

Article 20.

Frauds.

§ 14-114. Fraudulent disposal of personal property on which there is a security interest.

(a) If any person, after executing a security agreement on personal property for a lawful purpose, shall make any disposition of any property embraced in such security agreement, with intent to defeat the rights of the secured party, every person so offending and every person with a knowledge of the security interest buying any property embraced in which security agreement, and every person assisting, aiding or abetting the unlawful disposition of such property, with intent to defeat the rights of any secured party in such security agreement, shall be guilty of a Class 2 misdemeanor.

A person's refusal to turn over secured property to a secured party who is attempting to repossess the property without a judgment or order for possession shall not, by itself, be a violation of this section.

(b) Intent to commit the crime as set forth in subsection (a) may be presumed from proof of possession of the property embraced in such security agreement by the grantor thereof after execution of the security agreement, and while it is in force, the further proof of the fact that the sheriff or other officer charged with the execution of process cannot after due diligence find such property under process directed to him for its seizure, for the satisfaction of such security agreement. However, this presumption may be rebutted by evidence that the property has, through no fault of the defendant, been stolen, lost, damaged beyond repair, or otherwise disposed of by the defendant without intent to defeat the rights of the secured party. (1873-4, c. 31; 1874-5, c. 215; 1883, c. 61; Code, s. 1089; 1887, c. 14; Rev., s. 3435; C.S., s. 4287; 1969, c. 984, s. 2; c. 1224, s. 4; 1987 (Reg. Sess., 1988), c. 1065, s. 1; 1993, c. 539, s. 56; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-115. Secreting property to hinder enforcement of lien or security interest.

Any person who, with intent to prevent or hinder the enforcement of a lien or security interest after a judgment or order has been issued for possession for that personal property subject to said lien or security interest, either refuses to surrender such personal property in his possession to a law enforcement officer, or removes, or exchanges, or secretes such personal property, shall be guilty of a Class 2 misdemeanor. (1887, c. 14; Rev., s. 3436; C.S., s. 4288; 1969, c. 984, s. 3; c. 1224, s. 1; 1987 (Reg. Sess., 1988), c. 1065, s. 2; 1989, c. 401; 1993, c. 539, s. 57; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-116: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 767, s. 30(1).

§ 14-117. Fraudulent and deceptive advertising.

It shall be unlawful for any person, firm, corporation or association, with intent to sell or in anywise to dispose of merchandise, securities, service or any other thing offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, to make public, disseminate, circulate or place before the public or cause directly or indirectly to be made, published, disseminated, circulated or placed before the public in this State, in a newspaper or

other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service or any other thing so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading: Provided, that such advertising shall be done willfully and with intent to mislead. Any person who shall violate the provisions of this section shall be guilty of a Class 2 misdemeanor. (1915, c. 218; C.S., s. 4290; 1993, c. 539, s. 59; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-117.1: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(5).

§ 14-117.2. Gasoline price advertisements.

(a) Advertisements by any person or firm of the price of any grade of motor fuel must clearly so indicate if such price is dependent upon purchaser himself drawing or pumping the fuel.

(b) Any person or firm violating the provisions of this section shall be guilty of a Class 3 misdemeanor. (1971, c. 324, ss. 1, 2; 1993, c. 539, s. 60; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-118. Blackmailing.

If any person shall knowingly send or deliver any letter or writing demanding of any other person, with menaces and without any reasonable or probable cause, any chattel, money or valuable security; or if any person shall accuse, or threaten to accuse, or shall knowingly send or deliver any letter or writing accusing or threatening to accuse any other person of any crime punishable by law with death or by imprisonment in the State's prison, with the intent to extort or gain from such person any chattel, money or valuable security, every such offender shall be guilty of a Class 1 misdemeanor. (R.C., c. 34, s. 110; Code, s. 989; Rev., s. 3428; C.S., s. 4291; 1993, c. 539, s. 61; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-118.1. Simulation of court process in connection with collection of claim, demand or account.

It shall be unlawful for any person, firm, corporation, association, agent or employee in any manner to coerce, intimidate, or attempt to coerce or intimidate any person in connection with any claim, demand or account, by the issuance, utterance or delivery of any matter, printed, typed or written, which (i) simulates or resembles a summons, warrant, writ or other court process or pleading; or (ii) by its form, wording, use of the name of North Carolina or any officer, agency or subdivision thereof, use of seals or insignia, or general appearance has a tendency to create in the mind of the ordinary person the false impression that it has judicial or other official authorization, sanction or approval. Any violation of the provisions of this section shall be a Class I felony. (1961, c. 1188; 1979, c. 263; 1993, c. 539, s. 62; 1994, Ex. Sess., c. 24, s. 14(c); 2012-150, s. 3.)

§ 14-118.2. Assisting, etc., in obtaining academic credit by fraudulent means.

(a) It shall be unlawful for any person, firm, corporation or association to assist any student, or advertise, offer or attempt to assist any student, in obtaining or in attempting to obtain,

by fraudulent means, any academic credit, grade or test score, or any diploma, certificate or other instrument purporting to confer any literary, scientific, professional, technical or other degree in any course of study in any university, college, academy or other educational institution. The activity prohibited by this subsection includes, but is not limited to, preparing or advertising, offering, or attempting to prepare a term paper, thesis, or dissertation for another; impersonating or advertising, offering or attempting to impersonate another in taking or attempting to take an examination; and the giving or changing of a grade or test score or offering to give or change a grade or test score in exchange for an article of value or money.

(b) Any person, firm, corporation or association violating any of the provisions of this section shall be guilty of a Class 2 misdemeanor. This section includes the acts of a teacher or other school official; however, the provisions of this section shall not apply to the acts of one student in assisting another student as herein defined if the former is duly registered in an educational institution in North Carolina and is subject to the disciplinary authority thereof. (1963, c. 781; 1969, c. 1224, s. 7; 1989, c. 144; 1993, c. 539, s. 63; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-118.3. Acquisition and use of information obtained from patients in hospitals for fraudulent purposes.

It shall be unlawful for any person, firm or corporation, or any officer, agent or other representative of any person, firm or corporation to obtain or seek to obtain from any person while a patient in any hospital information concerning any illness, injury or disease of such patient, other than information concerning the illness, injury or disease for which such patient is then hospitalized and being treated, for a fraudulent purpose, or to use any information so obtained in regard to such other illness, injury or disease for a fraudulent purpose.

Any person, firm or corporation violating the provisions of this section shall be guilty of a Class 2 misdemeanor. (1967, c. 974; 1969, c. 1224, s. 5; 1993, c. 539, s. 64; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-118.4. Extortion.

Any person who threatens or communicates a threat or threats to another with the intention thereby wrongfully to obtain anything of value or any acquittance, advantage, or immunity is guilty of extortion and such person shall be punished as a Class F felon. (1973, c. 1032; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, s. 1184; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-118.5. Theft of cable television service.

(a) Any person, firm or corporation who, after October 1, 1984, knowingly and willfully attaches or maintains an electronic, mechanical or other connection to any cable, wire, decoder, converter, device or equipment of a cable television system or removes, tampers with, modifies or alters any cable, wire, decoder, converter, device or equipment of a cable television system for the purpose of intercepting or receiving any programming or service transmitted by such cable television system which person, firm or corporation is not authorized by the cable television system to receive, is guilty of a Class 3 misdemeanor which may include a fine not exceeding five hundred dollars (\$500.00). Each unauthorized connection, attachment, removal, modification or alteration shall constitute a separate violation.

(b) Any person, firm or corporation who knowingly and willfully, without the authorization of a cable television system, distributes, sells, attempts to sell or possesses for sale in North Carolina any converter, decoder, device, or kit, that is designed to decode or descramble any encoded or scrambled signal transmitted by such cable television system, is guilty of a Class 3 misdemeanor which may include a fine not exceeding five hundred dollars (\$500.00). The term "encoded or scrambled signal" shall include any signal or transmission that is not intended to produce an intelligible program or service without the aid of a decoder, descrambler, filter, trap or other electronic or mechanical device.

(c) Any cable television system may institute a civil action to enjoin and restrain any violation of this section, and in addition, such cable television system shall be entitled to civil damages in the following amounts:

- (1) For each violation of subsection (a), three hundred dollars (\$300.00) or three times the amount of actual damages, if any, sustained by the plaintiff, whichever amount is greater.
- (2) For each violation of subsection (b), one thousand dollars (\$1,000) or three times the amount of actual damages, if any, sustained by the plaintiff, whichever amount is greater.

(d) It is not a necessary prerequisite to a civil action instituted pursuant to this section that the plaintiff has suffered or will suffer actual damages.

(e) Proof that any equipment, cable, wire, decoder, converter or device of a cable television system was modified, removed, altered, tampered with or connected without the consent of such cable system in violation of this section shall be prima facie evidence that such action was taken knowingly and willfully by the person or persons in whose name the cable system's equipment, cable, wire, decoder, converter or device is installed or the person or persons regularly receiving the benefits of cable services resulting from such unauthorized modification, removal, alteration, tampering or connection.

(f) The receipt, decoding or converting of a signal from the air by the use of a satellite dish or antenna shall not constitute a violation of this section.

(g) Cable television systems may refuse to provide service to anyone who violates subsection (a) of this section whether or not the alleged violator has been prosecuted thereunder. (1977, 2nd Sess., c. 1185, s. 1; 1983 (Reg. Sess., 1984), c. 1088, s. 1; 1993, c. 539, s. 65; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-118.6. Filing false lien or encumbrance.

(a) It shall be unlawful for any person to present for filing or recording in a public record or a private record generally available to the public a false lien or encumbrance against the real or personal property of a public officer, a public employee, or an immediate family member of the public officer or public employee on account of the performance of the public officer or public employee's official duties, knowing or having reason to know that the lien or encumbrance is false or contains a materially false, fictitious, or fraudulent statement or representation. For purposes of this subsection, the term "immediate family member" means a spouse or a child. Any person who violates this subsection shall be guilty of a Class I felony.

(b) When presented to the register of deeds for recording, if a register of deeds has a reasonable suspicion that the lien or encumbrance is false, as described in subsection (a)

of this section, the register of deeds may refuse to record the lien or encumbrance. Neither the register of deeds nor any other entity shall be liable for recording or the refusal to record a lien or encumbrance as described in subsection (a) of this section. If the recording of the lien or encumbrance is denied, the register of deeds shall allow the recording of a Notice of Denied Lien or Encumbrance Filing on a form adopted by the Secretary of State, for which no filing fee shall be collected. The Notice of Denied Lien or Encumbrance Filing shall not itself constitute a lien or encumbrance. When recording is denied, any interested person may initiate a special proceeding in the county where the recording was denied within ten (10) business days of the filing of the Notice of Denied Lien or Encumbrance Filing asking the superior court of the respective county to find that the proposed recording has a statutory or contractual basis and to order that the document be recorded. If, after hearing, upon a minimum of five (5) days' notice as provided in Rule 5 of the Rules of Civil Procedure and opportunity to be heard to all interested persons and all persons claiming an ownership interest in the property, the court finds that there is a statutory or contractual basis for the proposed recording, the court shall order the document recorded. A lien or encumbrance recorded upon order of the court under this subsection shall have a priority interest as of the time of the filing of the Notice of Denied Lien or Encumbrance Filing. If the court finds that there is no statutory or contractual basis for the proposed recording, the court shall enter an order finding that the proposed recording is null and void and that it shall not be filed, indexed, or recorded and a certified copy of that order shall be recorded by the register of deeds that originally denied the recording. The review by the judge under this subsection shall not be deemed a finding as to any underlying claim of the parties involved. If a special proceeding is not initiated under this subsection within ten (10) business days of the filing of the Notice of Denied Lien or Encumbrance Filing, the lien or encumbrance is deemed null and void as a matter of law.

(b1) When a lien or encumbrance is presented to a clerk of superior court for filing and the clerk of court has a reasonable suspicion that the lien or encumbrance is false as described in subsection (a) of this section, the clerk of court may refuse to file the lien or encumbrance. Neither the clerk of court nor the clerk's staff shall be liable for filing or the refusal to file a lien or encumbrance under this subsection. The clerk of superior court shall not file, index, or docket the document against the property of a public officer or public employee until that document is approved by any judge of the judicial district having subject matter jurisdiction for filing by the clerk of superior court. If the judge determines that the filing is not false, the clerk shall index the claim of lien. A lien or encumbrance filed upon order of the court under this subsection shall have a priority interest as of the date and time of indexing by the clerk of superior court. If the court finds that there is no statutory or contractual basis for the proposed filing, the court shall enter an order that the proposed filing is null and void as a matter of law, and that it shall not be filed or indexed. The clerk of superior court shall serve the order and return the original denied filing to the person or entity that presented it. The person or entity shall have 30 days from the entry of the order to appeal the order. If the order is not appealed within the applicable time period, the clerk may destroy the filing.

(c) Upon being presented with an order duly issued by a court of competent jurisdiction of this State declaring that a lien or encumbrance already recorded or filed is false, as described in subsection (a) of this section, and therefore null and void as a matter of law, the register of deeds or clerk of court that received the recording or filing, in addition to recording or filing the court's order finding the lien or encumbrance to be false, shall conspicuously mark on the first page of the original record previously filed the following statement: "THE CLAIM ASSERTED IN THIS DOCUMENT IS FALSE AND IS NOT PROVIDED FOR BY THE GENERAL LAWS OF THIS STATE."

(d) In addition to any criminal penalties provided for in this section, a violation of this section shall constitute a violation of G.S. 75-1.1.

(e) Subsections (b), (b1), and (c) of this section shall not apply to filings under Article 9 of Chapter 25 of the General Statutes or under Chapter 44A of the General Statutes. (2012-150, s. 4; 2013-170, s. 1; 2013-410, s. 27.8; 2015-87, s. 1; 2017-102, s. 3.)

§ 14-118.7. Possession, transfer, or use of automated sales suppression device.

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

- (1) Automated sales suppression device or zapper. – A software program that falsifies the electronic records of electronic cash registers and other point-of-sale systems, including transaction data and transaction reports. The term includes the software program, any device that carries the software program, or an Internet link to the software program.
- (2) Electronic cash register. – A device that keeps a register or supporting documents through the use of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing retail sales transaction data in whatever manner.
- (3) Phantom-ware. – A hidden programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a second set of records or may eliminate or manipulate transaction records, which may or may not be preserved in digital formats, to represent the true or manipulated record of transactions in the electronic cash register.
- (4) Transaction data. – The term includes items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction.
- (5) Transaction report. – A report that documents, but is not limited to documenting, the sales, taxes, or fees collected, media totals, and discount voids at an electronic cash register and that is printed on cash register tape at the end of a day or shift, or a report that documents every action at an electronic cash register and that is stored electronically.

(b) Offense. – No person shall knowingly sell, purchase, install, transfer, possess, use, or access any automated sales suppression device, zapper, or phantom-ware.

(c) Penalty. – Any person convicted of a violation of this section is guilty of a Class H felony with a fine of up to ten thousand dollars (\$10,000).

(d) Liability. – Any person who violates this section is liable for all taxes, fees, penalties, and interest due the State as the result of the use of an automated sales suppression device, zapper, or phantom-ware and shall forfeit to the State as an additional penalty all profits associated with the sale or use of an automated sales suppression device, zapper, or phantom-ware.

(e) Contraband. – An automated sales suppression device, zapper, or phantom-ware, or any device containing such device or software, is contraband. (2013-301, s. 1.)

§ 14-118.8. Reserved for future codification purposes.

§ 14-118.9. Reserved for future codification purposes.