



GENERAL STATUTES COMMISSION

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MEMORANDUM

To: Senate Judiciary I Committee
From: General Statutes Commission
Re: **SB 119 (GSC Technical Corrections 2015)**
Date: April 27, 2015

General Comments

The proposed committee substitute for this bill contains corrections of a technical nature to the General Statutes and session laws that are recommended by the General Statutes Commission.

These amendments correct typographical, spelling, and other obvious drafting and stylistic errors, make conforming changes, update archaic or incorrect phrasing and style, make language gender neutral, renumber a G.S. section that currently has a nonstandard number, codify an applicability provision that should have been codified when first enacted, and repeal an obsolete provision.

Specific Comments

Section 1 would amend G.S. 14-269(a), (a1), and (b) to correct the spelling of "shuriken" and make references to a defendant gender neutral.

Section 2 would amend G.S. 14-313 to correct a citation and make a stylistic correction. Specifically, in subsection (b), the reference in subdivision (3) to "G.S. 20-377.7" should read "G.S. 20-37.7." There is no G.S. 377.7, and G.S. 20-37.7 deals with special identity cards. In subsection (e), the phrase "the provisions of G.S. 14-313" should read "the provisions of this section" because the language is in fact in G.S. 14-313.

Section 3 would amend G.S. 15A-1340.16(f) to add a subsection catchline. Subsection (f) was added to G.S. 15A-1340.16 by S.L. 2012-193, s. 10. As enacted, it has no subsection catchline, unlike every other subsection in G.S. 15A-1340.16. The proposed amendment adds a subsection catchline to conform to the style of the rest of the section.

Section 4 would amend G.S. 18B-302(d) to make the same citation correction made in Section 2 to G.S. 14-313(b)(3). Here, too, the reference to "G.S. 20-377.7" should read "G.S. 20-37.7."

Section 5(a) would amend G.S. 20-115 to correct a reference to "this title" and to update two archaic phrases. Although some states' statutes are divided into "titles," the General Statutes do not use that term in their organizational terminology. In G.S. 20-115, the reference appears to be referring to the "Part" in which G.S. 20-115 appears, which is Part 9 (The Size, Weight, Construction and Equipment of Vehicles) of Chapter 20 of the General Statutes. In addition,

"thereto," "herein," and "said" are updated to read, "to this Part," "in this Part," and "the limitations," respectively.

Section 5(b) would amend G.S. 106-549.21(d) and (e) primarily to change references to "this title" to read "this Article," because "title" is not a term used in the General Statutes' organizational terminology. The statute appears in Article 49B (Meat Inspection Requirements; Adulteration and Misbranding) of Chapter 106 of the General Statutes. The amendments also would make references to the Commissioner of Agriculture gender neutral, and update legalese in two places.

Section 6 would amend G.S. 20-183.2(a1) to update a citation. The list of allowed special license plates in G.S. 20-79.4 was renumbered in 2013, and the description of "historic vehicles" in G.S. 20-79.4(b) is now at subdivision (b)(90).

Section 7 would recodify G.S. 62-36B as G.S. 62-36.01. "62-36B" is no longer an allowable format for a G.S. number.

Section 8 would amend G.S. 66-372(e) to correct the subdivision reference in the citation to G.S. 66-370. G.S. 66-370 was formerly G.S. 58-1-25, recodified as G.S. 66-370 by S.L. 2007-95. Originally, the definition of "motor vehicle service agreement" was the first definition in G.S. 58-1-25(b); in 1993, however, several other definitions were added and "motor vehicle service agreement" was moved to its current position as subdivision (5) to maintain alphabetical order (by Section 48 of Chapter 504 of the 1993 Session Laws). The internal numbering was retained when G.S. 58-1-25 was recodified. No conforming amendment to the subdivision reference was ever made to the text of G.S. 66-372(e)(2) (which was formerly G.S. 58-1-35).

Section 9 would amend G.S. 90-89(5)a. and j. to correct the spelling of two of the chemical compounds listed in those sub-subdivisions.

Section 10 would amend G.S. 131E-154.13(3) to update the name of one of the listed organizations. "North Carolina Association of Non-Profit Homes for the Aging" is now "LeadingAge North Carolina."

Section 11 would amend G.S. 143C-6-23(f1) to correct an obvious drafting error. The reference in subdivision (3) to "this act" should be a reference to "this section."

Section 12 would repeal subdivision (12) of G.S. 150B-21.1(a), which is now obsolete. G.S. 150B-21.1(a)(12) currently consists of introductory language and two expired sub-subdivisions, as follows:

§ 150B-21.1. Procedure for adopting a temporary rule.

(a) Adoption. - An agency may adopt a temporary rule when it finds that adherence to the notice and hearing requirements of G.S. 150B-21.2 would be contrary to the public interest and that the immediate adoption of the rule is required by one or more of the following:

...

- (12) The need for an agency to adopt a temporary rule to implement the provisions of any of the following acts until all rules necessary to implement the provisions of the act have become effective as either temporary or permanent rules:
 - a. Repealed by Session Laws 2000-148, s. 5, effective July 1, 2002.
 - b. Repealed by Session Laws 2000-69, s. 5, effective July 1, 2003.

The individual sub-subdivisions were enacted in different session laws from 2000. Each had a separate sunset date, which has now passed. Nothing has ever repealed the supporting structure, however, and it is now obsolete. The proposed amendment would repeal the entirety of the subdivision.

Section 13 would amend G.S. 150B-21.3(b2) to make a conforming amendment. The requirements for agencies to furnish information on how to request legislative review of a rule were moved from G.S. 150B-21.2(c)(9) to G.S. 19.1(c)(4) by S.L. 2013-143, ss. 1 and 1.1, effective June 19, 2013. In addition, agencies are now required to post the information on their web sites rather than include the information in the notice of text published in the North Carolina Register as a part of the rulemaking procedures. The proposed amendment conforms G.S. 150B-21.3(b2) to those changes.

Section 14 would amend G.S. 150B-23.2(d) in the subsection catchline to correct a spelling error. "Wavier" should be "Waiver."

Section 15 would amend G.S. 161-22.3 to update a statutory reference. Former G.S. 143-345.6 was recodified as G.S. 147-54.3 by Session Laws 1991, c. 689, s. 181(b).

Section 16 would codify the applicability provisions of S.L. 2010-32, which are actually substantive and should have been initially codified. S.L. 2010-32 enacted Chapter 39A of the General Statutes, which, generally speaking, prohibits transfer fee covenants, which are covenants that run with the land and require the payment of a fee to a third party, such as a homeowners association, when the land is transferred or sold in the future. The applicability provisions of the act limited its effect to (i) transfer fee covenants, (ii) liens to enforce transfer fee covenants or security agreements for the payment of a transfer fee, and (iii) agreements imposing a private transfer fee, that are recorded after July 1, 2010 (the effective date). Section 2 of the act also provided that the act did not validate earlier transfer fee covenants. Because the applicability provisions created two permanent classes, those transfer fee covenants subject to the act and those that are not subject to it, the provisions are substantive and should have been initially codified with the other provisions. The General Statutes Commission received a report that the failure to include the applicability provisions has caused confusion in actual practice, because the codified act appears to apply to all transfer fee covenants, not just those recorded on or after the effective date. The codification rearranges some of the provisions but does not change them.

Specifically, Section 16(a) codifies Section 2 of the act as new G.S. 39A-4. Section 16(b) further amends new G.S. 39A-4 to designate the language from Section 2 as subsection (b) and to incorporate the applicability portion of Section 3 of the act as new G.S. 39A-4(a). Subsection 16(c) then conforms Section 3 of the act to the codification by removing the applicability provisions from that section so that it contains only the effective date.

Section 17 would amend the introductory language of Section 3 of S.L. 2014-76 to correct a typographical error in the citation of the statute being amended. "G.S. 94-133(a)" (the citation in the session law) should have read, "G.S. 95-133(a)."

Section 18 provides for the bill to become effective when it becomes law.