

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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

Short Title: 2008 Technical Corrections Act.

(Public)

Sponsors:

Referred to:

May 19, 2008

A BILL TO BE ENTITLED

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

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
29 regardless of whether the loan payment or fee is received

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (1) In the three years immediately preceding the person's application for a
39 restored license, ~~he~~ the person has not been convicted in North
40 Carolina or in any other state or federal court of a motor vehicle
41 offense, an alcohol beverage control law offense, a drug law offense,
42 or any criminal offense involving the consumption of alcohol or ~~drugs;~~
43 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. 108-53(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 36.(a)** G.S. 20-138.2A(b2) reads as rewritten:

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

CARE DECISIONS FOR YOU. THERE IS NO LEGAL REQUIREMENT THAT ANYONE EXECUTE A HEALTH CARE POWER OF ATTORNEY.

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

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

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

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

*If you want to use this form, you must complete it, sign it, and have your signature witnessed by two qualified witnesses and proved by a notary public. Follow the instructions about which choices you can initial very carefully. **Do not sign this form until** two witnesses and a notary public are present to watch you sign it. You then should give a copy to your health care agent and to any alternates you name. You should consider filing it with the Advance Health Care Directive Registry maintained by the North Carolina Secretary of State: <http://www.nclifelinks.org/ahcdr/>*

1. Designation of Health Care Agent.

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

A. Name: _____ Home Telephone: _____
 Home Address: _____ Work Telephone: _____

1 _____ Cellular Telephone: _____
 2
 3 B. Name: _____ Home Telephone: _____
 4 Home Address: _____ Work Telephone: _____
 5 _____ Cellular Telephone: _____
 6
 7 C. Name: _____ Home Telephone: _____
 8 Home Address: _____ Work Telephone: _____
 9 _____ Cellular Telephone: _____

10
11 Any successor health care agent designated shall be vested with the same power and
12 duties as if originally named as my health care agent, and shall serve any time his or her
13 predecessor is not reasonably available or is unwilling or unable to serve in that
14 capacity.

15
16 **2. Effectiveness of Appointment.**

17
18 My designation of a health care agent expires only when I revoke it. Absent revocation,
19 the authority granted in this document shall become effective when and if one of the
20 physician(s) listed below determines that I lack capacity to make or communicate
21 decisions relating to my health care, and will continue in effect during that incapacity,
22 or until my death, except if I authorize my health care agent to exercise my rights with
23 respect to anatomical gifts, autopsy, or disposition of my remains, this authority will
24 continue after my death to the extent necessary to exercise that authority.

- 25
- 26 1. _____ (Physician)
- 27
- 28 2. _____ (Physician)
- 29

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

33
34 **3. Revocation.**

35
36 Any time while I am competent, I may revoke this power of attorney in a writing I sign
37 or by communicating my intent to revoke, in any clear and consistent manner, to my
38 health care agent or my health care provider.

39
40 **4. General Statement of Authority Granted.**

41
42 Subject to any restrictions set forth in Section 65 below, I grant to my health care agent
43 full power and authority to make and carry out all health care decisions for me. These
44 decisions include, but are not limited to:

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- A. Requesting, reviewing, and receiving any information, verbal or written, regarding my physical or mental health, including, but not limited to, medical and hospital records, and to consent to the disclosure of this information.
- B. Employing or discharging my health care providers.
- C. Consenting to and authorizing my admission to and discharge from a hospital, nursing or convalescent home, hospice, long-term care facility, or other health care facility.
- D. Consenting to and authorizing my admission to and retention in a facility for the care or treatment of mental illness.
- E. Consenting to and authorizing the administration of medications for mental health treatment and electroconvulsive treatment (ECT) commonly referred to as "shock treatment."
- F. Giving consent for, withdrawing consent for, or withholding consent for, X-ray, anesthesia, medication, surgery, and all other diagnostic and treatment procedures ordered by or under the authorization of a licensed physician, dentist, podiatrist, or other health care provider. This authorization specifically includes the power to consent to measures for relief of pain.
- G. Authorizing the withholding or withdrawal of life-prolonging measures.
- H. Providing my medical information at the request of any individual acting as my attorney-in-fact under a durable power of attorney or as a Trustee or successor Trustee under any Trust Agreement of which I am a Grantor or Trustee, or at the request of any other individual whom my health care agent believes should have such information. I desire that such information be provided whenever it would expedite the prompt and proper handling of my affairs or the affairs of any person or entity for which I have some responsibility. In addition, I authorize my health care agent to take any and all legal steps necessary to ensure compliance with my instructions providing access to my protected health information. Such steps shall include resorting to any and all legal procedures in and out of courts as may be necessary to enforce my rights under the law and shall include attempting to recover attorneys' fees against anyone who does not comply with this health care power of attorney.

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

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

5. Special Provisions and Limitations.

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

A. Limitations about Artificial Nutrition or Hydration: In exercising the authority to make health care decisions on my behalf, my health care agent:
shall NOT have the authority to withhold artificial nutrition (such as through tubes) OR may exercise that authority only in accordance with the following special provisions:

(Initial)

(Initial)

shall NOT have the authority to withhold artificial hydration (such as through tubes) OR may exercise that authority only in accordance with the following special provisions:

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

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(Initial)

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

NOTE: DO NOT initial unless you insert a limitation.

(Initial)

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

NOTE: DO NOT initial unless you insert a limitation.

(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.

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_____ E. Autopsy and Disposition of Remains. In exercising the
(Initial) 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:

_____ donate any needed organs or parts; or
(Initial)

_____ donate only the following organs or parts:
(Initial)

NOTE: DO NOT INITIAL BOTH BLOCKS ABOVE.

_____ donate my body for anatomical study if needed.
(Initial)

_____ In exercising the authority to make donations, my health care
(Initial) 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 gifts of
the body or body parts.)

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.

1
2 If it becomes necessary for a court to appoint a guardian of my person, I nominate the
3 persons designated in Section 1, in the order named, to be the guardian of my person, to
4 serve without bond or security. The guardian shall act consistently with
5 G.S. 35A-1201(a)(5).
6

7 **8. Reliance of Third Parties on Health Care Agent.**
8

9 A. No person who relies in good faith upon the authority of or any
10 representations by my health care agent shall be liable to me, my
11 estate, my heirs, successors, assigns, or personal representatives, for
12 actions or omissions in reliance on that authority or those
13 representations.

14 B. The powers conferred on my health care agent by this document may
15 be exercised by my health care agent alone, and my health care agent's
16 signature or action taken under the authority granted in this document
17 may be accepted by persons as fully authorized by me and with the
18 same force and effect as if I were personally present, competent, and
19 acting on my own behalf. All acts performed in good faith by my
20 health care agent pursuant to this power of attorney are done with my
21 consent and shall have the same validity and effect as if I were present
22 and exercised the powers myself, and shall inure to the benefit of and
23 bind me, my estate, my heirs, successors, assigns, and personal
24 representatives. The authority of my health care agent pursuant to this
25 power of attorney shall be superior to and binding upon my family,
26 relatives, friends, and others.
27

28 **9. Miscellaneous Provisions.**
29

30 A. Revocation of Prior Powers of Attorney. I revoke any prior health care
31 power of attorney. The preceding sentence is not intended to revoke
32 any general powers of attorney, some of the provisions of which may
33 relate to health care; however, this power of attorney shall take
34 precedence over any health care provisions in any valid general power
35 of attorney I have not revoked.
36

37 B. Jurisdiction, Severability, and Durability. This Health Care Power of
38 Attorney is intended to be valid in any jurisdiction in which it is
39 presented. The powers delegated under this power of attorney are
40 severable, so that the invalidity of one or more powers shall not affect
41 any others. This power of attorney shall not be affected or revoked by
42 my incapacity or mental incompetence.
43

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.

1 Date: _____ Witness: _____

2
3 Date: _____ Witness: _____

4
5 _____ COUNTY, _____ STATE

6
7 Sworn to (or affirmed) and subscribed before me this day by _____
8 (type/print name of signer)

9
10 _____
11 (type/print name of witness)

12
13 _____
14 (type/print name of witness)

15
16
17 Date: _____
18 (Official Seal) Signature of Notary Public

19
20 _____, Notary Public
21 Printed or typed name

22
23 My commission expires: _____
24

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

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

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

33 (1) A guardian of the patient's person, or a general guardian with powers
34 over the patient's person, appointed by a court of competent
35 jurisdiction pursuant to Article 5 of Chapter 35A of the General
36 Statutes; provided that, if the patient has a health care agent appointed
37 pursuant to a valid health care power of attorney, the health care agent
38 shall have the right to exercise the authority to the extent granted in the
39 health care power of attorney and to the extent provided in
40 G.S. ~~32A-19(b)~~ 32A-19(a) unless the Clerk has suspended the
41 authority of that health care agent in accordance with
42 G.S. 35A-1208(a);

43 (2) A health care agent appointed pursuant to a valid health care power of
44 attorney, to the extent of the authority granted;

- 1 (3) An attorney-in-fact, with powers to make health care decisions for the
- 2 patient, appointed by the patient pursuant to Article 1 or Article 2 of
- 3 Chapter 32A of the General Statutes, to the extent of the authority
- 4 granted;
- 5 (4) The patient's spouse;
- 6 (5) A majority of the patient's reasonably available parents and children
- 7 who are at least 18 years of age;
- 8 (6) A majority of the patient's reasonably available siblings who are at
- 9 least 18 years of age; or
- 10 (7) An individual who has an established relationship with the patient,
- 11 who is acting in good faith on behalf of the patient, and who can
- 12 reliably convey the patient's wishes."

13 **SECTION 38.(a)** G.S. 58-3-169(d) reads as rewritten:

14 "(d) Postdelivery Follow-Up Care. – In the case of a decision to discharge a

15 mother and her newborn child from the inpatient setting before the expiration of 48

16 hours following a normal vaginal delivery or 96 hours following a cesarean section, the

17 health benefit plan shall provide coverage for timely postdelivery care. This health care

18 shall be provided to a mother and her newborn child by a registered nurse, physician,

19 nurse practitioner, nurse midwife, or physician assistant experienced in maternal and

20 child health in:

- 21 (1) The home, a provider's office, a hospital, a birthing center, an
- 22 intermediate care ~~facility~~facility for the mentally retarded, a federally
- 23 qualified health center, a federally qualified rural health clinic, or a
- 24 State health department maternity clinic; or
- 25 (2) Another setting determined appropriate under federal regulations
- 26 promulgated under Title VI of Public Law 104-204.

27 The attending provider in consultation with the mother shall decide the most appropriate

28 location for follow-up care."

29 **SECTION 38.(b)** G.S. 58-50-30(d) reads as rewritten:

30 "(d) Payment or reimbursement is required by this section for a service performed

31 by an advanced practice registered nurse only when:

- 32 (1) The service performed is within the nurse's lawful scope of practice;
- 33 (2) The policy currently provides benefits for identical services performed
- 34 by other licensed health care providers;
- 35 (3) The service is not performed while the nurse is a regular employee in
- 36 an office of a licensed physician;
- 37 (4) The service is not performed while the registered nurse is employed by
- 38 a nursing facility (including a hospital, skilled nursing facility,
- 39 intermediate care ~~facility~~facility for the mentally retarded, or home
- 40 care agency); and
- 41 (5) Nothing in this section is intended to authorize payment to more than
- 42 one provider for the same service.

1 No lack of signature, referral, or employment by any other health care provider may be
2 asserted to deny benefits under this provision, unless these plan requirements apply to
3 all providers for that service.

4 For purposes of this section, an "advanced practice registered nurse" means only a
5 registered nurse who is duly licensed or certified as a nurse practitioner, clinical
6 specialist in psychiatric and mental health nursing, or nurse midwife."

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

8 **"§ 58-55-35. Facilities, services, and conditions defined.**

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

13 (1) "Adult care home" shall be defined in accordance with the terms of
14 ~~G.S. 131D-2(a)(3)~~.G.S. 131D-2(1b).

15 (1a) "Adult day care program" shall be defined in accordance with the
16 provisions of G.S. 131D-6(b).

17 (2) "Chore" services include the performance of tasks incidental to
18 activities of daily living that do not require the services of a trained
19 homemaker or other specialist. Such services are provided to enable
20 individuals to remain in their own homes and may include such
21 services as: assistance in meeting basic care needs such as meal
22 preparation; shopping for food and other necessities; running
23 necessary errands; providing transportation to essential service
24 facilities; care and cleaning of the house, grounds, clothing, and linens.

25 (3) "Combination home" shall be defined in accordance with the terms of
26 ~~G.S. 131E-101(1)~~.G.S. 131E-101(1a).

27 (4) Repealed by Session Laws 1995, c. 535, s. 3.

28 (5) "Family care home" shall be defined in accordance with the terms of
29 G.S. 131D-2(a)(5).

30 (6) Renumbered.

31 (7) Repealed by Session Laws 1995, c. 535, s. 3.

32 (8) "Home health services" shall be defined in accordance with the terms
33 of G.S. 131E-136(3).

34 (9) "Homemaker services" means supportive services provided by
35 qualified para-professionals who are trained, equipped, assigned, and
36 supervised by professionals within the agency to help maintain,
37 strengthen, and safeguard the care of the elderly in their own homes.
38 These standards must, at a minimum, meet standards established by
39 the North Carolina Division of Social Services and may include:
40 Providing assistance in management of household budgets; planning
41 nutritious meals; purchasing and preparing foods; housekeeping duties;
42 consumer education; and basic personal and health care.

43 (10) "Hospice" shall be defined in accordance with the terms of
44 G.S. 131E-176(13a).

- 1 (11) "Intermediate care ~~facility~~facility for the mentally retarded" shall be
2 defined in accordance with the terms of
3 ~~G.S. 131E-176(14b)~~G.S. 131E-176(14a).
- 4 (12) "Nursing home" shall be defined in accordance with the terms of
5 G.S. 131E-101(6).
- 6 (13) "Respite care, institutional" means provision of temporary support to
7 the primary caregiver of the aged, disabled, or handicapped individual
8 by taking over the tasks of that person for a limited period of time. The
9 insured receives care for the respite period in an institutional setting,
10 such as a nursing home, family care home, rest home, or other
11 appropriate setting.
- 12 (14) "Respite care, non-institutional" means provision of temporary support
13 to the primary caregiver of the aged, disabled, or handicapped
14 individual by taking over the tasks of that person for a limited period
15 of time in the home of the insured or other appropriate community
16 location.
- 17 (15) "Skilled Nursing Facility" shall be defined in accordance with the
18 terms of ~~G.S. 131E-176(23)~~G.S. 135-40.1(18).
- 19 (16) "Supervised living facility for developmentally disabled adults" means
20 a residential facility, as defined in G.S. 122C-3(14), which has two to
21 nine developmentally disabled adult residents.

22 (b) Whenever long-term care insurance provides coverage for organic brain
23 disorder syndrome, progressive dementing illness, or primary degenerative dementia,
24 such phrases shall be interpreted to include Alzheimer's Disease. Clinical diagnosis of
25 "organic brain disorder syndrome", "progressive dementing illness", and "primary
26 degenerative dementia" must be accepted as evidence that such conditions exist in an
27 insured when a pathological diagnosis cannot be made; provided that such medical
28 evidence substantially documents the diagnosis of the condition and the insured
29 received treatment for such condition.

30 (c) All long-term care insurance policies must be filed with and approved by the
31 Commissioner before they can be used in this State and are subject to the provisions of
32 Article 38 of this Chapter."

33 **SECTION 38.(d)** G.S. 108A-62 reads as rewritten:

34 **"§ 108A-62. Therapeutic leave for medical assistance patients.**

35 Patients at an intermediate care ~~facility~~facility for the mentally retarded or skilled
36 nursing facility may take up to 60 days of therapeutic leave in any one calendar year
37 without the facility losing reimbursement under the medical assistance program,
38 provided, however, no more than 15 consecutive days may be taken without approval of
39 the Department of Health and Human Services, Division of Medical Assistance. Under
40 no circumstances shall the number of Medicaid-covered therapeutic leave days exceed
41 60 days per patient per calendar year."

42 **SECTION 38.(e)** G.S. 131A-3(4) reads as rewritten:

43 "(4) "Health care facilities" means any one or more buildings, structures,
44 additions, extensions, improvements or other facilities, whether or not

1 located on the same site or sites, machinery, equipment, furnishings or
 2 other real or personal property suitable for health care or medical care;
 3 and includes, without limitation: general hospitals, chronic diseases,
 4 maternity, mental, tuberculosis and other specialized hospitals;
 5 facilities for intensive care and self-care; nursing homes, including
 6 skilled nursing facilities and intermediate care ~~facilities~~facilities for the
 7 mentally retarded; facilities for continuing care of the elderly and
 8 infirm; clinics and outpatient facilities; clinical, pathological and other
 9 laboratories; health care research facilities; laundries; training facilities
 10 for nurses, interns, physicians and other staff members; food
 11 preparation and food service facilities; administration buildings,
 12 central service and other administrative facilities; communication,
 13 computer; and other electronic facilities, fire-fighting facilities,
 14 pharmaceutical facilities and recreational facilities; storage space,
 15 X-ray, laser, radiotherapy and other apparatus and equipment;
 16 dispensaries; utilities; vehicular parking lots and garages; office
 17 facilities for health care facilities staff members and physicians; and
 18 such other health care facilities customarily under the jurisdiction of or
 19 provided by hospitals, or any combination of the foregoing, with all
 20 necessary, convenient or related interests in land, machinery,
 21 apparatus, appliances, equipment, furnishings, appurtenances, site
 22 preparation, landscaping and physical amenities;"

23 **SECTION 38.(f)** G.S. 131E-231 reads as rewritten:

24 **"§ 131E-231. Definitions.**

25 As used in this Article, unless otherwise specified:

- 26 (1) "Long-term care facility" means a nursing home as defined in
 27 G.S. 131E-101(6) and an adult care home as defined in
 28 ~~G.S. 131D-2(a)(3)~~G.S.131D-2(a)(1b) or
 29 ~~G.S. 131E-101(4)~~G.S. 131E-101(4).
- 30 (2) "Resident" means a person who has been admitted to a long-term care
 31 facility.
- 32 (3) "Respondent" means the person or entity holding a license pursuant to
 33 G.S. 131E-102 or G.S. 131D-2 or a person or entity operating a
 34 long-term care facility subject to licensure without a license."

35 **SECTION 38.(g)** G.S. 143B-181.16 reads as rewritten:

36 **"§ 143B-181.16. Long-Term Care Ombudsman Program/Office; definition.**

37 Unless the content clearly requires otherwise, as used in this Article:

- 38 (1) "Long-term care facility" means any skilled nursing facility and
 39 intermediate care ~~facility~~facility for the mentally retarded as defined in
 40 G.S. 131A-3(4) or any adult care home as defined in G.S. 131D-20(2).
- 41 (2) "Resident" means any person who is receiving treatment or care in any
 42 long-term care facility.

- 1 (3) "State Ombudsman" means the State Ombudsman as defined by the
- 2 Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq.,
- 3 who carries out the duties and functions established by this Article.
- 4 (4) "Regional Ombudsman" means a person employed by an Area Agency
- 5 on Aging to carry out the functions of the Regional Ombudsman
- 6 Office established by this Article."

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

8 "(a) The Board shall have the power to adopt bylaws, rules, and standards of

9 professional conduct to carry out the purposes of this Chapter, including, but not limited

10 to:

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

36 When necessary to protect the public health, safety, or welfare, the Board shall

37 require such evidence as it deems necessary to establish the continuing competency of

38 architects as a condition of renewal of licenses."

39 **SECTION 40.(a)** G.S. 90-270.69(8) reads as rewritten:

40 "The Board shall have the following powers and duties:

- 41 ...
- 42 (8) Establish reasonable fees for applications, ~~limited permits,~~ initial and
- 43 renewal licenses, and other services provided by the Board."

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

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

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

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

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

8 (3) Use in connection with his or her name or place of business the words
9 "occupational therapist", "occupational therapy assistant",
10 "occupational therapist limited permittee", or "~~occupational therapy~~
11 ~~assistant limited permittee~~", or the letters "O.T.", "O.T./L.", "O.T.A.",
12 "O.T.A./L.", "O.T./L.P.", or "O.T.A./L.P." or "O.T.A./L." or any other
13 words, letters, abbreviations or insignia indicating or implying that the
14 person is an occupational therapist, ~~occupational therapy assistant,~~
15 ~~occupational therapist limited permittee, or occupational therapy~~
16 ~~assistant limited permittee.~~ or occupational therapy assistant."

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

18 "(2) Has violated the provisions of ~~Part B~~Part 2 of Article 6 of Chapter
19 131E of the General Statutes and rules promulgated thereunder;".

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

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

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

26 b. When the purchaser provides the seller with information to
27 show the jurisdictions to which the direct mail is to be
28 delivered."

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

30 "**§ 115C-284. Method of selection and requirements.**

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

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

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

39 (1) Submit a complete application to the State Board.

40 (2) Pay the applicable fee.

41 (3) Have a bachelor's degree from an accredited college or accredited
42 university.

43 (4) Have one of the following:

44 a. A graduate degree from a public school administration program

1 that meets the public school administration program approval
2 standards established by the State Board of Education.

3 b. A master's degree from an accredited college or accredited
4 university and, by December 31, 1999, have completed a public
5 school administration program that meets the public school
6 administration program approval standards set by the State
7 Board of Education.

8 c. Education and training determined by the State Board of
9 Education as equivalent.

10 (5) Pass the exam adopted by the State Board.

11 "

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

13 "(24) Nonprofit corporation or organization with which associated. – Any
14 not for profit corporation, organization, or association, incorporated or
15 otherwise, that is organized or operating in the State primarily for
16 religious, charitable, scientific, literary, public health and safety, or
17 educational purposes and of which the person or any member of the
18 person's immediate family is a director, officer, governing board
19 member, employee, lobbyist registered as under Chapter 120C of the
20 General Statutes, or independent contractor. Nonprofit corporation or
21 organization with which associated shall not include any board, entity,
22 or other organization created by this State or by any political
23 subdivision of this State."

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

25 "**SECTION 2.** Notwithstanding G.S. 143-52.1 and S.L. 2006-203, through
26 ~~December 31, 2008, June 30, 2009,~~ the members of the Advisory Budget Commission
27 in office on June 30, 2007, shall continue to be eligible for appointment to the Board of
28 Awards, and vacancies may be filled by the appointing authority. Through ~~December~~
29 ~~31, 2008, June 30, 2009,~~ the Secretary of Administration shall appoint the Board of
30 Awards from among those eligible."

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

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

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

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

39 **SECTION 48.** If House Bill 2436, 2007 Regular Session, and Senate Bill
40 2015, 2007 Regular Session, become law, then Section 11 of Senate Bill 2015 is
41 repealed.

42 **SECTION 49.** If House Bill 2443, 2007 Regular Session, becomes law, then
43 Section 2.1 of that act is amended by deleting "135.38.5A." and substituting
44 "135-38.5A."

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

3 "a. This section does not apply:

- 4 1. To the relocation of an existing new motor vehicle dealer
5 within that dealer's relevant market area, provided that
6 the relocation not be at a site within 10 miles of a
7 licensed new motor vehicle dealer for the same line
8 make of motor vehicle. If this sub-subdivision is
9 applicable, only dealers trading in the same line-make of
10 vehicle that are located within the 10-mile radius shall be
11 entitled to notice from the manufacturer and have the
12 protest rights afforded under this ~~section~~; or section.
- 13 2. If the proposed additional new motor vehicle dealer is to
14 be established at or within two miles of a location at
15 which a former licensed new motor vehicle dealer for the
16 same line make of new motor vehicle had ceased
17 operating within the previous two ~~years~~; years.
- 18 3. To the relocation of an existing new motor vehicle dealer
19 within two miles of the existing site of the new motor
20 vehicle dealership if the franchise has been operating on
21 a regular basis from the existing site for a minimum of
22 three years immediately preceding the ~~relocation~~;
23 or relocation.
- 24 4. To the relocation of an existing new motor vehicle dealer
25 if the proposed site of the relocated new motor vehicle
26 dealership is further away from all other new motor
27 vehicle dealers of the same line make in that relevant
28 market ~~area~~; or area."

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