Chapter 14.

Criminal Law.

SUBCHAPTER I. GENERAL PROVISIONS.

Article 1.

Felonies and Misdemeanors.

§ 14-1. Felonies and misdemeanors defined.

A felony is a crime which:

(1) Was a felony at common law;
(2) Is or may be punishable by death;
(3) Is or may be punishable by imprisonment in the State's prison; or
(4) Is denominated as a felony by statute.

Any other crime is a misdemeanor. (1891, c. 205, s. 1; Rev., s. 3291; C.S., s. 4171; 1967, c. 1251, s. 1.)

§ 14-1.1: Repealed by Session Laws 1993, c. 538, s. 2.

§ 14-2: Repealed by Session Laws 1993, c. 538, s. 2.1.

§ 14-2.1: Repealed by Session Laws 1993, c. 538, s. 3.

§ 14-2.2: Repealed by Session Laws 2003-0378, s. 1, effective August 1, 2003.

§ 14-2.3. Forfeiture of gain acquired through criminal activity.

(a) Except as is otherwise provided in Article 3 of Chapter 31A, in the case of any violation of Article 13A of Chapter 14, or a general statute constituting a felony other than a nonwillful homicide, any money or other property or interest in property acquired thereby shall be forfeited to the State of North Carolina, including any profits, gain, remuneration, or compensation directly or indirectly collected by or accruing to any offender.

(b) An action to recover such property shall be brought by either a District Attorney or the Attorney General pursuant to G.S. 1-532. The action must be brought within three years from the date of the conviction for the offense.

(c) Nothing in this section shall be construed to require forfeiture of any money or property recovered by law-enforcement officers pursuant to the investigation of an offense when the money or property is readily identifiable by the owner or guardian of the property or is traceable to him. (1981, c. 840, s. 1; 2008-214, s. 1.)

§ 14-2.4. Punishment for conspiracy to commit a felony.

(a) Unless a different classification is expressly stated, a person who is convicted of a conspiracy to commit a felony is guilty of a felony that is one class lower than the felony he or she conspired to commit, except that a conspiracy to commit a Class A or Class B1 felony is a Class B2 felony, a conspiracy to commit a Class B2 felony is a Class C felony, and a conspiracy to commit a Class I felony is a Class 1 misdemeanor.

(b) Unless a different classification is expressly stated, a person who is convicted of a conspiracy to commit a misdemeanor is guilty of a misdemeanor that is one class lower than the

misdemeanor he or she conspired to commit, except that a conspiracy to commit a Class 3 misdemeanor is a Class 3 misdemeanor. (1983, c. 451, s. 1; 1993, c. 538, s. 5; 1994, Ex. Sess., c. 22, s. 12, c. 24, s. 14(b).)

§ 14-2.5. Punishment for attempt to commit a felony or misdemeanor.

Unless a different classification is expressly stated, an attempt to commit a misdemeanor or a felony is punishable under the next lower classification as the offense which the offender attempted to commit. An attempt to commit a Class A or Class B1 felony is a Class B2 felony, an attempt to commit a Class B2 felony is a Class C felony, an attempt to commit a Class I felony is a Class 1 misdemeanor, and an attempt to commit a Class 3 misdemeanor is a Class 3 misdemeanor. (1993, c. 538, s. 6; 1994, Ex. Sess., c. 22, s. 11, c. 24, s. 14(b).)

§ 14-2.6. Punishment for solicitation to commit a felony or misdemeanor.

(a) Unless a different classification is expressly stated, a person who solicits another person to commit a felony is guilty of a felony that is two classes lower than the felony the person solicited the other person to commit, except that a solicitation to commit a Class A or Class B1 felony is a Class C felony, a solicitation to commit a Class B2 felony is a Class D felony, a solicitation to commit a Class H felony is a Class 1 misdemeanor, and a solicitation to commit a Class I felony is a Class 2 misdemeanor.

(b) Unless a different classification is expressly stated, a person who solicits another person to commit a misdemeanor is guilty of a Class 3 misdemeanor. (1993, c. 538, s. 6.1; 1994, Ex. Sess., c. 22, s. 13, c. 24, s. 14(b).)

§ 14-3. Punishment of misdemeanors, infamous offenses, offenses committed in secrecy and malice, or with deceit and intent to defraud, or with ethnic animosity.

(a) Except as provided in subsections (b) and (c), every person who shall be convicted of any misdemeanor for which no specific classification and no specific punishment is prescribed by statute shall be punishable as a Class 1 misdemeanor. Any misdemeanor that has a specific punishment, but is not assigned a classification by the General Assembly pursuant to law is classified as follows, based on the maximum punishment allowed by law for the offense as it existed on the effective date of Article 81B of Chapter 15A of the General Statutes:

(1) If that maximum punishment is more than six months imprisonment, it is a Class 1 misdemeanor;

(2) If that maximum punishment is more than 30 days but not more than six months imprisonment, it is a Class 2 misdemeanor; and

(3) If that maximum punishment is 30 days or less imprisonment or only a fine, it is a Class 3 misdemeanor.

Misdemeanors that have punishments for one or more counties or cities pursuant to a local act of the General Assembly that are different from the generally applicable punishment are classified pursuant to this subsection if not otherwise specifically classified.

(b) If a misdemeanor offense as to which no specific punishment is prescribed be infamous, done in secrecy and malice, or with deceit and intent to defraud, the offender shall, except where the offense is a conspiracy to commit a misdemeanor, be guilty of a Class H felony.

(c) If any Class 2 or Class 3 misdemeanor is committed because of the victim's race, color, religion, nationality, or country of origin, the offender shall be guilty of a Class 1 misdemeanor. If any Class A1 or Class 1 misdemeanor offense is committed because of the victim's race, color,

religion, nationality, or country of origin, the offender shall be guilty of a Class H felony. (R.C., c. 34, s. 120; Code, s. 1097; Rev., s. 3293; C.S., s. 4173; 1927, c. 1; 1967, c. 1251, s. 3; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, ss. 2, 47, 48; 1981, c. 63, s. 1; c. 179, s. 14; 1991, c. 702, s. 2; 1993, c. 538, s. 7; 1994, Ex. Sess., c. 14, s. 2; c. 24, s. 14(b); 1995 (Reg. Sess., 1996), c. 742, s. 6; 2008-197, s. 4.1.)

§ 14-3.1. Infraction defined; sanctions.

(a) An infraction is a noncriminal violation of law not punishable by imprisonment. Unless otherwise provided by law, the sanction for a person found responsible for an infraction is a penalty of not more than one hundred dollars ($100.00). The proceeds of penalties for infractions are payable to the county in which the infraction occurred for the use of the public schools.

(b) The procedure for disposition of infractions is as provided in Article 66 of Chapter 15A of the General Statutes. (1985, c. 764, s. 1.)

§ 14-4. Violation of local ordinances misdemeanor.

(a) Except as provided in subsection (b), if any person shall violate an ordinance of a county, city, town, or metropolitan sewerage district created under Article 5 of Chapter 162A, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars ($500.00). No fine shall exceed fifty dollars ($50.00) unless the ordinance expressly states that the maximum fine is greater than fifty dollars ($50.00).

(b) If any person shall violate an ordinance of a county, city, or town regulating the operation or parking of vehicles, he shall be responsible for an infraction and shall be required to pay a penalty of not more than fifty dollars ($50.00). (1871-2, c. 195, s. 2; Code, s. 3820; Rev., s. 3702; C.S., s. 4174; 1969, c. 36, s. 2; 1985, c. 764, s. 2; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1991, c. 415, s. 1; c. 446, s. 1; 1993, c. 538, s. 8; c. 539, s. 9; 1994, Ex. Sess., c. 24, ss. 14(b), 14(c); 1995, c. 509, s. 133.1.)

Article 2.

Principals and Accessories.

§§ 14-5 through 14-5.1: Repealed by Session Laws 1981, c. 686, s. 2, effective July 1, 1981.

§ 14-5.2. Accessory before fact punishable as principal felon.

All distinctions between accessories before the fact and principals to the commission of a felony are abolished. Every person who heretofore would have been guilty as an accessory before the fact to any felony shall be guilty and punishable as a principal to that felony. However, if a person who heretofore would have been guilty and punishable as an accessory before the fact is convicted of a capital felony, and the jury finds that his conviction was based solely on the uncorroborated testimony of one or more principals, coconspirators, or accessories to the crime, he shall be guilty of a Class B2 felony. (1981, c. 686, s. 1; 1994, Ex. Sess., c. 22, s. 6.)

§ 14-6. Repealed by Session Laws 1981, c. 686, s. 2, effective July 1, 1981.

§ 14-7. Accessories after the fact; trial and punishment.

If any person shall become an accessory after the fact to any felony, whether the same be a felony at common law or by virtue of any statute made, or to be made, such person shall be guilty of a crime, and may be indicted and convicted together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted for such crime whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice. Unless a different classification is expressly stated, that person shall be punished for an offense that is two classes lower than the felony the principal felon committed, except that an accessory after the fact to a Class A or Class B1 felony is a Class C felony, an accessory after the fact to a Class B2 felony is a Class D felony, an accessory after the fact to a Class H felony is a Class 1 misdemeanor, and an accessory after the fact to a Class I felony is a Class 2 misdemeanor. The offense of such person may be inquired of, tried, determined and punished by any court which shall have jurisdiction of the principal felon, in the same manner as if the act, by reason whereof such person shall have become an accessory, had been committed at the same place as the principal felony, although such act may have been committed without the limits of the State; and in case the principal felony shall have been committed within the body of any county, and the act by reason whereof any person shall have become accessory shall have been committed within the body of any other county, the offense of such person guilty of a felony as aforesaid may be inquired of, tried, determined, and punished in either of said counties: Provided, that no person who shall be once duly tried for such felony shall be again indicted or tried for the same offense. (1797, c. 485, s. 1, P.R.; 1852, c. 58; R.C., c. 34, s. 54; Code, s. 978; Rev., s. 3289; C.S., s. 4177; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1997-443, s. 19.25(p).)

Article 2A.

Habitual Felons.

§ 14-7.1. Persons defined as habitual felons.

(a) Any person who has been convicted of or pled guilty to three felony offenses in any federal court or state court in the United States or combination thereof is declared to be an habitual felon and may be charged as a status offender pursuant to this Article.

(b) For the purpose of this Article, a felony offense is defined to include all of the following:

(1) An offense that is a felony under the laws of this State.

(2) An offense that is a felony under the laws of another state or sovereign that is substantially similar to an offense that is a felony in North Carolina, and to which a plea of guilty was entered, or a conviction was returned regardless of the sentence actually imposed.

(3) An offense that is a crime under the laws of another state or sovereign that does not classify any crimes as felonies if all of the following apply:

a. The offense is substantially similar to an offense that is a felony in North Carolina.

b. The offense may be punishable by imprisonment for more than a year in state prison.

c. A plea of guilty was entered or a conviction was returned regardless of the sentence actually imposed.

(4) An offense that is a felony under federal law. Provided, however, that federal offenses relating to the manufacture, possession, sale and kindred offenses involving intoxicating liquors shall not be considered felonies for the purposes of this Article.

(c) For the purposes of this Article, felonies committed before a person attains the age of 18 years shall not constitute more than one felony. The commission of a second felony shall not fall within the purview of this Article unless it is committed after the conviction of or plea of guilty to the first felony. The commission of a third felony shall not fall within the purview of this Article unless it is committed after the conviction of or plea of guilty to the second felony. Pleas of guilty to or convictions of felony offenses prior to July 6, 1967, shall not be felony offenses within the meaning of this Article. Any felony offense to which a pardon has been extended shall not for the purpose of this Article constitute a felony. The burden of proving such pardon shall rest with the defendant and the State shall not be required to disprove a pardon. (1967, c. 1241, s. 1; 1971, c. 1231, s. 1; 1979, c. 760, s. 4; 1981, c. 179, s. 10; 2011-192, s. 3(b); 2017-176, s. 2(a).)

§ 14-7.2. Punishment.

When any person is charged by indictment with the commission of a felony under the laws of the State of North Carolina and is also charged with being an habitual felon as defined in G.S. 14-7.1, he must, upon conviction, be sentenced and punished as an habitual felon, as in this Chapter provided, except in those cases where the death penalty or a life sentence is imposed. (1967, c. 1241, s. 2; 1981, c. 179, s. 11.)

§ 14-7.3. Charge of habitual felon.

The district attorney, in his or her discretion, may charge a person as an habitual felon pursuant to this Article. An indictment which charges a person who is an habitual felon within the meaning of G.S. 14-7.1 with the commission of any felony under the laws of the State of North Carolina must, in order to sustain a conviction of habitual felon, also charge that said person is an habitual felon. The indictment charging the defendant as an habitual felon shall be separate from the indictment charging him with the principal felony. An indictment which charges a person with being an habitual felon must set forth the date that prior felony offenses were committed, the name of the state or other sovereign against whom said felony offenses were committed, the dates that pleas of guilty were entered to or convictions returned in said felony offenses, and the identity of the court wherein said pleas or convictions took place. No defendant charged with being an habitual felon in a bill of indictment shall be required to go to trial on said charge within 20 days of the finding of a true bill by the grand jury; provided, the defendant may waive this 20-day period. (1967, c. 1241, s. 3; 2011-192, s. 3(c).)

§ 14-7.4. Evidence of prior convictions of felony offenses.

In all cases where a person is charged under the provisions of this Article with being an habitual felon, the record or records of prior convictions of felony offenses shall be admissible in evidence, but only for the purpose of proving that said person has been

convicted of former felony offenses. A prior conviction may be proved by stipulation of the parties or by the original or a certified copy of the court record of the prior conviction. The original or certified copy of the court record, bearing the same name as that by which the defendant is charged, shall be prima facie evidence that the defendant named therein is the same as the defendant before the court, and shall be prima facie evidence of the facts set out therein. (1967, c. 1241, s. 4; 1981, c. 179, s. 12.)

§ 14-7.5. Verdict and judgment.

When an indictment charges an habitual felon with a felony as above provided and an indictment also charges that said person is an habitual felon as provided herein, the defendant shall be tried for the principal felony as provided by law. The indictment that the person is an habitual felon shall not be revealed to the jury unless the jury shall find that the defendant is guilty of the principal felony or other felony with which he is charged. If the jury finds the defendant guilty of a felony, the bill of indictment charging the defendant as an habitual felon may be presented to the same jury. Except that the same jury may be used, the proceedings shall be as if the issue of habitual felon were a principal charge. If the jury finds that the defendant is an habitual felon, the trial judge shall enter judgment according to the provisions of this Article. If the jury finds that the defendant is not an habitual felon, the trial judge shall pronounce judgment on the principal felony or felonies as provided by law. (1967, c. 1241, s. 5.)

§ 14-7.6. Sentencing of habitual felons.

When an habitual felon as defined in this Article commits any felony under the laws of the State of North Carolina, the felon must, upon conviction or plea of guilty under indictment as provided in this Article (except where the felon has been sentenced as a Class A, B1, or B2 felon) be sentenced at a felony class level that is four classes higher than the principal felony for which the person was convicted; but under no circumstances shall an habitual felon be sentenced at a level higher than a Class C felony. In determining the prior record level, convictions used to establish a person's status as an habitual felon shall not be used. Sentences imposed under this Article shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced under this section. (1967, c. 1241, s. 6; 1981, c. 179, s. 13; 1993, c. 538, s. 9; 1994, Ex. Sess., c. 22, ss. 15, 16; c. 24, s. 14(b); 1993 (Reg. Sess., 1994), c. 767, s. 16; 2011-192, s. 3(d).)

ARTICLE 2B.

Violent Habitual Felons.

§ 14-7.7. Persons defined as violent habitual felons.

(a) Any person who has been convicted of two violent felonies in any federal court, in a court of this or any other state of the United States, or in a combination of these courts is declared to be a violent habitual felon. For purposes of this Article, "convicted" means the person has been adjudged guilty of or has entered a plea of guilty or no contest to the violent felony charge, and judgment has been entered thereon when such action occurred on or after July 6, 1967. This Article

does not apply to a second violent felony unless it is committed after the conviction or plea of guilty or no contest to the first violent felony. Any felony to which a pardon has been extended shall not, for the purposes of this Article, constitute a felony. The burden of proving a pardon shall rest with the defendant, and this State shall not be required to disprove a pardon. Conviction as an habitual felon shall not, for purposes of this Article, constitute a violent felony.

(b) For purposes of this Article, "violent felony" includes the following offenses:

(1) All Class A through E felonies.

(2) Any repealed or superseded offense substantially equivalent to the offenses listed in subdivision (1).

(3) Any offense committed in another jurisdiction substantially similar to the offenses set forth in subdivision (1) or (2). (1994, Ex. Sess., c. 22, ss. 31, 32; 2000-155, s. 14.)

§ 14-7.8. Punishment.

When a person is charged by indictment with the commission of a violent felony and is also charged with being a violent habitual felon as defined in G.S. 14-7.7, the person must, upon conviction, be sentenced in accordance with this Article, except in those cases where the death penalty is imposed. (1994, Ex. Sess., c. 22, s. 31.)

§ 14-7.9. Charge of violent habitual felon.

An indictment that charges a person who is a violent habitual felon within the meaning of G.S. 14-7.7 with the commission of any violent felony must, in order to sustain a conviction of violent habitual felon, also charge that the person is a violent habitual felon. The indictment charging the defendant as a violent habitual felon shall be separate from the indictment charging the defendant with the principal violent felony. An indictment that charges a person with being a violent habitual felon must set forth the date that prior violent felonies were committed, the name of the state or other sovereign against whom the violent felonies were committed, the dates of convictions of the violent felonies, and the identity of the court in which the convictions took place. A defendant charged with being a violent habitual felon in a bill of indictment shall not be required to go to trial on that charge within 20 days after the finding of a true bill by the grand jury unless the defendant waives this 20-day period. (1994, Ex. Sess., c. 22, s. 31.)

§ 14-7.10. Evidence of prior convictions of violent felonies.

In all cases where a person is charged under this Article with being a violent habitual felon, the records of prior convictions of violent felonies shall be admissible in evidence, but only for the purpose of proving that the person has been convicted of former violent felonies. A prior conviction may be proved by stipulation of the parties or by the original or a certified copy of the court record of the prior conviction. The original or certified copy of the court record, bearing the same name as that by which the defendant is charged, shall be prima facie evidence that the defendant named therein is the same as the defendant before the court, and shall be prima facie evidence of the facts set out therein. (1994, Ex. Sess., c. 22, s. 31.)

§ 14-7.11. Verdict and judgment.

When an indictment charges a violent habitual felon with a violent felony as provided in this Article and an indictment also charges that the person is a violent habitual felon as provided in this Article, the defendant shall be tried for the principal violent felony as provided by law. The

indictment that the person is a violent habitual felon shall not be revealed to the jury unless the jury finds that the defendant is guilty of the principal violent felony or another violent felony with which the defendant is charged. If the jury finds the defendant guilty of a violent felony, the bill of indictment charging the defendant as a violent habitual felon may be presented to the same jury. Except that the same jury may be used, the proceedings shall be as if the issue of violent habitual felon were a principal charge. If the jury finds that the defendant is a violent habitual felon, the trial judge shall enter judgment according to the provisions of this Article. If the jury finds that the defendant is not a violent habitual felon, the trial judge shall pronounce judgment on the principal violent felony or felonies as provided by law. (1994, Ex. Sess., c. 22, s. 31.)

§ 14-7.12. Sentencing of violent habitual felons.

A person who is convicted of a violent felony and of being a violent habitual felon must, upon conviction (except where the death penalty is imposed), be sentenced to life imprisonment without parole. Life imprisonment without parole means that the person will spend the remainder of the person's natural life in prison. The sentencing judge may not suspend the sentence and may not place the person sentenced on probation. Sentences for violent habitual felons imposed under this Article shall run consecutively with and shall commence at the expiration of any other sentence being served by the person. (1994, Ex. Sess., c. 22, s. 31.)

§ 14-7.13: Reserved for future codification purposes.

§ 14-7.14: Reserved for future codification purposes.

§ 14-7.15: Reserved for future codification purposes.

§ 14-7.16: Reserved for future codification purposes.

§ 14-7.17: Reserved for future codification purposes.

§ 14-7.18: Reserved for future codification purposes.

§ 14-7.19: Reserved for future codification purposes.

Article 2C.

Continuing Criminal Enterprise.

§ 14-7.20. Continuing criminal enterprise.

(a) Except as otherwise provided in subsection (a1) of this section, any person who engages in a continuing criminal enterprise shall be punished as a Class H felon and in addition shall be subject to the forfeiture prescribed in subsection (b) of this section.

(a1) Any person who engages in a continuing criminal enterprise where the felony violation required by subdivision (c)(1) of this section is a violation of G.S. 14-10.1 shall be punished as a Class D felon and, in addition, shall be subject to the forfeiture prescribed in subsection (b) of this section.

(b) Any person who is convicted under subsection (a) or (a1) of this section of engaging in a continuing criminal enterprise shall forfeit to the State of North Carolina:

(1) The profits obtained by the person in the enterprise, and

(2) Any of the person's interest in, claim against, or property or contractual rights of any kind affording a source of influence over, such enterprise.

(c) For purposes of this section, a person is engaged in a continuing criminal enterprise if:

(1) The person violates any provision of this Chapter, the punishment of which is a felony; and

(2) The violation is a part of a continuing series of violations of this Chapter:

a. Which are undertaken by the person in concert with five or more other persons with respect to whom the person occupies a position of organizer, a supervisory position, or any other position of management; and

b. From which the person obtains substantial income or resources. (1995, c. 378, s. 1; 2012-38, s. 2.)

§ 14-7.21: Reserved for future codification purposes.

§ 14-7.22: Reserved for future codification purposes.

§ 14-7.23: Reserved for future codification purposes.

§ 14-7.24: Reserved for future codification purposes.

Article 2D.

Habitual Breaking and Entering Status Offense.

§ 14-7.25. Definitions.

The following definitions apply in this Article:

(1) "Breaking and entering." – The term means any of the following felony offenses:

a. First degree burglary (G.S. 14-51).

b. Second degree burglary (G.S. 14-51).

c. Breaking out of dwelling house burglary (G.S. 14-53).

d. Breaking or entering buildings generally (G.S. 14-54(a)).

d1. Breaking or entering with intent to terrorize or injure an occupant of the building (G.S. 14-54(a1)).

e. Breaking or entering a building that is a place of religious worship (G.S. 14-54.1).

f. Any repealed or superseded offense substantially equivalent to any of the offenses in sub-subdivision a., b., c., d., or e. of this subdivision.

g. Any offense committed in another jurisdiction substantially similar to any of the offenses in sub-subdivision a., b., c., d., or e. of this subdivision.

(2) "Convicted." – The person has been adjudged guilty of or has entered a plea of guilty or no contest to the offense of breaking and entering.

(3) "Status offender." – A person who is a habitual breaking and entering status offender as described in G.S. 14-7.26. (2011-192, s. 3(a); 2017-176, s. 3(a).)

§ 14-7.26. Habitual breaking and entering status offender.

Any person who has been convicted of or pled guilty to one or more prior felony offenses of breaking and entering in any federal court or state court in the United States, or combination thereof, is guilty of the status offense of habitual breaking and entering and may be charged with that status offense pursuant to this Article.

This Article does not apply to a second felony offense of breaking and entering unless it is committed after the conviction of the first felony offense of breaking and entering. For purposes of this Article, felony offenses of breaking and entering committed before the person is 18 years of age shall not constitute more than one felony of breaking and entering. Any felony to which a pardon has been extended shall not, for the purposes of this Article, constitute a felony offense of breaking and entering. (2011-192, s. 3(a).)

§ 14-7.27. Punishment.

When any person is charged with a felony offense of breaking and entering and is also charged with being a status offender as defined in G.S. 14-7.26, the person must, upon conviction, be sentenced and punished as a status offender as provided by this Article. (2011-192, s. 3(a).)

§ 14-7.28. Charge of habitual breaking and entering status offender.

(a) The district attorney, in his or her discretion, may charge a person with the status offense of habitual breaking and entering pursuant to this Article. To sustain a conviction of a person as a status offender, the person must be charged separately for the felony offense of breaking and entering and for the habitual breaking and entering status offense. The indictment charging the defendant as a status offender shall be separate from the indictment charging the person with the principal felony offense of breaking and entering.

(b) An indictment that charges a person with being a status offender must set forth the date that the prior felony offense of breaking and entering was committed, the name of the state or other sovereign against whom the felony offense of breaking and entering was committed, the dates that the plea of guilty was entered into or conviction returned in the felony offense of breaking and entering, and the identity of the court in which the plea or conviction took place. No defendant charged with being a status offender in a bill of indictment shall be required to go to trial on the charge within 20 days of the finding of a true bill by the grand jury; provided, the defendant may waive this 20-day period. (2011-192, s. 3(a).)

§ 14-7.29. Evidence of prior convictions of breaking and entering.

In all cases in which a person is charged under the provisions of this Article with being a status offender, the record of prior conviction of the felony offense of breaking and entering shall be admissible in evidence, but only for the purpose of proving that the person has been convicted of a former felony offense of breaking and entering. A prior conviction may be proved by stipulation of the parties or by the original or a certified copy of the court record of the prior conviction. The original or certified copy of the court record, bearing the same name as that by which the defendant is charged, shall be prima facie evidence that the defendant named therein is the same as the defendant before the court and shall be prima facie evidence of the facts set out therein. (2011-192, s. 3(a).)

§ 14-7.30. Verdict and judgment.

(a) When an indictment charges a person with a felony offense of breaking and entering as provided by this Article and an indictment also charges that the person is a status offender, the defendant shall be tried for the principal offense of breaking and entering as provided by law. The indictment that the person is a status offender shall not be revealed to the jury unless the jury shall find that the defendant is guilty of the principal felony offense of breaking and entering with which the defendant is charged.

(b) If the jury finds the defendant guilty of the felony offense of breaking and entering, the bill of indictment charging the defendant as a status offender may be presented to the same jury. Except that the same jury may be used, the proceedings shall be as if the issue of status offender were a principal charge.

(c) If the jury finds that the defendant is a status offender, the trial judge shall enter judgment according to the provisions of this Article. If the jury finds that the defendant is not a status offender, the trial judge shall pronounce judgment on the principal felony offense of breaking and entering as provided by law. (2011-192, s. 3(a).)

§ 14-7.31. Sentencing of status offenders.

(a) When a status offender as defined in this Article commits a felony offense of breaking and entering under the laws of the State of North Carolina, the status offender must, upon conviction or plea of guilty under indictment as provided in this Article, be sentenced as a Class E felon.

(b) In determining the prior record level, any conviction used to establish a person's status as a status offender shall not be used. Sentences imposed under this Article shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced under this section.

(c) A conviction as a status offender under this Article shall not constitute commission of a felony for the purpose of either Article 2A or Article 2B of Chapter 14 of the General Statutes. (2011-192, s. 3(a).)

§ 14-7.32: Reserved for future codification purposes.

§ 14-7.33: Reserved for future codification purposes.

§ 14-7.34: Reserved for future codification purposes.

Article 2E.

Armed Habitual Felon.

§ 14-7.35. Definitions.

The following definitions apply in this Article:

(1) "Convicted." – The person has been adjudged guilty of or has entered a plea of guilty or no contest to the firearm-related felony.

(2) "Firearm-related felony." – Any felony committed by a person in which the person used or displayed a firearm while committing the felony.

(3) "Status offender." – A person who is an armed habitual felon as described in G.S. 14-7.36. (2013-369, s. 26.)

§ 14-7.36. Armed habitual felon.

Any person who has been convicted of or pled guilty to one or more prior firearm-related felony offenses in any federal court or state court in the United States, or combination thereof, is guilty of the status offense of armed habitual felon and may be charged with that status offense pursuant to this Article.

This Article does not apply to a second firearm-related felony unless it is committed after the conviction of a firearm-related felony in which evidence of the person's use, display, or threatened use or display of a firearm was needed to prove an element of the felony or was needed to establish the requirement for an enhanced or aggravated sentence. For purposes of this Article, firearm-related felonies committed before the person is 18 years of age shall not constitute more than one firearm-related felony. Any firearm-related felony to which a pardon has been extended shall not, for the purposes of this Article, constitute a firearm-related felony. (2013-369, s. 26.)

§ 14-7.37. Punishment.

When any person is charged with a firearm-related felony and is also charged with being a status offender, the person must, upon conviction, be sentenced and punished as a status offender as provided by this Article. (2013-369, s. 26.)

§ 14-7.38. Charge of status offense as an armed habitual felon.

(a) The district attorney, in the district attorney's discretion, may charge a person as a status offender pursuant to this Article. To sustain a conviction of a person as a status offender, the person must be charged separately for the principal firearm-related felony and for the status offense of armed habitual felon. The indictment charging the defendant as a status offender shall be separate from the indictment charging the person with the principal firearm-related felony.

(b) An indictment that charges a person with being a status offender must set forth all of the following information regarding the prior firearm-related felony:

(1) The date the offense was committed.

(2) The name of the state or other sovereign against whom the offense was committed.

(3) The dates that the plea of guilty was entered into or conviction returned in the offense.

(4) The identity of the court in which the plea or conviction took place.

(c) No defendant charged with being a status offender in a bill of indictment shall be required to go to trial on the charge within 20 days of the finding of a true bill by the grand jury; provided, the defendant may waive this 20-day period. (2013-369, s. 26.)

§ 14-7.39. Evidence of prior convictions of firearm-related felonies.

In all cases in which a person is charged under the provisions of this Article with being a status offender, the record of prior conviction of the firearm-related felony shall be admissible in evidence, but only for the purpose of proving that the person has been convicted of a former firearm-related felony. A prior conviction may be proved by stipulation of the parties or by the original or a certified copy of the court record of the prior conviction. The original or certified copy of the court record, bearing the same name as that by which the defendant is charged, shall be prima facie evidence that the defendant named therein is the same as the defendant before the court and shall be prima facie evidence of the facts set out therein. (2013-369, s. 26.)

§ 14-7.40. Verdict and judgment.

(a) When an indictment charges a person with a firearm-related felony as provided by this Article and an indictment also charges that the person is a status offender, the defendant shall be tried for the principal firearm-related felony as provided by law. The indictment that the person is a status offender shall not be revealed to the jury unless the jury shall find that the defendant is guilty of the principal firearm-related felony with which the defendant is charged.

(b) If the jury finds the defendant guilty of the principal firearm-related felony, and it is found as provided in this section that (i) the person committed the felony by using, displaying, or threatening the use or display of a firearm or deadly weapon and (ii) the person actually possessed the firearm or deadly weapon about his or her person, the bill of indictment charging the defendant as a status offender may be presented to the same jury. Except that the same jury may be used, the proceedings shall be as if the issue of status offender were a principal charge.

(c) If the jury finds that the defendant is a status offender, the trial judge shall enter judgment according to the provisions of this Article. If the jury finds that the defendant is not a status offender, the trial judge shall pronounce judgment on the principal firearm-related felony offense as provided by law. (2013-369, s. 26.)

§ 14-7.41. Sentencing of armed habitual felon.

(a) A person who is convicted of a firearm-related felony and is also convicted of the status offense must, upon conviction or plea of guilty under indictment as provided in this Article, be sentenced as a Class C felon (except where the felon has been sentenced as a Class A, B1, or B2 felon). However, in no case shall the person receive a minimum term of imprisonment of less than 120 months. The court may not suspend the sentence and may not place the person sentenced on probation.

(b) In determining the prior record level, any conviction used to establish a person's status as an armed habitual felon shall not be used. Sentences imposed under this Article shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced under this section.

(c) A conviction as a status offender under this Article shall not constitute commission of a felony for the purpose of either Article 2A or Article 2B of Chapter 14 of the General Statutes.

(d) A sentence imposed under this Article may not be enhanced pursuant to G.S. 15A-1340.16A. (2013-369, s. 26.)

Article 2F.

Crimes by Unmanned Aircraft Systems.

§ 14-7.45. Crimes committed by use of unmanned aircraft systems.

All crimes committed by use of an unmanned aircraft system, as defined in G.S. 15A-300.1, while in flight over this State shall be governed by the laws of this State, and the question of whether the conduct by an unmanned aircraft system while in flight over this State constitutes a crime by the owner of the unmanned aircraft system shall be determined by the laws of this State. (2014-100, s. 34.30(b).)

SUBCHAPTER II. OFFENSES AGAINST THE STATE.

Article 3.

Rebellion.

§ 14-8. Rebellion against the State.

If any person shall incite, set on foot, assist or engage in a rebellion or insurrection against the authority of the State of North Carolina or the laws thereof, or shall give aid or comfort thereto, every person so offending in any of the ways aforesaid shall be guilty of a felony, and shall be punished as a Class F felon. (Const., art. 4, s. 5; 1861, c. 18; 1866, c. 64; 1868, c. 60, s. 2; Code, s. 1106; Rev., s. 3437; C.S., s. 4178; 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. 1122; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-9: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 71(1).

§ 14-10. Secret political and military organizations forbidden.

If any person, for the purpose of compassing or furthering any political object, or aiding the success of any political party or organization, or resisting the laws, shall join or in any way connect or unite himself with any oath-bound secret political or military organization, society or association of whatsoever name or character; or shall form or organize or combine and agree with any other person or persons to form or organize any such organization; or as a member of any secret political or military party or organization shall use, or agree to use, any certain signs or grips or passwords, or any disguise of the person or voice, or any disguise whatsoever for the advancement of its object, and shall take or administer any extrajudicial oath or other secret, solemn pledge, or any like secret means; or if any two or more persons, for the purpose of compassing or furthering any political object, or aiding the success of any political party or organization, or circumventing the laws, shall secretly assemble, combine or agree together, and the more effectually to accomplish such purposes, or any of them, shall use any certain signs, or grips, or passwords, or any disguise of the person or voice, or other disguise whatsoever, or shall take or administer any extrajudicial oath or other secret, solemn pledge; or if any persons shall band together and assemble to muster, drill or practice any military evolutions except by virtue of the authority of an officer recognized by law, or of an instructor in institutions or schools in which such evolutions form a part of the course of instruction; or if any person shall knowingly permit any of the acts and things herein forbidden to be had, done or performed on his premises, or on any premises under his control; or if any person being a member of any such secret political or military organization shall not at once abandon the same and separate himself entirely therefrom, every person so offending shall be guilty of a Class 1 misdemeanor. (1868-9, c. 267; 1870-1, c. 133; 1871-2, c. 143; Code, s. 1095; Rev., s. 3439; C.S., s. 4180; 1993, c. 539, s. 10; 1994, Ex. Sess., c. 24, s. 14(c).)

Article 3A.

Terrorism.

§ 14-10.1. Terrorism.

(a) As used in this section, the term "act of violence" means a violation of G.S. 14-17; a felony punishable pursuant to G.S. 14-18; any felony offense in this Chapter that includes an assault, or use of violence or force against a person; any felony offense that includes either the threat or use of any explosive or incendiary device; or any offense that includes the threat or use of a nuclear, biological, or chemical weapon of mass destruction.

(b) A person is guilty of the separate offense of terrorism if the person commits an act of violence with the intent to do either of the following:

(1) Intimidate the civilian population at large, or an identifiable group of the civilian population.

(2) Influence, through intimidation, the conduct or activities of the government of the United States, a state, or any unit of local government.

(c) A violation of this section is a felony that is one class higher than the offense which is the underlying act of violence, except that a violation is a Class B1 felony if the underlying act of violence is a Class A or Class B1 felony offense. A violation of this section is a separate offense from the underlying offense and shall not merge with other offenses.

(d) All real and personal property of every kind used or intended for use in the course of, derived from, or realized through an offense punishable pursuant to this Article shall be subject to lawful seizure and forfeiture to the State as set forth in G.S. 14-2.3 and G.S. 14-7.20. However, the forfeiture of any real or personal property shall be subordinate to any security interest in the property taken by a lender in good faith as collateral for the extension of credit and recorded as provided by law, and no real or personal property shall be forfeited under this section against an owner who made a bona fide purchase of the property, or a person with rightful possession of the property, without knowledge of a violation of this Article.

(e) Any person whose property or person is injured by reason of a violation of this section may sue for and recover treble damages, costs, and attorneys' fees pursuant to G.S. 1-539.2D. (2012-38, s. 1; 2015-215, s. 2.)

Article 4.

Subversive Activities.

§ 14-11. Activities aimed at overthrow of government; use of public buildings.

It shall be unlawful for any person, by word of mouth or writing, willfully and deliberately to advocate, advise or teach a doctrine that the government of the United States, the State of North Carolina or any political subdivision thereof shall be overthrown or overturned by force or violence or by any other unlawful means. It shall be unlawful for any public building in the State, owned by the State of North Carolina, any political subdivision thereof, or by any department or agency of the State or any institution supported in whole or in part by State funds, to be used by any person for the purpose of advocating, advising or teaching a doctrine that the government of the United States, the State of North Carolina or any political subdivision thereof should be overthrown by force, violence or any other unlawful means. (1941, c. 37, s. 1.)

§ 14-12. Punishment for violations.

Any person or persons violating any of the provisions of this Article shall, for the first offense, be guilty of a Class 1 misdemeanor and be punished accordingly, and for the second offense shall be punished as a Class H felon. (1941, c. 37, s. 2; 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. 11; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-12.1. Certain subversive activities made unlawful.

It shall be unlawful for any person to:

(1) By word of mouth or writing advocate, advise or teach the duty, necessity or propriety of overthrowing or overturning the government of the United States or a political subdivision of the United States by force or violence; or,

(2) Print, publish, edit, issue or knowingly circulate, sell, distribute or publicly display any book, paper, document, or written or printed matter in any form, containing or advocating, advising or teaching the doctrine that the government of the United States or a political subdivision of the United States should be overthrown by force, violence or any unlawful means; or,

(3) Organize or help to organize or become a member of or voluntarily assemble with any society, group or assembly of persons formed to teach or advocate the doctrine that the government of the United States or a political subdivision of the United States should be overthrown by force, violence or any unlawful means.

Any person violating the provisions of this section shall be punished as a Class H felon.

Whenever two or more persons assemble for the purpose of advocating or teaching the doctrine that the government of the United States or a political subdivision of the United States should be overthrown by force, violence or any unlawful means, such an assembly is unlawful, and every person voluntarily participating therein by his presence, aid or instigation, shall be punished as a Class H felon.

Every editor or proprietor of a book, newspaper or serial and every manager of a partnership or incorporated association by which a book, newspaper or serial is issued, is chargeable with the publication of any matter contained in such book, newspaper or serial. But in every prosecution therefor, the defendant may show in his defense that the matter complained of was published without his knowledge or fault and against his wishes, by another who had no authority from him to make the publication and whose act was disavowed by him as soon as known.

No person shall be employed by any department, bureau, institution or agency of the State of North Carolina who has participated in any of the activities described in this section, and any person now employed by any department, bureau, institution or agency and who has been or is engaged in any of the activities described in this section shall be forthwith discharged. Evidence satisfactory to the head of such department, bureau, institution or agency of the State shall be sufficient for refusal to employ any person or cause for discharge of any employee for the reasons set forth in this paragraph. (1947, c. 1028; 1953, c. 675, s. 2; 1979, c. 760, s. 5; 1979. 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14.)

Article 4A.

Prohibited Secret Societies and Activities.

§ 14-12.2. Definitions.

The terms used in this Article are defined as follows:

(1) The term "secret society" shall mean any two or more persons organized, associated together, combined or united for any common purpose whatsoever, who shall use among themselves any certain grips, signs or password, or who shall use for the advancement of any of their purposes or as a part of their ritual any disguise of the person, face or voice or any disguise whatsoever, or who shall take any extrajudicial oath or secret solemn pledge or administer such oath or pledge to those associated with them, or who shall transact business and advance their purposes at secret meeting or meetings which are tiled and guarded against intrusion by persons not associated with them.

(2) The term "secret political society" shall mean any secret society, as hereinbefore defined, which shall at any time have for a purpose the hindering or aiding the success of any candidate for public office, or the hindering or aiding the success of any political party or organization, or violating any

lawfully declared policy of the government of the State or any of the laws and constitutional provisions of the State.

(3) The term "secret military society" shall mean any secret society, as hereinbefore defined, which shall at any time meet, assemble or engage in a venture when members thereof are illegally armed, or which shall at any time have for a purpose the engaging in any venture by members thereof which shall require illegal armed force or in which illegal armed force is to be used, or which shall at any time muster, drill or practice any military evolutions while illegally armed. (1953, c. 1193, s. 1.)

§ 14-12.3. Certain secret societies prohibited.

It shall be unlawful for any person to join, unite himself with, become a member of, apply for membership in, form, organize, solicit members for, combine and agree with any person or persons to form or organize, or to encourage, aid or assist in any way any secret political society or any secret military society or any secret society having for a purpose the violating or circumventing the laws of the State. (1953, c. 1193, s. 2.)

§ 14-12.4. Use of signs, grips, passwords or disguises or taking or administering oath for illegal purposes.

It shall be unlawful for any person to use, agree to use, or to encourage, aid or assist in the using of any signs, grips, passwords, disguise of the face, person or voice, or any disguise whatsoever in the furtherance of any illegal secret political purpose, any illegal secret military purpose, or any purpose of violating or circumventing the laws of the State; and it shall be unlawful for any person to take or administer, or agree to take or administer, any extrajudicial oath or secret solemn pledge to further any illegal secret political purpose, any illegal secret military purpose, or any purpose of violating or circumventing the laws of the State. (1953, c. 1193, s. 3.)

§ 14-12.5. Permitting, etc., meetings or demonstrations of prohibited secret societies.

It shall be unlawful for any person to permit or agree to permit any members of a secret political society or a secret military society or a secret society having for a purpose the violating or circumventing the laws of the State to meet or to hold any demonstration in or upon any property owned or controlled by him. (1953, c. 1193, s. 4.)

§ 14-12.6. Meeting places and meetings of secret societies regulated.

Every secret society which has been or is now being formed and organized within the State, and which has members within the State shall forthwith provide or cause to be provided for each unit, lodge, council, group of members, grand lodge or general supervising unit a regular meeting place in some building or structure, and shall forthwith place and thereafter regularly keep a plainly visible sign or placard on the immediate exterior of such building or structure or on the immediate exterior of the meeting room or hall within such building or structure, if the entire building or structure is not controlled by such secret society, bearing upon said sign or placard the name of the secret society, the name of the particular unit, lodge, council, group of members, grand lodge or general supervising unit thereof and the name of the secretary, officer, organizer or member thereof who knows the purposes of the secret society and who knows or has a list of the names and addresses of the members thereof, and as such secretary, officer, organizer or member dies, removes, resigns or is replaced, his or her successor's name shall be placed upon such sign or

placard; any person or persons who shall hereafter undertake to form and organize any secret society or solicit membership for a secret society within the State shall fully comply with the foregoing provisions of this section before forming and organizing such secret society and before soliciting memberships therein; all units, lodges, councils, groups of members, grand lodge and general supervising units of all secret societies within the State shall hold all of their secret meetings at the regular meeting place of their respective units, lodges, councils, group of members, grand lodge or general supervising units or at the regular meeting place of some other unit, lodge, council, group of members, grand lodge or general supervising unit of the same secret society, and at no other place unless notice is given of the time and place of the meeting and the name of the secret society holding the meeting in some newspaper having circulation in the locality where the meeting is to be held at least two days before the meeting. (1953, c. 1193, s. 5.)

§ 14-12.7. Wearing of masks, hoods, etc., on public ways.

No person or persons at least 16 years of age shall, while wearing any mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, enter, be or appear upon any lane, walkway, alley, street, road, highway or other public way in this State. (1953, c. 1193, s. 6; 1983, c. 175, ss. 1, 10; c. 720, s. 4.)

§ 14-12.8. Wearing of masks, hoods, etc., on public property.

No person or persons shall in this State, while wearing any mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, enter, or appear upon or within the public property of any municipality or county of the State, or of the State of North Carolina. (1953, c. 1193, s. 7.)

§ 14-12.9. Entry, etc., upon premises of another while wearing mask, hood or other disguise.

No person or persons at least 16 years of age shall, while wearing a mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, demand entrance or admission, enter or come upon or into, or be upon or in the premises, enclosure or house of any other person in any municipality or county of this State. (1953, c. 1193, s. 8; 1983, c. 175, ss. 2, 10; c. 720, s. 4.)

§ 14-12.10. Holding meetings or demonstrations while wearing masks, hoods, etc.

No person or persons at least 16 years of age shall while wearing a mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, hold any manner of meeting, or make any demonstration upon the private property of another unless such person or persons shall first obtain from the owner or occupier of the property his or her written permission to do so, which said written permission shall be recorded in the office of the register of deeds of the county in which said property is located before the beginning of such meeting or demonstration. (1953, c. 1193, s. 9; 1983, c. 175, ss. 3, 10; c. 720, s. 4.)

§ 14-12.11. Exemptions from provisions of Article.

The following are exempted from the provisions of G.S. 14-12.7, 14-12.8, 14-12.9, 14-12.10 and 14-12.14:

(1) Any person or persons wearing traditional holiday costumes in season;

(2) Any person or persons engaged in trades and employment where a mask is worn for the purpose of ensuring the physical safety of the wearer, or because of the nature of the occupation, trade or profession;

(3) Any person or persons using masks in theatrical productions including use in Mardi Gras celebrations and masquerade balls;

(4) Persons wearing gas masks prescribed in civil defense drills and exercises or emergencies; and

(5) Any person or persons, as members or members elect of a society, order or organization, engaged in any parade, ritual, initiation, ceremony, celebration or requirement of such society, order or organization, and wearing or using any manner of costume, paraphernalia, disguise, facial makeup, hood, implement or device, whether the identity of such person or persons is concealed or not, on any public or private street, road, way or property, or in any public or private building, provided permission shall have been first obtained therefor by a representative of such society, order or organization from the governing body of the municipality in which the same takes place, or, if not in a municipality, from the board of county commissioners of the county in which the same takes place.

Provided, that the provisions of this Article shall not apply to any preliminary meetings held in good faith for the purpose of organizing, promoting or forming a labor union or a local organization or subdivision of any labor union nor shall the provisions of this Article apply to any meetings held by a labor union or organization already organized, operating and functioning and holding meetings for the purpose of transacting and carrying out functions, pursuits and affairs expressly pertaining to such labor union. (1953, c. 1193, s. 10.)

§ 14-12.12. Placing burning or flaming cross on property of another or on public street or highway or on any public place.

(a) It shall be unlawful for any person or persons to place or cause to be placed on the property of another in this State a burning or flaming cross or any manner of exhibit in which a burning or flaming cross, real or simulated, is a whole or a part, without first obtaining written permission of the owner or occupier of the premises so to do.

(b) It shall be unlawful for any person or persons to place or cause to be placed on the property of another in this State or on a public street or highway, or on any public place a burning or flaming cross or any manner of exhibit in which a burning or flaming cross real or simulated, is a whole or a part, with the intention of intimidating any person or persons or of preventing them from doing any act which is lawful, or causing them to do any act which is unlawful. (1953, c. 1193, s. 11; 1967, c. 522, ss. 1, 2; 2008-197, s. 1.)

§ 14-12.13. Placing exhibit with intention of intimidating, etc., another.

It shall be unlawful for any person or persons to place or cause to be placed anywhere in this State any exhibit of any kind whatsoever, while masked or unmasked, with the intention of intimidating any person or persons, or of preventing them from doing any act which is lawful, or of causing them to do any act which is unlawful. For the purposes of this section, the term "exhibit" includes items such as a noose. (1953, c. 1193, s. 12; 2008-197, s. 2.)

§ 14-12.14. Placing exhibit while wearing mask, hood, or other disguise.

It shall be unlawful for any person or persons, while wearing a mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, to place or cause to be placed at or in any place in the State any exhibit of any kind whatsoever, with the intention of intimidating any person or persons, or of preventing them from doing any act which is lawful, or of causing them to do any act which is unlawful. For the purposes of this section, the term "exhibit" includes items such as a noose. (1953, c. 1193, s. 13; 1967, c. 522, s. 3; 2008-197, s. 3.)

§ 14-12.15. Punishment for violation of Article.

All persons violating any of the provisions of this Article, except for G.S. 14-12.12(b), 14-12.13, and 14-12.14, shall be guilty of a Class 1 misdemeanor. All persons violating the provisions of G.S. 14-12.12(b), 14-12.13, and 14-12.14 shall be punished as a Class H felon. (1953, c. 1193, s. 14; 1967, c. 602; 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. 12; 1994, Ex. Sess., c. 24, s. 14(c); 2008-197, s. 4.)

Article 5.

Counterferfeiting and Issuing Monetary Substitutes.

§ 14-13. Counterfeiting coin and uttering coin that is counterfeit.

If any person shall falsely make, forge or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging or counterfeiting the resemblance or similitude or likeness of any coin of gold or silver which is in common use and received in the discharge of contracts by the citizens of the State; or shall pass, utter, publish or sell, or attempt to pass, utter, publish or sell, or bring into the State from any other place with intent to pass, utter, publish or sell as true, any such false, forged or counterfeited coin, knowing the same to be false, forged or counterfeited, with intent to defraud any person whatsoever, every person so offending shall be punished as a Class I felon. (1811, c. 814, s. 3, P.R.; R.C., c. 34, s. 64; Code, s. 1035; Rev., s. 3422; C.S., s. 4181; 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. 1123; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 379, s. 1(a).)

§ 14-14. Possessing tools for counterfeiting.

If any person shall have in his possession any instrument for the purpose of making any counterfeit similitude or likeness of any coin made of gold or silver which is in common use and received in discharge of contracts by the citizens of the State, and shall be duly convicted thereof, the person so offending shall be punished as a Class I felon. (1811, c. 814, s. 4, P.R.; R.C., c. 34, s. 65; Code, s. 1036; Rev., s. 3423; C.S., s. 4182; 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. 1124; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 379, s. 1(b).)

§ 14-15. Issuing substitutes for money without authority.

If any person or corporation, unless the same be expressly allowed by law, shall issue any bill, due bill, order, ticket, certificate of deposit, promissory note or obligation, or any other kind of security, whatever may be its form or name, with the intent that the same shall circulate or pass as the representative of, or as a substitute for, money, he shall be guilty of a Class 3 misdemeanor and only punishable by a fine not to exceed the sum of fifty dollars ($50.00); and if the offender be a corporation, it shall in addition forfeit its charter. Every person or corporation offending

against this section, or aiding or assisting therein, shall be guilty of a Class 3 misdemeanor and only punishable by a fine not to exceed fifty dollars ($50.00). (R.C., c. 36, s. 5; Code, s. 2493; 1895, c. 127; Rev., s. 3711; C.S., s. 4183; 1993, c. 539, s. 13; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-16. Receiving or passing unauthorized substitutes for money.

If any person or corporation shall pass or receive, as the representative of, or as the substitute for, money, any bill, check, certificate, promissory note, or other security of the kind mentioned in G.S. 14-15, whether the same be issued within or without the State, such person or corporation, and the officers and agents of such corporation aiding therein, who shall offend against this section shall be guilty of a Class 3 misdemeanor and only punishable by a fine not to exceed five dollars ($5.00). (R.C., c. 36, s. 6; Code, s. 2494; 1895, c. 127; Rev., s. 3712; C.S., s. 4184; 1993, c. 539, s. 14; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-16.1: Reserved for future codification purposes.

§ 14-16.2: Reserved for future codification purposes.

§ 14-16.3: Reserved for future codification purposes.

§ 14-16.4: Reserved for future codification purposes.

§ 14-16.5: Reserved for future codification purposes.

Article 5A.

Endangering Executive, Legislative, and Court Officers.

§ 14-16.6. Assault on executive, legislative, or court officer.

(a) Any person who assaults any legislative officer, executive officer, or court officer, or assaults another person as retaliation against any legislative officer, executive officer, or court officer because of the exercise of that officer's duties, or any person who makes a violent attack upon the residence, office, temporary accommodation or means of transport of any one of those officers or persons in a manner likely to endanger the officer or person, shall be guilty of a felony and shall be punished as a Class I felon.

(b) Any person who commits an offense under subsection (a) and uses a deadly weapon in the commission of that offense shall be punished as a Class F felon.

(c) Any person who commits an offense under subsection (a) and inflicts serious bodily injury to any legislative officer, executive officer, or court officer, shall be punished as a Class F felon. (1981, c. 822, s. 1; 1993, c. 539, s. 1125; 1994, Ex. Sess., c. 24, s. 14(c); 1999-398, s. 1; 2014-119, s. 6(a).)

§ 14-16.7. Threats against executive, legislative, or court officers.

(a) Any person who knowingly and willfully makes any threat to inflict serious bodily injury upon or to kill any legislative officer, executive officer, or court officer, or

who knowingly and willfully makes any threat to inflict serious bodily injury upon or kill any other person as retaliation against any legislative officer, executive officer, or court officer because of the exercise of that officer's duties, shall be guilty of a felony and shall be punished as a Class I felon.

(b) Any person who knowingly and willfully deposits for conveyance in the mail any letter, writing, or other document containing a threat to commit an offense described in subsection (a) of this section shall be guilty of a felony and shall be punished as a Class I felon. (1981, c. 822, s. 1; 1993, c. 539, s. 1126; 1994, Ex. Sess., c. 24, s. 14(c); 1999-398, s. 1; 2014-119, s. 6(b).)

§ 14-16.8. No requirement of receipt of the threat.

In prosecutions under G.S. 14-16.7 of this Article it shall not be necessary to prove that any legislative officer, executive officer, or court officer actually received the threatening communication or actually believed the threat. (1981, c. 822, s. 1; 1999-398, s. 1.)

§ 14-16.9. Officers-elect to be covered.

Any person who has been elected to any office covered by this Article but has not yet taken the oath of office shall be considered to hold the office for the purpose of this Article and G.S. 143B-919. (1981, c. 822, s. 1; 2011-145, s. 19.1(dd1); 2011-391, s. 43(l); 2014-100, s. 17.1(v).)

§ 14-16.10. Definitions.

The following definitions apply in this Article:

(1) Court officer. – Magistrate, clerk of superior court, acting clerk, assistant or deputy clerk, judge, or justice of the General Court of Justice; district attorney, assistant district attorney, or any other attorney designated by the district attorney to act for the State or on behalf of the district attorney; public defender or assistant defender; court reporter; juvenile court counselor as defined in G.S. 7B-1501(18a); any attorney or other individual employed by or acting on behalf of the department of social services in proceedings pursuant to Subchapter I of Chapter 7B of the General Statutes; any attorney or other individual appointed pursuant to G.S. 7B-601 or G.S. 7B-1108 or employed by the Guardian ad Litem Services Division of the Administrative Office of the Courts.

(2) Executive officer. – A person named in G.S. 147-3(c).

(3) Legislative officer. – A person named in G.S. 147-2(1), (2), or (3). (1999-398, s. 1; 2001-490, s. 2.35; 2003-140, s. 10.)

SUBCHAPTER III. OFFENSES AGAINST THE PERSON.

Article 6.

Homicide.

§ 14-17. Murder in the first and second degree defined; punishment.

(a) A murder which shall be perpetrated by means of a nuclear, biological, or chemical weapon of mass destruction as defined in G.S. 14-288.21, poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and premeditated killing, or which shall be committed in the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon shall be deemed to be murder in the first degree, a Class A felony, and any person who commits such murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000, except that any such person who was under 18 years of age at the time of the murder shall be punished in accordance with Part 2A of Article 81B of Chapter 15A of the General Statutes.

(a1) If a murder was perpetrated with malice as described in subdivision (1) of subsection (b) of this section, and committed against a spouse, former spouse, a person with whom the defendant lives or has lived as if married, a person with whom the defendant is or has been in a dating relationship as defined in G.S. 50B-1(b)(6), or a person with whom the defendant shares a child in common, there shall be a rebuttable presumption that the murder is a "willful, deliberate, and premeditated killing" under subsection (a) of this section and shall be deemed to be murder in the first degree, a Class A felony, if the perpetrator has previously been convicted of one of the following offenses involving the same victim:

(1) An act of domestic violence as defined in G.S. 50B-1(a).
(2) A violation of a domestic violence protective order under G.S. 50B-4.1(a), (f), (g), or (g1) or G.S. 14-269.8 when the same victim is the subject of the domestic violence protective order.
(3) Communicating a threat under G.S. 14-277.1.
(4) Stalking as defined in G.S. 14-277.3A.
(5) Cyberstalking as defined in G.S. 14-196.3.
(6) Domestic criminal trespass as defined in G.S. 14-134.3.

(b) A murder other than described in subsection (a) or (a1) of this section or in G.S. 14-23.2 shall be deemed second degree murder. Any person who commits second degree murder shall be punished as a Class B1 felon, except that a person who commits second degree murder shall be punished as a Class B2 felon in either of the following circumstances:

(1) The malice necessary to prove second degree murder is based on an inherently dangerous act or omission, done in such a reckless and wanton manner as to manifest a mind utterly without regard for human life and social duty and deliberately bent on mischief.
(2) The murder is one that was proximately caused by the unlawful distribution of any opium, opiate, or opioid; any synthetic or natural salt, compound, derivative, or preparation of opium, or opiate, or opioid; cocaine or other substance described in G.S. 90-90(1)d.; methamphetamine; or a depressant described in G.S. 90-92(a)(1), and the ingestion of such substance caused the death of the user.

(c) For the purposes of this section, it shall constitute murder where a child is born alive but dies as a result of injuries inflicted prior to the child being born alive. The degree of murder shall be determined as described in subsections (a) and (b) of this section. (1893, cc. 85, 281; Rev., s. 3631; C.S., s. 4200; 1949, c. 299, s. 1; 1973, c. 1201, s. 1; 1977, c. 406, s. 1; 1979, c. 682, s. 6; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1251, ss. 1, 2; c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; c. 662, s. 1; 1987, c. 693; 1989, c. 694; 1993, c. 539, s. 112; 1994, Ex. Sess., c. 21, s. 1; c. 22, s. 4; c. 24, s. 14(c); 2001-470, s. 2; 2004-178, s. 1; 2007-81, s. 1; 2012-165, s. 1; 2013-47, s. 2; 2013-410, s. 3(a); 2017-94, s. 1; 2017-115, s. 9.)

§ 14-17.1. Crime of suicide abolished.

The common-law crime of suicide is hereby abolished as an offense. (1973, c. 1205.)

§ 14-18. Punishment for manslaughter.

Voluntary manslaughter shall be punishable as a Class D felony, and involuntary manslaughter shall be punishable as a Class F felony. (4 Hen. VII, s. 13; 1816, c. 918, P.R.; R.C., c. 34, s. 24; 1879, c. 255; Code, s. 1055; Rev., s. 3632; C.S., s. 4201; 1933, c. 249; 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. 112; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(q).)

§ 14-18.1: Repealed by Session Laws 1994, Extra Session, c. 14, s. 73.

§ 14-18.2: Repealed by Session Laws 2011-60, s. 3, effective December 1, 2011, and applicable to offenses committed on or after that date.

§ 14-19. Repealed by Session Laws 1979, c. 760, s. 5, effective July 1, 1981.

§ 14-20: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 767, s. 29(1).

§§ 14-21 through 14-23. Repealed by Session Laws 1979, c. 682, s. 7, effective January 1, 1980.

Article 6A.

Unborn Victims.

§ 14-23.1. Definition.

As used in this Article only, "unborn child" means a member of the species homo sapiens, at any stage of development, who is carried in the womb. (2011-60, s. 2.)

§ 14-23.2. Murder of an unborn child; penalty.

(a) A person who unlawfully causes the death of an unborn child is guilty of the separate offense of murder of an unborn child if the person does any one of the following:

(1) Willfully and maliciously commits an act with the intent to cause the death of the unborn child.
(2) Causes the death of the unborn child in perpetration or attempted perpetration of any of the criminal offenses set forth under G.S. 14-17.
(3) Commits an act causing the death of the unborn child that is inherently dangerous to human life and is done so recklessly and wantonly that it reflects disregard of life.

(b) Penalty. – An offense under:
(1) Subdivision (a)(1) or (a)(2) of this section shall be a Class A felony, and any person who commits such offense shall be punished with imprisonment in the State's prison for life without parole.
(2) Subdivision (a)(3) of this section shall be subject to the same sentence as if the person had been convicted of second degree murder pursuant to G.S. 14-17. (2011-60, s. 2.)

§ 14-23.3. Voluntary manslaughter of an unborn child; penalty.

(a) A person is guilty of the separate offense of voluntary manslaughter of an unborn child if the person unlawfully causes the death of an unborn child by an act that would be voluntary manslaughter if it resulted in the death of the mother.

(b) Penalty. – Any person who commits an offense under this section shall be guilty of a Class D felony. (2011-60, s. 2.)

§ 14-23.4. Involuntary manslaughter of an unborn child; penalty.

(a) A person is guilty of the separate offense of involuntary manslaughter of an unborn child if the person unlawfully causes the death of an unborn child by an act that would be involuntary manslaughter if it resulted in the death of the mother.

(b) Penalty. – Any person who commits an offense under this section shall be guilty of a Class F felony. (2011-60, s. 2.)

§ 14-23.5. Assault inflicting serious bodily injury on an unborn child; penalty.

(a) A person is guilty of the separate offense of assault inflicting serious bodily injury on an unborn child if the person commits a battery on the mother of the unborn child and the child is subsequently born alive and suffered serious bodily harm as a result of the battery.

(b) For purposes of this section, "serious bodily harm" is defined as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization, or causes the birth of the unborn child prior to 37-weeks gestation, if the child weighs 2,500 grams or less at the time of birth.

(c) Penalty. – Any person who commits an offense under this section shall be guilty of a Class F felony. (2011-60, s. 2.)

§ 14-23.6. Battery on an unborn child.

(a) A person is guilty of the separate offense of battery on an unborn child if the person commits a battery on a pregnant woman. This offense is a lesser-included offense of G.S. 14-23.5.

(b) Penalty. – Any person who commits an offense under this section is guilty of a Class A1 misdemeanor. (2011-60, s. 2.)

§ 14-23.7. Exceptions.

Nothing in this Article shall be construed to permit the prosecution under this Article of any of the following:

(1) Acts which cause the death of an unborn child if those acts were lawful, pursuant to the provisions of G.S. 14-45.1.

(2) Acts which are committed pursuant to usual and customary standards of medical practice during diagnostic testing or therapeutic treatment.

(3) Acts committed by a pregnant woman with respect to her own unborn child, including, but not limited to, acts which result in miscarriage or stillbirth by the woman. The following definitions shall apply in this section:

a. Miscarriage. – The interruption of the normal development of an unborn child, other than by a live birth, and which is not an induced abortion permitted under G.S. 14-45.1, resulting in the complete expulsion or extraction from a pregnant woman of the unborn child.

b. Stillbirth. – The death of an unborn child prior to the complete expulsion or extraction from a woman, irrespective of the duration of pregnancy and which is not an induced abortion permitted under G.S. 14-45.1. (2011-60, s. 2.)

§ 14-23.8. Knowledge not required.

Except for an offense under G.S. 14-23.2(a)(1), an offense under this Article does not require proof of either of the following:

(1) The person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant.

(2) The defendant intended to cause the death of, or bodily injury to, the unborn child. (2011-60, s. 2.)

Article 7.

Rape and Kindred Offenses.

§§ 14-24 through 14-25. Repealed by Session Laws, 1975, c. 402.

§§ 14-26 through 14-27. Repealed by Session Laws 1979, c. 682, s. 7, effective January 1, 1980.

Article 7A.

Rape and Other Sex Offenses.

§ 14-27.1: Recodified as G.S. 14-27.20 by Session Laws 2015-181, s. 2, effective December 1, 2015, and applicable to offenses committed on or after that date.

§ 14-27.2: Recodified as G.S. 14-27.21 by Session Laws 2015-181, s. 3(a), effective December 1, 2015, and applicable to offenses committed on or after that date.

§ 14-27.2A: Recodified as G.S. 14-27.23 by Session Laws 2015-181, s. 5(a), effective December 1, 2015, and applicable to offenses committed on or after that date.

§ 14-27.3: Recodified as G.S. 14-27.22 by Session Laws 2015-181, s. 4(a), effective December 1, 2015, and applicable to offenses committed on or after that date.

§ 14-27.4: Recodified as G.S. 14-27.26 by Session Laws 2015-181, s. 8(a), effective December 1, 2015, and applicable to offenses committed on or after that date.

§ 14-27.4A: Recodified as G.S. 14-27.28 by Session Laws 2015-181, s. 10(a), effective December 1, 2015, and applicable to offenses committed on or after that date.

§ 14-27.5: Recodified as G.S. 14-27.27 by Session Laws 2015-181, s. 9(a), effective December 1, 2015, and applicable to offenses committed on or after that date.

§ 14-27.5A: Recodified as G.S. 14-27.33 by Session Laws 2015-181, s. 15, effective December 1, 2015, and applicable to offenses committed on or after that date.

§ 14-27.6: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 71(3).

§ 14-27.7: Recodified as G.S. 14-27.31 and 14-27.32 by Session Laws 2015-181, ss. 13(a) and 14(a), effective December 1, 2015, and applicable to offenses committed on or after that date.

§ 14-27.7A: Recodified as G.S. 14-27.25 by Session Laws 2015-181, s. 7(a), effective December 1, 2015, and applicable to offenses committed on or after that date.

§ 14-27.8: Recodified as G.S. 14-27.34 by Session Laws 2015-181, s. 15, effective December 1, 2015, and applicable to offenses committed on or after that date.

§ 14-27.9: Recodified as G.S. 14-27.35 by Session Laws 2015-181, s. 15, effective December 1, 2015, and applicable to offenses committed on or after that date.

§ 14-27.10: Recodified as G.S. 14-27.36 by Session Laws 2015-181, s. 15, effective December 1, 2015, and applicable to offenses committed on or after that date.

Article 7B.

Rape and Other Sex Offenses.

§ 14-27.20. Definitions.

The following definitions apply in this Article:

(1) Repealed by Session Laws 2018-47, s. 4(a), effective December 1, 2018.

(2) Mentally incapacitated. – A victim who due to (i) any act committed upon the victim or (ii) a poisonous or controlled substance provided to the victim without the knowledge or consent of the victim is rendered substantially incapable of either appraising the nature of his or her conduct, or resisting the act of vaginal intercourse or a sexual act.

(2a) Person who has a mental disability. – A victim who has an intellectual disability or a mental disorder that temporarily or permanently renders the victim substantially incapable of appraising the nature of his or her conduct, or of resisting the act of vaginal intercourse or a sexual act, or of communicating unwillingness to submit to the act of vaginal intercourse or a sexual act.

(3) Physically helpless. – Any of the following:

a. A victim who is unconscious.

b. A victim who is physically unable to resist an act of vaginal intercourse or a sexual act or communicate unwillingness to submit to an act of vaginal intercourse or a sexual act.

(4) Sexual act. – Cunnilingus, fellatio, analingus, or anal intercourse, but does not include vaginal intercourse. Sexual act also means the penetration, however slight, by any object into the genital or anal opening of another person's body. It is an affirmative defense that the penetration was for accepted medical purposes.

(5) Sexual contact. – Any of the following:

a. Touching the sexual organ, anus, breast, groin, or buttocks of any person.

b. A person touching another person with their own sexual organ, anus, breast, groin, or buttocks.

c. A person ejaculating, emitting, or placing semen, urine, or feces upon any part of another person.

(6) Touching. – As used in subdivision (5) of this section, means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim. (1979, c. 682, s. 1; 2002-159, s. 2(a); 2003-252, s. 1; 2006-247, s. 12(a); 2015-181, s. 2; 2018-47, s. 4(a).)

§ 14-27.21. First-degree forcible rape.

(a) A person is guilty of first-degree forcible rape if the person engages in vaginal intercourse with another person by force and against the will of the other person, and does any of the following:

(1) Uses, threatens to use, or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon.

(2) Inflicts serious personal injury upon the victim or another person.

(3) The person commits the offense aided and abetted by one or more other persons.

(b) Any person who commits an offense defined in this section is guilty of a Class B1 felony.

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 4; 1981, c. 63; c. 106, ss. 1, 2; c. 179, s. 14; 1983, c. 175, ss. 4, 10; c. 720, s. 4; 1994, Ex. Sess., c. 22, s. 2; 2004-128, s. 7; 2015-181, ss. 3(a), (b); 2017-30, s. 1.)

§ 14-27.22. Second-degree forcible rape.

(a) A person is guilty of second-degree forcible rape if the person engages in vaginal intercourse with another person:

(1) By force and against the will of the other person; or

(2) Who has a mental disability or who is mentally incapacitated or physically helpless, and the person performing the act knows or should reasonably know the other person has a mental disability or is mentally incapacitated or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class C felony.

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child conceived during the commission of the rape, nor does the person have any rights related to the child under Chapter 48 of the General Statutes or Subchapter I of Chapter 7B of the General Statutes. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 5; 1981, cc. 63, 179; 1993, c. 539, s. 1130; 1994, Ex. Sess., c. 24, s. 14(c); 2002-159, s. 2(b); 2004-128, s. 8; 2015-181, ss. 4(a), (b); 2018-47, s. 4(b).)

§ 14-27.23. Statutory rape of a child by an adult.

(a) A person is guilty of statutory rape of a child by an adult if the person is at least 18 years of age and engages in vaginal intercourse with a victim who is a child under the age of 13 years.

(b) A person convicted of violating this section is guilty of a Class B1 felony and shall be sentenced pursuant to Article 81B of Chapter 15A of the General Statutes, except that in no case shall the person receive an active punishment of less than 300 months, and

except as provided in subsection (c) of this section. Following the termination of active punishment, the person shall be enrolled in satellite-based monitoring for life pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes.

(c) Notwithstanding the provisions of Article 81B of Chapter 15A of the General Statutes, the court may sentence the defendant to active punishment for a term of months greater than that authorized pursuant to G.S. 15A-1340.17, up to and including life imprisonment without parole, if the court finds that the nature of the offense and the harm inflicted are of such brutality, duration, severity, degree, or scope beyond that normally committed in such crimes, or considered in basic aggravation of these crimes, so as to require a sentence to active punishment in excess of that authorized pursuant to G.S. 15A-1340.17. If the court sentences the defendant pursuant to this subsection, it shall make findings of fact supporting its decision, to include matters it considered as egregious aggravation. Egregious aggravation can include further consideration of existing aggravating factors where the conduct of the defendant falls outside the heartland of cases even the aggravating factors were designed to cover. Egregious aggravation may also be considered based on the extraordinarily young age of the victim, or the depraved torture or mutilation of the victim, or extraordinary physical pain inflicted on the victim.

(d) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes.

(e) The offense under G.S. 14-27.24 is a lesser included offense of the offense in this section. (2008-117, s. 1; 2015-181, s. 5(a), 5(b).)

§ 14-27.24. First-degree statutory rape.

(a) A person is guilty of first-degree statutory rape if the person engages in vaginal intercourse with a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim.

(b) Any person who commits an offense defined in this section is guilty of a Class B1 felony.

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 4; 1981, c. 63; c. 106, ss. 1, 2; c. 179, s. 14; 1983, c. 175, ss. 4, 10; c. 720, s. 4; 1994, Ex. Sess., c. 22, s. 2; 2004-128, s. 7; 2015-181, s. 6.)

§ 14-27.25. Statutory rape of person who is 15 years of age or younger.

(a) A defendant is guilty of a Class B1 felony if the defendant engages in vaginal intercourse with another person who is 15 years of age or younger and the defendant is at least 12 years old and at least six years older than the person, except when the defendant is lawfully married to the person.

(b) Unless the conduct is covered under some other provision of law providing greater punishment, a defendant is guilty of a Class C felony if the defendant engages in vaginal intercourse with another person who is 15 years of age or younger and the defendant is at least 12 years old and more than four but less than six years older than the person, except when the defendant is lawfully married to the person. (1995, c. 281, s. 1; 2015-62, s. 1(a); 2015-181, s. 7(a), (b).)

§ 14-27.26. First-degree forcible sexual offense.

(a) A person is guilty of a first degree forcible sexual offense if the person engages in a sexual act with another person by force and against the will of the other person, and does any of the following:

(1) Uses, threatens to use, or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon.

(2) Inflicts serious personal injury upon the victim or another person.

(3) The person commits the offense aided and abetted by one or more other persons.

(b) Any person who commits an offense defined in this section is guilty of a Class B1 felony. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 6; 1981, c. 63; c. 106, ss. 3, 4; c. 179, s. 14; 1983, c. 175, ss. 5, 10; c. 720, s. 4; 1994, Ex. Sess., c. 22, s. 3; 2015-181, ss. 8(a), (b); 2017-30, s. 2.)

§ 14-27.27. Second-degree forcible sexual offense.

(a) A person is guilty of second degree forcible sexual offense if the person engages in a sexual act with another person:

(1) By force and against the will of the other person; or

(2) Who has a mental disability or who is mentally incapacitated or physically helpless, and the person performing the act knows or should reasonably know that the other person has a mental disability or is mentally incapacitated or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class C felony. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 7; 1981, c. 63; c. 179, s. 14; 1993, c. 539, s. 1131; 1994, Ex. Sess., c. 24, s. 14(c); 2002-159, s. 2(c); 2015-181, ss. 9(a), (b); 2018-47, s. 4(c).)

§ 14-27.28. Statutory sexual offense with a child by an adult.

(a) A person is guilty of statutory sexual offense with a child by an adult if the person is at least 18 years of age and engages in a sexual act with a victim who is a child under the age of 13 years.

(b) A person convicted of violating this section is guilty of a Class B1 felony and shall be sentenced pursuant to Article 81B of Chapter 15A of the General Statutes, except that in no case shall the person receive an active punishment of less than 300 months, and except as provided in subsection (c) of this section. Following the termination of active

punishment, the person shall be enrolled in satellite-based monitoring for life pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes.

(c) Notwithstanding the provisions of Article 81B of Chapter 15A of the General Statutes, the court may sentence the defendant to active punishment for a term of months greater than that authorized pursuant to G.S. 15A-1340.17, up to and including life imprisonment without parole, if the court finds that the nature of the offense and the harm inflicted are of such brutality, duration, severity, degree, or scope beyond that normally committed in such crimes, or considered in basic aggravation of these crimes, so as to require a sentence to active punishment in excess of that authorized pursuant to G.S. 15A-1340.17. If the court sentences the defendant pursuant to this subsection, it shall make findings of fact supporting its decision, to include matters it considered as egregious aggravation. Egregious aggravation can include further consideration of existing aggravating factors where the conduct of the defendant falls outside the heartland of cases even the aggravating factors were designed to cover. Egregious aggravation may also be considered based on the extraordinarily young age of the victim, or the depraved torture or mutilation of the victim, or extraordinary physical pain inflicted on the victim.

(d) The offense under G.S. 14-27.29 is a lesser included offense of the offense in this section. (2008-117, s. 2; 2015-181, s. 10(a), (b).)

§ 14-27.29. First-degree statutory sexual offense.

(a) A person is guilty of first-degree statutory sexual offense if the person engages in a sexual act with a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim.

(b) Any person who commits an offense defined in this section is guilty of a Class B1 felony. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 6; 1981, c. 63; c. 106, ss. 3, 4; c. 179, s. 14; 1983, c. 175, ss. 5, 10; c. 720, s. 4; 1994, Ex. Sess., c. 22, s. 3; 2015-181, s. 11.)

§ 14-27.30. Statutory sexual offense with a person who is 15 years of age or younger.

(a) A defendant is guilty of a Class B1 felony if the defendant engages in a sexual act with another person who is 15 years of age or younger and the defendant is at least 12 years old and at least six years older than the person, except when the defendant is lawfully married to the person.

(b) Unless the conduct is covered under some other provision of law providing greater punishment, a defendant is guilty of a Class C felony if the defendant engages in a sexual act with another person who is 15 years of age or younger and the defendant is at least 12 years old and more than four but less than six years older than the person, except when the defendant is lawfully married to the person. (1995, c. 281, s. 1; 2015-181, s. 12.)

§ 14-27.31. Sexual activity by a substitute parent or custodian.

(a) If a defendant who has assumed the position of a parent in the home of a minor victim engages in vaginal intercourse or a sexual act with a victim who is a minor residing in the home, the defendant is guilty of a Class E felony.

(b) If a person having custody of a victim of any age or a person who is an agent or employee of any person, or institution, whether such institution is private, charitable, or governmental, having custody of a victim of any age engages in vaginal intercourse or a sexual act with such victim, the defendant is guilty of a Class E felony.

(c) Consent is not a defense to a charge under this section. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 9; 1981, c. 63; c. 179, s. 14; 1993, c. 539, s. 1132; 1994, Ex. Sess., c. 24, s. 14(c); 1999-300, s. 2; 2003-98, s. 1; 2015-181, ss. 13(a), (b).)

§ 14-27.32. Sexual activity with a student.

(a) If a defendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, at any age, or who is other school personnel, and who is at least four years older than the victim engages in vaginal intercourse or a sexual act with a victim who is a student, at any time during or after the time the defendant and victim were present together in the same school, but before the victim ceases to be a student, the defendant is guilty of a Class G felony, except when the defendant is lawfully married to the student. The term "same school" means a school at which the student is enrolled and the defendant is employed, assigned, or volunteers.

(b) A defendant who is school personnel, other than a teacher, school administrator, student teacher, school safety officer, or coach, and is less than four years older than the victim and engages in vaginal intercourse or a sexual act with a victim who is a student, is guilty of a Class I felony.

(c) This section shall apply unless the conduct is covered under some other provision of law providing for greater punishment.

(d) Consent is not a defense to a charge under this section.

(e) For purposes of this section, the terms "school", "school personnel", and "student" shall have the same meaning as in G.S. 14-202.4(d). For purposes of this section, the term "school safety officer" shall include a school resource officer or any other person who is regularly present in a school for the purpose of promoting and maintaining safe and orderly schools. (1979, c. 682, s. 1; 1979, 2nd Sess., c. 1316, s. 9; 1981, c. 63; c. 179, s. 14; 1993, c. 539, s. 1132; 1994, Ex. Sess., c. 24, s. 14(c); 1999-300, s. 2; 2003-98, s. 1; 2015-44, s. 2; 2015-181, s. 14(a), (b).)

§ 14-27.33. Sexual battery.

(a) A person is guilty of sexual battery if the person, for the purpose of sexual arousal, sexual gratification, or sexual abuse, engages in sexual contact with another person:

(1) By force and against the will of the other person; or

(2) Who has a mental disability or who is mentally incapacitated or physically helpless, and the person performing the act knows or should reasonably know that the other person has a mental disability or is mentally incapacitated or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class A1 misdemeanor. (2003-252, s. 2; 2015-181, s. 15; 2018-47, s. 4(d).)

§ 14-27.34. No defense that victim is spouse of person committing act.

A person may be prosecuted under this Article whether or not the victim is the person's legal spouse at the time of the commission of the alleged rape or sexual offense. (1979, c. 682, s. 1; 1987, c. 742; 1993, c. 274, s. 1; 2015-181, s. 15.)

§ 14-27.35. No presumption as to incapacity.

In prosecutions under this Article, there shall be no presumption that any person under the age of 14 years is physically incapable of committing a sex offense of any degree or physically incapable of committing rape, or that a male child under the age of 14 years is incapable of engaging in sexual intercourse. (1979, c. 682, s. 1; 2015-181, s. 15.)

§ 14-27.36. Evidence required in prosecutions under this Article.

It shall not be necessary upon the trial of any indictment for an offense under this Article where the sex act alleged is vaginal intercourse or anal intercourse to prove the actual emission of semen in order to constitute the offense; but the offense shall be completed upon proof of penetration only. Penetration, however slight, is vaginal intercourse or anal intercourse. (1979, c. 682, s. 1; 2015-181, s. 15.)

Article 8.

Assaults.

§ 14-28. Malicious castration.

If any person, of malice aforethought, shall unlawfully castrate any other person, or cut off, maim or disfigure any of the privy members of any person, with intent to murder, maim, disfigure, disable or render impotent such person, the person so offending shall be punished as a Class C felon. (1831, c. 40, s. 1; R.C., c. 34, s. 4; 1868-9, c. 167, s. 6; Code, s. 999; Rev., s. 3627; C.S., s. 4210; 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. 1133; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-29. Castration or other maiming without malice aforethought.

If any person shall, on purpose and unlawfully, but without malice aforethought, cut, or slit the nose, bite or cut off the nose, or a lip or an ear, or disable any limb or member of any other person, or castrate any other person, or cut off, maim or disfigure any of the privy members of any other person, with intent to kill, maim, disfigure, disable or render impotent such person, the person so offending shall be punished as a Class E felon. (1754, c. 56, P.R.; 1791, c. 339, ss. 2, 3, P.R.; 1831, c. 40, s. 2; R.C., c. 34, s. 47; Code, s. 1000; Rev., s. 3626; C.S., s. 4211; 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. 1134; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-30. Malicious maiming.

If any person shall, of malice aforethought, unlawfully cut out or disable the tongue or put out an eye of any other person, with intent to murder, maim or disfigure, the person so offending, his counselors, abettors and aiders, knowing of and privy to the offense, shall be punished as a Class

C felon. (22 and 23 Car. II, c. 1 (Coventry Act); 1754, c. 56, P.R.; 1791, c. 339, s. 1, P.R.; 1831, c. 12; R.C., c. 34, s. 14; Code, s. 1080; Rev., s. 3636; C.S., s. 4212; 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. 1135; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-30.1. Malicious throwing of corrosive acid or alkali.

If any person shall, of malice aforethought, knowingly and willfully throw or cause to be thrown upon another person any corrosive acid or alkali with intent to murder, maim or disfigure and inflicts serious injury not resulting in death, he shall be punished as a Class E felon. (1963, c. 354; 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. 1136; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-31. Maliciously assaulting in a secret manner.

If any person shall in a secret manner maliciously commit an assault and battery with any deadly weapon upon another by waylaying or otherwise, with intent to kill such other person, notwithstanding the person so assaulted may have been conscious of the presence of his adversary, he shall be punished as a Class E felon. (1887, c. 32; Rev., s. 3621; 1919, c. 25; C.S., s. 4213; 1969, c. 602, s. 1; 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. 1137; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-32. Felonious assault with deadly weapon with intent to kill or inflicting serious injury; punishments.

(a) Any person who assaults another person with a deadly weapon with intent to kill and inflicts serious injury shall be punished as a Class C felon.

(b) Any person who assaults another person with a deadly weapon and inflicts serious injury shall be punished as a Class E felon.

(c) Any person who assaults another person with a deadly weapon with intent to kill shall be punished as a Class E felon. (1919, c. 101; C.S., s. 4214; 1931, c. 145, s. 30; 1969, c. 602, s. 2; 1971, c. 765, s. 1, c. 1093, s. 12; 1973, c. 229, ss. 1-3; 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. 1138; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-32.1. Assaults on individuals with a disability; punishments.

(a) For purposes of this section, an "individual with a disability" is an individual who has one or more of the following that would substantially impair the ability to defend oneself:

(1) A physical or mental disability, such as a decreased use of arms or legs, blindness, deafness, intellectual disability, or mental illness.

(2) An infirmity.

(b) through (d) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 767, s. 31, effective October 1, 1994.

(e) Unless the conduct is covered under some other provision of law providing greater punishment, any person who commits any aggravated assault or assault and battery on an individual with a disability is guilty of a Class F felony. A person commits an aggravated assault or assault and battery upon an individual with a disability if, in the course of the assault or assault and battery, that person does any of the following:

(1) Uses a deadly weapon or other means of force likely to inflict serious injury or serious damage to an individual with a disability.
(2) Inflicts serious injury or serious damage to an individual with a disability.
(3) Intends to kill an individual with a disability.

(f) Any person who commits a simple assault or battery upon an individual with a disability is guilty of a Class A1 misdemeanor. (1981, c. 780, s. 1; 1993, c. 539, ss. 15, 1139; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 767, s. 31; 2006-179, s. 1; 2018-47, s. 4(m).)

§ 14-32.2. Patient abuse and neglect; punishments.

(a) It shall be unlawful for any person to physically abuse a patient of a health care facility or a resident of a residential care facility, when the abuse results in death or bodily injury.

(b) Unless the conduct is prohibited by some other provision of law providing for greater punishment:

(1) A violation of subsection (a) above is a Class C felony where intentional conduct proximately causes the death of the patient or resident;
(2) A violation of subsection (a) above is a Class E felony where culpably negligent conduct proximately causes the death of the patient or resident;
(3) A violation of subsection (a) above is a Class F felony where such conduct is willful or culpably negligent and proximately causes serious bodily injury to the patient or resident;
(4) A violation of subsection (a) is a Class H felony where such conduct evinces a pattern of conduct and the conduct is willful or culpably negligent and proximately causes bodily injury to a patient or resident.

(c) "Health Care Facility" shall include hospitals, skilled nursing facilities, intermediate care facilities, intermediate care facilities for the mentally retarded, psychiatric facilities, rehabilitation facilities, kidney disease treatment centers, home health agencies, ambulatory surgical facilities, and any other health care related facility whether publicly or privately owned.

(c1) "Residential Care Facility" shall include adult care homes and any other residential care related facility whether publicly or privately owned.

(d) "Person" shall include any natural person, association, corporation, partnership, or other individual or entity.

(e) "Culpably negligent" shall mean conduct of a willful, gross and flagrant character, evincing reckless disregard of human life.

(e1) "Abuse" means the willful or culpably negligent infliction of physical injury or the willful or culpably negligent violation of any law designed for the health or welfare of a patient or resident.

(f) Any defense which may arise under G.S. 90-321(h) or G.S. 90-322(d) pursuant to compliance with Article 23 of Chapter 90 shall be fully applicable to any prosecution initiated under this section.

(g) Criminal process for a violation of this section may be issued only upon the request of a District Attorney.

(h) The provisions of this section shall not supersede any other applicable statutory or common law offenses. (1987, c. 527, s. 1; 1993, c. 539, s. 1140; 1994, Ex. Sess., c. 24, s. 14(c);

1995, c. 535, s. 1; 1995 (Reg. Sess., 1996), c. 742, ss. 7, 8; 1999-334, s. 3.15; 1999-456, s. 61(b); 2007-188, s. 1.)

§ 14-32.3. Domestic abuse, neglect, and exploitation of disabled or elder adults.

(a) Abuse. – A person is guilty of abuse if that person is a caretaker of a disabled or elder adult who is residing in a domestic setting and, with malice aforethought, knowingly and willfully: (i) assaults, (ii) fails to provide medical or hygienic care, or (iii) confines or restrains the disabled or elder adult in a place or under a condition that is cruel or unsafe, and as a result of the act or failure to act the disabled or elder adult suffers mental or physical injury.

If the disabled or elder adult suffers serious injury from the abuse, the caretaker is guilty of a Class F felony. If the disabled or elder adult suffers injury from the abuse, the caretaker is guilty of a Class H felony.

A person is not guilty of an offense under this subsection if the act or failure to act is in accordance with G.S. 90-321 or G.S. 90-322.

(b) Neglect. – A person is guilty of neglect if that person is a caretaker of a disabled or elder adult who is residing in a domestic setting and, wantonly, recklessly, or with gross carelessness: (i) fails to provide medical or hygienic care, or (ii) confines or restrains the disabled or elder adult in a place or under a condition that is unsafe, and as a result of the act or failure to act the disabled or elder adult suffers mental or physical injury.

If the disabled or elder adult suffers serious injury from the neglect, the caretaker is guilty of a Class G felony. If the disabled or elder adult suffers injury from the neglect, the caretaker is guilty of a Class I felony.

A person is not guilty of an offense under this subsection if the act or failure to act is in accordance with G.S. 90-321 or G.S. 90-322.

(c) Repealed by Session Laws 2005-272, s. 1, effective December 1, 2005, and applicable to offenses committed on or after that date.

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

(1) Caretaker. – A person who has the responsibility for the care of a disabled or elder adult as a result of family relationship or who has assumed the responsibility for the care of a disabled or elder adult voluntarily or by contract.

(2) Disabled adult. – A person 18 years of age or older or a lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated as defined in G.S. 108A-101(d).

(3) Domestic setting. – Residence in any residential setting except for a health care facility or residential care facility as these terms are defined in G.S. 14-32.2.

(4) Elder adult. – A person 60 years of age or older who is not able to provide for the social, medical, psychiatric, psychological, financial, or legal services necessary to safeguard the person's rights and resources and to maintain the person's physical and mental well-being. (1995, c. 246, s. 1; 1995 (Reg. Sess., 1996), c. 742, s. 9; 2005-272, s. 1.)

§ 14-32.4. Assault inflicting serious bodily injury; strangulation; penalties.

(a) Unless the conduct is covered under some other provision of law providing greater punishment, any person who assaults another person and inflicts serious bodily injury is guilty of a Class F felony. "Serious bodily injury" is defined as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

(b) Unless the conduct is covered under some other provision of law providing greater punishment, any person who assaults another person and inflicts physical injury by strangulation is guilty of a Class H felony. (1996, 2nd Ex. Sess., c. 18, s. 20.13(a); 2004-186, s. 9.1.)

§ 14-33. Misdemeanor assaults, batteries, and affrays, simple and aggravated; punishments.

(a) Any person who commits a simple assault or a simple assault and battery or participates in a simple affray is guilty of a Class 2 misdemeanor.

(b) Unless his conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class 1 misdemeanor if, in the course of the assault, assault and battery, or affray, he:

(1) through (3) Repealed by Session Laws 1995, c. 507, s. 19.5(b);

(4) through (7) Repealed by Session Laws 1991, c. 525, s. 1;

(8) Repealed by Session Laws 1995, c. 507, s. 19.5(b);

(9) Commits an assault and battery against a sports official when the sports official is discharging or attempting to discharge official duties at a sports event, or immediately after the sports event at which the sports official discharged official duties. A "sports official" is a person at a sports event who enforces the rules of the event, such as an umpire or referee, or a person who supervises the participants, such as a coach. A "sports event" includes any interscholastic or intramural athletic activity in a primary, middle, junior high, or high school, college, or university, any organized athletic activity sponsored by a community, business, or nonprofit organization, any athletic activity that is a professional or semiprofessional event, and any other organized athletic activity in the State.

(c) Unless the conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class A1 misdemeanor if, in the course of the assault, assault and battery, or affray, he or she:

(1) Inflicts serious injury upon another person or uses a deadly weapon;

(2) Assaults a female, he being a male person at least 18 years of age;

(3) Assaults a child under the age of 12 years;

(4) Assaults an officer or employee of the State or any political subdivision of the State, when the officer or employee is discharging or attempting to discharge his official duties;

(5) Repealed by Session Laws 1999-105, s. 1, effective December 1, 1999; or

(6) Assaults a school employee or school volunteer when the employee or volunteer is discharging or attempting to discharge his or her duties as an employee or volunteer, or assaults a school employee or school volunteer as a result of the discharge or attempt to discharge that individual's duties as a school employee or school volunteer. For purposes of this subdivision, the following definitions shall apply:

a. "Duties" means:

1. All activities on school property;
2. All activities, wherever occurring, during a school authorized event or the accompanying of students to or from that event; and
3. All activities relating to the operation of school transportation.

b. "Employee" or "volunteer" means:

1. An employee of a local board of education; or a charter school authorized under G.S. 115C-218.5, or a nonpublic school which has filed intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes;
2. An independent contractor or an employee of an independent contractor of a local board of education, charter school authorized under G.S. 115C-218.5, or a nonpublic school which has filed intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes, if the independent contractor carries out duties customarily performed by employees of the school; and
3. An adult who volunteers his or her services or presence at any school activity and is under the supervision of an individual listed in sub-sub-subdivision 1. or 2. of this sub-subdivision.

(7) Assaults a public transit operator, including a public employee or a private contractor employed as a public transit operator, when the operator is discharging or attempting to discharge his or her duties.

(8) Assaults a company police officer certified pursuant to the provisions of Chapter 74E of the General Statutes or a campus police officer certified pursuant to the provisions of Chapter 74G, Article 1 of Chapter 17C, or Chapter 116 of the General Statutes in the performance of that person's duties.

(c1) No school personnel as defined in G.S. 14-33(c)(6) who takes reasonable actions in good faith to end a fight or altercation between students shall incur any civil or criminal liability as the result of those actions.

(d) Any person who, in the course of an assault, assault and battery, or affray, inflicts serious injury upon another person, or uses a deadly weapon, in violation of subdivision (c)(1) of this section, on a person with whom the person has a personal relationship, and in the presence of a minor, is guilty of a Class A1 misdemeanor. A person convicted under

this subsection, who is sentenced to a community punishment, shall be placed on supervised probation in addition to any other punishment imposed by the court.

A person committing a second or subsequent violation of this subsection shall be sentenced to an active punishment of no less than 30 days in addition to any other punishment imposed by the court.

The following definitions apply to this subsection:

(1) "Personal relationship" is as defined in G.S. 50B-1(b).

(2) "In the presence of a minor" means that the minor was in a position to see or hear the assault.

(3) "Minor" is any person under the age of 18 years who is residing with or is under the care and supervision of, and who has a personal relationship with, the person assaulted or the person committing the assault. (1870-1, c. 43, s. 2; 1873-4, c. 176, s. 6; 1879, c. 92, ss. 2, 6; Code, s. 987; Rev., s. 3620, 1911, c. 193; C.S., s. 4215; 1933, c. 189; 1949, c. 298; 1969, c. 618, s. 1; 1971, c. 765, s. 2; 1973, c. 229, s. 4; c. 1413; 1979, cc. 524, 656; 1981, c. 180; 1983, c. 175, ss. 6, 10; c. 720, s. 4; 1985, c. 321; 1991, c. 525, s. 1; 1993, c. 286, s. 1; c. 539, s. 16; 1994, Ex. Sess., c. 14, s. 3; c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 687, s. 1; 1995, c. 352, s. 1; 1995, c. 507, s. 19.5(b); 1999-105, s. 1; 2003-409, s. 1; 2004-26, s. 1; 2004-199, s. 7; 2005-231, s. 6.2; 2012-149, s. 1; 2014-101, s. 7; 2015-62, s. 4(b).)

§ 14-33.1. Evidence of former threats upon plea of self-defense.

In any case of assault, assault and battery, or affray in which the plea of the defendant is self-defense, evidence of former threats against the defendant by the person alleged to have been assaulted by him, if such threats shall have been communicated to the defendant before the altercation, shall be competent as bearing upon the reasonableness of the claim of apprehension by the defendant of bodily harm, and also as bearing upon the amount of force which reasonably appeared necessary to the defendant, under the circumstances, to repel his assailant. (1969, c. 618, s. 2.)

§ 14-33.2. Habitual misdemeanor assault.

A person commits the offense of habitual misdemeanor assault if that person violates any of the provisions of G.S. 14-33 and causes physical injury, or G.S. 14-34, and has two or more prior convictions for either misdemeanor or felony assault, with the earlier of the two prior convictions occurring no more than 15 years prior to the date of the current violation. A conviction under this section shall not be used as a prior conviction for any other habitual offense statute. A person convicted of violating this section is guilty of a Class H felony. (1995, c. 507, s. 19.5(c); 2004-186, s. 10.1.)

§ 14-34. Assaulting by pointing gun.

If any person shall point any gun or pistol at any person, either in fun or otherwise, whether such gun or pistol be loaded or not loaded, he shall be guilty of a Class A1 misdemeanor. (1889, c. 527; Rev., s. 3622; C.S., s. 4216; 1969, c. 618, s. 2 1/2; 1993, c. 539, s. 17; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 507, s. 19.5(d).)

§ 14-34.1. Discharging certain barreled weapons or a firearm into occupied property.

(a) Any person who willfully or wantonly discharges or attempts to discharge any firearm or barreled weapon capable of discharging shot, bullets, pellets, or other missiles at a muzzle velocity of at least 600 feet per second into any building, structure, vehicle, aircraft, watercraft, or other conveyance, device, equipment, erection, or enclosure while it is occupied is guilty of a Class E felony.

(b) A person who willfully or wantonly discharges a weapon described in subsection (a) of this section into an occupied dwelling or into any occupied vehicle, aircraft, watercraft, or other conveyance that is in operation is guilty of a Class D felony.

(c) If a person violates this section and the violation results in serious bodily injury to any person, the person is guilty of a Class C felony. (1969, c. 341; c. 869, s. 7; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; c. 755; 1993, c. 539, s. 1141; 1994, Ex. Sess., c. 24, s. 14(c); 2005-461, s. 1.)

§ 14-34.2. Assault with a firearm or other deadly weapon upon governmental officers or employees, company police officers, or campus police officers.

Unless a person's conduct is covered under some other provision of law providing greater punishment, any person who commits an assault with a firearm or any other deadly weapon upon an officer or employee of the State or of any political subdivision of the State, a company police officer certified pursuant to the provisions of Chapter 74E of the General Statutes, or a campus police officer certified pursuant to the provisions of Chapter 74G, Article 1 of Chapter 17C or Chapter 116 of the General Statutes, in the performance of his duties shall be guilty of a Class F felony. (1969, c. 1134; 1977, c. 829; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1981, c. 535, s. 1; 1991, c. 525, s. 2; 1993, c. 539, s. 1142; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 687, s. 2; 1995, c. 507, s. 19.5(i); 2005-231, s. 6.1; 2018-17.1(a).)

§ 14-34.3. Manufacture, sale, purchase, or possession of teflon-coated types of bullets prohibited.

(a) It is unlawful for any person to import, manufacture, possess, store, transport, sell, offer to sell, purchase, offer to purchase, deliver or give to another, or acquire any teflon-coated bullet.

(b) This section does not apply to:

(1) Officers and enlisted personnel of the Armed Forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms or weapons, civil officers of the United States while in the discharge of their official duties, officers and soldiers of the militia when called into actual service, officers of the State, or of any county, city or town, charged with the execution of the laws of the State, when acting in the discharge of their official duties;

(2) Importers, manufacturers, and dealers validly licensed under the laws of the United States or the State of North Carolina who possess for the purpose of sale to authorized law-enforcement agencies only;

(3) Inventors, designers, ordinance consultants and researchers, chemists, physicists, and other persons employed by or under contract with a manufacturing company engaged in making or doing research designed to enlarge knowledge or to facilitate the creation, development, or manufacture of more effective police-type body armor.

(c) Any person who violates any provision of this section is guilty of a Class 1 misdemeanor. (1981 (Reg. Sess., 1982), c. 1272, s. 1; 1993, c. 539, s. 18; 1994, Ex. Sess., c. 24, s. 14(c); 1999-456, s. 33(a); 2011-183, s. 8.)

§ 14-34.4. Adulterated or misbranded food, drugs, or cosmetics; intent to cause serious injury or death; intent to extort.

(a) Any person who with the intent to cause serious injury or death manufactures, sells, delivers, offers, or holds for sale, any food, drug, or cosmetic that is adulterated or misbranded, or adulterates or misbrands any food, drug, or cosmetic, in violation of G.S. 106-122, is guilty of a Class C felony.

(b) Any person who with the intent to wrongfully obtain, directly or indirectly, anything of value or any acquittance, advantage, or immunity communicates to another that he has violated, or intends to violate, subsection (a) of this section, is guilty of a Class C felony. (1987, c. 313.)

§ 14-34.5. Assault with a firearm on a law enforcement, probation, or parole officer, or on a member of the North Carolina National Guard, or on a person employed at a State or local detention facility.

(a) Any person who commits an assault with a firearm upon a law enforcement officer, probation officer, or parole officer while the officer is in the performance of his or her duties is guilty of a Class E felony.

(a1) Any person who commits an assault with a firearm upon a member of the North Carolina National Guard while the member is in the performance of his or her duties is guilty of a Class E felony.

(b) Anyone who commits an assault with a firearm upon a person who is employed at a detention facility operated under the jurisdiction of the State or a local government while the employee is in the performance of the employee's duties is guilty of a Class E felony. (1995, c. 507, s. 19.5(j); 1995 (Reg. Sess., 1996), c. 742, s. 10; 1997-443, s. 19.25(gg); 2015-74, s. 2.)

§ 14-34.6. Assault or affray on a firefighter, an emergency medical technician, medical responder, and hospital personnel.

(a) A person is guilty of a Class I felony if the person commits an assault or affray causing physical injury on any of the following persons who are discharging or attempting to discharge their official duties:

(1) An emergency medical technician or other emergency health care provider.

(2) A medical responder.

(3) Hospital personnel and licensed healthcare providers who are providing or attempting to provide health care services to a patient in a hospital.

(4) Repealed by Session Laws 2011-356, s. 2, effective December 1, 2011, and applicable to offenses committed on or after that date.

(5) A firefighter.

(6) Hospital security personnel.

(b) Unless a person's conduct is covered under some other provision of law providing greater punishment, a person is guilty of a Class H felony if the person violates subsection (a) of this section and (i) inflicts serious bodily injury or (ii) uses a deadly weapon other than a firearm.

(c) Unless a person's conduct is covered under some other provision of law providing greater punishment, a person is guilty of a Class F felony if the person violates subsection (a) of this section and uses a firearm. (1995, c. 507, s. 19.6(a); 1996, 2nd Ex. Sess., c. 18, s. 20.14B(b); 1997-9, s. 2; 1997-443, s. 11A.129A; 1998-217, s. 1; 2011-356, s. 2; 2015-97, s. 1; 2017-57, s. 16B.3(a).)

§ 14-34.7. Certain assaults on a law enforcement, probation, or parole officer, or on a member of the North Carolina National Guard, or on a person employed at a State or local detention facility; penalty.

(a) Unless covered under some other provision of law providing greater punishment, a person is guilty of a Class F felony if the person assaults a law enforcement officer, probation officer, or parole officer while the officer is discharging or attempting to discharge his or her official duties and inflicts serious bodily injury on the officer.

(a1) Unless covered under some other provision of law providing greater punishment, a person is guilty of a Class F felony if the person assaults a member of the North Carolina National Guard while he or she is discharging or attempting to discharge his or her official duties and inflicts serious bodily injury on the member.

(b) Unless covered under some other provision of law providing greater punishment, a person is guilty of a Class F felony if the person assaults a person who is employed at a detention facility operated under the jurisdiction of the State or a local government while the employee is in the performance of the employee's duties and inflicts serious bodily injury on the employee.

(c) Unless covered under some other provision of law providing greater punishment, a person is guilty of a Class I felony if the person does any of the following:

(1) Assaults a law enforcement officer, probation officer, or parole officer while the officer is discharging or attempting to discharge his or her official duties and inflicts physical injury on the officer.

(2) Assaults a person who is employed at a detention facility operated under the jurisdiction of the State or a local government while the employee is in the performance of the employee's duties and inflicts physical injury on the employee.

(3) Assaults a member of the North Carolina National Guard while he or she is discharging or attempting to discharge his or her official duties and inflicts physical injury on the member.

For the purposes of this subsection, "physical injury" includes cuts, scrapes, bruises, or other physical injury which does not constitute serious injury. (1996, 2nd Ex. Sess., c. 18, s. 20.14B(a); 1997-443, s. 19.25(hh); 2001-487, s. 41; 2011-356, s. 1; 2015-74, s. 1.)

§ 14-34.8. Criminal use of laser device.

(a) For purposes of this section, the term "laser" means light amplification by stimulated emission of radiation.

(b) It is unlawful intentionally to point a laser device at a law enforcement officer, or at the head or face of another person, while the device is emitting a laser beam.

(c) A violation of this section is an infraction.

(d) This section does not apply to a law enforcement officer who uses a laser device in discharging or attempting to discharge the officer's official duties. This section does not apply to a health care professional who uses a laser device in providing services within the scope of practice of that professional nor to any other person who is licensed or authorized by law to use a laser device or uses it in the performance of the person's official duties.

(e) This section does not apply to laser tag, paintball guns, and other similar games and devices using light emitting diode (LED) technology. (1999-401, s. 1.)

§ 14-34.9. Discharging a firearm from within an enclosure.

Unless covered under some other provision of law providing greater punishment, any person who willfully or wantonly discharges or attempts to discharge a firearm, as a part of criminal gang activity, from within any building, structure, motor vehicle, or other conveyance, erection, or enclosure toward a person or persons not within that enclosure shall be punished as a Class E felon. (2008-214, s. 2; 2017-194, s. 6.)

§ 14-34.10. Discharge firearm within enclosure to incite fear.

Unless covered under some other provision of law providing greater punishment, any person who willfully or wantonly discharges or attempts to discharge a firearm within any occupied building, structure, motor vehicle, or other conveyance, erection, or enclosure with the intent to incite fear in another shall be punished as a Class F felon. (2013-144, s. 1.)

Article 9.

Hazing.

§ 14-35. Hazing; definition and punishment.

It is unlawful for any student in attendance at any university, college, or school in this State to engage in hazing, or to aid or abet any other student in the commission of this offense. For the purposes of this section hazing is defined as follows: "to subject another student to physical injury as part of an initiation, or as a prerequisite to membership, into any organized school group, including any society, athletic team, fraternity or sorority, or other similar group." Any violation of this section shall constitute a Class 2 misdemeanor. (1913, c. 169, ss. 1, 2, 3, 4; C.S., s. 4217; 1969, c. 1224, s. 1; 1993, c. 539, s. 19; 1994, Ex. Sess., c. 24, s. 14(c); 2003-299, s. 1.)

§ 14-36: Repealed by Session Laws 2003-299, § 2, effective December 1, 2003, and applicable to offenses committed on or after that date.

§ 14-37. Repealed by Session Laws 1979, c. 7, s. 1.

§ 14-38. Witnesses in hazing trials; no indictment to be founded on self-criminating testimony.

In all trials for the offense of hazing any student or other person subpoenaed as a witness in behalf of the State shall be required to testify if called upon to do so: Provided, however, that no student or other person so testifying shall be amenable or subject to indictment on account of, or by reason of, such testimony. (1913, c. 169, s. 8; C.S., s. 4220.)

Article 10.

Kidnapping and Abduction.

§ 14-39. Kidnapping.

(a) Any person who shall unlawfully confine, restrain, or remove from one place to another, any other person 16 years of age or over without the consent of such person, or any other person under the age of 16 years without the consent of a parent or legal custodian of such person, shall be guilty of kidnapping if such confinement, restraint or removal is for the purpose of:

(1) Holding such other person for a ransom or as a hostage or using such other person as a shield; or

(2) Facilitating the commission of any felony or facilitating flight of any person following the commission of a felony; or

(3) Doing serious bodily harm to or terrorizing the person so confined, restrained or removed or any other person; or

(4) Holding such other person in involuntary servitude in violation of G.S. 14-43.12.

(5) Trafficking another person with the intent that the other person be held in involuntary servitude or sexual servitude in violation of G.S. 14-43.11.

(6) Subjecting or maintaining such other person for sexual servitude in violation of G.S. 14-43.13.

(b) There shall be two degrees of kidnapping as defined by subsection (a). If the person kidnapped either was not released by the defendant in a safe place or had been seriously injured or sexually assaulted, the offense is kidnapping in the first degree and is punishable as a Class C felony. If the person kidnapped was released in a safe place by the defendant and had not been seriously injured or sexually assaulted, the offense is kidnapping in the second degree and is punishable as a Class E felony.

(c) Any firm or corporation convicted of kidnapping shall be punished by a fine of not less than five thousand dollars ($5,000) nor more than one hundred thousand dollars ($100,000), and its charter and right to do business in the State of North Carolina shall be forfeited. (1933, c. 542; 1975, c. 843, s. 1; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1983, c. 746, s. 2; 1993, c. 539, s. 1143; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 509, s. 8; 2006-247, s. 20(c).)

§ 14-40. Enticing minors out of the State for the purpose of employment.

If any person shall employ and carry beyond the limits of this State any minor, or shall induce any minor to go beyond the limits of this State, for the purpose of employment without the consent in writing, duly authenticated, of the parent, guardian or other person having authority over such minor, he shall be guilty of a Class 2 misdemeanor. The fact of the employment and going out of the State of the minor, or of the going out of the State by the minor, at the solicitation of the person for the purpose of employment, shall be prima facie evidence of knowledge that the person employed or solicited to go beyond the limits of the State is a minor. (1891, c. 45; Rev., s. 3630; C.S., s. 4222; 1969, c. 1224, s. 4; 1993, c. 539, s. 21; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-41. Abduction of children.

(a) Any person who, without legal justification or defense, abducts or induces any minor child who is at least four years younger than the person to leave any person, agency, or institution lawfully entitled to the child's custody, placement, or care shall be guilty of a Class F felony.

(b) The provisions of this section shall not apply to any public officer or employee in the performance of his or her duty. (1879, c. 81; Code, s. 973; Rev., s. 3358; C.S., s. 4223; 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. 1144; 1994, Ex. Sess., c. 24, s. 14(c); 1995 (Reg. Sess., 1996), c. 745, s. 1.)

§ 14-42: Repealed by Session Laws 1993, c. 539, s. 1358.2.

§ 14-43: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 767, s. 29(2).

§ 14-43.1. Unlawful arrest by officers from other states.

A law-enforcement officer of a state other than North Carolina who, knowing that he is in the State of North Carolina and purporting to act by authority of his office, arrests a person in the State of North Carolina, other than as is permitted by G.S. 15A-403, is guilty of a Class 2 misdemeanor. (1973, c. 1286, s. 10; 1993, c. 539, s. 22; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-43.2: Repealed by Session Laws 2006-247, s. 20(a), effective December 1, 2006, and applicable to offenses committed on or after that date.

§ 14-43.3. Felonious restraint.

A person commits the offense of felonious restraint if he unlawfully restrains another person without that person's consent, or the consent of the person's parent or legal custodian if the person is less than 16 years old, and moves the person from the place of the initial restraint by transporting him in a motor vehicle or other conveyance. Violation of this section is a Class F felony. Felonious restraint is considered a lesser included offense of kidnapping. (1985, c. 545, s. 1; 1993, c. 539, s. 1147; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-43.4. Reserved for future codification purposes.

§ 14-43.5. Reserved for future codification purposes.

§ 14-43.6. Reserved for future codification purposes.

§ 14-43.7. Reserved for future codification purposes.

§ 14-43.8. Reserved for future codification purposes.

§ 14-43.9. Reserved for future codification purposes.

Article 10A.

Human Trafficking.

§ 14-43.10. Definitions.

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

(1) Coercion. – The term includes all of the following:

a. Causing or threatening to cause bodily harm to any person, physically restraining or confining any person, or threatening to physically restrain or confine any person.

b. Exposing or threatening to expose any fact or information that if revealed would tend to subject a person to criminal or immigration proceedings, hatred, contempt, or ridicule.

c. Destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of any person.

d. Providing a controlled substance, as defined by G.S. 90-87, to a person.

(2) Deception. – The term includes all of the following:

a. Creating or confirming another's impression of an existing fact or past event that is false and which the accused knows or believes to be false.

b. Maintaining the status or condition of a person arising from a pledge by that person of his or her personal services as security for a debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined, or preventing a person from acquiring information pertinent to the disposition of such debt.

c. Promising benefits or the performance of services that the accused does not intend to deliver or perform or knows will not be delivered or performed.

(3) Involuntary servitude. – The term includes the following:

a. The performance of labor, whether or not for compensation, or whether or not for the satisfaction of a debt; and

b. By deception, coercion, or intimidation using violence or the threat of violence or by any other means of coercion or intimidation.

(4) Minor. – A person who is less than 18 years of age.

(5) Sexual servitude. – The term includes the following:

a. Any sexual activity as defined in G.S. 14-190.13 for which anything of value is directly or indirectly given, promised to, or received by any person, which conduct is induced or obtained by coercion or deception

or which conduct is induced or obtained from a person under the age of 18 years; or

b. Any sexual activity as defined in G.S. 14-190.13 that is performed or provided by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under the age of 18 years.

(6) Victim. – Unless the context requires otherwise, a person subjected to the practices set forth in G.S. 14-43.11, 14-43.12, or 14-43.13.

(b) Reserved. (2006-247, s. 20(b); 2018-75, s. 1.)

§ 14-43.11. Human trafficking.

(a) A person commits the offense of human trafficking when that person (i) knowingly or in reckless disregard of the consequences of the action recruits, entices, harbors, transports, provides, or obtains by any means another person with the intent that the other person be held in involuntary servitude or sexual servitude or (ii) willfully or in reckless disregard of the consequences of the action causes a minor to be held in involuntary servitude or sexual servitude.

(b) A person who violates this section is guilty of a Class C felony if the victim of the offense is an adult. A person who violates this section is guilty of a Class B2 felony if the victim of the offense is a minor.

(c) Each violation of this section constitutes a separate offense and shall not merge with any other offense. Evidence of failure to deliver benefits or perform services standing alone shall not be sufficient to authorize a conviction under this section.

(c1) Mistake of age is not a defense to prosecution under this section. Consent of a minor is not a defense to prosecution under this section.

(d) A person who is not a legal resident of North Carolina, and would consequently be ineligible for State public benefits or services, shall be eligible for the public benefits and services of any State agency if the person is otherwise eligible for the public benefit and is a victim of an offense charged under this section. Eligibility for public benefits and services shall terminate at such time as the victim's eligibility to remain in the United States is terminated under federal law. (2006-247, s. 20(b); 2007-547, s. 1; 2013-368, s. 1; 2017-151, s. 1.)

§ 14-43.12. Involuntary servitude.

(a) A person commits the offense of involuntary servitude when that person knowingly and willfully or in reckless disregard of the consequences of the action holds another in involuntary servitude.

(b) A person who violates this section is guilty of a Class F felony if the victim of the offense is an adult. A person who violates this section is guilty of a Class C felony if the victim of the offense is a minor.

(c) Each violation of this section constitutes a separate offense and shall not merge with any other offense. Evidence of failure to deliver benefits or perform services standing alone shall not be sufficient to authorize a conviction under this section.

(c1) Mistake of age is not a defense to prosecution under this section. Consent of a minor is not a defense to prosecution under this section.

(d) Nothing in this section shall be construed to affect the laws governing the relationship between an unemancipated minor and his or her parents or legal guardian.

(e) If any person reports a violation of this section, which violation arises out of any contract for labor, to any party to the contract, the party shall immediately report the violation to the sheriff of the county in which the violation is alleged to have occurred for appropriate action. A person violating this subsection shall be guilty of a Class 1 misdemeanor. (1983, ch. 746, s. 1; 1993, c. 539, ss. 23, 1146; 1994, Ex. Sess., c. 24, s. 14(c); 2006-247, s. 20(b); 2013-368, s. 2.)

§ 14-43.13. Sexual servitude.

(a) A person commits the offense of sexual servitude when that person knowingly or in reckless disregard of the consequences of the action subjects or maintains another in sexual servitude.

(b) A person who violates this section is guilty of a Class D felony if the victim of the offense is an adult. A person who violates this section is guilty of a Class C felony if the victim of the offense is a minor.

(b1) Mistake of age is not a defense to prosecution under this section. Consent of a minor is not a defense to prosecution under this section.

(c) Each violation of this section constitutes a separate offense and shall not merge with any other offense. Evidence of failure to deliver benefits or perform services standing alone shall not be sufficient to authorize a conviction under this section. (2006-247, s. 20(b); 2013-368, s. 3.)

§ 14-43.14. Unlawful sale, surrender, or purchase of a minor.

(a) A person commits the offense of unlawful sale, surrender, or purchase of a minor when that person, acting with willful or reckless disregard for the life or safety of a minor, participates in any of the following: the acceptance, solicitation, offer, payment, or transfer of any compensation, in money, property, or other thing of value, at any time, by any person in connection with the unlawful acquisition or transfer of the physical custody of a minor, except as ordered by the court. This section does not apply to actions that are ordered by a court, authorized by statute, or otherwise lawful.

(b) A person who violates this section is guilty of a Class F felony and shall pay a minimum fine of five thousand dollars ($5,000). For each subsequent violation, a person is guilty of a Class F felony and shall pay a minimum fine of ten thousand dollars ($10,000).

(c) A minor whose parent, guardian, or custodian has sold or attempted to sell a minor in violation of this Article is an abused juvenile as defined by G.S. 7B-101(1). The court may place the minor in the custody of the Department of Social Services or with such other person as is in the best interest of the minor.

(d) A violation of this section is a lesser included offense of G.S. 14-43.11.

(e) When a person is convicted of a violation of this section, the sentencing court shall consider whether the person is a danger to the community and whether requiring the

person to register as a sex offender pursuant to Article 27A of this Chapter would further the purposes of that Article as stated in G.S. 14-208.5. If the sentencing court rules that the person is a danger to the community and that the person shall register, then an order shall be entered requiring the person to register. (2012-153, s. 1.)

§ 14-43.15. Minor victims.

Any minor victim of a violation of G.S. 14-43.11, 14-43.12, or 14-43.13 shall be alleged to be abused and neglected and the provisions of Subchapter I of Chapter 7B of the General Statues [Statutes] shall apply. (2018-68, s. 8.1(c).)

§ 14-43.16. Affirmative defense.

(a) Affirmative Defense. – It is an affirmative defense to a prosecution under this Article that the person charged with the offense was a victim at the time of the offense and was coerced or deceived into committing the offense as a direct result of the person's status as a victim.

(b) Construction. – Nothing in this section shall be construed to limit or abrogate any other affirmative defense to a prosecution under this Article available to a person by statute or common law. (2018-75, s. 2(a).)

§ 14-43.17. Victim confidentiality; penalty for unlawful disclosure.

(a) Confidentiality Requirement. – Except as otherwise provided in subsection (b) of this section, the name, address, or other information that reasonably could be expected to lead directly to the identity of any of the following, is confidential and shall not be considered a public record as that term is defined in G.S. 132-1:

(1) A victim.
(2) An alleged victim.
(3) An immediate family member of a victim or alleged victim. For purposes of this subdivision, the term "immediate family member" means a spouse, child, sibling, parent, grandparent, grandchild, or the spouse of an immediate family member. This term includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

(b) Exceptions. – Information subject to the confidentiality requirement set forth in subsection (a) of this section may be disclosed only for the following purposes:

(1) For use in a law enforcement investigation or criminal prosecution.
(2) To ensure the provision of medical care, housing, or family services or benefits to any of the persons listed in subdivisions (1) through (3) of subsection (a) of this section.
(3) Upon written request by any of the persons listed in subdivisions (1) through (3) of subsection (a) of this section.
(4) As required by federal law or court order.

(c) Penalty. – A person who knowingly violates subsection (a) of this section is guilty of a Class 3 misdemeanor. (2018-75, s. 3(a).)

§ 14-43.18: Reserved for future codification purposes.

§ 14-43.19: Reserved for future codification purposes.

§ 14-43.20. Mandatory restitution; victim services; forfeiture.

(a) Repealed by Session Laws 2018-75, s. 4(a), effective December 1, 2018.

(b) Restitution. – Restitution for a victim is mandatory under this Article. At a minimum, the court shall order restitution in an amount equal to the value of the victim's labor as guaranteed under the Minimum Wage Law and overtime provisions of the Fair Labor Standards Act (FLSA). In addition, the judge may order any other amount of loss identified, including the gross income or value to the defendant of the victim's labor or services and any costs reasonably certain to be incurred by or on behalf of the victim for medical care, psychological treatment, temporary housing, transportation, funeral services, and any other services designed to assist a victim recover from any injuries or loss resulting from an offense committed under G.S. 14-43.11, 14-43.12, or 14-43.13.

(c) Trafficking Victim Services. – Subject to the availability of funds, the Department of Health and Human Services may provide or fund emergency services and assistance to individuals who are victims of one or more offenses under G.S. 14-43.11, 14-43.12, or 14-43.13.

(d) Certification. – The Attorney General, a district attorney, or any law enforcement official shall certify in writing to the United States Department of Justice or other federal agency, such as the United States Department of Homeland Security, that an investigation or prosecution under this Article for a violation of G.S. 14-43.11, 14-43.12, or 14-43.13 has begun and the individual who is a likely victim of one of those crimes is willing to cooperate or is cooperating with the investigation to enable the individual, if eligible under federal law, to qualify for an appropriate special immigrant visa and to access available federal benefits. Cooperation with law enforcement shall not be required of victims who are under 18 years of age. This certification shall be made available to the victim and the victim's designated legal representative.

(e) Forfeiture. – A person who commits a violation of G.S. 14-43.11, 14-43.12, or 14-43.13 is subject to the property forfeiture provisions set forth in G.S. 14-2.3.

(f) Escheat. – If a judge finds that the victim to whom restitution is due under this Article is unavailable to claim the restitution award, then the judge shall order the restitution be made payable to the clerk of superior court in the county in which the conviction for the offense requiring restitution occurred. If the victim fails to claim the restitution award within two years of the date of the restitution order issued by the judge, the clerk shall remit the restitution proceeds to the Crime Victims Compensation Fund established pursuant to G.S. 15B-23. Notwithstanding any provision of G.S. 15B-23 to the contrary, funds remitted to the Crime Victims Compensation Fund shall be used only to provide aid to victims who are (i) worthy and needy as determined by the Crime Victims Compensation Commission and (ii) enrolled in public institutions of higher education of this State. (2013-368, s. 17; 2018-75, s. 4(a).)

Article 11.

Abortion and Kindred Offenses.

§ 14-44. Using drugs or instruments to destroy unborn child.

If any person shall willfully administer to any woman, either pregnant or quick with child, or prescribe for any such woman, or advise or procure any such woman to take any medicine, drug or other substance whatever, or shall use or employ any instrument or other means with intent thereby to destroy such child, he shall be punished as a Class H felon. (1881, c. 351, s. 1; Code, s. 975; Rev., s. 3618; C.S., s. 4226; 1967, c. 367, s. 1; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c 179, s. 14.)

§ 14-45. Using drugs or instruments to produce miscarriage or injure pregnant woman.

If any person shall administer to any pregnant woman, or prescribe for any such woman, or advise and procure such woman to take any medicine, drug or anything whatsoever, with intent thereby to procure the miscarriage of such woman, or to injure or destroy such woman, or shall use any instrument or application for any of the above purposes, he shall be punished as a Class I felon. (1881, c. 351, s. 2; Code, s. 976; Rev., s. 3619; C.S., s. 4227; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14.)

§ 14-45.1. When abortion not unlawful.

(a) Notwithstanding any of the provisions of G.S. 14-44 and 14-45, it shall not be unlawful, during the first 20 weeks of a woman's pregnancy, to advise, procure, or cause a miscarriage or abortion when the procedure is performed by a qualified physician licensed to practice medicine in North Carolina in a hospital or clinic certified by the Department of Health and Human Services to be a suitable facility for the performance of abortions.

(a1) The Department of Health and Human Services shall annually inspect any clinic, including ambulatory surgical facilities, where abortions are performed. The Department of Health and Human Services shall publish on the Department's Web site and on the State Web site established under G.S. 90-21.84 the results and findings of all inspections conducted on or after January 1, 2013, of clinics, including ambulatory surgical facilities, where abortions are performed, including any statement of deficiencies and any notice of administrative action resulting from the inspection. No person who is less than 18 years of age shall be employed at any clinic, including ambulatory surgical facilities, where abortions are performed. The requirements of this subsection shall not apply to a hospital required to be licensed under Chapter 131E of the General Statutes.

(b) Notwithstanding any of the provisions of G.S. 14-44 and 14-45, it shall not be unlawful, after the twentieth week of a woman's pregnancy, to advise, procure or cause a miscarriage or abortion when the procedure is performed by a qualified physician licensed to practice medicine in North Carolina in a hospital licensed by the Department of Health and Human Services, if there is a medical emergency as defined by G.S. 90-21.81(5).

(b1) A qualified physician who advises, procures, or causes a miscarriage or abortion after the sixteenth week of a woman's pregnancy shall record all of the following: the method used by the qualified physician to determine the probable gestational age of the

unborn child at the time the procedure is to be performed; the results of the methodology, including the measurements of the unborn child; and an ultrasound image of the unborn child that depicts the measurements. The qualified physician shall provide this information, including the ultrasound image, to the Department of Health and Human Services pursuant to G.S. 14-45.1(c).

A qualified physician who procures or causes a miscarriage or abortion after the twentieth week of a woman's pregnancy shall record the findings and analysis on which the qualified physician based the determination that there existed a medical emergency as defined by G.S. 90-21.81(5) and shall provide that information to the Department of Health and Human Services pursuant to G.S. 14-45.1(c). Materials generated by the physician or provided by the physician to the Department of Health and Human Services pursuant to this section shall not be public records under G.S. 132-1.

The information provided under this subsection shall be for statistical purposes only, and the confidentiality of the patient and the physician shall be protected. It is the duty of the qualified physician to submit information to the Department of Health and Human Services that omits identifying information of the patient and complies with Health Insurance Portability and Accountability Act of 1996 (HIPAA).

(c) The Department of Health and Human Services shall prescribe and collect on an annual basis, from hospitals or clinics, including ambulatory surgical facilities, where abortions are performed, statistical summary reports concerning the medical and demographic characteristics of the abortions provided for in this section, including the information described in subsection (b1) of this section as it shall deem to be in the public interest. Hospitals or clinics where abortions are performed shall be responsible for providing these statistical summary reports to the Department of Health and Human Services. The reports shall be for statistical purposes only and the confidentiality of the patient relationship shall be protected. Materials generated by the physician or provided by the physician to the Department of Health and Human Services pursuant to this section shall not be public records under G.S. 132-1.

(d) The requirements of G.S. 130A-114 are not applicable to abortions performed pursuant to this section.

(e) No physician, nurse, or any other health care provider who shall state an objection to abortion on moral, ethical, or religious grounds shall be required to perform or participate in medical procedures which result in an abortion. The refusal of a physician, nurse, or health care provider to perform or participate in these medical procedures shall not be a basis for damages for the refusal, or for any disciplinary or any other recriminatory action against the physician, nurse, or health care provider. For purposes of this section, the phrase "health care provider" shall have the same meaning as defined under G.S. 90-410(1).

(f) Nothing in this section shall require a hospital, other health care institution, or other health care provider to perform an abortion or to provide abortion services.

(g) For purposes of this section, "qualified physician" means (i) a physician who possesses, or is eligible to possess, board certification in obstetrics or gynecology, (ii) a physician who possesses sufficient training based on established medical standards in safe

abortion care, abortion complications, and miscarriage management, or (iii) a physician who performs an abortion in a medical emergency as defined by G.S. 90-21.81(5). (1967, c. 367, s. 2; 1971, c. 383, ss. 1, 11/2; 1973, c. 139; c. 476, s. 128; c. 711; 1997-443, s. 11A.118(a); 2013-366, ss. 1(a), (b); 2015-62, s. 7(a).)

§ 14-46. Concealing birth of child.

If any person shall, by secretly burying or otherwise disposing of the dead body of a newborn child, endeavor to conceal the birth of such child, such person shall be punished as a Class I felon. Any person aiding, counseling or abetting any other person in concealing the birth of a child in violation of this statute shall be guilty of a Class 1 misdemeanor. (21 Jac. I, c. 27; 43 Geo. III, c. 58, s. 3; 9 Geo. IV, c. 31, s. 14; 1818, c. 985, P.R.; R.C., c. 34, s. 28; 1883, c. 390; Code, s. 1004; Rev., s. 3623; C.S., s. 4228; 1977, c. 577; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, ss. 24, 1148; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-46.1. Prohibit sale of the remains of an unborn child resulting from an abortion or miscarriage.

(a) No person shall sell the remains of an unborn child resulting from an abortion or a miscarriage or any aborted or miscarried material.

(b) For purposes of this section, the term "sell" shall mean the transfer from one person to another in exchange for any consideration whatsoever. The term shall not include payment for incineration, burial, cremation, or any services performed pursuant to G.S. 130A-131.10(f).

(c) A person convicted of a violation of this section is guilty of a Class I felony. (2015-265, s. 2.)

Article 12.

Libel and Slander.

§ 14-47. Communicating libelous matter to newspapers.

If any person shall state, deliver or transmit by any means whatever, to the manager, editor, publisher or reporter of any newspaper or periodical for publication therein any false and libelous statement concerning any person or corporation, and thereby secure the publication of the same, he shall be guilty of a Class 2 misdemeanor. (1901, c. 557, ss. 2, 3; Rev., s. 3635; C.S., s. 4229; 1969, c. 1224, s. 1; 1993, c. 539, s. 25; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-48. Repealed by Session Laws 1975, c. 402.

Article 13.

Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material.

§ 14-49. Malicious use of explosive or incendiary; punishment.

(a) Any person who willfully and maliciously injures another by the use of any explosive or incendiary device or material is guilty of a Class D felony.

(b) Any person who willfully and maliciously damages any real or personal property of any kind or nature belonging to another by the use of any explosive or incendiary device or material is guilty of a Class G felony.

(b1) Any person who willfully and maliciously damages, aids, counsels, or procures the damaging of any church, chapel, synagogue, mosque, masjid, or other building of worship by the use of any explosive or incendiary device or material is guilty of a Class E felony.

(b2) Any person who willfully and maliciously damages, aids, counsels, or procures the damaging of the State Capitol, the Legislative Building, the Justice Building, or any building owned or occupied by the State or any of its agencies, institutions, or subdivisions or by any county, incorporated city or town, or other governmental entity by the use of any explosive or incendiary device or material is guilty of a Class E felony.

(c) Repealed by Session Laws 1993, c. 539, s. 1149, effective October 1, 1994. (1923, c. 80, s. 1; C.S., s. 4231(a); 1951, c. 1126, s. 1; 1969, c. 869, s. 6; 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. 1149; 1994, Ex. Sess., c. 24, s. 14(c); 1995 (Reg. Sess., 1996), c. 751, s. 1; 2003-392, s. 3(c).)

§ 14-49.1. Malicious damage of occupied property by use of explosive or incendiary; punishment.

Any person who willfully and maliciously damages any real or personal property of any kind or nature, being at the time occupied by another, by the use of any explosive or incendiary device or material is guilty of a felony punishable as a Class D felony. (1967, c. 342; 1969, c. 869, s. 6; 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. 1150; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-50: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 71(4).

§ 14-50.1. Explosive or incendiary device or material defined.

As used in this Article, "explosive or incendiary device or material" means nitroglycerine, dynamite, gunpowder, other high explosive, incendiary bomb or grenade, other destructive incendiary device, or any other destructive incendiary or explosive device, compound, or formulation; any instrument or substance capable of being used for destructive explosive or incendiary purposes against persons or property, when the circumstances indicate some probability that such instrument or substance will be so used; or any explosive or incendiary part or ingredient in any instrument or substance included above, when the circumstances indicate some probability that such part or ingredient will be so used. (1969, c. 869, s. 6.)

§ 14-50.2. Reserved for future codification purposes.

§ 14-50.3. Reserved for future codification purposes.

§ 14-50.4. Reserved for future codification purposes.

§ 14-50.5. Reserved for future codification purposes.

§ 14-50.6. Reserved for future codification purposes.

§ 14-50.7. Reserved for future codification purposes.

§ 14-50.8. Reserved for future codification purposes.

§ 14-50.9. Reserved for future codification purposes.

§ 14-50.10. Reserved for future codification purposes.

§ 14-50.11. Reserved for future codification purposes.

§ 14-50.12. Reserved for future codification purposes.

§ 14-50.13. Reserved for future codification purposes.

§ 14-50.14. Reserved for future codification purposes.

Article 13A.

North Carolina Criminal Gang Suppression Act.

§ 14-50.15. Short title.

This Article shall be known and may be cited as the "North Carolina Criminal Gang Suppression Act." (2008-214, s. 3; 2017-194, s. 3.)

§ 14-50.16: Repealed by Session Laws 2017-194, s. 1, effective December 1, 2017 and applicable to offenses committed on or after that date.

§ 14-50.16A. Criminal gang activity.

Definitions. – The following definitions apply in this Article:

(1) Criminal gang. – Any ongoing organization, association, or group of three or more persons, whether formal or informal, that (i) has as one of its primary activities the commission of criminal or delinquent acts and (ii) shares a common name, identification, signs, symbols, tattoos, graffiti, attire, or other distinguishing characteristics, including common activities, customs, or behaviors. The term shall not include three or more persons associated in fact, whether formal or informal, who are not engaged in criminal gang activity.

(2) Criminal gang activity. – The commission of, attempted commission of, or solicitation, coercion, or intimidation of another person to commit (i) any offense under Article 5 of Chapter 90 of the General Statutes or (ii) any offense under Chapter 14 of the General Statutes except Article 9, 22A, 40, 46, or 59 thereof, and further excepting G.S. 14-82, 14-145, 14-183, 14-184, 14-186, 14-190.9, 14-247, 14-248, or 14-313 thereof, and either of the following conditions is met:

a. The offense is committed with the intent to benefit, promote, or further the interests of a criminal gang or for the purposes of increasing a person's own standing or position within a criminal gang.
b. The participants in the offense are identified as criminal gang members acting individually or collectively to further any criminal purpose of a criminal gang.

(3) Criminal gang leader or organizer. – Any criminal gang member who acts in any position of management with regard to the criminal gang and who meets two or more of the following criteria:
a. Exercises decision-making authority over matters regarding a criminal gang.
b. Participates in the direction, planning, organizing, or commission of criminal gang activity.
c. Recruits other gang members.
d. Receives a larger portion of the proceeds of criminal gang activity.
e. Exercises control and authority over other criminal gang members.

(4) Criminal gang member. – Any person who meets three or more of the following criteria:
a. The person admits to being a member of a criminal gang.
b. The person is identified as a criminal gang member by a reliable source, including a parent or a guardian.
c. The person has been previously involved in criminal gang activity.
d. The person has adopted symbols, hand signs, or graffiti associated with a criminal gang.
e. The person has adopted the display of colors or the style of dress associated with a criminal gang.
f. The person is in possession of or linked to a criminal gang by physical evidence, including photographs, ledgers, rosters, written or electronic communications, or membership documents.
g. The person has tattoos or markings associated with a criminal gang.
h. The person has adopted language or terminology associated with a criminal gang.
i. The person appears in any form of social media to promote a criminal gang. (2017-194, s. 4.)

§ 14-50.17. Soliciting; encouraging participation.

(a) It is unlawful for any person to cause, encourage, solicit, or coerce a person 16 years of age or older to participate in criminal gang activity.

(b) A violation of this section is a Class H felony. (2008-214, s. 3; 2017-194, s. 7.)

§ 14-50.18. Soliciting; encouraging participation; minor.

(a) It is unlawful for any person to cause, encourage, solicit, or coerce a person under 16 years of age to participate in criminal gang activity.

(b) A violation of this section is a Class F felony.

(c) Nothing in this section shall preclude a person who commits a violation of this section from criminal culpability for the underlying offense committed by the minor under any other provision of law. (2008-214, s. 3; 2017-194, s. 8.)

§ 14-50.19. Intimidation to deter from gang withdrawal.

(a) It is unlawful for any person to communicate a threat of injury to a person, or to damage the property of another, with the intent to deter a person from assisting another to withdraw from membership in a criminal gang.

(a1) It is unlawful for any person to injure a person with the intent to deter a person from assisting another to withdraw from membership in a criminal gang.

(b) A violation of subsection (a) of this section is a Class G felony. A violation of subsection (a1) of this section is a Class F felony. (2008-214, s. 3; 2017-194, s. 9.)

§ 14-50.20. Punishment or retaliation for gang withdrawal.

(a) It is unlawful for any person to communicate a threat of injury to a person, or to damage the property of another, as punishment or retaliation against a person for having withdrawn from a criminal gang.

(a1) It is unlawful for any person to injure a person as punishment or retaliation against a person for having withdrawn from a criminal gang.

(b) A violation of subsection (a) of this section is a Class G felony. A violation of subsection (a1) of this section is a Class F felony. (2008-214, s. 3; 2017-194, s. 10.)

§ 14-50.21. Separate offense.

Any offense committed in violation of G.S. 14-50.16 through G.S. 14-50.20 shall be considered a separate offense. (2008-214, s. 3.)

§ 14-50.22. Enhanced offense for misdemeanor criminal gang activity.

A person age 15 or older who is convicted of a misdemeanor offense that is committed for the benefit of, at the direction of, or in association with, any criminal gang is guilty of an offense that is one class higher than the offense committed. A Class A1 misdemeanor shall be enhanced to a Class I felony under this section. (2008-214, s. 3; 2017-194, s. 11.)

§ 14-50.23. Contraband, seizure, and forfeiture.

(a) All property of every kind used or intended for use in the course of, derived from, or realized through criminal gang activity is subject to the seizure and forfeiture provisions of G.S. 14-2.3.

(b) In any action under this section, the court may enter a restraining order in connection with any interest that is subject to forfeiture.

(c) Innocent Activities. – The provisions of this section shall not apply to property used for criminal gang activity where the owner or person who has legal possession of the property does not have actual knowledge that the property is being used for criminal gang activity. (2008-214, s. 3; 2017-194, s. 12.)

§ 14-50.24: Repealed by Session Laws 2012-28, s. 2, effective October 1, 2012.

§ 14-50.25. Reports of disposition; criminal gang activity.

When a defendant is found guilty of a criminal offense, other than an offense under G.S. 14-50.16 through G.S. 14-50.20, the presiding judge shall determine whether the offense involved criminal gang activity. If the judge so determines, then the judge shall indicate on the form reflecting the judgment that the offense involved criminal gang activity. The clerk of court shall ensure that the official record of the defendant's conviction includes a notation of the court's determination. (2008-214, s. 3; 2017-194, s. 13.)

§ 14-50.26. Matters proved in criminal trial court.

A conviction of an offense defined as criminal gang activity shall preclude the defendant from contesting any factual matters determined in the criminal proceeding in any subsequent civil action or proceeding based on the same conduct. (2008-214, s. 3.)

§ 14-50.27. Local ordinances not preempted by State law.

Nothing in this Article shall prevent a local governing body from adopting and enforcing ordinances relating to gangs and gang violence that are consistent with this Article. Where local laws duplicate or supplement the provisions of this Article, this Article shall be construed as providing alternative remedies and not as preempting the field. (2008-214, s. 3.)

§ 14-50.27A. Dissemination of criminal intelligence information.

A law enforcement agency may disseminate an assessment of criminal intelligence information to the principal of a school when necessary to avoid imminent danger to the life of a student or employee of the school or to the public school property pursuant to 28 C.F.R. § 23.20. The notification may be made in person or by telephone. As used in this subsection, the term "school" means any public or private school in the State under Chapter 115C of the General Statutes. (2009-93, s. 1.)

§ 14-50.28. Applicability to juveniles under the age of 16.

Except as provided in G.S. 14-50.22, 14-50.29, and 14-50.30, the provisions of this Article shall not apply to juveniles under the age of 16. (2008-214, s. 3.)

§ 14-50.29. Conditional discharge for first offenders under the age of 18.

(a) Whenever any person who has not previously been convicted of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state, pleads guilty to or is guilty of (i) a Class H felony under this Article or (ii) an enhanced offense under G.S. 14-50.22, and the offense was committed before the person attained the age of 18 years, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and place the defendant on probation upon such reasonable terms and conditions as the court may require.

(b) If the court, in its discretion, defers proceedings pursuant to this section, it shall place the defendant on supervised probation for not less than one year, in addition to any other conditions. Prior to taking any action to discharge and dismiss under this section, the court shall make a finding that the defendant has no previous criminal convictions. Upon fulfillment of the terms and conditions of the probation provided for in this section, the court shall discharge the defendant and dismiss the proceedings against the defendant.

(c) Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this section may occur only once with respect to any person. Disposition of a case to determine discharge and dismissal under this section at the district court division of the General Court of Justice shall be final for the purpose of appeal. Upon violation of a term or condition of the probation provided for in this section, the court may enter an adjudication of guilt and proceed as otherwise provided.

(d) Upon discharge and dismissal pursuant to this section, the person may apply for an order to expunge the complete record of the proceedings resulting in the dismissal and discharge, pursuant to the procedures and requirements set forth in G.S. 15A-145.1.

(e) The clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150. (2008-214, s. 3; 2009-510, s. 2; 2009-577, s. 4.)

§ 14-50.30. Expunction of records.

Any person who has not previously been convicted of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state, may, if the offense was committed before the person attained the age of 18 years, be eligible to apply for expunction of certain offenses under this Article pursuant to G.S. 15A-145.1. (2008-214, s. 3; 2009-510, s. 3; 2009-577, s. 5; 2010-174, s. 1.)

§ 14-50.31: Reserved for future codification purposes.

§ 14-50.32: Reserved for future codification purposes.

§ 14-50.33: Reserved for future codification purposes.

§ 14-50.34: Reserved for future codification purposes.

§ 14-50.35: Reserved for future codification purposes.

§ 14-50.36: Reserved for future codification purposes.

§ 14-50.37: Reserved for future codification purposes.

§ 14-50.38: Reserved for future codification purposes.

§ 14-50.39: Reserved for future codification purposes.

§ 14-50.40: Reserved for future codification purposes.

Article 13B.

North Carolina Criminal Gang Nuisance Abatement Act.

§ 14-50.41. Short title.

This Article shall be known and may be cited as the "North Carolina Street Gang Nuisance Abatement Act [North Carolina Criminal Gang Nuisance Abatement Act]." (2012-28, s. 1.)

§ 14-50.42. Real property used by criminal gangs declared a public nuisance: abatement.

(a) Public Nuisance. – Any real property that is erected, established, maintained, owned, leased, or used by any criminal gang for the purpose of conducting criminal gang activity, as defined in G.S. 14-50.16A(2), shall constitute a public nuisance and may be abated as provided by and subject to the provisions of Article 1 of Chapter 19 of the General Statutes.

Proof that criminal gang activity by a criminal gang member is regularly committed at any real property or proof that the real property is regularly used for engaging in criminal gang activity by a criminal gang member is prima facie evidence that the owner or person who has legal possession of the real property knowingly permitted the act unless the owner or person who has legal possession of the real property is making or has made a good-faith attempt to terminate the criminal gang activity or remove criminal gang members from the property through legal means, including trespass or summary ejectment. For purposes of this section, the term "regularly" means at least five times in a period of not more than 12 months.

(b) Innocent Activities. – The provisions of this section shall not apply to real property used for criminal gang activity where any of the following conditions are met:

(1) The owner or person who has legal possession of the real property does not have actual knowledge that the real property is being used for criminal gang activity.

(2) The owner or person who has legal possession of the real property is being coerced into allowing the property to be used for criminal gang activity.

(3) The owner or person who has legal possession of the real property is making or has made a good-faith attempt to terminate the criminal gang activity or remove criminal gang members from the property through legal means, including trespass or summary ejectment.

For purposes of this subsection, evidence that the defendant knew, or by the exercise of due diligence should have known, of the criminal gang activity constitutes proof of actual knowledge. (2008-214, s. 3; 2012-28, ss. 1, 2; 2017-194, s. 15.)

§ 14-50.43. Criminal gangs declared a public nuisance.

(a) A criminal gang, as defined in G.S. 14-50.16A(a), that regularly engages in criminal gang activity, as defined in G.S. 14-50.16A(2), constitutes a public nuisance. For the purposes of this section, the term "regularly" means at least five times in a period of not more than 12 months.

(b) Any person who regularly associates with others to engage in criminal gang activity, as defined in G.S. 14-50.16A(2), may be made a defendant in a suit, brought pursuant to Chapter 19 of the General Statutes, to abate any public nuisance resulting from criminal gang activity.

(c) If the court finds that a public nuisance exists under this section, the court may enter an order enjoining the defendant in the suit from engaging in criminal gang activities and impose other reasonable requirements to prevent the defendant or a gang from engaging in future criminal gang activities.

(d) An order entered under this section shall expire three years after entry unless extended by the court for good cause established by the plaintiff after a hearing. The order may be modified, rescinded, or vacated at any time prior to its expiration date upon the motion of any party if it appears to the court that one or more of the defendants is no longer engaging in criminal gang activities. (2012-28, s. 1; 2015-91, s. 4; 2017-194, s. 16.)

SUBCHAPTER IV. OFFENSES AGAINST THE HABITATION AND OTHER BUILDINGS.

Article 14.

Burglary and Other Housebreakings.

§ 14-51. First and second degree burglary.

There shall be two degrees in the crime of burglary as defined at the common law. If the crime be committed in a dwelling house, or in a room used as a sleeping apartment in any building, and any person is in the actual occupation of any part of said dwelling house or sleeping apartment at the time of the commission of such crime, it shall be burglary in the first degree. If such crime be committed in a dwelling house or sleeping apartment not actually occupied by anyone at the time of the commission of the crime, or if it be committed in any house within the curtilage of a dwelling house or in any building not a dwelling house, but in which is a room used as a sleeping apartment and not actually occupied as such at the time of the commission of the crime, it shall be burglary in the second degree. For the purposes of defining the crime of burglary, larceny shall be deemed a felony without regard to the value of the property in question. (1889, c. 434, s. 1; Rev., s. 3331; C.S., s. 4232; 1969, c. 543, s. 1.)

§ 14-51.1: Repealed by Session Laws 2011-268, s. 2, effective December 1, 2011.

§ 14-51.2. Home, workplace, and motor vehicle protection; presumption of fear of death or serious bodily harm.

(a) The following definitions apply in this section:

(1) Home. – A building or conveyance of any kind, to include its curtilage, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed as a temporary or permanent residence.

(2) Law enforcement officer. – Any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer, correctional officer, probation officer, post-release supervision officer, or parole officer.

(3) Motor vehicle. – As defined in G.S. 20-4.01(23).

(4) Workplace. – A building or conveyance of any kind, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, which is being used for commercial purposes.

(b) The lawful occupant of a home, motor vehicle, or workplace is presumed to have held a reasonable fear of imminent death or serious bodily harm to himself or herself or another when using defensive force that is intended or likely to cause death or serious bodily harm to another if both of the following apply:

(1) The person against whom the defensive force was used was in the process of unlawfully and forcefully entering, or had unlawfully and forcibly entered, a home, motor vehicle, or workplace, or if that person had removed or was attempting to remove another against that person's will from the home, motor vehicle, or workplace.

(2) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.

(c) The presumption set forth in subsection (b) of this section shall be rebuttable and does not apply in any of the following circumstances:

(1) The person against whom the defensive force is used has the right to be in or is a lawful resident of the home, motor vehicle, or workplace, such as an owner or lessee, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person.

(2) The person sought to be removed from the home, motor vehicle, or workplace is a child or grandchild or is otherwise in the lawful custody or under the lawful guardianship of the person against whom the defensive force is used.

(3) The person who uses defensive force is engaged in, attempting to escape from, or using the home, motor vehicle, or workplace to further any criminal offense that involves the use or threat of physical force or violence against any individual.

(4) The person against whom the defensive force is used is a law enforcement officer or bail bondsman who enters or attempts to enter a home, motor vehicle, or workplace in the lawful performance of his or her official duties, and the officer or bail bondsman identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person entering or attempting to enter was a law enforcement officer or bail bondsman in the lawful performance of his or her official duties.

(5) The person against whom the defensive force is used (i) has discontinued all efforts to unlawfully and forcefully enter the home, motor vehicle, or workplace and (ii) has exited the home, motor vehicle, or workplace.

(d) A person who unlawfully and by force enters or attempts to enter a person's home, motor vehicle, or workplace is presumed to be doing so with the intent to commit an unlawful act involving force or violence.

(e) A person who uses force as permitted by this section is justified in using such force and is immune from civil or criminal liability for the use of such force, unless the person against whom force was used is a law enforcement officer or bail bondsman who was lawfully acting in the performance of his or her official duties and the officer or bail bondsman identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer or bail bondsman in the lawful performance of his or her official duties.

(f) A lawful occupant within his or her home, motor vehicle, or workplace does not have a duty to retreat from an intruder in the circumstances described in this section.

(g) This section is not intended to repeal or limit any other defense that may exist under the common law. (2011-268, s. 1.)

§ 14-51.3. Use of force in defense of person; relief from criminal or civil liability.

(a) A person is justified in using force, except deadly force, against another when and to the extent that the person reasonably believes that the conduct is necessary to defend himself or herself or another against the other's imminent use of unlawful force. However, a person is justified in the use of deadly force and does not have a duty to retreat in any place he or she has the lawful right to be if either of the following applies:

(1) He or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself or another.

(2) Under the circumstances permitted pursuant to G.S. 14-51.2.

(b) A person who uses force as permitted by this section is justified in using such force and is immune from civil or criminal liability for the use of such force, unless the person against whom force was used is a law enforcement officer or bail bondsman who was lawfully acting in the performance of his or her official duties and the officer or bail bondsman identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer or bail bondsman in the lawful performance of his or her official duties. (2011-268, s. 1.)

§ 14-51.4. Justification for defensive force not available.

The justification described in G.S. 14-51.2 and G.S. 14-51.3 is not available to a person who used defensive force and who:

(1) Was attempting to commit, committing, or escaping after the commission of a felony.

(2) Initially provokes the use of force against himself or herself. However, the person who initially provokes the use of force against himself or herself will be justified in using defensive force if either of the following occur:

a. The force used by the person who was provoked is so serious that the person using defensive force reasonably believes that he or she was in imminent danger of death or serious bodily harm, the person using defensive force had no reasonable means to retreat, and the use of force which is likely to cause death or serious bodily harm to the person who was provoked was the only way to escape the danger.

b. The person who used defensive force withdraws, in good faith, from physical contact with the person who was provoked, and indicates clearly that he or she desires to withdraw and terminate the use of force, but the person who was provoked continues or resumes the use of force. (2011-268, s. 1.)

§ 14-52. Punishment for burglary.

Burglary in the first degree shall be punishable as a Class D felony, and burglary in the second degree shall be punishable as a Class G felony. (1870-1, c. 222; Code, s. 994; 1889, c. 434, s. 2; Rev., s. 3330; C.S., s. 4233; 1941, c. 215, s. 1; 1949, c. 299, s. 2; 1973, c. 1201, s. 3; 1977, c. 871, s. 2; 1979, c. 672; 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. 1151; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-53. Breaking out of dwelling house burglary.

If any person shall enter the dwelling house of another with intent to commit any felony or larceny therein, or being in such dwelling house, shall commit any felony or larceny therein, and shall, in either case, break out of such dwelling house in the nighttime, such person shall be punished as a Class D felon. (12 Anne, c. 7, s. 3; R.C., c. 34, s. 8; Code, s. 995; Rev., s. 3332; C.S., s. 4234; 1969, c. 543, s. 2; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14.)

§ 14-54. Breaking or entering buildings generally.

(a) Any person who breaks or enters any building with intent to commit any felony or larceny therein shall be punished as a Class H felon.

(a1) Any person who breaks or enters any building with intent to terrorize or injure an occupant of the building is guilty of a Class H felony.

(b) Any person who wrongfully breaks or enters any building is guilty of a Class 1 misdemeanor.

(c) As used in this section, "building" shall be construed to include any dwelling, dwelling house, uninhabited house, building under construction, building within the curtilage of a dwelling house, and any other structure designed to house or secure within it any activity or property. (1874-5, c. 166; 1879, c. 323; Code, s. 996; Rev., s. 3333; C.S., s. 4235; 1955, c. 1015; 1969, c. 543, s. 3; 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. 26; 1994, Ex. Sess., c. 24, s. 14(c); 2013-95, s. 1.)

§ 14-54.1. Breaking or entering a building that is a place of religious worship.

(a) Any person who wrongfully breaks or enters any building that is a place of religious worship with intent to commit any felony or larceny therein is guilty of a Class G felony.

(b) As used in this section, a "building that is a place of religious worship" shall be construed to include any church, chapel, meetinghouse, synagogue, temple, longhouse, or mosque, or other building that is regularly used, and clearly identifiable, as a place for religious worship. (2005-235, s. 1.)

§ 14-55. Preparation to commit burglary or other housebreakings.

If any person shall be found armed with any dangerous or offensive weapon, with the intent to break or enter a dwelling, or other building whatsoever, and to commit any felony or larceny therein; or shall be found having in his possession, without lawful excuse, any picklock, key, bit, or other implement of housebreaking; or shall be found in any such building, with intent to commit any felony or larceny therein, such person shall be punished as a Class I felon. (Code, s. 997; Rev., s. 3334; 1907, c. 822; C.S., s. 4236; 1969, c. 543, s. 4; 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. 1152; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-56. Breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft.

(a) If any person, with intent to commit any felony or larceny therein, breaks or enters any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind, containing any goods, wares, freight, or other thing of value, or, after having committed any felony or larceny therein, breaks out of any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind containing any goods, wares, freight, or other thing of value, that person is guilty of a Class I felony. It is prima facie evidence that a person entered in violation of this section if he is found unlawfully in such a railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft.

(b) It shall not be a violation of this section for any person to break or enter any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind to provide assistance to a person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind if one or more of the following circumstances exist:

(1) The person acts in good faith to access the person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind in order to provide first aid or emergency health care treatment or because the person inside is, or is in imminent danger of becoming unconscious, ill, or injured.

(2) It is reasonably apparent that the circumstances require prompt decisions and actions in medical, other health care, or other assistance for the person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind.

(3) The necessity of immediate health care treatment or removal of the person from the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is so reasonably apparent that any delay in the rendering of treatment or removal would seriously worsen the physical condition or endanger the life of the person. (1907, c. 468; C.S., s. 4237; 1969, c. 543, s. 5; 1979, c. 437; c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 10; 1981, c. 63, s. 1; c. 179, s. 14; 2015-286, s. 3.3(a).)

§ 14-56.1. Breaking into or forcibly opening coin-or currency-operated machines.

Any person who forcibly breaks into, or by the unauthorized use of a key or other instrument opens, any coin-or currency-operated machine with intent to steal any property or moneys therein shall be guilty of a Class 1 misdemeanor, but if such person has previously been convicted of violating this section, such person shall be punished as a Class I felon. The term "coin-or currency-operated machine" shall mean any coin-or currency-operated vending machine, pay telephone, telephone coin or currency receptacle, or other coin-or currency-activated machine or device.

There shall be posted on the machines referred to in G.S. 14-56.1 a decal stating that it is a crime to break into vending machines, and that a second offense is a felony. The absence of such a decal is not a defense to a prosecution for the crime described in this section. (1963, c. 814, s. 1; 1977, c. 723, ss. 1, 3; 1979, c. 760, s. 5; c. 767, s. 1; 1993, c. 539, ss. 27, 1153; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-56.2. Damaging or destroying coin-or currency-operated machines.

Any person who shall willfully and maliciously damage or destroy any coin-or currency-operated machine shall be guilty of a Class 1 misdemeanor. The term "coin-or currency-operated machine" shall be defined as set out in G.S. 14-56.1. (1963, c. 814, s. 2; 1977, c. 723, s. 2; 1993, c. 539, s. 28; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-56.3. Breaking into paper currency machines.

Any person, who with intent to steal any moneys therein forcibly breaks into any vending or dispensing machine or device which is operated or activated by the use, deposit or insertion of United States paper currency, shall be guilty of a Class 1 misdemeanor, but if such person has previously been convicted of violating this section, such person shall be punished as a Class I felon.

There shall be posted on the machines referred to in this section a decal stating that it is a crime to break into paper currency machines. The absence of such a decal is not a defense to a prosecution for the crime described in this section. (1977, c. 853, ss. 1, 2; 1979, c. 760, s. 5; c. 767, s. 2; 1993, c. 539, ss. 29, 1154; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-56.4. Preparation to commit breaking or entering into motor vehicles.

(a) For purposes of this section:

(1) "Manipulative key" means a key, device or instrument, other than a key that is designed to operate a specific lock, that can be variably positioned and manipulated in a vehicle keyway to operate a lock or cylinder or multiple locks or cylinders, including a wiggle key, jiggle key, or rocket key.

(2) "Master key" means a key that operates all the keyed locks or cylinders in a similar type or group of locks.

(b) It is unlawful for any person to possess any motor vehicle master key, manipulative key, or other motor vehicle lock-picking device or hot wiring device, with the intent to commit any felony, larceny, or unauthorized use of a motor propelled conveyance.

(c) It is unlawful for a person to willfully buy, sell, or transfer a motor vehicle master key, manipulative key or device, key-cutting device, lock pick or lock-picking device, or hot wiring device, designed to open or capable of opening the door or trunk of any motor vehicle or of starting the engine of a motor vehicle for use in any manner prohibited by this section.

(d) Violation of this section is a Class 1 misdemeanor. A second or subsequent violation of this section is a Class I felony.

(e) This section shall not apply to any person who is a dealer of new or used motor vehicles, a car rental agent, a locksmith, an employee of a towing service, an employee of an automotive repair business, a person who is lawfully repossessing a vehicle, or a state, county, or municipal law enforcement officer, when that person is acting within the scope of the person's official duties or employment. This section shall not apply to a business which has a key-cutting device located and used on the premises for the purpose of making replacement keys for the owner or person who is in lawful custody of a vehicle. (2005-352, s. 1.)

§ 14-57. Burglary with explosives.

Any person who, with intent to commit any felony or larceny therein, breaks and enters, either by day or by night, any building, whether inhabited or not, and opens or attempts to open any vault, safe, or other secure place by use of nitroglycerine, dynamite, gunpowder, or any other explosive, or acetylene torch, shall be deemed guilty of burglary with explosives. Any person convicted under this section shall be punished as a Class D felon. (1921, c. 5; C.S., s. 4237(a); 1969, c. 543, s. 6; 1979, c. 760, s. 5; 1993, c. 539, s. 1155; 1994, Ex. Sess., c. 24, s. 14(c).)

Article 15.

Arson and Other Burnings.

§ 14-58. Punishment for arson.

There shall be two degrees of arson as defined at the common law. If the dwelling burned was occupied at the time of the burning, the offense is arson in the first degree and is punishable as a Class D felony. If the dwelling burned was unoccupied at the time of the burning, the offense is arson in the second degree and is punishable as a Class G felony. (R.C., c. 34, s. 2; 1870-1, c. 222; Code, s. 985; Rev., s. 3335; C.S., s. 4238; 1941, c. 215, s. 2; 1949, c. 299, s. 3; 1973, c. 1201, s. 4; 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. 1156; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-58.1. Definition of "house" and "building."

As used in this Article, the terms "house" and "building" shall be defined to include mobile and manufactured-type housing and recreational trailers. (1973, c. 1374.)

§ 14-58.2. Burning of mobile home, manufactured-type house or recreational trailer home.

If any person shall willfully and maliciously burn any mobile home or manufactured-type house or recreational trailer home which is the dwelling house of another and which is occupied at the time of the burning, the same shall constitute the crime of arson in the first degree. (1973, c. 1374; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14.)

§ 14-59. Burning of certain public buildings.

If any person shall wantonly and willfully set fire to or burn or cause to be burned or aid, counsel or procure the burning of, the State Capitol, the Legislative Building, the Justice Building or any building owned or occupied by the State or any of its agencies, institutions or subdivisions or by any county, incorporated city or town or other governmental or quasi-governmental entity, he shall be punished as a Class F felon. (1830, c. 41, s. 1; R.C., c. 34, s. 7; 1868-9, c. 167, s. 5; Code, s. 985, subsec. 3; Rev., s. 3344; C.S., s. 4239; 1965, c. 14; 1971, c. 816, s. 1; 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. 1157; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-60. Burning of schoolhouses or buildings of educational institutions.

If any person shall wantonly and willfully set fire to or burn or cause to be burned or aid, counsel or procure the burning of, any schoolhouse or building owned, leased or used by any public or private school, college or educational institution, he shall be punished as a Class F felon. (1901, c. 4, s. 28; Rev., s. 3345; 1919, c. 70; C.S., s. 4240; 1965, c. 870; 1971, c. 816, s. 2; 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. 1158; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-61. Burning of certain bridges and buildings.

If any person shall wantonly and willfully set fire to or burn or cause to be burned, or aid, counsel or procure the burning of, any public bridge, or private toll bridge, or the bridge of any incorporated company, or any fire-engine house or rescue-squad building, or any house belonging to an incorporated company or unincorporated association and used in the business of such company or association, he shall be punished as a Class F felon. (1825, c. 1278, P.R.; R.C., c. 34, s. 30; Code, s. 985, subsec. 4; Rev., s. 3337; C.S., s. 4241; 1971, c. 816, s. 3; 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. 1159; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-62. Burning of certain buildings.

If any person shall wantonly and willfully set fire to or burn or cause to be burned, or aid, counsel or procure the burning of, any uninhabited house, or any stable, coach house, outhouse, warehouse, office, shop, mill, barn or granary, or any building, structure or erection used or intended to be used in carrying on any trade or manufacture, or any branch thereof, whether the same or any of them respectively shall then be in the possession of the offender, or in the possession of any other person, he shall be punished as a Class F felon. (1874-5, c. 228; Code, s. 985, subsec. 6; 1885, c. 66; 1903, c. 665, s. 2; Rev., s. 3338; C.S., s. 4242; 1927, c. 11, s. 1; 1953, c. 815; 1959, c. 1298, s. 1; 1971, c. 816, s. 4; 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. 1160; 1994, Ex. Sess., c. 24, s. 14(c); 1995 (Reg. Sess., 1996), c. 751, s. 2.)

§ 14-62.1. Burning of building or structure in process of construction.

If any person shall wantonly and willfully set fire to or burn or cause to be burned, or aid, counsel or procure the burning of, any building or structure in the process of construction for use or intended to be used as a dwelling house or in carrying on any trade or manufacture, or otherwise, whether the same or any of them respectively shall then be in the possession of the offender, or in the possession of any other person, he shall be punished as a Class H felon. (1957, c. 792; 1971, c. 816, s. 5; 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. 1161; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-62.2. Burning of churches and certain other religious buildings.

If any person shall wantonly and willfully set fire to or burn or cause to be burned, or aid, counsel or procure the burning of any church, chapel, or meetinghouse, the person shall be punished as a Class E felon. (1995 (Reg. Sess., 1996), c. 751, s. 3.)

§ 14-63. Burning of boats and barges.

If any person shall wantonly and willfully set fire to or burn or cause to be burned or aid, counsel or procure the burning of, any boat, barge, ferry or float, without the consent of the owner thereof, he shall be punished as a Class H felon. In the event the consent of the owner is given for an unlawful or fraudulent purpose, however, the penalty provisions of this section shall remain in full force and effect. (1909, c. 854; C.S., s. 4243; 1971, c. 816, s. 6; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14.)

§ 14-64. Burning of ginhouses and tobacco houses.

If any person shall wantonly and willfully set fire to or burn or cause to be burned, or aid, counsel or procure the burning of, any ginhouse or tobacco house, or any part thereof, he shall be punished as a Class H felon. (1863, c. 17; 1868-9, c. 167, s. 5; Code, s. 985, subsec. 2; 1903, c. 665, s. 1; Rev., s. 3341; C.S., s. 4244; 1971, c. 816, s. 7; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14.)

§ 14-65. Fraudulently setting fire to dwelling houses.

If any person, being the occupant of any building used as a dwelling house, whether such person be the owner thereof or not, or, being the owner of any building designed or intended as a dwelling house, shall wantonly and willfully or for a fraudulent purpose set fire to or burn or cause to be burned, or aid, counsel or procure the burning of such building, he shall be punished as a Class H felon. (Code, s. 985; 1903, c. 665, s. 3; Rev., s. 3340; 1909, c. 862; C.S., s. 4245; 1927, c. 11, s. 2; 1971, c. 816, s. 8; 1979, c. 760, s. 5; 1979 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14.)

§ 14-66. Burning of personal property.

If any person shall wantonly and willfully set fire to or burn, or cause to be burned, or aid, counsel or procure the burning of, any goods, wares, merchandise or other chattels or personal property of any kind, whether or not the same shall at the time be insured by any person or corporation against loss or damage by fire, with intent to injure or prejudice the insurer, the creditor

or the person owning the property, or any other person, whether the property is that of such person or another, he shall be punished as a Class H felon. (1921, c. 119; C.S., s. 4245(a); 1971, c. 816, s. 9; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14.)

§ 14-67: Repealed by Session Laws 1993, c. 539, s. 1358.2.

§ 14-67.1. Burning other buildings.

If any person shall wantonly and willfully set fire to or burn or cause to be burned or aid, counsel or procure the burning of any building or other structure of any type not otherwise covered by the provisions of this Article, he shall be punished as a Class H felon. (1971, c. 816, s. 11; 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. 1192.1; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-67.2. Burning caused during commission of another felony.

(a) If any person, during the commission of a felony, knowingly damages any dwelling, structure, building, or conveyance referenced in this Article by means of fire or explosive that results in damages valued at ten thousand dollars ($10,000) or more, the person shall be punished as a Class D felon unless the person's conduct is covered under some other provision of law providing greater punishment.

(b) If any person, during the commission of a felony, knowingly causes, aids, abets, advises, encourages, hires, counsels, or procures another person to damage any dwelling, structure, building, or conveyance referenced in this Article by means of fire or explosive that results in damages valued at ten thousand dollars ($10,000) or more, the person shall be punished as a Class D felon unless the person's conduct is covered under some other provision of law providing greater punishment. (2018-31, s. 1.)

§ 14-68. Failure of owner of property to comply with orders of public authorities.

If the owner or occupant of any building or premises shall fail to comply with the duly authorized orders of the chief of the fire department, or of the Commissioner of Insurance, or of any municipal or county inspector of buildings or of particular features, facilities, or installations of buildings, he shall be guilty of a Class 3 misdemeanor, and punished only by a fine of not less than ten ($10.00) nor more than fifty dollars ($50.00) for each day's neglect, failure, or refusal to obey such orders. (1899, c. 58, s. 4; Rev., s. 3343; C.S., s. 4247; 1969, c. 1063, s. 1; 1993, c. 539, s. 30; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-69. Failure of officers to investigate incendiary fires.

If any town or city officer shall fail, neglect or refuse to comply with any of the requirements of the law in regard to the investigation of incendiary fires, he shall be guilty of a Class 3 misdemeanor and shall only be punished by a fine not less than twenty-five ($25.00) nor more than two hundred dollars ($200.00). (1899, c. 58, s. 5; Rev., s. 3342; C.S., s. 4248; 1993, c. 539, s. 31; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-69.1. Making a false report concerning destructive device.

(a) Except as provided in subsection (c) of this section, any person who, by any means of communication to any person or group of persons, makes a report, knowing or having reason to

know the report is false, that there is located in or in sufficient proximity to cause damage to any building, house or other structure whatsoever or any vehicle, aircraft, vessel or boat any device designed to destroy or damage the building, house or structure or vehicle, aircraft, vessel or boat by explosion, blasting or burning, is guilty of a Class H felony.

(b) Repealed by S.L. 1997-443, s. 19.25(cc).

(c) Any person who, by any means of communication to any person or groups of persons, makes a report, knowing or having reason to know the report is false, that there is located in or in sufficient proximity to cause damage to any public building any device designed to destroy or damage the public building by explosion, blasting, or burning, is guilty of a Class H felony. Any person who receives a second conviction for a violation of this subsection within five years of the first conviction for violation of this subsection is guilty of a Class G felony. For purposes of this subsection, "public building" means educational property as defined in G.S. 14-269.2(a)(1), a hospital as defined in G.S. 131E-76(3), a building housing only State, federal, or local government offices, or the offices of State, federal, or local government located in a building that is not exclusively occupied by the State, federal, or local government.

(d) The court may order a person convicted under this section to pay restitution, including costs and consequential damages resulting from the disruption of the normal activity that would have otherwise occurred on the premises but for the false report, pursuant to Article 81C of Chapter 15A of the General Statutes.

(e) For purposes of this section, the term "report" shall include making accessible to another person by computer. (1959, c. 555, s. 1; 1991, c. 648, s. 1; 1993, c. 539, ss. 32, 116; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(cc); 1999-257, s. 1; 2005-311, s. 1.)

§ 14-69.2. Perpetrating hoax by use of false bomb or other device.

(a) Except as provided in subsection (c) of this section, any person who, with intent to perpetrate a hoax, conceals, places, or displays any device, machine, instrument or artifact, so as to cause any person reasonably to believe the same to be a bomb or other device capable of causing injury to persons or property is guilty of a Class H felony.

(b) Repealed by S.L. 1997-443, s. 19.25(dd).

(c) Any person who, with intent to perpetrate a hoax, conceals, places, or displays in or at a public building any device, machine, instrument, or artifact, so as to cause any person reasonably to believe the same to be a bomb or other device capable of causing injury to persons or property is guilty of a Class H felony. Any person who receives a second conviction for a violation of this subsection within five years of the first conviction for violation of this subsection is guilty of a Class G felony. For purposes of this subsection "public building" means educational property as defined in G.S. 14-269.2(a)(1), a hospital as defined in G.S. 131E-76(3), a building housing only State, federal, or local government offices, or the offices of State, federal, or local government located in a building that is not exclusively occupied by the State, federal, or local government.

(d) The court may order a person convicted under this section to pay restitution, including costs and consequential damages resulting from the disruption of the normal activity that would have otherwise occurred on the premises but for the hoax, pursuant to Article 81C of Chapter 15A of the General Statutes. (1959, c. 555, s. 1; 1991, c. 648, s. 2; 1993, c. 539, s. 33; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(dd); 1999-257, s. 2.)

§ 14-69.3. Arson or other unlawful burning that results in serious bodily injury to a firefighter, law enforcement officer, fire investigator, or emergency medical technician.

(a) The following definitions apply in this section:

(1) Emergency medical technician. – The term includes an emergency medical technician, an emergency medical technician-intermediate, and an emergency medical technician-paramedic, as those terms are defined in G.S. 131E-155.

(2) Fire investigator. – The term includes any person who, individually or as part of an investigative team, has the responsibility and authority to determine the origin, cause, or development of a fire or explosion.

(b) A person is guilty of a Class E felony if the person commits a felony under Article 15 of Chapter 14 of the General Statutes and a firefighter, law enforcement officer, fire investigator, or emergency medical technician suffers serious bodily injury while discharging or attempting to discharge official duties on the property, or proximate to the property, that is the subject of the firefighter's, law enforcement officer's, fire investigator's, or emergency medical technician's discharge or attempt to discharge his or her respective duties. (2003-392, s. 3(a); 2018-31, s. 2.)

SUBCHAPTER V. OFFENSES AGAINST PROPERTY.

Article 16.

Larceny.

§ 14-70. Distinctions between grand and petit larceny abolished; punishment; accessories to larceny.

All distinctions between petit and grand larceny are abolished. Unless otherwise provided by statute, larceny is a Class H felony and is subject to the same rules of criminal procedure and principles of law as to accessories before and after the fact as other felonies. (R.C., c. 34, s. 26; Code, s. 1075; Rev., s. 3500; C.S., s. 4249; 1969, c. 522, s. 1; 1993, c. 539, s. 1163; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-71. Receiving stolen goods; receiving or possessing goods represented as stolen.

(a) If any person shall receive any chattel, property, money, valuable security or other thing whatsoever, the stealing or taking whereof amounts to larceny or a felony, either at common law or by virtue of any statute made or hereafter to be made, such person knowing or having reasonable grounds to believe the same to have been feloniously stolen or taken, he shall be guilty of a Class H felony, and may be indicted and convicted, whether the felon stealing and taking such chattels, property, money, valuable security or other thing, shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and any such receiver may be dealt with, indicted, tried and punished in any county in which he shall have, or shall have had, any such property in his possession or in any county in which the thief may be tried, in the same manner as such receiver may be dealt with, indicted, tried and punished in the county where he actually

received such chattel, money, security, or other thing; and such receiver shall be punished as one convicted of larceny.

(b) If a person knowingly receives or possesses property in the custody of a law enforcement agency that was explicitly represented to the person by an agent of the law enforcement agency or a person authorized to act on behalf of a law enforcement agency as stolen, the person is guilty of a Class H felony and may be indicted, tried, and punished in any county in which the person received or possessed the property. (1797, c. 485, s. 2; R.C., c. 34, s. 56; Code, s. 1074; Rev., s. 3507; C.S., s. 4250; 1949, c. 145, s. 1; 1975, c. 163, s. 1; 1993, c. 539, s. 1164; 1994, Ex. Sess., c. 24, s. 14(c); 2007-373, s. 1; 2008-187, s. 34(a).)

§ 14-71.1. Possessing stolen goods.

If any person shall possess any chattel, property, money, valuable security or other thing whatsoever, the stealing or taking whereof amounts to larceny or a felony, either at common law or by virtue of any statute made or hereafter to be made, such person knowing or having reasonable grounds to believe the same to have been feloniously stolen or taken, he shall be guilty of a Class H felony, and may be indicted and convicted, whether the felon stealing and taking such chattels, property, money, valuable security or other thing shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and any such possessor may be dealt with, indicted, tried and punished in any county in which he shall have, or shall have had, any such property in his possession or in any county in which the thief may be tried, in the same manner as such possessor may be dealt with, indicted, tried and punished in the county where he actually possessed such chattel, money, security, or other thing; and such possessor shall be punished as one convicted of larceny. (1977, c. 978, s. 1; 1993, c. 539, s. 1165; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-72. Larceny of property; receiving stolen goods or possessing stolen goods.

(a) Larceny of goods of the value of more than one thousand dollars ($1,000) is a Class H felony. The receiving or possessing of stolen goods of the value of more than one thousand dollars ($1,000) while knowing or having reasonable grounds to believe that the goods are stolen is a Class H felony. Larceny as provided in subsection (b) of this section is a Class H felony. Receiving or possession of stolen goods as provided in subsection (c) of this section is a Class H felony. Except as provided in subsections (b) and (c) of this section, larceny of property, or the receiving or possession of stolen goods knowing or having reasonable grounds to believe them to be stolen, where the value of the property or goods is not more than one thousand dollars ($1,000), is a Class 1 misdemeanor. In all cases of doubt, the jury shall, in the verdict, fix the value of the property stolen.

(b) The crime of larceny is a felony, without regard to the value of the property in question, if the larceny is any of the following:

(1) From the person.

(2) Committed pursuant to a violation of G.S. 14-51, 14-53, 14-54, 14-54.1, or 14-57.

(3) Of any explosive or incendiary device or substance. As used in this section, the phrase "explosive or incendiary device or substance" shall include any explosive or incendiary grenade or bomb; any dynamite, blasting powder, nitroglycerin, TNT, or other high explosive; or any device, ingredient for such device, or type or quantity of substance

primarily useful for large-scale destruction of property by explosive or incendiary action or lethal injury to persons by explosive or incendiary action. This definition shall not include fireworks; or any form, type, or quantity of gasoline, butane gas, natural gas, or any other substance having explosive or incendiary properties but serving a legitimate nondestructive or nonlethal use in the form, type, or quantity stolen.

(4) Of any firearm. As used in this section, the term "firearm" shall include any instrument used in the propulsion of a shot, shell or bullet by the action of gunpowder or any other explosive substance within it. A "firearm," which at the time of theft is not capable of being fired, shall be included within this definition if it can be made to work. This definition shall not include air rifles or air pistols.

(5) Of any record or paper in the custody of the North Carolina State Archives as defined by G.S. 121-2(7) and G.S. 121-2(8).

(6) Committed after the defendant has been convicted in this State or in another jurisdiction for any offense of larceny under this section, or any offense deemed or punishable as larceny under this section, or of any substantially similar offense in any other jurisdiction, regardless of whether the prior convictions were misdemeanors, felonies, or a combination thereof, at least four times. A conviction shall not be included in the four prior convictions required under this subdivision unless the defendant was represented by counsel or waived counsel at first appearance or otherwise prior to trial or plea. If a person is convicted of more than one offense of misdemeanor larceny in a single session of district court, or in a single week of superior court or of a court in another jurisdiction, only one of the convictions may be used as a prior conviction under this subdivision; except that convictions based upon offenses which occurred in separate counties shall each count as a separate prior conviction under this subdivision.

(c) The crime of possessing stolen goods knowing or having reasonable grounds to believe them to be stolen in the circumstances described in subsection (b) is a felony or the crime of receiving stolen goods knowing or having reasonable grounds to believe them to be stolen in the circumstances described in subsection (b) is a felony, without regard to the value of the property in question.

(d) Where the larceny or receiving or possession of stolen goods as described in subsection (a) of this section involves the merchandise of any store, a merchant, a merchant's agent, a merchant's employee, or a peace officer who detains or causes the arrest of any person shall not be held civilly liable for detention, malicious prosecution, false imprisonment, or false arrest of the person detained or arrested, when such detention is upon the premises of the store or in a reasonable proximity thereto, is in a reasonable manner for a reasonable length of time, and, if in detaining or in causing the arrest of such person, the merchant, the merchant's agent, the merchant's employee, or the peace officer had, at the time of the detention or arrest, probable cause to believe that the person

committed an offense under subsection (a) of this section. If the person being detained by the merchant, the merchant's agent, or the merchant's employee, is a minor under the age of 18 years, the merchant, the merchant's agent, or the merchant's employee, shall call or notify, or make a reasonable effort to call or notify the parent or guardian of the minor, during the period of detention. A merchant, a merchant's agent, or a merchant's employee, who makes a reasonable effort to call or notify the parent or guardian of the minor shall not be held civilly liable for failing to notify the parent or guardian of the minor. (1895, c. 285; Rev., s. 3506; 1913, c. 118, s. 1; C.S., s. 4251; 1941, c. 178, s. 1; 1949, c. 145, s. 2; 1959, c. 1285; 1961, c. 39, s. 1; 1965, c. 621, s. 5; 1969, c. 522, s. 2; 1973, c. 238, ss. 1, 2; 1975, c. 163, s. 2; c. 696, s. 4; 1977, c. 978, ss. 2, 3; 1979, c. 408, s. 1; c. 760, s. 5; 1979, 2nd Sess., c. 1316, ss. 11, 47; 1981, c. 63, s. 1; c. 179, s. 14; 1991, c. 523, s. 2; 1993, c. 539, s. 34; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 185, s. 2; 2006-259, s. 4(a); 2012-154, s. 1.)

§ 14-72.1. Concealment of merchandise in mercantile establishments.

(a) Whoever, without authority, willfully conceals the goods or merchandise of any store, not theretofore purchased by such person, while still upon the premises of such store, shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in subsection (e). Such goods or merchandise found concealed upon or about the person and which have not theretofore been purchased by such person shall be prima facie evidence of a willful concealment.

(b) Repealed by Session Laws 1985 (Regular Session, 1986), c. 841, s. 2.

(c) A merchant, or the merchant's agent or employee, or a peace officer who detains or causes the arrest of any person shall not be held civilly liable for detention, malicious prosecution, false imprisonment, or false arrest of the person detained or arrested, where such detention is upon the premises of the store or in a reasonable proximity thereto, is in a reasonable manner for a reasonable length of time, and, if in detaining or in causing the arrest of such person, the merchant, or the merchant's agent or employee, or the peace officer had at the time of the detention or arrest probable cause to believe that the person committed the offense created by this section. If the person being detained by the merchant, or the merchant's agent or employee, is a minor under the age of 18 years, the merchant or the merchant's agent or employee, shall call or notify, or make a reasonable effort to call or notify the parent or guardian of the minor, during the period of detention. A merchant, or the merchant's agent or employee, who makes a reasonable effort to call or notify the parent or guardian of the minor shall not be held civilly liable for failing to notify the parent or guardian of the minor.

(d) Whoever, without authority, willfully transfers any price tag from goods or merchandise to other goods or merchandise having a higher selling price or marks said goods at a lower price or substitutes or superimposes thereon a false price tag and then presents said goods or merchandise for purchase shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in subsection (e).

Nothing herein shall be construed to provide that the mere possession of goods or the production by shoppers of improperly priced merchandise for checkout shall constitute prima facie evidence of guilt.

(d1) Notwithstanding subsection (e) of this section, any person who violates subsection (a) of this section by using a lead-lined or aluminum-lined bag, a lead-lined or aluminum-lined article

of clothing, or a similar device to prevent the activation of any antishoplifting or inventory control device is guilty of a Class H felony.

(e) Punishment. – For a first conviction under subsection (a) or (d), or for a subsequent conviction for which the punishment is not specified by this subsection, the defendant shall be guilty of a Class 3 misdemeanor. The term of imprisonment may be suspended only on condition that the defendant perform community service for a term of at least 24 hours. For a second offense committed within three years after the date the defendant was convicted of an offense under this section, the defendant shall be guilty of a Class 2 misdemeanor. The term of imprisonment may be suspended only on condition that the defendant be imprisoned for a term of at least 72 hours as a condition of special probation, perform community service for a term of at least 72 hours, or both. For a third or subsequent offense committed within five years after the date the defendant was convicted of two other offenses under this section, the defendant shall be guilty of a Class 1 misdemeanor. The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least 11 days. However, if the sentencing judge finds that the defendant is unable, by reason of mental or physical infirmity, to perform the service required under this section, and the reasons for such findings are set forth in the judgment, the judge may pronounce such other sentence as the judge finds appropriate.

(f) Repealed by Session Laws 2009-372, s. 12, effective December 1, 2009, and applicable to offenses committed on or after that date.

(g) Limitations. – For active terms of imprisonment imposed under this section:

(1) The judge may not give credit to the defendant for the first 24 hours of time spent in incarceration pending trial;

(2) The defendant must serve the mandatory minimum period of imprisonment and good or gain time credit may not be used to reduce that mandatory minimum period; and

(3) The defendant may not be released or paroled unless he is otherwise eligible and has served the mandatory minimum period of imprisonment. (1957, c. 301; 1971, c. 238; 1973, c. 457, ss. 1, 2; 1985 (Reg. Sess., 1986), c. 841, ss. 1-3; 1987, c. 660; 1993, c. 539, s. 35; 1994, Ex. Sess., c. 24, s. 14(c); c. 28, s. 1; 1995, c. 185, s. 3; c. 509, s. 9; 1997-80, s. 1; 1997-443, s. 19.25(ff); 2009-372, s. 12.)

§ 14-72.2. Unauthorized use of a motor-propelled conveyance.

(a) A person is guilty of an offense under this section if, without the express or implied consent of the owner or person in lawful possession, he takes or operates an aircraft, motorboat, motor vehicle, or other motor-propelled conveyance of another.

(b) Unauthorized use of an aircraft is a Class H felony. All other unauthorized use of a motor-propelled conveyance is a Class 1 misdemeanor.

(c) Unauthorized use of a motor-propelled conveyance shall be a lesser-included offense of unauthorized use of an aircraft.

(d) As used in this section, "owner" means any person with a property interest in the motor-propelled conveyance. (1973, c. 1330, s. 38; 1977, c. 919; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, ss. 36, 1166; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-72.3. Removal of shopping cart from shopping premises.

(a) As used in this section:

(1) "Shopping cart" means the type of push cart commonly provided by grocery stores, drugstores, and other retail stores for customers to transport commodities within the store and from the store to their motor vehicles outside the store.

(2) "Premises" includes the motor vehicle parking area set aside for customers of the store.

(b) It is unlawful for any person to remove a shopping cart from the premises of a store without the consent, given at the time of the removal, of the store owner, manager, agent or employee.

(c) Violation of this section is a Class 3 misdemeanor. (1983, c. 705, s. 1; 1994, Ex. Sess., c. 14, s. 3.1.)

§ 14-72.4. Unauthorized taking or sale of labeled dairy milk cases or milk crates bearing the name or label of owner.

(a) A person is guilty of the unauthorized taking or sale of a dairy milk case or milk crate on or after January 1, 1990, if he:

(1) Takes, buys, sells or disposes of any dairy milk case or milk crate, bearing the name or label of the owner, without the express or implied consent of the owner or his designated agent; or

(2) Refuses upon demand of the owner or his designated agent to return to the owner or his designated agent any dairy milk case or milk crate, bearing the name or label of the owner; or

(3) Defaces, obliterates, erases, covers up, or otherwise removes or conceals any name, label, registered trademark, insignia, or other business identification of an owner of a dairy milk case or milk crate, for the purpose of destroying or removing from the milk case or milk crate evidence of its ownership.

(b) For purposes of this section dairy milk cases or milk crates shall be deemed to bear a name or label of an owner when there is imprinted or attached on the case or crate a name, insignia, mark, business identification or label showing ownership or sufficient information to ascertain ownership. For purposes of this section, the term "dairy case" shall be defined as a wire or plastic container which holds 16 quarts or more of beverage and is used by distributors or retailers, or their agents, as a means to transport, store, or carry dairy products.

(c) A violation of this section is a Class 2 misdemeanor.

(d) Nothing in this section shall preclude the prosecution of any misdemeanor or felony offense that is applicable under any other statute or common law. (1989, c. 303; 1994, Ex. Sess., c. 14, s. 3.2.)

§ 14-72.5. Larceny of motor fuel.

(a) If any person shall take and carry away motor fuel valued at less than one thousand dollars ($1,000) from an establishment where motor fuel is offered for retail sale with the intent to steal the motor fuel, that person shall be guilty of a Class 1 misdemeanor.

(b) The term "motor fuel" as used in this section shall have the same meaning as found in G.S. 105-449.60(20).

(c) Conviction Report Sent to Division of Motor Vehicles. – The court shall report final convictions of violations of this section to the Division of Motor Vehicles. The Division of Motor Vehicles shall revoke a person's drivers license for a second or subsequent conviction under this section in accordance with G.S. 20-17(a)(16). (2001-352, s. 1.)

§ 14-72.6. Felonious larceny, possession, or receiving of stolen goods from a permitted construction site.

(a) A person is guilty of a Class I felony if he commits any of the following offenses, where the goods are valued in excess of three hundred dollars ($300.00) but less than one thousand dollars ($1,000):

(1) Larceny of goods from a permitted construction site.

(2) Possessing or receiving of stolen goods, with actual knowledge or having reasonable grounds to believe that the goods were stolen from a permitted construction site.

(b) As used in this section, a "permitted construction site" is a site where a permit, license, or other authorization has been issued by the State or a local governmental entity for the placement of new construction or improvements to real property. (2005-208, s. 1.)

§ 14-72.7. Chop shop activity.

(a) A person is guilty of a Class G felony if that person engages in any of the following activities, without regard to the value of the property in question:

(1) Altering, destroying, disassembling, dismantling, reassembling, or storing any motor vehicle or motor vehicle part the person knows or has reasonable grounds to believe has been illegally obtained by theft, fraud, or other illegal means.

(2) Permitting a place to be used for any activity prohibited by this section, where the person either owns or has legal possession of the place, and knows or has reasonable grounds to believe that the place is being used for any activity prohibited by this section.

(3) Purchasing, disposing of, selling, transferring, receiving, or possessing a motor vehicle or motor vehicle part either knowing or having reasonable grounds to believe that the vehicle identification number of the motor vehicle, or vehicle part identification number of the vehicle part, has been altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated, or removed.

(4) Purchasing, disposing of, selling, transferring, receiving, or possessing a motor vehicle or motor vehicle part to or from a person engaged in any activity prohibited by this section, knowing or having reasonable grounds to believe that the person is engaging in that activity.

(b) Innocent Activities. – The provisions of this section shall not apply to either of the following:

(1) Purchasing, disposing of, selling, transferring, receiving, possessing, crushing, or compacting a motor vehicle or motor vehicle part in good faith and without knowledge of previous illegal activity in regard to that vehicle or part, as long as the person engaging in the activity does not remove a vehicle identification number or vehicle part identification number before or during the activity.

(2) Purchasing, disposing of, selling, transferring, receiving, possessing, crushing, or compacting a motor vehicle or motor vehicle part after law enforcement proceedings are completed or as a part of law enforcement proceedings, as long as the activity is not in conflict with law enforcement proceedings.

(c) Civil Penalty. – Any court with jurisdiction of a criminal prosecution under this section may also assess a civil penalty. The clear proceeds of the civil penalties shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. The civil penalty shall not exceed three times the assets obtained by the defendant as a result of violations of this section.

(d) Private Actions. – Any person aggrieved by a violation of this section may, in a civil action in any court of competent jurisdiction, obtain appropriate relief, including preliminary and other equitable or declaratory relief, compensatory and punitive damages, reasonable investigation expenses, costs of suit, and any attorneys' fees as may be provided by law.

(e) Seizure and Forfeiture. – Any instrumentality possessed or used to engage in the activities prohibited by this section are subject to the seizure and forfeiture provisions of G.S. 14-86.1. The real property of a place used to engage in the activities prohibited by this section is subject to the abatement and forfeiture provisions of Chapter 19 of the General Statutes.

(f) Definitions. – For the purposes of this section, the following definitions apply:

(1) Instrumentality. – Motor vehicle, motor vehicle part, other conveyance, tool, implement, or equipment possessed or used in the activities prohibited under this section.

(2) Vehicle identification number. – A number, a letter, a character, a datum, a derivative, or a combination thereof, used by the manufacturer or the Division of Motor Vehicles for the purpose of uniquely identifying a motor vehicle.

(3) Vehicle part identification number. – A number, a letter, a character, a datum, a derivative, or a combination thereof, used by the manufacturer for the purpose of uniquely identifying a motor vehicle part. (2007-178, s. 1; 2013-323, s. 1.)

§ 14-72.8. Felony larceny of motor vehicle parts.

Unless the conduct is covered under some other provision of law providing greater punishment, larceny of a motor vehicle part is a Class I felony if the cost of repairing the motor vehicle is one thousand dollars ($1,000) or more.

For purposes of this section, the cost of repairing a motor vehicle means the cost of any replacement part and any additional costs necessary to install the replacement part in the motor vehicle. (2009-379, s. 1.)

§ 14-72.9. Reserved for future codification purposes.

§ 14-72.10. Reserved for future codification purposes.

§ 14-72.11. Larceny from a merchant.

A person is guilty of a Class H felony if the person commits larceny against a merchant under any of the following circumstances:

(1) By taking property that has a value of more than two hundred dollars ($200.00), using an exit door erected and maintained to comply with the requirements of 29 C.F.R. § 1910.36 and 29 C.F.R. § 1910.37, to exit the premises of a store.

(2) By removing, destroying, or deactivating a component of an antishoplifting or inventory control device to prevent the activation of any antishoplifting or inventory control device.

(3) By affixing a product code created for the purpose of fraudulently obtaining goods or merchandise from a merchant at less than its actual sale price.

(4) When the property is infant formula valued in excess of one hundred dollars ($100.00). As used in this subsection, the term "infant formula," has the same meaning as found in 21 U.S.C. § 321(z).

(5) By exchanging property for cash, a gift card, a merchandise card, or some other item of value, knowing or having reasonable grounds to believe the property is stolen. (2007-373, s. 2; 2008-187, s. 34(b); 2017-162, s. 1.)

§ 14-73. Jurisdiction of the superior courts in cases of larceny and receiving stolen goods.

The superior courts shall have exclusive jurisdiction of the trial of all cases of the larceny of property, or the receiving of stolen goods knowing them to be stolen, of the value of more than one thousand dollars ($1,000). (1913, c. 118, s. 2; C.S., s. 4252; 1941, c. 178, s. 2; 1949, c. 145, s. 3; 1961, c. 39, s. 2; 1979, c. 408, s. 2; 1991, c. 523, s. 3.)

§ 14-73.1. Petty misdemeanors.

The offenses of larceny and the receiving of stolen goods knowing the same to have been stolen, which are made misdemeanors by Article 16, Subchapter V, Chapter 14 of the General Statutes, as amended, are hereby declared to be petty misdemeanors. (1949, c. 145, s. 4; 1973, c. 108, s. 1.)

§ 14-74. Larceny by servants and other employees.

If any servant or other employee, to whom any money, goods or other chattels, or any of the articles, securities or choses in action mentioned in G.S. 14-75, by his master shall be delivered safely to be kept to the use of his master, shall withdraw himself from his master and go away with

such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part thereof, with intent to steal the same and defraud his master thereof, contrary to the trust and confidence in him reposed by his said master; or if any servant, being in the service of his master, without the assent of his master, shall embezzle such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part thereof, or otherwise convert the same to his own use, with like purpose to steal them, or to defraud his master thereof, the servant so offending shall be guilty of a felony: Provided, that nothing contained in this section shall extend to apprentices or servants within the age of 16 years. If the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action mentioned in G.S. 14-75, is one hundred thousand dollars ($100,000) or more, the person is guilty of a Class C felony. If the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action mentioned in G.S. 14-75, is less than one hundred thousand dollars ($100,000), the person is guilty of a Class H felony. (21 Hen. VIII, c. 7, ss. 1, 2; R.C., c. 34, s. 18; Code, s. 1065; Rev., s. 3499; C.S., s. 4253; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1997-443, s. 19.25(c); 1998-217, s. 4(a).)

§ 14-75. Larceny of chose in action.

If any person shall feloniously steal, take and carry away, or take by robbery, any bank note, check or other order for the payment of money issued by or drawn on any bank or other society or corporation within this State or within any of the United States, or any treasury warrant, debenture, certificate of stock or other public security, or certificate of stock in any corporation, or any order, bill of exchange, bond, promissory note or other obligation, either for the payment of money or for the delivery of specific articles, being the property of any other person, or of any corporation (notwithstanding any of the said particulars may be termed in law a chose in action), that person is guilty of a Class H felony. (1811, c. 814, s. 1; R.C., c. 34, s. 20; Code, s. 1064; Rev., s. 3498; C.S., s. 4254; 1945, c. 635; 1993, c. 539, s. 1167; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-75.1. Larceny of secret technical processes.

Any person who steals property consisting of a sample, culture, microorganism, specimen, record, recording, document, drawing, or any other article, material, device, or substance which constitutes, represents, evidences, reflects, or records a secret scientific or technical process, invention, formula, or any phase or part thereof shall be punished as a Class H felon. A process, invention, or formula is "secret" when it is not, and is not intended to be, available to anyone other than the owner thereof or selected persons having access thereto for limited purposes with his consent, and when it accords or may accord the owner an advantage over competitors or other persons who do not have knowledge or the benefit thereof. (1967, c. 1175; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14.)

§ 14-76. Larceny, mutilation, or destruction of public records and papers.

If any person shall steal, or for any fraudulent purpose shall take from its place of deposit for the time being, or from any person having the lawful custody thereof, or shall unlawfully and maliciously obliterate, injure or destroy any record, writ, return, panel, process, interrogatory, deposition, affidavit, rule, order or warrant of attorney or any original document whatsoever, of or belonging to any court of record, or relating to any matter, civil or criminal, begun, pending or terminated in any such court, or any bill, answer, interrogatory, deposition, affidavit, order or decree or any original document whatsoever, of or belonging to any court or relating to any cause

or matter begun, pending or terminated in any such court, every such offender shall be guilty of a Class 1 misdemeanor; and in any indictment for such offense it shall not be necessary to allege that the article, in respect to which the offense is committed, is the property of any person or that the same is of any value. If any person shall steal or for any fraudulent purpose shall take from the register's office, or from any person having the lawful custody thereof, or shall unlawfully and willfully obliterate, injure or destroy any book wherein deeds or other instruments of writing are registered, or any other book of registration or record required to be kept by the register of deeds or shall unlawfully destroy, obliterate, deface or remove any records of proceedings of the board of county commissioners, or unlawfully and fraudulently abstract any record, receipt, order or voucher or other paper writing required to be kept by the clerk of the board of commissioners of any county, he shall be guilty of a Class 1 misdemeanor. (8 Hen. VI, c. 12, s. 3; R.C., c. 34, s. 31; 1881, c. 17; Code, s. 1071; Rev., s. 3508; C.S., s. 4255; 1993, c. 539, s. 37; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-76.1. Mutilation or defacement of records and papers in the North Carolina State Archives.

If any person shall willfully or maliciously obliterate, injure, deface, or alter any record or paper in the custody of the North Carolina State Archives as defined by G.S. 121-2(7) and 121-2(8), he shall be guilty of a Class 1 misdemeanor. The provisions of this section do not apply to employees of the Department of Natural and Cultural Resources who may destroy any accessioned records or papers that are approved for destruction by the North Carolina Historical Commission pursuant to the authority contained in G.S. 121-4(12). (1975, c. 696, s. 3; 1993, c. 539, s. 38; 1994, Ex. Sess., c. 24, s. 14(c); 2015-241, s. 14.30(s).)

§ 14-77. Larceny, concealment or destruction of wills.

If any person, either during the life of the testator or after his death, shall steal or, for any fraudulent purpose, shall destroy or conceal any will, codicil or other testamentary instrument, he shall be guilty of a Class 1 misdemeanor. (R.C., c. 34, s. 32; Code, s. 1072; Rev., s. 3510; C.S., s. 4256; 1993, c. 539, s. 39; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-78. Larceny of ungathered crops.

If any person shall steal or feloniously take and carry away any maize, corn, wheat, rice or other grain, or any cotton, tobacco, potatoes, peanuts, pulse, fruit, vegetable or other product cultivated for food or market, growing, standing or remaining ungathered in any field or ground, that person is guilty of a Class H felony. (1811, c. 816, P.R.; R.C., c. 34, s. 21; 1868-9, c. 251; Code, s. 1069; Rev., s. 3503; C.S., s. 4257; 1975, c. 697; 1993, c. 539, s. 1168; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-78.1: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(1).

§ 14-79. Larceny of ginseng.

If any person shall take and carry away, or shall aid in taking or carrying away, any ginseng growing upon the lands of another person, with intent to steal the same, he shall be punished as a Class H felon. (1905, c. 211; Rev., s. 3502; C.S., s. 4258; 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. 1169; 1994, Ex. Sess., c. 24, s. 14(c); 1999-107, s. 1.)

§ 14-79.1. Larceny of pine needles or pine straw.

If any person shall take and carry away, or shall aid in taking or carrying away, any pine needles or pine straw being produced on the land of another person upon which land notices, signs, or posters prohibiting the raking or removal of pine needles or pine straw have been placed in accordance with the provisions of G.S. 14-159.7, or upon which posted notices have been placed in accordance with the provisions of G.S. 14-159.7, with the intent to steal the pine needles or pine straw, that person shall be guilty of a Class H felony. (1997-443, s. 19.25(aa).)

§ 14-79.2. Waste kitchen grease; unlawful acts and penalties.

(a) It shall be unlawful for any person to do any of the following:

(1) Take and carry away, or aid in taking or carrying away, any waste kitchen grease container or the waste kitchen grease contained therein, which container bears a notice that unauthorized removal is prohibited without written consent of the owner of the container.

(2) Intentionally contaminate or purposely damage any waste kitchen grease container or grease therein.

(3) Place a label on a waste kitchen grease container knowing that it is owned by another person in order to claim ownership of the container.

(b) Any person who violates subsection (a) of this section shall be penalized as follows:

(1) If the value of the waste kitchen grease container, or the container and the waste kitchen grease contained therein, is one thousand dollars ($1,000) or less, it shall be a Class 1 misdemeanor.

(2) If the value of the waste kitchen grease container, or the container and the waste kitchen grease contained therein, is more than one thousand dollars ($1,000), it shall be a Class H felony.

(c) A container in which waste kitchen grease is deposited that bears a name on the container shall be presumed to be owned by that person named on the container.

(d) As used in this section, "waste kitchen grease" has the same meaning as in G.S. 106-168.1. (2012-127, s. 6.)

§ 14-80: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(2).

§ 14-81. Larceny of horses, mules, swine, cattle, or dogs.

(a) Larceny of horses, mules, swine, or cattle is a Class H felony.

(a1) Larceny of a dog is a Class I felony.

(b) In sentencing a person convicted of violating this section, the judge shall, as a minimum punishment, place a person on probation subject to the following conditions:

(1) A person must make restitution for the damage or loss caused by the larceny of the livestock or dogs, and

(2) A person must pay a fine of not less than the amount of the damages or loss caused by the larceny of the livestock or dogs.

(c) No provision in this section shall limit the authority of the judge to sentence the person convicted of violating this section to an active sentence. (1866-7, c. 62; 1868, c. 37, s. 1; 1879, c. 234, s. 2; Code, s. 1066; Rev., s. 3505; 1917, c. 162, s. 2; C.S., s. 4260; 1965, c. 621, s. 6; 1981, c. 664, s. 2; 1989, c. 773, s. 2; 1993, c. 539, s. 1171; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-82. Taking horses, mules, or dogs for temporary purposes.

If any person shall unlawfully take and carry away any horse, gelding, mare, mule, or dog, the property of another person, secretly and against the will of the owner of such property, with intent to deprive the owner of the special or temporary use of the same, or with the intent to use such property for a special or temporary purpose, the person so offending shall be guilty of a Class 2 misdemeanor. (1879, c. 234, s. 1; Code, s. 1067; Rev., s. 3509; 1913, c. 11; C.S., s. 4261; 1969, c. 1224, s. 3; 1989, c. 773, s. 3; 1994, Ex. Sess., c. 14, s. 3.3.)

§ 14-83. Repealed by Session Laws 1943, c. 543.

§ 14-83.1. Fixtures subject to larceny.

All common law distinctions providing that personal property that has become affixed to real property is not subject to a charge of larceny are abolished. Any person who shall remove or take and carry away, or shall aid another in removing, taking or carrying away, any property that is affixed to real property, with the intent to steal the property, shall be guilty of larceny and shall be punished as provided by statute. (2008-128, s. 2.)

§ 14-84. Animals subject to larceny.

All common-law distinctions among animals with respect to their being subject to larceny are abolished. Any animal that is in a person's possession is the subject of larceny. (1919, c. 116, s. 9; C.S., s. 4263; 1955, c. 804; 1983, c. 35, s. 1.)

§ 14-85. Pursuing or injuring livestock with intent to steal.

If any person shall pursue, kill or wound any horse, mule, ass, jennet, cattle, hog, sheep or goat, the property of another, with the intent unlawfully and feloniously to convert the same to his own use, he shall be guilty of a Class H felony, and shall be punishable, in all respects, as if convicted of larceny, though such animal may not have come into the actual possession of the person so offending. (1866, c. 57; Code, s. 1068; Rev., s. 3504; C.S., s. 4264; 1993, c. 539, s. 1172; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-86: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(3).

§ 14-86.1. Seizure and forfeiture of conveyances used in committing larceny and similar crimes.

(a) All conveyances, including vehicles, watercraft or aircraft, used to unlawfully conceal, convey or transport property in violation of G.S. 14-71, 14-71.1, or 20-106, or used by any person in the commission of armed or common-law robbery, or used in violation of G.S. 14-72.7, or used by any person in the commission of any larceny when

the value of the property taken is more than two thousand dollars ($2,000) shall be subject to forfeiture as provided herein, except that:

(1) No conveyance used by any person as a common carrier in the transaction of the business of the common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in custody or control of such conveyance was a consenting party or privy to a violation that may subject the conveyance to forfeiture under this section;

(2) No conveyance shall be forfeited under the provisions of this section by reason of any act or omission committed or omitted while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or any state;

(3) No conveyance shall be forfeited pursuant to this section unless the violation involved is a felony;

(4) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party who neither had knowledge of nor consented to the act or omission;

(5) No conveyance shall be forfeited under the provisions of this section unless the owner knew or had reason to believe the vehicle was being used in the commission of any violation that may subject the conveyance to forfeiture under this section;

(6) The trial judge in the criminal proceeding which may subject the conveyance to forfeiture may order the seized conveyance returned to the owner if he finds forfeiture inappropriate. If the conveyance is not returned to the owner the procedures provided in subsection (e) shall apply.

As used in this section concerning a violation of G.S. 14-72.7, the term "conveyance" includes any "instrumentality" as defined in that section.

(b) Any conveyance subject to forfeiture under this section may be seized by any law-enforcement officer upon process issued by any district or superior court having original jurisdiction over the offense except that seizure without such process may be made when:

(1) The seizure is incident to an arrest or subject to a search under a search warrant; or

(2) The property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding under this section.

(c) The conveyance shall be deemed to be in custody of the law-enforcement agency seizing it. The law-enforcement agency may remove the property to a place designated by it or request that the North Carolina Department of Justice or Department of Public Safety take custody of the property and remove it to an appropriate location for disposition in accordance with law; provided, the conveyance shall be returned to the owner upon execution by him of a good and valid bond, with sufficient sureties, in a sum double the

value of the property, which said bond shall be approved by an officer of the agency seizing the conveyance and shall be conditioned upon the return of said property to the custody of said officer on the day of trial to abide the judgment of the court.

(d) Whenever a conveyance is forfeited under this section, the law-enforcement agency having custody of it may:

(1) Retain the conveyance for official use; or

(2) Transfer the conveyance which was forfeited under the provisions of this section to the North Carolina Department of Justice or to the North Carolina Department of Public Safety when, in the discretion of the presiding judge and upon application of the North Carolina Department of Justice or the North Carolina Department of Public Safety, said conveyance may be of official use to the North Carolina Department of Justice or the North Carolina Department of Public Safety; or

(3) Upon determination by the director of any law-enforcement agency that a conveyance transferred pursuant to the provisions of this section is of no further use to said agency, such conveyance may be sold as surplus property in the same manner as other conveyances owned by the law-enforcement agency. The proceeds from such sale, after deducting the cost thereof, shall be paid to the school fund of the county in which said conveyance was seized. Any conveyance transferred to any law-enforcement agency under the provisions of this section which has been modified or especially equipped from its original manufactured condition so as to increase its speed shall be used in the performance of official duties only. Such conveyance shall not be resold, transferred or disposed of other than as junk unless the special equipment or modification has been removed and destroyed, and the vehicle restored to its original manufactured condition.

(e) All conveyances subject to forfeiture under the provisions of this section shall be forfeited pursuant to the procedures for forfeiture of conveyances used to conceal, convey, or transport intoxicating beverages found in G.S. 18B-504. Provided, nothing in this section or G.S. 18B-504 shall be construed to require a conveyance to be sold when it can be used in the performance of official duties of the law-enforcement agency. (1979, c. 592; 1983, c. 74; c. 768, s. 2; 1991, c. 523, s. 4; 2007-178, s. 2; 2011-145, s. 19.1(g).)

§ 14-86.2. Larceny, destruction, defacement, or vandalism of portable toilets or pumper trucks.

Unless the conduct is covered under some other provision of law providing greater punishment, if any person steals, takes from its temporary location or from any person having the lawful custody thereof, or willfully destroys, defaces, or vandalizes a chemical or portable toilet as defined in G.S. 130A-290 or a pumper truck that is operated by a septage management firm that is permitted by the Department of Environmental Quality under G.S. 130A-291.1, the person is guilty of a Class 1 misdemeanor. (2009-37, s. 1; 2015-241, s. 14.30(u).)

§ 14-86.3. Reserved for future codification purposes.

§ 14-86.4. Reserved for future codification purposes.

Article 16A.

Organized Retail Theft.

§ 14-86.5. Definitions.

The following definitions apply in this Article:

(1) "Retail property." – Any new article, product, commodity, item, or component intended to be sold in retail commerce.

(2) "Retail property fence." – A person or business that buys retail property knowing or believing that retail property is stolen.

(3) "Theft." – To take possession of, carry away, transfer, or cause to be carried away the retail property of another with the intent to steal the retail property.

(4) "Value." – The retail value of an item as advertised by the affected retail establishment, to include all applicable taxes. (2007-373, s. 3.)

§ 14-86.6. Organized retail theft.

(a) A person is guilty of a Class H felony if the person does either of the following:

(1) Conspires with another person to commit theft of retail property from retail establishments, with a value exceeding one thousand five hundred dollars ($1,500) aggregated over a 90-day period, with the intent to sell that retail property for monetary or other gain, and who takes or causes that retail property to be placed in the control of a retail property fence or other person in exchange for consideration.

(2) Receives or possesses any retail property that has been taken or stolen in violation of subdivision (1) of this subsection while knowing or having reasonable grounds to believe the property is stolen.

(a1) A person is guilty of a Class G felony if the person does either of the following:

(1) Conspires with another person to commit theft of retail property from one or more retail establishments, with a value exceeding twenty thousand dollars ($20,000) aggregated over a 90-day period, with the intent to sell that retail property for monetary or other gain, and who takes or causes that retail property to be placed in the control of a retail property fence or other person in exchange for consideration.

(2) Conspires with two or more other persons as an organizer, supervisor, financier, leader, or manager to engage for profit in a scheme or course of conduct to effectuate the transfer or sale of property stolen from a merchant in violation of this section.

(b) Any interest a person has acquired or maintained in violation of this section shall be subject to forfeiture pursuant to the procedures for forfeiture set out in G.S. 18B-504.

(c) Thefts of retail property occurring in more than one county may be aggregated into an alleged violation of this section. Each county where a part of the charged offense occurs has concurrent venue as described in G.S. 15A-132. (2007-373, s. 3; 2008-187, s. 34(c); 2017-162, s. 2.)

Article 17.

Robbery.

§ 14-87. Robbery with firearms or other dangerous weapons.

(a) Any person or persons who, having in possession or with the use or threatened use of any firearms or other dangerous weapon, implement or means, whereby the life of a person is endangered or threatened, unlawfully takes or attempts to take personal property from another or from any place of business, residence or banking institution or any other place where there is a person or persons in attendance, at any time, either day or night, or who aids or abets any such person or persons in the commission of such crime, shall be guilty of a Class D felony.

(a1) Attempted robbery with a dangerous weapon shall constitute a lesser included offense of robbery with a dangerous weapon, and evidence sufficient to prove robbery with a dangerous weapon shall be sufficient to support a conviction of attempted robbery with a dangerous weapon.

(b), (c) Repealed by Session Laws 1979, c. 760, s. 5.

(d) Repealed by Session Laws 1993, c. 539, s. 1173. (1929, c. 187, s. 1; 1975, cc. 543, 846; 1977, c. 871, ss. 1, 6; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, ss. 12, 47; 1981, c. 63, s. 1; c. 179, s. 14; 1993, c. 539, s. 1173; 1994, Ex. Sess., c. 24, s. 14(c); 2017-31, s. 1.)

§ 14-87.1. Punishment for common-law robbery.

Robbery as defined at common law, other than robbery with a firearm or other dangerous weapon as defined by G.S. 14-87, shall be punishable as a Class G felony. (1979, c. 760, s. 5; 1993, c. 539, s. 1174; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-88. Train robbery.

If any person shall enter upon any locomotive engine or car on any railroad in this State, and by threats, the exhibition of deadly weapons or the discharge of any pistol or gun, in or near any such engine or car, shall induce or compel any person on such engine or car to submit and deliver up, or allow to be taken therefrom, or from him, anything of value, he shall be guilty of train robbery, and on conviction thereof shall be punished as a Class D felon. (1895, c. 204, s. 2; Rev., s. 3765; C.S., s. 4266; 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. 1175; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-89: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 71(5).

§ 14-89.1. Safecracking.

(a) A person is guilty of safecracking if he unlawfully opens, enters, or attempts to open or enter a safe or vault :

(1) By the use of explosives, drills, or tools; or

(2) Through the use of a stolen combination, key, electronic device, or other fraudulently acquired implement or means; or

(3) Through the use of a master key, duplicate key or device made or obtained in an unauthorized manner, stethoscope or other listening device, electronic device used for unauthorized entry in a safe or vault, or other surreptitious means; or

(4) By the use of any other safecracking implement or means.

(b) A person is also guilty of safecracking if he unlawfully removes from its premises a safe or vault for the purpose of stealing, tampering with, or ascertaining its contents.

(c) Safecracking shall be punishable as a Class I felony. (1961, c. 653; 1973, c. 235, s. 1; 1977, c. 1106; 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. 1176; 1994, Ex. Sess., c. 24, s. 14(c).)

Article 18.

Embezzlement.

§ 14-90. Embezzlement of property received by virtue of office or employment.

(a) This section shall apply to any person:

(1) Exercising a public trust.

(2) Holding a public office.

(3) Who is a guardian, administrator, executor, trustee, or any receiver, or any other fiduciary, including, but not limited to, a settlement agent, as defined in G.S. 45A-3.

(4) Who is an officer or agent of a corporation, or any agent, consignee, clerk, bailee or servant, except persons under the age of 16 years, of any person.

(b) Any person who shall:

(1) Embezzle or fraudulently or knowingly and willfully misapply or convert to his own use, or

(2) Take, make away with or secrete, with intent to embezzle or fraudulently or knowingly and willfully misapply or convert to his own use,

any money, goods or other chattels, bank note, check or order for the payment of money issued by or drawn on any bank or other corporation, or any treasury warrant, treasury note, bond or obligation for the payment of money issued by the United States or by any state, or any other valuable security whatsoever that (i) belongs to any other person or corporation, unincorporated association or organization or (ii) are closing funds as defined in G.S. 45A-3, which shall have come into his possession or under his care, shall be guilty of a felony.

(c) If the value of the property described in subsection (b) of this section is one hundred thousand dollars ($100,000) or more, the person is guilty of a Class C felony. If the value of the property is less than one hundred thousand dollars ($100,000), the person is guilty of a Class H

felony. (21 Hen. VII, c. 7; 1871-2, c. 145, s. 2; Code, s. 1014; 1889, c. 226; 1891, c. 188; 1897, c. 31; Rev., s. 3406; 1919, c. 97, s. 25; C.S., s. 4268; 1931, c. 158; 1939, c. 1; 1941, c. 31; 1967, c. 819; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1997-443, s. 19.25(d); 2009-348, s. 1; 2009-570, s. 31.)

§ 14-91. Embezzlement of State property by public officers and employees.

If any officer, agent, or employee of the State, or other person having or holding in trust for the same any bonds issued by the State, or any security, or other property and effects of the same, shall embezzle or knowingly and willfully misapply or convert the same to his own use, or otherwise willfully or corruptly abuse such trust, such offender and all persons knowingly and willfully aiding and abetting or otherwise assisting therein shall be guilty of a felony. If the value of the property is one hundred thousand dollars ($100,000) or more, a violation of this section is a Class C felony. If the value of the property is less than one hundred thousand dollars ($100,000), a violation of this section is a Class F felony. (1874-5, c. 52; Code, s. 1015; Rev., s. 3407; C.S., s. 4269; 1979, c. 716; c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1997-443, s. 19.25(e).)

§ 14-92. Embezzlement of funds by public officers and trustees.

If an officer, agent, or employee of an entity listed below, or a person having or holding money or property in trust for one of the listed entities, shall embezzle or otherwise willfully and corruptly use or misapply the same for any purpose other than that for which such moneys or property is held, such person shall be guilty of a felony. If the value of the money or property is one hundred thousand dollars ($100,000) or more, the person is guilty of a Class C felony. If the value of the money or property is less than one hundred thousand dollars ($100,000), the person is guilty of a Class F felony. If any clerk of the superior court or any sheriff, treasurer, register of deeds or other public officer of any county, unit or agency of local government, or local board of education shall embezzle or wrongfully convert to his own use, or corruptly use, or shall misapply for any purpose other than that for which the same are held, or shall fail to pay over and deliver to the proper persons entitled to receive the same when lawfully required so to do, any moneys, funds, securities or other property which such officer shall have received by virtue or color of his office in trust for any person or corporation, such officer shall be guilty of a felony. If the value of the money, funds, securities, or other property is one hundred thousand dollars ($100,000) or more, the person is guilty of a Class C felony. If the value of the money, funds, securities, or other property is less than one hundred thousand dollars ($100,000), the person is guilty of a Class F felony. The provisions of this section shall apply to all persons who shall go out of office and fail or neglect to account to or deliver over to their successors in office or other persons lawfully entitled to receive the same all such moneys, funds and securities or property aforesaid. The following entities are protected by this section: a county, a city or other unit or agency of local government, a local board of education, and a penal, charitable, religious, or educational institution. (1876-7, c. 47; Code, s. 1016; 1891, c. 241; Rev., s. 3408; C.S., s. 4270; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1985, c. 509, s. 3; 1993, c. 539, s. 1177; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(f).)

§ 14-93. Embezzlement by treasurers of charitable and religious organizations.

If any treasurer or other financial officer of any benevolent or religious institution, society or congregation shall lend any of the moneys coming into his hands to any other person or association

without the consent of the institution, association or congregation to whom such moneys belong; or, if he shall fail to account for such moneys when called on, he shall be guilty of a felony. If the violation of this section involves money with a value of one hundred thousand dollars ($100,000) or more, the person is guilty of a Class C felony. If the violation of this section involves money with a value of less than one hundred thousand dollars ($100,000) or less, a violation of this section is a Class H felony. (1879, c. 105; Code, s. 1017; Rev., s. 3409; C.S., s. 4271; 1993, c. 539, s. 1178; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(g).)

§ 14-94. Embezzlement by officers of railroad companies.

If any president, secretary, treasurer, director, engineer, agent or other officer of any railroad company shall embezzle any moneys, bonds or other valuable funds or securities, with which such president, secretary, treasurer, director, engineer, agent or other officer shall be charged by virtue of his office or agency, or shall in any way, directly or indirectly, apply or appropriate the same for the use or benefit of himself or any other person, state or corporation, other than the company of which he is president, secretary, treasurer, director, engineer, agent or other officer, for every such offense the person so offending shall be guilty of a felony, and on conviction in the superior or criminal court of any county through which the railroad of such company shall pass, shall be punished as a felon. If the value of the money, bonds, or other valuable funds or securities is one hundred thousand dollars ($100,000) or more, a violation of this section is a Class C felony. If the value of the money, bonds, or other valuable funds or securities is less than one hundred thousand dollars ($100,000), a violation of this section is a Class H felony. (1870-1, c. 103, s. 1; Code, s. 1018; Rev., s. 3403; C.S., s. 4272; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1997-443, s. 19.25(h).)

§ 14-95: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 71(6).

§§ 14-96 through 14-96.1: Repealed by Session Laws 1989 (Reg. Sess., 1990), c. 1054, s. 6.

§ 14-97. Appropriation of partnership funds by partner to personal use.

Any person engaged in a partnership business in the State of North Carolina who shall, without the knowledge and consent of his copartner or copartners, take funds belonging to the partnership business and appropriate the same to his own personal use with the fraudulent intent of depriving his copartners of the use thereof, shall be guilty of a felony. Appropriation of partnership funds with a value of one hundred thousand dollars ($100,000) or more by a partner is a Class C felony. Appropriation of partnership funds with the value of less than one hundred thousand dollars ($100,000) by a partner is a Class H felony. (1921, c. 127; C.S., s. 4274(a); 1993, c. 539, s. 1179; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(i).)

§ 14-98. Embezzlement by surviving partner.

If any surviving partner shall willfully and intentionally convert any of the property, money or effects belonging to the partnership to his own use, and refuse to account for the same on settlement, he shall be guilty of a felony. If the property, money, or effects has a value of one hundred thousand dollars ($100,000) or more, a violation of this section is a Class C felony. If the property, money, or effects has a value of less than one hundred thousand dollars ($100,000), a violation of this section is a Class H felony. (1901, c. 640, s. 9; Rev., s. 3405; C.S., s. 4275; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1997-443, s. 19.25(j).)

§ 14-99. Embezzlement of taxes by officers.

If any officer appropriates to his own use the State, county, school, city or town taxes, he shall be guilty of embezzlement, and shall be punished as a felon. If the value of the taxes is one hundred thousand dollars ($100,000) or more, a violation of this section is a Class C felony. If the value of the taxes is less than one hundred thousand dollars ($100,000), a violation of this section is a Class F felony. (1883, c. 136, s. 49; Code, s. 3705; Rev., s. 3410; C.S., s. 4276; 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. 1180; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(k).)

Article 19.

False Pretenses and Cheats.

§ 14-100. Obtaining property by false pretenses.

(a) If any person shall knowingly and designedly by means of any kind of false pretense whatsoever, whether the false pretense is of a past or subsisting fact or of a future fulfillment or event, obtain or attempt to obtain from any person within this State any money, goods, property, services, chose in action, or other thing of value with intent to cheat or defraud any person of such money, goods, property, services, chose in action or other thing of value, such person shall be guilty of a felony: Provided, that if, on the trial of anyone indicted for such crime, it shall be proved that he obtained the property in such manner as to amount to larceny or embezzlement, the jury shall have submitted to them such other felony proved; and no person tried for such felony shall be liable to be afterwards prosecuted for larceny or embezzlement upon the same facts: Provided, further, that it shall be sufficient in any indictment for obtaining or attempting to obtain any such money, goods, property, services, chose in action, or other thing of value by false pretenses to allege that the party accused did the act with intent to defraud, without alleging an intent to defraud any particular person, and without alleging any ownership of the money, goods, property, services, chose in action or other thing of value; and upon the trial of any such indictment, it shall not be necessary to prove either an intent to defraud any particular person or that the person to whom the false pretense was made was the person defrauded, but it shall be sufficient to allege and prove that the party accused made the false pretense charged with an intent to defraud. If the value of the money, goods, property, services, chose in action, or other thing of value is one hundred thousand dollars ($100,000) or more, a violation of this section is a Class C felony. If the value of the money, goods, property, services, chose in action, or other thing of value is less than one hundred thousand dollars ($100,000), a violation of this section is a Class H felony.

(b) Evidence of nonfulfillment of a contract obligation standing alone shall not establish the essential element of intent to defraud.

(c) For purposes of this section, "person" means person, association, consortium, corporation, body politic, partnership, or other group, entity, or organization. (33 Hen. VIII, c. 1, ss. 1, 2; 30 Geo. II, c. 24, s. 1; 1811, c. 814, s. 2, P.R.; R.C., c. 34, s. 67; Code, s. 1025; Rev., s. 3432; C.S., s. 4277; 1975, c. 783; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1997-443, s. 19.25(l).)

§ 14-100.1. Possession or manufacture of certain fraudulent forms of identification.

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

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

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

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

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

(2) A military identification card containing a picture.

(3) A passport.

(4) An alien registration card containing a picture.

(e) A violation of this section shall be punished as a Class 1 misdemeanor. (2001-461, s. 1; 2001-487, s. 42(a).)

§ 14-101. Obtaining signatures by false pretenses.

If any person, with intent to defraud or cheat another, shall designedly, by color of any false token or writing, or by any other false pretense, obtain the signature of any person to any written instrument, the false making of which would be punishable as forgery, he shall be punished as a Class H felon. (1871-2, c. 92; Code, s. 1026; Rev., s. 3433; C.S., s. 4278; 1945, c. 635; 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. 1181; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-102. Obtaining property by false representation of pedigree of animals.

If any person shall, with intent to defraud or cheat, knowingly represent any animal for breeding purposes as being of greater degree of any particular strain of blood than such animal actually possesses, and by such representation obtain from any other person money or other thing of value, he shall be guilty of a Class 2 misdemeanor. (1891, c. 94, s. 2; Rev., s. 3307; C.S., s. 4279; 1993, c. 539, s. 40; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-103. Obtaining certificate of registration of animals by false representation.

If any person shall, by any false representation or pretense, with intent to defraud or cheat, obtain from any club, association, society or company for the improvement of the breed of cattle, horses, sheep, swine, fowls or other domestic animals or birds, a certificate of registration of any animal in the herd register of any such association, society or company, or a transfer of any such registration, upon conviction thereof, the person is guilty of a Class 3 misdemeanor. (1891, c. 94, s. 1; Rev. s. 3308; C.S., s. 4280; 1993, c. 539, s. 41; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-104. Obtaining advances under promise to work and pay for same.

If any person, with intent to cheat or defraud another, shall obtain any advances in money, provisions, goods, wares or merchandise of any description from any other person or corporation upon and by color of any promise or agreement that the person making the same will begin any

work or labor of any description for such person or corporation from whom the advances are obtained, and the person making the promise or agreement shall willfully fail, without a lawful excuse, to commence or complete such work according to contract, he shall be guilty of a Class 2 misdemeanor. (1889, c. 444; 1891, c. 106; 1905, c. 411; Rev., s. 3431; C.S., s. 4281; 1993, c. 539, s. 42; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-105. Obtaining advances under written promise to pay therefor out of designated property.

If any person shall obtain any advances in money, provisions, goods, wares or merchandise of any description from any other person or corporation, upon any written representation that the person making the same is the owner of any article of produce, or of any other specific chattel or personal property, which property, or the proceeds of which the owner in such representation thereby agrees to apply to the discharge of the debt so created, and the owner shall fail to apply such produce or other property, or the proceeds thereof, in accordance with such agreement, or shall dispose of the same in any other manner than is so agreed upon by the parties to the transaction, the person so offending shall be guilty of a misdemeanor, whether he shall or shall not have been the owner of any such property at the time such representation was made. Any person violating any provision of this section shall be guilty of a Class 2 misdemeanor. (1879, cc. 185, 186; Code, s. 1027; 1905, c. 104; Rev., s. 3434; C.S., s. 4282; 1969, c. 1224, s. 9; 1993, c. 539, s. 43; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-106. Obtaining property in return for worthless check, draft or order.

Every person who, with intent to cheat and defraud another, shall obtain money, credit, goods, wares or any other thing of value by means of a check, draft or order of any kind upon any bank, person, firm or corporation, not indebted to the drawer, or where he has not provided for the payment or acceptance of the same, and the same be not paid upon presentation, shall be guilty of a Class 3 misdemeanor. The giving of the aforesaid worthless check, draft, or order shall be prima facie evidence of an intent to cheat and defraud. (1907, c. 975; 1909, c. 647; C.S., s. 4283; 1993, c. 539, s. 44; 1994, Ex. Sess., c. 24, s. 14(c); 2013-360, s. 18B.14(a).)

§ 14-107. Worthless checks; multiple presentment of checks.

(a) It is unlawful for any person, firm or corporation, to draw, make, utter or issue and deliver to another, any check or draft on any bank or depository, for the payment of money or its equivalent, knowing at the time of the making, drawing, uttering, issuing and delivering the check or draft, that the maker or drawer of it:

(1) Has not sufficient funds on deposit in or credit with the bank or depository with which to pay the check or draft upon presentation, or

(2) Has previously presented the check or draft for the payment of money or its equivalent.

(b) It is unlawful for any person, firm or corporation to solicit or to aid and abet any other person, firm or corporation to draw, make, utter or issue and deliver to any person, firm or corporation, any check or draft on any bank or depository for the payment of money or its equivalent, being informed, knowing or having reasonable grounds for believing at

the time of the soliciting or the aiding and abetting that the maker or the drawer of the check or draft:

(1) Has not sufficient funds on deposit in, or credit with, the bank or depository with which to pay the check or draft upon presentation, or

(2) Has previously presented the check or draft for the payment of money or its equivalent.

(c) The word "credit" as used in this section means an arrangement or understanding with the bank or depository for the payment of a check or draft.

(d) A violation of this section is a Class I felony if the amount of the check or draft is more than two thousand dollars ($2,000). If the amount of the check or draft is two thousand dollars ($2,000) or less, a violation of this section is a misdemeanor punishable as follows:

(1) Except as provided in subdivision (3) or (4) of this subsection, the person is guilty of a Class 3 misdemeanor. Provided, however, if the person has been convicted three times of violating this section, the person shall on the fourth and all subsequent convictions (i) be punished as for a Class 1 misdemeanor and (ii) be ordered, as a condition of probation, to refrain from maintaining a checking account or making or uttering a check for three years.

(2) Repealed by Session Laws 1999-408, s. 1, effective December 1, 1999.

(3) If the check or draft is drawn upon a nonexistent account, the person is guilty of a Class 1 misdemeanor.

(4) If the check or draft is drawn upon an account that has been closed by the drawer, or that the drawer knows to have been closed by the bank or depository, prior to time the check is drawn, the person is guilty of a Class 1 misdemeanor.

(e) In deciding to impose any sentence other than an active prison sentence, the sentencing judge shall consider and may require, in accordance with the provisions of G.S. 15A-1343, restitution to the victim for (i) the amount of the check or draft, (ii) any service charges imposed on the payee by a bank or depository for processing the dishonored check, and (iii) any processing fees imposed by the payee pursuant to G.S. 25-3-506, and each prosecuting witness (whether or not under subpoena) shall be entitled to a witness fee as provided by G.S. 7A-314 which shall be taxed as part of the cost and assessed to the defendant. (1925, c. 14; 1927, c. 62; 1929, c. 273, ss. 1, 2; 1931, cc. 63, 138; 1933, cc. 43, 64, 93, 170, 265, 362, 458; 1939, c. 346; 1949, cc. 183, 332; 1951, c. 356; 1961, c. 89; 1963, cc. 73, 547, 870; 1967, c. 49, s. 1; c. 661, s. 1; 1969, c. 157; c. 876, s. 1; cc. 909, 1014; c. 1224, s. 10; 1971, c. 243, s. 1; 1977, c. 885; 1979, c. 837; 1983, c. 741; 1991, c. 523, s. 1; 1993, c. 374, s. 2; c. 539, ss. 45, 1182; 1994, Ex. Sess., c. 24, s. 14(c); 1995 (Reg. Sess., 1996), c. 742, s. 11; 1999-408, s. 1; 2013-244, s. 4; 2013-360, s. 18B.14(b).)

§ 14-107.1. Prima facie evidence in worthless check cases.

(a) Unless the context otherwise requires, the following definitions apply in this section:

(1) Check Passer. – A natural person who draws, makes, utters, or issues and delivers, or causes to be delivered to another any check or draft on any bank or depository for the payment of money or its equivalent.

(2) Acceptor. – A person, firm, corporation or any authorized employee thereof accepting a check or draft from a check passer.

(3) Check Taker. – A natural person who is an acceptor, or an employee or agent of an acceptor, of a check or draft in a face-to-face transaction.

(b) In prosecutions under G.S. 14-107 the prima facie evidence provisions of subsections (d) and (e) apply if all the conditions of subdivisions (1) through (7) below are met. The prima facie evidence provisions of subsection (e) apply if only conditions (5) through (7) are met. The conditions are:

(1) The check or draft is delivered to a check taker.

(2) The name and mailing address of the check passer are written or printed on the check or draft, and the check taker or acceptor shall not be required to write or print the race or gender of the check passer on the check or draft.

(3) The check taker identifies the check passer at the time of accepting the check by means of a North Carolina driver's license, a special identification card issued pursuant to G.S. 20-37.7, or other reliable serially numbered identification card containing a photograph and mailing address of the person in question.

(4) The license or identification card number of the check passer appears on the check or draft.

(5) After dishonor of the check or draft by the bank or depository, the acceptor sends the check passer a letter by certified mail, to the address recorded on the check, identifying the check or draft, setting forth the circumstances of dishonor, and requesting rectification of any bank error or other error in connection with the transaction within 10 days.

An acceptor may advise the check passer in a letter that legal action may be taken against him if payment is not made within the prescribed time period. Such letter, however, shall be in a form which does not violate applicable provisions of Article 2 of Chapter 75.

(6) The acceptor files the affidavit described in subdivision (7) with a judicial official, as defined in G.S. 15A-101(5), before issuance of the first process or pleading in the prosecution under G.S. 14-107. The affidavit must be kept in the case file (attached to the criminal pleading in the case).

(7) The affidavit of the acceptor, sworn to before a person authorized to administer oaths, must:

a. State the facts surrounding acceptance of the check or draft. If the conditions set forth in subdivisions (1) through (5) have been met, the specific facts demonstrating observance of those conditions must be stated.

b. Indicate that at least 15 days have elapsed since the mailing of the letter required under subdivision (5) and that the check passer has failed to rectify any error that may have occurred with respect to the dishonored check or draft.

c. Have attached a copy of the letter sent to the check passer pursuant to subdivision (5).

d. Have attached the receipt, or a copy of it, from the United States Postal Service certifying the mailing of the letter described in subdivision (5).

e. Have attached the check or draft or a copy thereof, including any stamp, marking or attachment indicating the reason for dishonor.

(c) In prosecutions under G.S. 14-107, where the check or draft is delivered to the acceptor by mail, or delivered other than in person, the prima facie evidence rule in subsections (d) and (e) shall apply if all the conditions below are met. The prima facie evidence rule in subsection (e) shall apply if conditions (5) through (7) below are met. The conditions are:

(1) The check or draft is delivered to the acceptor by United States mail, or by some person or instrumentality other than a check passer.

(2) The name and mailing address of the check passer are recorded on the check or draft.

(3) The acceptor has previously identified the check passer, at the time of opening the account, establishing the course of dealing, or initiating the lease or contract, by means of a North Carolina driver's license, a special identification card issued pursuant to G.S. 20-37.7, or other reliable serially numbered identification card containing a photograph and mailing address of the person in question, and obtained the signature of the person or persons who will be making payments on the account, course of dealing, lease or contract, and such signature is retained in the account file.

(4) The acceptor compares the name, address, and signature on the check with the name, address, and signature on file in the account, course of dealing, lease, or contract, and notes that the information contained on the check corresponds with the information contained in the file, and the signature on the check appears genuine when compared to the signature in the file.

(5) After dishonor of the check or draft by the bank or depository, the acceptor sends the check passer a letter by certified mail to the address recorded on the check or draft identifying the check or draft, setting forth the circumstances of dishonor and requesting rectification of any bank error or other error in connection with the transaction within 10 days.

An acceptor may advise the check passer in a letter that legal action may be taken against him if payment is not made within the prescribed time period. Such letter, however, shall be in a form which does not violate applicable provisions of Article 2 of Chapter 75.

(6) The acceptor files the affidavits described in subdivision (7) of this subsection with a judicial official, as defined in G.S. 15A-101(5), before issuance of the first process or pleading in the prosecution under G.S. 14-107. The affidavit must be kept in the case file (attached to the criminal pleading in the case).

(7) The affidavit of the acceptor, sworn to before a person authorized to administer oaths, must:

a. State the facts surrounding acceptance of the check or draft. If the conditions set forth in subdivisions (1) through (5) have been met, the specific facts demonstrating observance of those conditions must be stated.

b. Indicate that at least 15 days have elapsed since the mailing of the letter required under subdivision (5) and that the check passer has failed to rectify any error that may have occurred with respect to the dishonored check or draft.

c. Have attached a copy of the letter sent to the check passer pursuant to subdivision (5).

d. Have attached the receipt, or a copy of it, from the United States Postal Service certifying the mailing of the letter described in subdivision (5).

e. Have attached the check or draft or a copy thereof, including any stamp, marking or attachment indicating the reason for dishonor.

(d) If the conditions of subsection (b) or (c) have been met, proof of meeting them is prima facie evidence that the person charged was in fact the identified check passer.

(e) If the bank or depository dishonoring a check or draft has returned it in the regular course of business stamped or marked or with an attachment indicating the reason for dishonor, the check or draft and any attachment may be introduced in evidence and constitute prima facie evidence of the facts of dishonor if the conditions of subdivisions (5) through (7) of subsection (b) or subdivisions (5) through (7) of subsection (c) have been met. The reason for dishonor may be indicated with terms that include, but are not limited to, the following: "insufficient funds," "no account," "account closed," "NSF," "uncollected," "unable to locate," "stale dated," "postdated," "endorsement irregular," "signature irregular," "nonnegotiable," "altered," "unable to process," "refer to maker," "duplicate presentment," "forgery," "noncompliant," or "UCD noncompliant." The fact that the check or draft was returned dishonored may be received as evidence that the check passer had no credit with the bank or depository for payment of the check or draft.

(f) An affidavit by an employee of a bank or depository who has personal knowledge of the facts stated in the affidavit sworn to and properly executed before an official authorized to administer oaths is admissible in evidence without further authentication in a hearing or trial pursuant to a prosecution under G.S. 14-107 in the District Court Division of the General Court of Justice with respect to the facts of dishonor of the check or draft, including the existence of an account, the date the check or draft was processed, whether there were sufficient funds in an account to pay the check or draft, and other related matters. If the defendant requests that the bank or depository employee personally testify in the hearing or trial, the defendant may subpoena the employee. The

defendant shall be provided a copy of the affidavit prior to trial and shall have the opportunity to subpoena the affiant for trial. (1979, c. 615, s. 1; 1985, c. 650, s. 1; 1989, c. 421; 1997-149, s. 1; 2013-244, s. 5.)

§ 14-107.2. Program for collection in worthless check cases.

(a) As used in this section, the terms "check passer" and "check taker" have the same meaning as defined in G.S. 14-107.1.

(a1) The Administrative Office of the Courts may authorize the establishment of a program for the collection of worthless checks in any prosecutorial district where economically feasible. The Administrative Office of the Courts may consider the following factors when making a feasibility determination:

(1) The population of the district.

(2) The number of worthless check prosecutions in the district.

(3) The availability of personnel and equipment in the district.

(b) Upon authorization by the Administrative Office of the Courts, a district attorney may establish a program for the collection of worthless checks in cases that may be prosecuted under G.S. 14-107. The district attorney may establish a program for the collection of worthless checks in cases that would be punishable as misdemeanors, in cases that would be punishable as felonies, or both. The district attorney shall establish criteria for the types of worthless check cases that will be eligible under the program.

(b1) A community mediation center may establish and charge fees for its services in the collection of worthless checks as part of a program established under this section and may assist the Administrative Office of the Courts and district attorneys in the establishment of worthless check programs in any districts in which worthless check programs have not been established.

(c) If a check passer participates in the program by paying the fee under G.S. 7A-308(c) and providing restitution to the check taker for (i) the amount of the check or draft, (ii) any service charges imposed on the check taker by a bank or depository for processing the dishonored check, and (iii) any processing fees imposed by the check taker pursuant to G.S. 25-3-506, then the district attorney shall not prosecute the worthless check case under G.S. 14-107.

(d) The Administrative Office of the Courts shall establish procedures for remitting the fee and providing restitution to the check taker.

(e) Repealed by Session Laws 2003-377, s. 3, effective August 1, 2003. (1997-443, s. 18.22(b); 1998-23, s. 11(a); 1998-212, s. 16.3(a); 1999-237, s. 17.7; 2000-67, s. 15.3A(a); 2001-61, s. 1; 2003-377, ss. 1, 2, 3; 2011-145, s. 31.24(a).)

§ 14-108. Obtaining property or services from slot machines, etc., by false coins or tokens.

Any person who shall operate, or cause to be operated, or who shall attempt to operate, or attempt to cause to be operated any automatic vending machine, slot machine, coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, by means of a slug or any false, counterfeited, mutilated, sweated or foreign coin, or by any means, method, trick or device

whatsoever not lawfully authorized by the owner, lessee or licensee, of such machine, coin-box telephone or receptacle, or who shall take, obtain or receive from or in connection with any automatic vending machine, slot machine, coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, any goods, wares, merchandise, gas, electric current, article of value, or the use or enjoyment of any telephone or telegraph facilities or service, or of any musical instrument, phonograph or other property, without depositing in and surrendering to such machine, coin-box telephone or receptacle lawful coin of the United States of America to the amount required therefor by the owner, lessee or licensee of such machine, coin-box telephone or receptacle, shall be guilty of a Class 2 misdemeanor. (1927, c. 68, s. 1; 1969, c. 1224, s. 3; 1993, c. 539, s. 46, c. 553, s. 8; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-109. Manufacture, sale, or gift of devices for cheating slot machines, etc.

Any person who, with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the contents of any automatic vending machine, slot machine, coin-box telephone or other receptacle, depository or contrivance designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, or who, knowing that the same is intended for unlawful use, shall manufacture for sale, or sell or give away any slug, device or substance whatsoever intended or calculated to be placed or deposited in any such automatic vending machine, slot machine, coin-box telephone or other such receptacle, depository or contrivance, shall be guilty of a Class 2 misdemeanor. (1927, c. 68, s. 2; 1969, c. 1224, s. 3; 1993, c. 539, s. 47; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-110. Defrauding innkeeper or campground owner.

No person shall, with intent to defraud, obtain food, lodging, or other accommodations at a hotel, inn, boardinghouse, eating house, or campground. Whoever violates this section shall be guilty of a Class 2 misdemeanor. Obtaining such lodging, food, or other accommodation by false pretense, or by false or fictitious show of pretense of baggage or other property, or absconding without paying or offering to pay therefor, or surreptitiously removing or attempting to remove such baggage, shall be prima facie evidence of such fraudulent intent, but this section shall not apply where there has been an agreement in writing for delay in such payment. (1907, c. 816; C.S., s. 4284; 1969, c. 947; c. 1224, s. 3; 1985, c. 391; 1993, c. 539, s. 48; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-111: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(4).

§ 14-111.1. Obtaining ambulance services without intending to pay therefor – Buncombe, Haywood and Madison Counties.

Any person who with the intent to defraud shall obtain ambulance services for himself or other persons without intending at the time of obtaining such services to pay a reasonable charge therefor, shall be guilty of a Class 2 misdemeanor. If a person or persons obtaining such services willfully fails to pay for the services within a period of 90 days after request for payment, such failure shall raise a presumption that the services were obtained with the intention to defraud, and with the intention not to pay therefor.

This section shall apply only to the Counties of Buncombe, Haywood and Madison. (1965, c. 976, s. 1; 1969, c. 1224, s. 4; 1993, c. 539, s. 49; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-111.2. Obtaining ambulance services without intending to pay therefor – certain named counties.

Any person who with intent to defraud shall obtain ambulance services without intending at the time of obtaining such services to pay, if financially able, any reasonable charges therefor shall be guilty of a Class 2 misdemeanor. A determination by the court that the recipient of such services has willfully failed to pay for the services rendered for a period of 90 days after request for payment, and that the recipient is financially able to do so, shall raise a presumption that the recipient at the time of obtaining the services intended to defraud the provider of the services and did not intend to pay for the services.

The section shall apply to Alamance, Anson, Ashe, Beaufort, Cabarrus, Caldwell, Camden, Carteret, Caswell, Catawba, Chatham, Cherokee, Clay, Cleveland, Cumberland, Davie, Duplin, Durham, Forsyth, Gaston, Graham, Guilford, Halifax, Haywood, Henderson, Hoke, Hyde, Iredell, Macon, Mecklenburg, Montgomery, New Hanover, Onslow, Orange, Pasquotank, Pender, Person, Polk, Randolph, Robeson, Rockingham, Scotland, Stanly, Surry, Transylvania, Union, Vance, Washington, Wilkes and Yadkin Counties only. (1967, c. 964; 1969, cc. 292, 753; c. 1224, s. 4; 1971, cc. 125, 203, 300, 496; 1973, c. 880, s. 2; 1977, cc. 63, 144; 1983, c. 42, s. 1; 1985, c. 335, s. 1; 1987 (Reg. Sess., 1988), c. 910, s. 1; 1993, c. 539, s. 50; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 9, s. 2; 1999-64, s. 1; 2000-15, s. 1; 2001-106, s. 1.)

§ 14-111.3. Making unneeded ambulance request in certain counties.

It shall be unlawful for any person or persons to willfully obtain or attempt to obtain ambulance service that is not needed, or to make a false request or report that an ambulance is needed. Every person convicted of violating this section shall be guilty of a Class 3 misdemeanor.

This section shall apply only to the Counties of Alamance, Ashe, Buncombe, Cabarrus, Camden, Carteret, Cherokee, Clay, Cleveland, Davie, Duplin, Durham, Graham, Greene, Halifax, Haywood, Hoke, Macon, Madison, New Hanover, Onslow, Pender, Polk, Robeson, Rockingham, Washington, Wilkes and Yadkin. (1965, c. 976, s. 2; 1971, c. 496; 1977, c. 96; 1983, c. 42, s. 2; 1985, c. 335, s. 2; 1987 (Reg. Sess., 1988), c. 910, s. 2; 1989, c. 514; 1989 (Reg. Sess., 1990), c. 834; 1993, c. 539, s. 51; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 9, s. 3; 1999-64, s. 2; 2000-15, s. 2; 2001-106, s. 2.)

§ 14-111.4. Misuse of 911 system.

It is unlawful for an individual who is not seeking public safety assistance, is not providing 911 service, or is not responding to a 911 call to access or attempt to access the 911 system for a purpose other than an emergency communication. A person who knowingly violates this section commits a Class 1 misdemeanor. (2007-383, s. 1(b); 2013-286, s. 1.)

§ 14-112. Obtaining merchandise on approval.

If any person, with intent to cheat and defraud, shall solicit and obtain from any merchant any article of merchandise on approval, and shall thereafter, upon demand, refuse or fail to return the same to such merchant in an unused and undamaged condition, or to pay for the same, such person so offending shall be guilty of a Class 2 misdemeanor. Evidence that a person has solicited a merchant to deliver to him any article of merchandise for examination or approval and has obtained the same upon such solicitation, and thereafter, upon demand, has refused or failed to return the

same to such merchant in an unused and undamaged condition, or to pay for the same, shall constitute prima facie evidence of the intent of such person to cheat and defraud, within the meaning of this section: Provided, this section shall not apply to merchandise sold upon a written contract which is signed by the purchaser. (1911, c. 185; C.S., s. 4285; 1941, c. 242; 1969, c. 1224, s. 2; 1993, c. 539, s. 52; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-112.1. Repealed by Session Laws 1967, c. 1088, s. 2.

§ 14-112.2. Exploitation of an older adult or disabled adult.

(a) The following definitions apply in this section:

(1) Disabled adult. – A person 18 years of age or older or a lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated as defined in G.S. 108A-101(d).

(2) Older adult. – A person 65 years of age or older.

(b) It is unlawful for a person: (i) who stands in a position of trust and confidence with an older adult or disabled adult, or (ii) who has a business relationship with an older adult or disabled adult to knowingly, by deception or intimidation, obtain or use, or endeavor to obtain or use, an older adult's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the older adult or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the older adult or disabled adult.

(c) It is unlawful for a person to knowingly, by deception or intimidation, obtain or use, endeavor to obtain or use, or conspire with another to obtain or use an older adult's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the older adult or disabled adult of the use, benefit, or possession of the funds, assets, or property, or benefit someone other than the older adult or disabled adult. This subsection shall not apply to a person acting within the scope of that person's lawful authority as the agent for the older adult or disabled adult.

(d) A violation of subsection (b) of this section is punishable as follows:

(1) If the funds, assets, or property involved in the exploitation of the older adult or disabled adult is valued at one hundred thousand dollars ($100,000) or more, then the offense is a Class F felony.

(2) If the funds, assets, or property involved in the exploitation of the older adult or disabled adult is valued at twenty thousand dollars ($20,000) or more but less than one hundred thousand dollars ($100,000), then the offense is a Class G felony.

(3) If the funds, assets, or property involved in the exploitation of the older adult or disabled adult is valued at less than twenty thousand dollars ($20,000), then the offense is a Class H felony.

(e) A violation of subsection (c) of this section is punishable as follows:

(1) If the funds, assets, or property involved in the exploitation of the older adult or disabled adult is valued at one hundred thousand dollars ($100,000) or more, then the offense is a Class G felony.

(2) If the funds, assets, or property involved in the exploitation of the older adult or disabled adult is valued at twenty thousand dollars ($20,000) or more but less than one hundred thousand dollars ($100,000), then the offense is a Class H felony.

(3) If the funds, assets, or property involved in the exploitation of the older adult or disabled adult is valued at less than twenty thousand dollars ($20,000), then the offense is a Class I felony.

(f) If a person is charged with a violation of this section that involves funds, assets, or property valued at more than five thousand dollars ($5,000), the district attorney may file a petition in the pending criminal proceeding before the court with jurisdiction over the pending charges to freeze the funds, assets, or property of the defendant in an amount up to one hundred fifty percent (150%) of the alleged value of funds, assets, or property in the defendant's pending criminal proceeding for purposes of restitution to the victim. The standard of proof required to freeze the defendant's funds, assets, or property shall be by clear and convincing evidence. The procedure for petitioning the court under this subsection shall be governed by G.S. 14-112.3. (2005-272, s. 2; 2006-264, s. 99; 2013-203, s. 1; 2013-337, s. 1.)

§ 14-112.3. Asset freeze or seizure; proceeding.

(a) For purposes of this section, the term "assets" includes funds and property as well as other assets that may be involved in a violation of G.S. 14-112.2.

(b) Whenever it appears by clear and convincing evidence that any defendant is about to or intends to divest himself or herself of assets in a manner that would render the defendant insolvent for purposes of restitution, the district attorney may make an application to the court to freeze or seize the assets of the defendant. Upon a showing by clear and convincing evidence in the hearing, the court shall issue an order to freeze or seize the assets of the defendant in the amount calculated pursuant to G.S. 14-112.2(f). The procedure for petitioning the court under this section shall be governed by G.S. 1A-1, Rule 65, except as otherwise provided in this section.

(b1) An order to freeze or seize assets shall direct the appropriate State or local law enforcement agency with territorial jurisdiction over the assets to serve and execute the order as follows:

(1) Personal property or financial assets in the defendant's possession that are not held by a financial institution shall be seized and held until final disposition as directed by the order.

(2) If the asset is an account, intangible, or other financial asset held by a financial institution, the State or local law enforcement agency shall serve the order on the entity or institution in possession of the asset with return of service to the clerk of superior court.

(3) If the asset is real property, then a lis pendens shall be filed as directed by the court with the clerk in the county or counties where the property is located in accordance with Article 11 of Chapter 1 of the General

Statutes. If property is located in multiple counties, a lis pendens shall be filed in each county.

(4) For all orders served and executed in accordance with subsection (b1) of this section, a return of service shall be filed with the clerk of superior court by the State or local law enforcement agency with an inventory of items seized. If assets identified are financial assets as listed in subdivision (2) of this subsection, then the law enforcement agency shall list the financial institution wherein such funds are held and the amount of said funds. Said inventory should also identify any and all available real property and identify the counties wherein lis pendens were filed in accordance with subdivision (3) of this subsection.

(b2) A record of any personal property seized by a law enforcement agency pursuant to this section shall be kept and maintained as provided in Article 2 of Chapter 15 of the General Statutes, except that the property shall not be disposed of other than pursuant to an order of the court entered pursuant to this section. Property frozen or seized pursuant to this section shall be deemed to be in the custody of the law enforcement agency seizing it and shall be removed and stored in the discretion of that law enforcement agency, which may do any of the following:

(1) Place the property under seal.

(2) Remove the property to a place designated by the law enforcement agency.

(3) Request that the North Carolina Department of Justice take custody of the property and remove it to an appropriate location pending an order of the court for disposition.

(c) At any time after service of the order to freeze or seize assets, the defendant or any person claiming an interest in the assets may file a motion to release the assets.

(d) In any proceeding to release assets, the burden of proof shall be by clear and convincing evidence and shall be on the State to show that the defendant is about to, intends to, or did divest himself or herself of assets in a manner that would render the defendant insolvent for purposes of restitution. If the court finds that the defendant is about to, intends to, or did divest himself or herself of assets in a manner that would render the defendant insolvent for purposes of restitution, the court shall deny the motion.

(e) If the prosecution of the charge under G.S. 14-112.2 is terminated by voluntary dismissal without leave by the State or the court, or if a judgment of acquittal is entered, the court shall vacate the order to freeze or seize the assets. If assets are released pursuant to this subsection, accrued costs incident to the seizure, freeze, or storage of the assets shall not be charged against the defendant and shall be borne by the agency incurring those costs.

(e1) Upon conviction of the defendant, or entry of a plea of no contest, any frozen or seized assets shall be used to satisfy the defendant's restitution obligation as ordered by the court, accounting for costs incident to seizure, including costs of sale. However, if the defendant can satisfy the restitution order within a period of time designated by the court, the court may accept an alternate form of restitution satisfaction. Any excess assets shall be returned to the defendant.

In order to satisfy an order of restitution, frozen or seized assets shall be handled as follows:

(1) Assets shall be sold, transferred, paid out, or otherwise applied to the defendant's restitution obligation as follows:

a. If the asset is personal property or liquid assets already seized, the property shall be disposed of in accordance with the court order.

b. If the asset is held by a financial institution, the court shall enter an order directing the payment of those funds to the clerk in the amount specified in the restitution order or, if the amount is less than the full restitution award, the full amount of liquid assets shall be paid. The law enforcement agency shall deliver those funds to the clerk.

c. If the asset is real property, the court shall enter an order directing the sale of the property. The sale shall be conducted pursuant to Article 29A of Chapter 1 of the General Statutes. A private sale may be conducted pursuant to G.S. 1-339.33 through G.S. 1-339.40, if, upon receipt of the petition and satisfactory proof, it appears to the person directed to oversee the sale that a private sale is in the best interest of the victim.

(2) The proceeds of any sale, transfer, or conversion shall be disbursed as follows:

a. The law enforcement agency shall pay all proceeds to the clerk of superior court and shall provide an accounting of personal property sold or liquid assets seized.

b. All proceeds received by the clerk shall be distributed according to the following priority:

1. Payment to the victim in the full amount of the restitution order.

2. The costs and expenses of the sale.

3. All other necessary expenses incident to compliance with this section.

4. Any remaining balance to the defendant within 30 days of the clerk's receipt of the proceeds of the sale, unless the defendant directs the clerk to apply any excess to the defendant's other monetary obligations contained in the judgment of conviction.

(e2) In the event proceeds from the sale, transfer, or conversion of the seized or frozen assets under subsection (e1) of this section are not sufficient to cover the expenses allowed under sub-sub-subdivisions 2. and 3. of sub-subdivision b. of subdivision (2) of subsection (e1) of this section, after notice and a hearing at which the defendant is present, the court may enter a supplemental order of restitution for the unpaid portion of those expenses for the benefit of the agency that incurred the expenses, to be paid as part of the criminal judgment and as provided under G.S. 7A-304(d)(1)e.

(f) Any person holding any interest in the frozen or seized assets may commence a separate civil proceeding in the manner provided by law.

(g) Any filing fees, service fees, or other expenses incurred by any State or county agency for the administration or use of this section shall be recoverable only as provided in sub-sub-subdivision 2. of sub-subdivision b. of subdivision (2) of subsection (e1) of this section. (2013-203, s. 2; 2015-182, s. 1.)

§ 14-113. Obtaining money by false representation of physical disability.

It shall be unlawful for any person to falsely represent himself or herself in any manner whatsoever as blind, deaf, unable to speak, or otherwise physically disabled for the purpose of obtaining money or other thing of value or of making sales of any character of personal property. Any person so falsely representing himself or herself and securing aid or assistance on account of such representation, shall be deemed guilty of a Class 2 misdemeanor. (1919, c. 104; C.S., s. 4286; 1969, c. 1224, s. 1; 1993, c. 539, s. 53; 1994, Ex. Sess., c. 24, s. 14(c); 2011-29, s. 3.)

Article 19A.

Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means.

§ 14-113.1. Use of false or counterfeit credit device; unauthorized use of another's credit device; use after notice of revocation.

It shall be unlawful for any person knowingly to obtain or attempt to obtain credit, or to purchase or attempt to purchase any goods, property or service, by the use of any false, fictitious, or counterfeit telephone number, credit number or other credit device, or by the use of any telephone number, credit number or other credit device of another without the authority of the person to whom such number or device was issued, or by the use of any telephone number, credit number or other credit device in any case where such number or device has been revoked and notice of revocation has been given to the person to whom issued or he has knowledge or reason to believe that such revocation has occurred. (1961, c. 223, s. 1; 1965, c. 1147; 1967, c. 1244, s. 1; 1971, c. 1213, s. 1.)

§ 14-113.2. Notice defined; prima facie evidence of receipt of notice.

The word "notice" as used in G.S. 14-113.1 shall be construed to include either notice given in person or notice given in writing to the person to whom the number or device was issued. The sending of a notice in writing by registered or certified mail in the United States mail, duly stamped and addressed to such person at his last address known to the issuer, shall be prima facie evidence that such notice was duly received after five days from the date of the deposit in the mail. (1961, c. 223, s. 3; 1965, c. 1147; 1967, c. 1244, s. 1.)

§ 14-113.3. Use of credit device as prima facie evidence of knowledge.

The presentation or use of a revoked, false, fictitious or counterfeit telephone number, credit number, or other credit device for the purpose of obtaining credit or the privilege of making a deferred payment for the article or service purchased shall be prima facie evidence of knowledge that the said credit device is revoked, false, fictitious or counterfeit; and the unauthorized use of any telephone number, credit number or other credit device of another shall be prima facie evidence of knowledge that such use was without the authority of the person to whom such number or device was issued. (1961, c. 223, s. 4; 1965, c. 1147; 1967, c. 1244, s. 1.)

§ 14-113.4. Avoiding or attempting to avoid payment for telecommunication services.

It shall be unlawful for any person to avoid or attempt to avoid, or to cause another to avoid, the lawful charges, in whole or in part, for any telephone or telegraph service or for the transmission of a message, signal or other communication by telephone or telegraph, or over telephone or telegraph facilities by the use of any fraudulent scheme, device, means or method. (1961, c. 223, s. 2; 1965, c. 1147.)

§ 14-113.5. Making, distributing, possessing, transferring, or programming device for theft of telecommunication service; publication of information regarding schemes, devices, means, or methods for such theft; concealment of existence, origin or destination of any telecommunication.

(a) It shall be unlawful for any person knowingly to:

(1) Make, distribute, possess, use, or assemble an unlawful telecommunications device or modify, alter, program, or reprogram a telecommunication device designed, adapted, or which is used:

a. For commission of a theft of telecommunication service or to acquire or facilitate the acquisition of telecommunications service without the consent of the telecommunication service provider in violation of this Article, or

b. To conceal, or assist another to conceal, from any supplier of a telecommunication service provider or from any lawful authority the existence or place of origin or of destination of any telecommunication, or

(2) Sell, possess, distribute, give, transport, or otherwise transfer to another or offer or advertise for sale any:

a. Unlawful telecommunication device, or plans or instructions for making or assembling the same under circumstances evincing an intent to use or employ the unlawful telecommunication device, or to allow the same to be used or employed, for a purpose described in (1)a or (1)b above, or knowing or having reason to believe that the same is intended to be so used, or that the aforesaid plans or instructions are intended to be used for making or assembling the unlawful telecommunication device; or

b. Material, including hardware, cables, tools, data, computer software or other information or equipment, knowing that the purchaser or a third person intends to use the material in the manufacture of an unlawful telecommunication device; or

(3) Publish plans or instructions for making or assembling or using any unlawful telecommunication device, or

(4) Publish the number or code of an existing, cancelled, revoked or nonexistent telephone number, credit number or other credit device, or method of numbering or coding which is employed in the issuance of telephone numbers, credit numbers or other credit devices with knowledge or reason to believe that it may be used to avoid the payment of any lawful telephone or telegraph toll charge under circumstances evincing an intent to have the telephone number, credit number, credit device or method of numbering or coding so used.

(5) Repealed by Session Laws 1995, c. 425, s. 1.

(b) Any unlawful telecommunication device, plans, instructions, or publications described in this section may be seized under warrant or incident to a lawful arrest for a violation of this section. Upon the conviction of a person for a violation of this section, the court may order the sheriff of the county in which the person was convicted to destroy as contraband or to otherwise lawfully dispose of the unlawful telecommunication device, plans, instructions, or publication.

(c) The following definitions apply in this section and in G.S. 14-113.6:

(1) Manufacture of an unlawful telecommunication device. – The production or assembly of an unlawful telecommunication device or the modification, alteration, programming or reprogramming of a telecommunication device to be capable of acquiring or facilitating the acquisition of telecommunication service without the consent of the telecommunication service provider.

(2) Publish. – The communication or dissemination of information to any one or more persons, either orally, in person or by telephone, radio or television, or in a writing of any kind, including without limitation a letter or memorandum, circular or handbill, newspaper or magazine article, or book.

(3) Telecommunication device. – Any type of instrument, device, machine or equipment that is capable of transmitting or receiving telephonic, electronic or radio communications, or any part of such instrument, device, machine or equipment, or any computer circuit, computer chip, electronic mechanism or other component that is capable of facilitating the transmission or reception of telephonic, electronic or radio communications.

(4) Telecommunication service. – Any service provided for a charge or compensation to facilitate the origination, transmission, emission or reception of signs, signals, data, writings, images, sounds or intelligence of any nature of telephone, including cellular or other wireless telephones, wire, radio, electromagnetic, photoelectronic or photo-optical system.

(5) Telecommunication service provider. – A person or entity providing telecommunication service, including, a cellular, paging or other wireless communications company or other person or entity which, for a fee, supplies the facility, cell site, mobile telephone switching office or other equipment or telecommunication service.

(6) Unlawful telecommunication device. – Any telecommunication device that is capable, or has been altered, modified, programmed or reprogrammed alone or in conjunction with another access device or other equipment so as to be capable, of acquiring or facilitating the acquisition of any electronic serial number, mobile identification number, personal identification number or any telecommunication service without the consent of the telecommunication service provider. The term includes, telecommunications devices altered to obtain service without the consent of the telecommunication service provider, tumbler phones, counterfeit or clone microchips, scanning receivers of wireless telecommunication service of a telecommunication service provider and other instruments capable of disguising their identity or location or of gaining access to a communications system operated by a telecommunication service provider. This section shall not apply to any device operated by a law enforcement agency in the normal course of its activities. (1965, c. 1147; 1971, c. 1213, s. 2; 1995, c. 425, s. 1.)

§ 14-113.6. Penalties for violation; civil action.

(a) Any person violating any of the provisions of this Article shall be guilty of a Class 2 misdemeanor. However, if the offense is a violation of G.S. 14-113.5 and involves five or more unlawful telecommunication devices the person shall be guilty of a Class G felony.

(b) The court may, in addition to any other sentence authorized by law, order a person convicted of violating G.S. 14-113.5 to make restitution for the offense.

(c) Any person or entity aggrieved by a violation of G.S. 14-113.5 may, in a civil action in any court of competent jurisdiction, obtain appropriate relief, including preliminary and other equitable or declaratory relief, compensatory and punitive damages, reasonable investigation expenses, costs of suit and any attorney fees as may be provided by law. (1961, c. 223, s. 5; 1965, c. 1147; 1969, c. 1224, s. 6; 1993, c. 539, s. 54; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 425, s. 2.)

§ 14-113.6A. Venue of offenses.

(a) Any of the offenses described in Article 19A which involve the placement of telephone calls may be deemed to have been committed at either the place at which the telephone call or calls were made or at the place where the telephone call or calls were received.

(b) An offense under former G.S. 14-113.5(3) or 14-113.5(4) (see now G.S. 14-113.5(a)(3) or 14-113.5(a)(4)) may be deemed to have been committed at either the place at which the publication was initiated or at which the publication was received or at which the information so published was utilized to avoid or attempt to avoid the payment of any lawful telephone or telegraph toll charge. (1971, c. 1213, s. 3.)

§ 14-113.7. Article not construed as repealing § 14-100.

This Article shall not be construed as repealing G.S. 14-100. (1961, c. 223, s. 6; 1065, c. 1147.)

§ 14-113.7A. Application of Article to credit cards.

This Article shall not be construed as being applicable to any credit card as the term is defined in G.S. 14-113.8. (1967, c. 1244, s. 1.)

Article 19B.

Financial Transaction Card Crime Act.

§ 14-113.8. Definitions.

The following words and phrases as used in this Chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) Acquirer. – "Acquirer" means a business organization, financial institution, or an agent of a business organization or financial institution that authorizes a merchant to accept payment by financial transaction card for money, goods, services or anything else of value.

(1a) Automated Banking Device. – "Automated banking device" means any machine which when properly activated by a financial transaction card and/or personal identification code may be used for any of the purposes for which a financial transaction card may be used.

(2) Cardholder. – "Cardholder" means the person or organization named on the face of a financial transaction card to whom or for whose benefit the financial transaction card is issued by an issuer.

(3) Expired Financial Transaction Card. – "Expired financial transaction card" means a financial transaction card which is no longer valid because the term shown on it has elapsed.

(4) Financial Transaction Card. – "Financial transaction card" or "FTC" means any instrument or device whether known as a credit card, credit plate, bank services card, banking card, check guarantee card, debit card, or by any other name, issued with or without fee by an issuer for the use of the cardholder:

a. In obtaining money, goods, services, or anything else of value on credit; or

b. In certifying or guaranteeing to a person or business the availability to the cardholder of funds on deposit that are equal to or greater than the amount necessary to honor a draft or check payable to the order of such person or business; or

c. In providing the cardholder access to a demand deposit account or time deposit account for the purpose of:

1. Making deposits of money or checks therein; or
2. Withdrawing funds in the form of money, money orders, or traveler's checks therefrom; or
3. Transferring funds from any demand deposit account or time deposit account to any other demand deposit account or time deposit account; or
4. Transferring funds from any demand deposit account or time deposit account to any credit card accounts, overdraft privilege accounts, loan accounts, or any other credit accounts in full or partial satisfaction of any outstanding balance owed existing therein; or
5. For the purchase of goods, services or anything else of value; or
6. Obtaining information pertaining to any demand deposit account or time deposit account;

d. But shall not include a telephone number, credit number, or other credit device which is covered by the provisions of Article 19A of this Chapter.

(5) Issuer. – "Issuer" means the business organization or financial institution or its duly authorized agent which issues a financial transaction card.

(6) Personal Identification Code. – "Personal identification code" means a numeric and/or alphabetical code assigned to the cardholder of a financial transaction card by the issuer to permit authorized electronic use of that FTC.

(7) Presenting. – "Presenting" means, as used herein, those actions taken by a cardholder or any person to introduce a financial transaction card into an automated banking device, including utilization of a personal identification code, or merely displaying or showing a financial transaction card to the issuer, or to any person or organization providing money, goods, services, or anything else of value, or any other entity with intent to defraud.

(8) Receives. – "Receives" or "receiving" means acquiring possession or control or accepting a financial transaction card as security for a loan.

(9) Revoked Financial Transaction Card. – "Revoked financial transaction card" means a financial transaction card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

(10) Scanning Device. – "Scanning device" means a scanner, reader, or any other device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on a financial transaction card. (1967, c. 1244, s. 2; 1971, c. 1213, s. 4; 1979, c. 741, s. 1; 1989, c. 161, s. 1; 2002-175, s. 2.)

§ 14-113.9. Financial transaction card theft.

(a) A person is guilty of financial transaction card theft when the person does any of the following:

(1) Takes, obtains or withholds a financial transaction card from the person, possession, custody or control of another without the cardholder's consent and with the intent to use it; or who, with knowledge that it has been so taken, obtained or withheld, receives the financial transaction card with intent to use it or to sell it, or to transfer it to a person other than the issuer or the cardholder.

(2) Receives a financial transaction card that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder.

(3) Not being the issuer, sells a financial transaction card or buys a financial transaction card from a person other than the issuer.

(4) Not being the issuer, during any 12-month period, receives financial transaction cards issued in the names of two or more persons which he has reason to know were taken or retained under circumstances which constitute a violation of G.S. 14-113.13(a)(3) and subdivision (3) of subsection (a) of this section.

(5) With the intent to defraud any person, either (i) uses a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on another person's financial transaction card, or (ii) receives the encoded information from another person's financial transaction card.

(b) Credit card theft is punishable as provided by G.S. 14-113.17(b). (1967, c. 1244, s. 2; 1979, c. 741, s. 1; c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 2002-175, s. 3.)

§ 14-113.10. Prima facie evidence of theft.

When a person has in his possession or under his control financial transaction cards issued in the names of two or more other persons other than members of his immediate family, such possession shall be prima facie evidence that such financial transaction cards have been obtained in violation of G.S. 14-113.9(a). (1967, c. 1244, s. 2; 1979, c. 741, s. 1.)

§ 14-113.11. Forgery of financial transaction card.

(a) A person is guilty of financial transaction card forgery when:

(1) With intent to defraud a purported issuer, a person or organization providing money, goods, services or anything else of value, or any other person, he falsely makes or falsely embosses a purported financial transaction card or utters such a financial transaction card; or

(2) With intent to defraud a purported issuer, a person or organization providing money, goods, services or anything else of value, or any other person, he falsely encodes, duplicates or alters existing encoded information on a financial transaction card or utters such a financial transaction card; or

(3) He, not being the cardholder or a person authorized by him, with intent to defraud the issuer, or a person or organization providing money, goods, services or anything else of value, or any other person, signs a financial transaction card.

(b) A person falsely makes a financial transaction card when he makes or draws, in whole or in part, a device or instrument which purports to be the financial transaction card of a named issuer but which is not such a financial transaction card because the issuer did not authorize the making or drawing, or alters a financial transaction card which was validly issued.

(c) A person falsely embosses a financial transaction card when, without authorization of the named issuer, he completes a financial transaction card by adding any of the matter, other than the signature of the cardholder, which an issuer requires to appear on the financial transaction card before it can be used by a cardholder.

(d) A person falsely encodes a financial transaction card when, without authorization of the purported issuer, he records magnetically, electronically, electro-magnetically or by any other means whatsoever, information on a financial transaction card which will permit acceptance of that card by any automated banking device. Conviction of financial transaction card forgery shall be punishable as provided in G.S. 14-113.17(b). (1967, c. 1244, s. 2; 1979, c. 741, s. 1.)

§ 14-113.12. Prima facie evidence of forgery.

(a) When a person, other than the purported issuer, possesses two or more financial transaction cards which are falsely made or falsely embossed, such possession shall be prima facie evidence that said cards were obtained in violation of G.S. 14-113.11(a)(1) or 14-113.11(a)(2).

(b) When a person, other than the cardholder or a person authorized by him possesses two or more financial transaction cards which are signed, such possession shall be prima facie evidence that said cards were obtained in violation of G.S. 14-113.11(a)(3). (1967, c. 1244, s. 2; 1979, c. 741, s. 1.)

§ 14-113.13. Financial transaction card fraud.

(a) A person is guilty of financial transaction card fraud when, with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value, or any other person, he

(1) Uses for the purpose of obtaining money, goods, services or anything else of value a financial transaction card obtained or retained, or which was received with knowledge that it was obtained or retained, in violation of G.S. 14-113.9 or 14-113.11 or a financial transaction card which he knows is forged, altered, expired, revoked or was obtained as a result of a fraudulent application in violation of G.S. 14-113.13(c); or

(2) Obtains money, goods, services, or anything else of value by:

a. Representing without the consent of the cardholder that he is the holder of a specified card; or

b. Presenting the financial transaction card without the authorization or permission of the cardholder; or

c. Representing that he is the holder of a card and such card has not in fact been issued; or

d. Using a financial transaction card to knowingly and willfully exceed:

1. The actual balance of a demand deposit account or time deposit account; or

2. An authorized credit line in an amount which exceeds such authorized credit line in the amount of five hundred dollars ($500.00), or fifty percent (50%) of such authorized credit line, whichever is greater; or

(3) Obtains control over a financial transaction card as security for debt; or

(4) Deposits into his account or any account, by means of an automated banking device, a false, fictitious, forged, altered or counterfeit check, draft, money order, or any other such document not his lawful or legal property; or

(5) Receives money, goods, services or anything else of value as a result of a false, fictitious, forged, altered, or counterfeit check, draft, money order or any other such document having been deposited into an account via an automated banking device, knowing at the time of receipt of the money, goods, services, or item of value that the document so deposited was false, fictitious, forged, altered or counterfeit or that the above deposited item was not his lawful or legal property.

(b) A person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a financial transaction card by the cardholder, or any agent or employee of such person is guilty of a financial transaction card fraud when, with intent to defraud the issuer or the cardholder, he

(1) Furnishes money, goods, services or anything else of value upon presentation of a financial transaction card obtained or retained in violation of G.S. 14-113.9, or a financial transaction card which he knows is forged, expired or revoked; or

(2) Fails to furnish money, goods, services or anything else of value which he represents in writing to the issuer that he has furnished.

Conviction of financial transaction card fraud as provided in subsection (a) or (b) of this section is punishable as provided in G.S. 14-113.17(a) if the value of all money, goods, services and other things of value furnished in violation of this section, or if the difference between the value actually furnished and the value represented to the issuer to have been furnished in violation of this section, does not exceed five hundred dollars ($500.00) in any six-month period. Conviction of financial transaction card fraud as provided in subsection (a) or (b) of this section is punishable as provided in G.S. 14-113.17(b) if such value exceeds five hundred dollars ($500.00) in any six-month period.

(c) A person is guilty of financial transaction card fraud when, upon application for a financial transaction card to an issuer, he knowingly makes or causes to be made a false statement or report relative to his name, occupation, financial condition, assets, or liabilities; or willfully and substantially overvalues any assets, or willfully omits or substantially undervalues any indebtedness for the purpose of influencing the issuer to issue a financial transaction card.

Conviction of financial transaction card fraud as provided in this subsection is punishable as provided in G.S. 14-113.17(a).

(c1) A person authorized by an acquirer to furnish money, goods, services or anything else of value upon presentation of a financial transaction card or a financial transaction card account number by a cardholder, or any agent or employee of such person, who, with intent to defraud the issuer, acquirer, or cardholder, remits to an issuer or acquirer, for payment, a financial transaction card record of a sale, which sale was not made by such person, his agent or employee, is guilty of financial transaction card fraud.

Conviction of financial transaction card fraud as provided in this subsection is punishable as provided in G.S. 14-113.17(a).

(d) A cardholder is guilty of financial transaction card fraud when he willfully, knowingly, and with an intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, submits, verbally or in writing, to the issuer or any other person, any false notice or report of the theft, loss, disappearance, or nonreceipt of his financial transaction card.

Conviction of financial transaction card fraud as provided in this subsection is punishable as provided in G.S. 14-113.17(a).

(e) In any prosecution for violation of G.S. 14-113.13, the State is not required to establish and it is no defense that some of the acts constituting the crime did not occur in this State or within one city, county, or local jurisdiction.

(f) For purposes of this section, revocation shall be construed to include either notice given in person or notice given in writing to the person to whom the financial transaction card and/or personal identification code was issued. Notice of revocation shall be immediate when notice is given in person. The sending of a notice in writing by registered or certified mail in the United States mail, duly stamped and addressed to such person at his last address known to the issuer, shall be prima facie evidence that such notice was duly received after seven days from the date of the deposit in the mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone and Canada, notice shall be presumed to have been received 10 days after mailing by registered or certified mail. (1967, c. 1244, s. 2; 1979, c. 741, s. 1; 1989, c. 161, s. 2.)

§ 14-113.14. Criminal possession of financial transaction card forgery devices.

(a) A person is guilty of criminal possession of financial transaction card forgery devices when:

(1) He is a person other than the cardholder and possesses two or more incomplete financial transaction cards, with intent to complete them without the consent of the issuer; or

(2) He possesses, with knowledge of its character, machinery, plates, or any other contrivance designed to reproduce instruments purporting to be financial transaction cards of an issuer who has not consented to the preparation of such financial transaction cards.

(b) A financial transaction card is incomplete if part of the matter other than the signature of the cardholder, which an issuer requires to appear on the financial transaction card before it can be used by a cardholder, has not yet been stamped, embossed, imprinted, encoded or written upon it.

Conviction of criminal possession of financial transaction card forgery devices is punishable as provided in G.S. 14-113.17(b). (1967, c. 1244, s. 2; 1979, c. 741, s. 1.)

§ 14-113.15. Criminal receipt of goods and services fraudulently obtained.

A person is guilty of criminally receiving goods and services fraudulently obtained when he receives money, goods, services or anything else of value obtained in violation of G.S. 14-113.13(a) with the knowledge or belief that the same were obtained in violation of G.S. 14-113.13(a). Conviction of criminal receipt of goods and services fraudulently obtained is punishable as provided in G.S. 14-113.17(a) if the value of all the money, goods, services and anything else of value, obtained in violation of this section, does not exceed five hundred dollars ($500.00) in any six-month period; conviction of criminal receipt of goods and services fraudulently obtained is punishable as provided in G.S. 14-113.17(b) if such value exceeds five hundred dollars ($500.00) in any six-month period. (1967, c. 1244, s. 2; 1979, c. 741, s. 1.)

§ 14-113.15A. Criminal factoring of financial transaction card records.

Any person who, without the acquirer's express authorization, employs or solicits an authorized merchant, or any agent or employee of such merchant, to remit to an issuer or acquirer, for payment, a financial transaction card record of a sale, which sale was not made by such merchant, his agent or employee, is guilty of a felony punishable as provided in G.S. 14-113.17(b). (1989, c. 161, s. 3.)

§ 14-113.16. Presumption of criminal receipt of goods and services fraudulently obtained.

A person who obtains at a discount price a ticket issued by an airline, railroad, steamship or other transportation company from other than an authorized agent of such company which was acquired in violation of G.S. 14-113.13(a) without reasonable inquiry to ascertain that the person from whom it was obtained had a legal right to possess it shall be presumed to know that such ticket was acquired under circumstances constituting a violation of G.S. 14-113.13(a). (1967, c. 1244, s. 2; 1979, c. 741, s. 1.)

§ 14-113.17. Punishment and penalties.

(a) A person who is subject to the punishment and penalties of this Article shall be guilty of a Class 2 misdemeanor.

(b) A crime punishable under this Article is punishable as a Class I felony. (1967, c. 1244, s. 2; 1979, c. 741, s. 1; c. 760, s. 5; 1993, c. 539, ss. 55, 1183; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-113.18. Reserved for future codification purposes.

§ 14-113.19. Reserved for future codification purposes.

Article 19C.

Identity Theft.

§ 14-113.20. Identity theft.

(a) A person who knowingly obtains, possesses, or uses identifying information of another person, living or dead, with the intent to fraudulently represent that the person is the other person for the purposes of making financial or credit transactions in the other person's name, to obtain anything of value, benefit, or advantage, or for the purpose of avoiding legal consequences is guilty of a felony punishable as provided in G.S. 14-113.22(a).

(b) The term "identifying information" as used in this Article includes the following:

(1) Social security or employer taxpayer identification numbers.
(2) Drivers license, State identification card, or passport numbers.
(3) Checking account numbers.
(4) Savings account numbers.
(5) Credit card numbers.
(6) Debit card numbers.
(7) Personal Identification (PIN) Code as defined in G.S. 14-113.8(6).
(8) Electronic identification numbers, electronic mail names or addresses, Internet account numbers, or Internet identification names.
(9) Digital signatures.
(10) Any other numbers or information that can be used to access a person's financial resources.
(11) Biometric data.
(12) Fingerprints.
(13) Passwords.
(14) Parent's legal surname prior to marriage.

(c) It shall not be a violation under this Article for a person to do any of the following:
(1) Lawfully obtain credit information in the course of a bona fide consumer or commercial transaction.
(2) Lawfully exercise, in good faith, a security interest or a right of offset by a creditor or financial institution.
(3) Lawfully comply, in good faith, with any warrant, court order, levy, garnishment, attachment, or other judicial or administrative order, decree, or directive, when any party is required to do so. (1999-449, s. 1; 2000-140, s. 37; 2002-175, s. 4; 2005-414, s. 6.)

§ 14-113.20A. Trafficking in stolen identities.

(a) It is unlawful for a person to sell, transfer, or purchase the identifying information of another person with the intent to commit identity theft, or to assist another person in committing identity theft, as set forth in G.S. 14-113.20.

(b) A violation of this section is a felony punishable as provided in G.S. 14-113.22(a1). (2002-175, s. 5; 2005-414, s. 7(2).)

§ 14-113.21. Venue of offenses.

In any criminal proceeding brought under G.S. 14-113.20, the crime is considered to be committed in the county where the victim resides, where the perpetrator resides, where any part of the identity theft took place, or in any other county instrumental to the completion of the offense, regardless of whether the defendant was ever actually present in that county. (1999-449, s. 1; 2005-414, ss. 2, 7.)

§ 14-113.21A. Investigation of offenses.

(a) A person who has learned or reasonably suspects that the person has been the victim of identity theft may contact the local law enforcement agency that has jurisdiction over the person's actual residence. Notwithstanding the fact that jurisdiction may lie elsewhere for investigation and prosecution of a crime of identity theft, the local law enforcement agency may take the complaint,

issue an incident report, and provide the complainant with a copy of the report and may refer the report to a law enforcement agency in that different jurisdiction.

(b) Nothing in this section interferes with the discretion of a local law enforcement agency to allocate resources for investigations of crimes. A complaint filed or report issued under this section is not required to be counted as an open case for purposes of compiling open case statistics. (2005-414, s. 3.)

§ 14-113.22. Punishment and liability.

(a) A violation of G.S.14-113.20(a) is punishable as a Class G felony, except it is punishable as a Class F felony if: (i) the victim suffers arrest, detention, or conviction as a proximate result of the offense, or (ii) the person is in possession of the identifying information pertaining to three or more separate persons.

(a1) A violation of G.S. 14-113.20A is punishable as a Class E felony.

(a2) The court may order a person convicted under G.S. 14-113.20 or G.S. 14-113.20A to pay restitution pursuant to Article 81C of Chapter 15A of the General Statutes for financial loss caused by the violation to any person. Financial loss included under this subsection may include, in addition to actual losses, lost wages, attorneys' fees, and other costs incurred by the victim in correcting his or her credit history or credit rating, or in connection with any criminal, civil, or administrative proceeding brought against the victim resulting from the misappropriation of the victim's identifying information.

(b) Notwithstanding subsection (a), (a1), or (a2) of this section, any person who commits an act made unlawful by G.S. 14-113.20 or G.S. 14-113.20A may also be liable for damages under G.S. 1-539.2C.

(c) In any case in which a person obtains identifying information of another person in violation of this Article, uses that information to commit a crime in addition to a violation of this Article, and is convicted of that additional crime, the court records shall reflect that the person whose identity was falsely used to commit the crime did not commit the crime. (1999-449, s. 1; 2002-175, ss. 6, 7; 2003-206, s. 3.)

§ 14-113.23. Authority of the Attorney General.

The Attorney General may investigate any complaint regarding identity theft under this Article. In conducting these investigations, the Attorney General has all the investigative powers available to the Attorney General under Article 1 of Chapter 75 of the General Statutes. The Attorney General shall refer all cases of identity theft under G.S. 14-113.20 to the district attorney in the county where the crime was deemed committed in accordance with G.S. 14-113.21. (1999-449, s. 1; 2005-414, s. 7(2).)

§ 14-113.24. Credit, charge, or debit card numbers on receipts.

(a) For purposes of this section, the word "person" means the person that owns or leases the cash register or other machine or device that electronically prints receipts of credit, charge, or debit card transactions.

(b) Except as provided in this section, no person that accepts credit, charge, or debit cards for the transaction of business shall print more than five digits of the credit, charge, or debit card account number or the expiration date upon any receipt with the intent to provide the receipt to the cardholder at the point of sale. This section applies to a person who employs a cash register or other machine or device that electronically prints receipts for credit, charge, or debit card

transactions. This section does not apply to a person whose sole means of recording a credit, charge, or debit card number for the transaction of business is by handwriting or by an imprint or copy of the credit, charge, or debit card.

(c) A person who violates this section commits an infraction as defined in G.S. 14-3.1 and is subject to a penalty of up to five hundred dollars ($500.00) per violation, not to exceed five hundred dollars ($500.00) in any calendar month or two thousand dollars ($2,000) in any calendar year. A person who receives a citation for violation of this section is not subject to the penalty provided in this subsection if the person establishes in court that the person came into compliance with this section within 30 days of the issuance of the citation and the person has remained in compliance with this section. (2003-206, s. 1; 2003-206, s. 2.)

§ 14-113.25. Sale of certain cash registers and other receipt printing machines.

(a) No person shall sell or offer to sell a cash register or other machine or device that electronically prints receipts of credit, charge, or debit card transactions that cannot be programmed or operated to produce a receipt with five or fewer digits of the credit, charge, or debit card account number and no expiration date printed on the receipt. This subsection applies to cash registers or other machines or devices sold or offered for sale for use in the ordinary course of business in this State.

(b) A person who violates this section commits an infraction as defined in G.S. 14-3.1 and is subject to a penalty of up to five hundred dollars ($500.00) per violation. For purposes of assessing penalties pursuant to this subsection, the sale or offer for sale of each individual cash register or other machine or device that electronically prints receipts of credit, charge, or debit card transactions in violation of this section is treated as a separate violation. (2003-206, s. 1.)

§ 14-113.26. Reserved for future codification purposes.

§ 14-113.27. Reserved for future codification purposes.

§ 14-113.28. Reserved for future codification purposes.

§ 14-113.29. Reserved for future codification purposes.

Article 19D.

Telephone Records Privacy Protection Act.

§ 14-113.30. Definitions.

The following definitions apply in this Article:

(1) Caller identification record. – A record collected and retained by or on behalf of a customer utilizing caller identification or similar technology that is delivered electronically to the recipient of a telephone call simultaneously with the reception of the telephone call and that indicates the telephone number from which the telephone call was initiated or similar information regarding the telephone call.

(2) Customer. – A person or the legal guardian of a person or a representative of a business to whom a telephone service provider provides telephone service to a number subscribed or listed in the name of the person or business.

(3) Person. – An individual, business association, partnership, limited partnership, corporation, limited liability company, or other legal entity.

(4) Telephone record. – A record in written, electronic, or oral form, except a caller identification record, Directory Assistance information, and subscriber list information, that is created by a telephone service provider and that contains any of the following information with respect to a customer:

a. Telephone numbers that have been dialed by the customer.

b. Telephone numbers that pertain to calls made to the customer.

c. The time when calls were made by the customer or to the customer.

d. The duration of calls made by the customer or to the customer.

e. The charges applied to calls, if any.

(5) Telephone service. – The conveyance of two-way communication in analog, digital, or other form by any medium, including wire, cable, fiber optics, cellular, broadband personal communications services, or other wireless technologies, satellite, microwave, or at any frequency over any part of the electromagnetic spectrum. The term also includes the conveyance of voice communication over the Internet and telephone relay service.

(6) Telephone service provider. – A person who provides telephone service to a customer without regard to the form of technology used, including traditional wire-line or cable communications service; cellular, broadband PCS, or other wireless communications service; microwave, satellite, or other terrestrial communications service; or voice over Internet communications service. (2007-374, s. 1.)

§ 14-113.31. Prohibition of falsely obtaining, selling, or soliciting telephone records.

(a) No person shall obtain, or attempt to obtain, by any means, whether electronically, in writing, or in oral form, with or without consideration, a telephone record that pertains to a customer who is a resident of this State without the customer's consent by doing any of the following:

(1) Making a false statement or representation to an agent, representative, or employee of a telephone service provider.

(2) Making a false statement or representation to a customer of a telephone service provider.

(3) Knowingly providing to a telephone service provider a document that is fraudulent, that has been lost or stolen, or that has been obtained by fraud, or that contains a false, fictitious, or fraudulent statement or representation.

(4) Accessing customer accounts of a telephone service provider via the Internet without prior authorization from the customer to whom the telephone records relate.

(b) No person shall knowingly purchase, receive, or solicit another to purchase or receive a telephone record that pertains to a customer without the prior authorization of that customer, or if the purchaser or receiver knows or has reason to know that the record has been obtained fraudulently.

(c) No person shall sell or offer to sell a telephone record that was obtained without the customer's prior consent, or if the person knows or has reason to know that the telephone record was obtained fraudulently. (2007-374, s. 1.)

§ 14-113.32. Exceptions.

(a) The provisions of G.S. 14-113.31 shall not apply to any of the following:

(1) Any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency in connection with the official duties of the law enforcement agency.

(2) A disclosure by a telephone service provider if the telephone service provider reasonably believes the disclosure is necessary to: (i) provide telephone service to a customer, including sharing telephone records with one of the provider's affiliates or (ii) protect an individual or service provider from fraudulent, abusive, or unlawful use of telephone service or a telephone record.

(3) A disclosure by a telephone service provider to the National Center for Missing and Exploited Children.

(4) A disclosure by a telephone service provider that is authorized by State or federal law or regulation.

(5) A disclosure by a telephone service provider to a governmental entity if the provider reasonably believes there is an emergency involving immediate danger of death or serious physical injury.

(6) Testing of a telephone service provider's security procedures or systems for maintaining the confidentiality of customers' telephone records.

(b) Nothing in this Article shall be construed to expand the obligation or duty of a telephone service provider to maintain the confidentiality of telephone records beyond the requirements of this Article or federal law or regulation. Any telephone service provider or agent, employee, or representative of a telephone service provider who reasonably and in good faith discloses telephone records shall not be criminally or civilly liable if the disclosure is later determined to be in violation of this Article. (2007-374, s. 1.)

§ 14-113.33. Punishment; liability.

(a) Unless the conduct is covered under some other provision of law providing greater punishment, any person who violates this Article is guilty of a Class H felony. In any criminal proceeding brought under this Article, the crime is considered to be committed in the county where the customer resides, where the defendant resides, where any part of the offense took place, or in any other county instrumental to the completion of the offense, regardless of whether the defendant was ever actually present in that county.

(b) A violation of G.S. 14-331.31 is a violation of G.S. 75-1.1, except that a customer whose telephone records were obtained, sold, or solicited in violation of this Article shall be entitled to damages pursuant to G.S. 75-16, or one thousand dollars ($1,000), whichever is greater. (2007-374, s. 1.)

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.

Article 20A.

Residential Mortgage Fraud Act.

§ 14-118.10. Title.

This Article shall be known and cited as the "Residential Mortgage Fraud Act." (2007-163, s. 1.)

§ 14-118.11. Definitions.

Unless otherwise provided in this Article, the following definitions apply in this Article:

(1) Mortgage lending process. – The process through which a person seeks or obtains a mortgage loan including solicitation, application, origination, negotiation of terms, underwriting, signing, closing, and funding of a mortgage loan and services provided incident to a mortgage loan, including the appraisal of the residential real property. Documents involved in the mortgage lending process include (i) uniform residential loan applications or other loan applications, (ii) appraisal reports, (iii) settlement statements, (iv) supporting personal documentation for loan applications, including W-2 or other earnings or income statements, verifications of rent, income, and employment, bank statements, tax returns, and payroll stubs, and (v) any required mortgage-related disclosures.

(2) Mortgage loan. – A loan primarily secured by either (i) a mortgage or a deed of trust on residential real property or (ii) a security interest in a manufactured home (as defined by G.S. 143-145(7)) located or to be located on residential real property.

(3) Pattern of residential mortgage fraud. – Residential mortgage fraud that involves five or more mortgage loans, which have the same or similar intents, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics.

(4) Person. – An individual, partnership, limited liability company, limited partnership, corporation, association, or other entity, however organized.

(5) Residential real property. – Real property located in the State of North Carolina upon which there is located or is to be located a structure or structures designed principally for residential purposes, including, but not limited to, individual units of townhouses, condominiums, and cooperatives. (2007-163, s. 1.)

§ 14-118.12. Residential mortgage fraud.

(a) A person is guilty of residential mortgage fraud when, for financial gain and with the intent to defraud, that person does any of the following:

(1) Knowingly makes or attempts to make any material misstatement, misrepresentation, or omission within the mortgage lending process with the intention that a mortgage lender, mortgage broker, borrower, or any other person or entity that is involved in the mortgage lending process relies on it.

(2) Knowingly uses or facilitates or attempts to use or facilitate the use of any misstatement, misrepresentation, or omission within the mortgage lending process with the intention that a mortgage lender, borrower, or any other person or entity that is involved in the mortgage lending process relies on it.

(3) Receives or attempts to receive proceeds or any other funds in connection with a residential mortgage closing that the person knew, or should have known, resulted from a violation of subdivision (1) or (2) of this subsection.

(4) Conspires or solicits another to violate any of the provisions of subdivision (1), (2), or (3) of this subsection.

(5) Knowingly files in a public record or a private record generally available to the public a document falsely claiming that a mortgage loan has been satisfied, discharged, released, revoked, or terminated or is invalid.

(b) It shall be sufficient in any prosecution under this Article for residential mortgage fraud to show that the party accused did the act with the intent to deceive or defraud. It shall be unnecessary to show that any particular person or entity was harmed financially in the transaction or that the person or entity to whom the deliberate misstatement, misrepresentation, or omission was made relied upon the misstatement, misrepresentation, or omission. (2007-163, s. 1; 2012-150, s. 5.)

§ 14-118.13. Venue.

In any criminal proceeding brought under this Article, the crime shall be construed to have been committed:

(1) In the county in which the residential real property for which a mortgage loan is being sought is located;

(2) In any county in which any act was performed in furtherance of the violation;

(3) In any county in which any person alleged to have violated this Article had control or possession of any proceeds of the violation;

(4) If a closing occurred, in any county in which the closing occurred; or

(5) In any county in which a document containing a deliberate misstatement, misrepresentation, or omission is filed with the official registrar of deeds or with the Division of Motor Vehicles. (2007-163, s. 1.)

§ 14-118.14. Authority to investigate and prosecute.

Upon its own investigation or upon referral by the Office of the Commissioner of Banks, the North Carolina Real Estate Commission, the Attorney General, the North Carolina Appraisal Board, or other parties, of available evidence concerning violations of this Article, the proper

district attorney may institute the appropriate criminal proceedings under this Article. (2007-163, s. 1.)

§ 14-118.15. Penalty for violation of Article.

(a) Unless the conduct is prohibited by some other provision of law providing for greater punishment, a violation of this Article involving a single mortgage loan is a Class H felony.

(b) Unless the conduct is prohibited by some other provision of law providing for greater punishment, a violation of this Article involving a pattern of residential mortgage fraud is a Class E felony. (2007-163, s. 1.)

§ 14-118.16. Forfeiture.

(a) All real and personal property of every kind used or intended for use in the course of, derived from, or realized through a violation of this Article shall be subject to forfeiture to the State as set forth in G.S. 14-2.3 and G.S. 14-7.20. However, the forfeiture of any real or personal property shall be subordinate to any security interest in the property taken by a lender in good faith as collateral for the extension of credit and recorded as provided by law, and no real or personal property shall be forfeited under this section against an owner who made a bona fide purchase of the property without knowledge of a violation of this Article.

(b) In addition to the provisions of subsection (a) of this section, courts may order restitution to any person that has suffered a financial loss due to violation of this Article. (2007-163, s. 1.)

§ 14-118.17. Liability for reporting suspected mortgage fraud.

In the absence of fraud, bad faith, or malice, a person shall not be subject to an action for civil liability for filing reports or furnishing other information regarding suspected residential mortgage fraud to a regulatory or law enforcement agency. (2007-163, s. 1.)

Article 21.

Forgery.

§ 14-119. Forgery of notes, checks, and other securities; counterfeiting of instruments.

(a) It is unlawful for any person to forge or counterfeit any instrument, or possess any counterfeit instrument, with the intent to injure or defraud any person, financial institution, or governmental unit. Any person in violation of this subsection is guilty of a Class I felony.

(b) Any person who transports or possesses five or more counterfeit instruments with the intent to injure or defraud any person, financial institution, or governmental unit is guilty of a Class G felony.

(c) As used in this Article, the term:

(1) "Counterfeit" means to manufacture, copy, reproduce, or forge an instrument that purports to be genuine, but is not, because it has been falsely copied, reproduced, forged, manufactured, embossed, encoded, duplicated, or altered.

(2) "Financial institution" means any mutual fund, money market fund, credit union, savings and loan association, bank, or similar institution, either foreign or domestic.

(3) "Governmental unit" means the United States, any United States territory, any state of the United States, any political subdivision, agency, or instrumentality of any state, or any foreign jurisdiction.

(4) "Instrument" means (i) any currency, bill, note, warrant, check, order, or similar instrument of or on any financial institution or governmental unit, or any cashier or officer of the institution or unit; or (ii) any security issued by, or on behalf of, any corporation, financial institution, or governmental unit. (1819, c. 994, s. 1, P.R.; R.C., c. 34, s. 60; Code, s. 1030; Rev., s. 3419; C.S., s. 4293; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1983, c. 397, s. 1; 2002-175, s. 1.)

§ 14-120. Uttering forged paper or instrument containing a forged endorsement.

If any person, directly or indirectly, whether for the sake of gain or with intent to defraud or injure any other person, shall utter or publish any such false, forged or counterfeited instrument as is mentioned in G.S. 14-119, or shall pass or deliver, or attempt to pass or deliver, any of them to another person (knowing the same to be falsely forged or counterfeited) the person so offending shall be punished as a Class I felon. If any person, directly or indirectly, whether for the sake of gain or with intent to defraud or injure any other person, shall falsely make, forge or counterfeit any endorsement on any instrument described in the preceding section, whether such instrument be genuine or false, or shall knowingly utter or publish any such instrument containing a false, forged or counterfeited endorsement or, knowing the same to be falsely endorsed, shall pass or deliver or attempt to pass or deliver any such instrument containing a forged endorsement to another person, the person so offending shall be guilty of a Class I felony. (1819, c. 994, s. 2, P.R.; R.C., c. 34, s. 61; Code, s. 1031; Rev., s. 3427; 1909, c. 666; C.S., s. 4294; 1961, c. 94; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1983, c. 397, s. 2; 1993, c. 539, s. 1185; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-121. Selling of certain forged securities.

If any person shall sell, by delivery, endorsement or otherwise, to any other person, any judgment for the recovery of money purporting to have been rendered by a magistrate, or any bond, promissory note, bill of exchange, order, draft or liquidated account purporting to be signed by the debtor (knowing the same to be forged), the person so offending shall be punished as a Class H felon. (R.C., c. 34, s. 63; Code, s. 1033; Rev., s. 3425; C.S., s. 4295; 1973, c. 108, s. 2; 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. 1186; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-122. Forgery of deeds, wills and certain other instruments.

If any person, of his own head and imagination, or by false conspiracy or fraud with others, shall wittingly and falsely forge and make, or shall cause or wittingly assent to the forging or making of, or shall show forth in evidence, knowing the same to be forged, any deed, lease or will, or any bond, writing obligatory, bill of exchange, promissory note, endorsement or assignment thereof; or any acquittance or receipt for money or goods; or any receipt or release for any bond, note, bill or any other security for the payment of money; or any order for the payment of money or delivery of goods, with intent, in any of said instances, to defraud any person or corporation, and thereof shall be duly convicted, the person so offending shall be punished as a Class H felon. (5 Eliz., c. 14, ss. 2, 3; 21 James I, c. 26; 1801, c. 572, P.R.; R.C., c. 34, s. 59; Code, s. 1029; Rev.,

s. 3424; C.S., s. 4296; 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. 1187; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-122.1. Falsifying documents issued by a secondary school, postsecondary educational institution, or governmental agency.

(a) It shall be unlawful for any person knowingly and willfully:

(1) To make falsely or alter falsely, or to procure to be made falsely or altered falsely, or to aid or assist in making falsely or altering falsely, a diploma, certificate, license, or transcript signifying merit or achievement in an educational program issued by a secondary school, a postsecondary educational institution, or a governmental agency;

(2) To sell, give, buy, or obtain, or to procure to be sold, given, bought, or obtained, or to aid or assist in selling, giving, buying, or obtaining, a diploma, certificate, license, or transcript, which he knows is false, signifying merit or achievement in an educational program issued by a secondary school, a postsecondary educational institution, or a governmental agency;

(3) To use, offer, or present as genuine a falsely made or falsely altered diploma, certificate, license, or transcript signifying merit or achievement in an educational program issued by a secondary school, a postsecondary educational institution, or a governmental agency, which he knows is false; or

(4) To make a false written representation of fact that he has received a degree or other certification signifying merit, achievement, or completion of an educational program involving study, experience, or testing from a secondary school, a postsecondary educational institution or governmental agency in an application for:

(a) Employment;

(b) Admission to an educational program;

(c) Award; or

(d) For the purpose of inducing another to issue a diploma, certificate, license, or transcript signifying merit or achievement in an educational program of a secondary school, postsecondary educational institution, or a governmental agency.

(b) As used in this section, "postsecondary educational institution" means a technical college, community college, junior college, college, or university. As used in this section, "governmental agency" means any agency of a State or local government or of the federal government. As used in this section, "secondary school" means grades 9 through 12.

(c) Any person who violates a provision of this section shall be guilty of a Class 1 misdemeanor. (1981, c. 146, s. 1; 1987, c. 388; 1993, c. 539, s. 66; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-123. Forging names to petitions and uttering forged petitions.

If any person shall willfully sign, or cause to be signed, or willfully assent to the signing of the name of any person without his consent, or of any deceased or fictitious person, to any petition or recommendation with the intent of procuring any commutation of sentence, pardon or reprieve of any person convicted of any crime or offense, or for the purpose of procuring such pardon, reprieve or commutation to be refused or delayed by any public officer, or with the intent of procuring from any person whatsoever, either for himself or another, any appointment to office, or to any position

of honor or trust, or with the intent to influence the official action of any public officer in the management, conduct or decision of any matter affecting the public, he shall be punished as a Class I felon; and if any person shall willfully use any such paper for any of the purposes or intents above recited, knowing that any part of the signatures to such petition or recommendation has been signed thereto without the consent of the alleged signers, or that names of any dead or fictitious persons are signed thereto, he shall be guilty of a felony, and shall be punished in like manner. (1883, c. 275; Code, s. 1034; Rev., s. 3426; C.S., s. 4297; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14.)

§ 14-124. Forging certificate of corporate stock and uttering forged certificates.

If any officer or agent of a corporation shall, falsely and with a fraudulent purpose, make, with the intent that the same shall be issued and delivered to any other person by name or as holder or bearer thereof, any certificate or other writing, whereby it is certified or declared that such person, holder or bearer is entitled to or has an interest in the stock of such corporation, when in fact such person, holder or bearer is not so entitled, or is not entitled to the amount of stock in such certificate or writing specified; or if any officer or agent of such corporation, or other person, knowing such certificate or other writing to be false or untrue, shall transfer, assign or deliver the same to another person, for the sake of gain, or with the intent to defraud the corporation, or any member thereof, or such person to whom the same shall be transferred, assigned or delivered, the person so offending shall be punished as a Class I felon. (R.C., c. 34, s. 62; Code, s. 1032; Rev., s. 3421; C.S., s. 4298; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14.)

§ 14-125. Forgery of bank notes and other instruments by connecting genuine parts.

If any person shall fraudulently connect together different parts of two or more bank notes, or other genuine instruments, in such a manner as to produce another note or instrument, with intent to pass all of them as genuine, the same shall be deemed a forgery, and the instrument so produced a forged note, or forged instrument, in like manner as if each of them had been falsely made or forged. (R.C., c. 34, s. 66; Code, s. 1037; Rev., s. 3420; C.S., s. 4299.)

SUBCHAPTER VI. CRIMINAL TRESPASS.

Article 22.

Damages and Other Offenses to Land and Fixtures.

§ 14-126: Repealed by Session Laws 1987, c. 700, s. 2.

§ 14-127. Willful and wanton injury to real property.

If any person shall willfully and wantonly damage, injure or destroy any real property whatsoever, either of a public or private nature, he shall be guilty of a Class 1 misdemeanor. (R.C., c. 34, s. 111; 1873-4, c. 176, s. 5; Code, s. 1081; Rev., s. 3677; C.S., s. 4301; 1967, c. 1083; 1993, c. 539, s. 67; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-127.1. Graffiti vandalism.

(a) As used in this section, "graffiti vandalism" means to unlawfully write or scribble on, mark, paint, deface, or besmear the walls of (i) any real property, whether

public or private, including cemetery tombstones and monuments, (ii) any public building or facility as defined in G.S. 14-132, or (iii) any statue or monument situated in any public place, by any type of pen, paint, or marker regardless of whether the pen or marker contains permanent ink, paint, or spray paint.

(b) Except as otherwise provided in this section, any person who engages in graffiti vandalism is guilty of a Class 1 misdemeanor. A person convicted of a Class 1 misdemeanor under this subsection shall be fined a minimum of five hundred dollars ($500.00) and, if community or intermediate punishment is imposed, shall be required to perform 24 hours of community service.

(c) Any person who violates subsection (a) of this section shall be guilty of a Class H felony if all of the following apply:

(1) The person has two or more prior convictions for violation of this section.
(2) The current violation was committed after the second conviction for violation of this section.
(3) The violation resulting in the second conviction was committed after the first conviction for violation of this section. (2015-72, s. 1.)

§ 14-128. Injury to trees, crops, lands, etc., of another.

Any person, not being on his own lands, who shall without the consent of the owner thereof, willfully commit any damage, injury, or spoliation to or upon any tree, wood, underwood, timber, garden, crops, vegetables, plants, lands, springs, or any other matter or thing growing or being thereon, or who cuts, breaks, injures, or removes any tree, plant, or flower, shall be guilty of a Class 1 misdemeanor: Provided, however, that this section shall not apply to the officers, agents, and employees of the Department of Transportation while in the discharge of their duties within the right-of-way or easement of the Department of Transportation. (Ex. Sess. 1924, c. 54; 1957, c. 65, s. 11, c. 754; 1965, c. 300, s. 1; 1969, c. 22, s. 1; 1973, c. 507, s. 5; 1977, c. 464, s. 34; 1993, c. 539, s. 68; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-128.1. Repealed by Session Laws 1979, c. 964, s. 2.

§ 14-129. Taking, etc., of certain wild plants from land of another.

No person, firm or corporation shall dig up, pull up or take from the land of another or from any public domain, the whole or any part of any trailing arbutus, Aaron's Rod (Thermopsis caroliniana), Bird-foot Violet (Viola pedata), Bloodroot (Sanguinaria canadensis), Blue Dogbane (Amsonia tabernaemontana), Cardinal-flower (Lobelia cardinalis), Columbine (Aquilegia canadensis), Dutchman's Breeches (Dicentra cucullaria), Maidenhair Fern (Adiantum pedatum), Walking Fern (Camptosorus rhizophyllus), Gentians (Gentiana), Ground Cedar, Running Cedar, Hepatica (Hepatica americana and acutiloba), Jack-in-the-Pulpit (Arisaema triphyllum), Lily (Lilium), Lupine (Lupinus), Monkshood (Aconitum uncinatum and reclinatum), May Apple (Podophyllum peltatum), Orchids (all species), Pitcher Plant (Sarracenia), Shooting Star (Dodecatheon meadia), Oconee Bells (Shortia galacifolia), Solomon's Seal (Polygonatum), Trailing Christmas (Greens-Lycopodium), Trillium (Trillium), Virginia Bluebells (Mertensia virginica), and Fringe Tree (Chionanthus virginicus), American holly, white pine, red

cedar, hemlock or other coniferous trees, or any flowering dogwood, any mountain laurel, any rhododendron, or any ground pine, or any Christmas greens, or any Judas tree, or any leucothea, or any azalea, without having in his possession a permit to dig up, pull up or take such plants, signed by the owner of such land, or by his duly authorized agent. Any person convicted of violating the provisions of this section shall be guilty of a Class 3 misdemeanor only punished by a fine of not less than seventy-five dollars ($75.00) nor more than one hundred seventy-five dollars ($175.00) for each offense, with each plant taken in violation of this section constituting a separate offense. The Clerk of Court for the jurisdiction in which a conviction occurs under this section involving any species listed in this section that also appears on the North Carolina Protected Plants list created under the authority granted by Article 19B of Chapter 106 of the General Statutes shall report the conviction to the Plant Conservation Board so the Board may consider a civil penalty under the authority of that Article. (1941, c. 253; 1951, c. 367, s. 1; 1955, cc. 251, 962; 1961, c. 1021; 1967, c. 355; 1971, c. 951; 1993, c. 539, s. 69; c. 553, s. 9; 1994, Ex. Sess., c. 24, s. 14(c); 2001-93, s. 1; 2001-487, s. 43(a); 2014-120, s. 52(b).)

§ 14-129.1. Repealed by Session Laws 1979, c. 964, s. 2.

§ 14-129.2. Unlawful to take sea oats.

(a) It is unlawful to dig up, pull up, or take from the land of another or from any public domain the whole or any part of any Sea Oats (Uniola paniculata) without the consent of the owner of that land.

(b) Any person convicted of violating the provisions of this section shall be guilty of a Class 3 misdemeanor and shall be punished by a fine of not less than twenty-five dollars ($25.00) nor more than two hundred dollars ($200.00) for each offense. (2001-93, s. 2.)

§ 14-129.3. Felony taking of Venus flytrap.

(a) Any person, firm, or corporation who digs up, pulls up, takes, or carries away, or aids in taking or carrying away, any Venus flytrap (Dionaea muscipula) plant or the seed of any Venus flytrap plant growing upon the lands of another person, or from the public domain, with the intent to steal the Venus flytrap plant or seed is guilty of a Class H felony.

(b) This section shall not apply to any person, firm, or corporation that has a permit to dig up, pull up, take, or carry away the plant or seed, signed by the owner of the land, or the owner's duly authorized agent. At the time of the digging, pulling, taking, or carrying away, the permit shall be in the possession of the person, firm, or corporation on the land. (2014-120, s. 52(a).)

§ 14-130. Trespass on public lands.

If any person shall erect a building on any state-owned lands, or cultivate or remove timber from any such lands, without the permission of the State, he shall be guilty of a Class 1 misdemeanor. Moreover, the State can recover from any person cutting timber on its land three times the value of the timber which is cut. (1823, c. 1190, P.R.; 1842, c. 36, s. 4; R.C., c. 34, s. 42; Code, s. 1121; Rev., s. 3746; 1909, c. 891; C.S., s. 4302; 1979, c. 15; 1993, c. 539, s. 70; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-131. Trespass on land under option by the federal government.

On lands under option which have formally or informally been offered to and accepted by either the North Carolina Department of Natural and Cultural Resources or the Department of Environmental Quality by the acquiring federal agency and tentatively accepted by a Department for administration as State forests, State parks, State game refuges or for other public purposes, it shall be unlawful to cut, dig, break, injure or remove any timber, lumber, firewood, trees, shrubs or other plants; or any fence, house, barn or other structure; or to pursue, trap, hunt or kill any bird or other wild animals or take fish from streams or lakes within the boundaries of such areas without the written consent of the local official of the United States having charge of the acquisition of such lands.

Any person, firm or corporation convicted of the violation of this section shall be guilty of a Class 3 misdemeanor.

The Department of Environmental Quality through its legally appointed forestry, fish and game wardens is hereby authorized and empowered to assist the county law-enforcement officers in the enforcement of this section. (1935, c. 317; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 218(2); 1993, c. 539, s. 71; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 11A.119(a); 2015-241, s. 14.30(bb).)

§ 14-132. Disorderly conduct in and injuries to public buildings and facilities.

(a) It is a misdemeanor if any person shall:

(1) Make any rude or riotous noise, or be guilty of any disorderly conduct, in or near any public building or facility; or

(2) Unlawfully write or scribble on, mark, deface, besmear, or injure the walls of any public building or facility, or any statue or monument situated in any public place; or

(3) Commit any nuisance in or near any public building or facility.

(b) Any person in charge of any public building or facility owned or controlled by the State, any subdivision of the State, or any other public agency shall have authority to arrest summarily and without warrant for a violation of this section.

(c) The term "public building or facility" as used in this section includes any building or facility which is:

(1) One to which the public or a portion of the public has access and is owned or controlled by the State, any subdivision of the State, any other public agency, or any private institution or agency of a charitable, educational, or eleemosynary nature; or

(2) Dedicated to the use of the general public for a purpose which is primarily concerned with public recreation, cultural activities, and other events of a public nature or character.

(3) Designated by the Director of the State Bureau of Investigation in accordance with G.S. 143B-987.

The term "building or facility" as used in this section also includes the surrounding grounds and premises of any building or facility used in connection with the operation or functioning of such building or facility.

(d) Unless the conduct is covered under some other provision of law providing greater punishment, any person who violates any provision of this section is guilty of a Class 2 misdemeanor. (1829, c. 29, ss. 1, 2; 1842, c. 47; R.C., c. 103, ss. 7, 8; Code, s. 2308; Rev., s. 3742; 1915, c. 269; C.S., s. 4303; 1969, c. 869, s. 7½; c. 1224, s. 2; 1981, c. 499, s. 2; 1993, c. 539, s. 72; 1994, Ex. Sess., c. 24, s. 14(c); 2014-100, s. 17.1(w); 2015-72, s. 2.)

§ 14-132.1. Repealed by Session Laws 1987, c. 700, s. 2.

§ 14-132.2. Willfully trespassing upon, damaging, or impeding the progress of a public school bus.

(a) Any person who shall unlawfully and willfully demolish, destroy, deface, injure, burn or damage any public school bus or public school activity bus shall be guilty of a Class 1 misdemeanor.

(b) Any person who shall enter a public school bus or public school activity bus after being forbidden to do so by the authorized school bus driver in charge thereof, or the school principal to whom the public school bus or public school activity bus is assigned, shall be guilty of a Class 1 misdemeanor.

(c) Any occupant of a public school bus or public school activity bus who shall refuse to leave said bus upon demand of the authorized driver in charge thereof, or upon demand of the principal of the school to which said bus is assigned, shall be guilty of a Class 1 misdemeanor.

(c1) Any person who shall unlawfully and willfully stop, impede, delay, or detain any public school bus or public school activity bus being operated for public school purposes shall be guilty of a Class 1 misdemeanor.

(d) Subsections (b) and (c) of this section shall not apply to a child less than 12 years of age, or authorized professional school personnel. (1975, c. 191, s. 1; 1993, c. 539, s. 73; 1994, Ex. Sess., c. 24, s. 14(c); 2001-26, s. 1.)

§ 14-133: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 767, s. 30(2).

§ 14-134. Repealed by Session Laws 1987, c. 700, s. 2.

§ 14-134.1. Repealed by Session Laws 1977, c. 887, s. 2.

§ 14-134.2. Operating motor vehicle upon utility easements after being forbidden to do so.

If any person, without permission, shall ride, drive or operate a minibike, motorbike, motorcycle, jeep, dune buggy, automobile, truck or any other motor vehicle, other than a motorized all-terrain vehicle as defined in G.S. 14-159.3, upon a utility easement upon which the owner or holder of the easement or agent of the owner or holder of the easement has posted on the easement a "no trespassing" sign or has otherwise given oral or written notice to the person not to so ride, drive or operate such a vehicle upon the said easement,

he shall be guilty of a Class 3 misdemeanor, provided, however, neither the owner of the property nor the holder of the easement or their agents, employees, guests, invitees or permittees shall be guilty of a violation under this section. (1975, c. 636, s. 1; 1993, c. 539, s. 75; 1994, Ex. Sess., c. 24, s. 14(c); 1997-487, s. 2; 2015-26, s. 2.1.)

§ 14-134.3. Domestic criminal trespass.

(a) Any person who enters after being forbidden to do so or remains after being ordered to leave by the lawful occupant, upon the premises occupied by a present or former spouse or by a person with whom the person charged has lived as if married, shall be guilty of a misdemeanor if the complainant and the person charged are living apart; provided, however, that no person shall be guilty if said person enters upon the premises pursuant to a judicial order or written separation agreement which gives the person the right to enter upon said premises for the purpose of visiting with minor children. Evidence that the parties are living apart shall include but is not necessarily limited to:

(1) A judicial order of separation;

(2) A court order directing the person charged to stay away from the premises occupied by the complainant;

(3) An agreement, whether verbal or written, between the complainant and the person charged that they shall live separate and apart, and such parties are in fact living separate and apart; or

(4) Separate places of residence for the complainant and the person charged.

Except as provided in subsection (b) of this section, upon conviction, said person is guilty of a Class 1 misdemeanor.

(b) A person convicted of a violation of this section is guilty of a Class G felony if the person is trespassing upon property operated as a safe house or haven for victims of domestic violence and the person is armed with a deadly weapon at the time of the offense. (1979, c. 561, s. 2; 1993, c. 539, s. 76; 1994, Ex. Sess., c. 24, s. 14(c); 1998-212, s. 17.19(a).)

§ 14-135. Cutting, injuring, or removing another's timber.

If any person not being the bona fide owner thereof, shall knowingly and willfully cut down, injure or remove any standing, growing or fallen tree or log off the property of another, the person shall be punished the same as in G.S. 14-72. (1889, c. 168; Rev., s. 3687; C.S., s. 4306; 1957, c. 1437, s. 1; 1993, c. 539, s. 77; 1994, Ex. Sess., c. 24, s. 14(c); 2009-508, s. 1.)

§ 14-136. Setting fire to grass and brushlands and woodlands.

If any person shall intentionally set fire to any grassland, brushland or woodland, except it be his own property, or in that case without first giving notice to all persons owning or in charge of lands adjoining the land intended to be fired, and without also taking care to watch such fire while burning and to extinguish it before it shall reach any lands near to or adjoining the lands so fired, he shall for every such offense be guilty of a Class 2 misdemeanor for the first offense, and for a second or any subsequent similar offense shall be guilty of a Class 1 misdemeanor. If intent to damage the property of another shall be shown, said person shall be punished as a Class I felon. This section shall not prevent an action for the damages sustained by the owner of any property from such fires. For the purposes of this section, the term "woodland" is to be taken to include all forest areas, both timber and cutover land, and all second-growth stands on areas that have at one

time been cultivated. Any person who shall furnish to the State, evidence sufficient for the conviction of a violation of this section shall receive the sum of five hundred dollars ($500.00) to be paid from the State Fire Suppression Fund. (1777, c. 123, ss. 1, 2, P.R.; R.C., c. 16, ss. 1, 2; Code, ss. 52, 53; Rev., s. 3346; 1915, c. 243, ss. 8, 11; 1919, c. 318; C.S., s. 4309; 1925, c. 61, s. 1; 1943, c. 661; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14, c. 892; 1993, c. 539, ss. 78, 1188; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-137. Willfully or negligently setting fire to woods and fields.

If any person, firm or corporation shall willfully or negligently set on fire, or cause to be set on fire, any woods, lands or fields, whatsoever, every such offender shall be guilty of a Class 2 misdemeanor. This section shall apply only in those counties under the protection of the Department of Agriculture and Consumer Services in its work of forest fire control. It shall not apply in the case of a landowner firing, or causing to be fired, his own open, nonwooded lands, or fields in connection with farming or building operations at the time and in the manner now provided by law: Provided, he shall have confined the fire at his own expense to said open lands or fields. (1907, c. 320, ss. 4, 5; C.S., s. 4310; 1925, c. 61, s. 2; 1941, c. 258; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 218(3); 1993, c. 539, s. 79; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 11A.119(a); 2015-241, s. 14.30(u); 2015-263, s. 36(a).)

§ 14-138: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(6).

§ 14-138.1. Setting fire to grassland, brushland, or woodland.

Any person, firm, corporation, or other legal entity who shall in any manner whatsoever start any fire upon any grassland, brushland, or woodland without fully extinguishing the same, shall be guilty of a Class 3 misdemeanor which may include a fine of not less than ten dollars ($10.00) or more than fifty dollars ($50.00). For the purpose of this section, the term "woodland" includes timber and cutover land and all second growth stands on areas that were once cultivated. (1995, c. 210, s. 1.)

§ 14-139. Repealed by Session Laws 1981, c. 1100, s. 1.

§ 14-140: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 767, s. 30(3).

§ 14-140.1. Certain fire to be guarded by watchman.

Any person, firm, corporation, or other legal entity who shall burn any brush, grass, or other material whereby any property may be endangered or destroyed, without keeping and maintaining a careful watchman in charge of the burning, shall be guilty of an infraction which may include a fine of not more than fifty dollars ($50.00). Fire escaping from the brush, grass, or other material while burning shall be prima facie evidence of violation of this provision. (1995, c. 210, s. 2; 2015-263, s. 27.)

§ 14-141. Burning or otherwise destroying crops in the field.

Any person who shall willfully burn or destroy any other person's lawfully grown crop, pasture, or provender shall be punished as follows:

(1) If the damage is two thousand dollars ($2,000) or less, the person is guilty of a Class 1 misdemeanor.

(2) If the damage is more than two thousand dollars ($2,000), the person is guilty of a Class I felony. (1874-5, c. 133; Code, s. 985, subsec. 2; 1885, c. 42; Rev., s. 3339; C.S., s. 4313; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1991, c. 534; 1993, c. 539, s. 81; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-142. Injuries to dams and water channels of mills and factories.

If any person shall cut away, destroy or otherwise injure any dam, or part thereof, or shall obstruct or damage any race, canal or other water channel erected, opened, used or constructed for the purpose of furnishing water for the operation of any mill, factory or machine works, or for the escape of water therefrom, he shall be guilty of a Class 2 misdemeanor. (1866, c. 48; Code, s. 1087; Rev., s. 3678; C.S., s. 4315; 1969, c. 1224, s. 13; 1993, c. 539, s. 82; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-143. Repealed by Session Laws 1987, c. 700, s. 2.

§ 14-144. Injuring houses, churches, fences and walls.

If any person shall, by any other means than burning or attempting to burn, unlawfully and willfully demolish, destroy, deface, injure or damage any of the houses or other buildings mentioned in Article 15 (Arson and Other Burnings) of this Chapter; or shall by any other means than burning or attempting to burn unlawfully and willfully demolish, pull down, destroy, deface, damage or injure any church, uninhabited house, outhouse or other house or building not mentioned in such article; or shall unlawfully and willfully burn, destroy, pull down, injure or remove any fence, wall or other enclosure, or any part thereof, surrounding or about any yard, garden, cultivated field or pasture, or about any church or graveyard, or about any factory or other house in which machinery is used, every person so offending shall be punished as follows:

(1) If the damage is five thousand dollars ($5,000) or less, the person is guilty of a Class 2 misdemeanor.

(2) If the damage is more than five thousand dollars ($5,000), the person is guilty of a Class I felony. (R.C., c. 34, s. 103; Code, s. 1062; Rev., s. 3673; C.S., s. 4317; 1957, c. 250, s. 2; 1969, c. 1224, s. 1; 1993, c. 539, s. 83; 1994, Ex. Sess., c. 24, s. 14(c); 2008-15, s. 1; 2009-570, s. 3.)

§ 14-145. Unlawful posting of advertisements.

Any person who in any manner paints, prints, places, or affixes, or causes to be painted, printed, placed, or affixed, any business or commercial advertisement on or to any stone, tree, fence, stump, pole, automobile, building, or other object, which is the property of another without first obtaining the written consent of such owner thereof, or who in any manner paints, prints, places, puts, or affixes, or causes to be painted, printed, placed, or affixed, such an advertisement on or to any stone, tree, fence, stump, pole, mile-board, milestone, danger-sign, danger-signal, guide-sign, guide-post, automobile, building or other object within the limits of a public highway, shall be

guilty of a Class 3 misdemeanor. (Ex. Sess. 1924, c. 109; 1993, c. 539, s. 84; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-146. Injuring bridges.

If any person shall unlawfully and willfully demolish, destroy, break, tear down, injure or damage any bridge across any of the creeks or rivers or other streams in the State, he shall be guilty of a Class 1 misdemeanor. (1883, c. 271; Code, s. 993; Rev., s. 3771; C.S., s. 4318; 1993, c. 539, s. 85; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-147. Removing, altering or defacing landmarks.

If any person, firm or corporation shall knowingly remove, alter or deface any landmark in anywise whatsoever, or shall knowingly cause such removal, alteration or defacement to be done, such person, firm or corporation shall be guilty of a Class 2 misdemeanor. This section shall not apply to landmarks, such as creeks and other small streams, which the interest of agriculture may require to be altered or turned from their channels, nor to such persons, firms or corporations as own the fee simple in the lands on both sides of the lines designated by the landmarks removed, altered or defaced. Nor shall this section apply to those adjoining landowners who may by agreement remove, alter or deface landmarks in which they alone are interested. (1858-9, c. 17; Code, s. 1063; Rev., s. 3674; 1915, c. 248; C.S., s. 4319; 1993, c. 539, s. 86; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-148. Defacing or desecrating grave sites.

(a) It is unlawful to willfully:

(1) Throw, place or put any refuse, garbage or trash in or on any cemetery.

(2) Take away, disturb, vandalize, destroy or change the location of any stone, brick, iron or other material or fence enclosing a cemetery without authorization of law or consent of the surviving spouse or next of kin of the deceased.

(3) Take away, disturb, vandalize, destroy, or tamper with any shrubbery, flowers, plants or other articles planted or placed within any cemetery to designate where human remains are interred or to preserve and perpetuate the memory and name of any person, without authorization of law or the consent of the surviving spouse or next of kin.

(b) The provisions of this section shall not apply to:

(1) Ordinary maintenance and care of a cemetery by the owner, caretaker, or other person acting to facilitate cemetery operations by keeping the cemetery free from accumulated debris or other signs of neglect.

(2) Conduct that is punishable under G.S. 14-149.

(3) A professional archaeologist as defined in G.S. 70-28(4) acting pursuant to the provisions of Article 3 of Chapter 70 of the General Statutes.

(c) Violation of this section is a Class I felony if the damage caused by the violation is one thousand dollars ($1,000) or more. Any other violation of this section is a Class 1 misdemeanor. In passing sentence, the court shall consider the appropriateness of restitution or reparation as a condition of probation under G.S. 15A-1343(b)(9) as an alternative to actual imposition of a fine, jail term, or both. (1840, c. 6; R.C., c. 34, s. 102; Code, s. 1088; Rev., s. 3680; C.S., s. 4320; 1969,

c. 987; 1981, c. 752, s. 1; c. 853, s. 4; 1993, c. 539, s. 87; 1994, Ex. Sess., c. 24, s. 14(c); 2007-122, s. 1.)

§ 14-149. Desecrating, plowing over or covering up graves; desecrating human remains.

(a) It is a Class I felony, without authorization of law or the consent of the surviving spouse or next of kin of the deceased, to knowingly and willfully:

(1) Open, disturb, destroy, remove, vandalize or desecrate any casket or other repository of any human remains, by any means including plowing under, tearing up, covering over or otherwise obliterating or removing any grave or any portion thereof.

(2) Take away, disturb, vandalize, destroy, tamper with, or deface any tombstone, headstone, monument, grave marker, grave ornamentation, or grave artifacts erected or placed within any cemetery to designate the place where human remains are interred or to preserve and perpetuate the memory and the name of any person. This subdivision shall not apply to the ordinary maintenance and care of a cemetery.

(3) Repealed by Session Laws 2007-122, s. 2, effective December 1, 2007, and applicable to offenses committed on or after that date.

(a1) It is a Class H felony, without authorization of law or the consent of the surviving spouse or next of kin of the deceased, to knowingly and willfully disturb, destroy, remove, vandalize, or desecrate any human remains that have been interred in a cemetery.

(b) The provisions of this section shall not apply to a professional archaeologist as defined in G.S. 70-28(4) acting pursuant to the provisions of Article 3 of Chapter 70 of the General Statutes. (1889, c. 130; Rev., s. 3681; 1919, c. 218; C.S., s. 4321; 1981, c. 752, s. 2; c. 853, s. 5; 2007-122, s. 2.)

§§ 14-150 through 14-150.1. Repealed by Session Laws 1981, c. 752, s. 3, effective October 1, 1981.

§ 14-151. Interfering with gas, electric and steam appliances or meters; penalties.

(a) It shall be unlawful for any person to willfully, with intent to injure or defraud, commit any of the following acts:

(1) Connect a tube, pipe, wire or other instrument or contrivance with a pipe or wire used for conducting or supplying illuminating gas, fuel, natural gas or electricity in such a manner as to supply such gas or electricity to any burner, orifice, lamp or motor where the same is or can be burned or used without passing through the meter or other instrument provided for registering the quantity consumed.

(2) Obstruct, alter, bypass, tamper with, injure or prevent the action of a meter or other instrument used to measure or register the quantity of illuminating fuel, natural gas, water, or electricity passing through such meter by a person other than an employee of the company owning or supplying any gas, water, or electric meter, who willfully shall detach or

disconnect such meter, or make or report any test of, or examine for the purpose of testing any meter so detached or disconnected.

(3) In any manner whatever change, extend or alter any service or other pipe, wire or attachment of any kind, connecting with or through which natural or artificial gas or electricity is furnished from the gas mains or pipes of any person, without first procuring from said person written permission to make such change, extension or alterations.

(4) Make any connection or reconnection with the gas mains, water pipes, service pipes or wires of any person, furnishing to consumers natural or artificial gas, water, or electricity, or turn on or off or in any manner interfere with any valve or stopcock or other appliance belonging to such person, and connected with his service or other pipes or wires, or enlarge the orifices of mixers, or use natural gas for heating purposes except through mixers, or electricity for any purpose without first procuring from such person a written permit to turn on or off such stopcock or valve, or to make such connection or reconnections, or to enlarge the orifice of mixers, or to use for heating purposes without mixers, or to interfere with the valves, stopcocks, wires or other appliances of such, as the case may be.

(5) Retain possession of or refuse to deliver any mixer, meter, lamp or other appliance which may be leased or rented by any person, for the purpose of furnishing gas, water, electricity or power through the same, or sell, lend or in any other manner dispose of the same to any person other than such person entitled to the possession of the same.

(6) Set on fire any gas escaping from wells, broken or leaking mains, pipes, valves or other appliances used by any person in conveying gas to consumers, or interfere in any manner with the wells, pipes, mains, gateboxes, valves, stopcocks, wires, cables, conduits or any other appliances, machinery or property of any person engaged in furnishing gas to consumers unless employed by or acting under the authority and direction of such person.

(7) Open or cause to be opened, or reconnect or cause to be reconnected any valve lawfully closed or disconnected by a district steam corporation.

(8) Turn on steam or cause it to be turned on or to reenter any premises when the same has been lawfully stopped from entering such premises.

(9) Reconnect electricity, gas, or water connections or otherwise turn back on one or more of those utilities when they have been lawfully disconnected or turned off by the provider of the utility.

(10) Alter, bypass, interfere with, or cut off any load management device, equipment, or system which has been installed by the electricity supplier for the purpose of limiting the use of electricity at peak-load periods, provided, however, if there has been a written request to remove the load management device, equipment, or system to the electric supplier and the

electric supplier has not removed the device within two working days, there shall be no violation of this section.

(b) Any meter or service entrance facility found to have been altered, tampered with, or bypassed in a manner that would cause such meter to inaccurately measure and register the electricity, gas, or water consumed or which would cause the electricity, gas, or water to be diverted from the recording apparatus of the meter shall be prima facie evidence of intent to violate and of the violation of this section by the person in whose name such meter is installed or the person or persons so using or receiving the benefits of such unmetered, unregistered, or diverted electricity, gas, or water.

(c) For the purposes of this section, the term "gas" shall mean all types and forms of gas, including, but not limited to, natural gas.

(d) Criminal violations of this section shall be punishable as follows:

(1) A violation of this section is a Class 1 misdemeanor.

(2) A second or subsequent violation of this section is a Class H felony.

(3) A violation of this section that results in significant property damage or public endangerment is a Class F felony.

(4) Unless the conduct is covered under some other provision of law providing greater punishment, a violation that results in the death of another is a Class D felony.

(e) [Whoever is found in a civil action to have violated any provision] of this section [shall be liable to the electric, gas or water supplier in triple the amount of losses and damages sustained or five] thousand [dollars] ($5,000), [whichever is greater].

(f) Nothing in this section shall be construed to apply to licensed contractors while performing usual and ordinary services in accordance with recognized customs and standards. (1901, c. 735; Rev., s. 3666; C.S., s. 4323; 1993, c. 539, s. 88; 1994, Ex. Sess., c. 24, s. 14(c); 2013-88, s. 1.)

§ 14-151.1: Repealed by Session Laws 2013-88, s. 2, effective December 1, 2013, and applicable to offenses committed on or after that date.

§ 14-152. Injuring fixtures and other property of gas companies; civil liability.

If any person shall willfully, wantonly or maliciously remove, obstruct, injure or destroy any part of the plant, machinery, fixtures, structures or buildings, or anything appertaining to the works of any gas company, or shall use, tamper or interfere with the same, he shall be deemed guilty of a Class 3 misdemeanor. Such person shall also forfeit and pay to the company so injured, to be sued for and recovered in a civil action, double the amount of the damages sustained by any such injury. (1889 (Pr.), c. 35, s. 3; Rev., s. 3671; C.S., s. 4324; 1993, c. 539, s. 90; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-153. Tampering with engines and boilers.

If any person shall willfully turn out water from any boiler or turn the bolts of any engine or boiler, or meddle or tamper with such boiler or engine, or any other machinery in connection with any boiler or engine, causing loss, damage, danger or delay to the owner in the prosecution of his

work, he shall be guilty of a Class 2 misdemeanor. (1901, c. 733; Rev., s. 3667; C.S., s. 4325; 1993, c. 539, s. 91; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-154. Injuring wires and other fixtures of telephone, telegraph, and electric-power companies.

If any person shall willfully injure, destroy or pull down any telegraph, telephone, cable telecommunications, or electric-power-transmission pedestal or pole, or any telegraph, telephone, cable telecommunications, or electric power line, wire or fiber insulator, power supply, transformer, transmission or other apparatus, equipment or fixture used in the transmission of telegraph, telephone, cable telecommunications, or electrical power service or any equipment related to wireless communications regulated by the Federal Communications Commission, that person shall be guilty of a Class I Felony. (1881, c. 4; 1883, c. 103; Code, s. 1118; Rev., s. 3847; 1907, c. 827, s. 1; C.S., s. 4326; 1993, c. 539, s. 92; 1994, Ex. Sess., c. 24, s. 14(c); 2007-301, s. 2.)

§ 14-155. Unauthorized connections with telephone or telegraph.

It shall be unlawful for any person to tap or make any connection with any wire or apparatus of any telephone or telegraph company operating in this State, except such connection as may be authorized by the person or corporation operating such wire or apparatus. Any person violating this section shall be guilty of a Class 3 misdemeanor. Each day's continuance of such unlawful connection shall be a separate offense. No connection approved by the Federal Communications Commission or the North Carolina Utilities Commission shall be a violation of this section. (1911, c. 113; C.S., s. 4327; 1973, c. 648; 1977, 2nd Sess., c. 1185, s. 2; 1993, c. 539, s. 93; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-156. Injuring fixtures and other property of electric-power companies.

It shall be unlawful for any person willfully and wantonly, and without the consent of the owner, to take down, remove, injure, obstruct, displace or destroy any line erected or constructed for the transmission of electrical current, or any poles, towers, wires, conduits, cables, insulators or any support upon which wires or cables may be suspended, or any part of any such line or appurtenances or apparatus connected therewith, or to sever any wire or cable thereof, or in any manner to interrupt the transmission of electrical current over and along any such line, or to take down, remove, injure or destroy any house, shop, building or other structure or machinery connected with or necessary to the use of any line erected or constructed for the transmission of electrical current, or to wantonly or willfully cause injury to any of the property mentioned in this section by means of fire. Any person violating any of the provisions of this section shall be guilty of a Class 2 misdemeanor. (1907, c. 919; C.S., s. 4328; 1993, c. 539, s. 94; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-157. Felling trees on telephone and electric-power wires.

If any person shall negligently and carelessly cut or fell any tree, or any limb or branch therefrom, in such a manner as to cause the same to fall upon and across any telephone, electric light or electric-power-transmission wire, from which any injury to such wire shall be occasioned, he shall be guilty of a Class 3 misdemeanor, and shall also be liable to penalty of fifty dollars ($50.00) for each and every offense. (1903, c. 616; Rev., s. 3849; 1907, c. 827, s. 2; C.S., s. 4329; 1969, c. 1224, s. 9; 1993, c. 539, s. 95; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-158. Interfering with telephone lines.

If any person shall unnecessarily disconnect the wire or in any other way render any telephone line, or any part of such line, unfit for use in transmitting messages, or shall unnecessarily cut, tear down, destroy or in any way render unfit for the transmission of messages any part of the wire of a telephone line, he shall be guilty of a Class 2 misdemeanor. (1901, c. 318; Rev., s. 3845; C.S., s. 4330; 1969, c. 1224, s. 3; 1993, c. 539, s. 96; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-159. Injuring buildings or fences; taking possession of house without consent.

If any person shall deface, injure or damage any house, uninhabited house or other building belonging to another; or deface, damage, pull down, injure, remove or destroy any fence or wall enclosing, in whole or in part, the premises belonging to another; or shall move into, take possession of and/or occupy any house, uninhabited house or other building situated on the premises belonging to another, without having first obtained authority so to do and consent of the owner or agent thereof, he shall be guilty of a Class 3 misdemeanor. (1929, c. 192, s. 1; 1993, c. 539, s. 97; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-159.1. Contaminating a public water system.

(a) A person commits the offense of contaminating a public water system, as defined in G.S. 130A-313(10), if he willfully or wantonly:

(1) Contaminates, adulterates or otherwise impurifies or attempts to contaminate, adulterate or otherwise impurify the water in a public water system, including the water source, with any toxic chemical, biological agent or radiological substance that is harmful to human health, except those added in approved concentrations for water treatment operations; or

(2) Damages or tampers with the property or equipment of a public water system with the intent to impair the services of the public water system.

(b) Any person who commits the offense defined in this section is guilty of a Class C felony. (1983, c. 507, s. 1; 1985, c. 509, s. 4, c. 689, s. 5; 1993, c. 539, s. 1189; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-159.2. Interference with animal research.

(a) It is unlawful for a person willfully to commit any of the following acts:

(1) The unauthorized entry into any research facility where animals are kept within the facility for research in the advancement of medical, veterinary, dental, or biological sciences, with the intent to (i) disrupt the normal operation of the research facility, or (ii) damage the research facility or any personal property located thereon, or (iii) release from any enclosure or restraining device any animal kept within the research facility, or (iv) interfere with the care of any animal kept within the research facility;

(2) The damaging of any such research facility or any personal property located thereon;

(3) The unauthorized release from any enclosure or restraining device of any animal kept within any research facility; or

(4) The interference with the care of any animal kept within any research facility.

(b) Any person who commits an offense under subsection (a) of this section shall be guilty of a Class 1 misdemeanor.

(c) Any person who commits an offense under subsection (a) of this section that involves the release from any enclosure or restraining device of any animal having an infectious disease shall be guilty of a Class I felony.

(d) As a condition of probation, the court may order a person convicted under this section to make restitution to the owner of the animal for damages, including the cost of restoring the animal to confinement and of restoring the animal to its health condition prior to any release, and for damages to personal property, including materials, equipment, data, and records, and real property caused by the interference. If the interference causes the failure of an experiment, the restitution may include all costs of repeating the experiment, including replacement of the animals, labor, and materials.

(e) Nothing in this section shall be construed to affect any rights or causes of action of a person damaged through interference with animal research. (1991, c. 203; 1993, c. 539, ss. 98, 1190; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-159.3. Trespass to land on motorized all-terrain vehicle.

(a) No person shall operate any motorized all-terrain vehicle:

(1) On any private property not owned by the operator, without the written consent of the owner; or

(2) Within the banks of any stream or waterway, but excluding a sound or the Atlantic Ocean, the adjacent lands of which are not owned by the operator, without the consent of the owner or outside the restrictions imposed by the owner.

(a1) A landowner who gives a person written consent to operate an all-terrain vehicle on the landowner's property owes the person the same duty of care that the landowner owes a trespasser.

(b) A "motorized all-terrain vehicle", as used in this section, is a two or more wheeled vehicle designed for recreational off-road use.

(c) A violation of this section shall be a Class 2 misdemeanor. (1997-456, s. 56.8; 1997-487, s. 1; 2014-103, s. 11(a); 2015-26, s. 2.1; 2017-102, s. 4.)

§ 14-159.4. Cutting, mutilating, defacing, or otherwise injuring property to obtain nonferrous metals.

(a) Definition of Nonferrous Metals. – For purposes of this section, the term "nonferrous metals" means metals not containing significant quantities of iron or steel, including, but not limited to, copper wire, copper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum other than aluminum cans, a product that is a mixture of aluminum and copper, catalytic converters, lead-acid batteries, and stainless steel beer kegs or containers.

(b) Prohibited Act. – It is unlawful for a person to willfully and wantonly cut, mutilate, deface, or otherwise injure any personal or real property of another, including any fixtures or improvements, for the purpose of obtaining nonferrous metals in any amount.

(c) Punishment. – Violations of this section are punishable as follows:

(1) Default. – If the direct injury is to property, and the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss (including fixtures or improvements) is less than one thousand dollars ($1,000), a violation shall be punishable as a Class 1 misdemeanor. If the applicable amount is one thousand dollars ($1,000) or more, but less than ten thousand dollars ($10,000), a violation shall be punishable as a Class H felony. If the applicable amount is ten thousand dollars ($10,000) or more, a violation shall be deemed an aggravated offense and shall be punishable as a Class F felony.

(2) When person suffers serious injury. – Unless the conduct is covered under some other provision of law providing greater punishment, a violation of this section that results in a serious injury to another person is punishable as a Class A1 misdemeanor.

(3) When person suffers a serious bodily injury. – Unless the conduct is covered under some other provision of law providing greater punishment, a violation of this section that results in serious bodily injury to another person is punishable as a Class F felony. For purposes of this subdivision, "serious bodily injury" is as defined in G.S. 14-32.4.

(4) When person is killed. – Unless the conduct is covered under some other provision of law providing greater punishment, a violation of this section that results in the death of another person is punishable as a Class D felony.

(5) When critical infrastructure affected. – Unless the conduct is covered under some other provision of law providing greater punishment, a violation of this section that results in the disruption of communication or electrical service to critical infrastructure or to more than 10 customers of the communication or electrical service is guilty of a Class 1 misdemeanor.

(d) Liability. – This section does not create or impose a duty of care upon the owner of personal or real property that would not otherwise exist under common law. A public or private owner of personal or real property shall not be civilly liable:

(1) To a person who is injured while committing or attempting to commit a violation of this section.

(2) To a person who is injured while a third party is committing or attempting to commit a violation of this section.

(3) For a person's injuries caused by a dangerous condition created as a result of a violation of this section, when the owner does not know and could not have reasonably known of the dangerous condition. (2012-46, s. 31.)

§ 14-159.5: Reserved for future codification purposes.

Article 22A.

Trespassing upon "Posted" Property to Hunt, Fish, Trap, or Remove Pine Needles/Straw.

§ 14-159.6. Trespass for purposes of hunting, etc., without written consent a misdemeanor; defense.

(a) Any person who willfully goes on the land, waters, ponds, or a legally established waterfowl blind of another that has been posted in accordance with the provisions of G.S. 14-159.7, to hunt, fish or trap without written permission of the landowner, lessee, or his agent shall be guilty of a Class 2 misdemeanor. Written permission shall be carried on one's person, signed by the landowner, lessee, or agent, and dated within the last 12 months. The written permission shall be displayed upon request of any law enforcement officer of the Wildlife Resources Commission, sheriff or deputy sheriff, or other law enforcement officer with general subject matter jurisdiction. A person shall have written permission for purposes of this section if a landowner, lessee, or agent has granted permission to a club to hunt, fish, or trap on the land and the person is carrying both a current membership card demonstrating the person's membership in the club and a copy of written permission granted to the club that complies with the requirements of this section.

(b) Any person who willfully goes on the land of another that has been posted in accordance with the provisions of G.S. 14-159.7(1), to rake or remove pine needles or pine straw without the written consent of the owner or his agent shall be guilty of a Class 1 misdemeanor.

(c) It is an affirmative defense to a prosecution under subsection (a) or (b) of this section that the person had in fact obtained prior permission of the owner, lessee, or agent as required by those subsections but did not have on his or her person valid written permission at the time of citation or arrest. (1949, c. 887, s. 1; 1953, c. 1226; 1965, c. 1134; 1975, c. 280, s. 1; 1979, c. 830, s. 11; 1991, c. 435, s. 4; 1993, c. 539, s. 99; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(z); 2011-231, s. 1.)

§ 14-159.7. Regulations as to posting of property.

For purposes of posting property under G.S. 14-159.7, the owner or lessee of the property may use either of the following methods:

(1) The owner or lessee of the property may place notices, signs, or posters on the property. The notices, signs or posters shall measure not less than 120 square inches and shall be conspicuously posted on private lands not more than 200 yards apart close to and along the boundaries. At least one such notice, sign, or poster shall be posted on each side of such land, and one at each corner thereof, provided that said corner can be reasonably ascertained. For the purpose of prohibiting fishing, or the taking of fish

by any means, in any stream, lake, or pond, it shall only be necessary that the signs, notices, or posters be posted along the stream or shoreline of a pond or lake at intervals of not more than 200 yards apart.

(2) The owner or lessee of the property may place identifying purple paint marks on trees or posts around the area to be posted. Each paint mark shall be a vertical line of at least eight inches in length, and the bottom of the mark shall be no less than three feet nor more than five feet from the base of the tree or post. The paint marks shall be placed no more than 100 yards apart and shall be readily visible to any person approaching the property. For the purpose of prohibiting fishing, or the taking of fish by any means, in any stream, lake, or pond, it shall only be necessary that the paint marks be placed along the stream or shoreline of a pond or lake at intervals of not more than 100 yards apart. (1949, c. 887, s. 2; 1953, c. 1226; 1965, c. 923; 1975, c. 280, ss. 2, 3; 1979, c. 830, s. 11; 2011-231, s. 2.)

§ 14-159.8. Mutilation, etc., of "posted" signs; posting signs without consent of owner or agent.

Any person who shall mutilate, destroy or take down any "posted," "no hunting" or similar notice, sign or poster on the lands, waters, or legally established waterfowl blind of another, or who shall post such sign or poster on the lands, waters or legally established waterfowl blind of another, without the consent of the owner or his agent, shall be deemed guilty of a Class 3 misdemeanor and only punished by a fine of not more than one hundred dollars ($100.00). (1949, c. 887, s. 3; 1953, c. 1226; 1969, c. 51; 1979, c. 830, s. 11; 1993, c. 539, s. 100; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-159.9. Entrance on navigable waters, etc., for purpose of fishing, hunting or trapping not prohibited.

Nothing in this Article shall be construed to prohibit the entrance of any person upon navigable waters and the bays and sounds adjoining such waters for the purpose of fishing, hunting or trapping. (1949, c. 887, s. 4; 1953, c. 1226; 1979, c. 830, s. 11.)

§ 14-159.10. Enforcement of Article.

This Article may be enforced by sheriffs or deputy sheriffs, law enforcement officers of the Wildlife Resources Commission, and other peace officers with general subject matter jurisdiction. (1979, c. 830, s. 11; 2011-231, s. 3.)

Article 22B.

First and Second Degree Trespass.

§ 14-159.11. Definition.

As used in this Article, "building" means any structure or part of a structure, other than a conveyance, enclosed so as to permit reasonable entry only through a door and roofed to protect it from the elements. (1987, c. 700, s. 1.)

§ 14-159.12. First degree trespass.

(a) Offense. – A person commits the offense of first degree trespass if, without authorization, he enters or remains:

(1) On premises of another so enclosed or secured as to demonstrate clearly an intent to keep out intruders;

(2) In a building of another; or

(3) On the lands of the Eastern Band of Cherokee Indians after the person has been excluded by a resolution passed by the Eastern Band of Cherokee Indian Tribal Council.

(b) Except as otherwise provided in subsection (c), (d), or (f) of this section, first degree trespass is a Class 2 misdemeanor.

(c) Except as otherwise provided in subsection (d) of this section, a violation of subsection (a) of this section is a Class A1 misdemeanor if all of the following circumstances exist:

(1) The offense is committed on the premises of any of the following:

a. A facility that is owned or operated by an electric power supplier as defined in G.S. 62-133.8(a)(3) and that is either an electric generation facility, a transmission substation, a transmission switching station, a transmission switching structure, or a control center used to manage transmission operations or electrical power generating at multiple plant locations.

b. Any facility used or available for use in the collection, treatment, testing, storing, pumping, or distribution of water for a public water system.

c. Any facility, including any liquefied natural gas storage facility or propane air facility, that is owned or operated by a natural gas local distribution company, natural gas pipeline carrier operating under a certificate of public convenience and necessity from the Utilities Commission, municipal corporation operating a municipally owned gas distribution system, or regional natural gas district organized and operated pursuant to Article 28 of Chapter 160A of the General Statutes used for transmission, distribution, measurement, testing, regulating, compression, control, or storage of natural gas.

d. Any facility used or operated for agricultural activities, as that term is defined in G.S. 106-581.1.

(2) The person actually entered a building, or it was necessary for the person to climb over, go under, or otherwise surmount a fence or other barrier to reach the facility.

(d) If, in addition to the circumstances set out in subsection (c) of this section, the violation also includes any of the following elements, then the offense is a Class H felony:

(1) The offense is committed with the intent to disrupt the normal operation of any of the facilities described in subdivision (1) of subsection (c) of this section.

(2) The offense involves an act that places either the offender or others on the premises at risk of serious bodily injury.

(e) As used in subsections (c) and (d) of this section, the term "facility" shall mean a building or other infrastructure.

(f) A violation of subsection (a) of this section is a Class I felony and shall include a fine of not less than one thousand dollars ($1,000) for each violation, if any of the following circumstances exist:

(1) The offense occurs on real property where the person has reentered after having previously been removed pursuant to the execution of a valid order or writ for possession.

(2) The offense occurs under color of title where the person has knowingly created or provided materially false evidence of an ownership or possessory interest.

(3) The offense is the person's second or subsequent violation of subdivision (a)(3) of this section. (1987, c. 700, s. 1; 1993, c. 539, s. 101; 1994, Ex. Sess., c. 24, s. 14(c); 2012-168, s. 1; 2014-103, s. 10(a); 2016-26, s. 1; 2018-66, s. 1.)

§ 14-159.13. Second degree trespass.

(a) Offense. – A person commits the offense of second degree trespass if, without authorization, he enters or remains on premises of another:

(1) After he has been notified not to enter or remain there by the owner, by a person in charge of the premises, by a lawful occupant, or by another authorized person; or

(2) That are posted, in a manner reasonably likely to come to the attention of intruders, with notice not to enter the premises.

(b) Classification. – Second degree trespass is a Class 3 misdemeanor. (1987, c. 700, s. 1; 1993, c. 539, s. 102; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-159.14. Lesser included offenses.

The offenses created by this act shall constitute lesser included offenses of breaking or entering as provided in G.S. 14-54 and G.S. 14-56. (1987, c. 700, s. 1.)

§§ 14-159.15 through 14-159.19. Reserved for future codification purposes.

Article 22C.

Cave Protection Act.

§ 14-159.20. Definitions.

The terms listed below have the following definitions as used in this Article, unless the context clearly requires a different meaning:

(1) "Cave" means any naturally occurring subterranean cavity. The word "cave" includes or is synonymous with cavern, pit, well, sinkhole, and grotto;

(2) "Commercial cave" means any cave with improved trails and lighting utilized by the owner for the purpose of exhibition to the general public as a profit or nonprofit enterprise, wherein a fee is collected for entry;

(3) "Gate" means any structure or device located to limit or prohibit access or entry to any cave;

(4) "Person" means any individual, partnership, firm, association, trust or corporation;

(5) "Speleothem" means a natural mineral formation or deposit occurring in a cave. This includes or is synonymous with stalagmites, stalactites, helectites, anthodites, gypsum flowers, needles, angel's hair, soda straws, draperies, bacon, cave pearls, popcorn (coral), rimstone dams, columns, palettes, and flowstone. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite and other similar minerals; and

(6) "Owner" means a person who has title to land where a cave is located, including a person who owns title to a leasehold estate in such land. (1987, c. 449.)

§ 14-159.21. Vandalism; penalties.

It is unlawful for any person, without express, prior, written permission of the owner, to willfully or knowingly:

(1) Break, break off, crack, carve upon, write, burn or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar or harm the surfaces of any cave or any natural material therein, including speleothems;

(2) Disturb or alter in any manner the natural condition of any cave;

(3) Break, force, tamper with or otherwise disturb a lock, gate, door or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.

Any person violating a provision of this section shall be guilty of a Class 3 misdemeanor. (1987, c. 449; 1993, c. 539, s. 103; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-159.22. Sale of speleothems unlawful; penalties.

It is unlawful to sell or offer for sale any speleothems in this State, or to export them for sale outside the State. A person who violates any of the provisions of this section shall be guilty of a Class 3 misdemeanor. (1987, c. 449; 1993, c. 539, s. 104; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-159.23. Limitation of liability of owners and agents.

The owner of a cave, and his agents and employees, shall not be liable for any injury to, or for the death of any person, or for any loss or damage to property, by reason of any act or omission unless it is established that the injury, death, loss, or damage occurred as a result of gross negligence, wanton conduct, or intentional wrongdoing. The limitation of liability provided by this section applies only with respect to injury, death, loss, or damage occurring within a cave, or in connection with entry into or exit from a cave, and applies only with respect to persons to whom no charge has been made for admission to the cave. (1987, c. 449.)

Article 23.

Trespasses to Personal Property.

§ 14-160. Willful and wanton injury to personal property; punishments.

(a) If any person shall wantonly and willfully injure the personal property of another he shall be guilty of a Class 2 misdemeanor.

(b) Notwithstanding the provisions of subsection (a), if any person shall wantonly and willfully injure the personal property of another, causing damage in an amount in excess of two hundred dollars ($200.00), he shall be guilty of a Class 1 misdemeanor.

(c) This section applies to injuries to personal property without regard to whether the property is destroyed or not. (1876-7, c. 18; Code, s. 1082; 1885, c. 53; Rev., s. 3676; C.S., s. 4331; 1969, c. 1224, s. 14; 1993, c. 539, s. 105; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-160.1. Alteration, destruction or removal of permanent identification marks from personal property.

(a) It shall be unlawful for any person to alter, deface, destroy or remove the permanent serial number, manufacturer's identification plate or other permanent, distinguishing number or identification mark from any item of personal property with the intent thereby to conceal or misrepresent the identity of said item.

(b) It shall be unlawful for any person knowingly to sell, buy or be in possession of any item of personal property, not his own, on which the permanent serial number, manufacturer's identification plate or other permanent, distinguishing number or identification mark has been altered, defaced, destroyed or removed for the purpose of concealing or misrepresenting the identity of said item.

(c) Unless the conduct is covered under some other provision of law providing greater punishment, a violation of any of the provisions of this section shall be a Class 1 misdemeanor.

(d) This section shall not in any way affect the provisions of G.S. 20-108, 20-109(a) or 20-109(b). (1977, c. 767, s. 1; 1993, c. 539, s. 106; 1994, Ex. Sess., c. 24, s. 14(c); 2009-204, s. 1.)

§ 14-160.2. Alteration, destruction, or removal of serial number from firearm; possession of firearm with serial number removed.

(a) It shall be unlawful for any person to alter, deface, destroy, or remove the permanent serial number, manufacturer's identification plate, or other permanent distinguishing number or identification mark from any firearm with the intent thereby to conceal or misrepresent the identity of the firearm.

(b) It shall be unlawful for any person knowingly to sell, buy, or be in possession of any firearm on which the permanent serial number, manufacturer's identification plate, or other permanent distinguishing number or identification mark has been altered, defaced, destroyed, or removed for the purpose of concealing or misrepresenting the identity of the firearm.

(c) A violation of any of the provisions of this section shall be a Class H felony. (2009-204, s. 2.)

§ 14-160.3. Injuring, destroying, removing, vandalizing, or tampering with firefighting or emergency medical services machinery or equipment.

A person is guilty of a Class 1 misdemeanor if the person intentionally injures, destroys, removes, vandalizes, or tampers with or otherwise intentionally interferes with the operation of any of the following:

(1) Any machinery, apparatus, or equipment used by a fire department or the North Carolina Forest Services for fighting fires, protecting property, or protecting human life.

(2) Any ambulance as defined in G.S. 131E-155 or rescue squad emergency medical services vehicle or any equipment or apparatus used for emergency medical services as defined in G.S. 131E-155. (2017-89, s. 1.)

§ 14-161: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(7).

§ 14-162. Removing boats.

If any person shall loose, unmoor, or turn adrift from any landing or other place wherever the same shall be, any boat, canoe, or other marine vessel, or if any person shall direct the same to be done without the consent of the owner, or the person having the lawful custody or possession of such vessel, he shall be guilty of a Class 2 misdemeanor. The owner may also have his action for such injury. The penalties aforesaid shall not extend to any person who shall press any such property by public authority. (R.C., c. 14, ss. 1, 3; Code, s. 2288; 1889, c. 378; Rev., s. 3544; C.S., s. 4333; 1977, c. 729; 1993, c. 539, s. 107; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-163. Poisoning livestock.

If any person shall willfully and unlawfully poison any horse, mule, hog, sheep or other livestock, the property of another, such person shall be punished as a Class I felon. (1898-9, c. 253; Code, s. 1003; Rev., s. 3313; C.S., s. 4334; 1969, c. 1224, s. 3; 1973, c. 1388; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14.)

§ 14-163.1. Assaulting a law enforcement agency animal, an assistance animal, or a search and rescue animal.

(a) The following definitions apply in this section:

(1) Assistance animal. – An animal that is trained and may be used to assist a "person with a disability" as defined in G.S. 168A-3. The term "assistance animal" is not limited to a dog and includes any animal trained to assist a person with a disability as provided in Article 1 of Chapter 168 of the General Statutes.

(2) Law enforcement agency animal. – An animal that is trained and may be used to assist a law enforcement officer in the performance of the officer's official duties.

(3) Harm. – Any injury, illness, or other physiological impairment; or any behavioral impairment that impedes or interferes with duties performed by a law enforcement agency animal or an assistance animal.

(3a) Search and rescue animal. – An animal that is trained and may be used to assist in a search and rescue operation.

(4) Serious harm. – Harm that does any of the following:

a. Creates a substantial risk of death.

b. Causes maiming or causes substantial loss or impairment of bodily function.

c. Causes acute pain of a duration that results in substantial suffering.

d. Requires retraining of the law enforcement agency animal or assistance animal.

e. Requires retirement of the law enforcement agency animal or assistance animal from performing duties.

(a1) Any person who knows or has reason to know that an animal is a law enforcement agency animal, an assistance animal, or a search and rescue animal and who willfully kills the animal is guilty of a Class H felony.

(b) Any person who knows or has reason to know that an animal is a law enforcement agency animal, an assistance animal, or a search and rescue animal and who willfully causes or attempts to cause serious harm to the animal is guilty of a Class I felony.

(c) Unless the conduct is covered under some other provision of law providing greater punishment, any person who knows or has reason to know that an animal is a law enforcement agency animal, an assistance animal, or a search and rescue animal and who willfully causes or attempts to cause harm to the animal is guilty of a Class 1 misdemeanor.

(d) Unless the conduct is covered under some other provision of law providing greater punishment, any person who knows or has reason to know that an animal is a law enforcement agency animal, an assistance animal, or a search and rescue animal and who willfully taunts, teases, harasses, delays, obstructs, or attempts to delay or obstruct the animal in the performance of its duty as a law enforcement agency animal, an assistance animal, or a search and rescue animal is guilty of a Class 2 misdemeanor.

(d1) A defendant convicted of a violation of this section shall be ordered to make restitution to the person with a disability, or to a person, group, or law enforcement agency who owns or is responsible for the care of the law enforcement agency animal or search and rescue animal for any of the following as appropriate:

(1) Veterinary, medical care, and boarding expenses for the law enforcement agency animal, the assistance animal, or the search and rescue animal.

(2) Medical expenses for the person with the disability relating to the harm inflicted upon the assistance animal.

(3) Replacement and training or retraining expenses for the law enforcement agency animal, the assistance animal, or the search and rescue animal.

(4) Expenses incurred to provide temporary mobility services to the person with a disability.

(5) Wages or income lost while the person with a disability is with the assistance animal receiving training or retraining.

(6) The salary of the law enforcement agency animal handler as a result of the lost services to the agency during the time the handler is with the law enforcement agency animal receiving training or retraining.

(6a) The salary of the search and rescue animal handler as a result of the search and rescue services lost during the time the handler is with the search and rescue animal receiving training or retraining.

(7) Any other expense reasonably incurred as a result of the offense.

(e) This section shall not apply to a licensed veterinarian whose conduct is in accordance with Article 11 of Chapter 90 of the General Statutes.

(f) Self-defense is an affirmative defense to a violation of this section.

(g) Nothing in this section shall affect any civil remedies available for violation of this section. (1983, c. 646, s. 1; 1993, c. 539, s. 108; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 258, s. 1; 2001-411, s. 1; 2005-184, s. 1; 2007-80, s. 1; 2009-460, s. 1.)

§ 14-164: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(8).

Article 24.

Vehicles and Draft Animals-Protection of Bailor against Acts of Bailee.

§ 14-165. Malicious or willful injury to hired personal property.

Any person who shall rent or hire from any person, firm or corporation, any horse, mule or like animal, or any buggy, wagon, truck, automobile, or other like vehicle, aircraft, motor, trailer, appliance, equipment, tool, or other thing of value, who shall maliciously or willfully injure or damage the same by in any way using or driving the same in violation of any statute of the State of North Carolina, or who shall permit any other person so to do, shall be guilty of a Class 2 misdemeanor. (1927, c. 61, s. 1; 1965, c. 1073, s. 1; 1993, c. 539, s. 109; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-166. Subletting of hired property.

Any person who shall rent or hire, any horse, mule, or other like animal, or any buggy, wagon, truck, automobile, or other like vehicle, aircraft, motor, trailer, appliance, equipment, tool, or other thing of value, who shall, without the permission of the person, firm or corporation from whom such property is rented or hired, sublet or rent the same to any other person, firm or corporation, shall be guilty of a Class 2 misdemeanor. (1927, c. 61, s. 2; 1965, c. 1073, s. 2; 1969, c. 1224, s. 15; 1993, c. 539, s. 110; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-167. Failure to return hired property.

Any person who shall rent or hire, any horse, mule or other like animal, or any buggy, wagon, truck, automobile, or other vehicle, aircraft, motor, trailer, appliance, equipment, tool, or other thing of value, and who shall willfully fail to return the same to the possession of the person, firm or corporation from whom such property has been rented or hired at the expiration of the time for which such property has been rented or hired, shall be guilty of a Class 3 misdemeanor.

If the value at the time of the rental or hiring of the truck, automobile, or other motor vehicle that is not returned is in excess of four thousand dollars ($4,000), the person who rented or hired it and failed to return it shall be guilty of a Class H felony. (1927, c. 61, s.

3; 1965, c. 1073, s. 3; 1969, c. 1224, s. 15; 1993, c. 539, s. 111; 1994, Ex. Sess., c. 24, s. 14(c); 2005-182, s. 1; 2013-360, s. 18B.14(c).)

§ 14-168. Hiring with intent to defraud.

Any person who shall, with intent to cheat and defraud the owner thereof of the rental price therefor, hire or rent any horse or mule or any other like animal, or any buggy, wagon, truck, automobile or other like vehicle, aircraft, motor, trailer, appliance, equipment, tool, or other thing of value, or who shall obtain the possession of the same by false and fraudulent statements made with intent to deceive, which are calculated to deceive, and which do deceive, shall be guilty of a Class 2 misdemeanor. (1927, c. 61, s. 4; 1965, c. 1073, s. 4; 1969, c. 1224, s. 15; 1993, c. 539, s. 112; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-168.1. Conversion by bailee, lessee, tenant or attorney-in-fact.

Every person entrusted with any property as bailee, lessee, tenant or lodger, or with any power of attorney for the sale or transfer thereof, who fraudulently converts the same, or the proceeds thereof, to his own use, or secretes it with a fraudulent intent to convert it to his own use, shall be guilty of a Class 3 misdemeanor.

If, however, the value of the property converted or secreted, or the proceeds thereof, is in excess of four hundred dollars ($400.00), every person so converting or secreting it is guilty of a Class H felony. In all cases of doubt the jury shall, in the verdict, fix the value of the property converted or secreted. (1965, c. 1073, s. 5; 1979, c. 468; 1979, 2nd Sess., c. 1316, s. 13; 1981, c. 63, s. 1; c. 179, s. 14; 1993, c. 539, s. 113; 1994, Ex. Sess., c. 24, s. 14(c); 2013-360, s. 18B.14(d).)

§ 14-168.2. Definitions.

For the purposes of this Article, the terms "rent," "hire" and "lease" are used to designate the letting for hire of any horse, mule or other like animal, or any buggy, wagon, truck, automobile, aircraft, motor, trailer, appliance, equipment, tool, or other thing of value by lease, bailment, or rental agreement. (1965, c. 1073, s. 5.)

§ 14-168.3. Prima facie evidence of intent to convert property.

It shall be prima facie evidence of intent to commit a crime as set forth in G.S. 14-167, 14-168, and 14-168.1 with respect to any property other than a truck, automobile, or other motor vehicle when one who has, by written instrument, leased or rented the personal property of another:

(1) Failed or refused to return such property to its owner after the lease, bailment, or rental agreement has expired,
   a. Within 10 days, and
   b. Within 48 hours after written demand for return thereof is personally served or given by registered mail delivered to the last known address provided in such lease or rental agreement, or

(2) When the leasing or rental of such personal property is obtained by presentation of identification to the lessor or rentor thereof which is false, fictitious, or knowingly not current as to name, address, place of employment, or other identification. (1965, c. 1118; 2005-182, s. 2.)

§ 14-168.4. Failing to return rented property on which there is purchase option.

(a) It shall be a Class 3 misdemeanor for any person to fail to return rented property with intent to defeat the rights of the owner, which is rented pursuant to a written rental agreement in which there is an option to purchase the property, after the date of termination provided in the agreement has occurred or, if the termination date is the occurrence of a specified event, then that such event has in fact occurred.

(b) Intent to commit the crime set forth in subsection (a) may be presumed from the following evidence:

(1) Evidence that the defendant has disposed of the property, or has encumbered the property by allowing a security interest to be placed on the property or by delivering the property to a pawnbroker; or

(2) Evidence that the defendant has refused to deliver the property to the sheriff or other officer charged with the execution of process directed to him for its seizure, after a judgment for possession of the property or a claim and delivery order for the property has been issued; or

(3) Evidence that the defendant has moved the rented property out of state and has failed to notify the owner of the new location of the property.

However, this presumption may be rebutted by evidence from the defendant that he has no intent to defeat the rights of the owner of the property.

(c) Violations of this Article for failure to return rented property which is rented pursuant to a written rental agreement in which there is an option to purchase shall be prosecuted only under this section. (1987 (Reg. Sess., 1988), c. 1065, s. 3; 1993, c. 539, s. 114; 1994, Ex. Sess., c. 24, s. 14(c); 2013-360, s. 18B.14(e).)

§ 14-168.5. Prima facie evidence of intent to convert a truck, automobile, or other motor vehicle; demand for return or payment.

(a) Prima Facie Evidence. – It shall be prima facie evidence of intent to commit a crime as set forth in G.S. 14-167, 14-168, and 14-168.1 when one who has, by written instrument, leased or rented a truck, automobile, or other motor vehicle owned by another:

(1) Failed or refused to return the vehicle to the lessor or rentor at the place specified after the lease, bailment, or rental agreement has expired, within 72 hours after written demand for the vehicle is made in accordance with subsection (b) of this section; or

(2) When the leasing or rental of the vehicle is obtained by presentation of identification to the lessor or rentor of the vehicle which is false, fictitious, or knowingly not current as to name, address, place of employment, or other identification.

(b) Method of Demand; When Effective. –

(1) Demand for return of a leased or rented truck, automobile, or other motor vehicle may be made in one of three ways:

a. By personal service in accordance with Rule 4(j) of the North Carolina Rules of Civil Procedure.

b. By certified mail, return receipt requested, addressed to the last known address provided in the lease, bailment, or rental agreement.

c. By depositing the demand with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) addressed to the last known address provided in the lease, bailment, or rental agreement.

(2) Demand is effective upon hand delivery to the last known address, three days after deposit by mail (even if the demand is returned as undeliverable), or upon delivery by a designated delivery service to the last known address. (2005-182, s. 3.)

§ 14-169. Violation made misdemeanor.

Except as otherwise provided, any person violating the provisions of this Article shall be guilty of a Class 1 misdemeanor. (1927, c. 61, s. 5; 1929, c. 38, s. 1; 1969, c. 1224, s. 15; 1993, c. 539, s. 115; 1994, Ex. Sess., c. 24, s. 14(c).)

Article 25.

Regulating the Leasing of Storage Batteries.

§§ 14-170 through 14-176: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 767, s. 30(4)-(10).

SUBCHAPTER VII. OFFENSES AGAINST PUBLIC MORALITY AND DECENCY.

Article 26.

Offenses against Public Morality and Decency.

§ 14-177. Crime against nature.

If any person shall commit the crime against nature, with mankind or beast, he shall be punished as a Class I felon. (5 Eliz., c. 17; 25 Hen. VIII, c. 6; R.C., c. 34, s. 6; 1868-9, c. 167, s. 6; Code, s. 1010; Rev., s. 3349; C.S., s. 4336; 1965, c. 621, s. 4; 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. 1191; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-178. Incest.

(a) Offense. – A person commits the offense of incest if the person engages in carnal intercourse with the person's (i) grandparent or grandchild, (ii) parent or child or stepchild or legally adopted child, (iii) brother or sister of the half or whole blood, or (iv) uncle, aunt, nephew, or niece.

(b) Punishment and Sentencing. –

(1) A person is guilty of a Class B1 felony if either of the following occurs:

a. The person commits incest against a child under the age of 13 and the person is at least 12 years old and is at least four years older than the child when the incest occurred.

b. The person commits incest against a child who is 13, 14, or 15 years old and the person is at least six years older than the child when the incest occurred.

(2) A person is guilty of a Class C felony if the person commits incest against a child who is 13, 14, or 15 and the person is more than four but less than six years older than the child when the incest occurred.

(3) In all other cases of incest, the parties are guilty of a Class F felony.

(c) No Liability for Children Under 16. – No child under the age of 16 is liable under this section if the other person is at least four years older when the incest occurred. (1879, c. 16, s. 1; Code, s. 1060; Rev., s. 3351; 1911, c. 16; C.S., s. 4337; 1965, c. 132; 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. 1192; 1994, Ex. Sess., c. 24, s. 14(c); 2002-119, s. 1.)

§ 14-179: Repealed by Session Laws 2002-119, s. 2, effective December 1, 2002.

§ 14-180. Repealed by Session Laws 1975, c. 402.

§§ 14-181 through 14-182. Repealed by Session Laws 1973, c. 108, s. 4.

§ 14-183. Bigamy.

If any person, being married, shall marry any other person during the life of the former husband or wife, every such offender, and every person counseling, aiding or abetting such offender, shall be punished as a Class I felon. Any such offense may be dealt with, tried, determined and punished in the county where the offender shall be apprehended, or be in custody, as if the offense had been actually committed in that county. If any person, being married, shall contract a marriage with any other person outside of this State, which marriage would be punishable as bigamous if contracted within this State, and shall thereafter cohabit with such person in this State, he shall be guilty of a felony and shall be punished as in cases of bigamy. Nothing contained in this section shall extend to any person marrying a second time, whose husband or wife shall have been continually absent from such person for the space of seven years then last past, and shall not have been known by such person to have been living within that time; nor to any person who at the time of such second marriage shall have been lawfully divorced from the bond of the first marriage; nor to any person whose former marriage shall have been declared void by the sentence of any court of competent jurisdiction. (See 9 Geo. IV, c. 31, s. 22; 1790, c. 323, P.R.; 1809, c. 783, P.R.; 1829, c. 9; R.C., c. 34, s. 15; Code, s. 988; Rev., s. 3361; 1913, c. 26; C.S., s. 4342; 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. 1193; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-184. Fornication and adultery.

If any man and woman, not being married to each other, shall lewdly and lasciviously associate, bed and cohabit together, they shall be guilty of a Class 2 misdemeanor: Provided, that the admissions or confessions of one shall not be received in evidence against the other. (1805, c. 684, P.R.; R.C., c. 34, s. 45; Code, s. 1041; Rev., s. 3350; C.S., s. 4343; 1969, c. 1224, s. 9; 1993, c. 539, s. 119; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-185. Repealed by Session Laws 1975, c. 402.

§ 14-186. Opposite sexes occupying same bedroom at hotel for immoral purposes; falsely registering as husband and wife.

Any man and woman found occupying the same bedroom in any hotel, public inn or boardinghouse for any immoral purpose, or any man and woman falsely registering as, or otherwise representing themselves to be, husband and wife in any hotel, public inn or boardinghouse, shall be deemed guilty of a Class 2 misdemeanor. (1917, c. 158, s. 2; C.S., s. 4345; 1969, c. 1224, s. 3; 1993, c. 539, s. 120; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-187. Repealed by Session Laws 1975, c. 402.

§ 14-188. Certain evidence relative to keeping disorderly houses admissible; keepers of such houses defined; punishment.

(a) On a prosecution in any court for keeping a disorderly house or bawdy house, or permitting a house to be used as a bawdy house, or used in such a way as to make it disorderly, or a common nuisance, evidence of the general reputation or character of the house shall be admissible and competent; and evidence of the lewd, dissolute and boisterous conversation of the inmates and frequenters, while in and around such house, shall be prima facie evidence of the bad character of the inmates and frequenters, and of the disorderly character of the house. The manager or person having the care, superintendency or government of a disorderly house or bawdy house is the "keeper" thereof, and one who employs another to manage and conduct a disorderly house or bawdy house is also "keeper" thereof.

(b) On a prosecution in any court for keeping a disorderly house or a bawdy house, or permitting a house to be used as a bawdy house or used in such a way to make it disorderly or a common nuisance, the offense shall constitute a Class 2 misdemeanor. (1907, c. 779; C.S., s. 4347; 1969, c. 1224, s. 22; 1993, c. 539, s. 121; 1994, Ex. Sess., c. 24, s. 14(c).)

§§ 14-189 through 14-189.1. Repealed by Session Laws 1971, c. 405, s. 4.

§§ 14-189.2 through 14-190. Repealed by Session Laws 1971, c. 591, s. 4.

§ 14-190.1. Obscene literature and exhibitions.

(a) It shall be unlawful for any person, firm or corporation to intentionally disseminate obscenity. A person, firm or corporation disseminates obscenity within the meaning of this Article if he or it:

(1) Sells, delivers or provides or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or

(2) Presents or directs an obscene play, dance or other performance or participates directly in that portion thereof which makes it obscene; or

(3) Publishes, exhibits or otherwise makes available anything obscene; or

(4) Exhibits, presents, rents, sells, delivers or provides; or offers or agrees to exhibit, present, rent or to provide: any obscene still or motion picture, film, filmstrip, or projection slide, or sound recording, sound tape, or sound track, or any matter or material of whatever form which is a representation, embodiment, performance, or publication of the obscene.

(b) For purposes of this Article any material is obscene if:

(1) The material depicts or describes in a patently offensive way sexual conduct specifically defined by subsection (c) of this section; and

(2) The average person applying contemporary community standards relating to the depiction or description of sexual matters would find that the material taken as a whole appeals to the prurient interest in sex; and

(3) The material lacks serious literary, artistic, political, or scientific value; and

(4) The material as used is not protected or privileged under the Constitution of the United States or the Constitution of North Carolina.

(c) As used in this Article, "sexual conduct" means:

(1) Vaginal, anal, or oral intercourse, whether actual or simulated, normal or perverted; or

(2) Masturbation, excretory functions, or lewd exhibition of uncovered genitals; or

(3) An act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or by a nude person or a person clad in undergarments or in revealing or bizarre costume.

(d) Obscenity shall be judged with reference to ordinary adults except that it shall be judged with reference to children or other especially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be especially designed for or directed to such children or audiences.

(e) It shall be unlawful for any person, firm or corporation to knowingly and intentionally create, buy, procure or possess obscene material with the purpose and intent of disseminating it unlawfully.

(f) It shall be unlawful for a person, firm or corporation to advertise or otherwise promote the sale of material represented or held out by said person, firm or corporation as obscene.

(g) Violation of this section is a Class I felony.

(h) Obscene material disseminated, procured, or promoted in violation of this section is contraband.

(i) Nothing in this section shall be deemed to preempt local government regulation of the location or operation of sexually oriented businesses to the extent consistent with the constitutional protection afforded free speech. (1971, c. 405, s. 1; 1973, c. 1434, s. 1; 1985, c. 703, s. 1; 1993, c. 539, s. 1194; 1994, Ex. Sess., c. 24, s. 14(c); 1998-46, s. 2.)

§ 14-190.2. Repealed by Session Laws 1985, c. 703, s. 2.

§ 14-190.3. Repealed by Session Laws 1985, c. 703, s. 3.

§ 14-190.4. Coercing acceptance of obscene articles or publications.

No person, firm or corporation shall, as a condition to any sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication require that the purchaser or consignee receive for resale any other article, book, or publication which is obscene within the meaning of G.S. 14-190.1; nor shall any person, firm or corporation deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept such articles, books, or publications, or by reason of the return thereof. Violation of this section is a Class 1 misdemeanor. (1971, c. 405, s. 1; 1985, c. 703, s. 4; 1993, c. 539, s. 122; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-190.5. Preparation of obscene photographs, slides and motion pictures.

Every person who knowingly:

(1) Photographs himself or any other person, for purposes of preparing an obscene film, photograph, negative, slide or motion picture for the purpose of dissemination; or

(2) Models, poses, acts, or otherwise assists in the preparation of any obscene film, photograph, negative, slide or motion picture for the purpose of dissemination,

shall be guilty of a Class 1 misdemeanor. (1971, c. 405, s. 1; 1985, c. 703, s. 5; 1993, c. 539, s. 123; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-190.5A. Disclosure of private images.

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

(1) Disclose. – Transfer, publish, distribute, or reproduce.

(2) Image. – A photograph, film, videotape, recording, live transmission, digital or computer-generated visual depiction, or any other reproduction that is made by electronic, mechanical, or other means.

(3) Intimate parts. – Any of the following naked human parts: (i) male or female genitals, (ii) male or female pubic area, (iii) male or female anus, or (iv) the nipple of a female over the age of 12.

(4), (5) Repealed by Session Laws 2017-93, s. 1, effective December 1, 2017, and applicable to offenses committed on or after that date.

(6) Sexual conduct. – Includes any of the following:

a. Vaginal, anal, or oral intercourse, whether actual or simulated, normal or perverted.

b. Masturbation, excretory functions, or lewd exhibition of uncovered genitals.

c. An act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or by a nude person or a person clad in undergarments or in revealing or bizarre costume.

(b) Offense. – A person is guilty of disclosure of private images if all of the following apply:

(1) The person knowingly discloses an image of another person with the intent to do either of the following:

a. Coerce, harass, intimidate, demean, humiliate, or cause financial loss to the depicted person.

b. Cause others to coerce, harass, intimidate, demean, humiliate, or cause financial loss to the depicted person.

(2) The depicted person is identifiable from the disclosed image itself or information offered in connection with the image.

(3) The depicted person's intimate parts are exposed or the depicted person is engaged in sexual conduct in the disclosed image.

(4) The person discloses the image without the affirmative consent of the depicted person.

(5) The person obtained the image without consent of the depicted person or under circumstances such that the person knew or should have known that the depicted person expected the images to remain private.

(c) Penalty. – A violation of this section shall be punishable as follows:

(1) For an offense by a person who is 18 years of age or older at the time of the offense, the violation is a Class H felony.

(2) For a first offense by a person who is under 18 years of age at the time of the offense, the violation is a Class 1 misdemeanor.

(3) For a second or subsequent offense by a person who is under the age of 18 at the time of the offense, the violation is a Class H felony.

(d) Exceptions. – This section does not apply to any of the following:

(1) Images involving voluntary exposure in public or commercial settings.

(2) Disclosures made in the public interest, including, but not limited to, the reporting of unlawful conduct or the lawful and common practices of law enforcement, criminal reporting, legal proceedings, medical treatment, or scientific or educational activities.

(3) Providers of an interactive computer service, as defined in 47 U.S.C. § 230(f), for images provided by another person.

(e) Destruction of Image. – In addition to any penalty or other damages, the court may award the destruction of any image made in violation of this section.

(f) Other Sanctions or Remedies Not Precluded. – A violation of this section is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(g) Civil Action. – In addition to any other remedies at law or in equity, including an order by the court to destroy any image disclosed in violation of this section, any person whose image is disclosed, or used, as described in subsection (b) of this section, has a civil cause of action against any person who discloses or uses the image and is entitled to recover from the other person any of the following:

(1) Actual damages, but not less than liquidated damages, to be computed at the rate of one thousand dollars ($1,000) per day for each day of the violation or in the amount of ten thousand dollars ($10,000), whichever is higher.

(2) Punitive damages.

(3) A reasonable attorneys' fee and other litigation costs reasonably incurred.

The civil cause of action may be brought no more than one year after the initial discovery of the disclosure, but in no event may the action be commenced more than seven years from the most recent disclosure of the private image. (2015-250, s. 1; 2017-93, s. 1.)

§ 14-190.6. Employing or permitting minor to assist in offense under Article.

Every person 18 years of age or older who intentionally, in any manner, hires, employs, uses or permits any minor under the age of 16 years to do or assist in doing any act or thing constituting an offense under this Article and involving any material, act or thing he knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1, shall be guilty of a Class I felony. (1971, c. 405, s. 1; 1983, c. 916, s. 2; 1985, c. 703, s. 6.)

§ 14-190.7. Dissemination to minors under the age of 16 years.

Every person 18 years of age or older who knowingly disseminates to any minor under the age of 16 years any material which he knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1 shall be guilty of a Class I felony. (1971, c. 405, s. 1; 1977, c. 440, s. 2; 1985, c. 703, s. 7.)

§ 14-190.8. Dissemination to minors under the age of 13 years.

Every person 18 years of age or older who knowingly disseminates to any minor under the age of 13 years any material which he knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1 shall be punished as a Class I felon. (1971, c. 405, s. 1; 1977, c. 440, s. 3; 1979, c. 760, s. 5; 1983, c. 175, ss. 7, 10, c. 720, ss. 4, 10; 1985, c. 703, s. 8; 1993, c. 539, s. 1195; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-190.9. Indecent exposure.

(a) Unless the conduct is punishable under subsection (a1) of this section, any person who shall willfully expose the private parts of his or her person in any public place and in the presence of any other person or persons, except for those places designated for a public purpose where the same sex exposure is incidental to a permitted activity, or aids or abets in any such act, or who procures another to perform such act; or any person, who as owner, manager, lessee, director, promoter or agent, or in any other capacity knowingly hires, leases or permits the land, building, or premises of which he is owner, lessee or tenant, or over which he has control, to be used for purposes of any such act, shall be guilty of a Class 2 misdemeanor.

(a1) Unless the conduct is prohibited by another law providing greater punishment, any person at least 18 years of age who shall willfully expose the private parts of his or her person in any public place in the presence of any other person less than 16 years of age for the purpose of arousing or gratifying sexual desire shall be guilty of a Class H felony. An offense committed under this subsection shall not be considered to be a lesser included offense under G.S. 14-202.1.

(a2) Unless the conduct is prohibited by another law providing greater punishment, any person who shall willfully expose the private parts of his or her person in the presence of anyone other than a consenting adult on the private premises of another or so near thereto as to be seen from such private premises for the purpose of arousing or gratifying sexual desire is guilty of a Class 2 misdemeanor.

(a4) Unless the conduct is punishable by another law providing greater punishment, any person at least 18 years of age who shall willfully expose the private parts of his or her person in a private residence of which they are not a resident and in the presence of any other person less than 16 years of age who is a resident of that private residence shall be guilty of a Class 2 misdemeanor.

(a5) Unless the conduct is prohibited by another law providing greater punishment, any person located in a private place who shall willfully expose the private parts of his or her person with the knowing intent to be seen by a person in a public place shall be guilty of a Class 2 misdemeanor.

(b) Notwithstanding any other provision of law, a woman may breast feed in any public or private location where she is otherwise authorized to be, irrespective of whether the nipple of the mother's breast is uncovered during or incidental to the breast feeding.

(c) Notwithstanding any other provision of law, a local government may regulate the location and operation of sexually oriented businesses. Such local regulation may restrict or prohibit nude, seminude, or topless dancing to the extent consistent with the constitutional protection afforded free speech. (1971, c. 591, s. 1; 1993, c. 301, s. 1; c. 539, s. 124; 1994, Ex. Sess., c. 24, s. 14(c); 1998-46, s. 3; 2005-226, s. 1; 2015-250, ss. 2, 2.1, 2.3.)

§§ 14-190.10 through 14-190.12. Repealed by Session Laws 1985, c. 703, s. 9.

§ 14-190.13. Definitions for certain offenses concerning minors.

The following definitions apply to G.S. 14-190.14, displaying material harmful to minors; G.S. 14-190.15, disseminating or exhibiting to minors harmful material or performances; G.S. 14-190.16, first degree sexual exploitation of a minor; G.S. 14-190.17, second degree sexual exploitation of a minor; G.S. 14-190.17A, third degree sexual exploitation of a minor.

(1) Harmful to Minors. – That quality of any material or performance that depicts sexually explicit nudity or sexual activity and that, taken as a whole, has the following characteristics:
   a. The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest of minors in sex; and
   b. The average adult person applying contemporary community standards would find that the depiction of sexually explicit nudity or sexual activity in the material or performance is patently offensive to prevailing standards in the adult community concerning what is suitable for minors; and
   c. The material or performance lacks serious literary, artistic, political, or scientific value for minors.

(2) Material. – Pictures, drawings, video recordings, films or other visual depictions or representations but not material consisting entirely of written words.

(3) Minor. – An individual who is less than 18 years old and is not married or judicially emancipated.

(4) Prostitution. – Engaging or offering to engage in sexual activity with or for another in exchange for anything of value.

(5) Sexual Activity. – Any of the following acts:
   a. Masturbation, whether done alone or with another human or an animal.
   b. Vaginal, anal, or oral intercourse, whether done with another human or with an animal.

c. Touching, in an act of apparent sexual stimulation or sexual abuse, of the clothed or unclothed genitals, pubic area, or buttocks of another person or the clothed or unclothed breasts of a human female.

d. An act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or by a person clad in undergarments or in revealing or bizarre costume.

e. Excretory functions; provided, however, that this sub-subdivision shall not apply to G.S. 14-190.17A.

f. The insertion of any part of a person's body, other than the male sexual organ, or of any object into another person's anus or vagina, except when done as part of a recognized medical procedure.

g. The lascivious exhibition of the genitals or pubic area of any person.

(6) Sexually Explicit Nudity. – The showing of:

a. Uncovered, or less than opaquely covered, human genitals, pubic area, or buttocks, or the nipple or any portion of the areola of the human female breast, except as provided in G.S. 14-190.9(b); or

b. Covered human male genitals in a discernibly turgid state. (1985, c. 703, s. 9; 1989 (Reg. Sess., 1990), c. 1022, s. 2; 1993, c. 301, s. 2; 2008-218, s. 1; 2013-368, s. 18.)

§ 14-190.14. Displaying material harmful to minors.

(a) Offense. – A person commits the offense of displaying material that is harmful to minors if, having custody, control, or supervision of a commercial establishment and knowing the character or content of the material, he displays material that is harmful to minors at that establishment so that it is open to view by minors as part of the invited general public. Material is not considered displayed under this section if the material is placed behind "blinder racks" that cover the lower two thirds of the material, is wrapped, is placed behind the counter, or is otherwise covered or located so that the portion that is harmful to minors is not open to the view of minors.

(b) Punishment. – Violation of this section is a Class 2 misdemeanor. Each day's violation of this section is a separate offense. (1985, c. 703, s. 9; 1993, c. 539, s. 125; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-190.15. Disseminating harmful material to minors; exhibiting harmful performances to minors.

(a) Disseminating Harmful Material. – A person commits the offense of disseminating harmful material to minors if, with or without consideration and knowing the character or content of the material, he:

(1) Sells, furnishes, presents, or distributes to a minor material that is harmful to minors; or

(2) Allows a minor to review or peruse material that is harmful to minors.

(b) Exhibiting Harmful Performance. – A person commits the offense of exhibiting a harmful performance to a minor if, with or without consideration and knowing the character or content of the performance, he allows a minor to view a live performance that is harmful to minors.

(c) Defenses. – Except as provided in subdivision (3), a mistake of age is not a defense to a prosecution under this section. It is an affirmative defense to a prosecution under this section that:

(1) The defendant was a parent or legal guardian of the minor.

(2) The defendant was a school, church, museum, public library, governmental agency, medical clinic, or hospital carrying out its legitimate function; or an employee or agent of such an organization acting in that capacity and carrying out a legitimate duty of his employment.

(3) Before disseminating or exhibiting the harmful material or performance, the defendant requested and received a driver's license, student identification card, or other official governmental or educational identification card or paper indicating that the minor to whom the material or performance was disseminated or exhibited was at least 18 years old, and the defendant reasonably believed the minor was at least 18 years old.

(4) The dissemination was made with the prior consent of a parent or guardian of the recipient.

(d) Punishment. – Violation of this section is a Class 1 misdemeanor. (1985, c. 703, s. 9; 1993, c. 539, s. 126; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-190.16. First degree sexual exploitation of a minor.

(a) Offense. – A person commits the offense of first degree sexual exploitation of a minor if, knowing the character or content of the material or performance, he:

(1) Uses, employs, induces, coerces, encourages, or facilitates a minor to engage in or assist others to engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity; or

(2) Permits a minor under his custody or control to engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity; or

(3) Transports or finances the transportation of a minor through or across this State with the intent that the minor engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity; or

(4) Records, photographs, films, develops, or duplicates for sale or pecuniary gain material that contains a visual representation depicting a minor engaged in sexual activity.

(b) Inference. – In a prosecution under this section, the trier of fact may infer that a participant in sexual activity whom material through its title, text, visual representations, or otherwise represents or depicts as a minor is a minor.

(c) Mistake of Age. – Mistake of age is not a defense to a prosecution under this section.

(d) Punishment and Sentencing. – Violation of this section is a Class C felony. (1985, c. 703, s. 9; 1993, c. 539, s. 1196; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 507, s. 19.5(o); 2008-117, s. 3; 2008-218, s. 2.)

§ 14-190.17. Second degree sexual exploitation of a minor.

(a) Offense. – A person commits the offense of second degree sexual exploitation of a minor if, knowing the character or content of the material, he:

(1) Records, photographs, films, develops, or duplicates material that contains a visual representation of a minor engaged in sexual activity; or

(2) Distributes, transports, exhibits, receives, sells, purchases, exchanges, or solicits material that contains a visual representation of a minor engaged in sexual activity.

(b) Inference. – In a prosecution under this section, the trier of fact may infer that a participant in sexual activity whom material through its title, text, visual representations or otherwise represents or depicts as a minor is a minor.

(c) Mistake of Age. – Mistake of age is not a defense to a prosecution under this section.

(d) Punishment and Sentencing. – Violation of this section is a Class E felony. (1985, c. 703, s. 9; 1993, c. 539, s. 1197; 1994, Ex. Sess., c. 24, s. 14(c); 2008-117, s. 4; 2008-218, s. 3.)

§ 14-190.17A. Third degree sexual exploitation of a minor.

(a) Offense. – A person commits the offense of third degree sexual exploitation of a minor if, knowing the character or content of the material, he possesses material that contains a visual representation of a minor engaging in sexual activity.

(b) Inference. – In a prosecution under this section, the trier of fact may infer that a participant in sexual activity whom material through its title, text, visual representations or otherwise represents or depicts as a minor is a minor.

(c) Mistake of Age. – Mistake of age is not a defense to a prosecution under this section.

(d) Punishment and Sentencing. – Violation of this section is a Class H felony. (1989 (Reg. Sess., 1990), c. 1022, s. 1; 1993, c. 539, s. 1198; 1994, Ex. Sess., c. 24, s. 14(c); 2008-117, s. 5; 2008-218, s. 4.)

§ 14-190.18: Repealed by Session Laws 2013-368, s. 4, effective October 1, 2013, and applicable to offenses committed on or after that date.

§ 14-190.19: Repealed by Session Laws 2013-368, s. 4, effective October 1, 2013, and applicable to offenses committed on or after that date.

§ 14-190.20. Warrants for obscenity offenses.

A search warrant or criminal process for a violation of G.S. 14-190.1 through 14-190.5 may be issued only upon the request of a prosecutor. (1985, c. 703, s. 9.1.)

§ 14-191. Repealed by Session Laws 1971, c. 591, s. 4.

§§ 14-192 through 14-193. Repealed by Session Laws 1971, c. 405, s. 4.

§ 14-194. Repealed by Session Laws 1971, c. 591, s. 4.

§ 14-195: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 767, s. 30(11).

§ 14-196. Using profane, indecent or threatening language to any person over telephone; annoying or harassing by repeated telephoning or making false statements over telephone.

(a) It shall be unlawful for any person:

(1) To use in telephonic communications any words or language of a profane, vulgar, lewd, lascivious or indecent character, nature or connotation;

(2) To use in telephonic communications any words or language threatening to inflict bodily harm to any person or to that person's child, sibling, spouse, or dependent or physical injury to the property of any person, or for the purpose of extorting money or other things of value from any person;

(3) To telephone another repeatedly, whether or not conversation ensues, for the purpose of abusing, annoying, threatening, terrifying, harassing or embarrassing any person at the called number;

(4) To make a telephone call and fail to hang up or disengage the connection with the intent to disrupt the service of another;

(5) To telephone another and to knowingly make any false statement concerning death, injury, illness, disfigurement, indecent conduct or criminal conduct of the person telephoned or of any member of his family or household with the intent to abuse, annoy, threaten, terrify, harass, or embarrass;

(6) To knowingly permit any telephone under his control to be used for any purpose prohibited by this section.

(b) Any of the above offenses may be deemed to have been committed at either the place at which the telephone call or calls were made or at the place where the telephone call or calls were received. For purposes of this section, the term "telephonic communications" shall include communications made or received by way of a telephone answering machine or recorder, telefacsimile machine, or computer modem.

(c) Anyone violating the provisions of this section shall be guilty of a Class 2 misdemeanor. (1913, c. 35; 1915, c. 41; C.S., s. 4351; 1967, c. 833, s. 1; 1989, c. 305; 1993, c. 539, s. 128; 1994, Ex. Sess., c. 24, s. 14(c); 1999-262, s. 1; 2000-125, s. 2.)

§§ 14-196.1 through 14-196.2. Repealed by Session Laws 1967, c. 833, s. 3.

§ 14-196.3. Cyberstalking.

(a) The following definitions apply in this section:

(1) Electronic communication. – Any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature, transmitted in whole or in part by a wire, radio, computer, electromagnetic, photoelectric, or photo-optical system.

(2) Electronic mail. – The transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.

(3) Electronic tracking device. – An electronic or mechanical device that permits a person to remotely determine or track the position and movement of another person.

(4) Fleet vehicle. – Any of the following: (i) one or more motor vehicles owned by a single entity and operated by employees or agents of the entity for business or government purposes, (ii) motor vehicles held for

lease or rental to the general public, or (iii) motor vehicles held for sale, or used as demonstrators, test vehicles, or loaner vehicles, by motor vehicle dealers.

(b) It is unlawful for a person to:

(1) Use in electronic mail or electronic communication any words or language threatening to inflict bodily harm to any person or to that person's child, sibling, spouse, or dependent, or physical injury to the property of any person, or for the purpose of extorting money or other things of value from any person.

(2) Electronically mail or electronically communicate to another repeatedly, whether or not conversation ensues, for the purpose of abusing, annoying, threatening, terrifying, harassing, or embarrassing any person.

(3) Electronically mail or electronically communicate to another and to knowingly make any false statement concerning death, injury, illness, disfigurement, indecent conduct, or criminal conduct of the person electronically mailed or of any member of the person's family or household with the intent to abuse, annoy, threaten, terrify, harass, or embarrass.

(4) Knowingly permit an electronic communication device under the person's control to be used for any purpose prohibited by this section.

(5) Knowingly install, place, or use an electronic tracking device without consent, or cause an electronic tracking device to be installed, placed, or used without consent, to track the location of any person. The provisions of this subdivision do not apply to the installation, placement, or use of an electronic tracking device by any of the following:

a. A law enforcement officer, judicial officer, probation or parole officer, or employee of the Division of Corrections, Department of Public Safety, when any such person is engaged in the lawful performance of official duties and in accordance with State or federal law.

b. The owner or lessee of any vehicle on which the owner or lessee installs, places, or uses an electronic tracking device, unless the owner or lessee is subject to (i) a domestic violence protective order under Chapter 50B of the General Statutes or (ii) any court order that orders the owner or lessee not to assault, threaten, harass, follow, or contact a driver or occupant of the vehicle.

c. A legal guardian for a disabled adult, as defined in G.S. 108A-101(d), or a legally authorized individual or organization designated to provide protective services to a disabled adult pursuant to G.S. 108A-105(c), when the electronic tracking device is installed, placed, or used to track the location of the disabled adult for which the person is a legal guardian or the individual or organization is designated to provide protective services.

d. The owner of fleet vehicles, when tracking such vehicles.

e. A creditor or other secured party under a retail installment agreement involving the sale of a motor vehicle or the lessor under a retail lease of a motor vehicle, and any assignee or successor in interest to that creditor, secured party, or lessor, when tracking a motor vehicle identified as security under the retail installment sales agreement or leased pursuant to a retail lease agreement, including the installation, placement, or use of an electronic tracking device to locate and remotely disable the motor vehicle, with the express written consent of the purchaser, borrower, or lessee of the motor vehicle.

f. The installation, placement, or use of an electronic tracking device authorized by an order of a State or federal court.

g. A motor vehicle manufacturer, its subsidiary, or its affiliate that installs or uses an electronic tracking device in conjunction with providing a vehicle subscription telematics service, provided that the customer subscribes or consents to that service.

h. A parent or legal guardian of a minor when the electronic tracking device is installed, placed, or used to track the location of that minor unless the parent or legal guardian is subject to a domestic violence protective order under Chapter 50B of the General Statutes or any court order that orders the parent or legal guardian not to assault, threaten, harass, follow, or contact that minor or that minor's parent, legal guardian, custodian, or caretaker as defined in G.S. 7B-101.

i. An employer, when providing a communication device to an employee or contractor for use in connection with his or her work for the employer.

j. A business, if the tracking is incident to the provision of a product or service requested by the person, except as limited in sub-subdivision k. of this subdivision.

k. A private detective or private investigator licensed under Chapter 74C of the General Statutes, provided that (i) the tracking is pursuant to authority under G.S. 74C-3(a)(8), (ii) the tracking is not otherwise contrary to law, and (iii) the person being tracked is not under the protection of a domestic violence protective order under Chapter 50B of the General Statutes or any other court order that protects against assault, threat, harassment, following, or contact.

(c) Any offense under this section committed by the use of electronic mail or electronic communication may be deemed to have been committed where the electronic mail or electronic communication was originally sent, originally received in this State, or first viewed by any person in this State.

(d) Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor.

(e) This section does not apply to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly. (2000-125, s. 1; 2000-140, s. 91; 2015-282, s. 1.)

§ 14-197: Repealed by Session Laws 2015-286, s. 1.1(1), effective October 22, 2015.

§ 14-198. Repealed by Session Laws 1975, c. 402.

§ 14-199. Obstructing way to places of public worship.

If any person shall maliciously stop up or obstruct the way leading to any place of public worship, or to any spring or well commonly used by the congregation, he shall be guilty of a Class 2 misdemeanor. (1785, c. 241, P.R.; R.C., c. 97, s. 5; Code, s. 3669; Rev., s. 3776; C.S., s. 4354; 1945, c. 635; 1969, c. 1224, s. 1; 1993, c. 539, s. 130; 1994, Ex. Sess., c. 24, s. 14(c).)

§§ 14-200 through 14-201: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(9), (10).

§ 14-202. Secretly peeping into room occupied by another person.

(a) Any person who shall peep secretly into any room occupied by another person shall be guilty of a Class 1 misdemeanor.

(a1) Unless covered by another provision of law providing greater punishment, any person who secretly or surreptitiously peeps underneath or through the clothing being worn by another person, through the use of a mirror or other device, for the purpose of viewing the body of, or the undergarments worn by, that other person without their consent shall be guilty of a Class 1 misdemeanor.

(b) For purposes of this section:

(1) The term "photographic image" means any photograph or photographic reproduction, still or moving, or any videotape, motion picture, or live television transmission, or any digital image of any individual.

(2) The term "room" shall include, but is not limited to, a bedroom, a rest room, a bathroom, a shower, and a dressing room.

(c) Unless covered by another provision of law providing greater punishment, any person who, while in possession of any device which may be used to create a photographic image, shall secretly peep into any room shall be guilty of a Class A1 misdemeanor.

(d) Unless covered by another provision of law providing greater punishment, any person who, while secretly peeping into any room, uses any device to create a photographic image of another person in that room for the purpose of arousing or gratifying the sexual desire of any person shall be guilty of a Class I felony.

(e) Any person who secretly or surreptitiously uses any device to create a photographic image of another person underneath or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person without their consent shall be guilty of a Class I felony.

(f) Any person who, for the purpose of arousing or gratifying the sexual desire of any person, secretly or surreptitiously uses or installs in a room any device that can be used to create a photographic image with the intent to capture the image of another without their consent shall be guilty of a Class I felony.

(g) Any person who knowingly possesses a photographic image that the person knows, or has reason to believe, was obtained in violation of this section shall be guilty of a Class I felony.

(h) Any person who disseminates or allows to be disseminated images that the person knows, or should have known, were obtained as a result of the violation of this section shall be guilty of a Class H felony if the dissemination is without the consent of the person in the photographic image.

(i) A second or subsequent felony conviction under this section shall be punished as though convicted of an offense one class higher. A second or subsequent conviction for a Class 1 misdemeanor shall be punished as a Class A1 misdemeanor. A second or subsequent conviction for a Class A1 misdemeanor shall be punished as a Class I felony.

(j) If the defendant is placed on probation as a result of violation of this section:

(1) For a first conviction under this section, the judge may impose a requirement that the defendant obtain a psychological evaluation and comply with any treatment recommended as a result of that evaluation.

(2) For a second or subsequent conviction under this section, the judge shall impose a requirement that the defendant obtain a psychological evaluation and comply with any treatment recommended as a result of that evaluation.

(k) Any person whose image is captured or disseminated in violation of this section has a civil cause of action against any person who captured or disseminated the image or procured any other person to capture or disseminate the image and is entitled to recover from those persons actual damages, punitive damages, reasonable attorneys' fees and other litigation costs reasonably incurred.

(*l*) When a person violates subsection (d), (e), (f), (g), or (h) of this section, or is convicted of a second or subsequent violation of subsection (a), (a1), or (c) of this section, the sentencing court shall consider whether the person is a danger to the community and whether requiring the person to register as a sex offender pursuant to Article 27A of this Chapter would further the purposes of that Article as stated in G.S. 14-208.5. If the sentencing court rules that the person is a danger to the community and that the person shall register, then an order shall be entered requiring the person to register.

(m) The provisions of subsections (a), (a1), (c), (e), (g), (h), and (k) of this section do not apply to:

(1) Law enforcement officers while discharging or attempting to discharge their official duties; or

(2) Personnel of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or of a local confinement facility for security purposes or during investigation of alleged misconduct by a person in the custody of the Division or the local confinement facility.

(n) This section does not affect the legal activities of those who are licensed pursuant to Chapter 74C, Private Protective Services, or Chapter 74D, Alarm Systems, of the General Statutes, who are legally engaged in the discharge of their official duties within their respective professions, and who are not engaging in activities for an improper purpose

as described in this section. (1923, c. 78; C.S., s. 4356(a); 1957, c. 338; 1993, c. 539, s. 131; 1994, Ex. Sess., c. 24, s. 14(c); 2003-303, s. 1; 2004-109, s. 7; 2011-145, s. 19.1(h); 2012-83, s. 1; 2017-186, s. 2(p).)

§ 14-202.1. Taking indecent liberties with children.

(a) A person is guilty of taking indecent liberties with children if, being 16 years of age or more and at least five years older than the child in question, he either:

(1) Willfully takes or attempts to take any immoral, improper, or indecent liberties with any child of either sex under the age of 16 years for the purpose of arousing or gratifying sexual desire; or

(2) Willfully commits or attempts to commit any lewd or lascivious act upon or with the body or any part or member of the body of any child of either sex under the age of 16 years.

(b) Taking indecent liberties with children is punishable as a Class F felony. (1955, c. 764; 1975, c. 779; 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. 1201; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-202.2. Indecent liberties between children.

(a) A person who is under the age of 16 years is guilty of taking indecent liberties with children if the person either:

(1) Willfully takes or attempts to take any immoral, improper, or indecent liberties with any child of either sex who is at least three years younger than the defendant for the purpose of arousing or gratifying sexual desire; or

(2) Willfully commits or attempts to commit any lewd or lascivious act upon or with the body or any part or member of the body of any child of either sex who is at least three years younger than the defendant for the purpose of arousing or gratifying sexual desire.

(b) A violation of this section is punishable as a Class 1 misdemeanor. (1995, c. 494, s. 1; 1995 (Reg. Sess., 1996), c. 742, s. 12.)

§ 14-202.3. Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act.

(a) Offense. – A person is guilty of solicitation of a child by a computer if the person is 16 years of age or older and the person knowingly, with the intent to commit an unlawful sex act, entices, advises, coerces, orders, or commands, by means of a computer or any other device capable of electronic data storage or transmission, a child who is less than 16 years of age and at least five years younger than the defendant, or a person the defendant believes to be a child who is less than 16 years of age and who the defendant believes to be at least five years younger than the defendant, to meet with the defendant or any other person for the purpose of committing an unlawful sex act. Consent is not a defense to a charge under this section.

(b) Jurisdiction. – The offense is committed in the State for purposes of determining jurisdiction, if the transmission that constitutes the offense either originates in the State or is received in the State.

(c) Punishment. – A violation of this section is punishable as follows:

(1) A violation is a Class H felony except as provided by subdivision (2) of this subsection.

(2) If either the defendant, or any other person for whom the defendant was arranging the meeting in violation of this section, actually appears at the meeting location, then the violation is a Class G felony. (1995 (Reg. Sess., 1996), c. 632, s. 1; 2005-121, s. 1; 2008-218, s. 5; 2009-336, s. 1.)

§ 14-202.4. Taking indecent liberties with a student.

(a) If a defendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, at any age, or who is other school personnel and is at least four years older than the victim, takes indecent liberties with a victim who is a student, at any time during or after the time the defendant and victim were present together in the same school but before the victim ceases to be a student, the defendant is guilty of a Class I felony, unless the conduct is covered under some other provision of law providing for greater punishment. A person is not guilty of taking indecent liberties with a student if the person is lawfully married to the student.

(b) If a defendant, who is school personnel, other than a teacher, school administrator, student teacher, school safety officer, or coach, and who is less than four years older than the victim, takes indecent liberties with a student as provided in subsection (a) of this section, the defendant is guilty of a Class I felony.

(c) Consent is not a defense to a charge under this section.

(d) For purposes of this section, the following definitions apply:

(1) "Indecent liberties" means:

a. Willfully taking or attempting to take any immoral, improper, or indecent liberties with a student for the purpose of arousing or gratifying sexual desire; or

b. Willfully committing or attempting to commit any lewd or lascivious act upon or with the body or any part or member of the body of a student.

For purposes of this section, the term indecent liberties does not include vaginal intercourse or a sexual act as defined by G.S. 14-27.20.

(1a) "Same school" means a school at which (i) the student is enrolled or is present for a school-sponsored or school-related activity and (ii) the school personnel is employed, volunteers, or is present for a school-sponsored or school-related activity.

(2) "School" means any public school, charter school, or nonpublic school under Parts 1 and 2 of Article 39 of Chapter 115C of the General Statutes.

(3) "School personnel" means any person included in the definition contained in G.S. 115C-332(a)(2), including those employed by a nonpublic, charter, or regional school, and any person who volunteers at a school or a school-sponsored activity.

(3a) "School safety officer" means any other person who is regularly present in a school for the purpose of promoting and maintaining safe and orderly schools and includes a school resource officer.

(4) "Student" means a person enrolled in kindergarten, or in grade one through grade 12 in any school. (1999-300, s. 1; 2003-98, s. 2; 2004-203, s. 19(a); 2015-44, s. 3; 2015-181, s. 16.)

§ 14-202.5. Ban use of commercial social networking Web sites by sex offenders.

(a) Offense. – It is unlawful for a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes to access a commercial social networking Web site where the sex offender knows that the site permits minor children to become members or to create or maintain personal Web pages on the commercial social networking Web site.

(b) For the purposes of this section, a "commercial social networking Web site" is an Internet Web site that meets all of the following requirements:

(1) Is operated by a person who derives revenue from membership fees, advertising, or other sources related to the operation of the Web site.

(2) Facilitates the social introduction between two or more persons for the purposes of friendship, meeting other persons, or information exchanges.

(3) Allows users to create Web pages or personal profiles that contain information such as the name or nickname of the user, photographs placed on the personal Web page by the user, other personal information about the user, and links to other personal Web pages on the commercial social networking Web site of friends or associates of the user that may be accessed by other users or visitors to the Web site.

(4) Provides users or visitors to the commercial social networking Web site mechanisms to communicate with other users, such as a message board, chat room, electronic mail, or instant messenger.

(c) A commercial social networking Web site does not include an Internet Web site that either:

(1) Provides only one of the following discrete services: photo-sharing, electronic mail, instant messenger, or chat room or message board platform; or

(2) Has as its primary purpose the facilitation of commercial transactions involving goods or services between its members or visitors.

(d) Jurisdiction. – The offense is committed in the State for purposes of determining jurisdiction, if the transmission that constitutes the offense either originates in the State or is received in the State.

(e) Punishment. – A violation of this section is a Class I felony. (2008-218, s. 6; 2009-570, s. 4.)

§ 14-202.5A. Liability of commercial social networking sites.

(a) A commercial social networking site, as defined in G.S. 14-202.5, that complies with G.S. 14-208.15A or makes other reasonable efforts to prevent a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes from accessing its Web site shall not be held civilly liable for damages arising out of a person's communications on the social networking site's system or network regardless of that person's status as a registered sex offender in North Carolina or any other jurisdiction.

(b) For the purposes of this section, "access" is defined as allowing the sex offender to do any of the activities or actions described in G.S. 14-202.5(b)(2) through G.S. 14-202.5(b)(4) by utilizing the Web site. (2008-218, s. 7; 2009-272, s. 1.)

§ 14-202.6. Ban on name changes by sex offenders.

It is unlawful for a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes to obtain a change of name under Chapter 101 of the General Statutes. (2008-218, s. 8.)

§ 14-202.7. Reserved for future codification purposes.

§ 14-202.8. Reserved for future codification purposes.

§ 14-202.9. Reserved for future codification purposes.

Article 26A.

Adult Establishments.

§ 14-202.10. Definitions.

As used in this Article:

(1) "Adult bookstore" means a bookstore:

a. Which receives a majority of its gross income during any calendar month from the sale or rental of publications (including books, magazines, other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section; or

b. Having as a preponderance (either in terms of the weight and importance of the material or in terms of greater volume of materials) of its publications (including books, magazines, other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section.

(2) "Adult establishment" means an adult bookstore, adult motion picture theatre, adult mini motion picture theatre, or adult live entertainment business as defined in this section.

(3) "Adult live entertainment" means any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas, as defined in this section.

(4) "Adult live entertainment business" means any establishment or business wherein adult live entertainment is shown for observation by patrons.

(5) "Adult motion picture theatre" means an enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by patrons

therein. "Adult motion picture theatre" does not include any adult mini motion picture theatre as defined in this section.

(6) "Adult mini motion picture theatre" means an enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by patrons therein.

(7), (8) Repealed by Session Laws 2017-151, s. 2(b), effective October 1, 2017.

(9) "Sexually oriented devices" means without limitation any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

(10) "Specified anatomical areas" means:

a. Less than completely and opaquely covered: (i) human genitals, pubic region, (ii) buttock, or (iii) female breast below a point immediately above the top of the areola; or

b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(11) "Specified sexual activities" means:

a. Human genitals in a state of sexual stimulation or arousal;

b. Acts of human masturbation, sexual intercourse or sodomy; or

c. Fondling or other erotic touchings of human genitals, pubic regions, buttocks or female breasts. (1977, c. 987, s. 1; 1985, c. 731, s. 1; 1998-46, s. 4; 2017-151, ss. 2(a), (b).)

§ 14-202.11. Restrictions as to adult establishments.

(a) No person shall permit any building, premises, structure, or other facility that contains any adult establishment to contain any other kind of adult establishment. No person shall permit any building, premises, structure, or other facility in which sexually oriented devices are sold, distributed, exhibited, or contained to contain any adult establishment.

(a1) No person shall permit the practice of massage and bodywork therapy, as defined in Article 36 of Chapter 90 of the General Statutes, in an adult establishment.

(b) No person shall permit any viewing booth in an adult mini motion picture theatre to be occupied by more than one person at any time.

(c) Nothing in this section shall be deemed to preempt local government regulation of the location or operation of adult establishments or other sexually oriented businesses to the extent consistent with the constitutional protection afforded free speech. (1977, c. 987, s. 1; 1985, c. 731, s. 2; 1998-46, s. 5; 2017-151, s. 2(c).)

§ 14-202.12. Violations; penalties.

Any person who violates G.S. 14-202.11 shall be guilty of a Class 3 misdemeanor. Any person who has been previously convicted of a violation of G.S. 14-202.11, upon conviction for a second or subsequent violation of G.S. 14-202.11, shall be guilty of a Class 2 misdemeanor.

As used herein, "person" shall include:

(1) The agent in charge of the building, premises, structure or facility; or

(2) The owner of the building, premises, structure or facility when such owner knew or reasonably should have known the nature of the business located therein, and such owner refused to cooperate with the public officials in reasonable measures designed to terminate the proscribed use; provided, however, that if there is an agent in charge, and if the owner did not have actual knowledge, the owner shall not be prosecuted; or

(3) The owner of the business; or

(4) The manager of the business. (1977, c. 987, s. 1; 1985, c. 731, s. 3; 1993, c. 539, s. 132; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-202.13. Human trafficking public awareness sign.

An adult establishment, as defined in G.S. 14-202.10, shall prominently display on the premises in a place that is clearly conspicuous and visible to employees and the public a public awareness sign created and provided by the North Carolina Human Trafficking Commission that contains the National Human Trafficking Resource hotline information. (2017-57, s. 17.4(a); 2017-197, s. 5.8.)

Article 27.

Prostitution.

§ 14-203. Definition of terms.

The following definitions apply in this Article:

(1) Advance prostitution. – The term includes all of the following:

a. Soliciting for a prostitute by performing any of the following acts when acting as other than a prostitute or a patron of a prostitute:

1. Soliciting another for the purpose of prostitution.

2. Arranging or offering to arrange a meeting of persons for the purpose of prostitution.

3. Directing another to a place knowing the direction is for the purpose of prostitution.

4. Using the Internet, including any social media Web site, to solicit another for the purpose of prostitution.

b. Keeping a place of prostitution by controlling or exercising control over the use of any place that could offer seclusion or shelter for the practice of prostitution and performing any of the following acts when acting as other than a prostitute or a patron of a prostitute:

1. Knowingly granting or permitting the use of the place for the purpose of prostitution.
2. Granting or permitting the use of the place under circumstances from which the person should reasonably know that the place is used or is to be used for purposes of prostitution.
3. Permitting the continued use of the place after becoming aware of facts or circumstances from which the person should know that the place is being used for the purpose of prostitution.

(2) Minor. – Any person who is less than 18 years of age.

(3) Profit from prostitution. – When acting as other than a prostitute, to receive anything of value for personally rendered prostitution services or to receive anything of value from a prostitute, if the thing received is not for lawful consideration and the person knows it was earned in whole or in part from the practice of prostitution.

(4) Prostitute. – A person who engages in prostitution.

(5) Prostitution. – The performance of, offer of, or agreement to perform vaginal intercourse, any sexual act as defined in G.S. 14-27.20, or any sexual contact as defined in G.S. 14-27.20, for the purpose of sexual arousal or gratification for any money or other consideration. (1919, c. 215, s. 2; C.S., s. 4357; 2013-368, s. 5; 2015-181, s. 17.)

§ 14-204. Prostitution.

(a) Offense. – Any person who willfully engages in prostitution is guilty of a Class 1 misdemeanor.

(b) First Offender; Conditional Discharge. –

(1) Whenever any person who has not previously been convicted of or placed on probation for a violation of this section pleads guilty to or is found guilty of a violation of this section, the court, without entering a judgment and with the consent of such person, shall place the person on probation pursuant to this subsection.

(2) When a person is placed on probation, the court shall enter an order specifying a period of probation of 12 months and shall defer further proceedings in the case until the conclusion of the period of probation or until the filing of a petition alleging violation of a term or condition of probation.

(3) The conditions of probation shall be that the person (i) not violate any criminal statute of any jurisdiction, (ii) refrain from possessing a firearm or other dangerous weapon, (iii) submit to periodic drug testing at a time and in a manner as ordered by the court, but no less than three times during the period of the probation, with the cost of the testing to be paid by the probationer, (iv) obtain a vocational assessment administered by a program approved by the court, and (v) attend no fewer than 10 counseling sessions administered by a program approved by the court.

(4) The court may, in addition to other conditions, require that the person do any of the following:

a. Make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of probation.

b. Pay a fine and costs.

c. Attend or reside in a facility established for the instruction or residence of defendants on probation.

d. Support the person's dependents.

e. Refrain from having in the person's body the presence of any illicit drug prohibited by the North Carolina Controlled Substances Act, unless prescribed by a physician, and submit samples of the person's blood or urine or both for tests to determine the presence of any illicit drug.

(5) Upon violation of a term or condition of probation, the court may enter a judgment on its original finding of guilt and proceed as otherwise provided.

(6) Upon fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the proceedings against the person. Upon the discharge of the person and dismissal of the proceedings against the person under this subsection, the person is eligible to apply for expunction of records pursuant to G.S. 15A-145.6.

(7) Discharge and dismissal under this subsection shall not be deemed a conviction for purposes of structured sentencing or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(8) There may be only one discharge and dismissal under this section.

(c) Immunity From Prosecution for Minors. – Notwithstanding any other provision of this section, if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is a minor, that person shall be immune from prosecution under this section and instead shall be taken into temporary protective custody as an undisciplined juvenile pursuant to Article 19 of Chapter 7B of the General Statutes. Pursuant to the provisions of G.S. 7B-301, a law enforcement officer who takes a minor into custody under this section shall immediately report an allegation of a violation of G.S. 14-43.11 and G.S. 14-43.13 to the director of the department of social services in the county where the minor resides or is found, as appropriate, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to G.S. 7B-301 and G.S. 7B-302. (1919, c. 215, s. 1; C.S., s. 4358; 2013-368, s. 5.)

§ 14-204.1: Repealed by Session Laws 2013-368, s. 4, effective October 1, 2013, and applicable to offenses committed on or after that date.

§ 14-205: Repealed by Session Laws 2013-368, s. 4, effective October 1, 2013, and applicable to offenses committed on or after that date.

§ 14-205.1. Solicitation of prostitution.

(a) Except as otherwise provided in this section, any person who solicits another for the purpose of prostitution is guilty of a Class 1 misdemeanor for a first offense and a Class H felony for a second or subsequent offense. Any person 18 years of age or older who willfully solicits a minor for the purpose of prostitution is guilty of a Class G felony. Any person who willfully solicits a person who has a severe or profound mental disability for the purpose of prostitution is guilty of a Class E felony. Punishment under this section may include participation in a program devised for the education and prevention of sexual exploitation (i.e. "John School"), where available. A person who violates this subsection is not eligible for a disposition of prayer for judgment continued under any circumstances.

(b) Immunity From Prosecution for Minors. – Notwithstanding any other provision of this section, if it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is a minor who is soliciting as a prostitute, that person shall be immune from prosecution under this section and instead shall be taken into temporary protective custody as an undisciplined juvenile pursuant to Article 19 of Chapter 7B of the General Statutes. Pursuant to G.S. 7B-301, a law enforcement officer who takes a minor into custody under this section shall immediately report an allegation of a violation of G.S. 14-43.11 and G.S. 14-43.13 to the director of the department of social services in the county where the minor resides or is found, as appropriate, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to G.S. 7B-301 and G.S. 7B-302. (2013-368, s. 5; 2015-183, s. 1; 2018-47, s. 4(e).)

§ 14-205.2. Patronizing a prostitute.

(a) Any person who willfully performs any of the following acts with a person not his or her spouse commits the offense of patronizing a prostitute:

(1) Engages in vaginal intercourse, any sexual act as defined in G.S. 14-27.20, or any sexual contact as defined in G.S. 14-27.20, for the purpose of sexual arousal or gratification with a prostitute.

(2) Enters or remains in a place of prostitution with intent to engage in vaginal intercourse, any sexual act as defined in G.S. 14-27.20, or any sexual contact as defined in G.S. 14-27.20, for the purpose of sexual arousal or gratification.

(b) Except as provided in subsections (c) and (d) of this section, a first violation of this section is a Class A1 misdemeanor. Unless a higher penalty applies, a second or subsequent violation of this section is a Class G felony.

(c) A violation of this section is a Class F felony if the defendant is 18 years of age or older and the prostitute is a minor.

(d) A violation of this section is a Class D felony if the prostitute has a severe or profound mental disability. (2013-368, s. 5; 2015-181, s. 18; 2018-47, s. 4(f).)

§ 14-205.3. Promoting prostitution.

(a) Any person who willfully performs any of the following acts commits promoting prostitution:

(1) Advances prostitution as defined in G.S. 14-203.

(2) Profits from prostitution by doing any of the following:

a. Compelling a person to become a prostitute.

b. Receiving a portion of the earnings from a prostitute for arranging or offering to arrange a situation in which the person may practice prostitution.

c. Any means other than those described in sub-subdivisions a. and b. of this subdivision, including from a person who patronizes a prostitute. This sub-subdivision does not apply to a person engaged in prostitution who is a minor. A person cannot be convicted of promoting prostitution under this sub-subdivision if the practice of prostitution underlying the offense consists exclusively of the accused's own acts of prostitution under G.S. 14-204.

(b) Any person who willfully performs any of the following acts commits the offense of promoting prostitution of a minor or person who has a mental disability:

(1) Advances prostitution as defined in G.S. 14-203, where a minor or person who has a severe or profound mental disability engaged in prostitution, or any person engaged in prostitution in the place of prostitution is a minor or has a severe or profound mental disability at the time of the offense.

(2) Profits from prostitution by any means where the prostitute is a minor or has a severe or profound mental disability at the time of the offense.

(3) Confines a minor or a person who has a severe or profound mental disability against the person's will by the infliction or threat of imminent infliction of great bodily harm, permanent disability, or disfigurement or by administering to the minor or person who has a severe or profound mental disability, without the person's consent or by threat or deception and for other than medical purposes, any alcoholic intoxicant or a drug as defined in Article 5 of Chapter 90 of the General Statutes (North Carolina Controlled Substances Act) and does any of the following:

a. Compels the minor or person who has a severe or profound mental disability to engage in prostitution.

b. Arranges a situation in which the minor or person who has a severe or profound mental disability may practice prostitution.

c. Profits from prostitution by the minor or person who has a severe or profound mental disability.

For purposes of this subsection, administering drugs or an alcoholic intoxicant to a minor or a person who has a severe or profound mental disability, as described in subdivision (3) of this subsection, shall be deemed to be without consent if the administering is done without the consent of the parents or legal guardian or if the administering is performed or permitted by the parents or legal guardian for other than medical purposes. Mistake of age is not a defense to a prosecution under this subsection.

(c) Unless a higher penalty applies, a violation of subsection (a) of this section is a Class F felony. A violation of subsection (a) of this section by a person with a prior conviction for a violation of this section or a violation of G.S. 14-204 (prostitution), G.S. 14-204.1 (solicitation of prostitution), or G.S. 14-204.2 (patronizing a prostitute) is a Class E felony.

(d) Unless a higher penalty applies, a violation of subdivision (1) or (2) of subsection (b) of this section is a Class D felony. A violation of subdivision (3) of subsection (b) of this section is a Class C felony. Any violation of subsection (b) of this section by a person with a prior conviction for a violation of this section or a violation of G.S. 14-204 (prostitution), G.S. 14-204.1 (solicitation of prostitution), G.S. 14-204.2 (patronizing a prostitute) is a Class C felony. (2013-368, s. 5; 2018-47, s. 4(g).)

§ 14-205.4. Certain probation conditions.

(a) The court may order any convicted defendant to be examined for sexually transmitted infections. If a person convicted of a crime under this Article receives a sentence which includes probation and that person is infected with a sexually transmitted infection, the period of probation may commence only upon such terms and conditions as shall ensure medical treatment and prevent the spread of the infection.

(b) No female convicted under this Article shall be placed on probation in the care or charge of any person except a female probation officer. (2013-368, s. 5.)

§ 14-206. Reputation and prior conviction admissible as evidence.

In the trial of any person charged with a violation of any of the provisions of this Article, testimony of a prior conviction, or testimony concerning the reputation of any place, structure, or building, and of the person or persons who reside in or frequent the same, and of the defendant, shall be admissible in evidence in support of the charge. (1919, c. 215, s. 3; C.S., s. 4360.)

§ 14-207: Repealed by Session Laws 2013-368, s. 4, effective October 1, 2013, and applicable to offenses committed on or after that date.

§ 14-208: Repealed by Session Laws 2013-368, s. 4, effective October 1, 2013, and applicable to offenses committed on or after that date.

§ 14-208.1. Reserved for future codification purposes.

§ 14-208.2. Reserved for future codification purposes.

§ 14-208.3. Reserved for future codification purposes.

§ 14-208.4. Reserved for future codification purposes.

Article 27A.

Sex Offender and Public Protection Registration Programs.

Part 1. Registration Programs, Purpose and Definitions Generally.

§ 14-208.5. Purpose.

The General Assembly recognizes that sex offenders often pose a high risk of engaging in sex offenses even after being released from incarceration or commitment and that protection of the public from sex offenders is of paramount governmental interest.

The General Assembly also recognizes that persons who commit certain other types of offenses against minors, such as kidnapping, pose significant and unacceptable threats to the public safety and welfare of the children in this State and that the protection of those children is of great governmental interest. Further, the General Assembly recognizes that law enforcement officers' efforts to protect communities, conduct investigations, and quickly apprehend offenders who commit sex offenses or certain offenses against minors are impaired by the lack of information available to law enforcement agencies about convicted offenders who live within the agency's jurisdiction. Release of information about these offenders will further the governmental interests of public safety so long as the information released is rationally related to the furtherance of those goals.

Therefore, it is the purpose of this Article to assist law enforcement agencies' efforts to protect communities by requiring persons who are convicted of sex offenses or of certain other offenses committed against minors to register with law enforcement agencies, to require the exchange of relevant information about those offenders among law enforcement agencies, and to authorize the access to necessary and relevant information about those offenders to others as provided in this Article. (1995, c. 545, s. 1; 1997-516, s. 1.)

§ 14-208.6. Definitions.

The following definitions apply in this Article:

(1a) Aggravated offense. – Any criminal offense that includes either of the following: (i) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim of any age through the use of force or the threat of serious violence; or (ii) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim who is less than 12 years old.

(1b) County registry. – The information compiled by the sheriff of a county in compliance with this Article.

(1c) Department. – The Department of Public Safety.

(1d) Electronic mail. – The transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.

(1e) Employed. – Includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially

compensated, volunteered, or for the purpose of government or educational benefit.

(1f) Entity. – A business or organization that provides Internet service, electronic communications service, remote computing service, online service, electronic mail service, or electronic instant message or chat services whether the business or organization is inside or outside the State.

(1g) Instant message. – A form of real-time text communication between two or more people. The communication is conveyed via computers connected over a network such as the Internet.

(1h) Institution of higher education. – Any postsecondary public or private educational institution, including any trade or professional institution, college, or university.

(1i) Internet. – The global information system that is logically linked together by a globally unique address space based on the Internet Protocol or its subsequent extensions; that is able to support communications using the Transmission Control Protocol/Internet Protocol suite, its subsequent extensions, or other Internet Protocol compatible protocols; and that provides, uses, or makes accessible, either publicly or privately, high-level services layered on the communications and related infrastructure described in this subdivision.

(1j) Mental abnormality. – A congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of others.

(1k) Nonresident student. – A person who is not a resident of North Carolina but who is enrolled in any type of school in the State on a part-time or full-time basis.

(1*l*) Nonresident worker. – A person who is not a resident of North Carolina but who has employment or carries on a vocation in the State, on a part-time or full-time basis, with or without compensation or government or educational benefit, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year.

(1m) Offense against a minor. – Any of the following offenses if the offense is committed against a minor, and the person committing the offense is not the minor's parent: G.S. 14-39 (kidnapping), G.S. 14-41 (abduction of children), and G.S. 14-43.3 (felonious restraint). The term also includes the following if the person convicted of the following is not the minor's parent: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

(1n) Online identifier. – Electronic mail address, instant message screen name, user ID, chat or other Internet communication name, but it does not mean social security number, date of birth, or pin number.

(2) Penal institution. – Any of the following:

a. A detention facility operated under the jurisdiction of the Section of Prisons of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

b. A detention facility operated under the jurisdiction of another state or the federal government.

c. A detention facility operated by a local government in this State or another state.

(2a) Personality disorder. – An enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has an onset in adolescence or early adulthood, is stable over time, and leads to distress or impairment.

(2b) Recidivist. – A person who has a prior conviction for an offense that is described in G.S. 14-208.6(4).

(3) Release. – Discharged or paroled.

(4) Reportable conviction. – Any of the following:

a. A final conviction for an offense against a minor, a sexually violent offense, or an attempt to commit any of those offenses unless the conviction is for aiding and abetting. A final conviction for aiding and abetting is a reportable conviction only if the court sentencing the individual finds that the registration of that individual under this Article furthers the purposes of this Article as stated in G.S. 14-208.5.

b. A final conviction in another state of an offense, which if committed in this State, is substantially similar to an offense against a minor or a sexually violent offense as defined by this section, or a final conviction in another state of an offense that requires registration under the sex offender registration statutes of that state.

c. A final conviction in a federal jurisdiction (including a court martial) of an offense, which is substantially similar to an offense against a minor or a sexually violent offense as defined by this section.

d. A final conviction for a violation of G.S. 14-202(d), (e), (f), (g), or (h), or a second or subsequent conviction for a violation of G.S. 14-202(a), (a1), or (c), only if the court sentencing the individual issues an order pursuant to G.S. 14-202(*l*) requiring the individual to register.

e. A final conviction for a violation of G.S. 14-43.14, only if the court sentencing the individual issues an order pursuant to G.S. 14-43.14(e) requiring the individual to register.

(5) Sexually violent offense. – A violation of former G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.21 (first-degree forcible rape), G.S. 14-27.22 (second-degree forcible rape), G.S. 14-27.23 (statutory rape of a child by an adult), G.S. 14-27.24 (first-degree statutory rape), G.S. 14-27.25(a) (statutory rape of a person who is 15 years of age or younger and where the defendant is at least six years older), G.S. 14-27.26 (first-degree forcible sexual offense), G.S. 14-27.27 (second-degree forcible sexual offense), G.S. 14-27.28 (statutory sexual

offense with a child by an adult), G.S. 14-27.29 (first-degree statutory sexual offense), G.S. 14-27.30(a) (statutory sexual offense with a person who is 15 years of age or younger and where the defendant is at least six years older), G.S. 14-27.31 (sexual activity by a substitute parent or custodian), G.S. 14-27.32 (sexual activity with a student), G.S. 14-27.33 (sexual battery), G.S. 14-43.11 (human trafficking) if (i) the offense is committed against a minor who is less than 18 years of age or (ii) the offense is committed against any person with the intent that they be held in sexual servitude, G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1) (felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent liberties with a student), G.S. 14-205.2(c) or (d) (patronizing a prostitute who is a minor or has a mental disability), G.S. 14-205.3(b) (promoting prostitution of a minor or a person who has a mental disability), G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

(6) Sexually violent predator. – A person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in sexually violent offenses directed at strangers or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(7) Sheriff. – The sheriff of a county in this State.

(8) Statewide registry. – The central registry compiled by the Department in accordance with G.S. 14-208.14.

(9) Student. – A person who is enrolled on a full-time or part-time basis, in any postsecondary public or private educational institution, including any trade or professional institution, or other institution of higher education. (1995, c. 545, s. 1; 1997-15, ss. 1, 2; 1997-516, s. 1; 1999-363, s. 1; 2001-373, s. 1; 2002-147, s. 16; 2003-303, s. 2; 2004-109, s. 8; 2005-121, s. 2; 2005-130, s. 1; 2005-226, s. 2; 2006-247, ss. 1(b), 19(a), 20(d); 2008-117, s. 6.1; 2008-220, s. 1; 2009-498, s. 1; 2010-174, s. 16(a); 2011-145, s. 19.1(h), (j); 2012-153, s. 3; 2012-194, s. 4(a); 2013-33, s. 1;

2013-368, s. 19; 2014-100, s. 17.1(x); 2015-62, s. 1(b); 2015-181, s. 32; 2017-102, s. 5; 2017-186, s. 2(q); 2018-47, s. 4(h).)

§ 14-208.6A. Lifetime registration requirements for criminal offenders.

It is the objective of the General Assembly to establish a 30-year registration requirement for persons convicted of certain offenses against minors or sexually violent offenses with an opportunity for those persons to petition in superior court to shorten their registration time period after 10 years of registration. It is the further objective of the General Assembly to establish a more stringent set of registration requirements for recidivists, persons who commit aggravated offenses, and for a subclass of highly dangerous sex offenders who are determined by a sentencing court with the assistance of a board of experts to be sexually violent predators.

To accomplish this objective, there are established two registration programs: the Sex Offender and Public Protection Registration Program and the Sexually Violent Predator Registration Program. Any person convicted of an offense against a minor or of a sexually violent offense as defined by this Article shall register in person as an offender in accordance with Part 2 of this Article. Any person who is a recidivist, who commits an aggravated offense, or who is determined to be a sexually violent predator shall register in person as such in accordance with Part 3 of this Article.

The information obtained under these programs shall be immediately shared with the appropriate local, State, federal, and out-of-state law enforcement officials and penal institutions. In addition, the information designated under G.S. 14-208.10(a) as public record shall be readily available to and accessible by the public. However, the identity of the victim is not public record and shall not be released as a public record. (1997-516, s. 1; 2001-373, s. 2; 2006-247, s. 2(a); 2008-117, s. 7.)

§ 14-208.6B. (Effective until December 1, 2019) Registration requirements for juveniles transferred to and convicted in superior court.

A juvenile transferred to superior court pursuant to G.S. 7B-2200 who is convicted of a sexually violent offense or an offense against a minor as defined in G.S. 14-208.6 shall register in person in accordance with this Article just as an adult convicted of the same offense must register. (1997-516, s. 1; 1998-202, s. 13(e); 2006-247, s. 3(a).)

§ 14-208.6B. (Effective December 1, 2019) Registration requirements for juveniles transferred to and convicted in superior court.

A juvenile transferred to superior court pursuant to G.S. 7B-2200 or G.S. 7B-2200.5 who is convicted of a sexually violent offense or an offense against a minor as defined in G.S. 14-208.6 shall register in person in accordance with this Article just as an adult convicted of the same offense must register. (1997-516, s. 1; 1998-202, s. 13(e); 2006-247, s. 3(a); 2017-57, s. 16D.4(o).)

§ 14-208.6C. Discontinuation of registration requirement.

The period of registration required by any of the provisions of this Article shall be discontinued only if the conviction requiring registration is reversed, vacated, or set aside, or if the registrant has been granted an unconditional pardon of innocence for the offense requiring registration. (2001-373, s. 3.)

Part 2. Sex Offender and Public Protection Registration Program.

§ 14-208.7. Registration.

(a) A person who is a State resident and who has a reportable conviction shall be required to maintain registration with the sheriff of the county where the person resides. If the person moves to North Carolina from outside this State, the person shall register within three business days of establishing residence in this State, or whenever the person has been present in the State for 15 days, whichever comes first. If the person is a current resident of North Carolina, the person shall register:

(1) Within three business days of release from a penal institution or arrival in a county to live outside a penal institution; or

(2) Immediately upon conviction for a reportable offense where an active term of imprisonment was not imposed.

Registration shall be maintained for a period of at least 30 years following the date of initial county registration unless the person, after 10 years of registration, successfully petitions the superior court to shorten his or her registration time period under G.S. 14-208.12A.

(a1) A person who is a nonresident student or a nonresident worker and who has a reportable conviction, or is required to register in the person's state of residency, is required to maintain registration with the sheriff of the county where the person works or attends school. In addition to the information required under subsection (b) of this section, the person shall also provide information regarding the person's school or place of employment as appropriate and the person's address in his or her state of residence.

(b) The Department of Public Safety shall provide each sheriff with forms for registering persons as required by this Article. The registration form shall require all of the following:

(1) The person's full name, each alias, date of birth, sex, race, height, weight, eye color, hair color, drivers license number, and home address.

(1a) A statement indicating what the person's name was at the time of the conviction for the offense that requires registration; what alias, if any, the person was using at the time of the conviction of that offense; and the name of the person as it appears on the judgment imposing the sentence on the person for the conviction of the offense.

(2) The type of offense for which the person was convicted, the date of conviction, and the sentence imposed.

(3) A current photograph taken by the sheriff, without charge, at the time of registration.

(4) The person's fingerprints taken by the sheriff, without charge, at the time of registration.

(5) A statement indicating whether the person is a student or expects to enroll as a student within a year of registering. If the person is a student or expects to enroll as a student within a year of registration, then the registration form shall also require the name and address of the

educational institution at which the person is a student or expects to enroll as a student.

(6) A statement indicating whether the person is employed or expects to be employed at an institution of higher education within a year of registering. If the person is employed or expects to be employed at an institution of higher education within a year of registration, then the registration form shall also require the name and address of the educational institution at which the person is or expects to be employed.

(7) Any online identifier that the person uses or intends to use.

(c) When a person registers, the sheriff with whom the person registered shall immediately send the registration information to the Department of Public Safety in a manner determined by the Department of Public Safety. The sheriff shall retain the original registration form and other information collected and shall compile the information that is a public record under this Part into a county registry.

(d) Any person required to register under this section shall report in person at the appropriate sheriff's office to comply with the registration requirements set out in this section. The sheriff shall provide the registrant with written proof of registration at the time of registration. (1995, c. 545, s. 1; 1997-516, s. 1; 2001-373, s. 4; 2002-147, s. 17; 2006-247, s. 5(a); 2008-117, s. 8; 2008-220, s. 2; 2011-61, s. 1; 2014-100, s. 17.1(r).)

§ 14-208.8. Prerelease notification.

(a) At least 10 days, but not earlier than 30 days, before a person who will be subject to registration under this Article is due to be released from a penal institution, an official of the penal institution shall do all of the following:

(1) Inform the person of the person's duty to register under this Article and require the person to sign a written statement that the person was so informed or, if the person refuses to sign the statement, certify that the person was so informed.

(2) Obtain the registration information required under G.S. 14-208.7(b)(1), (2), (5), (6), and (7), as well as the address where the person expects to reside upon the person's release.

(3) Send the Department of Public Safety and the sheriff of the county in which the person expects to reside the information collected in accordance with subdivision (2) of this subsection.

(b) If a person who is subject to registration under this Article does not receive an active term of imprisonment, the court pronouncing sentence shall conduct, at the time of sentencing, the notification procedures specified in subsection (a) of this section. (1995, c. 545, s. 1; 1997-516, s. 1; 2002-147, s. 18; 2008-220, s. 3; 2014-100, s. 17.1(r).)

§ 14-208.8A. Notification requirement for out-of-county employment if temporary residence established.

(a) Notice Required. – A person required to register under G.S. 14-208.7 shall notify the sheriff of the county with whom the person is registered of the person's place of

employment and temporary residence, which includes a hotel, motel, or other transient lodging place, if the person meets both of the following conditions:

(1) Is employed or carries on a vocation in a county in the State other than the county in which the person is registered for more than 10 business days within a 30-day period, or for an aggregate period exceeding 30 days in a calendar year, on a part-time or full-time basis, with or without compensation or government or educational benefit.

(2) Maintains a temporary residence in that county for more than 10 business days within a 30-day period, or for an aggregate period exceeding 30 days in a calendar year.

(b) Time Period. – The notice required by subsection (a) of this section shall be provided within 72 hours after the person knows or should know that he or she will be working and maintaining a temporary residence in a county other than the county in which the person resides for more than 10 business days within a 30-day period, or within 10 days after the person knows or should know that he or she will be working and maintaining a temporary residence in a county other than the county in which the person resides for an aggregate period exceeding 30 days in a calendar year.

(c) Notice to Department of Public Safety. – Upon receiving the notice required under subsection (a) of this section, the sheriff shall immediately forward the information to the Department of Public Safety. The Department of Public Safety shall notify the sheriff of the county where the person is working and maintaining a temporary residence of the person's place of employment and temporary address in that county. (2006-247, s. 4(a); 2007-484, s. 2; 2014-100, s. 17.1(r).)

§ 14-208.9. Change of address; change of academic status or educational employment status; change of online identifier; change of name.

(a) If a person required to register changes address, the person shall report in person and provide written notice of the new address not later than the third business day after the change to the sheriff of the county with whom the person had last registered. If the person moves to another county, the person shall also report in person to the sheriff of the new county and provide written notice of the person's address not later than the tenth day after the change of address. Upon receipt of the notice, the sheriff shall immediately forward this information to the Department of Public Safety. When the Department of Public Safety receives notice from a sheriff that a person required to register is moving to another county in the State, the Department of Public Safety shall inform the sheriff of the new county of the person's new residence.

(b) If a person required to register intends to move to another state, the person shall report in person to the sheriff of the county of current residence at least three business days before the date the person intends to leave this State to establish residence in another state or jurisdiction. The person shall provide to the sheriff a written notification that includes all of the following information: the address, municipality, county, and state of intended residence.

(1) If it appears to the sheriff that the record photograph of the sex offender no longer provides a true and accurate likeness of the sex offender, then the sheriff shall take a photograph of the offender to update the registration.

(2) The sheriff shall inform the person that the person must comply with the registration requirements in the new state of residence. The sheriff shall also immediately forward the information included in the notification to the Department of Public Safety, and the Department of Public Safety shall inform the appropriate state official in the state to which the registrant moves of the person's notification and new address.

(b1) A person who indicates his or her intent to reside in another state or jurisdiction and later decides to remain in this State shall, within three business days after the date upon which the person indicated he or she would leave this State, report in person to the sheriff's office to which the person reported the intended change of residence, of his or her intent to remain in this State. If the sheriff is notified by the sexual offender that he or she intends to remain in this State, the sheriff shall promptly report this information to the Department of Public Safety.

(c) If a person required to register changes his or her academic status either by enrolling as a student or by terminating enrollment as a student, then the person shall, within three business days, report in person to the sheriff of the county with whom the person registered and provide written notice of the person's new status. The written notice shall include the name and address of the institution of higher education at which the student is or was enrolled. The sheriff shall immediately forward this information to the Department of Public Safety.

(d) If a person required to register changes his or her employment status either by obtaining employment at an institution of higher education or by terminating employment at an institution of higher education, then the person shall, within three business days, report in person to the sheriff of the county with whom the person registered and provide written notice of the person's new status not later than the tenth day after the change to the sheriff of the county with whom the person registered. The written notice shall include the name and address of the institution of higher education at which the person is or was employed. The sheriff shall immediately forward this information to the Department of Public Safety.

(e) If a person required to register changes an online identifier, or obtains a new online identifier, then the person shall, within 10 days, report in person to the sheriff of the county with whom the person registered to provide the new or changed online identifier information to the sheriff. The sheriff shall immediately forward this information to the Department of Public Safety.

(f) If a person required to register changes his or her name pursuant to Chapter 101 of the General Statutes or by any other method, then the person shall, within three business days, report in person to the sheriff of the county with whom the person registered to provide the name change to the sheriff. The sheriff shall immediately forward this information to the Department of Public Safety. (1995, c. 545, s. 1; 1997-516, s. 1;

2001-373, s. 5; 2002-147, s. 19; 2006-247, s. 6(a); 2007-213, s. 9A; 2007-484, s. 42(b); 2008-117, s. 9; 2008-220, ss. 4, 5; 2011-61, ss. 2, 3; 2014-100, s. 17.1(r).)

§ 14-208.9A. Verification of registration information.

(a) The information in the county registry shall be verified semiannually for each registrant as follows:

(1) Every year on the anniversary of a person's initial registration date, and again six months after that date, the Department of Public Safety shall mail a nonforwardable verification form to the last reported address of the person.

(2) The person shall return the verification form in person to the sheriff within three business days after the receipt of the form.

(3) The verification form shall be signed by the person and shall indicate the following:

a. Whether the person still resides at the address last reported to the sheriff. If the person has a different address, then the person shall indicate that fact and the new address.

b. Whether the person still uses or intends to use any online identifiers last reported to the sheriff. If the person has any new or different online identifiers, then the person shall provide those online identifiers to the sheriff.

c. Whether the person still uses or intends to use the name under which the person registered and last reported to the sheriff. If the person has any new or different name, then the person shall provide that name to the sheriff.

(3a) If it appears to the sheriff that the record photograph of the sex offender no longer provides a true and accurate likeness of the sex offender, then the sheriff shall take a photograph of the offender to include with the verification form.

(4) If the person fails to return the verification form in person to the sheriff within three business days after receipt of the form, the person is subject to the penalties provided in G.S. 14-208.11. If the person fails to report in person and provide the written verification as provided by this section, the sheriff shall make a reasonable attempt to verify that the person is residing at the registered address. If the person cannot be found at the registered address and has failed to report a change of address, the person is subject to the penalties provided in G.S. 14-208.11, unless the person reports in person to the sheriff and proves that the person has not changed his or her residential address.

(b) Additional Verification May Be Required. – During the period that an offender is required to be registered under this Article, the sheriff is authorized to attempt to verify that the offender continues to reside at the address last registered by the offender.

(c) Additional Photograph May Be Required. – If it appears to the sheriff that the current photograph of the sex offender no longer provides a true and accurate likeness of

the sex offender, upon in-person notice from the sheriff, the sex offender shall allow the sheriff to take another photograph of the sex offender at the time of the sheriff's request. If requested by the sheriff, the sex offender shall appear in person at the sheriff's office during normal business hours within three business days of being requested to do so and shall allow the sheriff to take another photograph of the sex offender. A person who willfully fails to comply with this subsection is guilty of a Class 1 misdemeanor. (1997-516, s. 1; 2006-247, s. 7(a); 2008-117, s. 10; 2008-220, s. 6; 2011-61, s. 4; 2014-100, s. 17.1(r).)

§ 14-208.10. Registration information is public record; access to registration information.

(a) The following information regarding a person required to register under this Article is public record and shall be available for public inspection: name, sex, address, physical description, picture, conviction date, offense for which registration was required, the sentence imposed as a result of the conviction, and registration status. The information obtained under G.S. 14-208.22 regarding a person's medical records or documentation of treatment for the person's mental abnormality or personality disorder shall not be a part of the public record.

The sheriff shall release any other relevant information that is necessary to protect the public concerning a specific person, but shall not release the identity of the victim of the offense that required registration under this Article.

(b) Any person may obtain a copy of an individual's registration form, a part of the county registry, or all of the county registry, by submitting a written request for the information to the sheriff. However, the identity of the victim of an offense that requires registration under this Article shall not be released. The sheriff may charge a reasonable fee for duplicating costs and for mailing costs when appropriate. (1995, c. 545, s. 1; 1997-516, s. 1.)

§ 14-208.11. Failure to register; falsification of verification notice; failure to return verification form; order for arrest.

(a) A person required by this Article to register who willfully does any of the following is guilty of a Class F felony:

(1) Fails to register as required by this Article, including failure to register with the sheriff in the county designated by the person, pursuant to G.S. 14-208.8, as their expected county of residence.

(2) Fails to notify the last registering sheriff of a change of address as required by this Article.

(3) Fails to return a verification notice as required under G.S. 14-208.9A.

(4) Forges or submits under false pretenses the information or verification notices required under this Article.

(5) Fails to inform the registering sheriff of enrollment or termination of enrollment as a student.

(6) Fails to inform the registering sheriff of employment at an institution of higher education or termination of employment at an institution of higher education.

(7) Fails to report in person to the sheriff's office as required by G.S. 14-208.7, 14-208.9, and 14-208.9A.

(8) Reports his or her intent to reside in another state or jurisdiction but remains in this State without reporting to the sheriff in the manner required by G.S. 14-208.9.

(9) Fails to notify the registering sheriff of out-of-county employment if temporary residence is established as required under G.S. 14-208.8A.

(10) Fails to inform the registering sheriff of any new or changes to existing online identifiers that the person uses or intends to use.

(a1) If a person commits a violation of subsection (a) of this section, the probation officer, parole officer, or any other law enforcement officer who is aware of the violation shall immediately arrest the person in accordance with G.S. 15A-401, or seek an order for the person's arrest in accordance with G.S. 15A-305.

(a2) A person arrested pursuant to subsection (a1) of this section shall be subject to the jurisdiction of the prosecutorial and judicial district that includes the sheriff's office in the county where the person failed to register, pursuant to this Article. If the arrest is made outside of the applicable prosecutorial district, the person shall be transferred to the custody of the sheriff of the county where the person failed to register and all further criminal and judicial proceedings shall be held in that county.

(b) Before a person convicted of a violation of this Article is due to be released from a penal institution, an official of the penal institution shall conduct the prerelease notification procedures specified under G.S. 14-208.8(a)(2) and (3). If upon a conviction for a violation of this Article, no active term of imprisonment is imposed, the court pronouncing sentence shall, at the time of sentencing, conduct the notification procedures specified under G.S. 14-208.8(a)(2) and (3).

(c) A person who is unable to meet the registration or verification requirements of this Article shall be deemed to have complied with its requirements if:

(1) The person is incarcerated in, or is in the custody of, a local, State, private, or federal correctional facility,

(2) The person notifies the official in charge of the facility of their status as a person with a legal obligation or requirement under this Article and

(3) The person meets the registration or verification requirements of this Article no later than 10 days after release from confinement or custody. (1995, c. 545, s. 1; 1997-516, s. 1; 2002-147, s. 20; 2006-247, ss. 8(a), 8(b); 2008-220, s. 7; 2013-205, s. 1.)

§ 14-208.11A. Duty to report noncompliance of a sex offender; penalty for failure to report in certain circumstances.

(a) It shall be unlawful and a Class H felony for any person who has reason to believe that an offender is in violation of the requirements of this Article, and who has the intent to assist the offender in eluding arrest, to do any of the following:

(1) Withhold information from, or fail to notify, a law enforcement agency about the offender's noncompliance with the requirements of this Article, and, if known, the whereabouts of the offender.

(2) Harbor, attempt to harbor, or assist another person in harboring or attempting to harbor, the offender.

(3) Conceal, or attempt to conceal, or assist another person in concealing or attempting to conceal, the offender.

(4) Provide information to a law enforcement agency regarding the offender that the person knows to be false information.

(b) This section does not apply if the offender is incarcerated in or is in the custody of a local, State, private, or federal correctional facility. (2006-247, s. 9.1(a).)

§ 14-208.12: Repealed by Session Laws 1997-516, s. 1.

§ 14-208.12A. Request for termination of registration requirement.

(a) Ten years from the date of initial county registration, a person required to register under this Part may petition the superior court to terminate the 30-year registration requirement if the person has not been convicted of a subsequent offense requiring registration under this Article.

If the reportable conviction is for an offense that occurred in North Carolina, the petition shall be filed in the district where the person was convicted of the offense.

If the reportable conviction is for an offense that occurred in another state, the petition shall be filed in the district where the person resides. A person who petitions to terminate the registration requirement for a reportable conviction that is an out-of-state offense shall also do the following: (i) provide written notice to the sheriff of the county where the person was convicted that the person is petitioning the court to terminate the registration requirement and (ii) include with the petition at the time of its filing, an affidavit, signed by the petitioner, that verifies that the petitioner has notified the sheriff of the county where the person was convicted of the petition and that provides the mailing address and contact information for that sheriff.

Regardless of where the offense occurred, if the defendant was convicted of a reportable offense in any federal court, the conviction will be treated as an out-of-state offense for the purposes of this section.

(a1) The court may grant the relief if:

(1) The petitioner demonstrates to the court that he or she has not been arrested for any crime that would require registration under this Article since completing the sentence,

(2) The requested relief complies with the provisions of the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to the termination of a registration requirement or required to be met as a condition for the receipt of federal funds by the State, and

(3) The court is otherwise satisfied that the petitioner is not a current or potential threat to public safety.

(a2) The district attorney in the district in which the petition is filed shall be given notice of the petition at least three weeks before the hearing on the matter. The petitioner may present evidence in support of the petition and the district attorney may present

evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied.

(a3) If the court denies the petition, the person may again petition the court for relief in accordance with this section one year from the date of the denial of the original petition to terminate the registration requirement. If the court grants the petition to terminate the registration requirement, the clerk of court shall forward a certified copy of the order to the Department of Public Safety to have the person's name removed from the registry.

(b) If there is a subsequent offense, the county registration records shall be retained until the registration requirement for the subsequent offense is terminated by the court under subsection (a1) of this section. (1997-516, s. 1; 2006-247, s. 10(a); 2008-117, s. 11; 2011-61, s. 5; 2014-100, s. 17.1(r); 2017-158, s. 22.)

§ 14-208.13. File with Criminal Information Network.

(a) The Department of Public Safety shall include the registration information in the Criminal Information Network as set forth in G.S. 143B-905.

(b) The Department of Public Safety shall maintain the registration information permanently even after the registrant's reporting requirement expires. (1995, c. 545, s. 1; 1997-516, s. 1; 2014-100, s. 17.1(y).)

§ 14-208.14. Statewide registry; Department of Public Safety designated custodian of statewide registry.

(a) The Department of Public Safety shall compile and keep current a central statewide sex offender registry. The Department is the State agency designated as the custodian of the statewide registry. As custodian the Department has the following responsibilities:

(1) To receive from the sheriff or any other law enforcement agency or penal institution all sex offender registrations, changes of address, changes of academic or educational employment status, and prerelease notifications required under this Article or under federal law. The Department shall also receive notices of any violation of this Article, including a failure to register or a failure to report a change of address.

(2) To provide all need-to-know law enforcement agencies (local, State, campus, federal, and those located in other states) immediately upon receipt by the Department of any of the following: registration information, a prerelease notification, a change of address, a change of academic or educational employment status, or notice of a violation of this Article.

(2a) To notify the appropriate law enforcement unit at an institution of higher education as soon as possible upon receipt by the Department of relevant information based on registration information or notice of a change of academic or educational employment status. If an institution of higher education does not have a law enforcement unit, then the Department

shall provide the information to the local law enforcement agency that has jurisdiction for the campus.

(3) To coordinate efforts among law enforcement agencies and penal institutions to ensure that the registration information, changes of address, change of name, prerelease notifications, and notices of failure to register or to report a change of address are conveyed in an appropriate and timely manner.

(4) To provide public access to the statewide registry in accordance with this Article.

(4a) To maintain the system for public access so that a registrant's full name, any aliases, and any legal name changes are cross-referenced and a member of the public may conduct a search of the system for a registrant under any of those names.

(5) To maintain a system allowing an entity to access a list of online identifiers of persons in the central sex offender registry.

(b) The statewide registry shall include the following:

(1) Registration information obtained by a sheriff or penal institution under this Article or from any other local or State law enforcement agency.

(2) Registration information received from a state or local law enforcement agency or penal institution in another state.

(3) Registration information received from a federal law enforcement agency or penal institution. (1997-516, s. 1; 2002-147, s. 21; 2008-220, s. 8; 2011-61, ss. 6, 7; 2014-100, s. 17.1(z).)

§ 14-208.15. Certain statewide registry information is public record: access to statewide registry.

(a) The information in the statewide registry that is public record is the same as in G.S. 14-208.10. The Department of Public Safety shall release any other relevant information that is necessary to protect the public concerning a specific person, but shall not release the identity of the victim of the offense that required registration under this Article.

(b) The Department of Public Safety shall provide free public access to automated data from the statewide registry, including photographs provided by the registering sheriffs, via the Internet. The public will be able to access the statewide registry to view an individual registration record, a part of the statewide registry, or all of the statewide registry. The Department of Public Safety may also provide copies of registry information to the public upon written request and may charge a reasonable fee for duplicating costs and mailings costs.

(c) Upon request of an institution of higher education, the Sheriff of the county in which the educational institution is located shall provide a report containing the registry information for any registrant who has stated that the registrant is a student or employee, or expects to become a student or employee, of that institution of higher education. The Department of Public Safety shall provide each sheriff with the ability to generate the

report from the statewide registry. The report shall be provided electronically without charge. The institution of higher education may receive a written report upon payment of reasonable duplicating costs and mailing costs. (1997-516, s. 1; 2014-100, s. 17.1(r); 2015-44, s. 4.)

§ 14-208.15A. Release of online identifiers to entity; fee.

(a) The Department of Public Safety may release registry information regarding a registered offender's online identifier to an entity for the purpose of allowing the entity to prescreen users or to compare the online identifier information with information held by the entity as provided by this section.

(b) An entity desiring to prescreen its users or compare its database of registered users to the list of online identifiers of persons in the statewide registry may apply to the Department of Public Safety to access the information. An entity that complies with the criteria developed by the Department of Public Safety regarding the release and use of the online identifier information and pays the fee may screen new users or compare its database of registered users to the list of online identifiers of persons in the statewide registry as frequently as the Department of Public Safety may allow for the purpose of identifying a registered user associated with an online identifier contained in the statewide registry.

(c) The Department of Public Safety may charge an entity that submits a request for the online identifiers of persons in the statewide registry an annual fee of one hundred dollars ($100.00). Fees collected under this section shall be credited to the Department of Public Safety and applied to the cost of providing this service.

(d) The Department of Public Safety shall develop standards regarding the release and use of online identifier information. The standards shall include a requirement that the information obtained from the statewide registry shall not be disclosed for any purpose other than for prescreening its users or comparing the database of registered users of the entity against the list of online identifiers of persons in the statewide registry.

(e) An entity that receives:

(1) A complaint from a user of the entity's services that a person uses its service to solicit a minor by computer to commit an unlawful sex act as defined in G.S. 14-202.3, or

(2) A report that a user may be violating G.S. 14-190.17 or G.S. 14-190.17A by posting or transmitting material that contains a visual representation of a minor engaged in sexual activity,

shall report that information and the online identifier information of the person allegedly committing the offense, including whether that online identifier is included in the statewide registry, to the Cyber Tip Line at the National Center for Missing and Exploited Children, which shall forward that report to an appropriate law enforcement official in this State. The offense is committed in the State for purposes of determining jurisdiction, if the transmission that constitutes the offense either originates in the State or is received in the State.

(f) An entity that complies with this section in good faith is immune from civil or criminal liability resulting from either of the following:

(1) The entity's refusal to provide system service to a person on the basis that the entity reasonably believed that the person was subject to registration under State sex offender registry laws.

(2) A person's criminal or tortious acts against a minor with whom the person had communicated on the entity's system. (2008-220, s. 9; 2009-272, s. 2; 2014-100, ss. 17.1(o), (r).)

§ 14-208.16. Residential restrictions.

(a) A registrant under this Article shall not knowingly reside within 1,000 feet of the property on which any public or nonpublic school or child care center is located. This subsection applies to any registrant who did not establish his or her residence, in accordance with subsection (d) of this section, prior to August 16, 2006.

(b) As used in this section, "school" does not include home schools as defined in G.S. 115C-563 or institutions of higher education. The term "child care center" is defined by G.S. 110-86(3); however, for purposes of this section, the term "child care center" does include the permanent locations of organized clubs of Boys and Girls Clubs of America. The term "registrant" means a person who is registered, or is required to register, under this Article.

(c) This section does not apply to child care centers that are located on or within 1,000 feet of the property of an institution of higher education where the registrant is a student or is employed.

(d) Changes in the ownership of or use of property within 1,000 feet of a registrant's registered address that occur after a registrant establishes residency at the registered address shall not form the basis for finding that an offender is in violation of this section. For purposes of this subsection, a residence is established when the registrant does any of the following:

(1) Purchases the residence or enters into a specifically enforceable contract to purchase the residence.

(2) Enters into a written lease contract for the residence and for as long as the person is lawfully entitled to remain on the premises.

(3) Resides with an immediate family member who established residence in accordance with this subsection. For purposes of this subsection, "immediate family member" means a child or sibling who is 18 years of age or older, or a parent, grandparent, legal guardian, or spouse of the registrant.

(e) Nothing in this section shall be construed as creating a private cause of action against a real estate agent or landlord for any act or omission arising out of the residential restriction in this section.

(f) A violation of this section is a Class G felony. (2006-247, s. 11(a); 2007-213, s. 10; 2013-28, s. 1; 2014-21, s. 1.)

§ 14-208.17. Sexual predator prohibited from working or volunteering for child-involved activities; limitation on residential use.

(a) It shall be unlawful for any person required to register under this Article to work for any person or as a sole proprietor, with or without compensation, at any place where a minor is present and the person's responsibilities or activities would include instruction, supervision, or care of a minor or minors.

(b) It shall be unlawful for any person to conduct any activity at his or her residence where the person:

(1) Accepts a minor or minors into his or her care or custody from another, and

(2) Knows that a person who resides at that same location is required to register under this Article.

(c) A violation of this section is a Class F felony. (2006-247, s. 11(b).)

§ 14-208.18. (See Editor's note for contingent expiration date) Sex offender unlawfully on premises.

(a) It shall be unlawful for any person required to register under this Article, if the offense requiring registration is described in subsection (c) of this section, to knowingly be at any of the following locations:

(1) On the premises of any place intended primarily for the use, care, or supervision of minors, including, but not limited to, schools, children's museums, child care centers, nurseries, and playgrounds.

(2) Within 300 feet of any location intended primarily for the use, care, or supervision of minors when the place is located on premises that are not intended primarily for the use, care, or supervision of minors, including, but not limited to, places described in subdivision (1) of this subsection that are located in malls, shopping centers, or other property open to the general public.

(3) At any place where minors frequently congregate, including, but not limited to, libraries, arcades, amusement parks, recreation parks, and swimming pools, when minors are present.

(4) On the State Fairgrounds during the period of time each year that the State Fair is conducted, on the Western North Carolina Agricultural Center grounds during the period of time each year that the North Carolina Mountain State Fair is conducted, and on any other fairgrounds during the period of time that an agricultural fair is being conducted.

(b) Notwithstanding any provision of this section, a person subject to subsection (a) of this section who is the parent or guardian of a minor may take the minor to any location that can provide emergency medical care treatment if the minor is in need of emergency medical care.

(c) The subdivisions of subsection (a) of this section are applicable as follows:

(1) Subdivisions (1), (3), and (4) of subsection (a) of this section apply to persons required to register under this Article who have committed any of the following offenses:

a. Any offense in Article 7B of this Chapter or any federal offense or offense committed in another state, which if committed in this State, is substantially similar to an offense in Article 7B of this Chapter.

b. Any offense where the victim of the offense was under the age of 18 years at the time of the offense.

(2) Subdivision (2) of subsection (a) of this section applies to persons required to register under this Article if either of the following applies:

a. The person has committed any offense in Article 7B of this Chapter or any federal offense or offense committed in another state, which if committed in this State is substantially similar to an offense in Article 7B of this Chapter, and a finding has been made in any criminal or civil proceeding that the person presents, or may present, a danger to minors under the age of 18.

b. The person has committed any offense where the victim of the offense was under the age of 18 years at the time of the offense.

(d) A person subject to subsection (a) of this section who is a parent or guardian of a student enrolled in a school may be present on school property if all of the following conditions are met:

(1) The parent or guardian is on school property for the purpose for one of the following:

a. To attend a conference at the school with school personnel to discuss the academic or social progress of the parents' or guardians' child; or

b. The presence of the parent or guardian has been requested by the principal or his or her designee for any other reason relating to the welfare or transportation of the child.

(2) The parent or guardian complies with all of the following:

a. Notice: The parent or guardian shall notify the principal of the school of the parents' or guardians' registration under this Article and of his or her presence at the school unless the parent or guardian has permission to be present from the superintendent or the local board of education, or the principal has granted ongoing permission for regular visits of a routine nature. If permission is granted by the superintendent or the local board of education, the superintendent or chairman of the local board of education shall inform the principal of the school where the parents' or guardians' will be present. Notification includes the nature of the parents' or guardians' visit and the hours when the parent or guardian will be present at the school. The parent or guardian is responsible for notifying the principal's office upon arrival and upon departure. Any permission granted under this sub-subdivision shall be in writing.

b. Supervision: At all times that a parent or guardian is on school property, the parent or guardian shall remain under the direct supervision of school personnel. A parent or guardian shall not be on school property even if the parent or guardian has ongoing permission for regular visits of a routine nature if no school personnel are reasonably available to supervise the parent or guardian on that occasion.

(e) A person subject to subsection (a) of this section who is eligible to vote may be present at a location described in subsection (a) used as a voting place as defined by G.S. 163A-1095 only for the purposes of voting and shall not be outside the voting enclosure other than for the purpose of entering and exiting the voting place. If the voting place is a school, then the person subject to subsection (a) shall notify the principal of the school that he or she is registered under this Article.

(f) A person subject to subsection (a) of this section who is eligible under G.S. 115C-378 to attend public school may be present on school property if permitted by the local board of education pursuant to G.S. 115C-390.11(a)(2).

(g) A juvenile subject to subsection (a) of this section may be present at a location described in that subsection if the juvenile is at the location to receive medical treatment or mental health services and remains under the direct supervision of an employee of the treating institution at all times.

(g1) Notwithstanding any provision of this section, a person subject to subsection (a) of this section who is required to wear an electronic monitoring device shall wear an electronic monitoring device that provides exclusion zones around the premises of all elementary and secondary schools in North Carolina.

(h) A violation of this section is a Class H felony. (2008-117, s. 12; 2009-570, s. 5; 2011-245, s. 2(b); 2011-282, s. 14; 2015-62, s. 5(a); 2015-181, s. 47; 2016-102, s. 1; 2017-6, s. 3.)

§ 14-208.19. Community and public notification.

The licensee for each licensed day care center and the principal of each elementary school, middle school, and high school shall register with the North Carolina Sex Offender and Public Protection Registry to receive e-mail notification when a registered sex offender moves within a one-mile radius of the licensed day care center or school. (2008-117, s. 13.)

§ 14-208.19A. Commercial drivers license restrictions.

(a) The Division of Motor Vehicles, in compliance with G.S. 20-37.14A, shall not issue or renew a commercial drivers license with a P or S endorsement to any person required to register under this Article.

(b) The Division of Motor Vehicles, in compliance with G.S. 20-37.13(f) shall not issue a commercial driver learner's permit with a P or S endorsement to any person required to register under this Article.

(c) A person who is convicted of a violation that requires registration under Article 27A of Chapter 14 of the General Statutes is disqualified under G.S. 20-17.4 from driving a commercial motor vehicle that requires a commercial drivers license with a P or S endorsement for the period of time during which the person is required to maintain registration under Article 27A of Chapter 14 of the General Statutes.

(d) A person who drives a commercial passenger vehicle or a school bus and who does not have a commercial drivers license with a P or S endorsement because the person was convicted of a violation that requires registration under Article 27A of Chapter 14 of the General Statutes shall be punished as provided by G.S. 20-27.1. (2009-491, s. 1.)

Part 3. Sexually Violent Predator Registration Program.

§ 14-208.20. Sexually violent predator determination; notice of intent; presentence investigation.

(a) When a person is charged by indictment or information with the commission of a sexually violent offense, the district attorney shall decide whether to seek classification of the offender as a sexually violent predator if the person is convicted. If the district attorney intends to seek the classification of a sexually violent predator, the district attorney shall within the time provided for the filing of pretrial motions under G.S. 15A-952 file a notice of the district attorney's intent. The court may for good cause shown allow late filing of the notice, grant additional time to the parties to prepare for trial, or make other appropriate orders.

(b) Prior to sentencing a person as a sexually violent predator, the court shall order a presentence investigation in accordance with G.S. 15A-1332(c). However, the study of the defendant and whether the defendant is a sexually violent predator shall be conducted by a board of experts selected by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The board of experts shall be composed of at least four people. Two of the board members shall be experts in the field of the behavior and treatment of sexual offenders, one of whom shall be selected from a panel of experts in those fields provided by the North Carolina Medical Society and not employed with the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or employed on a full-time basis with any other State agency. One of the board members shall be a victims' rights advocate, and one of the board members shall be a representative of law enforcement agencies.

(c) When the defendant is returned from the presentence commitment, the court shall hold a sentencing hearing in accordance with G.S. 15A-1334. At the sentencing hearing, the court shall, after taking the presentencing report under advisement, make written findings as to whether the defendant is classified as a sexually violent predator and the basis for the court's findings. (1997-516, s. 1; 2001-373, s. 6; 2011-145, s. 19.1(h); 2017-186, s. 2(r).)

§ 14-208.21. Lifetime registration procedure; application of Part 2 of this Article.

Unless provided otherwise by this Part, the provisions of Part 2 of this Article apply to a person classified as a sexually violent predator, a person who is a recidivist, or a person who is convicted of an aggravated offense. The procedure for registering as a sexually violent predator, a recidivist, or a person convicted of an aggravated offense is the same as under Part 2 of this Article. (1997-516, s. 1; 2001-373, s. 7.)

§ 14-208.22. Additional registration information required.

(a) In addition to the information required by G.S. 14-208.7, the following information shall also be obtained in the same manner as set out in Part 2 of this Article from a person who is a recidivist, who is convicted of an aggravated offense, or who is classified as a sexually violent predator:

(1) Identifying factors.

(2) Offense history.

(3) Documentation of any treatment received by the person for the person's mental abnormality or personality disorder.

(b) The Department of Public Safety shall provide each sheriff with forms for registering persons as required by this Article.

(c) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall also obtain the additional information set out in subsection (a) of this section and shall include this information in the prerelease notice forwarded to the sheriff or other appropriate law enforcement agency. (1997-516, s. 1; 2001-373, s. 8; 2011-145, s. 19.1(h); 2014-100, s. 17.1(r); 2017-186, s. 2(s).)

§ 14-208.23. Length of registration.

A person who is a recidivist, who is convicted of an aggravated offense, or who is classified as a sexually violent predator shall maintain registration for the person's life. Except as provided under G.S. 14-208.6C, the requirement of registration shall not be terminated. (1997-516, s. 1; 2001-373, s. 9.)

§ 14-208.24. Verification of registration information.

(a) The information in the county registry shall be verified by the sheriff for each registrant who is a recidivist, who is convicted of an aggravated offense, or who is classified as a sexually violent predator every 90 days after the person's initial registration date.

(b) The procedure for verifying the information in the criminal offender registry is the same as under G.S. 14-208.9A, except that verification shall be every 90 days as provided by subsection (a) of this section. (1997-516, s. 1; 2001-373, s. 10.)

§ 14-208.25: Repealed by Session Laws 2001-373, s. 11.

Part 4. Registration of Certain Juveniles Adjudicated for Committing Certain Offenses.

§ 14-208.26. Registration of certain juveniles adjudicated for committing certain offenses.

(a) When a juvenile is adjudicated delinquent for a violation of former G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.21 (first-degree forcible rape), G.S. 14-27.22 (second-degree forcible rape), G.S. 14-27.24 (first-degree statutory rape), G.S. 14-27.26 (first-degree forcible sexual offense), G.S. 14-27.27 (second-degree forcible sexual offense), or G.S. 14-27.29 (first-degree statutory sexual offense), and the juvenile was at least eleven years of age at the time of the commission of the offense, the court shall consider whether the juvenile is a danger to the community. If the court finds that the juvenile is a danger to the community, then the court shall consider whether the juvenile should be required to register with the county sheriff in accordance with this Part. The determination as to whether the juvenile is a danger to the community and whether the juvenile shall be ordered to register shall be made by the presiding judge at the dispositional hearing. If the judge rules that the juvenile is a danger to the community and that the juvenile shall register, then an order shall be entered requiring the juvenile to register. The

court's findings regarding whether the juvenile is a danger to the community and whether the juvenile shall register shall be entered into the court record. No juvenile may be required to register under this Part unless the court first finds that the juvenile is a danger to the community.

A juvenile ordered to register under this Part shall register and maintain that registration as provided by this Part.

(a1) For purposes of this section, a violation of any of the offenses listed in subsection (a) of this section includes all of the following: (i) the commission of any of those offenses, (ii) the attempt, conspiracy, or solicitation of another to commit any of those offenses, (iii) aiding and abetting any of those offenses.

(b) If the court finds that the juvenile is a danger to the community and must register, the presiding judge shall conduct the notification procedures specified in G.S. 14-208.8. The chief court counselor of that district shall file the registration information for the juvenile with the appropriate sheriff. (1997-516, s. 1; 1999-363, s. 2; 2012-194, s. 4(b); 2015-181, s. 33.)

§ 14-208.27. Change of address.

If a juvenile who is adjudicated delinquent and required to register changes address, the juvenile court counselor for the juvenile shall provide written notice of the new address not later than the third business day after the change to the sheriff of the county with whom the juvenile had last registered. Upon receipt of the notice, the sheriff shall immediately forward this information to the Department of Public Safety. If the juvenile moves to another county in this State, the Department of Public Safety shall inform the sheriff of the new county of the juvenile's new residence. (1997-516, s. 1; 2001-490, s. 2.36; 2008-117, s. 14; 2014-100, s. 17.1(r).)

§ 14-208.28. Verification of registration information.

The information provided to the sheriff shall be verified semiannually for each juvenile registrant as follows:

(1) Every year on the anniversary of a juvenile's initial registration date and six months after that date, the sheriff shall mail a verification form to the juvenile court counselor assigned to the juvenile.

(2) The juvenile court counselor for the juvenile shall return the verification form to the sheriff within three business days after the receipt of the form.

(3) The verification form shall be signed by the juvenile court counselor and the juvenile and shall indicate whether the juvenile still resides at the address last reported to the sheriff. If the juvenile has a different address, then that fact and the new address shall be indicated on the form. (1997-516, s. 1; 2001-490, s. 2.37; 2006-247, s. 13; 2008-117, s. 15.)

§ 14-208.29. Registration information is not public record; access to registration information available only to law enforcement agencies and local boards of education.

(a) Notwithstanding any other provision of law, the information regarding a juvenile required to register under this Part is not public record and is not available for public inspection.

(b) The registration information of a juvenile adjudicated delinquent and required to register under this Part shall be maintained separately by the sheriff and released only to law enforcement agencies and local boards of education. Registry information for any juvenile enrolled in the local school administrative unit shall be forwarded to the local board of education. Under no circumstances shall the registration of a juvenile adjudicated delinquent be included in the county or statewide registries, or be made available to the public via internet. (1997-516, s. 1; 2008-117, s. 12.2.)

§ 14-208.30. Termination of registration requirement.

The requirement that a juvenile adjudicated delinquent register under this Part automatically terminates on the juvenile's eighteenth birthday or when the jurisdiction of the juvenile court with regard to the juvenile ends, whichever occurs first. (1997-516, s. 1.)

§ 14-208.31. File with Criminal Information Network.

(a) The Department of Public Safety shall include the registration information in the Criminal Information Network as set forth in G.S. 143B-905.

(b) The Department of Public Safety shall maintain the registration information permanently even after the registrant's reporting requirement expires; however, the records shall remain confidential in accordance with Article 32 of Chapter 7B of the General Statutes. (1997-516, s. 1; 1998-202, s. 14; 2014-100, s. 17.1(aa).)

§ 14-208.32. Application of Part.

This Part does not apply to a juvenile who is tried and convicted as an adult for committing or attempting to commit a sexually violent offense or an offense against a minor. A juvenile who is convicted of one of those offenses as an adult is subject to the registration requirements of Part 2 and Part 3 of this Article. (1997-516, s. 1.)

§ 14-208.33. Reserved for future codification purposes.

§ 14-208.34. Reserved for future codification purposes.

§ 14-208.35. Reserved for future codification purposes.

§ 14-208.36. Reserved for future codification purposes.

§ 14-208.37. Reserved for future codification purposes.

§ 14-208.38. Reserved for future codification purposes.

§ 14-208.39. Reserved for future codification purposes.

Part 5. Sex Offender Monitoring.

§ 14-208.40. Establishment of program; creation of guidelines; duties.

(a) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall establish a sex offender monitoring program that uses a continuous satellite-based monitoring system and shall create guidelines to govern the program. The program shall be designed to monitor three categories of offenders as follows:

(1) Any offender who is convicted of a reportable conviction as defined by G.S. 14-208.6(4) and who is required to register under Part 3 of Article 27A of Chapter 14 of the General Statutes because the defendant is classified as a sexually violent predator, is a recidivist, or was convicted of an aggravated offense as those terms are defined in G.S. 14-208.6.

(2) Any offender who satisfies all of the following criteria: (i) is convicted of a reportable conviction as defined by G.S. 14-208.6(4), (ii) is required to register under Part 2 of Article 27A of Chapter 14 of the General Statutes, (iii) has committed an offense involving the physical, mental, or sexual abuse of a minor, and (iv) based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.

(3) Any offender who is convicted of G.S. 14-27.23 or G.S. 14-27.28, who shall be enrolled in the satellite-based monitoring program for the offender's natural life upon termination of the offender's active punishment.

(b) In developing the guidelines for the program, the Division of Adult Correction and Juvenile Justice shall require that any offender who is enrolled in the satellite-based program submit to an active continuous satellite-based monitoring program, unless an active program will not work as provided by this section. If the Division of Adult Correction and Juvenile Justice determines that an active program will not work as provided by this section, then the Division of Adult Correction and Juvenile Justice shall require that the defendant submit to a passive continuous satellite-based program that works within the technological or geographical limitations.

(c) The satellite-based monitoring program shall use a system that provides all of the following:

(1) Time-correlated and continuous tracking of the geographic location of the subject using a global positioning system based on satellite and other location tracking technology.

(2) Reporting of subject's violations of prescriptive and proscriptive schedule or location requirements. Frequency of reporting may range from once a day (passive) to near real-time (active).

(d) The Division of Adult Correction and Juvenile Justice may contract with a single vendor for the hardware services needed to monitor subject offenders and correlate their movements to reported crime incidents. The contract may provide for services necessary to implement or facilitate any of the provisions of this Part. (2006-247, s. 15(a); 2007-213, s. 1; 2007-484, s. 42(b); 2008-117, s. 16; 2011-145, s. 19.1(h); 2015-181, s. 40; 2017-186, s. 2(t).)

§ 14-208.40A. Determination of satellite-based monitoring requirement by court.

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), during the sentencing phase, the district attorney shall present to the court any evidence that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, (iii) the conviction offense was an aggravated offense, (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, or (v) the offense involved the physical, mental, or sexual abuse of a minor. The district attorney shall have no discretion to withhold any evidence required to be submitted to the court pursuant to this subsection.

The offender shall be allowed to present to the court any evidence that the district attorney's evidence is not correct.

(b) After receipt of the evidence from the parties, the court shall determine whether the offender's conviction places the offender in one of the categories described in G.S. 14-208.40(a), and if so, shall make a finding of fact of that determination, specifying whether (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, (iii) the conviction offense was an aggravated offense, (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, or (v) the offense involved the physical, mental, or sexual abuse of a minor.

(c) If the court finds that the offender has been classified as a sexually violent predator, is a recidivist, has committed an aggravated offense, or was convicted of G.S. 14-27.23 or G.S. 14-27.28, the court shall order the offender to enroll in a satellite-based monitoring program for life.

(d) If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of G.S. 14-27.23 or G.S. 14-27.28 and the offender is not a recidivist, the court shall order that the Division of Adult Correction do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have a minimum of 30 days, but not more than 60 days, to complete the risk assessment of the offender and report the results to the court.

(e) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice pursuant to subsection (d) of this section, the court shall determine whether, based on the Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the court. (2007-213, s. 2; 2008-117, s. 16.1; 2011-145, s. 19.1(h); 2015-181, s. 41; 2017-186, s. 2(u).)

§ 14-208.40B. Determination of satellite-based monitoring requirement in certain circumstances.

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), and there has been no determination by a court on whether the offender

shall be required to enroll in satellite-based monitoring, the Division of Adult Correction and Juvenile Justice shall make an initial determination on whether the offender falls into one of the categories described in G.S. 14-208.40(a).

(b) If the Division of Adult Correction and Juvenile Justice determines that the offender falls into one of the categories described in G.S. 14-208.40(a), the district attorney, representing the Division of Adult Correction and Juvenile Justice, shall schedule a hearing in superior court for the county in which the offender resides. The Division of Adult Correction and Juvenile Justice shall notify the offender of the Division of Adult Correction and Juvenile Justice's determination and the date of the scheduled hearing by certified mail sent to the address provided by the offender pursuant to G.S. 14-208.7. The hearing shall be scheduled no sooner than 15 days from the date the notification is mailed. Receipt of notification shall be presumed to be the date indicated by the certified mail receipt. Upon the court's determination that the offender is indigent and entitled to counsel, the court shall assign counsel to represent the offender at the hearing pursuant to rules adopted by the Office of Indigent Defense Services.

(c) At the hearing, the court shall determine if the offender falls into one of the categories described in G.S. 14-208.40(a). The court shall hold the hearing and make findings of fact pursuant to G.S. 14-208.40A.

If the court finds that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, (iii) the conviction offense was an aggravated offense, or (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, the court shall order the offender to enroll in satellite-based monitoring for life.

If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of G.S. 14-27.23 or G.S. 14-27.28, and the offender is not a recidivist, the court shall order that the Division of Adult Correction and Juvenile Justice do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have a minimum of 30 days, but not more than 60 days, to complete the risk assessment of the offender and report the results to the court. The Division of Adult Correction and Juvenile Justice may use a risk assessment of the offender done within six months of the date of the hearing.

Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice, the court shall determine whether, based on the Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the court. (2007-213, s. 3; 2007-484, s. 42(b); 2008-117, s. 16.2; 2009-387, s. 4; 2011-145, s. 19.1(h); 2015-181, ss. 42, 47; 2017-186, s. 2(v).)

§ 14-208.40C. Requirements of enrollment.

(a) Any offender required to enroll in satellite-based monitoring pursuant to G.S. 14-208.40A or G.S. 14-208.40B who receives an active sentence shall be enrolled and receive the appropriate equipment immediately upon the offender's release from the Section of Prisons of the Division of Adult Correction and Juvenile Justice.

(b) Any offender required to enroll in satellite-based monitoring pursuant to G.S. 14-208.40A or G.S. 14-208.40B who receives an intermediate punishment shall, immediately upon sentencing, report to the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice for enrollment in the satellite-based monitoring program, and, if necessary, shall return at any time designated by that Division to receive the appropriate equipment. If the intermediate sentence includes a required period of imprisonment, the offender shall not be required to be enrolled in the satellite-based monitoring program during the period of imprisonment.

(c) Any offender required to enroll in satellite-based monitoring pursuant to G.S. 14-208.40A or G.S. 14-208.40B who receives a community punishment shall, immediately upon sentencing, report to the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice for enrollment in the satellite-based monitoring program, and, if necessary, shall return at any time designated by that Section to receive the appropriate equipment. (2007-213, s. 4; 2007-484, s. 42(b); 2011-145, ss. 19.1(j), (k); 2017-186, s. 2(w).)

§ 14-208.41. Enrollment in satellite-based monitoring programs mandatory; length of enrollment.

(a) Any person described by G.S. 14-208.40(a)(1) shall enroll in a satellite-based monitoring program with the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice office in the county where the person resides. The person shall remain enrolled in the satellite-based monitoring program for the registration period imposed under G.S. 14-208.23 which is the person's life, unless the requirement to enroll in the satellite-based monitoring program is terminated pursuant to G.S. 14-208.43.

(b) Any person described by G.S. 14-208.40(a)(2) who is ordered by the court pursuant to G.S. 14-208.40A or G.S. 14-208.40B to enroll in a satellite-based monitoring program shall do so with the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice office in the county where the person resides. The person shall remain enrolled in the satellite-based monitoring program for the period of time ordered by the court.

(c) Any person described by G.S. 14-208.40(a)(3), upon completion of active punishment, shall enroll in a satellite-based monitoring program with the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice office in the county where the person resides. The person shall enroll in the satellite-based monitoring program for the entire period of post-release supervision and shall remain enrolled in the satellite-based monitoring program for the person's life, unless the requirement to enroll in the satellite-based monitoring program is terminated pursuant to G.S. 14-208.43. (2006-247, s. 15(a); 2007-213, s. 13; 2007-484, s. 42(b); 2008-117, s. 17; 2008-187, s. 5; 2011-145, s. 19.1(k); 2017-186, s. 2(x).)

§ 14-208.42. Offenders required to submit to satellite-based monitoring required to cooperate with Division of Adult Correction and Juvenile Justice upon completion of sentence.

Notwithstanding any other provision of law, when an offender is required to enroll in satellite-based monitoring pursuant to G.S. 14-208.40A or G.S. 14-208.40B, upon completion of the offender's sentence and any term of parole, post-release supervision, intermediate punishment, or supervised probation that follows the sentence, the offender shall continue to be enrolled in the satellite-based monitoring program for the period required by G.S. 14-208.40A or G.S. 14-208.40B unless the requirement that the person enroll in a satellite-based monitoring program is terminated pursuant to G.S. 14-208.43.

The Division of Adult Correction and Juvenile Justice shall have the authority to have contact with the offender at the offender's residence or to require the offender to appear at a specific location as needed for the purpose of enrollment, to receive monitoring equipment, to have equipment examined or maintained, and for any other purpose necessary to complete the requirements of the satellite-based monitoring program. The offender shall cooperate with the Division of Adult Correction and Juvenile Justice and the requirements of the satellite-based monitoring program until the offender's requirement to enroll is terminated and the offender has returned all monitoring equipment to the Division of Adult Correction and Juvenile Justice. (2006-247, s. 15(a); 2007-213, s. 5; 2007-484, s. 42(b); 2011-145, s. 19.1(h); 2017-186, s. 2(y).)

§ 14-208.43. Request for termination of satellite-based monitoring requirement.

(a) An offender described by G.S. 14-208.40(a)(1) or G.S. 14-208.40(a)(3) who is required to submit to satellite-based monitoring for the offender's life may file a request for termination of monitoring requirement with the Post-Release Supervision and Parole Commission. The request to terminate the satellite-based monitoring requirement and to terminate the accompanying requirement of unsupervised probation may not be submitted until at least one year after the offender: (i) has served his or her sentence for the offense for which the satellite-based monitoring requirement was imposed, and (ii) has also completed any period of probation, parole, or post-release supervision imposed as part of the sentence.

(b) Upon receipt of the request for termination, the Commission shall review documentation contained in the offender's file and the statewide registry to determine whether the person has complied with the provisions of this Article. In addition, the Commission shall conduct fingerprint-based state and federal criminal history record checks to determine whether the person has been convicted of any additional reportable convictions.

(c) If it is determined that the person has not received any additional reportable convictions during the period of satellite-based monitoring and the person has substantially complied with the provisions of this Article, the Commission may terminate the monitoring requirement if the Commission finds that the person is not likely to pose a threat to the safety of others.

(d) If it is determined that the person has received any additional reportable convictions during the period of satellite-based monitoring or has not substantially complied with the provisions of this Article, the Commission shall not order the termination of the monitoring requirement.

(d1) Notwithstanding the provisions of this section, if the Commission is notified by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety that the offender has been released, pursuant to G.S. 14-208.12A, from the requirement to register under Part 2 of Article 27A of this Chapter, upon request of the offender, the Commission shall order the termination of the monitoring requirement.

(e) The Commission shall not consider any request to terminate a monitoring requirement except as provided by this section. The Commission has no authority to consider or terminate a monitoring requirement for an offender described in G.S. 14-208.40(a)(2). (2006-247, s. 15(a); 2007-213, s. 11; 2007-484, s. 42(b); 2008-117, s. 18; 2011-145, s. 19.1(h); 2017-186, s. 2(z).)

§ 14-208.44. Failure to enroll; tampering with device.

(a) Any person required to enroll in a satellite-based monitoring program who fails to enroll shall be guilty of a Class F felony.

(b) Any person who intentionally tampers with, removes, vandalizes, or otherwise interferes with the proper functioning of a device issued pursuant to a satellite-based monitoring program to a person duly enrolled in the program shall be guilty of a Class E felony.

(c) Any person required to enroll in a satellite-based monitoring program who fails to provide necessary information to the Division of Adult Correction and Juvenile Justice or fails to cooperate with the Division of Adult Correction and Juvenile Justice's guidelines and regulations for the program shall be guilty of a Class 1 misdemeanor.

(d) For purposes of this section, "enroll" shall include appearing, as directed by the Division of Adult Correction and Juvenile Justice to receive the necessary equipment. (2006-247, s. 15(a); 2007-213, s. 6; 2011-145, s. 19.1(h); 2017-186, s. 2(aa).)

§ 14-208.45. Fees.

(a) Except as provided in subsections (b) and (b1) of this section, each person required to enroll pursuant to this Part shall pay a one-time fee of ninety dollars ($90.00). The fee shall be payable to the clerk of superior court, and the fees shall be remitted quarterly to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. This fee is intended to offset only the costs associated with the time-correlated tracking of the geographic location of subjects using the location tracking crime correlation system.

(b) When a court determines a person is required to enroll pursuant to G.S. 14-208.40A or G.S. 14-208.40B, the court may exempt a person from paying the fee required by subsection (a) of this section only for good cause and upon motion of the person required to enroll in satellite-based monitoring. The court may require that the fee be paid

in advance or in a lump sum or sums, and a probation officer may require payment by those methods.

(c) When a person is required to enroll based on a determination by the Division of Adult Correction and Juvenile Justice pursuant to G.S. 14-208.40B, the Division of Adult Correction and Juvenile Justice shall have the authority to exempt the person from paying the fee only for good cause and upon request of the person required to enroll in satellite-based monitoring. The Division of Adult Correction and Juvenile Justice may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by those methods. (2006-247, s. 15(a); 2007-213, s. 12; 2007-484, ss. 42(a), (b); 2011-145, s. 19.1(h); 2017-186, s. 2(bb).)

SUBCHAPTER VIII. OFFENSES AGAINST PUBLIC JUSTICE.

Article 28.

Perjury.

§ 14-209. Punishment for perjury.

If any person shall willfully and corruptly commit perjury, on his oath or affirmation, in any suit, controversy, matter or cause, depending in any of the courts of the State, or in any deposition or affidavit taken pursuant to law, or in any oath or affirmation duly administered of or concerning any matter or thing whereof such person is lawfully required to be sworn or affirmed, every person so offending shall be punished as a Class F felon. (1791, c. 338, s. 1, P.R.; R.C., c. 34, s. 49; Code, s. 1092; Rev., s. 3615; C.S., s. 4364; 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. 1202; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-210. Subornation of perjury.

If any person shall, by any means, procure another person to commit such willful and corrupt perjury as is mentioned in G.S. 14-209, the person so offending shall be punished as a Class I felon. (1791, c. 338, s. 2, P.R.; R.C., c. 34, s. 50; Code, s. 1093; Rev., s. 3616; C.S., s. 4365; 1993, c. 539, s. 1203; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-211. Perjury before legislative committees.

If any person shall willfully and corruptly swear falsely to any fact material to the investigation of any matter before any committee or commission of either house of the General Assembly, he shall be subject to all the pains and penalties of willful and corrupt perjury, and, on conviction in the Superior Court of Wake County, shall be punished as a Class I felon. (1869-70, c. 5, s. 4; Code, s. 2857; Rev., s. 3611; C.S., s. 4366; 1977, c. 344, s. 4; 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. 1204; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-212: Repealed by Session Laws 1994, Extra Session, c. 14, s. 71(7).

§§ 14-213 through 14-216: Repealed by Session Laws 1989 (Reg. Sess., 1990), c. 1054, s. 6.

Article 29.

Bribery.

§ 14-217. Bribery of officials.

(a) If any person holding office, or who has filed a notice of candidacy for or been nominated for such office, under the laws of this State who, except in payment of his legal salary, fees or perquisites, shall receive, or consent to receive, directly or indirectly, anything of value or personal advantage, or the promise thereof, for performing or omitting to perform any official act, which lay within the scope of his official authority and was connected with the discharge of his official and legal duties, or with the express or implied understanding that his official action, or omission to act, is to be in any degree influenced thereby, he shall be punished as a Class F felon.

(b) Indictments issued under these provisions shall specify:

(1) The thing of value or personal advantage sought to be obtained; and

(2) The specific act or omission sought to be obtained; and

(3) That the act or omission sought to be obtained lay within the scope of the defendant's official authority and was connected with the discharge of his official and legal duties.

(c) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 539, s. 1207.

(d) For purposes of this section, a thing of value or personal advantage shall include a campaign contribution made or received under Article 23 of Chapter 163A of the General Statutes. (1868-9, c. 176, s. 2; Code, s. 991; Rev., s. 3568; C.S., s. 4372; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1983 (Reg. Sess., 1984), c. 1050, s. 1; 1993, c. 539, ss. 1206, 1207; 1994, Ex. Sess., c. 24, s. 14(c); 2010-169, s. 3(a); 2017-6, s.3.)

§ 14-218. Offering bribes.

If any person shall offer a bribe, whether it be accepted or not, he shall be punished as a Class F felon. (1870-1, c. 232; Code, s. 992; Rev., s. 3569; C.S., s. 4373; 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. 1208; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-219. Repealed by Session Laws 1983, c. 780, s. 1.

§ 14-220. Bribery of jurors.

If any juror, either directly or indirectly, shall take anything from the plaintiff or defendant in a civil suit, or from any defendant in a State prosecution, or from any other person, to give his verdict, every such juror, and the person who shall give such juror any fee or reward to influence his verdict, or induce or procure him to make any gain or profit by his verdict, shall be punished as a Class F felon. (5 Edw. III, c. 10; 34 Edw. III, c. 8; 38 Edw. III, c. 12; R.C., c. 34, s. 34; Code, s. 990; Rev., s. 3697; C.S., s. 4375; 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. 1209; 1994, Ex. Sess., c. 24, s. 14(c).)

Article 30.

Obstructing Justice.

§ 14-221. Breaking or entering jails with intent to injure prisoners.

If any person shall conspire to break or enter any jail or other place of confinement of prisoners charged with crime or under sentence, for the purpose of killing or otherwise injuring any prisoner confined therein; or if any person shall engage in breaking or entering any such jail or other place of confinement of such prisoners with intent to kill or injure any prisoner, he shall be punished as a Class F felon. (1893, c. 461, s. 1; Rev., s. 3698; C.S., s. 4376; 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. 1210; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-221.1. Altering, destroying, or stealing evidence of criminal conduct.

Any person who breaks or enters any building, structure, compartment, vehicle, file, cabinet, drawer, or any other enclosure wherein evidence relevant to any criminal offense or court proceeding is kept or stored with the purpose of altering, destroying or stealing such evidence; or any person who alters, destroys, or steals any evidence relevant to any criminal offense or court proceeding shall be punished as a Class I felon.

As used in this section, the word evidence shall mean any article or document in the possession of a law-enforcement officer or officer of the General Court of Justice being retained for the purpose of being introduced in evidence or having been introduced in evidence or being preserved as evidence. (1975, c. 806, ss. 1, 2; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14.)

§ 14-221.2. Altering court documents or entering unauthorized judgments.

Any person who without lawful authority intentionally enters a judgment upon or materially alters or changes any criminal or civil process, criminal or civil pleading, or other official case record is guilty of a Class H felony. (1979, c. 526; 1979, 2nd Sess., c. 1316, s. 14; 1981, c. 63, s. 1; c. 179, s. 14.)

§ 14-222: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 767, s. 30(12).

§ 14-223. Resisting officers.

If any person shall willfully and unlawfully resist, delay or obstruct a public officer in discharging or attempting to discharge a duty of his office, he shall be guilty of a Class 2 misdemeanor. (1889, c. 51, s. 1; Rev., s. 3700; C.S., s. 4378; 1969, c. 1224, s. 1; 1993, c. 539, s. 136; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-224. Repealed by Session Laws 1973, c. 1286, s. 26.

§ 14-225. False reports to law enforcement agencies or officers.

(a) Except as provided in subsection (b) of this section, any person who shall willfully make or cause to be made to a law enforcement agency or officer any false, deliberately misleading or unfounded report, for the purpose of interfering with the operation of a law enforcement agency, or to hinder or obstruct any law enforcement officer in the performance of his duty, shall be guilty of a Class 2 misdemeanor.

(b) A violation of subsection (a) of this section is punishable as a Class H felony if the false, deliberately misleading, or unfounded report relates to a law enforcement investigation involving the disappearance of a child as that term is defined in G.S. 14-318.5 or child victim of a Class A, B1, B2, or C felony offense. For purposes of this subsection, a child is any person who is less than 16 years of age. (1941, c. 363; 1969, c. 1224, s. 3; 1993, c. 539, s. 137; 1994, Ex. Sess., c. 23, ss. 1-3; c. 24, s. 14(c); 2013-52, s. 6.)

§ 14-225.1. Picketing or parading.

Any person who, with intent to interfere with, obstruct, or impede the administration of justice, or with intent to influence any justice or judge of the General Court of Justice, juror, witness, district attorney, assistant district attorney, or court officer, in the discharge of his duty, pickets, parades, or uses any sound truck or similar device within 300 feet of an exit from any building housing any court of the General Court of Justice, or within 300 feet of any building or residence occupied or used by such justice, judge, juror, witness, district attorney, assistant district attorney, or court officer, shall upon plea or conviction be guilty of a Class 1 misdemeanor. (1977, c. 266, s. 1; 1993, c. 539, s. 138; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-225.2. Harassment of and communication with jurors.

(a) A person is guilty of harassment of a juror if he:

(1) With intent to influence the official action of another as a juror, harasses, intimidates, or communicates with the juror or his spouse; or

(2) As a result of the prior official action of another as a juror in a grand jury proceeding or trial, threatens in any manner or in any place, or intimidates the former juror or his spouse.

(b) In this section "juror" means a grand juror or a petit juror and includes a person who has been drawn or summoned to attend as a prospective juror.

(c) A person who commits the offense defined in subdivision (a)(1) of this section is guilty of a Class H felony. A person who commits the offense defined in subdivision (a)(2) of this section is guilty of a Class I felony. (1977, c. 711, s. 16; 1979, 2nd Sess., c. 1316, s. 15; 1981, c. 63, s. 1, c. 179, s. 14; 1985, c. 691; 1993, c. 539, s. 1211; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-226. Intimidating or interfering with witnesses.

(a) If any person shall by threats, menaces or in any other manner intimidate or attempt to intimidate any person who is summoned or acting as a witness in any of the courts of this State, or prevent or deter, or attempt to prevent or deter any person summoned or acting as such witness from attendance upon such court, the person shall be guilty of a Class G felony.

(b) A defendant in a criminal proceeding who threatens a witness in the defendant's case with the assertion or denial of parental rights shall be in violation of this section. (1891, c. 87; Rev., s. 3696; C.S., s. 4380; 1977, c. 711, s. 16; 1993, c. 539, s. 1212; 1994, Ex. Sess., c. 24, s. 14(c); 2004-128, s. 15; 2006-264, s. 2; 2011-190, s. 1.)

§ 14-226.1. Violating orders of court.

Any person who shall willfully disobey or violate any injunction, restraining order, or any order lawfully issued by any court for the purpose of maintaining or restoring public safety and

public order, or to afford protection for lives or property during times of a public crisis, disaster, riot, catastrophe, or when such condition is imminent, or for the purpose of preventing and abating disorderly conduct as defined in G.S. 14-288.4 shall be guilty of a Class 3 misdemeanor which may include a fine not to exceed two hundred fifty dollars ($250.00). This section shall not in any manner affect the court's power to punish for contempt. (1969, c. 1128; 1993, c. 539, s. 139; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-226.2. Harassment of participant in neighborhood crime watch program.

Any person who willfully threatens or intimidates an identifiable member or a resident in the same household as the member of a neighborhood crime watch program for the purpose of intimidating or retaliating against that person for the person's participation in a neighborhood crime watch program is guilty of a Class 1 misdemeanor including a fine of at least three hundred dollars ($300.00). It is a violation of this section for a person to threaten or intimidate an identifiable member or a resident in the same household as the member of a neighborhood crime watch program while that member is traveling to or from a neighborhood crime watch meeting, actively participating in a neighborhood crime watch program activity, or actively participating in an ongoing criminal investigation. (2006-181, s. 3.)

§ 14-226.3. Interference with electronic monitoring devices.

(a) For purposes of this section, the term "electronic monitoring device" includes any electronic device that is used to track the location of a person.

(b) It is unlawful for any person to knowingly and without authority remove, destroy, or circumvent the operation of an electronic monitoring device that is being used for the purpose of monitoring a person who is:

(1) Complying with a house arrest program;
(2) Wearing an electronic monitoring device as a condition of bond or pretrial release;
(3) Wearing an electronic monitoring device as a condition of probation;
(4) Wearing an electronic monitoring device as a condition of parole; or
(5) Wearing an electronic monitoring device as a condition of post-release supervision.

(c) It is unlawful for any person to knowingly and without authority request or solicit any other person to remove, destroy, or circumvent the operation of an electronic monitoring device that is being used for the purposes described in subsection (b) of this section.

(d) This section does not apply to persons who are being monitored by an electronic monitoring device pursuant to the provisions of Article 27A of Chapter 14 of the General Statutes, or Chapter 7B of the General Statutes.

(e) Violation of this section by a person who is required to comply with electronic monitoring as a result of a conviction for a criminal offense is a felony one class lower than the most serious underlying felony or a misdemeanor one class lower than the most serious underlying misdemeanor, except that, if the most serious underlying felony is a Class I felony, then violation of this section is a Class A1 misdemeanor. Violation of this section by a person who is required to comply with electronic monitoring as a condition of bond or pretrial release is a Class 1 misdemeanor. Violation of this section by any other person is a Class 2 misdemeanor. (2009-415, s. 1.)

§ 14-227. Failing to attend as witness before legislative committees.

If any person shall willfully fail or refuse to attend or produce papers, on summons of any committee of investigation of either house of the General Assembly, either select or committee of the whole, he shall be guilty of a Class 3 misdemeanor and fined not less than five hundred dollars ($500.00) nor more than one thousand dollars ($1,000). (1869-70, c. 5, s. 2; Code, s. 2854; Rev., s. 3692; C.S., s. 4381; 1993, c. 539, s. 140; 1994, Ex. Sess., c. 24, s. 14(c).)

Article 30A.

Secret Listening.

§ 14-227.1. Secret listening to conference between prisoner and his attorney.

(a) It shall be unlawful for any person willfully to overhear, or procure any other person to overhear, or attempt to overhear any spoken words between a person who is in the physical custody of a law-enforcement agency or other public agency and such person's attorney, by using any electronic amplifying, transmitting, or recording device, or by any similar or other mechanical or electrical device or arrangement, without the consent or knowledge of all persons engaging in the conversation.

(b) No evidence procured in violation of this section shall be admissible over objection against any person participating in such conference in any court in this State. (1967, c. 187, s. 1.)

§ 14-227.2. Secret listening to deliberations of grand or petit jury.

It shall be unlawful for any person willfully to overhear, or procure any other person to overhear, or attempt to overhear the investigations and deliberations of, or the taking of votes by, a grand jury or a petit jury in a criminal case, by using any electronic amplifying, transmitting, or recording device, or by any similar or other mechanical or electrical device or arrangement, without the consent or knowledge of said grand jury or petit jury. (1967, c. 187, s. 1.)

§ 14-227.3. Violation made misdemeanor.

All persons violating the provisions of G.S. 14-227.1 or 14-227.2 shall be guilty of a Class 2 misdemeanor. (1967, c. 187, s. 2; 1969, c. 1224, s. 6; 1993, c. 539, s. 141; 1994, Ex. Sess., c. 24, s. 14(c).)

Article 31.

Misconduct in Public Office.

§ 14-228. Buying and selling offices.

If any person shall bargain away or sell an office or deputation of an office, or any part or parcel thereof, or shall take money, reward or other profit, directly or indirectly, or shall take any promise, covenant, bond or assurance for money, reward or other profit, for an office or the deputation of an office, or any part thereof, which office, or any part thereof, shall touch or concern the administration or execution of justice, or the receipt, collection, control or disbursement of the public revenue, or shall concern or touch any clerkship in any court of record wherein justice is administered; or if any person shall give or pay money, reward or other profit, or shall make any promise, agreement, bond or assurance for any of such offices, or for the deputation of any of

them, or for any part of them, the person so offending in any of the cases aforesaid shall be guilty of a Class I felony. (5, 6 Edw. VI, c. 16, ss. 1, 5; R.C., c. 34, s. 33; Code, s. 998; Rev., s. 3571; C.S., s. 4382; 1993, c. 539, s. 1213; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-229. Acting as officer before qualifying as such.

If any officer shall enter on the duties of his office before he executes and delivers to the authority entitled to receive the same the bonds required by law, and qualifies by taking and subscribing and filing in the proper office the oath of office prescribed, he shall be guilty of a Class 1 misdemeanor and shall be ejected from his office. (Code, s. 79; Rev., s. 3565; C.S., s. 4383; 1999-408, s. 2.)

§ 14-230. Willfully failing to discharge duties.

(a) If any clerk of any court of record, sheriff, magistrate, school board member, county commissioner, county surveyor, coroner, treasurer, or official of any of the State institutions, or of any county, city or town, shall willfully omit, neglect or refuse to discharge any of the duties of his office, for default whereof it is not elsewhere provided that he shall be indicted, he shall be guilty of a Class 1 misdemeanor. If it shall be proved that such officer, after his qualification, willfully and corruptly omitted, neglected or refused to discharge any of the duties of his office, or willfully and corruptly violated his oath of office according to the true intent and meaning thereof, such officer shall be guilty of misbehavior in office, and shall be punished by removal therefrom under the sentence of the court as a part of the punishment for the offense.

(b) No magistrate recusing in accordance with G.S. 51-5.5 may be charged under this section for recusal to perform marriages in accordance with Chapter 51 of the General Statutes. (1901, c. 270, s. 2; Rev., s. 3592; C.S., s. 4384; 1943, c. 347; 1973, c. 108, s. 5; 1993, c. 539, s. 142; 1994, Ex. Sess., c. 24, s. 14(c); 2009-107, s. 1; 2015-75, s. 2.)

§ 14-231. Failing to make reports and discharge other duties.

If any State or county officer shall fail, neglect or refuse to make, file or publish any report, statement or other paper, or to deliver to his successor all books and other property belonging to his office, or to pay over or deliver to the proper person all moneys which come into his hands by virtue or color of his office, or to discharge any duty devolving upon him by virtue of his office and required of him by law, he shall be guilty of a Class 1 misdemeanor. (Rev., s. 3576; C.S., s. 4385; 1993, c. 539, s. 143; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-232. Swearing falsely to official reports.

If any clerk, sheriff, register of deeds, county commissioner, county treasurer, magistrate or other county officer shall willfully swear falsely to any report or statement required by law to be made or filed, concerning or touching the county, State or school revenue, he shall be guilty of a Class 1 misdemeanor. (1874-5, c. 151, s. 4; 1876-7, c. 276, s. 4; Code, s. 731; Rev., s. 3605; C.S., s. 4386; 1973, c. 108, s. 6; 1993, c. 539, s. 144; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-233. Making of false report by bank examiners; accepting bribes.

If any bank examiner shall knowingly and willfully make any false or fraudulent report of the condition of any bank, which shall have been examined by him, with the intent to aid or abet the

officers, owners, or agents of such bank in continuing to operate an insolvent bank, or if any such examiner shall keep or accept any bribe or gratuity given for the purpose of inducing him not to file any report of examination of any bank made by him, or shall neglect to make an examination of any bank by reason of having received or accepted any bribe or gratuity, he shall be punished as a Class I felon. (1903, c. 275, s. 24; Rev., s. 3324; 1921, c. 4, s. 79; C.S., s. 4387; 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. 1214; 1994, Ex. Sess., c. 24, s. 14 (c).)

§ 14-234. Public officers or employees benefiting from public contracts; exceptions.

(a) (1) No public officer or employee who is involved in making or administering a contract on behalf of a public agency may derive a direct benefit from the contract except as provided in this section, or as otherwise allowed by law.

(2) A public officer or employee who will derive a direct benefit from a contract with the public agency he or she serves, but who is not involved in making or administering the contract, shall not attempt to influence any other person who is involved in making or administering the contract.

(3) No public officer or employee may solicit or receive any gift, favor, reward, service, or promise of reward, including a promise of future employment, in exchange for recommending, influencing, or attempting to influence the award of a contract by the public agency he or she serves.

(a1) For purposes of this section:

(1) As used in this section, the term "public officer" means an individual who is elected or appointed to serve or represent a public agency, other than an employee or independent contractor of a public agency.

(2) A public officer or employee is involved in administering a contract if he or she oversees the performance of the contract or has authority to make decisions regarding the contract or to interpret the contract.

(3) A public officer or employee is involved in making a contract if he or she participates in the development of specifications or terms or in the preparation or award of the contract. A public officer is also involved in making a contract if the board, commission, or other body of which he or she is a member takes action on the contract, whether or not the public officer actually participates in that action, unless the contract is approved under an exception to this section under which the public officer is allowed to benefit and is prohibited from voting.

(4) A public officer or employee derives a direct benefit from a contract if the person or his or her spouse: (i) has more than a ten percent (10%) ownership or other interest in an entity that is a party to the contract; (ii) derives any income or commission directly from the contract; or (iii) acquires property under the contract.

(5) A public officer or employee is not involved in making or administering a contract solely because of the performance of ministerial duties related to the contract.

(b) Subdivision (a)(1) of this section does not apply to any of the following:

(1) Any contract between a public agency and a bank, banking institution, savings and loan association, or with a public utility regulated under the provisions of Chapter 62 of the General Statutes.

(2) An interest in property conveyed by an officer or employee of a public agency under a judgment, including a consent judgment, entered by a superior court judge in a condemnation proceeding initiated by the public agency.

(3) Any employment relationship between a public agency and the spouse of a public officer of the agency.

(3a) Any employment relationship between a local board of education and the spouse of the superintendent of that local school administrative unit, if that employment relationship has been approved by that board in an open session meeting pursuant to the board's policy adopted as provided in G.S. 115C-47(17a).

(4) Remuneration from a public agency for services, facilities, or supplies furnished directly to needy individuals by a public officer or employee of the agency under any program of direct public assistance being rendered under the laws of this State or the United States to needy persons administered in whole or in part by the agency if: (i) the programs of public assistance to needy persons are open to general participation on a nondiscriminatory basis to the practitioners of any given profession, professions or occupation; (ii) neither the agency nor any of its employees or agents, have control over who, among licensed or qualified providers, shall be selected by the beneficiaries of the assistance; (iii) the remuneration for the services, facilities or supplies are in the same amount as would be paid to any other provider; and (iv) although the public officer or employee may participate in making determinations of eligibility of needy persons to receive the assistance, he or she takes no part in approving his or her own bill or claim for remuneration.

(b1) No public officer who will derive a direct benefit from a contract entered into under subsection (b) of this section may deliberate or vote on the contract or attempt to influence any other person who is involved in making or administering the contract.

(c) through (d) Repealed by Session Laws 2001-409, s. 1, effective July 1, 2002.

(d1) Subdivision (a)(1) of this section does not apply to (i) any elected official or person appointed to fill an elective office of a village, town, or city having a population of no more than 15,000 according to the most recent official federal census, (ii) any elected official or person appointed to fill an elective office of a county within which there is located no village, town, or city with a population of more than 15,000 according to the most recent official federal census, (iii) any elected official or person appointed to fill an

elective office on a city board of education in a city having a population of no more than 15,000 according to the most recent official federal census, (iv) any elected official or person appointed to fill an elective office as a member of a county board of education in a county within which there is located no village, town or city with a population of more than 15,000 according to the most recent official federal census, (v) any physician, pharmacist, dentist, optometrist, veterinarian, or nurse appointed to a county social services board, local health board, or area mental health, developmental disabilities, and substance abuse board serving one or more counties within which there is located no village, town, or city with a population of more than 15,000 according to the most recent official federal census, and (vi) any member of the board of directors of a public hospital if all of the following apply:

(1) The undertaking or contract or series of undertakings or contracts between the village, town, city, county, county social services board, county or city board of education, local health board or area mental health, developmental disabilities, and substance abuse board, or public hospital and one of its officials is approved by specific resolution of the governing body adopted in an open and public meeting, and recorded in its minutes and the amount does not exceed twenty thousand dollars ($20,000) for medically related services and forty thousand dollars ($40,000) for other goods or services within a 12-month period.

(2) The official entering into the contract with the unit or agency does not participate in any way or vote.

(3) The total annual amount of contracts with each official, shall be specifically noted in the audited annual financial statement of the village, town, city, or county.

(4) The governing board of any village, town, city, county, county social services board, county or city board of education, local health board, area mental health, developmental disabilities, and substance abuse board, or public hospital which contracts with any of the officials of their governmental unit shall post in a conspicuous place in its village, town, or city hall, or courthouse, as the case may be, a list of all such officials with whom such contracts have been made, briefly describing the subject matter of the undertakings or contracts and showing their total amounts; this list shall cover the preceding 12 months and shall be brought up-to-date at least quarterly.

(d2) Subsection (d1) of this section does not apply to contracts that are subject to Article 8 of Chapter 143 of the General Statutes, Public Building Contracts.

(d3) Subsection (a) of this section does not apply to an application for or the receipt of a grant under the Agriculture Cost Share Program for Nonpoint Source Pollution Control created pursuant to Article 72 of Chapter 106 of the General Statutes, the Community Conservation Assistance Program created pursuant to Article 73 of Chapter 106 of the General Statutes, or the Agricultural Water Resources Assistance Program created pursuant to Article 5 of Chapter 139 of the General Statutes by a member of the Soil and

Water Conservation Commission if the requirements of G.S. 139-4(e) are met, and does not apply to a district supervisor of a soil and water conservation district if the requirements of G.S. 139-8(b) are met.

(d4) Subsection (a) of this section does not apply to an application for, or the receipt of a grant or other financial assistance from, the Tobacco Trust Fund created under Article 75 of Chapter 143 of the General Statutes by a member of the Tobacco Trust Fund Commission or an entity in which a member of the Commission has an interest provided that the requirements of G.S. 143-717(h) are met.

(d5) This section does not apply to a public hospital subject to G.S. 131E-14.2 or a public hospital authority subject to G.S. 131E-21.

(d6) Repealed by Session Laws 2016-126, 4th Ex. Sess., s. 13, effective January 1, 2017.

(e) Anyone violating this section shall be guilty of a Class 1 misdemeanor.

(f) A contract entered into in violation of this section is void. A contract that is void under this section may continue in effect until an alternative can be arranged when: (i) immediate termination would result in harm to the public health or welfare, and (ii) the continuation is approved as provided in this subsection. A public agency that is a party to the contract may request approval to continue contracts under this subsection as follows:

(1) Local governments, as defined in G.S. 159-7(15), public authorities, as defined in G.S. 159-7(10), local school administrative units, and community colleges may request approval from the chair of the Local Government Commission.

(2) All other public agencies may request approval from the State Director of the Budget.

Approval of continuation of contracts under this subsection shall be given for the minimum period necessary to protect the public health or welfare. (1825, c. 1269, P.R.; 1826, c. 29; R.C., c. 34, s. 38; Code, s. 1011; Rev., s. 3572; C.S., s. 4388; 1929, c. 19, s. 1; 1969, c. 1027; 1975, c. 409; 1977, cc. 240, 761; 1979, c. 720; 1981, c. 103, ss. 1, 2, 5; 1983, c. 544, ss. 1, 2; 1985, c. 190; 1987, c. 570; 1989, c. 231; 1991 (Reg. Sess., 1992), c. 1030, s. 5; 1993, c. 539, s. 145; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 519, s. 4; 2000-147, s. 6; 2001-409, s. 1; 2001-487, ss. 44(a), 44(b), 45; 2002-159, s. 28; 2006-78, s. 2; 2009-2, s. 2; 2009-226, s. 1; 2010-169, s. 2(a); 2011-145, ss. 13.22A(dd), 13.23(b); 2016-126, 4th Ex. Sess., s. 13; 2018-26, s. 1.)

§ 14-234.1. Misuse of confidential information.

(a) It is unlawful for any officer or employee of the State or an officer or an employee of any of its political subdivisions, in contemplation of official action by himself or by a governmental unit with which he is associated, or in reliance on information which was made known to him in his official capacity and which has not been made public, to commit any of the following acts:

(1) Acquire a pecuniary interest in any property, transaction, or enterprise or gain any pecuniary benefit which may be affected by such information or official action; or

(2) Intentionally aid another to do any of the above acts.

(b) Violation of this section is a Class 1 misdemeanor. (1987, c. 616; 1993, c. 539, s. 146; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-235: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(11).

§ 14-236: Repealed by Session Laws 2001-409, ss. 2, 3, effective July 1, 2002.

§ 14-237: Repealed by Session Laws 2001-409, ss. 2, 3, effective July 1, 2002.

§ 14-238. Soliciting during school hours without permission of school head.

No person, agent, representative or salesman shall solicit or attempt to sell or explain any article of property or proposition to any teacher or pupil of any public school on the school grounds or during the school day without having first secured the written permission and consent of the superintendent, principal or person actually in charge of the school and responsible for it.

Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. (1933, c. 220; 1969, c. 1224, s. 8; 1993, c. 539, s. 149; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-239. Allowing prisoners to escape; punishment.

If any sheriff, deputy sheriff, jailer, or other custodial personnel shall willfully or wantonly allow the escape of any person committed to that person's custody who is (i) a person charged with a crime, (ii) a person sentenced by the court upon conviction of any offense, or (iii) committed to the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, that person shall be guilty of a Class 1 misdemeanor. No prosecution shall be brought against any such officer pursuant to this section by reason of a prisoner being allowed to participate pursuant to court order in any work release, work study, community service, or other lawful program, or by reason of any such prisoner failing to return from participation in any such program. (1791, c. 343, s. 1, P.R.; R.C., c. 34, s. 35; Code, s. 1022; 1905, c. 350; Rev., s. 3577; C.S., s. 4393; 1973, c. 108, s. 7; 1983, c. 694; 1993, c. 539, s. 150; 1994, Ex. Sess., c. 24, s. 14(c); 2003-297, s. 1; 2011-145, s. 19.1(*l*); 2017-186, s. 2(cc).)

§ 14-240. District attorney to prosecute officer for escape.

It shall be the duty of district attorneys, when they shall be informed or have knowledge of any felon, or person otherwise charged with any crime or offense against the State, having within their respective districts escaped out of the custody of any sheriff, deputy sheriff, coroner, or jailer, to take the necessary measures to prosecute such sheriff or other officer so offending. (1791, c. 343, s. 2, P.R.; R.C., c. 34, s. 36; Code, s. 1023; Rev., s. 2822; C.S., s. 4394; 1973, c. 47, s. 2; c. 108, s. 8.)

§ 14-241. Disposing of public documents or refusing to deliver them over to successor.

It shall be the duty of the clerk of the superior court of each county, and every other person to whom the acts of the General Assembly, appellate division reports or other public documents are transmitted or deposited for the use of the county or the State, to keep the same safely in their respective offices; and if any such person having the custody of such

books and documents, for the uses aforesaid, shall negligently and willfully dispose of the same, by sale or otherwise, or refuse to deliver over the same to his successor in office, he shall be guilty of a Class 1 misdemeanor. If the clerk of superior court or other custodian determines that the acts of the General Assembly or the appellate division reports no longer are necessary to the effective operation of his or her office, the clerk or other custodian may transfer these materials to the proper recipient for disposition as surplus State property or as otherwise directed by the State Surplus Property Agency of the Department of Administration. (1881, c. 151; Code, s. 1073; Rev., s. 3598; C.S., s. 4395; 1969, c. 44, s. 26; 1993, c. 539, s. 151; 1994, Ex. Sess., c. 24, s. 14(c); 2015-40, s. 2.)

§ 14-242. Failing to return process or making false return.

If any sheriff, deputy, or other officer, whether State or municipal, or any person who presumes to act as any such officer, not being by law authorized so to do, willfully refuses to return any precept, notice or process, to him tendered or delivered, which it is his duty to execute, or willfully makes a false return thereon, the person who willfully refused to make the return or willfully made the false return shall be guilty of a Class 1 misdemeanor. (1818, c. 980, s. 3, P.R.; 1827, c. 20, s. 4; R.C., c. 34, s. 118; Code, s. 1112; Rev., s. 3604; C.S., s. 4396; 1989, c. 462; 1993, c. 539, s. 152; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-243. Failing to surrender tax list for inspection and correction.

If any tax collector shall refuse or fail to surrender his tax list for inspection or correction upon demand by the authorities imposing the tax, or their successors in office, he shall be guilty of a Class 1 misdemeanor. (1870-1, c. 177, s. 2; Code, s. 3823; Rev., s. 3788; C.S., s. 4397; 1983, c. 670, s. 23; 1993, c. 539, s. 153; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-244. Failing to file report of fines or penalties.

If any officer who is by law required to file any report or statement of fines or penalties with the county board of education shall fail so to do at or before the time fixed by law for the filing of such report, he shall be guilty of a Class 1 misdemeanor. (1901, c. 4, s. 62; Rev., s. 3579; C.S., s. 4398; 1993, c. 539, s. 154; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-245. Repealed by Session Laws 1973, c. 108, s. 9.

§ 14-246. Failure of ex-magistrate to turn over books, papers and money.

If any magistrate, on expiration of his term of office, or if any personal representative of a deceased magistrate shall, after demand upon him by the clerk of the superior court, willfully fail and refuse to deliver to the clerk of the superior court all dockets, all law and other books, all money, and all official papers which came into his hands by virtue or color of his office, he shall be guilty of a Class 1 misdemeanor. (Code, ss. 828, 829; 1885, c. 402; Rev., s. 3578; C.S., s. 4399; 1973, c. 108, s. 10; 1993, c. 539, s. 155; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-247. Private use of publicly owned vehicle.

It shall be unlawful for any officer, agent or employee of the State of North Carolina, or of any county or of any institution or agency of the State, to use for any private purpose whatsoever any motor vehicle of any type or description whatsoever belonging to the State, or to any county, or to

any institution or agency of the State. It is not a private purpose to drive a permanently assigned state-owned motor vehicle between one's official work station and one's home as provided in G.S. 143-341(8)i7a.

It shall be unlawful for any person to violate a rule or regulation adopted by the Department of Administration and approved by the Governor concerning the control of all state-owned passenger motor vehicles as provided in G.S. 143-341(8)i with the intent to defraud the State of North Carolina. (1925, c. 239, s. 1; 1981, c. 859, ss. 52, 53; 1983, c. 717, s. 75.)

§ 14-248. Obtaining repairs and supplies for private vehicle at expense of State.

It shall be unlawful for any officer, agent or employee to have any privately owned motor vehicle repaired at any garage belonging to the State or to any county, or any institution or agency of the State, or to use any tires, oils, gasoline or other accessories purchased by the State, or any county, or any institution or agency of the State, in or on any such private car. (1925, c. 239, s. 2.)

§ 14-249. Repealed by Session Laws 1981, c. 268, s. 1.

§ 14-250: Repealed by Session Laws 2001-424, s. 6.14(d).

§ 14-251. Violation made misdemeanor.

Any person, firm or corporation violating any of the provisions of G.S. 14-247 to 14-250 shall be guilty of a Class 2 misdemeanor. Nothing in G.S. 14-247 through 14-251 shall apply to the purchase, use or upkeep or expense account of the car for the executive mansion and the Governor. (1925, c. 239, s. 5; 1969, c. 1224, s. 16; 1993, c. 539, s. 156; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-252. Five preceding sections applicable to cities and towns.

General Statutes 14-247 through 14-251 in every respect shall also apply to cities and incorporated towns. (1931, c. 31.)

Article 32.

Misconduct in Private Office.

§ 14-253. Failure of certain railroad officers to account with successors.

If the president and directors of any railroad company, and any person acting under them, shall, upon demand, fail or refuse to account with the president and directors elected or appointed to succeed them, and to transfer to them forthwith all the money, books, papers, choses in action, property and effects of every kind and description belonging to such company, they shall be guilty of a Class I felony. The Governor is hereby authorized, at the request of the president, directors and other officers of any railroad company, to make requisition upon the governor of any other state for the apprehension of any such president failing to comply with this section. (1870-1, c. 72, ss. 1-3; Code, ss. 2001, 2002; Rev., s. 3760; C.S., s. 4400; 1993, c. 539, ss. 157, 1215; 1993 (Reg. Sess., 1994), c. 767, s. 20.)

§ 14-254. Malfeasance of corporation officers and agents.

(a) If any president, director, cashier, teller, clerk or agent of any corporation shall embezzle, abstract or willfully misapply any of the moneys, funds or credits of the corporation, or

shall, without authority from the directors, issue or put forth any certificate of deposit, draw any order or bill of exchange, make any acceptance, assign any note, bond, draft, bill of exchange, mortgage, judgment or decree, or make any false entry in any book, report or statement of the corporation with the intent in either case to injure or defraud or to deceive any person, or if any person shall aid and abet in the doing of any of these things, he shall be punished as a Class H felon.

(b) For purposes of this section, "person" means a natural person, association, consortium, corporation, body politic, partnership, or other group, entity, or organization. (1903, c. 275, s. 15; Rev., s. 3325; C.S., s. 4401; 1977, c. 809, ss. 1, 2; 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. 1216; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-254.5. Definitions.

The following definitions apply in this Article:

(1) Employee. – Any person who is hired or contracted to work for the State or a local government.

(2) Prisoner. – Any person in the custody of (i) the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, (ii) any law enforcement officer, or (iii) any local confinement facility as defined in G.S. 153A-217 or G.S. 153A-230.1, including persons pending trial, appellate review, or presentence diagnostic evaluation. (2018-67, s. 1.)

Article 33.

Prison Breach and Prisoners.

§ 14-255. Escape of working prisoners from custody.

If any prisoner removed from the local confinement facility or satellite jail/work release unit of a county pursuant to G.S. 162-58 shall escape from the person having him in custody or the person supervising him, he shall be guilty of a Class 1 misdemeanor. (1876-7, c. 196, s. 4; Code, s. 3455; Rev., s. 3658; C.S., s. 4403; 1991 (Reg. Sess., 1992), c. 841, s. 2; 1993, c. 539, s. 158; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(r).)

§ 14-256. Prison breach and escape from county or municipal confinement facilities or officers.

If any person shall break any prison, jail or lockup maintained by any county or municipality in North Carolina, being lawfully confined therein, or shall escape from the lawful custody of any superintendent, guard or officer of such prison, jail or lockup, he shall be guilty of a Class 1 misdemeanor, except that the person is guilty of a Class H felony if:

(1) He has been charged with or convicted of a felony and has been committed to the facility pending trial or transfer to the State prison system; or

(2) He is serving a sentence imposed upon conviction of a felony. (1 Edw. II, st. 2d; R.C., c. 34, s. 19; Code, s. 1021; Rev., s. 3657; 1909, c. 872; C.S., s. 4404; 1955, c. 279, s. 1; 1983, c. 455, s. 1; 1993, c. 539, ss. 159, 1217; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(s); 2013-389, s. 3.)

§ 14-256.1. Escape from private correctional facility.

It is unlawful for any person convicted in a jurisdiction other than North Carolina but housed in a private correctional facility located in North Carolina to escape from that facility. Violation of this section is a Class H felony. (1998-212, s. 17.23(a).)

§ 14-257: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(12).

§ 14-258. Providing forbidden articles or tools for escape; possessing tools for escape.

(a) Providing Forbidden Articles or Tools for Escape. – Any person who sells, trades, conveys, or provides any of the following to a prisoner is guilty of a Class H felony:

(1) An article forbidden by prison rules.

(2) A letter, oral message, weapon, tool, good, clothing, device, or instrument, to effect an escape, or aide in an assault or insurrection.

(b) Increased Penalty. – Any violation of subdivision (2) of subsection (a) of this section that does effect an escape, assault, or insurrection is a Class F felony.

(c) Possessing Tools for Escape. – Any prisoner who possesses a letter, weapon, tool, good, article of clothing, device, or instrument to do any of the following is guilty of a Class H felony:

(1) To effect an escape.

(2) Aide in an assault or insurrection.

(d) Application. – The provisions of this section apply to violations committed inside or outside of the prison, jail, detention center, or other confinement facility. (1873-4, c. 158; s. 12; Code, s. 3441; Rev., s. 3662; 1911, c. 11; C.S., s. 4406; 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. 1218; 1994, Ex. Sess., c. 24, s. 14(c); 2018-67, s. 3.)

§ 14-258.1. Furnishing poison, controlled substances, deadly weapons, cartridges, ammunition or alcoholic beverages to inmates of charitable, mental or penal institutions or local confinement facilities; furnishing tobacco products including vapor products; or furnishing mobile phones to inmates or delinquent juveniles.

(a) If any person shall give or sell to any inmate of any charitable, mental or penal institution, or local confinement facility, or if any person shall combine, confederate, conspire, aid, abet, solicit, urge, investigate, counsel, advise, encourage, attempt to procure, or procure another or others to give or sell to any inmate of any charitable, mental or penal institution, or local confinement facility, any deadly weapon, or any cartridge or ammunition for firearms of any kind, or any controlled substances included in Schedules I

through VI contained in Article 5 of Chapter 90 of the General Statutes except under the general supervision of a practitioner, poison or poisonous substance, except upon the prescription of a physician, he shall be punished as a Class H felon; and if he be an officer or employee of any institution of the State, or of any local confinement facility, he shall be dismissed from his position or office.

(b) Any person who shall knowingly give or sell any alcoholic beverages to any inmate of any State mental or penal institution, or to any inmate of any local confinement facility, except for medical purposes as prescribed by a duly licensed physician and except for an ordained minister or rabbi who gives sacramental wine to an inmate as part of a religious service; or any person who shall combine, confederate, conspire, procure, or procure another or others to give or sell any alcoholic beverages to any inmate of any such State institution or local confinement facility, except for medical purposes as prescribed by a duly licensed physician and except for an ordained minister or rabbi who gives sacramental wine to an inmate as part of a religious service; or any person who shall bring into the buildings, grounds or other facilities of such institution any alcoholic beverages, except for medical purposes as prescribed by a duly licensed physician or sacramental wine brought by an ordained minister or rabbi for use as part of a religious service, shall be guilty of a Class 1 misdemeanor. If such person is an officer or employee of any institution of the State, such person shall be dismissed from office.

(c) Any person who knowingly gives or sells any tobacco products, including vapor products, as defined in G.S. 148-23.1, to an inmate in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and on the premises of a correctional facility or to an inmate in the custody of a local confinement facility, or any person who knowingly gives or sells any tobacco products, including vapor products, to a person who is not an inmate for delivery to an inmate in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and on the premises of a correctional facility or to an inmate in the custody of a local confinement facility, other than for authorized religious purposes, is guilty of a Class 1 misdemeanor.

(d) Any person who knowingly gives or sells a mobile telephone or other wireless communications device, or a component of one of those devices, to an inmate in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, to a delinquent juvenile in the custody of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, or to an inmate in the custody of a local confinement facility, or any person who knowingly gives or sells any such device or component to a person who is not an inmate or delinquent juvenile for delivery to an inmate or delinquent juvenile, is guilty of a Class H felony.

For purposes of this subsection, a delinquent juvenile in the custody of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall mean a juvenile confined in a youth development center or a detention facility as defined in G.S. 7B-1501, and shall include transportation of a juvenile to or from confinement.

(e) Any inmate of a local confinement facility who possesses any tobacco product, as defined in G.S. 148-23.1, other than for authorized religious purposes, is guilty of a Class 1 misdemeanor.

(f) Notwithstanding subsection (c) of this section, local confinement facilities may give or sell vapor products or FDA-approved tobacco cessation products, such as over-the-counter nicotine replacement therapies, including nicotine gum, patches, and lozenges, to inmates while in the custody of the local confinement facility.

(g) Any inmate in the custody of the Division of Adult Correction of the Department of Public Safety or an inmate of a local confinement facility who possesses a mobile telephone or other wireless communication device or a component of one of those devices is guilty of a Class H felony. (1961, c. 394, s. 2; 1969, c. 970, s. 6; 1971, c. 929; 1973, c. 1093; 1975, c. 804, ss. 1, 2; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; c. 412, s. 4; c. 747, s. 66; 1989, c. 106; 1993, c. 539, s. 160; 1994, Ex. Sess., c. 24, s. 14(c); 2009-560, s. 3; 2011-145, s. 19.1(h); 2014-3, s. 15.2(b); 2014-115, s. 23(a); 2014-119, s. 5(a); 2015-47, s. 1; 2017-186, s. 2(dd).)

§ 14-258.2. Possession of dangerous weapon in prison.

(a) Any person while in the custody of the Section of Prisons of the Division of Adult Correction and Juvenile Justice, or any person under the custody of any local confinement facility as defined in G.S. 153A-217, who shall have in his possession without permission or authorization a weapon capable of inflicting serious bodily injuries or death, or who shall fabricate or create such a weapon from any source, shall be guilty of a Class H felony; and any person who commits any assault with such weapon and thereby inflicts bodily injury or by the use of said weapon effects an escape or rescue from imprisonment shall be punished as a Class F felon.

(b) A person is guilty of a Class H felony if he assists a prisoner in the custody of the Section of Prisons of the Division of Adult Correction and Juvenile Justice or of any local confinement facility as defined in G.S. 153A-217 in escaping or attempting to escape and:

(1) In the perpetration of the escape or attempted escape he commits an assault with a deadly weapon and inflicts bodily injury; or

(2) By the use of a deadly weapon he effects the escape of the prisoner. (1975, c. 316, s. 1; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1983, c. 455, s. 2; 1993, c. 539, s. 1219; 1994, Ex. Sess., c. 24, s. 14(c); 2011-145, s. 19.1(j); 2017-186, ss. 2(ee), 3(a).)

§ 14-258.3. Taking of hostage, etc., by prisoner.

Any prisoner in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, including persons in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety pending trial or appellate review or for presentence diagnostic evaluation, or any prisoner in the custody of any local confinement facility (as defined in G.S. 153A-217), or any person in the custody of any local confinement facility (as defined in G.S. 153A-217) pending trial or appellate

review or for any lawful purpose, who by threats, coercion, intimidation or physical force takes, holds, or carries away any person, as hostage or otherwise, shall be punished as a Class F felon. The provisions of this section apply to: (i) violations committed by any prisoner in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, whether inside or outside of the facilities of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety; (ii) violations committed by any prisoner or by any other person lawfully under the custody of any local confinement facility (as defined in G.S. 153A-217), whether inside or outside the local confinement facilities (as defined in G.S. 153A-217). (1975, c. 315; 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. 1220; 1994, Ex. Sess., c. 24, s. 14(c); 2011-145, s. 19.1(h); 2012-83, s. 19; 2017-186, s. 2(ff).)

§ 14-258.4. Malicious conduct by prisoner.

(a) Any prisoner who knowingly and willfully throws, emits, or causes to be used as a projectile, any bodily fluids, excrement, or unknown substance at an employee, while the employee is in the performance of the employee's duties, is guilty of a Class F felony.

(b) Any prisoner who knowingly and willfully exposes genitalia to an employee while the employee is in the performance of the employee's duties is guilty of a Class I felony.

(c) The provisions of this section apply to violations committed inside or outside of the prison, jail, detention center, or other confinement facility.

(d) Sentences imposed under this Article shall run consecutively to and shall commence at the expiration of any sentence being served by the person sentenced under this section. (2001-360, s. 1; 2011-145, ss. 19.1(h), (l); 2017-186, s. 2(gg); 2018-67, s. 2.)

§ 14-258.7. Annual reports of violations.

(a) The Department of Public Safety and Juvenile Justice shall report the following to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by March 15 of each year:

(1) The number of incidents of any violation of this Article, G.S. 14-34.5(b), 14-34.7(b), or 14-34.7(c)(2) involving an employee or contractor of a detention facility operated by the State.

(2) The nature of the resolution of every incident of any violation of this Article, G.S. 14-34.5(b), 14-34.7(b), or 14-34.7(c)(2) involving an employee or contractor of a detention facility operated by the State.

(b) The Conference of District Attorneys shall report the following to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by March 15 of each year:

(1) The number of criminal charges pursuant to this Article, G.S. 14-34.5(b), 14-34.7(b), or 14-34.7(c)(2) that resulted in trial.

(2) The number of criminal charges pursuant to this Article, G.S. 14-34.5(b), 14-34.7(b), or 14-34.7(c)(2) that were resolved by a plea to a lesser-included offense.

(3) The number of criminal charges pursuant to this Article, G.S. 14-34.5(b), 14-34.7(b), or 14-34.7(c)(2) that were resolved by a voluntary dismissal or other discretionary action that effectively dismissed or reduced the original charge.

(c) The Administrative Office of the Courts shall report the following to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by March 15 of each year:

(1) The number of violations of this Article, G.S. 14-34.5(b), 14-34.7(b), and 14-34.7(c)(2) charged.

(2) The number of violations of this Article, G.S. 14-34.5(b), 14-34.7(b), and 14-34.7(c)(2) that ended in a conviction.

(3) The number of violations of this Article, G.S. 14-34.5(b), 14-34.7(b), and 14-34.7(c)(2) that were dismissed. (2018-67, s. 1.2.)

§ 14-259. Harboring or aiding certain persons.

It shall be unlawful for any person knowing or having reasonable cause to believe, that any person has escaped from any prison, jail, reformatory, or from the criminal insane department of any State hospital, or from the custody of any peace officer who had such person in charge, or that such person is a convict or prisoner whose parole has been revoked, or that such person is a fugitive from justice or is otherwise the subject of an outstanding warrant for arrest or order of arrest, to conceal, hide, harbor, feed, clothe or otherwise aid and comfort in any manner to any such person. Fugitive from justice shall, for the purpose of this provision, mean any person who has fled from any other jurisdiction to avoid prosecution for a crime.

Every person who shall conceal, hide, harbor, feed, clothe, or offer aid and comfort to any other person in violation of this section shall be guilty of a felony, if such other person has been convicted of, or was in custody upon the charge of a felony, and shall be punished as a Class I felon; and shall be guilty of a Class 1 misdemeanor, if such other person had been convicted of, or was in custody upon a charge of a misdemeanor, and shall be punished in the discretion of the court.

The provisions of this section shall not apply to members of the immediate family of such person. For the purposes of this section "immediate family" shall be defined to be the mother, father, brother, sister, wife, husband and child of said person. (1939, c. 72; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1983, c. 564, ss. 1-3; 1993, c. 539, s. 161; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-260: Recodified as § 162-55 by Session Laws 1983, c. 631, s. 1.

§ 14-261: Recodified as § 162-56 by Session Laws 1983, c. 631, s. 2.

§ 14-262. Repealed by Session Laws 1975, c. 402.

§ 14-263. Repealed by Session Laws 1979, c. 760, s. 4.

§ 14-264: Recodified as § 162-57 by Session Laws 1983, c. 631, s. 3.

§ 14-265. Repealed by Session Laws 1977, c. 711, s. 33.

Article 34.

Custodial Institutions.

§ 14-266. Persuading inmates to escape.

It shall be unlawful for any parent, guardian, brother, sister, uncle, aunt, or any person whatsoever to persuade or induce to leave, carry away, or accompany from any State institution, except with the permission of the superintendent or other person next in authority, any boy or girl, man or woman, who has been legally committed or admitted under suspended sentence to said institution by juvenile, recorder's, superior or any other court of competent jurisdiction. (1935, c. 307, s. 1; 1937, c. 189, s. 1.)

§ 14-267. Harboring fugitives.

It shall be unlawful for any person to harbor, conceal, or give succor to, any known fugitive from any institution whose inmates are committed by court or are admitted under suspended sentence. (1935, c. 307, s. 2; 1937, c. 189, s. 2.)

§ 14-268. Violation made misdemeanor.

Any person violating the provisions of this Article shall be guilty of a Class 1 misdemeanor. (1935, c. 307, s. 3; 1993, c. 539, s. 162; 1994, Ex. Sess., c. 24, s. 14(c).)

SUBCHAPTER IX. OFFENSES AGAINST THE PUBLIC PEACE.

Article 35.

Offenses Against the Public Peace.

§ 14-269. Carrying concealed weapons.

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

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

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

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

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

(a2) This prohibition does not apply to a person who has a concealed handgun permit issued in accordance with Article 54B of this Chapter, has a concealed handgun permit considered valid under G.S. 14-415.24, or is exempt from obtaining a permit pursuant to G.S. 14-415.25, provided the weapon is a handgun, is in a closed compartment or container within the person's locked vehicle, and the vehicle is in a parking area that is owned or leased by State government. A person may unlock the vehicle to enter or exit the vehicle, provided the handgun remains in the closed compartment at all times and the vehicle is locked immediately following the entrance or exit.

(b) This prohibition shall not apply to the following persons:

(1) Officers and enlisted personnel of the Armed Forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons;

(2) Civil and law enforcement officers of the United States;

(3) Officers and soldiers of the militia and the National Guard when called into actual service;

(3a) A member of the North Carolina National Guard who has been designated in writing by the Adjutant General, State of North Carolina, who has a concealed handgun permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14-415.24, and is acting in the discharge of his or her official duties, provided that the member does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the member's body.

(4) Officers of the State, or of any county, city, town, or company police agency charged with the execution of the laws of the State, when acting in the discharge of their official duties;

(4a) Any person who is a district attorney, an assistant district attorney, or an investigator employed by the office of a district attorney and who has a concealed handgun permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14-415.24; provided that the person shall not carry a concealed weapon at any time while in a courtroom or while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body. The district attorney, assistant district attorney, or investigator shall secure the weapon in a locked compartment when the weapon is not on the person of the district attorney, assistant district attorney, or investigator. Notwithstanding the provisions of this subsection, a district attorney may carry a concealed weapon while in a courtroom;

(4b) Any person who is a qualified retired law enforcement officer as defined in G.S. 14-415.10 and meets any one of the following conditions:

a. Is the holder of a concealed handgun permit in accordance with Article 54B of this Chapter.

b. Is exempt from obtaining a permit pursuant to G.S. 14-415.25.

c. Is certified by the North Carolina Criminal Justice Education and Training Standards Commission pursuant to G.S. 14-415.26;

(4c) Detention personnel or correctional officers employed by the State or a unit of local government who park a vehicle in a space that is authorized for their use in the course of their duties may transport a firearm to the parking space and store that firearm in the vehicle parked in the parking space, provided that: (i) the firearm is in a closed compartment or container within the locked vehicle, or (ii) the firearm is in a locked container securely affixed to the vehicle;

(4d) Any person who is a North Carolina district court judge, North Carolina superior court judge, or a North Carolina magistrate and who has a concealed handgun permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14-415.24; provided that the person shall not carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body. The judge or magistrate shall secure the weapon in a locked compartment when the weapon is not on the person of the judge or magistrate;

(4e) Any person who is serving as a clerk of court or as a register of deeds and who has a concealed handgun permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14-415.24; provided that the person shall not carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body. The clerk of court or register of deeds shall secure the weapon in a locked compartment when the weapon is not on the person of the clerk of court or register of deeds. This subdivision does not apply to assistants, deputies, or other employees of the clerk of court or register of deeds;

(5) Sworn law-enforcement officers, when off-duty, provided that an officer does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body;

(6) State probation or parole certified officers, when off-duty, provided that an officer does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body.

(7) A person employed by the Department of Public Safety who has been designated in writing by the Secretary of the Department, who has a concealed handgun permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14-415.24, and has in the person's possession written proof of the designation by the Secretary of the Department, provided that the person shall not carry a concealed weapon

at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body.

(8) Any person who is an administrative law judge described in Article 60 of Chapter 7A of the General Statutes and who has a concealed handgun permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14-415.24, provided that the person shall not carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body.

(9) State correctional officers, when off-duty, provided that an officer does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body. If the concealed weapon is a handgun, the correctional officer must meet the firearms training standards of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

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

(1) The weapon was not a firearm;

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

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

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

The burden of proving this defense is on the defendant.

(b2) It is a defense to a prosecution under this section that:

(1) The deadly weapon is a handgun;

(2) The defendant is a military permittee as defined under G.S. 14-415.10(2a); and

(3) The defendant provides to the court proof of deployment as defined under G.S. 14-415.10(3a).

(c) Any person violating the provisions of subsection (a) of this section shall be guilty of a Class 2 misdemeanor. Any person violating the provisions of subsection (a1) of this section shall be guilty of a Class 2 misdemeanor for the first offense and a Class H felony for a second or subsequent offense. A violation of subsection (a1) of this section punishable under G.S. 14-415.21(a) is not punishable under this section.

(d) This section does not apply to an ordinary pocket knife carried in a closed position. As used in this section, "ordinary pocket knife" means a small knife, designed for carrying in a pocket or purse, that has its cutting edge and point entirely enclosed by its handle, and that may not be opened by a throwing, explosive, or spring action. (Code, s. 1005; Rev., s. 3708; 1917, c. 76; 1919, c. 197, s. 8; C.S., s. 4410; 1923, c. 57; Ex. Sess. 1924, c. 30; 1929, cc. 51, 224; 1947, c. 459; 1949, c. 1217; 1959, c. 1073, s. 1; 1965, c. 954, s. 1; 1969, c. 1224, s. 7; 1977, c. 616; 1981, c. 412, s. 4; c. 747, s. 66; 1983, c. 86;

1985, c. 432, ss. 1-3; 1993, c. 539, s. 163; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 398, s. 2; 1997-238, s. 1; 2003-199, s. 2; 2005-232, ss. 4, 5; 2005-337, s. 1; 2006-259, s. 5(a); 2009-281, s. 1; 2011-183, s. 127(a); 2011-243, s. 1; 2011-268, s. 3; 2013-369, ss. 1, 21, 25; 2014-119, s. 12(a); 2015-5, s. 1; 2015-195, s. 1(a); 2015-215, s. 2.5; 2015-264, s. 3; 2017-186, s. 2(hh).)

§ 14-269.1. Confiscation and disposition of deadly weapons.

Upon conviction of any person for violation of G.S. 14-269, G.S. 14-269.7, or any other offense involving the use of a deadly weapon of a type referred to in G.S. 14-269, the deadly weapon with reference to which the defendant shall have been convicted shall be ordered confiscated and disposed of by the presiding judge at the trial in one of the following ways in the discretion of the presiding judge.

(1) By ordering the weapon returned to its rightful owner, but only when such owner is a person other than the defendant and has filed a petition for the recovery of such weapon with the presiding judge at the time of the defendant's conviction, and upon a finding by the presiding judge that petitioner is entitled to possession of same and that he was unlawfully deprived of the same without his consent.

(2), (3) Repealed by Session Laws 1994, Ex. Sess., c. 16, s. 2.

(4) By ordering such weapon turned over to the sheriff of the county in which the trial is held or his duly authorized agent to be destroyed if the firearm does not have a legible, unique identification number or is unsafe for use because of wear, damage, age, or modification. The sheriff shall maintain a record of the destruction thereof.

(4a) Repealed by Session Laws 2005-287, s. 3, effective August 22, 2005.

(4b) By ordering the weapon turned over to a law enforcement agency in the county of trial for (i) the official use of the agency or (ii) sale, trade, or exchange by the agency to a federally licensed firearm dealer in accordance with all applicable State and federal firearm laws. The court may order a disposition of the firearm pursuant to this subdivision only upon the written request of the head or chief of the law enforcement agency or a designee of the head or chief of the law enforcement agency and only if the firearm has a legible, unique identification number. If the law enforcement agency sells the firearm, then the proceeds of the sale shall be remitted to the appropriate county finance officer as provided by G.S. 115C-452 to be used to maintain free public schools. The receiving law enforcement agency shall maintain a record and inventory of all firearms received pursuant to this subdivision.

(5) By ordering such weapon turned over to the North Carolina State Crime Laboratory's weapons reference library for official use by that agency. The Laboratory shall maintain a record and inventory of all such weapons received.

(6) By ordering such weapons turned over to the North Carolina Justice Academy for official use by that agency. The North Carolina Justice Academy shall maintain a record and inventory of all such weapons received. (1965, c. 954, s. 2; 1967, c. 24, s. 3; 1983, c. 517; 1989, c. 216; 1993, c. 259, s. 2; 1994, Ex. Sess., c. 16, s. 2; c. 22, s. 23; 1997-356, s. 1; 2003-378, s. 5; 2005-287, s. 3; 2011-19, s. 5; 2013-158, s. 3; 2013-360, s. 17.6(h); 2016-87, s. 2.)

§ 14-269.2. Weapons on campus or other educational property.

(a) The following definitions apply to this section:

(1) Educational property. – Any school building or bus, school campus, grounds, recreational area, athletic field, or other property owned, used, or operated by any board of education or school board of trustees, or directors for the administration of any school.

(1a) Employee. – A person employed by a local board of education or school whether the person is an adult or a minor.

(1b) School. – A public or private school, community college, college, or university.

(2) Student. – A person enrolled in a school or a person who has been suspended or expelled within the last five years from a school, whether the person is an adult or a minor.

(3) Switchblade knife. – A knife containing a blade that opens automatically by the release of a spring or a similar contrivance.

(3a) Volunteer school safety resource officer. – A person who volunteers as a school safety resource officer as provided by G.S. 162-26 or G.S. 160A-288.4.

(4) Weapon. – Any device enumerated in subsection (b), (b1), or (d) of this section.

(b) It shall be a Class I felony for any person knowingly to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any kind on educational property or to a curricular or extracurricular activity sponsored by a school. Unless the conduct is covered under some other provision of law providing greater punishment, any person who willfully discharges a firearm of any kind on educational property is guilty of a Class F felony. However, this subsection does not apply to a BB gun, stun gun, air rifle, or air pistol.

(b1) It shall be a Class G felony for any person to possess or carry, whether openly or concealed, any dynamite cartridge, bomb, grenade, mine, or powerful explosive as defined in G.S. 14-284.1, on educational property or to a curricular or extracurricular activity sponsored by a school. This subsection shall not apply to fireworks.

(c) It shall be a Class I felony for any person to cause, encourage, or aid a minor who is less than 18 years old to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any kind on educational property. However, this subsection does not apply to a BB gun, stun gun, air rifle, or air pistol.

(c1) It shall be a Class G felony for any person to cause, encourage, or aid a minor who is less than 18 years old to possess or carry, whether openly or concealed, any dynamite cartridge, bomb, grenade, mine, or powerful explosive as defined in G.S. 14-284.1 on educational property. This subsection shall not apply to fireworks.

(d) It shall be a Class 1 misdemeanor for any person to possess or carry, whether openly or concealed, any BB gun, stun gun, air rifle, air pistol, bowie knife, dirk, dagger, slungshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving), firework, or any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction, and maintenance, on educational property.

(e) It shall be a Class 1 misdemeanor for any person to cause, encourage, or aid a minor who is less than 18 years old to possess or carry, whether openly or concealed, any BB gun, stun gun, air rifle, air pistol, bowie knife, dirk, dagger, slungshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving), firework, or any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction, and maintenance, on educational property.

(f) Notwithstanding subsection (b) of this section it shall be a Class 1 misdemeanor rather than a Class I felony for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any kind, on educational property or to a curricular or extracurricular activity sponsored by a school if:

(1) The person is not a student attending school on the educational property or an employee employed by the school working on the educational property; and

(1a) The person is not a student attending a curricular or extracurricular activity sponsored by the school at which the student is enrolled or an employee attending a curricular or extracurricular activity sponsored by the school at which the employee is employed; and

(2) Repealed by Session Laws 1999-211, s. 1, effective December 1, 1999, and applicable to offenses committed on or after that date.

(3) The firearm is not loaded, is in a motor vehicle, and is in a locked container or a locked firearm rack.

(4) Repealed by Session Laws 1999-211, s. 1, effective December 1, 1999, and applicable to offenses committed on or after that date.

(g) This section shall not apply to any of the following:

(1) A weapon used solely for educational or school-sanctioned ceremonial purposes, or used in a school-approved program conducted under the supervision of an adult whose supervision has been approved by the school authority.

(1a) A person exempted by the provisions of G.S. 14-269(b).

(2) Firefighters, emergency service personnel, North Carolina Forest Service personnel, detention officers employed by and authorized by the sheriff

to carry firearms, and any private police employed by a school, when acting in the discharge of their official duties.

(3) Home schools as defined in G.S. 115C-563(a).

(4) Weapons used for hunting purposes on the Howell Woods Nature Center property in Johnston County owned by Johnston Community College when used with the written permission of Johnston Community College or for hunting purposes on other educational property when used with the written permission of the governing body of the school that controls the educational property.

(5) A person registered under Chapter 74C of the General Statutes as an armed armored car service guard or an armed courier service guard when acting in the discharge of the guard's duties and with the permission of the college or university.

(6) A person registered under Chapter 74C of the General Statutes as an armed security guard while on the premises of a hospital or health care facility located on educational property when acting in the discharge of the guard's duties with the permission of the college or university.

(7) A volunteer school safety resource officer providing security at a school pursuant to an agreement as provided in G.S. 115C-47(61) and either G.S. 162-26 or G.S. 160A-288.4, provided that the volunteer school safety resource officer is acting in the discharge of the person's official duties and is on the educational property of the school that the officer was assigned to by the head of the appropriate local law enforcement agency.

(h) No person shall be guilty of a criminal violation of this section with regard to the possession or carrying of a weapon so long as both of the following apply:

(1) The person comes into possession of a weapon by taking or receiving the weapon from another person or by finding the weapon.

(2) The person delivers the weapon, directly or indirectly, as soon as practical to law enforcement authorities.

(i) The provisions of this section shall not apply to an employee of an institution of higher education as defined in G.S. 116-143.1 or a nonpublic post-secondary educational institution who resides on the campus of the institution at which the person is employed when all of the following criteria are met:

(1) The employee's residence is a detached, single-family dwelling in which only the employee and the employee's immediate family reside.

(2) The institution is either:

a. An institution of higher education as defined by G.S. 116-143.1.

b. A nonpublic post-secondary educational institution that has not specifically prohibited the possession of a handgun pursuant to this subsection.

(3) The weapon is a handgun.

(4) The handgun is possessed in one of the following manners as appropriate:

a. If the employee has a concealed handgun permit that is valid under Article 54B of this Chapter, or who is exempt from obtaining a permit pursuant to that Article, the handgun may be on the premises of the employee's residence or in a closed compartment or container within the employee's locked vehicle that is located in a parking area of the educational property of the institution at which the person is employed and resides. Except for direct transfer between the residence and the vehicle, the handgun must remain at all times either on the premises of the employee's residence or in the closed compartment of the employee's locked vehicle. The employee may unlock the vehicle to enter or exit, but must lock the vehicle immediately following the entrance or exit if the handgun is in the vehicle.

b. If the employee is not authorized to carry a concealed handgun pursuant to Article 54B of this Chapter, the handgun may be on the premises of the employee's residence, and may only be in the employee's vehicle when the vehicle is occupied by the employee and the employee is immediately leaving the campus or is driving directly to their residence from off campus. The employee may possess the handgun on the employee's person outside the premises of the employee's residence when making a direct transfer of the handgun from the residence to the employee's vehicle when the employee is immediately leaving the campus or from the employee's vehicle to the residence when the employee is arriving at the residence from off campus.

(j) The provisions of this section shall not apply to an employee of a public or nonpublic school who resides on the campus of the school at which the person is employed when all of the following criteria are met:

(1) The employee's residence is a detached, single-family dwelling in which only the employee and the employee's immediate family reside.

(2) The school is either:

a. A public school which provides residential housing for enrolled students.

b. A nonpublic school which provides residential housing for enrolled students and has not specifically prohibited the possession of a handgun pursuant to this subsection.

(3) The weapon is a handgun.

(4) The handgun is possessed in one of the following manners as appropriate:

a. If the employee has a concealed handgun permit that is valid under Article 54B of this Chapter, or who is exempt from obtaining a permit pursuant to that Article, the handgun may be on the premises of the employee's residence or in a closed compartment or container within the employee's locked vehicle that is located in a parking area of the educational property of the school at which the person is employed and resides. Except for direct transfer between the residence and the vehicle, the handgun must remain at all times either on the premises of the employee's residence or in the closed compartment of the employee's locked vehicle. The employee may unlock the vehicle to enter or exit,

but must lock the vehicle immediately following the entrance or exit if the handgun is in the vehicle.

b. If the employee is not authorized to carry a concealed handgun pursuant to Article 54B of this Chapter, the handgun may be on the premises of the employee's residence, and may only be in the employee's vehicle when the vehicle is occupied by the employee and the employee is immediately leaving the campus or is driving directly to their residence from off campus. The employee may possess the handgun on the employee's person outside the premises of the employee's residence when making a direct transfer of the handgun from the residence to the employee's vehicle when the employee is immediately leaving the campus or from the employee's vehicle to the residence when the employee is arriving at the residence from off campus.

(k) The provisions of this section shall not apply to a person who has a concealed handgun permit that is valid under Article 54B of this Chapter, or who is exempt from obtaining a permit pursuant to that Article, if any of the following conditions are met:

(1) The person has a handgun in a closed compartment or container within the person's locked vehicle or in a locked container securely affixed to the person's vehicle and only unlocks the vehicle to enter or exit the vehicle while the firearm remains in the closed compartment at all times and immediately locks the vehicle following the entrance or exit.

(2) The person has a handgun concealed on the person and the person remains in the locked vehicle and only unlocks the vehicle to allow the entrance or exit of another person.

(3) The person is within a locked vehicle and removes the handgun from concealment only for the amount of time reasonably necessary to do either of the following:

a. Move the handgun from concealment on the person to a closed compartment or container within the vehicle.

b. Move the handgun from within a closed compartment or container within the vehicle to concealment on the person.

(l) It is an affirmative defense to a prosecution under subsection (b) or (f) of this section that the person was authorized to have a concealed handgun in a locked vehicle pursuant to subsection (k) of this section and removed the handgun from the vehicle only in response to a threatening situation in which deadly force was justified pursuant to G.S. 14-51.3. (1971, c. 241, ss. 1, 2; c. 1224; 1991, c. 622, s. 1; 1993, c. 539, s. 164; c. 558, s. 1; 1994, Ex. Sess., c. 14, s. 4(a), (b); 1995, c. 49, s. 1; 1997-238, s. 2; 1999-211, s. 1; 1999-257, s. 3, 3.1; 2003-217, s. 1; 2004-198, ss. 1, 2, 3; 2006-264, s. 31; 2007-427, s. 6; 2007-511, s. 12; 2011-268, s. 4; 2013-360, ss. 8.45(a), (b); 2013-369, s. 2; 2014-119, s. 9(a); 2015-195, ss. 2, 3.)

§ 14-269.3. Carrying weapons into assemblies and establishments where alcoholic beverages are sold and consumed.

(a) It shall be unlawful for any person to carry any gun, rifle, or pistol into any assembly where a fee has been charged for admission thereto, or into any establishment in which alcoholic beverages are sold and consumed. Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

(b) This section shall not apply to any of the following:

(1) A person exempted from the provisions of G.S. 14-269.

(2) The owner or lessee of the premises or business establishment.

(3) A person participating in the event, if the person is carrying a gun, rifle, or pistol with the permission of the owner, lessee, or person or organization sponsoring the event.

(4) A person registered or hired as a security guard by the owner, lessee, or person or organization sponsoring the event.

(5) A person carrying a handgun if the person has a valid concealed handgun permit issued in accordance with Article 54B of this Chapter, has a concealed handgun permit considered valid under G.S. 14-415.24, or is exempt from obtaining a permit pursuant to G.S. 14-415.25. This subdivision shall not be construed to permit a person to carry a handgun on any premises where the person in legal possession or control of the premises has posted a conspicuous notice prohibiting the carrying of a concealed handgun on the premises in accordance with G.S. 14-415.11(c). (1977, c. 1016, s. 1; 1981, c. 412, s. 4; c. 747, s. 66; 1993, c. 539, s. 165; 1994, Ex. Sess., c. 24, s. 14(c); 2013-369, s. 3.)

§ 14-269.4. Weapons on certain State property and in courthouses.

It shall be unlawful for any person to possess, or carry, whether openly or concealed, any deadly weapon, not used solely for instructional or officially sanctioned ceremonial purposes in the State Capitol Building, the Executive Mansion, the Western Residence of the Governor, or on the grounds of any of these buildings, and in any building housing any court of the General Court of Justice. If a court is housed in a building containing nonpublic uses in addition to the court, then this prohibition shall apply only to that portion of the building used for court purposes while the building is being used for court purposes.

This section shall not apply to any of the following:

(1) Repealed by S.L. 1997-238, s. 3, effective June 27, 1997.

(1a) A person exempted by the provisions of G.S. 14-269(b).

(2) through (4) Repealed by S.L. 1997-238, s. 3, effective June 27, 1997,

(4a) Any person in a building housing a court of the General Court of Justice in possession of a weapon for evidentiary purposes, to deliver it to a law-enforcement agency, or for purposes of registration.

(4b) Any district court judge or superior court judge who carries or possesses a concealed handgun in a building housing a court of the General Court of Justice if the judge is in the building to discharge his or her official duties and the judge has a concealed handgun permit issued in accordance

with Article 54B of this Chapter or considered valid under G.S. 14-415.24.

(4c) Firearms in a courthouse, carried by detention officers employed by and authorized by the sheriff to carry firearms.

(4d) Any magistrate who carries or possesses a concealed handgun in any portion of a building housing a court of the General Court of Justice other than a courtroom itself unless the magistrate is presiding in that courtroom, if the magistrate (i) is in the building to discharge the magistrate's official duties, (ii) has a concealed handgun permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14-415.24, (iii) has successfully completed a one-time weapons retention training substantially similar to that provided to certified law enforcement officers in North Carolina, and (iv) secures the weapon in a locked compartment when the weapon is not on the magistrate's person.

(5) State-owned rest areas, rest stops along the highways, and State-owned hunting and fishing reservations.

(6) A person with a permit issued in accordance with Article 54B of this Chapter, with a permit considered valid under G.S. 14-415.24, or who is exempt from obtaining a permit pursuant to G.S. 14-415.25, who has a firearm in a closed compartment or container within the person's locked vehicle or in a locked container securely affixed to the person's vehicle. A person may unlock the vehicle to enter or exit the vehicle provided the firearm remains in the closed compartment at all times and the vehicle is locked immediately following the entrance or exit.

(7) Any person who carries or possesses an ordinary pocket knife, as defined in G.S. 14-269(d), carried in a closed position into the State Capitol Building or on the grounds of the State Capitol Building.

Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor. (1981, c. 646; 1987, c. 820, s. 1; 1993, c. 539, s. 166; 1994, Ex. Sess., c. 24, s. 14(c); 1997-238, s. 3; 2007-412, s. 1; 2007-474, s. 1; 2009-513, s. 1; 2011-268, s. 5; 2013-369, s. 14; 2015-195, s. 1(b).)

§ 14-269.5. [Reserved.]

§ 14-269.6. Possession and sale of spring-loaded projectile knives prohibited.

(a) On and after October 1, 1986, it shall be unlawful for any person including law-enforcement officers of the State, or of any county, city, or town to possess, offer for sale, hold for sale, sell, give, loan, deliver, transport, manufacture or go armed with any spring-loaded projectile knife, a ballistic knife, or any weapon of similar character. Except that it shall be lawful for a law-enforcement agency to possess such weapons solely for evidentiary, education or training purposes.

(b) Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor. (1985 (Reg. Sess., 1986), c. 810, s. 1; 1993, c. 539, s. 167; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-269.7. Prohibitions on handguns for minors.

(a) Any minor who willfully and intentionally possesses or carries a handgun is guilty of a Class 1 misdemeanor.

(b) This section does not apply:

(1) To officers and enlisted personnel of the Armed Forces of the United States when in discharge of their official duties or acting under orders requiring them to carry handguns.

(2) To a minor who possesses a handgun for educational or recreational purposes while the minor is supervised by an adult who is present.

(3) To an emancipated minor who possesses such handgun inside his or her residence.

(4) To a minor who possesses a handgun while hunting or trapping outside the limits of an incorporated municipality if he has on his person written permission from a parent, guardian, or other person standing in loco parentis.

(c) The following definitions apply in this section:

(1) Handgun. – A firearm that has a short stock and is designed to be fired by the use of a single hand, or any combination of parts from which such a firearm can be assembled.

(2) Minor. – Any person under 18 years of age. (1993, c. 259, s. 1; 1994, Ex. Sess., c. 14, s. 5; 1993 (Reg. Sess., 1994), c. 597, s. 1; 2011-183, s. 9; 2011-268, s. 6.)

§ 14-269.8. Purchase or possession of firearms by person subject to domestic violence order prohibited.

(a) In accordance with G.S. 50B-3.1, it is unlawful for any person to possess, purchase, or receive or attempt to possess, purchase, or receive a firearm, as defined in G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry concealed firearms if ordered by the court for so long as that protective order or any successive protective order entered against that person pursuant to Chapter 50B of the General Statutes is in effect.

(b) Any person violating the provisions of this section shall be guilty of a Class H felony. (1995, c. 527, s. 2; 2003-410, s. 2; 2011-268, s. 7.)

§§ 14-270 through 14-271: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(13), (14).

§§ 14-272 through 14-275: Repealed by Session Laws 1983, c. 39, ss. 1-4.

§ 14-275.1. Disorderly conduct at bus or railroad station or airport.

Any person shall be guilty of a Class 3 misdemeanor, if such person while at, or upon the premises of,

(1) Any bus station, depot or terminal, or
(2) Any railroad passenger station, depot or terminal, or
(3) Any airport or air terminal used by any common carrier, or
(4) Any airport or air terminal owned or leased, in whole or in part, by any county, municipality or other political subdivision of the State, or privately owned airport

shall

(1) Engage in disorderly conduct, or
(2) Use vulgar, obscene or profane language, or
(3) On any one occasion, without having necessary business there, loiter and loaf upon the premises after being requested to leave by any peace officer or by any person lawfully in charge of such premises. (1947, c. 310; 1993, c. 539, s. 168; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-276. Repealed by Session Laws 1971, c. 357.

§ 14-276.1. Impersonation of firemen or emergency medical services personnel.

It is a Class 3 misdemeanor, for any person, with intent to deceive, to impersonate a fireman or any emergency medical services personnel, whether paid or voluntary, by a false statement, display of insignia, emblem, or other identification on his person or property, or any other act, which indicates a false status of affiliation, membership, or level of training or proficiency, if:

(1) The impersonation is made with intent to impede the performance of the duties of a fireman or any emergency medical services personnel, or
(2) Any person reasonably relies on the impersonation and as a result suffers injury to person or property.

For purposes of this section, emergency medical services personnel means an emergency medical responder, emergency medical technician, advanced emergency medical technician, paramedic, or other member of a rescue squad or other emergency medical organization. (1981, c. 432, s. 1; 1993, c. 539, s. 169; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 11A.129B; 2015-290, s. 4.)

§ 14-277. Impersonation of a law-enforcement or other public officer.

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

(1) Verbally informs another that he is a sworn law-enforcement officer, whether or not the representation refers to a particular agency;
(2) Displays any badge or identification signifying to a reasonable individual that the person is a sworn law-enforcement officer, whether or not the

badge or other identification refers to a particular law-enforcement agency;

(3) Unlawfully operates a vehicle on a public street, highway or public vehicular area with an operating red light as defined in G.S. 20-130.1(a); or

(4) Unlawfully operates a vehicle on a public street, highway, or public vehicular area with an operating blue light as defined in G.S. 20-130.1(c).

(b) No person shall, while falsely representing to another that he is a sworn law-enforcement officer, carry out any act in accordance with the authority granted to a law-enforcement officer. For purposes of this section, an act in accordance with the authority granted to a law-enforcement officer includes:

(1) Ordering any person to remain at or leave from a particular place or area;

(2) Detaining or arresting any person;

(3) Searching any vehicle, building, or premises, whether public or private, with or without a search warrant or administrative inspection warrant;

(4) Unlawfully operating a vehicle on a public street or highway or public vehicular area equipped with an operating red light or siren in such a manner as to cause a reasonable person to yield the right-of-way or to stop his vehicle in obedience to such red light or siren;

(5) Unlawfully operating a vehicle on a public street or highway or public vehicular area equipped with an operating blue light in such a manner as to cause a reasonable person to yield the right-of-way or to stop his vehicle in obedience to such blue light.

(c) Nothing in this section shall prohibit any person from detaining another as provided by G.S. 15A-404 or assisting a law-enforcement officer as provided by G.S. 15A-405.

(d) Repealed by Session Laws 1995 (Reg. Sess., 1996), c. 712, s. 1.

(d1) Violations under this section are punishable as follows:

(1) A violation of subdivision (a)(1), (2), or (3) is a Class 1 misdemeanor.

(2) A violation of subdivision (b)(1), (2), (3), or (4) is a Class 1 misdemeanor. Notwithstanding the disposition in G.S. 15A-1340.23, the court may impose an intermediate punishment on a person sentenced under this subdivision.

(3) A violation of subdivision (a)(4) is a Class I felony.

(4) A violation of subdivision (b)(5) is a Class H felony.

(e) It shall be unlawful for any person other than duly authorized employees of a county, a municipality or the State of North Carolina, including but not limited to, the Department of Social Services, Health, Area Mental Health, Developmental Disabilities, and Substance Abuse Authority or Building Inspector to represent to any person that they are duly authorized employees of a county, a municipality or the State of North Carolina or one of the above-enumerated departments and acting upon such representation to perform any act, make any investigation, seek access to otherwise confidential information, perform any duty of said office, gain access to any place not otherwise open to the public,

or seek to be afforded any privilege which would otherwise not be afforded to such person except for such false representation or make any attempt to do any of said enumerated acts. Any person, corporation, or business association violating the provisions of this section shall be guilty of a Class 1 misdemeanor. (1927, c. 229; 1985, c. 761, s. 1; 1985 (Reg. Sess., 1986), c. 863, s. 3; 1991 (Reg. Sess., 1992), c. 1030, s. 7; 1993, c. 539, ss. 170, 171; 1994, Ex. Sess., c. 24, s. 14(c); 1995 (Reg. Sess., 1996), c. 712, s. 1; 1997-456, s. 2.)

§ 14-277.1. Communicating threats.

(a) A person is guilty of a Class 1 misdemeanor if without lawful authority:

(1) He willfully threatens to physically injure the person or that person's child, sibling, spouse, or dependent or willfully threatens to damage the property of another;

(2) The threat is communicated to the other person, orally, in writing, or by any other means;

(3) The threat is made in a manner and under circumstances which would cause a reasonable person to believe that the threat is likely to be carried out; and

(4) The person threatened believes that the threat will be carried out.

(b) A violation of this section is a Class 1 misdemeanor. (1973, c. 1286, s. 11; 1993, c. 539, s. 172; 1994, Ex. Sess., c. 24, s. 14(c); 1999-262, s. 2.)

§ 14-277.2. Weapons at parades, etc., prohibited.

(a) It shall be unlawful for any person participating in, affiliated with, or present as a spectator at any parade, funeral procession, picket line, or demonstration upon any private health care facility or upon any public place owned or under the control of the State or any of its political subdivisions to willfully or intentionally possess or have immediate access to any dangerous weapon. Violation of this subsection shall be a Class 1 misdemeanor. It shall be presumed that any rifle or gun carried on a rack in a pickup truck at a holiday parade or in a funeral procession does not violate the terms of this act.

(b) For the purposes of this section the term "dangerous weapon" shall include those weapons specified in G.S. 14-269, 14-269.2, 14-284.1, or 14-288.8 or any other object capable of inflicting serious bodily injury or death when used as a weapon.

(c) The provisions of this section shall not apply to a person exempted by the provisions of G.S. 14-269(b) or to persons authorized by State or federal law to carry dangerous weapons in the performance of their duties or to any person who obtains a permit to carry a dangerous weapon at a parade, funeral procession, picket line, or demonstration from the sheriff or police chief, whichever is appropriate, of the locality where such parade, funeral procession, picket line, or demonstration is to take place.

(d) The provisions of this section shall not apply to concealed carry of a handgun at a parade or funeral procession by a person with a valid permit issued in accordance with Article 54B of this Chapter, with a permit considered valid under G.S. 14-415.24, or who is exempt from obtaining a permit pursuant to G.S. 14-415.25. This subsection shall not be construed to permit a person to carry a concealed handgun on any premises where the

person in legal possession or control of the premises has posted a conspicuous notice prohibiting the carrying of a concealed handgun on the premises in accordance with G.S. 14-415.11(c). (1981, c. 684, s. 1; 1983, c. 633; 1993, c. 412, s. 2; c. 539, s. 174; 1994, Ex. Sess., c. 24, s. 14(c); 1997-238, s. 4; 2013-369, s. 15.)

§ 14-277.3: Repealed by Session Laws 2008-167, s. 1, effective December 1, 2008.

§ 14-277.3A. Stalking.

(a) Legislative Intent. – The General Assembly finds that stalking is a serious problem in this State and nationwide. Stalking involves severe intrusions on the victim's personal privacy and autonomy. It is a crime that causes a long-lasting impact on the victim's quality of life and creates risks to the security and safety of the victim and others, even in the absence of express threats of physical harm. Stalking conduct often becomes increasingly violent over time.

The General Assembly recognizes the dangerous nature of stalking as well as the strong connections between stalking and domestic violence and between stalking and sexual assault. Therefore, the General Assembly enacts this law to encourage effective intervention by the criminal justice system before stalking escalates into behavior that has serious or lethal consequences. The General Assembly intends to enact a stalking statute that permits the criminal justice system to hold stalkers accountable for a wide range of acts, communications, and conduct. The General Assembly recognizes that stalking includes, but is not limited to, a pattern of following, observing, or monitoring the victim, or committing violent or intimidating acts against the victim, regardless of the means.

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

(1) Course of conduct. – Two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, is in the presence of, or follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

(2) Harasses or harassment. – Knowing conduct, including written or printed communication or transmission, telephone, cellular, or other wireless telephonic communication, facsimile transmission, pager messages or transmissions, answering machine or voice mail messages or transmissions, and electronic mail messages or other computerized or electronic transmissions directed at a specific person that torments, terrorizes, or terrifies that person and that serves no legitimate purpose.

(3) Reasonable person. – A reasonable person in the victim's circumstances.

(4) Substantial emotional distress. – Significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

(c) Offense. – A defendant is guilty of stalking if the defendant willfully on more than one occasion harasses another person without legal purpose or willfully engages in a course of conduct directed at a specific person without legal purpose and the defendant

knows or should know that the harassment or the course of conduct would cause a reasonable person to do any of the following:

(1) Fear for the person's safety or the safety of the person's immediate family or close personal associates.

(2) Suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment.

(d) Classification. – A violation of this section is a Class A1 misdemeanor. A defendant convicted of a Class A1 misdemeanor under this section, who is sentenced to a community punishment, shall be placed on supervised probation in addition to any other punishment imposed by the court. A defendant who commits the offense of stalking after having been previously convicted of a stalking offense is guilty of a Class F felony. A defendant who commits the offense of stalking when there is a court order in effect prohibiting the conduct described under this section by the defendant against the victim is guilty of a Class H felony.

(e) Jurisdiction. – Pursuant to G.S. 15A-134, if any part of the offense occurred within North Carolina, including the defendant's course of conduct or the effect on the victim, then the defendant may be prosecuted in this State. (2008-167, s. 2.)

§ 14-277.4. Obstruction of health care facilities.

(a) No person shall obstruct or block another person's access to or egress from a health care facility or from the common areas of the real property upon which the facility is located in a manner that deprives or delays the person from obtaining or providing health care services in the facility.

(b) No person shall injure or threaten to injure a person who is or has been:

(1) Obtaining health care services;

(2) Lawfully aiding another to obtain health care services; or

(3) Providing health care services.

(c) A violation of subsection (a) or (b) of this section is a Class 2 misdemeanor. A second conviction for a violation of either subsection (a) or (b) of this section within three years of the first shall be punishable as a Class 1 misdemeanor. A third or subsequent conviction for a violation of either subsection (a) or (b) of this section within three years of the second or most recent conviction shall be punishable as a Class I felony.

(d) Any person aggrieved under this section may seek injunctive relief in a court of competent jurisdiction to prevent threatened or further violations of this section. Any violation of an injunction obtained pursuant to this section constitutes criminal contempt and shall be punishable by a term of imprisonment of not less than 30 days and no more than 12 months.

(e) This section shall not prohibit any person from engaging in lawful speech or picketing which does not impede or deny another person's access to health care services or to a health care facility or interfere with the delivery of health care services within a health care facility.

(f) "Health care facility" as used in this section means any hospital, clinic, or other facility that is licensed to administer medical treatment or the primary function of which is to provide medical treatment in this State.

(g) "Health care services" as used in this section means services provided in a health care facility.

(h) Persons subject to the prohibitions in subsection (a) of this section do not include owners, officers, agents, or employees of the health care facility or law enforcement officers acting to protect real or personal property. (1993, c. 412, s. 1; 1994, Ex. Sess., c. 14, s. 6; 1993 (Reg. Sess., 1994), c. 767, s. 21.)

§ 14-277.4A. Targeted picketing of a residence.

(a) Definitions. – As used in this section:

(1) "Residence" means any single-family or multifamily dwelling unit that is not being used as a targeted occupant's sole place of business or as a place of public meeting.

(2) "Targeted picketing" means picketing, with or without signs, that is specifically directed toward a residence, or one or more occupants of the residence, and that takes place on that portion of a sidewalk or street in front of the residence, in front of an adjoining residence, or on either side of the residence.

(b) It shall be unlawful for a person to engage in targeted picketing when the person knows or should know that the manner in which they are picketing would cause in a reasonable person any of the following:

(1) Fear for the person's safety or the safety of the person's immediate family or close personal associates.

(2) Substantial emotional distress. For the purposes of this subdivision, "substantial emotional distress" is defined as in G.S. 14-277.3A(b)(4).

(c) Any person who commits the offense defined in this section is guilty of a Class 2 misdemeanor.

(d) Any person aggrieved under this section may seek injunctive relief in a court of competent jurisdiction to prevent threatened or further violations of this section. Any violation of an injunction obtained pursuant to this section constitutes criminal contempt and shall be punishable by a term of imprisonment of not less than 30 days and no more than 12 months.

(e) Nothing in this section shall be construed to prohibit general picketing that proceeds through residential neighborhoods or that proceeds past residences. (2009-300, s. 1.)

§ 14-277.5. Making a false report concerning mass violence on educational property.

(a) The following definitions apply in this section:

(1) Educational property. – As defined in G.S. 14-269.2.

(2) Mass violence. – Physical injury that a reasonable person would conclude could lead to permanent injury (including mental or emotional injury) or death to two or more people.

(3) School. – As defined in G.S. 14-269.2.

(b) A person who, by any means of communication to any person or groups of persons, makes a report, knowing or having reason to know the report is false, that an act of mass violence is going to occur on educational property or at a curricular or extracurricular activity sponsored by a school, is guilty of a Class H felony.

(c) The court may order a person convicted under this section to pay restitution, including costs and consequential damages resulting from the disruption of the normal activity that would have otherwise occurred on the premises but for the false report, pursuant to Article 81C of Chapter 15A of the General Statutes. (2007-196, s. 1.)

§ 14-277.6. Communicating a threat of mass violence on educational property.

(a) A person who, by any means of communication to any person or groups of persons, threatens to commit an act of mass violence on educational property or at a curricular or extracurricular activity sponsored by a school is guilty of a Class H felony.

(b) The definitions in G.S. 14-277.5 apply to this section. (2018-72, s. 1.)

§ 14-277.7. Communicating a threat of mass violence at a place of religious worship.

(a) A person who, by any means of communication to any person or groups of persons, threatens to commit an act of mass violence at a place of religious worship is guilty of a Class H felony.

(b) The following definitions apply to this section:

(1) Mass violence. – As defined in G.S. 14-277.5(a)(2).

(2) Place of religious worship. – Any church, chapel, meetinghouse, synagogue, temple, longhouse, or mosque, or other building that is regularly used, and clearly identifiable, as a place for religious worship. (2018-72, s. 2.)

§ 14-277.8. Conditional discharge for first offenders under the age of 20 years.

(a) Whenever any person who has not previously been convicted of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state pleads guilty to or is guilty of a violation of G.S. 14-277.5, 14-277.6, or 14-277.7, and the offense was committed before the person attained the age of 20 years, the court shall, without entering a judgment of guilt and with the consent of the defendant and the District Attorney, defer further proceedings and place the defendant on probation upon such reasonable terms and conditions as the court may require.

(b) If the court, in its discretion, defers proceedings pursuant to this section, it shall place the defendant on supervised probation for not less than one year. In addition to any other conditions of probation, the court shall require the defendant to complete a minimum of 30 hours of community service, to obtain a mental health evaluation, and to comply with any treatment recommended as a result of the mental health evaluation. Prior to taking any

action to discharge and dismiss under this section, the court shall make a finding that the defendant has no previous criminal convictions. Upon fulfillment of the terms and conditions of the probation provided for in this section, the court shall discharge the defendant and dismiss the proceedings against the defendant.

(c) Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this section may occur only once with respect to any person. Disposition of a case to determine discharge and dismissal under this section at the district court division of the General Court of Justice shall be final for the purpose of appeal. Upon violation of a term or condition of the probation provided for in this section, the court may enter an adjudication of guilt and proceed as otherwise provided.

(d) Upon discharge and dismissal pursuant to this section, the person may apply for an order to expunge the complete record of the proceedings resulting in the dismissal and discharge, pursuant to the procedures and requirements set forth in G.S. 15A-145.7.

(e) The clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150. (2018-72, s. 3.)

SUBCHAPTER X. OFFENSES AGAINST THE PUBLIC SAFETY.

Article 36.

Offenses Against the Public Safety.

§ 14-278. Willful injury to property of railroads.

It shall be unlawful for any person to willfully, with intent to cause injury to any person passing over the railroad or damage to the equipment traveling on such road, put or place any matter or thing upon, over or near any railroad track, or destroy, injure, tamper with, or remove the roadbed, or any part thereof, or any rail, sill or other part of the fixtures appurtenant to or constituting or supporting any portion of the track of such railroad, and the person so offending shall be punished as a Class I felon. (1838, c. 38; R.C., c. 34, ss. 99, 100; 1879, c. 255, s. 2; Code, s. 1098; Rev., s. 3754; 1911, c. 200; C.S., s. 4417; 1967, c. 1082, s. 1; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1985, c. 577, s. 1; 1993, c. 539, s. 1221; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-279. Unlawful injury to property of railroads.

Any person who, without intent to cause injury to any person or damage to equipment, commits any of the acts referred to in G.S. 14-278 shall be guilty of a Class 2 misdemeanor. (R.C., c. 34, s. 101; Code, s. 1099; Rev., s. 3755; C.S., s. 4418; 1967, c. 1082, s. 2; 1985, c. 577, s. 2; 1993, c. 539, s. 175; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-279.1. Unlawful impairment of operation of railroads.

Any person who, without authorization of the affected railroad company, shall willfully do or cause to be done any act to railroad engines, equipment, or rolling stock so as to impede or prevent

movement of railroad trains or so as to impair the operation of railroad equipment shall be guilty of a Class 2 misdemeanor. (1979, c. 387, s. 1; 1993, c. 539, s. 176; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-280. Shooting or throwing at trains or passengers.

If any person shall willfully cast, throw or shoot any stone, rock, bullet, shot, pellet or other missile at, against, or into any railroad car, locomotive or train, or any person thereon, while such car or locomotive shall be in progress from one station to another, or while such car, locomotive or train shall be stopped for any purpose, the person so offending shall be guilty of a Class I felony. (1876-7, c. 4; Code, s. 1100; 1887, c. 19; Rev., s. 3763; 1911, c. 179; C.S., s. 4419; 1985, c. 577, s. 3; 1993, c. 539, s. 1222; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-280.1. Trespassing on railroad right-of-way.

(a) Offense. – A person commits the offense of trespassing on railroad right-of-way if the person enters and remains on the railroad right-of-way without the consent of the railroad company or the person operating the railroad or without authority granted pursuant to State or federal law.

(b) Crossings. – Nothing in this section shall apply to a person crossing the railroad right-of-way at a public or private crossing.

(c) Legally Abandoned Rights-of-Way. – This section shall not apply to any right-of-way that has been legally abandoned pursuant to an order of a federal or State agency having jurisdiction over the right-of-way and is not being used for railroad services.

(d) Classification. – Trespassing on railroad right-of-way is a Class 3 misdemeanor. (2000-146, s. 10.)

§ 14-280.2. Use of a laser device towards an aircraft.

(a) Any person who, willfully points a laser device at an aircraft, while the device is emitting a laser beam, and while the aircraft is taking off, landing, in flight, or otherwise in motion, is guilty of a Class H felony.

(b) The following definitions apply to this section:

(1) "Aircraft" is as defined in G.S. 63-1.

(2) "Laser" is as defined in G.S. 14-34.8.

(c) This section shall not apply where the laser use had been approved by a State or federal agency. (2005-329, s. 1.)

§ 14-280.3. Interference with manned aircraft by unmanned aircraft systems.

(a) Any person who willfully damages, disrupts the operation of, or otherwise interferes with a manned aircraft through use of an unmanned aircraft system, while the manned aircraft is taking off, landing, in flight, or otherwise in motion, is guilty of a Class H felony.

(b) The following definitions apply to this section:

(1) Manned aircraft. – As defined in G.S. 15A-300.1.

(2) Unmanned aircraft system. – As defined in G.S. 15A-300.1. (2014-100, s. 34.30(c).)

§ 14-281. Operating trains and streetcars while intoxicated.

Any train dispatcher, telegraph operator, engineer, fireman, flagman, brakeman, switchman, conductor, motorman, or other employee of any steam, street, suburban or interurban railway company, who shall be intoxicated while engaged in running or operating, or assisting in running or operating, any railway train, shifting-engine, or street or other electric car, shall be guilty of a Class 2 misdemeanor. (1871-2, c. 138, s. 38; Code, s. 1972; 1891, c. 114; Rev., s. 3758; 1907, c. 330; C.S., s. 4420; 1969, c. 1224, s. 3; 1993, c. 539, s. 177; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-281.1. Throwing, dropping, etc., objects at sporting events.

It shall be unlawful for any person to throw, drop, pour, release, discharge, expose or place in an area where an athletic contest or sporting event is taking place any substance or object that shall be likely to cause injury to persons participating in or attending such contests or events or to cause damage to animals, vehicles, equipment, devices, or other things used in connection with such contests or events. Any person violating the provisions of this section shall be guilty of a Class 3 misdemeanor. (1977, c. 772, s. 1; 1993, c. 539, s. 178; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-282. Displaying false lights on seashore.

If any person shall make or display, or cause to be made or displayed, any false light or beacon on or near the seacoast, for the purpose of deceiving and misleading masters of vessels, and thereby putting them in danger of shipwreck, he shall be guilty of a Class I felony. (1831, c. 42; R.C., c. 34, s. 58; Code, s. 1024; Rev., s. 3430; C.S., s. 4421; 1979, 2nd Sess., c. 1316, s. 16; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, s. 1223; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-283. Exploding dynamite cartridges and bombs.

If any person shall fire off or explode, or cause to be fired off or exploded, except for mechanical purposes in a legitimate business, any dynamite cartridge, bomb or other explosive of a like nature, he shall be guilty of a Class 1 misdemeanor. (1887, c. 364, s. 53; Rev., s. 3794; C.S., s. 4423; 1993, c. 539, s. 179; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-284. Keeping for sale or selling explosives without a license.

If any dealer or other person shall sell or keep for sale any dynamite cartridges, bombs or other combustibles of a like kind, without first having obtained from the board of commissioners of the county where such person or dealer resides a license for that purpose, he shall be guilty of a Class 1 misdemeanor. (1887, c. 364, ss. 1, 4; Rev., s. 3817; C.S., s. 4425; 1993, c. 539, s. 180; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-284.1. Regulation of sale of explosives; reports; storage.

(a) No person shall sell or deliver any dynamite or other powerful explosives as hereinafter defined without being satisfied as to the identity of the purchaser or the one to receive such explosives and then only upon the written application signed by the person or agent of the person purchasing or receiving such explosive, which application must contain a statement of the purpose for which such explosive is to be used.

(b) All persons delivering or selling such explosives shall keep a complete record of all sales or deliveries made, including the amounts sold and delivered, the names of the purchasers or the one to whom the deliveries were made, the dates of all such sales or such deliveries and the use to be made of such explosive, and shall preserve such record and make the same available to any law-enforcement officer during business hours for a period of 12 months thereafter.

(c) All persons having dynamite or other powerful explosives in their possession or under their control shall at all times keep such explosives in a safe and secure manner, and when such explosives are not in the course of being used they shall be stored and protected against theft or other unauthorized possession.

(d) As used in this section, the term "powerful explosives" includes, but shall not be limited to, nitroglycerin, trinitrotoluene, and blasting caps, detonators and fuses for the explosion thereof.

(e) Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor.

(f) The provisions of this section are intended to apply only to sales to those who purchase for use. Nothing herein contained is intended to apply to a sale made by a manufacturer, jobber, or wholesaler to a retail merchant for resale by said merchant.

(g) Nothing herein contained shall be construed as repealing any law now prohibiting the sale of firecrackers or other explosives; nor shall this section be construed as authorizing the sale of explosives now prohibited by law. (1953, c. 877; 1969, c. 1224, s. 6; 1993, c. 539, s. 181; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-284.2. Dumping of toxic substances.

(a) It shall be unlawful to deposit, place, dump, discharge, spill, release, burn, incinerate, or otherwise dispose of any toxic substances as defined in this section or radioactive material as defined in G.S. 104E-5 into the atmosphere, in the waters, or on land, except where such disposal is conducted pursuant to federal or State law, regulation, or permit. Any person who willfully violates the provisions of this section shall be guilty of a Class F felony. The fine authorized by G.S. 14-1.1(a)(8) for a conviction under this section may include a fine of up to one hundred thousand dollars ($100,000) per day of violation.

(b) Within the meaning of this section, toxic substances are defined as the following heavy metals and halogenated hydrocarbons:

(1) Heavy metals: mercury, plutonium, selenium, thallium and uranium;

(2) Halogenated hydrocarbons: polychlorinated biphenyls, kepone.

(c) Within the meaning of this section, the phrase "law, regulation or permit" includes controls over equipment or machinery that emits substances into the atmosphere, in waters, or on land (such as federal or State controls over motor vehicle emissions) and controls over sources of substances that are publicly consumed (such as drinking water standards), as well as controls over substances directly released into the atmosphere, in waters, or on land (such as pesticide controls and water pollution controls).

(d) Within the meaning of this section the term "person" includes any individual, firm, partnership, limited partnership, corporation or association. (1979, c. 981, s. 2; 1979, 2nd Sess., c. 1316, s. 17; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, s. 1224; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-285: Repealed by Session Laws 1994, Extra Session, c. 14, s. 72.

§ 14-286. Giving false fire alarms; molesting fire-alarm, fire-detection or fire-extinguishing system.

It shall be unlawful for any person or persons to wantonly and willfully give or cause to be given, or to advise, counsel, or aid and abet anyone in giving, a false alarm of fire, or to break the glass key protector, or to pull the slide, arm, or lever of any station or signal box of any fire-alarm system, except in case of fire, or willfully misuse or damage a portable fire extinguisher, or in any

way to willfully interfere with, damage, deface, molest, or injure any part or portion of any fire-alarm, fire-detection, smoke-detection or fire-extinguishing system. Any person violating any of the provisions of this section shall be guilty of a Class 2 misdemeanor. (1921, c. 46; C.S., s. 4426(a); 1961, c. 594; 1969, c. 1224, s. 5; 1975, c. 346; 1993, c. 539, s. 182; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-286.1. Making false ambulance request.

It shall be unlawful for any person to willfully summon an ambulance or willfully report that an ambulance is needed when such person does not have good cause to believe that the services of an ambulance are needed. Every person convicted of willfully violating this section shall be guilty of a Class 3 misdemeanor. (1967, c. 343, s. 6; 1993, c. 539, s. 183; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-286.2. Interfering with emergency communication.

(a) Offense. – A person who intentionally interferes with an emergency communication, knowing that the communication is an emergency communication, and who is not making an emergency communication himself, is guilty of a Class A1 misdemeanor. In addition, a person who interferes with a communications instrument or other emergency equipment with the intent to prevent an emergency communication is guilty of a Class A1 misdemeanor.

(b) Repealed by Session Laws 2001-148, s. 1.

(b1) Definitions. – The following definitions apply in this section:

(1) Emergency communication. – The term includes communications to law enforcement agencies or other emergency personnel, or other individuals, relating or intending to relate that an individual is or is reasonably believed to be, or reasonably believes himself or another person to be, in imminent danger of bodily injury, or that an individual reasonably believes that his property or the property of another is in imminent danger of substantial damage, injury, or theft.

(2) Intentional interference. – The term includes forcefully removing a communications instrument or other emergency equipment from the possession of another, hiding a communications instrument or other emergency equipment from another, or otherwise making a communications instrument or other emergency equipment unavailable to another, disconnecting a communications instrument or other emergency equipment, removing a communications instrument from its connection to communications lines or wavelengths, damaging or otherwise interfering with communications equipment or connections between a communications instrument and communications lines or wavelengths, disabling a theft-prevention alarm system, providing false information to cancel an earlier call or otherwise falsely indicating that emergency assistance is no longer needed when it is, and any other type of interference that makes it difficult or impossible to make an emergency communication or that conveys a false impression that emergency assistance is unnecessary when it is needed. (1987, c. 690, s. 1; 1993, c. 539, s. 184; 1994, Ex. Sess., c. 24, s. 14(c); 2001-148, s. 1.)

§ 14-287. Leaving unused well open and exposed.

It shall be unlawful for any person, firm or corporation, after discontinuing the use of any well, to leave said well open and exposed; said well, after the use of same has been discontinued, shall be carefully and securely filled: Provided, that this shall not apply to wells on farms that are protected by curbing or board walls. Any person violating any of the provisions of this section shall be guilty of a Class 2 misdemeanor. (1923, c. 125; C.S., s. 4426(c); 1969, c. 1224, s. 5; 1993, c. 539, s. 185; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-288. Unlawful to pollute any bottles used for beverages.

It shall be unlawful for any person, firm or corporation having custody for the purpose of sale, distribution or manufacture of any beverage bottle, to place, cause or permit to be placed therein turpentine, varnish, wood alcohol, bleaching water, bluing, kerosene, oils, or any unclean or foul substance, or other offensive material, or to send, ship, return and deliver or cause or permit to be sent, shipped, returned or delivered to any producer of beverages, any bottle used as a container for beverages, and containing any turpentine, varnish, wood alcohol, bleaching water, bluing, kerosene, oils, or any unclean or foul substance, or other offensive material. Any person, firm or corporation violating the provisions of this section shall be guilty of a Class 3 misdemeanor, and upon conviction shall be fined on the first offense, one dollar ($1.00) for each bottle so defiled, and for any subsequent offense not more than ten dollars ($10.00) for each bottle so defiled. (1929, c. 324, s. 1; 1993, c. 539, s. 186; 1994, Ex. Sess., c. 24, s. 14(c).)

Article 36A.

Riots, Civil Disorders, and Emergencies.

§ 14-288.1. Definitions.

Unless the context clearly requires otherwise, the following definitions apply in this Article:

(1) Chairman of the board of county commissioners. – The chairman of the board of county commissioners or, in case of the chairman's absence or disability, the person authorized to act in the chairman's stead. Unless the governing body of the county has specified who is to act in lieu of the chairman with respect to a particular power or duty set out in this Article, the term "chairman of the board of county commissioners" shall apply to the person generally authorized to act in lieu of the chairman.

(2) Dangerous weapon or substance. – Any deadly weapon, ammunition, explosive, incendiary device, radioactive material or device, as defined in G.S. 14-288.8(c)(5), or any instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property; or any instrument or substance that is capable of being used to inflict serious bodily injury, when the circumstances indicate a probability that such instrument or substance will be so used; or any part or ingredient in any instrument or substance included above, when the circumstances indicate a probability that such part or ingredient will be so used.

(3) Declared state of emergency. – A state of emergency as that term is defined in G.S. 166A-19.3 or a state of emergency found and declared by any chief executive official or acting chief executive official of any county or municipality acting under the authority of any other applicable statute or provision of the common law to preserve the public peace in a state of emergency, or by any executive official or military commanding officer of the United States or the State of North Carolina who becomes primarily responsible under applicable law for the preservation of the public peace within any part of North Carolina.

(4) Disorderly conduct. – As defined in G.S. 14-288.4(a).

(4a) Emergency. – As defined in G.S. 166A-19.3.

(5) Law enforcement officer. – Any officer of the State of North Carolina or any of its political subdivisions authorized to make arrests; any other person authorized under the laws of North Carolina to make arrests and either acting within that person's territorial jurisdiction or in an area in which that person has been lawfully called to duty by the Governor or any mayor or chairman of the board of county commissioners; any member of the Armed Forces of the United States, the North Carolina National Guard, or the North Carolina State Defense Militia called to duty in a state of emergency in North Carolina and made responsible for enforcing the laws of North Carolina or preserving the public peace; or any officer of the United States authorized to make arrests without warrant and assigned to duties that include preserving the public peace in North Carolina.

(6) Mayor. – The mayor or other chief executive official of a municipality or, in case of that person's absence or disability, the person authorized to act in that person's stead. Unless the governing body of the municipality has specified who is to act in lieu of the mayor with respect to a particular power or duty set out in this Article, the word "mayor" shall apply to the person generally authorized to act in lieu of the mayor.

(7) Municipality. – Any active incorporated city or town, but not including any sanitary district or other municipal corporation that is not a city or town. An "active" municipality is one which has conducted the most recent election required by its charter or the general law, whichever is applicable, and which has the authority to enact general police-power ordinances.

(8) Public disturbance. – Any annoying, disturbing, or alarming act or condition exceeding the bounds of social toleration normal for the time and place in question which occurs in a public place or which occurs in, affects persons in, or is likely to affect persons in a place to which the public or a substantial group has access. The places covered by this definition shall include, but not be limited to, highways, transport

facilities, schools, prisons, apartment houses, places of business or amusement, or any neighborhood.

(9) Riot. – As defined in G.S. 14-288.2(a).

(10) Repealed by Session Laws 2012-12, s. 2(a), effective October 1, 2012. (1969, c. 869, s. 1; 1975, c. 718, s. 5; 2009-281, s. 1; 2011-183, s. 10; 2012-12, s. 2(a).)

§ 14-288.2. Riot; inciting to riot; punishments.

(a) A riot is a public disturbance involving an assemblage of three or more persons which by disorderly and violent conduct, or the imminent threat of disorderly and violent conduct, results in injury or damage to persons or property or creates a clear and present danger of injury or damage to persons or property.

(b) Any person who willfully engages in a riot is guilty of a Class 1 misdemeanor.

(c) Any person who willfully engages in a riot is guilty of a Class H felony, if:

(1) In the course and as a result of the riot there is property damage in excess of fifteen hundred dollars ($1,500) or serious bodily injury; or

(2) Such participant in the riot has in his possession any dangerous weapon or substance.

(d) Any person who willfully incites or urges another to engage in a riot, so that as a result of such inciting or urging a riot occurs or a clear and present danger of a riot is created, is guilty of a Class 1 misdemeanor.

(e) Any person who willfully incites or urges another to engage in a riot, and such inciting or urging is a contributing cause of a riot in which there is property damage in excess of fifteen hundred dollars ($1,500) or serious bodily injury, shall be punished as a Class F felon. (1969, c. 869, s. 1; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, ss. 187, 188, 1225, 1226; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-288.3. Provisions of Article intended to supplement common law and other statutes.

The provisions of this Article are intended to supersede and extend the coverage of the common-law crimes of riot and inciting to riot. To the extent that such common-law offenses may embrace situations not covered under the provisions of this Article, however, criminal prosecutions may be brought for such crimes under the common law. All other provisions of the Article are intended to be supplementary and additional to the common law and other statutes of this State and, except as specifically indicated, shall not be construed to abrogate, abolish, or supplant other provisions of law. In particular, this Article shall not be deemed to abrogate, abolish, or supplant such common-law offenses as unlawful assembly, rout, conspiracy to commit riot or other criminal offenses, false imprisonment, and going about armed to the terror of the populace and other comparable public-nuisance offenses. (1969, c. 869, s. 1.)

§ 14-288.4. Disorderly conduct.

(a) Disorderly conduct is a public disturbance intentionally caused by any person who does any of the following:

(1) Engages in fighting or other violent conduct or in conduct creating the threat of imminent fighting or other violence.

(2) Makes or uses any utterance, gesture, display or abusive language which is intended and plainly likely to provoke violent retaliation and thereby cause a breach of the peace.

(3) Takes possession of, exercises control over, or seizes any building or facility of any public or private educational institution without the specific authority of the chief administrative officer of the institution, or his authorized representative.

(4) Refuses to vacate any building or facility of any public or private educational institution in obedience to any of the following:

a. An order of the chief administrative officer of the institution, or the officer's representative, who shall include for colleges and universities the vice chancellor for student affairs or the vice-chancellor's equivalent for the institution, the dean of students or the dean's equivalent for the institution, the director of the law enforcement or security department for the institution, and the chief of the law enforcement or security department for the institution.

b. An order given by any fireman or public health officer acting within the scope of the fireman's or officer's authority.

c. If an emergency is occurring or is imminent within the institution, an order given by any law-enforcement officer acting within the scope of the officer's authority.

(5) Shall, after being forbidden to do so by the chief administrative officer, or the officer's authorized representative, of any public or private educational institution:

a. Engage in any sitting, kneeling, lying down, or inclining so as to obstruct the ingress or egress of any person entitled to the use of any building or facility of the institution in its normal and intended use; or

b. Congregate, assemble, form groups or formations (whether organized or not), block, or in any manner otherwise interfere with the operation or functioning of any building or facility of the institution so as to interfere with the customary or normal use of the building or facility.

(6) Disrupts, disturbs or interferes with the teaching of students at any public or private educational institution or engages in conduct which disturbs the peace, order or discipline at any public or private educational institution or on the grounds adjacent thereto.

(6a) Engages in conduct which disturbs the peace, order, or discipline on any public school bus or public school activity bus.

(7) Except as provided in subdivision (8) of this subsection, disrupts, disturbs, or interferes with a religious service or assembly or engages in

conduct which disturbs the peace or order at any religious service or assembly.

(8) Engages in conduct with the intent to impede, disrupt, disturb, or interfere with the orderly administration of any funeral, memorial service, or family processional to the funeral or memorial service, including a military funeral, service, or family processional, or with the normal activities and functions occurring in the facilities or buildings where a funeral or memorial service, including a military funeral or memorial service, is taking place. Any of the following conduct that occurs within two hours preceding, during, or within two hours after a funeral or memorial service shall constitute disorderly conduct under this subdivision:

a. Displaying, within 500 feet of the ceremonial site, location being used for the funeral or memorial, or the family's processional route to the funeral or memorial service, any visual image that conveys fighting words or actual or imminent threats of harm directed to any person or property associated with the funeral, memorial service, or processional route.

b. Uttering, within 500 feet of the ceremonial site, location being used for the funeral or memorial service, or the family's processional route to the funeral or memorial service, loud, threatening, or abusive language or singing, chanting, whistling, or yelling with or without noise amplification in a manner that would tend to impede, disrupt, disturb, or interfere with a funeral, memorial service, or processional route.

c. Attempting to block or blocking pedestrian or vehicular access to the ceremonial site or location being used for a funeral or memorial.

As used in this section the term "building or facility" includes the surrounding grounds and premises of any building or facility used in connection with the operation or functioning of such building or facility.

(b) Except as provided in subsection (c) of this section, any person who willfully engages in disorderly conduct is guilty of a Class 2 misdemeanor.

(c) A person who commits a violation of subdivision (8) of subsection (a) of this section is guilty of:

(1) A Class 1 misdemeanor for a first offense.

(2) A Class I felony for a second offense.

(3) A Class H felony for a third or subsequent offense. (1969, c. 869, s. 1; 1971, c. 668, s. 1; 1973, c. 1347; 1975, c. 19, s. 4; 1983, c. 39, s. 5; 1987, c. 671, s. 1; 1993, c. 539, s. 189; 1994, Ex. Sess., c. 24, s. 14(c); 2001-26, s. 2; 2006-169, s. 1; 2012-12, s. 2(b); 2013-6, s. 1.)

§ 14-288.5. Failure to disperse when commanded a misdemeanor; prima facie evidence.

(a) Any law-enforcement officer or public official responsible for keeping the peace may issue a command to disperse in accordance with this section if he reasonably believes

that a riot, or disorderly conduct by an assemblage of three or more persons, is occurring. The command to disperse shall be given in a manner reasonably calculated to be communicated to the assemblage.

(b) Any person who fails to comply with a lawful command to disperse is guilty of a Class 2 misdemeanor.

(c) If any person remains at the scene of any riot, or disorderly conduct by an assemblage of three or more persons, following a command to disperse and after a reasonable time for dispersal has elapsed, it is prima facie evidence that the person so remaining is willfully engaging in the riot or disorderly conduct, as the case may be. (1969, c. 869, s. 1; 1993, c. 539, s. 190; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-288.6. Looting; trespass during emergency.

(a) Any person who enters upon the premises of another without legal justification when the usual security of property is not effective due to the occurrence or aftermath of riot, insurrection, invasion, storm, fire, explosion, flood, collapse, or other disaster or calamity is guilty of a Class 1 misdemeanor of trespass during an emergency.

(b) Any person who commits the crime of trespass during emergency and, without legal justification, obtains or exerts control over, damages, ransacks, or destroys the property of another is guilty of the felony of looting and shall be punished as a Class H felon. (1969, c. 869, s. 1; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, ss. 191, 1227; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-288.7: Repealed by Session Laws 2012-12, s. 2(c), effective October 1, 2012.

§ 14-288.8. Manufacture, assembly, possession, storage, transportation, sale, purchase, delivery, or acquisition of weapon of mass death and destruction; exceptions.

(a) Except as otherwise provided in this section, it is unlawful for any person to manufacture, assemble, possess, store, transport, sell, offer to sell, purchase, offer to purchase, deliver or give to another, or acquire any weapon of mass death and destruction.

(b) This section does not apply to any of the following:

(1) Persons exempted from the provisions of G.S. 14-269 with respect to any activities lawfully engaged in while carrying out their duties.

(2) Importers, manufacturers, dealers, and collectors of firearms, ammunition, or destructive devices validly licensed under the laws of the United States or the State of North Carolina, while lawfully engaged in activities authorized under their licenses.

(3) Persons under contract with the United States, the State of North Carolina, or any agency of either government, with respect to any activities lawfully engaged in under their contracts.

(4) Inventors, designers, ordnance consultants and researchers, chemists, physicists, and other persons lawfully engaged in pursuits designed to enlarge knowledge or to facilitate the creation, development, or

manufacture of weapons of mass death and destruction intended for use in a manner consistent with the laws of the United States and the State of North Carolina.

(5) Persons who lawfully possess or own a weapon as defined in subsection (c) of this section in compliance with 26 U.S.C. Chapter 53, §§ 5801-5871. Nothing in this subdivision shall limit the discretion of the sheriff in executing the paperwork required by the United States Bureau of Alcohol, Tobacco and Firearms for such person to obtain the weapon.

(c) The term "weapon of mass death and destruction" includes:

(1) Any explosive or incendiary:

a. Bomb; or

b. Grenade; or

c. Rocket having a propellant charge of more than four ounces; or

d. Missile having an explosive or incendiary charge of more than one-quarter ounce; or

e. Mine; or

f. Device similar to any of the devices described above; or

(2) Any type of weapon (other than a shotgun or a shotgun shell of a type particularly suitable for sporting purposes) which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; or

(3) Any firearm capable of fully automatic fire, any shotgun with a barrel or barrels of less than 18 inches in length or an overall length of less than 26 inches, any rifle with a barrel or barrels of less than 16 inches in length or an overall length of less than 26 inches, any muffler or silencer for any firearm, whether or not such firearm is included within this definition. For the purposes of this section, rifle is defined as a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder; or

(4) Any combination of parts either designed or intended for use in converting any device into any weapon described above and from which a weapon of mass death and destruction may readily be assembled.

The term "weapon of mass death and destruction" does not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of Title 10 of the United States Code; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting purposes, in accordance with Chapter 44 of Title 18 of the United States Code.

(d) Any person who violates any provision of this section is guilty of a Class F felony. (1969, c. 869, s. 1; 1975, c. 718, ss. 6, 7; 1977, c. 810; 1983, c. 413, ss. 1, 2; 1993, c. 539, s. 1228; 1994, Ex. Sess., c. 24, s. 14(c); 2001-470, s. 3; 2011-268, s. 8.)

§ 14-288.9. Assault on emergency personnel; punishments.

(a) An assault upon emergency personnel is an assault upon any person coming within the definition of "emergency personnel" which is committed in an area:

(1) In which a declared state of emergency exists; or

(2) Within the immediate vicinity of which a riot is occurring or is imminent.

(b) The term "emergency personnel" includes law-enforcement officers, firemen, ambulance attendants, utility workers, doctors, nurses, and other persons lawfully engaged in providing essential services during the emergency.

(c) Any person who commits an assault causing physical injury upon emergency personnel is guilty of a Class I felony. Any person who commits an assault upon emergency personnel with or through the use of any dangerous weapon or substance shall be punished as a Class F felon. (1969, c. 869, s. 1; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1993, c. 539, ss. 193, 1229; 1994, Ex. Sess., c. 24, s. 14(c); 2011-356, s. 3.)

§ 14-288.10. Frisk of persons during violent disorders; frisk of curfew violators.

(a) Any law-enforcement officer may frisk any person in order to discover any dangerous weapon or substance when he has reasonable grounds to believe that the person is or may become unlawfully involved in an existing riot and when the person is close enough to such riot that he could become immediately involved in the riot. The officer may also at that time inspect for the same purpose the contents of any personal belongings that the person has in his possession.

(b) Any law-enforcement officer may frisk any person he finds violating the provisions of a curfew proclaimed under the authority of G.S. 14-288.12, 14-288.13, 14-288.14, or 14-288.15 or any other applicable statutes or provisions of the common law in order to discover whether the person possesses any dangerous weapon or substance. The officer may also at that time inspect for the same purpose the contents of any personal belongings that the person has in his possession. (1969, c. 869, s. 1.)

§ 14-288.11. Warrants to inspect vehicles in riot areas or approaching municipalities during emergencies.

(a) Notwithstanding the provisions of Article 4 of Chapter 15, any law-enforcement officer may, under the conditions specified in this section, obtain a warrant authorizing inspection of vehicles under the conditions and for the purpose specified in subsection (b).

(b) The inspection shall be for the purpose of discovering any dangerous weapon or substance likely to be used by one who is or may become unlawfully involved in a riot. The warrant may be sought to inspect:

(1) All vehicles entering or approaching a municipality in which an emergency exists; or

(2) All vehicles which might reasonably be regarded as being within or approaching the immediate vicinity of an existing riot.

(c) The warrant may be issued by any judge or justice of the General Court of Justice.

(d) The issuing official shall issue the warrant only when he has determined that the one seeking the warrant has been specifically authorized to do so by the head of the law-enforcement agency of which the affiant is a member, and:

(1) If the warrant is being sought for the inspection of vehicles entering or approaching a municipality, that an emergency exists within the municipality; or

(2) If the warrant being sought is for the inspection of vehicles within or approaching the immediate vicinity of a riot, that a riot is occurring within that area.

Facts indicating the basis of these determinations must be stated in an affidavit and signed by the affiant under oath or affirmation.

(e) The warrant must be signed by the issuing official and must bear the hour and date of its issuance.

(f) The warrant must indicate whether it is for the inspection of vehicles entering or approaching a municipality or whether it is for the inspection of vehicles within or approaching the immediate vicinity of a riot. In either case, it must also specify with reasonable precision the area within which it may be exercised.

(g) The warrant shall become invalid 24 hours following its issuance and must bear a notation to that effect.

(h) Warrants authorized under this section shall not be regarded as search warrants for the purposes of application of Article 4 of Chapter 15.

(i) Nothing in this section is intended to prevent warrantless frisks, searches, and inspections to the extent that they may be constitutional and consistent with common law and governing statutes. (1969, c. 869, s. 1; 2012-12, s. 2(d).)

§ 14-288.12: Repealed by Session Laws 2012-12, s. 2(e), effective October 1, 2012.

§ 14-288.13: Repealed by Session Laws 2012-12, s. 2(e), effective October 1, 2012.

§ 14-288.14: Repealed by Session Laws 2012-12, s. 2(e), effective October 1, 2012.

§ 14-288.15: Repealed by Session Laws 2012-12, s. 2(e), effective October 1, 2012.

§ 14-288.16: Repealed by Session Laws 2012-12, s. 2(e), effective October 1, 2012.

§ 14-288.17: Repealed by Session Laws 2012-12, s. 2(e), effective October 1, 2012.

§ 14-288.18. Injunction to cope with emergencies at public and private educational institutions.

(a) The chief administrative officer, or his authorized representative, of any public or private educational institution may apply to any superior court judge for injunctive relief if an emergency exists within his institution. For the purposes of this section, the superintendent of any city or county administrative school unit shall be deemed the chief administrative officer of any public elementary or secondary school within his unit.

(b) Upon a finding by a superior court judge, to whom application has been made under the provisions of this section, that an emergency exists within a public or private educational institution by reason of riot, disorderly conduct by three or more persons, or the imminent threat of riot, the judge may issue an injunction containing provisions appropriate to cope with the emergency then occurring or threatening. The injunction may be addressed to named persons or named or described groups of persons as to whom there is satisfactory cause for believing that they are contributing to the emergency, and ordering such persons or groups of persons to take or refrain or desist from taking such various actions as the judge finds it appropriate to include in his order. (1969, c. 869, s. 1; 2012-12, s. 2(f).)

§ 14-288.19: Repealed by Session Laws 2012-12, s. 2(e), effective October 1, 2012.

§ 14-288.20. Certain weapons at civil disorders.

(a) The definitions in G.S. 14-288.1 do not apply to this section. As used in this section:

(1) The term "civil disorder" means any public disturbance involving acts or violence by assemblages of three or more persons, which causes an immediate danger of damage or injury to the property or person of any other individual or results in damage or injury to the property or person of any other individual.

(2) The term "firearm" means any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive; or the frame or receiver of such a weapon.

(3) The term "explosive or incendiary device" means (i) dynamite and all other forms of high explosives, (ii) any explosive bomb, grenade, missile, or similar device, and (iii) any incendiary bomb or grenade, fire bomb, or similar device, including any device which (i) consists of or includes a breakable container including a flammable liquid or compound, and a wick composed of any material which, when ignited, is capable of igniting that flammable liquid or compound, and (ii) can be carried or thrown by one individual acting alone.

(4) The term "law-enforcement officer" means any officer of the United States, any state, any political subdivision of a state, or the District of Columbia charged with the execution of the laws thereof; civil officers of the United States; officers and soldiers of the organized militia and state guard of any state or territory of the United States, the Commonwealth of

Puerto Rico, or the District of Columbia; and members of the Armed Forces of the United States.

(b) A person is guilty of a Class H felony, if he:

(1) Teaches or demonstrates to any other person the use, application, or making of any firearm, explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder; or

(2) Assembles with one or more persons for the purpose of training with, practicing with, or being instructed in the use of any firearm, explosive or incendiary device, or technique capable of causing injury or death to persons, intending to employ unlawfully the training, practicing, instruction, or technique for use in, or in furtherance of, a civil disorder.

(c) Nothing contained in this section shall make unlawful any act of any law-enforcement officer which is performed in the lawful performance of his official duties. (1981, c. 880, ss. 1, 2; 1993, c. 539, s. 1230; 1994, Ex. Sess., c. 24, s. 14(c); 2011-183, s. 11.)

§ 14-288.20A. Violation of emergency prohibitions and restrictions.

Any person who does any of the following is guilty of a Class 2 misdemeanor:

(1) Violates any provision of an ordinance or a declaration enacted or declared pursuant to G.S. 166A-19.31.

(2) Violates any provision of a declaration or executive order issued pursuant to G.S. 166A-19.30.

(3) Willfully refuses to leave the building as directed in a Governor's order issued pursuant to G.S. 166A-19.78. (2012-12, s. 1(d).)

Article 36B.

Nuclear, Biological, or Chemical Weapons of Mass Destruction.

§ 14-288.21. Unlawful manufacture, assembly, possession, storage, transportation, sale, purchase, delivery, or acquisition of a nuclear, biological, or chemical weapon of mass destruction; exceptions; punishment.

(a) Except as otherwise provided in this section, it is unlawful for any person to knowingly manufacture, assemble, possess, store, transport, sell, offer to sell, purchase, offer to purchase, deliver or give to another, or acquire a nuclear, biological, or chemical weapon of mass destruction.

(b) This section does not apply to:

(1) Persons listed in G.S. 14-269(b) with respect to any activities lawfully engaged in while carrying out their duties.

(2) Persons under contract with, or working under the direction of, the United States, the State of North Carolina, or any agency of either government, with respect to any activities lawfully engaged in under their contracts or pursuant to lawful direction.

(3) Persons lawfully engaged in the development, production, manufacture, assembly, possession, transport, sale, purchase, delivery or acquisition of any biological agent, disease organism, toxic or poisonous chemical, radioactive substance or their immediate precursors, for preventive, protective, or other peaceful purposes.

(4) Persons lawfully engaged in accepted agricultural, horticultural, or forestry practices; aquatic weed control; or structural pest and rodent control, in a manner approved by the federal, State, county, or local agency charged with authority over such activities.

(c) The term "nuclear, biological, or chemical weapon of mass destruction", as used in this Article, means any of the following:

(1) Any weapon, device, or method that is designed or has the capability to cause death or serious injury through the release, dissemination, or impact of:

a. Radiation or radioactivity;

b. A disease organism; or

c. Toxic or poisonous chemicals or their immediate precursors.

(2) Any substance that is designed or has the capability to cause death or serious injury and:

a. Contains radiation or radioactivity;

b. Is or contains toxic or poisonous chemicals or their immediate precursors; or

c. Is or contains one or more of the following:

1. Any select agent that is a microorganism, virus, bacterium, fungus, rickettsia, or toxin listed in Appendix A of Part 72 of Title 42 of the Code of Federal Regulations.

2. Any genetically modified microorganisms or genetic elements from an organism on Appendix A of Part 72 of Title 42 of the Code of Federal Regulations, shown to produce or encode for a factor associated with a disease.

3. Any genetically modified microorganisms or genetic elements that contain nucleic acid sequences coding for any of the toxins listed on Appendix A of Part 72 of Title 42 of the Code of Federal Regulations, or their toxic submits.

The term "nuclear, biological, or chemical weapon of mass destruction" also includes any combination of parts or substances either designed or intended for use in converting any device or substance into any nuclear, biological, or chemical weapon of mass destruction or from which a nuclear, biological, or chemical weapon of mass destruction may be readily assembled or created.

(d) Any person who violates any provision of this section is guilty of a Class B1 felony. (2001-470, s. 1.)

§ 14-288.22. Unlawful use of a nuclear, biological, or chemical weapon of mass destruction; punishment.

(a) Any person who unlawfully and willfully injures another by the use of a nuclear, biological, or chemical weapon of mass destruction is guilty of a Class A felony and shall be sentenced to life imprisonment without parole.

(b) Any person who attempts, solicits another, or conspires to injure another by the use of a nuclear, biological, or chemical weapon of mass destruction is guilty of a Class B1 felony.

(c) Any person who for the purpose of violating any provision of this Article, deposits for delivery or attempts to have delivered, a nuclear, biological, or chemical weapon of mass destruction by the United States Postal Service or other public or private business engaged in the delivery of mail, packages, or parcels is guilty of a Class B1 felony. (2001-470, s. 1.)

§ 14-288.23. Making a false report concerning a nuclear, biological, or chemical weapon of mass destruction; punishment; restitution.

(a) Any person who, by any means of communication to any person or group of persons, makes a report, knowing or having reason to know the report is false, that causes any person to reasonably believe that there is located at any place or structure whatsoever any nuclear, biological, or chemical weapon of mass destruction is guilty of a Class D felony.

(b) The court may order a person convicted under this section to pay restitution, including costs and consequential damages resulting from disruption of the normal activity that would have otherwise occurred but for the false report, pursuant to Article 81C of Chapter 15A of the General Statutes.

(c) For purposes of this section, the term "report" shall include making accessible to another person by computer. (2001-470, s. 1.)

§ 14-288.24. Perpetrating hoax by use of false nuclear, biological, or chemical weapon of mass destruction; punishment; restitution.

(a) Any person who, with intent to perpetrate a hoax, conceals, places, or displays any device, object, machine, instrument, or artifact, so as to cause any person reasonably to believe the same to be a nuclear, biological, or chemical weapon of mass destruction is guilty of a Class D felony.

(b) The court may order a person convicted under this section to pay restitution, including costs and consequential damages resulting from disruption of the normal activity that would have otherwise occurred but for the hoax, pursuant to Article 81C of Chapter 15A of the General Statutes. (2001-470, s. 1.)

SUBCHAPTER XI. GENERAL POLICE REGULATIONS.

Article 37.

Lotteries, Gaming, Bingo and Raffles.

Part 1. Lotteries and Gaming.

§ 14-289. Advertising lotteries.

Except as provided in Chapter 18C of the General Statutes or in connection with a lawful raffle as provided in Part 2 of this Article, if anyone by writing or printing or by circular or letter or in any other way, advertises or publishes an account of a lottery, whether within or without this State, stating how, when or where the same is to be or has been drawn, or what are the prizes therein or any of them, or the price of a ticket or any share or interest therein, or where or how it may be obtained, he shall be guilty of a Class 2 misdemeanor. News medium as defined in G.S. 8-53.11 shall be exempt from this section provided the publishing is in connection with a lawful activity

of the news medium. (1887, c. 211; Rev., s. 3725; C.S., s. 4427; 1979, c. 893, s. 3; 1983, c. 896, s. 1; 1993, c. 539, s. 199; 1994, Ex. Sess., c. 24, s. 14(c); 2005-276, s. 31.1(v2); 2005-344, s. 3(a).)

§ 14-290. Dealing in lotteries.

Except as provided in Chapter 18C of the General Statutes or in connection with a lawful raffle as provided in Part 2 of this Article, if any person shall open, set on foot, carry on, promote, make or draw, publicly or privately, a lottery, by whatever name, style or title the same may be denominated or known; or if any person shall, by such way and means, expose or set to sale any house, real estate, goods, chattels, cash, written evidence of debt, certificates of claims or any other thing of value whatsoever, every person so offending shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed two thousand dollars ($2,000). Any person who engages in disposing of any species of property whatsoever, including money and evidences of debt, or in any manner distributes gifts or prizes upon tickets, bottle crowns, bottle caps, seals on containers, other devices or certificates sold for that purpose, shall be held liable to prosecution under this section. Any person who shall have in his possession any tickets, certificates or orders used in the operation of any lottery shall be held liable under this section, and the mere possession of such tickets shall be prima facie evidence of the violation of this section. This section shall not apply to the possession of a lottery ticket or share for a lottery game being lawfully conducted in another state. (1834, c. 19, s. 1; R.C., c. 34, s. 69; 1874-5, c. 96; Code, s. 1047; Rev., s. 3726; C.S., s. 4428; 1933, c. 434; 1937, c. 157; 1979, c. 893, s. 4; 1983, c. 896, s. 1; 1993, c. 539, s. 200; 1994, Ex. Sess., c. 24, s. 14(c); 2005-344, s. 3(b).)

§ 14-291. Selling lottery tickets and acting as agent for lotteries.

Except as provided in Chapter 18C of the General Statutes or in connection with a lawful raffle as provided in Part 2 of this Article, if any person shall sell, barter or otherwise dispose of any lottery ticket or order for any number of shares in any lottery, or shall in anywise be concerned in such lottery, by acting as agent in the State for or on behalf of any such lottery, to be drawn or paid either out of or within the State, such person shall be guilty of a Class 2 misdemeanor. (1834, c. 19, s. 2; R.C., c. 34, s. 70; Code, s. 1048; Rev., s. 3727; C.S., s. 4429; 1979, c. 893, s. 5; 1983, c. 896, s. 1; 1993, c. 539, s. 201; 1994, Ex. Sess., c. 24, s. 14(c); 2005-344, s. 3(c).)

§ 14-291.1. Selling "numbers" tickets; possession prima facie evidence of violation.

Except as provided in Chapter 18C of the General Statutes, in connection with a lawful lottery conducted in another state, or in connection with a lawful raffle as provided in Part 2 of this Article, if any person shall sell, barter or cause to be sold or bartered, any ticket, token, certificate or order for any number or shares in any lottery, commonly known as the numbers or butter and egg lottery, or lotteries of similar character, to be drawn or paid within or without the State, such person shall be guilty of a Class 2 misdemeanor. Any person who shall have in his possession any tickets, tokens, certificates or orders used in the operation of any such lottery shall be guilty under this section, and the possession of such tickets shall be prima facie evidence of the violation of this section. (1943, c. 550; 1979, c. 893, s. 6; 1983, c. 896, s. 1; 1993, c. 539, s. 202; 1994, Ex. Sess., c. 24, s. 14(c); 2005-344, s. 3(d).)

§ 14-291.2. Pyramid and chain schemes prohibited.

(a) No person shall establish, operate, participate in, or otherwise promote any pyramid distribution plan, program, device or scheme whereby a participant pays a valuable consideration

for the opportunity or chance to receive a fee or compensation upon the introduction of other participants into the program, whether or not such opportunity or chance is received in conjunction with the purchase of merchandise. A person who establishes or operates a pyramid distribution plan is guilty of a Class H felony. A person who participates in or otherwise promotes a pyramid distribution plan is deemed to participate in a lottery and is guilty of a Class 2 misdemeanor.

(b) "Pyramid distribution plan" means any program utilizing a pyramid or chain process by which a participant gives a valuable consideration for the opportunity to receive compensation or things of value in return for inducing other persons to become participants in the program; and

"Compensation" does not mean payment based on sales of goods or services to persons who are not participants in the scheme, and who are not purchasing in order to participate in the scheme.

(c) Any judge of the superior court shall have jurisdiction, upon petition by the Attorney General of North Carolina or district attorney of the superior court, to enjoin, as an unfair or deceptive trade practice, the continuation of the scheme described in subsection (a); in such proceeding the court may assess civil penalties and attorneys' fees to the Attorney General or the District Attorney pursuant to G.S. 75-15.2 and 75-16.1; and the court may appoint a receiver to secure and distribute assets obtained by any defendant through participation in any such scheme. The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) Any contract hereafter created for which a part of the consideration consisted of the opportunity or chance to participate in a program described in subsection (a) is hereby declared to be contrary to public policy and therefore void and unenforceable. (1971, c. 875, s. 1; 1973, c. 47, s. 2; 1983, c. 721, s. 2; 1993, c. 539, s. 203; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(x); 1998-215, s. 96.)

§ 14-292. Gambling.

Except as provided in Chapter 18C of the General Statutes or in Part 2 of this Article, any person or organization that operates any game of chance or any person who plays at or bets on any game of chance at which any money, property or other thing of value is bet, whether the same be in stake or not, shall be guilty of a Class 2 misdemeanor. This section shall not apply to a person who plays at or bets on any lottery game being lawfully conducted in any state. (1891, c. 29; Rev., s. 3715; C.S., s. 4430; 1979, c. 893, s. 1; 1983, c. 896, s. 1; 1993, c. 539, s. 204; 1994, Ex. Sess., c. 24, s. 14(c); 2005-344, s. 3(e).)

§ 14-292.1. Repealed by Session Laws 1983, c. 896, s. 2.

§ 14-292.2. Class III gaming on Indian lands.

(a) Except as otherwise provided in this section, and notwithstanding any laws which make Class III gaming, as defined by the federal Indian Gaming Regulatory Act, 25 U.S.C. § 2701, et seq., unlawful in this State, the Class III gaming activities listed in subsection (b) of this section may legally be conducted on Indian lands that are held in trust by the United States government for and on behalf of federally recognized Indian tribes, if all the following apply:

(1) The Class III games are conducted in accordance with a valid Class III Tribal-State Gaming Compact or an amendment to a Compact, applicable

to the tribe, that has been negotiated and entered into by the Governor under the authority provided in G.S. 147-12(a)(14) and G.S. 71A-8.

(2) The Tribal-State Gaming Compact has been approved by the U.S. Department of the Interior.

(3) The Tribal-State Gaming Compact requires that all monies paid by the tribe under the Compact be paid to the Indian Gaming Education Revenue Fund established by law.

(b) The following Class III games may lawfully be conducted pursuant to subsection (a) of this section:

(1) Gaming machines.

(2) Live table games.

(3) Raffles, as defined in G.S. 14-309.15(b).

(4) Video games, as defined in G.S. 14-306 and G.S. 14-306.1A.

(c) Nothing in this section shall modify or affect laws applicable to persons or entities other than federally recognized Indian tribes operating games in accordance with subsection (a) of this section.

(d) Notwithstanding any other provision of law, there shall be no more than three Class III gaming facilities authorized by a Compact entered under subsection (a) of this section on the lands of any single Indian tribe, and a Compact that authorizes or allows for the operation of more than three such facilities shall be invalid.

(e) As used in this section, the following terms mean:

(1) Gaming machine. – A machine that meets the definition of any of the following:

a. As set forth in G.S. 14-306.

b. "Gaming machine" as set forth in 25 C.F.R. § 542.2.

c. "Gambling device" as set forth in 15 U.S.C. § 1171.

(2) Live table games. – Games that utilize real nonelectronic cards, dice, chips, or equipment in the play and operation of the game. (2012-6, s. 2.)

§ 14-293. Allowing gambling in houses of public entertainment; penalty.

Except as provided in Chapter 18C of the General Statutes, if any keeper of an ordinary or other house of entertainment, or of a house wherein alcoholic beverages are retailed, shall knowingly suffer any game, at which money or property, or anything of value, is bet, whether the same be in stake or not, to be played in any such house, or in any part of the premises occupied therewith; or shall furnish persons so playing or betting either on said premises or elsewhere with drink or other thing for their comfort or subsistence during the time of play, he shall be guilty of a Class 2 misdemeanor. Any person who shall be convicted under this section shall, upon such conviction, forfeit his license to do any of the businesses mentioned in this section, and shall be forever debarred from doing any of such businesses in this State. The court shall embody in its judgment that such person has forfeited his license, and no board of county commissioners, board of town commissioners or board of aldermen shall thereafter have power or authority to grant to such convicted person or his agent a license to do any of the businesses mentioned herein. (1799, c. 526, P.R.; 1801, c. 581, P.R.; 1831, c. 26; R.C., c. 34, s. 76; Code, s. 1043; 1901, c. 753; Rev.,

s. 3716; C.S., 4431; 1967, c. 101, s. 1; 1981, c. 412, s. 4(4); c. 747, s. 66; 1993, c. 539, s. 205; 1994, Ex. Sess., c. 24, s. 14(c); 2005-344, s. 3(f).)

§ 14-294. Gambling with faro banks and tables.

If any person shall open, establish, use or keep a faro bank, or a faro table, with the intent that games of chance may be played thereat, or shall play or bet thereat any money, property or other thing of value, whether the same be in stake or not, he shall be guilty of a Class 2 misdemeanor. (1848, c. 34; R.C., c. 71; 1856-7, c. 25; Code, s. 1044; Rev., s. 3717; C.S., s. 4432; 1993, c. 539, s. 206; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-295. Keeping gaming tables, illegal punchboards or slot machines, or betting thereat.

If any person shall establish, use or keep any gaming table (other than a faro bank), by whatever name such table may be called, an illegal punchboard or an illegal slot machine, at which games of chance shall be played, he shall be guilty of a Class 2 misdemeanor; and every person who shall play thereat or thereat bet any money, property or other thing of value, whether the same be in stake or not, shall be guilty of a Class 2 misdemeanor. (1791, c. 336, P.R.; 1798, c. 502, s. 2, P.R.; R.C., c. 34, s. 72; Code, s. 1045; Rev., s. 3718; C.S., s. 4433; 1931, c. 14, s. 2; 1993, c. 539, s. 207; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-296. Illegal slot machines and punchboards defined.

An illegal slot machine or punchboard within the contemplation of G.S. 14-295 through 14-298 is defined as a device where the user may become entitled to receive any money, credit, allowance, or any thing of value, as defined in G.S. 14-306. (1931, c. 14, s. 1; 1989, c. 406, s. 2.)

§ 14-297. Allowing gaming tables, illegal punchboards or slot machines on premises.

If any person shall knowingly suffer to be opened, kept or used in his house or on any part of the premises occupied therewith, any of the gaming tables prohibited by G.S. 14-289 through 14-300 or any illegal punchboard or illegal slot machine, he shall forfeit and pay to any one who will sue therefor two hundred dollars ($200.00), and shall also be guilty of a Class 2 misdemeanor. (1798, c. 502, s. 3, P.R.; 1800, c. 5, s. 2, P.R.; R.C., c. 34, s. 73; Code, s. 1046; Rev., s. 3719; C.S., s. 4434; 1931, c. 14, s. 3; 1993, c. 539, s. 208; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-298. Seizure of illegal gaming items.

Upon a determination that probable cause exists to believe that any gaming table prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or illegal slot machine, any video game machine prohibited to be used by G.S. 14-306 or G.S. 14-306.1A, any game terminal described in G.S. 14-306.3(b), or any electronic machine or device using an entertaining display in violation of G.S. 14-306.4 is in the illegal possession or use of any person within the limits of their jurisdiction, all sheriffs and law enforcement officers are authorized to seize the items in accordance with applicable State law. Any law enforcement agency in possession of that item shall retain the item pending a disposition order from a district or superior court judge. Upon application by the law enforcement agency, district attorney, or owner, and after notice and opportunity to be heard by all parties, if the court determines that the item is unlawful to possess, it shall enter an order releasing the item to the law enforcement agency for destruction or for training purposes.

If the court determines that the item is not unlawful to possess and will not be used in violation of the law, the item shall be ordered released to its owner upon satisfactory proof of ownership. The foregoing procedures for release shall not apply, however, with respect to an item seized for use as evidence in any criminal action or proceeding until after entry of final judgment. (1791, c. 336, P.R.; 1798, c. 502, s. 2, P.R.; R.C., c. 34, s. 74; Code, s. 1049; Rev., s. 3720; C.S., s. 4435; 1931, c. 14, s. 4; 1973, c. 108, s. 11; 2000-151, s. 5; 2004-199, ss. 47(a), 47(b); 2004-203, s. 20(a); 2007-484, s. 3(a); 2008-122, s. 2; 2010-103, s. 2.)

§ 14-299. Property exhibited by gamblers to be seized; disposition of same.

Except as provided in Chapter 18C of the General Statutes or in G.S. 14-292, all moneys or other property or thing of value exhibited for the purpose of alluring persons to bet on any game, or used in the conduct of any such game, including any motor vehicle used in the conduct of a lottery within the purview of G.S. 14-291.1, shall be liable to be seized by any court of competent jurisdiction or by any person acting under its warrant. Moneys so seized shall be turned over to and paid to the treasurer of the county wherein they are seized, and placed in the general fund of the county. Any property seized which is used for and is suitable only for gambling shall be destroyed, and all other property so seized shall be sold in the manner provided for the sale of personal property by execution, and the proceeds derived from said sale shall (after deducting the expenses of keeping the property and the costs of the sale and after paying, according to their priorities all known prior, bona fide liens which were created without the lienor having knowledge or notice that the motor vehicle or other property was being used or to be used in connection with the conduct of such game or lottery) be turned over and paid to the treasurer of the county wherein the property was seized, to be placed by said treasurer in the general fund of the county. (1798, c. 502, s. 3, P.R.; R.C., c. 34, s. 77; Code, s. 1051; Rev., s. 3722; C.S., s. 4436; 1943, c. 84; 1957, c. 501; 1973, c. 108, s. 12; 2005-344, s. 3(g).)

§ 14-300. Opposing destruction of gaming tables and seizure of property.

If any person shall oppose the destruction of any prohibited gaming table, or the seizure of any moneys, property or other thing staked on forbidden games, or shall take and carry away the same or any part thereof after seizure, he shall forfeit and pay to the person so opposed one thousand dollars ($1,000), for the use of the State and the person so opposed, and shall, moreover, be guilty of a Class 2 misdemeanor. (1798, c. 502, s. 4, P.R.; R.C., c. 34, s. 78; Code, s. 1052; Rev., s. 3723; C.S., s. 4437; 1993, c. 539, s. 209; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-301. Operation or possession of slot machine; separate offenses.

It shall be unlawful for any person, firm or corporation to operate, keep in his possession or in the possession of any other person, firm or corporation, for the purpose of being operated, any slot machine or device where the user may become entitled to receive any money, credit, allowance, or any thing of value, as defined in G.S. 14-306. Each time said machine is operated as aforesaid shall constitute a separate offense. (1923, c. 138, ss. 1, 2; C.S., s. 4437(a); 1989, c. 406, s. 3.)

§ 14-302. Punchboards, vending machines, and other gambling devices; separate offenses.

It shall be unlawful for any person, firm or corporation to operate or keep in his possession, or the possession of any other person, firm or corporation, for the purpose of being operated, any punchboard, slot machine or device where the user may become entitled to receive any money, credit, allowance, or any thing of value, as defined in G.S. 14-306. Each time said punchboard,

slot machine or device where the user may become entitled to receive any money, credit, allowance, or any thing of value, as defined in G.S. 14-306 is operated, played, or patronized by the paying of money or other thing of value therefor, shall constitute a separate violation of this section as to operation thereunder. (1923, c. 138, ss. 3, 4; C.S., s. 4437(b); 1989, c. 406, s. 4.)

§ 14-303. Violation of two preceding sections a misdemeanor.

A violation of any of the provisions of G.S. 14-301 or 14-302 shall be a Class 2 misdemeanor. (1923, c. 138, s. 5; C.S., s. 4437(c); 1993, c. 366, s. 2, c. 539, s. 210; 1994, Ex. Sess., c. 14, s. 8(b).)

§ 14-304. Manufacture, sale, etc., of slot machines and devices.

It shall be unlawful to manufacture, own, store, keep, possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for sale or lease, or to offer to sell, rent, lease, let on shares, lend or give away, or to permit the operation of, or for any person to permit to be placed, maintained, used or kept in any room, space or building owned, leased or occupied by him or under his management or control, any slot machine or device where the user may become entitled to receive any money, credit, allowance, or any thing of value, as defined in G.S. 14-306. (1937, c. 196, s. 1; 1989, c. 406, s. 5.)

§ 14-305. Agreements with reference to slot machines or devices made unlawful.

It shall be unlawful to make or permit to be made with any person any agreement with reference to any slot machines or device where the user may become entitled to receive any money, credit, allowance, or any thing of value, as defined in G.S. 14-306 pursuant to which the user thereof may become entitled to receive any money, credit, allowance, or anything of value or additional chance or right to use such machines or devices, or to receive any check, slug, token or memorandum entitling the holder to receive any money, credit, allowance or thing of value. (1937, c. 196, s. 2; 1989, c. 406, s. 6.)

§ 14-306. Slot machine or device defined.

(a) Any machine, apparatus or device is a slot machine or device within the provisions of G.S. 14-296 through 14-309, if it is one that is adapted, or may be readily converted into one that is adapted, for use in such a way that, as a result of the payment of any piece of money or coin or token or any credit card, debit card, prepaid card, or any other method that requires payment to activate play, whether directly into the slot machine or device or resulting in remote activation, such machine or device is caused to operate or may be operated in such manner that the user may receive or become entitled to receive any piece of money, credit, allowance or thing of value, or any check, slug, token or memorandum, whether of value or otherwise, or which may be exchanged for any money, credit, allowance or any thing of value, or which may be given in trade, or the user may secure additional chances or rights to use such machine, apparatus or device; or any other machine or device designed and manufactured primarily for use in connection with gambling and which machine or device is classified by the United States as requiring a federal gaming device tax stamp under applicable provisions of the Internal Revenue Code. This definition is intended to embrace all slot machines and similar devices except slot machines in which is kept any article to be purchased by depositing any coin or thing of

value, and for which may be had any article of merchandise which makes the same return or returns of equal value each and every time it is operated, or any machine wherein may be seen any pictures or heard any music by depositing therein any coin or thing of value, or any slot weighing machine or any machine for making stencils by the use of contrivances operated by depositing in the machine any coin or thing of value, or any lock operated by slot wherein money or thing of value is to be deposited, where such slot machines make the same return or returns of equal value each and every time the same is operated and does not at any time it is operated offer the user or operator any additional money, credit, allowance, or thing of value, or check, slug, token or memorandum, whether of value or otherwise, which may be exchanged for money, credit, allowance or thing of value or which may be given in trade or by which the user may secure additional chances or rights to use such machine, apparatus, or device, or in the playing of which the operator does not have a chance to make varying scores or tallies.

(b) The definition contained in subsection (a) of this section and G.S. 14-296, 14-301, 14-302, and 14-305 does not include coin-operated machines, video games, pinball machines, and other computer, electronic or mechanical devices that are operated and played for amusement, that involve the use of skill or dexterity to solve problems or tasks or to make varying scores or tallies and that:

(1) Do not emit, issue, display, print out, or otherwise record any receipt, paper, coupon, token, or other form of record which is capable of being redeemed, exchanged, or repurchased for cash, cash equivalent, or prizes, or award free replays; or

(2) In actual operation, limit to eight the number of accumulated credits or replays that may be played at one time and which may award free replays or paper coupons that may be exchanged for prizes or merchandise with a value not exceeding ten dollars ($10.00), but may not be exchanged or converted to money.

(c) Any video machine, the operation of which is made lawful by subsection (b)(2) of this section, shall have affixed to it in view of the player a sticker informing that person that it is a criminal offense with the potential of imprisonment to pay more than that which is allowed by law. In addition, if the machine has an attract chip which allows programming, the static display shall contain the same message.

(d) The exception in subsection (b)(2) of this section does not apply to any machine that pays off in cash. The exemption in subsection (b)(2) of this section does not apply where the prizes, merchandise, credits, or replays are (i) repurchased for cash or rewarded by cash, (ii) exchanged for merchandise of a value of more than ten dollars ($10.00), or (iii) where there is a cash payout of any kind, by the person operating or managing the machine or the premises, or any agent or employee of that person. It is also a criminal offense, punishable under G.S. 14-309, for the person making the unlawful payout to the player of the machine to violate this section, in addition to any other person whose conduct may be unlawful. (1937, c. 196, s. 3; 1967, c. 1219; 1977, c. 837; 1985, c. 644; 1989, c. 406, s. 1; 1993, c. 366, s. 1; 2000-151, s. 4; 2010-103, s. 3.)

§ 14-306.1: Repealed by Session Law 2006-6, s. 3, effective July 1, 2007, and applicable to offenses committed on or after that date.

§ 14-306.1A. Types of machines and devices prohibited by law; penalties.

(a) Ban on Machines. – It shall be unlawful for any person to operate, allow to be operated, place into operation, or keep in that person's possession for the purpose of operation any video gaming machine as defined in subsection (b) of this section, except for the exemption for a federally recognized Indian tribe under subsection (e) of this section for whom it shall be lawful to operate and possess machines as listed in subsection (b) of this section if conducted in accordance with an approved Class III Tribal-State Compact applicable to that tribe, as provided in G.S. 147-12(14) and G.S. 71A-8.

(b) Definitions. – As used in this section, a video gaming machine means a slot machine as defined in G.S. 14-306(a) and other forms of electrical, mechanical, or computer games such as, by way of illustration and not exclusion:

(1) A video poker game or any other kind of video playing card game.
(2) A video bingo game.
(3) A video craps game.
(4) A video keno game.
(5) A video lotto game.
(6) Eight liner.
(7) Pot-of-gold.
(8) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player.
(9) Any other video game not dependent on skill or dexterity that is played while revealing a prize as the result of an entry into a sweepstakes.

For the purpose of this section, a video gaming machine is a video machine which requires deposit of any coin or token, or use of any credit card, debit card, prepaid card, or any other method that requires payment, whether directly into the video gaming machine or resulting in remote activation, to activate play of any of the games listed in this subsection.

For the purpose of this section, a video gaming machine includes those that are within the scope of the exclusion provided in G.S. 14-306(b)(2) unless conducted in accordance with an approved Class III Tribal-State Compact applicable to that tribe as provided in G.S. 147-12(14) and G.S. 71A-8. For the purpose of this section, a video gaming machine does not include those that are within the scope of the exclusion provided in G.S. 14-306(b)(1).

(c) Exemption for Certain Machines. – This section shall not apply to:

(1) Assemblers, repairers, manufacturers, sellers, lessors, or transporters of video gaming machines who assemble, repair, manufacture, sell, lease, or transport them for use out-of-state, or
(2) Assemblers, repairers, manufacturers, sellers, lessors, or transporters of video gaming machines who assemble, repair, manufacture, sell, or lease video gaming machines for use only by a federally recognized Indian

tribe if such machines may be lawfully used on Indian land under the Indian Gaming Regulatory Act.

To qualify for an exemption under this subsection, the machines must be disabled and not operable, unless the machines are located on Indian land where they may be lawfully operated under a Tribal-State Compact.

(d) Ban on Warehousing. – It is unlawful to warehouse any video gaming machine except in conjunction with the activities permitted under subsection (c) of this section.

(e) Repealed by Session Laws 2012-6, s. 3, effective June 6, 2012.

(f) Machines described in G.S. 14-306(b)(1) are excluded from this section. (2006-6, s. 4; 2006-259, s. 6; 2010-103, s. 4; 2012-6, s. 3.)

§ 14-306.2. Violation of G.S. 14-306.1A a violation of the ABC laws.

Violation of G.S. 14-306.1A is a violation of the gambling statutes for the purposes of G.S. 18B-1005(a)(3). (2000-151, s. 2.; 2006-6, s. 5.)

§ 14-306.3. Certain game promotions unlawful.

(a) It is unlawful to promote, operate, or conduct a server-based electronic game promotion.

(b) It is unlawful for any person to possess any game terminal with a display that simulates a game ordinarily played on a slot machine regulated under G.S. 14-306 or a video gaming machine regulated under G.S. 14-306.1A for the purpose of promoting, operating, or conducting a server-based electronic game promotion.

(c) As used in this section, "server-based electronic game promotion" means a system that meets all of the following criteria:

(1) A database contains a pool of entries with each entry associated with a prize value.

(2) Participants purchase, or otherwise obtain by any means, a prepaid card.

(3) With each prepaid card purchased or obtained, the participant also obtains one or more entries.

(4) Entries may be revealed in any of the following ways:

a. At a point-of-sale terminal at the time of purchase or later.

b. At a game terminal with a display that simulates a game ordinarily played on a slot machine regulated under G.S. 14-306 or a video gaming machine regulated under G.S. 14-306.1A.

(d) Upon conviction or plea of guilty, all of the following held by the person shall be automatically revoked:

(1) A permit issued under Chapter 18B of the General Statutes.

(2) A contract to sell tickets or shares under Article 5 of Chapter 18C of the General Statutes.

(e) Nothing in this section shall apply to the form of Class III gaming legally conducted on Indian lands which are held in trust by the United States government for and on behalf of federally recognized Indian tribes if conducted in accordance with an approved Class III Tribal-State Gaming Compact applicable to that tribe as provided in G.S. 147-12(14) and G.S. 71A-8. (2008-122, s. 1.)

§ 14-306.4. Electronic machines and devices for sweepstakes prohibited.

(a) Definitions. – For the purposes of this section, the following definitions apply:

(1) "Electronic machine or device" means a mechanically, electrically or electronically operated machine or device, that is owned, leased or otherwise possessed by a sweepstakes sponsor or promoter, or any of the sweepstakes sponsor's or promoter's partners, affiliates, subsidiaries or contractors, that is intended to be used by a sweepstakes entrant, that uses energy, and that is capable of displaying information on a screen or other mechanism. This section is applicable to an electronic machine or device whether or not:

a. It is server-based.

b. It uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.

c. It utilizes software such that the simulated game influences or determines the winning or value of the prize.

d. It selects prizes from a predetermined finite pool of entries.

e. It utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.

f. It predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.

g. It utilizes software to create a game result.

h. It requires deposit of any money, coin, or token, or the use of any credit card, debit card, prepaid card, or any other method of payment to activate the electronic machine or device.

i. It requires direct payment into the electronic machine or device, or remote activation of the electronic machine or device.

j. It requires purchase of a related product.

k. The related product, if any, has legitimate value.

l. It reveals the prize incrementally, even though it may not influence if a prize is awarded or the value of any prize awarded.

m. It determines and associates the prize with an entry or entries at the time the sweepstakes is entered.

n. It is a slot machine or other form of electrical, mechanical, or computer game.

(2) "Enter" or "entry" means the act or process by which a person becomes eligible to receive any prize offered in a sweepstakes.

(3) "Entertaining display" means visual information, capable of being seen by a sweepstakes entrant, that takes the form of actual game play, or simulated game play, such as, by way of illustration and not exclusion:

a. A video poker game or any other kind of video playing card game.

b. A video bingo game.

c. A video craps game.

d. A video keno game.

e. A video lotto game.

f. Eight liner.

g. Pot-of-gold.

h. A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player.

i. Any other video game not dependent on skill or dexterity that is played while revealing a prize as the result of an entry into a sweepstakes.

(4) "Prize" means any gift, award, gratuity, good, service, credit, or anything else of value, which may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.

(5) "Sweepstakes" means any game, advertising scheme or plan, or other promotion, which, with or without payment of any consideration, a person may enter to win or become eligible to receive any prize, the determination of which is based upon chance.

(b) Notwithstanding any other provision of this Part, it shall be unlawful for any person to operate, or place into operation, an electronic machine or device to do either of the following:

(1) Conduct a sweepstakes through the use of an entertaining display, including the entry process or the reveal of a prize.

(2) Promote a sweepstakes that is conducted through the use of an entertaining display, including the entry process or the reveal of a prize.

(c) It is the intent of this section to prohibit any mechanism that seeks to avoid application of this section through the use of any subterfuge or pretense whatsoever.

(d) Nothing in this section shall be construed to make illegal any activity which is lawfully conducted on Indian lands pursuant to, and in accordance with, an approved Tribal-State Gaming Compact applicable to that Tribe as provided in G.S. 147-12(14) and G.S. 71A-8.

(e) Each violation of this section shall be considered a separate offense.

(f) Any person who violates this section is guilty of a Class 1 misdemeanor for the first offense and is guilty of a Class H felony for a second offense and a Class G felony for a third or subsequent offense. (2010-103, s. 1.)

§ 14-307. Issuance of license prohibited.

There shall be no State, county, or municipal tax levied for the privilege of operating the machines or devices the operation of which is prohibited by G.S. 14-304 through 14-309. (1937, c. 196, s. 4.)

§ 14-308. Declared a public nuisance.

An article or apparatus maintained or kept in violation of G.S. 14-304 through 14-309 is a public nuisance. (1937, c. 196, s. 5.)

§ 14-309. Violation made criminal.

(a) Any person who violates any provision of G.S. 14-304 through 14-309 is guilty of a Class 1 misdemeanor for the first offense, and is guilty of a Class H felony for a second offense and a Class G felony for a third or subsequent offense.

(b) Notwithstanding the provisions of subsection (a) of this section, any person violating the provisions of G.S. 14-306.1A involving the operation of five or more machines prohibited by that section is guilty of a Class G felony.

(c) Notwithstanding the provisions of subsection (a) of this section, any person violating the provisions of G.S. 14-306.3(b) involving the possession of five or more machines prohibited by that subsection is guilty of a Class G felony. (1937, c. 196, s. 6; 1993, c. 366, s. 3, c. 539, s. 211; 1994, Ex. Sess., c. 14, s. 9(a), (b); 2000-151, s. 3; 2006-6, s. 11; 2008-122, s. 3.)

§ 14-309.1. Defense to possession; antique slot machines.

(a) In any prosecution for possession of a slot machine or device as defined in G.S. 14-306, it is a defense that the slot machine was not intended to be used in the operation or promotion of unlawful gambling activity or enterprise and that the slot machine is an antique. For purposes of this section a slot machine manufactured 25 years ago or earlier is conclusively presumed to be an antique.

(b) When a defendant raises the defense provided in subsection (a), any slot machine seized from the defendant shall not be destroyed or otherwise altered until a final court determination is rendered. If the court determines that the defense has been proved the slot machine shall be returned immediately to the defendant. (1979, 2nd Sess., c. 1090.)

§ 14-309.2: Repealed by Session Laws 2005-276, s. 31.1(v2), effective July 1, 2005.

§ 14-309.3. Reserved for future codification purposes.

§ 14-309.4. Reserved for future codification purposes.

Part 2. Bingo and Raffles.

§ 14-309.5. Bingo.

(a) The purpose of the conduct of bingo is to insure a maximum availability of the net proceeds exclusively for application to the charitable, nonprofit causes and undertakings specified herein; that the only justification for this Part is to support such charitable, nonprofit causes; and such purpose should be carried out to prevent the operation of bingo by professionals for profit, prevent commercialized gambling, prevent the disguise of bingo and other game forms or promotional schemes, prevent participation by criminal and other undesirable elements, and prevent the diversion of funds for the purpose herein authorized.

(b) It is lawful for an exempt organization to conduct bingo games in accordance with the provisions of this Part. Any licensed exempt organization who conducts a bingo game in violation of any provision of this Part shall be guilty of a Class 2 misdemeanor. Upon conviction such person shall not conduct a bingo game for a period of one year. It is lawful to participate in a bingo game conducted pursuant to this Part. It shall be a Class I felony for any person: (i) to operate a bingo game without a license; (ii) to operate a bingo game while license is revoked or suspended; (iii) to willfully misuse or misapply any moneys received in connection with any bingo game; or (iv) to contract with or provide consulting services to any licensee. It shall not constitute a violation of any State law to advertise a bingo game conducted in accordance with this Part.

(1983, c. 896, s. 3; 1983 (Reg. Sess., 1984), c. 1107, ss. 1-4; 1989 (Reg. Sess., 1990), c. 826, s. 1; 1993, c. 539, ss. 212, 1231; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-309.6. Definitions.

For purposes of this Part, the term:

(1) "Exempt organization" means an organization that has been in continuous existence in the county of operation of the bingo game for at least one year and that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code and is exempt under similar provisions of the General Statutes as a bona fide nonprofit charitable, civic, religious, fraternal, patriotic or veterans' organization or as a nonprofit volunteer fire department, or as a nonprofit volunteer rescue squad or a bona fide homeowners' or property owners' association. (If the organization has local branches or chapters, the term "exempt organization" means the local branch or chapter operating the bingo game);

(2) "Bingo game" means a specific game of chance played with individual cards having numbered squares ranging from one to 75, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers (but shall not include "instant bingo" which is a game of chance played by the selection of one or more prepackaged cards, with winners determined by the appearance of a preselected designation on the card);

(3) Repealed by Session Laws 1983 (Regular Session 1984), c. 1107, s. 5.

(4) "Local law-enforcement agency" means for any bingo game conducted outside the corporate limits of a municipality or inside the corporate limits of a municipality having no municipal police force:

a. The county police force; or

b. The county sheriff's office in a county with no county police force;

(5) "Local law-enforcement agency" means the municipal police for any bingo game conducted within the corporate limits of a municipality having a police force;

(6) "Beach bingo games" means bingo games which have prizes of ten dollars ($10.00) or less or merchandise that is not redeemable for cash and that has a value of ten dollars ($10.00) or less; and

(7) "Licensed exempt organization" means an exempt organization which possesses a currently valid license.

(8) "Nonprofit organization" means an organization or association recognized by the Department of Revenue as tax exempt pursuant to G.S. 105-130.11(a), or any bona fide branch, chapter, or affiliate of that organization. (1983, c. 896, s. 3; 1983 (Reg. Sess., 1984), c. 1107, ss. 2, 5; 2018-100, s. 5(a).)

§ 14-309.7. Licensing procedure.

(a) An exempt organization may not operate a bingo game at a location without a license. Application for a bingo license shall be made to the State Bureau of Investigation on a form prescribed by the Bureau. The Bureau shall charge an annual application fee of two hundred dollars ($200.00) to defray the cost of issuing bingo licenses and handling bingo audit reports. The fees collected shall be deposited in the General Fund of the State. This license shall expire one year after the granting of the license. This license may be renewed yearly, if the applicant pays the application fee and files an audit with the Bureau pursuant to G.S. 14-309.11. A copy of the application and license shall be furnished to the local law-enforcement agency in the county or municipality in which the licensee intends to operate before bingo is conducted by the licensee.

(b) Each application and renewal application shall contain the following information:

(1) The name and address of the applicant and if the applicant is a corporation, association or other similar legal entity, the name and home address of each of the officers of the organization as well as the name and address of the directors, or other persons similarly situated, of the organization.

(2) The name and home address of each of the members of the special committee.

(3) A copy of the application for recognition of exemptions and a determination letter from the Internal Revenue Service and the Department of Revenue that indicates that the organization is an exempt organization and stating the section under which that exemption is granted; except that if the organization is a State or local branch, lodge, post, or chapter of a national organization, a copy of the determination letter of the national organization satisfies this requirement.

(4) The location at which the applicant will conduct the bingo games. If the premises are leased, a copy of the lease or rental agreement.

(c) In order for an exempt organization to have a member familiar with the operation of bingo present on the premises at all times when bingo is being played and for this member to be responsible for the receiving, reporting and depositing of all revenues received, the exempt organization may pay one member for conducting a bingo game. Such pay shall be on an hourly basis only for the time bingo is actually being played and shall not exceed one and one-half times the existing minimum wage in North Carolina. The member paid under this provision shall be a member in good standing of the exempt organization for at least one year and shall not be the lessor or an employee or agent of the lessor. No other person may be compensated for conducting a bingo game from funds derived from any activities occurring in, or simultaneously with, the playing of bingo, including funds derived from concessions. An exempt organization shall not contract with any person for the purpose of conducting a bingo game. Except as provided in subsection (e) of this section, an exempt organization may hold a bingo game only in or on property owned (either legally or equitably and the buildings must be of a permanent nature with

approved plumbing for bathrooms and not movable or of a temporary nature such as a tent or lean-to) or leased by the organization from the owner or bona fide property management agent (no subleasing is permitted) at a total monthly rental in an amount not to exceed one and one-quarter percent (1 1/4%) of the total assessed ad valorem tax value of the portion of the building actually used for the bingo games and the land value on which the building is located (not to exceed two acres) for all activities conducted therein including the playing of bingo for a period of not less than one year and actually occupied and used by that organization on a regular basis for purposes other than bingo for at least six months before the game; and all equipment used by the exempt organization in conducting the bingo game must be owned by the organization. Unless the exempt organization leases the property in accordance with this subsection, an exempt organization may conduct a bingo game only in or on property that is exempt from property taxes levied under Subchapter II of Chapter 105 of the General Statutes, or that is classified and not subject to any property taxes levied under Subchapter II of Chapter 105 of the General Statutes. It shall be unlawful for any person to operate beach bingo games at a location which is being used by any licensed exempt organization for the purpose of conducting bingo games.

(d) Conduct of a bingo game or raffle under this Part on such property shall not operate to defeat an exemption or classification under Subchapter II of Chapter 105 of the General Statutes.

(e) An exempt organization that wants to conduct only an annual or semiannual bingo game may apply to the State Bureau of Investigation for a limited occasion permit. The State Bureau of Investigation may require such information as is reasonable and necessary to determine that the bingo game is conducted in accordance with the provisions of this Part but may not require more information than previously specified in this section for application of a regular license. The application shall be made to the Bureau on prescribed forms at least 30 days prior to the scheduled date of the bingo game. In lieu of the reporting requirements of G.S. 14-309.11(b) the exempt organization shall file with the licensing agency and local law-enforcement a report on prescribed forms no later than 30 days following the conduct of the bingo game for which the permit was obtained. Such report may require such information as is reasonable and necessary to determine that the bingo game was conducted in accordance with the provisions of this Part but may not require more information than specified in G.S. 14-309.11(b). Any licensed exempt organization may donate or loan its equipment or use of its premises to an exempt organization which has secured a limited occasion permit provided such arrangement is disclosed in the limited occasion permit application and is approved by the State Bureau of Investigation. Except as stated above, all provisions of this Part shall apply to any exempt organization operating a bingo game under this provision. (1983, c. 896, s. 3; c. 923, s. 217; 1983 (Reg. Sess., 1984), c. 1107, ss. 2, 4, 6; 1987, c. 866, ss. 1, 2; 1987 (Reg. Sess., 1988), c. 1001, s. 1; 1997-443, s. 11A.118(a); 2002-159, ss. 3(a), 3(b); 2009-451, s. 17.6; 2011-145, s. 19.1(g); 2016-27, s. 3; 2017-102, s. 5.1(a).)

§ 14-309.8. Limit on sessions.

The number of sessions of bingo conducted or sponsored by an exempt organization shall be limited to two sessions per week and such sessions must not exceed a period of five hours each per session. No two sessions of bingo shall be held within a 48-hour period of time. No more than two sessions of bingo shall be operated or conducted in any one building, hall or structure during any one calendar week and if two sessions are held, they must be held by the same exempt organization. This section shall not apply to bingo games conducted at a fair or other exhibition conducted pursuant to Article 45 of Chapter 106 of the General Statutes. (1983, c. 896, s. 3; c. 923, s. 217; 1983 (Reg. Sess., 1984), c. 1107, ss. 6, 7.)

§ 14-309.9. Bingo prizes.

(a) The maximum prize in cash or merchandise that may be offered or paid for any one game of bingo is five hundred dollars ($500.00). The maximum aggregate amount of prizes, in cash and/or merchandise, that may be offered or paid at any one session of bingo is one thousand five hundred dollars ($1,500). Provided, however, that if an exempt organization holds only one session of bingo during a calendar week, the maximum aggregate amount of prizes, in cash and/or merchandise, that may be offered or paid at any one session is two thousand five hundred dollars ($2,500).

(b) Repealed by Session Laws 1983 (Regular Session 1984), c. 1107, s. 8.

(c) This section shall not apply to bingo games conducted at a fair or other exhibition conducted pursuant to Article 45 of Chapter 106 of the General Statutes. (1983, c. 896, s. 3; 1983 (Reg. Sess., 1984), c. 1107, ss. 6, 8.)

§ 14-309.10. Operation of bingo.

The operation of bingo games shall be the direct responsibility of, and controlled by, a special committee selected by the governing body of the exempt organization in the manner provided by the rules of the exempt organization. (1983, c. 896, s. 3; 1983 (Reg. Sess., 1984), c. 1107, s. 9.)

§ 14-309.11. Accounting and use of proceeds.

(a) All funds received in connection with a bingo game shall be placed in a separate bank account. No funds may be disbursed from this account except the exempt organization may expend proceeds for prizes, advertising, utilities, and the purchase of supplies and equipment used [in conducting the raffle and] in playing bingo, taxes and license fees related to bingo and the payment of compensation as authorized by G.S. 14-309.7(c) and for the purposes set forth below for the remaining proceeds. Such payments shall be made by consecutively numbered checks. Any proceeds available in the account after payment of the above expenses shall inure to the exempt organization to be used for religious, charitable, civic, scientific, testing, public safety, literary, or educational purposes or for purchasing, constructing, maintaining, operating or using equipment or land or a building or improvements thereto owned by and for the exempt organization and used for civic purposes or made available by the exempt organization for use by the general public from time to time, or to foster amateur sports competition, or for the prevention of cruelty to children or animals, provided that no proceeds shall be used or expended for social functions for the members of the exempt organization.

(b) An audit of the account required by subsection (a) of this section shall be prepared annually for the period of January 1 through December 31 or otherwise as directed

by the State Bureau of Investigation and shall be filed with the State Bureau of Investigation and the local law-enforcement agency at a time directed by the State Bureau of Investigation. The audit shall be prepared on a form approved by the State Bureau of Investigation and shall include the following information:

(1) The number of bingo games conducted or sponsored by the exempt organization;
(2) The location and date at which each bingo game was conducted and the prize awarded;
(3) The gross receipts of each bingo game;
(4) The cost or amount of any prize given at each bingo game;
(5) The amount paid in prizes at each session;
(6) The net return to the exempt organization; and
(7) The disbursements from the separate account and the purpose of those disbursements, including the date of each transaction and the name and address of each payee.

(c) Any person who shall willfully furnish, supply, or otherwise give false information in any audit or statement filed pursuant to this section shall be guilty of a Class 2 misdemeanor.

(d) All books, papers, records and documents relevant to determining whether an organization has acted or is acting in compliance with this section shall be open to inspection by the law-enforcement agency or its designee, or the district attorney or his designee, or the State Bureau of Investigation at reasonable times and during reasonable hours. (1983, c. 896, s. 3; 1983 (Reg. Sess., 1984), c. 1107, ss. 2, 3, 9; 1987, c. 866, s. 3; 1987 (Reg. Sess., 1988), c. 1001, s. 1; 1993, c. 539, s. 213; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 11A.118(a); 2002-159, ss. 4(a), (b); 2011-145, s. 19.1(g); 2016-27, s. 3.)

§ 14-309.12. Violation is gambling.

A bingo game conducted otherwise than in accordance with the provisions of this Part is "gambling" within the meaning of G.S. 19-1 et seq., and proceedings against such bingo game may be instituted as provided for in Chapter 19 of the General Statutes. (1983, c. 896, s. 3; 1983 (Reg. Sess., 1984), c. 1107, s. 2.)

§ 14-309.13. Public sessions.

Any exempt organization operating a bingo game which is open to persons other than members of the exempt organization, their spouses, and their children shall make such bingo game open to the general public. (1983, c. 896, s. 3; 1983 (Reg. Sess., 1984), c. 1107, s. 4.)

§ 14-309.14. Beach bingo.

Nothing in this Article shall apply to "beach bingo" games except for the following subdivisions:

(1) No beach bingo game may offer a prize having a value greater than ten dollars ($10.00). Any person offering a greater than ten-dollar ($10.00) but less than fifty-dollar ($50.00) prize is guilty of a Class 2

misdemeanor. Any person offering a prize of fifty dollars ($50.00) or greater is guilty of a Class I felony.

(2) No beach bingo game may be held in conjunction with any other lawful bingo game, with any "promotional bingo game", or with any offering of an opportunity to obtain anything of value, whether for valuable consideration or not. No beach bingo game may offer free bingo games as a promotion, for prizes or otherwise. Any person who violates this subsection is guilty of a Class I felony.

(3) G.S. 18B-308 shall apply to beach bingo games.

(4) Upon conviction under any provision of this section, such person shall not conduct a bingo game for a period of at least one year.

(5) A person shall not operate a beach bingo game at any location without first obtaining a license as provided by this subdivision. Any person operating a beach bingo game without a license is guilty of a Class 2 misdemeanor. The procedure for obtaining an application for a beach bingo license shall be as follows:

a. The application for a beach bingo license shall be made to the State Bureau of Investigation on a form prescribed by the Bureau. The Bureau shall charge an initial application fee of three hundred dollars ($300.00) and an annual renewal fee of three hundred dollars ($300.00) to defray the cost of issuing beach bingo licenses and handling enforcement. The fees collected shall be deposited in the General Fund of the State. This license shall expire one year after the granting of the license but may be renewed yearly upon payment of the renewal fee.

b. Each application and renewal application shall contain all of the following information:

1. The name and address of the applicant and if the applicant is a corporation, association, or other similar legal entity, the name and home address of each of the officers of the organization as well as the name and address of the directors, or other persons similarly situated, of the organization.

2. The location at which the applicant will conduct the bingo games. If the premises are leased, a copy of the lease or rental agreement.

c. Any false information provided in an application for a beach bingo license is cause for suspension of that license and is also a Class 2 misdemeanor.

d. All books, papers, records, and documents relevant to determining whether an individual has acted or is acting in compliance with this section shall be open to inspection by the State Bureau of Investigation at reasonable times and during reasonable hours. (1983, c. 896, s. 3; 1983 (Reg. Sess., 1984), c. 1107, s. 10; 1987, c. 701; 1989 (Reg. Sess., 1990), c. 826, s. 2; 1993, c. 539, ss. 214, 1232; 1994, Ex. Sess., c. 24, s. 14(c); 2016-27, s. 1; 2017-102, s. 5.1(b).)

§ 14-309.15. Raffles.

(a) It is lawful for any nonprofit organization, candidate, political committee, or any government entity within the State, to conduct raffles in accordance with this section. Each regional or county chapter of a nonprofit organization shall be eligible to conduct raffles in accordance with this section independently of its parent organization. Any person who conducts a raffle in violation of any provision of this section shall be guilty of a Class 2 misdemeanor. Upon conviction that person shall not conduct a raffle for a period of one year. It is lawful to participate in a raffle conducted pursuant to this section. It shall not constitute a violation of State law to advertise a raffle conducted in accordance with this section. A raffle conducted pursuant to this section is not "gambling". For the purpose of this section, "candidate" and "political committee" have the meaning provided by Article 22A of Chapter 163A of the General Statutes, who have filed organization reports under that Article, and who are in good standing with the appropriate board of elections. Receipts and expenditures of a raffle by a candidate or political committee shall be reported in accordance with Article 22A of Chapter 163A of the General Statutes, and ticket purchases are contributions within the meaning of that Article.

(b) For purposes of this section "raffle" means a game in which the prize is won by random drawing of the name or number of one or more persons purchasing chances.

(c) A nonprofit organization may hold no more than four raffles per year.

(d) Except as provided in subsection (g) of this section, the maximum cash prize that may be offered or paid for any one raffle is one hundred twenty-five thousand dollars ($125,000) and if merchandise is used as a prize, and it is not redeemable for cash, the maximum fair market value of that prize may be one hundred twenty-five thousand dollars ($125,000). The total cash prizes offered or paid by any nonprofit organization may not exceed two hundred fifty thousand dollars ($250,000) in any calendar year. The total fair market value of all prizes offered by any nonprofit organization, either in cash or in merchandise that is not redeemable for cash, may not exceed two hundred fifty thousand dollars ($250,000) in any calendar year.

(e) Raffles shall not be conducted in conjunction with bingo.

(f) As used in this subsection, "net proceeds of a raffle" means the receipts less the cost of prizes awarded. No less than ninety percent (90%) of the net proceeds of a raffle shall be used by the nonprofit organization for charitable, religious, educational, civic, or other nonprofit purposes. None of the net proceeds of the raffle may be used to pay any person to conduct the raffle, or to rent a building where the tickets are received or sold or the drawing is conducted.

(g) Real property may be offered as a prize in a raffle. The maximum appraised value of real property that may be offered for any one raffle is five hundred thousand dollars ($500,000). The total appraised value of all real estate prizes offered by any nonprofit organization may not exceed five hundred thousand dollars ($500,000) in any calendar year.

(h) Notwithstanding any other subsection of this section, it is lawful for a credit union to conduct a savings promotion raffle under G.S. 54-109.64. (1983 (Reg. Sess., 1984), c. 1107, s. 11; 1993, c. 219, s. 1; c. 539, s. 215; 1994, Ex. Sess., c. 24, s. 14(c);

1997-10, s. 1; 2005-276, s. 17.31; 2005-345, s. 31; 2006-264, s. 3(a); 2009-49, s. 1; 2011-146, s. 1; 2013-381, s. 59.1; 2018-100, s. 5(b).)

§§ 14-309.16 through 14-309.19. Reserved for future codification purposes.

Part 3. Greyhound Racing.

§ 14-309.20. Greyhound racing prohibited.

(a) No person shall hold, conduct, or operate any greyhound races for public exhibition in this State for monetary remuneration.

(b) No person shall transmit or receive interstate or intrastate simulcasting of greyhound races for commercial purposes in this State.

(c) Any person who violates this section shall be guilty of a Class 1 misdemeanor. (1998-212, s. 17.16(d).)

Article 38.

Marathon Dances and Similar Endurance Contests.

§§ 14-310 through 14-312: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 767, s. 30(13)-(15).

Article 39.

Protection of Minors.

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

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

(1) Distribute. – To sell, furnish, give, or provide tobacco products, including tobacco product samples or cigarette wrapping papers, to the ultimate consumer.

(2) Proof of age. – A drivers license or other photographic identification that includes the bearer's date of birth that purports to establish that the person is 18 years of age or older.

(3) Sample. – A tobacco product distributed to members of the general public at no cost for the purpose of promoting the product.

(3a) Tobacco-derived product. – Any noncombustible product derived from tobacco that contains nicotine and is intended for human consumption, whether chewed, absorbed, dissolved, ingested, or by other means. This term does not include a vapor product or any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

(4) Tobacco product. – Any product that contains tobacco and is intended for human consumption. For purposes of this section, the term includes a

tobacco-derived product, vapor product, or components of a vapor product.

(5) Vapor product. – Any noncombustible product that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to heat a liquid nicotine solution contained in a vapor cartridge. The term includes an electronic cigarette, electronic cigar, electronic cigarillo, and electronic pipe. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

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

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

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

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

(1) The defendant demanded, was shown, and reasonably relied upon proof of age in the case of a retailer, or any other documentary or written evidence of age in the case of a nonretailer.

(2) The defendant relied on the electronic system established and operated by the Division of Motor Vehicles pursuant to G.S. 20-37.02.

(3) The defendant relied on a biometric identification system that demonstrated (i) the purchaser's age to be at least the required age for the purchase and (ii) the purchaser had previously registered with the seller or seller's agent a drivers license, a special identification card issued under G.S. 20-37.7, a military identification card, or a passport showing

the purchaser's date of birth and bearing a physical description of the person named on the card.

(b1) Distribution of tobacco products. – Tobacco products shall not be distributed in vending machines; provided, however, vending machines distributing tobacco products are permitted (i) in any establishment which is open only to persons 18 years of age and older; or (ii) in any establishment if the vending machine is under the continuous control of the owner or licensee of the premises or an employee thereof and can be operated only upon activation by the owner, licensee, or employee prior to each purchase and the vending machine is not accessible to the public when the establishment is closed. The owner, licensee, or employee shall demand proof of age from a prospective purchaser if the person has reasonable grounds to believe that the prospective purchaser is under 18 years of age. Failure to demand proof of age as required by this subsection is a Class 2 misdemeanor if in fact the prospective purchaser is under 18 years of age. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age shall be a defense to any action brought under this subsection. Vending machines distributing tobacco products in establishments not meeting the above conditions shall be removed prior to December 1, 1997. Vending machines distributing tobacco-derived products, vapor products, or components of vapor products in establishments not meeting the above conditions shall be removed prior to August 1, 2013. Any person distributing tobacco products through vending machines in violation of this subsection shall be guilty of a Class 2 misdemeanor.

(b2) Internet distribution of tobacco products. – A person engaged in the distribution of tobacco products through the Internet or other remote sales methods shall perform an age verification through an independent, third-party age verification service that compares information available from public records to the personal information entered by the individual during the ordering process to establish that the individual ordering the tobacco products is 18 years of age or older.

(c) Purchase by persons under the age of 18 years. – If any person under the age of 18 years purchases or accepts receipt, or attempts to purchase or accept receipt, of tobacco products or cigarette wrapping papers, or presents or offers to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product or cigarette wrapping papers, the person shall be guilty of a Class 2 misdemeanor; provided, however, that it shall not be unlawful for an employee to purchase or accept receipt of tobacco products or cigarette wrapping papers when required in the performance of the employee's duties.

(d) Sending or assisting a person [less than] 18 years to purchase or receive tobacco products or cigarette wrapping papers. – If any person shall send a person less than 18 years of age to purchase, acquire, receive, or attempt to purchase, acquire, or receive tobacco products or cigarette wrapping papers, or if any person shall aid or abet a person who is less than 18 years of age in purchasing, acquiring, or receiving or attempting to purchase, acquire, or receive tobacco products or cigarette wrapping papers, the person shall be guilty of a Class 2 misdemeanor; provided, however, persons under the age of 18 may be enlisted by police or local sheriffs' departments to test compliance if the testing is under the direct supervision of that law enforcement department and written parental consent is provided;

provided further, that the Department of Health and Human Services shall have the authority, pursuant to a written plan prepared by the Secretary of Health and Human Services, to use persons under 18 years of age in annual, random, unannounced inspections, provided that prior written parental consent is given for the involvement of these persons and that the inspections are conducted for the sole purpose of preparing a scientifically and methodologically valid statistical study of the extent of success the State has achieved in reducing the availability of tobacco products to persons under the age of 18, and preparing any report to the extent required by section 1926 of the federal Public Health Service Act (42 USC § 300x-26).

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

(f) Deferred Prosecution or Conditional Discharge. – Notwithstanding G.S. 15A-1341(a1) or G.S. 15A-1341(a4), any person charged with a misdemeanor under this section shall be qualified for deferred prosecution or a conditional discharge pursuant to Article 82 of Chapter 15A of the General Statutes provided the defendant has not previously been placed on probation for a violation of this section and so states under oath. (1891, c. 276; Rev., s. 3804; C.S., s. 4438; 1969, c. 1224, s. 3; 1991, c. 628, s. 1; 1993, c. 539, s. 216; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 241, s. 1; 1997-434, ss. 1-6; 1997-443, s. 11A.118(a); 2001-461, s. 5; 2002-159, s. 5; 2005-350, s. 6(b); 2013-165, s. 1; 2014-119, s. 2(c); 2015-264, s. 4.)

§ 14-314. Repealed by Session Laws 1971, c. 31.

§ 14-315. Selling or giving weapons to minors.

(a) Sale of Weapons Other Than Handguns. – If a person sells, offers for sale, gives, or in any way transfers to a minor any pistol cartridge, brass knucks, bowie knife, dirk, shurikin, leaded cane, or slungshot, the person is guilty of a Class 1 misdemeanor and, in addition, shall forfeit the proceeds of any sale made in violation of this section.

(a1) Sale of Handguns. – If a person sells, offers for sale, gives, or in any way transfers to a minor any handgun as defined in G.S. 14-269.7, the person is guilty of a Class H felony and, in addition, shall forfeit the proceeds of any sale made in violation of this section. This section does not apply in any of the following circumstances:

(1) The handgun is lent to a minor for temporary use if the minor's possession of the handgun is lawful under G.S. 14-269.7 and G.S. 14-316 and is not otherwise unlawful.

(2) The handgun is transferred to an adult custodian pursuant to Chapter 33A of the General Statutes, and the minor does not take possession of the handgun except that the adult custodian may allow the minor temporary possession of the handgun in circumstances in which the minor's possession of the handgun is lawful under G.S. 14-269.7 and G.S. 14-316 and is not otherwise unlawful.

(3) The handgun is a devise and is distributed to a parent or guardian under G.S. 28A-22-7, and the minor does not take possession of the handgun except that the parent or guardian may allow the minor temporary possession of the handgun in circumstances in which the minor's possession of the handgun is lawful under G.S. 14-269.7 and G.S. 14-316 and is not otherwise unlawful.

(b) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 597, s. 2.

(b1) Defense. – It shall be a defense to a violation of this section if all of the following conditions are met:

(1) The person shows that the minor produced an apparently valid permit to receive the weapon, if such a permit would be required under G.S. 14-402 for transfer of the weapon to an adult.

(2) The person reasonably believed that the minor was not a minor.

(3) The person either:

a. Shows that the minor produced a drivers license, a special identification card issued under G.S. 20-37.7, a military identification card, or a passport, showing the minor's age to be at least the required age for purchase and bearing a physical description of the person named on the card reasonably describing the minor; or

b. Produces evidence of other facts that reasonably indicated at the time of sale that the minor was at least the required age. (1893, c. 514; Rev., s. 3832; C.S., s. 4440; 1985, c. 199; 1993, c. 259, s. 3; 1993, c. 539, s. 217; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 597, s. 2; 1996, 2nd Ex. Sess., c. 18, s. 20.13(b); 2011-284, s. 9; 2013-369, s. 18.)

§ 14-315.1. Storage of firearms to protect minors.

(a) Any person who resides in the same premises as a minor, owns or possesses a firearm, and stores or leaves the firearm (i) in a condition that the firearm can be discharged and (ii) in a manner that the person knew or should have known that an unsupervised minor would be able to gain access to the firearm, is guilty of a Class 1 misdemeanor if a minor gains access to the firearm without the lawful permission of the minor's parents or a person having charge of the minor and the minor:

(1) Possesses it in violation of G.S. 14-269.2(b);

(2) Exhibits it in a public place in a careless, angry, or threatening manner;
(3) Causes personal injury or death with it not in self defense; or
(4) Uses it in the commission of a crime.

(b) Nothing in this section shall prohibit a person from carrying a firearm on his or her body, or placed in such close proximity that it can be used as easily and quickly as if carried on the body.

(c) This section shall not apply if the minor obtained the firearm as a result of an unlawful entry by any person.

(d) "Minor" as used in this section means a person under 18 years of age who is not emancipated. (1993, c. 558, s. 2; 1994, Ex. Sess., c. 14, s. 11.)

§ 14-315.2. Warning upon sale or transfer of firearm to protect minor.

(a) Upon the retail commercial sale or transfer of any firearm, the seller or transferor shall deliver a written copy of G.S. 14-315.1 to the purchaser or transferee.

(b) Any retail or wholesale store, shop, or sales outlet that sells firearms shall conspicuously post at each purchase counter the following warning in block letters not less than one inch in height the phrase: "IT IS UNLAWFUL TO STORE OR LEAVE A FIREARM THAT CAN BE DISCHARGED IN A MANNER THAT A REASONABLE PERSON SHOULD KNOW IS ACCESSIBLE TO A MINOR."

(c) A violation of subsection (a) or (b) of this section is a Class 1 misdemeanor. (1993, c. 558, s. 2; 1994, Ex. Sess., c. 14, s. 12.)

§ 14-316. Permitting young children to use dangerous firearms.

(a) It shall be unlawful for any person to knowingly permit a child under the age of 12 years to have access to, or possession, custody or use in any manner whatever, of any gun, pistol or other dangerous firearm, whether such weapon be loaded or unloaded, unless the person has the permission of the child's parent or guardian, and the child is under the supervision of an adult. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor.

(b) Air rifles, air pistols, and BB guns shall not be deemed "dangerous firearms" within the meaning of subsection (a) of this section except in the following counties: Caldwell, Durham, Forsyth, Gaston, Haywood, Mecklenburg, Stokes, Union, Vance. (1913, c. 32; C.S., s. 4441; 1965, c. 813; 1971, c. 309; 1993, c. 539, s. 218; 1994, Ex. Sess., c. 24, s. 14(c); 2013-369, s. 4; 2014-119, s. 10(a).)

§ 14-316.1. (Effective until December 1, 2019) Contributing to delinquency and neglect by parents and others.

Any person who is at least 16 years old who knowingly or willfully causes, encourages, or aids any juvenile within the jurisdiction of the court to be in a place or condition, or to commit an act whereby the juvenile could be adjudicated delinquent, undisciplined, abused, or neglected as defined by G.S. 7B-101 and G.S. 7B-1501 shall be guilty of a Class 1 misdemeanor.

It is not necessary for the district court exercising juvenile jurisdiction to make an adjudication that any juvenile is delinquent, undisciplined, abused, or neglected in order to prosecute a parent or any person, including an employee of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety under this section. An adjudication that a juvenile is delinquent, undisciplined, abused, or neglected shall not preclude a subsequent prosecution of a parent or any other person including an employee of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, who contributes to the delinquent, undisciplined, abused, or neglected condition of any juvenile. (1919, c. 97, s. 19; C.S., s. 5057; 1959, c. 1284; 1969, c. 911, s. 4; 1971, c. 1180, s. 5; 1979, c. 692; 1983, c. 175, ss. 8, 10; c. 720, s. 4; 1993, c. 539, s. 219; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 11A.118(a); 1998-202, s. 4(b); 2000-137, s. 4(c); 2011-145, s. 19.1(l); 2017-186, s. 2(ii).)

§ 14-316.1. (Effective December 1, 2019) Contributing to delinquency and neglect by parents and others.

Any person who is at least 18 years old who knowingly or willfully causes, encourages, or aids any juvenile within the jurisdiction of the court to be in a place or condition, or to commit an act whereby the juvenile could be adjudicated delinquent, undisciplined, abused, or neglected as defined by G.S. 7B-101 and G.S. 7B-1501 shall be guilty of a Class 1 misdemeanor.

It is not necessary for the district court exercising juvenile jurisdiction to make an adjudication that any juvenile is delinquent, undisciplined, abused, or neglected in order to prosecute a parent or any person, including an employee of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety under this section. An adjudication that a juvenile is delinquent, undisciplined, abused, or neglected shall not preclude a subsequent prosecution of a parent or any other person including an employee of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, who contributes to the delinquent, undisciplined, abused, or neglected condition of any juvenile. (1919, c. 97, s. 19; C.S., s. 5057; 1959, c. 1284; 1969, c. 911, s. 4; 1971, c. 1180, s. 5; 1979, c. 692; 1983, c. 175, ss. 8, 10; c. 720, s. 4; 1993, c. 539, s. 219; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 11A.118(a); 1998-202, s. 4(b); 2000-137, s. 4(c); 2011-145, s. 19.1(l); 2017-57, s. 16D.4(p); 2017-186, s. 2(ii).)

§ 14-317. Permitting minors to enter barrooms or billiard rooms.

If the manager or owner of any barroom, wherein beer, wine, or any alcoholic beverages are sold or consumed, or billiard room shall knowingly allow any minor under 18 years of age to enter or remain in such barroom or billiard room, where before such minor under 18 years of age enters or remains in such barroom or billiard room, the manager or owner thereof has been notified in writing by the parents or guardian of such minor under 18 years of age not to allow him to enter or remain in such barroom or billiard room, he shall be guilty of a Class 3 misdemeanor. (1897, c. 278; Rev., s. 3729; C.S., s. 4442; 1967, c. 1089; 1993, c. 539, s. 220; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-318. Exposing children to fire.

If any person shall leave any child under the age of eight years locked or otherwise confined in any dwelling, building or enclosure, and go away from such dwelling, building or enclosure without leaving some person of the age of discretion in charge of the same, so as to expose the child to danger by fire, the person so offending shall be guilty of a Class 1 misdemeanor. (1893, c. 12; Rev., s. 3795; C.S., s. 4443; 1983, c. 175, s. 9, 10, c. 720, s. 4; 1993, c. 539, s. 221; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-318.1. Discarding or abandoning iceboxes, etc.; precautions required.

It shall be unlawful for any person, firm or corporation to discard, abandon, leave or allow to remain in any place any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area of more than one and one-half cubic feet of clear space which is airtight, without first removing the door or doors or hinges from such icebox, refrigerator, container, device or equipment. This section shall not apply to any icebox, refrigerator, container, device or equipment which is being used for the purpose for which it was originally designed, or is being used for display purposes by any retail or wholesale merchant, or is crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof. Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor. (1955, c. 305; 1993, c. 539, s. 222; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-318.2. Child abuse a misdemeanor.

(a) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of such child, who inflicts physical injury, or who allows physical injury to be inflicted, or who creates or allows to be created a substantial risk of physical injury, upon or to such child by other than accidental means is guilty of the Class A1 misdemeanor of child abuse.

(b) The Class A1 misdemeanor of child abuse is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(c) A parent who abandons an infant less than seven days of age pursuant to G.S. 14-322.3 shall not be prosecuted under this section for any acts or omissions related to the care of that infant. (1965, c. 472, s. 1; 1971, c. 710, s. 6; 1993, c. 539, s. 223; 1994, Ex. Sess., c. 14, s. 13; c. 24, s. 14(c); 2001-291, s. 4; 2008-191, s. 1; 2009-570, s. 6.)

§ 14-318.3. Repealed by Session Laws 1971, c. 710, s. 7.

§ 14-318.4. Child abuse a felony.

(a) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious physical injury upon or to the child or who intentionally commits an assault upon the child which results in any serious

physical injury to the child is guilty of a Class D felony, except as otherwise provided in subsection (a3) of this section.

(a1) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of the child, who commits, permits, or encourages any act of prostitution with or by the child is guilty of child abuse and shall be punished as a Class D felon.

(a2) Any parent or legal guardian of a child less than 16 years of age who commits or allows the commission of any sexual act upon the child is guilty of a Class D felony.

(a3) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious bodily injury to the child or who intentionally commits an assault upon the child which results in any serious bodily injury to the child, or which results in permanent or protracted loss or impairment of any mental or emotional function of the child, is guilty of a Class B2 felony.

(a4) A parent or any other person providing care to or supervision of a child less than 16 years of age whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a Class E felony if the act or omission results in serious bodily injury to the child.

(a5) A parent or any other person providing care to or supervision of a child less than 16 years of age whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a Class G felony if the act or omission results in serious physical injury to the child.

(a6) For purposes of this section, a "grossly negligent omission" in providing care to or supervision of a child includes the failure to report a child as missing to law enforcement as provided in G.S. 14-318.5(b).

(b) The felony of child abuse is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(c) Abandonment of an infant less than seven days of age pursuant to G.S. 14-322.3 may be treated as a mitigating factor in sentencing for a conviction under this section involving that infant.

(d) The following definitions apply in this section:

(1) Serious bodily injury. – Bodily injury that creates a substantial risk of death or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

(2) Serious physical injury. – Physical injury that causes great pain and suffering. The term includes serious mental injury. (1979, c. 897, s. 1; 1979, 2nd Sess., c. 1316, s. 18; 1981, c. 63, s. 1; c. 179, s. 14; 1983, c. 653, s. 1; c. 916, § 1; 1985, c. 509, s. 5; c. 668; 1993, c. 539, s. 1233; 1994, Ex. Sess., c. 24, s. 14(c); 1999-451, s. 1; 2001-291, s. 5; 2008-191, s. 2; 2013-35, s. 1; 2013-52, s. 3.)

§ 14-318.5. Failure to report the disappearance of a child to law enforcement; immunity of person reporting in good faith.

(a) The following definitions apply in this section:

(1) Child. – Any person who is less than 16 years of age.

(2) Disappearance of a child. – When the parent or other person providing supervision of a child does not know the location of the child and has not had contact with the child for a 24-hour period.

(b) A parent or any other person providing care to or supervision of a child who knowingly or wantonly fails to report the disappearance of a child to law enforcement is in violation of this subsection. Unless the conduct is covered under some other provision of law providing greater punishment, a violation of this subsection is punishable as a Class I felony.

(c) Any person who reasonably suspects the disappearance of a child and who reasonably suspects that the child may be in danger shall report those suspicions to law enforcement within a reasonable time. Unless the conduct is covered under some other provision of law providing greater punishment, a violation of this subsection is punishable as a Class 1 misdemeanor.

(d) This section does not apply if G.S. 110-102.1 is applicable.

(e) Notwithstanding subsection (b) or (c) of this section, if a child is absent from school, a teacher is not required to report the child's absence to law enforcement officers under this section, provided the teacher reports the child's absence from school pursuant to Article 26 of Chapter 115C of the General Statutes.

(f) The felony of failure to report the disappearance of a child as required by subsection (b) of this section is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(g) Any person who reports the disappearance of a child as required by this section is immune from any civil or criminal liability that might otherwise be incurred or imposed for that action, provided that the person was acting in good faith. In any proceeding involving liability, good faith is presumed. (2013-52, s. 2.)

§ 14-319. Repealed by Session Laws 1975, c. 402.

§ 14-320. Repealed by Session Laws 1987, c. 716, s. 2.

§ 14-320.1. Transporting child outside the State with intent to violate custody order.

When any federal court or state court in the United States shall have awarded custody of a child under the age of 16 years, it shall be a felony for any person with the intent to violate the court order to take or transport, or cause to be taken or transported, any such child from any point within this State to any point outside the limits of this State or to keep any such child outside the limits of this State. Such crime shall be punishable as a Class I felony. Provided that keeping a child outside the limits of the State in violation of a court order for a period in excess of 72 hours shall be prima facie evidence that the person charged intended to violate the order at the time of taking. (1969, c. 81; 1979, c. 760, s. 5;

1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1983, c. 563, s. 1; 1993, c. 539, s. 1234; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-321. Failing to pay minors for doing certain work.

Whenever any person, having a contract with any corporation, company or person for the manufacture or change of any raw material by the piece or pound, shall employ any minor to assist in the work upon the faith of and by color of such contract, with intent to cheat and defraud such minor, and, having secured the contract price, shall willfully fail to pay the minor when he shall have performed his part of the contract work, whether done by the day or by the job, the person so offending shall be guilty of a Class 3 misdemeanor. (1893, c. 309; Rev., s. 3428a; C.S., s. 4446; 1993, c. 539, s. 224; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-321.1. Prohibit baby sitting service by sex offender or in the home of a sex offender.

(a) For purposes of this section the term "baby sitting service" means providing, for profit, supervision or care for a child under the age of 13 years who is unrelated to the provider by blood, marriage, or adoption, for more than two hours per day while the child's parents or guardian are not on the premises.

(b) Notwithstanding any other provision of law, no person who is an adult may provide or offer to provide a baby sitting service in any of the following circumstances:

(1) The baby sitting service is offered in a home and a resident of the home is a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes.

(2) A provider of care for the baby sitting service is a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes.

(c) A violation of this section that is a first offense is a Class 1 misdemeanor. A violation of this section that is a second or subsequent offense is a Class H felony. (2005-416, s. 4.)

§ 14-321.2. Prohibit unlawful transfer of custody of minor child.

(a) It shall be unlawful for:

(1) A parent to effect or attempt to effect an unlawful transfer of custody of that parent's minor child.

(2) A person to accept or attempt to accept custody pursuant to an unlawful transfer of custody of a minor child; except that it shall not be unlawful for a person to receive custody of a child from a parent who intends to effect an unlawful transfer of custody of that parent's minor child if the person promptly notifies law enforcement or child protective services in the county where the child resides or is found and promptly makes the child available to law enforcement or child protective services.

(3) A person to advertise, recruit, or solicit, or to aid, abet, conspire, or seek the assistance of another to advertise, recruit, or solicit the unlawful transfer of custody of a minor child.

(b) Definitions. – As used in this section, the following definitions apply:

(1) "Minor child" means a child under the age of 18 and includes an adopted minor child, as defined in G.S. 48-1-101(14a).

(2) "Parent" means a biological parent, adoptive parent, legal guardian, or legal custodian.

(3) "Relative" means the child's other parent, stepparent, grandparent, adult sibling, aunt, uncle, first cousin, great-aunt, great-uncle, great-grandparent, or a parent's first cousin.

(4) "Unlawful transfer of custody" means the transfer of physical custody of a minor child, in willful violation of applicable adoption law or by grossly negligent omission in the care of the child, by the child's parent, without a court order or other authorization under law, to a person other than a relative or another individual having a substantial relationship with the child. Compensation in the form of money, property, or other item of value is not required in order for an unlawful transfer of custody to occur. Unlawful transfer of custody does not include any of the following:

a. Placement of a minor child with a prospective adoptive parent in accordance with Part 2 of Article 3 of Chapter 48 of the General Statutes.

b. A consent to adoption of a minor child in accordance with Part 6 of Article 3 of Chapter 48 of the General Statutes.

c. Relinquishment of a minor child in accordance with Part 7 of Article 3 of Chapter 48 of the General Statutes.

d. Placement of a minor child in accordance with the Interstate Compact on the Placement of Children under Article 38 of Chapter 7B of the General Statutes or the Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption.

e. Temporary transfer of physical custody of a minor child to an individual with a prior substantial relationship with the child for a specified period of time due to (i) the child's medical, mental health, educational, or recreational needs or (ii) the parent's inability to provide proper care or supervision for the minor child, which may be due to the parent's incarceration, military service, employment, medical treatment, incapacity, or other voluntary or involuntary absence.

f. Transfer of physical custody of a minor child to a relative.

g. Temporary transfer of physical custody of a minor child to a behavioral health facility or other health care provider, an educational institution, or a recreational facility by a parent for a specified period of time due to the child's medical, mental health, educational, or recreational needs.

h. A voluntary foster care placement of the minor child made pursuant to an agreement between the minor child's parent and a county department of social services as described in G.S. 7B-910.

i. Placement of a minor child with a prospective adoptive parent in substantial compliance with the applicable adoption laws of this State or of another state.

(c) Any person who commits an offense under subsection (a) of this section is guilty of a Class A1 misdemeanor.

(d) Any person who commits an offense under subsection (a) of this section that results in serious physical injury to the child is guilty of a Class G felony. (2016-115, s. 1.)

Article 40.

Protection of the Family.

§ 14-322. Abandonment and failure to support spouse and children.

(a) For purposes of this Article:

(1) "Supporting spouse" means a spouse, whether husband or wife, upon whom the other spouse is actually substantially dependent or from whom such other spouse is substantially in need of maintenance and support.

(2) "Dependent spouse" means a spouse, whether husband or wife, who is actually substantially dependent upon the other spouse for his or her maintenance and support or is substantially in need of maintenance and support from the other spouse.

(b) Any supporting spouse who shall willfully abandon a dependent spouse without providing that spouse with adequate support shall be guilty of a Class 1 or 2 misdemeanor and upon conviction shall be punished according to subsection (f).

(c) Any supporting spouse who, while living with a dependent spouse, shall willfully neglect to provide adequate support for that dependent spouse shall be guilty of a misdemeanor and upon conviction shall be punished according to subsection (f).

(d) Any parent who shall willfully neglect or refuse to provide adequate support for that parent's child, whether natural or adopted, and whether or not the parent abandons the child, shall be guilty of a misdemeanor and upon conviction shall be punished according to subsection (f). Willful neglect or refusal to provide adequate support of a child shall constitute a continuing offense and shall not be barred by any statute of limitations until the youngest living child of the parent shall reach the age of 18 years.

(e) Upon conviction for an offense under this section, the court may make such order as will best provide for the support, as far as may be necessary, of the abandoned spouse or child, or both, from the property or labor of the defendant. If the court requires the payment of child support, the amount of the payments shall be determined as provided in G.S. 50-13.4(c). For child support orders initially entered on or after January 1, 1994, the immediate income withholding provisions of G.S. 110-136.5(c1) shall apply.

(f) A first offense under this section is a Class 2 misdemeanor. A second or subsequent offense is a Class 1 misdemeanor. (1868-9, c. 209, s. 1; 1873-4, c. 176, s. 10; 1879, c. 92; Code, s. 970; Rev., s. 3355; C.S., s. 4447; 1925, c. 290; 1949, c. 810; 1957, c. 369; 1969, c. 1045, s. 1; 1981, c. 683, s. 1; 1989, c. 529, s. 4; 1993, c. 517, s. 3, c. 539, ss. 225, 226; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-322.1. Abandonment of child or children for six months.

Any man or woman who, without just cause or provocation, willfully abandons his or her child or children for six months and who willfully fails or refuses to provide adequate means of support for his or her child or children during the six months' period, and who attempts to conceal his or her whereabouts from his or her child or children with the intent of escaping his lawful obligation for the support of said child or children, shall be punished as a Class I felon. (1963, c. 1227; 1979, c. 760, s. 5; 1983, c. 653, s. 2.)

§ 14-322.2. Repealed by Session Laws 1979, c. 838, s. 28.

§ 14-322.3. Abandonment of an infant under seven days of age.

When a parent abandons an infant less than seven days of age by voluntarily delivering the infant as provided in G.S. 7B-500(b) or G.S. 7B-500(d) and does not express an intent to return for the infant, that parent shall not be prosecuted under G.S. 14-322, 14-322.1, or 14-43.14. (2001-291, s. 7; 2012-153, s. 4.)

§§ 14-323 through 14-325. Repealed by Session Laws 1981, c. 683, s. 3.

§ 14-325.1. When offense of failure to support child deemed committed in State.

The offense of willful neglect or refusal of a parent to support and maintain a child, and the offense of willful neglect or refusal to support and maintain one's child born out of wedlock, shall be deemed to have been committed in this State whenever the child is living in this State at the time of the willful neglect or refusal to support and maintain the child. (1953, c. 677; 1981, c. 683, s. 2; 2013-198, s. 3.)

§ 14-326. Repealed by Session Laws 1981, c. 683, s. 3.

§ 14-326.1. Parents; failure to support.

If any person being of full age, and having sufficient income after reasonably providing for his or her own immediate family shall, without reasonable cause, neglect to maintain and support his or her parent or parents, if such parent or parents be sick or not able to work and have not sufficient means or ability to maintain or support themselves, such person shall be deemed guilty of a Class 2 misdemeanor; upon conviction of a second or subsequent offense such person shall be guilty of a Class 1 misdemeanor.

If there be more than one person bound under the provisions of the next preceding paragraph to support the same parent or parents, they shall share equitably in the discharge of such duty. (1955, c. 1099; 1969, c. 1045, s. 3; 1993, c. 539, s. 227; 1994, Ex. Sess., c. 24, s. 14(c).)

Article 41.

Alcoholic Beverages.

§§ 14-327 through 14-328: Repealed by Session Laws 1971, c. 872, s. 3.

§ 14-329. Manufacturing, trafficking in, transporting, or possessing poisonous alcoholic beverages.

(a) Any person who, either individually or as an agent for any person, firm or corporation, shall manufacture for use as a beverage, any spirituous liquor which is found to contain any foreign properties or ingredients poisonous to the human system, shall be punished as a Class H felon.

(b) Any person who, either individually or as agent for any person, firm or corporation, shall, knowing or having reasonable grounds to know of the poisonous qualities thereof, transport for other than personal use, sell or possess for purpose of sale, for use as a beverage, any spirituous liquor which is found to contain any foreign properties or ingredients poisonous to the human system, shall be punished as a Class F felon.

(c) Any person who, either individually or as agent for any person, firm or corporation, shall transport for other than personal use, sell or possess for purpose of sale, any spirituous liquor to be used as a beverage which is found to contain any foreign properties or ingredients poisonous to the human system, shall be guilty of a Class 2 misdemeanor. In prosecutions under this subsection and under subsection (b) above, proof of transportation of more than one gallon of spirituous liquor will be prima facie evidence of transportation for other than personal use, and proof of possession of more than one gallon of spirituous liquor will be prima facie evidence of possession for purpose of sale.

(d) Any person who, either individually or as agent for any person, firm or corporation, shall transport or possess, for use as a beverage, any illicit spirituous liquor which is found to contain any foreign properties or ingredients poisonous to the human system, shall be guilty of a Class 1 misdemeanor: Provided, anyone charged under this subsection may show as a complete defense that the spirituous liquor in question was legally obtained and possessed and that he had no knowledge of the poisonous nature of the beverage. (1873-4, c. 180, ss. 1, 2; Code, s. 983; Rev., s. 3522; C.S., s. 4453; 1961, c. 897; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, ss. 228, 229, 1235; 1994, Ex. Sess., c. 24, s. 14(c).)

§§ 14-330 through 14-332. Repealed by Session Laws 1971, c. 872, s. 3.

Article 42.

Public Drunkenness.

§ 14-333. Repealed by Session Laws 1971, c. 872, s. 3.

§§ 14-334 through 14-335.1. Repealed by Session Laws 1977, 2nd Session, c. 1134, s. 6.

Article 43.

Vagrants and Tramps.

§ 14-336. Repealed by Session Laws 1983, c. 17, s. 1.

§ 14-337. Repealed by Session Laws 1973, c. 108, s. 13.

§§ 14-338 through 14-339. Repealed by Session Laws 1983, c. 17, ss. 2, 3, effective February 17, 1983.

§ 14-340. Repealed by Session Laws 1971, c. 700.

§ 14-341. Repealed by Session Laws 1971, c. 699.

Article 44.

Regulation of Sales.

§ 14-342. Selling or offering to sell meat of diseased animals.

If any person shall knowingly and willfully slaughter any diseased animal and sell or offer for sale any of the meat of such diseased animal for human consumption, or if any person knows that the meat offered for sale or sold for human consumption by him is that of a diseased animal, he shall be guilty of a Class 1 misdemeanor. (1905, c. 303; Rev., s. 3442; C.S., s. 4465; 1993, c. 539, s. 230; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-343. Unauthorized dealing in railroad tickets.

If any person shall sell or deal in tickets issued by any railroad company, unless he is a duly authorized agent of the railroad company, or shall refuse upon demand to exhibit his authority to sell or deal in such tickets, he shall be guilty of a Class 2 misdemeanor. (1895, c. 83, s. 1; Rev., s. 3764; C.S., s. 4466; 1969, c. 1224, s. 1; 1993, c. 539, s. 231; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-344. Sale of admission tickets in excess of printed price.

Any person, firm, or corporation shall be allowed to add a reasonable service fee to the face value of the tickets sold, and the person, firm, or corporation which sells or resells such tickets shall not be permitted to recoup funds greater than the combined face value of the ticket, tax, and the authorized service fee. This service fee may not exceed three dollars ($3.00) for each ticket except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree in writing on a reasonable service fee greater than three dollars ($3.00) for the first sale of tickets by the ticket sales agent. This service fee may be a pre-established amount per ticket or a percentage of each ticket. The existence of the service fee shall be made known to the public by printing or writing the amount of the fee on the tickets which are printed for the event. Any person, firm or corporation which sells or offers to sell a ticket for a price greater than the price permitted by this section or as permitted by G.S. 14-344.1 shall be guilty of a Class 2 misdemeanor. (1941, c. 180; 1969, c. 1224, s. 8; 1977, c. 9; 1979, c. 909; 1981, c. 36; 1985, c. 434; 1991, c. 165, s. 1; 1993, c. 539, s. 232; 1994, Ex. Sess., c. 24, s. 14(c); 2008-158, ss. 3, 4; 2009-255, s. 1.)

§ 14-344.1. (Contingent repeal, see note) Internet sale of admission tickets in excess of printed price.

(a) Internet Resale. – A person may resell an admission ticket under this section on the Internet at a price greater than the price on the face of the ticket only if all of the following conditions are met:

(1) The venue where the event will occur has not prohibited the Internet ticket resale as provided under subsection (b) of this section.

(2) The person reselling the ticket offers the ticket for resale on a Web site with a ticket guarantee that meets the requirements of subsection (c) of this section. A prospective purchaser must be directed to the guarantee before completion of the resale transaction.

(3) The person has obtained a certificate of registration under G.S. 105-164.29 and collects and remits to the State the sales and use tax in accordance with Article 5 of Chapter 105 of the General Statutes.

(b) Resale Prohibited. – The venue where an event will occur may prohibit the resale of admission tickets for the event at a price greater than the price on the face of the ticket. To prohibit the resale of tickets under this section, the venue must file a notice of prohibition of the resale of admission tickets for a specified event with the Secretary of State and must post the notice of prohibition conspicuously on its Web site. The primary ticket seller for the event must also post the notice conspicuously on its Web site. A prohibition under this subsection may not become valid until 30 days after the notice is posted on the venue's Web site. The prohibition expires on December 31 of each year unless the prohibition is renewed. To renew a prohibition, a venue must renew its notice of prohibition filed with the Secretary of State and must post the notice as required under this subsection. A venue who files a notice of prohibition must pay a fee in the amount set in G.S. 55-1-22 for filing articles of incorporation. A venue that renews a notice of prohibition must pay a fee in the amount set in G.S. 55-1-22 for filing a paper annual report.

(c) Ticket Guarantee. – A person who resells or offers to resell admission tickets under this section must guarantee to the purchaser a full refund of the amount paid for the ticket under each of the following conditions:

(1) The ticketed event is cancelled. Reasonable handling and delivery fees may be withheld from the refund price of a cancelled ticketed event if the ticket guarantee on the Web site specifically informs the purchaser that handling and delivery fees will be withheld from the refunded amount.

(2) The purchaser is denied admission to the ticketed event. This subdivision does not apply if admission to the ticketed event is denied to the purchaser because of an action or omission of the purchaser.

(3) The ticket is not delivered to the purchaser in the manner described on the Web site or pursuant to the delivery guarantee made by the reseller, and the failure results in the purchaser's inability to attend the ticketed event.

(d) Student Tickets. – This section does not apply to student tickets issued by institutions of higher education in North Carolina for sporting events.

(e) Repealed by Session Laws 2010-31, s. 31.7(c), effective June 30, 2010. (2008-158, s. 1; 2009-255, s. 1; 2010-31, ss. 31.7(b), (c); 2014-3, s. 14.27(a).)

§ 14-344.2. Prohibition on ticket purchasing software.

(a) Definition. – The term "ticket seller" means a person who has executed a written agreement with the management of any venue in North Carolina for a sporting event, theater, musical performance, or public entertainment of any kind to sell tickets to the event over the Internet.

(b) Unfair Trade Practice. – A person who knowingly sells, gives, transfers, uses, distributes, or possesses software that is primarily designed or produced for the purpose of interfering with the operation of a ticket seller who sells, over the Internet, tickets of admission to a sporting event, theater, musical performance, or public entertainment of any kind by circumventing any security measures on the ticket seller's Web site, circumventing any access control systems of the ticket seller's Web site, circumventing any access control solutions of the ticket seller's Web site, or circumventing any controls or measures that are instituted by the ticket seller on its Web site to ensure an equitable ticket buying process shall be in violation of G.S. 75-1.1. The ticket seller and venue hosting the ticketed event have standing to bring a private right of action under G.S. 75-1.1 for violation of this section.

(c) Original Ticket Seller. – A person or firm is not liable under this section with respect to tickets for which the person or firm is the original ticket seller. (2008-158, s. 2; 2009-255, s. 1.)

§ 14-345: Repealed by Session Laws 1994, Extra Session, c. 14, s. 72(16).

§ 14-346. Sale of convict-made goods prohibited.

(a) It shall be unlawful to sell or to offer for sale anywhere within the State of North Carolina any articles or commodities manufactured or produced, wholly or in part, in this State or elsewhere by convicts or prisoners, except

(1) Articles or commodities manufactured or produced by convicts on probation or parole or prisoners released part time for regular employment in the free community, and

(2) Products of agricultural or forestry enterprises or quarrying or mining operations in which inmates of any penal or correctional institution of this State are employed, and

(3) Articles and commodities manufactured or produced in any penal or correctional institution of this State for sale to departments, institutions, and agencies supported in whole or in part by the State, or to any political subdivision of this State, for the use of these departments, institutions, agencies, and political subdivisions of the State and not for resale, and

(4) Articles of handicraft made by the inmates of any penal or correctional institution of this State during their leisure hours and with their own materials.

(b) Any person, firm or corporation selling, undertaking to sell, or offering for sale any prison-made or convict-made goods, wares or merchandise, anywhere within the State, in violation of the provisions of this section, shall be guilty of a Class 2 misdemeanor. Each sale or offer to sell, in violation of the provisions of this section, shall constitute a separate offense. (1933, c. 146, ss. 1-4; 1959, c. 170, s. 1; 1969, c. 1224, s. 4; 1993, c. 539, s. 233; 1994, Ex. Sess., c. 24, s. 14(c).)

§§ 14-346.1 through 14-346.2: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(17), (18).

Article 45.

Regulation of Employer and Employee.

§ 14-347: Repealed by Session Laws 1971, c. 350.

§ 14-348. Repealed by Session Laws 1971, c. 701.

§ 14-349. Repealed by Session Laws 1971, c. 351.

§ 14-350. Repealed by Session Laws 1971, c. 352.

§ 14-351. Repealed by Session Laws 1971, c. 353.

§ 14-352. Repealed by Session Laws 1971, c. 354.

§ 14-353. Influencing agents and servants in violating duties owed employers.

Any person who gives, offers or promises to an agent, employee or servant any gift or gratuity whatever with intent to influence his action in relation to his principal's, employer's or master's business; any agent, employee or servant who requests or accepts a gift or gratuity or a promise to make a gift or to do an act beneficial to himself, under an agreement or with an understanding that he shall act in any particular manner in relation to his principal's, employer's or master's business; any agent, employee or servant who, being authorized to procure materials, supplies or other articles either by purchase or contract for his principal, employer or master, or to employ service or labor for his principal, employer or master, receives, directly or indirectly, for himself or for another, a commission, discount or bonus from the person who makes such sale or contract, or furnishes such materials, supplies or other articles, or from a person who renders such service or labor; and any person who gives or offers such an agent, employee or servant such commission, discount or bonus, shall be guilty of a Class 2 misdemeanor. (1913, c. 190, s. 1; C.S., s. 4475; 1969, c. 1224, s. 6; 1993, c. 539, s. 234; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-354. Witness required to give self-incriminating evidence; no suit or prosecution to be founded thereon.

No person shall be excused from attending, testifying or producing books, papers, contracts, agreements and other documents before any court, or in obedience to the subpoena of any court, having jurisdiction of the crime denounced in G.S. 14-353, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or to subject him to a penalty or to a forfeiture; but no person shall be liable to any suit or prosecution, civil or criminal, for or on account of any transaction, matter or thing concerning which he may testify or produce evidence, documentary or otherwise, before such court or in obedience to its subpoena or in any such case or proceeding: Provided, that no person so testifying or producing any such books, papers, contracts, agreements or other documents shall be exempted from

prosecution and punishment for perjury committed in so testifying. (1913, c. 190, s. 2; C.S., s. 4476.)

§ 14-355. Blacklisting employees.

If any person, agent, company or corporation, after having discharged any employee from his or its service, shall prevent or attempt to prevent, by word or writing of any kind, such discharged employee from obtaining employment with any other person, company or corporation, such person, agent or corporation shall be guilty of a Class 3 misdemeanor and shall be punished by a fine not exceeding five hundred dollars ($500.00); and such person, agent, company or corporation shall be liable in penal damages to such discharged person, to be recovered by civil action. This section shall not be construed as prohibiting any person or agent of any company or corporation from furnishing in writing, upon request, any other person, company or corporation to whom such discharged person or employee has applied for employment, a truthful statement of the reason for such discharge. (1909, c. 858, s. 1; C.S., s. 4477; 1993, c. 539, s. 235; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-356: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 767, s. 30(16).

§ 14-357: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(19).

§ 14-357.1. Requiring payment for medical examination, etc., as condition of employment.

(a) It shall be unlawful for any employer, as defined in subsection (b) of this section, to require any applicant for employment, as defined in subsection (c), to pay the cost of a medical examination or the cost of furnishing any records required by the employer as a condition of the initial act of hiring.

(b) The term "employer" as used in this section shall mean and include an individual, a partnership, an association, a corporation, a legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air, or express company, doing business in or operating within the State.

Provided that this section shall not apply to any employer as defined in this subsection who employs less than 25 employees.

(c) The term "applicant for employment" shall mean and include any person who seeks to be permitted, required or directed by any employer, as defined in subsection (b) hereof, in consideration of direct or indirect gain or profit, to engage in employment.

(d) Any employer who violates the provisions of this section shall be liable to a fine of not more than one hundred dollars ($100.00) for each and every violation. It shall be the duty of the Commissioner of Labor to enforce this section. (1951, c. 1094.)

Article 46.

Regulation of Landlord and Tenant.

§ 14-358. Local: Violation of certain contracts between landlord and tenant.

If any tenant or cropper shall procure advances from his landlord to enable him to make a crop on the land rented by him, and then willfully abandon the same without good cause and before paying for such advances with intent to defraud the landlord; or if any landlord shall contract with

a tenant or cropper to furnish him advances to enable him to make a crop, and shall willfully fail or refuse, without good cause, to furnish such advances according to his agreement with intent to defraud the tenant, he shall be guilty of a Class 3 misdemeanor. Any person employing a tenant or cropper who has violated the provisions of this section, with knowledge of such violation, shall be liable to the landlord furnishing such advances for the amount thereof, and shall also be guilty of a Class 3 misdemeanor. This section shall apply to the following counties only: Alamance, Alexander, Beaufort, Bertie, Bladen, Cabarrus, Camden, Caswell, Chowan, Cleveland, Columbus, Craven, Cumberland, Currituck, Duplin, Edgecombe, Gaston, Gates, Greene, Halifax, Harnett, Hertford, Johnston, Jones, Lee, Lenoir, Lincoln, Martin, Mecklenburg, Montgomery, Nash, Northampton, Onslow, Pamlico, Pender, Perquimans, Person, Pitt, Randolph, Robeson, Rockingham, Rowan, Rutherford, Sampson, Stokes, Surry, Tyrrell, Vance, Wake, Warren, Washington, Wayne, Wilson and Yadkin. (1905, cc. 297, 383, 445, 820; Rev., s. 3366; 1907, c. 8; c. 84, s. 1; c. 595, s. 1; cc. 639, 719, 869; Pub. Loc. 1915, c. 18; C.S., s. 4480; Ex. Sess. 1920, c. 26; 1925, c. 285, s. 2; Pub. Loc. 1925, c. 211; Pub. Loc. 1927, c. 614; 1931, c. 136, s. 1; 1945, c. 635; 1953, c. 474; 1983, c. 623; 1993, c. 539, s. 237; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-359. Local: Tenant neglecting crop; landlord failing to make advances; harboring or employing delinquent tenant.

If any tenant or cropper shall procure advances from his landlord to enable him to make a crop on the land rented by him, and then willfully refuse to cultivate such crops or negligently or willfully abandon the same without good cause and before paying for such advances with intent to defraud the landlord; or if any landlord who induces another to become tenant or cropper by agreeing to furnish him advances to enable him to make a crop, shall willfully fail or refuse without good cause to furnish such advances according to his agreement with intent to defraud the tenant, or if any person shall entice, persuade or procure any tenant, lessee or cropper, who has made a contract agreeing to cultivate the land of another, to abandon or to refuse or fail to cultivate such land with intent to defraud the landlord, or after notice shall harbor or detain on his own premises, or on the premises of another, any such tenant, lessee or cropper, he shall be guilty of a Class 3 misdemeanor. Any person who employs a tenant or cropper who has violated the provisions of this section, with knowledge of such violation, shall be liable to the landlord furnishing such advances, for the amount thereof. This section shall apply only to the following counties: Alamance, Anson, Cabarrus, Caswell, Davidson, Franklin, Granville, Halifax, Harnett, Hertford, Hoke, Hyde, Lee, Lincoln, Moore, Person, Randolph, Richmond, Rockingham, Rowan, Rutherford, Sampson, Stanly, Stokes, Union, Vance, Wake and Washington. (1905, c. 299, ss. 1-7; Rev., s. 3367; 1907, c. 84, s. 2; c. 238, s. 1; c. 543; c. 595, s. 2; c. 810; C.S., s. 4481; Ex. Sess. 1920, cc. 20, 26; 1923, c. 32; 1925, c. 285, s. 3; Pub. Loc. 1927, c. 614; 1929, c. 5, s. 1; 1931, c. 44; c. 136, s. 2; 1939, c. 95; 1945, c. 635; 1949, c. 83; 1951, c. 615; 1993, c. 539, s. 238; 1994, Ex. Sess., c. 24, s. 14(c).)

Article 47.

Cruelty to Animals.

§ 14-360. Cruelty to animals; construction of section.

(a) If any person shall intentionally overdrive, overload, wound, injure, torment, kill, or deprive of necessary sustenance, or cause or procure to be overdriven, overloaded,

wounded, injured, tormented, killed, or deprived of necessary sustenance, any animal, every such offender shall for every such offense be guilty of a Class 1 misdemeanor.

(a1) If any person shall maliciously kill, or cause or procure to be killed, any animal by intentional deprivation of necessary sustenance, that person shall be guilty of a Class H felony.

(b) If any person shall maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill, or cause or procure to be tortured, mutilated, maimed, cruelly beaten, disfigured, poisoned, or killed, any animal, every such offender shall for every such offense be guilty of a Class H felony. However, nothing in this section shall be construed to increase the penalty for cockfighting provided for in G.S. 14-362.

(c) As used in this section, the words "torture", "torment", and "cruelly" include or refer to any act, omission, or neglect causing or permitting unjustifiable pain, suffering, or death. As used in this section, the word "intentionally" refers to an act committed knowingly and without justifiable excuse, while the word "maliciously" means an act committed intentionally and with malice or bad motive. As used in this section, the term "animal" includes every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings. However, this section shall not apply to the following activities:

(1) The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this section shall apply to those birds other than pigeons exempted by the Wildlife Resources Commission from its definition of "wild birds" pursuant to G.S. 113-129(15a).

(2) Lawful activities conducted for purposes of biomedical research or training or for purposes of production of livestock, poultry, or aquatic species.

(2a) Lawful activities conducted for the primary purpose of providing food for human or animal consumption.

(3) Activities conducted for lawful veterinary purposes.

(4) The lawful destruction of any animal for the purposes of protecting the public, other animals, property, or the public health.

(5) The physical alteration of livestock or poultry for the purpose of conforming with breed or show standards. (1881, c. 34, s. 1; c. 368, ss. 1, 15; Code, ss. 2482, 2490; 1891, c. 65; Rev., s. 3299; 1907, c. 42; C.S., s. 4483; 1969, c. 1224, s. 2; 1979, c. 641; 1985 (Reg. Sess., 1986), c. 967, s. 1; 1989, c. 670, s. 1; 1993, c. 539, s. 239; 1994, Ex. Sess., c. 24, s. 14(c); 1998-212, s. 17.16(c); 1999-209, s. 8; 2007-211, ss. 1, 2; 2010-16, ss. 1, 2; 2015-286, s. 4.32(a).)

§ 14-360.1. Immunity for veterinarian reporting animal cruelty.

Any veterinarian licensed in this State who has reasonable cause to believe that an animal has been the subject of animal cruelty in violation of G.S. 14-360 and who makes a report of animal cruelty, or who participates in any investigation or testifies in any judicial

proceeding that arises from a report of animal cruelty, shall be immune from civil liability, criminal liability, and liability from professional disciplinary action and shall not be in breach of any veterinarian-patient confidentiality, unless the veterinarian acted in bad faith or with a malicious purpose. It shall be a rebuttable presumption that the veterinarian acted in good faith. A failure by a veterinarian to make a report of animal cruelty shall not constitute grounds for disciplinary action under G.S. 90-187.8. (2007-232, s. 1.)

§ 14-361. Instigating or promoting cruelty to animals.

If any person shall willfully set on foot, or instigate, or move to, carry on, or promote, or engage in, or do any act towards the furtherance of any act of cruelty to any animal, he shall be guilty of a Class 1 misdemeanor. (1881, c. 368, s. 6; Code, s. 2487; 1891, c. 65; Rev., s. 3300; C.S., s. 4484; 1953, c. 857, s. 1; 1969, c. 1224, s. 3; 1985 (Reg. Sess., 1986), c. 967, s. 1; 1989, c. 670, s. 2; 1993, c. 539, s. 240; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-361.1. Abandonment of animals.

Any person being the owner or possessor, or having charge or custody of an animal, who willfully and without justifiable excuse abandons the animal is guilty of a Class 2 misdemeanor. (1979, c. 687; 1985 (Reg. Sess., 1986), c. 967, s. 2; 1989, c. 670, s. 3; 1993, c. 539, s. 241; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-362. Cockfighting.

A person who instigates, promotes, conducts, is employed at, allows property under his ownership or control to be used for, participates as a spectator at, or profits from an exhibition featuring the fighting of a cock is guilty of a Class I felony. A lease of property that is used or is intended to be used for an exhibition featuring the fighting of a cock is void, and a lessor who knows this use is made or is intended to be made of his property is under a duty to evict the lessee immediately. (1881, c. 368, s. 2; Code, s. 2483; 1891, c. 65; Rev., s. 3301; C.S., s. 4485; 1953, c. 857, s. 2; 1969, c. 1224, s. 3; 1985 (Reg. Sess., 1986), c. 967, s. 3; 1993, c. 539, s. 242; 1994, Ex. Sess., c. 24, s. 14(c); 2005-437, s. 1.)

§ 14-362.1. Animal fights and baiting, other than cock fights, dog fights and dog baiting.

(a) A person who instigates, promotes, conducts, is employed at, provides an animal for, allows property under his ownership or control to be used for, or profits from an exhibition featuring the fighting or baiting of an animal, other than a cock or a dog, is guilty of a Class 2 misdemeanor. A lease of property that is used or is intended to be used for an exhibition featuring the fighting or baiting of an animal, other than a cock or a dog, is void, and a lessor who knows this use is made or is intended to be made of his property is under a duty to evict the lessee immediately.

(b) A person who owns, possesses, or trains an animal, other than a cock or a dog, with the intent that the animal be used in an exhibition featuring the fighting or baiting of that animal or any other animal is guilty of a Class 2 misdemeanor.

(c) A person who participates as a spectator at an exhibition featuring the fighting or baiting of an animal, other than a cock or a dog, is guilty of a Class 2 misdemeanor.

(d) A person who commits an offense under subsection (a) within three years after being convicted of an offense under this section is guilty of a Class I felony.

(e) This section does not prohibit the lawful taking or training of animals under the jurisdiction and regulation of the Wildlife Resources Commission. (1985 (Reg. Sess., 1986), c. 967, s. 5; 1993, c. 539, ss. 243, 1236; 1994, Ex. Sess., c. 24, s. 14(c); 1997-78, s. 2.)

§ 14-362.2. Dog fighting and baiting.

(a) A person who instigates, promotes, conducts, is employed at, provides a dog for, allows property under the person's ownership or control to be used for, gambles on, or profits from an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony. A lease of property that is used or is intended to be used for an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is void, and a lessor who knows this use is made or is intended to be made of the lessor's property is under a duty to evict the lessee immediately.

(b) A person who owns, possesses, or trains a dog with the intent that the dog be used in an exhibition featuring the baiting of that dog or the fighting of that dog with another dog or with another animal is guilty of a Class H felony.

(c) A person who participates as a spectator at an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony.

(d) This section does not prohibit the use of dogs in the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission.

(e) This section does not prohibit the use of dogs in earthdog trials that are sanctioned or sponsored by entities approved by the Commissioner of Agriculture that meet standards that protect the health and safety of the dogs. Quarry at an earthdog trial shall at all times be kept separate from the dogs by a sturdy barrier, such as a cage, and have access to food and water.

(f) This section does not apply to the use of herding dogs engaged in the working of domesticated livestock for agricultural, entertainment, or sporting purposes. (1997-78, s. 1; 2006-113, s. 3.1; 2006-259, s. 37; 2007-180, s. 1; 2007-181, s. 1.)

§ 14-362.3. Restraining dogs in a cruel manner.

A person who maliciously restrains a dog using a chain or wire grossly in excess of the size necessary to restrain the dog safely is guilty of a Class 1 misdemeanor. For purposes of this section, "maliciously" means the person imposed the restraint intentionally and with malice or bad motive. (2001-411, s. 2.)

§ 14-363. Conveying animals in a cruel manner.

If any person shall carry or cause to be carried in or upon any vehicle or other conveyance, any animal in a cruel or inhuman manner, he shall be guilty of a Class 1 misdemeanor. Whenever an offender shall be taken into custody therefor by any officer, the officer may take charge of such vehicle or other conveyance and its contents, and deposit the same in some safe place of custody. The necessary expenses which may be incurred for taking charge of and keeping and sustaining the vehicle or other conveyance shall be a lien thereon, to be paid before the same can be lawfully reclaimed; or the said expenses, or any part thereof remaining unpaid, may be recovered by the person incurring the same of the owner of such animal in an action therefor. (1881, c. 368, s. 5; Code, s. 2486; 1891, c. 65; Rev., s. 3302; C.S., s. 4486; 1953, c. 857, s. 3; 1969, c. 1224, s. 4; 1985 (Reg. Sess., 1986), c. 967, s. 1; 1989, c. 670, s. 4; 1993, c. 539, s. 244; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-363.1. Living baby chicks or other fowl, or rabbits under eight weeks of age; disposing of as pets or novelties forbidden.

If any person, firm or corporation shall sell, or offer for sale, barter or give away as premiums living baby chicks, ducklings, or other fowl or rabbits under eight weeks of age as pets or novelties, such person, firm or corporation shall be guilty of a Class 3 misdemeanor. Provided, that nothing contained in this section shall be construed to prohibit the sale of nondomesticated species of chicks, ducklings, or other fowl, or of other fowl from proper brooder facilities by hatcheries or stores engaged in the business of selling them for purposes other than for pets or novelties. (1973, c. 466, s. 1; 1985 (Reg. Sess., 1986), c. 967, s. 4; 1993, c. 539, s. 245; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-363.2. Confiscation of cruelly treated animals.

Conviction of any offense contained in this Article may result in confiscation of cruelly treated animals belonging to the accused and it shall be proper for the court in its discretion to order a final determination of the custody of the confiscated animals. (1979, c. 640.)

§ 14-363.3. Confinement of animals in motor vehicles.

(a) In order to protect the health and safety of an animal, any animal control officer, animal cruelty investigator appointed under G.S. 19A-45, law enforcement officer, firefighter, or rescue squad worker, who has probable cause to believe that an animal is confined in a motor vehicle under conditions that are likely to cause suffering, injury, or death to the animal due to heat, cold, lack of adequate ventilation, or under other endangering conditions, may enter the motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or other person responsible for the animal.

(b) Nothing in this section shall be construed to apply to the transportation of horses, cattle, sheep, swine, poultry, or other livestock. (2013-377, s. 6.)

Article 48.

Animal Diseases.

§ 14-364. Repealed by Session Laws 1945, c. 635.

Article 49.

Protection of Livestock Running at Large.

§ 14-365. Repealed by Session Laws 1971, c. 110.

§ 14-366. Molesting or injuring livestock.

If any person shall unlawfully and on purpose drive any livestock, lawfully running at large in the range, from said range, or shall kill, maim or injure any livestock, lawfully running at large in the range or in the field or pasture of the owner, whether done with actual intent to injure the owner, or to drive the stock from the range, or with any other unlawful intent, every such person, his counselors, aiders, and abettors, shall be guilty of a Class 2 misdemeanor: provided, that nothing herein contained shall prohibit any person from driving out of the range any stock unlawfully brought from other states or places. In any indictment under this section it shall not be necessary to name in the bill or prove on the trial the owner of the stock molested, maimed, killed or injured. Any person violating any provision of this section shall be guilty of a Class 2 misdemeanor. (1850, c. 94, ss. 1, 2; R.C., c. 34, s. 104; Code, s. 1002; 1885, c. 383; 1887, c. 368; 1895, c. 190; Rev., s. 3314; C.S., s. 4494; 1969, c. 1224, s. 9; 1993, c. 539, s. 246; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-367. Altering the brands of and misbranding another's livestock.

If any person shall knowingly alter or deface the mark or brand of any other person's horse, mule, ass, neat cattle, sheep, goat, or hog, or shall knowingly mismark or brand any such beast that may be unbranded or unmarked, not properly his own, with intent to defraud any other person, the person so offending shall be guilty of a Class H felony. (1797, c. 485, s. 2, P.R.; R.C., c. 34, s. 57; Code, s. 1001; Rev., s. 3317; C.S., s. 4495; 1993, c. 539, s. 1237; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-368. Placing poisonous shrubs and vegetables in public places.

If any person shall throw into or leave exposed in any public square, street, lane, alley or open lot in any city, town or village, or in any public road, any mock orange or other poisonous shrub, plant, tree or vegetable, he shall be liable in damages to any person injured thereby and shall also be guilty of a Class 2 misdemeanor. (1887, c. 338; Rev., s. 3318; C.S., s. 4496; 1969, c. 1224, s. 3; 1993, c. 539, s. 247; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-369: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(20).

Article 50.

Protection of Letters, Telegrams, and Telephone Messages.

§ 14-370. Wrongfully obtaining or divulging knowledge of telephonic messages.

If any person wrongfully obtains, or attempts to obtain, any knowledge of a telephonic message by connivance with a clerk, operator, messenger or other employee of a telephone company, or,

being such clerk, operator, messenger or employee, willfully divulges to any but the person for whom it was intended, the contents of a telephonic message or dispatch intrusted to him for transmission or delivery, or the nature thereof, he shall be guilty of a Class 2 misdemeanor. (1903, c. 599; Rev., s. 3848; C.S., s. 4497; 1993, c. 539, s. 248; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-371. Violating privacy of telegraphic messages; failure to transmit and deliver same promptly.

If any person wrongfully obtains, or attempts to obtain, any knowledge of a telegraphic message by connivance with a clerk, operator, messenger, or other employee of a telegraph company, or, being such clerk, operator, messenger, or other employee, willfully divulges to any but the person for whom it was intended, the contents of a telegraphic message or dispatch intrusted to him for transmission or delivery, or the nature thereof, or willfully refuse or neglect duly to transmit or deliver the same, he shall be guilty of a Class 2 misdemeanor. (1889, c. 41, s. 1; Rev., s. 3846; C.S., s. 4498; 1993, c. 539, s. 249; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-372. Unauthorized opening, reading or publishing of sealed letters and telegrams.

If any person shall willfully, and without authority, open or read, or cause to be opened or read, a sealed letter or telegram, or shall publish the whole or any portion of such letter or telegram, knowing it to have been opened or read without authority, he shall be guilty of a Class 2 misdemeanor. (1889, c. 41, s. 2; Rev., s. 3728; C.S., s. 4499; 1993, c. 539, s. 250; 1994, Ex. Sess., c. 24, s. 14(c).)

Article 51.

Protection of Athletic Contests.

§ 14-373. Bribery of players, managers, coaches, referees, umpires or officials.

If any person shall bribe or offer to bribe or shall aid, advise, or abet in any way another in such bribe or offer to bribe, any player or participant in any athletic contest with intent to influence his play, action, or conduct and for the purpose of inducing the player or participant to lose or try to lose or cause to be lost any athletic contest or to limit or try to limit the margin of victory or defeat in such contest; or if any person shall bribe or offer to bribe or shall aid, advise, or abet in any way another in such bribe or offer to bribe, any referee, umpire, manager, coach, or any other official or an athletic club or team, league, association, institution or conference, by whatever name called connected with said athletic contest with intent to influence his decision or bias his opinion or judgment for the purpose of losing or trying to lose or causing to be lost said athletic contest or of limiting or trying to limit the margin of victory or defeat in such contest, such person shall be punished as a Class I felon. (1921, c. 23, s. 1; C.S., s. 4499(a); 1951, c. 364, s. 1; 1961, c. 1054, s. 1; 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. 1238; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-374. Acceptance of bribes by players, managers, coaches, referees, umpires or officials.

If any player or participant in any athletic contest shall accept, or agree to accept, a bribe given for the purpose of inducing the player or participant to lose or try to lose or cause to be lost or limit or try to limit the margin of victory or defeat in such contest; or if any referee, umpire, manager, coach, or any other official of an athletic club, team, league, association, institution, or conference

connected with an athletic contest shall accept or agree to accept a bribe given with the intent to influence his decision or bias his opinion or judgment and for the purpose of losing or trying to lose or causing to be lost said athletic contest or of limiting or trying to limit the margin of victory or defeat in such contest, such person shall be punished as a Class I felon. (1921, c. 23, s. 2; C.S., s. 4499(b); 1951, c. 364, s. 2; 1961, c. 1054, s. 2; 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. 1239; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-375. Completion of offenses set out in §§ 14-373 and 14-374.

To complete the offenses mentioned in G.S. 14-373 and 14-374, it shall not be necessary that the player, manager, coach, referee, umpire, or official shall, at the time, have been actually employed, selected, or appointed to perform his respective duties; it shall be sufficient if the bribe be offered, accepted, or agreed to with the view of probable employment, selection, or appointment of the person to whom the bribe is offered or by whom it is accepted. It shall not be necessary that such player, referee, umpire, manager, coach, or other official actually play or participate in any athletic contest, concerning which said bribe is offered or accepted; it shall be sufficient if the bribe be given, offered, or accepted in view of his or their possibly participating therein. (1921, c. 23, s. 3; C.S., s. 4499(c); 1951, c. 364, s. 3; 1961, c. 1054, s. 3.)

§ 14-376. Bribe defined.

By a "bribe," as used in this article, is meant any gift, emolument, money or thing of value, testimonial, privilege, appointment or personal advantage, or in the promise of either, bestowed or promised for the purpose of influencing, directly or indirectly, any player, referee, manager, coach, umpire, club or league official, to see which game an admission fee may be charged, or in which athletic contest any player, manager, coach, umpire, referee, or other official is paid any compensation for his services. Said bribe as defined in this article need not be direct; it may be such as is hidden under the semblance of a sale, bet, wager, payment of a debt, or in any other manner defined to cover the true intention of the parties. (1921, c. 23, s. 4; C.S., s. 4499(d); 1951, c. 364, s. 4; 1961, c. 1054, s. 4.)

§ 14-377. Intentional losing of athletic contest or limiting margin of victory or defeat.

If any player or participant shall commit any willful act of omission or commission, in playing of an athletic contest, with intent to lose or try to lose or to cause to be lost or to limit or try to limit the margin of victory or defeat in such contest for the purpose of material gain to himself, or if any referees, umpire, manager, coach, or other official of an athletic club, team, league, association, institution or conference connected with an athletic contest shall commit any willful act of omission or commission connected with his official duties with intent to try to lose or to cause to be lost or to limit or try to limit the margin of victory or defeat in such contest for the purpose of material gain to himself, such person shall be punished as a Class I felon. (1921, c. 23, s. 5; C.S., s. 4499(e); 1951, c. 364, s. 5; 1961, c. 1054, s. 5; 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. 1240; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-378. Venue.

In all prosecutions under this Article, the venue may be laid in any county where the bribe herein referred to was given, offered, or accepted, or in which the athletic contest was carried on in relation to which the bribe was offered, given, or accepted, or the acts referred to in G.S. 14-377 were committed. (1921, c. 23, s. 6; C.S., s. 4606(c); 1951, c. 364, s. 6.)

§ 14-379. Bonus or extra compensation not forbidden.

Nothing in this Article shall be construed to prohibit the giving or offering of any bonus or extra compensation to any manager, coach, or professional player, or to any league, association, or conference for the purpose of encouraging such manager, coach, or player to a higher degree of skill, ability, or diligence in the performance of his duties. (1921, c. 23, s. 7; C.S., s. 4499(f); 1951, c. 364, s. 7; 1961, c. 1054, s. 6.)

§ 14-380. Repealed by Session Laws 1951, c. 364, s. 8.

Article 51A.

Protection of Horse Shows.

§ 14-380.1. Bribery of horse show judges or officials.

Any person who bribes, or offers to bribe, any judge or other official in any horse show, with intent to influence his decision or judgment concerning said horse show, shall be guilty of a Class 2 misdemeanor. (1963, c. 1100, s. 1; 1969, c. 1224, s. 1; 1993, c. 539, s. 251; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-380.2. Bribery attempts to be reported.

Any judge or other official of any horse show shall report to the resident superior court district attorney any attempt to bribe him with respect to his decisions in any horse show, and a failure to so report shall constitute a Class 2 misdemeanor. (1963, c. 1100, s. 2; 1969, c. 1224, s. 1; 1973, c. 47, s. 2; 1993, c. 539, s. 252; 1994, Ex. Sess., c. 24, s. 14 (c.)

§ 14-380.3. Bribe defined.

The word "bribe," as used in this Article, shall have the same meaning as set forth in G.S. 14-376, in relation to athletic contests. (1963, c. 1100, s. 3.)

§ 14-380.4. Printing Article in horse show schedules.

The provisions of this Article shall be printed on all schedules for any horse show held prior to January 1, 1965. (1963, c. 1100, s. 4.)

Article 52.

Miscellaneous Police Regulations.

§ 14-381. Desecration of State and United States flag.

It shall be unlawful for any person willfully and knowingly to cast contempt upon any flag of the United States or upon any flag of North Carolina by public acts of physical contact including, but not limited to, mutilation, defiling, defacing or trampling. Any person violating this section shall be deemed guilty of a Class 2 misdemeanor.

The flag of the United States, as used in this section, shall be the same as defined in 4 U.S.C.A. 1 and 4 U.S.C.A. 2. The flag of North Carolina, as used in this section, shall be the same as defined

in G.S. 144-1. (1917, c. 271; C.S., s. 4500; 1971, c. 295; 1993, c. 539, s. 253; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-382. Pollution of water on lands used for dairy purposes.

It shall be unlawful for any person, firm, or corporation owning lands adjoining the lands of any person, firm, or corporation which are or may be used for dairy purposes or for grazing milk cows, to dispose of or permit disposal of any animal, mineral, chemical, or vegetable refuse, sewage or other deleterious matter in such way as to pollute the water on the lands so used or which may be used for dairy purposes or for grazing milk cows, or to render unfit or unsafe for use the milk produced from cows feeding upon the grasses and herbage growing on such lands. This section shall not apply to incorporated towns maintaining a sewer system. Anyone violating the provisions of this section shall be guilty of a Class 3 misdemeanor, and each day that such pollution is committed or exists shall constitute a separate offense. (1919, c. 222; C.S., s. 4501; 1993, c. 539, s. 254; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-383. Cutting timber on town watershed without disposing of boughs and debris; misdemeanor.

Any person, firm or corporation owning lands or the standing timber on lands within 400 feet of any watershed held or owned by any city or town, for the purpose of furnishing a city or town water supply, upon cutting or removing the timber or permitting the same cut or removed from lands so within 400 feet of said watershed, or any part thereof, shall, within three months after cutting, or earlier upon written notice by said city or town, remove or cause to be burned under proper supervision all treetops, boughs, laps and other portions of timber not desired to be taken for commercial or other purposes, within 400 feet of the boundary line of such part of such watershed as is held or owned by such town or city, so as to leave such space of 400 feet immediately adjoining the boundary line of such watershed, so held or owned, free and clear of all such treetops, laps, boughs and other inflammable material caused by or left from cutting such standing timber, so as to prevent the spread of fire from such cutover area and the consequent damage to such watershed. Any such person, firm or corporation violating the provisions of this section shall be guilty of a Class 2 misdemeanor. (1913, c. 56; C.S., s. 4502; 1969, c. 1224, s. 1; 1993, c. 539, s. 255; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-384. Injuring notices and advertisements.

If any person shall wantonly or maliciously mutilate, deface, pull or tear down, destroy or otherwise damage any notice, sign or advertisement, unless immoral or obscene, whether put up by an officer of the law in performance of the duties of his office or by some other person for a lawful purpose, before the object for which such notice, sign or advertisement was posted shall have been accomplished, he shall be guilty of a Class 3 misdemeanor. Nothing herein contained shall apply to any person mutilating, defacing, pulling or tearing down, destroying or otherwise damaging notices, signs or advertisements put upon his own land or lands of which he may have charge or control, unless consent of such person to put up such notice, sign or advertisement shall have first been obtained, except those put up by an officer of the law in the performance of the duties of his office. (1885, c. 302; Rev., s. 3709; C.S., s. 4503; 1993, c. 539, s. 256; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-385. Defacing or destroying public notices and advertisements.

If any person shall willfully and unlawfully deface, tear down, remove or destroy any legal notice or advertisement authorized by law to be posted by any officer or other person, the same being actually posted at the time of such defacement, tearing down, removal or destruction, during the time for which such legal notice or advertisement shall be authorized by law to be posted, he shall be guilty of a Class 3 misdemeanor. (1876-7, c. 215; Code, s. 981; Rev., s. 3710; C.S., s. 4504; 1993, c. 539, s. 257; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-386: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(21).

§ 14-387. Repealed by Session Laws 1945, c. 635.

§ 14-388. Repealed by Session Laws 1943, c. 543.

§ 14-389: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 767, s. 30(17).

§§ 14-390 through 14-390.1. Repealed by Session Laws 1969, c. 970, s. 11.

§ 14-391. Usurious loans on household and kitchen furniture or assignment of wages.

Any person, firm or corporation who shall lend money in any manner whatsoever by note, chattel mortgage, conditional sale, or purported conditional sale or otherwise, upon any article of household or kitchen furniture, or any assignment of wages, earned or to be earned, and shall willfully:

(1) Take, receive, reserve or charge a greater rate of interest than permitted by law, either before or after the interest may accrue; or
(2) Refuse to give receipts for payments on interest or principal of such loan; or
(3) Fail or refuse to surrender the note and security when the same is paid off or a new note and mortgage is given in renewal, unless such new mortgage shall state the amount still due by the old note or mortgage and that the new one is given as additional security;

shall be guilty of a Class 1 misdemeanor and in addition thereto shall be subject to the provisions of G.S. 24-2. (1907, c. 110; C.S., s. 4509; 1927, c. 72; 1959, c. 195; 1977, c. 807; 1993, c. 539, s. 259; 1994, Ex. Sess., c. 24, s. 14(c).)

§§ 14-392 through 14-393: Repealed by Session Laws 1989, c. 508, s. 4.

§ 14-394. Anonymous or threatening letters, mailing or transmitting.

It shall be unlawful for any person, firm, or corporation, or any association of persons in this State, under whatever name styled, to write and transmit any letter, note, or writing, whether written, printed, or drawn, without signing his, her, their, or its true name thereto, threatening any person or persons, firm or corporation, or officers thereof with any personal injury or violence or destruction of property of such individuals, firms, or corporations, or using therein any language or threats of any kind or nature calculated to intimidate or place in fear any such persons, firms or corporations, or officers thereof, as to their personal safety or the safety of their property, or using vulgar or obscene language, or using such language which if published would bring such persons into public contempt and disgrace, and any person, firm, or corporation violating the provisions of

this section shall be guilty of a Class 1 misdemeanor. (1921, c. 112; C.S., s. 4511(a); 1993, c. 539, s. 260; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-395. Commercialization of American Legion emblem; wearing by nonmembers.

It shall be unlawful for anyone not a member of the American Legion, an organization consisting of ex-members of the United States Army, Navy and Marine Corps, who served as members of such organizations in the recent world war, to wear upon his or her person the recognized emblem of the American Legion, or to use the said emblem for advertising purposes, or to commercialize the same in any way whatsoever; or to use the said emblem in display upon his or her property or place of business, or at any place whatsoever. Anyone violating the provisions of this section shall be guilty of a Class 3 misdemeanor. (1923, c. 89; C.S., s. 4511(b); 1993, c. 539, s. 261; 1994, Ex. Sess., c. 24, s. 14(c); 2011-183, s. 127(b).)

§ 14-395.1. Sexual harassment.

(a) Offense. – Any lessor of residential real property or the agent of any lessor of residential real property who shall harass on the basis of sex any lessee or prospective lessee of the property shall be guilty of a Class 2 misdemeanor.

(b) Definitions. – For purposes of this section:

(1) "Harass on the basis of sex" means unsolicited overt requests or demands for sexual acts when (i) submission to such conduct is made a term of the execution or continuation of the lease agreement, or (ii) submission to or rejection of such conduct by an individual is used to determine whether rights under the lease are accorded;

(2) "Lessee" means a person who enters into a residential rental agreement with the lessor and all other persons residing in the lessee's rental unit; and

(3) "Prospective lessee" means a person seeking to enter into a residential rental agreement with a lessor. (1989, c. 712; 1993, c. 539, s. 262; 1994, Ex. Sess., c. 24, s. 14(c).)

§§ 14-396 through 14-397: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 767, s. 30(18), (19).

§ 14-398. Theft or destruction of property of public libraries, museums, etc.

Any person who shall steal or unlawfully take or detain, or willfully or maliciously or wantonly write upon, cut, tear, deface, disfigure, soil, obliterate, break or destroy, or who shall sell or buy or receive, knowing the same to have been stolen, any book, document, newspaper, periodical, map, chart, picture, portrait, engraving, statue, coin, medal, apparatus, specimen, or other work of literature or object of art or curiosity deposited in a public library, gallery, museum, collection, fair or exhibition, or in any department or office of State or local government, or in a library, gallery, museum, collection, or exhibition, belonging to any incorporated college or university, or any incorporated institution devoted to educational, scientific, literary, artistic, historical or charitable purposes, shall, if the value of the property stolen, detained, sold, bought or received knowing same to have been stolen, or if the damage done by writing upon, cutting, tearing, defacing, disfiguring, soiling, obliterating, breaking or destroying any such property, shall not exceed fifty

dollars ($50.00), be guilty of a Class 1 misdemeanor. If the value of the property stolen, detained, sold or received knowing same to have been stolen, or the amount of damage done in any of the ways or manners hereinabove set out, shall exceed the sum of fifty dollars ($50.00), the person committing same shall be punished as a Class H felon. (1935, c. 300; 1943, c. 543; 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. 265; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-399. Littering.

(a) No person, including any firm, organization, private corporation, or governing body, agents or employees of any municipal corporation shall intentionally or recklessly throw, scatter, spill or place or intentionally or recklessly cause to be blown, scattered, spilled, thrown or placed or otherwise dispose of any litter upon any public property or private property not owned by the person within this State or in the waters of this State including any public highway, public park, lake, river, ocean, beach, campground, forestland, recreational area, trailer park, highway, road, street or alley except:

(1) When the property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and the person is authorized to use the property for this purpose; or

(2) Into a litter receptacle in a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of the private or public property or waters.

(a1) No person, including any firm, organization, private corporation, or governing body, agents, or employees of any municipal corporation shall scatter, spill, or place or cause to be blown, scattered, spilled, or placed or otherwise dispose of any litter upon any public property or private property not owned by the person within this State or in the waters of this State including any public highway, public park, lake, river, ocean, beach, campground, forestland, recreational area, trailer park, highway, road, street, or alley except:

(1) When the property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and the person is authorized to use the property for this purpose; or

(2) Into a litter receptacle in a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of the private or public property or waters.

(a2) Subsection (a1) of this section does not apply to the accidental blowing, scattering, or spilling of an insignificant amount of municipal solid waste, as defined in G.S. 130A-290(18a), during the automated loading of a vehicle designed and constructed to transport municipal solid waste if the vehicle is operated in a reasonable manner and according to manufacturer specifications.

(b) When litter is blown, scattered, spilled, thrown or placed from a vehicle or watercraft, the operator thereof shall be presumed to have committed the offense. This presumption, however, does not apply to a vehicle transporting nontoxic and biodegradable

agricultural or garden products or supplies, including mulch, tree bark, wood chips, and raw logs.

(c) Any person who violates subsection (a) of this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than two hundred fifty dollars ($250.00) nor more than one thousand dollars ($1,000) for the first offense. In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent violation of subsection (a) of this section in an amount not exceeding 15 pounds and not for commercial purposes within three years after the date of a prior violation is a Class 3 misdemeanor punishable by a fine of not less than five hundred dollars ($500.00) nor more than two thousand dollars ($2,000). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(c1) Any person who violates subsection (a1) of this section in an amount not exceeding 15 pounds is guilty of an infraction punishable by a fine of not more than one hundred dollars ($100.00). In addition, the court may require the violator to perform community service of not less than four hours nor more than 12 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent violation of subsection (a1) of this section in an amount not exceeding 15 pounds within three years after the date of a prior violation is an infraction punishable by a fine of not more than two hundred dollars ($200.00). In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. For purposes of this subsection, the term "litter" shall not include nontoxic and biodegradable agricultural or garden products or supplies, including mulch, tree bark, and wood chips.

(d) Any person who violates subsection (a) of this section in an amount exceeding 15 pounds but not exceeding 500 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than five hundred dollars ($500.00) nor more than two thousand dollars ($2,000). In addition, the court shall require the violator to perform community service of not less than 24 hours nor more than 100 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other community service commensurate with the offense committed.

(d1) Any person who violates subsection (a1) of this section in an amount exceeding 15 pounds but not exceeding 500 pounds is guilty of an infraction punishable by a fine of not more than two hundred dollars ($200.00). In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(e) Any person who violates subsection (a) of this section in an amount exceeding 500 pounds or in any quantity for commercial purposes, or who discards litter that is a hazardous waste as defined in G.S. 130A-290 is guilty of a Class I felony.

(e1) Any person who violates subsection (a1) of this section in an amount exceeding 500 pounds is guilty of an infraction punishable by a fine of not more than three hundred dollars ($300.00). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(e2) If any person violates subsection (a) or (a1) of this section in an amount exceeding 15 pounds or in any quantity for commercial purposes, or discards litter that is a hazardous waste as defined in G.S. 130A-290, the court shall order the violator to:

(1) Remove, or render harmless, the litter that he discarded in violation of this section;

(2) Repair or restore property damaged by, or pay damages for any damage arising out of, his discarding litter in violation of this section; or

(3) Perform community public service relating to the removal of litter discarded in violation of this section or to the restoration of an area polluted by litter discarded in violation of this section.

(f) A court may enjoin a violation of this section.

(f1) If a violation of subsection (a) of this section involves the operation of a motor vehicle, upon a finding of guilt, the court shall forward a record of the finding to the Department of Transportation, Division of Motor Vehicles, which shall record a penalty of one point on the violator's drivers license pursuant to the point system established by G.S. 20-16. There shall be no insurance premium surcharge or assessment of points under the classification plan adopted under G.S. 58-36-65 for a finding of guilt under this section.

(g) A motor vehicle, vessel, aircraft, container, crane, winch, or machine involved in the disposal of more than 500 pounds of litter in violation of subsection (a) of this section is declared contraband and is subject to seizure and summary forfeiture to the State.

(h) If a person sustains damages arising out of a violation of subsection (a) of this section that is punishable as a felony, a court, in a civil action for the damages, shall order the person to pay the injured party threefold the actual damages or two hundred dollars ($200.00), whichever amount is greater. In addition, the court shall order the person to pay the injured party's court costs and attorney's fees.

(i) For the purpose of the section, unless the context requires otherwise:

(1) "Aircraft" means a motor vehicle or other vehicle that is used or designed to fly, but does not include a parachute or any other device used primarily as safety equipment.

(2) Repealed by Session Laws 1999-454, s. 1.

(2a) "Commercial purposes" means litter discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of the entity.

(3) "Law enforcement officer" means any law enforcement officer sworn and certified pursuant to Article 1 of Chapter 17C or 17E of the General Statutes, except company police officers as defined in G.S. 74E-6(b)(3). In addition, and solely for the purposes of this section, "law enforcement officer" means any employee of a county or municipality designated by the county or municipality as a litter enforcement officer.

(4) "Litter" means any garbage, rubbish, trash, refuse, can, bottle, box, container, wrapper, paper, paper product, tire, appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or equipment, sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility, dead animal, or discarded material in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. While being used for or distributed in accordance with their intended uses, "litter" does not include political pamphlets, handbills, religious tracts, newspapers, and other similar printed materials the unsolicited distribution of which is protected by the Constitution of the United States or the Constitution of North Carolina.

(5) "Vehicle" has the same meaning as in G.S. 20-4.01(49).

(6) "Watercraft" means any boat or vessel used for transportation across the water.

(j) It shall be the duty of all law enforcement officers to enforce the provisions of this section.

(k) This section does not limit the authority of any State or local agency to enforce other laws, rules or ordinances relating to litter or solid waste management. (1935, c. 457; 1937, c. 446; 1943, c. 543; 1951, c. 975, s. 1; 1953, cc. 387, 1011; 1955, c. 437; 1957, cc. 73, 175; 1959, c. 1173; 1971, c. 165; 1973, c. 877; 1977, c. 887, s. 1; 1979, c. 1065, s. 1; 1983, c. 890; 1987, cc. 208, 757; 1989, c. 784, ss. 7.1, 8; 1991, c. 609, s. 1; c. 720, s. 49; c. 725, s. 1; 1993, c. 539, ss. 266, 267, 1241; 1994, Ex. Sess., c. 24, s. 14(c); 1997-518, s. 1; 1998-217, s. 2; 1999-294, s. 4; 1999-454, s. 1; 2001-512, s. 1; 2018-5, s. 17.1(a).)

§ 14-399.1. Repealed by Session Laws 1989, c. 784, s. 7.

§ 14-399.2. Certain plastic yoke and ring type holding devices prohibited.

(a) As used in this section:

(1) "Degradable" means that within one year after being discarded, the yoke or ring type holding device is capable of becoming embrittled or decomposing by photodegradation, biodegradation, or chemo-degradation under average seasonal conditions into components other than heavy metals or other toxic substances.

(2) "Recyclable" means that the yoke or ring type holding device is capable of being collected and processed for reuse as a product or raw material.

(b) No person may sell or distribute for sale in this State any container connected to another by a yoke or ring type holding device constructed of plastic that is neither degradable nor recyclable. No person may sell or distribute for sale in this State any container connected to another by a yoke or ring type holding device constructed of plastic that is recyclable but that is not degradable unless such device does not have an orifice larger than one and three-fourths inches. The manufacturer of a degradable yoke or ring type holding device shall emboss or mark the device with a nationally recognized symbol indicating that the device is degradable. The manufacturer of a recyclable yoke or ring type holding device shall emboss or mark the device with a symbol of the type specified in G.S. 130A-309.10(e) indicating the plastic resin used to produce the device and that the device is recyclable. The manufacturer shall register the symbol with the Secretary of State with a sample of the device.

(c) Any person who sells or distributes for sale a yoke or ring type holding device in violation of this section shall be guilty of a Class 3 misdemeanor punishable by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00). In lieu of a fine or any portion thereof or in addition to a fine, any violation of this section may also be punished by a term of community service.

(d) Other than a manufacturer required to use and register a symbol under subsection (b), a person may not be prosecuted under this section if, at the time of sale or distribution for sale, the yoke or holding device bears a symbol meeting the requirements of this section which has been registered with the Secretary of State. (1989, c. 371; 1991, c. 236, c. 621, s. 14; 1993, c. 539, s. 268; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-400. Tattooing; body piercing prohibited.

(a) It shall be unlawful for any person or persons to tattoo the arm, limb, or any part of the body of any other person under 18 years of age. Anyone violating the provisions of this section shall be guilty of a Class 2 misdemeanor.

(b) It shall be unlawful for any person to pierce any part of the body other than ears of another person under the age of 18 for the purpose of allowing the insertion of earrings, jewelry, or similar objects into the body, unless the prior consent of a custodial parent or guardian is obtained. Anyone violating the provisions of this section is guilty of a Class 2 misdemeanor. (1937, c. 112, ss. 1, 2; 1969, c. 1224, s. 8; 1971, c. 1231, s. 1; 1993, c. 539, s. 269; 1994, Ex. Sess., c. 24, s. 14(c); 1998-230, s. 9.)

§ 14-401. Putting poisonous foodstuffs, antifreeze, etc., in certain public places, prohibited.

It shall be unlawful for any person, firm or corporation to put or place (i) any strychnine, other poisonous compounds or ground glass on any beef or other foodstuffs of any kind, or (ii) any antifreeze that contains ethylene glycol and is not in a closed container, in any public square, street, lane, alley or on any lot in any village, town or city or on any public road, open field, woods or yard in the country. Any person, firm or corporation who violates the provisions of this section shall be liable in damages to the person injured thereby and also shall be guilty of a Class 1 misdemeanor. This section shall not apply to the poisoning of insects or worms for the purpose of protecting crops or gardens by spraying plants, crops, or trees, to poisons used in rat extermination, or to the accidental release of antifreeze containing ethylene glycol. (1941, c. 181; 1953, c. 1239; 1993, c. 143, c. 539, s. 270; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-401.1. Misdemeanor to tamper with examination questions.

Any person who, without authority of the entity who prepares or administers the examination, purloins, steals, buys, receives, or sells, gives or offers to buy, give, or sell any examination questions or copies thereof of any examination provided and prepared by law shall be guilty of a Class 2 misdemeanor. (1917, c. 146, s. 10; C.S., s. 5658; 1969, c. 1224, s. 3; 1991, c. 360, s. 2; 1993, c. 539, s. 271; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-401.2. Misdemeanor for detective to collect claims, accounts, etc.

It shall be unlawful for any person, firm, or corporation, who or which is engaged in business as a detective, detective agency, or what is ordinarily known as "secret service work," or conducts such business, to engage in the business of collecting claims, accounts, bills, notes, or other money obligations for others, or to engage in the business known as a collection agency. Violation of the provisions hereof shall be a Class 2 misdemeanor. (1943, c. 383; 1969, c. 1224, s. 5; 1993, c. 539, s. 272; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-401.3. Inscription on gravestone or monument charging commission of crime.

It shall be illegal for any person to erect or cause to be erected any gravestone or monument bearing any inscription charging any person with the commission of a crime, and it shall be illegal for any person owning, controlling or operating any cemetery to permit such gravestone to be erected and maintained therein. If such gravestone has been erected in any graveyard, cemetery or burial plot, it shall be the duty of the person having charge thereof to remove and obliterate such inscription. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. (1949, c. 1075; 1969, c. 1224, s. 8; 1993, c. 539, s. 273; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-401.4. Identifying marks on machines and apparatus; application to Division of Motor Vehicles for numbers.

(a) No person, firm or corporation shall willfully remove, deface, destroy, alter or cover over the manufacturer's serial or engine number or any other manufacturer's number or other distinguishing number or identification mark upon any machine or other apparatus, including but not limited to farm equipment, machinery and apparatus, but excluding electric storage batteries, nor shall any person, firm or corporation place or stamp any serial, engine, or other number or mark upon such machinery, apparatus or equipment except as provided for in this section, nor shall any person, firm or corporation purchase or take into possession or sell, trade, transfer, devise, give away or in any manner dispose of such machinery, apparatus, or equipment except by intestate succession or as junk or scrap after the manufacturer's serial or engine number or mark has been willfully removed, defaced, destroyed, altered or covered up unless a new number or mark has been added as provided in this section: Provided, however, that this section shall not prohibit or prevent the owner or holder of a mortgage, conditional sales contract, title retaining contract, or a trustee under a deed of trust from taking possession for the purpose of foreclosure under a power of sale or by court order, of such machinery, apparatus, or equipment, or from selling the same by foreclosure sale under a power contained in a mortgage, conditional sales contract, title retaining contract, deed of trust, or court order; or from taking possession thereof in satisfaction of the indebtedness secured by the mortgage, deed of trust, conditional sales contract, or title retaining contract pursuant to an agreement with the owner.

(b) Each seller of farm machinery, farm equipment or farm apparatus covered by this section shall give the purchaser a bill of sale for such machinery, equipment or apparatus and shall

include in the bill of sale the manufacturer's serial number or distinguishing number or identification mark, which the seller warrants to be true and correct according to his invoice or bill of sale as received from his manufacturer, supplier, or distributor or dealer.

(c) Each user of farm machinery, farm equipment or farm apparatus whose manufacturer's serial number, distinguishing number or identification mark has been obliterated or is now unrecognizable, may obtain a valid identification number for any such machinery, equipment or apparatus upon application for such number to the Division of Motor Vehicles accompanied by satisfactory proof of ownership and a subsequent certification to the Division by a member of the North Carolina Highway Patrol that said applicant has placed the number on the proper machinery, equipment or apparatus. The Division of Motor Vehicles is hereby authorized and empowered to issue appropriate identification marks or distinguishing numbers for machinery, equipment or apparatus upon application as provided in this section and the Division is further authorized and empowered to designate the place or places on the machinery, equipment or apparatus at which the identification marks or distinguishing numbers shall be placed. The Division is also authorized to designate the method to be used in placing the identification marks or distinguishing numbers on the machinery, equipment or apparatus: Provided, however, that the owner or holder of the mortgage conditional sales contract, title retaining contract, or trustee under a deed of trust in possession of such encumbered machinery, equipment, or apparatus from which the manufacturer's serial or engine number or other manufacturer's number or distinguishing mark has been obliterated or has become unrecognizable or the purchaser at the foreclosure sale thereof, may at any time obtain a valid identification number for any such machinery, equipment or apparatus upon application therefor to the Division of Motor Vehicles.

(d) Any person, firm or corporation who shall violate any part of this section shall be guilty of a Class 1 misdemeanor. (1949, c. 928; 1951, c. 1110 s. 1; 1953, c. 257; 1975, c. 716, s. 5; 1993, c. 539, s. 274; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-401.5: Repealed by Session Laws 2004-203, s. 21, effective August 17, 2004.

§ 14-401.6. Unlawful to possess, etc., tear gas except for certain purposes.

(a) It is unlawful for any person, firm, corporation or association to possess, use, store, sell, or transport within the State of North Carolina, any form of that type of gas generally known as "tear gas," or any container or device for holding or releasing that gas; except this section does not apply to the possession, use, storage, sale or transportation of that gas or any container or device for holding or releasing that gas:

(1) By officers and enlisted personnel of the Armed Forces of the United States or this State while in the discharge of their official duties and acting under orders requiring them to carry arms or weapons;

(2) By or for any governmental agency for official use of the agency;

(3) By or for county, municipal or State law-enforcement officers in the discharge of their official duties;

(4) By or for security guards registered under Chapter 74C of the General Statutes, company police officers commissioned under Chapter 74E of the General Statutes, or campus police officers commissioned under Chapter 74G of the General Statutes provided they are on duty and have

received training according to standards prescribed by the State Bureau of Investigation;

(5) For bona fide scientific, educational, or industrial purposes;

(6) In safes, vaults, and depositories, as a means or protection against robbery;

(7) For use in the home for protection and elsewhere by individuals, who have not been convicted of a felony, for self-defense purposes only, as long as the capacity of any:

a. Tear gas device or container does not exceed 150 cubic centimeters,

b. Tear gas cartridge or shell does not exceed 50 cubic centimeters, and

c. Tear gas device or container does not have the capability of discharging any cartridge, shell, or container larger than 50 cubic centimeters.

(b) Violation of this section is a Class 2 misdemeanor.

(c) Tear gas for the purpose of this section shall mean any solid, liquid or gaseous substance or combinations thereof which will, upon dispersion in the atmosphere, cause tears in the eyes, burning of the skin, coughing, difficulty in breathing or any one or more of these reactions and which will not cause permanent damage to the human body, and the substance and container or device is designed, manufactured, and intended to be used as tear gas. (1951, c. 592; 1969, c. 1224, s. 8; 1977, c. 126; 1979, c. 661; 1983, c. 794, s. 9; 1991 (Reg. Sess., 1992), c. 1043, s. 2; 1993, c. 151, s. 1; c. 539, s. 276; 1994, Ex. Sess., c. 24, s. 14(c); 2005-231, s. 10; 2011-183, s. 12.)

§ 14-401.7. Persons, firms, banks and corporations dealing in securities on commission taxed as a private banker.

No person, bank, or corporation, without a license authorized by law, shall act as a stockbroker or private banker. Any person, bank, or corporation that deals in foreign or domestic exchange certificates of debt, shares in any corporation or charter companies, bank or other notes, for the purpose of selling the same or any other thing for commission or other compensation, or who negotiates loans upon real estate securities, shall be deemed a security broker. Any person, bank, or corporation engaged in the business of negotiating loans on any class of security or in discounting, buying or selling negotiable or other papers or credits, whether in an office for the purpose or elsewhere shall be deemed to be a private banker. Any person, firm, or corporation violating this section shall be guilty of a Class 3 misdemeanor and pay a fine of not less than one hundred ($100.00) nor more than five hundred dollars ($500.00) for each offense. (1939, c. 310, s. 1004; 1953, c. 970, s. 9; 1993, c. 539, s. 277; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-401.8: Repealed by Session Laws 2015-286, s. 1.1(2), effective October 22, 2015.

§ 14-401.9. Parking vehicle in private parking space without permission.

It shall be unlawful for any person other than the owner or lessee of a privately owned or leased parking space to park a motor or other vehicle in such private parking space without the express permission of the owner or lessee of such space; provided, that such private parking lot be clearly designated as such by a sign no smaller than 24 inches by 24 inches prominently displayed at the entrance thereto, and provided further, that the parking spaces within the lot be clearly marked by signs setting forth the name of each individual lessee or owner.

Any person violating any of the provisions of this section shall be guilty of a Class 3 misdemeanor and upon conviction shall be fined not more than ten dollars ($10.00) in the discretion of the court. (1955, c. 1019; 1977, c. 398, s. 2; 1993, c. 539, s. 279; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-401.10. Soliciting advertisements for official publications of law-enforcement officers' associations.

Every person, firm or corporation who solicits any advertisement to be published in any law-enforcement officers' association's official magazine, yearbook, or other official publication, shall disclose to the person so solicited, whether so requested or not, the name of the law-enforcement association for which such advertisement is solicited, together with written authority from the president or secretary of such association to solicit such advertising on its behalf.

Any person, firm or corporation violating the provisions of this section shall be guilty of a Class 2 misdemeanor. (1961, c. 518; 1969, c. 1224, s. 8; 1993, c. 539, s. 280; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-401.11. Distribution of certain food at Halloween and all other times prohibited.

(a) It shall be unlawful for any person to knowingly distribute, sell, give away or otherwise cause to be placed in a position of human accessibility, any food or eatable substance which that person knows to contain:

(1) Any noxious or deleterious substance, material or article which might be injurious to a person's health or might cause a person any physical discomfort, or

(2) Any controlled substance included in any schedule of the Controlled Substances Act, or

(3) Any poisonous chemical or compound or any foreign substance such as, but not limited to, razor blades, pins, and ground glass, which might cause death, serious physical injury or serious physical pain and discomfort.

(b) Penalties.

(1) Any person violating the provisions of G.S. 14-401.11(a)(1):

a. Where the actual or possible effect on a person eating the food or substance was or would be limited to mild physical discomfort without any lasting effect, shall be guilty of a Class I felony.

b. Where the actual or possible effect on a person eating the food or substance was or would be greater than mild physical discomfort without any lasting effect, shall be punished as a Class H felon.

(2) Any person violating the provisions of G.S. 14-401.11(a)(2) shall be punished as a Class F felon.

(3) Any person violating the provisions of G.S. 14-401.11(a)(3) shall be punished as a Class C felon. (1971, c. 564; 1973, c. 540, s. 1; 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. 1242; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-401.12. Soliciting charitable contributions by telephone.

(a) Any professional solicitor who solicits by telephone contributions for charitable purposes or in any way compensates another person to solicit by telephone contributions

for charitable purposes shall be guilty of a Class 1 misdemeanor. Any person compensated by a professional solicitor to solicit by telephone contributions for charitable purposes shall be guilty of a Class 1 misdemeanor.

(b) Definitions. – Unless a different meaning is required by the context, the following terms as used in this section have the meanings hereinafter respectively ascribed to them:

(1) "Charitable purpose" shall mean any charitable, benevolent, religious, philanthropic, environmental, public or social advocacy or eleemosynary purpose for religion, health, education, social welfare, art and humanities, civic and public interest.

(2) "Contribution" shall mean any promise, gift, devise or other grant for consideration or otherwise, of any money or property of any kind or value, including the promise to pay, which contribution is wholly or partly induced by a solicitation. The term "contribution" shall not include payments by members of an organization for membership fees, dues, fines or assessments, or for services rendered to individual members, if membership in such organization confers a bona fide right, privilege, professional standing, honor or other direct benefit, other than the right to vote, elect officers, or hold offices; nor any money, credit, financial assistance or property received from any governmental authority; nor any donation of blood or any anatomical gift made pursuant to the Revised Uniform Anatomical Gift Act. Reference to dollar amounts of "contributions" or "solicitations" in this section means, in the case of payments or promises to pay for merchandise or rights of any description, the value of the total amount paid or promised to be paid for such merchandise or rights, and not merely that portion of the purchase price to be applied to a charitable purpose.

(3) "Professional fund-raising counsel" shall mean any person who for a flat fixed fee under a written agreement plans, conducts, manages, carries on, or acts as a consultant, whether directly or indirectly, in connection with soliciting contributions for, or on behalf of any charitable organization but who actually solicits no contributions as a part of such services.

(4) "Professional solicitor" shall mean any person who, for a financial or other consideration, solicits contributions for or on behalf of a charitable organization, whether such solicitation is performed personally or through its agents, servants or employees specially employed by or for a charitable organization, who are engaged in the solicitation of contributions under the direction of such person; or a person who plans, conducts, manages, carries on, advises or acts as a consultant, whether directly or indirectly, to a charitable organization in connection with the solicitation of contributions but does not qualify as "professional fund-raising counsel" as defined in this section. A bona fide salaried officer or employee of a charitable organization maintaining a permanent

establishment within the State or the bona fide salaried officer or employee of a parent organization certified as tax exempt shall not be deemed to be a professional solicitor.

(5) The words "solicit" and "solicitation" shall mean the request or appeal, directly or indirectly, for any contribution on the plea or representation that such contribution will be used for a charitable purpose. Solicitation as defined herein shall be deemed to occur when the request is made, at the place the request is received, whether or not the person making the same actually receives any contribution.

(c) A solicitation by telephone is presumed to be for a charitable purpose if the person making the solicitation states or implies that some other named person or organization, other than the professional solicitor or his employees, is a sponsor or endorser of the solicitation who will share in the proceeds that result from the telephone solicitation. (1981, c. 805, s. 1; 1993, c. 539, s. 281; 1994, Ex. Sess., c. 24, s. 14(c); 2007-538, s. 8; 2011-284, s. 10.)

§ 14-401.13. Failure to give right to cancel in off-premises sales.

(a) It shall be a Class 3 misdemeanor for any sellers, as defined hereinafter, in connection with an off-premises sale, as defined hereinafter, willfully to:

(1) Fail to furnish the buyer with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution, which is in the same language, e.g., Spanish, as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the buyer or on the front page of the receipt if a contract is not used and in boldface type of a minimum size of 10 points, a statement in substantially the following form: "You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(2) Fail to furnish each buyer, at the time he signs the off-premises sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned "NOTICE OF CANCELLATION", which shall be attached to the contract or receipt and easily detachable, and which shall contain in boldface type in a minimum size of 10 points, the following information and statements in the same language, e.g., Spanish, as that used in the contract:

"NOTICE OF CANCELLATION

(enter date of transaction)

_____

(date)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by

you will be returned within 10 business days following receipt by the seller of your cancellation notice and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk. In the event you purchased antiques at an antique show and cancel, and your residence is out-of-state, you must deliver the purchased goods to the seller.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram, to

_____
(name of seller)

at _____
(address of seller's place of business)

not later than midnight of _____
(date)

I hereby cancel this transaction.

_____
(date)

_____
(buyer's signature)

"

(3) Fail, before furnishing copies of the "Notice of Cancellation" to the buyer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the buyer may give notice of cancellation.

(4) Fail to inform each buyer orally, at the time he signs the contract or purchases the goods or services, of his right to cancel.

(5) Misrepresent in any manner the buyer's right to cancel.

(b) Regardless of the seller's compliance or noncompliance with the requirements of the preceding subsection, it shall be a Class 3 misdemeanor for any seller, as defined hereinafter, to willfully fail or refuse to honor any valid notice of cancellation by a buyer and within 10 business days after the receipt of such notice, to (i) refund all payments made under the contract or sale; (ii) return any goods or property traded in, in substantially as good condition as when received by the seller; (iii) cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security

interest created in the transaction. If the seller failed to provide a form Notice of Cancellation to the buyer, then oral notice of cancellation by the buyer is sufficient for purposes of this subsection.

(c) For the purposes of this section, the following definitions shall apply:

(1) Off-Premises Sale. – A sale, lease, or rental of consumer goods or services with a purchase price of twenty-five dollars ($25.00) or more, whether under single or multiple contracts, in which the seller or his representative personally solicits the sale, including those in response to or following an invitation by the buyer, and the buyer's agreement or offer to purchase is made at a place other than the place of business of the seller. The term "off-premises sale" does not include a transaction:

a. Made pursuant to prior negotiations in the course of a visit by the buyer to a retail business establishment having a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis; or

b. In which the consumer is accorded the right of rescission by the provisions of the Consumer Credit Protection Act (15 U.S.C. 1635) or regulations issued pursuant thereto; or

c. In which the buyer has initiated the contact and the goods or services are needed to meet a bona fide immediate personal emergency of the buyer, and the buyer furnishes the seller with a separate dated and signed personal statement in the buyer's handwriting describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the sale within three business days; or

d. Conducted and consummated entirely by mail or telephone; and without any other contact between the buyer and the seller or its representative prior to delivery of the goods or performance of the services; or

e. In which the buyer has initiated the contact and specifically requested the seller to visit his home for the purpose of repairing or performing maintenance upon the buyer's property. If in the course of such a visit, the seller sells the buyer the right to receive additional services or goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the sale of those additional goods or services would not fall within this exclusion; or

f. Pertaining to the sale or rental of real property, to the sale of insurance or to the sale of securities or commodities by a broker-dealer registered with the Securities and Exchange Commission; or

g. Executed at an auction; or

h. Sales of motor vehicles defined in G.S. 20-286(10) by motor vehicle sales representatives licensed pursuant to G.S. 20-287 et seq.

(2) Consumer Goods or Services. – Goods or services purchased, leased, or rented primarily for personal, family, or household purposes, including courses of instruction or training regardless of the purpose for which they are taken.

(3) Seller. – Any person, partnership, corporation, or association engaged in the off-premises sale of consumer goods or services. However, a nonprofit corporation or association, or member or employee thereof acting on behalf of

such an association or corporation, shall not be a seller within the meaning of this section.

(4) Place of Business. – The main or permanent branch office or local address of a seller.

(5) Purchase Price. – The total price paid or to be paid for the consumer goods or services, including all interest and service charges.

(6) Business Day. – Any calendar day except Sunday, or the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, and Good Friday. (1985, c. 652, s. 1; 1987, c. 551, ss. 1, 2; 1993, c. 141, c. 539, s. 282; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-401.14. Ethnic intimidation; teaching any technique to be used for ethnic intimidation.

(a) If a person shall, because of race, color, religion, nationality, or country of origin, assault another person, or damage or deface the property of another person, or threaten to do any such act, he shall be guilty of a Class 1 misdemeanor.

(b) A person who assembles with one or more persons to teach any technique or means to be used to commit any act in violation of subsection (a) of this section is guilty of a Class 1 misdemeanor. (1991, c. 493, s. 1; 1993, c. 332, s. 1; c. 539, s. 283; 1994, Ex. Sess., c. 14, s. 14(b); c. 24, s. 14(c); 1995, c. 509, s. 10.)

§ 14-401.15. Telephone sales recovery services.

(a) Except as provided in subsection (c) of this section, it shall be unlawful for any person or firm to solicit or require payment of money or other consideration in exchange for recovering or attempting to recover:

(1) Money or other valuable consideration previously tendered to a telephonic seller, as defined in G.S. 66-260; or

(2) Prizes, awards, or other things of value that the telephonic seller represented would be delivered.

(b) A violation of this section shall be punishable as a Class 1 misdemeanor. Any violation involving actual collection of money or other consideration from a customer shall be punishable as a Class H felony.

(c) This section does not apply to attorneys licensed to practice law in this State, to persons licensed by the North Carolina Private Protective Services Board, or to any collection agent properly holding a permit issued by the Department of Insurance to do business in this State. (1997-482, s. 2.)

§ 14-401.16. Contaminate food or drink to render one mentally incapacitated or physically helpless.

(a) It is unlawful knowingly to contaminate any food, drink, or other edible or potable substance with a controlled substance as defined in G.S. 90-87(5) that would render a person mentally incapacitated or physically helpless with the intent of causing another person to be mentally incapacitated or physically helpless.

(b) It is unlawful knowingly to manufacture, sell, deliver, or possess with the intent to manufacture, sell, deliver, or possess a controlled substance as defined in G.S. 90-87(5) for the purpose of violating this section.

(c) A violation of this section is a Class H felony. However, if a person violates this section with the intent of committing an offense under G.S. 14-27.22 or G.S. 14-27.27, the violation is a Class G felony.

(d) This act does not apply if the controlled substance added to the food, drink, or other edible or potable substance is done at the direction of a licensed physician as part of a medical procedure or treatment with the patient's consent. (1997-501, s. 2; 2015-181, s. 39.)

§ 14-401.17. Unlawful removal or destruction of electronic dog collars.

(a) It is unlawful to intentionally remove or destroy an electronic collar or other electronic device placed on a dog by its owner to maintain control of the dog.

(b) A first conviction for a violation of this section is a Class 3 misdemeanor. A second or subsequent conviction for a violation of this section is a Class 2 misdemeanor.

(c) This act is enforceable by officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and peace officers with general subject matter jurisdiction.

(d) Repealed by Session Laws 2005-94, s. 1, effective December 1, 2005, and applicable to offenses committed on or after that date. (1993 (Reg. Sess., 1994), c. 699, s. 1-4; 1995 (Reg. Sess., 1996) c. 682; 1997-150; 1998-6, s. 1; 1999-51, s. 1; 2000-12, s. 1; 2004-60, s. 3; 2005-94, s. 1; 2005-305, s. 4.)

§ 14-401.18. Sale of certain packages of cigarettes prohibited.

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

(1) Cigarette. – Defined in G.S. 105-113.4.

(2) Package. – Defined in G.S. 105-113.4.

(b) Offenses. – A person who sells or holds for sale (other than for export to a foreign country) a package of cigarettes that meets one or more of the following descriptions commits a Class A1 misdemeanor and engages in an unfair trade practice prohibited by G.S. 75-1.1:

(1) The package differs in any respect with the requirements of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. § 1331, for the placement of labels, warnings, or any other information upon a package of cigarettes that is to be sold within the United States.

(2) The package is labeled "For Export Only," "U.S. Tax Exempt," "For Use Outside U.S.," or has similar wording indicating that the manufacturer did not intend that the product be sold in the United States.

(3) The package was altered by adding or deleting the wording, labels, or warnings described in subdivision (1) or (2) of this subsection.

(4) The package was imported into the United States after January 1, 2000, in violation of 26 U.S.C. § 5754.

(5) The package violates federal trademark or copyright laws, federal laws governing the submission of ingredient information to federal authorities pursuant to 15 U.S.C. § 1335a, federal laws governing the import of certain

cigarettes pursuant to 19 U.S.C. § 1681 and 19 U.S.C. § 1681b, or any other provision of federal law or regulation.

(c) Contraband. – A package of cigarettes described in subsection (b) of this section is contraband and may be seized by a law enforcement officer. The procedure for seizure and disposition of this contraband is the same as the procedure under G.S. 105-113.31 and G.S. 105-113.32 for non-tax-paid cigarettes. (1999-333, s. 5; 2002-145, s. 4.)

§ 14-401.18A. Sale of certain e-liquid containers prohibited.

(a) The following definitions apply in this section:

(1) Child-resistant packaging. – Packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and not difficult for adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

(2) E-liquid. – A liquid product, whether or not it contains nicotine, that is intended to be vaporized and inhaled using a vapor product.

(3) E-liquid container. – A bottle or other container of e-liquid. The term does not include a container holding liquid that is intended for use in a vapor product if the container is pre-filled and sealed by the manufacturer and is not intended to be opened by the consumer.

(4) Vapor product. – Any noncombustible product that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to heat a liquid solution contained in a vapor cartridge. The term includes an electronic cigarette, electronic cigar, electronic cigarillo, and electronic pipe.

(b) It shall be unlawful for any person, firm, or corporation to sell, offer for sale, or introduce into commerce in this State an e-liquid container unless the container constitutes child-resistant packaging. Any person who violates this section is guilty of a Class A1 misdemeanor.

(c) It shall be unlawful for any person, firm, or corporation to sell, offer for sale, or introduce into commerce in this State an e-liquid container for an e-liquid product containing nicotine unless the packaging for the e-liquid product states that the product contains nicotine. Any person who violates this section is guilty of a Class A1 misdemeanor.

(d) Any person, firm, or corporation that violates the provisions of this section shall be liable in damages to any person injured as a result of the violation. (2015-141, s. 1.)

§ 14-401.19. Filing false security agreements.

It shall be unlawful for any person, firm, corporation, or any other association of persons in this State, under whatever name styled, to present a record for filing under the provisions of Article 9 of Chapter 25 of the General Statutes with knowledge that the record is not related to a valid security agreement or with the intention that the record be filed for

an improper purpose, such as to hinder, harass, or otherwise wrongfully interfere with any person. A violation of this section shall be a Class I felony. (2001-231, s. 5; 2012-150, s. 6.)

§ 14-401.20. Defrauding drug and alcohol screening tests; penalty.

(a) It is unlawful for a person to do any of the following:

(1) Sell, give away, distribute, or market urine in this State or transport urine into this State with the intent that it be used to defraud a drug or alcohol screening test.

(2) Attempt to foil or defeat a drug or alcohol screening test by the substitution or spiking of a sample or the advertisement of a sample substitution or other spiking device or measure.

(b) It is unlawful for a person to do any of the following:

(1) Adulterate a urine or other bodily fluid sample with the intent to defraud a drug or alcohol screening test.

(2) Possess adulterants that are intended to be used to adulterate a urine or other bodily fluid sample for the purpose of defrauding a drug or alcohol screening test.

(3) Sell adulterants with the intent that they be used to adulterate a urine or other bodily fluid sample for the purpose of defrauding a drug or alcohol screening test.

(c) A violation of this section is punishable as follows:

(1) For a first offense under this section, the person is guilty of a Class 1 misdemeanor.

(2) For a second or subsequent offense under this section, the person is guilty of a Class I felony. (2002-183, s. 1.)

§ 14-401.21. Practicing "rebirthing technique"; penalty.

(a) It is unlawful for a person to practice a technique, whether known as a "rebirthing technique" or referred to by any other name, to reenact the birthing process in a manner that includes restraint and creates a situation in which a patient may suffer physical injury or death.

(b) A violation of this section is punishable as follows:

(1) For a first offense under this section, the person is guilty of a Class A1 misdemeanor.

(2) For a second or subsequent offense under this section, the person is guilty of a Class I felony.

(c) No State funds shall be used to pay for the rebirthing technique made unlawful by this section and performed in another state notwithstanding that the technique, whether known as a rebirthing technique or referred to by any other name, is lawful in that other state. (2003-205, s. 1; 2004-124, s. 10.2F.)

§ 14-401.22. Concealment of death; disturbing human remains; dismembering human remains.

(a) Except as provided in subsection (a1) of this section, any person who, with the intent to conceal the death of a person, fails to notify a law enforcement authority of the

death or secretly buries or otherwise secretly disposes of a dead human body is guilty of a Class I felony.

(a1) Any person who, with the intent to conceal the death of a child, fails to notify a law enforcement authority of the death or secretly buries or otherwise secretly disposes of a dead child's body is guilty of a Class H felony. For purposes of this subsection, a child is any person who is less than 16 years of age.

(b) Any person who aids, counsels, or abets any other person in concealing the death of a person is guilty of a Class A1 misdemeanor.

(c) Any person who willfully (i) disturbs, vandalizes, or desecrates human remains, by any means, including any physical alteration or manipulation of the human remains, or (ii) commits or attempts to commit upon any human remains any act of sexual penetration is guilty of a Class I felony. This subsection does not apply to:

(1) Acts by a first responder or others providing medical care.
(2) Acts committed as part of scientific or medical research, treatment, or diagnosis.
(3) Acts performed by a licensed funeral director or embalmer consistent with standard practice.
(4) Acts committed for the purpose of extracting body parts in accordance with usual and customary standards of medical practice.
(5) Acts by a professional archaeologist as defined in G.S. 70-28(4) acting pursuant to the provisions of Article 3 of Chapter 70 of the General Statutes.
(6) Acts committed for any other lawful purpose.

(d) Any person who attempts to conceal evidence of the death of another by knowingly and willfully dismembering or destroying human remains, by any means, including removing body parts or otherwise obliterating any portion thereof, shall be guilty of a Class H felony.

(e) Any person who violates subsection (a), (a1), or (d) of this section, knowing or having reason to know the body or human remains are of a person that did not die of natural causes, shall be guilty of a Class D felony.

(f) As used in this section, "human remains" means any dead human body in any condition of decay or any significant part of a dead human body, including any limb, organ, or bone. (2005-288, s. 1; 2011-193, s. 1; 2013-52, s. 5.)

§ 14-401.23. Unlawful manufacture, sale, delivery, or possession of Salvia divinorum.

(a) It shall be unlawful for any person to knowingly or intentionally manufacture, sell or deliver, or possess with intent to manufacture, sell or deliver Salvia divinorum or Salvinorin A.

(b) It shall be unlawful for any person to knowingly or intentionally possess Salvia divinorum or Salvinorin A.

(c) A violation of this section is punishable as follows:

(1) For a first or second offense under this section, the person is responsible for an infraction and shall be required to pay a fine of not less than twenty-five dollars ($25.00).

(2) For a third or subsequent offense under this section, the person is guilty of a Class 3 misdemeanor.

(d) For purposes of this section:

(1) "Deliver" means the actual constructive or attempted transfer of Salvia divinorum or Salvinorin A from one person to another.

(2) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of Salvia divinorum or Salvinorin A by any means, whether directly or indirectly, artificially or naturally, or by extraction from substances of a natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Manufacture includes any packaging or repackaging of the substance, or labeling or relabeling of its container, except that this term does not include the preparation or compounding of the substance by an individual for the individual's own use.

(3) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a plant.

(e) The provisions of this section shall not apply to:

(1) Employees or contractors of any accredited college or school of medicine or pharmacy at a public or private university in this State while performing medical or pharmacological research for such institution.

(2) The possession, planting, cultivation, growing, or harvesting of a plant strictly for aesthetic, landscaping, or decorative purposes. (2009-538, s. 1.)

§ 14-401.24. Unlawful possession and use of unmanned aircraft systems.

(a) It shall be a Class E felony for any person to possess or use an unmanned aircraft or unmanned aircraft system that has a weapon attached.

(b) It shall be a Class 1 misdemeanor for any person to fish or to hunt using an unmanned aircraft system.

(c) The following definitions apply to this section:

(1) To fish. – As defined in G.S. 113-130.

(2) To hunt. – As defined in G.S. 113-130.

(3) Unmanned aircraft. – As defined in G.S. 15A-300.1.

(4) Unmanned aircraft system. – As defined in G.S. 15A-300.1.

(5) Weapon. – Those weapons specified in G.S. 14-269, 14-269.2, 14-284.1, or 14-288.8 and any other object capable of inflicting serious bodily injury or death when used as a weapon.

(d) This section shall not prohibit possession or usage of an unmanned aircraft or unmanned aircraft system that is authorized by federal law or regulation. (2014-100, s. 34.30(d).)

§ 14-401.25. Unlawful distribution of images.

It shall be a Class A1 misdemeanor to publish or disseminate, for any purpose, recorded images taken by a person or non-law enforcement entity through the use of infrared or other similar thermal imaging technology attached to an unmanned aircraft system, as defined in

G.S. 15A-300.1, and revealing individuals, materials, or activities inside of a structure without the consent of the property owner. (2014-100, s. 34.30(e).)

Article 52A.

Sale of Weapons in Certain Counties.

§ 14-402. Sale of certain weapons without permit forbidden.

(a) It is unlawful for any person, firm, or corporation in this State to sell, give away, or transfer, or to purchase or receive, at any place within this State from any other place within or without the State any pistol unless: (i) a license or permit is first obtained under this Article by the purchaser or receiver from the sheriff of the county in which the purchaser or receiver resides; or (ii) a valid North Carolina concealed handgun permit is held under Article 54B of this Chapter by the purchaser or receiver who must be a resident of the State at the time of the purchase.

It is unlawful for any person or persons to receive from any postmaster, postal clerk, employee in the parcel post department, rural mail carrier, express agent or employee, railroad agent or employee within the State of North Carolina any pistol without having in his or their possession and without exhibiting at the time of the delivery of the same and to the person delivering the same the permit from the sheriff as provided in G.S. 14-403. Any person violating the provisions of this section is guilty of a Class 2 misdemeanor.

(b) This section does not apply to an antique firearm or an historic edged weapon.

(c) The following definitions apply in this Article:

(1) Antique firearm. – Defined in G.S. 14-409.11.

(2), (3) Repealed by Session Laws 2011-56, s. 1, effective April 28, 2011.

(4) Historic edged weapon. – Defined in G.S. 14-409.12.

(5) through (7) Repealed by Session Laws 2011-56, s. 1, effective April 28, 2011. (1919, c. 197, s. 1; C.S., s. 5106; 1923, c. 106; 1947, c. 781; 1959, c. 1073, s. 2; 1971, c. 133, s. 2; 1979, c. 895, ss. 1, 2; 1993, c. 287, s. 1; c. 539, s. 284; 1994, Ex. Sess., c. 24, s. 14(c); 2004-183, s. 1; 2004-203, s. 1; 2009-6, s. 2; 2011-56, s. 1.)

§ 14-403. Permit issued by sheriff; form of permit; expiration of permit.

The sheriffs of any and all counties of this State shall issue to any person, firm, or corporation in any county a permit to purchase or receive any weapon mentioned in this Article from any person, firm, or corporation offering to sell or dispose of the weapon. The permit shall expire five years from the date of issuance. The permit shall be a standard form created by the State Bureau of Investigation in consultation with the North Carolina Sheriffs' Association, shall be of a uniform size and material, and shall be designed with security features intended to minimize the ability to counterfeit or replicate the permit and shall be set forth as follows:

North Carolina,

_____ County.

I, _____, Sheriff of said County, do hereby certify that I have conducted a criminal background check of the applicant, _____ whose place of residence is _____ in _____ (or) in _____ Township, _____ County, North Carolina, and have received no information to indicate that it would be a violation of State or federal law for the applicant to purchase, transfer, receive, or possess a handgun. The applicant has further satisfied me as to his, her (or) their good moral character. Therefore, a permit is issued to _____ to purchase one pistol from any person, firm or corporation authorized to dispose of the same.

This permit expires five years from its date of issuance.

This __ day of _____, ____.

_____

Sheriff.

The standard permit created by this section shall be used statewide by the sheriffs of any and all counties and, when issued by a sheriff, shall also contain an embossed seal unique to the office of the issuing sheriff. (1919, c. 197, s. 2; C.S., s. 5107; 1959, c. 1073, s. 2; 1981 (Reg. Sess., 1982), c. 1395, s. 3; 1995, c. 487, s. 1; 1999-456, s. 59; 2013-369, s. 17.1; 2015-195, s. 10(a).)

§ 14-404. Issuance or refusal of permit; appeal from refusal; grounds for refusal; sheriff's fee.

(a) Upon application, and such application must be provided by the sheriff electronically, the sheriff shall issue the permit to a resident of that county, unless the purpose of the permit is for collecting, in which case a sheriff can issue a permit to a nonresident, when the sheriff has done all of the following:

(1) Verified, before the issuance of a permit, by a criminal history background investigation that it is not a violation of State or federal law for the applicant to purchase, transfer, receive, or possess a handgun. The sheriff shall determine the criminal and background history of any applicant by accessing computerized criminal history records as maintained by the State Bureau of Investigation and the Federal Bureau of Investigation, by conducting a national criminal history records check, by conducting a check through the National Instant Criminal Background Check System (NICS), and by conducting a criminal history check through the Administrative Office of the Courts.

(2) Fully satisfied himself or herself by affidavits, oral evidence, or otherwise, as to the good moral character of the applicant. For purposes of determining an applicant's good moral character to receive a permit, the sheriff shall only consider an applicant's conduct and criminal history for the five-year period immediately preceding the date of the application.

(3) Fully satisfied himself or herself that the applicant desires the possession of the weapon mentioned for (i) the protection of the home, business, person, family or property, (ii) target shooting, (iii) collecting, or (iv) hunting.

(b) If the sheriff is not fully satisfied, the sheriff may, for good cause shown, decline to issue the permit and shall provide to the applicant within seven days of the refusal a written statement of the reason(s) for the refusal. The statement shall cite the specific facts upon which the sheriff concluded that the applicant was not qualified for the issuance of a permit and list, by statute number, the applicable law upon which the denial is based. An appeal from the refusal shall lie by way of petition to the superior court in the district in which the application was filed. The determination by the court, on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal, and shall be final.

(b1) The sheriff shall keep a list of all permit denials, with the specific reasons for the denials noted. The list shall not include any information that would identify the applicant whose application was denied. The list, as described in this subsection, shall be a public record, and the sheriff shall make the list available upon request to any member of the public. The list shall be organized by the quarters of the year, showing the number of denials and the reasons in each three-month period, and the list shall only be released for past, completed quarters.

(c) A permit may not be issued to the following persons:

(1) One who is under an indictment or information for or has been convicted in any state, or in any court of the United States, of a felony (other than an offense pertaining to antitrust violations, unfair trade practices, or restraints of trade). However, a person who has been convicted of a felony in a court of any state or in a court of the United States and (i) who is later pardoned, or (ii) whose firearms rights have been restored pursuant to G.S. 14-415.4, may obtain a permit, if the purchase or receipt of a pistol permitted in this Article does not violate a condition of the pardon or restoration of firearms rights.

(2) One who is a fugitive from justice.

(3) One who is an unlawful user of or addicted to marijuana or any depressant, stimulant, or narcotic drug (as defined in 21 U.S.C. § 802).

(4) One who has been adjudicated mentally incompetent or has been committed to any mental institution.

(5) One who is an alien illegally or unlawfully in the United States.

(6) One who has been discharged from the Armed Forces of the United States under dishonorable conditions.

(7) One who, having been a citizen of the United States, has renounced his or her citizenship.

(8) One who is subject to a court order that:

a. Was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;

b. Restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of the intimate partner of the person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

c. Includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child; or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury.

(c1) Repealed by Session Laws 2015-195, s. 11(c), effective August 5, 2015.

(d) Nothing in this Article shall apply to officers authorized by law to carry firearms if the officers identify themselves to the vendor or donor as being officers authorized by law to carry firearms and provide any of the following:

(1) A letter signed by the officer's supervisor or superior officer stating that the officer is authorized by law to carry a firearm.

(2) A current photographic identification card issued by the officer's employer.

(3) A current photographic identification card issued by a State agency that identifies the individual as a law enforcement officer or a probation and parole officer certified by the State of North Carolina.

(4) A current identification card issued by the officer's employer and another form of current photographic identification.

(e) The sheriff shall charge for the sheriff's services upon receipt of an application a fee of five dollars ($5.00) for each permit requested. There shall be no limit as to the number or frequency of permit applications and no other costs or fees other than provided in this subsection shall be charged for the permit, including, but not limited to, any costs for investigation, processing, or medical background checks by the sheriff or others providing records to the sheriff.

(e1) The application for a permit shall be on a form created by the State Bureau of Investigation in consultation with the North Carolina Sheriffs' Association. This application shall be used by all sheriffs and must be provided by the sheriff both electronically and in paper form. Only the following shall be required to be submitted by an applicant for a permit:

(1) The permit application developed pursuant to this subsection.

(2) Five dollars for each permit requested pursuant to subsection (e) of this section.

(3) A government issued identification confirming the identity of the applicant.

(4) Proof of residency.

(5) A signed release, in a form to be prescribed by the Administrative Office of the Court, that authorizes and requires disclosure to the sheriff of any court orders concerning the mental health or capacity of the applicant to be used for the sole purpose of determining whether the applicant is disqualified to receive a permit pursuant to this section.

No additional document or evidence shall be required from any applicant.

(f) Each applicant for a license or permit shall be informed by the sheriff within 14 days of the date of the application whether the license or permit will be granted or denied and, if granted, the license or permit shall be immediately issued to the applicant.

(g) An applicant shall not be ineligible to receive a permit under subdivision (c)(4) of this section because of involuntary commitment to mental health services if the individual's rights have been restored under G.S. 14-409.42.

(h) The sheriff shall revoke any permit upon the occurrence of any event or condition subsequent to the issuance of the permit, or the applicant's subsequent inability to meet a requirement under this Article, which would have resulted in a denial of the application submitted to obtain the permit if the event, condition, or the applicant's current inability to meet a statutory requirement had existed at the time of the application and prior to the issuance of the permit. The following procedures apply to a revocation:

(1) The sheriff shall provide written notice to the permittee, pursuant to the provisions of G.S. 1A-1, Rule 4(j), that the permit is revoked upon the service of the notice. The notice shall provide the permittee with information on the process to appeal the revocation.

(2) Upon receipt of the written notice of revocation, the permittee shall surrender the permit to the sheriff. Any law enforcement officer serving the notice is authorized to take immediate possession of the permit from the permittee. If the notice is served by means other than by a law enforcement officer, the permittee shall surrender the permit to the sheriff no later than 48 hours after service of the notice.

(3) The sheriff shall insure that the list of permits which have been revoked is immediately updated so that any potential transferor calling to check the validity of the permit will be informed of the revocation.

(4) A permittee may appeal the revocation of a permit pursuant to this subsection by petitioning a district court judge of the district in which the permittee resides.

(5) Any person who willfully fails to surrender a permit upon notice of revocation shall be guilty of a Class 2 misdemeanor.

(i) A person or entity shall promptly disclose to the sheriff, upon presentation by the applicant or sheriff of an original or photocopied release form described in subdivision (5) of subsection (e1) of this section, any court orders concerning the mental health or capacity of the applicant who signed the release form. (1919, c. 197, s. 3; C.S., s. 5108; 1959, c. 1073, s. 2; 1969, c. 73; 1981 (Reg. Sess., 1982), c. 1395, s. 1; 1987, c. 518, s. 1; 1995, c. 487, s. 2; 2006-39, s. 1; 2006-264, s. 4; 2008-210, s. 3(a); 2009-570, s. 7; 2010-108, s. 4; 2011-2, s. 1; 2011-56, s. 2; 2011-183, s. 13; 2011-268, s. 10; 2013-369, s. 17.2(a); 2013-389, s. 2; 2014-115, s. 23.5(a); 2015-195, ss. 10(d), 11(c), (f), (j); 2016-77, s. 9(a).)

§ 14-405. Record of permits kept by sheriff; confidentiality of permit information.

(a) The sheriff shall keep a record of all permits issued under this article, including the name, date, place of residence, age, former place of residence, etc., of each such person, firm, or corporation to whom or which a permit is issued. The record shall include the date

that a permit was revoked, the date that the permittee received notice of the revocation, whether the permit was surrendered, and the reason for the revocation.

(b) The records maintained by the sheriff pursuant to this section are confidential and are not a public record under G.S. 132-1; provided, however, that the sheriff shall make the records available upon request to any federal, State, and local law enforcement agencies and shall also make the records available to the court if the records are required to be released pursuant to a court order. Any application to a court for release of the list of permit holders and permit application information shall be by a petition to the chief judge of the district court for the district in which the person seeking the information resides. (1919, c. 197, s. 4; C.S., s. 5109; 1959, c. 1073, s. 2; 2013-369, s. 17.4.)

§ 14-406. Dealer to keep record of sales; confidentiality of records.

(a) Every dealer in pistols and other weapons mentioned in this Article shall keep an accurate record of all sales thereof, including the name, place of residence, date of sale, etc., of each person, firm, or corporation to whom or which such sales are made. The records maintained by a dealer pursuant to this section are confidential and are not a public record under G.S. 132-1; provided, however, that the dealer shall make the records available upon request to all State and local law enforcement agencies.

(b) Repealed by Session Laws 2011-56, s. 3, effective April 28, 2011. (1919, c. 197, s. 5; C.S., s. 5110; 1987, c. 115, s. 1; 2009-6, s. 3; 2011-56, s. 3; 2013-369, s. 13.)

§ 14-406.1: Repealed by Session Laws 2011-56, s. 4, effective April 28, 2011.

§ 14-407: Repealed by Session Laws 1997-6.

§ 14-407.1. Sale of blank cartridge pistols.

The provisions of G.S. 14-402, 14-405, and 14-406 shall apply to the sale of pistols suitable for firing blank cartridges. The sheriffs of all the counties of this State are authorized and may in their discretion issue to any person, firm or corporation, in any such county, a license or permit to purchase or receive any pistol suitable for firing blank cartridges from any person, firm or corporation offering to sell or dispose of the same, which said permit shall be in substantially the following form:

North Carolina

_____ County

I, _____, Clerk of the Superior Court of said county, do hereby certify that _____, whose place of residence is _____ Street in _____ (or) in _____ Township in _____ County, North Carolina, having this day satisfied me that the possession of a pistol suitable for firing blank cartridges will be used only for lawful purposes, a permit is therefore given said _____ to purchase said pistol from any person, firm or corporation authorized to dispose of the same, this _____ day of _____, _____.

_____

Sheriff

The sheriff shall charge for the sheriff's services, upon issuing such permit, a fee of fifty cents (50¢). (1959, c. 1068; 1999-456, s. 59; 2006-264, s. 5.)

§ 14-408. Violation of § 14-406 a misdemeanor.

Any person, firm, or corporation violating any of the provisions of G.S. 14-406 shall be guilty of a Class 2 misdemeanor. (1919, c. 197, s. 7; C.S., s. 5112; 1969, c. 1224, s. 6; 1993, c. 539, s. 285; 1994, Ex. Sess., c. 24, s. 14(c); 1998-217, s. 3(a).)

§ 14-408.1. Solicit unlawful purchase of firearm; unlawful to provide materially false information regarding legality of firearm or ammunition transfer.

(a) The following definitions apply in this section:

(1) Ammunition. – Any cartridge, shell, or projectile designed for use in a firearm.

(2) Firearm. – A handgun, shotgun, or rifle which expels a projectile by action of an explosion.

(3) Handgun. – A pistol, revolver, or other gun that has a short stock and is designed to be held and fired by the use of a single hand.

(4) Licensed dealer. – A person who is licensed pursuant to 18 U.S.C. § 923 to engage in the business of dealing in firearms.

(5) Materially false information. – Information that portrays an illegal transaction as legal or a legal transaction as illegal.

(6) Private seller. – A person who sells or offers for sale any firearm, as defined in G.S. 14-409.39, or ammunition.

(b) Any person who knowingly solicits, persuades, encourages, or entices a licensed dealer or private seller of firearms or ammunition to transfer a firearm or ammunition under circumstances that the person knows would violate the laws of this State or the United States is guilty of a Class F felony.

(c) Any person who provides to a licensed dealer or private seller of firearms or ammunition information that the person knows to be materially false information with the intent to deceive the dealer or seller about the legality of a transfer of a firearm or ammunition is guilty of a Class F felony.

(d) Any person who willfully procures another to engage in conduct prohibited by this section shall be held accountable as a principal.

(e) This section does not apply to a law enforcement officer acting in his or her official capacity or to a person acting at the direction of the law enforcement officer. (2011-268, s. 11.)

§ 14-409. Machine guns and other like weapons.

(a) As used in this section, "machine gun" or "submachine gun" means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any combination of parts designed and intended for use in converting a weapon into a machine gun, and any combination of

parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

(b) It shall be unlawful for any person, firm or corporation to manufacture, sell, give away, dispose of, use or possess machine guns, submachine guns, or other like weapons as defined by subsection (a) of this section: Provided, however, that this subsection shall not apply to the following:

Banks, merchants, and recognized business establishments for use in their respective places of business, who shall first apply to and receive from the sheriff of the county in which said business is located, a permit to possess the said weapons for the purpose of defending the said business; officers and soldiers of the United States Army, when in discharge of their official duties, officers and soldiers of the militia when called into actual service, officers of the State, or of any county, city or town, charged with the execution of the laws of the State, when acting in the discharge of their official duties; the manufacture, use or possession of such weapons for scientific or experimental purposes when such manufacture, use or possession is lawful under federal laws and the weapon is registered with a federal agency, and when a permit to manufacture, use or possess the weapon is issued by the sheriff of the county in which the weapon is located; a person who lawfully possesses or owns a weapon as defined by subsection (a) of this section in compliance with 26 U.S.C. Chapter 53, §§ 5801-5871. Nothing in this subdivision shall limit the discretion of the sheriff in executing the paperwork required by the United States Bureau of Alcohol, Tobacco and Firearms for such person to obtain the weapon. Provided, further, that any bona fide resident of this State who now owns a machine gun used in former wars, as a relic or souvenir, may retain and keep same as his or her property without violating the provisions of this section upon his reporting said ownership to the sheriff of the county in which said person lives.

(c) Any person violating any of the provisions of this section shall be guilty of a Class I felony. (1933, c. 261, s. 1; 1959, c. 1073, s. 2; 1965, c. 1200; 1989, c. 680, s. 1; 1993, c. 539, s. 1243; 1994, Ex. Sess., c. 24, s. 14(c); 1999-456, s. 33(b); 2011-268, s. 9.)

Article 53.

Sale of Weapons in Certain Other Counties.

§§ 14-409.1 through 14-409.9: Repealed by Session Laws 1995, c. 487, s. 4.

Article 53A.

Other Firearms.

§ 14-409.10. Purchase of rifles and shotguns out of State.

Unless otherwise prohibited by law, a citizen of this State may purchase a firearm in another state if the citizen undergoes a background check that satisfies the law of the state

of purchase and that includes an inquiry of the National Instant Background Check System. (1969, c. 101, s. 1; 2011-268, s. 12.)

§ 14-409.11. "Antique firearm" defined.

(a) The term "antique firearm" means any of the following:

(1) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured on or before 1898.

(2) Any replica of any firearm described in subdivision (1) of this subsection if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition.

(3) Any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder substitute, and which cannot use fixed ammunition.

(b) For purposes of this section, the term "antique firearm" shall not include any weapon which:

(1) Incorporates a firearm frame or receiver.

(2) Is converted into a muzzle loading weapon.

(3) Is a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof. (1969, c. 101, s. 2; 2006-259, s. 7(a).)

§ 14-409.12. "Historic edged weapons" defined.

The term "historic edged weapon" means any bayonet, trench knife, sword or dagger manufactured during or prior to World War II but in no event later than January 1, 1946. (1971, c. 133, s. 1.)

§§ 14-409.13 through 14-409.38. Reserved for future codification purposes.

Article 53B

Firearm Regulation.

§ 14-409.39. Definitions.

The following definitions apply in this Article:

(1) Dealer. – Any person licensed as a dealer pursuant to 18 U.S.C. § 921, et seq., or G.S. 105-80.

(2) Firearm. – A handgun, shotgun, or rifle which expels a projectile by action of an explosion.

(3) Handgun. – A pistol, revolver, or other gun that has a short stock and is designed to be held and fired by the use of a single hand. (1995 (Reg. Sess., 1996), c. 727, s. 1.)

§ 14-409.40. Statewide uniformity of local regulation.

(a) It is declared by the General Assembly that the regulation of firearms is properly an issue of general, statewide concern, and that the entire field of regulation of firearms is preempted from regulation by local governments except as provided by this section.

(a1) The General Assembly further declares that the lawful design, marketing, manufacture, distribution, sale, or transfer of firearms or ammunition to the public is not an unreasonably dangerous activity and does not constitute a nuisance per se and furthermore, that it is the unlawful use of firearms and ammunition, rather than their lawful design, marketing, manufacture, distribution, sale, or transfer that is the proximate cause of injuries arising from their unlawful use. This subsection applies only to causes of action brought under subsection (g) of this section.

(b) Unless otherwise permitted by statute, no county or municipality, by ordinance, resolution, or other enactment, shall regulate in any manner the possession, ownership, storage, transfer, sale, purchase, licensing, taxation, manufacture, transportation, or registration of firearms, firearms ammunition, components of firearms, dealers in firearms, or dealers in handgun components or parts.

(c) Notwithstanding subsection (b) of this section, a county or municipality, by zoning or other ordinance, may regulate or prohibit the sale of firearms at a location only if there is a lawful, general, similar regulation or prohibition of commercial activities at that location. Nothing in this subsection shall restrict the right of a county or municipality to adopt a general zoning plan that prohibits any commercial activity within a fixed distance of a school or other educational institution except with a special use permit issued for a commercial activity found not to pose a danger to the health, safety, or general welfare of persons attending the school or educational institution within the fixed distance.

(d) No county or municipality, by zoning or other ordinance, shall regulate in any manner firearms shows with regulations more stringent than those applying to shows of other types of items.

(e) A county or municipality may regulate the transport, carrying, or possession of firearms by employees of the local unit of government in the course of their employment with that local unit of government.

(f) Nothing contained in this section prohibits municipalities or counties from application of their authority under G.S. 153A-129, 160A-189, 14-269, 14-269.2, 14-269.3, 14-269.4, 14-277.2, 14-415.11, 14-415.23, including prohibiting the possession of firearms in public-owned buildings, on the grounds or parking areas of those buildings, or in public parks or recreation areas, except nothing in this subsection shall prohibit a person from storing a firearm within a motor vehicle while the vehicle is on these grounds or areas. Nothing contained in this section prohibits municipalities or counties from exercising powers provided by law in states of emergency declared under Article 1A of Chapter 166A of the General Statutes.

(g) The authority to bring suit and the right to recover against any firearms or ammunition marketer, manufacturer, distributor, dealer, seller, or trade association by or on behalf of any governmental unit, created by or pursuant to an act of the General Assembly or the Constitution, or any department, agency, or authority thereof, for damages, abatement, injunctive relief, or any other remedy resulting from or relating to the

lawful design, marketing, manufacture, distribution, sale, or transfer of firearms or ammunition to the public is reserved exclusively to the State. Any action brought by the State pursuant to this section shall be brought by the Attorney General on behalf of the State. This section shall not prohibit a political subdivision or local governmental unit from bringing an action against a firearms or ammunition marketer, manufacturer, distributor, dealer, seller, or trade association for breach of contract or warranty for defect of materials or workmanship as to firearms or ammunition purchased by the political subdivision or local governmental unit.

(h) A person adversely affected by any ordinance, rule, or regulation promulgated or caused to be enforced by any county or municipality in violation of this section may bring an action for declaratory and injunctive relief and for actual damages arising from the violation. The court shall award the prevailing party in an action brought under this subsection reasonable attorneys' fees and court costs as authorized by law. (1995 (Reg. Sess., 1996), c. 727, s. 1; 2002-77, s. 1; 2012-12, s. 2(z); 2015-195, s. 12.)

§§ 14-409.41 through 14-409.44. Reserved for future codification purposes.

§ 14-409.41. Chief law enforcement officer certification; certain firearms.

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

(1) Certification. – The participation and assent of the chief law enforcement officer necessary under federal law for the approval of the application to transfer or make a firearm.

(2) Chief law enforcement officer. – Any official that the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives, or any successor agency, has identified by regulation or otherwise as eligible to provide any required certification for the transfer or making of a firearm.

(3) Firearm. – Any firearm that meets the definition of firearm in 26 U.S.C. § 5845.

(b) When a chief law enforcement officer's certification is required by federal law or regulation for the transfer or making of a firearm, the chief law enforcement officer shall, within 15 days of receipt of a request for certification, provide the certification if the applicant is not prohibited by State or federal law from receiving or possessing the firearm and is not the subject of a proceeding that could result in the applicant being prohibited by State or federal law from receiving or possessing the firearm. If the chief law enforcement officer is unable to make a certification as required by this section, the chief law enforcement officer shall provide the applicant with a written notification of the denial and the reason for the denial.

Nothing in this section shall require a chief law enforcement officer to make a certification the chief law enforcement officer knows to be untrue, but the chief law enforcement officer may not refuse to provide certification based on a generalized objection to private persons or entities making, possessing, or receiving firearms or any certain type of firearm the possession of which is not prohibited by law.

(c) An applicant whose request for certification is denied may appeal the decision of the chief law enforcement officer to the district court of the district in which the request for certification was made. The court shall make a de novo review of the chief law enforcement officer's decision to deny the certification. If the court finds that the applicant is not prohibited by State or federal law from receiving or possessing the firearm, is not the subject of a proceeding that could result in the applicant being prohibited by State or federal law from receiving or possessing the firearm, and that no substantial evidence supports the chief law enforcement officer's determination that the chief law enforcement officer cannot truthfully make the certification, the court shall order the chief law enforcement officer to issue the certification and award court costs and reasonable attorneys' fees to the applicant.

(d) Chief law enforcement officers and their employees who act in good faith are immune from liability arising from any act or omission in making a certification as required by this section. (2015-195, s. 13.)

§ 14-409.42. Restoration process to remove mental commitment bar.

(a) Any individual over the age of 18 may petition for the removal of the disabilities pursuant to 18 U.S.C. § 922(d)(4) and (g)(4), G.S. 14-415.3, and G.S. 14-415.12 arising out of a determination or finding required to be transmitted to the National Instant Criminal Background Check System by subdivisions (1) through (6) of subsection (a) of G.S. 14-409.43. The individual may file the petition with a district court judge upon the expiration of any current inpatient or outpatient commitment.

(b) The petition must be filed in the district court of the county where the respondent was the subject of the most recent judicial determination or finding or in the district court of the county of the petitioner's residence. The clerk of court upon receipt of the petition shall schedule a hearing using the regularly scheduled commitment court time and provide notice of the hearing to the petitioner and the attorney who represented the State in the underlying case, or that attorney's successor. Copies of the petition must be served on the director of the relevant inpatient or outpatient treatment facility and the district attorney in the petitioner's current county of residence.

(c) The burden is on the petitioner to establish by a preponderance of the evidence that the petitioner will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. The district attorney shall present any and all relevant information to the contrary. For these purposes, the district attorney may access and use any and all mental health records, juvenile records, and criminal history of the petitioner wherever maintained. The applicant must sign a release for the district attorney to receive any mental health records of the applicant. This hearing shall be closed to the public, unless the court finds that the public interest would be better served by conducting the hearing in public. If the court determines the hearing should be open to the public, upon motion by the petitioner, the court may allow for the in camera inspection of any mental health records. The court may allow the use of the record but shall restrict it from public disclosure, unless it finds that the public interest would be better served by making the record public. The district court shall enter an order that the petitioner is or is not likely to act in a manner dangerous to public safety and that the

granting of the relief would or would not be contrary to the public interest. The court shall include in its order the specific findings of fact on which it bases its decision. In making its determination, the court shall consider the circumstances regarding the firearm disabilities from which relief is sought, the petitioner's mental health and criminal history records, the petitioner's reputation, developed at a minimum through character witness statements, testimony, or other character evidence, and any changes in the petitioner's condition or circumstances since the original determination or finding relevant to the relief sought. The decision of the district court may be appealed to the superior court for a hearing de novo. After a denial by the superior court, the applicant must wait a minimum of one year before reapplying. Attorneys designated by the Attorney General shall be available to represent the State, or assist in the representation of the State, in a restoration proceeding when requested to do so by a district attorney and approved by the Attorney General. An attorney so designated shall have all the powers of the district attorney under this section.

(d) Upon a judicial determination to grant a petition under this section, the clerk of superior court in the county where the petition was granted shall forward the order to the National Instant Criminal Background Check System (NICS) for updating of the respondent's record. (2008-210, s. 2; 2013-369, s. 9; 2015-195, ss. 11(b), (m).)

§ 14-409.43. Reporting of certain disqualifiers to the National Instant Criminal Background Check System (NICS).

(a) Excluding Saturdays, Sundays, and holidays, not later than 48 hours after receiving notice of any of the following judicial determinations or findings, the clerk of superior court in the county where the determination or finding was made shall work through the Administrative Office of the Courts to cause a record of the determination or finding to be transmitted to the National Instant Criminal Background Check System (NICS):

(1) A determination that an individual shall be involuntarily committed to a facility for inpatient mental health treatment upon a finding that the individual is mentally ill and a danger to self or others.

(2) A determination that an individual shall be involuntarily committed to a facility for outpatient mental health treatment upon a finding that the individual is mentally ill and, based on the individual's treatment history, in need of treatment in order to prevent further disability or deterioration that would predictably result in a danger to self or others.

(3) A determination that an individual shall be involuntarily committed to a facility for substance abuse treatment upon a finding that the individual is a substance abuser and a danger to self or others.

(4) A finding that an individual is not guilty by reason of insanity.

(5) A finding that an individual is mentally incompetent to proceed to criminal trial.

(6) A finding that an individual lacks the capacity to manage the individual's own affairs due to marked subnormal intelligence or mental illness, incompetency, condition, or disease.

(7) A determination to grant a petition to an individual for the removal of disabilities pursuant to G.S. 14-409.42 or any applicable federal law.

The 48-hour period for transmitting a record of a judicial determination or finding to the NICS under subsection (a) of this section begins upon receipt by the clerk of a copy of the judicial determination or finding. The Administrative Office of the Courts shall adopt rules to require clerks of court to transmit information to the NICS in a uniform manner.

(b) Excluding Saturdays, Sundays, and holidays, not later than 48 hours after receiving notice of the issuance of a felony warrant, indictment, criminal summons, or order for arrest, the Administrative Office of the Courts shall transmit any unserved felony warrants, indictments, criminal summons, or order for arrests to the NCIC (or National Instant Criminal Background Check System (NICS)).

(c) Excluding Saturdays, Sundays, and holidays, not later than 48 hours after service by the sheriff of an order issued by a judge pursuant to Chapter 50B of the General Statutes and pursuant to G.S. 50B-3(d) the sheriff shall cause a record of the order to be transmitted to the National Instant Criminal Information System. (2015-195, s. 11(d).)

Article 53C.

Sport Shooting Range Protection Act of 1997.

§ 14-409.45. Definitions.

The following definitions apply in this Article:

(1) Person. – An individual, proprietorship, partnership, corporation, club, or other legal entity.

(2) Sport shooting range or range. – An area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

(3) Substantial change in use. – The current primary use of the range no longer represents the activity previously engaged in at the range. (1997-465, s. 1.)

§ 14-409.46. Sport shooting range protection.

(a) Notwithstanding any other provision of law, a person who owns, operates, or uses a sport shooting range in this State shall not be subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution resulting from the operation or use of the range if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time the range began operation.

(b) A person who owns, operates, or uses a sport shooting range is not subject to an action for nuisance on the basis of noise or noise pollution, and a State court shall not enjoin the use or operation of a range on the basis of noise or noise pollution, if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time the range began operation.

(c) Rules adopted by any State department or agency for limiting levels of noise in terms of decibel level that may occur in the outdoor atmosphere shall not apply to a sport shooting range that was in operation prior to the adoption of the rule.

(d) A person who acquires title to real property adversely affected by the use of property with a permanently located and improved sport shooting range constructed and initially operated prior to the time the person acquires title shall not maintain a nuisance action on the basis of noise or noise pollution against the person who owns the range to restrain, enjoin, or impede the use of the range. If there is a substantial change in use of the range after the person acquires title, the person may maintain a nuisance action if the action is brought within one year of the date of a substantial change in use. This section does not prohibit actions for negligence or recklessness in the operation of the range or by a person using the range.

(e) A sport shooting range that is operated and is not in violation of existing law at the time of the enactment of an ordinance shall be permitted to continue in operation even if the operation of the sport shooting range at a later date does not conform to the new ordinance or an amendment to an existing ordinance, provided there has been no substantial change in use. (1997-465, s. 1; 2015-195, s. 5(a).)

§ 14-409.47. Application of Article.

Except as otherwise provided in this Article, this Article does not prohibit a local government from regulating the location and construction of a sport shooting range after September 1, 1997. (1997-465, s. 1; 2015-195, s. 5(b).)

Article 54.

Sale, etc., of Pyrotechnics.

§ 14-410. Manufacture, sale and use of pyrotechnics prohibited; exceptions; license required; sale to persons under the age of 16 prohibited.

(a) Except as otherwise provided in this section, it shall be unlawful for any individual, firm, partnership or corporation to manufacture, purchase, sell, deal in, transport, possess, receive, advertise, use, handle, exhibit, or discharge any pyrotechnics of any description whatsoever within the State of North Carolina.

(a1) It shall be permissible for pyrotechnics to be exhibited, used, handled, manufactured, or discharged within the State, provided all of the following apply:

(1) The exhibition, use, or discharge is at a concert or public exhibition.

(2) All individuals who exhibit, use, handle, or discharge pyrotechnics in connection with a concert or public exhibition have completed the training and licensing required under Article 82A of Chapter 58 of the General Statutes. The display operator or proximate audience display operator, as required under Article 82A of Chapter 58 of the General Statutes, must be present at the concert or public exhibition and must personally direct all aspects of exhibiting, using, handling, or discharging the pyrotechnics. Notwithstanding this subdivision, the display operator for the University of North Carolina School of the Arts may appoint an on-site representative to supervise any performances that include a

proximate audience display subsequent to the opening performance, provided that the representative (i) is a minimum of 21 years of age and (ii) is properly trained in the safe discharge of proximate audience displays.

(3) The display operator has secured written authority under G.S. 14-413 from the board of county commissioners of the county, or the city if authorized under G.S. 14-413(a1), in which the pyrotechnics are to be exhibited, used or discharged. Written authority from the board of commissioners or city is not required under this subdivision for a concert or public exhibition provided the display operator has secured written authority from (i) The University of North Carolina or the University of North Carolina at Chapel Hill under G.S. 14-413, and pyrotechnics are exhibited on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill, (ii) the University of North Carolina School of the Arts and pyrotechnics are exhibited on lands or in buildings owned by the State and used by the University of North Carolina School of the Arts, or (iii) The University of North Carolina or North Carolina State University under G.S. 14-413, and pyrotechnics are exhibited on lands or buildings in Wake County owned by The University of North Carolina or North Carolina State University.

(a2) Notwithstanding any provision of this section, it shall not be unlawful for a common carrier to receive, transport, and deliver pyrotechnics in the regular course of its business.

(a3) The requirements of this section apply to G.S. 14-413(b) and G.S. 14-413(c).

(a4) It shall be permissible for pyrotechnics to be exhibited, used, handled, manufactured, or discharged within the State as a special effect by a production company, as defined in G.S. 105-164.3(30), for a motion picture production, if the motion picture set is closed to the public or is separated from the public by a minimum distance of 500 feet.

(a5) It shall be permissible for pyrotechnics to be exhibited, used, handled, manufactured, or discharged within the State for pyrotechnic or proximate audience display instruction consisting of classroom and practical skills training approved by the Office of State Fire Marshal.

(b) Notwithstanding the provisions of G.S. 14-414, it shall be unlawful for any individual, firm, partnership, or corporation to sell pyrotechnics as defined in G.S. 14-414(2), (3), (4)c., (5), or (6) to persons under the age of 16.

(c) The following definitions apply in this Article:

(1) Concert or public exhibition. – A fair, carnival, show of any description, or public celebration.

(2) Display operator. – An individual issued a display operator license under G.S. 58-82A-3.

(3) State Fire Marshal. – Defined in G.S. 58-80-1. (1947, c. 210, s. 1; 1993 (Reg. Sess., 1994), c. 660, s. 3; 1995, c. 475, s. 1; 2003-298, s. 2; 2007-38, s. 1; 2009-507, s. 1; 2010-22, s. 8; 2013-275, s. 1; 2015-124, s. 1.)

§ 14-411. Sale deemed made at site of delivery.

In case of sale or purchase of pyrotechnics, where the delivery thereof was made by a common or other carrier, the sale shall be deemed to be made in the county wherein the delivery was made by such carrier to the consignee. (1947, c. 210, s. 2.)

§ 14-412. Possession prima facie evidence of violation.

Possession of pyrotechnics by any person, for any purpose other than those permitted under this article, shall be prima facie evidence that such pyrotechnics are kept for the purpose of being manufactured, sold, bartered, exchanged, given away, received, furnished, otherwise disposed of, or used in violation of the provisions of this article. (1947, c. 210, s. 3.)

§ 14-413. Permits for use at public exhibitions.

(a) For the purpose of enforcing the provisions of this Article, the board of county commissioners of any county, or the governing board of a city authorized pursuant to subsection (a1) of this section, may issue permits for use in connection with the conduct of concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations, but only after satisfactory evidence is produced to the effect that said pyrotechnics will be used for the aforementioned purposes and none other. Provided that no such permit shall be required for a public exhibition under any of the following circumstances:

(1) The exhibition is authorized by The University of North Carolina or the University of North Carolina at Chapel Hill and conducted on lands or in buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill.

(2) The exhibition is authorized by the University of North Carolina School of the Arts and conducted on lands or in buildings owned by the State and used by the University of North Carolina School of the Arts.

(3) The exhibition is authorized by The University of North Carolina or North Carolina State University and conducted on lands or in buildings in Wake County owned by The University of North Carolina or North Carolina State University.

(a1) For the purpose of enforcing the provisions of this Article, a board of county commissioners may authorize the governing body of any city in the county to issue permits pursuant to the provisions of this Article for pyrotechnics to be exhibited, used, or discharged within the corporate limits of the city for use in connection with the conduct of concerts or public exhibitions. The board of county commissioners shall adopt a resolution granting the authority to the city, and it shall remain in effect until withdrawn by the board of county commissioners adopting a subsequent resolution withdrawing the authority. If a

city lies in more than one county, the board of county commissioners of each county in which the city lies must adopt an authorizing resolution. If any county in which the city lies withdraws the authority of the city to issue permits for the use of pyrotechnics, the authority of the city to issue permits for the use of pyrotechnics will end, and all counties within which the city lies must resume their authority to issue the permits.

(b) For any indoor use of pyrotechnics at a concert or public exhibition, the board of commissioners or the governing body of an authorized city may not issue any permit unless the local fire marshal or the State Fire Marshal (or in the case of The University of North Carolina, the University of North Carolina at Chapel Hill, or North Carolina State University it may not authorize such concert or public exhibition unless the State Fire Marshal) has certified that:

(1) Adequate fire suppression will be used at the site.

(2) The structure is safe for the use of such pyrotechnics with the type of fire suppression to be used.

(3) Adequate egress from the building is available based on the size of the expected crowd.

(c) The requirements of subsection (b) of this section also apply to any city authorized to grant pyrotechnic permits by local act and to the officer delegated the power to grant such permits by local act.

(d) A board of county commissioners or the governing board of a city shall not issue a permit under this section unless the display operator provides proof of insurance in the amount of at least five hundred thousand dollars ($500,000) or the minimum amount required under the North Carolina State Building Code pursuant to G.S. 143-138(e), whichever is greater. A board of county commissioners or the governing board of a city may require proof of insurance that exceeds these minimum requirements. (1947, c. 210, s. 4; 1993 (Reg. Sess., 1994), c. 660, s. 3.1; 1995, c. 509, s. 11; 2003-298, s. 1; 2007-38, s. 2; 2009-507, s. 2; 2013-275, s. 2; 2015-124, s. 2.)

§ 14-414. Pyrotechnics defined; exceptions.

For the proper construction of the provisions of this Article, "pyrotechnics," as is herein used, shall be deemed to be and include any and all kinds of fireworks and explosives, which are used for exhibitions or amusement purposes: provided, however, that nothing herein contained shall prevent the manufacture, purchase, sale, transportation, and use of explosives or signaling flares used in the course of ordinary business or industry, or shells or cartridges used as ammunition in firearms. This Article shall not apply to the sale, use, or possession of the following:

(1) Explosive caps designed to be fired in toy pistols, provided that the explosive mixture of the explosive caps shall not exceed twenty-five hundredths (.25) of a gram for each cap.

(2) Snake and glow worms composed of pressed pellets of a pyrotechnic mixture that produce a large, snake-like ash when burning.

(3) Smoke devices consisting of a tube or sphere containing a pyrotechnic mixture that produces white or colored smoke.

(4) Trick noisemakers which produce a small report designed to surprise the user and which include:

a. A party popper, which is a small plastic or paper item containing not in excess of 16 milligrams of explosive mixture. A string protruding from the device is pulled to ignite the device, expelling paper streamers and producing a small report.

b. A string popper, which is a small tube containing not in excess of 16 milligrams of explosive mixture with string protruding from both ends. The strings are pulled to ignite the friction-sensitive mixture, producing a small report.

c. A snapper or drop pop, which is a small, paper-wrapped item containing no more than 16 milligrams of explosive mixture coated on small bits of sand. When dropped, the device produces a small report.

(5) Wire sparklers consisting of wire or stick coated with nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition. These items must not exceed 100 grams of mixture per item.

(6) Other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, do not detonate or explode, do not spin, are hand-held or ground-based, cannot propel themselves through the air, and contain not more than 75 grams of chemical compound per tube, or not more than a total of 200 grams if multiple tubes are used. (1947, c. 210, s. 5; 1955, c. 674, s. 1; 1993, c. 437.)

§ 14-415. Violation made misdemeanor.

Any person violating any of the provisions of this Article, except as otherwise specified in said Article, shall be guilty of a Class 2 misdemeanor, except that it is a Class 1 misdemeanor if the exhibition is indoors. (1947, c. 210, s. 6; 1969, c. 1224, s. 3; 1993, c. 539, s. 288; 1994, Ex. Sess., c. 24, s. 14(c); 2003-298, s. 3.)

Article 54A.

The Felony Firearms Act.

§ 14-415.1. Possession of firearms, etc., by felon prohibited.

(a) It shall be unlawful for any person who has been convicted of a felony to purchase, own, possess, or have in his custody, care, or control any firearm or any weapon of mass death and destruction as defined in G.S. 14-288.8(c). For the purposes of this section, a firearm is (i) any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive, or its frame or receiver, or (ii) any firearm muffler or firearm silencer. This section does not apply to an antique firearm, as defined in G.S. 14-409.11.

Every person violating the provisions of this section shall be punished as a Class G felon.

(b) Prior convictions which cause disentitlement under this section shall only include:

(1) Felony convictions in North Carolina that occur before, on, or after December 1, 1995; and

(2) Repealed by Session Laws 1995, c. 487, s. 3, effective December 1, 1995.

(3) Violations of criminal laws of other states or of the United States that occur before, on, or after December 1, 1995, and that are substantially similar to the crimes covered in subdivision (1) which are punishable where committed by imprisonment for a term exceeding one year.

When a person is charged under this section, records of prior convictions of any offense, whether in the courts of this State, or in the courts of any other state or of the United States, shall be admissible in evidence for the purpose of proving a violation of this section. The term "conviction" is defined as a final judgment in any case in which felony punishment, or imprisonment for a term exceeding one year, as the case may be, is authorized, without regard to the plea entered or to the sentence imposed. A judgment of a conviction of the defendant or a plea of guilty by the defendant to such an offense certified to a superior court of this State from the custodian of records of any state or federal court shall be prima facie evidence of the facts so certified.

(c) The indictment charging the defendant under the terms of this section shall be separate from any indictment charging him with other offenses related to or giving rise to a charge under this section. An indictment which charges the person with violation of this section must set forth the date that the prior offense was committed, the type of offense and the penalty therefor, and the date that the defendant was convicted or plead guilty to such offense, the identity of the court in which the conviction or plea of guilty took place and the verdict and judgment rendered therein.

(d) This section does not apply to a person who, pursuant to the law of the jurisdiction in which the conviction occurred, has been pardoned or has had his or her firearms rights restored if such restoration of rights could also be granted under North Carolina law.

(e) This section does not apply and there is no disentitlement under this section if the felony conviction is a violation under the laws of North Carolina, another state, or the United States that pertains to antitrust violations, unfair trade practices, or restraints of trade. (1971, c. 954, s. 1; 1973, c. 1196; 1975, c. 870, ss. 1, 2; 1977, c. 1105, ss. 1, 2; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1989, c. 770, s. 3; 1993, c. 539, s. 1245; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 487, s. 3; c. 507, s. 19.5(k); 2004-186, s. 14.1; 2006-259, s. 7(b); 2010-108, s. 3; 2011-2, s. 1; 2011-268, s. 13.)

§ 14-415.2: Repealed by Session Laws 1975, c. 870, s. 3.

§ 14-415.3. Possession of a firearm or weapon of mass destruction by persons acquitted of certain crimes by reason of insanity or persons determined to be incapable to proceed prohibited.

(a) It is unlawful for the following persons to purchase, own, possess, or have in the person's custody, care, or control, any firearm or any weapon of mass death and destruction as defined by G.S. 14-288.8(c):

(1) A person who has been acquitted by reason of insanity of any crime set out in G.S. 14-415.1(b) or any violation of G.S. 14-33(b)(1), 14-33(b)(8), or 14-34.

(2) A person who has been determined to lack capacity to proceed as provided in G.S. 15A-1002 for any crime set out in G.S. 14-415.1(b) or any violation of G.S. 14-33(b)(1), 14-33(b)(8), or 14-34.

(b) A violation of this section is a Class H felony. Any firearm or weapon of mass death and destruction lawfully seized for a violation of this section shall be forfeited to the State and disposed of as provided in G.S. 15-11.1.

(c) The provisions of this section shall not apply to a person whose rights have been restored pursuant to G.S. 14-409.42. (1994, Ex. Sess., c. 13, s. 1; 2013-369, s. 10; 2015-195, s. 11(k).)

§ 14-415.4. Restoration of firearms rights.

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

(1) Firearms rights. – The legal right in this State of a person to purchase, own, possess, or have in the person's custody, care, or control any firearm or any weapon of mass death and destruction as those terms are defined in G.S. 14-415.1 and G.S. 14-288.8(c).

(2) Nonviolent felony. – The term nonviolent felony does not include any felony that is a Class A, Class B1, or Class B2 felony. Also, the term nonviolent felony does not include any Class C through Class I felony that is one of the following:

a. An offense that includes assault as an essential element of the offense.

b. An offense that includes the possession or use of a firearm or other deadly weapon as an essential or nonessential element of the offense, or the offender was in possession of a firearm or other deadly weapon at the time of the commission of the offense.

c. An offense for which the offender was armed with or used a firearm or other deadly weapon.

d. An offense for which the offender must register under Article 27A of Chapter 14 of the General Statutes.

(b) Purpose. – It is the purpose of this section to establish a procedure that allows a North Carolina resident who was convicted of a single nonviolent felony and whose citizenship rights have been restored pursuant to Chapter 13 of the General Statutes to petition the court to remove the petitioner's disentitlement under G.S. 14-415.1 and to restore the person's firearms rights in this State. If the single nonviolent felony conviction was an out-of-state conviction or a federal conviction, then the North Carolina resident shall show proof of the restoration of his or her civil rights and the right to possess a firearm in the jurisdiction where the conviction occurred. Restoration of a person's firearms rights under this section means that the person may purchase, own, possess, or have in the

person's custody, care, or control any firearm or any weapon of mass death and destruction as those terms are defined in G.S. 14-415.1 and G.S. 14-288.8(c) without being in violation of G.S. 14-415.1, if otherwise qualified.

(c) Petition for Restoration of Firearms Rights. – A person who was convicted of a nonviolent felony in North Carolina but whose civil rights have been restored pursuant to Chapter 13 of the General Statutes for a period of at least 20 years may petition the district court in the district where the person resides to restore the person's firearms rights pursuant to this section. A person who was convicted of a nonviolent felony in a jurisdiction other than North Carolina may petition the district court in the district where the person resides to restore the person's firearms rights pursuant to this section only if the person's civil rights, including the right to possess a firearm, have been restored, pursuant to the law of the jurisdiction where the conviction occurred, for a period of at least 20 years. The court may restore a petitioner's firearms rights after a hearing in court if the court determines that the petitioner meets the criteria set out in this section and is not otherwise disqualified to have that right restored.

(d) Criteria. – The court may grant a petition to restore a person's firearms rights under this section if the petitioner satisfies all of the following criteria and is not otherwise disqualified to have that right restored:

(1) The petitioner is a resident of North Carolina and has been a resident of the State for one year or longer immediately preceding the filing of the petition.

(2) The petitioner has only one felony conviction and that conviction is for a nonviolent felony. For purposes of this subdivision, multiple felony convictions arising out of the same event and consolidated for sentencing shall count as one felony only.

(3) The petitioner's rights of citizenship have been restored pursuant to Chapter 13 of the General Statutes or, if the conviction was in a jurisdiction other than North Carolina, have been restored, pursuant to the laws of the jurisdiction where the conviction occurred, for a period of at least 20 years before the date of the filing of the petition.

(4) The petitioner has not been convicted under the laws of the United States, the laws of this State, or the laws of any other state of any misdemeanor as described in subdivision (6) of subsection (e) of this section since the conviction of the nonviolent felony.

(5) The petitioner submits his or her fingerprints to the sheriff of the county in which the petitioner resides for a criminal background check pursuant to G.S. 143B-959.

(6) The petitioner is not disqualified under subsection (e) of this section.

(e) Disqualifiers Requiring Denial of Petition. – The court shall deny the petition to restore the firearms rights of any petitioner if the court finds any of the following:

(1) The petitioner is ineligible to purchase, own, possess, or have in the person's custody, care, or control a firearm under the provisions of any law in North Carolina other than G.S. 14-415.1.

(2) The petitioner is under indictment for a felony or a finding of probable cause exists against the petitioner for a felony.
(3) The petitioner is a fugitive from justice.
(4) The petitioner is an unlawful user of, or addicted to, marijuana, alcohol, or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. § 802.
(5) The petitioner is or has been dishonorably discharged from the Armed Forces of the United States.
(6) The petitioner is or has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes of violence constituting a misdemeanor, including a misdemeanor under Article 8 of Chapter 14 of the General Statutes, or a misdemeanor under G.S. 14-225.2, 14-226.1, 14-258.1, 14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-276.1, 14-277, 14-277.1, 14-277.2, 14-277.3, 14-281.1, 14-283, 14-288.2, 14-288.4(a)(1) or (2), 14-288.6, 14-288.9, former 14-288.12, former 14-288.13, former 14-288.14, 14-288.20A, 14-318.2, 14-415.21(b), or 14-415.26(d), or a substantially similar out-of-state or federal offense.
(7) The petitioner has had entry of a prayer for judgment continued for a felony, in addition to the nonviolent felony conviction.
(8) The petitioner is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime which would prohibit the person from having his or her firearms rights restored under this section.
(9) An emergency order, ex parte order, or protective order has been issued pursuant to Chapter 50B of the General Statutes or a similar out-of-state or federal order has been issued against the petitioner and the court order issued is still in effect.
(10) A civil no-contact order has been issued pursuant to Chapter 50C of the General Statutes or a similar out-of-state or federal order has been issued against the petitioner and the court order issued is still in effect.

(f) Notice of Hearing and Hearing Procedure. – The clerk of court shall provide notice of the hearing to the district attorney in the district in which the petition is filed at least four weeks before the hearing on the matter. The petitioner may present evidence in support of the petition, and the district attorney may present evidence in opposition to the requested restoration of firearms rights or may otherwise demonstrate the reasons why the petition should be denied. The burden is on the petitioner to establish by a preponderance of the evidence that the petitioner is qualified to receive the restoration under subsection (d) of this section and that the petitioner is not disqualified under subsection (e) of this section.

(g) Right to Petition Again Upon Denial of Petition. – If the court denies the petition, the person may again petition the court for restoration of his or her firearms rights in accordance with this section one year from the date of the denial of the original petition. However, if the sole basis for the denial of the petition are the grounds set out under G.S.

14-415.4(e)(9) or (10), then the person does not have to wait for one year from the date of denial of the original petition but may petition again upon the expiration of the order.

(h) Certified Copies of Order Granting Petition to Sheriff, Department of Justice, and National Instant Background Check System Index. – If the court grants the petition to restore the petitioner's firearms rights, the clerk of court shall forward within 10 days of the entry of the order a certified copy of the order to the sheriff of the county in which the petitioner resides, the North Carolina Department of Justice, and the denied person's file of the national instant criminal background check system index.

(i) Restoration is Not an Expunction or Pardon. – A restoration of firearms rights under this section does not result in the expunction of any criminal history record information nor does it constitute a pardon.

(j) Automatic Revocation Upon Conviction of a Subsequent Felony. – If a person's firearms rights are restored under this section and the person is convicted of a second or subsequent felony, then the person's firearms rights are automatically revoked and shall not be restored under this section.

(k) Fee. – A person who files a petition for restoration of firearms rights under this section shall pay the clerk of court a fee of two hundred dollars ($200.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent.

(l) Criminal Offense to Submit False Information. – A person who knowingly and willfully submits false information under this section is guilty of a Class 1 misdemeanor. In addition, a person who is convicted of an offense under this subsection is permanently prohibited from petitioning to restore his or her firearms rights under this section. (2010-108, s. 1; 2011-2, s. 1; 2011-183, s. 14; 2012-12, s. 2(aa); 2014-100, s. 17.1(bb); 2015-195, s. 6.)

§ 14-415.5. Reserved for future codification purposes.

§ 14-415.6. Reserved for future codification purposes.

§ 14-415.7. Reserved for future codification purposes.

§ 14-415.8. Reserved for future codification purposes.

§ 14-415.9. Reserved for future codification purposes.

Article 54B.

Concealed Handgun Permit.

§ 14-415.10. Definitions.

The following definitions apply to this Article:

(1) Carry a concealed handgun. – The term includes possession of a concealed handgun.

(1a) Deployed or deployment. – Any military duty that removes a military permittee from the permittee's county of residence during which time the permittee's permit expires or will expire.

(2) Handgun. – A firearm that has a short stock and is designed to be held and fired by the use of a single hand.

(2a) Military permittee. – A person who holds a permit who is also a member of the Armed Forces of the United States, the reserve components of the Armed Forces of the United States, the North Carolina Army National Guard, or the North Carolina Air National Guard.

(3) Permit. – A concealed handgun permit issued in accordance with the provisions of this Article.

(3a) Proof of deployment. – A copy of the military permittee's deployment orders or other written notification from the permittee's command indicating the start and end date of deployment and that orders the permittee to travel outside the permittee's county of residence.

(4) Qualified former sworn law enforcement officer. – An individual who retired from service as a law enforcement officer with a local, State, campus police, or company police agency in North Carolina, other than for reasons of mental disability, who has been retired as a sworn law enforcement officer two years or less from the date of the permit application, and who satisfies all of the following:

a. Immediately before retirement, the individual was a qualified law enforcement officer with a local, State, or company police agency in North Carolina.

b. The individual has a nonforfeitable right to benefits under the retirement plan of the local, State, or company police agency as a law enforcement officer; or has 20 or more aggregate years of law enforcement service and has retired from a company police agency that does not have a retirement plan; or has 20 or more aggregate years of part-time or auxiliary law enforcement service.

c. The individual is not prohibited by State or federal law from receiving a firearm.

(4a) Qualified retired correctional officer. – An individual who retired from service as a State correctional officer, other than for reasons of mental disability, who has been retired as a correctional officer two years or less from the date of the permit application and who meets all of the following criteria:

a. Immediately before retirement, the individual met firearms training standards of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and was authorized by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to carry a handgun in the course of assigned duties.

b. The individual retired in good standing and was never a subject of a disciplinary action by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety that would have prevented the individual from carrying a handgun.

c. The individual has a vested right to benefits under the Teachers' and State Employees' Retirement System of North Carolina established under Article 1 of Chapter 135 of the General Statutes.

d. The individual is not prohibited by State or federal law from receiving a firearm.

(4b) Qualified retired law enforcement officer. – An individual who meets the definition of "qualified retired law enforcement officer" contained in section 926C of Title 18 of the United States Code.

(4c) Qualified retired probation or parole certified officer. – An individual who retired from service as a State probation or parole certified officer, other than for reasons of mental disability, who has been retired as a probation or parole certified officer two years or less from the date of the permit application and who meets all of the following criteria:

a. Immediately before retirement, the individual met firearms training standards of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and was authorized by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to carry a handgun in the course of duty.

b. The individual retired in good standing and was never a subject of a disciplinary action by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety that would have prevented the individual from carrying a handgun.

c. The individual has a vested right to benefits under the Teachers' and State Employees' Retirement System of North Carolina established under Article 1 of Chapter 135 of the General Statutes.

d. The individual is not prohibited by State or federal law from receiving a firearm.

(5) Qualified sworn law enforcement officer. – A law enforcement officer employed by a local, State, campus police, or company police agency in North Carolina who satisfies all of the following:

a. The individual is authorized by the agency to carry a handgun in the course of duty.

b. The individual is not the subject of a disciplinary action by the agency that prevents the carrying of a handgun.

c. The individual meets the requirements established by the agency regarding handguns. (1995, c. 398, s. 1; 1997-274, s. 2; 1997-441, ss. 2, 3; 2005-231, ss. 4, 5; 2005-232, s. 1; 2007-427, s. 1; 2009-307, s. 2; 2010-104, s. 1; 2011-145, s. 19.1(h); 2011-183, s. 15; 2013-369, s. 24; 2014-119, s. 7(a); 2017-186, ss. 2(jj), 3(a).)

§ 14-415.11. Permit to carry concealed handgun; scope of permit.

(a) Any person who has a concealed handgun permit may carry a concealed handgun unless otherwise specifically prohibited by law. The person shall carry the permit together with valid identification whenever the person is carrying a concealed handgun, shall disclose to any law enforcement officer that the person holds a valid permit and is carrying a concealed handgun when approached or addressed by the officer, and shall display both the permit and the proper identification upon the request of a law enforcement officer. In addition to these requirements, a military permittee whose permit has expired during deployment may carry a concealed handgun during the 90 days following the end of deployment and before the permit is renewed provided the permittee also displays proof of deployment to any law enforcement officer.

(b) The sheriff shall issue a permit to carry a concealed handgun to a person who qualifies for a permit under G.S. 14-415.12. The permit shall be valid throughout the State for a period of five years from the date of issuance.

(c) Except as provided in G.S. 14-415.27, a permit does not authorize a person to carry a concealed handgun in any of the following:

(1) Areas prohibited by G.S. 14-269.2, 14-269.3, and 14-277.2.
(2) Areas prohibited by G.S. 14-269.4, except as allowed under G.S. 14-269.4(6).
(3) In an area prohibited by rule adopted under G.S. 120-32.1.
(4) In any area prohibited by 18 U.S.C. § 922 or any other federal law.
(5) In a law enforcement or correctional facility.
(6) In a building housing only State or federal offices.
(7) In an office of the State or federal government that is not located in a building exclusively occupied by the State or federal government.
(8) On any private premises where notice that carrying a concealed handgun is prohibited by the posting of a conspicuous notice or statement by the person in legal possession or control of the premises.

(c1) Any person who has a concealed handgun permit may carry a concealed handgun on the grounds or waters of a park within the State Parks System as defined in G.S. 143B-135.44.

(c2) It shall be unlawful for a person, with or without a permit, to carry a concealed handgun while consuming alcohol or at any time while the person has remaining in the person's body any alcohol or in the person's blood a controlled substance previously consumed, but a person does not violate this condition if a controlled substance in the person's blood was lawfully obtained and taken in therapeutically appropriate amounts or if the person is on the person's own property.

(c3) As provided in G.S. 14-269.4(5), it shall be lawful for a person to carry any firearm openly, or to carry a concealed handgun with a concealed carry permit, at any State-owned rest area, at any State-owned rest stop along the highways, and at any State-owned hunting and fishing reservation.

(d) A person who is issued a permit shall notify the sheriff who issued the permit of any change in the person's permanent address within 30 days after the change of address. If a permit is lost or destroyed, the person to whom the permit was issued shall notify the

sheriff who issued the permit of the loss or destruction of the permit. A person may obtain a duplicate permit by submitting to the sheriff a notarized statement that the permit was lost or destroyed and paying the required duplicate permit fee. (1995, c. 398, s. 1; c. 507, s. 22.1(c); c. 509, s. 135.3(e); 1997, c. 238, s. 6; 2000-140, s. 103; 2000-191, s. 5; 2005-232, s. 3; 2011-268, s. 14; 2015-241, s. 14.30(cc).)

§ 14-415.12. Criteria to qualify for the issuance of a permit.

(a) The sheriff shall issue a permit to an applicant if the applicant qualifies under the following criteria:

(1) The applicant is a citizen of the United States or has been lawfully admitted for permanent residence as defined in 8 U.S.C. § 1101(a)(20), and has been a resident of the State 30 days or longer immediately preceding the filing of the application.

(2) The applicant is 21 years of age or older.

(3) The applicant does not suffer from a physical or mental infirmity that prevents the safe handling of a handgun.

(4) The applicant has successfully completed an approved firearms safety and training course which involves the actual firing of handguns and instruction in the laws of this State governing the carrying of a concealed handgun and the use of deadly force. The North Carolina Criminal Justice Education and Training Standards Commission shall prepare and publish general guidelines for courses and qualifications of instructors which would satisfy the requirements of this subdivision. An approved course shall be any course which satisfies the requirements of this subdivision and is certified or sponsored by:

a. The North Carolina Criminal Justice Education and Training Standards Commission,

b. The National Rifle Association, or

c. A law enforcement agency, college, private or public institution or organization, or firearms training school, taught by instructors certified by the North Carolina Criminal Justice Education and Training Standards Commission or the National Rifle Association.

Every instructor of an approved course shall file a copy of the firearms course description, outline, and proof of certification annually, or upon modification of the course if more frequently, with the North Carolina Criminal Justice Education and Training Standards Commission.

(5) The applicant is not disqualified under subsection (b) of this section.

(b) The sheriff shall deny a permit to an applicant who:

(1) Is ineligible to own, possess, or receive a firearm under the provisions of State or federal law.

(2) Is under indictment or against whom a finding of probable cause exists for a felony.

(3) Has been adjudicated guilty in any court of a felony, unless: (i) the felony is an offense that pertains to antitrust violations, unfair trade practices, or restraints of trade, or (ii) the person's firearms rights have been restored pursuant to G.S. 14-415.4.

(4) Is a fugitive from justice.

(5) Is an unlawful user of, or addicted to marijuana, alcohol, or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. § 802.

(6) Is currently, or has been previously adjudicated by a court or administratively determined by a governmental agency whose decisions are subject to judicial review to be, lacking mental capacity or mentally ill. Receipt of previous consultative services or outpatient treatment alone shall not disqualify an applicant under this subdivision.

(7) Is or has been discharged from the Armed Forces of the United States under conditions other than honorable.

(8) Except as provided in subdivision (8a), (8b), or (8c) of this section, is or has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes of violence constituting a misdemeanor, including but not limited to, a violation of a misdemeanor under Article 8 of Chapter 14 of the General Statutes except for a violation of G.S. 14-33(a), or a violation of a misdemeanor under G.S. 14-226.1, 4-258.1, 14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-277, 14-277.1, 14-277.2, 14-283 except for a violation involving fireworks exempted under G.S. 14-414, 14-288.2, 14-288.4(a)(1), 14-288.6, 14-288.9, former 14-288.12, former 14-288.13, former 14-288.14, 14-415.21(b), or 14-415.26(d) within three years prior to the date on which the application is submitted.

(8a) Is or has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes of violence constituting a misdemeanor under G.S. 14-33(c)(1), 14-33(c)(2), 14-33(c)(3), 14-33(d), 14-277.3A, 14-318.2, 14-134.3, 50B-4.1, or former G.S. 14-277.3.

(8b) Is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(g) as a result of a conviction of a misdemeanor crime of domestic violence.

(8c) Has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes involving an assault or a threat to assault a law enforcement officer, probation or parole officer, person employed at a State or local detention facility, firefighter, emergency medical technician, medical responder, or emergency department personnel.

(9) Has had entry of a prayer for judgment continued for a criminal offense which would disqualify the person from obtaining a concealed handgun permit.

(10) Is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime which would disqualify him from obtaining a concealed handgun permit.

(11) Has been convicted of an impaired driving offense under G.S. 20-138.1, 20-138.2, or 20-138.3 within three years prior to the date on which the application is submitted.

(c) An applicant shall not be ineligible to receive a concealed carry permit under subdivision (6) of subsection (b) of this section because of an adjudication of mental incapacity or illness or an involuntary commitment to mental health services if the individual's rights have been restored under G.S. 14-409.42. (1995, c. 398, s. 1; c. 509, s. 135.3(d); 1997-441, s. 4; 2007-427, s. 5; 2008-210, s. 3(b); 2009-58, s. 1; 2010-108, s. 5; 2011-2, s. 1; 2011-183, s. 16; 2012-12, s. 2(bb); 2013-369, s. 11; 2015-195, ss. 7, 11(l), 17.)

§ 14-415.12A. Firearms safety and training course exemption for qualified sworn law enforcement officers and certain other persons.

(a) A person who is a qualified sworn law enforcement officer, a qualified former sworn law enforcement officer, a qualified retired correctional officer, or a qualified retired probation or parole certified officer is deemed to have satisfied the requirement under G.S. 14-415.12(a)(4) that an applicant successfully complete an approved firearms safety and training course.

(a1) An individual who is a qualified retired law enforcement officer and has met the standards, as approved by the North Carolina Criminal Justice Education and Training Standards Commission, for handgun qualification for active law enforcement officers within the last 12 months is deemed to have satisfied the requirement under G.S. 14-415.12(a)(4) that an applicant successfully complete an approved firearms safety and training course.

(b) A person who is licensed or registered by the North Carolina Private Protective Services Board under Article 1 of Chapter 74C of the General Statutes as an armed security guard, who also has a firearm registration permit issued by the Board in compliance with G.S. 74C-13, is deemed to have satisfied the requirement under G.S. 14-415.12(a)(4) that an applicant successfully complete an approved firearms safety and training course. (1997-274, s. 1; 2005-211, s. 2; 2010-104, s. 2; 2014-119, s. 7(b); 2015-105, s. 1; 2015-264, s. 36(a).)

§ 14-415.13. Application for a permit; fingerprints.

(a) A person shall apply to the sheriff of the county in which the person resides to obtain a concealed handgun permit. The applicant shall submit to the sheriff all of the following:

(1) An application, completed under oath, on a form provided by the sheriff, and such application form must be provided by the sheriff electronically. The sheriff shall not request employment information, character

affidavits, additional background checks, photographs, or other information unless specifically permitted by this Article.

(2) A nonrefundable permit fee.

(3) A full set of fingerprints of the applicant administered by the sheriff.

(4) An original certificate of completion of an approved course, adopted and distributed by the North Carolina Criminal Justice Education and Training Standards Commission, signed by the certified instructor of the course attesting to the successful completion of the course by the applicant which shall verify that the applicant is competent with a handgun and knowledgeable about the laws governing the carrying of a concealed handgun and the use of deadly force.

(5) A release, in a form to be prescribed by the Administrative Office of the Courts, that authorizes and requires disclosure to the sheriff of any records concerning the mental health or capacity of the applicant to be used for the sole purpose of determining whether the applicant is disqualified for a permit under the provisions of G.S. 14-415.12. This provision does not prohibit submitting information related to involuntary commitment to the National Instant Criminal Background Check System (NICS).

(b) The sheriff shall submit the fingerprints to the State Bureau of Investigation for a records check of State and national databases. The State Bureau of Investigation shall submit the fingerprints to the Federal Bureau of Investigation as necessary. The sheriff shall determine the criminal and background history of an applicant also by conducting a check through the National Instant Criminal Background Check System (NICS). The cost of processing the set of fingerprints shall be charged to an applicant as provided by G.S. 14-415.19. (1995, c. 398, s. 1; c. 507, ss. 22.2(a), 22.1(b); 2006-39, s. 2; 2011-268, s. 15; 2015-195, s. 11(g).)

§ 14-415.14. Application form to be provided by sheriff; information to be included in application form.

(a) The sheriff shall make permit applications readily available at the office of the sheriff or at other public offices in the sheriff's jurisdiction. The permit application shall be in triplicate, in a form to be prescribed by the State Bureau of Investigation, and shall include the following information with regard to the applicant: name, address, physical description, signature, date of birth, social security number, military status, law enforcement status, and the drivers license number or State identification card number of the applicant if used for identification in applying for the permit.

(b) The permit application shall also contain a warning substantially as follows:

"CAUTION: Federal law and State law on the possession of handguns and firearms may differ. If you are prohibited by federal law from possessing a handgun or a firearm, you may be prosecuted in federal court. A State permit is not a defense to a federal prosecution."

(c) Any person or entity who is presented by the applicant or by the sheriff with an original or photocopied release form as described in G.S. 14-415.13(a)(5) shall promptly disclose to the sheriff any records concerning the mental health or capacity of the applicant who signed the form and authorized the release of the records. (1995, c. 398, s. 1; 1997-274, s. 3; 2000-140, s. 103; 2000-191, s. 3; 2011-268, s. 16; 2014-115, s. 24(a).)

§ 14-415.15. Issuance or denial of permit.

(a) Except as permitted under subsection (b) of this section, within 45 days after receipt of the items listed in G.S. 14-415.13 from an applicant, and receipt of the required records concerning the mental health or capacity of the applicant, the sheriff shall either issue or deny the permit. The sheriff may conduct any investigation necessary to determine the qualification or competency of the person applying for the permit, including record checks. The sheriff shall make the request for any records concerning the mental health or capacity of the applicant within 10 days of receipt of the items listed in G.S. 14-415.13. No person, company, mental health provider, or governmental entity may charge additional fees to the applicant for background checks conducted under this subsection. A permit shall not be denied unless the applicant is determined to be ineligible pursuant to G.S. 14-415.12.

(b) Upon presentment to the sheriff of the items required under G.S. 14-415.13 (a)(1), (2), and (3), the sheriff may issue a temporary permit for a period not to exceed 45 days to a person who the sheriff reasonably believes is in an emergency situation that may constitute a risk of safety to the person, the person's family or property. The applicant may submit proof of a protective order issued under G.S. 50B-3 for the protection of the applicant as evidence of an emergency situation. The temporary permit may not be renewed and may be revoked by the sheriff without a hearing.

(c) A person's application for a permit shall be denied only if the applicant fails to qualify under the criteria listed in this Article. If the sheriff denies the application for a permit, the sheriff shall, within 45 days, notify the applicant in writing, stating the grounds for denial. An applicant may appeal the denial, revocation, or nonrenewal of a permit by petitioning a district court judge of the district in which the application was filed. The determination by the court, on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal. The determination by the court shall be final. (1995, c. 398, s. 1; 2005-343, s. 1; 2011-268, s. 17; 2015-195, s. 14.)

§ 14-415.16. Renewal of permit.

(a) At least 45 days prior to the expiration date of a permit, the sheriff of the county where the permit was issued shall send a written notice to the permittee explaining that the permit is about to expire and including information about the requirements for renewal of the permit. The notice shall be sent by first class mail to the last known address of the permittee. Failure to receive a renewal notice shall not relieve a permittee of requirements imposed in this section for renewal of the permit.

(b) The holder of a permit shall apply to renew the permit within the 90-day period prior to its expiration date by filing with the sheriff of the county in which the person resides a renewal form provided by the sheriff's office, an affidavit stating that the permittee

remains qualified under the criteria provided in this Article, a newly administered full set of the permittee's fingerprints, and a renewal fee.

(c) Upon receipt of the completed renewal application and the appropriate payment of fees, the sheriff shall determine if the permittee remains qualified to hold a permit in accordance with the provisions of G.S. 14-415.12. The permittee's criminal history shall be updated, including with another inquiry of the National Instant Criminal Background Check System (NICS), and the sheriff may waive the requirement of taking another firearms safety and training course. If the permittee applies for a renewal of the permit within the 90-day period prior to its expiration date and if the permittee remains qualified to have a permit under G.S. 14-415.12, the sheriff shall renew the permit. The permit of a permittee who complies with this section shall remain valid beyond the expiration date of the permit until the permittee either receives a renewal permit or is denied a renewal permit by the sheriff.

(d) No fingerprints shall be required for a renewal permit if the applicant's fingerprints were submitted to the State Bureau of Investigation after June 30, 2001, on the Automated Fingerprint Information System (AFIS) as prescribed by the State Bureau of Investigation.

(e) If the permittee does not apply to renew the permit prior to its expiration date, but does apply to renew the permit within 60 days after the permit expires, the sheriff may waive the requirement of taking another firearms safety and training course. This subsection does not extend the expiration date of the permit. (1995, c. 398, s. 1; c. 507, s. 22.2(b); 2000-140, s. 103; 2000-191, s. 1; 2009-307, s. 1; 2011-268, s. 18.)

§ 14-415.16A. Permit extensions and renewals for deployed military permittees.

(a) A deployed military permittee whose permit will expire during the permittee's deployment, or the permittee's agent, may apply to the sheriff for an extension of the military permittee's permit by providing the sheriff with a copy of the permittee's proof of deployment. Upon receipt of the proof, the sheriff shall extend the permit for a period to end 90 days after the permittee's deployment is scheduled to end. A permit that has been extended under this section shall be valid throughout the State during the period of its extension.

(b) A military permittee's permit that is not extended under subsection (a) of this section and that expires during deployment shall remain valid during the deployment and for 90 days after the end of the deployment as if the permit had not expired. The military permittee may carry a concealed handgun during this period provided the permittee meets all the requirements of G.S. 14-415.11(a).

(c) A military permittee under subsection (a) or subsection (b) of this section shall have 90 days after the end of the permittee's deployment to renew the permit. In addition to the requirements of G.S. 14-415.16, the permittee shall provide to the sheriff proof of deployment. The sheriff shall renew the permit upon receipt of this documentation provided the permittee otherwise remains qualified to hold a concealed handgun permit. (2005-232, s. 2.)

§ 14-415.17. Permit; sheriff to retain a list of permittees; confidentiality of list and permit application information; availability to law enforcement agencies.

(a) The permit shall be in a certificate form, as prescribed by the State Bureau of Investigation, that is approximately the size of a North Carolina drivers license. It shall bear the signature, name, address, date of birth, and the drivers license identification number used in applying for the permit.

(b) The sheriff shall maintain a listing, including the identifying information, of those persons who are issued a permit. Within five days of the date a permit is issued, the sheriff shall send a copy of the permit to the State Bureau of Investigation.

(c) Except as provided otherwise by this subsection, the list of permit holders and the information collected by the sheriff to process an application for a permit are confidential and are not a public record under G.S. 132-1. The sheriff shall make the list of permit holders and the permit information available upon request to all State and local law enforcement agencies. The State Bureau of Investigation shall make the list of permit holders and the information collected by the sheriff to process an application for a permit available to law enforcement officers and clerks of court on a statewide system. (1995, c. 398, s. 1; 2011-268, s. 19; 2013-369, s. 12; 2014-115, s. 24(b).)

§ 14-415.18. Revocation or suspension of permit.

(a) The sheriff of the county where the permit was issued or the sheriff of the county where the person resides may revoke a permit subsequent to a hearing for any of the following reasons:

(1) Fraud or intentional and material misrepresentation in the obtaining of a permit.

(2) Misuse of a permit, including lending or giving a permit or a duplicate permit to another person, materially altering a permit, or using a permit with the intent to unlawfully cause harm to a person or property. It shall not be considered misuse of a permit to provide a duplicate of the permit to a vender for record-keeping purposes.

(3) The doing of an act or existence of a condition which would have been grounds for the denial of the permit by the sheriff.

(4) The violation of any of the terms of this Article.

(5) Repealed by Session Laws 2013-369, s. 20, effective October 1, 2013.

A permittee may appeal the revocation, or nonrenewal of a permit by petitioning a district court judge of the district in which the applicant resides. The determination by the court, on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal.

(a1) The sheriff of the county where the permit was issued or the sheriff of the county where the person resides shall revoke a permit of any permittee who is adjudicated guilty of or receives a prayer for judgment continued for a crime which would have disqualified the permittee from initially receiving a permit. Upon determining that a permit should be revoked pursuant to this subsection, the sheriff shall provide written notice to the permittee, pursuant to the provisions of G.S. 1A-1, Rule 4(j), that the permit is revoked upon the

service of the notice. The notice shall provide the permittee with information on the process to appeal the revocation.

Upon receipt of the written notice of revocation, the permittee shall surrender the permit to the sheriff. Any law enforcement officer serving the notice is authorized to take immediate possession of the permit from the permittee. If the notice is served by means other than by a law enforcement officer, the permittee shall surrender the permit to the sheriff no later than 48 hours after service of the notice.

A permittee may appeal the revocation of a permit pursuant to this subsection by petitioning a district court judge of the district in which the permittee resides. The determination by the court, on appeal, shall be limited to whether the permittee was adjudicated guilty of or received a prayer for judgment continued for a crime which would have disqualified the permittee from initially receiving a permit. Revocation of the permit is not stayed pending appeal.

(b) The court may suspend a permit as part of and for the duration of any orders permitted under Chapter 50B of the General Statutes. (1995, c. 398, s. 1; 2011-268, s. 20; 2013-369, s. 20.)

§ 14-415.19. Fees.

(a) The permit fees assessed under this Article are payable to the sheriff. The sheriff shall transmit the proceeds of these fees to the county finance officer to be remitted or credited by the county finance officer in accordance with the provisions of this section. Except as otherwise provided by this section, the permit fees are as follows:

Application fee.....$80.00
Renewal fee.....$75.00
Duplicate permit fee.....$15.00

The county finance officer shall remit forty-five dollars ($45.00) of each new application fee and forty dollars ($40.00) of each renewal fee assessed under this subsection to the North Carolina Department of Public Safety for the costs of State and federal criminal record checks performed in connection with processing applications and for the implementation of the provisions of this Article. The remaining thirty-five dollars ($35.00) of each application or renewal fee shall be used by the sheriff to pay the costs of administering this Article and for other law enforcement purposes. The county shall expend the restricted funds for these purposes only.

(a1) The permit fees for a retired sworn law enforcement officer who provides the information required by subdivisions (1) and (2) of this subsection to the sheriff, in addition to any other information required under this Article, are as follows:

Application fee.....$45.00
Renewal fee.....$40.00

(1) A copy of the officer's letter of retirement from either the North Carolina Teachers' and State Employees' Retirement System or the North Carolina Local Governmental Employees' Retirement System.

(2) Written documentation from the head of the agency where the person was previously employed indicating that the person was neither involuntarily terminated nor under administrative or criminal investigation within six months of retirement.

The county finance officer shall remit the proceeds of the fees assessed under this subsection to the North Carolina Department of Public Safety to cover the cost of performing the State and federal criminal record checks performed in connection with processing applications and for the implementation of the provisions of this Article.

(b) An additional fee, not to exceed ten dollars ($10.00), shall be collected by the sheriff from an applicant for a permit to pay for the costs of processing the applicant's fingerprints, if fingerprints were required to be taken. This fee shall be retained by the sheriff. (1995, c. 398, s. 1; c. 507, s. 22.1(a); 1997-470, s. 1; 2000-140, s. 103; 2000-191, s. 2; 2003-379, s. 1; 2014-100, s. 17.1(o).)

§ 14-415.20. No liability of sheriff.

A sheriff who issues or refuses to issue a permit to carry a concealed handgun under this Article shall not incur any civil or criminal liability as the result of the performance of the sheriff's duties under this Article. (1995, c. 398, s. 1.)

§ 14-415.21. Violations of this Article punishable as an infraction.

(a) A person who has been issued a valid permit who is found to be carrying a concealed handgun without the permit in the person's possession or who fails to disclose to any law enforcement officer that the person holds a valid permit and is carrying a concealed handgun, as required by G.S. 14-415.11, shall be guilty of an infraction and shall be punished in accordance with G.S. 14-3.1. Any person who has been issued a valid permit who is found to be carrying a concealed handgun in violation of G.S. 14-415.11(c)(8) shall be guilty of an infraction and may be required to pay a fine of up to five hundred dollars ($500.00). In lieu of paying a fine the person may surrender the permit.

(a1) A person who has been issued a valid permit who is found to be carrying a concealed handgun in violation of subsection (c2) of G.S. 14-415.11 shall be guilty of a Class 1 misdemeanor.

(b) A person who violates the provisions of this Article other than as set forth in subsection (a) or (a1) of this section is guilty of a Class 2 misdemeanor. (1995, c. 398, s. 1; 2011-268, s. 21(a); 2013-369, s. 16; 2015-195, s. 9.)

§ 14-415.22. Construction of Article.

This Article shall not be construed to require a person who may carry a concealed handgun under the provisions of G.S. 14-269(b) to obtain a concealed handgun permit. The provisions of this Article shall not apply to a person who may lawfully carry a concealed weapon or handgun pursuant to G.S. 14-269(b). A person who may lawfully carry a

concealed weapon or handgun pursuant to G.S. 14-269(b) shall not be prohibited from carrying the concealed weapon or handgun on property on which a notice is posted prohibiting the carrying of a concealed handgun, unless otherwise prohibited by statute. (1995, c. 398, s. 1; 1997-238, s. 5.)

§ 14-415.23. Statewide uniformity.

(a) It is the intent of the General Assembly to prescribe a uniform system for the regulation of legally carrying a concealed handgun. To insure uniformity, no political subdivisions, boards, or agencies of the State nor any county, city, municipality, municipal corporation, town, township, village, nor any department or agency thereof, may enact ordinances, rules, or regulations concerning legally carrying a concealed handgun. A unit of local government may adopt an ordinance to permit the posting of a prohibition against carrying a concealed handgun, in accordance with G.S. 14-415.11(c), on local government buildings and their appurtenant premises.

(b) A unit of local government may adopt an ordinance to prohibit, by posting, the carrying of a concealed handgun on municipal and county recreational facilities that are specifically identified by the unit of local government. If a unit of local government adopts such an ordinance with regard to recreational facilities, then the concealed handgun permittee may, nevertheless, secure the handgun in a locked vehicle within the trunk, glove box, or other enclosed compartment or area within or on the motor vehicle.

(c) For purposes of this section, the term "recreational facilities" includes only the following:

(1) An athletic field, including any appurtenant facilities such as restrooms, during an organized athletic event if the field had been scheduled for use with the municipality or county office responsible for operation of the park or recreational area.

(2) A swimming pool, including any appurtenant facilities used for dressing, storage of personal items, or other uses relating to the swimming pool.

(3) A facility used for athletic events, including, but not limited to, a gymnasium.

(d) For the purposes of this section, the term "recreational facilities" does not include any greenway, designated biking or walking path, an area that is customarily used as a walkway or bike path although not specifically designated for such use, open areas or fields where athletic events may occur unless the area qualifies as an "athletic field" pursuant to subdivision (1) of subsection (c) of this section, and any other area that is not specifically described in subsection (c) of this section.

(e) A person adversely affected by any ordinance, rule, or regulation promulgated or caused to be enforced by any unit of local government in violation of this section may bring an action for declaratory and injunctive relief and for actual damages arising from the violation. The court shall award the prevailing party in an action brought under this subsection reasonable attorneys' fees and court costs as authorized by law. (1995, c. 398, s. 1; 2011-268, s. 21(b); 2013-369, s. 6; 2015-195, s. 15.)

§ 14-415.24. Reciprocity; out-of-state handgun permits.

(a) A valid concealed handgun permit or license issued by another state is valid in North Carolina.

(b) Repealed by Session Laws 2011-268, s. 22(a), effective December 1, 2011.

(c) Every 12 months after the effective date of this subsection, the Department of Justice shall make written inquiry of the concealed handgun permitting authorities in each other state as to: (i) whether a North Carolina resident may carry a concealed handgun in their state based upon having a valid North Carolina concealed handgun permit and (ii) whether a North Carolina resident may apply for a concealed handgun permit in that state based upon having a valid North Carolina concealed handgun permit. The Department of Justice shall attempt to secure from each state permission for North Carolina residents who hold a valid North Carolina concealed handgun permit to carry a concealed handgun in that state, either on the basis of the North Carolina permit or on the basis that the North Carolina permit is sufficient to permit the issuance of a similar license or permit by the other state. (2003-199, s. 1; 2011-268, s. 22(a).)

§ 14-415.25. Exemption from permit requirement.

Law enforcement officers and qualified retired law enforcement officers authorized by federal law to carry a concealed handgun pursuant to section 926B or 926C of Title 18 of the United States Code, who are in compliance with the requirements of those sections, are exempt from obtaining the permit described in G.S. 14-415.11. (2007-427, s. 3.)

§ 14-415.26. Certification of qualified retired law enforcement officers.

(a) In lieu of obtaining a permit under this Article, a qualified retired law enforcement officer may apply to the North Carolina Criminal Justice Education and Training Standards Commission for certification. The application shall include all of the following:

(1) Verification of completion of the firearms qualification criteria established by the Commission.

(2) Photographic identification indicating retirement status issued by the agency from which the applicant retired from service.

(3) Any other application information required by the Commission.

(b) The Commission shall include with the certification a notice of the limitations applicable under federal or State law to the concealed carry of firearms in this State. The failure to receive a notification under this subsection shall not be a defense to any offense or violation of applicable State or federal laws.

(b1) The Commission shall coordinate with local and State law enforcement officers and with the community college system to provide multiple firearms qualification sites throughout the State where a qualified retired law enforcement officer may satisfy the firearms qualification criteria required for certification under this section.

(c) The Commission shall not incur any civil or criminal liability as the result of the performance of its duties under this section.

(d) It shall be unlawful for an applicant, or any person assisting an applicant, to make a willful and intentional misrepresentation on any form or application submitted to the Commission. A violation of this subsection shall be a Class 2 misdemeanor, and shall result in the immediate revocation of any certification issued by the Commission. A person convicted under this subsection shall be ineligible for certification under this section, or from obtaining a concealed carry permit under State law.

(e) This section shall not exempt any individual engaged in the private protective services profession in this State from fulfilling the registration and training requirements in Chapter 74C of the General Statutes. (2007-427, s. 4; 2009-546, s. 1.)

§ 14-415.27. Expanded permit scope for certain persons.

Notwithstanding G.S. 14-415.11(c), any of the following persons who has a concealed handgun permit issued pursuant to this Article or that is considered valid under G.S. 14-415.24 is not subject to the area prohibitions set out in G.S. 14-415.11(c) and may carry a concealed handgun in the areas listed in G.S. 14-415.11(c) unless otherwise prohibited by federal law:

(1) A district attorney.
(2) An assistant district attorney.
(3) An investigator employed by the office of a district attorney.
(4) A North Carolina district or superior court judge.
(5) A magistrate.
(6) A person who is elected and serving as a clerk of court.
(7) A person who is elected and serving as a register of deeds.
(8) A person employed by the Department of Public Safety who has been designated in writing by the Secretary of the Department and who has in the person's possession written proof of the designation.
(9) A North Carolina administrative law judge. (2011-268, s. 22(b); 2011-326, s. 21; 2013-369, s. 22; 2015-195, s. 1(c).)

Article 55.

Regulation of Certain Reptiles.

§ 14-416. Mishandling of certain reptiles declared public nuisance and criminal offense.

The intentional or negligent exposure of other human beings to unsafe contact with venomous reptiles, large constricting snakes, or crocodilians is essentially dangerous and injurious and detrimental to public health, safety and welfare, and is therefore declared to be a public nuisance and a criminal offense, to be abated and punished as provided in this Article. (1949, c. 1084, s. 1; 2009-344, s. 1.)

§ 14-417. Regulation of ownership or use of venomous reptiles.

(a) It shall be unlawful for any person to own, possess, use, transport, or traffic in any venomous reptile that is not housed in a sturdy and secure enclosure. Permanent

enclosures shall be designed to be escape-proof, bite-proof, and have an operable lock. Transport containers shall be designed to be escape-proof and bite-proof.

(b) Each enclosure shall be clearly and visibly labeled "Venomous Reptile Inside" with scientific name, common name, appropriate antivenin, and owner's identifying information noted on the container. A written bite protocol that includes emergency contact information, local animal control office, the name and location of suitable antivenin, first aid procedures, and treatment guidelines, as well as an escape recovery plan must be within sight of permanent housing, and a copy must accompany the transport of any venomous reptile.

(c) In the event of an escape of a venomous reptile, the owner or possessor of the venomous reptile shall immediately notify local law enforcement. (1949, c. 1084, s. 2; 2009-344, s. 1; 2013-413, s. 38(a).)

§ 14-417.1. Regulation of ownership or use of large constricting snakes.

(a) As used in this Article, large constricting snakes shall mean: Reticulated Python, Python reticulatus; Burmese Python, Python molurus; African Rock Python, Python sebae; Amethystine Python, Morelia amethistina; and Green Anaconda, Eunectes murinus; or any of their subspecies or hybrids.

(b) It shall be unlawful for any person to own, possess, use, transport, or traffic in any of the large constricting snakes that are not housed in a sturdy and secure enclosure. Permanent enclosures shall be designed to be escape-proof and shall have an operable lock. Transport containers shall be designed to be escape-proof.

(c) Each enclosure shall be labeled clearly and visibly with the scientific name, common name, number of specimens, and owner's identifying information. A written safety protocol and escape recovery plan shall be within sight of permanent housing, and a copy shall accompany the transport of any of the large constricting snakes. The safety protocol shall include emergency contact information, identification of the local animal control office, and first aid procedures.

(d) In the event of an escape of a large constricting snake, the owner or possessor shall immediately notify local law enforcement. (2009-344, s. 1.)

§ 14-417.2. Regulation of ownership or use of crocodilians.

(a) All crocodilians, excluding the American alligator, shall be regulated under this Article. It shall be unlawful for any person to own, possess, use, transport, or traffic in any crocodilian that is not housed in a sturdy and secure enclosure. Permanent enclosures shall be designed to be escape-proof and have a fence of sufficient strength to prevent contact between an observer and the crocodilian and shall have an operable lock. Transport containers shall be designed to be escape-proof.

(b) A written safety protocol and escape recovery plan shall be within sight of permanent housing, and a copy must accompany the transport of any crocodilian.

(c) In the event of the escape of a crocodilian, the owner or possessor shall immediately notify local law enforcement. (2009-344, s. 1.)

§ 14-418. Prohibited handling of reptiles or suggesting or inducing others to handle.

(a) It shall be unlawful for any person to handle any reptile regulated under this Article in a manner that intentionally or negligently exposes another person to unsafe contact with the reptile.

(b) It shall be unlawful for any person to intentionally or negligently suggest, entice, invite, challenge, intimidate, exhort or otherwise induce or aid any person to handle or expose himself in an unsafe manner to any reptile regulated under this Article.

(c) Safe and responsible handling of reptiles for purposes of animal husbandry, exhibition, training, transport, and education is permitted under this section. (1949, c. 1084, s. 3; 2009-344, s. 1.)

§ 14-419. Investigation of suspected violations; seizure and examination of reptiles; disposition of reptiles.

(a) In any case in which any law-enforcement officer or animal control officer has probable cause to believe that any of the provisions of this Article have been or are about to be violated, it shall be the duty of the officer and the officer is authorized, empowered, and directed to immediately investigate the violation or impending violation and to consult with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park or a designated representative of either the Museum or Zoological Park to identify appropriate and safe methods to seize the reptile or reptiles involved, to seize the reptile or reptiles involved, and the officer is authorized and directed to deliver: (i) a reptile believed to be venomous to the North Carolina State Museum of Natural Sciences or to its designated representative for examination for the purpose of ascertaining whether the reptile is regulated under this Article; and, (ii) a reptile believed to be a large constricting snake or crocodilian to the North Carolina Zoological Park or to its designated representative for the purpose of ascertaining whether the reptile is regulated under this Article. In any case in which a law enforcement officer or animal control officer determines that there is an immediate risk to public safety, the officer shall not be required to consult with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park as provided by this subsection and may kill the reptile.

(b) If the Museum or the Zoological Park or their designated representatives find that a seized reptile is a venomous reptile, large constricting snake, or crocodilian regulated under this Article, the Museum or the Zoological Park or their designated representative shall determine an interim disposition of the reptile in a manner consistent with the safety of the public, until a final disposition is determined by a court of competent jurisdiction. In the case of a venomous reptile for which antivenin approved by the United States Food and Drug Administration is not readily available, the reptile may be euthanized unless the species is protected under the federal Endangered Species Act of 1973. Where the Museum or the Zoological Park or their designated representative determines euthanasia to be the appropriate interim disposition, or where a reptile seized pursuant to this Article dies of natural or unintended causes, the Museum, the Zoological Park, or their designated representatives shall not be liable to the reptile's owner.

(b1) Upon conviction of any offense contained in this Article, the court shall order a final disposition of the confiscated venomous reptiles, large constricting snakes, or crocodilians, which may include the transfer of title to the State of North Carolina and reimbursement for the necessary expenses incurred in the seizure, delivery, and storage thereof.

(c) If the Museum or the Zoological Park or their designated representatives find that the reptile is not a venomous reptile, large constricting snake, or crocodilian regulated under this Article, and either no criminal warrants or indictments are initiated in connection with the reptile within 10 days of initial seizure, or a court of law determines that the reptile is not being owned, possessed, used, transported, or trafficked in violation of this Article, then it shall be the duty of the law enforcement officer to return the reptile or reptiles to the person from whom they were seized within 15 days. (1949, c. 1084, s. 4; 1981, c. 203, s. 1; 1993, c. 561, s. 116(g); 2009-344, s. 1; 2013-413, s. 38(b); 2014-115, s. 17; 2014-120, s. 39; 2017-10, s. 3.17(a).)

§ 14-420. Arrest of persons violating provisions of Article.

If an examination made by the North Carolina State Museum of Natural Sciences or the North Carolina Zoological Park or their designated representatives conducted pursuant to this Article shows that the reptile is a venomous reptile, large constricting snake, or crocodilian subject to this Article, it shall be the duty of the officer making the seizure with probable cause to believe that the reptile is being owned, possessed, used, transported, or trafficked in violation of this Article, to arrest all persons violating any of the provisions of this Article. (1949, c. 1084, s. 5; 1981, c. 203, s. 2; 1993, c. 561, s. 116(h); 2009-344, s. 1.)

§ 14-421. Exemptions from provisions of Article.

This Article shall not apply to the possession, exhibition, or handling of reptiles by employees or agents of duly constituted veterinarians, zoos, serpentariums, museums, laboratories, educational or scientific institutions, public and private, in the course of their educational or scientific work, or Wildlife Damage Control Agents in the course of the work for which they are approved by the Wildlife Resources Commission. (1949, c. 1084, s. 6; 2009-344, s. 1.)

§ 14-422. Criminal penalties and civil remedies for violation.

(a) Any person violating any of the provisions of this Article shall be guilty of a Class 2 misdemeanor.

(b) If any person, other than the owner of a venomous reptile, large constricting snake, or crocodilian, the owner's agent, employee, or a member of the owner's immediate family, suffers a life threatening injury or is killed as the result of a violation of this Article, the owner of the reptile shall be guilty of a Class A1 misdemeanor. This subsection shall not apply to violations that result from incidents that could not have been prevented or avoided by the owner's exercise of due care or foresight, such as natural disasters or other acts of God, or in the case of thefts of the reptile from the owner.

(c) Any person intentionally releasing into the wild a nonnative venomous reptile, a large constricting snake, or a crocodilian shall be guilty of a Class A1 misdemeanor.

(d) Violations of this Article as set forth in subsections (b) or (c) of this section shall constitute wanton conduct within the meaning of G.S. 1D-5(7) and subject the violator to punitive damages in any civil action that may be filed as a result of the violator's actions. (1949, c. 1084, s. 7; 1969, c. 1224, s. 3; 1993, c. 539, s. 289; 1994, Ex. Sess., c. 24, s. 14(c); 2009-344, s. 1.)

Article 56.

Debt Adjusting.

§ 14-423. Definitions.

As used in this Article, the following definitions apply:

(1) "Debt adjuster" means a person who engages in, attempts to engage in, or offers to engage in the practice or business of debt adjusting.

(2) "Debt adjusting" means entering into or making a contract, express or implied, with a particular debtor whereby the debtor agrees to pay a certain amount of money periodically to the person engaged in the debt adjusting business and that person, for consideration, agrees to distribute, or distributes the same among certain specified creditors in accordance with a plan agreed upon. Debt adjusting includes the business or practice of any person who holds himself out as acting or offering or attempting to act for consideration as an intermediary between a debtor and his creditors for the purpose of settling, compounding, or in any way altering the terms of payment of any debt of a debtor, and to that end receives money or other property from the debtor, or on behalf of the debtor, for the payment to, or distribution among, the creditors of the debtor. Debt adjusting also includes the business or practice of debt settlement or foreclosure assistance whereby any person holds himself or herself out as acting for consideration as an intermediary between a debtor and the debtor's creditors for the purpose of reducing, settling, or altering the terms of the payment of any debt of the debtor, whether or not the person distributes the debtor's funds or property among the creditors, and receives a fee or other consideration for reducing, settling, or altering the terms of the payment of the debt in advance of the debt settlement having been completed or in advance of all the services agreed to having been rendered in full.

(3) "Debtor" means an individual who resides in North Carolina, and includes two or more individuals who are jointly and severally, or jointly or severally, indebted to a creditor or creditors.

(3a) "Nominal consideration" means a fee or a contribution to cover the cost of administering a debt management plan not to exceed forty dollars ($40.00) for origination or setup of the debt management plan and ten percent (10%) of the monthly payment disbursed under the debt management plan, not to exceed forty dollars ($40.00) per month.

(4) "Person" means an individual, firm, partnership, limited partnership, corporation, or association. (1963, c. 394, s. 1; 2005-408, s. 2; 2007-79, s. 1.)

§ 14-424. Engaging, etc., in business of debt adjusting a misdemeanor.

If any person shall engage in, or offer to or attempt to, engage in the business or practice of debt adjusting, or if any person shall hereafter act, offer to act, or attempt to act as a debt adjuster, he shall be guilty of a Class 2 misdemeanor. (1963, c. 394, s. 2; 1969, c. 1224, s. 6; 1993, c. 539, s. 290; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-425. Enjoining practice of debt adjusting; appointment of receiver for money and property employed.

The superior court shall have jurisdiction, in an action brought in the name of the State by the Attorney General or the district attorney of the prosecutorial district as defined in G.S. 7A-60, to

enjoin, as an unfair or deceptive trade practice, the continuation of any debt adjusting business or the offering of any debt adjusting services. The Attorney General or the district attorney who brings an action under this section may appoint a receiver for the property and money employed in the transaction of business by such person as a debt adjuster, to ensure, so far as may be possible, the return to debtors of so much of their money and property as has been received by the debt adjuster, and has not been paid to the creditors of the debtors. The court may also assess civil penalties under G.S. 75-15.2 and award attorneys' fees to the State under G.S. 75-16.1. (1963, c. 394, s. 3; 1973, c. 47, s. 2; 1987 (Reg. Sess., 1998), c. 1037, s. 49; 2005-408, s. 3; 2007-79, s. 1.)

§ 14-426. Certain persons and transactions not deemed debt adjusters or debt adjustment.

The following individuals or transactions shall not be deemed debt adjusters or as being engaged in the business or practice of debt adjusting:

(1) Any person or individual who is a regular full-time employee of a debtor, and who acts as an adjuster of his employer's debts.

(2) Any person or individual acting pursuant to any order or judgment of a court, or pursuant to authority conferred by any law of this State or of the United States.

(3) Any person who is a creditor of the debtor, or an agent of one or more creditors of the debtor, and whose services in adjusting the debtor's debts are rendered without cost to the debtor.

(4) Any person who at the request of a debtor, arranges for or makes a loan to the debtor, and who, at the authorization of the debtor, acts as an adjuster of the debtor's debts in the disbursement of the proceeds of the loan, without compensation for the services rendered in adjusting such debts.

(5) An intermittent or casual adjustment of a debtor's debts, for compensation, by an individual or person who is not a debt adjuster or who is not engaged in the business or practice of debt adjusting, and who does not hold himself out as being regularly engaged in debt adjusting.

(6) An attorney-at-law licensed to practice in this State who is not employed by a debt adjuster.

(7) An organization that provides credit counseling, education, and debt management services to debtors if the organization also does all of the following:

a. Provides individualized credit counseling and budgeting assistance to the debtor without charge prior to the debtor's enrollment in a debt management plan provided by the organization.

b. Determines that the debtor has the financial ability to make payments to complete the debt management plan and that the plan is suitable for the debtor.

c. Disburses the debtor's funds to creditors pursuant to a debt management plan that the debtor has paid for with no more than nominal consideration and has agreed to in writing.

d. Provides to the debtor, periodically and on no less than a quarterly basis, an individualized accounting for the most recent period of all of the debtor's payments and disbursements under the debt management plan and all charges paid by the debtor.

e. Does not directly or indirectly require the debtor to purchase other services or materials as a condition to participating in the debt management plan.

f. Does not receive a payment, commission, or other benefit for referring the debtor to a provider of services.

g. Is accredited by an accrediting organization that the Commissioner of Banks approves as being independent and nationally recognized for providing accreditation to organizations that provide credit counseling and debt management services. (1963, c. 394, s. 4; 2005-408, s. 1; 2007-79, s. 1.)

Article 57.

Use, Sale, etc., of Glues Releasing Toxic Vapors.

§§ 14-427 through 14-431. Repealed by Session Laws 1969, c. 970, s. 11.

Article 58.

Records, Tapes and Other Recorded Devices.

§ 14-432. Definitions.

The following definitions apply in this Article:

(1) "Article" means the tangible medium upon which sounds or images are recorded or otherwise stored, including any original phonograph record, disc, tape, audio or video cassette, wire, film, or other medium now known or later developed on which sounds or images, or both, can be recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original.

(2) "Fixed" means that the work has been recorded in a tangible medium of expression, by or under the authority of the author, and its embodiment is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. A work consisting of sounds or images, or both, that are being transmitted is "fixed" for the purposes of this section if a fixation of the work is being made simultaneously with its transmission.

(3) "Owner" means the person who owns the sounds fixed in any master phonograph record, master disc, master tape, master film, or other device used for reproducing recorded sounds on phonograph records, discs, tapes, films, or other articles on which sound is or can be recorded and from which the transferred sounds are directly or indirectly derived, or the person who owns the rights to record or authorize the recording of a live performance. (1973, c. 1279, s. 1; 1989, c. 589, s. 1; 2003-159, s. 1.)

§ 14-433. Recording of live performances or recorded sounds and distribution, etc., of such recordings unlawful in certain circumstances.

(a) It shall be unlawful for any person to:

(1) Knowingly transfer or cause to be transferred, directly or indirectly by any means, any sounds recorded on a phonograph record, disc, wire, tape, film or other article on which sounds are recorded, with the intent to sell or cause to be sold, or to use or cause to be used for profit through public performance, such article on which sounds are so transferred, without consent of the, owner.

(2) Manufacture, distribute, wholesale or transport any article for profit, or possess for these purposes with the knowledge that the sounds recorded on the article were transferred in violation of subdivision (a)(1) of this section.

(3) Recodified as G.S. 14-433(a1)(1) by Session Laws 2003-159, s. 2.

(4) Recodified as G.S. 14-433(a1)(2) by Session Laws 2003-159, s. 2.

(a1) It shall be unlawful for any person to:

(1) Knowingly transfer or cause to be transferred, directly or indirectly by any means, any sounds at a live performance, with the intent to sell or cause to be sold, or to use or cause to be used for profit through public performance, the article on which sounds are so transferred, without consent of the owner.

(2) Manufacture, distribute, transport or wholesale any article for profit, or possess for those purposes with the knowledge that the sounds recorded on the article were transferred in violation of subdivision (a1)(1) of this section.

(b) Subdivisions (a)(1) and (a)(2) of this section shall apply only to sound recordings that were initially fixed prior to February 15, 1972. Federal copyright law, 17 U.S.C. § 101 et seq., preempts State prosecution of the acts described in subdivisions (a)(1) and (a)(2) with respect to sound recordings initially fixed on or after February 15, 1972.

(c) This section shall not apply to any person engaged in webcasting or radio or television broadcasting who transfers, or causes to be transferred, any such sounds other than from the sound track of a motion picture intended for, or in connection with webcast, broadcast or telecast transmission or related uses, or for archival purposes. An Internet service provider who is solely providing a conduit for access to the Internet, shall not be deemed to be using, or causing to be used, recordings that may be transferred over the Internet by third parties in violation of this Article. (1973, c. 1279, s. 1; 1989, c. 589, s. 1; 2003-159, s. 2.)

§ 14-434. Retailing, etc., of certain recorded devices unlawful.

It shall be unlawful for any person to knowingly retail, advertise or offer for sale or resale, sell or resell or cause the sale or resale, rent or cause to rent, or possess for any of these purposes any article that has been produced, manufactured, distributed, or acquired at wholesale in violation of any provision of this Chapter. (1973, c. 1279, s. 1; 1989, c. 589, s. 1.)

§ 14-435. Recorded devices to show true name and address of manufacturer.

(a) A person is guilty of failure to disclose the origin of an article when, for commercial advantage or private financial gain, the person knowingly advertises or offers for sale or resale, or sells or resells, or causes the rental, sale, or resale, or rents, or manufactures, or possesses for these purposes, any article, the packaging, cover, box, jacket, or label of which does not clearly and conspicuously disclose the actual true name and address of the manufacturer of the article and the name of the actual author, artist, performer, producer, programmer, or group.

(b) This section does not require the original manufacturer or authorized licensees of software producers to disclose the contributing authors or programmers. As used in this section,

the term "manufacturer" shall not include the manufacturer of the article's packaging, cover, box, jacket, or label itself. (1973, c. 1279, s. 1; 1989, c. 589, s. 1; 2003-159, s. 3.)

§ 14-436. Recorded devices; civil action for damages.

Any owner of an article as defined in this Article whose work is allegedly the subject of a violation of G.S. 14-433 or G.S. 14-434, shall have a cause of action in the courts of this State for all damages resulting from the violation, including actual, compensatory and incidental damages. (1973, c. 1279, s. 1; 1989, c. 589, s. 1; 2003-159, s. 4.)

§ 14-437. Violation of Article; penalties.

(a) Every individual act in contravention of the provisions of this Article shall constitute a Class 1 misdemeanor, except that the offense is a Class I felony with a maximum fine of one hundred fifty thousand dollars ($150,000) if (i) the offense involves at least 100 unauthorized articles during any 180-day period, or (ii) is a third or subsequent conviction for an offense that involves at least 26 unauthorized articles during any 180-day period.

(b) If a person is convicted of any violation under this Article, the court, in its judgment of conviction, shall order the forfeiture and destruction or other disposition of:

(1) All infringing articles; and

(2) All implements, devices and equipment used or intended to be used in the manufacture of the infringing articles. (1973, c. 1279, s. 1; 1989, c. 589, s. 1; 1993, c. 539, ss. 291, 1246; 1994, Ex. Sess., c. 24, s. 14(c); 2003-159, s. 5.)

§ 14-438. Reserved for future codification purposes.

§ 14-439. Reserved for future codification purposes.

§ 14-440. Reserved for future codification purposes.

§ 14-440.1. Unlawful operation of an audiovisual recording device.

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

(1) "Audiovisual recording device" means a digital or analog video camera, or any other technology or device now known or later developed, capable of recording, copying, or transmitting a motion picture, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device.

(2) "Motion picture theater" means a movie theater, screening room, or other venue that is being utilized primarily for the exhibition of a motion picture at the time of the offense.

(a1) Misdemeanor Offense. – Any person who knowingly operates or attempts to operate a device capable of functioning as a digital or analog photographic camera for the purpose of recording, copying, or transmitting a part of a motion picture not greater than one image, without the written consent of the motion picture theater owner shall be guilty of a Class 1 misdemeanor.

(b) Felony Offense. – Any person who knowingly operates or attempts to operate an audiovisual recording device in a motion picture theater to transmit, record, or otherwise make a copy of a motion picture, or any part thereof, without the written consent of the motion picture theater owner shall be guilty of a felony, punishable as provided in subsection (c) of this section.

(c) Penalty. – A violation of subsection (b) of this section is punishable as follows:

(1) Unless the conduct is covered under some other provision of law providing greater punishment, any person convicted of a violation of subsection (b) of this section is guilty of:

a. A Class I felony, if the violation is a first offense under this section, with a minimum fine of two thousand five hundred dollars ($2,500).

b. A Class I felony, if the violation is a second or subsequent offense under this section, with a minimum fine of five thousand dollars ($5,000).

(2) If a person is convicted of a violation of subsection (b) of this section, the court, in its judgment of conviction, shall order the forfeiture and destruction or other disposition of the following:

a. All unauthorized copies of motion pictures or other audiovisual works, or any parts thereof.

b. All implements, devices, and equipment used or intended to be used in connection with the offense.

(d) Immunity of Certain Persons. – The owner or lessee of a motion picture theater, or the authorized agent or employee of the owner or lessee, who detains any person shall not be held civilly liable for claims arising out of such detention, when the detention is upon the premises of the motion picture theater or in a reasonable proximity thereto, is in a reasonable manner for a reasonable length of time, and, if in detaining the person, the owner, lessee, agent, or employee had, at the time of the detention, probable cause to believe that the person committed an offense under this section. If the person being detained by the owner, lessee, agent, or employee is a minor under the age of 18 years, the owner, lessee, agent, or employee shall call or notify, or make a reasonable effort to call or notify, the parent or guardian of the minor during the period of detention. An owner, lessee, agent, or employee who makes a reasonable effort to call or notify the parent or guardian of the minor shall not be held civilly liable for failing to notify the parent or guardian of the minor.

(e) Authorized Activities. – This section does not prevent any lawfully authorized investigative, protective, law enforcement, or intelligence gathering employee or agent of a local, State, or federal government from operating any audiovisual recording device in a motion picture theater, as part of lawfully authorized investigative, protective, law enforcement, or intelligence gathering activities. (2005-301, s. 1; 2007-463, s. 1; 2007-484, s. 43.7J.)

§ 14-441: Reserved for future codification purposes.

§ 14-442: Reserved for future codification purposes.

Article 59.

Public Intoxication.

§ 14-443. Definitions.

As used in this Article:

(1) "Alcoholism" is the state of a person who habitually lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that his

health is substantially impaired or endangered or his social or economic function is substantially disrupted; and

(2) "Intoxicated" is the condition of a person whose mental or physical functioning is presently substantially impaired as a result of the use of alcohol; and

(3) A "public place" is a place which is open to the public, whether it is publicly or privately owned. (1977, 2nd Sess., c. 1134, s. 1; 1981, c. 412, s. 4; c. 747, s. 66.)

§ 14-444. Intoxicated and disruptive in public.

(a) It shall be unlawful for any person in a public place to be intoxicated and disruptive in any of the following ways:

(1) Blocking or otherwise interfering with traffic on a highway or public vehicular area, or

(2) Blocking or lying across or otherwise preventing or interfering with access to or passage across a sidewalk or entrance to a building, or

(3) Grabbing, shoving, pushing or fighting others or challenging others to fight, or

(4) Cursing or shouting at or otherwise rudely insulting others, or

(5) Begging for money or other property.

(b) Any person who violates this section shall be guilty of a Class 3 misdemeanor. (1977, 2nd Sess., c. 1134, s. 1; 1993, c. 539, s. 292; 1994, Ex. Sess., c. 24, s. 14(c); 2015-247, s. 3(c).)

§ 14-445. Defense of alcoholism.

(a) It is a defense to a charge of being intoxicated and disruptive in a public place that the defendant suffers from alcoholism.

(b) The presiding judge at the trial of a defendant charged with being intoxicated and disruptive in public shall consider the defense of alcoholism even though the defendant does not raise the defense, and may request additional information on whether the defendant is suffering from alcoholism.

(c) Whenever any person charged with committing a misdemeanor under G.S. 14-444 enters a plea to the charge, the court may, without entering a judgment, defer further proceedings for up to 15 days to determine whether the person is suffering from alcoholism.

(d) If he believes it will be of value in making his determination, the district court judge may direct an alcoholism court counselor, if available, to conduct a prehearing review of the alleged alcoholic's drinking history in order to gather additional information as to whether the defendant is suffering from alcoholism. (1977, 2nd Sess., c. 1134, s. 1; 1981, c. 519, s. 1.)

§ 14-446. Disposition of defendant acquitted because of alcoholism.

If a defendant is found not guilty of being intoxicated and disruptive in a public place because he suffers from alcoholism, the court in which he was tried may retain jurisdiction over him for up to 15 days to determine whether he is a substance abuser and dangerous to himself or others as provided in G.S. 122C-281. The trial judge may make that determination at the time the defendant is found not guilty or he may require the defendant to return to court for the determination at some later time within the 15-day period. (1977, 2nd Sess., c. 1134, s. 1; 1985, c. 589, s. 6.)

§ 14-447. No prosecution for public intoxication.

(a) No person may be prosecuted solely for being intoxicated in a public place. A person who is intoxicated in a public place and is not disruptive may be assisted as provided in G.S. 122C-301.

(b) If, after arresting a person for being intoxicated and disruptive in a public place, the law-enforcement officer making the arrest determines that the person would benefit from the care of a shelter or health-care facility as provided by G.S. 122C-301, and that he would not likely be disruptive in such a facility, the officer may transport and release the person to the appropriate facility and issue him a citation for the offense of being intoxicated and disruptive in a public place. This authority to arrest and then issue a citation is granted as an exception to the requirements of G.S. 15A-501(2). (1977, 2nd Sess., c. 1134, s. 1; 1981, c. 519, s. 2; 1985, c. 589, s. 7.)

§§ 14-448 through 14-452. Reserved for future codification purposes.

Article 60.

Computer-Related Crime.

§ 14-453. Definitions.

As used in this Article, unless the context clearly requires otherwise, the following terms have the meanings specified:

(1) "Access" means to instruct, communicate with, cause input, cause output, cause data processing, or otherwise make use of any resources of a computer, computer system, or computer network.

(1a) "Authorization" means having the consent or permission of the owner, or of the person licensed or authorized by the owner to grant consent or permission to access a computer, computer system, or computer network in a manner not exceeding the consent or permission.

(1b) "Commercial electronic mail" means messages sent and received electronically consisting of commercial advertising material, the principal purpose of which is to promote the for-profit sale or lease of goods or services to the recipient.

(2) "Computer" means an internally programmed, automatic device that performs data processing or telephone switching.

(3) "Computer network" means the interconnection of communication systems with a computer through remote terminals, or a complex consisting of two or more interconnected computers or telephone switching equipment.

(4) "Computer program" means an ordered set of data that are coded instructions or statements that when executed by a computer cause the computer to process data.

(4a) "Computer services" means computer time or services, including data processing services, Internet services, electronic mail services, electronic

message services, or information or data stored in connection with any of these services.

(5) "Computer software" means a set of computer programs, procedures and associated documentation concerned with the operation of a computer, computer system, or computer network.

(6) "Computer system" means at least one computer together with a set of related, connected, or unconnected peripheral devices.

(6a) "Data" means a representation of information, facts, knowledge, concepts, or instructions prepared in a formalized or other manner and intended for use in a computer, computer system, or computer network. Data may be embodied in any form including computer printouts, magnetic storage media, optical storage media, and punch cards, or may be stored internally in the memory of a computer.

(6b) "Electronic mail" means the same as the term is defined in G.S. 14-196.3(a)(2).

(6c) "Electronic mail service provider" means any person who (i) is an intermediary in sending or receiving electronic mail and (ii) provides to end users of electronic mail services the ability to send or receive electronic mail.

(7) "Financial instrument" includes any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card or marketable security, or any electronic data processing representation thereof.

(7a) "Government computer" means any computer, computer program, computer system, computer network, or any part thereof, that is owned, operated, or used by any State or local governmental entity.

(7b) "Internet chat room" means a computer service allowing two or more users to communicate with each other in real time.

(7c) "Profile" means (i) a configuration of user data required by a computer so that the user may access programs or services and have the desired functionality on that computer or (ii) a Web site user's personal page or section of a page made up of data, in text or graphical form, which displays significant, unique, or identifying information, including, but not limited to, listing acquaintances, interests, associations, activities, or personal statements.

(8) "Property" includes financial instruments, information, including electronically processed or produced data, and computer software and computer programs in either machine or human readable form, and any other tangible or intangible item of value.

(8a) "Resource" includes peripheral devices, computer software, computer programs, and data, and means to be a part of a computer, computer system, or computer network.

(9) "Services" includes computer time, data processing and storage functions.

(10) "Unsolicited" means not addressed to a recipient with whom the initiator has an existing business or personal relationship and not sent at the request of, or with the express consent of, the recipient. (1979, c. 831, s. 1; 1993 (Reg. Sess., 1994), c. 764, s. 1; 1999-212, s. 2; 2000-125, s. 3; 2002-157, s. 1; 2009-551, s. 2; 2012-149, s. 2.)

§ 14-453.1. Exceptions.

This Article does not apply to or prohibit:

(1) Any terms or conditions in a contract or license related to a computer, computer network, software, computer system, database, or telecommunication device; or

(2) Any software or hardware designed to allow a computer, computer network, software, computer system, database, information, or telecommunication service to operate in the ordinary course of a lawful business or that is designed to allow an owner or authorized holder of information to protect data, information, or rights in it. (2002-157, s. 2.)

§ 14-453.2. Jurisdiction.

Any offense under this Article committed by the use of electronic communication may be deemed to have been committed where the electronic communication was originally sent or where it was originally received in this State. "Electronic communication" means the same as the term is defined in G.S. 14-196.3(a). (2002-157, s. 3.)

§ 14-454. Accessing computers.

(a) It is unlawful to willfully, directly or indirectly, access or cause to be accessed any computer, computer program, computer system, computer network, or any part thereof, for the purpose of:

(1) Devising or executing any scheme or artifice to defraud, unless the object of the scheme or artifice is to obtain educational testing material, a false educational testing score, or a false academic or vocational grade, or

(2) Obtaining property or services other than educational testing material, a false educational testing score, or a false academic or vocational grade for a person, by means of false or fraudulent pretenses, representations or promises.

A violation of this subsection is a Class G felony if the fraudulent scheme or artifice results in damage of more than one thousand dollars ($1,000), or if the property or services obtained are worth more than one thousand dollars ($1,000). Any other violation of this subsection is a Class 1 misdemeanor.

(b) Any person who willfully and without authorization, directly or indirectly, accesses or causes to be accessed any computer, computer program, computer system, or computer network for any purpose other than those set forth in subsection (a) above, is guilty of a Class 1 misdemeanor.

(c) For the purpose of this section, the phrase "access or cause to be accessed" includes introducing, directly or indirectly, a computer program (including a self-replicating or a self-propagating computer program) into a computer, computer program, computer system, or computer network. (1979, c. 831, s. 1; 1979, 2nd Sess., c. 1316, s. 19; 1981, cc. 63, 179; 1993, c. 539, s. 293; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 764, s. 1; 2000-125, s. 4.)

§ 14-454.1. Accessing government computers.

(a) It is unlawful to willfully, directly or indirectly, access or cause to be accessed any government computer for the purpose of:

(1) Devising or executing any scheme or artifice to defraud, or

(2) Obtaining property or services by means of false or fraudulent pretenses, representations, or promises.

A violation of this subsection is a Class F felony.

(b) Any person who willfully and without authorization, directly or indirectly, accesses or causes to be accessed any government computer for any purpose other than those set forth in subsection (a) of this section is guilty of a Class H felony.

(c) Any person who willfully and without authorization, directly or indirectly, accesses or causes to be accessed any educational testing material or academic or vocational testing scores or grades that are in a government computer is guilty of a Class 1 misdemeanor.

(d) For the purpose of this section the phrase "access or cause to be accessed" includes introducing, directly or indirectly, a computer program (including a self-replicating or a self-propagating computer program) into a computer, computer program, computer system, or computer network. (2002-157, s. 4.)

§ 14-455. Damaging computers, computer programs, computer systems, computer networks, and resources.

(a) It is unlawful to willfully and without authorization alter, damage, or destroy a computer, computer program, computer system, computer network, or any part thereof. A violation of this subsection is a Class G felony if the damage caused by the alteration, damage, or destruction is more than one thousand dollars ($1,000). Any other violation of this subsection is a Class 1 misdemeanor.

(a1) It is unlawful to willfully and without authorization alter, damage, or destroy a government computer. A violation of this subsection is a Class F felony.

(b) This section applies to alteration, damage, or destruction effectuated by introducing, directly or indirectly, a computer program (including a self-replicating or a self-propagating computer program) into a computer, computer program, computer system, or computer network. (1979, c. 831, s. 1; 1979, 2nd Sess., c. 1316, s. 20; 1981, cc. 63, 179; 1993, c. 539, s. 294; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 764, s. 1; 1995, c. 509, s. 12; 2000-125, s. 5; 2002-157, s. 5.)

§ 14-456. Denial of computer services to an authorized user.

(a) Any person who willfully and without authorization denies or causes the denial of computer, computer program, computer system, or computer network services to an authorized user of the computer, computer program, computer system, or computer network services is guilty of a Class 1 misdemeanor.

(b) This section also applies to denial of services effectuated by introducing, directly or indirectly, a computer program (including a self-replicating or a self-propagating computer program) into a computer, computer program, computer system, or computer network. (1979, c. 831, s. 1; 1993, c. 539, s. 295; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 764, s. 1; 2000-125, s. 6.)

§ 14-456.1. Denial of government computer services to an authorized user.

(a) Any person who willfully and without authorization denies or causes the denial of government computer services is guilty of a Class H felony. For the purposes of this section, the term "government computer service" means any service provided or performed by a government computer as defined in G.S. 14-454.1.

(b) This section also applies to denial of services effectuated by introducing, directly or indirectly, a computer program (including a self-replicating or a self-propagating computer program) into a computer, computer program, computer system, or computer network. (2002-157, s. 6.)

§ 14-457. Extortion.

Any person who verbally or by a written or printed communication, maliciously threatens to commit an act described in G.S. 14-455 with the intent to extort money or any pecuniary advantage, or with the intent to compel any person to do or refrain from doing any act against his will, is guilty of a Class H felony. (1979, c. 831, s. 1; 1979, 2nd Sess., c. 1316, s. 21; 1981, cc. 63, 179.)

§ 14-458. Computer trespass; penalty.

(a) Except as otherwise made unlawful by this Article, it shall be unlawful for any person to use a computer or computer network without authority and with the intent to do any of the following:

(1) Temporarily or permanently remove, halt, or otherwise disable any computer data, computer programs, or computer software from a computer or computer network.

(2) Cause a computer to malfunction, regardless of how long the malfunction persists.

(3) Alter or erase any computer data, computer programs, or computer software.

(4) Cause physical injury to the property of another.

(5) Make or cause to be made an unauthorized copy, in any form, including, but not limited to, any printed or electronic form of computer data, computer programs, or computer software residing in, communicated by, or produced by a computer or computer network.

(6) Falsely identify with the intent to deceive or defraud the recipient or forge commercial electronic mail transmission information or other routing information in any manner in connection with the transmission of unsolicited bulk commercial electronic mail through or into the computer network of an electronic mail service provider or its subscribers.

For purposes of this subsection, a person is "without authority" when (i) the person has no right or permission of the owner to use a computer, or the person uses a computer in a manner exceeding the right or permission, or (ii) the person uses a computer or computer network, or the computer services of an electronic mail service provider to transmit unsolicited bulk commercial electronic mail in contravention of the authority granted by or in violation of the policies set by the electronic mail service provider.

(b) Any person who violates this section shall be guilty of computer trespass, which offense shall be punishable as a Class 3 misdemeanor. If there is damage to the property of another and the damage is valued at less than two thousand five hundred dollars ($2,500) caused by the person's act in violation of this section, the offense shall be punished as a Class 1 misdemeanor. If there is damage to the property of another valued at two thousand five hundred dollars ($2,500) or more caused by the person's act in violation of this section, the offense shall be punished as a Class I felony.

(c) Any person whose property or person is injured by reason of a violation of this section may sue for and recover any damages sustained and the costs of the suit pursuant to G.S. 1-539.2A.

(d) It is not a violation of this section for a person to act pursuant to Chapter 36F of the General Statutes. (1999-212, s. 3; 2000-125, s. 7; 2016-53, s. 2.)

§ 14-458.1. Cyber-bullying; penalty.

(a) Except as otherwise made unlawful by this Article, it shall be unlawful for any person to use a computer or computer network to do any of the following:

(1) With the intent to intimidate or torment a minor:
- a. Build a fake profile or Web site;
- b. Pose as a minor in:
  - 1. An Internet chat room;
  - 2. An electronic mail message; or
  - 3. An instant message;
- c. Follow a minor online or into an Internet chat room; or
- d. Post or encourage others to post on the Internet private, personal, or sexual information pertaining to a minor.

(2) With the intent to intimidate or torment a minor or the minor's parent or guardian:
- a. Post a real or doctored image of a minor on the Internet;
- b. Access, alter, or erase any computer network, computer data, computer program, or computer software, including breaking into a password protected account or stealing or otherwise accessing passwords; or

c. Use a computer system for repeated, continuing, or sustained electronic communications, including electronic mail or other transmissions, to a minor.

(3) Make any statement, whether true or false, intending to immediately provoke, and that is likely to provoke, any third party to stalk or harass a minor.

(4) Copy and disseminate, or cause to be made, an unauthorized copy of any data pertaining to a minor for the purpose of intimidating or tormenting that minor (in any form, including, but not limited to, any printed or electronic form of computer data, computer programs, or computer software residing in, communicated by, or produced by a computer or computer network).

(5) Sign up a minor for a pornographic Internet site with the intent to intimidate or torment the minor.

(6) Without authorization of the minor or the minor's parent or guardian, sign up a minor for electronic mailing lists or to receive junk electronic messages and instant messages, with the intent to intimidate or torment the minor.

(b) Any person who violates this section shall be guilty of cyber-bullying, which offense shall be punishable as a Class 1 misdemeanor if the defendant is 18 years of age or older at the time the offense is committed. If the defendant is under the age of 18 at the time the offense is committed, the offense shall be punishable as a Class 2 misdemeanor.

(c) Whenever any person pleads guilty to or is guilty of an offense under this section, and the offense was committed before the person attained the age of 18 years, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and place the defendant on probation upon such reasonable terms and conditions as the court may require. Upon fulfillment of the terms and conditions of the probation provided for in this subsection, the court shall discharge the defendant and dismiss the proceedings against the defendant. Discharge and dismissal under this subsection shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Upon discharge and dismissal pursuant to this subsection, the person may apply for an order to expunge the complete record of the proceedings resulting in the dismissal and discharge, pursuant to the procedures and requirements set forth in G.S. 15A-146. (2009-551, s. 1; 2012-149, s. 3.)

§ 14-458.2. Cyber-bullying of school employee by student; penalty.

(a) The following definitions apply in this section:

(1) School employee. – The term means any of the following:

a. An employee of a local board of education, a charter school authorized under G.S. 115C-218.5, a regional school created under G.S. 115C-238.62, a laboratory school created under G.S. 116-239.7, or

a nonpublic school which has filed intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes.

b. An independent contractor or an employee of an independent contractor of a local board of education, a charter school authorized under G.S. 115C-218.5, a regional school created under G.S. 115C-238.62, a laboratory school created under G.S. 116-239.7, or a nonpublic school which has filed intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes, if the independent contractor carries out duties customarily performed by employees of the school.

(2) Student. – A person who has been assigned to a school by a local board of education as provided in G.S. 115C-366 or has enrolled in a charter school authorized under G.S. 115C-218.5, a regional school created under G.S. 115C-238.62, a laboratory school created under G.S. 116-239.7, or a nonpublic school which has filed intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes, or a person who has been suspended or expelled from any of those schools within the last year.

(b) Except as otherwise made unlawful by this Article, it shall be unlawful for any student to use a computer or computer network to do any of the following:

(1) With the intent to intimidate or torment a school employee, do any of the following:

a. Build a fake profile or Web site.

b. Post or encourage others to post on the Internet private, personal, or sexual information pertaining to a school employee.

c. Post a real or doctored image of the school employee on the Internet.

d. Access, alter, or erase any computer network, computer data, computer program, or computer software, including breaking into a password-protected account or stealing or otherwise accessing passwords.

e. Use a computer system for repeated, continuing, or sustained electronic communications, including electronic mail or other transmissions, to a school employee.

(2) Make any statement, whether true or false, intending to immediately provoke, and that is likely to provoke, any third party to stalk or harass a school employee.

(3) Copy and disseminate, or cause to be made, an unauthorized copy of any data pertaining to a school employee for the purpose of intimidating or tormenting that school employee (in any form, including, but not limited to, any printed or electronic form of computer data, computer programs, or computer software residing in, communicated by, or produced by a computer or computer network).

(4) Sign up a school employee for a pornographic Internet site with the intent to intimidate or torment the employee.

(5) Without authorization of the school employee, sign up a school employee for electronic mailing lists or to receive junk electronic messages and instant messages, with the intent to intimidate or torment the school employee.

(c) Any student who violates this section is guilty of cyber-bullying a school employee, which offense is punishable as a Class 2 misdemeanor.

(d) Whenever any student pleads guilty to or is guilty of an offense under this section, the court may, without entering a judgment of guilt and with the consent of the student, defer further proceedings and place the student on probation upon such reasonable terms and conditions as the court may require. Upon fulfillment of the terms and conditions of the probation provided for in this subsection, the court shall discharge the student and dismiss the proceedings against the student. Discharge and dismissal under this subsection shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Upon discharge and dismissal pursuant to this subsection, the student may apply for an order to expunge the complete record of the proceedings resulting in the dismissal and discharge, pursuant to the procedures and requirements set forth in G.S. 15A-146.

(e) Whenever a complaint is received pursuant to Article 17 of Chapter 7B of the General Statutes based upon a student's violation of this section, the juvenile may, upon a finding of legal sufficiency pursuant to G.S. 7B-1706, enter into a diversion contract pursuant to G.S. 7B-1706. (2012-149, s. 4; 2014-101, s. 7; 2016-94, s. 11.6(b); 2017-117, s. 2.)

§ 14-459. Reserved for future codification purposes.

Article 61.

Trains and Railroads.

§ 14-460. Riding on train unlawfully.

If any person, with the intention of being transported free in violation of law, rides or attempts to ride on top of any car, coach, engine, or tender, on any railroad in this State, or on the drawheads between cars, or under cars, on truss rods, or trucks, or in any freight car, or on a platform of any baggage car, express car, or mail car on any train, he shall be guilty of a Class 3 misdemeanor. (1998-128, s. 12.)

§ 14-461. Unauthorized manufacture or sale of switch-lock keys a misdemeanor.

It shall be unlawful for any person to make, manufacture, sell, or give away to any other person any duplicate key to any lock used by any railroad company in this State on its switches or switch tracks, except upon the written order of that officer of such railroad company whose duty it is to distribute and issue switch-lock keys to the employees of such railroad company. Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor. (1998-128, s. 12.)