

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1632*
Judiciary II (Criminal) Committee Substitute Adopted 7/15/08
Third Edition Engrossed 7/16/08

Short Title: 2008 Technical Corrections Act.

(Public)

Sponsors:

Referred to:

May 19, 2008

A BILL TO BE ENTITLED

1
2 AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING
3 CHANGES TO THE GENERAL STATUTES AS REQUESTED BY THE
4 GENERAL STATUTES COMMISSION, AND TO MAKE VARIOUS OTHER
5 TECHNICAL CHANGES TO THE GENERAL STATUTES AND SESSION
6 LAWS.

7 The General Assembly of North Carolina enacts:

8 **PART I. TECHNICAL CHANGES AS RECOMMENDED BY THE GENERAL**
9 **STATUTES COMMISSION.**

10 **SECTION 1.** G.S. 1-75.4(6) reads as rewritten:

11 "(6) Local Property. – In any action which arises out of:

- 12 a. A promise, made anywhere to the plaintiff or to some third
13 party for the plaintiff's benefit, by the defendant to create in
14 either party an interest in, or protect, acquire, dispose of, use,
15 rent, own, control or possess by either party real property
16 situated in this State; or
- 17 b. A claim to recover for any benefit derived by the defendant
18 through the use, ownership, control or possession by the
19 defendant of tangible property situated within this State either at
20 the time of the first use, ownership, control or possession or at
21 the time the action is commenced; or
- 22 c. A claim that the defendant return, restore, or account to the
23 plaintiff for any asset or thing of value which was within this
24 State at the time the defendant acquired possession or control
25 over it; or
- 26 d. A claim related to a loan made in this State or deemed to have
27 been made in this State under G.S. 24-2.1, regardless of the
28 situs of the lender, assignee, or other holder of the loan note and

1 regardless of whether the loan payment or fee is received
2 through a loan servicer, provided that: (i) the loan was made to
3 a borrower who is a resident of this State, (ii) the loan is
4 incurred by the borrower primarily for personal, family, or
5 household purposes, and (iii) the loan is secured by a mortgage
6 or deed of trust on real property situated in this State upon
7 which there is located or there is to be located a structure or
8 structures designed principally for occupancy of from one to
9 four families."

10 **SECTION 2.** G.S. 7A-177(b) reads as rewritten:

11 "(b) In addition to the basic training course required ~~in~~ under subsection (a) of this
12 section, continuing education courses shall be provided at such times and locations as
13 necessary to assure that they are conveniently available to all magistrates without
14 extensive travel to other parts of the State."

15 **SECTION 3.** G.S. 7A-498.8(b) reads as rewritten:

16 "(b) The appellate defender shall perform such duties as may be directed by the
17 Office of Indigent Defense Services, including:

- 18 (1) Representing indigent persons subsequent to conviction in trial courts.
19 The Office of Indigent Defense Services may, following consultation
20 with the appellate defender and consistent with the resources available
21 to the appellate defender to ensure quality criminal defense services by
22 the appellate defender's office, assign appeals, or authorize the
23 appellate defender to assign appeals, to a local public defender's office
24 or to private assigned counsel.
- 25 (2) Maintaining a clearinghouse of materials and a repository of briefs
26 prepared by the appellate defender to be made available to private
27 counsel representing indigents in criminal cases.
- 28 (3) Providing continuing legal education training to assistant appellate
29 defenders and to private counsel representing indigents in criminal
30 cases, including capital cases, as resources are available.
- 31 (4) Providing consulting services to attorneys representing defendants in
32 capital cases.
- 33 (5) Recruiting qualified members of the private bar who are willing to
34 provide representation in State and federal death penalty
35 postconviction proceedings.
- 36 (6) In the appellate defender's discretion, serving as counsel of record for
37 indigent defendants in capital cases in State court.
- 38 (6a) In the appellate defender's discretion, serving as counsel of record for
39 indigent defendants in the United States Supreme Court pursuant to a
40 petition for writ of certiorari of the decision on direct appeal by a court
41 of the North Carolina Appellate Division.
- 42 (7) Undertaking other direct representation and consultation in capital
43 cases pending in federal court only to the extent that such work is fully
44 federally funded."

1 **SECTION 4.** G.S. 7A-796(19) reads as rewritten:

2 "(19) ~~The local program director provided for in G.S. 7A-798; and~~ Any local
3 drug treatment coordinator; and".

4 **SECTION 5.** G.S. 14-208.41(b) reads as rewritten:

5 "(b) Any person described by G.S. 14-208.40(a)(2) who is ordered by the court
6 pursuant to G.S. 14-208.40A or ~~required by the Department pursuant to~~
7 G.S. 14-208.40B to enroll in a satellite-based monitoring program shall do so with the
8 Division of Community Corrections office in the county where the person resides. The
9 person shall remain enrolled in the satellite-based monitoring program for the period of
10 time ordered by the court ~~or the period of time specified by the Department.~~ court."

11 **SECTION 6.** G.S. 18B-902(h) reads as rewritten:

12 "(h) Recycling Plan Required. – Each applicant for an on-premises malt beverage
13 permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a
14 mixed beverages permit shall prepare and submit with the application a plan for the
15 collection and recycling of all recyclable beverage containers of all beverages to be sold
16 at retail on the premises."

17 **SECTION 7.** G.S. 18B-903(b2) reads as rewritten:

18 "(b2) Recycling Plan Required. – Each person holding an on-premises malt
19 beverage permit, on-premises unfortified wine permit, on-premises fortified wine
20 permit, or a mixed beverages permit shall submit, along with the annual registration or
21 renewal application, a current plan for the collection and recycling of all recyclable
22 beverage containers of all beverages sold at retail on the premises."

23 **SECTION 8.** G.S. 19A-62(c) reads as rewritten:

24 "(c) Report. – In February of each year, the Department must report to the Joint
25 Legislative Commission on Governmental Operations and the Fiscal Research Division.
26 The report must contain information regarding all revenues and expenditures of the
27 Spay/Neuter Account."

28 **SECTION 9.** G.S. 20-19(e) reads as rewritten:

29 "(e) When a person's license is revoked under (i) G.S. 20-17(a)(2) and the person
30 has two or more previous offenses involving impaired driving for which ~~he~~ the person
31 has been convicted, and the most recent offense occurred within the five years
32 immediately preceding the date of the offense for which ~~his~~ the person's license is being
33 revoked, or (ii) G.S. 20-17(a)(9) due to a violation of G.S. 20-141.4(a4), the revocation
34 is permanent. ~~The~~

35 (e1) Notwithstanding subsection (e) of this section, the Division may, however,
36 may conditionally restore the person's license of a person to whom subsection (e)
37 applies after it has been revoked for at least three years under this subsection (e) if he
38 the person provides the Division with satisfactory proof that of all of the following:

39 (1) In the three years immediately preceding the person's application for a
40 restored license, ~~he~~ the person has not been convicted in North
41 Carolina or in any other state or federal court of a motor vehicle
42 offense, an alcohol beverage control law offense, a drug law offense,
43 or any criminal offense involving the consumption of alcohol or ~~drugs;~~
44 and drugs.

1 (2) ~~He~~The person is not currently an excessive user of alcohol, drugs, or
2 prescription drugs, or unlawfully using any controlled substance.

3 (e2) Notwithstanding subsection (e) of this section, the~~The~~ Division may
4 conditionally restore the ~~person's~~license of a person to whom subsection (e) applies
5 after it has been revoked for at least 24 months under G.S. 20-17(a)(2) if the person
6 provides the Division with satisfactory proof ~~that~~of all of the following:

7 (1) ~~He~~The person has not consumed any alcohol for the 12 months
8 preceding the restoration while being monitored by a continuous
9 alcohol monitoring device of a type approved by the Department of
10 Correction.

11 (2) ~~He~~The person has not in the period of revocation been convicted in
12 North Carolina or any other state or federal jurisdiction of a motor
13 vehicle offense, an alcoholic beverage control law offense, a drug law
14 offense, or any other criminal offense involving the possession or
15 consumption of alcohol or drugs.

16 (3) ~~He~~ The person is not currently an excessive user of drugs or
17 prescription drugs.

18 (4) ~~He~~The person is not unlawfully using any controlled substance.

19 (e3) If the Division restores ~~the~~ a person's ~~license~~, license under subsection (e1) or
20 (e2) of this section, it may place reasonable conditions or restrictions on the person for
21 any period up to five years from the date of restoration."

22 **SECTION 10.** G.S. 20-38.7(d) reads as rewritten:

23 "(d) Following a new sentencing hearing in district court pursuant to subsection
24 (c) of this section, a defendant has a right of appeal to the superior court only if:

25 (1) The sentence is based upon additional facts considered by the district
26 court that were not considered in the previously vacated ~~judgment,~~
27 sentence, and

28 (2) The defendant would be entitled to a jury determination of those facts
29 pursuant to G.S. 20-179.

30 A defendant who has a right of appeal under this subsection, gives notice of appeal, and
31 subsequently withdraws the appeal shall have the sentence imposed by the district court
32 reinstated by the district court as a final judgment that is not subject to further appeal."

33 **SECTION 11.** G.S. 20-171.21 reads as rewritten:

34 "**§ 20-171.21. Penalties.**

35 Any person violating any of the provisions of this Part shall be responsible for an
36 infraction and may be subject to a ~~fine~~penalty of not more than two hundred dollars
37 (\$200.00)."

38 **SECTION 12.** G.S. 58-24-185(a) reads as rewritten:

39 "(a) Nothing contained in this Article shall be so construed as to affect or apply to:

40 (1) Grand or subordinate lodges of societies, orders or associations now
41 doing business in this State which provide benefits exclusively through
42 local or subordinate lodges;

43 (2) Orders, societies or associations which admit to membership only
44 persons engaged in one or more crafts or hazardous occupations, in the

1 same or similar lines of business, insuring only their own members and
 2 their families, and the ladies' societies or ladies' auxiliaries to such
 3 orders, societies or associations;

4 (3) Domestic societies which limit their membership to employees of a
 5 particular city or town, designated firm, business house or corporation
 6 which provide for a death benefit of not more than five hundred dollars
 7 (\$500.00) or disability benefits of not more than three hundred fifty
 8 dollars (\$350.00) to any person in any one year, or both;

9 (4) Domestic societies or associations of a purely religious, charitable or
 10 benevolent description, which provide for a death benefit of not more
 11 than five hundred dollars (\$500.00) or for disability benefits of not
 12 more than three hundred fifty dollars (\$350.00) to any one person in
 13 any one year, or both; or

14 (5) An association of local lodges of a society now doing business in this
 15 State which provides death benefits not exceeding five hundred dollars
 16 (\$500.00) to any one person, provided, that the Commissioner may
 17 authorize the payment of death benefits not exceeding three thousand
 18 dollars (\$3,000) to any one person, or may authorize disability benefits
 19 not exceeding three hundred dollars (\$300.00), or may authorize both
 20 payments, in any one year to any one ~~person~~ person; or

21"

22 **SECTION 13.** G.S. 58-84-35(6) reads as rewritten:

23 "(6) To provide for educational benefits to firemen and their dependents
 24 who otherwise qualify for benefits from the ~~Firemen's Relief Fund~~
 25 Firefighters' Relief Fund as set forth in Article 85 of this Chapter."

26 **SECTION 14.** G.S. 90-18.5(b) reads as rewritten:

27 "(b) Anesthesiologist assistants are authorized to provide anesthesia services
 28 under the supervision of an anesthesiologist licensed under Article 1 of this Chapter
 29 under the following conditions:

30 (1) The North Carolina Medical Board has adopted rules governing the
 31 provision of anesthesia services by an anesthesiologist assistant
 32 consistent with the requirements of subsection (c) of this section.

33 (2) The anesthesiologist assistant holds a current license issued by the
 34 Board or is a student anesthesiologist assistant participating in a
 35 training program leading to certification by the National Commission
 36 for Certification of Anesthesiologist Assistants and licensure as an
 37 anesthesiologist assistant under ~~G.S. 90-11(a1)~~ G.S. 90-9.4."

38 **SECTION 15.** G.S. 105-163.9 reads as rewritten:

39 **"§ 105-163.9. (Effective January 1, 2008) Refund of overpayment to withholding**
 40 **agent.**

41 A withholding agent who pays the Secretary more under this Article than the Article
 42 requires the agent to pay may obtain a refund of the overpayment by filing a request for
 43 a refund with the Secretary. No refund is allowed, however, if the withholding agent
 44 withheld the amount of the overpayment from the wages or compensation of the agent's

1 employees or contractors. A withholding agent must file a request for a refund within
2 the time period set in ~~G.S.~~G.S. 105-241.6. Interest accrues on a refund as provided in
3 G.S. 105-241.21."

4 **SECTION 16.** G.S. 105-249.2(b) reads as rewritten:

5 "(b) Disaster. – The penalties in ~~G.S. 105-236(2), (3), and (4)~~ G.S. 105-236(a)(2),
6 (3), and (4) may not be assessed for any period in which the time for filing a federal
7 return or report or for paying a federal tax is extended under section 7508A of the Code
8 because of a presidentially declared disaster. For the purpose of this section,
9 "presidentially declared disaster" has the same meaning as in section 1033(h)(3) of the
10 Code."

11 **SECTION 17.** G.S. 108A-25.2 reads as rewritten:

12 **"§ 108A-25.2. Exemption from limitations for individuals convicted of certain**
13 **drug-related felonies.**

14 Individuals convicted of Class H or I controlled substance felony offenses in this
15 State shall be eligible to participate in the Work First Program and ~~and~~ the food and
16 nutrition services program:

- 17 (1) Six months after release from custody if no additional controlled
18 substance felony offense is committed during that period and
19 successful completion of or continuous active participation in a
20 required substance abuse treatment program determined appropriate by
21 the area mental health authority; or
22 (2) If not committed to custody, six months after the date of conviction if
23 no additional controlled substance felony offense is committed during
24 that period and successful completion of or continuous active
25 participation in a required substance abuse treatment program
26 determined appropriate by the area mental health authority.

27 A county department of social services shall require individuals who are eligible for
28 Work First Program assistance and electronic food and nutrition benefits pursuant to
29 this section to undergo substance abuse treatment as a condition for receiving Work
30 First Program or electronic food and nutrition benefits, if funds and programs are
31 available and to the extent allowed by federal law."

32 **SECTION 18.** G.S. 108A-53(a) reads as rewritten:

33 "(a) Any person, whether provider or recipient or person representing himself as
34 such, who knowingly obtains or attempts to obtain, or aids or abets any person to obtain
35 by means of making a willfully false statement or representation or by impersonation or
36 by failing to disclose material facts or in any manner not authorized by this Part or the
37 regulations issued pursuant thereto, transfers with intent to defraud any electronic food
38 and nutrition benefit to which that person is not entitled in the amount of four hundred
39 dollars (\$400.00) or less shall be guilty of a Class 1 misdemeanor. Whoever knowingly
40 obtains or attempts to obtain, or aids or abets any person to obtain by means of making a
41 willfully false statement or representation or by impersonation or by failing to disclose
42 material facts or in any manner not authorized by this Part or the regulations issued
43 pursuant thereto, transfers with intent to defraud any electronic food and nutrition

1 benefit to which he is not entitled in an amount more than four hundred dollars
2 (\$400.00) shall be guilty of a Class I felony."

3 **SECTION 19.** G.S. 115C-366(a3)(1) reads as rewritten:

4 "(a3) A student who is not a domiciliary of a local school administrative unit may
5 attend, without the payment of tuition, the public schools of that unit if all of the
6 following apply:

7 (1) The student resides with an adult, who is a domiciliary of that unit, as
8 a result of any one of the following:

- 9 a. The death, serious illness, or incarceration of a parent or legal
10 guardian,
11 b. The abandonment by a parent or legal guardian of the complete
12 control of the student as evidenced by the failure to provide
13 substantial financial support and parental guidance,
14 c. Abuse or neglect by the parent or legal guardian,
15 d. The physical or mental condition of the parent or legal guardian
16 is such that he or she cannot provide adequate care and
17 supervision of the student,
18 e. The relinquishment of physical custody and control of the
19 student by the student's parent or legal guardian upon the
20 recommendation of the department of social services or the
21 Division of Mental Health, ~~or~~
22 f. The loss or uninhabitability of the student's home as the result
23 of a natural disaster, or
24 g. The parent or legal guardian is on active military duty and is
25 deployed out of the local school administrative unit in which
26 the student resides. For purposes of this sub-subdivision, the
27 term "active duty" does not include periods of active duty for
28 training for less than 30 days. Assignment under this
29 sub-subdivision is only available if some evidence of the
30 deployment is tendered with the affidavits required under
31 subdivision (3) of this subsection."

32 **SECTION 20.** G.S. 120-103.1(i)(3)b. reads as rewritten:

- 33 "b. The hearing shall be ~~legislator~~ open to the public, except for
34 matters that could otherwise be considered in closed session
35 under G.S. 143-318.11, matters involving minors, or matters
36 involving a personnel record. In any event, the deliberations by
37 the Commission on a complaint may be held in closed session."

38 **SECTION 21.** G.S. 138A-12(f) reads as rewritten:

39 "(f) Dismissal of Complaint After Preliminary Inquiry. – If the Commission
40 determines at the end of its preliminary inquiry that (i) the individual who is the subject
41 of the complaint is not a covered person or legislative employee subject to the
42 Commission's jurisdiction and authority under this Chapter, or (ii) the complaint does
43 not allege facts sufficient to constitute a violation within the jurisdiction of the

1 Commission under subsection (b) ~~if~~of this section, the Commission shall dismiss the
2 complaint."

3 **SECTION 22.** G.S. 143-652.2(g) reads as rewritten:

4 "(g) Initial appointments to the Commission under this ~~reenacted~~-section shall be
5 for terms commencing July 1, 2007."

6 **SECTION 23.** G.S. 143-722(b) reads as rewritten:

7 "(b) Any non-State entity as that term is defined in G.S. 143C-1-1 that receives,
8 uses, or expends any funds from the Commission is subject to the applicable reporting
9 requirements of ~~G.S. 143-6-14~~.G.S. 143C-6-14."

10 **SECTION 24.** G.S. 143A-44.1 reads as rewritten:

11 "**§ 143A-44.1. Creation.**

12 There is hereby created a Department of Public Instruction. The head of the
13 Department of Public Instruction is the State Board of Education. Any provision of
14 G.S. 143A-9 to the contrary notwithstanding, the appointment of the State Board of
15 Education shall be as prescribed in ~~Article IV, Section 4(1)~~ Article IX, Section (4)(1)
16 of the Constitution."

17 **SECTION 25.** G.S. 143B-139.5B reads as rewritten:

18 "**§ 143B-139.5B. Department of Health and Human Services – provision for joint
19 training.**

20 The Department of Health and Human Services shall offer joint training of Division
21 of Health Service Regulation consultants, county DSS adult home specialists, and adult
22 care home providers. The training shall be offered no fewer than two times per year, and
23 subject matter of the training should be based on one or more of the 10 deficiencies
24 cited most frequently in the State during the immediately preceding calendar year. The
25 joint training shall be designed to reduce inconsistencies experienced by providers in the
26 survey process, to increase objectivity by ~~DFS-DHSR~~ consultants and DSS specialists in
27 conducting surveys, and to promote a higher degree of understanding between facility
28 staff and ~~DFS-DHSR~~ consultants and DSS specialists in what is expected during the
29 survey process."

30 **SECTION 26.(a)** G.S. 143B-437.11 is recodified as G.S. 143B-437.012.

31 **SECTION 26.(b)** G.S. 150B-1(d) reads as rewritten:

32 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to
33 the following:

34 ...

35 (18) The Department of Commerce and the Economic Investment
36 Committee in developing criteria and administering the Job
37 Maintenance and Capital Development Fund under
38 ~~G.S. 143B-437.11~~.G.S. 143B-437.012."

39 **SECTION 27.** G.S. 143D-8 reads as rewritten:

40 "**§ 143D-8. ~~Internet~~Internal control documentation.**

41 Each State agency shall maintain documentation, as prescribed by the State
42 Controller, of the system of internal control within that agency. All internal control
43 documentation shall be available upon request for examination by the State Controller
44 and the State Auditor."

1 **SECTION 28.** G.S. 147-86.30(c) reads as rewritten:

2 "(c) Priority Use of Funds. – As soon as practicable after the beginning of each
3 fiscal year, the State Treasurer must certify in writing to the chair of the Commission
4 the estimated amount of debt service anticipated to be paid during the fiscal year for
5 special indebtedness authorized by the State Capital Facilities Act of 2004, Part 1 of
6 S.L. 2004-124. The chair of the Commission must issue a warrant from the Fund to the
7 General Fund for the lesser of (i) one-half of the amount certified by the Treasurer and
8 (ii) the applicable percentage of the Fund's receipts for the current fiscal year. For fiscal
9 years beginning before July 1, 2007, the applicable percentage is thirty percent (30%).
10 For fiscal years beginning on or after July 1, 2007, the applicable percentage is
11 sixty-five percent (65%).

12 ~~G.S. 143C-9-3"~~

13 **SECTION 29.** G.S. 163-278.27(a1) reads as rewritten:

14 "(a1) A violation of ~~G.S. 278.32~~ G.S. 163-278.32 by making a certification
15 knowing the information to be untrue is a Class I felony."

16 **SECTION 30.** The introductory language of Section 3 of S.L. 2007-177
17 reads as rewritten:

18 "~~SECTION 3. G.S. 122C-430.30~~ G.S. 122C-430 reads as rewritten:"

19 **SECTION 31.** The introductory language of Section 2 of S.L. 2007-318
20 reads as rewritten:

21 "~~SECTION 2. G.S. 105-153A-155(g)~~ G.S. 153A-155(g) reads as rewritten:"

22 **SECTION 32.** Section 44 of S.L. 2007-348 reads as rewritten:

23 "**SECTION 44.** Sections 17, 23, 39, 40 and 41 of this act are effective January 1,
24 2007. Section 9 of this act is effective July 1, 2007. Sections 8, 11, 15, 20, 22, 25, 34
25 and 42 of this act become effective October 1, 2007. Section 18 of this act becomes
26 effective December 1, 2007. Section 34 of this act becomes effective January 1, 2008.
27 The remainder of this act is effective when this act becomes law."

28 **SECTION 33.(a)** Section 1(c) of S.L. 2007-391 reads as rewritten:

29 "**SECTION 1.(c)** This ~~act~~ section becomes effective December 1, 2007, and
30 applies to offenses committed on or after that date."

31 **SECTION 33.(b)** Section 6(f) of S.L. 2007-391 reads as rewritten:

32 "**SECTION 6.(f)** ~~Subsections 7(b) through 7(e) of~~ Subsections 6(b) through 6(e) of
33 this section become effective January 1, 2008. The remainder of this section is effective
34 when this act becomes law."

35 **PART II. OTHER CHANGES**

36 **SECTION 34.(a)** G.S. 14-71(b) reads as rewritten:

37 "(b) If a person knowingly receives or possesses property in the custody of a law
38 enforcement agency that was explicitly represented to the person by an agent of the law
39 enforcement agency or a person authorized to act on behalf of a law enforcement
40 agency as stolen, the person is guilty of a Class H felony and may be indicted, tried, and
41 punished in any county in which the person received or possessed the property."

42 **SECTION 34.(b)** G.S. 14-72.11 reads as rewritten:

43 "**§ 14-72.11. Larceny from a merchant.**

1 A person is guilty of a Class H felony if the person commits larceny against a
2 merchant under any of the following circumstances:

- 3 (1) If the property taken has a value of more than two hundred dollars
4 (\$200.00), by using an exit door erected and maintained to comply
5 with the requirements of ~~29 C.F.R. § 1910 Subpart E, 29 C.F.R. §~~
6 1910.36 and 29 C.F.R. § 1910.37 upon which door has been placed a
7 notice, sign, or poster providing information about the felony offense
8 and punishment provided under this subsection, to exit the premises of
9 a store.
- 10 (2) By removing, destroying, or deactivating a component of an
11 antishoplifting or inventory control device to prevent the activation of
12 any antishoplifting or inventory control device.
- 13 (3) By affixing a product code created for the purpose of fraudulently
14 obtaining goods or merchandise from a merchant at less than its actual
15 sale price.
- 16 (4) When the property is infant formula valued in excess of one hundred
17 dollars (\$100.00). As used in this subsection, the term "infant
18 formula," has the same meaning as found in 21 U.S.C. § 321(z)."

19 **SECTION 34.(c)** G.S. 14-86.6 reads as rewritten:

20 **"§ 14-86.6. Organized retail theft.**

21 (a) A person is guilty of a Class H felony if the person:

- 22 (1) Conspires with another person to commit theft of retail property from a
23 retail ~~establishment, establishments,~~ with a value exceeding one
24 thousand five hundred dollars (\$1,500) aggregated over a 90-day
25 period, with the intent to sell that retail property for monetary or other
26 gain, and who takes or causes that retail property to be placed in the
27 control of a retail property fence or other person in exchange for
28 consideration.
- 29 (2) Receives or possesses any retail property that has been taken or stolen
30 in violation of subdivision (1) of this subsection while knowing or
31 having reasonable grounds to believe the property is stolen.

32 (b) Any interest a person has acquired or maintained in violation of this section
33 shall be subject to forfeiture pursuant to the procedures for forfeiture set out in
34 G.S. 18B-504."

35 **SECTION 35.** G.S. 15A-145(a) reads as rewritten:

36 **"§ 15A-145. Expunction of records for first offenders under the age of 18 at the**
37 **time of conviction of misdemeanor; expunction of certain other**
38 **misdemeanors.**

39 (a) Whenever any person who has (i) not yet attained the age of 18 years and has
40 not previously been convicted of any felony, or misdemeanor other than a traffic
41 violation, under the laws of the United States, the laws of this State or any other state,
42 pleads guilty to or is guilty of a misdemeanor other than a traffic violation, or (ii) not yet
43 attained the age of 21 years and has not previously been convicted of any felony, or
44 misdemeanor other than a traffic violation, under the laws of the United States, the laws

1 of this State or any other state, pleads guilty to or is guilty of a misdemeanor possession
2 of alcohol pursuant to G.S. 18B-302(b)(1), he may file a petition in the court where he
3 was convicted for expunction of the misdemeanor from his criminal record. The petition
4 cannot be filed earlier ~~than~~ than: (i) two years after the date of the ~~conviction~~
5 conviction, or (ii) the completion of any period of probation, whichever occurs later,
6 and the petition shall contain, but not be limited to, the following:

- 7 (1) An affidavit by the petitioner that he has been of good behavior for the
8 two-year period since the date of conviction of the misdemeanor in
9 question and has not been convicted of any felony, or misdemeanor
10 other than a traffic violation, under the laws of the United States or the
11 laws of this State or any other state.
- 12 (2) Verified affidavits of two persons who are not related to the petitioner
13 or to each other by blood or marriage, that they know the character and
14 reputation of the petitioner in the community in which he lives and that
15 his character and reputation are good.
- 16 (3) A statement that the petition is a motion in the cause in the case
17 wherein the petitioner was convicted.
- 18 (4) Affidavits of the clerk of superior court, chief of police, where
19 appropriate, and sheriff of the county in which the petitioner was
20 convicted and, if different, the county of which the petitioner is a
21 resident, showing that the petitioner has not been convicted of a felony
22 or misdemeanor other than a traffic violation under the laws of this
23 State at any time prior to the conviction for the misdemeanor in
24 question or during the two-year period following that conviction.
- 25 (5) An affidavit by the petitioner that no restitution orders or civil
26 judgments representing amounts ordered for restitution entered against
27 him are outstanding.

28 The petition shall be served upon the district attorney of the court wherein the case
29 was tried resulting in conviction. The district attorney shall have 10 days thereafter in
30 which to file any objection thereto and shall be duly notified as to the date of the
31 hearing of the petition.

32 The judge to whom the petition is presented is authorized to call upon a probation
33 officer for any additional investigation or verification of the petitioner's conduct during
34 the two-year period that he deems desirable."

35 **SECTION 35.5.** G.S. 18B-1006.1 reads as rewritten:

36 "**§ 18B-1006.1. Additional requirement for certain permittees to recycle beverage**
37 **containers.**

38 Holders of on-premises malt beverage permits, on-premises unfortified wine
39 permits, on-premises fortified wine permits, and mixed beverages permits shall
40 separate, store, and provide for the collection for recycling of all recyclable beverage
41 containers of all beverages sold at retail on the premises. A permittee has satisfied the
42 requirements of this section if it implements a recycling program that meets the
43 minimum standards of the model recycling program developed by the Commission
44 pursuant to G.S. 130A-309.14(m). Failure to comply with the requirements of this

1 section shall not be grounds for revocation of a permit. A conviction for violation of this
2 section shall not constitute an alcoholic beverage offense within the meaning of G.S.
3 18B-900(a)(4)."

4 **SECTION 36.(a)** G.S. 20-138.2A(b2) reads as rewritten:

5 "(b2) Alcohol Screening Test. – Notwithstanding any other provision of law, an
6 alcohol screening test may be administered to a driver suspected of violation of
7 subsection (a) of this section, and the results of an alcohol screening test or the driver's
8 refusal to submit may be used by a law enforcement officer, a court, or an
9 administrative agency in determining if alcohol was present in the driver's body. No
10 alcohol screening tests are valid under this section unless the device used is one
11 approved by the ~~Commission for Public Health,~~ Department of Health and Human
12 Services, and the screening test is conducted in accordance with the applicable
13 regulations of the ~~Commission-Department~~ as to its manner and use."

14 **SECTION 36.(b)** G.S. 20-138.2B(b2) reads as rewritten:

15 "(b2) Alcohol Screening Test. – Notwithstanding any other provision of law, an
16 alcohol screening test may be administered to a driver suspected of violation of
17 subsection (a) of this section, and the results of an alcohol screening test or the driver's
18 refusal to submit may be used by a law enforcement officer, a court, or an
19 administrative agency in determining if alcohol was present in the driver's body. No
20 alcohol screening tests are valid under this section unless the device used is one
21 approved by the ~~Commission for Public Health,~~ Department of Health and Human
22 Services, and the screening test is conducted in accordance with the applicable
23 regulations of the ~~Commission-Department~~ as to its manner and use."

24 **SECTION 36.(c)** G.S. 20-179.3(j) reads as rewritten:

25 "(j) Effect of Violation of Restriction. – A holder of a limited driving privilege
26 who violates any of its restrictions commits the offense of driving while his license is
27 revoked under G.S. 20-28(a) and is subject to punishment and license revocation as
28 provided in that section. If a law-enforcement officer has reasonable grounds to believe
29 that the holder of a limited driving privilege has consumed alcohol while driving or has
30 driven while he has remaining in his body any alcohol previously consumed, the
31 suspected offense of driving while license is revoked is an alcohol-related offense
32 subject to the implied-consent provisions of G.S. 20-16.2. If a holder of a limited
33 driving privilege is charged with driving while license revoked by violating a restriction
34 contained in his limited driving privilege, and a judicial official determines that there is
35 probable cause for the charge, the limited driving privilege is suspended pending the
36 resolution of the case, and the judicial official must require the holder to surrender the
37 limited driving privilege. The judicial official must also notify the holder that he is not
38 entitled to drive until his case is resolved.

39 Notwithstanding any other provision of law, an alcohol screening test may be
40 administered to a driver suspected of violating this section, and the results of an alcohol
41 screening test or the driver's refusal to submit may be used by a law enforcement
42 officer, a court, or an administrative agency in determining if alcohol was present in the
43 driver's body. No alcohol screening tests are valid under this section unless the device
44 used is one approved by the ~~Commission for Public Health,~~ Department of Health and

1 Human Services, and the screening test is conducted in accordance with the applicable
2 regulations of the ~~Commission~~ Department as to the manner of its use."

3 **SECTION 37.(a)** G.S. 32A-25.1 reads as rewritten:

4 "**§ 32A-25.1. Statutory form health care power of attorney.**

5 (a) The use of the following form in the creation of a health care power of
6 attorney is lawful and, when used, it shall meet the requirements of and be construed in
7 accordance with the provisions of this Article:

8
9 **HEALTH CARE POWER OF ATTORNEY**

10
11 **NOTE: YOU SHOULD USE THIS DOCUMENT TO NAME A PERSON AS**
12 **YOUR HEALTH CARE AGENT IF YOU ARE COMFORTABLE GIVING**
13 **THAT PERSON BROAD AND SWEEPING POWERS TO MAKE HEALTH**
14 **CARE DECISIONS FOR YOU. THERE IS NO LEGAL REQUIREMENT THAT**
15 **ANYONE EXECUTE A HEALTH CARE POWER OF ATTORNEY.**

16
17 ***EXPLANATION:** You have the right to name someone to make health care decisions*
18 *for you when you cannot make or communicate those decisions. This form may be used*
19 *to create a health care power of attorney, and meets the requirements of North Carolina*
20 *law. However, you are not required to use this form, and North Carolina law allows the*
21 *use of other forms that meet certain requirements. If you prepare your own health care*
22 *power of attorney, you should be very careful to make sure it is consistent with North*
23 *Carolina law.*

24
25 *This document gives the person you designate as your health care agent **broad powers***
26 *to make health care decisions for you when you cannot make the decision yourself or*
27 *cannot communicate your decision to other people. You should discuss your wishes*
28 *concerning life-prolonging measures, mental health treatment, and other health care*
29 *decisions with your health care agent. Except to the extent that you express specific*
30 *limitations or restrictions in this form, your health care agent may make any health care*
31 *decision you could make yourself.*

32
33 *This form does not impose a duty on your health care agent to exercise granted powers,*
34 *but when a power is exercised, your health care agent will be obligated to use due care*
35 *to act in your best interests and in accordance with this document.*

36
37 *This Health Care Power of Attorney form is intended to be valid in any jurisdiction in*
38 *which it is presented, but places outside North Carolina may impose requirements that*
39 *this form does not meet.*

40
41 *If you want to use this form, you must complete it, sign it, and have your signature*
42 *witnessed by two qualified witnesses and proved by a notary public. Follow the*
43 *instructions about which choices you can initial very carefully. **Do not sign this form***
44 ***until** two witnesses and a notary public are present to watch you sign it. You then*

1 should give a copy to your health care agent and to any alternates you name. You
2 should consider filing it with the Advance Health Care Directive Registry maintained by
3 the North Carolina Secretary of State: <http://www.nclifelinks.org/ahcdr/>

4
5 **1. Designation of Health Care Agent.**

6
7 I, _____, being of sound mind, hereby appoint the following person(s)
8 to serve as my health care agent(s) to act for me and in my name (in any way I could act
9 in person) to make health care decisions for me as authorized in this document. My
10 designated health care agent(s) shall serve alone, in the order named.

11
12 A. Name: _____ Home Telephone: _____
13 Home Address: _____ Work Telephone: _____
14 _____ Cellular Telephone: _____

15
16 B. Name: _____ Home Telephone: _____
17 Home Address: _____ Work Telephone: _____
18 _____ Cellular Telephone: _____

19
20 C. Name: _____ Home Telephone: _____
21 Home Address: _____ Work Telephone: _____
22 _____ Cellular Telephone: _____

23
24 Any successor health care agent designated shall be vested with the same power and
25 duties as if originally named as my health care agent, and shall serve any time his or her
26 predecessor is not reasonably available or is unwilling or unable to serve in that
27 capacity.

28
29 **2. Effectiveness of Appointment.**

30
31 My designation of a health care agent expires only when I revoke it. Absent revocation,
32 the authority granted in this document shall become effective when and if one of the
33 physician(s) listed below determines that I lack capacity to make or communicate
34 decisions relating to my health care, and will continue in effect during that incapacity,
35 or until my death, except if I authorize my health care agent to exercise my rights with
36 respect to anatomical gifts, autopsy, or disposition of my remains, this authority will
37 continue after my death to the extent necessary to exercise that authority.

38
39 1. _____ (Physician)

40
41 2. _____ (Physician)

1 If I have not designated a physician, or no physician(s) named above is reasonably
2 available, the determination that I lack capacity to make or communicate decisions
3 relating to my health care shall be made by my attending physician.

4
5 **3. Revocation.**

6
7 Any time while I am competent, I may revoke this power of attorney in a writing I sign
8 or by communicating my intent to revoke, in any clear and consistent manner, to my
9 health care agent or my health care provider.

10
11 **4. General Statement of Authority Granted.**

12
13 Subject to any restrictions set forth in Section 65 below, I grant to my health care agent
14 full power and authority to make and carry out all health care decisions for me. These
15 decisions include, but are not limited to:

- 16
17 A. Requesting, reviewing, and receiving any information, verbal or
18 written, regarding my physical or mental health, including, but not
19 limited to, medical and hospital records, and to consent to the
20 disclosure of this information.
21
22 B. Employing or discharging my health care providers.
23
24 C. Consenting to and authorizing my admission to and discharge from a
25 hospital, nursing or convalescent home, hospice, long-term care
26 facility, or other health care facility.
27
28 D. Consenting to and authorizing my admission to and retention in a
29 facility for the care or treatment of mental illness.
30
31 E. Consenting to and authorizing the administration of medications for
32 mental health treatment and electroconvulsive treatment (ECT)
33 commonly referred to as "shock treatment."
34
35 F. Giving consent for, withdrawing consent for, or withholding consent
36 for, X-ray, anesthesia, medication, surgery, and all other diagnostic
37 and treatment procedures ordered by or under the authorization of a
38 licensed physician, dentist, podiatrist, or other health care provider.
39 This authorization specifically includes the power to consent to
40 measures for relief of pain.
41
42 G. Authorizing the withholding or withdrawal of life-prolonging
43 measures.
44

1 H. Providing my medical information at the request of any individual
2 acting as my attorney-in-fact under a durable power of attorney or as a
3 Trustee or successor Trustee under any Trust Agreement of which I am
4 a Grantor or Trustee, or at the request of any other individual whom
5 my health care agent believes should have such information. I desire
6 that such information be provided whenever it would expedite the
7 prompt and proper handling of my affairs or the affairs of any person
8 or entity for which I have some responsibility. In addition, I authorize
9 my health care agent to take any and all legal steps necessary to ensure
10 compliance with my instructions providing access to my protected
11 health information. Such steps shall include resorting to any and all
12 legal procedures in and out of courts as may be necessary to enforce
13 my rights under the law and shall include attempting to recover
14 attorneys' fees against anyone who does not comply with this health
15 care power of attorney.

16
17 I. To the extent I have not already made valid and enforceable
18 arrangements during my lifetime that have not been revoked,
19 exercising any right I may have to authorize an autopsy or direct the
20 disposition of my remains.

21
22 J. Taking any lawful actions that may be necessary to carry out these
23 decisions, including, but not limited to: (i) signing, executing,
24 delivering, and acknowledging any agreement, release, authorization,
25 or other document that may be necessary, desirable, convenient, or
26 proper in order to exercise and carry out any of these powers; (ii)
27 granting releases of liability to medical providers or others; and (iii)
28 incurring reasonable costs on my behalf related to exercising these
29 powers, provided that this health care power of attorney shall not give
30 my health care agent general authority over my property or financial
31 affairs.

32
33 **5. Special Provisions and Limitations.**

34
35 (Notice: The authority granted in this document is intended to be as broad as possible
36 so that your health care agent will have authority to make any decisions you could make
37 to obtain or terminate any type of health care treatment or service. If you wish to limit
38 the scope of your health care agent's powers, you may do so in this section. If none of
39 the following are initialed, there will be no special limitations on your agent's authority.)

40
41 A. Limitations about Artificial Nutrition or Hydration: In
42 exercising the authority to make health care decisions on my
43 behalf, my health care agent:

1 _____ shall NOT have the authority to withhold artificial nutrition
2 (Initial) (such as through tubes) OR may exercise that authority only
3 in accordance with the following special provisions:
4 _____
5 _____

6
7 _____ shall NOT have the authority to withhold artificial hydration
8 (Initial) (such as through tubes) OR may exercise that authority only
9 in accordance with the following special provisions:
10 _____
11 _____

12 **NOTE: If you initial either block but do not insert any**
13 **special provisions, your health care agent shall have NO**
14 **AUTHORITY to withhold artificial nutrition or**
15 **hydration.**
16 _____

17 _____ B. Limitations Concerning Health Care Decisions. In exercising
18 (Initial) the authority to make health care decisions on my behalf, the
19 authority of my health care agent is subject to the following
20 special provisions: (Here you may include any specific
21 provisions you deem appropriate such as: your own definition
22 of when life-prolonging measures should be withheld or
23 discontinued, or instructions to refuse any specific types of
24 treatment that are inconsistent with your religious beliefs, or
25 are unacceptable to you for any other reason.)
26 _____
27 _____

28 **NOTE: DO NOT initial unless you insert a limitation.**
29 _____

30 _____ C. Limitations Concerning Mental Health Decisions. In
31 (Initial) exercising the authority to make mental health decisions on
32 my behalf, the authority of my health care agent is subject to
33 the following special provisions: (Here you may include any
34 specific provisions you deem appropriate such as: limiting
35 the grant of authority to make only mental health treatment
36 decisions, your own instructions regarding the administration
37 or withholding of psychotropic medications and
38 electroconvulsive treatment (ECT), instructions regarding
39 your admission to and retention in a health care facility for
40 mental health treatment, or instructions to refuse any specific
41 types of treatment that are unacceptable to you.)
42 _____
43 _____

44 **NOTE: DO NOT initial unless you insert a limitation.**

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(Initial)

D. Advance Instruction for Mental Health Treatment. (Notice: This health care power of attorney may incorporate or be combined with an advance instruction for mental health treatment, executed in accordance with Part 2 of Article 3 of Chapter 122C of the General Statutes, which you may use to state your instructions regarding mental health treatment in the event you lack capacity to make or communicate mental health treatment decisions. Because your health care agent's decisions must be consistent with any statements you have expressed in an advance instruction, you should indicate here whether you have executed an advance instruction for mental health treatment):

NOTE: DO NOT initial unless you insert a limitation.

(Initial)

E. Autopsy and Disposition of Remains. In exercising the authority to make decisions regarding autopsy and disposition of remains on my behalf, the authority of my health care agent is subject to the following special provisions and limitations. (Here you may include any specific limitations you deem appropriate such as: limiting the grant of authority and the scope of authority, or instructions regarding burial or cremation):

NOTE: DO NOT initial unless you insert a limitation.

6. Organ Donation.

To the extent I have not already made valid and enforceable arrangements during my lifetime that have not been revoked, my health care agent may exercise any right I may have to:

(Initial)

donate any needed organs or parts; or

(Initial)

donate only the following organs or parts:

NOTE: DO NOT INITIAL BOTH BLOCKS ABOVE.

(Initial)

donate my body for anatomical study if needed.

1 _____ In exercising the authority to make donations, my health care
 2 *(Initial)* agent is subject to the following special provisions and
 3 limitations: (Here you may include any specific limitations
 4 you deem appropriate such as: limiting the grant of authority
 5 and the scope of authority, or instructions regarding gifts of
 6 the body or body parts.)
 7 _____
 8 _____
 9 _____

NOTE: DO NOT initial unless you insert a limitation.

NOTE: NO AUTHORITY FOR ORGAN DONATION IS GRANTED IN THIS INSTRUMENT WITHOUT YOUR INITIALS.

7. Guardianship Provision.

If it becomes necessary for a court to appoint a guardian of my person, I nominate the persons designated in Section 1, in the order named, to be the guardian of my person, to serve without bond or security. The guardian shall act consistently with G.S. 35A-1201(a)(5).

8. Reliance of Third Parties on Health Care Agent.

- A. No person who relies in good faith upon the authority of or any representations by my health care agent shall be liable to me, my estate, my heirs, successors, assigns, or personal representatives, for actions or omissions in reliance on that authority or those representations.
- B. The powers conferred on my health care agent by this document may be exercised by my health care agent alone, and my health care agent's signature or action taken under the authority granted in this document may be accepted by persons as fully authorized by me and with the same force and effect as if I were personally present, competent, and acting on my own behalf. All acts performed in good faith by my health care agent pursuant to this power of attorney are done with my consent and shall have the same validity and effect as if I were present and exercised the powers myself, and shall inure to the benefit of and bind me, my estate, my heirs, successors, assigns, and personal representatives. The authority of my health care agent pursuant to this power of attorney shall be superior to and binding upon my family, relatives, friends, and others.

9. Miscellaneous Provisions.

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- A. Revocation of Prior Powers of Attorney. I revoke any prior health care power of attorney. The preceding sentence is not intended to revoke any general powers of attorney, some of the provisions of which may relate to health care; however, this power of attorney shall take precedence over any health care provisions in any valid general power of attorney I have not revoked.

- B. Jurisdiction, Severability, and Durability. This Health Care Power of Attorney is intended to be valid in any jurisdiction in which it is presented. The powers delegated under this power of attorney are severable, so that the invalidity of one or more powers shall not affect any others. This power of attorney shall not be affected or revoked by my incapacity or mental incompetence.

- C. Health Care Agent Not Liable. My health care agent and my health care agent's estate, heirs, successors, and assigns are hereby released and forever discharged by me, my estate, my heirs, successors, assigns, and personal representatives from all liability and from all claims or demands of all kinds arising out of my health care agent's acts or omissions, except for my health care agent's willful misconduct or gross negligence.

- D. No Civil or Criminal Liability. No act or omission of my health care agent, or of any other person, entity, institution, or facility acting in good faith in reliance on the authority of my health care agent pursuant to this Health Care Power of Attorney shall be considered suicide, nor the cause of my death for any civil or criminal purposes, nor shall it be considered unprofessional conduct or as lack of professional competence. Any person, entity, institution, or facility against whom criminal or civil liability is asserted because of conduct authorized by this Health Care Power of Attorney may interpose this document as a defense.

- E. Reimbursement. My health care agent shall be entitled to reimbursement for all reasonable expenses incurred as a result of carrying out any provision of this directive.

By signing here, I indicate that I am mentally alert and competent, fully informed as to the contents of this document, and understand the full import of this grant of powers to my health care agent.

This the ____ day of _____, 20____.

_____ (SEAL)

I hereby state that the principal, _____, being of sound mind, signed (or directed another to sign on the principal's behalf) the foregoing health care power of attorney in my presence, and that I am not related to the principal by blood or marriage, and I would not be entitled to any portion of the estate of the principal under any existing will or codicil of the principal or as an heir under the Intestate Succession Act, if the principal died on this date without a will. I also state that I am not the principal's attending physician, nor a licensed health care provider or mental health treatment provider who is (1) an employee of the principal's attending physician or mental health treatment provider, (2) an employee of the health facility in which the principal is a patient, or (3) an employee of a nursing home or any adult care home where the principal resides. I further state that I do not have any claim against the principal or the estate of the principal.

Date: _____ Witness: _____

Date: _____ Witness: _____

_____ COUNTY, _____ STATE

Sworn to (or affirmed) and subscribed before me this day by _____
(type/print name of signer)

(type/print name of witness)

(type/print name of witness)

Date: _____
(Official Seal)

Signature of Notary Public

_____, Notary Public
Printed or typed name

My commission expires: _____

(b) Use of the statutory form prescribed in this section is an optional and nonexclusive method for creating a health care power of attorney and does not affect the use of other forms of health care powers of attorney, including previous statutory forms."

SECTION 37.(b) G.S. 90-21.13(c) reads as rewritten:

1 (c) The following persons, in the order indicated, are authorized to consent to
2 medical treatment on behalf of a patient who is comatose or otherwise lacks capacity to
3 make or communicate health care decisions:

- 4 (1) A guardian of the patient's person, or a general guardian with powers
5 over the patient's person, appointed by a court of competent
6 jurisdiction pursuant to Article 5 of Chapter 35A of the General
7 Statutes; provided that, if the patient has a health care agent appointed
8 pursuant to a valid health care power of attorney, the health care agent
9 shall have the right to exercise the authority to the extent granted in the
10 health care power of attorney and to the extent provided in
11 ~~G.S. 32A-19(b)~~ 32A-19(a) unless the Clerk has suspended the
12 authority of that health care agent in accordance with
13 G.S. 35A-1208(a);
- 14 (2) A health care agent appointed pursuant to a valid health care power of
15 attorney, to the extent of the authority granted;
- 16 (3) An attorney-in-fact, with powers to make health care decisions for the
17 patient, appointed by the patient pursuant to Article 1 or Article 2 of
18 Chapter 32A of the General Statutes, to the extent of the authority
19 granted;
- 20 (4) The patient's spouse;
- 21 (5) A majority of the patient's reasonably available parents and children
22 who are at least 18 years of age;
- 23 (6) A majority of the patient's reasonably available siblings who are at
24 least 18 years of age; or
- 25 (7) An individual who has an established relationship with the patient,
26 who is acting in good faith on behalf of the patient, and who can
27 reliably convey the patient's wishes."

28 **SECTION 37.(c)** This section is effective when it becomes law. Nothing in
29 this section shall affect the validity of a health care power of attorney executed before,
30 on, or after the effective date of this section.

31 **SECTION 38.(a)** G.S. 58-55-35(a) reads as rewritten:

32 (a) Whenever long-term care insurance provides coverage for the facilities,
33 services, or physical or mental conditions listed below, unless otherwise defined in the
34 policy and certificate, and approved by the Commissioner, such facilities, services, or
35 conditions are defined as follows:

- 36 (1) "Adult care home" shall be defined in accordance with the terms of
37 ~~G.S. 131D-2(a)(3)~~ G.S. 131D-2(1b).
- 38 (1a) "Adult day care program" shall be defined in accordance with the
39 provisions of G.S. 131D-6(b).
- 40 (2) "Chore" services include the performance of tasks incidental to
41 activities of daily living that do not require the services of a trained
42 homemaker or other specialist. Such services are provided to enable
43 individuals to remain in their own homes and may include such
44 services as: assistance in meeting basic care needs such as meal

- 1 preparation; shopping for food and other necessities; running
2 necessary errands; providing transportation to essential service
3 facilities; care and cleaning of the house, grounds, clothing, and linens.
- 4 (3) "Combination home" shall be defined in accordance with the terms of
5 ~~G.S. 131E-101(1)~~G.S. 131E-101(1a).
- 6 (4) Repealed by Session Laws 1995, c. 535, s. 3.
- 7 (5) "Family care home" shall be defined in accordance with the terms of
8 G.S. 131D-2(a)(5).
- 9 (6) Renumbered.
- 10 (7) Repealed by Session Laws 1995, c. 535, s. 3.
- 11 (8) "Home health services" shall be defined in accordance with the terms
12 of G.S. 131E-136(3).
- 13 (9) "Homemaker services" means supportive services provided by
14 qualified para-professionals who are trained, equipped, assigned, and
15 supervised by professionals within the agency to help maintain,
16 strengthen, and safeguard the care of the elderly in their own homes.
17 These standards must, at a minimum, meet standards established by
18 the North Carolina Division of Social Services and may include:
19 Providing assistance in management of household budgets; planning
20 nutritious meals; purchasing and preparing foods; housekeeping duties;
21 consumer education; and basic personal and health care.
- 22 (10) "Hospice" shall be defined in accordance with the terms of
23 G.S. 131E-176(13a).
- 24 (11) "Intermediate care ~~facility~~facility for the mentally retarded" shall be
25 defined in accordance with the terms of
26 ~~G.S. 131E-176(14b)~~G.S. 131E-176(14a).
- 27 (12) "Nursing home" shall be defined in accordance with the terms of
28 G.S. 131E-101(6).
- 29 (13) "Respite care, institutional" means provision of temporary support to
30 the primary caregiver of the aged, disabled, or handicapped individual
31 by taking over the tasks of that person for a limited period of time. The
32 insured receives care for the respite period in an institutional setting,
33 such as a nursing home, family care home, rest home, or other
34 appropriate setting.
- 35 (14) "Respite care, non-institutional" means provision of temporary support
36 to the primary caregiver of the aged, disabled, or handicapped
37 individual by taking over the tasks of that person for a limited period
38 of time in the home of the insured or other appropriate community
39 location.
- 40 (15) "Skilled Nursing Facility" shall be defined in accordance with the
41 terms of ~~G.S. 131E-176(23)~~G.S. 135-40.1(18).
- 42 (16) "Supervised living facility for developmentally disabled adults" means
43 a residential facility, as defined in G.S. 122C-3(14), which has two to
44 nine developmentally disabled adult residents."

1 **SECTION 38.(b)** G.S. 131E-231 reads as rewritten:
2 "**§ 131E-231. Definitions.**

3 As used in this Article, unless otherwise specified:

- 4 (1) "Long-term care facility" means a nursing home as defined in
5 G.S. 131E-101(6) and an adult care home as defined in
6 ~~G.S. 131D-2(a)(3)~~G.S.131D-2(a)(1b) or
7 ~~G.S. 131E-101(4)~~G.S. 131E-101(4).
8 (2) "Resident" means a person who has been admitted to a long-term care
9 facility.
10 (3) "Respondent" means the person or entity holding a license pursuant to
11 G.S. 131E-102 or G.S. 131D-2 or a person or entity operating a
12 long-term care facility subject to licensure without a license."

13 **SECTION 39.** G.S. 83A-6(a) reads as rewritten:

14 (a) The Board shall have the power to adopt bylaws, rules, and standards of
15 professional conduct to carry out the purposes of this Chapter, including, but not limited
16 to:

- 17 (1) The adoption of bylaws governing its meetings and proceedings;
18 (2) The establishment of qualification requirements for admission to
19 examinations, and for individual or corporate licensure as provided in
20 G.S. 83A-7 and 83A-8;
21 (3) The establishment of the types and contents of examinations, their
22 conduct, and the minimum scores or other criteria for passing such
23 examinations;
24 (4) The adoption of mandatory standards of professional conduct
25 concerning misrepresentations, conflicts of interest, incompetence,
26 disability, violations of law, dishonest conduct, or other unprofessional
27 conduct for those persons or corporations regulated by this Chapter,
28 which standards shall be enforceable under the disciplinary procedures
29 of the Board;
30 (5) The establishment or approval of requirements for renewal of licenses
31 designed to promote the continued professional development and
32 competence of licensees. Such requirements shall be designed solely to
33 improve the professional knowledge and skills of a licensee directly
34 related to the current and emerging bodies of knowledge and skills of
35 the licensee's profession.
36 (6) The power to acquire, hold, rent, encumber, alienate, and otherwise
37 deal with real property in the same manner as a private person or
38 corporation, subject only to approval of the Governor and the Council
39 of State as to the acquisition, rental, encumbering, leasing, and sale of
40 real property. Collateral pledged by the Board for an encumbrance is
41 limited to the assets, income, and revenues of the Board.

42 When necessary to protect the public health, safety, or welfare, the Board shall
43 require such evidence as it deems necessary to establish the continuing competency of
44 architects as a condition of renewal of licenses."

1 **SECTION 40.(a)** G.S. 90-270.69(8) reads as rewritten:
2 "The Board shall have the following powers and duties:

3 ...

4 (8) Establish reasonable fees for applications, ~~limited permits~~, initial and
5 renewal licenses, and other services provided by the Board."

6 **SECTION 40.(b)** G.S. 90-270.73(d) is repealed.

7 **SECTION 40.(c)** G.S. 90-270.78(a) reads as rewritten:

8 "(a) It is unlawful for any person who is not licensed in accordance with this
9 Article or whose license has been suspended, revoked or not renewed by the Board to:

10 (1) Engage in the practice of occupational therapy.

11 (2) Orally, in writing, in print or by sign, or in any other manner, directly
12 or by implication, represent that he or she is engaging in occupational
13 therapy.

14 (3) Use in connection with his or her name or place of business the words
15 "occupational therapist", "occupational therapy assistant",
16 "occupational therapist ~~limited permittee~~", or "~~occupational therapy~~
17 ~~assistant limited permittee~~", or the letters "O.T.", "O.T./L.", "O.T.A.",
18 "~~O.T.A./L.~~", "~~O.T./L.P.~~", or "~~O.T.A./L.P.~~" or "O.T.A./L." or any other
19 words, letters, abbreviations or insignia indicating or implying that the
20 person is an occupational therapist, ~~occupational therapy assistant~~,
21 ~~occupational therapist limited permittee~~, or ~~occupational therapy~~
22 ~~assistant limited permittee~~ or occupational therapy assistant."

23 **SECTION 41.** G.S. 90-285.1(2) reads as rewritten:

24 "(2) Has violated the provisions of ~~Part B~~Part 2 of Article 6 of Chapter
25 131E of the General Statutes and rules promulgated thereunder;".

26 **SECTION 42.** G.S. 105-164.4B(d)(2) reads as rewritten:

27 "(2) Direct mail. – Direct mail that meets one of the conditions of this
28 subdivision is sourced to the location where the property is delivered.
29 In all other cases, direct mail is sourced in accordance with the
30 principles set out in ~~subsection (a)~~subdivision (a)(3) of this section.

31 a. Direct mail purchased pursuant to a direct pay permit.

32 b. When the purchaser provides the seller with information to
33 show the jurisdictions to which the direct mail is to be
34 delivered."

35 **SECTION 43.** G.S. 115C-284 reads as rewritten:

36 "**§ 115C-284. Method of selection and requirements.**

37 (a) Principals and supervisors shall be elected by the local boards of education
38 upon the recommendation of the superintendent, in accordance with the provisions of
39 G.S. 115C-276(j).

40 (b) In the city administrative units, principals shall be elected by the board of
41 education of such administrative unit upon the recommendation of the superintendent of
42 city schools.

43 **(b1)** To qualify for certification as a school administrator, an individual must meet
44 all of the following requirements:

- 1 (1) Submit a complete application to the State Board.
- 2 (2) Pay the applicable fee.
- 3 (3) Have a bachelor's degree from an accredited college or accredited
- 4 university.
- 5 (4) Have one of the following:
- 6 a. A graduate degree from a public school administration program
- 7 that meets the public school administration program approval
- 8 standards established by the State Board of Education.
- 9 b. A master's degree from an accredited college or accredited
- 10 university and, by December 31, 1999, have completed a public
- 11 school administration program that meets the public school
- 12 administration program approval standards set by the State
- 13 Board of Education.
- 14 c. Education and training determined by the State Board of
- 15 Education as equivalent.
- 16 (5) Pass the exam adopted by the State Board.

17 "

18 **SECTION 44.** G.S. 138A-3(24) reads as rewritten:

19 "(24) Nonprofit corporation or organization with which associated. – Any

20 not for profit corporation, organization, or association, incorporated or

21 otherwise, that is organized or operating in the State primarily for

22 religious, charitable, scientific, literary, public health and safety, or

23 educational purposes and of which the person or any member of the

24 person's immediate family is a director, officer, governing board

25 member, employee, lobbyist registered ~~as~~ under Chapter 120C of the

26 General Statutes, or independent contractor. Nonprofit corporation or

27 organization with which associated shall not include any board, entity,

28 or other organization created by this State or by any political

29 subdivision of this State."

30 **SECTION 44.5.(a)** Section 4 of S.L. 2008-56 is repealed.

31 **SECTION 44.5.(b)** Section 7 of S.L. 2008-56 reads as rewritten:

32 "**SECTION 7.** The Governor's Crime Commission shall develop the criteria for

33 eligibility for funds appropriated for gang prevention and intervention. The criteria shall

34 include a matching requirement of twenty-five percent (25%), one-half of which may be

35 in in-kind contributions, and presentation of a written plan for the services to be

36 provided by the funds. Funds shall be available to public and private entities or agencies

37 for juvenile and adult programs that meet the criteria established by the Governor's

38 Crime Commission. The Commission shall identify the cities and towns that do not

39 have full-time parks and recreation staff, and provide targeted outreach and information

40 to public and private agencies, and non-profit organizations, in those cities, towns, and

41 unincorporated areas about their eligibility for these funds.

42 The Governor's Crime Commission shall report to the Chairs of the House of

43 Representatives and Senate Appropriations Committees and the Chairs of the House of

1 Representatives and Senate Appropriations Subcommittees on Justice and Public Safety
2 by April 15, 2009, on this program. The report shall include all of the following:

- 3 (1) The grant award process.
- 4 (2) A description of each grant awarded.
- 5 (3) The performance criteria for evaluating grant programs.
- 6 (4) A list of State grants awarded in the 2008 grant cycle.

7 The Governor's Crime Commission shall review the level of gang activity
8 throughout the State and assess the progress and accomplishments of the State, and of
9 local governments, in preventing the proliferation of gangs and addressing the needs of
10 juveniles who have been identified as being associated with gang activity.

11 The Governor's Crime Commission shall develop recommendations concerning the
12 establishment of priorities and needed improvements with respect to gang prevention to
13 the General Assembly on or before March 1 of each year."

14 **SECTION 45.** Section 2 of S.L. 2007-169 reads as rewritten:

15 "SECTION 2. Notwithstanding G.S. 143-52.1 and S.L. 2006-203, through
16 ~~December 31, 2008, June 30, 2009,~~ the members of the Advisory Budget Commission
17 in office on June 30, 2007, shall continue to be eligible for appointment to the Board of
18 Awards, and vacancies may be filled by the appointing authority. Through ~~December~~
19 ~~31, 2008, June 30, 2009,~~ the Secretary of Administration shall appoint the Board of
20 Awards from among those eligible."

21 **SECTION 45.5.** If House Bill 15, 2007 Regular Session, becomes law, then
22 Section 2 of that act is amended by deleting the following:

23 "SECTION 26.21.(a) G.S. 1115C-302.1(d) reads as rewritten:"

24 **SECTION 46.** If House Bill 1003, 2007 Regular Session, becomes law,
25 G.S. 15A-1344(f)(2), as enacted by House Bill 1003, reads as rewritten:

26 "(2) The court finds that the probationer did violate one or more conditions
27 of probation prior to the expiration of the period of probation."

28 **SECTION 47.** If House Bill 1113, 2007 Regular Session, becomes law, then
29 G.S. 143-299.1A(c), as enacted by House Bill 1113, reads as rewritten:

30 "(c) This section does not apply to a unit of local government or its officers,
31 employees, or agents."

32 **SECTION 47.5.(a)** If House Bill 1770, 2007 Regular Session, becomes law,
33 then G.S. 153A-210.2(b), as enacted by Section 2 of that bill, reads as rewritten:

34 "(b) Costs. – The board of commissioners must determine a project's total
35 estimated cost. In addition to the costs allowed under G.S. 153A-193, the costs may
36 include any expenses allowed under G.S. 159-84. ~~A preliminary assessment roll may be~~
37 ~~prepared, and an assessment may be imposed before the costs are incurred, based on the~~
38 ~~estimated cost.~~ A preliminary assessment roll may be prepared before the costs are
39 incurred based on the estimated cost of the project."

40 **SECTION 47.5.(b)** If House Bill 1770, 2007 Regular Session, becomes law,
41 then G.S. 160A-239.2, as enacted by Section 3 of that bill, reads as rewritten:

42 "§ 160A-239.2. Assessments.

1 (a) Projects. – The council of a city may make special assessments as provided in
2 this Article against benefited property within the city for the purpose of financing the
3 capital costs of projects for which bonds may be issued under any of the following:

- 4 (1) G.S. 159-48(b)(17), sanitary sewer systems.
- 5 (2) G.S. 159-48(b)(19), storm sewers and flood control facilities.
- 6 (3) G.S. 159-48(b)(21), water systems.
- 7 (4) G.S. 159-48(b)(23), public transportation facilities.
- 8 (5) G.S. 159-48(c)(4), school facilities.
- 9 (6) G.S. 159-48(d)(5), streets and sidewalks.

10 (b) Costs. – The city council must determine a project's total estimated cost. In
11 addition to the costs allowed under G.S. 153A-193, the costs may include any expenses
12 allowed under G.S. 159-84. ~~An assessment may be imposed before the costs are~~
13 ~~incurred, based on the estimated cost.~~ A preliminary assessment roll may be prepared
14 before the costs are incurred based on the estimated cost of the project.

15 (c) Method. – The city council must establish an assessment method that will
16 most accurately assess each lot or parcel of land according to the benefits conferred
17 upon it by the project for which the assessment is made. In addition to the bases upon
18 which assessments may be made under ~~G.S. 153A-186~~, G.S. 160A-218, the council may
19 select any other method designed to allocate the costs in accordance with benefits
20 conferred."

21 **SECTION 47.7.** If House Bill 2314, 2007 Regular Session, becomes law,
22 then G.S. 136-44.53(d), as amended by Section 5 of that bill, reads as rewritten:

23 "(d) In exercising the authority granted by this section, a local government is
24 authorized to expend its funds for the protection of rights-of-way shown on a duly
25 adopted transportation corridor official map whether the right-of-way to be acquired is
26 located inside or outside ~~a~~ the municipal corporate limits."

27 **SECTION 48.** If House Bill 2436, 2007 Regular Session, and Senate Bill
28 2015, 2007 Regular Session, become law, then Section 11 of Senate Bill 2015 is
29 repealed.

30 **SECTION 49.** If House Bill 2443, 2007 Regular Session, becomes law, then
31 Section 2.1 of that act is amended by deleting "135.38.5A." and substituting
32 "135-38.5A."

33 **SECTION 49.5.** If House Bill 2443, 2007 Regular Session, becomes law,
34 then G.S. 135-39.24 as amended by Section 3(q) of House Bill 2443 is amended by
35 designating the second subsection "(d)" of G.S. 135-39.24 as "(e)" and relettering the
36 remaining subsections accordingly.

37 **SECTION 50.** If Senate Bill 1800, 2007 Regular Session, becomes law, then
38 G.S. 20-305(5)a., as amended by Section 3 of that bill, reads as rewritten:

39 "a. This section does not apply:

- 40 1. To the relocation of an existing new motor vehicle dealer
41 within that dealer's relevant market area, provided that
42 the relocation not be at a site within 10 miles of a
43 licensed new motor vehicle dealer for the same line
44 make of motor vehicle. If this sub-subdivision is

- 1 applicable, only dealers trading in the same line-make of
2 vehicle that are located within the 10-mile radius shall be
3 entitled to notice from the manufacturer and have the
4 protest rights afforded under this ~~section~~; or section.
- 5 2. If the proposed additional new motor vehicle dealer is to
6 be established at or within two miles of a location at
7 which a former licensed new motor vehicle dealer for the
8 same line make of new motor vehicle had ceased
9 operating within the previous two ~~years~~; years.
- 10 3. To the relocation of an existing new motor vehicle dealer
11 within two miles of the existing site of the new motor
12 vehicle dealership if the franchise has been operating on
13 a regular basis from the existing site for a minimum of
14 three years immediately preceding the ~~relocation~~;
15 or relocation.
- 16 4. To the relocation of an existing new motor vehicle dealer
17 if the proposed site of the relocated new motor vehicle
18 dealership is further away from all other new motor
19 vehicle dealers of the same line make in that relevant
20 market ~~area~~; or area."

21 **SECTION 51.** This act is effective when it becomes law.