## NORTH CAROLINA GENERAL ASSEMBLY

## LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 987, Second Edition Engrossed 5/11/95

SHORT TITLE: CRIMINAL ENTERPRISES

**SPONSOR(S):** SENATOR RAND

FISCAL IMPACT: Expenditures: Increase ( ) Decrease (

)

No Impact (X)

BILL SUMMARY: "TO CREATE THE FELONY OFFENSE OF CONTINUING CRIMINAL ENTERPRISE WITH REGARD TO CRIMINAL OFFENSES THAT ARE NOT DRUG OFFENSES, TO CREATE THE FELONY STATUS OFFENSE OF HABITUAL THEFT, AND TO PROVIDE THAT FAILURE OF AN ITINERANT MERCHANT TO KEEP A RECEIPT OR INVOICE WITH CERTAIN INFORMATION INDICATING THE SOURCE OF THE MERCHANT'S PRODUCTS AND TO SHOW THE RECEIPT OR INVOICE TO LAW ENFORCEMENT OFFICER UPON REQUEST IS PRIMA FACIE EVIDENCE THAT THE PRODUCTS ARE STOLEN." (1) Adds new Article 2C ("Continuing Criminal Enterprise") to GS Chapter 14 making it a class H felony (with forfeiture of profits from or interest in the enterprise) for any person to be engaged in a "continuing criminal enterprise," defined as acting as an organizer, supervisor, or manager in a continuing series of felony violations in concert with five or more persons while obtaining substantial income or resources. (2) Adds new Article 16A ("Habitual Thief") to G.S. Chapter 14 creating the status of "habitual thief," defined as a person convicted of a third or subsequent offense (with the offenses occurring on separate occasions) of larceny of property, receiving stolen goods, possessing stolen goods, concealment of merchandise, larceny by servants or employees, embezzlement in office or employment, or obtaining property by false pretenses. Conviction as an habitual thief is a class G felony. (3) Amends G.S. 105-53(i1) to require itinerant merchants and peddlers to keep written records of the sources of merchandise offered for sale, indicating who sold them the merchandise. The record must identify the product by name, size, quantity, and expiration date, and contain the name, business description and sales and use tax registration number, if any, of the seller. For individual sellers, the record must contain the seller's drivers license number, date of issuance and expiration date. Failure to produce the record when requested by a law enforcement officer is prima facie evidence that the property is stolen.

AMENDMENTS/COMMITTEE SUBSTITUTES - May 11, 1995 - Daily Bulletin #62

S 987. CRIMINAL ENTERPRISE. Intro. 5/4/95. Senate action amends 1st edition. Deletes provisions creating the felony offense of habitual thief and amends title accordingly.

**EFFECTIVE DATE:** December 1, 1995; applies to offenses committed then and later.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Branch;
Department of Correction

## FISCAL IMPACT

**FY** 95-96 **FY** 96-97 **FY** 97-98 **FY** 98-99 **FY** 99-00

EXPENDITURES
NON-RECURRING

RECURRING NO FISCAL IMPACT

## ASSUMPTIONS AND METHODOLOGY:

The proposed legislation adds a new Article 2C to Chapter 14 of the General Statutes making it a Class H felony to engage in a continuing criminal enterprise by committing a felony that is a part of a continuing series of violations undertaken in concert with five or more other persons whom the defendant is supervising, and from which the defendant receives substantial income or resources.

According to the Attorney General's office, the continuing criminal enterprise provision would not generate a large number of prosecutions since by definition these defendants would also be charged with an underlying felony. Rather, the proposed bill would bring additional charges against defendants already in the system. Thus, the Administrative Office of the Courts does not anticipate a significant shift in defense strategy on the part of defendants charged with this additional offense.

The proposed bill also modifies G.S. 105-53(i1) to require that itinerant merchants and peddlers keep written records (an invoice or receipt with certain specified information) of the sources of merchandise offered for sale. The proposed legislation also provides that a merchant's failure to produce the written record at a law enforcement officer's request is prima facie evidence of possession of stolen property.

At the current time, the Administrative Office of the Courts' Court Information System has no offense code for violations of G.S. 105-53, which indicates the relative infrequency of prosecution for these offenses. Thus, the Administrative Office of the Courts believes that the Judicial Branch can absorb within existing resources the costs of any additional cases that may be generated by this proposed legislation.

**SOURCES OF DATA:** Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission

TECHNICAL CONSIDERATIONS: None

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