

North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Weekly Legislative Report

February 5, 2021

While a great deal of business took place this week in the State legislative complex, you could not suspect it from walking the halls and riding the elevators. With legislators able to attend committee meetings and sessions remotely, common areas are quiet, office doors are closed, far fewer people are in the buildings and those that are there tend not to gather for discussions like they did prior to the COVID-19 pandemic. Familiar faces of staff, lobbyists and even legislators are hard to recognize because most are well hidden behind masks.

All of that said, it was clear from the action that did take place this week at the General Assembly that the business of governing continued despite COVID-19. Legislators worked to file bills each day and in the last two weeks four new caucuses were formed.

Representative Charlie Miller, chief deputy for the Brunswick County Sheriff's Office, is chair of the Law Enforcement Caucus and Representative Carson Smith, retired Pender County Sheriff, will serve as vice-chair of the caucus. This caucus plans on having regular briefings and will focus on law enforcement issues and needs.

The Early Childhood Caucus is a bi-partisan caucus formed by Representative Ashton Clemmons and Representative Donna White. The goals of this caucus are still being developed but will focus on issues affecting children from birth to 8 years of age.

The Freedom Caucus is led by Representative Keith Kidwell. This caucus aims to "assist Republican leadership in how legislation may infringe on the rights and liberties of the citizens and offer suggestions and alternatives for improvement."

Representative Julia Howard announced the formation of the Wine & Grape Caucus. She is joined by co-chair Senator Vickie Sawyer to lead the caucus. This caucus intends to promote and study the economic and cultural impact of the wine industry in North Carolina.

Also as expected and as promised earlier in the Session, both chambers took up a bill addressing COVID-19 deadlines for federal funds. The bill unanimously passed the Senate on Wednesday and passed the House unanimously on Thursday. Originally, the bill was only intended to extend deadlines for funding, but lawmakers chose to also include distribution of new federal funds in this bill as well. Those newly funded initiatives included in the bill will aid with COVID-19 vaccine distribution, getting children back in school and assisting renters with avoiding evictions. The bill will now go to the Governor's desk for his signature.

The House and Senate adjourned on Thursday and will return on Monday, February 8, 2021.

BILLS OF INTEREST

[HOUSE BILL 36](#), Protect Those Who Serve and Protect Act, would create the new criminal offense of “Discharging certain barreled weapons or a firearm at or into certain unoccupied emergency vehicles.” It would be a Class H felony to willfully or wantonly discharge or attempt to discharge any firearm or barreled weapon capable of discharging shot, bullets, pellets, or other missiles (such as a pellet gun, shotgun, or rifle) at or into any unoccupied emergency vehicle.

An emergency vehicle would be defined as a law enforcement vehicle, fire department vehicle, rescue squad emergency service vehicle, a public or private ambulance, a vehicle owned or operated by the North Carolina National Guard or a vehicle owned or operated by any branch of the Armed Forces of the United States.

The bill would also make it a Class I felony to intentionally point a laser device that is emitting a beam of light at any of the following persons who are in the performance of their official duties: (1) a law enforcement officer; (2) a probation officer or parole officer; (3) a person employed at a detention facility operated under the jurisdiction of the State or a local government (such as a detention officer working for a sheriff); (4) a firefighter; (5) an emergency medical technician or other emergency health care provider; (6) a member of the North Carolina National Guard; or (7) a member of any branch of the Armed Forces of the United States.

The bill would also make it a Class A1 misdemeanor to intentionally point a laser device that is emitting a beam of light at a law enforcement agency animal (such as an agency K-9) or a search and rescue animal while the animal is in the performance of its duty.

Currently, it is an infraction to intentionally point a laser device that is emitting a beam of light at a law enforcement officer or at the “head or face” of another person. **Introduced by Representatives Hastings, Saine, C. Smith and K. Baker, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 40](#), Kimberly’s Law/Death by Vehicle/DWLR, would create the new criminal offense of “Revoked Driving Felony Death by Vehicle.” A person would commit this offense if the person: (1) unintentionally caused the death of another person; (2) while engaged in a violation of State law (other than driving while impaired) or a local ordinance applying to the operation of a motor vehicle or regulation of traffic; (3) when the commission of such offense was the proximate cause of the death; and (4) at the time of the offense the person’s driver’s license was revoked for an impaired driving license revocation.

This offense would be punished as a Class F felony. A person convicted of this offense would be sentenced to a minimum active term of no less than twelve (12) months in prison, which could not be suspended.

The bill would require that upon conviction of this offense, the North Carolina Division of Motor Vehicles would be required to revoke the registration of all vehicles registered in the convicted person’s name.

Finally, the vehicle registration revocation would remain in effect and no other vehicle could be registered in the convicted person's name until the person's driver's license was restored. **Introduced by Representative Clampitt, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 46, SHRA/Stronger Whistleblower Protection](#), would modify State whistleblower protections for State employees to include immunity from civil liability for any employee that in "good faith" reports to their department head evidence of what they reasonably believe to be: (1) a violation of State or federal law, rule or regulation; (2) fraud; (3) misappropriation of State resources; (4) a substantial and specific danger to public health and safety; or (5) gross mismanagement, a gross waste of funds, or the gross abuse of authority. The bill defines "good faith" as honesty in fact with the goal of complying with the duties to report.

The bill would also clarify that a reporting employee may report this information directly to the North Carolina State Auditor. In addition, the bill would specify that the identity of a reporting employee would not be public record and would remain confidential until the matter is resolved or the employee consents to the report being made public.

Finally, the bill would enact a new chapter in our General Statutes addressing substantiated allegations. It would mandate that each substantiated allegation of improper State governmental activities involving fraud, mismanagement, or waste of State resources be immediately referred to and reviewed by the Office of State Budget and Management (OSBM). The OSBM would then be required to determine the amount of any savings to the State generated by substantiated allegations within 90 days of the date of referral. A State employee who makes a substantiated allegation under this new law that results in a savings to the State would be entitled to receive a monetary reward equal to twenty percent (20%) of the amount of the savings generated as determined by the OSBM. **Introduced by Representatives Cleveland, Stevens, Warren and Riddell, and assigned to the House Committee on State Personnel.**

[HOUSE BILL 47, Concealed Carry in the General Assembly](#), would allow any Legislator with a concealed handgun permit to carry a concealed "firearm" while in or on the premises of the State legislative buildings and grounds if the person is in the performance of his or her duties as a member of the General Assembly. However, the bill would prohibit the carrying of a concealed "firearm" if the member is consuming alcohol or any unlawful controlled substance, or while alcohol or any unlawful controlled substance remains in the member's body.

Note: Current law allows a concealed handgun permit holder to carry a concealed handgun. In addition, current law prohibits the carrying of a concealed handgun while consuming alcohol or any unlawful controlled substance, or while alcohol or any unlawful controlled substance remains in the person's body.

The bill would also prohibit the Legislative Services Commission from adopting any rule that would prohibit the following persons from carrying a concealed handgun in or on the premises of the State legislative buildings and grounds:

1. Officers and enlisted personnel of the Armed Forces of the United States who are discharging their official duties.
2. Civil and law enforcement officers of the United States.
3. Officers and soldiers of the National Guard who are discharging their official duties.
4. Officers of the State, or of any county (such as a deputy sheriff), city, or town who are charged with the execution of the laws of this State and who are discharging their official duties.
5. Certain qualified retired law enforcement officers that meet the requirements to carry a concealed handgun under our State law.
6. Off-duty sworn law enforcement officers.

Introduced by Representatives Kidwell, Hanig, C. Smith and Goodwin, and assigned to the House Committee on Judiciary 3.

[HOUSE BILL 48](#), [Concealed Carry/Emergency Medical Personnel](#), would allow emergency medical services personnel to carry a concealed handgun while on duty if they are being deployed to provide tactical medical support for law enforcement during an emergency situation, such as a SWAT operation.

The bill would require the emergency medical personnel to first obtain specialized training before carrying a concealed handgun in this scenario, which would include training on firearms safety, use of firearms systems and use of deadly force. **Introduced by Representatives Warren, McNeill and C. Smith, and assigned to the House Committee on Judiciary 3.**

[HOUSE BILL 49](#), [Concealed Carry Permit Lapse/Revise Law](#), would require a sheriff to waive the requirement to take a firearms safety and training course upon the renewal of a concealed handgun permit if the person applies to renew the permit no more than 60 days after the permit expires. Currently, a sheriff has the discretion to waive the firearms safety and training course if the person applies for a renewal within 60 days of the expiration date of the concealed handgun permit.

In addition, if the permittee applies to renew a concealed handgun permit between 61 days and 180 days after expiration, the bill would also require the sheriff to waive the requirement of taking another full firearms safety and training course if the permittee completes a “refresher” course and provides proof of completion to the sheriff. The bill does not define what is meant by a “refresher” course.

Finally, the bill does not create a grace period for an expired concealed handgun permit. Therefore, a person would still be prohibited from carrying a concealed handgun once the permit has expired, and until such time as the sheriff renews the permit. **Introduced by Representatives Cleveland, Warren, Adams and Clampitt, and assigned to the House Committee on Judiciary 3.**

[HOUSE BILL 54](#), Criminal Information Network/Revise Fee, would correctly name the entity that maintains the Criminal Information Network (Network) as the North Carolina State Bureau of Investigation (SBI) instead of the North Carolina Department of Public Safety.

The bill would also change the fee structure for agency use of the Network. The SBI would be authorized to charge up to \$21 per month for each user of the Network. Currently, agencies are required to pay a \$300 monthly fee plus a \$25 monthly fee for each desktop device that is used to access the Network and a \$12 monthly fee for each mobile device used to access the Network. **Introduced by Representatives Stevens and McNeill.**

[SENATE BILL 29](#), Ricky's Law/Political Sign Placement, would reduce the amount of time allowed to place a political sign in the right-of-way of the State highway system from 30 days to 10 days before early voting in the primary or general election. In addition, the bill would require the removal of political signs within 10 days following the primary or general election.

Currently, political signs must be removed within 30 days following the primary or general election and are deemed abandoned property after this period of time. Political signs placed in the right-of-way of streets within and maintained by a municipality are subject to the same restrictions unless there is an ordinance from the municipality in place prohibiting or otherwise regulating political sign placement.

The bill would specify that if a municipality does have such an ordinance, the ordinance must provide that political signs that remain in place more than 10 days after the end of the time period specified in the ordinance are deemed abandoned property. **Introduced by Senators Perry, Craven and Sawyer, and assigned to the Senate Committee on Redistricting and Elections.**

[SENATE BILL 40](#), NC Consumer Fireworks Safety Act, would make numerous changes to State laws relating to the sale, possession, and use of consumer fireworks. The changes of interest to the criminal justice community include:

1. The age at which a person could lawfully purchase consumer fireworks, such as sparkling devices, glow worms, and party poppers, would be raised from 16 years of age to 18 years of age.
2. The use and sale of consumer fireworks would be prohibited in counties and cities unless the county or city passes an ordinance allowing for their use and sale. The use of consumer fireworks would be subject to certain time and location restrictions.
3. Anyone wishing to sell consumer fireworks in the State would have to apply for and be granted a permit through the North Carolina Department of Insurance. To be eligible the seller would have to be, in addition to other criteria, at least 21 years of age and not previously convicted of a felony.

4. Unlawfully selling or distributing consumer fireworks would be a Class 1 misdemeanor. In addition, a violation could also lead to suspension of the seller's permit and/or the imposition of a civil penalty.
5. The Commissioner of the North Carolina Department of Insurance, a State law enforcement officer, a municipal law enforcement officer, a code enforcement officer, or a fire safety official would be able to petition a district court to seize unlawfully possessed, stored, or sold fireworks.

This provision does not include a sheriff or deputy sheriff. It is unknown whether or not the omission was an oversight.

Introduced by Senators Sawyer and Galey, and assigned to the Committee on Rules and Operations of the Senate.

[SENATE BILL 43](#), [Protect Religious Meeting Places](#), would allow anyone with a concealed handgun permit to carry a concealed handgun on the premises of a place of religious worship when the place of worship is also located on school grounds. However, the bill would allow for the carrying of a concealed handgun on the premises of the school grounds only when the premises is NOT being used for curricular, extracurricular or any school-sponsored activities (such as on weekends or during holidays). Finally, this authorization would not apply to any property that is owned by a local board of education or by a county commission.

Currently, a person may not carry a concealed handgun on any school property even if that property is a mixed-use property containing both a school and a place of religious worship, regardless of whether or not school activities are taking place. **Introduced by Senators Britt, Daniel and Johnson, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 52](#), [Sex Offender Residence Restriction/Clarify](#), would clarify that a registered sex offender is prohibited from knowingly residing within 1,000 feet of "any point" of the property "line or lines" of the property on which any public or nonpublic school or child care center is located. Currently, registered sex offenders cannot reside within 1,000 feet of "the property on which any public or nonpublic school or childcare center is located," without identifying a point by which to measure the 1,000 foot distance. **Introduced by Senators Sawyer, Perry and Johnson, and referred to the Senate Committee on Judiciary.**

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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