

The Daily Bulletin: 2017-02-20

PUBLIC/HOUSE BILLS

H 59 (2017-2018) [REVENUE LAWS TECHNICAL CHANGES](#). Filed Feb 8 2017, *AN ACT TO MAKE TECHNICAL CHANGES TO THE REVENUE LAWS*.

House committee substitute makes the following changes to the 1st edition.

Amends proposed changes to GS 105-164.3, concerning the definitions as used in Article 5 of GS Chapter 105 (Sales and Use Tax), to update the definition of Streamlined Agreement to mean the Streamlined Sales and Use Tax Agreement as amended as of December 16, 2016 (was, May 4, 2016).

Amends proposed changes to GS 105-41(a)(11) to refer to a funeral director, an embalmer, or a funeral service licensee (previously did not include a funeral service licensee) as those licensees required to pay the \$50 tax under the statute.

Amends GS 105-499.81 to impose an excise tax on the motor fuel rate on fuel grade ethanol or biodiesel fuel that is imported to this State by means of a transport truck, a railroad tank car, a tank wagon, or by marine vessel (was, imported to this State outside the terminal transfer system; conforms to proposed changes to GS 105-449.60). Amends GS 105-449.115(d)(3), concerning the duties of a transporter of motor fuel, to provide that the Secretary of Revenue can designate the manner by which the Secretary is notified and receives confirmation numbers for motor fuel diversions.

Intro. by Brawley, Saine, Szoka.

[GS 105](#)

[View summary](#)

[Government, Tax](#)

H 136 (2017-2018) [LOWER COMPULSORY ATTENDANCE AGE FROM 7 TO 6](#). Filed Feb 20 2017, *AN ACT TO LOWER THE AGE WHEN A CHILD IS COMPELLED TO BEGIN ATTENDING SCHOOL FROM SEVEN YEARS TO SIX YEARS*.

Amends GS 115C-378(a) as title indicates. Applies beginning with the 2017-18 school year.

Intro. by Lambeth, Dobson, Hanes, Horn.

[GS 115C](#)

[View summary](#)

[Education, Elementary and Secondary Education](#)

H 137 (2017-2018) [STUDY HRC FAIR EMP. PRACTICE AGENCY STATUS](#). Filed Feb 20 2017, *AN ACT TO STUDY THE FEASIBILITY OF THE HUMAN RELATIONS COMMISSION TO SEEK EQUAL EMPLOYMENT OPPORTUNITY COMMISSION DEFERRAL STATUS AS A FAIR EMPLOYMENT PRACTICE AGENCY*.

Directs the Joint Legislative Oversight Committee on General Government (Committee) to study the feasibility of requiring the Human Resources Commission (Commission) of the Department of Administration to seek status with the Equal Employment Opportunity Commission as a fair employment practice agency (FEPA) pursuant to section 706 of 42 USC 2000e-5 (Civil Rights Act of 1964) for charges filed by an employee of an employer that regularly employs 15 or more employees. Requires the study to include (1) budgetary requirements from the Commission's expanded duties; (2) enforcement, conciliation, and intake procedures; (3) potential impact on affected employees and employers; and (4) the potential impact on the Office of Administrative Hearings and State agencies. Directs the Committee to report its findings and any legislative proposals to the General Assembly on or before April 1, 2018.

[View summary](#)**Employment and Retirement, Government, General
Assembly, State Agencies, Department of Administration**

H 138 (2017-2018) **REVISE GANG LAWS**. Filed Feb 20 2017, *AN ACT TO STANDARDIZE CRITERIA FOR CLASSIFICATION OF CRIMINAL GANG MEMBERSHIP, CREATE A SENTENCING ENHANCEMENT FOR CERTAIN CRIMES PERPETRATED BY GANG MEMBERS, AND INCREASE THE PENALTIES FOR CERTAIN GANG-RELATED OFFENSES*.

Repeals GS 14-50.16, which makes it unlawful for any person employed by or associated with a criminal street gang to conduct or participate in a pattern of criminal street gang activity, or to acquire or maintain any interest in or control of any real or personal property through a pattern of criminal street gang activity. Makes conforming changes throughout Article 13A of GS Chapter 14 to eliminate all references to a pattern of criminal street gang activity and now refer to criminal gang activity.

Makes the following changes to Article 13A of GS Chapter 14. Renames Article 13A to North Carolina Criminal Gang Suppression Act (previously, North Carolina Street Gang Suppression Act). Makes conforming change to the Article's short title.

Enacts GS 14-50.16A to define criminal gang, criminal gang activity, criminal gang leader or organizer, and criminal gang member as the terms are used throughout Article 13A.

Makes conforming changes to GS 14-50.17 (Soliciting; encouraging participation), GS 14-50.18 (Soliciting; encouraging participation; minor), GS 14-50.19 (Threats to deter from gang withdrawal), GS 14-50.20 (Threats of punishment or retaliation), GS 14-50.22 (Enhanced offense for misdemeanor criminal gang activity), GS 14-50.23 (Contraband, seizure, and forfeiture), GS 14-50.25 (Reports of disposition; criminal gang activity), and GS 14-34.9 (Discharging a firearm from within an enclosure) by eliminating all references to criminal street gang activity, and instead referencing criminal gang activity.

Defines *criminal gang activity* in GS 14-50.16A as the commission of, or attempted commission of, or solicitation, coercion, or intimidation of another person to commit (1) any offense under Article 5 of GS Chapter 90 (North Carolina Controlled Substances Act) or (2) any offense under GS Chapter 14 (Criminal Law), with listed exceptions, and either of the following conditions are met: (a) the offense is committed with intent to benefit, promote, or further the interests of a criminal gang, or for the purposes of increasing a person's own standing or position within a criminal gang, or (b) the participants in the offense are identified as criminal gang members acting individually or collectively to further any criminal purpose of a criminal gang.

Amends GS 14-50.19 and GS 14-20, which make it a Class H felony to make threats to deter a person from assisting another in withdrawing from membership in a criminal gang, or to threaten a person as punishment or retaliation against a person from having withdrawn from a criminal gang, by now making those violations a Class F felony. Changes the title of GS 14-50.22 to Enhanced offense for misdemeanor criminal gang activity (previously, enhanced offense for criminal gang activity).

Enacts GS 15A-1340.16E to enhance the sentence for a person convicted of any felony other than a Class A, B1, or B2, who commits the offense as part of any criminal gang activity, as defined in GS 14-50.16A(2) (enacted by this act), to require the person to be sentenced at a felony class level one class higher than the principal felony for which the person was convicted. Additionally, if the person is also found to be a criminal gang leader or organizer, as defined by GS 14-50.16A(3), the person must be sentenced at a felony class level two classes higher than the principal felony for which the person was convicted. As used in this statute, *criminal gang leader or organizer* is any criminal gang member who acts in any position of management with regard to the criminal gang and meets two of five criteria, as specified. Bars sentencing at any level higher than a Class C felony under this statute. Provides that any sentence imposed under this statute must run consecutively with and commence at the expiration of any sentence being serving by the person under this statute. Sets out requirements for an indictment or information for a felony under this provision. Places the burden of proof beyond a reasonable doubt on the State during the same trial in which the defendant is tried for the felony, unless the defendant pleads guilty or no contest to the felony but pleads guilty to the issues alleged, then requires a jury to be impaneled to determine the issues. Establishes that this statute does not apply to any gang offense included under Article 13A of GS Chapter 14.

Makes the following changes to Article 13B of GS Chapter 14. Renames Article 13B to North Carolina Criminal Gang Nuisance Abatement Act (previously, North Carolina Street Gang Nuisance Abatement Act). Makes conforming changes to GS 14-50.42 (Real property used by criminal gangs declared a public nuisance; abatement), GS 14-50.43 (Criminal gangs declared a public

nuisance), GS 15A-1340.16 (Aggravated and mitigated sentences), GS 15A-1343 (Conditions of probation), and GS 15A-533 (Right to pretrial release in capital and noncapital cases) by eliminating all references to criminal street gangs and criminal street gang activity, and instead referencing criminal gangs and criminal gang activity. Additionally, makes conforming changes to replace citations to GS 14-50.16 (repealed by this act) with citations to applicable sections of GS 14-50.16A (enacted by this act).

Amends GS 14-50.43 to extend the duration of an order entered into under the statute which prohibits a defendant, when the court finds a public nuisance exists, from engaging in criminal gang activities, from one year to three years.

Current law (GS 15A-1340.16) sets out aggravating factors that make an aggravated sentence appropriate. Current law includes as an aggravating factor any offense committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, where defendant was not charged with committing a conspiracy. Additionally, *criminal street gang* is defined as any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of felony or violent misdemeanor offenses, or delinquent acts that would be felonies or violent misdemeanors if committed by an adult, and having a common name or common identifying sign, colors, or symbols. This act makes conforming changes to reference criminal gang (as stated above, to replace references to street gang), and eliminates the definition of *criminal street gang*. Instead, provides a reference to the definition of *criminal gang* provided in GS 14-50.16A(1), as enacted by this act. There, *criminal gang* is defined as any ongoing organization, association, or group of three or more persons, whether formal or informal, that (1) has as one of its primary activities the commission of criminal or delinquent acts and (2) shares a common name, identification, signs, symbols, tattoos, graffiti, attire, or other distinguishing characteristics, including common activities, customs, or behaviors. Provides that the term does not include three or more persons associated in fact, whether formal or informal, who are not engaged in criminal gang activity.

Amends GS 15A-533(e), which creates a rebuttable presumption that no condition of pretrial release will reasonably assure the appearance of a person as required and the safety of the community if a judicial official makes three specified findings. Expands the third finding a judicial official must make to create the presumption by including an option of finding that the person has been convicted of a criminal offense and received an enhanced sentence for that offense under GS 15A-1340.16E, and not more than five years has elapsed since the date of conviction or the person's release for the offense, whichever is later.

Effective December 1, 2017, and applies to offenses committed on or after that date.

Intro. by McNeill, Faircloth, Hurley, R. Turner.

GS 14, GS 15A

[View summary](#)

**[Courts/Judiciary](#), [Criminal Justice](#), [Corrections](#)
[\(Sentencing/Probation\)](#), [Criminal Law and Procedure](#)**

ACTIONS ON BILLS

PUBLIC BILLS

H 3: Eminent Domain (NEW).

Senate: Regular Message Received From House

Senate: Passed 1st Reading

Senate: Ref To Com On Rules and Operations of the Senate

H 10: EMINENT DOMAIN STATUTORY REVISIONS.

House: Serial Referral To Judiciary I Stricken

House: Withdrawn From Com

House: Re-ref Com On Rules, Calendar, and Operations of the House

H 13: CLASS SIZE REQUIREMENT CHANGES.

Senate: Regular Message Received From House
Senate: Passed 1st Reading
Senate: RefTo Com On Rules and Operations of the Senate

H 26: WORKERS' COMP/APPROVAL OF DISPUTED LEGAL FEES.

Senate: Regular Message Received From House
Senate: Passed 1st Reading
Senate: RefTo Com On Rules and Operations of the Senate

H 35: PROTECT NORTH CAROLINA WORKERS ACT.

House: Serial Referral To Judiciary III Added

H 39: AMEND APPOINTMENTS/UNC BD OF GOVERNORS.

Senate: Amend Tabled A3
Senate: Amend Tabled A2
Senate: Passed 3rd Reading
Senate: Ordered Enrolled

H 59: REVENUE LAWS TECHNICAL CHANGES.

House: Reptd Fav Com Substitute
House: Cal Pursuant Rule 36(b)
House: Placed On Cal For 02/21/2017

H 64: MUNICIPAL ELECTIONS IN EVEN-NUMBERED YEARS.

House: Serial Referral To Elections and Ethics Law Stricken
House: Withdrawn From Com
House: Re-ref to the Com on Elections and Ethics Law, if favorable, State and Local Government II

H 120: NATIONAL GUARD CAN PURCHASE FROM CE.

House: Passed 1st Reading
House: RefTo Com On State Personnel

H 122: DISCOVERY NOT DISSEMINATED TO DEFENDANT.

House: Passed 1st Reading
House: RefTo Com On Judiciary II

H 123: REGISTRATION DISCRETIONARY FOR SEXUAL BATTERY.

House: Passed 1st Reading
House: RefTo Com On Judiciary II

H 124: COURTS COMM'N/STUDY JUDICIAL DISTRICTS.

House: Passed 1st Reading
House: RefTo Com On Judiciary III

H 125: THREATENED WEAPON INC. IN FIRST-DEG RAPE.

House: Passed 1st Reading
House: RefTo Com On Judiciary II

H 126: CONDUCT AND DISCIPLINE FOR MAGISTRATES.

House: Passed 1st Reading
House: RefTo Com On Judiciary III

H 128: PROHIBIT DRONE USE OVER PRISON/JAIL.

House: Passed 1st Reading
House: Ref to the Com on Transportation, if favorable, Judiciary II

H 129: NC LEAF FUNDS.

House: Passed 1st Reading

House: RefTo Com On Appropriations

H 130: FUNDING TO STATE CRIME LAB.

House: Passed 1st Reading

House: RefTo Com On Appropriations

H 131: MOTIONS FOR APPROPRIATE RELIEF.

House: Passed 1st Reading

House: RefTo Com On Judiciary III

H 132: HIGH ACHIEVING TUITION SCHOLARSHIPS.

House: Passed 1st Reading

House: Ref to the Com on Education - K-12, if favorable, Education - Community Colleges, if favorable, Appropriations

H 133: ELECT THE STATE BOARD OF EDUCATION.

House: Passed 1st Reading

House: RefTo Com On Elections and Ethics Law

H 134: PISTOL PERMIT/MENTAL HEALTH RECORD TO SHERIFF.

House: Passed 1st Reading

House: RefTo Com On Judiciary I

H 135: TECHNICAL CHANGES TO COURSES OF STUDY STATUTE.

House: Passed 1st Reading

House: Ref to the Com on Health, if favorable, Education - K-12, if favorable, Rules, Calendar, and Operations of the House

H 136: LOWER COMPULSORY ATTENDANCE AGE FROM 7 TO 6.

House: Filed

H 137: STUDY HRC FAIR EMP. PRACTICE AGENCY STATUS.

House: Filed

H 138: REVISE GANG LAWS.

House: Filed

LOCAL BILLS

H 25: RANDOLPH COUNTY ZONING PROCEDURE CHANGES.

Senate: Regular Message Received From House

Senate: Passed 1st Reading

Senate: RefTo Com On Rules and Operations of the Senate

H 121: SCHOOL CALENDAR FLEX./CERTAIN SCHOOL SYSTEMS.

House: Passed 1st Reading

House: RefTo Com On Education - K-12

H 127: TRANSYLVANIA CO. BD. ED./ELECTION NONPARTISAN.

House: Passed 1st Reading

House: Ref to the Com on Elections and Ethics Law, if favorable, State and Local Government I

