

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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SENATE BILL 119\*  
PROPOSED COMMITTEE SUBSTITUTE S119-CSMN-2 [v.4]

4/27/2015 9:34:11 PM

Short Title: GSC Technical Corrections 2015.

(Public)

Sponsors:

Referred to:

February 27, 2015

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

The General Assembly of North Carolina enacts:

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

**"§ 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~~, ~~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).

...

(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 ~~he~~ 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.

...."

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

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

...



(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. 20-377.7,~~ 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.

...

(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 ~~G.S. 14-313.~~ 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.

...."

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

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

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

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

...

(3) Shows that at the time of purchase, the purchaser utilized 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. 20-377.7~~, 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 document."

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

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

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

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

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

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

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

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

(1) Historic vehicles, as described in ~~G.S. 20-79.4(b)(88)~~ G.S. 20-79.4(b)(90).

(2) Buses titled to a local board of education and subject to the school bus inspection requirements specified by the State Board of Education and G.S. 115C-248."

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

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

"(e) All service agreements used in this State by a service agreement company shall:

(1) Not contain provisions that allow the company to cancel the agreement in its discretion other than for nonpayment of premiums or for a direct violation of the agreement by the consumer where the service agreement states that violation of the agreement would subject the agreement to cancellation;

(2) With respect to a motor vehicle service agreement as defined in ~~G.S. 66-370(b)(1)~~, G.S. 66-370(b)(5), provide for a right of assignability by the consumer to a subsequent purchaser before expiration of coverage if the subsequent purchaser meets the same criteria for motor vehicle service agreement acceptability as the original purchaser; and

(3) Contain a cancellation provision allowing the consumer to cancel at any time after purchase and receive a pro rata refund less any claims paid on the agreement and a reasonable administrative fee, not to exceed ten percent (10%) of the amount of the pro rata refund."

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

"(5) Stimulants. – Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

a. Aminorex. Some trade or other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; ~~\_\_\_\_\_ or 4,5-dihydro-5-phenyl-2-oxazamine or~~  
4,5-dihydro-5-phenyl-2-oxazamine.

...

j. A compound, other than bupropion, that is structurally derived from 2-amino-1-phenyl-1-propanone by modification in any of the following ways: (i) by substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl, or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents; (ii) by substitution at the 3-position with an alkyl substituent; or (iii) by substitution at the nitrogen atom with alkyl or ~~alkyl~~ dialkyl groups or by inclusion of the nitrogen atom in a cyclic structure.

...."

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

"§ 131E-154.13. Definitions.

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

....

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

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

...."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 16.(b)** G.S. 39A-4, as created by Section 11(a) of this act, reads as rewritten:

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

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

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

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

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

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

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

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