

1 Article 2A.
2 Habitual Felons.

3 **§ 14-7.1. Persons defined as habitual felons.**

4 Any person who has been convicted of or pled guilty to three felony offenses in any federal
5 court or state court in the United States or combination thereof is declared to be an habitual
6 felon and may be charged as a status offender pursuant to this Article. For the purpose of this
7 Article, a felony offense is defined as an offense which is a felony under the laws of the State
8 or other sovereign wherein a plea of guilty was entered or a conviction was returned regardless
9 of the sentence actually imposed. Provided, however, that federal offenses relating to the
10 manufacture, possession, sale and kindred offenses involving intoxicating liquors shall not be
11 considered felonies for the purposes of this Article. For the purposes of this Article, felonies
12 committed before a person attains the age of 18 years shall not constitute more than one felony.
13 The commission of a second felony shall not fall within the purview of this Article unless it is
14 committed after the conviction of or plea of guilty to the first felony. The commission of a third
15 felony shall not fall within the purview of this Article unless it is committed after the
16 conviction of or plea of guilty to the second felony. Pleas of guilty to or convictions of felony
17 offenses prior to July 6, 1967, shall not be felony offenses within the meaning of this Article.
18 Any felony offense to which a pardon has been extended shall not for the purpose of this
19 Article constitute a felony. The burden of proving such pardon shall rest with the defendant and
20 the State shall not be required to disprove a pardon. (1967, c. 1241, s. 1; 1971, c. 1231, s. 1;
21 1979, c. 760, s. 4; 1981, c. 179, s. 10; 2011-192, s. 3(b).)

22
23 **§ 14-7.2. Punishment.**

24 When any person is charged by indictment with the commission of a felony under the laws
25 of the State of North Carolina and is also charged with being an habitual felon as defined in
26 G.S. 14-7.1, he must, upon conviction, be sentenced and punished as an habitual felon, as in
27 this Chapter provided, except in those cases where the death penalty or a life sentence is
28 imposed. (1967, c. 1241, s. 2; 1981, c. 179, s. 11.)

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30 **§ 14-7.3. Charge of habitual felon.**

31 The district attorney, in his or her discretion, may charge a person as an habitual felon
32 pursuant to this Article. An indictment which charges a person who is an habitual felon within
33 the meaning of G.S. 14-7.1 with the commission of any felony under the laws of the State of
34 North Carolina must, in order to sustain a conviction of habitual felon, also charge that said
35 person is an habitual felon. The indictment charging the defendant as an habitual felon shall be
36 separate from the indictment charging him with the principal felony. An indictment which
37 charges a person with being an habitual felon must set forth the date that prior felony offenses
38 were committed, the name of the state or other sovereign against whom said felony offenses
39 were committed, the dates that pleas of guilty were entered to or convictions returned in said
40 felony offenses, and the identity of the court wherein said pleas or convictions took place. No
41 defendant charged with being an habitual felon in a bill of indictment shall be required to go to
42 trial on said charge within 20 days of the finding of a true bill by the grand jury; provided, the
43 defendant may waive this 20-day period. (1967, c. 1241, s. 3; 2011-192, s. 3(c).)

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45 **§ 14-7.4. Evidence of prior convictions of felony offenses.**

46 In all cases where a person is charged under the provisions of this Article with being an
47 habitual felon, the record or records of prior convictions of felony offenses shall be admissible
48 in evidence, but only for the purpose of proving that said person has been convicted of former
49 felony offenses. A prior conviction may be proved by stipulation of the parties or by the
50 original or a certified copy of the court record of the prior conviction. The original or certified
51 copy of the court record, bearing the same name as that by which the defendant is charged,

1 shall be prima facie evidence that the defendant named therein is the same as the defendant
2 before the court, and shall be prima facie evidence of the facts set out therein. (1967, c. 1241, s.
3 4; 1981, c. 179, s. 12.)
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5 **§ 14-7.5. Verdict and judgment.**

6 When an indictment charges an habitual felon with a felony as above provided and an
7 indictment also charges that said person is an habitual felon as provided herein, the defendant
8 shall be tried for the principal felony as provided by law. The indictment that the person is an
9 habitual felon shall not be revealed to the jury unless the jury shall find that the defendant is
10 guilty of the principal felony or other felony with which he is charged. If the jury finds the
11 defendant guilty of a felony, the bill of indictment charging the defendant as an habitual felon
12 may be presented to the same jury. Except that the same jury may be used, the proceedings
13 shall be as if the issue of habitual felon were a principal charge. If the jury finds that the
14 defendant is an habitual felon, the trial judge shall enter judgment according to the provisions
15 of this Article. If the jury finds that the defendant is not an habitual felon, the trial judge shall
16 pronounce judgment on the principal felony or felonies as provided by law. (1967, c. 1241, s.
17 5.)
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19 **§ 14-7.6. Sentencing of habitual felons.**

20 When an habitual felon as defined in this Article commits any felony under the laws of the
21 State of North Carolina, the felon must, upon conviction or plea of guilty under indictment as
22 provided in this Article (except where the felon has been sentenced as a Class A, B1, or B2
23 felon) be sentenced at a felony class level that is four classes higher than the principal felony
24 for which the person was convicted; but under no circumstances shall an habitual felon be
25 sentenced at a level higher than a Class C felony. In determining the prior record level,
26 convictions used to establish a person's status as an habitual felon shall not be used. Sentences
27 imposed under this Article shall run consecutively with and shall commence at the expiration of
28 any sentence being served by the person sentenced under this section. (1967, c. 1241, s. 6;
29 1981, c. 179, s. 13; 1993, c. 538, s. 9; 1994, Ex. Sess., c. 22, ss. 15, 16; c. 24, s. 14(b); 1993
30 (Reg. Sess., 1994), c. 767, s. 16; 2011-192, s. 3(d).)