

North Carolina Sheriffs' Association

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Weekly Legislative Report

March 24, 2017

This week has included agreements and disagreements between the North Carolina General Assembly and Governor Roy Cooper. This “healthy tension” between the Legislative and Executive Branches of Government was specifically designed into our form of government by our country’s and State’s founding fathers. While the disagreements can sometimes be frustrating for those involved, this “healthy tension” is what makes our form of government the best one in the world.

House Bill 100, Restore Partisan Elections/Superior and District Court, was recently enacted by the General Assembly to require the Board of Elections to indicate the political party of all candidates for superior court and district court on the ballots. This bill was vetoed by Governor Cooper and was the first veto of his new administration. This week, the House and Senate overwhelmingly overrode the Governor’s veto, almost exclusively along political party lines, and therefore, House Bill 100 has been enacted into law.

In contrast to the partisan disagreement between the Governor and the Legislature over House Bill 100, the Senate continues to approve Governor Cooper’s nominees to serve as the heads of various State agencies. A lawsuit is pending in which the Governor has challenged the Legislature’s authority to require the Governor to submit his Cabinet level nominees for consideration and confirmation by the Senate. Despite the pending lawsuit, the Senate has been considering the Governor’s nominees for Cabinet Secretary positions, and so far has overwhelmingly approved all of those that have been considered. The confirmation process has however, had some tense moments. The Governor’s nominees have not willingly attended the Senate’s confirmation hearings, so the Senate issued subpoenas requiring their attendance. Each of the nominees subpoenaed to attend a confirmation hearing have attended the hearing, have voluntarily answered the Senate’s questions, and have been approved by the Senate.

The House and Senate adjourned on Thursday and will reconvene on Monday.

BILLS OF INTEREST

HOUSE BILL 350, Amend Drug Laws/Ellison v. Treadway, would create a new felony offense of “trafficking in pharmaceuticals.” Trafficking in pharmaceuticals would be the illegal sale, delivery, transportation or possession of pills, tablets or capsules that contain both an opiate and a non-controlled substance and that is a commercial drug with FDA approval. Depending on the number of pills trafficked, the bill would create different penalty ranges from a Class G felony up to a Class D felony. Currently, the penalty for trafficking in pills, tablets or capsules is determined by the total weight of the pharmaceuticals containing opiates. **Introduced by**

Senators Britt, Tucker and J. Jackson, and assigned to the Committee on Rules, Calendar and Operations of the House.

[HOUSE BILL 409](#), State Agencies/Adjust Hiring Practices, would prohibit any State government employer from considering an applicant's criminal history until after the applicant has been interviewed and the applicant has signed a waiver for the release of their criminal record. This bill would also apply to current State government employees who seek a different State government job. The bill would not apply to law enforcement agencies or public safety agencies. **Introduced by Representatives R. Turner, Hardister, Grange and Pierce, and assigned to the House Committee on State Personnel.**

[HOUSE BILL 418](#), SOS/Save Our Street Signs, would increase the penalty from a Class 2 misdemeanor to a Class 1 misdemeanor for willfully damaging or removing a street sign. The bill would also increase the reward to \$1000 for information leading to the arrest and conviction of a person who damages or removes a street sign. Finally, the bill would use 1% of the State 911 Fund to pay for the increased reward. **Introduced by Representative Clampitt, and assigned to the House Committee on Transportation.**

[HOUSE BILL 424](#), Superseding Domestic Orders, would make any orders in a divorce proceeding related to child custody, child or spousal support, or possession of property, which are dated after a Domestic Violence Protective Order (DVPO) on the same topic, controlling over the DVPO on that topic. **Introduced by Representatives W. Richardson, Harrison and Belk, and assigned to the Judiciary IV House Committee.**

[HOUSE BILL 428](#), Probation/Parole Officers Retirement, would make State probation or parole officers eligible for the law enforcement officers' special separation allowance retirement benefit. This bill would not make probation or parole officers eligible for the 5% employer contribution to the Supplemental Retirement Income Plan, known as the 401(k) plan, for State law enforcement officers. **Introduced by Representatives McNeill, Faircloth, Hurley and Goodman, and assigned to the House Committee on State Personnel.**

[HOUSE BILL 432](#), Increase Teacher Supplement/Electronic Notice, is identical to Senate Bill 343, Increase Teacher Supplement/Electronic Notice, which is referenced below in this Weekly Legislative Report. This bill would make numerous changes to the laws concerning the publication of legal notices. Among these changes:

1. Newspapers that carry legal notices would be required to: (i) appeal to the general public; (ii) have more than a "deminimus" (token) number of paid subscribers; (iii) have a distribution that is not limited entirely to one geographical part of the community; and (iv) be available to anyone in the county or political subdivision where the notice is required to be published.
2. If the newspaper in which a legal notice is placed also maintains an Internet Web site, then the legal notice would be required to be placed, at no

additional charge, on that newspaper's Internet Web site on the same day that the notice appears in the print newspaper.

3. Instead of publishing a legal notice in a print newspaper, the same legal notice could be, but would not be required to be, published on a county maintained Web site for that purpose.
4. Half of the money collected by a county for the publishing of these legal notices would be required to be used for the payment of teacher pay supplements, and the remainder of the money would be distributed to the county.

Introduced by Representatives McGrady, Brawley and Blust, and assigned to the House Committee on State and Local Government.

[HOUSE BILL 435](#), [Raise Minimum Age to Access Tobacco Products](#), would increase in phases the age to purchase tobacco products from 18 to 21 years old by the year 2021. The definition of tobacco products would be expanded to include cigarette wrapping papers and vapor products, such as electronic cigarettes, in addition to those items currently listed in the law as tobacco products, such as cigarettes, cigars and chewing tobacco products. **Introduced by Representatives Murphy, Bert Jones, Lambeth and Grange, and assigned to the Committee on Rules, Calendar and Operations of the House.**

[HOUSE BILL 438](#), [Concealed Handgun Standardization Act](#), would make numerous changes to the concealed handgun permit (CHP) statutes. Before a sheriff could deny or revoke a CHP due to a mental illness, the bill would require the applicant or permittee to have a current diagnosis under the Diagnostic and Statistical Manual of Mental Disorders. Currently, sheriffs evaluate any available mental health evaluations and mental health orders of applicants and permittees to determine if the applicant or permittee suffers from a "physical or mental infirmity" that prevents the safe handling of a handgun.

The bill would also require sheriffs to schedule an in-office appointment for an applicant to complete the application process for a CHP within 10 days of the applicant submitting all required application documents. The sheriff would also be required to issue or deny the CHP within 90 calendar days of the application, regardless of whether or not all of the application background materials, such as mental health documents, have been submitted to and reviewed by the sheriff.

Finally, the bill would change the venue for an appeal of a CHP denial from district court to superior court. **Introduced by Representatives Adams, Brody, Cleveland and Williams, and assigned to the House Judiciary I Committee.**

[HOUSE BILL 449](#), [Henderson Cty/Law Enforcement Training Center](#), would authorize Henderson County to construct community college buildings on the campus of the Blue Ridge Community College to be used for law enforcement training. **Introduced by Representatives**

McGrady and Henson, and assigned to the House Committee on State and Local Government.

[HOUSE BILL 451](#), Regulate Massage & Bodywork Therapy Estmts, would make it a Class 1 misdemeanor for any person, association, partnership or corporation to engage in, or to hire or employ someone to engage in, massage therapy or bodywork therapy without the person or entity being properly licensed to do so. Massage and bodywork therapy would include treatments such as soft tissue massage. **Introduced by Representatives McNeill, Bert Jones, R. Turner and Hurley, and assigned to the House Committee on Regulatory Reform.**

[HOUSE BILL 452](#), Create Debtor Exemption for Firearms, would exempt a judgment debtor's firearms up to a value of no more than \$5,000 from judicial sales. This exemption from judicial sales would be limited to no more than two handguns and four rifles or shotguns. **Introduced by Representatives B. Turner, Hardister and Dobson.**

[HOUSE BILL 460](#), Economic & Job Growth for NC Distilleries, is identical to Senate Bill 155, Economic & Job Growth for NC Distilleries, which was summarized in the March 3, 2017 Weekly Legislative Report. **Introduced by Representatives Bradford, Davis, Hardister and Duane Hall.**

[HOUSE BILL 464](#), Revise Schedule of Controlled Substances, is identical to Senate Bill 347, Revise Schedule of Controlled Substances, which is referenced below in this Weekly Legislative Report. This bill would revise and add to the schedule of controlled substances: synthetic fentanyl, designer hallucinogenics, synthetic cannabinoids, system depressants and other substances. **Introduced by Representative Horn.**

[HOUSE BILL 469](#), Regulation of Fully Autonomous Vehicles, is identical to Senate Bill 337, Regulation of Fully Autonomous Vehicles, which is referenced below in this Weekly Legislative Report. This 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. A fully autonomous motor vehicle would be defined as one that has an "automated driving system" that can fully operate the vehicle without the intervention of a human driver.

The bill would require the parent or legal guardian of a passenger in a fully autonomous vehicle under the age of 16 to make sure the minor is properly restrained with a safety belt or safety seat while the vehicle is traveling autonomously.

Finally, the bill would require a fully autonomous vehicle to stop at the scene of an accident. **Introduced by Representatives Shepard and Torbett.**

[HOUSE BILL 471](#), Fail to Obtain DL/Increase Punishment, would require a defendant's motor vehicle to be seized when the defendant is convicted of a third offense of driving before obtaining a valid drivers license. **Introduced by Representatives Millis, Destin Hall,**

Cleveland and Burr.

[HOUSE BILL 472](#), Motor Vehicle Law Revisions, would eliminate the requirement that used car dealers take continuing education. The bill would also require the License and Theft Bureau of the Division of Motor Vehicles to study how to improve enforcement of the laws governing the transfer of a motor vehicle title. **Introduced by Representative Setzer.**

[HOUSE BILL 474](#), Up Minimum Wage/Set Rules/COLA, would increase the State minimum wage to either \$10.50 per hour or \$7.75 per hour, depending on the size of the employer. **Introduced by Representative Cunningham.**

[HOUSE BILL 476](#), Required Training Police Telecommunications, would require, effective July 1, 2019, all telecommunicators employed by municipal police departments to be certified as telecommunicators through the North Carolina Sheriffs' Education and Training Standards Commission. **Introduced by Representative Faircloth.**

[SENATE BILL 327](#), Drivers with Disabilities and Law Enforcement, would require the Division of Motor Vehicles (DMV), in consultation with the North Carolina State Highway Patrol and the Department of Public Safety, to develop an electronic designation in the DMV database for vehicle registration plates that indicates that the owner of the vehicle suffers from a mental illness or developmental disability.

The bill would also require law enforcement officers to receive training on how to interact with a person the officer knows, or reasonably should know, has a mental illness or developmental disability. This training would have to be developed by the North Carolina Criminal Justice Education and Training Standards Commission. **Introduced by Senator Tillman, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 332](#), Repeal HB2, was introduced this week in an effort to repeal House Bill 2, Public Facilities Privacy and Security Act, (a.k.a. the "bathroom bill") that was enacted on March 23, 2016. Unlike other bills introduced to repeal House Bill 2 this session, this bill does not contain antidiscrimination provisions and enhanced mandatory minimum sentences for certain sex crimes committed in public changing facilities. **Introduced by Senator Ford, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 333](#), Require Use of Directional Signals, would require the operator of a motor vehicle on a public road or public vehicular area to always use a directional signal before stopping, starting or turning from a direct line. Currently, the operator of a motor vehicle has to use a directional signal only "whenever the operation of any other vehicle may be affected by the movement." **Introduced by Senators Lee and J. Jackson, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 337](#), Regulation of Fully Autonomous Vehicles, is identical to House Bill 469, Regulation of Fully Autonomous Vehicles, which is summarized above in this Weekly Legislative Report. **Introduced by Senators Meredith, J. Davis and McInnis, and assigned**

to the Committee on Rules and Operations of the Senate.

[SENATE BILL 343](#), Increase Teacher Supplement/Electronic Notice, is identical to [House Bill 432](#), Increase Teacher Supplement/Electronic Notice, which is summarized above in this Weekly Legislative Report. **Introduced by Senators Wade, Meredith and Bishop, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 344](#), Combine Adult Correction and Juvenile Justice, would consolidate the Division of Adult Correction and the Division of Juvenile Justice into a single division within the Department of Public Safety. **Introduced by Senator Randleman, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 345](#), Interstate Compact Bill, is identical to [House Bill 370](#), Interstate Compact Bill, summarized in the March 17, 2017 Weekly Legislative Report. This bill would make numerous changes to how offenders under the Interstate Compact for Adult Offender Supervision are handled in North Carolina when the offender violates conditions of their probation. **Introduced by Senator Randleman, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 346](#), Salvage Yards/Waiting Period, would require secondary metals recyclers and salvage yards to wait at least 72 hours from the time they buy a motor vehicle before dismantling or wrecking the motor vehicle. **Introduced by Senators Britt, Ballard and J. Jackson, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 347](#), Revise Schedule of Controlled Substances, is identical to [House Bill 464](#), Revise Schedule of Controlled Substances, which is summarized above in this Weekly Legislative Report. **Introduced by Senators J. Davis and McInnis, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 364](#), Brian Garlock Act, would prohibit the use of a mobile telephone or mobile electronic communication device while operating a motor vehicle, school bus or commercial motor vehicle on a public road or public vehicular area, unless the device has hands-free operation capabilities and is being used hands-free. A driver under the age of 18 would not be allowed to use the device even if the device is used hands-free. A mobile electronic communication device would include a laptop, gaming device, pager or “smartwatch.”

Using the mobile telephone or mobile electronic communication device while operating a school bus would be a Class 2 misdemeanor. It would be an infraction to operate a commercial motor vehicle or personal motor vehicle while using a mobile telephone or mobile electronic communication device. However, the device would not be subject to seizure.

This bill would not apply to law enforcement officers, members of a fire department or other first responders while in the performance of their duties. **Introduced by Senators Tarte, Lee and Ballard.**

[SENATE BILL 365](#), School Buses/Allow Use of Blue Lights, would allow for the installation

and use of a blue light on a school bus. The use of the blue light would be limited to only when children are being transported to and from school on an established bus route. **Introduced by Senators Wade and Ford.**

[SENATE BILL 375](#), State Emps./No Payroll Dues Deductions, would prohibit State employees from setting up an automatic payroll deduction for the payment of association fees. Current law allows such a deduction. **Introduced by Senator Hise.**

[SENATE BILL 385](#), Restoration of Firearms Rights, would allow a person who has been convicted of a non-violent felony to petition for a restoration of their right to possess a firearm after 10 years following their conviction. Currently, a petition can be filed no sooner than 20 years from the date of the felon's release from prison or release from probation or parole, whichever is later. **Introduced by Senators Britt and Tarte.**

BILL STATUS

[HOUSE BILL 128](#), Prohibit Drone Use Over Prison/Jail, would prohibit the use of a drone above or adjacent to any confinement facility, unless prior approval is obtained by the authority overseeing the confinement facility. The bill has been amended to clarify the boundaries and distances from a confinement facility that a drone can be operated in.

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

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