

North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Weekly Legislative Report

January 29, 2021

Although most legislators have not been in town since their January 13 swearing in, work never stopped in preparation for the return of all the members of the General Assembly this week. When House and Senate members arrived back on Jones and Salisbury Streets, some found they had been assigned new office space and newly elected members found their first office assignments in the State Legislative Building and the Legislative Office Building. In addition, House Speaker Tim Moore finalized House Committee assignments.

One of the early priorities of the General Assembly will be consideration of a bill regarding CARES Act funds allocated to the State last year during the COVID-19 crisis. House leaders indicated they expect this bill to focus mainly on technical issues, including extending many deadlines which expired on December 31, 2020.

With the filing of twenty-three bills by House members and eighteen bills by Senate members on the second day of the Session, the long session is promising to be busy. A State budget is typically a main focus of the General Assembly during the long session. A budget was passed by the General Assembly during the 2019 session but was vetoed by Governor Roy Cooper. Consequently, the spotlight will likely shine bright on the budget process this year. House and Senate leaders have indicated they plan to focus on the budget during the spring and summer. Only time will tell if State leaders can find enough common ground on hot-button budgetary issues to make a State budget a reality this Session.

According to both House Speaker Tim Moore and Senate leader Phil Berger, redistricting, a topic that garnered significant attention from the General Assembly and the North Carolina appellate courts over the last several years, will likely not be considered until late summer or fall, after a budget is passed.

The House and Senate adjourned on Thursday and will return on Monday, February 1, 2021.

BILLS OF INTEREST

[HOUSE BILL 7, Protect City Employees from Retaliation](#), would require a city council that does not already have a binding procedure for protecting employees from retaliation to adopt rules or ordinances that encourage all city employees to report the following: (i) violations of federal, State, or city laws, rules, or regulations, (ii) fraud, (iii) misappropriation of State or city government resources, (iv) any activity that poses a substantial or specific danger to public health and safety, and (v) gross mismanagement, including the gross waste of public monies or the gross abuse of

authority.

The bill would also prohibit any city employee, including a supervisor, from taking any action against an employee that reports any of the activities described above, including disciplining or terminating the employee. This would apply even if the reporting employee made false or misleading accusations to avoid being disciplined or terminated.

The bill would make it more difficult for an employer to remove a bad employee that is seeking to avoid discipline or termination. **Introduced by Representatives Hanig, Bradford and Hardister, and assigned to the House Committee on Local Government.**

[HOUSE BILL 11](#), Regulate Alcohol Consumables, would add “alcohol consumable” to the definition of “alcoholic beverage” in our State’s laws regulating alcoholic beverages. “Alcohol consumable” would mean any manufactured and packaged ice cream, ice pop, or gelatin-based food product containing at least one-half of one percent (0.5%) alcohol by volume.

The bill would also include “alcohol consumable” in the definitions of fortified wine, malt beverage, spiritous liquor, and unfortified wine. In addition, the bill would allow the North Carolina Alcoholic Beverage Control (ABC) Commission to set standards and adopt rules for “alcoholic beverages” rather than specifically for malt beverages, unfortified wine, fortified wine, and spirituous liquor.

If enacted into law, the bill would make the sale and consumption of alcohol consumables subject to the same regulations as alcoholic beverages are under current State law. For example, it would be unlawful to sell alcohol consumables without the appropriate ABC permit and underage individuals would be prohibited from purchasing, possessing or consuming alcohol consumables. **Introduced by Representatives Boles, Moffitt, Hurley and Willingham, and assigned to the House Committee on Alcoholic Beverage Control.**

[HOUSE BILL 13](#), State Search and Rescue Funding, would appropriate \$2.3 million dollars in recurring funds to the North Carolina Department of Public Safety (DPS), Division of Emergency Management, for each fiscal year of the 2021-2023 fiscal biennium to be used to support the State Search and Rescue Program.

These funds would also be used to help local governments supplement the cost of purchasing and maintaining search and rescue equipment and to provide other items necessary to ensure statewide search and rescue services. **Introduced by Representative Davis, and assigned to the House Committee on Appropriations.**

[HOUSE BILL 17](#), Pilot Project to Treat Opioid Overdose, would appropriate to the North Carolina Department of Public Safety \$500,000 in nonrecurring funds for the 2021-2022 fiscal year and \$250,000 in nonrecurring funds for the 2022-2023 fiscal year to continue to fund the Quick Response Team (QRT) in the City of Wilmington.

The QRT is a pilot project in Wilmington that is made up of law enforcement officers, firefighters and paramedics and is designed to provide overdose treatment services for opiate and heroin

overdose survivors who are not receiving follow-up treatment. **Introduced by Representative Davis, and assigned to the House Committee on Appropriations.**

[HOUSE BILL 21](#), Add Member to NC Training Standards Commiss., would increase the number of members of the North Carolina Criminal Justice Education and Training Standards Commission from 34 to 35 members. The bill would allow the North Carolina Police Benevolent Association to appoint one full-time sworn law enforcement officer to the Commission. **Introduced by Representatives Riddell, Hardister, Cunningham and Bradford.**

[HOUSE BILL 25](#), Impaired Driving Law Revisions, would add to the list of offenses classified as “Offenses Involving Impaired Driving” the Class 1 misdemeanor offense of “Driving While Licensed Revoked for Impaired Driving.” If this bill is enacted into law, a conviction for Driving While Licensed Revoked for Impaired Driving could be used as an underlying conviction to prove Habitual Impaired Driving, Aggravated Felony Death by Vehicle and Aggravated Felony Serious Injury by Vehicle.

Currently, offenses such as impaired driving, habitual impaired driving, impaired driving in a commercial motor vehicle, and impaired driving resulting in death are classified as “Offenses Involving Impaired Driving” that can be used as an underlying conviction to prove Habitual Impaired Driving, Aggravated Felony Death by Vehicle and Aggravated Felony Serious Injury by Vehicle.

Finally, the bill would modify how certain grossly aggravating factors are determined by the court at sentencing. **Introduced by Representative Clampitt.**

[HOUSE BILL 26](#), Revise Use of Alcohol Concentration Result, would make the actual alcohol concentration result of an alcohol screening test administered prior to arrest admissible in court and would allow the actual result of the test to be used by an officer or an administrative agency (such as the North Carolina Division of Motor Vehicles) when making a determination as to whether “probable cause or reasonable grounds” exist for believing that the driver committed an implied consent offense and that the driver consumed alcohol.

Currently, the positive or negative result of an alcohol screening test administered prior to arrest is admissible in court, but not the actual alcohol concentration, and may be used by an officer or an administrative agency in determining whether reasonable grounds exist to believe the driver committed an implied consent offense and that the driver consumed alcohol.

The bill would also clarify that “low” alcohol test results can be used by an officer, a court or an administrative body to determine whether impairment was caused by an impairing substance other than alcohol. Currently, only negative results on an alcohol test can be used in determining whether a person’s alleged impairment was caused by an impairing substance other than alcohol. **Introduced by Representative Clampitt.**

[HOUSE BILL 33](#), Broaden Applicability of DV Statutes, would allow the victim in a same-sex relationship to petition a court to obtain a domestic violence protective order under Chapter 50B of our General Statutes. Currently, domestic violence protective orders are not available for

persons of the same-sex who are living together or who are in a same-sex relationship. In this scenario under current law, the person would have to obtain a civil protective order under Chapter 50C of our General Statutes. **Introduced by Representatives Warren, Moffitt and Zachary.**

[SENATE BILL 10](#), Add Member to NC Training Standards Commiss., is identical to [House Bill 21](#), which is summarized above in this Weekly Legislative Report. **Introduced by Senators Johnson, Perry and Hise, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 20](#), Hands Free NC, would prohibit the use of a wireless communication device such as a cellphone, smartwatch, laptop computer or any portable computing device while operating a motor vehicle. Prohibited uses of a wireless communication device would include holding the device or supporting the device on one's body and would also include the acts of sending texts, reading texts, accessing webpages or using an electronic mapping device to navigate.

However, a wireless communication device could be used if the operator of the vehicle is at least 18 years of age and is using equipment installed by the automobile manufacturer that is integrated into the vehicle, such as a built-in navigation system or built-in telephone.

A person under 18 years of age would be prohibited from operating a motor vehicle while using any wireless communications device (even a "hands free" wireless communication device) unless the person is using the device in an emergency situation, such as to call the police, or is using an electronic navigation system and the person has entered the address prior to operating the motor vehicle.

The bill would allow the operator of a vehicle who is 18 years of age or older to use a wireless communication device during an emergency, such as when contacting a law enforcement agency, fire department or hospital to seek assistance. The bill would also allow a law enforcement officer, member of a fire department, a first responder, the operator of a public or private ambulance, the operator of a vehicle registered to a public utility or wireless communication provider, or an amateur radio operator to use a wireless communication device in a vehicle if the person is performing their official duties.

A person who violates this restriction and has not previously been found responsible for a violation of this restriction that occurred within 36 months prior to the violation would be guilty of an infraction and would be subject to a \$100 fine. A second violation within 36 months prior to the date of the current violation would also be an infraction with a \$150 fine. A third or subsequent violation within 36 months prior to the date of the current violation would be an infraction with a \$200 fine.

In addition, the first violation would not result in the issuance of any insurance points. However, a second violation would result in the issuance of one insurance point and a third violation would result in the issuance of two insurance points. A person who violates this restriction while driving a school bus is subject to the same penalties but would also be guilty of a Class 2 misdemeanor.

Finally, the bill would prohibit local governments from enacting any ordinance that regulates the use of a wireless communication device while operating a motor vehicle. **Introduced by Senators Burgin, Corbin and Woodard, and assigned to the Committee on Rules and Operations of the Senate.**

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.

Proudly Serving the Sheriffs and Citizens of North Carolina Since 1922

www.ncsheriffs.org
