

Miscellaneous

During the 2008 legislative session, the General Assembly made changes to a number of laws involving miscellaneous subjects, including ABC laws, the lottery, and wildlife and boating. These changes are summarized below.

ABC Law

Sale of Mixed Beverages by Nonprofits

S.L. 2008-159 (H 1230) amends G.S. 18B-1002(a)(2) to allow the ABC Commission to issue special one-time permits allowing nonprofit organizations to sell mixed beverages at fundraising events. Formerly, such permits authorized the sale of only malt beverages and wine.

Failure to Recycle Not an Alcohol Beverage Control Offense

S.L. 2008-187 (S 1632, 2008 Technical Corrections Act) amends G.S. 18B-1006.1 to provide that a conviction for a violation of the requirement that holders of on-premises ABC permits recycle beverage containers is not an alcoholic beverage offense within the meaning of G.S. 18B-900(a)(4).

Lottery

Lottery Fund Revenue

The 2008 appropriations act, S.L. 2008-107 (H 2436), transfers \$385.5 million from the State Lottery Fund to the Education Lottery Fund for the 2008–09 fiscal year as required by G.S. 18C-164. S.L. 2008-107 also transfers \$19.75 million from the Education Lottery Reserve Fund to the Education Lottery Fund for class size reduction, with the unexpended remainder reverting to the Reserve Fund at the end of the 2008–09 fiscal year. The funds from the Education Lottery Fund are appropriated

in specific amounts for use in class size reduction, prekindergarten programs, the Public School Building Capital Fund, and scholarships for needy students. S.L. 2008-107 also provides that if the lottery revenues for 2007–08 or 2008–09 exceed the amounts appropriated, the excess will be transferred from the State Lottery Fund to the Education Lottery Fund to be appropriated to the Public School Building Capital Fund. S.L. 2008-118 (H 2438) also makes clarifying changes to the allocation of appropriated funds from the Education Lottery Fund to the Public School Building Capital Fund.

Lottery Commission Compensation

S.L. 2008-107 enacts a new G.S. 18C-173, which prohibits the Lottery Commission from awarding Lottery Commission employees merit or performance-based salary increases in excess of the funds that would have been expended had the Lottery Commission employees received the same across-the-board salary increases granted by the General Assembly to state employees subject to the State Personnel Act. The Lottery Commission may award merit or performance-based salary increases on an aggregate average basis according to the Lottery Commission's adopted rules. Prior to the enactment of this law, the Lottery Commission's approved budget had allowed for an average employee salary increase of 5 percent.

Wildlife and Boating

Recreational Boat and Boat Trailer Towing

During the 2008 short session, several bills (H 2150, H 2167, H 2408, S 1589, and S 1695) were introduced that addressed exemptions for the towing of boats and boat trailers of a specified size from vehicle size restrictions, resulting in substantial legislative debate regarding road safety issues and

the burden of existing restrictions on recreational boat use. Proposed legislation included allowing the towing of a boat or boat trailer (1) in excess of 120 inches in width with a permit, (2) at night and on holidays and weekends regardless of width, (3) 120 inches wide or more with a permit during daylight hours only, (4) 120 inches wide or less two hours before sunrise and two hours after sunset, and (5) with a \$25 annual fee for oversized permitting.

Ultimately legislators passed S.L. 2008-229 (H 2167) amending G.S. 20-116 (restricting the size of vehicles and loads on public roads) to exempt the towing of boats and boat trailers greater than 102 inches but less than 120 inches in width from permitting requirements under certain conditions. Existing law limits the total width of any vehicle or load on public roads to 102 inches, with some listed exceptions. Previously the law implicitly restricted towing of boats and boat trailers wider than 102 inches without a special permit under G.S. 20-119, available through the payment of fees. S.L. 2008-229 amends G.S. 20-116 to (1) allow towing of a boat or boat trailer less than 120 inches wide without a permit; (2) allow towing of a boat or boat trailer 102 to 114 inches wide at any time, including nights and weekends; (3) allow towing of a boat or boat trailer from 114 to 120 inches wide on any day of the week from sun up to sun down; and (4) require two operable amber lamps on the widest point of any boat or boat trailer between 102 and 120 inches wide to clearly mark its dimensions. Further, S.L. 2008-229 amends G.S. 20-119 by requiring the Department of Transportation (DOT) to issue annual overwidth permits for boats or boat trailers 120 inches wide or wider, with a restriction limiting towing to daylight hours only.

Governor Easley expressed concerns with the bill prior to its passage but, despite the veto threat, legislators approved S.L. 2008-229 in the final days of the session. The governor vetoed the bill on August 17, 2008. Legislators reconvened on August 27, 2008, and voted to override a veto for the first time in General Assembly history.

Boating Studies and Changes

S.L. 2008-181 (H 2431) authorizes the Legislative Research Commission to study the feasibility of implementing mandatory boating education in the state, including determining whether boating education requirements should be required prior to any person operating a motorboat or personal watercraft.

S.L. 2008-107 (H 2436) requires DOT to cease annual production of the North Carolina State Transportation Map and the Coastal Boating Guide. Instead, DOT will produce a biennial North Carolina State Transportation Map and may provide funding, in conjunction with the Wildlife Resources Commission, for a biennial Coastal Boating Guide.

Interstate Wildlife Violator Compact in North Carolina

S.L. 2008-120 (S 175) enacts a new Article 22B in G.S. Chapter 113 (Conservation and Development) directing the governor to execute the Interstate Wildlife Violator Compact (IWVC) with other participating member states, effective upon adoption by at least two states. The IWVC was first created in 1989 and is currently utilized by more than thirty states, including Florida, Georgia, Kentucky, and Tennessee. In 1999 the Utah Division of Wildlife Resources established an IWVC database to track reports of license suspensions in participating states to coordinate interstate enforcement of wildlife laws. North Carolina's participation in the compact will authorize wildlife officers to treat member states' residents similarly to state residents when issuing citations for violations of wildlife laws. Previously, wildlife statute violators from out of state were required to post collateral or bond, be taken into custody until a collateral or bond was posted, or be brought before a court for an immediate appearance. The new law authorizes on-the-spot issuance of citations irrespective of residency status and reciprocity for member-state wildlife license suspensions. It also requires that a recorded wildlife conviction in any participating state be recognized and treated as if it had occurred in the home state. New G.S. 113-300.8 makes a person in violation of a suspension or revocation under the compact guilty of a Class 1 misdemeanor.

New G.S. 113-300.6 establishes a Board of Compact Administrators, composed of a representative from each member state, to administer the provisions of the compact and serve as a governing body for related matters. New G.S. 113-300.7 authorizes the chair of the Wildlife Resources Commission (WRC) to appoint the compact administrator for North Carolina and directs the commission to enforce and adopt rules to carry out the compact. The law also requires that any proposed amendments to the compact be submitted to the General Assembly and enacted into law prior to state endorsement.

Disabled Sportsman Program

S.L. 2008-205 (H 2768) amends G.S. 113-296 by raising the application fee for Disabled Sportsman Program activities to \$10. Previously, a disabled participant was charged a \$5 application fee for each special hunt for disabled persons, with a \$10 annual limit. According to this change in the law, an applicant may apply for any or all available Disabled Sportsman hunts for a single \$10 fee but will be charged an additional \$10 for any subsequent application. Further, the holder of a Resident Disabled Veteran or Resident Totally Disabled hunting license is now automatically eligible for participation in the Disabled Sportsman Program.

Hunting and Fishing on Private Property in Orange County

S.L. 2008-205 also amends Section 1 of S.L. 2007-264, which prohibits hunting and fishing on private property without written permission from the landowner, lessee, or his or her designee, to allow members of a hunting club to hunt on private property if (1) the landowner or lessee has granted permission to the hunting club and (2) the member is carrying a current club membership card and a copy of the valid written permission. This change applies to Orange County only.

Coastal Recreational Fishing Licenses

Effective January 1, 2009, S.L. 2008-141 (S 1340) creates an additional option for purchasing ten-day coastal recreational fishing licenses (CRFLs) as provided in the revised license system established in 2005. Under existing law, an individual ten-day CRFL costs \$5 for residents and \$10 for nonresidents and is only valid for ten consecutive days from the date of issuance. Newly enacted G.S. 113-174.5 allows the owner of a vessel 23 feet or more in length and documented with the U.S. Coast Guard or registered with the WRC to purchase a block of ten ten-day CRFLs for \$150. The purchaser must provide the Division of Marine Fisheries the identity

of the designated vessel and any other requested data. The vessel's owner also must record the initial date of fishing activity and specific information regarding the individuals using the CRFLs, which are then valid for only ten consecutive days from that date. The block of ten ten-day CRFLs expires two years from the date of purchase. An individual CRFL obtained through this option is restricted to use on the owner's designated vessel and may not be used on a for-hire boat. A vessel owner who does not comply with the new law will be unable to purchase additional blocks of CRFLs for a two-year period.

Aquaculture

S.L. 2008-181 authorizes the Joint Legislative Commission on Seafood and Aquaculture to study the feasibility of increasing production, processing, and marketing of aquaculture products in the state. The commission will report its findings to the 2009 General Assembly.

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