

Daily Bulletin

ACTIONS BY THE NORTH CAROLINA GENERAL ASSEMBLY

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House Legislative Day 75

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Senate Legislative Day 75

Thursday, June 2, 2011

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SUMMARIES OF BILLS FILED

Public Bills

SENATE BILLS

S 780. CROSSOVER RULE. Filed 6/2/11. TO AMEND THE PERMANENT RULES OF THE SENATE TO CHANGE THE CROSSOVER RULE.

Amends Senate Rule 41 to also except bills establishing districts for Congress or state or local entities from the rule requiring House bills to be received and read on the Senate floor no later than June 9, 2011, to be eligible for consideration in the Senate during the 2011 or 2012 Regular Sessions of the 2011 General Assembly.

Intro. by Apodaca.

SENATE RES

General Assembly

Local Bills

None

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ACTION ON BILLS**June 2, 2011**

- NOTES**
1. Digests appearing under "Summaries of Bills Filed" are for bills stamped with today's filing date.
 2. Amendments and committee substitutes adopted today are summarized following the chamber action.
 3. Subscribers can find the digest of every version of each bill online at www.dailybulletin.unc.edu.
 4. The dates on which previous amendments or committee substitutes were adopted are listed below bill numbers.
 5. The action "Cal Pursuant Rule 36b" indicates that the bill has been reported by committee and is awaiting calendaring.
 6. Enacted bills are indicated by #, failed bills by *. Actions that change a bill are indicated by HA or SA.

PUBLIC BILLS

H0098	Breweries to Sell Malt Beverages on Premises. 04-20-11, 05-19-11	H	Pres. To Gov. 6/2/2011
H0117	Electric Cities/Uses of Rate Revenue. 06-01-11	H	Passed 2nd & 3rd Reading
H0119	Amend Environmental Laws 2011. 06-02-11	HA	Reptd Fav Com Substitute H Cal Pursuant Rule 36(b) H Placed On Cal For 6/3/2011
H0165	Planned Community & Condo Act Amends. 05-31-11, 06-01-11	S	Rec From House S Passed 1st Reading S Ref To Com On Judiciary I
H0177	Environmental Technical Corrections 2011. 06-02-11	HA	Reptd Fav Com Substitute H Cal Pursuant Rule 36(b) H Placed On Cal For 6/3/2011
H0200	Appropriations Act of 2011. 04-26-11, 04-28-11, 05-03-11, 05-25-11, 05-26-11, 05-31-11, 06-01-11	S	Passed 3rd Reading H Rec To Concur S Com Sub H Ruled Material H Placed On Cal For 6/3/2011
H0203	Show Mortgage Payoff on Satisfaction Filing.	H	Reptd Fav H Cal Pursuant 32(a) H Re-ref Com On Judiciary Subcommittee A
H0209	Amend SW Financial Assurance Rqmts.	S	Rec From House S Passed 1st Reading S Ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Finance
H0227	Disturbing/Dismembering Human Remains. 06-01-11	H	Passed 2nd & 3rd Reading
H0281	ETJ Restrictions. 06-02-11	HA	Reptd Fav Com Substitute H Re-ref Com On Rules, Calendar, and Operations of the House
H0340	Utilities Commission/Criminal	H	Passed 2nd & 3rd Reading

Records Check.
03-24-11, 05-19-11
H0342 High School Accreditation. HA Reptd Fav Com Sub 2
H Cal Pursuant Rule 36(b)

03-30-11, 06-02-11
H0350 Property Tax Uniformity for Conservation Land. H Passed 2nd Reading

06-01-11
H0373 Insurance Changes to Payments & Group Life. S Rec From House
S Passed 1st Reading
S Ref To Com On Insurance

05-31-11
H0384 Register of Deeds/Fees. HA Reptd Fav Com Substitute
H Cal Pursuant Rule 36(b)
H Placed On Cal For 6/3/2011

06-02-11
H0417 Extend Time For Site Of Low/Mod. Inc. Housing. H Passed 2nd & 3rd Reading

H0462 Study Business Opportunity & Franchise Sales. H Assigned To Commerce and Job Development Subcommittee on Business and Labor

H0476 Protect Galax & Venus Flytrap/WRC Rule Fines. H Passed 2nd Reading
HA Amend Adopted 1
H Passed 3rd Reading
H Ordered Engrossed

04-06-11, 06-01-11, 06-02-11
H0556 Volunteer Service as a GAL Retirement. HA Amend Adopted 1
H Passed 2nd Reading
HA Amend Adopted 2

06-01-11, 06-02-11
H0563 Honor Ralph Campbell. H Reptd Fav for Adoption
H Cal Pursuant Rule 36(b)
H Placed On Cal For 6/8/2011

H0571 Prepaid Wireless/Point of Sale Collection. HA Reptd Fav Com Sub 2
H Cal Pursuant Rule 36(b)

05-18-11, 06-02-11
H0586 Enhance Water Supply Funding. H Passed 2nd & 3rd Reading

05-31-11
H0603 Paying of Overweight Fines by Private Parties. S Rec From House
S Passed 1st Reading
S Ref To Com On Transportation

05-31-11, 06-01-11
H0607 Habitual DWI Restoration Clarification. HA Reptd Fav Com Substitute
H Cal Pursuant Rule 36(b)
H Placed On Cal For 6/3/2011

06-02-11
H0609 Promote Water Supply Development. H Passed 2nd & 3rd Reading

05-31-11
H0622 Study Art. 3A Administrative Hearings Proced. HA Reptd Fav Com Substitute
H Re-ref Com On Health and Human Services

06-02-11
H0627 Study Efficiency and Cost Savings/State Govt. HA Amend Adopted 1
H Passed 2nd & 3rd Reading
H Ordered Engrossed

06-02-11	H0641 Certificate of Relief Act.	H	Passed 2nd & 3rd Reading
06-01-11	H0642 Justice Reinvestment Act.	H	Amend Failed 3
		H	Passed 3rd Reading
		H	Ordered Engrossed
04-14-11, 05-31-11, 06-01-11	H0644 Establish Pharmacy Audit Rights.	HA	Amend Adopted 1
		HA	Amend Adopted 2
		H	Passed 2nd & 3rd Reading
		H	Ordered Engrossed
05-31-11, 06-02-11	H0650 Amend Various Gun Laws.	HA	Reptd Fav Com Substitute
		H	Cal Pursuant Rule 36(b)
06-02-11	H0654 Homeowner/Homebuyer Protection Act.	HA	Amend Adopted 1
		H	Passed 2nd Reading
		H	Ordered Engrossed
06-02-11	H0656 Controlled Substances/Photo ID.	S	Rec From House
		S	Passed 1st Reading
		S	Ref To Com On Rules and Operations of the Senate
05-25-11	H0659 Capital Procedure/Severe Mental Disability.	HA	Amend Adopted 1
		H	Postponed To 6/3/2011
04-20-11, 06-02-11	H0661 CDL/HAZMAT Endorsement Expiration.	S	Rec From House
		S	Passed 1st Reading
		S	Ref To Com On Transportation
05-31-11	H0662 Electronic Monitoring Fee.	HA	Amend Adopted 1
		H	Passed 2nd & 3rd Reading
		H	Ordered Engrossed
06-01-11, 06-02-11	H0696 Assault on LEO Inflicting Bodily Injury.	H	Passed 2nd & 3rd Reading
06-01-11	H0704 Study State's Future Energy Needs.	H	Passed 2nd & 3rd Reading
06-01-11	H0706 Alimony/Postseparation Support Changes.	H	Passed 2nd & 3rd Reading
06-01-11	H0709 Protect and Put NC Back to Work.	S	Rec From House
		S	Passed 1st Reading
		S	Ref To Com On Insurance
05-27-11	H0713 Public Contracts/Multiple Award.	HA	Amend Adopted 1
		H	Passed 2nd & 3rd Reading
		H	Ordered Engrossed
06-01-11, 06-02-11	H0730 Local Bds of Education/403(b) Option.	H	Withdrawn From Com
		H	Re-ref Com On State Personnel
H0733 Modify Abandoned Property Provisions.		HA	Reptd Com Sub w/o Prejud
		H	Re-ref Com On Rules,

		Calendar, and Operations of the House
06-02-11		
H0749	Modify State Ports Authority.	H Assigned To Commerce and Job Development Subcommittee on Business and Labor
H0755	Study Fox Laws.	S Rec From House S Passed 1st Reading S Ref To Com On Agriculture/ Environment/Natural Resources
05-31-11		
H0772	SORNA Compliance.	HA Reptd Fav Com Substitute H Cal Pursuant Rule 36(b) H Placed On Cal For 6/3/2011
06-02-11		
H0778	Amend Innocence Commission Laws.	HA Reptd Fav Com Substitute H Cal Pursuant Rule 36(b)
06-02-11		
H0787	NC Water Efficiency Act.	H Passed 2nd & 3rd Reading
05-31-11		
H0810	Consumer Finance Act Amendments.	HA Amend Adopted 1 HA Amend Adopted 2 HA Amend Adopted 3 H Passed 2nd & 3rd Reading H Ordered Engrossed
05-31-11, 06-02-11		
H0813	ESC/Jobs Reform.	H Passed 2nd & 3rd Reading
06-01-11		
H0816	Spay/Neuter Advisory Board/ Fund.	S Rec From House S Passed 1st Reading S Ref To Com On Agriculture/ Environment/Natural Resources
05-31-11		
H0832	Allow Nonattorney Ownership of PC Law Firms.	H Assigned To Commerce and Job Development Subcommittee on Business and Labor
H0837	Completion of CPR by Students Required.	S Rec From House S Passed 1st Reading S Ref To Com On Education/ Higher Education
05-31-11		
H0850	The Baucum - Reynolds Safe Roads Act.	HA Reptd Fav Com Substitute H Cal Pursuant Rule 36(b)
06-02-11		
H0853	End Ct. Orders/Est. Local Intake Procedures.	H Reptd Fav H Cal Pursuant Rule 36(b)
H0855	Personal Learning Plan for Each Child.	S Rec From House S Passed 1st Reading S Ref To Com On Education/ Higher Education
05-31-11		
H0887	Zoning/Temp. Family Health Care Structures.	HA Reptd Fav Com Substitute H Re-ref Com On Finance
06-02-11		
H0892	Honor William Newsome and Parker Robbins.	H Placed On Cal For 6/8/2011

H0896 Authorize Electronic Listing.	HA Reptd Fav Com Substitute H Cal Pursuant Rule 36(b)
06-02-11	
H0903 Port Enhancement Zones.	H Assigned To Commerce and Job Development Subcommittee on Business and Labor
H0914 AEDs in State Buildings.	H Passed 2nd & 3rd Reading
S0009 No Discriminatory Purpose in Death Penalty.	H Postponed To 6/15/2011 H Withdrawn From Cal H Placed On Cal For 6/14/2011
02-07-11, 06-01-11	
S0016 Obtain Blood Sample/Implied- Consent Laws.	H Passed 2nd & 3rd Reading
03-21-11, 06-01-11	
S0031 Clarify Penalty Unauth. Practice of Medicine.	H Conf Com Reported H Placed On Cal For 6/3/2011
03-03-11, 04-07-11, 06-02-11	
S0148 General Statutes Comm. Technical Corrections.	S Reptd Fav S Placed On Cal For 6/6/2011
S0203 Set Aside Child Supp./Limited Circumstances.	S Reptd Fav S Placed On Cal For 6/6/2011
S0307 Smart Card Biometrics Against Medicaid Fraud.	H Passed 3rd Reading
04-14-11, 04-21-11	
S0309 Conservation Easements Stewardship Funds.	S Withdrawn From Com S Re-ref Com On Agriculture/ Environment/Natural Resources
S0321 Surplus Lines/Premium Tax.-AB	H Passed 2nd & 3rd Reading
04-14-11, 05-03-11, 05-18-11, 06-01-11	
S0438 Clarify Motor Vehicle Licensing Law.	S Reptd Fav Com Substitute SA Com Substitute Adopted S Placed On Cal For 6/6/2011
06-02-11	
S0446 Comm. Coll. Tuition for Members of Military.	S Reptd Fav Com Substitute SA Com Substitute Adopted S Placed On Cal For 6/6/2011
06-02-11	
S0499 Clarify Ag Development/ Preservation in DACS.	S Passed 2nd & 3rd Reading
S0501 Swine House Renovations/Site Limits.	S Concurred In H/com Sub
04-26-11, 05-25-11	
S0513 Allow Savings Promotion Raffles.	H Reptd Fav H Cal Pursuant Rule 36(b)
S0532 ESC/Jobs Reform.	S Reptd Fav Com Substitute SA Com Substitute Adopted S Placed On Cal For 6/2/2011 SA Amend Adopted 1 S Amend Tabled 2 S Passed 2nd & 3rd Reading S Engrossed
06-02-11	
S0562 Standards for Some Nursery Stock Purchases.	S Passed 2nd Reading S Placed On Cal For 6/6/2011
06-01-11	
S0578 LME Minimum Population.	S Reptd Fav Com Substitute

	SA Com Substitute Adopted
	S Placed On Cal For 6/6/2011
06-02-11	
S0635 Littering Offenses/Increase Fines.	S Reptd Fav Com Substitute
	SA Com Substitute Adopted
	S Re-ref Com On Finance
06-02-11	
S0659 WC/Taxi Driver/Independent Contractor.	S Reptd Fav Com Substitute
	SA Com Substitute Adopted
	S Placed On Cal For 6/6/2011
06-02-11	
S0684 Post-Release Supervision/Sex Offenders.	S Reptd Fav Com Substitute
	SA Com Substitute Adopted
	S Placed On Cal For 6/6/2011
06-02-11	
S0710 Swine and Poultry Waste RECs.	S Passed 2nd & 3rd Reading
S0743 Encourage Volunteer Health Care Providers.	S Reptd Fav
	S Placed On Cal For 6/6/2011
05-24-11	
S0745 Beer Franchise Law Clarifications.	S Reptd Fav Com Substitute
	SA Com Substitute Adopted
	S Placed On Cal For 6/6/2011
06-02-11	
S0778 Confirm Edward Finley to Utilities Commission.	S Reptd Fav
	S Placed On Cal For 6/6/2011
S0780 Crossover Rule.	S Filed

LOCAL BILLS

H0097 Union Fire Fee Sunset Repealed.	S Rec From House
	S Passed 1st Reading
	S Ref to State and Local Government. If fav, re-ref to Finance
H0440 Adopt Official Livermush Festivals.	H Placed On Cal For 6/3/2011
06-01-11	
H0518 Authorize Add'l Person County Occupancy Tax.	H Passed 2nd Reading
06-01-11	
H0552 Greater Asheville Reg. Airport Authority.	HA Reptd Fav Com Sub 2
	H Cal Pursuant Rule 36(b)
04-21-11, 06-02-11	
S0019 Union Fire Fee Sunset Repealed.	S Ratified
S0145 Southern Shores Canal Dredging/Maintenance.	H Passed 2nd & 3rd Reading
S0237 Incorporate Castle Hayne.	S Reptd Fav Com Substitute
	SA Com Substitute Adopted
	S Placed On Cal For 6/6/2011
06-02-11	

SUMMARIES OF AMENDMENTS AND COMMITTEE SUBSTITUTES

HOUSE BILLS

H 117. ELECTRIC CITIES/USES OF RATE REVENUE. Filed 2/16/11. House committee substitute makes the following changes to the 1st edition. Deletes all provisions in previous edition and replaces them with *AN ACT PROVIDING THAT THE TOWNS OF CLAYTON, SELMA, AND SMITHFIELD SHALL USE REVENUE DERIVED FROM RATES FOR ELECTRIC SERVICE FOR PAYING THE DIRECT AND INDIRECT COSTS OF OPERATING THE ELECTRIC SYSTEM, TRANSFERRING AMOUNTS THAT REPRESENT A RATE OF RETURN ON THE INVESTMENT IN THE ELECTRIC SYSTEM, AND MAKING DEBT SERVICE PAYMENTS*. Enacts new GS 159B-39 to authorize a municipality to use the revenue derived from rates for electric service to (1) pay the direct and indirect costs of operating the electric system and (2) transfer to other funds of the municipality a sum that reflects a rate of return on investment in the electric system to the extent allowed by the statute. Requires that remaining revenue be used to lower electric service rates in the areas served by the system and to make additional debt service payments on bonds or other indebtedness incurred by the municipality to finance improvements to the electric system. Prohibits a municipality from transferring revenue from an electric utility fund to any other municipal fund for any purpose unless explicitly authorized by law. Provides that the direct and indirect costs of operating the electric system include eight specified items.

States that the restrictions do not apply to any action required to be taken by the Local Government Commission under GS 159-181(c). Provides details regarding the transfer of funds of a municipality as a rate of return on investment. Applies only to the towns of Clayton, Selma and Smithfield. Effective July 1, 2011.

Previously: Energy and Utilities;
Local Government
Now: Johnston

H 119. AMEND ENVIRONMENTAL LAWS 2011. Filed 2/16/11. Changes made by House committee substitute will be summarized in tomorrow's *Daily Bulletin*.

Agriculture, Environment, and
Natural Resources

H 177. ENVIRONMENTAL TECHNICAL CORRECTIONS 2011. Filed 2/23/11. Changes made by House committee substitute will be summarized in tomorrow's *Daily Bulletin*.

Agriculture, Environment, and
Natural Resources

H 227. DISTURBING/DISEMBERING HUMAN REMAINS (NEW). Filed 3/2/11. House committee substitute makes the following changes to the first edition. Deletes all provisions of previous edition and replaces them with *AN ACT TO CREATE A CRIMINAL PENALTY FOR DISTURBING OR DISEMBERING HUMAN REMAINS*. Rewrites GS 14-401.22 to enact additional subsections stating that any person who willfully disturbs, vandalizes, or desecrates human remains or commits or attempts to commit upon human remains an act of sexual penetration is guilty of a Class I felony. Provides exceptions to the provision. Provides that any person who attempts to conceal evidence of the death of another by knowingly and willfully dismembering or destroying human remains is guilty of a Class H felony. Provides that any person who violates the previous provision, knowing or having reason to know the human remains are of a person who did not die of natural causes, is guilty of a Class D felony. Defines *human remains* as any dead human body in any condition of decay or any significant part of a dead human body. Effective December 1, 2011, and applies to offenses committed on or after that date.

Criminal Law, Procedure, and
Sentencing

H 281. ETJ RESTRICTIONS. Filed 3/9/11. House committee substitute makes the following changes to 1st edition. Deletes amendments made to provisions in GS Chapter 160A and 163 in the previous edition, and instead establishes an eight-member House Select Committee on Extraterritorial Jurisdiction to study issues related to the exercise of extraterritorial jurisdiction by cities, and to continue to study specified matters. Sets out appointing authority and additional Committee details. Directs the Committee to submit a final report to the 2012

Regular Session of the General Assembly, and to terminate at the earlier of the report filing or when the 2012 session convenes. Makes a conforming change to the bill title.

Previously: Local Government;
Elections Law
Now: Local Government; Elections
Law; General Assembly

H 342. HIGH SCHOOL ACCREDITATION. Filed 3/14/11. House committee substitute makes the following changes to 2nd edition. Directs the Department of Public Instruction to use funds available within its budget to establish a position to coordinate the accreditation process provided for in the act. Makes other technical change.

Education

H 350. PROPERTY TAX UNIFORMITY FOR CONSERVATION LAND (NEW). Filed 3/14/11. House committee substitute makes the following changes to the 1st edition. Rewrites GS 105-275(12) to exclude from the tax base real property that is owned by a nonprofit corporation or association organized to receive and administer lands for conservation purposes, is exclusively held and used for one or more of the purposes listed and detailed in the subdivision, and produces no income or produces income that is incidental to and not inconsistent with the purpose or purposes for which the land is held and used. Provides that the taxes otherwise due on such land is a lien on the real property of the taxpayer as provided in GS 105-355(a) and specifies when the liens are extinguished. Requires the taxes be carried forward in the records of the taxing units or units as deferred taxes. Provides that the deferred taxes for the preceding five fiscal years are due and payable in accordance with GS 105-277.1F when the property loses its eligibility for deferral as a result of a disqualifying event. Details disqualifying events.

Deletes proposed GS 105-275(29b) concerning real property owned or held by a nonprofit land conservation organization for land conservation purposes. Makes clarifying and organizational changes to GS 105-277.1F(a). Makes conforming changes to the bill title.

Taxation; Property, Land Use, and
Housing

H 384. REGISTER OF DEEDS/FEES. Filed 3/16/11. Changes made by the House committee substitute will be summarized in tomorrow's *Daily Bulletin*.

Property, Land Use, and Housing

H 476. PROTECT GALAX & VENUS FLYTRAP/WRC RULE FINES. Filed 3/24/11. House committee substitute makes the following changes to 2nd edition. Deletes proposed GS 106-202.21A and 106-202.21B, which required dealers of galax and Venus flytrap to hold a permit, and set forth permit details. Makes a conforming change to the title. Amends proposed subdivisions (6d) and (6e) to GS 106-202.19(a), clarifying that it is unlawful to buy more than five pounds of galax for resale or trade without a copy of the landowner's written permission and confirmation of the collection date, and to buy more than 50 Venus flytrap plants for resale or trade unless fully compliant with applicable regulations.

Agriculture, Environment, and
Natural Resources

H 476. PROTECT GALAX & VENUS FLYTRAP/WRC RULE FINES. Filed 3/24/11. House amendment makes the following change to 3rd edition. Amends proposed GS 106-202.19(a)(6a), adding that the subdivision does not apply to a person in lawful possession of the land who has a recorded lease that allows for the disturbance or removal of any vegetation on the land.

Agriculture, Environment, and
Natural Resources

H 518. AUTHORIZE ADD'L PERSON COUNTY OCCUPANCY TAX. Filed 3/29/11. House committee substitute makes the following changes to 1st edition. Deletes amendments made to subsection (c) of Section 14 of SL 1997-364 (distribution and use of tax revenue) in the previous edition, and rewrites the subsection to direct Person County, on a quarterly basis, to remit the net proceeds of the occupancy tax to the Person Tourism Development Authority, which must use at least two-thirds of the funds to promote travel and tourism in Person County and the remainder for tourism-related expenditures.

Person

H 552. [GREATER ASHEVILLE REG. AIRPORT AUTHORITY](#). Filed 3/30/11. Changes made by House committee substitute will be summarized in tomorrow's *Daily Bulletin*.

Buncombe; Henderson

H 556. [VOLUNTEER SERVICE AS A GAL IN RETIREMENT](#). Filed 3/30/11. House amendments make the following changes to 3rd edition. Amendment #1 amends GS 135-1(20) to provide that work performed as an unpaid bona fide volunteer for a state historical and cultural organization is also not considered service under the definition of *retirement*. Provides that an unpaid bona fide volunteer for a state historical and cultural organization is prohibited from volunteering for a position in which the individual was previously employed.

Amendment #2 makes a conforming change to the act's title based on the changes made by Amendment #1.
Employment and Retirement

H 571. [PREPAID WIRELESS/POINT OF SALE COLLECTION](#). Filed 3/30/11. Changes made by House committee substitute will be summarized in tomorrow's *Daily Bulletin*.

Energy and Utilities; Taxation

H 591. [LDP/IGNITION INTERLOCK CHANGES \(NEW\)](#). Filed 4/4/11. House committee substitute makes the following changes to the 1st edition. Amends proposed GS 20-16.2(e2) to clarify that if a person's license is revoked for any other reason than those specified in the statute, the limited driving privilege is invalid. Provides that a limited driving privilege issued under the subsection terminates upon final disposition of the underlying charge for which the defendant was requested to submit to a chemical analysis. Removes proposed GS 20-17.8A concerning exclusions from the ignition interlock requirements. Enacts new GS 20-17.8B to provide that any person who tampers with, circumvents, or attempts to circumvent an ignition interlock device is guilty of a Class 1 misdemeanor.

Enacts new GS 20-179.5 to provide that the costs incurred in order to comply with the ignition interlock requirements imposed by the court are paid by the person ordered to install the system. The person must also pay an administrative fee between \$30 and \$60, to be collected at the time of installation. Requires the vendor installing the ignition interlock system to remit the fees collected quarterly, and directs how such fees are used. Establishes the Ignition Interlock Device Fund (Fund) in the Department of Transportation. Provides details regarding purposes of the Fund. Effective December 1, 2012.

Unless otherwise indicated, effective December 1, 2012 (was, December 1, 2011), and applies to offenses committed on or after that date and to limited driving privileges issued and driver's licenses restored on or after that date. Makes conforming changes to the bill title.

Transportation

H 607. [HABITUAL DWI RESTORATION CLARIFICATION](#). Filed 4/4/11. House committee substitute makes the following changes to 1st edition. Clarifies that a person whose driver's license is revoked under GS 120-138.5(d) (permanent license revocation for habitually impaired driving) may have that license conditionally restored by the Division of Motor Vehicles (DMV) after a period of at least 10 years after the conviction except as otherwise provided in subsection GS 20-19(e4) as amended in this act. Also clarifies that a license revoked under GS 20-138.5(d) may be *conditionally restored*. Provides that if the person's conviction for habitually impaired driving and revocation of license was for an offense that involved serious injury to or the death of another person, the DMV may conditionally restore the license of that person after the license has been revoked for at least 10 years after any sentence imposed by the court has been completed. Clarifies that the person must also provide satisfactory proof of no use of alcohol or unlawful use of controlled substances since the person's conviction in the 10 years immediately preceding the person's application for a restored license.

Transportation

H 622. [NURSING HOMES/FOOD SERVICE INSPECTIONS \(NEW\)](#). Filed 4/5/11. Changes made by House committee substitute will be summarized in tomorrow's *Daily Bulletin*.

APA/Rule Making

H 627. [STUDY EFFICIENCY AND COST SAVINGS/STATE GOVT](#). Filed 4/5/11. House amendment makes the following changes to 1st edition. Removes provision that the Director of the Program Evaluation Division advise the Fiscal Research Division staff. Removes provision that the Commission start the review process with the

Department of Juvenile Justice and Delinquency Prevention, and instead directs the Commission to determine which agency or agencies to review at its first meeting.

State Government

H 641. CERTIFICATE OF RELIEF ACT (NEW). Filed 4/5/11. House committee substitute makes the following changes to 1st edition. Amends proposed Article 6 of GS Chapter 15A, changing the title of the Article to *Certificate of Relief* (was, Certificate of Restoration of Rights). Makes conforming changes throughout proposed Article 6, replacing all references to a Certificate of Restoration of Rights with Certificate of Relief. Also clarifies that the relief permitted in this Article relieves *collateral consequences* as the term is defined in the Article and that *collateral consequence* encompasses a collateral sanction or a disqualification.

Adds a definition for *district attorney* as it applies in this Article. Provides that an individual may petition the court where the individual was convicted for a Certificate of Relief to relieve the collateral consequences (was, collateral sanctions) of the conviction if the individual: (1) is convicted of no more than two Class G, H, or I felonies or misdemeanors in one session of court (was, no more than two convictions higher than a Class G felony) and (2) has no other convictions for a felony or a misdemeanor other than a traffic violation.

Requires that a petition for a Certificate of Relief is to be heard by a senior superior court judge if the convictions were in superior court or by the chief district court judge if the convictions were in district court. Permits the senior resident superior court judge and chief district court judge in each district to delegate their authority to hold hearings regarding Certificates of Relief to judges, clerks, or magistrates in that district.

Clarifies that a Certificate of Relief (1) does not relieve sanctions imposed by the North Carolina Constitution, (2) does not expunge any criminal history record information, (3) does not constitute a pardon, and (4) does not automatically relieve a disqualification. Provides that an administrative agency, governmental official, or court in a civil proceeding may favorably consider a Certificate of Relief in determining whether a conviction should result in disqualification. Prohibits issuing a Certificate of Relief to relieve (1) any statutory requirements or prohibitions imposed as a result of registration under Article 27A of GS Chapter 14 or (2) the prohibitions on the possession of firearms imposed by Articles 54A and 54B of GS Chapter 14, in addition to other sanctions included in previous edition. Provides that *district attorney* includes any district attorney authorized under GS 7A-60.

Amends provisions regarding the issuance, modification, and revocation of a Certificate of Relief to (1) also require the court to notify the district attorney at least three weeks before the hearing on a petition for a Certificate of Relief takes place and (2) allow a court to modify or revoke (was, restrict or revoke) a Certificate of Relief issued by that court if the court finds just cause by a preponderance of the evidence. Clarifies that just cause does not include a traffic violation.

Makes additional clarifying changes. Amends the title to better reflect the bill content.

Criminal Law, Procedure, and
Sentencing

H 644. ESTABLISH PHARMACY AUDIT RIGHTS. Filed 4/5/11. House amendments make the following changes to 2nd edition. Amendment #1 amends proposed GS 90-85.50(b)(2) to clarify that a pharmacy has a right to have any audit that involves clinical (previously clinical and professional) judgment be done with a pharmacist as provided. Amends proposed GS 90-85.51(b) to limit the dismissal to only the unsubstantiated portion of the audit report without any further proceedings (previously could dismiss the entire audit report).

Amendment # 2 amends proposed GS 90-85.50(b)(10) to clarify that a pharmacy has the right to, except in certain cases, be free of recoupments as provided, unless defined within the billing requirements set forth in the pharmacy provider manual not inconsistent with current North Carolina Board of Pharmacy Regulations.

Health, Social Services, and Aging

H 650. AMEND VARIOUS GUN LAWS/CASTLE DOCTRINE (NEW). Filed 4/5/11. House committee substitute makes the following changes to 1st edition. Repeals GS 14-51.1 (use of deadly force against an intruder) and enacts new GS 14-51.2 providing that a person is presumed to have held a reasonable fear of imminent death or serious bodily harm to self 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 force was used was in the process of unlawfully and forcefully entering, or had so entered, the house, motor vehicle, or workplace, or had removed or attempted to remove another from the home, vehicle, or workplace and (2) the person using the defensive force knew or had reason to believe that such unlawful and forcible entry or removal had occurred. Provides that the presumption is rebuttable if the use of defensive force occurs in a motor vehicle or workplace. The presumption does not apply if (1) the person against whom the force was used had a right to be in the home,

vehicle, or workplace, and there is not a protective or no contact order against that person; (2) the person removed or sought to be removed is a minor child or minor grandchild or is otherwise under lawful custody or guardianship of the person against whom the defensive force is used; (3) the person using the force is engaged in other unlawful activity; (4) the person against whom the force is used is a law enforcement officer acting in the lawful performance of the officer's official duties, and who has made his or her status as a law enforcement officer known or the person using force should have known the individual was an officer; or (5) the person against whom the force is used has discontinued all efforts to unlawfully and forcefully enter and has exited the home, vehicle, or workplace. Provides that a person who unlawfully and by force enters or attempts to enter another's home, vehicle, or workplace is presumed to be doing so with intent to commit an unlawful act involving force or violence. Provides immunity for a person using force as justified by circumstances described above. Defines terms as used in the proposed new section.

Enacts new GS 14-51.3 providing that a person may use force, but not deadly force, in the defense of self or of others if the person reasonably believes that the use of force is a necessary defense against the imminent use of unlawful force by another. However, provides that a person is justified in the use of deadly force and has no duty to retreat in any place the person has the lawful right to be if: (1) the person reasonably believes that the use of deadly force is necessary to prevent imminent death or serious bodily harm to self or to another or (2) under the circumstances permitted under proposed GS 14-51.2. Provides that a person who uses force as permitted in proposed GS 14-51.3 is immune from civil or criminal liability except if the person against whom the force is used is a law enforcement officer acting lawfully in the performance of the officer's official duties and the officer provided identification or the person using the force knew or reasonably should have known that the person was a law enforcement officer lawfully acting in performance of the officer's official duties.

Enacts new GS 14-51.4 providing for instances in which the justification for defensive force is not available to a person who: (1) was attempting to commit, committing, or escaping after the commission of a felony or (2) initially provokes the use of force against himself or herself. Provides the following instances when the person who initially provokes the use of force against himself or herself will be justified in using defensive force: (1) the force used by the person who was provoked is so serious that the person using defensive force reasonably believed he or she was in imminent danger of death or serious bodily harm, had no reasonable means of escape, and was the only way to escape the danger or (2) the person who used defensive force withdraws 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 provoked continues or resumes the use of force.

Amends GS 14-269(b) to add to the list of persons who may carry a concealed weapon without first obtaining a concealed carry permit a qualified retired law enforcement officer who is certified by the North Carolina Criminal Justice Education and Training Standards Commission, provided the person is not consuming, or have remaining in the officer's body alcohol or an unlawful controlled substance.

Makes changes throughout the act providing that when a person with a valid concealed handgun permit stores 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, the 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.

Amends GS 14-269.2 by restoring the criminal penalties previously amended concerning carrying firearms on school grounds. Makes other organizational and technical changes.

Amends GS 14-269.4 to remove the *willfully and intentionally* requirement previously added to the prohibition against carrying any open or concealed deadly weapon on certain state property or in courthouses.

Amends GS 14-269.7(a) to make it a Class 1 misdemeanor (previously Class 2) for any minor to willfully and intentionally possess or carry a handgun.

Rewrites GS 14-269.8 to allow persons under a GS Chapter 50B domestic violence order to own, but not possess, purchase, or receive a firearm. Makes conforming changes to GS 50B-3.1(d) and GS 50B-3.1(j).

Amends GS 14-288.8(b) to allow a person to possess or own a weapon of mass destruction, as defined, in compliance with federal law (26 U.S.C. Chapter 53, §§ 5801-5871). Makes similar change to GS 14-409(b).

Amends GS 14-404(d), concerning exempting officers authorized by law to carry firearms who are exempt from needing to be issued a pistol purchase permit, to provide that an officer must provide certain proof to a vendor or donor that the officer is authorized by law to carry firearms. Removes the provision that the officer must be purchasing the firearm for a purpose directly related to the law officer's official duties.

Enacts new GS 14-408.1, providing it to be a Class F felony for anyone to knowingly solicit, persuade, encourage, or entice a licensed dealer or private seller of firearms or ammunition to transfer a firearm or ammunition under circumstances the person knows are unlawful. Any person who knowingly gives a licensed dealer or private seller of firearms or ammunition information that is materially false with the intent to deceive the

dealer or seller about the legality of the transfer is guilty of a Class F felony. The statute does not apply to law enforcement officers in certain circumstances. Provides definitions under the proposed statute.

Amends GS 14-409.10 to allow citizens of North Carolina to purchase a rifle or shotgun in another state if the person 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.

Enacts new GS 14-409.41 to provide that an employer, business, or commercial enterprise may not have a policy or rule prohibiting a person, with a valid concealed handgun permit, from transporting or storing any firearm, if the firearm is in a closed compartment or container within the person's locked vehicle or in a locked container securely affixed to the person's vehicle. This provision does not apply to vehicles owned or leased by an employer, or where transport or storage of a firearm is prohibited by state or federal law or regulation. Provides relief for persons injured or damaged by violations of this provision. Provides relief for an employee who is discharged by an employer in violation of this provision. Provides immunity for a business, employer, property owner, or commercial enterprise that complies with the provisions, and states that such persons and entities are not to be held liable in any civil action for damages, injuries, or death resulting from another person's actions involving a firearm stored in compliance with this provision.

Enacts new GS 95-156 to state that the decision of a business, commercial enterprise, employer, or property owner allowing persons with handgun permits to carry a handgun on such property does not constitute an occupational safety or work hazard.

Amends GS 14-415.11(a) to clarify that a person who holds a valid concealed handgun permit has a duty to disclose to a law enforcement officer the person holds such permit only when the person is approached or addressed by an officer while the officer is in the performance of official duties.

Amends GS 14-415.11(c) to make conforming changes as to where a concealed handgun permit allows a handgun to be carried. Specifies that it is lawful for a person with a permit to carry a concealed handgun at any rest area or rest stop owned by the state.

Amends GS 14-415.13(a)(5) to clarify that the provision does not prohibit submitting information related to involuntary commitment to the National Instant Criminal Background Check System.

Amends GS 14-415.15(a) to clarify that a sheriff may either issue or deny a concealed handgun permit 45 days after receipt of the items listed in GS 14-415.13 and receipt of the required records concerning the mental health or capacity of the applicant.

Amends GS 14-415.18(a) to provide that a sheriff may not revoke a permit if a person provides a duplicate of the permit to a vendor for record-keeping purposes.

Rewrites GS 14-415.21 to reduce the penalty to an infraction (previously a Class 2 misdemeanor) for violations involving the failure of a concealed handgun permit holder to carry the permit when also carrying a concealed weapon, or for failing to inform a law enforcement officer that the permittee is carrying a concealed weapon. Previous edition repealed GS 14-415.21.

Deletes amendments to GS 153A-129, 166A-3, and 160A-189.

Deletes provisions from previous edition regarding communicating threats, weapons at parades and other assemblies, statewide uniformity of local regulation, and criteria to qualify for the issuance of a permit.

Effective December 1, 2011, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of the act are not abated or affected by this act, and the statutes that would be applicable but for the act remain applicable to those prosecutions. Makes conforming changes to the bill title.

Criminal Law, Procedure, and
Sentencing

H 654. HOMEOWNER/HOMEBUYER PROTECTION ACT, Filed 4/6/11. House amendment makes the following changes to 1st edition. Rewrites GS 47G-1 to define *covered lease agreement* as a residential lease agreement in which all or some portion of the rental payments made are applied to the purchase price of the real property which is the subject of the covered lease agreement and the covered option contract. Amends definitions of *option fee* to clarify that payment of an option fee, applied at closing, does not constitute equity and such payment does not in and of itself create a right of equitable redemption. Rewrites GS 47G-7 by removing language providing that a violation of GS Chapter 47G constitutes an unfair trade practice under GS 75-1.1. Clarifies that the rights and remedies provided in the statute are cumulative to, and not a limitation of, any other rights and remedies provided by law or equity, including GS 75-1.1. Makes similar changes to GS 47H-8. Deletes amendments made to GS 47G-2(e) and deletes proposed amendments to GS 47G-3, concerning the application of landlord tenant law.

Property, Land Use, and Housing

H 659. [CAPITAL PROCEDURE/SEVERE MENTAL DISABILITY](#). Filed 4/6/11. House amendment makes the following changes to 2nd edition. Amends proposed GS 15A-2008(1), clarifying that a defendant may seek appropriate relief from the defendant's death sentence if the defendant *submits credible and verifiable evidence of a prior* severe mental disability, as defined, at the time of the commission of the capital crime. Amends proposed GS 15A-2007(a)(2), clarifying that the defendant must demonstrate by clear and convincing evidence that the mental disability was manifested at some date (was, at some time) prior to the alleged conduct at the time of the offense in order to meet the test of severe mental disability.

Criminal Law, Procedure, and
Sentencing

H 662. [ELECTRONIC MONITORING FEE](#). Filed 4/6/11. House committee substitute makes the following change to 1st edition. Amends proposed GS 7A-313.1, adding that a county may not collect a fee from an offender determined to be indigent and entitled to court-appointed counsel.

Criminal Law, Procedure, and
Sentencing

H 662. [ELECTRONIC MONITORING FEE](#). Filed 4/6/11. House amendment makes the following change to 2nd edition. Amends proposed GS 7A-313.1, clarifying that a county providing personnel, equipment, and other costs of electronic monitoring as a condition of an offender's bond or pretrial release may collect a fee from the offender that is the lesser of the amount of the jail fee authorized in GS 7A-313 or the actual cost of providing the electronic monitoring (was, a fee of no more than the actual costs of providing electronic monitoring).

Criminal Law, Procedure, and
Sentencing

H 696. [ASSAULT/OFFICER/PHYSICAL INJURY \(NEW\)](#). Filed 4/6/11. House committee substitute makes the following changes to 1st edition. Rewrites the amendment to GS 14-34.7 as follows. Enacts new subsection (c) to GS 14-34.7, making a person guilty of a Class I felony (was, a Class H felony) if the person does either of the following and the offense is not covered under another provision of law with greater punishment: (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 or (2) assaults a person employed at a detention facility and inflicts physical injury. *Physical injury*, for the purposes of new GS 14-34.7(c), includes cuts, scrapes, bruises, or other physical injury that does not constitute serious injury. Makes a conforming change to the bill title.

Criminal Law, Procedure, and
Sentencing

H 704. [STUDY STATE'S FUTURE ENERGY NEEDS](#). Filed 4/6/11. House committee substitute makes the following changes to 1st edition. Replaces the provisions in the previous edition as follows. Establishes the eight member Legislative Study Commission on Alternative Fuel for Vehicles (Commission) to study the state's future energy needs and focus on the possible use of compressed natural gas, liquid propane, and biofuels as fuel sources for vehicles. Details appointing authority, membership requirements, and additional administrative provisions. Permits the Commission to study seven enumerated issues, and to report recommendations and legislative proposals to the 2012 General Assembly on or before the session convenes. Makes a conforming change to the bill title.

Energy and Utilities

H 713. [PUBLIC CONTRACTS/MULTIPLE AWARD](#). Filed 4/6/11. House committee substitute makes the following changes to 1st edition. Makes organizational and clarifying changes.

State Government

H 713. [PUBLIC CONTRACTS/MULTIPLE AWARD](#). Filed 4/6/11. House amendment makes the following change to 2nd edition. Amends proposed GS 143-64.1(c), directing the Department of Administration to issue requests for proposals for multiple award schedule contracts, as specified, no later than August 31, 2011 (was, no later than June 30, 2011).

State Government

H 733. MODIFY PROPERTY FINDER PROVISIONS (NEW). Filed 4/6/11. Changes made by House committee substitute will be summarized in tomorrow's *Daily Bulletin*.

State Government

H 772. STUDY SORNA COMPLIANCE (NEW). Filed 4/6/11. House committee substitute makes the following changes to 2nd edition.

Deletes all amendments made to provisions of GS Chapters 14 and 50 in previous edition, and instead establishes a 10-member Joint Legislative Study Committee on Federal Sex Offender Registration and Notification Act (SORNA) Compliance to study and make recommendations on four specified issues. Sets forth appointing authority and additional Committee details. Directs the Committee to make a final report to the 2012 General Assembly when it convenes, and to terminate upon the earlier of the report filing or when the 2012 General Assembly convenes.

Previously: Criminal Law,
Procedure, and Sentencing
Now: Criminal Law, Procedure,
and Sentencing; General Assembly

H 778. AMEND INNOCENCE COMMISSION LAWS. Filed 4/6/11. House committee substitute makes the following changes to 1st edition. Amends GS 15A-268(a1) to clarify that a custodial agency must preserve any physical evidence regardless of the date the physical evidence is collected. Amends GS 15A-268(a7) to require the custodial agency to prepare an inventory of biological evidence relevant to the defendant's case that is in the custodial agency's custody, upon a written request by the defendant. Additionally provides that if the evidence was destroyed through a court order or other written directive, the custodial agency must provide the defendant with a copy of the court order or written directive. Under current law, GS 15A-268(b) provides that if all of the specified conditions are met, the custodial agency required to preserve evidence under subsection (a1) of the statute may dispose of the evidence before the expiration of the time limits set in subsection (a6) of GS 15A-268. Adds as a specified condition to be met, a requirement that the custodial agency must have determined that it has no duty to preserve the evidence under GS 15A-1471.

Amends the definition for *claim of factual innocence* in GS 15A-1460 to delete previous amendment stating that the term applies to a claim on behalf of a living person convicted of a felony who originally pled not guilty or nolo contendere. Adds a definition for *claimant*, meaning a person who asserts complete innocence of any criminal responsibility for a felony crime of which the person was convicted and for any other reduced level of criminal responsibility relating to the crime.

Amends GS 15A-1467(a) to provide that a claim of factual innocence may be referred to the North Carolina Innocence Inquiry Commission (Commission) by any (1) court, (2) a state or local agency, (3) a claimant, or (4) a claimant's counsel (was, by a trial court or the defendant).

Amends GS 15A-1468(b) to delete provision that allowed the Commission to exclude the victim from any portion of the proceedings if the commission determined that the victim's presence might interfere with the investigation.

Requires the Commission to include, as a part of its rules of operation, holding a prehearing conference at least 10 days before any proceedings of the full Commission. Specifies the persons to be notified and authorized to attend the prehearing conference. Authorizes the District Attorney or designee to provide the Commission with a written statement to be included in the record of the Commission's proceedings. Provides that any statement included in the record must be a part of the Commission's record of proceedings under GS 15A-1468(e).

Amends GS 15A-1469 to clarify that if the Commission concludes that there is credible evidence of prosecutorial misconduct (standard was if there was significant evidence of prosecutorial misconduct in the case), the chair of the Commission may ask the Attorney General (was, the Director of the Conference of District Attorneys) to appoint a special prosecutor to represent the state in the place of the district attorney of the district of conviction or the district attorney's designee. Provides prohibitions on appointing prosecuting attorneys who prosecuted or assisted with the prosecution in the trial of the convicted person, or a person who is a prosecuting attorney in the district where the convicted person was tried.

Permits all credible, verifiable evidence relevant to the case to be presented during the hearing, even if that evidence was considered by a jury or judge in a prior proceeding. Restores the standard of proof to clear and convincing evidence (was, beyond a reasonable doubt).

Repeals GS 7A-64(a1) (regarding temporarily assigning a district attorney from one district to another district upon request). Deletes provision that repealed GS 15A-1470(b). Also deletes provisions amending GS 7A-413(a) and GS 15A-1468(a).

Adds new GS 15A-1471 providing for the preservation of files and evidence, the production of files and evidence, and forensic and DNA testing.

Amends GS 148-82(b) to permit a person convicted of a felony and imprisoned thereafter who pleaded not guilty or nolo contendere and is subsequently determined to be innocent of all charges and against whom the charges are dismissed under GS 15A-1469, to present by petition a claim against the state for the pecuniary loss sustained by the person due to the erroneous conviction and imprisonment, provided the petition is presented as required.

Effective when the act becomes law and applies to any pending claims on the effective date or claims filed on or after the effective date (was, effective October 1, 2011, and applies to claims of factual innocence filed on or after that date).

Criminal Law, Procedure, and
Sentencing

H 810. CONSUMER FINANCE ACT AMENDMENTS. Filed 4/6/11. House amendments make the following changes to 2nd edition. Amendment #1 creates the 16-member North Carolina Legislative Study Commission on Improvement in Small-Dollar Lending (Commission). Details the purpose of, and issues to be studied by the Commission. Sets forth details on appointment of membership, reimbursement of members in the performance of their duties, and reporting requirements. Effective when it becomes law.

Amendment #2 removes proposed subsection(c) from GS 53-177 that allowed a licensee to collect any actual charges paid by the licensee related to payments submitted by the borrower or at the borrower's request through electronic or other means not affiliated with the licensee.

Amendment #3 creates a new subsection (l) to GS 53-180 to prohibit licensees from making loans to a borrower who is a military service member unless the military service member obtains a written authorization signed by the service member's company commander. Provides additional requirements a licensee must perform before making a loan to a military service member.

Business and Commerce; Banking
and Finance

H 813. ESC/JOBS REFORM. Filed 4/6/11. House committee substitute makes the following changes to 1st edition. Specifies that no action or proceeding pending on November 1, 2011 (was, January 1, 2012), brought by or against the Employment Security Commission will be affected by this act, but the same action or proceeding may be prosecuted or defended by Department of Commerce, Division of Employment Security. Rewrites the title of Article 1 of GS Chapter 96 to read *Division of Employment Security* and makes conforming changes to refer to the Division throughout the act. Removes references to the Department of Revenue. Amends GS 96-4(g) (advisory councils) to provide that the State Advisory Council is composed of the Assistant Secretary and 15 persons representing employers, employees, and the general public, appointed as specified. States that vacancies on the Council will be filled by the appointing authority, and the Assistant Secretary serves as chair. Requires the Board of Review established by the act to be appointed by November 15, 2011 (was, by October 1, 2011). Makes other clarifying changes. Makes the act effective November 1, 2011 (was, effective when it becomes law), unless otherwise indicated.

Employment and Retirement; State
Government

H 850. THE BAUCUM-REYNOLDS SAFE ROADS ACT. Filed 4/6/11. Changes made by the House committee substitute will be summarized in tomorrow's *Daily Bulletin*.

Transportation

H 887. ZONING/TEMP. FAMILY HEALTH CARE STRUCTURES. Filed 5/3/11. Changes made by House committee substitute will be summarized in tomorrow's *Daily Bulletin*.

Local Government; Health, Social
Services, and Aging

H 896. FACILITATE ELECTRONIC LISTING (NEW). Filed 5/4/11. Changes made by House committee substitute will be summarized in tomorrow's *Daily Bulletin*.

Taxation; Local Government

SENATE BILLS

S 9. NO DISCRIMINATORY PURPOSE IN DEATH PENALTY (NEW). Filed 1/27/11. House committee substitute makes the following changes to the 1st edition. Deletes all provisions of the 1st edition and replaces them with *AN ACT TO REFORM THE RACIAL JUSTICE ACT OF 2009 TO BE CONSISTENT WITH THE UNITED STATES SUPREME COURT'S RULING IN MCCLESKEY V. KEMP*.

Amends GS 15A-2011 (proof of racial discrimination under the NC Racial Justice Act), by deleting most provisions and stating that, at trial or upon a motion for appropriate relief filed under Article 89 of GS Chapter 15A, a finding that race was the basis of the decision to seek or impose a death sentence may be established if the court finds that the state acted with discriminatory purpose in seeking the death penalty or in selecting the jury that sentenced the defendant, or one or more of the jurors acted with discriminatory purpose in the guilt-innocence or sentencing phases of the defendant's trial. Also states that the defendant has the burden of proving that there was discriminatory purpose in seeking or imposing the death sentence in the defendant's case, and that the state may offer evidence to rebut the claims or evidence of the defendant. Under current law, the defendant has the burden of proving that race was a significant factor in decisions to seek or impose the death sentence in the county, prosecutorial district, judicial division, or the State at the time the death sentence was sought or imposed, and allows the state to offer statistical evidence in rebuttal. Deletes GS 15A-2012, which sets out the hearing procedure.

Clarifies that the act supersedes and nullifies provisions of Article 101A (appears to reference Article 101) of GS Chapter 15A that existed before the act's effective date and are repealed by the act. Includes a severability clause, and specifies that the act does not amend or modify the statutory or common law applicable to trial or postconviction proceedings in capital cases that existed before July 1, 2009. States that the act does not change any provision in Article 89 of GS Chapter 15A (Motion for Appropriate Relief and other post-trial relief) concerning the procedure for filing motions for appropriate relief in capital cases. Sets forth additional provisions on the act's interpretation. Includes whereas clauses.

The act is effective when it becomes law and applies to all capital trials held prior to, on, or after the effective date and to all capital defendants sentenced to the death penalty prior to, on, or after the effective date.

Criminal Law, Procedure, and
Sentencing

S 16. OBTAIN BLOOD SAMPLE/IMPLIED-CONSENT LAWS. Filed 1/31/11. House committee substitute makes the following changes to 2nd edition. Rewrites GS 20-16.2(a1) to clarify that an *implied-consent offense* is an offense involving impaired driving, a violation of GS 20-141.4(a2), or an alcohol-related offense made subject to the procedures of the statute.

Criminal Law, Procedure, and
Sentencing; Emergency Services

S 31. CLARIFY PENALTY UNAUTH. PRACTICE OF MEDICINE. Filed 2/2/11. Conference report recommends the following changes to 2nd edition, as amended, to reconcile matters in controversy.

Amends the proposed penalties in GS 90-18(a) to provide that any person practicing medicine or surgery without being duly licensed and registered in North Carolina (was, duly licensed and registered) is guilty of a Class 1 misdemeanor. Makes it a Class I felony to practice without being duly licensed and registered in this state and falsely represent himself or herself as being licensed and registered under Article 1 of GS Chapter 90 or any other Article of GS Chapter 90. Also makes it a Class I felony for an out of state practitioner to practice without being duly licensed and registered in this state. Removes provisions concerning practicing with a license that is inactive due to failure to timely complete annual registration.

Employment and Retirement

S 237. INCORPORATE CASTLE HAYNE. Filed 3/7/11. Senate committee substitute makes the following changes to 1st edition. Reduces the number of members on the town council from six to four. Provides that the town is to be operated under a Mayor-Council form of government (previously, Council-Manager form of government) and makes conforming changes. Prohibits the town from, prior to December 31, 2016, adopting an ordinance regulating or restricting the subdivision, zoning, or use of land within its corporate limits or within the town's extraterritorial jurisdiction. Makes other technical change.

New Hanover

S 321. [SURPLUS LINES/PREMIUM TAX](#). Filed 3/10/11. House committee substitute makes the following changes to 4th edition. Changes the effective date to July 21, 2011 (was, June 1, 2011).

Business and Commerce

S 438. [CLARIFY MOTOR VEHICLE LICENSING LAW](#). Filed 3/28/11. Senate committee substitute makes the following changes to 1st edition.

Amends new subsection (g) to GS 20-301, to expand its provisions regarding resolving disputes with respect to the dealer's rights or obligations related to franchise or franchise-related form agreement to apply to any manufacturer, factory branch, distributor, or distributor branch in addition to any franchised new motor vehicle dealer. Makes additional conforming changes to the act making provisions, where relevant, applicable to any manufacturer, factory branch, distributor, or distributor branch in addition to any franchised new motor vehicle dealer.

Amends GS 20-301.1(a), to provide that it is unlawful for any manufacturer, factory branch, distributor, or distributor branch to charge or assess a NC franchised motor vehicle dealer for merchandise, tools, or equipment, or other charges or amounts which total more than \$5,000 (was, other charges or amounts which individually or collectively total more than \$250) other than as specifically excepted. Directs the required prior written notice to include any charges or amounts that total over \$5,000.

Makes conforming changes to amend the provisions of GS 20-305(4), making it unlawful for any manufacturer, factory branch, distributor, or distributor branch to prevent or refuse to approve the relocation or change in use of an existing facility to provide for the sales or service of one or more additional line-makes of new motor vehicles.

Amends GS 20-305(6)d.3. to make the manufacturer or distributor liable to the dealer for an amount at least equivalent to the fair market value of the franchise on the day 18 months (was, 3 years) prior to the date on which the notice of termination, cancellation, or nonrenewal, as defined, is issued, or on one of the other dates existing under current law, whichever is higher. Effective January 1, 2014.

Amends GS 20-305(14) to provide that sales objectives established for any franchised dealer in this state must be reasonable. Makes clarifying changes to the manner in which every manufacturer, factory branch, distributor, and distributor branch must allocate its products within this state. Makes it an unfair and deceptive trade practice to *willfully or maliciously* engage in a vehicle allocation process that forces or coerces a NC dealer to close or sell the franchise, causes the dealer financial distress, or causes the dealer to relocate, update, or renovate the existing facility. Makes conforming changes.

Deletes amendments to GS 20-305(39) in previous edition, and instead makes a clarifying change.

Amends proposed subdivision (43) to GS 20-305, making it unlawful to require, coerce, or attempt to coerce any new motor vehicle dealer to change dealership location or make substantial alterations if the dealer has changed locations or made substantial alterations to the facilities at the *written* request of the manufacturer, factory branch, distributor, or distributor branch within the preceding seven years (was, preceding 10 years) at a cost of more than \$500,000 (was, more than \$100,000). Makes it unlawful to deny a franchised dealer the right to return any unsold part after 15 months (was, within 12 months) as detailed, provided the dealer returns the part within 60 days (was, within 90 days) of eligibility.

Amends GS 20-305.1 to include the retail rate for labor in provisions governing automobile dealer warranty obligations. Amends GS 20-305.7 to strengthen existing provisions that protect customer data collected and maintained by dealers. Prohibits manufacturers or distributors or third parties acting on behalf of manufacturers or distributors from requesting the data except under limited circumstances. Makes additional clarifying changes.

Transportation; Business and
Commerce

S 446. [COMM. COLL. TUITION FOR MEMBERS OF MILITARY](#). Filed 3/29/11. Senate committee substitute makes the following changes to 1st edition. Rewrites proposed GS 115D-39(d) to clarify that the textbooks must be purchased at the college's bookstore, and that addition of the cost of textbooks to tuition is contingent on the student's branch of the armed services permitting the addition of textbooks to tuition costs in its tuition assistance program.

Education; Military and Veterans
Affairs

S 532. [ESC/JOBS REFORM](#). Filed 4/7/11. Senate committee substitute makes the following changes to 1st edition. Specifies that no action or proceeding pending on November 1, 2011 (was, January 1, 2012), brought by

or against the Employment Security Commission will be affected by this act, but the same action or proceeding may be prosecuted or defended by Department of Commerce, Division of Employment Security. Rewrites the title of Article 1 of GS Chapter 96 to read Division of Employment Security and makes conforming changes to refer to the Division throughout the act. Removes references to the Department of Revenue. Amends GS 96-4(g) (advisory councils) to provide that the State Advisory Council is composed of the Assistant Secretary and 15 persons representing employers, employees, and the general public, appointed as specified. States that vacancies on the Council will be filled by the appointing authority, and the Assistant Secretary serves as chair. Requires the Board of Review established by the act to be appointed by November 15, 2011 (was, by October 1, 2011). Makes other clarifying changes. Makes the act effective November 1, 2011 (was, effective when it becomes law), unless otherwise indicated.

Employment and Retirement; State Government

S 532. [ESC/JOBS REFORM](#). Filed 4/7/11. Senate amendment makes the following changes to 2nd edition.

Amends GS 96-14 to delete amendments expanding the term *discharge for misconduct with the work* to also include termination or suspension after arrest or conviction for specified offenses; physical violence; inappropriate comments; theft; falsifying documents; and other specified behaviours.

Employment and Retirement; State Government

S 578. [FACILITATE TRANSFER SPH BEDS COM. FACILITY \(NEW\)](#). Filed 4/12/11. Senate committee substitute makes the following changes to 1st edition. Deletes all the provisions of the 1st edition and replaces them with *AN ACT TO FACILITATE THE TRANSFER OF BEDS FROM A STATE PSYCHIATRIC HOSPITAL TO A COMMUNITY FACILITY WITHIN CERTAIN LMES*. As the title indicates. Specifies the conditions under which the Secretary of the Department of Health and Human Services may transfer beds from a state psychiatric hospital to a community facility under the State Medical Facilities Plan Policy PSY-1 without a written memorandum of agreement between the local management entity serving the county where the beds are located and the facility that submitted the proposal. Effective when the act becomes law and expires on December 31, 2011.

Health, Social Services, and Aging;
Local Government

S 635. [LITTERING OFFENSES/INCREASE FINES](#). Filed 4/18/11. Senate committee substitute makes the following changes to 1st edition. Provides that any person who violates subsection (a1) of GS 14-399 (littering) in an amount not more than 15 pounds is guilty of an infraction punishable by a minimum fine of \$250 and a maximum fine of \$1,000 (was, set a fine not to exceed \$1,000). Permits the violator to choose to perform 12 hours of community service instead of any fine imposed that is more than \$250 on first offense.

Criminal Law, Procedure, and Sentencing

S 659. [WC/TAXI DRIVER/INDEPENDENT CONTRACTOR](#). Filed 4/19/11. Senate committee substitute makes the following changes to 1st edition. Rewrites proposed GS 97-5.1 to provide that the presumption that any person who operates, and who has an ownership or leasehold interest in a taxicab as an independent contractor, is not rebutted solely because the operator is required to comply with rules and regulations imposed on taxicabs by the local government that licenses companies, taxicabs, and operators. Makes clarifying change to the definition of *passenger motor vehicle that is operated as a taxicab* in proposed GS 97-5.1(b).

Business and Commerce;
Employment and Retirement

S 684. [POST-RELEASE SUPERVISION/SEX OFFENDERS](#). Filed 4/19/11. Senate committee substitute makes the following changes to 1st edition. Rewrites proposed GS 15A-1368.2(a) to clarify that a prisoner whose maximum sentence is established pursuant to proposed GS 1340.17(f) (was, a prisoner subject to the registration requirements under Article 27A of GS Chapter 14) is released from prison as specified. Makes conforming changes to GS 15A-1354(b)(1) and GS 15A-1368(a)(5). Adds additional language to GS 15A-1368.2(b) to provide that punishment by contempt for willful refusal to accept post-release supervision or to comply with the terms of post-release supervision does not preclude the application of any other sanction provided by law for the same conduct. Makes other clarifying changes to GS 15A-1368.2(b).

Rewrites GS 143B-266(a) to provide that the Post-Release Supervision and Parole Commission (Commission) has the authority to punish for criminal contempt for willful refusal to accept post-release supervision or to comply with the terms of post-release supervision by a prisoner whose offense is a reportable conviction subject to the registration requirement of Article 27A of GS 14. Requires any contempt proceeding conducted by the Commission to be in accordance with GS 5A-15 as if the Commission were a judicial official. Makes other clarifying changes. Effective when the act becomes law.

Criminal Law, Procedure, and Sentencing

S 745. [BEER FRANCHISE LAW CLARIFICATIONS](#). Filed 4/19/11. Changes made by Senate committee substitute will be summarized in tomorrow's *Daily Bulletin*.

Alcoholic Beverage Control

Legislation Enacted

SL 2011-102 (S 316). [ADD'L SECTION 1915 MEDICAID WAIVER SITES](#). AN ACT TO AUTHORIZE DHHS TO IMPLEMENT ADDITIONAL 1915(B)(C) MEDICAID WAIVER SITES AND TO ALLOW STATE FACILITIES TO DISCLOSE CERTAIN INFORMATION FOR PURPOSES OF COLLECTING PAYMENT AND TO DIRECT THE DISTRIBUTION OF A FUND BALANCE UPON THE DISSOLUTION OF AN AREA AUTHORITY. Summarized in *Daily Bulletin* 3/10/11, 3/24/11, and 5/19/11. Enacted June 2, 2011. Effective June 2, 2011.

Health, Social Services, and Aging

SL 2011-103 (S 608). [HEALTH CARE SHARING ORGANIZATIONS](#). AN ACT TO EXEMPT HEALTH CARE SHARING ORGANIZATIONS FROM THE HEALTH INSURANCE REGULATORY LAWS. Summarized in *Daily Bulletin* 4/14/11. Enacted June 2, 2011. Effective October 1, 2011.

Health, Social Services, and Aging

SL 2011-104 (S 512). [AUTHORIZE OVERNIGHT RESPITE PILOT](#). AN ACT TO AUTHORIZE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO PILOT AN OVERNIGHT RESPITE PROGRAM IN FACILITIES THAT OFFER ADULT DAY CARE. Summarized in *Daily Bulletin* 4/5/11 and 5/12/11. Enacted June 2, 2011. Effective June 2, 2011.

Health, Social Services, and Aging

SL 2011-105 (S 19). [UNION FIRE FEE SUNSET REPEALED](#). AN ACT TO REPEAL THE SUNSET ON FIRE PROTECTION FEES IN UNION COUNTY. Summarized in *Daily Bulletin* 2/1/11. Enacted June 2, 2011. Effective June 2, 2011.

Union

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Notes

None

NEXT SESSIONS

HOUSE convenes at 2:00 p.m., Friday, June 3, 2011.

SENATE convenes at 10:00 a.m., Saturday, June 4, 2011.