

North Carolina Sheriffs' Association

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Weekly Legislative Report

June 16, 2017

There has been a good bit of speculation at the General Assembly about the status of the State budget bill. Final negotiations have been going on this week between House and Senate leaders, but as of Friday morning a final resolution has not been announced.

There is a possibility that an agreement on the State budget bill will be reached today or over the weekend. In case that happens, the House and Senate have scheduled "skeleton" sessions for Friday and have said that they may schedule "skeleton" sessions for Saturday as well. A "skeleton" session means that at least one member will attend, and maybe a handful more who happen to be in the building, but that no bills will be voted on. This "skeleton" session process allows the budget bill to be accepted by the House and Senate so that it can be voted on as soon as possible.

If the State budget bill is agreed upon by House and Senate leaders and "reported in" to a "skeleton" session, then the bill could be voted on by the House and Senate early next week. If the bill is not agreed upon and "reported in" late this week, then the process will be delayed next week.

Under the rules of the House and Senate, the version of the State budget bill that is "reported in" by the House and Senate leaders can only be voted up or down, but cannot be amended. Therefore, once the House and Senate leadership agree on the final version of the State budget bill, consideration next week by the remaining legislative members is a mere formality. The agreed upon version of the State budget bill will be enacted by the General Assembly and sent to Governor Roy Cooper for his consideration. Governor Cooper can sign the bill into law, allow it to go into law without his signature or he can veto it. If Governor Cooper vetoes the State budget bill, it is very likely that the majority in the House and Senate will override his veto and the budget bill will then be enacted into law.

So in summary, House and Senate leaders are working on final decisions regarding the State budget bill. Once their agreed upon version of the bill is released, there are a number of formalities that occur thereafter but undoubtedly that version of the State budget bill is the version that will be finally enacted into law in the next few weeks, most likely prior to the new fiscal year beginning on July 1, 2017.

The actual working sessions of the House and Senate concluded for the week on Thursday with "skeleton" sessions to be held on Friday and perhaps Saturday. The House and Senate are scheduled to reconvene for business on Monday.

BILL STATUS

[HOUSE BILL 55](#), Apex/Cary/Police Assistance on School Grounds, has been approved by the General Assembly and became effective June 15, 2017. Since the bill applies to fewer than 15 counties, it is considered a local bill and therefore does not require the signature of the Governor to become law. Rather, this local bill became law when it was approved by the General Assembly.

The law allows the police departments in the towns of Apex and Cary to provide law enforcement assistance to each other on property owned by the county board of education. This will allow the Apex Police Department to continue to provide law enforcement assistance at the temporary Apex High School that will be located in Cary while the existing Apex High School located in Apex is being renovated. It is anticipated that this process will take two years.

When assisting the other town, the assisting police department would have the same law enforcement jurisdiction of the requesting police department on property owned by the county board of education. This law only applies to the towns of Apex and Cary, and will expire on July 1, 2020.

[HOUSE BILL 84](#), DL/Deaf or Hard of Hearing Designation, has passed the House and has been amended in the Senate. This bill, as amended, would require the Division of Motor Vehicles, in consultation with the Department of Public Safety, the State Highway Patrol and the Division of Services for the Deaf and Hard of Hearing, to develop a designation to be placed on drivers licenses to indicate a driver is hearing impaired, if the driver requests it.

The North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission would be required to establish educational and training standards for law enforcement officers concerning recognizing and interacting with persons who are deaf or hard of hearing.

[HOUSE BILL 128](#), Prohibit Drone Use Over Prison/Jail, has passed the House and has been amended in the Senate. This bill, as amended, would prohibit the use of a drone above or adjacent to any confinement facility (local, State or federal). This restriction would not apply to: (1) a person operating a drone who has written permission from the head of the confinement facility; (2) law enforcement officers operating a drone while discharging their official duties; (3) a public utility or commercial entity such as a surveying company, so long as certain distance and notice requirements are met; and (4) emergency management agencies, emergency medical services personnel, firefighters and law enforcement officers who are using the drone in response to an emergency.

The bill would also make it a Class H felony to deliver or attempt to deliver a weapon into the confinement facility with a drone. It would be a Class I felony to deliver or try to deliver contraband (such as alcohol, drugs, etc.) into the facility. Finally, the bill would make it a Class 1 misdemeanor to operate a drone in this protected area for any other purpose. Upon conviction for any of these crimes, the drone would be subject to forfeiture to the State. **The North**

Carolina Sheriffs' Association SUPPORTS this bill.

[HOUSE BILL 138](#), Revise Gang Laws, has passed the House and has been amended in the Senate. This bill, as amended, would increase the punishment from a Class H felony to a Class G felony for someone to threaten or deter a person who is assisting another to withdraw from a gang, or to retaliate against someone for withdrawing from a gang. It would be a Class F felony to physically injure a person with the intent to deter them from assisting someone to withdraw from a gang, or to physically injure a person in retaliation for withdrawing from a gang.

Evidence that gang activity has occurred at a residence at least five times in a 12 month period would be sufficient evidence to establish that the property owner, or renter of the property, knowingly permitted the criminal gang activity to continue. This evidence could be used in declaring the property a public nuisance.

The bill would also define a criminal gang as any ongoing organization, association, or group of three or more persons that has a primary goal of the commission of criminal acts and shares a common name, identification, symbols, or other types of distinguishing characteristics. An individual would be a "criminal gang member" if the person meets three or more of the following nine criteria:

1. The person admits to being a criminal gang member;
2. The person is identified as a criminal gang member by a reliable source;
3. The person has previously been involved in criminal gang activity;
4. The person has adopted symbols or hand signs associated with a criminal gang;
5. The person has adopted the display of colors or style of dress associated with a criminal gang;
6. The person is in possession of or is linked to a criminal gang by physical evidence such as photographs, rosters or membership documents;
7. The person has tattoos or markings associated with a criminal gang;
8. The person has adopted language or terminology associated with a criminal gang; or
9. The person appears in social media to promote a criminal gang.

The bill would also increase the penalties for criminal gang activity. Any felony conviction (except for Class A, B1 or B2 felonies) involving gang activity would be sentenced at one class felony higher than the principal felony. For a felony committed by a gang leader or gang organizer, the sentence would be two classes higher than the principal felony. Finally, a misdemeanor conviction involving gang activity would result in sentencing one class higher than the principal misdemeanor, with a Class A1 misdemeanor becoming a Class I felony. **This bill is SUPPORTED-HIGH PRIORITY by the North Carolina Sheriffs' Association.**

[HOUSE BILL 384](#), Increase Penalties/Organized Retail Theft, has passed the House and has been amended in the Senate. This bill, as amended, would expand the circumstances under which a person commits the Class H felony offense of "larceny from a merchant." The bill provides that the crime would also be committed if a person exchanges stolen property for something of value. Currently, a person commits larceny from a merchant when they do any of the following: (1) take infant formula; (2) take property worth over \$200; (3) take merchandise

by removing or destroying an antishoplifting device; or (4) affix a fraudulent product code (swapping tags) to take the property.

The bill would also make it a Class G felony to conspire with another person to steal \$20,000 or more in retail property within a 90 day period, with the intent to sell the property, or to conspire with two or more people, while acting as an organizer or leader, with the purpose of selling or transferring stolen property.

Finally, the bill would make changes to our currency converter laws and would include “e-buyers” as currency converters. Currently, a currency converter is defined as a person engaged in the business of purchasing goods from the public for cash. An e-buyer would be a currency converter that is engaged in the business of “purchasing gift cards or merchandise cards online.”

E-buyers would be required to maintain detailed records in English, which include: (1) a clear description of what was purchased; (2) the name, address, and telephone number or email address of the seller; (3) the purchase price and value of the gift card or merchandise card; and (4) the identification number or the internet protocol (IP) address of the seller, if available. Finally, prior to making a purchase, the seller would be required to provide to the e-buyer a statement attesting that the property is not stolen and that it is not subject to any liens or other encumbrances. **The North Carolina Sheriffs' Association SUPPORTS this bill.**

[HOUSE BILL 469](#), Regulation of Fully Autonomous Vehicles, has passed the House and has been amended in the Senate. This bill, as amended, would define a fully autonomous vehicle as a motor vehicle equipped with an “automated driving system” that will not at any time require an occupant to perform any of the driving tasks while the automatic driving function is engaged. An automated driving system would be the hardware and software in the vehicle that allows the vehicle to operate independently on a sustained basis.

The bill would allow an operator of a fully autonomous motor vehicle to operate the vehicle without a drivers license. The operator would be the person that causes the automated driving system to engage and the vehicle to drive or travel autonomously. Any person 12 years of age or older would be allowed to occupy a fully autonomous motor vehicle unsupervised.

The parent or legal guardian of a minor riding in a fully autonomous vehicle would be responsible for ensuring that the minor is properly restrained with a safety belt or child restraint seat. If the fully autonomous vehicle has an open bed (such as a truck), the parent or legal guardian would be responsible for ensuring that the minor is not riding in the open bed of the fully autonomous vehicle.

Finally, the bill would make the registered owner of a fully autonomous vehicle responsible for any moving violations of that vehicle. Also, the bill would require a fully autonomous vehicle to stop at the scene of an accident.

[SENATE BILL 548](#), Strengthen Human Trafficking Laws/Studies, as amended, would increase the penalty for the human trafficking of an adult from a Class F felony to a Class C felony. If the

victim is a minor, the penalty would be increased from a Class C felony to a Class B1 felony.

The bill would also require adult establishments, such as an adult bookstore or adult “live entertainment” business, to post in a conspicuous location a public awareness sign and hotline telephone number for human trafficking help. Massage and bodywork therapy would not be allowed to be practiced in an adult establishment. Massage and bodywork therapy would include treatments such as soft tissue massage.

Additionally, the subject matter jurisdiction of the State Bureau of Investigation (“SBI”) would be expanded to allow the SBI, upon request of either the Governor or Attorney General, to investigate human trafficking crimes and crimes involving nuclear, biological and chemical weapons of mass destruction.

[HOUSE BILL 577](#), LSC Crim. Check/Felonious Gaming Machines, has passed the House and has been amended in the Senate. This bill, as amended, would make it a Class G felony for any person to keep or use more than four electronic sweepstakes machines within 100 feet of “any other electronic machines or devices,” on any portion of property owned or controlled by the person.

Current law makes it illegal to operate even one electronic sweepstakes machine, commonly called a video sweepstakes machine. The new language in this bill could be interpreted to allow the video sweepstakes industry to make a legal argument in court that the operation of video sweepstakes machines is lawful. **Any change in the law to legalize video sweepstakes machines is OPPOSED by the North Carolina Sheriffs' Association.**

[SENATE BILL 628](#), Various Changes to the Revenue Laws, has passed the Senate and has been sent to the House for consideration. As amended, the bill would, in addition to changing many of the tax laws, make it a Class G felony for anyone to knowingly use the identifying information of another person (such as the person’s name, date of birth or social security number) to make a false submission to the North Carolina Department of Revenue in order to obtain anything of value. If the person whose information was unlawfully used is financially impacted because of the false filing, then the person who made the submission would be guilty of a Class F felony.

The **Weekly Legislative Report** is provided at no charge as a service to the sheriffs, criminal justice community and citizens of North Carolina.

North Carolina Sheriffs' Association, Inc.

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