exceed five
8 thousand dollars (\$5,000) for each day each regulated device is so operated or used.

9 **(d)** In determining the amount of any penalty ordered under authority of this section, the
10 Commissioner shall give due consideration to the appropriateness of the penalty with respect to
11 the annual gross volume of the person being charged, the gravity of the violation, the good faith
12 of the person, and the record of previous violations.

13 **(e)** The determination of the amount of the penalty by the Commissioner is final unless
14 within 15 days after receipt of notice thereof by certified mail with return receipt, by signature
15 confirmation as provided by the U.S. Postal Service, by a designated delivery service
16 authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery, the
17 person against whom such action was taken files a petition for a contested case under Chapter
18 150B of the General Statutes.

19 **(f)** The Commissioner may file in the office of the clerk of the superior court of the
20 county wherein the person, against whom a civil penalty has been ordered, resides, or if a
21 corporation is involved, in the county wherein the corporation maintains its principal place of
22 business, or in the county wherein the violation occurred, a certified copy of a final order of the
23 Commissioner unappealed from, or of a final order of the Commissioner affirmed upon appeal.
24 The clerk of court shall enter judgment and notify the parties. Such judgment shall have the
25 same effect, and all proceedings in relation thereto shall thereafter be the same, as though said
26 judgment had been rendered in a suit duly heard and determined by the superior court of the
27 General Court of Justice.

28 **(g)** Except as provided under subsection (h) of this section, any person who willfully
29 violates any provision of this Article is guilty of a Class 2 misdemeanor, which may include a
30 fine of not more than ten thousand dollars (\$10,000); except that if the conviction is for a
31 violation committed after a first conviction of the person, the person shall be guilty of a Class 1
32 misdemeanor, which may include a fine of not more than twenty thousand dollars (\$20,000).

33 **(h)** Any person who willfully violates any provision of this Article, and that violation
34 causes the serious injury or death of any person, then the person is guilty of a Class E felony,
35 which shall include a fine.

36 **(i)** Nothing in this section prevents any prosecuting officer of the State of North
37 Carolina from proceeding against a person who violates this Article on a prosecution charging
38 any degree of willful or culpable homicide.

39 **§ 95-112.17. Denial of permission to enter regulated device.**

40 The owner or operator of a regulated device may deny any person entrance to the device if
41 the owner believes such entry may jeopardize the safety of the person desiring entry, riders, or
42 other persons.

43 **§ 95-112.18. Legal representation.**

44 It shall be the duty of the Attorney General of North Carolina, when requested, to represent
45 the Department of Labor in actions or proceedings in connection with this Article or the rules
46 adopted thereunder.

47 **§ 95-112.19. Authorization for similar safety and health federal-State programs.**

48 Consistent with the requirements and conditions provided in this Article and the rules
49 adopted thereunder, the State, upon recommendation of the Commissioner of Labor, may enter
50 into agreements or arrangements with appropriate federal agencies for the purpose of

1 administering the enforcement of federal statutes, rules, and regulations governing regulated
2 devices.

3 **"§ 95-112.20. Confidentiality of trade secrets.**

4 All information reported to or otherwise obtained by the Commissioner or the
5 Commissioner's agents or representatives in connection with any inspection or proceeding
6 under this Article or the rules and regulations adopted thereunder which contains or might
7 reveal a trade secret shall be considered confidential, except as to carrying out this Article and
8 the rules adopted thereunder or when it is relevant in any proceeding under the same. In any
9 proceeding, the Commissioner or the Court shall issue orders as may be appropriate to protect
10 the confidentiality of trade secrets.

11 **"§ 95-112.21. Construction of Article and rules and regulations and severability.**

12 This Article and the rules adopted thereunder shall receive a liberal construction to the end
13 that the welfare of the people may be protected. If any provisions of either or the application
14 thereof to any person or circumstances is held to be invalid, such invalidity shall not affect
15 those provisions or applications which can be given effect without the invalid provision or
16 application, and, to that end, the provisions of this Article are severable."

17 **SECTION 3.** The Department of Labor may adopt rules, including temporary
18 rules, design and distribute forms, begin accepting applications, and establish and collect fees
19 in order that a device subject to the provisions of this act that is existing on or before December
20 1, 2017, is in compliance with the provisions of this act and has received a certificate of
21 operation from the Department of Labor by that date.

22 **SECTION 4.** Section 2 of this act becomes effective December 1, 2017.
23 G.S. 95-112.16(g) and (h), as enacted by Section 2 of this act, apply to violations occurring on
24 or after December 1, 2017. The remainder of this act is effective when it becomes law.