

PUNISHMENTS

FOR
**NORTH CAROLINA
CRIMES**

AND
**MOTOR VEHICLE
OFFENSES**

2005

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INCLUDES LEGISLATIVE CHANGES
ENACTED THROUGH THE END OF
THE 2004 SESSION OF THE NORTH
CAROLINA GENERAL ASSEMBLY

JOHN RUBIN
BEN F. LOEB JR.
& JAMES C. DRENNAN



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Preface

This volume is the School of Government's tenth compilation of criminal offenses, motor vehicle violations, and punishments in North Carolina. The book combines two punishment charts, the "Punishment Chart for North Carolina Crimes," which appears in Part 1, and the "Punishment Chart for North Carolina Motor Vehicle Offenses," which appears in Part 2. John Rubin was responsible for preparing Part 1, while Ben Loeb and Jim Drennan were responsible for Part 2. Each part stands on its own, with a detailed table of contents, a brief introduction on using the chart, the chart itself, and an index. The information is current through the close of the 2004 session of the General Assembly.

The book also contains an introduction to structured sentencing, which with few exceptions applies to all offenses committed on or after October 1, 1994. Although the punishment charts give the offense class for each felony and misdemeanor they list, knowledge of the class of offense by itself is insufficient to determine a person's sentence under structured sentencing. The introduction therefore complements the charts by describing how structured sentencing works. Also included in the introduction are several tables necessary to determine the possible sentence a person may receive.

Several people deserve thanks for their contributions to this edition: Elaine Welch, who entered the information we compiled; Robert Farb, who read and commented on earlier drafts; Robby Poore, who laid out and designed the book; and Roberta Clark, who managed the entire project.

Above all, we want to thank Ben Loeb for his contribution to this edition. Ben retired this spring but, as has been typical of his dedication to the School's work, was willing to take on this last writing project. We will miss his expertise, energy, and unfailing good humor.

We welcome comments about the book's scope, organization, and content. Comments may be sent to us at the School of Government, CB# 3330, Knapp-Sanders Building, The University of North Carolina at Chapel Hill, Chapel Hill, North Carolina 27599-3330. John Rubin can be reached by telephone at (919) 962-2498 or by e-mail at rubin@iogmail.iog.unc.edu; and Jim Drennan can be reached by telephone at (919) 966-4160 or by e-mail at drennan@iogmail.iog.unc.edu.

John Rubin
Jim Drennan
Chapel Hill
Winter 2004

Introduction

Structured Sentencing and Related Laws

Structured sentencing took effect October 1, 1994, replacing the Fair Sentencing Act, which had governed criminal sentencing in North Carolina since July 1, 1981. Structured sentencing applies to most misdemeanors and felonies committed on or after October 1, 1994.¹ Exceptions to the usual structured sentencing rules are identified in this book where applicable. *See generally* G.S. 15A-1340.10 (noting exceptions to structured sentencing).

This chapter describes how a sentence is determined under structured sentencing. It reviews the pertinent structured sentencing statutes, the key appellate decisions interpreting them, and changes enacted by the General Assembly during the 2002, 2003, and 2004 legislative sessions. Also discussed are other sentencing provisions, such as restitution requirements, that may bear on a defendant's sentence. Readers interested in a fuller discussion of structured sentencing should consult North Carolina Sentencing and Policy Advisory Commission, *Structured Sentencing: Training and Reference Manual* (Jan. 1, 2000). For changes to structured sentencing enacted before the 2002 legislative session, readers should refer to the 1999 edition of this book and the 2001 cumulative supplement, *Administration of Justice Bulletin*, No. 2002/03 (Feb. 2002). For summaries of structured sentencing cases, *see* Robert L. Farb, *Appellate Cases: Structured Sentencing Act and Firearm Enhancement* (July 6, 2004), posted at <http://ncinfo.iog.unc.edu/programs/crimlaw/faculty.htm>.

Readers also should take note of the U.S. Supreme Court's decisions in *Apprendi v. New Jersey*, 530 U.S. 466 (2000), and *Blakely v. Washington*, ___ U.S. ___, 124 S. Ct. 2531 (2004). Those decisions impose certain procedural requirements on the use of what have been considered sentencing factors, such as prior record points and aggravating factors, to increase a defendant's sentence. The potential impact of those decisions on North Carolina's sentencing laws is beyond the scope of this publication. For a discussion of the issues raised by the decisions, *see* Robert L. Farb, *Blakely v. Washington and Its Impact on North Carolina's Sentencing Laws* (July 9, 2004), posted at <http://ncinfo.iog.unc.edu/programs/crimlaw/faculty.htm>; 1 JOHN RUBIN, THOMASIN HUGHES & JANINE C. FODOR, NORTH CAROLINA DEFENDER MANUAL § 8.8, at 38–40 (July 2004), posted at www.ncids.org. These publications were issued shortly after the *Blakely* decision, and readers should continue to be alert to new legislation and court decisions in response to *Blakely*.

Felonies

The centerpiece of structured sentencing for felonies is the statutory table of punishments in G.S. 15A-1340.17(c), commonly referred to as the sentencing grid. It is shown as Table 1 at the end of this introduction. Other tables necessary to determine the appropriate sentence for a felony are also included there.

1. If an offense began before the effective date of structured sentencing but ended afterward, it also may be subject to structured sentencing. *See State v. Mullaney*, 129 N.C. App. 506, 500 S.E.2d 112 (1998). When some offenses are subject to the Fair Sentencing Act and others are subject to structured sentencing, the sentencing judge may not consolidate the offenses for judgment, although the judge still may impose concurrent sentences. *See State v. Branch*, 134 N.C. App. 637, 518 S.E.2d 213 (1999); *compare* pp. 5, 11 (if all offenses are subject to structured sentencing, court may consolidate offenses for judgment).

There are essentially seven steps in determining the sentence for a felony. These steps (with the appropriate sources to consult shown in parentheses) are as follows:

1. Identify the offense class for each felony conviction (punishment charts).
2. Calculate the prior record level for the defendant (Tables 3a and b).
3. Consider any aggravating and mitigating factors (Tables 4a and b).
4. Determine the minimum sentence from the applicable minimum sentence range (Table 1).
5. Determine the maximum sentence (Tables 2a and b).
6. Determine the sentence disposition (active, intermediate, or community) (Table 1).
7. Consider the appropriateness of restitution (Table 6).

Each of these steps is summarized below. The main exceptions are also noted below under the heading “Special Provisions for Felonies.”

Offense Class for Felonies

Generally

The first step in determining the appropriate sentence for a felony is to identify the class of the felony. There are ten classes of felonies under structured sentencing: from most to least serious, the classes of felonies are A, B1, B2, C, D, E, F, G, H, and I.² For each felony listed in the punishment charts in this book, the class of the offense is indicated. For example, a violation of G.S. 14-32(c) (assault with deadly weapon with intent to kill) is a Class E felony. A violation of G.S. 20-138.5 (habitual impaired driving) is a Class F felony.

Attempt, Conspiracy, Solicitation, and Accessory after the Fact

Unless a different classification is stated in the statute governing the offense, conspiracy or attempt to commit a felony is punishable one class lower than the felony the defendant conspired or attempted to commit. *See* G.S. 14-2.4(a) (conspiracy), 14-2.5 (attempt). For example, pursuant to this rule, attempted common-law robbery is a Class H felony, which is one class lower than the classification of common-law robbery, a Class G felony under G.S. 14-87.1. Attempted armed robbery, however, is the same class of offense as armed robbery, a Class D felony, because the statute governing armed robbery, G.S. 14-87, so provides.³

Similarly, unless a different classification is stated, solicitation to commit a felony or accessory after the fact to a felony is punishable two classes lower than the completed offense. *See* G.S. 14-2.6(a) (solicitation), 14-7 (accessory after the fact).⁴

Prior Record Level for Felonies

The second step is to determine the defendant’s prior record level. A defendant is assigned to one of six prior record levels (I through VI) based on the number of points he or she receives under structured sentencing. For example, a defendant with 5 to 8 points is in prior record level III. The six prior record levels, and the point ranges for each level, are indicated in Tables 3a and b at the end of this introduction. A defendant can receive points in one of the three ways discussed below.

Prior Convictions

Point values. If a defendant has any prior convictions, points are assigned to each conviction based on the offense class of the conviction. For example, a prior conviction for a Class H felony carries two points. The point values for each offense class are indicated in Table 3a.

Prior misdemeanors. Although all felonies count as prior convictions, prior convictions for Class 2 and 3 misdemeanors do not count for purposes of felony sentencing; nor do misdemeanors of any class under Chapter 20 of the General Statutes except the following, which carry one point:

- misdemeanor death by vehicle under G.S. 20-41.4(a2),
- regular impaired driving under G.S. 20-138.1, and
- commercial impaired driving under G.S. 20-138.2.

See G.S. 15A-1340.14(b); *see also State v. Scercy*, 159 N.C. App. 344, 583 S.E.2d 339 (2003) (trial court erred in assigning points to Class 2 misdemeanor in determining sentence for felony).

Criminal contempt. Although criminal contempt is characterized as a crime, an adjudication of criminal contempt that is punishable by a maximum of thirty days imprisonment does not constitute a prior conviction for purposes of structured sentencing. *See State v. Reaves*, 142 N.C. App. 629, 544 S.E.2d 253 (2001) (court so holds but declines to decide whether adjudication of criminal contempt with greater maximum punishment constitutes prior conviction); *see also generally Blue Jeans Corp. v. Amalgamated Clothing Workers of America*, 275 N.C. 503, 508, 169 S.E.2d 867, 870 (1969) (criminal contempt is *sui generis*, *i.e.*, one of a kind).

Current classification of prior conviction. A prior offense is classified according to the classification assigned to that offense

2. Class J felonies, established by the Fair Sentencing Act, were eliminated when structured sentencing was adopted; the offenses in that class were reclassified.

3. Unless a different classification is stated, attempt or conspiracy to commit a Class A or B1 felony is a Class B2 felony, attempt or conspiracy to commit a Class B2 felony is a Class C felony, and conspiracy to commit a Class I felony is a Class 1 misdemeanor (and therefore subject to misdemeanor sentencing rules).

4. Unless a different classification is stated, solicitation to commit a Class A or B1 felony is a Class C felony, solicitation to commit a Class B2 felony is a Class D felony, solicitation to commit a Class H felony is a Class 1 misdemeanor (subject to misdemeanor sentencing rules), and solicitation to commit a Class I felony is a Class 2 misdemeanor (also subject to misdemeanor sentencing rules). The same scheme applies to accessory after the fact to a felony.

at the time the current offense was committed. For example, if the defendant has a prior conviction for second-degree burglary, the points assigned to that conviction would depend on its current classification (now Class G), not on the classification in effect at the time the conviction occurred. *See* G.S. 15A-1340.14(c); *see also State v. Rice*, 129 N.C. App. 715, 501 S.E.2d 665 (1998) (finding that 1972 kidnapping conviction was substantially similar to second-degree kidnapping, a Class E felony, and conviction was properly treated as that class of offense in assigning points).

Multiple prior convictions. If the defendant was convicted of more than one offense in a single superior court during one calendar week, only the conviction with the highest number of points is counted in determining prior conviction points. If the defendant was convicted of more than one offense during a single session (that is, day) of district court, only the most serious conviction is counted. *See* G.S. 15A-1340.14(d).

Convictions from other jurisdictions. Unless the prosecutor or defendant proves otherwise, a conviction from another jurisdiction is classified as a Class I felony (which carries two points) if that jurisdiction classifies the offense as a felony. Unless the prosecutor proves otherwise, a conviction from another jurisdiction is classified as a Class 3 misdemeanor (which carries no points for purposes of felony sentencing) if the other jurisdiction classifies the offense as a misdemeanor. *See* G.S. 15A-1340.14(e); *see also State v. Morgan*, ___ N.C. App. ___, 595 S.E.2d 804 (2004) (state failed to show that out-of-state misdemeanor conviction was similar to Class A1 or 1 misdemeanor or that out-of-state felony conviction was similar to Class F felony); *State v. Hanton*, 140 N.C. App. 679, 540 S.E.2d 376 (2000) (defendant's stipulation to existence of conviction from another jurisdiction did not resolve offense class of conviction); *State v. Rich*, 130 N.C. App. 113, 502 S.E.2d 49 (1998) (relying on statutes from other states in determining classification of out-of-state convictions).

Effect of pending appeal. G.S. 15A-1340.11(7) provides that a conviction in superior court counts as a prior conviction regardless of whether it is on appeal to the appellate division, but a conviction in district court does not count if the case is on appeal. G.S. 15A-1340.11(7) does not distinguish between appeals from district court misdemeanor convictions and appeals from district court felony convictions. (The district court has jurisdiction to accept a plea of guilty or no contest to a Class H or I felony with the consent of the presiding judge, prosecutor, and defendant. *See* G.S. 7A-272(c).) Clearly, a misdemeanor conviction that is being appealed to superior court for a trial de novo may not be counted under structured sentencing. *See also State v. Sparrow*, 276 N.C. 499, 507, 173 S.E.2d 897, 902 (1970) (Misdemeanor conviction appealed to superior court "is completely annulled and is not thereafter available for any purpose."). The courts could conclude, however, that a district court felony conviction may be counted during the pendency of an appeal because the appeal is to the appellate division and is limited to

whether the sentence is supported by the evidence. *See* G.S. 7A-272(d) (appeal of felony plea entered in district court is to appellate division); G.S. 15A-1444(a1) (describing issues that may be appealed).

Reversals and pardons. A conviction that is reversed may not be used as a prior conviction in calculating the defendant's prior record level. If a sentence is based on a conviction that is later overturned, the defendant is entitled to be resentenced. *See State v. Bidgood*, 144 N.C. App. 267, 550 S.E.2d 198 (2001).

The courts have held under the Fair Sentencing Act that a pardoned conviction, whether a full pardon of innocence or conditional pardon of forgiveness, may not be used as an aggravating factor at sentencing. *See State v. Clifton*, 125 N.C. App. 471, 481 S.E.2d 393 (1997). If this reasoning applies to structured sentencing, a pardoned conviction may not be used in determining prior record level.

Convictions without judgment. An adjudication of guilt, or plea of guilty or no contest, without entry of judgment has been found in some circumstances to constitute a conviction for purposes of determining prior record level. In *State v. Hasty*, 133 N.C. App. 563, 516 S.E.2d 428 (1999), the court considered the effect of "probation without conviction" under G.S. 90-96(a). That section authorizes the court to place the defendant on probation without entering judgment for certain drug offenses; if the defendant fulfills the terms of probation, the case is dismissed and is not considered a conviction. In *Hasty*, the defendant pled guilty to a felony drug offense and was placed on "probation without conviction" under G.S. 90-96(a); however, while still on probation for the drug offense, the defendant committed new offenses and, at the time of sentencing for those new offenses, the prior drug offense had not been dismissed. In these circumstances, the court found it proper to count the prior drug offense as a conviction.

In *State v. Hatcher*, 136 N.C. App. 524, 524 S.E.2d 815 (2000), the court held that an offense for which the defendant pled no contest and received a prayer for judgment continued (PJC) constituted a prior conviction for purposes of determining the defendant's sentence for a subsequent offense. *Accord State v. Canellas*, ___ N.C. App. ___, 596 S.E.2d 889 (2004). This line of decisions departs from previous decisions in North Carolina, which held for various purposes that a "true" PJC—that is, one that effectively terminates the proceedings and does not impose any conditions other than a requirement that the defendant pay costs or obey the law—does not constitute a conviction. *See State v. Southern*, 314 N.C. 110, 331 S.E.2d 688 (1985) (PJC, not being conviction, cannot be used as aggravating factor in sentencing for subsequent offense under Fair Sentencing Act); *State v. Cheek*, 31 N.C. App. 379, 229 S.E.2d 227 (1976) (PJC was not final judgment, and defendant had no right to appeal); *compare State v. Sidberry*, 337 N.C. 779, 448 S.E.2d 798 (1994) (defendant pled guilty to offense, and judge continued proceedings for sentencing; court held in that context that in trial for another offense state could cross-

examine defendant about guilty plea); *State v. Brown*, 110 N.C. App. 658, 430 S.E.2d 433 (1993) (particular conditions imposed upon entry of PJC amounted to punishment, converting PJC to final judgment).⁵

Time limit. A prior conviction is counted for prior record level purposes regardless of how long ago it may have occurred. See *State v. Rich*, 130 N.C. App. 113, 502 S.E.2d 49 (1998) (finding that structured sentencing statutes contain no time limit on use of prior convictions for this purpose).

Proof of conviction. G.S. 15A-1340.14(f) provides that the state may establish a prior conviction by stipulation of the defendant, court or agency records, or other method found reliable by the court. See *State v. Bell*, ___ N.C. App. ___, 602 S.E.2d 13 (2004) (defendant's testimony at trial was sufficient proof of prior convictions for sentencing); *State v. Riley*, 159 N.C. App. 546, 583 S.E.2d 379 (2003) (prior record worksheet not sufficient proof in absence of records showing convictions or stipulation by defendant); *State v. Bartley*, 156 N.C. App. 490, 577 S.E.2d 319 (2003) (prosecutor's statements not sufficient proof); *State v. Eubanks*, 151 N.C. App. 499, 565 S.E.2d 738 (stipulation by defendant to worksheet was sufficient proof); *State v. Rich*, 130 N.C. App. 113, 502 S.E.2d 49 (1998) (Division of Criminal Information printout was sufficient proof); see also *State v. Maddox*, 159 N.C. App. 127, 583 S.E.2d 601 (2003) (record check handed to judge but not admitted in evidence was sufficient to show defendant was on probation at time of offense).

Other Points

In addition to points for prior convictions, a defendant can receive prior record points in the following two ways. (As noted in the introductory section above on p. 1, recent U.S. Supreme Court decisions may impose additional procedural requirements for use of factors that increase a defendant's sentence.) A defendant can receive one point if all the elements of the present offense are included in a prior offense—that is, if the current offense is the same as or a lesser-included offense of a prior offense for which the defendant has been convicted. This additional point may be counted “whether or not the prior offense or offenses were used in determining prior record level.” See G.S. 15A-1340.14(b)(6). Thus, if a defendant has a prior felony breaking and entering conviction (a Class H felony) and the current conviction is for felony breaking and entering, the defendant could receive two points for the prior Class H felony and one additional point because the current offense is the same as the prior offense.

A defendant also can receive one point if, at the time the current offense was committed, he or she was: (1) on probation (supervised or unsupervised), parole, or post-release supervision; (2) serving an active sentence of imprisonment; or (3) on escape while serving a sentence of imprisonment. See G.S. 15A-

1340.14(b)(7). A defendant does not receive a point if he or she committed the current offense while in training school (now called a youth development center). See *State v. Tucker*, 154 N.C. App. 653, 573 S.E.2d 197 (2002).

Aggravating and Mitigating Factors for Felonies

Table 1, the sentencing grid, contains three ranges of imprisonment for felonies: presumptive, aggravated, and mitigated. See G.S. 15A-1340.16 (describing aggravated and mitigated sentences). The range in which a defendant is sentenced depends on consideration of aggravating and mitigating factors. If aggravating factors outweigh mitigating factors, the court may depart from the presumptive range of imprisonment contained in Table 1 and impose a term of imprisonment from the aggravated range. (As noted in the introductory section above on p. 1, recent U.S. Supreme Court decisions may impose additional procedural requirements for use of factors that increase a defendant's sentence.) If mitigating factors outweigh aggravating factors, the court may impose a term of imprisonment from the mitigated range. The statutory aggravating factors are set forth in Table 4a. The statutory mitigating factors are set forth in Table 4b.

G.S. 15A-1340.16(c) provides that if the court selects a term from outside the presumptive range, the court must make written findings, regardless of whether it imposes an active or suspended term of imprisonment. See also *State v. Bright*, 135 N.C. App. 381, 520 S.E.2d 138 (1999) (court must make written findings when imposing sentence outside presumptive range pursuant to plea agreement). If the court imposes a term of imprisonment from the presumptive range, it need not make written findings. See *State v. Caldwell*, 125 N.C. App. 161, 479 S.E.2d 282 (1997); see also *State v. Young*, ___ N.C. App. ___, 602 S.E.2d 374 (2004) (although sentence within presumptive range is presumed regular, presumption is not conclusive; court improperly imposed sentence in presumptive range in retaliation for defendant's exercise of right to jury trial).

Minimum Sentence for Felonies

Once the class of felony, prior record level, and aggravating and mitigating factors are determined, the court must select a minimum term of imprisonment from Table 1. To determine the minimum term, the court must locate the class of felony along the left-hand side of the grid and the appropriate prior record level along the top of the grid. The cell in which the felony class and prior record level intersect shows the possible sentences that the court may impose. The court then must determine whether to impose a term of imprisonment from the presumptive, aggravated, or mitigated ranges (expressed in months) shown in the particular cell. Last, the court must select a minimum term of imprisonment from within the applicable range. For example, if a person is convicted of a Class E felony and is in prior record

5. There are a number of cases addressing whether a true PJC should be considered a conviction in subsequent civil or administrative proceedings. The results in those cases depend on the particular statute governing the later proceedings. Compare *Florence v. Hiatt*, 101 N.C. App. 539, 400 S.E.2d 118 (1991) (PJC was not conviction and did not authorize revocation of driver's license) with *Britt v. North Carolina Sheriffs' Education & Training Standards Comm'n*, 348 N.C. 573, 501 S.E.2d 75 (1998) (no contest plea followed by PJC was conviction under regulations governing revocation of officer's certification).

level III, the presumptive range of minimum terms is from 27 to 34 months. If the court sentences the defendant in the presumptive range, it must select a single number, from 27 to 34, as the minimum term of imprisonment.

Maximum Sentence for Felonies

The judgment of the court also must contain a maximum term of imprisonment. The maximum term is set by statute based on the minimum term imposed by the court. For Class B1 through E felonies, the maximum term of imprisonment is 120 percent of the minimum term rounded to the next highest month, plus nine months. For Class F through I felonies, the maximum term of imprisonment is 120 percent of the minimum term rounded to the next highest month. *See* G.S. 15A-1340.17(d), (e), (e1); *State v. Parker*, 143 N.C. App. 680, 550 S.E.2d 174 (2001) (once judge determines minimum sentence for offense, length of maximum is mandated by statute and is not subject to judge's discretion).

Minimum/maximum tables containing these calculations are shown as Tables 2a and 2b. Table 2a lists the maximum sentences for Class B1 through E felonies; Table 2b lists the maximums for Class F through I felonies. The numbers in each table to the left of the dash represent the minimum term of imprisonment imposed by the court, expressed in months. The numbers to the right of the dash represent the corresponding maximum term required by statute.

Sentence Disposition for Felonies

The next step is to determine the sentence disposition, prescribed in Table 1. Each cell on the grid contains a sentence disposition, signified by the letter "A," "I," or "C," or by a combination of these letters. "A" represents active punishment; "I," intermediate punishment; and "C," community punishment. The court must impose the sentence disposition indicated in the applicable cell. If a cell contains two possible dispositions (for example, I/A), the court may impose either.

Active Punishments

If the court imposes an active punishment, the minimum and maximum term of imprisonment previously determined by the court must be activated. Ordinarily if the only disposition prescribed in a particular cell is "A," the court must impose an active term of imprisonment. Upon a finding of extraordinary mitigation, the court may impose an intermediate punishment even when only an active punishment is prescribed. Extraordinary mitigation is authorized only if the offense is a Class B2, C, or D felony; the defendant is in prior record level I or II; and the offense is not a drug-trafficking offense under G.S. 90-95(h) or conspiracy to commit a drug-trafficking offense under G.S. 90-95(i). *See* G.S. 15A-1340.13(g), (h); *State v. Messer*, 142 N.C. App. 515, 543 S.E.2d 195 (2001) (defendant who was convicted of Class C felony in prior record level IV was not

eligible for extraordinary mitigation; when extraordinary mitigation is available, sentencing judge is only authorized to impose intermediate instead of active punishment, not a shorter minimum term of active sentence than otherwise would be required for class of offense and prior record level).

The defendant is entitled to credit for any time already served, which is deducted from both the minimum and maximum term of imprisonment. *See* G.S. 15-196.1. The maximum term of imprisonment also may be reduced to, but not below, the minimum term by any earned time credit, which is awarded by the Department of Correction or local jail. *See* G.S. 15A-1340.13(d). A defendant who receives an active term of imprisonment for a felony is ordinarily committed to the custody of the Department of Correction; but, on request of the sheriff or board of county commissioners of a county, the court may commit the defendant to a local jail in that county. *See* G.S. 15A-1352(b).

If a defendant is convicted of a Class B1 through E felony, he or she is automatically released from prison nine months before the end of his or her maximum term of imprisonment and is placed on post-release supervision. *See* G.S. 15A-1368.2. Thus, although the maximum term of imprisonment for a Class B1 through E felony is 120 percent of the minimum plus nine months, the defendant is released from prison once he or she serves 120 percent of the minimum. (The defendant may be released sooner if he or she has any earned time credit or credit for time served.) The period of post-release supervision is nine months for most defendants convicted of a Class B1 through E felony. But a defendant is subject to a far longer period of supervised release—five years—if he or she has been convicted of a Class B1 through E felony and is required to register as a sex offender pursuant to G.S. Chapter 14, Article 27A. The offenses for which a person is required to register as a sex offender are identified in the "Punishment Chart for Crimes," notes 21, 33, 93, and 97.

The period of post-release supervision may be reduced by earned time credit. *See* G.S. 15A-1368.2(d). If the defendant violates a condition of post-release supervision—during either the shorter or longer period of supervised release—he or she may be returned to prison "up to the time remaining on his [or her] maximum imposed term." G.S. 15A-1368.3(c)(1).

When sentencing a defendant for multiple offenses, the court may consolidate sentences, run them concurrently, or run them consecutively. If the court consolidates offenses for sentencing, the most serious offense is the controlling one—the sentence disposition and the minimum and maximum terms of imprisonment must conform to the structured sentencing rules for that offense. If the court imposes consecutive sentences, the minimum term of imprisonment is the sum of the minimum terms imposed for the offenses, and the maximum term is the sum of the maximum terms for the offenses. *See* G.S. 15A-1340.15, -1354.⁶

6. If the court imposes consecutive terms of imprisonment for more than one Class B1 through E felony, the maximum prison term for each second or subsequent Class B1 through E felony is reduced by nine months. *See* G.S. 15A-1354(b)(1).

Intermediate Punishments

If the court imposes an intermediate punishment, it must suspend the minimum and maximum term of imprisonment and impose a period of supervised probation with at least one of the conditions described in G.S. 15A-1340.11(6). For intermediate punishments for felonies, the court is authorized to impose a period of probation from 18 to 36 months; the court may depart from this range upon finding that a longer or shorter period is necessary. *See State v. Hughes*, 136 N.C. App. 92, 524 S.E.2d 63 (1999) (court must make findings to depart from presumptive length of probation for intermediate punishment). The maximum initial period of probation that may be imposed is five years. *See* G.S. 15A-1343.2(d); *see also State v. Canady*, 153 N.C. App. 455, 570 S.E.2d 262 (2002) (although court may order probation to begin after active term of imprisonment is served, court may not run terms of probation consecutively and thereby exceed five-year limit).

The authorized conditions for intermediate punishments are

- special probation,
- assignment to a residential program,
- house arrest with electronic monitoring,
- intensive probation,
- assignment to a day-reporting center, and
- assignment to a drug treatment court program (effective July 26, 2004).

Special probation involves a period of imprisonment but is still a form of intermediate punishment. Under special probation, also known as a *split sentence*, the court suspends the term of imprisonment, places the defendant on probation, and requires him or her to submit to a period of imprisonment as a condition of probation. For offenses committed on or after December 1, 2003, the period of imprisonment pursuant to special probation may not exceed one-fourth of the maximum term of imprisonment imposed. (Before these revisions took effect, the period of imprisonment could not exceed six months *or* one-fourth of the maximum term of imprisonment imposed, whichever was less.) The confinement may be for continuous or noncontinuous periods, such as weekends, to be served within two years of conviction. *See* G.S. 15A-1351(a). If the defendant's probation is later revoked and the original term of imprisonment is activated, the defendant must be given credit for any time served as a condition of special probation. *See State v. Farris*, 336 N.C. 552, 444 S.E.2d 182 (1994); G.S. 15-196.1; *see also North Carolina v. Pearce*, 395 U.S. 711 (1969) (punishment already exacted for offense must be fully credited against sentence).⁷

Community Punishments

A community punishment is defined as any sentence that does not include an active or intermediate punishment. *See* G.S. 15A-1340.11(2). The court must suspend any term of

imprisonment; it may not impose an active term of imprisonment or special probation requiring a period of imprisonment.

A community punishment may include unsupervised or supervised probation with any authorized condition other than one defined as an intermediate punishment. Community service and outpatient drug and alcohol treatment are examples of permissible conditions. For community punishments for felonies, the court is authorized to impose a period of probation from 12 to 30 months; the court may depart from this range upon finding that a longer or shorter period is necessary. *See* G.S. 15A-1343.2(d)(3); *see also State v. Mucci*, 163 N.C. App. 615, 594 S.E.2d 411 (2004) (court must make findings to depart from presumptive length of probation for community punishment). A community punishment also may consist of a fine only, without probation. *See* G.S. 15A-1340.17(b).

Fines

The court may impose a fine as part of any disposition, whether active, intermediate, or community. Unless otherwise provided by statute, the amount of the fine for a felony is in the court's discretion. *See* G.S. 15A-1340.17(b).

Restitution for Felonies

The last step is to consider the appropriateness of restitution. Article 81C of G.S. Chapter 15A (G.S. 15A-1340.34 through -1340.38) governs restitution in all criminal cases. The restitution requirements differ, however, depending on whether the offense is subject to the Crime Victims' Rights Act (G.S. 15A-830 through -841). The felonies subject to the Crime Victims' Rights Act are

- any Class A through E felony,
- a Class F through I felony if it is in violation of certain statutes (listed in Table 6 at the end of this part), and
- an attempt to commit one of the above felonies if the attempt is punishable as a felony.

The discussion below outlines the main differences in restitution between offenses subject to the Crime Victims' Rights Act and other criminal offenses. The statute governing a particular offense may contain more specific restitution requirements. *See, e.g.,* G.S. 14-107 (court may require person convicted of worthless check offense to make restitution for certain service and processing charges).

For offenses subject to the Crime Victims' Rights Act, the court must order restitution to the victim or victim's estate and, if probation is imposed, must make it a condition of probation. *See* G.S. 15A-1340.34(b). Even if the defendant is sentenced to active imprisonment, the court apparently must order restitution to the victim or victim's estate. *Compare State v. Salmon*, 140 N.C. App. 567, 537 S.E.2d 829 (2000) (recognizing that for certain crimes restitution is mandatory but vacating order

7. IMPACT (short for Intensive Motivational Program of Alternative Correctional Treatment but commonly known as "boot camp") was a form of intermediate punishment. The program was terminated Aug. 15, 2002. For any time served in that program, a defendant must be given credit if his or her probation is revoked and sentence activated. *See State v. Hearst*, 356 N.C. 132, 567 S.E.2d 124 (2002).

against defendant who received active sentence because offense occurred before effective date of Crime Victims' Rights Act); *State v. Hughes*, 136 N.C. App. 92, 524 S.E.2d 63 (1999) (for offenses committed before enactment of Crime Victims' Rights Act, sentencing judge lacked authority to require restitution from defendant who received active sentence). If a restitution order to a victim is for more than \$250, it is enforceable as a civil judgment and in some circumstances is subject to immediate execution. *See* G.S. 15A-1340.38.⁸

In cases not subject to the Crime Victims' Rights Act, the court must consider whether restitution is appropriate but is not required to order it. *See* G.S. 15A-1340.34(a),(c). The court may make restitution a condition of probation. The court also may impose restitution as part of a sentence of active imprisonment; but in cases not subject to the Crime Victims' Rights Act, a restitution order is not enforceable as a civil judgment. Although the victim or victim's estate may bring a civil suit for damages resulting from the crime (*see* G.S. 15A-1340.37(a)), the amount of restitution imposed is not admissible in evidence, and the defendant has the right to contest the amount of damages claimed. *See* G.S. 1-15.1.

In both kinds of cases, if the defendant is sentenced to active imprisonment, the court also must consider whether to recommend to the Department of Correction that restitution be made from any work-release earnings. *See* G.S. 15A-1340.36(c). For Class B1 through E felonies, restitution is a mandatory condition of post-release supervision. *See* G.S. 15A-1340.34(b) (restitution must be condition of post-release supervision in cases subject to Crime Victims' Rights Act, which include all Class B1 through E felonies).

The losses and injuries for which restitution may be ordered are described in G.S. 15A-1340.35. *See also State v. Wilson*, 158 N.C. App. 235, 580 S.E.2d 386 (2003) (court may not order restitution for pain and suffering). In determining the amount of restitution, the court must have adequate proof of the injuries or losses claimed and must take into account the defendant's ability to pay. *See* G.S. 15A-1340.36. The court also may order restitution to individuals other than the victim or to organizations as provided in G.S. 15A-1340.37.

Special Provisions for Felonies

A number of provisions depart from the basic structured sentencing scheme for felonies. The principal exceptions are described below.

Class A Felonies

There are two Class A felonies under structured sentencing: first-degree murder, which is punishable by death or life imprisonment without parole (*see* G.S. 14-17), and injuring a person with

a weapon of mass destruction, which is punishable by life without parole (*see* G.S. 14-288.22(a)). These punishments apply regardless of the defendant's prior record level.

For offenses committed before December 1, 1998, a defendant sentenced to life without parole is entitled to seek review of the sentence by a superior court judge after serving twenty-five years in prison. The judge then must recommend to the governor whether the sentence should be altered or commuted. *See* G.S. 15A-1380.5. This procedure has been repealed and does not apply to offenses committed on or after December 1, 1998. The repeal does not affect the power of the governor, under Art. III, Sec. 5(6), of the North Carolina Constitution, to grant pardons and commute sentences.

Habitual Offender Laws⁹

Habitual Felons. A defendant found to be a habitual felon (that is, convicted of a felony for a fourth time pursuant to the procedures in G.S. 14-7.1 through -7.6) is sentenced as though convicted of a Class C felony (unless the offense is a Class A, B1, or B2 felony). For example, if a defendant is convicted of felony breaking and entering (a Class H felony) and is found to be a habitual felon, he or she is sentenced as though convicted of a Class C felony. Additional sentencing rules apply in such cases, which are discussed in the "Punishment Chart for Crimes," G.S. 14-7.1 to -7.6 and accompanying note.

Special rules govern the calculation of the prior record level of a person found to be a habitual felon. If a prior conviction is used to establish the defendant's status as a habitual felon, the conviction may not be used to determine the defendant's prior convictions under structured sentencing. *See* G.S. 14-7.6; *State v. Lee*, 150 N.C. App. 701, 564 S.E.2d 597 (2002) (by alleging five felony convictions in habitual felon indictment, state was precluded from using any of those convictions in calculating defendant's prior convictions); *see also State v. Cates*, 154 N.C. App. 737, 573 S.E.2d 208 (2002) (permissible for state to select which convictions to use for habitual felon status and which to use for prior record level).

There are some exceptions to this prohibition on double-counting of convictions. Thus, if two convictions have been consolidated for judgment in a prior case (ordinarily treated under structured sentencing as a single conviction), one conviction may be used to establish habitual felon status and the other conviction may be used to determine the defendant's prior convictions. *See State v. McCrae*, 124 N.C. App. 664, 478 S.E.2d 210 (1996). Also, a defendant may receive one point if the current offense is the same as or a lesser offense of a prior conviction, even though the prior conviction is used to establish habitual felon status; and

8. The judgment is not subject to execution during appeal of the underlying conviction. If the defendant is placed on probation, the judgment ordinarily is not subject to execution until probation is terminated or revoked. *See* G.S. 15A-1340.38. The judgment also should not be subject to execution if the court has deferred payment. *See* G.S. 15A-1340.36(b) (court may set payment date or payment schedule). The defendant is not entitled to claim statutory exemptions against execution (*see* G.S. 1C-1601(e)), but may claim constitutional exemptions. *See* N.C. CONST. art. X.

9. This discussion deals with the structured sentencing rules for the indicated habitual offender provisions. For a broader discussion of habitual offender cases, *see* Robert L. Farb, *Habitual Offender Laws* (July 26, 2004), posted at <http://ncinfo.iog.unc.edu/programs/crimlaw/faculty.htm>; *see also* 1 JOHN RUBIN, THOMASIN HUGHES & JANINE C. FODOR, NORTH CAROLINA DEFENDER MANUAL § 8.5E, at 22-24 (July 2004), posted at www.ncids.org.

a defendant may receive one point if he or she committed the current offense while on probation for a prior conviction, even though the prior conviction is used to establish habitual felon status. *See State v. Bethea*, 122 N.C. App. 623, 471 S.E.2d 430 (1996).

If a defendant is found to be a habitual felon and is later convicted of another felony, the number of points assigned to the earlier habitual felon case depends on the class of the underlying offense. For example, if the defendant is convicted of felony breaking and entering, is found to be a habitual felon, and is later convicted of another felony, the prior conviction is treated as a Class H felony, the offense class of felony breaking and entering, not a Class C felony. *See State v. Vaughn*, 130 N.C. App. 456, 503 S.E.2d 110 (1998), *aff'd per curiam*, 350 N.C. 88, 511 S.E.2d 638 (1999).

Violent Habitual Felons. A defendant convicted for the third time of a violent felony within the meaning of G.S. 14-7.7 through -7.12 must be sentenced to life without parole, regardless of the defendant's prior record level (except where the death penalty is imposed). Additional sentencing rules apply in such cases, which are discussed in the "Punishment Chart for Crimes," G.S. 14-7.7 to -7.12 and accompanying note.

For offenses committed before December 1, 1998, a person found to be a violent habitual felon and sentenced to life without parole is entitled to seek review of the sentence by a superior court judge after serving twenty-five years in prison. This procedure and its repeal are discussed above in connection with sentencing for Class A felonies.

Habitual Impaired Driving. A defendant convicted of habitual impaired driving under G.S. 20-138.5, a Class F felony, must be sentenced to an active term of imprisonment of at least twelve months. Although structured sentencing (which applies to habitual impaired driving) sometimes allows a suspended sentence for Class F felonies, the twelve-month term of imprisonment may not be suspended.

Although G.S. 20-138.5 does not specifically address the issue, the courts have found that a prior conviction used to establish habitual impaired driving may not be used in calculating the defendant's prior record level. *See State v. Gentry*, 135 N.C. App. 107, 519 S.E.2d 68 (1999).¹⁰

Sentence Enhancements

Firearm Enhancement. G.S. 15A-1340.16A contains a sixty-month sentence enhancement for the use of a firearm in certain circumstances. The state may seek the enhanced sentence if the defendant (1) committed a Class A through E felony by using, displaying, or threatening the use or display of a firearm, and (2) actually possessed the firearm about his or her person. *See* G.S. 15A-1340.16A(c); *see also State v. Williams*, 127 N.C. App. 464, 490 S.E.2d 583 (1997) (enhancement not proper for second-degree kidnapping because evidence established that object displayed was not actually firearm). The state must allege the pertinent facts in the indictment or information for the underlying Class A through E felony and, unless the defendant pleads guilty or no contest to those facts, the state must prove those facts beyond a reasonable doubt to the jury. *See* G.S. 15A-1340.16A(d), (e). If the firearm enhancement is imposed, the minimum term of imprisonment is increased by sixty months, and the maximum term is calculated based on the increased minimum. *See* general description above (p. 5) regarding calculation of maximum sentences for felonies.¹¹

The firearm enhancement is inapplicable if (1) the person is not sentenced to an active term of imprisonment, or (2) the evidence of the use, display, or threatened use or display of a firearm is necessary to prove an element of the felony. *See* G.S. 15A-1340.40.16A(f); *see also* G.S. 15A-1340.16(d) (evidence necessary to establish firearm enhancement may not be used to prove any aggravating factor). The applicability of the second exception would seem to turn on the facts of each case; by its terms,

10. Under the reasoning of *Gentry*, the restriction on double-counting of convictions likely applies to prosecutions for habitual misdemeanor assault under G.S. 14-33.2. *See also State v. Smith*, 139 N.C. App. 209, 533 S.E.2d 518 (2000) (defendant was convicted of two separate offenses on same day, and in subsequent prosecution one of prior offenses was used to establish prior record level and other was used as predicate offense for habitual misdemeanor assault; consistent with habitual felon cases, court finds calculation proper). For a further discussion of habitual misdemeanor assault, *see* "Punishment Chart for Crimes," G.S. 14-33.2 and accompanying note.

11. The discussion in the text reflects revisions to the statute applicable to offenses committed on or after Aug. 1, 2003. The principal differences between the current and previous versions of the statute are as follows:

- a. The previous version of the statute provided that the state had to show that the person used, displayed, or threatened to use or display a firearm at the time of the felony; the current version provides that the state must show that the person committed the felony by using, displaying, or threatening the use or display of the firearm.
- b. The previous version of the statute did not contain the pleading and proof requirements set forth in the current statute, and trial courts imposed the firearm enhancement without the pertinent facts being alleged in an indictment or being found by a jury. In *State v. Lucas*, 353 N.C. 568, 548 S.E.2d 712 (2001), the court found this procedure unconstitutional under the U.S. Supreme Court's decision in *Apprendi v. New Jersey*, 530 U.S. 466 (2000). The court did not strike down the statute, however, holding that the state could seek the firearm enhancement even under the previous version of the statute as long as the required facts were alleged in the indictment or information, submitted to the jury for decision, and proven beyond a reasonable doubt. The statute was revised to conform to the procedures required in *Lucas*.
- c. The previous version of the statute provided that a person's minimum sentence was increased by 60 months; it did not specify whether the maximum would simply be increased by 60 months, or it would be recalculated based on the increased minimum. However, *Lucas* interpreted the previous version of the statute as requiring the latter result, which is the approach expressly taken in the current statute.
- d. The previous version of the statute provided that the court could not suspend or place the defendant on probation for the 60-month firearm enhancement; a related statute, G.S. 14-2.2, also contained consecutive sentencing requirements. The meaning of those requirements was unclear, and they were repealed with adoption of the current version of the statute.

the exception concerns whether evidence of the use, display, or threatened use or display of a firearm is necessary to prove an element of the offense, not whether use of a firearm is an actual element of the offense. *See State v. Brice*, 126 N.C. App. 788, 486 S.E.2d 719 (1997) (defendant convicted of second-degree kidnapping; enhancement improper on facts); *State v. Smith*, 125 N.C. App. 562, 481 S.E.2d 425 (1997) (defendant convicted of voluntary manslaughter; enhancement improper on facts); *State v. Evans*, 125 N.C. App. 301, 480 S.E.2d 435 (1997) (defendant convicted of first-degree kidnapping; enhancement permissible on facts); *but see State v. Ruff*, 349 N.C. 213, 505 S.E.2d 579 (1998) (court finds firearm enhancement permissible for second-degree kidnapping because use of firearm is not essential element of that offense); *State v. Boyd*, 148 N.C. App. 304, 559 S.E.2d 1 (2002) (relying on *Ruff*, court finds firearm enhancement permissible for second-degree kidnapping but vacates enhancement because pleading and proof procedures did not comply with *Lucas*, discussed above, note 11).¹²

For summaries of firearm enhancement cases, *see* Robert L. Farb, *Appellate Cases: Structured Sentencing Act and Firearm Enhancement* (July 6, 2004), posted at <http://ncinfo.iog.unc.edu/programs/crimlaw/faculty.htm>.

Other Enhancements. Subject to certain exceptions, G.S. 15A-1340.16B requires a sentence of life imprisonment without parole for a Class B1 felony if the defendant committed the felony against a person thirteen years of age or younger and the defendant has one or more prior convictions of a Class B1 felony;¹³ G.S. 15A-1340.16C provides that a person is guilty of a felony one class higher than the felony committed if the defendant was wearing or had in his or her immediate possession a bulletproof vest; and, effective for offenses committed on or after December 1, 2004, G.S. 15A-1340.16D provides that a person's sentence must be increased by twenty-four months if the offense involved the manufacture of methamphetamine and certain other conditions are present. All three statutes contain pleading and proof procedures comparable to those for the firearm enhancement, discussed above.

Drug-Trafficking Offenses

Drug trafficking is punished according to a separate table of punishments containing minimum and maximum terms of imprisonment that depart from the structured sentencing grid and do not depend on the defendant's prior record. Minimum fines also are prescribed for these offenses. The minimum and maximum terms of imprisonment for drug-trafficking offenses appear in note 214 of the "Punishment Chart for Crimes." Also discussed in that note are additional rules governing sen-

tencing for drug-trafficking offenses. For example, the court may reduce the fine, impose a prison term less than the applicable minimum, or suspend the prison term in some circumstances. The minimum fines for drug-trafficking offenses vary with the class of offense and the amount and nature of the controlled substance, which are indicated in the body of the "Punishment Chart for Crimes," G.S. 90-95(h)(1) through -95(h)(4b).

The same mandatory minimums and exceptions apply to a conspiracy to commit a drug-trafficking offense. *See* "Punishment Chart for Crimes," G.S. 90-95(i) and accompanying note. These punishments do not apply to an attempt to commit a drug-trafficking offense, however. *See* "Punishment Chart for Crimes," G.S. 90-98 and accompanying note.

Misdemeanors

The focus of structured sentencing for misdemeanors is the statutory table of punishments in G.S. 15A-1340.23(c) (Table 5 at the end of this part). There are essentially five steps in determining the appropriate sentence for a misdemeanor. These steps (with the appropriate sources to consult) are as follows:

- Determine the offense class for each misdemeanor conviction (punishment charts).
- Determine the prior conviction level for the defendant (Table 5).
- Determine the sentence length from the appropriate sentence range (Table 5).
- Determine the sentence disposition (active, intermediate, or community) (Table 5).
- Consider the appropriateness of restitution (Table 6).

The only misdemeanors not subject to structured sentencing are violations of health control measures under G.S. 130A-25 (*see* "Punishment Chart for Crimes" for the applicable punishment) and the following offenses involving driving and the consumption of alcohol or drugs: impaired driving under G.S. 20-138.1; commercial impaired driving under G.S. 20-138.2; and a second or subsequent conviction of a zero tolerance offense under G.S. 20-138.2A (commercial drivers) and G.S. 20-138.2B (school bus and child care vehicle drivers). *See* "Punishment Chart for Motor Vehicle Offenses," G.S. 20-138.1 and accompanying note, for the applicable punishments. For a further discussion of sentencing under North Carolina's impaired driving laws, *see* BEN F. LOEB JR. & JAMES C. DRENNAN, *MOTOR VEHICLE LAW AND THE LAW OF IMPAIRED DRIVING IN NORTH CAROLINA* (2000);

12. The wording of this exception did not change with the revisions to the firearm enhancement statute. However, because of the similarity between the basic facts now required for imposition of the firearm enhancement (defendant must have committed felony by using, displaying, or threatening the use or display of firearm) and the terms of the exception (enhancement inapplicable if evidence of use, display, or threatened use or display of firearm is necessary to prove element of offense), the enhancement could be barred in a greater number of cases.

13. The only Class B1 felonies are first-degree forcible or statutory rape (*see* G.S. 14-27.2), first-degree forcible or statutory sexual offense (*see* G.S. 14-27.4), statutory rape or sexual offense against a person who is 13, 14, or 15 years old by a defendant who is at least 6 years older than the person (*see* G.S. 14-27.7A), certain incest offenses (*see* 14-178), and certain offenses involving weapons of mass destruction. *See* G.S. 14-288.21, -22(b),(c).

see also introductory section above (p. 1) noting that recent U.S. Supreme Court decisions may impose additional procedural requirements with respect to sentencing.

Offense Class for Misdemeanors

Generally

The first step in determining the appropriate sentence for a misdemeanor is to identify the class of the misdemeanor (from most to least serious, the classes of misdemeanors are A1, 1, 2, and 3). For each misdemeanor listed in the punishment charts in this book, the class of the offense is indicated. For example, a violation of G.S. 14-34 (assault by pointing gun) is a Class A1 misdemeanor. A violation of G.S. 20-217 (passing a stopped school bus) is a Class 2 misdemeanor.

Misdemeanors without Classification/Punishment

Some misdemeanor offenses in the General Statutes may have neither a classification nor a punishment listed. Under G.S. 14-3(a), such offenses ordinarily are considered Class 1 misdemeanors. If a misdemeanor has no classification and no specified punishment and the offense is infamous, done in secrecy and malice, or committed with deceit and intent to defraud, it may be punished as a Class H felony. For cases discussing this punishment enhancement, see “Punishment Chart for Crimes,” G.S. 14-3(b) and accompanying note.

Some misdemeanor offenses have a punishment but no classification listed. Under G.S. 14-3(a), these offenses are classified as follows: as Class 1 misdemeanors if punishable by more than six months imprisonment; as Class 2 misdemeanors if punishable by more than thirty days but not more than six months imprisonment; and as Class 3 misdemeanors if punishable by imprisonment of thirty days or less or by a fine only.

Some misdemeanors are common-law offenses and do not appear at all in the General Statutes—for example, common-law obstruction of justice. By operation of G.S. 14-3(a), these offenses ordinarily are treated as Class 1 misdemeanors because they have no classification or punishment. If infamous, done in secrecy and malice, or committed with deceit and intent to defraud, a common-law misdemeanor may be punished as a Class H felony by virtue of G.S. 14-3(b).

Attempt, Conspiracy, Solicitation, and Accessory after the Fact

Unless a different classification is stated in the statute governing the offense, conspiracy or attempt to commit a misdemeanor is punishable one class lower than the misdemeanor the defendant conspired or attempted to commit. Unless a different classification is stated, conspiracy or attempt to commit a Class I felony is a Class 1 misdemeanor and thus is subject to misdemeanor sentencing rules; and conspiracy or attempt to commit a Class 3 misdemeanor is a Class 3 misdemeanor. *See* G.S. 14-2.4 (conspiracy), 14-2.5 (attempt).

Unless a different classification is stated, solicitation to commit a Class H felony is a Class 1 misdemeanor, solicitation to commit a Class I felony is a Class 2 misdemeanor, and solicitation to commit a misdemeanor is a Class 3 misdemeanor. *See* G.S. 14-2.6. Although G.S. 14-2.6 establishes a punishment for solicitation to commit a misdemeanor, it does not identify the circumstances in which solicitation to commit a misdemeanor is a crime under North Carolina law. The North Carolina courts have upheld convictions for solicitation to commit misdemeanor assault and solicitation to commit common-law obstruction of justice. *See* ROBERT L. FARB, *NORTH CAROLINA CRIMES: A GUIDEBOOK ON THE ELEMENTS OF CRIME* 34 (5th ed. 2001); 2 WAYNE R. LAFAVE, *SUBSTANTIVE CRIMINAL LAW* § 11.1(b), at 190–91 (2d ed. 2003) (in absence of statute providing otherwise, general rule is that misdemeanor solicited must involve breach of peace, obstruction of justice, or injury to public welfare).

G.S. 14-7 establishes the crime of accessory after the fact to a felony. It provides that unless a different classification is otherwise stated, accessory after the fact to a Class H felony is a Class 1 misdemeanor, and accessory after the fact to a Class I felony is a Class 2 misdemeanor. G.S. 14-7 does not make it a crime to be an accessory after the fact to a misdemeanor. *See also* 2 WAYNE R. LAFAVE, *SUBSTANTIVE CRIMINAL LAW* § 13.6(a), at 400, 405 (2d ed. 2003) (in absence of statute providing otherwise, person may not be convicted of being accessory after fact to misdemeanor); ROLLIN M. PERKINS & RONALD N. BOYCE, *CRIMINAL LAW* 726 (3d ed. 1982) (to same effect).

Prior Conviction Level for Misdemeanors

The second step is to determine the defendant’s prior conviction level. A defendant is assigned to one of three prior conviction levels (I through III) based on the total number of prior felony and misdemeanor convictions. The three prior conviction levels and the number of convictions applicable to each level are indicated in Table 5.

Each conviction, whether for a felony or a misdemeanor (including misdemeanors under Chapter 20), counts as one conviction. If the defendant was convicted of more than one offense in a single week of superior court, only one of the convictions counts. If the defendant was convicted of more than one offense during a single session (that is, day) of district court, only one of the convictions counts. Infractions do not count. *See* G.S. 15A-1340.21.

A prior offense may be counted as a conviction only if the offense is classified as a felony or misdemeanor at the time the defendant committed the current offense. For example, if an offense has been changed from a misdemeanor to an infraction (for example, driving 50 mph in a 35-mph zone), a prior conviction for that offense would not count in misdemeanor sentencing. *See* G.S. 15A-1340.21(b).

G.S. 15A-1340.21(c) describes the method of proving prior convictions, which is essentially the same as under the felony sentencing provisions. *See also* “Prior Record Level for Felonies: Prior Convictions” (pp. 2–4 above), discussing cases on what constitutes conviction and sufficiency of proof.

Sentence Length for Misdemeanors

Once the class of misdemeanor and prior conviction level are determined, the court must determine the length of any term of imprisonment. (If the court selects a community punishment as the sentence disposition, discussed below, it may impose a judgment consisting of a fine only; in those circumstances, it would be unnecessary for the court to specify any term of imprisonment.) To determine the length of the term of imprisonment, the court must locate the class of misdemeanor along the left-hand side of Table 5 and the prior conviction level along the top of Table 5. The cell in which the misdemeanor class and prior conviction level intersect shows the possible terms of imprisonment (expressed in days) that the court may impose. The court must select a single term of imprisonment from the range shown in the applicable cell; unlike felony sentencing, there is no minimum and maximum term of imprisonment.

Sentence Disposition for Misdemeanors

The next step is to determine the sentence disposition, which is prescribed in Table 5. Each cell in Table 5 contains a sentence disposition, signified by the letter “A,” “I,” or “C,” or by a combination of these letters. “A” represents active punishment; “I,” intermediate punishment; and “C,” community punishment. The court must impose the sentence disposition indicated in the applicable cell. If a cell authorizes more than one possible disposition (for example, C/I/A), the court may impose any of the indicated dispositions.

Active Punishments

If the court imposes an active punishment, the term of imprisonment determined by the court must be activated. The defendant must receive credit for time already served. See G.S. 15-196.1. A defendant’s term of imprisonment also may be reduced by earned time credit of up to four days per month of incarceration (awarded by the Department of Correction or local jail). See G.S. 15A-1340.20(d).¹⁴ A defendant who receives an active term of imprisonment of 90 days or less for a misdemeanor is ordinarily committed to a local jail. If the term of imprisonment is for more than 90 days, the court may commit the defendant to either the Department of Correction or a local jail. See G.S. 15A-1352(a).

The court may sentence a defendant to “time served”—that is, a term of imprisonment equal to the amount of time the defendant spent in jail before trial. A sentence of time served is technically a form of active punishment because it involves a term of imprisonment; however, the court may impose a sentence of time served for any misdemeanor, regardless of whether an active punishment would otherwise be authorized for that class of misdemeanor and prior conviction level. See G.S. 15A-1340.20(c1).

When sentencing a defendant for multiple misdemeanors, the court may consolidate sentences, run them concurrently, and,

subject to certain limitations, impose consecutive sentences. If the court consolidates offenses for sentencing, the most serious offense is the controlling one—the sentence disposition and the term of imprisonment must conform to the structured sentencing rules for that offense.

If the court imposes consecutive sentences for misdemeanors, the length of the term of imprisonment (active or suspended) may not exceed twice the longest term of imprisonment authorized for the most serious misdemeanor conviction. Consecutive sentences may not be imposed if all of the convictions are for Class 3 misdemeanors. See G.S. 15A-1340.22, -1354(a).

For example, assume the defendant is convicted of three misdemeanors—Class 1, 2, and 3—and is in prior conviction level III. If the court elects to impose consecutive sentences, the cumulative term of imprisonment may not exceed 240 days, which is twice the longest possible term for a Class 1 misdemeanor, the most serious misdemeanor conviction in this example. However, the longest term of imprisonment that actually could be imposed in this example would be 200 days—120 days for the Class 1 misdemeanor, 60 days for the Class 2 misdemeanor, and 20 days for the Class 3 misdemeanor.

Intermediate Punishments

If the court imposes an intermediate punishment, the court must suspend the term of imprisonment and impose a period of supervised probation with at least one of the conditions described in G.S. 15A-1340.11(6). For intermediate punishments for misdemeanors, the court is authorized to impose a period of probation ranging from 12 to 24 months; the court may depart from this range upon finding that a longer or shorter period is necessary. See *State v. Mac Cardwell*, 133 N.C. App. 496, 516 S.E.2d 388 (1999) (court must make findings to depart from presumptive length of probation). The maximum initial period of probation that may be imposed is five years. See G.S. 15A-1343.2(d).

The permissible intermediate punishments for misdemeanors are the same as for felonies (special probation, assignment to a residential program, house arrest with electronic monitoring, intensive probation, assignment to a day-reporting center, and, effective July 26, 2004, assignment to a drug treatment court program). If the court imposes special probation as an intermediate punishment, the period of imprisonment is limited in the same manner as for felonies—it may not exceed one-fourth of the maximum term of imprisonment imposed, and it may be for continuous or noncontinuous periods (such as weekends), to be served within two years of conviction. See G.S. 15A-1351(a). If the defendant’s probation is later revoked and the original term of imprisonment is activated, the defendant must be given credit for any time served as a condition of special probation. See *State v. Farris*, 336 N.C. 552, 444 S.E.2d 182 (1994); G.S. 15-196.1; see also *North Carolina v. Pearce*, 395 U.S. 711 (1969).¹⁵

14. A defendant committed to a local jail also may receive work credit under G.S. 162-60, but the total amount of earned time and work credit may not exceed four days per month. See G.S. 15A-1340.20(d).

15. For a discussion of credit for time served in IMPACT, which was a form of intermediate punishment, see note 7, above.

Community Punishments

A community punishment is defined as any sentence that does not include an active or intermediate punishment. *See* G.S. 15A-1340.11(2). The court must suspend any term of imprisonment; it may not impose an active term of imprisonment or special probation requiring a period of imprisonment.

A community punishment may consist of unsupervised or supervised probation with any authorized condition other than one defined as an intermediate punishment. Community service and outpatient drug and alcohol treatment are examples of permissible conditions. For community punishments for misdemeanors, the court is authorized to impose a period of probation ranging from 6 to 18 months; the court may depart from this range upon finding that a longer or shorter period is necessary. *See* G.S. 15A-1343.2(d)(1); *State v. Love*, 156 N.C. App. 309, 576 S.E.2d 709 (2003) (court must make findings to depart from presumptive length of probation). A community punishment also may consist of a fine only, without probation. *See* G.S. 15A-1340.23(b).

Fines

The court may impose a fine as part of any disposition, whether active, intermediate, or community. Unless otherwise provided by statute, the maximum fine for each class of misdemeanor is as indicated in Table 5. For example, although the maximum fine for a Class 3 misdemeanor is ordinarily \$200, a violation of G.S. 14-118.5 (unauthorized interception of cable television service) is punishable by a fine of up to \$500, while a violation of G.S. 14-140.1 (burning material without a watchman) is punishable by a fine of up to \$50 only.

Restitution for Misdemeanors

The last step is to consider the appropriateness of restitution. The restitution requirements in G.S. 15A-1340.34 through -1340.38, discussed above in connection with felonies, apply equally to misdemeanors. Thus the sentencing court must determine whether a misdemeanor is subject to the Crime Victims' Rights Act (G.S. 15A-830 through -841), which for certain offenses mandates restitution to the victim and allows enforcement of the restitution order as a civil judgment. For misdemeanors not subject to the Crime Victims' Rights Act, the court must consider the appropriateness of restitution but is not required to order it.

The main difference between restitution in misdemeanor and felony cases is that far fewer misdemeanors are subject to the Crime Victims' Rights Act. Only the following misdemeanors are covered:

- assault with a deadly weapon,
- assault inflicting serious injury,
- assault on a female,
- assault by pointing a gun,
- domestic criminal trespass, and
- stalking.

The Crime Victims' Rights Act applies to the above misdemeanors only if the defendant and victim were in one of six different "personal relationships" (for example, as current or former spouses) described in G.S. 50B-1(b). Table 6 at the end of this chapter lists the offenses subject to the Crime Victims' Rights Act.

Table 1**Felony Sentence Dispositions and Minimum Terms of Imprisonment (in months)**

A = active punishment I = intermediate punishment C = community punishment

Felony Class	Prior Record Level						
	I 0 Points	II 1–4 Points	III 5–8 Points	IV 9–14 Points	V 15–18 Points	VI 19+ Points	
A	Life imprisonment without parole, or death						
B1	A	A	A	A	A	A	DISPOSITION
	240–300	288–360	336–420	384–480	Life without parole		Aggravated
	192–240	230–288	269–336	307–384	346–433	384–480	Presumptive
	144–192	173–230	202–269	230–307	260–346	288–384	Mitigated
B2	A	A	A	A	A	A	DISPOSITION
	157–196	189–237	220–276	251–313	282–353	313–392	Aggravated
	125–157	151–189	176–220	201–251	225–282	251–313	Presumptive
	94–125	114–151	132–176	151–201	169–225	188–251	Mitigated
C	A	A	A	A	A	A	DISPOSITION
	73–92	100–125	116–145	133–167	151–188	168–210	Aggravated
	58–73	80–100	93–116	107–133	121–151	135–168	Presumptive
	44–58	60–80	70–93	80–107	90–121	101–135	Mitigated
D	A	A	A	A	A	A	DISPOSITION
	64–80	77–95	103–129	117–146	133–167	146–183	Aggravated
	51–64	61–77	82–103	94–117	107–133	117–146	Presumptive
	38–51	46–61	61–82	71–94	80–107	88–117	Mitigated
E	I/A	I/A	A	A	A	A	DISPOSITION
	25–31	29–36	34–42	46–58	53–66	59–74	Aggravated
	20–25	23–29	27–34	37–46	42–53	47–59	Presumptive
	15–20	17–23	20–27	28–37	32–42	35–47	Mitigated
F	I/A	I/A	I/A	A	A	A	DISPOSITION
	16–20	19–24	21–26	25–31	34–42	39–49	Aggravated
	13–16	15–19	17–21	20–25	27–34	31–39	Presumptive
	10–13	11–15	13–17	15–20	20–27	23–31	Mitigated
G	I/A	I/A	I/A	I/A	A	A	DISPOSITION
	13–16	15–19	16–20	20–25	21–26	29–36	Aggravated
	10–13	12–15	13–16	16–20	17–21	23–29	Presumptive
	8–10	9–12	10–13	12–16	13–17	17–23	Mitigated
H	C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
	6–8	8–10	10–12	11–14	15–19	20–25	Aggravated
	5–6	6–8	8–10	9–11	12–15	16–20	Presumptive
	4–5	4–6	6–8	7–9	9–12	12–16	Mitigated
I	C	C/I	I	I/A	I/A	I/A	DISPOSITION
	6–8	6–8	6–8	8–10	9–11	10–12	Aggravated
	4–6	4–6	5–6	6–8	7–9	8–10	Presumptive
	3–4	3–4	4–5	4–6	5–7	6–8	Mitigated

SOURCE: G.S. 15A-1340.17(c).

Table 2a

Felony Minimum and Maximum Prison/Jail Terms (in months)

Felony Classes B1, B2, C, D, and E							
15–27	56–77	97–126	138–175	179–224	220–273	261–323	302–372
16–29	57–78	98–127	139–176	180–225	221–275	262–324	303–373
17–30	58–79	99–128	140–177	181–227	222–276	263–325	304–374
18–31	59–80	100–129	141–179	182–228	223–277	264–326	305–375
19–32	60–81	101–131	142–180	183–229	224–278	265–327	306–377
20–33	61–83	102–132	143–181	184–230	225–279	266–329	307–378
21–35	62–84	103–133	144–182	185–231	226–281	267–330	308–379
22–36	63–85	104–134	145–183	186–233	227–282	268–331	309–380
23–37	64–86	105–135	146–185	187–234	228–283	269–332	310–381
24–38	65–87	106–137	147–186	188–235	229–284	270–333	311–383
25–39	66–89	107–138	148–187	189–236	230–285	271–335	312–384
26–41	67–90	108–139	149–188	190–237	231–287	272–336	313–385
27–42	68–91	109–140	150–189	191–239	232–288	273–337	314–386
28–43	69–92	110–141	151–191	192–240	233–289	274–338	315–387
29–44	70–93	111–143	152–192	193–241	234–290	275–339	316–389
30–45	71–95	112–144	153–193	194–242	235–291	276–341	317–390
31–47	72–96	113–145	154–194	195–243	236–293	277–342	318–391
32–48	73–97	114–146	155–195	196–245	237–294	278–343	319–392
33–49	74–98	115–147	156–197	197–246	238–295	279–344	320–393
34–50	75–99	116–149	157–198	198–247	239–296	280–345	321–395
35–51	76–101	117–150	158–199	199–248	240–297	281–347	322–396
36–53	77–102	118–151	159–200	200–249	241–299	282–348	323–397
37–54	78–103	119–152	160–201	201–251	242–300	283–349	324–398
38–55	79–104	120–153	161–203	202–252	243–301	284–350	325–399
39–56	80–105	121–155	162–204	203–253	244–302	285–351	326–401
40–57	81–107	122–156	163–205	204–254	245–303	286–353	327–402
41–59	82–108	123–157	164–206	205–255	246–305	287–354	328–403
42–60	83–109	124–158	165–207	206–257	247–306	288–355	329–404
43–61	84–110	125–159	166–209	207–258	248–307	289–356	330–405
44–62	85–111	126–161	167–210	208–259	249–308	290–357	331–407
45–63	86–113	127–162	168–211	209–260	250–309	291–359	332–408
46–65	87–114	128–163	169–212	210–261	251–311	292–360	333–409
47–66	88–115	129–164	170–213	211–263	252–312	293–361	334–410
48–67	89–116	130–165	171–215	212–264	253–313	294–362	335–411
49–68	90–117	131–167	172–216	213–265	254–314	295–363	336–413
50–69	91–119	132–168	173–217	214–266	255–315	296–365	337–414
51–71	92–120	133–169	174–218	215–267	256–317	297–366	338–415
52–72	93–121	134–170	175–219	216–269	257–318	298–367	339–416
53–73	94–122	135–171	176–221	217–270	258–319	299–368	340 or more*
54–74	95–123	136–173	177–222	218–271	259–320	300–369	
55–75	96–125	137–174	178–223	219–272	260–321	301–371	

SOURCE: G.S. 15A-1340.17(e),(e1).

*When minimum term is 340 months or more, maximum is 120 percent of minimum rounded to next highest month, plus 9 months.

Table 2b

Felony Minimum and Maximum Prison/Jail Terms (in months)

Felony Classes F, G, H, and I							
3–4	9–11	15–18	21–26	27–33	33–40	39–47	45–54
4–5	10–12	16–20	22–27	28–34	34–41	40–48	46–56
5–6	11–14	17–21	23–28	29–35	35–42	41–50	47–57
6–8	12–15	18–22	24–29	30–36	36–44	42–51	48–58
7–9	13–16	19–23	25–30	31–38	37–45	43–52	49–59
8–10	14–17	20–24	26–32	32–39	38–46	44–53	

SOURCE: G.S. 15A-1340.17(d).

Table 3a

Prior Record Points for Felonies

Prior Conviction or Other Factor	Points
Each prior Class A felony conviction	10
Each prior Class B1 felony conviction	9
Each prior Class B2, C, or D felony conviction	6
Each prior Class E, F, or G felony conviction	4
Each prior Class H or I felony conviction	2
Each prior Class A1 or 1 misdemeanor conviction (but no points for misdemeanors of any class under G.S. Ch. 20 except for misdemeanor death by vehicle and, effective for felonies committed on or after Dec. 1, 1997, regular impaired driving and commercial impaired driving)	1
All the elements of the present offense are included in a prior offense—maximum 1 point	1
Present offense was committed while offender was on probation, parole, or post-release supervision, was serving a term of imprisonment, or was on escape while serving a term of imprisonment—maximum 1 point	1

SOURCE: G.S. 15A-1340.14(b).

Table 3b

Prior Record Levels for Felonies

Prior Record Level	Total Point Score
Level I	0
Level II	1–4
Level III	5–8
Level IV	9–14
Level V	15–18
Level VI	19 or more

SOURCE: G.S. 15A-1340.14(c).

Table 4a**Aggravating Factors**

1. The defendant induced others to participate in the commission of the offense or occupied a position of leadership or dominance of other participants.
 2. The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
 - 2a. The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy. A “criminal street gang” means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of felony or violent misdemeanor offenses, or delinquent acts that would be felonies or violent misdemeanors if committed by an adult, and having a common name or common identifying sign, colors, or symbols.
 3. The offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
 4. The defendant was hired or paid to commit the offense.
 5. The offense was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
 6. The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Correction, jailer, firefighter, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person’s official duties or because of the exercise of that person’s official duties.
 7. The offense was especially heinous, atrocious, or cruel.
 8. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
 9. The defendant held public office at the time of the offense and the offense related to the conduct of the office.
 10. The defendant was armed with or used a deadly weapon at the time of the crime.
 11. The victim was very young, or very old, or mentally or physically infirm, or handicapped.
 12. The defendant committed the offense while on pretrial release on another charge.
 13. The defendant involved a person under the age of 16 in the commission of the crime.
 14. The offense involved an attempted or actual taking of property of great monetary value or damage causing great monetary loss, or the offense involved an unusually large quantity of contraband.
 15. The defendant took advantage of a position of trust or confidence, including a domestic relationship, to commit the offense.*
 16. The offense involved the sale or delivery of a controlled substance to a minor.
 - 16a. The offense is the manufacture of methamphetamine and was committed where a person under the age of 18 lives, was present, or was otherwise endangered by exposure to the drug, its ingredients, its by-products, or its waste.†
 17. The offense for which the defendant stands convicted was committed against a victim because of the victim’s race, color, religion, nationality, or country of origin.
 18. The defendant does not support the defendant’s family.
 - 18a. The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D or E felony if committed by an adult.
 19. The serious injury inflicted upon the victim is permanent and debilitating.
 20. Any other aggravating factor reasonably related to the purposes of sentencing.
-

SOURCE: G.S. 15A-1340.16(d).

* Effective for offenses committed on or after Dec. 1, 2004, this aggravating factor was revised to provide that a position of trust or confidence includes a domestic relationship.

† Aggravating factor no. 16a applies to offenses committed on or after Dec. 1, 2004.

Table 4b
Mitigating Factors

-
1. The defendant committed the offense under duress, coercion, threat, or compulsion that was insufficient to constitute a defense but significantly reduced the defendant's culpability.
 2. The defendant was a passive participant or played a minor role in the commission of the offense.
 3. The defendant was suffering from a mental or physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
 4. The defendant's age, immaturity, or limited mental capacity at the time of commission of the offense significantly reduced the defendant's culpability for the offense.
 5. The defendant has made substantial or full restitution to the victim.
 6. The victim was more than 16 years of age and was a voluntary participant in the defendant's conduct or consented to it.
 7. The defendant aided in the apprehension of another felon or testified truthfully on behalf of the prosecution in another prosecution of a felony.
 8. The defendant acted under strong provocation, or the relationship between the defendant and the victim was otherwise extenuating.
 9. The defendant could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear, or the defendant exercised caution to avoid such consequences.
 10. The defendant reasonably believed that the defendant's conduct was legal.
 11. Prior to arrest or at an early stage of the criminal process, the defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer.
 12. The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives.
 13. The defendant is a minor and has reliable supervision available.
 14. The defendant has been honorably discharged from the United States armed services.
 15. The defendant has accepted responsibility for the defendant's criminal conduct.
 16. The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an alcohol treatment program subsequent to arrest and prior to trial.
 17. The defendant supports the defendant's family.
 18. The defendant has a support system in the community.
 19. The defendant has a positive employment history or is gainfully employed.
 20. The defendant has a good treatment prognosis, and a workable treatment plan is available.
 21. Any other mitigating factor reasonably related to the purposes of sentences.
-

SOURCE: G.S. 15A-1340.16(e).

Table 5**Misdemeanor Sentence Dispositions and Prison/Jail Term Ranges**

A = active punishment I = intermediate punishment C = community punishment

Misdemeanor Offense Class (Fine)	Level I No Prior Convictions	Level II 1 to 4 Prior Convictions	Level III 5 or More Prior Convictions
Class A1 (fine discretionary)	C/I/A 1–60 days	C/I/A 1–75 days	C/I/A 1–150 days
Class 1 (fine discretionary)	C 1–45 days	C/I/A 1–45 days	C/I/A 1–120 days
Class 2 (maximum fine \$1,000)	C 1–30 days	C/I 1–45 days	C/I/A 1–60 days
Class 3 (maximum fine \$200)	C 1–10 days	C/I 1–15 days	C/I/A 1–20 days

SOURCE: G.S. 15A-1340.23(c).

Table 6**Felonies (Class F through I) and Misdemeanors Subject to Restitution Requirements under Crime Victims' Rights Act**

Statute	Description of Offense	Punishment
14-16.6(b)	Assault with deadly weapon on executive, legislative, or court officer	Class F felony
14-16.6(c)	Assault inflicting serious bodily injury on executive, legislative, or court officer	Class F felony
14-18	Involuntary manslaughter	Class F felony
14-32.1(e)	Assault on handicapped person: with deadly weapon or other means of force likely to inflict serious injury or damage	Class F felony
	inflicting serious injury or damage	Class F felony
	with intent to kill	Class F felony
14-32.2(b)(3)	Patient abuse: conduct resulting in serious bodily injury	Class F felony
14-32.3(a)	Abuse by caretaker of disabled/elder adult in domestic setting: resulting in serious injury	Class F felony
	resulting in injury	Class H felony
14-32.3(b)	Neglect by caretaker of disabled/elder adult in domestic setting: resulting in serious injury	Class G felony
	resulting in injury	Class I felony
14-32.3(c)	Exploitation by caretaker of disabled/elder adult in domestic setting: resulting in loss of more than \$1,000	Class H felony
14-32.4	Assault inflicting serious bodily injury	Class F felony
14-33(a)	Simple assault, simple assault and battery, or simple affray	Class 2 misdemeanor*

Table 6 (continued)

14-33(c)(1)	Assault: inflicting serious injury with deadly weapon	Class A1 misdemeanor* Class A1 misdemeanor*
14-33(c)(2)	Assault on female	Class A1 misdemeanor*
14-33.2	Habitual misdemeanor assault	Class H felony
14-34	Assault by pointing gun	Class A1 misdemeanor*
14-34.2	Assault with deadly weapon on government official or on company or campus police officer	Class F felony
14-34.6(b)	Assault on firefighter or emergency personnel: inflicting serious bodily injury with deadly weapon other than firearm	Class I felony Class I felony
14-34.6(c)	Assault with firearm on firefighter or emergency personnel	Class F felony
14-41	Abduction of minor	Class F felony
14-43.2	Involuntary servitude	Class F felony
14-43.3	Felonious restraint	Class F felony
14-51, -52	Second-degree burglary	Class G felony
14-58	Second-degree arson	Class G felony
14-87.1	Common-law robbery	Class G felony
14-134.3(a)	Domestic criminal trespass	Class 1 misdemeanor*
14-190.17	Second-degree sexual exploitation of minor	Class F felony
14-190.17A	Third-degree sexual exploitation of minor	Class I felony
14-190.19	Participating in prostitution of minor	Class F felony
14-202.1	Taking, or attempting to take, indecent liberties with child	Class F felony
14-277.3	Stalking: First offense While court order in effect prohibiting similar behavior Subsequent offense	Class A1 misdemeanor* Class H felony Class F felony
14-288.9	Assault on emergency personnel with dangerous weapon or substance	Class F felony
20-138.5	Habitual impaired driving	Class F felony
20-141.4(a1)	Felony death by vehicle	Class G felony

SOURCE: G.S. 15A-830(a)(7), -834.

Note: All Class A through E felonies (not listed in this table) are subject to the Crime Victims' Rights Act. If punishable as a felony, an attempt to commit a Class A through E felony or one of the Class F through I felonies listed here is also subject to the Crime Victims' Rights Act. Unless a different classification is otherwise stated, an attempt to commit a felony is punishable one class lower than the felony attempted. See G.S. 14-2.5. An attempt to commit a Class I felony is normally a Class 1 misdemeanor, so it is normally not subject to the Crime Victims' Rights Act.

*A misdemeanor is subject to the Crime Victims' Rights Act only if the defendant and victim have a personal relationship as defined in G.S. 50B-1(b).

Part 1
Punishment Chart for North Carolina Crimes

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Description of Punishment Chart for North Carolina Crimes

The Punishment Chart for North Carolina Crimes is current through the 2004 session of the General Assembly. For the offenses listed in the chart, it gives the current punishment as of the close of the 2004 session. It also indicates in the accompanying footnotes any punishment changes enacted by the General Assembly during the 2002 and 2003 legislative sessions. For punishment changes enacted in earlier legislative sessions, readers may refer to the 1999 edition of this book and the 2001 cumulative supplement, *Administration of Justice Bulletin* No. 2002/03 (Institute of Government, Feb. 2002), which describe the punishments for offenses committed on or after October 1, 1994, the date structured sentencing took effect.

The chart does not include all crimes under North Carolina law, but it is intended to include the crimes that appear most frequently on the criminal dockets of district and superior courts. The chart includes some offenses from Chapter 20 of the General

Statutes—those closely related to other offenses listed in the chart. For the most part, however, Chapter 20 violations are listed in the Punishment Chart for North Carolina Motor Vehicle Offenses, which appears in Part 2 of this book.

The chart is divided into three columns and is organized numerically, by statute number. (A detailed alphabetical index appears at the end of the chart.) The first column lists the statutory reference for the offense. The second column contains a brief description of the offense, which is intended to provide sufficient information to identify the offense; it does not purport to list all of the elements. The third column indicates the current class of the offense. Where additional information is relevant to the punishment or other consequences for a particular offense, the information is included in the footnotes. General information about the punishments for different classes of offenses is contained in the introduction, which describes how sentences are determined under structured sentencing.

Punishment Chart for North Carolina Crimes

Statute	Description of Offense	Punishment
Chapter 5A: Contempt¹		
5A-11(a), -12(a)	Criminal contempt, generally	Censure, imprisonment up to 30 days, fine up to \$500, or combination thereof ²
5A-11(a)(8), -12(a)	Criminal contempt by willful refusal to testify after being granted immunity	Censure, imprisonment up to 6 months, fine up to \$500, or combination thereof
5A-11(a)(9a), -12(a)	Criminal contempt by willful refusal to comply with condition of probation	Censure, imprisonment up to 30 days, fine up to \$500, or combination thereof
5A-12(a)	Criminal contempt by failure to comply with nontestimonial identification order	Censure, imprisonment up to 90 days, fine up to \$500, or combination thereof

Chapter 14: Criminal Law

Article 1: Felonies and Misdemeanors³

14-2.4(a)	Conspiracy to commit felony	Unless different classification stated, punishable one class lower than felony defendant conspired to commit ⁴
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1. Although criminal contempt is characterized as a crime, an adjudication of criminal contempt that is punishable by a maximum of thirty days imprisonment does not constitute a prior conviction for purposes of structured sentencing. *See* State v. Reaves, 142 N.C. App. 629, 544 S.E.2d 253 (2001) (court so holds but declines to decide whether adjudication of criminal contempt with greater maximum punishment constitutes prior conviction); *see also generally* Blue Jeans Corp. v. Amalgamated Clothing Workers of America, 275 N.C. 503, 508, 169 S.E.2d 867, 870 (1969) (characterizing criminal contempt as *sui generis*, *i.e.*, one of a kind).

2. G.S. 5A-12(b) provides that a fine or imprisonment may not be imposed unless the behavior was either willfully contemptuous or preceded by a clear warning by the court that the conduct was improper. These limitations do not apply to publication of false reports of court proceedings under G.S. 5A-11(5) or to jury tampering under G.S. 5A-11(9). G.S. 5A-12(c) authorizes the judge to reduce or withdraw the sentence imposed at any time “if warranted by the conduct of the contemnor and the ends of justice.” G.S. 5A-12(d) states that a person may not be held in both criminal and civil contempt for the same conduct.

3. Property acquired as a result of a felony other than a nonwillful homicide is subject to forfeiture as provided in G.S. 14-2.3.

4. Unless a different classification is stated, conspiracy to commit a Class A or B1 felony is a Class B2 felony, conspiracy to commit a Class B2 felony is a Class C felony, and conspiracy to commit a Class I felony is a Class 1 misdemeanor. *See* G.S. 14-2.4(a).

Statute	Description of Offense	Punishment
14-2.4(b)	Conspiracy to commit misdemeanor	Unless different classification stated, punishable one class lower than misdemeanor defendant conspired to commit ⁵
14-2.5	Attempt to commit felony or misdemeanor	Unless different classification stated, punishable one class lower than offense attempted ⁶
14-2.6(a)	Solicitation to commit felony	Unless different classification stated, punishable two classes lower than felony solicited ⁷
14-2.6(b)	Solicitation to commit misdemeanor	Unless different classification stated, punishable as Class 3 misdemeanor ⁸
14-3(a)	Misdemeanors without a specific classification and punishment	Class 1 misdemeanor ⁹
14-3(b)	Misdemeanors that are infamous, done in secrecy and malice, or committed with deceit and intent to defraud	If no specific punishment prescribed, punishable as Class H felony ¹⁰
14-3(c)	Misdemeanors committed because of the victim's race, color, religion, nationality, or country of origin	Class 2 or 3 misdemeanor committed for proscribed reason punishable as Class 1 misdemeanor; Class A1 or 1 misdemeanor committed for proscribed reason punishable as Class I felony
14-4(a)	Violation of local ordinance, except those in 14-4(b)	Class 3 misdemeanor ¹¹
14-4(b)	Violation of local ordinance regulating operation or parking of vehicles	Infraction, punishable by penalty up to \$50

5. Unless a different classification is stated, conspiracy to commit a Class 3 misdemeanor is a Class 3 misdemeanor. *See* G.S. 14-2.4(b).

6. Unless a different classification is stated, attempt to commit a Class A or B1 felony is a Class B2 felony, attempt to commit a Class B2 felony is a Class C felony, attempt to commit a Class I felony is a Class 1 misdemeanor, and attempt to commit a Class 3 misdemeanor is a Class 3 misdemeanor. *See* G.S. 14-2.5.

7. Unless a different classification is stated, solicitation to commit a Class A or B1 felony is a Class C felony, solicitation to commit a Class B2 felony is a Class D felony, solicitation to commit a Class H felony is a Class 1 misdemeanor, and solicitation to commit a Class I felony is a Class 2 misdemeanor. *See* G.S. 14-2.6(a).

8. Although G.S. 14-2.6 establishes the punishment for soliciting another to commit a misdemeanor, North Carolina law may only recognize as a criminal offense solicitation to commit certain misdemeanors. *See* "Introduction: Structured Sentencing and Related Laws," *supra* pp. 10.

9. Misdemeanors with specific punishments but without specific classifications are classified as follows: (1) as Class 1 misdemeanors if punishable by more than 6 months imprisonment; (2) as Class 2 misdemeanors if punishable by more than 30 days but not more than 6 months imprisonment; and (3) as Class 3 misdemeanors if punishable by imprisonment of 30 days or less or by a fine only. *See* G.S. 14-3(a).

10. A misdemeanor may not be elevated to a felony under this statute unless the indictment specifically alleges that the offense was infamous, done in secrecy or malice, or done with deceit and intent to defraud. *See, e.g., State v. Bell*, 121 N.C. App. 700, 468 S.E.2d 484 (1996).

Before adoption of structured sentencing, the courts considered whether attempt and solicitation crimes could be considered infamous. *See, e.g., State v. Glidden*, 317 N.C. 557, 346 S.E.2d 470 (1986) (general test for determining whether misdemeanor is "infamous" and punishable as felony); *State v. Huff*, 56 N.C. App. 721, 289 S.E.2d 604 (1982) (solicitation to commit perjury is infamous misdemeanor); *State v. Tyner*, 50 N.C. App. 206, 272 S.E.2d 626 (1980) (solicitation to commit crime against nature is not infamous misdemeanor). Under structured sentencing, this inquiry is moot. Attempt and solicitation have specific punishments (under G.S. 14-2.5 and -2.6), removing them from the class of offenses for which no specific punishment is prescribed and therefore from the operation of G.S. 14-3(b). Conspiracy to commit a misdemeanor likewise cannot be elevated to a felony under G.S. 14-3(b).

11. G.S. 14-4(a) allows a fine of up to \$500 for an ordinance violation if the ordinance so provides. If the ordinance does not expressly provide for a fine greater than \$50, the fine may not exceed \$50.

Statute	Description of Offense	Punishment
Article 2: Principals and Accessories		
14-5.2	Accessory to felony before the fact	Punishable as principal ¹²
14-7	Accessory to felony after the fact	Unless different classification stated, punishable two classes lower than felony committed by principal ¹³
Article 2A: Habitual Felons		
14-7.1 to -7.6	Habitual felon	Class C felony ¹⁴
Article 2B: Violent Habitual Felons		
14-7.7 to -7.12	Violent habitual felon	Life imprisonment without parole ¹⁵
Article 2C: Continuing Criminal Enterprise		
14-7.20	Continuing criminal enterprise	Class H felony ¹⁶
Article 5: Counterfeiting and Issuing Monetary Substitutes		
14-13	Coins: Counterfeiting Uttering counterfeit coin	Class I felony Class I felony
14-14	Possession of tools for counterfeiting coin	Class I felony

12. In 1981 the General Assembly abolished the distinction between accessories before the fact and principals in the commission of felonies. Under G.S. 14-5.2, persons who would have been guilty of accessory before the fact under former law are now punished as principals. G.S. 14-5.2 creates one exception to this rule: If a person who would have been convicted of accessory before the fact under former law is convicted of a capital offense, and his or her conviction is based solely on the uncorroborated testimony of one or more principals, co-conspirators, or accessories to the crime, the defendant shall be guilty of a Class B2 felony. Even if this exception is not applicable, it would be unconstitutional in certain circumstances to impose the death penalty on a person who might otherwise be an accessory before the fact to a capital offense. *See Tison v. Arizona*, 481 U.S. 137 (1987); *Enmund v. Florida*, 458 U.S. 782 (1982); N.C.P.J.I.—Crim. 150.10 (May 2004).

No such distinction is made between principals and accessories before the fact with respect to misdemeanors. Unless otherwise provided, persons who participate in misdemeanors “are indictable and punishable as principals.” *State v. Bennett*, 237 N.C. 749, 752, 76 S.E.2d 42, 43 (1953).

13. Unless a different classification is stated, accessory after the fact to a Class A or B1 felony is a Class C felony, accessory after the fact to a Class B2 felony is a Class D felony, accessory after the fact to a Class H felony is a Class 1 misdemeanor, and accessory after the fact to a Class I felony is a Class 2 misdemeanor. *See G.S. 14-7.*

A participant in a crime cannot be an accessory after the fact to that crime. *See State v. McIntosh*, 260 N.C. 749, 133 S.E.2d 652 (1963). In the absence of a statute providing otherwise, a person apparently may not be convicted of being an accessory after the fact to a misdemeanor. *See* 2 WAYNE R. LAFAVE, *SUBSTANTIVE CRIMINAL LAW* § 13.6(a) at 400, 405 (2d ed. 2003); ROLLIN M. PERKINS & RONALD N. BOYCE, *CRIMINAL LAW* 726 (3d ed. 1982).

14. Being a habitual felon is not a crime. It is a status that subjects the defendant to an enhanced punishment upon conviction of a felony. *See State v. Allen*, 292 N.C. 431, 233 S.E.2d 585 (1977). G.S. 14-7.6 provides that, upon conviction as a habitual felon, the defendant is sentenced as a Class C felon for the underlying felony (except if the conviction is for a Class A, B1, or B2 felony). G.S. 14-7.6 also provides that the sentence must run consecutively with and must begin to run at the expiration of any sentence being served by the person at the time of sentencing. When two or more offenses are being disposed of in the same proceeding, however, the court apparently is not required to impose consecutive sentences. *See State v. Thomas*, 85 N.C. App. 319, 354 S.E.2d 891 (1987) (construing similar consecutive sentencing provisions); *State v. Crain*, 73 N.C. App. 269, 326 S.E.2d 120 (1985) (to same effect). For a discussion of calculating the prior record level of a person found to be a habitual felon, *see* “Introduction: Structured Sentencing and Related Laws” at pp. 7–8.

15. Being a violent habitual felon is not a crime. It is a status that subjects the defendant to an enhanced punishment upon conviction of a third “violent felony” as defined in G.S. 14-7.7. Upon conviction as a violent habitual felon, the defendant must be sentenced to life without parole, except where the death penalty is imposed. G.S. 14-7.12 provides that the enhanced sentence may not be suspended; the person may not be placed on probation for the sentence; and the sentence must run consecutively with and must begin to run at the expiration of any sentence being served by the person at the time of sentencing. For a further discussion of these provisions, *see* “Introduction: Structured Sentencing and Related Laws” at p. 8.

16. G.S. 14-7.20(b) provides that a person convicted of engaging in a continuing criminal enterprise forfeits to the state his or her profits from and interest in the enterprise.

Statute	Description of Offense	Punishment
Article 5A: Endangering Executive, Legislative, and Court Officers¹⁷		
14-16.6(a)	Executive, legislative, and court officers: Assault on officer Violent attack on officer's residence, office, or means of transport	Class I felony Class I felony
14-16.6(b)	Violation of 14-16.6(a) with deadly weapon	Class F felony
14-16.6(c)	Violation of 14-16.6(a) inflicting serious bodily injury	Class F felony
14-16.7(a)	Threatening to inflict serious bodily injury or kill executive, legislative, or court officer	Class I felony
14-16.7(b)	Depositing in mail threat to inflict serious bodily injury or kill executive, legislative, or court officer	Class I felony
Article 6: Homicide		
14-17	Murder: First-degree Second-degree	Class A felony ¹⁸ Class B2 felony ¹⁹
14-18	Manslaughter: Voluntary Involuntary	Class D felony Class F felony
14-18.2(b)	Injuring pregnant woman during commission of felony	Punishable one class higher than felony committed
14-18.2(c)	Injuring pregnant woman during commission of misdemeanor that is act of domestic violence	Punishable one class higher than misdemeanor committed ²⁰
Article 7A: Rape and Other Sex Offenses²¹		
14-27.2	First-degree rape	Class B1 felony ²²

17. Effective for offenses committed on or after Dec. 1, 2003, the definition of "court officer" was broadened to cover any attorney or other individual acting on behalf of the department of social services in proceedings under Subchapter I of G.S. Ch. 7B (abuse, neglect, and dependency) and any attorney or other individual appointed pursuant to G.S. 7B-601 or -1108 or employed by the Guardian ad Litem Services Division of the Administrative Office of the Courts.

18. A person under 17 years of age at the time of the offense is not eligible for the death penalty unless the offense is committed while the person is serving a prison sentence for a prior murder or while the person is on escape from such a sentence. *See* G.S. 14-17.

19. Effective for offenses committed on or after Dec. 1, 2004, second-degree murder includes a murder proximately caused by the unlawful distribution of methamphetamine.

20. A person who commits this offense during the commission of a Class A1 misdemeanor is guilty of a Class I felony.

21. A person with a "reportable conviction" is subject to the sex offender registration requirements in G.S. Ch. 14, Art. 27A. A "reportable conviction" includes a conviction of a "sexually violent offense," which in turn includes a violation of any of the following statutes in G.S. Ch. 14 Art. 7A: G.S. 14-27.2 (first-degree rape); G.S. 14-27.3 (second-degree rape); G.S. 14-27.4 (first-degree sexual offense); G.S. 14-27.5 (second-degree sexual offense); G.S. 14-27.7 (sexual act by parental substitute or custodian); and solicitation, conspiracy, or attempt to commit (or, if required by the court, aiding and abetting) any of those offenses. *See* G.S. 14-208.6(4)a. (defining "reportable conviction"); G.S. 14-208.6(5) (defining "sexually violent offense"). Ordinarily, a person with a "reportable conviction" is subject to the 10-year registration program in G.S. 14-208.7 through -208.15; however, a person is subject to the lifetime registration requirements in G.S. 14-208.20 through -208.24 if he or she is convicted of an "aggravated offense" as defined in G.S. 14-208.6(1a), is a recidivist as defined in G.S. 14-208.6(2b), or is found to be a sexually violent predator as provided in G.S. 14-208.6(6) and -208.20. For other offenses subject to the sex offender registration requirements, *see* notes 33, 93, 97. For a discussion of changes to the sex offender registration requirements and their effective dates, *see* note 111.

22. G.S. 15A-1340.16B provides for life imprisonment without parole for a Class B1 felony if it was committed against a person 13 or younger, the defendant has at least one prior conviction for a Class B1 felony, and there are no mitigating factors. If one or more of these conditions is not met, the court must sentence the defendant according to the regular structured sentencing rules. For a further discussion of this provision, *see* "Introduction: Structured Sentencing and Related Laws" at p. 9. Effective for offenses committed on or after Dec. 1, 2004, G.S. 14-27.2 was revised to provide that a person convicted of first-degree rape has no rights to custody of or inheritance from a child born as a result of commission of the rape, and no rights under the adoption or abuse, neglect, and dependency statutes.

Statute	Description of Offense	Punishment
14-27.3	Second-degree rape	Class C felony ²³
14-27.4	First-degree sexual offense	Class B1 felony ²⁴
14-27.5	Second-degree sexual offense	Class C felony
14-27.5A	Sexual battery	Class A1 misdemeanor ²⁵
14-27.7(a)	Sexual act: by parental substitute with minor by custodian with person of any age	Class E felony Class E felony
14-27.7(b)	Sexual act or intercourse with elementary or secondary school student: by teacher, school administrator, student teacher, school safety officer, or coach by other school personnel or volunteer if 4 or more years older than student by other school personnel or volunteer if less than 4 years older than student	Class G felony ²⁶ Class G felony Class A1 misdemeanor
14-27.7A	Statutory rape or statutory sexual offense with person 13, 14, or 15 years old: when defendant is at least 6 years older than person when defendant is more than 4 but less than 6 years older than person	Class B1 felony ²⁷ Class C felony
Article 8: Assaults		
14-28	Malicious castration	Class C felony
14-29	Castration or maiming	Class E felony
14-30	Malicious maiming of tongue or eye	Class C felony
14-30.1	Malicious acid throwing	Class E felony
14-31	Assault and battery in secret manner with deadly weapon and intent to kill	Class E felony
14-32(a)	Assault with deadly weapon with intent to kill, inflicting serious injury	Class C felony
14-32(b)	Assault with deadly weapon, inflicting serious injury	Class E felony
14-32(c)	Assault with deadly weapon with intent to kill	Class E felony
14-32.1(e)(1)	Assault on handicapped person with deadly weapon or other means of force likely to inflict serious injury or damage	Class F felony
14-32.1(e)(2)	Assault on handicapped person inflicting serious injury or damage	Class F felony
14-32.1(e)(3)	Assault on handicapped person with intent to kill	Class F felony
14-32.1(f)	Simple assault on handicapped person	Class 1 misdemeanor

23. Effective for offenses committed on or after Dec. 1, 2004, G.S. 14-27.3 was revised to provide that a person convicted of second-degree rape has no rights to custody of or inheritance from a child born as a result of commission of the rape, and no rights under the adoption or abuse, neglect, and dependency statutes.

24. G.S. 15A-1340.16B provides for life imprisonment without parole for a Class B1 felony if it was committed against a person 13 or younger, the defendant has at least one prior conviction for a Class B1 felony, and there are no mitigating factors. If one or more of these conditions is not met, the court must sentence the defendant according to the regular structured sentencing rules. For a further discussion of this provision, see “Introduction: Structured Sentencing and Related Laws” at p. 9.

25. G.S. 14-27.5A applies to offenses committed on or after Dec. 1, 2003.

26. Effective for offenses committed on or after Dec. 1, 2003, a school safety officer who violates G.S. 14-27.7(b) is guilty of a Class G felony regardless of the age difference between the officer and student. Before these revisions took effect, the officer would be guilty of a Class G felony if 4 or more years older than the student, and a Class A1 misdemeanor if less than 4 years older.

27. See note 24.

Statute	Description of Offense	Punishment
14-32.2(b)(1), -32.2(a)	Patient abuse: intentional conduct resulting in death	Class C felony
14-32.2(b)(2), -32.2(a)	Patient abuse: culpably negligent conduct resulting in death	Class E felony
14-32.2(b)(3), -32.2(a)	Patient abuse: conduct resulting in serious bodily injury	Class F felony
14-32.2(b)(4), -32.2(a)	Patient abuse: conduct resulting in bodily injury	Class A1 misdemeanor
14-32.3(a)	Abuse by caretaker of disabled or elder adult residing in domestic setting: resulting in serious injury resulting in injury	Class F felony Class H felony
14-32.3(b)	Neglect by caretaker of disabled or elder adult residing in domestic setting: resulting in serious injury resulting in injury	Class G felony Class I felony
14-32.3(c)	Exploitation by caretaker of disabled or elder adult residing in domestic setting: resulting in loss of money or property of more than \$1,000 resulting in loss of money or property up to \$1,000	Class H felony Class 1 misdemeanor
14-32.4(a)	Assault inflicting serious bodily injury	Class F felony
14-32.4(b)	Assault by strangulation	Class H felony ²⁸
14-33(a)	Simple assault, simple assault and battery, or simple affray	Class 2 misdemeanor
14-33(b)(9)	Assault and battery on sports official	Class 1 misdemeanor
14-33(c)(1)	Assault: inflicting serious injury with deadly weapon	Class A1 misdemeanor Class A1 misdemeanor
14-33(c)(2)	Assault on female	Class A1 misdemeanor
14-33(c)(3)	Assault on child under 12	Class A1 misdemeanor
14-33(c)(4)	Assault on government official	Class A1 misdemeanor
14-33(c)(6)	Assault on school employee or volunteer	Class A1 misdemeanor
14-33(c)(7)	Assault on public transit operator	Class A1 misdemeanor ²⁹
14-33(d)	Assault in presence of minor on person with whom defendant has personal relationship: ³⁰ inflicting serious injury with deadly weapon	Class A1 misdemeanor Class A1 misdemeanor
14-33.2	Habitual misdemeanor assault	Class H felony ³¹
14-34	Assault by pointing gun	Class A1 misdemeanor

28. G.S. 14-32.4(b) applies to offenses committed on or after Dec. 1, 2004.

29. G.S. 14-33(c)(7) applies to offenses committed on or after Dec. 1, 2004.

30. G.S. 14-33(d) applies to offenses committed on or after Dec. 1, 2003. If the court sentences a person to a community punishment, the court must place the person on supervised probation in addition to any other punishment; for a second or subsequent violation, the court must sentence the person to an active punishment of no less than 30 days in addition to any other punishment.

31. Effective for offenses committed on or after Dec. 1, 2004, the definition of habitual misdemeanor assault was revised. A person violates revised G.S. 14-33.2 if he or she: (1) violates any subsection of G.S. 14-33 and inflicts physical injury or violates G.S. 14-34; and (2) has two or more prior convictions for either misdemeanor or felony assault within fifteen years of the current offense. Revised G.S. 14-33.2 provides that a conviction of habitual misdemeanor assault may not be used as a prior conviction for any other habitual offense.

Statute	Description of Offense	Punishment
14-34.1	Discharging or attempting to discharge firearm into occupied property	Class E felony
14-34.2	Assault with deadly weapon on government official or on company or campus police officer	Class F felony
14-34.4(a)	Tampering with food, drugs, or cosmetics with intent to cause serious injury or death	Class C felony
14-34.4(b)	Threatening to tamper with food, drugs, or cosmetics with intent to extort	Class C felony
14-34.5(a)	Assault with firearm on law-enforcement, probation, or parole officer	Class E felony
14-34.5(b)	Assault with firearm on detention facility employee	Class E felony
14-34.6(a)	Assault on firefighter or emergency personnel	Class A1 misdemeanor
14-34.6(b)	Assault on firefighter or emergency personnel: inflicting serious bodily injury with deadly weapon other than firearm	Class I felony Class I felony
14-34.6(c)	Assault with firearm on firefighter or emergency personnel	Class F felony
14-34.7(a)	Assault inflicting serious bodily injury on law-enforcement, probation, or parole officer	Class F felony
14-34.7(b)	Assault inflicting serious bodily injury on detention facility employee	Class F felony
14-34.8, -3.1(a)	Pointing laser device at law-enforcement officer or at head or face of other person	Infraction

Article 9: Hazing

14-35	Hazing	Class 2 misdemeanor ³²
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Article 10: Kidnapping and Abduction³³

14-39	Kidnapping: ³⁴ First-degree Second-degree	Class C felony Class E felony
14-41	Abduction of minor	Class F felony
14-43.2	Involuntary servitude	Class F felony
14-43.3	Felonious restraint	Class F felony

32. Effective for offenses committed on or after Dec. 1, 2003, the elements of hazing were revised.

33. The common law also makes false imprisonment a misdemeanor. It would be punishable as a Class 1 misdemeanor under G.S. 14-3(a) (misdemeanors without specific classification and punishment).

A person with a “reportable conviction” is subject to the sex offender registration requirements in G.S. Ch. 14, Art. 27A. A “reportable conviction” includes a conviction of an “offense against a minor,” which means a violation of any of the following statutes in Art. 10 if the offense is committed against a minor and the defendant is not the minor’s parent: G.S. 14-39 (kidnapping); G.S. 14-41 (abduction of minor); G.S. 14-43.3 (felonious restraint); and solicitation, conspiracy, or attempt to commit any of those offenses. The court may, although is not required to, order a person to register if he or she is convicted of aiding and abetting one of those offenses and is not the minor’s parent. *See* G.S. 14-208.6(1i) (defining “offense against a minor”); G.S. 14-208.6(4)a. (defining “reportable conviction”); *see also* State v. Sakobie, ___N.C. App. ___, 598 S.E.2d 615 (2004) (applying statute to kidnapping). Ordinarily, a person with a “reportable conviction” is subject to the 10-year registration program in G.S. 14-208.7 through -208.15; however, a person is subject to the lifetime registration requirements in G.S. 14-208.20 through -208.24 if he or she is convicted of an “aggravated offense” as defined in G.S. 14-208.6(1a), is a recidivist as defined in G.S. 14-208.6(2b), or is found to be a sexually violent predator as provided in G.S. 14-208.6(6) and -208.20. For other offenses subject to the sex offender registration requirements, *see* notes 21, 93, 97. For a discussion of changes to the sex offender registration requirements and their effective dates, *see* note 111.

34. G.S. 14-39(c) provides that any firm or corporation convicted of kidnapping shall be fined from \$5,000 to \$100,000, and its charter and right to do business in North Carolina shall be forfeited.

Statute	Description of Offense	Punishment
Article 11: Abortion and Kindred Offenses		
14-44	Using drugs or instruments with intent to cause abortion	Class H felony ³⁵
14-45	Using drugs or instruments with intent to produce miscarriage or injure pregnant woman	Class I felony ³⁶
14-46	Concealing birth of child: Concealing Aiding or abetting another in concealing	Class I felony Class 1 misdemeanor
Article 12: Libel and Slander		
14-47	Communicating libelous matter to newspaper	Class 2 misdemeanor
Article 13: Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material		
14-49(a)	Malicious use of explosive or incendiary device to injure another	Class D felony
14-49(b)	Malicious use of explosive to damage property	Class G felony ³⁷
14-49(b1)	Malicious use of explosive to damage building of worship	Class E felony ³⁸
14-49(b2)	Malicious use of explosive to damage government building	Class E felony ³⁹
14-49.1	Malicious use of explosive or incendiary device to damage occupied property	Class D felony
Article 14: Burglary and Other Housebreakings		
14-51, -52	Burglary: First-degree Second-degree	Class D felony Class G felony
14-53	Breaking out of dwelling house	Class D felony
14-54(a)	Breaking or entering building with intent to commit felony or larceny	Class H felony
14-54(b)	Misdemeanor breaking or entering building	Class 1 misdemeanor
14-55	Preparation to commit breaking or entering	Class I felony ⁴⁰
14-56	Breaking or entering car, boat, airplane, etc., with intent to commit felony or larceny	Class I felony ⁴¹
14-56.1	Breaking into coin/currency-operated machine: First offense Subsequent offense	Class 1 misdemeanor Class I felony
14-56.2	Damaging coin/currency-operated machine	Class 1 misdemeanor

35. G.S. 14-45.1 provides that, notwithstanding G.S. 14-44 and -45, it is not unlawful for abortions to be performed under certain conditions.

36. See note 35.

37. Upon conviction of malicious use of explosive to damage property, the Division of Motor Vehicles (DMV) must revoke a person's driver's license or permit for one year. See G.S. 20-13.2(c2), -17(a)(15). If challenged, such a revocation may need to satisfy various constitutional standards. See generally *Schware v. Board of Bar Examiners*, 353 U.S. 232 (1957) (under Due Process Clause, particular disqualification must bear rational connection to person's fitness to perform function involved); *State v. Evans*, 145 N.C. App. 324, 550 S.E.2d 853 (2001) (discussing potential applicability of Double Jeopardy Clause to license revocations); STEVENS H. CLARKE, LAW OF SENTENCING, PROBATION, AND PAROLE IN NORTH CAROLINA 18–19 (Institute of Government, 2d ed. 1997) (discussing state constitutional limits on punishment).

38. Upon conviction of malicious use of explosives to damage a building of worship, DMV must revoke a person's driver's license or permit for one year. See note 37 for a discussion of this consequence.

39. G.S. 14-49(b2) applies to offenses committed on or after Dec. 1, 2003.

40. G.S. 14-55 creates three separate offenses: (1) possession of burglar's tools without lawful excuse; (2) being in a building with intent to commit any felony or larceny; and (3) being armed with intent to break or enter a building and to commit a felony or larceny therein. See *State v. Garrett*, 263 N.C. 773, 140 S.E.2d 315 (1965).

41. This offense includes breaking out after committing a felony or larceny. See G.S. 14-56.

Statute	Description of Offense	Punishment
14-56.3	Breaking into paper currency machine: First offense Subsequent offense	Class 1 misdemeanor Class I felony
14-57	Burglary with explosive	Class D felony
Article 15: Arson and Other Burnings		
14-58	Arson: First-degree Second-degree	Class D felony ⁴² Class G felony
14-59	Burning public building	Class F felony
14-60	Burning educational building	Class F felony
14-61	Burning bridges, certain buildings	Class F felony
14-62	Burning uninhabited dwellings, certain other buildings	Class F felony
14-62.1	Burning building under construction	Class H felony
14-62.2	Burning church, chapel, or meetinghouse	Class E felony
14-63	Burning boat or barge	Class H felony
14-64	Burning ginhouse or tobacco house	Class H felony
14-65	Burning dwelling house owned or occupied by defendant	Class H felony
14-66	Burning personal property	Class H felony
14-67.1	Burning building not otherwise covered by statute	Class H felony
14-69.1(a)	Making false report of explosive in structure or vehicle	Class H felony ⁴³
14-69.1(c)	Making false report of explosive in public building: ⁴⁴ First offense Subsequent conviction within 5 years of first conviction	Class H felony Class G felony
14-69.2(a)	Perpetrating hoax by use of false bomb	Class H felony ⁴⁵
14-69.2(c)	Perpetrating hoax by use of false bomb in public building: ⁴⁶ First offense Subsequent conviction within 5 years of first conviction	Class H felony Class G felony
14-69.3	Arson or other felony under Art. 15, G.S. Ch. 14, resulting in serious bodily injury to firefighter or emergency medical technician	Class E felony ⁴⁷

42. This offense includes the crime set out in G.S. 14-58.2, which provides that a person is guilty of first-degree arson if he or she “willfully and maliciously burn[s] any mobile home . . . which is the dwelling house of another and which is occupied at the time of the burning. . . .”

43. The court may order a person convicted of making a false bomb threat to pay restitution for disruption of normal activities on the premises. *See* G.S. 14-69.1(d).

44. Upon conviction of making a false report of explosive in a public building, DMV must revoke a person’s driver’s license or permit for one year. *See* note 37 for a discussion of this consequence. The court may order a person convicted of making a false bomb threat to pay restitution for disruption of normal activities on the premises. *See* G.S. 14-69.1(d).

45. The court may order a person convicted of a bomb hoax to pay restitution for disruption of normal activities on the premises. *See* G.S. 14-69.2(d).

46. Upon conviction of perpetrating a hoax by use of a false bomb in a public building, DMV must revoke a person’s driver’s license or permit for one year. *See* note 37 for a discussion of this consequence. The court may order a person convicted of a bomb hoax to pay restitution for disruption of normal activities on the premises. *See* G.S. 14-69.2(d).

47. G.S. 14-69.3 applies to offenses committed on or after Dec. 1, 2003.

Statute	Description of Offense	Punishment
Article 16: Larceny ⁴⁸		
14-70, -72(a)	Larceny: of goods valued up to \$1,000 of goods valued over \$1,000	Class 1 misdemeanor Class H felony
14-70, -72(a), -72(b)(1)	Larceny from person	Class H felony
14-70, -72(a), -72(b)(2)	Larceny pursuant to burglary or breaking or entering in violation of 14-51, -53, -54, or -57	Class H felony
14-70, -72(a), -72(b)(3)	Larceny of explosive or incendiary device or substance	Class H felony
14-70, -72(a), -72(b)(4)	Larceny of firearm	Class H felony
14-70, -72(a), -72(b)(5)	Larceny of record or paper in custody of State Archives	Class H felony
14-71, -72(a)	Receiving: stolen goods valued up to \$1,000 stolen goods valued over \$1,000	Class 1 misdemeanor Class H felony
14-71, -72(c)	Receiving: goods stolen from a person goods stolen pursuant to burglary or breaking or entering in violation of 14-51, -53, -54, or -57 stolen explosive or incendiary device or substance stolen firearm stolen record or paper in custody of State Archives	Class H felony Class H felony Class H felony Class H felony Class H felony
14-71.1, -72(a)	Possession: of stolen goods valued up to \$1,000 of stolen goods valued over \$1,000	Class 1 misdemeanor Class H felony
14-71.1, -72(c)	Possession: of goods stolen from a person of goods stolen pursuant to burglary or breaking or entering in violation of 14-51, -53, -54, or -57 of stolen explosive or incendiary device or substance of stolen firearm of stolen record or paper in custody of State Archives	Class H felony Class H felony Class H felony Class H felony Class H felony
14-72.1(a), -72.1(e)	Willful concealment of merchandise: First offense Second offense within 3 years of first conviction under 14-72.1 Third or subsequent offense within 5 years of two prior convictions under 14-72.1 Subsequent offense not falling into above two categories	Class 3 misdemeanor ⁴⁹ Class 2 misdemeanor ⁵⁰ Class 1 misdemeanor ⁵¹ Class 3 misdemeanor ⁵²

48. Conveyances used to conceal, convey, or transport property in violation of G.S. 14-71 (receiving stolen goods) or -71.1 (possession of stolen goods) or used in the commission of any larceny when the value of the property taken is more than \$2,000 are subject to forfeiture as provided in G.S. 14-86.1.

49. G.S. 14-72.1(e) provides that the term of imprisonment may be suspended only on condition that the defendant perform community service for at least 24 hours. If the judge finds that the defendant is unable to perform community service because of a mental or physical infirmity, the judge may impose such other sentence as he or she finds appropriate, provided the judge sets out the reasons for this finding in the judgment. G.S. 14-72.1(g) contains additional limitations on terms of active imprisonment, but it is unclear how to apply those limitations in light of structured sentencing.

50. G.S. 14-72.1(e) provides that the term of imprisonment may be suspended only on condition that the defendant be imprisoned for at least 72 hours as a condition of special probation, perform community service for at least 72 hours, or both. If the judge finds that the defendant is unable to perform community service because of a mental or physical infirmity, the judge may impose such other sentence as he or she finds appropriate, provided that the judge sets out the reasons for this finding in the judgment. G.S. 14-72.1(g) contains additional limitations on terms of active imprisonment, but it is unclear how to apply those limitations in light of structured sentencing.

51. G.S. 14-72.1(e) provides that the term of imprisonment may be suspended only if a condition of special probation is that the defendant serve a term of imprisonment of at least 11 days. G.S. 14-72.1(g) contains additional limitations on terms of active imprisonment, but it is unclear how to apply those limitations in light of structured sentencing.

52. See note 49.

Statute	Description of Offense	Punishment
14-72.1(d), -72.1(e)	Switching price tags: First offense Second offense within 3 years of first conviction under 14-72.1 Third or subsequent offense within 5 years of two prior convictions under 14-72.1 Subsequent offense not falling into above two categories	Class 3 misdemeanor ⁵³ Class 2 misdemeanor ⁵⁴ Class 1 misdemeanor ⁵⁵ Class 3 misdemeanor ⁵⁶
14-72.1(d1), -72.1(a)	Willful concealment of merchandise by lead/aluminum-lined device	Class H felony
14-72.2	Unauthorized use: of motor vehicle, motorboat, or other motor-propelled conveyance of aircraft	Class 1 misdemeanor Class H felony
14-72.3	Unauthorized removal of shopping cart from shopping premises	Class 3 misdemeanor
14-72.4	Unauthorized taking or sale of labeled milk crate	Class 2 misdemeanor
14-72.5	Larceny of gasoline valued at less than \$1,000	Class 1 misdemeanor ⁵⁷
14-74	Larceny or embezzlement by employee: ⁵⁸ of less than \$100,000 of \$100,000 or more	Class H felony Class C felony
14-75	Larceny of chose in action	Class H felony
14-75.1	Larceny of secret technical process	Class H felony
14-76	Larceny of public records or papers	Class 1 misdemeanor
14-77	Larceny of will	Class 1 misdemeanor
14-79	Larceny of ginseng	Class H felony
14-79.1	Larceny of pine straw	Class H felony
14-81(a)	Larceny of horse, mule, swine, or cattle	Class H felony ⁵⁹
14-81(a1)	Larceny of a dog	Class I felony ⁶⁰
14-82	Temporarily taking horse, mule, or dog	Class 2 misdemeanor
Article 17: Robbery⁶¹		
14-87	Armed robbery or attempted armed robbery	Class D felony
14-87.1	Common-law robbery	Class G felony
14-88	Train robbery	Class D felony
14-89.1	Safecracking or attempted safecracking	Class I felony
Article 18: Embezzlement		
14-90	Embezzlement by agent or fiduciary: of less than \$100,000 of \$100,000 or more	Class H felony Class C felony

53. See note 49.

54. See note 50.

55. See note 51.

56. See note 49.

57. A second conviction within seven years results in a 90-day driver's license revocation; a third or subsequent conviction results in a six-month revocation. See G.S. 20-17(a)(16), -19(g2); see also G.S. 20-16 (e2) (authorizing limited privilege).

58. G.S. 14-74 does not apply to employees under 16.

59. G.S. 14-81(b) provides that the minimum sentence for this offense is probation subject to the following conditions: (1) restitution for the damage or loss caused by the larceny and (2) a fine of not less than the amount of damages or loss caused by the larceny.

60. See note 59.

61. Conveyances used in the commission of armed or common-law robbery are subject to forfeiture as provided in G.S. 14-86.1.

Statute	Description of Offense	Punishment
14-91	Embezzlement of state property by public officer or employee: of less than \$100,000 of \$100,000 or more	Class F felony Class C felony
14-92	Embezzlement by public officer or trustee: of less than \$100,000 of \$100,000 or more	Class F felony Class C felony
14-93	Embezzlement by treasurer of charitable or religious organization: ⁶² of less than \$100,000 of \$100,000 or more	Class H felony Class C felony
14-94	Embezzlement by officer of railroad company: of less than \$100,000 of \$100,000 or more	Class H felony Class C felony
14-97	Appropriation of partnership funds by partner: of less than \$100,000 of \$100,000 or more	Class H felony Class C felony
14-98	Embezzlement by surviving partner, with refusal to account for funds: of less than \$100,000 of \$100,000 or more	Class H felony Class C felony
14-99	Embezzlement of taxes by public officer: of less than \$100,000 of \$100,000 or more	Class F felony Class C felony

Article 19: False Pretenses and Cheats

14-100	Obtaining or attempting to obtain property by false pretenses: of less than \$100,000 of \$100,000 or more	Class H felony Class C felony
14-100.1(a), -100.1(e)	Possession or manufacture of fraudulent identification	Class 1 misdemeanor ⁶³
14-100.1(b), -100.1(e)	Obtaining form of identification by use of fraudulent information	Class 1 misdemeanor
14-101	Obtaining signature by false pretenses	Class H felony
14-104	Obtaining advance by false promise to work	Class 2 misdemeanor
14-105	Obtaining advance by false written promise to pay out of designated property	Class 2 misdemeanor
14-106	Obtaining property by worthless check	Class 2 misdemeanor
14-107	Knowingly writing worthless check over \$2,000	Class I felony ⁶⁴
14-107(d)(1)	Knowingly writing worthless check of \$2,000 or less	Class 2 misdemeanor ⁶⁵
14-107(d)(3)	Knowingly writing worthless check on nonexistent account	Class 1 misdemeanor ⁶⁶

62. This section creates two offenses applicable to financial officers of benevolent or religious institutions: (1) lending money without consent of the institution and (2) failing to account for money. *See* State v. Dunn, 138 N.C. 672, 50 S.E. 772 (1905).

63. This offense includes possession of a form of identification obtained by use of fraudulent information in violation of G.S. 14-100.1(b). *See* G.S. 14-100.1(c).

64. G.S. 14-107(e) provides that the judge, in imposing any sentence other than an active term of imprisonment, may require the defendant to pay as part of the costs a witness fee for each prosecuting witness and to make restitution to the victim for (i) the amount of the check, (ii) any service charges imposed on the payee by a bank for processing the dishonored check, and (iii) any processing fees imposed by the payee in compliance with G.S. 25-3-506.

65. A defendant who has previously been convicted three times of violating G.S. 14-107 shall be punished for this offense as for a Class 1 misdemeanor; if placed on probation, the defendant shall be ordered to refrain from maintaining a checking account or making or uttering a check for 3 years. *See* G.S. 14-107(d)(1). In imposing any sentence other than an active term of imprisonment, the judge may require the defendant to pay costs and make restitution as described in note 64.

66. *See* note 64.

Statute	Description of Offense	Punishment
14-107(d)(4)	Knowingly writing worthless check on closed account	Class 1 misdemeanor ⁶⁷
14-110	Defrauding innkeeper or restaurant owner	Class 2 misdemeanor
14-112	Obtaining merchandise on approval with intent to defraud	Class 2 misdemeanor
14-113	Obtaining money by false representation of physical defect	Class 2 misdemeanor
Article 19A: Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means⁶⁸		
14-113.1, -113.6	Obtaining or attempting to obtain goods through false telephone number, credit number, or credit device	Class 2 misdemeanor
14-113.4, -113.6	Avoiding or attempting to avoid lawful charges for telecommunications services	Class 2 misdemeanor
14-113.5, -113.6	Unlawful use of telecommunications services	Class 2 misdemeanor ⁶⁹
Article 19B: Financial Transaction Card Crime Act⁷⁰		
14-113.9, -113.17(b)	Theft of financial transaction card	Class I felony ⁷¹
14-113.11, -113.17(b)	Forgery of financial transaction card	Class I felony
14-113.13(a), -113.13(b), -113.17	Financial transaction card fraud: when value obtained in 6-month period is \$500 or less when value obtained in 6-month period exceeds \$500	Class 2 misdemeanor Class I felony
14-113.13(c), -113.17(a)	False statement on application for financial transaction card	Class 2 misdemeanor
14-113.13(c1), -113.17(a)	False record of sale submitted by person authorized to accept financial transaction card	Class 2 misdemeanor
14-113.13(d), -113.17(a)	False report of loss of financial transaction card	Class 2 misdemeanor
14-113.14, -113.17(b)	Criminal possession of financial transaction card forgery device	Class I felony
14-113.15, -113.17	Criminal receipt of goods or services obtained by financial transaction card fraud: when value obtained in 6-month period is \$500 or less when value obtained in 6-month period exceeds \$500	Class 2 misdemeanor Class I felony
14-113.15A, -113.17(b)	Criminal factoring of financial transaction card records	Class I felony

67. See note 64.

68. This article does not apply to credit cards. See G.S. 14-113.7A.

69. G.S. 14-113.6(a) provides that a violation of G.S. 14-113.5 is a Class G felony if it involves five or more unlawful telecommunications devices; G.S. 14-113.6(b) provides that a court may order restitution for a violation of G.S. 14-113.5; and G.S. 14-113.6(c) provides that a person or entity aggrieved by a violation may bring a civil action for declaratory relief, compensatory and punitive damages, reasonable investigation expenses, costs of suit, and attorneys' fees as allowed by law.

70. G.S. 14-113.8(4) sets out the statutory definition of financial transaction card. The definition includes credit cards as well as cards used to operate automatic banking devices.

71. Effective for offenses committed on or after Dec. 1, 2002, the definition of theft of financial transaction card was broadened to include fraudulently using a scanning device to obtain information encoded on another's financial transaction card or fraudulently receiving such encoded information.

Statute	Description of Offense	Punishment
Article 19C: Financial Identity Fraud		
14-113.20, -113.22(a)	Financial identity fraud	Class G felony ⁷²
14-113.20A, -113.22(a1)	Trafficking in stolen identities	Class E felony ⁷³
14-113.24	Printing more than 5 digits of account number on credit charge or debit card receipt	Infraction ⁷⁴
Article 20: Frauds		
14-114	Fraudulent disposal or purchase of collateral	Class 2 misdemeanor
14-115	Secreting property to hinder enforcement of security interest	Class 2 misdemeanor
14-117	Fraudulent and deceptive advertising	Class 2 misdemeanor
14-118	Blackmail	Class 1 misdemeanor
14-118.1	Simulation of court process in connection with collection of claim, demand, or account	Class 2 misdemeanor
14-118.2	Assisting in obtaining academic credit by fraudulent means	Class 2 misdemeanor
14-118.4	Extortion	Class F felony
14-118.5(a)	Unauthorized interception of cable television service	Class 3 misdemeanor ⁷⁵
14-118.5(b)	Unauthorized sale of decoder for cable television signal	Class 3 misdemeanor ⁷⁶
Article 21: Forgery ⁷⁷		
14-119	Forgery of bank notes, checks, and securities	Class I felony
14-119(a)	Forging or counterfeiting bank notes, checks, or securities: Forgery or counterfeiting Possession of counterfeit instrument	Class I felony Class I felony ⁷⁸
14-119(b)	Possession of 5 or more counterfeit instruments	Class G felony ⁷⁹
14-120	Forged instruments: Uttering forged instrument	Class I felony

72. The punishment indicated for financial identity fraud applies to offenses committed on or after Dec. 1, 2002. Under revised G.S. 14-113.22(a), financial identity fraud is punishable one class higher, as a Class F felony, if (1) the victim (that is, the person whose personal identifying information is fraudulently used) is arrested, detained, or convicted as a result of the offense or (2) the defendant is in possession of the identifying information of three or more people. The court also may order restitution for financial loss caused by the violation to any person as provided in G.S. 14-113.22(a2), and the victim may bring a civil suit for damages, injunctive relief, and attorneys' fees as provided in G.S. 14-113.22(b) and 1-539.2C. Before these revisions took effect, financial identity fraud was a Class H felony, except if the victim was arrested, detained, or convicted, in which case it was a Class G felony; also, there was not a specific provision on restitution or a specific provision allowing the estate of a deceased person to bring a civil suit for financial identity fraud.

73. G.S. 14-113.20A applies to offenses committed on or after Dec. 1, 2002. The court may order restitution for financial loss caused by the violation to any person as provided in G.S. 14-113.22(a2), and the victim may bring a civil suit for damages, injunctive relief, and attorneys' fees as provided in G.S. 14-113.22(b) and 1-539.2C.

74. G.S. 14-113.24 applies to receipt-printing machines first used on or after March 1, 2004, and to all receipt-printing machines on or after July 1, 2005. A violation is subject to a penalty up to \$500 per violation, not to exceed \$500 per calendar month and \$2,000 per calendar year.

75. G.S. 14-118.5 authorizes a fine up to \$500.

76. See note 75.

77. Forgery is also a common-law misdemeanor. It would be punishable as a Class 1 misdemeanor under G.S. 14-3(a) (misdemeanors without a specific classification and punishment) unless considered an "infamous" misdemeanor under G.S. 14-3(b), in which case it would be punishable as a Class H felony. See *State v. Glidden*, 317 N.C. 557, 346 S.E.2d 470 (1986) (discusses test for determining whether offense is infamous, done in secrecy and malice, or committed with deceit and intent to defraud).

78. Effective for offenses committed on or after Dec. 1, 2002, G.S. 14-119(a) was broadened to create the offense of possessing a counterfeit instrument.

79. G.S. 14-119(b) applies to offenses committed on or after Dec. 1, 2002.

Statute	Description of Offense	Punishment
	Forging endorsement	Class I felony
	Uttering instrument with forged endorsement	Class I felony
14-121	Selling forged securities	Class H felony
14-122	Forgery of deeds, wills, etc.	Class H felony
14-122.1	Falsifying documents issued by school or government agency	Class 1 misdemeanor
14-124	Corporate stock certificates:	
	Forgery	Class I felony
	Uttering	Class I felony
Article 22: Damages and Other Offenses to Land and Fixtures		
14-127	Injury to real property	Class 1 misdemeanor
14-128	Injury to trees, crops, lands of another	Class 1 misdemeanor
14-129.2	Taking of sea oats	Class 3 misdemeanor ⁸⁰
14-130	Trespass on public lands	Class 1 misdemeanor
14-132(a)(1), -132(d)	Disorderly conduct in or near public building or facility	Class 2 misdemeanor
14-132(a)(2), -132(d)	Defacing or injuring public building or facility	Class 2 misdemeanor
14-132.2(a)	Injuring public school bus	Class 1 misdemeanor
14-132.2(b)	Entering public school bus after being forbidden	Class 1 misdemeanor
14-132.2(c)	Refusing to leave public school bus after demand	Class 1 misdemeanor
14-132.2(c1)	Impeding or delaying public school bus	Class 1 misdemeanor
14-134.3(a)	Domestic criminal trespass	Class 1 misdemeanor
14-134.3(b)	Domestic criminal trespass on safe house by person with deadly weapon	Class G felony
14-136	Setting fire to grass, brushlands, or woodlands:	
	First offense	Class 2 misdemeanor
	Subsequent offense	Class 1 misdemeanor
	With intent to damage property of another	Class I felony
14-137	Setting fire to woods or fields	Class 2 misdemeanor
14-138.1	Starting fire on grassland, brushland, or woodland and failing to extinguish fire	Class 3 misdemeanor ⁸¹
14-140.1	Burning brush, grass, or other material without watchman	Class 3 misdemeanor ⁸²
14-144	Injuring house, church, fence, or wall	Class 2 misdemeanor
14-145	Unlawful posting of advertisement	Class 3 misdemeanor
14-148(a)(1), -148(c)	Throwing trash in cemetery	Class 1 misdemeanor ⁸³
14-148(a)(2), -148(c)	Vandalizing cemetery enclosure, causing less than \$1,000 damage	Class 1 misdemeanor ⁸⁴
14-148(a)(3), -148(c)	Vandalizing grave marker or ornament, causing less than \$1,000 damage	Class 1 misdemeanor ⁸⁵
14-149(a)(1)	Desecrating grave	Class I felony

80. This offense is punishable by a fine of \$25 to \$200 only.

81. The punishment for this offense may include a fine from \$10 to \$50.

82. See note 81.

83. G.S. 14-148(c) provides that the court shall consider, as an alternative to imposition of a fine or jail term, the appropriateness of restitution or reparation as a condition of probation.

84. See note 83.

85. See note 83.

Statute	Description of Offense	Punishment
14-149(a)(2)	Vandalizing cemetery enclosure, causing more than \$1,000 damage	Class I felony
14-149(a)(3)	Vandalizing grave marker or ornament, causing more than \$1,000 damage	Class I felony
14-151	Interfering with gas, electric, or steam appliance	Class 2 misdemeanor
14-151.1	Interfering with gas, electric, or water meter	Class 1 misdemeanor ⁸⁶
14-155	Unauthorized connection with telephone	Class 3 misdemeanor ⁸⁷
14-158	Interfering with telephone line	Class 2 misdemeanor
14-159.1	Contaminating public water system	Class C felony
14-159.2(a)(1), -159.2(b)	Unauthorized entry into animal research facility with intent to disrupt operations, damage facility, release animal, or interfere with care of animals	Class 1 misdemeanor ⁸⁸
14-159.2(a)(2), -159.2(b)	Damaging animal research facility	Class 1 misdemeanor ⁸⁹
14-159.2(a)(3), -159.2(b)	Unauthorized release of animal from animal research facility	Class 1 misdemeanor ⁹⁰
14-159.2(a)(4), -159.2(b)	Interfering with care of animal in animal research facility	Class 1 misdemeanor ⁹¹
14-159.3	Trespassing with motorized all-terrain vehicle	Class 2 misdemeanor
Article 22A: Trespassing upon “Posted” Property to Hunt, Fish, Trap, or Remove Pine Needles/Straw		
14-159.6(a)	Hunting or fishing on posted property	Class 2 misdemeanor
14-159.6(b)	Raking or removing pine straw on posted property	Class 1 misdemeanor
Article 22B: First- and Second-Degree Trespass⁹²		
14-159.12	First-degree trespass	Class 2 misdemeanor
14-159.13	Second-degree trespass	Class 3 misdemeanor
Article 23: Trespasses to Personal Property		
14-160(a)	Willful injury to personal property, causing damage up to \$200	Class 2 misdemeanor
14-160(b)	Willful injury to personal property, causing more than \$200 damage	Class 1 misdemeanor
14-160.1	Altering identification marks on personal property	Class 1 misdemeanor
14-163	Poisoning livestock	Class I felony
14-163.1(b)	Causing or attempting to cause serious physical harm to law enforcement or assistance animal	Class I felony
14-163.1(c)	Causing or attempting to cause physical harm to law enforcement or assistance animal	Class 1 misdemeanor
14-163.1(d)	Harassing, delaying, or obstructing, or attempting to delay or obstruct, law enforcement or assistance animal	Class 2 misdemeanor

86. A person found in a civil action to have violated G.S. 14-151.1 is liable for treble damages or \$500, whichever is greater. *See* G.S. 14-151.1(d).

87. G.S. 14-155 provides that each day’s unlawful connection is considered a separate offense.

88. G.S. 14-159.2(c) provides that a violation of G.S. 14-159.2(a) involving release of an animal with an infectious disease is a Class I felony. G.S. 14-159.2(d) provides that, as a condition of probation, the court may order a person convicted under G.S. 14-159.2 to make restitution for damages resulting from the violation, including such costs as replacing animals and equipment.

89. *See* note 88.

90. *See* note 88.

91. *See* note 88.

92. Forcible trespass is also a common-law misdemeanor. It would be punishable as a Class 1 misdemeanor under G.S. 14-3(a) (misdemeanors without specific classification and punishment).

Statute	Description of Offense	Punishment
Article 24: Vehicles and Draft Animals—Protection of Bailor against Acts of Bailee		
14-165	Malicious injury to hired personal property	Class 2 misdemeanor
14-167	Failing to return hired property	Class 2 misdemeanor
14-168	Renting equipment or vehicle with intent to defraud	Class 2 misdemeanor
14-168.1	Conversion by bailee, lessee, tenant, or person with power of attorney: if value of property is \$400 or less if value of property exceeds \$400	Class 1 misdemeanor Class H felony
14-168.4	Failing to return rented equipment on which there is purchase option, with intent to defeat owner's rights	Class 2 misdemeanor
Article 26: Offenses against Public Morality and Decency⁹³		
14-177	Crime against nature	Class I felony
14-178	Incest: ⁹⁴ with person under 13 by defendant at least 12 and at least 4 years older than person with person 13, 14, or 15 by defendant at least 6 years older than person with person 13, 14, or 15 by defendant more than 4 but less than 6 years older than person in all other cases	Class B1 felony Class B1 felony Class C felony Class F felony
14-183	Bigamy and bigamous cohabitation	Class I felony
14-184	Fornication and adultery	Class 2 misdemeanor
14-188	Keeping disorderly or bawdy house	Class 2 misdemeanor
14-190.1	Disseminating obscenity	Class I felony
14-190.4	Coercing acceptance of obscene publication	Class 1 misdemeanor
14-190.5	Preparing obscene photograph, slide, or film for purpose of dissemination	Class 1 misdemeanor
14-190.6	Using person under 16 to assist in obscenity offense	Class I felony
14-190.7	Disseminating obscenity to person under 16	Class I felony
14-190.8	Disseminating obscenity to person under 13	Class I felony
14-190.9	Indecent exposure	Class 2 misdemeanor

93. A person with a “reportable conviction” is subject to the sex offender registration requirements in G.S. Ch. 14, Art. 27A. A “reportable conviction” includes a conviction of a “sexually violent offense,” which in turn includes a violation of any of the following statutes in G.S. Ch. 14, Art. 26: G.S. 14-178 (incest); 14-190.6 (using person under 16 to assist in obscenity offense); 14-190.16 (first-degree sexual exploitation of minor); G.S. 14-190.17 (second-degree sexual exploitation of minor); G.S. 14-190.17A (third-degree sexual exploitation of minor); G.S. 14-190.18 (promoting prostitution of minor); G.S. 14-190.19 (participating in prostitution of minor); G.S. 14-202.1 (taking indecent liberties with child); and solicitation, conspiracy, or attempt to commit (or, if required by the court, aiding and abetting) any of those offenses. The court may, although is not required to, order a person to register if he or she is convicted of certain peeping offenses—namely, a violation of G.S. 14-202(d), (e), (f), (g), or (h), or a second or subsequent violation of G.S. 14-202(a), (a1)(effective for offenses committed on or after Dec. 1, 2004), or (c). *See* G.S. 14-208.6(5) (defining “sexually violent offense”); G.S. 14-208.6(4)d. (describing peeping offenses that may result in “reportable conviction”). A violation of G.S. 14-177 (crime against nature) is not a “reportable conviction.” Ordinarily, a person with a “reportable conviction” is subject to the 10-year registration program in G.S. 14-208.7 through -208.15; however, a person is subject to the lifetime registration requirements in G.S. 14-208.20 through -208.24 if he or she is convicted of an “aggravated offense” as defined in G.S. 14-208.6(1a), is a recidivist as defined in G.S. 14-208.6(2b), or is found to be a sexually violent predator as provided in G.S. 14-208.6(6) and -208.20. For other offenses subject to the sex offender registration requirements, *see* notes 21, 33, 97. For a discussion of changes to the sex offender registration requirements and their effective dates, *see* note 111.

94. The punishments indicated for incest apply to offenses committed on or after Dec. 1, 2002. Before these revisions took effect, the relatives covered by G.S. 14-178 (and G.S. 14-179, now repealed) were subject to two different punishment levels. Incest between grandparent and grandchild, parent and stepchild or legally adopted child, or brother and sister of the whole or half blood was a Class F felony, and incest between uncle and niece or aunt and nephew was a Class 1 misdemeanor.

Statute	Description of Offense	Punishment
14-190.14	Displaying material harmful to minors	Class 2 misdemeanor ⁹⁵
14-190.15(a), -190.15(d)	Disseminating material harmful to minors	Class 1 misdemeanor
14-190.15(b), -190.15(d)	Exhibiting harmful performance to minor	Class 1 misdemeanor
14-190.16	First-degree sexual exploitation of minor	Class D felony
14-190.17	Second-degree sexual exploitation of minor	Class F felony
14-190.17A	Third-degree sexual exploitation of minor	Class I felony
14-190.18	Promoting prostitution of minor	Class D felony
14-190.19	Participating in prostitution of minor	Class F felony
14-196	Harassing phone calls	Class 2 misdemeanor
14-196.3	Cyberstalking	Class 2 misdemeanor
14-197	Using profane language on highway	Class 3 misdemeanor ⁹⁶
14-202(a)	Peeping into room occupied by other person	Class 1 misdemeanor ⁹⁷
14-202(a1)	Peeping under or through other person's clothing by mirror or other device	Class 1 misdemeanor ⁹⁸
14-202(c)	Peeping while possessing device to create photographic image	Class A1 misdemeanor ⁹⁹
14-202(d)	Peeping while using device to create photographic image for sexual purpose	Class I felony ¹⁰⁰
14-202(e)	Secretly using device to create photographic image underneath or through other person's clothing	Class I felony ¹⁰¹
14-202(f)	Secretly installing device in room to create photographic image for sexual purpose	Class I felony ¹⁰²
14-202(g)	Possessing photographic image obtained in violation 14-202	Class I felony ¹⁰³
14-202(h)	Disseminating image obtained in violation of 14-202	Class H felony ¹⁰⁴

95. G.S. 14-190.14(b) provides that each day's violation is a separate offense.

96. G.S. 14-197 does not apply to Pitt or Swain county.

97. The offenses and punishments indicated for G.S. 14-202 apply to offenses committed on or after Dec. 1, 2003, except that G.S. 14-202(a1) applies to offenses committed on or after Dec. 1, 2004. The revised statute also provides for the consequences discussed in this note. Before these revisions took effect, G.S. 14-202 contained a single offense—peeping into room occupied by female, a Class 1 misdemeanor—and no special sentencing provisions.

Under the revised statute, the court may require a defendant placed on probation for a first conviction under G.S. 14-202 to obtain a psychological evaluation and to comply with any recommended treatment; if the court places a defendant on probation for a second or subsequent conviction, the court must impose these requirements. *See* G.S. 14-202(j). A person whose image is captured or disseminated in violation of G.S. 14-202 has a civil action for damages as provided in G.S. 14-202(k). G.S. 14-202(l) provides that if a person is convicted of a violation of subsections (d), (e), (f), (g), or (h) of G.S. 14-202, or a second or subsequent violation of G.S. 14-202(a), (a1)(effective for offenses committed on or after Dec. 1, 2004), or (c), the court may require the person to register as a sex offender under G.S. Ch. 14, Art. 27A. *See* note 93.

98. *See* note 97.

99. *See* note 97.

100. *See* note 97.

101. *See* note 97.

102. *See* note 97.

103. *See* note 97.

104. *See* note 97.

Statute	Description of Offense	Punishment
14-202(i)	Second or subsequent violation of 14-202: ¹⁰⁵ Second or subsequent felony	Felony one class higher than felony committed
	Second or subsequent Class A1 misdemeanor	Class I felony
	Second or subsequent Class 1 misdemeanor	Class A1 misdemeanor
14-202.1	Taking, or attempting to take, indecent liberties with child	Class F felony
14-202.2	Indecent liberties between children	Class 1 misdemeanor ¹⁰⁶
14-202.3	Soliciting child by computer to commit unlawful sex act	Class I felony
14-202.4	Taking or attempting to take indecent liberties with elementary or secondary school student: ¹⁰⁷	
	by teacher, school administrator, student teacher, school safety officer, or coach	Class I felony ¹⁰⁸
	by other school personnel or volunteer if 4 or more years older than student	Class I felony
	by other school personnel or volunteer if less than 4 years older than student	Class A1 misdemeanor
Article 26A: Adult Establishments		
14-202.11(a), -202.12	Permitting facility to contain multiple adult establishments:	
	First offense	Class 3 misdemeanor
	Subsequent violation of 14-202.11	Class 2 misdemeanor
	Permitting adult establishment in facility where sexually oriented devices are contained:	
	First offense	Class 3 misdemeanor
	Subsequent violation of 14-202.11	Class 2 misdemeanor
14-202.11(b), -202.12	Permitting multiple occupancy in viewing booth in adult mini-motion picture theater:	
	First offense	Class 3 misdemeanor
	Subsequent violation of 14-202.11	Class 2 misdemeanor
Article 27: Prostitution ¹⁰⁹		
14-204, -208	Prostitution or aiding and abetting prostitution	Class 1 misdemeanor ¹¹⁰
14-204.1	Loitering for purpose of prostitution or committing crime against nature	Class 1 misdemeanor

105. See note 97.

106. This offense occurs when a person under 16 takes or attempts to take indecent liberties with a child who is at least 3 years younger than the person. Because the district court, in its capacity as juvenile court, has exclusive jurisdiction over a person who is under 16 and charged with a misdemeanor, G.S. 14-202.2 only provides the basis for a delinquency petition in juvenile court; the person may not be tried as an adult.

107. Effective for offenses committed on or after Dec. 1, 2004, the definition of “same school”—an element of a violation of G.S. 14-202.4—was revised

108. Effective for offenses committed on or after Dec. 1, 2003, a school safety officer who violates G.S. 14-202.4 is guilty of a Class I felony regardless of the age difference between the officer and student. Before these revisions took effect, the officer would be guilty of a Class I felony if 4 or more years older than the student, and a Class A1 misdemeanor if less than 4 years older.

109. G.S. 14-208 provides that the court may order any convicted defendant to be examined for venereal disease and, if the defendant has a venereal disease, the court shall order such terms and conditions of probation as shall provide for medical treatment and prevent spread of the disease. It also provides that no female may be placed on probation in the care of any person other than a female probation officer.

110. G.S. 14-207 divides prostitution into two degrees: first-degree in cases in which the person committed 2 or more violations within 1 year preceding the current offense; and second-degree in all other cases. Both degrees of prostitution are Class 1 misdemeanors, however, and the distinction no longer appears to have any significance. If charged with multiple violations of G.S. 14-204 arising out of the same transaction (for example, occupying a place for prostitution, agreeing to receive a person in a place for prostitution, or entering a place for prostitution), the defendant may be convicted and punished for one violation only. See *State v. Demott*, 26 N.C. App. 14, 214 S.E.2d 781 (1975).

Statute	Description of Offense	Punishment
Article 27A: Sexual Offender and Public Protection Registration Programs		
14-208.11	Violating sex-offender registration requirements	Class F felony ¹¹¹
Article 28: Perjury		
14-209	Perjury	Class F felony
14-210	Subornation of perjury	Class I felony
Article 29: Bribery		
14-217	Acceptance of bribe by public official	Class F felony
14-218	Offering bribe	Class F felony
14-220	Offering bribe to, or acceptance of bribe by, juror	Class F felony
Article 30: Obstructing Justice ¹¹²		
14-221	Breaking or entering jail, or conspiracy to break or enter jail, with intent to injure prisoner	Class F felony
14-221.1	Destruction of evidence	Class I felony
14-221.2	Altering court document or entering unauthorized judgment	Class H felony
14-223	Resisting, delaying, or obstructing officer	Class 2 misdemeanor
14-225	Making false report to law enforcement agency or officer	Class 2 misdemeanor
14-225.1	Picketing near courthouse with intent to interfere with administration of justice	Class 1 misdemeanor
14-225.2(a)(1), -225.2(c)	Harassing juror with intent to influence official action	Class H felony
14-225.2(a)(2), -225.2(c)	Harassing juror as result of prior official action	Class I felony
14-226	Intimidating, or attempting to intimidate, witness	Class H felony ¹¹³
14-226.1	Violating certain court orders	Class 3 misdemeanor ¹¹⁴
Article 30A: Secret Listening		
14-227.1, -227.3	Listening, or attempting to listen, to conversation between prisoner and attorney by mechanical or electrical device	Class 2 misdemeanor
14-227.2, -227.3	Listening, or attempting to listen, to deliberations of grand or petit jury in criminal case by mechanical or electrical device	Class 2 misdemeanor

111. Effective for offenses committed on or after Oct. 9, 2002, G.S. 14-208.11 was broadened to make it a violation for a person subject to registration requirements to fail to inform the registering sheriff of enrollment or termination of enrollment as a student at a post-secondary institution or to fail to inform the registering sheriff of employment or termination of employment at an institution of higher education. For a discussion of previous changes to the sex offender registration requirements and their effective dates, see the 1999 edition of this book, at p. 52 n.114, and the 2001 cumulative supplement (*Administration of Justice Bulletin* No. 2002/03, Feb. 2002) at p. 9 n.32. For a more detailed description of the evolution of North Carolina's sex offender registration law, see the following issues of the *Administration of Justice Bulletin* summarizing criminal law and procedure legislation: No. 95/03 at pp. 16–17 (Sept. 1995); No. 97/03 at pp. 17–19 (Nov. 1997); No. 99/05 at p. 25 (Oct. 1999); No. 2002/02 at pp. 18–20 (Jan. 2002); and No. 2002/06 at p. 11 (Nov. 2002). Recent bulletins are posted at <http://ncinfo.iog.unc.edu/programs/crimlaw/aoj.htm>. For bulletins not on this Web site, contact the author.

112. Obstructing justice is also a common-law misdemeanor. It would be punishable as a Class 1 misdemeanor under G.S. 14-3(a) (misdemeanors without a specific classification and punishment) unless considered an “infamous” misdemeanor under G.S. 14-3(b), in which case it would be punishable as a Class H felony. Compare *State v. Clemmons*, 100 N.C. App. 286, 396 S.E.2d 616 (1990) (allegations of indictment were sufficient to raise offenses to felony) with *State v. Preston*, 73 N.C. App. 174, 325 S.E.2d 686 (1985) (allegations were insufficient to raise offense to felony).

113. Effective for offenses committed on or after Dec. 1, 2004, G.S. 14-226 was revised to provide that it is a violation for a criminal defendant to threaten a witness in the defendant's case with the assertion or denial of parental rights.

114. The punishment for this offense may include a fine up to \$250. See G.S. 14-226.1.

Statute	Description of Offense	Punishment
Article 31: Misconduct in Public Office		
14-228	Buying or selling public office	Class I felony
14-230	Willful failure by public officer to discharge duties	Class 1 misdemeanor
14-234.1	Misuse of confidential information	Class 1 misdemeanor
14-239	Allowing prisoner to escape	Class 1 misdemeanor ¹¹⁵
14-242	Failing to return process or making false return	Class 1 misdemeanor
14-247, -251	Private use of public vehicle	Class 2 misdemeanor
Article 32: Misconduct in Private Office		
14-254	Corporate malfeasance	Class H felony
Article 33: Prison Breach and Prisoners		
14-255	Escape while hired out	Class 1 misdemeanor
14-256	Escape from county or municipal facility or officer of such facility	Class 1 misdemeanor
14-256(1)	Escape from county or municipal facility by felon, pending transfer to state prison system	Class H felony
14-256(2)	Escape from county or municipal facility by person serving sentence for felony	Class H felony
14-256.1	Escape from private correctional facility in N.C. by person convicted in another jurisdiction	Class H felony
14-258	Trading; ¹¹⁶ with prisoners when article conveyed to prisoner leads to murder, assault, or escape	Class H felony Class F felony
14-258.1(a)	Furnishing poison, narcotics, or weapon to inmate	Class H felony ¹¹⁷
14-258.1(b)	Furnishing alcohol to inmate	Class 1 misdemeanor ¹¹⁸
14-258.2(a)	Dangerous weapons in prison/jail: Possession of dangerous weapon by inmate Assault with dangerous weapon, inflicting bodily injury Use of dangerous weapon to effect escape	Class H felony Class F felony Class F felony
14-258.2(b)	Use of dangerous weapon to assist escape by inmate	Class H felony
14-258.3	Taking of hostage by prisoner	Class F felony
14-258.4	Emitting of bodily fluids by prisoner at government employee	Class F felony
14-259	Aiding escaped prisoner: when prisoner is felon or charged with felony when prisoner is misdemeanant or charged with misdemeanor	Class I felony Class 1 misdemeanor
Article 34: Custodial Institutions		
14-266, -268	Persuading inmate to escape	Class 1 misdemeanor
14-267, -268	Harboring fugitive	Class 1 misdemeanor

115. Effective for offenses committed on or after Dec. 1, 2003, G.S. 14-239 was broadened to include “other custodial personnel” among those who may be prosecuted for allowing escape, and to cover allowing escape of a person committed to the Dept. of Juvenile Justice.

116. G.S. 14-258 defines this offense as: (a) conveying messages to or from any convict; (b) conveying a weapon or instrument of escape to any prisoner; (c) trading with a convict for his or her clothing or for stolen goods; or (d) selling to a convict any article forbidden by prison rules.

117. G.S. 14-258.1 provides that if the defendant is employed by a state institution or local confinement facility, he or she shall be dismissed from employment.

118. See note 117.

Statute	Description of Offense	Punishment
Article 35: Offenses against the Public Peace¹¹⁹		
14-269(a), -269(c)	Carrying concealed weapon	Class 2 misdemeanor
14-269(a1), -269(c)	Carrying concealed pistol or gun: First offense Subsequent offense	Class 2 misdemeanor Class I felony
14-269.2(b)	Firearms on educational property or at school-sponsored activity: Possessing certain firearms Discharging firearm	Class I felony ¹²⁰ Class F felony ¹²¹
14-269.2(b1)	Possession of explosive on educational property or at school-sponsored activity	Class G felony ¹²²
14-269.2(c)	Aiding person under 18 to commit violation of 14-269.2(b)	Class I felony
14-269.2(c1)	Aiding person under 18 to possess explosive on educational property	Class G felony ¹²³
14-269.2(d)	Possession of certain weapons or fireworks on educational property	Class 1 misdemeanor
14-269.2(e)	Aiding person under 18 to commit violation of 14-269.2(d)	Class 1 misdemeanor
14-269.3	Carrying gun into public event or establishment serving alcohol	Class 1 misdemeanor
14-269.4	Possession of weapon in courthouse and certain state property	Class 1 misdemeanor
14-269.6	Possession or sale of spring-loaded projectile knife	Class 1 misdemeanor
14-269.7	Possession of handgun by person under 18	Class 2 misdemeanor
14-269.8	Owning, possessing, purchasing, or receiving firearm, ammunition, or concealed firearm permit while prohibited by G.S. Ch. 50B protective order, or attempting to do so	Class H felony ¹²⁴
14-275.1	Disorderly conduct at bus or railroad station or airport	Class 3 misdemeanor
14-276.1	Impersonation of firefighter or emergency medical personnel	Class 3 misdemeanor
14-277(a), -277(d1)(1)	Impersonation: falsely representing self as law-enforcement officer	Class 1 misdemeanor
14-277(a)(4), -277(d1)(3)	Impersonation: unlawfully operating vehicle with blue light	Class I felony
14-277(b), -277(d1)(2)	Impersonation: falsely representing self as law-enforcement officer and acting as such	Class 1 misdemeanor ¹²⁵
14-277(b)(5), -277(d1)(4)	Impersonation: unlawfully operating vehicle with blue light and causing reasonable person to yield or stop	Class H felony
14-277(e)	Impersonation of city, county, or state employee	Class 1 misdemeanor

119. Upon conviction of a violation of G.S. 14-269 (carrying concealed weapon), 14-269.7 (possession of handgun by minor), or any other offense involving use of a deadly weapon as defined in G.S. 14-269, the weapon is subject to confiscation and disposition as provided in G.S. 14-269.1.

120. G.S. 14-269.2(f) provides that it is a Class 1 misdemeanor, not a Class I felony, to possess a firearm on educational property if (1) the person is not a student or an employee at the school and (2) the firearm is unloaded, is in a locked firearm rack or locked container, and is inside a motor vehicle.

121. Effective for offenses committed on or after Dec. 1, 2004, G.S. 14-269.2(b) was revised to create the offense of discharging a firearm on educational property or at a school-sponsored activity.

122. Upon conviction, DMV must revoke a person's driver's license or permit for one year. *See* note 37 for a discussion of this consequence.

123. Upon conviction, DMV must revoke a person's driver's license or permit for one year. *See* note 37 for a discussion of this consequence.

124. Effective for offenses committed on or after Dec. 1, 2003, the definition of this offense was broadened to prohibit additional acts involving firearms.

125. G.S. 14-277(d1)(2) provides that the court may impose an intermediate punishment for this offense even when structured sentencing authorizes a community punishment only.

Statute	Description of Offense	Punishment
14-277.1	Communicating threats	Class 1 misdemeanor
14-277.2	Carrying weapon at parade or demonstration	Class 1 misdemeanor
14-277.3	Stalking: First offense While court order in effect prohibiting similar behavior Subsequent offense	Class A1 misdemeanor ¹²⁶ Class H felony Class F felony
14-277.4(a), -277.4(c)	Obstructing health care facility: First offense Second conviction within 3 years of first conviction Third or subsequent conviction within 3 years of most recent conviction	Class 2 misdemeanor Class 1 misdemeanor Class I felony
14-277.4(b), -277.4(c)	Injuring, or threatening to injure, person obtaining, aiding another to obtain, or providing health care services: First offense Second conviction within 3 years of first conviction Third or subsequent conviction within 3 years of most recent conviction	Class 2 misdemeanor Class 1 misdemeanor Class I felony
14-277.4(d)	Violating injunction obtained pursuant to 14-277.4	Criminal contempt, punishable by not less than 30 days or more than 1 year

Article 36: Offenses against the Public Safety

14-280	Shooting or throwing at train	Class I felony
14-280.1	Trespassing on railroad right-of-way	Class 3 misdemeanor
14-281.1	Throwing object at sports event	Class 3 misdemeanor
14-283	Exploding dynamite cartridge or bomb	Class 1 misdemeanor
14-284	Unlicensed sale of explosives	Class 1 misdemeanor
14-284.1	Violating regulations governing sale of explosives	Class 2 misdemeanor
14-284.2	Dumping toxic substances	Class F felony ¹²⁷
14-286	Giving false fire alarm	Class 2 misdemeanor
14-286.1	Making false ambulance request	Class 3 misdemeanor
14-286.2	Interfering with emergency communication	Class A1 misdemeanor

Article 36A: Riots and Civil Disorders¹²⁸

14-288.2(b)	Engaging in riot	Class 1 misdemeanor
14-288.2(c)(1)	Engaging in riot resulting in more than \$1,500 property damage or serious bodily injury	Class H felony
14-288.2(c)(2)	Engaging in riot while possessing dangerous weapon or substance	Class H felony
14-288.2(d)	Inciting riot	Class 1 misdemeanor
14-288.2(e)	Inciting riot resulting in more than \$1,500 property damage or serious bodily injury	Class F felony

126. Effective for offenses committed on or after Dec. 1, 2003, G.S. 14-277.3(b) provides that if a person is convicted of this offense and sentenced to a community punishment, the court must place the person on supervised probation in addition to any other punishment.

127. G.S. 14-284.2 authorizes a fine up to \$100,000 per day of violation.

128. The offenses of unlawful assembly and going armed to the terror of the people are common-law misdemeanors. Each would be punishable as a Class 1 misdemeanor under G.S. 14-3(a) (misdemeanors without specific classification and punishment). *See also* State v. Rambert, 341 N.C. 173, 459 S.E.2d 510 (1995) (offense of going armed to terror of people could not be elevated to felony because indictment did not allege that offense was “infamous” and thus did not put defendant on notice that he could be convicted of felony).

Statute	Description of Offense	Punishment
14-288.4	Disorderly conduct	Class 2 misdemeanor
14-288.5	Failing to disperse when commanded	Class 2 misdemeanor
14-288.6(a)	Trespass during emergency	Class 1 misdemeanor
14-288.6(b)	Looting	Class H felony
14-288.7	Transporting dangerous weapon during emergency or riot	Class 1 misdemeanor
14-288.8	Manufacture, sale, possession, etc., of weapon of mass death and destruction	Class F felony
14-288.9	Assault on emergency personnel: without dangerous weapon or substance with dangerous weapon or substance	Class 1 misdemeanor Class F felony
14-288.12	Violating emergency proclamation issued pursuant to municipal ordinance	Class 3 misdemeanor ¹²⁹
14-288.13	Violating emergency proclamation issued pursuant to county ordinance	Class 3 misdemeanor ¹³⁰
14-288.14	Violating emergency proclamation where municipal proclamation extends to county	Class 3 misdemeanor
14-288.15	Violating emergency proclamation issued by governor	Class 2 misdemeanor
14-288.19	Violating governor's order to evacuate public building	Class 2 misdemeanor
Article 36B: Nuclear, Biological, or Chemical Weapons of Mass Destruction		
14-288.21	Manufacture, sale, possession, etc., of nuclear, biological, or chemical weapon of mass destruction	Class B1 felony
14-288.22(a)	Injuring another with weapon in 14-288.21	Class A felony ¹³¹
14-288.22(b)	Attempt, solicitation, or conspiracy to injure another with weapon in 14-288.21	Class B1 felony
14-288.22(c)	Delivery or attempt to deliver through mail weapon in 14-288.21	Class B1 felony
14-288.23(a)	False report that weapon in 14-288.21 is in any place or structure	Class D felony ¹³²
14-288.24(a)	Perpetrating hoax regarding weapon in 14-288.21	Class D felony ¹³³
Article 37: Lotteries, Gaming, Bingo, and Raffles¹³⁴		
14-290	Promoting or conducting unauthorized lottery	Class 2 misdemeanor ¹³⁵
14-291	Selling lottery tickets	Class 2 misdemeanor

129. G.S. 14-4 contains general provisions on fines for ordinance violations. *See* note 11. Whether those provisions, or the structured sentencing rules for misdemeanors in G.S. 15A-1340.23(b), govern the fine for this offense is unclear.

130. *See* note 129.

131. This offense is punishable by life imprisonment without parole.

132. The court may order a person convicted of this offense to pay restitution for disruption of normal activities.

133. *See* note 132.

134. G.S. 14-298 provides for the seizure and destruction of any gaming table prohibited under G.S. 14-289 through -300, any illegal punchboard or illegal slot machine, or any video gaming machine prohibited under G.S. 14-306 or -306.1. G.S. 14-299 provides for the seizure and destruction, sale, or forfeiture of money and other property or things of value exhibited for the purpose of alluring people to bet on any game or used in the conduct of any such game; unlike G.S. 14-298, G.S. 14-299 does not specifically refer to video gaming machines. A violation of the gambling statutes on licensed premises by a person with an alcoholic beverage control (ABC) permit is a violation of the ABC laws, subject to the penalties in G.S. 18B-1005(a)(3) and -102(b).

135. G.S. 14-290 authorizes a fine of up to \$2,000.

Statute	Description of Offense	Punishment
14-291.1	Selling “numbers” tickets	Class 2 misdemeanor
14-291.2	Pyramid scheme: ¹³⁶ Establishing or operating Participating in or otherwise promoting	Class H felony Class 2 misdemeanor ¹³⁷
14-292	Gambling	Class 2 misdemeanor
14-293	Allowing gambling in houses of entertainment	Class 2 misdemeanor ¹³⁸
14-295	Gaming tables, illegal punchboards, and slot machines: Keeping Playing	Class 2 misdemeanor Class 2 misdemeanor
14-297	Allowing gaming tables, illegal punchboards, or slot machines on premises	Class 2 misdemeanor ¹³⁹
14-301, -303	Operating or possessing slot machine	Class 2 misdemeanor
14-302, -303	Operating or possessing gambling devices	Class 2 misdemeanor
14-304, -309	Manufacture, sale, etc., of slot machine: First offense Second offense Third or subsequent offense	Class 1 misdemeanor Class I felony Class H felony
14-305, -309	Agreeing to provide thing of value to user of slot machine: First offense Second offense Third or subsequent offense	Class 1 misdemeanor Class I felony Class H felony
14-306(d), -309	Making unlawful payout to player: First offense Second offense Third or subsequent offense	Class 1 misdemeanor Class I felony Class H felony
14-306.1, -309	Violation of video gaming machine restrictions: ¹⁴⁰ First offense Second offense Third or subsequent offense Offense involving operation of five or more video gaming machines	Class 1 misdemeanor Class I felony Class H felony Class G felony
14-306.1(d), -3.1(a)	Playing of video gaming machine by person under 18	Infraction
14-309.20	Greyhound racing	Class 1 misdemeanor

136. G.S. 14-291.2(c) provides that a superior court judge may, on petition of the attorney general or district attorney, enjoin the continuation of a pyramid scheme, assess civil penalties and attorneys’ fees in such a proceeding, and appoint a receiver to secure assets obtained by the defendant through his or her participation in the scheme.

137. G.S. 14-291.2(a) provides that any person who participates in or otherwise promotes a pyramid scheme “shall be deemed to have participated in a lottery.”

138. G.S. 14-293 provides that any person convicted of this offense shall forfeit his or her license to do business and forever be barred from doing any of the businesses set out in the statute.

139. G.S. 14-297 provides that any person may sue a violator for \$200.

140. A person may not possess a video gaming machine for one year following a first conviction under G.S. 14-309(a), for two years following a second conviction under G.S. 14-309(a), and indefinitely following a third or subsequent conviction under G.S. 14-309(a). *See* G.S. 14-306.1(p). A violation of G.S. 14-306.1 on licensed premises by a person with an alcoholic beverage control (ABC) permit is a violation of the ABC laws, which may result in the same penalties as a violation of the gambling statutes by a permittee. *See* G.S. 14-306.2, 18B-1005(a)(3), 18B-102(b).

Statute	Description of Offense	Punishment
Article 39: Protection of Minors		
14-313(b)	Sale of tobacco products or cigarette wrapping papers to person under 18: ¹⁴¹ Selling or distributing to person under 18 Purchasing on behalf of person under 18 Failing to demand proof of age of person under 18 Failing to post required notice	Class 2 misdemeanor Class 2 misdemeanor Class 2 misdemeanor Infraction ¹⁴²
14-313(b1)	Unlawfully distributing tobacco products through vending machine	Class 2 misdemeanor ¹⁴³
14-313(c)	Purchase of tobacco products or cigarette wrapping papers by person under 18: ¹⁴⁴ Purchasing, receiving, or attempting to purchase or receive Presenting false proof of age	Class 2 misdemeanor Class 2 misdemeanor
14-313(d)	Sending or assisting person under 18 to purchase or receive tobacco products or cigarette wrapping papers	Class 2 misdemeanor ¹⁴⁵
14-315(a)	Selling or giving weapon other than handgun to person under 18	Class 1 misdemeanor ¹⁴⁶
14-315(a1)	Selling or giving handgun to person under 18	Class H felony ¹⁴⁷
14-315.1	Storing firearm in manner accessible to minor	Class 1 misdemeanor
14-315.2(a), -315.2(c)	Failing to provide written copy of 14-315.1 to purchaser of firearm	Class 1 misdemeanor
14-315.2(b), -315.2(c)	Failing to post notice warning purchaser of duty to store firearm	Class 1 misdemeanor
14-316	Permitting person under 12 to use dangerous firearm	Class 2 misdemeanor
14-316.1	Contributing to delinquent, undisciplined, abused, or neglected condition of juvenile	Class 1 misdemeanor
14-318	Exposing child under 8 to danger of fire	Class 1 misdemeanor
14-318.2	Misdemeanor child abuse	Class 1 misdemeanor ¹⁴⁸
14-318.4(a)	Intentionally inflicting serious injury on child	Class E felony ¹⁴⁹
14-318.4(a1)	Committing, permitting, or encouraging prostitution by child	Class E felony ¹⁵⁰
14-318.4(a2)	Parent or legal guardian committing or allowing commission of sexual act on child	Class E felony ¹⁵¹
14-318.4(a3)	Intentionally inflicting serious bodily injury on child	Class C felony ¹⁵²
14-320.1	Transporting child outside state with intent to violate custody order	Class I felony

141. G.S. 14-313(f) provides that any person charged with a misdemeanor shall be qualified for deferred prosecution if he or she has not previously been placed on probation for a violation of G.S. 14-313 and so states under oath.

142. G.S. 14-313(b) provides that a first offense is punishable by a \$25 fine and a subsequent offense by a \$75 fine.

143. See note 141.

144. See note 141.

145. See note 141.

146. G.S. 14-315 provides that the defendant shall forfeit the proceeds of any sale.

147. See note 146.

148. G.S. 14-318.2 creates three separate offenses: (1) inflicting physical injury on a child; (2) allowing physical injury to be inflicted on a child; and (3) creating or allowing to be created a substantial risk of physical injury to a child. See *State v. Fredell*, 283 N.C. 242, 195 S.E.2d 300 (1973). A parent who voluntarily relinquishes an infant less than 7 days of age pursuant to G.S. 14-322.3 shall not be prosecuted under G.S. 14-318.2 for acts or omissions relating to the care of that infant. See G.S. 14-318.2(c).

149. Voluntary relinquishment of an infant less than 7 days of age pursuant to G.S. 14-322.3 may be treated as a mitigating factor at sentencing for a violation of G.S. 14-318.4 involving that infant. See G.S. 14-318.4(c).

150. See note 149.

151. See note 149.

152. See note 149.

Statute	Description of Offense	Punishment
Article 40: Protection of the Family ¹⁵³		
14-322(b), -322(f)	Abandonment of spouse without providing adequate support: ¹⁵⁴ First offense Subsequent offense under 14-322	Class 2 misdemeanor Class 1 misdemeanor
14-322(c), -322(f)	Failing to provide adequate support while living with dependent spouse: First offense Subsequent offense under 14-322	Class 2 misdemeanor Class 1 misdemeanor
14-322(d), -322(f)	Nonsupport of child by parent: ¹⁵⁵ First offense Subsequent offense under 14-322	Class 2 misdemeanor Class 1 misdemeanor
14-322.1	Abandonment of child for 6 months and failure to support	Class I felony
14-326.1	Failing to support parent: First offense Subsequent offense	Class 2 misdemeanor Class 1 misdemeanor
Article 44: Regulation of Sales		
14-344	Ticket scalping	Class 2 misdemeanor
Article 47: Cruelty to Animals		
14-360(a)	Intentional cruelty to animals	Class 1 misdemeanor
14-360(b)	Malicious cruelty to animals	Class I felony ¹⁵⁶
14-361	Instigating or promoting cruelty to animals	Class 1 misdemeanor
14-361.1	Abandonment of animals without justifiable excuse	Class 2 misdemeanor
14-362	Cock fighting	Class 2 misdemeanor ¹⁵⁷
14-362.1(a)	Promoting fighting or baiting of animals other than cocks or dogs	Class 2 misdemeanor ¹⁵⁸
14-362.1(b)	Possession or training of animal other than cock or dog with intent to use in fighting exhibition	Class 2 misdemeanor
14-362.1(c)	Participating as spectator at animal fight other than cock or dog fight	Class 2 misdemeanor
14-362.1(d)	Violation of 14-362.1(a) within 3 years of prior conviction	Class I felony
14-362.2(a)	Promoting fighting or baiting of dog	Class H felony ¹⁵⁹
14-362.2(b)	Possession or training of dog with intent to use in fighting exhibition	Class H felony
14-362.2(c)	Participating as spectator at dog fight	Class H felony
14-362.3	Maliciously restraining dog with chain or wire grossly in excess of size necessary	Class 1 misdemeanor
14-363	Conveying animal in cruel manner	Class 1 misdemeanor

153. A parent who voluntarily relinquishes an infant less than 7 days of age pursuant to G.S. 14-322.3 shall not be prosecuted under G.S. 14-322 or -322.1 for abandonment or nonsupport of that infant.

154. In addition to imposing the authorized punishment for this offense, the court is authorized to enter an order for support. *See* G.S. 14-322(e).

155. *See* note 154.

156. G.S. 14-360(b) states that it does not increase the penalty for cock fighting provided in G.S. 14-362.

157. G.S. 14-362 provides that a lessor of property who knows that the property is used or intended to be used for fighting or baiting of an animal is under a duty to evict the lessee immediately.

158. G.S. 14-362.1(a) provides that a lessor of property who knows that the property is used or intended to be used for fighting or baiting of an animal is under a duty to evict the lessee immediately.

159. G.S. 14-362.2(a) provides that a lessor of property who knows that the property is used or intended to be used for fighting or baiting of an animal is under a duty to evict the lessee immediately.

Statute	Description of Offense	Punishment
Article 52: Miscellaneous Police Regulations		
14-394	Sending anonymous or threatening letters	Class 1 misdemeanor
14-395.1	Sexual harassment in leasing of property	Class 2 misdemeanor
14-399(c), -399(a)	Intentional or reckless littering of not more than 15 pounds	Class 3 misdemeanor ¹⁶⁰
14-399(c1), -399(a1)	Littering of not more than 15 pounds	Infraction ¹⁶¹
14-399(d), -399(a)	Intentional or reckless littering of more than 15 but not exceeding 500 pounds	Class 3 misdemeanor ¹⁶²
14-399(d1), -399(a1)	Littering of more than 15 but not exceeding 500 pounds	Infraction ¹⁶³
14-399(e), -399(a)	Intentional or reckless littering of more than 500 pounds or any quantity for commercial purposes, or littering of hazardous waste	Class I felony ¹⁶⁴
14-399(e1), -399(a1)	Littering of more than 500 pounds	Infraction ¹⁶⁵
14-400(a)	Tattooing of person under 18	Class 2 misdemeanor
14-400(b)	Body piercing of person under 18	Class 2 misdemeanor
14-401	Putting poisonous food or antifreeze in public place	Class 1 misdemeanor
14-401.6	Possession, use, or sale of tear gas	Class 2 misdemeanor
14-401.14(a)	Ethnic intimidation	Class 1 misdemeanor
14-401.14(b)	Teaching any technique to be used for ethnic intimidation	Class 1 misdemeanor
14-401.15	Telephone sales recovery services: Engaging in Collecting money for	Class 1 misdemeanor Class H felony

160. G.S. 14-399(c) provides that a first offense is punishable by a fine of \$250 to \$1,000 and that a second offense within 3 years of a violation of G.S. 14-399(a) is punishable by a fine of \$500 to \$2,000. A sentence of imprisonment is not authorized; but, for a first offense the court may require 8 to 24 hours of community service involving picking up litter or commensurate labor, and for a second offense within 3 years of a violation of G.S. 14-399(a) the court may require 16 to 50 hours of such community service. G.S. 14-399(f1) provides that a person found guilty of a violation of G.S. 14-399(a) while operating a motor vehicle shall receive 1 driver's license point under G.S. 20-16(c).

161. G.S. 14-399(c1) provides that a first offense is punishable by a penalty up to \$100 and that a subsequent offense within 3 years of a violation of G.S. 14-399(a1) is punishable by a penalty up to \$200. A sentence of imprisonment is not authorized; but, for a first offense the court may require 4 to 12 hours of community service involving picking up litter or commensurate labor, and for a subsequent offense within 3 years of a violation of G.S. 14-399(a1) the court may require 8 to 24 hours of such community service. G.S. 14-399(e2) provides further that if the violation involves littering for commercial purposes or of hazardous waste, the court shall order the violator to remove or render harmless the litter, repair or restore property damaged by the litter or pay damages, or perform community service relating to litter.

162. G.S. 14-399(d) provides that an offense is punishable by a fine of \$500 to \$2,000. A sentence of imprisonment is not authorized, but the court shall require 24 to 100 hours of community service involving picking up litter or commensurate labor. G.S. 14-399(e2) provides further that the court shall order the violator to remove or render harmless the litter, repair or restore property damaged by the litter or pay damages, or perform community service relating to litter. G.S. 14-399(f1) provides that a person found guilty of a violation of G.S. 14-399(a) while operating a motor vehicle shall receive 1 driver's license point under G.S. 20-16(c).

163. G.S. 14-399(d1) provides that an offense is punishable by a penalty up to \$200. A sentence of imprisonment is not authorized, but the court may require 8 to 24 hours of community service involving picking up litter or commensurate labor. G.S. 14-399(e2) provides further that the court shall order the violator to remove the litter or render it harmless, repair or restore damaged property or pay damages, or perform community service relating to litter.

164. G.S. 14-399(e2) provides that the court shall order the violator to remove or render harmless the litter, repair or restore property damaged by the litter or pay damages, or perform community service relating to litter. G.S. 14-399(f1) provides that a person found guilty of a violation of G.S. 14-399(a) while operating a motor vehicle shall receive 1 driver's license point under G.S. 20-16(c). G.S. 14-399(g) provides that a motor vehicle, vessel, or other machinery involved in the disposal of more than 500 pounds of litter in violation of G.S. 14-399(a) is subject to forfeiture. G.S. 14-399(h) provides that in a civil suit for damages, the court shall order the violator to pay treble damages or \$200, whichever is greater, plus the injured party's court costs and attorneys fees.

165. G.S. 14-399(e1) provides that an offense is punishable by a penalty up to \$300. A sentence of imprisonment is not authorized, but the court may require 16 to 50 hours of community service involving picking up litter or commensurate labor. G.S. 14-399(e2) provides further that the court shall order the violator to remove the litter or render it harmless, repair or restore damaged property or pay damages, or perform community service relating to litter.

Statute	Description of Offense	Punishment
14-401.16(a), -401.16(c)	Contaminating food or drink to render person incapacitated or helpless	Class H felony ¹⁶⁶
14-401.16(b), -401.16(c)	Manufacture, sale, or delivery of controlled substance, or possession with intent to manufacture, sell, or deliver, for purpose of violating 14-401.16(a)	Class H felony ¹⁶⁷
14-401.18	Sale of packages of cigarettes in violation of federal law	Class A1 misdemeanor ¹⁶⁸
14-401.19	Filing false security agreement under UCC	Class 2 misdemeanor
14-401.20	Defrauding drug or alcohol screening test: ¹⁶⁹ First offense Subsequent offense	Class 1 misdemeanor Class I felony
14-401.21	Practicing rebirthing technique: ¹⁷⁰ First offense Subsequent offense	Class A1 misdemeanor Class I felony
Article 52A: Sale of Weapons in Certain Counties ¹⁷¹		
14-402(a)	Pistols and crossbows: Sale, transfer, purchase, or receipt without permit Receipt through mail without permit	Class 2 misdemeanor Class 2 misdemeanor
14-406, -408	Failure of dealer in pistols and other weapons to keep accurate record of sales	Class 2 misdemeanor
14-409	Sale or possession of machine gun	Class I felony
Article 54: Sale, etc., of Pyrotechnics		
14-410(a), -415	Making, selling, or using certain fireworks	Class 2 misdemeanor ¹⁷²
14-410(b), -415	Selling certain pyrotechnics to person under 16	Class 2 misdemeanor
Article 54A: The Felony Firearms Act		
14-415.1	Possession of firearm by felon	Class G felony ¹⁷³
14-415.3	Possession of firearm by person acquitted by reason of insanity or found incompetent to proceed	Class H felony

166. G.S. 14-401.16(c) makes this offense a Class G felony if the person acted with the intent of committing an offense under G.S. 14-27.3 (second-degree rape) or 14-27.5 (second-degree sex offense).

167. See note 166.

168. Effective for offenses committed on or after Jan. 1, 2003, G.S. 14-401.18 was broadened to cover packages of cigarettes in violation of any provision of federal law.

169. G.S. 14-401.20 applies to offenses committed on or after Dec. 1, 2002.

170. G.S. 14-401.21 applies to offenses committed on or after Dec. 1, 2003.

171. Although the title of Art. 52A states that it applies to certain counties, it appears to apply statewide. See *Administration of Justice Bulletin* No. 95/03, at p. 4 (Institute of Government, Sept. 1995) (in repealing Art. 53 of G.S. Ch. 14, which authorized clerks of court to issue weapon permits in certain counties, General Assembly gave sheriffs sole responsibility for issuing permits under Art. 52A); but see N.C.G.S. Annotated 14-402 commentary (LexisNexis, 2003) (stating that Art. 52A does not apply to Warren or Watauga counties).

172. For offenses committed on or after Dec. 1, 2003, G.S. 14-415 provides that a pyrotechnics violation involving an indoor exhibition is a Class 1 misdemeanor.

173. Effective for offenses committed on or after Dec. 1, 2004, a person who has been convicted of a felony may not possess a firearm of any kind in any location. A convicted felon would appear to have a defense, however, if he or she briefly possesses a firearm while defending himself or herself or acting out of some other necessity. See, e.g., *State v. Boston*, ___ N.C. App. ___, 598 S.E.2d 163 (2004); *United States v. Newcomb*, 6 F.3d 1129 (6th Cir. 1993).

Statute	Description of Offense	Punishment
Article 54B: Concealed Handgun Permit		
14-415.21, -3.1	Carrying concealed handgun after having been issued valid permit and failing to carry permit or failing to make required disclosures to law-enforcement officer:	
	First offense	Infraction ¹⁷⁴
	Subsequent offense	Class 2 misdemeanor
Article 59: Public Intoxication		
14-444	Intoxicated and disruptive in public	Class 3 misdemeanor ¹⁷⁵
Article 60: Computer-Related Crime		
14-454(a)	Accessing of computer to defraud or obtain property by false pretenses:	
	when loss or damage exceeds \$1,000	Class G felony
	when loss or damage is \$1,000 or less	Class 1 misdemeanor
14-454(b)	Unauthorized accessing of computer for purpose other than in 14-454(a)	Class 1 misdemeanor
14-454.1(a)	Accessing of government computer to defraud or obtain property by false pretenses	Class F felony ¹⁷⁶
14-454.1(b)	Accessing of government computer for purpose other than in 14-454.1(a)	Class H felony ¹⁷⁷
14-454.1(c)	Accessing of educational testing materials or scores in government computer	Class 1 misdemeanor ¹⁷⁸
14-455(a)	Damaging computer:	
	when damage exceeds \$1,000	Class G felony
	when damage is \$1,000 or less	Class 1 misdemeanor
14-455(a1)	Damaging government computer	Class F felony ¹⁷⁹
14-456	Denying computer services to authorized user	Class 1 misdemeanor
14-456.1	Denying government computer services to authorized user	Class H felony ¹⁸⁰
14-457	Threatening to damage computer or computer program with intent to extort	Class H felony
14-458	Computer trespass: ¹⁸¹	
	resulting in property damage of \$2,500 or more	Class I felony
	resulting in property damage of less than \$2,500	Class 1 misdemeanor
	resulting in no property damage	Class 3 misdemeanor
Article 61: Trains and Railroads		
14-460	Riding on train unlawfully	Class 3 misdemeanor
14-461	Unauthorized manufacture or sale of switch-lock keys	Class 1 misdemeanor

174. In lieu of paying a fine for a first offense, the person may surrender the handgun permit.

175. G.S. 14-444(b) provides that a magistrate may not accept a guilty plea and enter judgment for this offense, despite the provisions of G.S. 7A-273(1).

176. G.S. 14-454.1(a) applies to offenses committed on or after Dec. 1, 2002.

177. G.S. 14-454.1(b) applies to offenses committed on or after Dec. 1, 2002.

178. G.S. 14-454.1(c) applies to offenses committed on or after Dec. 1, 2002.

179. G.S. 14-455(a1) applies to offenses committed on or after Dec. 1, 2002.

180. G.S. 14-456.1 applies to offenses committed on or after Dec. 1, 2002.

181. A person injured by a violation may sue for damages under G.S. 1-539.2A.

Statute	Description of Offense	Punishment
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Chapter 15A: Criminal Procedure Act

Article 16: Electronic Surveillance¹⁸²

15A-287(a)(1)	Unauthorized interception of communication	Class H felony
15A-287(a)(2)	Unauthorized use of device to intercept oral communication	Class H felony
15A-287(a)(3)	Disclosure of unlawfully intercepted communication	Class H felony
15A-287(a)(4)	Use of unlawfully intercepted communication	Class H felony

Article 26: Bail

15A-543(b)(1)	Failing to appear after release in connection with felony	Class I felony
15A-543(b)(2)	Failing to appear after release following conviction in superior court	Class I felony
15A-543(c)	Failing to appear after release in connection with misdemeanor	Class 2 misdemeanor

Chapter 15C: Address Confidentiality Program

15C-9(f)	Disclosing information in violation of Ch. 15C	Class 1 misdemeanor ¹⁸³
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Chapter 18B: Regulation of Alcoholic Beverages¹⁸⁴

18B-102	Manufacture, sale, transport, import, export, delivery, furnishing, purchase, consumption, or possession of alcoholic beverages except as authorized by Ch. 18B	Class 1 misdemeanor
18B-111, -102(b)	Possession, transportation, or sale of non-taxpaid alcoholic beverage	Class 1 misdemeanor
18B-300(b), -102(b)	Consumption of wine or beer on premises having only off-premises permit	Class 1 misdemeanor
18B-301(f)(1), -102(b)	Consumption of fortified wine, spirituous liquor, or mixed beverage on ABC store premises, local board property, or public road or sidewalk	Class 1 misdemeanor
18B-301(f)(2), -102(b)	Displaying fortified wine, spirituous liquor, or mixed beverage at athletic contest	Class 1 misdemeanor
18B-301(f)(4), -102(b)	Possession or consumption of fortified wine, spirituous liquor, or mixed beverage on unauthorized premises	Class 1 misdemeanor
18B-301(f)(7), -102(b)	Possession or consumption of beer or wine on school property of local board of education	Class 1 misdemeanor
18B-302(a), -302.1(a)	Sale of alcoholic beverage to person under 21	Class 1 misdemeanor ¹⁸⁵

182. G.S. 15A-287(g) provides that a public officer who violates G.S. 15A-287(a) shall be removed from and shall be ineligible to hold any public office, elective or appointed.

183. G.S. 15C-9(f) applies to offenses committed on or after Jan. 1, 2003. A person convicted of this offense may be assessed a fine up to \$2,500.

184. G.S. 18B-101(4) defines an “alcoholic beverage” as a beverage containing at least 0.5 percent alcohol by volume, including malt beverages, unfortified wine, spirituous liquor, and mixed beverages. G.S. 18B-102(b) provides that a violation of G.S. Ch. 18B is a Class 1 misdemeanor “[u]nless a different punishment is otherwise expressly stated.” In addition to any fine and sentence of imprisonment, G.S. 18B-102(b) provides that the court may impose the provisions of G.S. 18B-202 (removal from office or discharge from employment of any commission or local board member or employee or ALE agent convicted of violation of Chapter 18B), 18B-503 (sale or destruction of seized beverages), 18B-504 (forfeiture of property connected to offense), and 18B-505 (restitution to law enforcement agency for expenses incurred in purchasing beverages as part of investigation). G.S. 18B-104 authorizes certain administrative penalties for violation of the alcoholic beverage control (ABC) laws by a permittee.

185. If the court does not impose an active punishment, it must impose at least a \$250 fine and 25 hours of community service for a first violation and at least a \$500 fine and 150 hours of community service for a subsequent violation within four years of a previous conviction.

Statute	Description of Offense	Punishment
18B-302(b)(1), -302(i), -102(b)	Purchase, attempted purchase, or possession of beer or unfortified wine: ¹⁸⁶ by person 19 or 20 years old by person under 19	Class 3 misdemeanor Class 1 misdemeanor
18B-302(b)(2), -102(b)	Purchase, attempted purchase, or possession of fortified wine, spirituous liquor, or mixed beverage by person under 21	Class 1 misdemeanor ¹⁸⁷
18B-302(c)(1)	Aiding violation of 18B-302(a) or (b) if aider is under 21	Class 2 misdemeanor ¹⁸⁸
18B-302(c)(2), -302.1(b)	Aiding violation of 18B-302(a) or (b) if aider is 21 or older	Class 1 misdemeanor ¹⁸⁹
18B-302(e), -102(b)	Fraudulent use of identification: ¹⁹⁰ to enter or attempt to enter place where alcoholic beverages are sold or consumed to obtain or attempt to obtain alcoholic beverage to obtain or attempt to obtain permission to purchase alcoholic beverages	Class 1 misdemeanor Class 1 misdemeanor Class 1 misdemeanor
18B-302(f), -102(b)	Allowing use of identification by person who violates or attempts to violate 18B-302(b)	Class 1 misdemeanor ¹⁹¹
18B-303, -102(b)	Purchase or sale of alcoholic beverage in amount greater than authorized by statute	Class 1 misdemeanor
18B-304, -102(b)	Sale of alcoholic beverage without permit	Class 1 misdemeanor
18B-305(a), -102(b)	Selling or giving alcoholic beverage to intoxicated person by permittee or ABC store employee	Class 1 misdemeanor
18B-307, -102(b)	Manufacture of alcoholic beverage without permit: First offense Subsequent offense	Class 1 misdemeanor Class I felony
18B-401(a)	Transportation of alcoholic beverage: Transportation of open bottle of fortified wine or spirituous liquor in passenger area Consumption of beer or wine by driver of motor vehicle	Class 3 misdemeanor Class 3 misdemeanor
18B-406, -102(b)	Transportation of unauthorized amount of alcoholic beverage	Class 1 misdemeanor
18B-702(f)	Embezzlement by employee of local ABC Board	Class H felony
18B-1004, -102(b)	Selling or consuming alcoholic beverage after hours on licensed premises	Class 1 misdemeanor
18B-1005, -102(b)	Allowing violation of G.S. Ch. 18B, fighting, disorderly conduct, controlled substances violation, gambling, prostitution, or other unlawful act on licensed premises	Class 1 misdemeanor
18B-1005.1, -102(b)	Allowing sexually explicit conduct on licensed premises	Class 1 misdemeanor ¹⁹²

186. Conviction of this offense, if it involves purchase or attempted purchase, results in a one-year revocation of the person's driver's license under G.S. 18B-302(g) and 20-17.3. If the offense involves possession, G.S. 15A-145 allows expungement of the conviction in certain circumstances.

187. Conviction of this offense, if it involves purchase or attempted purchase, results in a one-year revocation of the person's driver's license under G.S. 18B-302(g) and 20-17.3.

188. See note 187.

189. If the court does not impose an active punishment, it must impose at least a \$500 fine and 25 hours of community service for a first violation and at least a \$1,000 fine and 150 hours of community service for a subsequent violation within four years of a previous conviction.

190. See note 187.

191. See note 187.

192. G.S. 18B-1005.1 applies to offenses committed on or after Aug. 1, 2003. Previously, a different definition of prohibited sexual conduct was set forth in G.S. 18B-1005.

Statute	Description of Offense	Punishment
Chapter 20: Motor Vehicles ¹⁹³		
20-106	Receiving, transferring, or possessing stolen vehicle	Class H felony ¹⁹⁴
20-141.4(a1), -141.4(b)	Felony death by vehicle	Class G felony
20-141.4(a2), -141.4(b)	Misdemeanor death by vehicle	Class 1 misdemeanor
20-174.1	Sitting, standing, or lying on highway or street	Class 2 misdemeanor
Chapter 44A: Statutory Liens and Charges		
44A-12.1(c)	Filing, or attempting to file, false claim of lien on real property	Class 1 misdemeanor
Chapter 49: Bastardy		
49-2, -8	Nonsupport of illegitimate child by parent	Class 2 misdemeanor ¹⁹⁵
Chapter 50B: Domestic Violence		
50B-3.1(i), -3.1(j)	While subject to protective order prohibiting possession or purchase of firearms: ¹⁹⁶ failing to surrender firearms, ammunition, permits to purchase firearms, or concealed firearm permits failing to disclose information pertaining to firearms, ammunition, permits to purchase firearms, or concealed firearm permits providing false information to court regarding firearms, ammunition, permits to purchase firearms, or concealed firearm permits	Class H felony Class H felony Class H felony
50B-4.1(a)	Knowingly violating valid protective order	Class A1 misdemeanor
50B-4.1(d)	Committing felony knowing that valid domestic violence protective order prohibits behavior	Felony one class higher than felony committed ¹⁹⁷
50B-4.1(f)	Knowingly violating valid domestic violence protective order after conviction of three offenses under Ch. 50B	Class H felony
50B-4.2	Knowingly making false statement that domestic violence protective order remains in effect	Class 2 misdemeanor
Chapter 53: Banks		
53-129	Embezzlement by bank officer or employee: of less than \$100,000 of \$100,000 or more	Class H felony Class C felony
53-276, -287	Engaging in check-cashing business without license	Class I felony ¹⁹⁸

193. A more complete listing of motor vehicle offenses is contained in the "Punishment Chart for North Carolina Motor Vehicle Offenses," which appears in Part 2 of this book.

194. Conveyances used to conceal, convey, or transport property in violation of G.S. 20-106 are subject to forfeiture as provided in G.S. 14-86.1.

195. G.S. 49-8 also authorizes the following dispositions: (1) suspension of sentence and continuance; (2) probation, conditioned on payment of support; (3) order to pay mother's medical expenses; and (4) order to sign recognizance for compliance with court order.

196. G.S. 50B-3.1(i) and (j) apply to offenses committed on or after Dec. 1, 2003.

197. G.S. 50-4.1(d) does not apply to Class A or B1 felonies or to Class H felonies under G.S. 50B-4.1(f).

198. G.S. 53-287 states that each transaction involving the unlawful cashing of a check, draft, or money order constitutes a separate offense.

Statute	Description of Offense	Punishment
Chapter 58: Insurance		
58-2-161	False statement in support of or in opposition to claim for insurance benefits	Class H felony ¹⁹⁹
58-2-162	Embezzlement by insurance agent: of things valued less than \$100,000 of things valued \$100,000 or more	Class H felony Class C felony
58-71-95(5)	Failure by bail bondsman to return collateral security of more than \$1,500	Class I felony
Chapter 62: Public Utilities		
62-150	Entering conveyance by intoxicated person after being forbidden by driver	Class 1 misdemeanor
62-319	Riding on train unlawfully	Class 3 misdemeanor
62-322	Unauthorized manufacture or sale of switch-lock keys	Class 1 misdemeanor
62-328	Use of CB radio not authorized by Federal Communications Commission	Class 3 misdemeanor ²⁰⁰
Chapter 62A: Public Safety Telephone Service and Wireless Telephone Service		
62A-12	Misusing 911 system	Class 1 misdemeanor
Chapter 63: Aeronautics		
63-26.1	Trespassing on airport property	Class 2 misdemeanor
63-37.1	Obstructing takeoff or landing of aircraft at airport	Class 1 misdemeanor
Chapter 67: Dogs		
67-4.2(a)(1), -4.2(c)	Leaving dangerous dog unrestrained on owner's property	Class 3 misdemeanor
67-4.2(a)(2), -4.2(c)	Permitting dangerous dog to go unrestrained beyond owner's property	Class 3 misdemeanor
67-4.3	Owning dangerous dog that attacks person and causes physical injury requiring medical treatment in excess of \$100	Class 1 misdemeanor
67-12	Permitting dog to run at large at night	Class 3 misdemeanor ²⁰¹

199. G.S. 58-2-161(b) provides that conspiracy or solicitation to present a fraudulent statement is a Class H felony. The court may order as a condition of probation that the defendant pay restitution; and, in determining the amount of restitution, the reasonable costs and attorneys' fees incurred by the victim in investigating the claim may be considered part of the damage arising out of the offense.

200. G.S. 62-328 applies to offenses committed on or after Dec. 1, 2004.

201. G.S. 67-12 provides that a person who violates this section shall be liable in damages to any person injured or suffering loss to property or chattels.

Statute	Description of Offense	Punishment
Chapter 90: Medicine and Allied Occupations		
Article 5:	North Carolina Controlled Substances Act²⁰²	
90-95(a)(1), -95(b)(1)	Schedule I or II controlled substance: Sale Manufacture, delivery, or possession with intent to manufacture, sell, or deliver, except manufacture of methamphetamine	Class G felony ²⁰³ Class H felony
90-95(a)(1), -95(b)(1a)	Manufacture of methamphetamine	Class C felony ²⁰⁴
90-95(a)(1), -95(b)(2)	Schedule III–VI controlled substance: Sale Manufacture, delivery, or possession with intent to manufacture, sell, or deliver	Class H felony ²⁰⁵ Class I felony ²⁰⁶
90-95(a)(2), -95(c)	Counterfeit controlled substance: creation, sale, delivery, or possession with intent to sell or deliver	Class I felony
90-95(a)(3), -95(d)(1)	Possession of Schedule I controlled substance	Class I felony
90-95(a)(3), -95(d)(2)	Possession of Schedule II–IV controlled substance: 100 dosage units or less, except certain controlled substances Any quantity of cocaine, amphetamine, methamphetamine, or PCP, more than 4 dosage units of hydromorphone, or more than 100 dosage units of other substances	Class 1 misdemeanor Class I felony ²⁰⁷

202. G.S. 90-96(a) contains special provisions for sentencing first-time offenders found guilty of misdemeanor possession of a Schedule II through VI controlled substance and first-time offenders found guilty of possessing less than 1 gram of cocaine. G.S. 90-96(a1) contains special provisions for sentencing first-time offenders convicted of any offense included in G.S. 90-95(a)(3).

Several other statutory provisions apply to any violation of the Controlled Substances Act.

a. G.S. 90-95(e) provides for increased punishment for certain violations of the Act. If the offense is a Class 1 misdemeanor and the defendant has previously been convicted under state or federal law of an offense punishable under the Act, the defendant shall be punished as a Class I felon. *But see* State v. Stevens, 151 N.C. App. 561, 566 S.E.2d 149 (2002) (possession of drug paraphernalia in violation of drug paraphernalia statutes, codified in Art. 5B of G.S. Ch. 90, does not constitute violation of Controlled Substances Act, codified in Art. 5 of G.S. Ch. 90; drug paraphernalia offense, a Class 1 misdemeanor, therefore may not be punished as Class I felony under G.S. 90-95(e)(3)). If the offense is a Class 2 misdemeanor and the defendant has a prior conviction as set out above, the defendant is guilty of a Class 1 misdemeanor. A prior conviction used to raise an offense to a higher class may not be used to calculate prior record or conviction level. If the offense requires a suspended sentence and the defendant has a prior conviction as set out above, he or she is guilty of a Class 2 misdemeanor.

b. G.S. 90-95(f) provides that a person convicted of an offense under the Act who is sentenced to an active term of imprisonment less than the maximum term that could have been imposed may also be sentenced to post-prison probation to follow the active sentence for a period up to 5 years. Upon revocation of this probation, the original term of imprisonment may be increased by no more than the difference between the active term of imprisonment served and the maximum active term that could have been imposed.

c. G.S. 90-95.3(a) authorizes the court to order a person convicted of a violation of the Act to make restitution to any law-enforcement agency for reasonable expenditures made in buying controlled substances from the defendant. For court costs assessed on or after Oct. 1, 2002, G.S. 7A-304(a)(7) requires the court to order a convicted defendant to pay \$300 as a cost in cases in which, as part of the investigation leading to the defendant's conviction, the State Bureau of Investigation laboratories performed analysis of any controlled substance possessed by the defendant or the defendant's agent; the court may waive or reduce this payment for just cause. This provision takes the place of repealed G.S. 90-95.3(b), which authorized the court to order a person convicted of a violation of the Act to make restitution in the amount of \$100 for the expense of analyzing any controlled substance when such expenses were incurred as part of an investigation leading to the defendant's conviction.

d. Property used in connection with a violation of the Act is subject to forfeiture as provided in G.S. 90-112 and -112.1.

203. Sale and delivery of the same controlled substance is one offense, subject to one punishment. *See* State v. Moore, 327 N.C. 378, 395 S.E.2d 124 (1990).

204. Effective for offenses committed on or after Dec. 1, 2004, G.S. 90-95(b)(1a) was added to make this offense a Class C, not a Class H, felony; however, packaging, repackaging, labeling, or relabeling methamphetamine remain Class H felonies even though those actions might be considered forms of manufacturing.

205. *See* note 203.

206. G.S. 90-95(b)(2) provides that the transfer of less than 5 grams of marijuana for no remuneration does not constitute a delivery in violation of G.S. 90-95(a)(1).

207. In *State v. Jones*, 358 N.C. 473, 598 S.E.2d 125 (2004), *rev'g* 161 N.C. App. 60, 588 S.E.2d 5 (2003), the North Carolina Supreme Court held that possession of cocaine in violation of G.S. 90-95(a)(3) is a felony and therefore a conviction of that offense may serve as an underlying felony in a habitual felon prosecution.

Statute	Description of Offense	Punishment
90-95(a)(3), -95(d)(3)	Possession of Schedule V controlled substance	Class 2 misdemeanor
90-95(a)(3), -95(d)(4)	Possession of Schedule VI controlled substance: up to 1/2 oz. marijuana or 1/20 oz. hashish more than 1/2 oz. marijuana or 1/20 oz. hashish more than 1 and 1/2 oz. marijuana or 3/20 oz. hashish or other specified synthetic substance	Class 3 misdemeanor ²⁰⁸ Class 1 misdemeanor Class I felony
90-95(d1)(1)	Possession of precursor chemical with intent to manufacture controlled substance	Class H felony
90-95(d1)(2)	Possession or distribution of precursor chemical with knowledge that it will be used to manufacture controlled substance	Class H felony
90-95(d1a)(1)	Possession of precursor chemical with intent to manufacture methamphetamine	Class F felony ²⁰⁹
90-95(d1a)(2)	Possession or distribution of precursor chemical with knowledge that it will be used to manufacture methamphetamine	Class F felony ²¹⁰
90-95(e)(5), -95(a)(1)	Sale or delivery of controlled substance in violation of 90-95(a)(1): ²¹¹ by person 18 or older to person under 16 but over 13 or to pregnant female by person 18 or older to person 13 or younger	Class D felony Class C felony
90-95(e)(8), -95(a)(1)	Violation of 90-95(a)(1) by person 21 or older within 300 feet of elementary or secondary school or licensed child care center	Class E felony ²¹²
90-95(e)(9), -95(a)(3)	Possession of controlled substance in prison or jail	Class H felony
90-95(e)(10)	Violation of 90-95(a)(1) by person 21 or older on or within 300 feet of playground in public park	Class E felony ²¹³

208. Any sentence of imprisonment must be suspended, and at the time of sentencing the judge may not impose a period of imprisonment as a special condition of probation. *See* G.S. 90-95(d)(4).

209. G.S. 90-95(d1a) applies to offenses committed on or after Dec. 1, 2004.

210. *See* note 209.

211. G.S. 90-95(e)(5) does not specifically address the consequences of transferring less than 5 grams of marijuana for no remuneration. *Compare* G.S. 90-95(e)(8) (stating that such a transfer does not constitute a delivery in violation of G.S. 90-95(a)(1)). Because a sale or delivery in violation of G.S. 90-95(a)(1) is a required element of this offense, however, such a transfer may not constitute a violation of G.S. 90-95(e)(5). *See* G.S. 90-95(b)(2) (stating that such a transfer does not constitute a delivery in violation of G.S. 90-95(a)(1)).

212. G.S. 90-95(e)(8) provides that the transfer of less than 5 grams of marijuana for no remuneration does not constitute a delivery in violation of G.S. 90-95(a)(1).

213. G.S. 90-95(e)(10) provides that the transfer of less than 5 grams of marijuana for no remuneration does not constitute a delivery in violation of G.S. 90-95(a)(1).

214. Individuals convicted of drug trafficking are not sentenced according to the usual structured sentencing rules. A person convicted of drug trafficking must receive the fine set forth in the text and the following minimum and maximum sentence regardless of the person's prior record level:

Class C drug-trafficking felony: Minimum 225 months; maximum 279 months.

Class D drug-trafficking felony: Minimum 175 months; maximum 219 months.

Class E drug-trafficking felony: Minimum 90 months; maximum 117 months.

Class F drug-trafficking felony: Minimum 70 months; maximum 84 months.

Class G drug-trafficking felony: Minimum 35 months; maximum 42 months.

Class H drug-trafficking felony: Minimum 25 months; maximum 30 months.

G.S. 90-95(h)(5) provides that the court may reduce the fine, impose a prison term less than the applicable minimum, or suspend the prison term and place the person on probation upon a finding that the person provided "substantial assistance" in the prosecution of others involved. *See also* State v. Saunders, 131 N.C. 551, 507 S.E.2d 911 (1998) (in imposing sentence after finding substantial assistance, court is not required to impose minimum sentence prescribed under structured sentencing). G.S. 90-95(h)(6) provides that sentences imposed under G.S. 90-95(h) must run consecutively with, and begin at the expiration of, any other sentences being served by the defendant. When two or more offenses are being disposed of in the same proceeding, however, the court apparently is not required to impose consecutive sentences. *See* State v. Thomas, 85 N.C. App. 319, 354 S.E.2d 891 (1987) (construing similar consecutive sentencing provisions); State v. Crain, 73 N.C. App. 269, 326 S.E.2d 120 (1985) (to same effect).

Statute	Description of Offense	Punishment
90-95(h)(1)	Trafficking in marijuana: ²¹⁴ more than 10 and less than 50 pounds	Class H drug-trafficking felony; fine of not less than \$5,000
	50–1,999 pounds	Class G drug-trafficking felony; fine of not less than \$25,000
	2,000–9,999 pounds	Class F drug-trafficking felony; fine of not less than \$50,000
	10,000 pounds or more	Class D drug-trafficking felony; fine of not less than \$200,000
90-95(h)(2)	Trafficking in methaqualone: ²¹⁵ 1,000–4,999 dosage units	Class G drug-trafficking felony; fine of not less than \$25,000
	5,000–9,999 dosage units	Class F drug-trafficking felony; fine of not less than \$50,000
	10,000 dosage units or more	Class D drug-trafficking felony; fine of not less than \$200,000
90-95(h)(3)	Trafficking in cocaine: ²¹⁶ 28–199 grams	Class G drug-trafficking felony; fine of not less than \$50,000
	200–399 grams	Class F drug-trafficking felony; fine of not less than \$100,000
	400 grams or more	Class D drug-trafficking felony; fine of not less than \$250,000
90-95(h)(3b)	Trafficking in amphetamine or methamphetamine: ²¹⁷ 28–199 grams	Class F drug-trafficking felony; fine of not less than \$50,000
	200–399 grams	Class E drug-trafficking felony; fine of not less than \$100,000
	400 grams or more	Class C drug-trafficking felony; fine of not less than \$250,000
90-95(h)(4)	Trafficking in opium or heroin: ²¹⁸ 4–13 grams	Class F drug-trafficking felony; fine of not less than \$50,000
	14–27 grams	Class E drug-trafficking felony; fine of not less than \$100,000
	28 grams or more	Class C drug-trafficking felony; fine of not less than \$500,000
90-95(h)(4a)	Trafficking in LSD: ²¹⁹ 100–499 dosage units	Class G drug-trafficking felony; fine of not less than \$25,000
	500–999 dosage units	Class F drug-trafficking felony; fine of not less than \$50,000
	1,000 dosage units or more	Class D drug-trafficking felony; fine of not less than \$200,000
90-95(h)(4b)	Trafficking in MDA/MDMA: ²²⁰ 100–499 dosage units or 28–199 grams	Class G drug-trafficking felony; fine of not less than \$25,000
	500–999 dosage units or 200–399 grams	Class F drug-trafficking felony; fine of not less than \$50,000
	1,000 dosage units, or 400 grams, or more	Class D drug-trafficking felony; fine of not less than \$250,000

215. See note 214.

216. See note 214.

217. See note 214.

218. See note 214.

219. See note 214.

220. See note 214.

Statute	Description of Offense	Punishment
90-95(i)	Conspiracy to commit drug-trafficking offense	Punishable by same penalties as for drug-trafficking felony defendant conspired to commit ²²¹
90-95.1	Continuing criminal enterprise	Class C felony; forfeiture of enterprise profits and other property set out in statute
90-95.4(a), -95(a)(1)	Hiring or intentionally using minor to violate 90-95(a)(1): when defendant is at least 18 but less than 21 and minor is more than 13 when defendant is at least 18 but less than 21 and minor is 13 or younger	Felony one class greater than violation for which minor was hired Felony two classes greater than violation for which minor was hired
90-95.4(b), -95(a)(1)	Hiring or intentionally using minor to violate 90-95(a)(1): ²²² when defendant is 21 or older and minor is more than 13 when defendant is 21 or older and minor is 13 or younger	Felony three classes greater than violation for which minor was hired Felony four classes greater than violation for which minor was hired
90-95.6, -95(a)(1)	Promotion by person 21 or older of violation of 90-95(a)(1) by minor	Class D felony
90-95.7, -95(a)(1)	Purchasing or receiving controlled substance by person 21 or older from minor 13 or younger who violates 90-95(a)(1)	Class G felony
90-98	Controlled Substances Act: Conspiracy to violate Attempt to violate	Same class as offense for which conspiracy created Same class as offense attempted ²²³
90-108(a)(1)	Impersonating a licensed practitioner	Class 1 misdemeanor ²²⁴
90-108(a)(2)	Unlawful distribution by registrant or practitioner	Class 1 misdemeanor ²²⁵
90-108(a)(3), -108(a)(8),-108(a)(9)	Violating registration provisions relating to authorized manufacture or distribution	Class 1 misdemeanor ²²⁶
90-108(a)(5)	Failing to keep or furnish records required by Act	Class 1 misdemeanor ²²⁷

221. Under G.S. 90-95(i), a drug-trafficking conspiracy is the same class of offense as a completed drug-trafficking offense and is subject to the same mandatory minimum penalties and exceptions. *See* note 214. But a drug-trafficking conspiracy is subject to a limitation not applicable to a completed trafficking offense. In *State v. Worthington*, 84 N.C. App. 150, 352 S.E.2d 695 (1987), the court held that a defendant may not be convicted of both a trafficking conspiracy to possess a controlled substance and a trafficking conspiracy to sell a controlled substance when the evidence shows only one agreement, even though the agreement involves more than one substantive offense. *Compare* *State v. Perry*, 316 N.C. 87, 340 S.E.2d 450 (1986) (approving separate charges and convictions for trafficking by possession, trafficking by manufacturing, and trafficking by transporting, even when the same contraband material is used in each offense).

222. A person 21 or older who hires, employs, or intentionally uses a person under 18 to commit a violation of G.S. 90-95 is liable in a civil action for drug addiction proximately caused by the violation. *See* G.S. 90-95.5.

223. Under G.S. 90-98 an attempt to commit a drug-trafficking offense is the same class of offense as the completed offense, but it is subject to the regular structured-sentencing punishments; the mandatory minimum penalties for a completed drug-trafficking offense are not applicable to an attempt. *See* *State v. Clark*, 137 N.C. App. 90, 527 S.E.2d 319 (2000).

224. G.S. 90-108(b) provides that “if the criminal pleading alleges that the violation was committed intentionally, and upon trial it is specifically found that the violation was committed intentionally, such violations shall be a Class I felony.”

225. *See* note 224.

226. *See* note 224.

227. *See* note 224.

Statute	Description of Offense	Punishment
90-108(a)(7)	Maintaining building or vehicle for use by persons violating Act, or for keeping or selling controlled substance	Class 1 misdemeanor ²²⁸
90-108(a)(7), -108(b)	Violating 90-108(a)(7) while fortifying structure with intent to impede law enforcement entry	Class I felony
90-108(a)(10)	Obtaining controlled substance by fraud or deception	Class I felony ²²⁹
90-108(a)(13)	Obtaining controlled substance by use of legal prescription obtained by misrepresentation	Class 1 misdemeanor ²³⁰
90-108(a)(14)	Embezzlement of controlled substance by employee of registrant or practitioner	Class 1 misdemeanor ²³¹
Article 5A: North Carolina Toxic Vapors Act ²³²		
90-113.10, -113.13	Inhaling fumes for purpose of intoxication	Class 1 misdemeanor
90-113.11, -113.13	Possession of substance for purpose of inhaling for intoxication	Class 1 misdemeanor
90-113.12, -113.13	Sale, delivery, or possession with intent to sell or deliver, with knowledge of intended illegal use	Class 1 misdemeanor
Article 5B: Drug Paraphernalia ²³³		
90-113.22	Possession of paraphernalia	Class 1 misdemeanor
90-113.23	Delivery, possession with intent to deliver, or manufacture with intent to deliver	Class 1 misdemeanor
90-113.23(c)	Delivery by person over 18 to minor at least 3 years younger	Class I felony
90-113.24	Advertisement of paraphernalia	Class 2 misdemeanor
Chapter 95: Department of Labor and Labor Regulations		
95-111.11(b), -111.13(i)	Operating amusement device, or knowingly permitting operator to operate device, while impaired: ²³⁴ First offense resulting in death Second offense resulting in death	Class 2 misdemeanor; fine up to \$10,000 Class 1 misdemeanor; fine up to \$20,000
Chapter 96: Employment Security		
96-18(a)	False statement to obtain benefit	Class 1 misdemeanor
96-18(b)	Violations by employer: False statement to avoid or reduce benefit or contribution Failing to produce required records	Class 1 misdemeanor Class 1 misdemeanor
96-18(c)	Other violations of employment security laws	Class 1 misdemeanor

228. In *State v. Bright*, 78 N.C. App. 239, 337 S.E.2d 87 (1985), the court considered the applicability of G.S. 90-108(b) to this offense. See note 224. The court held that maintaining a vehicle with knowledge that it is used in connection with controlled substances is a misdemeanor, while maintaining a vehicle with intent that it be so used is a Class I felony.

229. The court of appeals has held that, because any commission of this offense is by definition intentional and because G.S. 90-108(b) provides that an intentional violation of G.S. 90-108 is a Class I felony, a misdemeanor offense under G.S. 90-108(a)(10) does not exist. See *State v. Church*, 73 N.C. App. 645, 327 S.E.2d 33 (1985).

230. See note 224.

231. See note 224.

232. G.S. 90-113.14(a) and (a1) contain special provisions for sentencing first-time offenders who violate G.S. 90-113.10 or -113.11.

233. G.S. 90-96(a) and (a1) contain special provisions for sentencing first-time offenders who violate Article 5B.

234. G.S. 95-111.11(b) and -111.13(i) apply to offenses committed on or after Dec. 1, 2003. They do not bar prosecution for any appropriate degree of homicide. See G.S. 95-111.13(i). A person who violates G.S. 95-111.11(b) is also subject to a civil penalty of up to \$1,000, imposed by the Commissioner of Labor. See G.S. 95-111.13(e).

Statute	Description of Offense	Punishment
Chapter 97: Workers' Compensation Act		
97-88.2(a)	False statement to obtain or deny benefit: if amount is less than \$1,000 if amount is \$1,000 or more	Class 1 misdemeanor Class H felony
97-88.2(c)	Threatening criminal prosecution to coerce employee to agree to or forego compensation	Class H felony
Chapter 105: Taxation		
105-236(7)	Attempting to evade or defeat tax	Class H felony
105-236(8)	Failing to collect, withhold, or pay over tax	Class 1 misdemeanor
105-236(9)	Failing to file return, supply information, or pay tax	Class 1 misdemeanor
105-236(9a)	Aiding presentation of false return: ²³⁵ by income tax return preparer if tax fraudulently evaded in 1 year is \$100,000 or more by income tax return preparer if tax fraudulently evaded in 1 year is less than \$100,000 by person who is not income tax return preparer	Class C felony Class F felony Class H felony
105-236(10b)	Receiving money from taxpayer and failing to remit to Secretary of Revenue	Class F felony ²³⁶
105-308	Property taxes: Failing to list property Attempting to evade tax on property	Class 2 misdemeanor Class 2 misdemeanor
Chapter 108A: Social Services		
108A-39(a)	Welfare fraud if value wrongfully received is \$400 or less	Class 1 misdemeanor
108A-39(b)	Welfare fraud if value wrongfully received exceeds \$400	Class I felony
108A-53(a)	Fraudulently obtaining or transferring food stamps: if value wrongfully received is \$400 or less if value wrongfully received exceeds \$400	Class 1 misdemeanor Class I felony
108A-53(b)	Presenting fraudulently obtained food stamps	Class 1 misdemeanor
108A-53(c)	Receiving fraudulently obtained food stamps	Class 1 misdemeanor
108A-53.1(a)	Unlawful purchase, sale, or distribution of food stamps, or possession with intent to sell or distribute	Class H felony
108A-53.1(b)	Unlawful use, transfer, acquisition, alteration, or possession of food stamps: if value is less than \$100 if value is \$100 to \$499 if value is \$500 to \$999 if value is \$1,000 or more	Class 1 misdemeanor Class A1 misdemeanor Class I felony Class H felony
108A-63	Medicaid fraud by provider	Class I felony
108A-64	Medicaid fraud by recipient: if value wrongfully received is \$400 or less if value wrongfully received exceeds \$400	Class 1 misdemeanor Class I felony

²³⁵ The punishments indicated for aiding presentation of a false return apply to offenses committed on or after Dec. 1, 2002. Before these revisions took effect, all violations of G.S. 105-236(9a) were Class H felonies.

²³⁶ G.S. 105-236(10b) applies to offenses committed on or after Dec. 1, 2002.

Statute	Description of Offense	Punishment
Chapter 110: Child Welfare		
110-107	Child care subsidy fraud: if amount is more than \$1,000 if amount is \$1,000 or less	Class I felony Class 1 misdemeanor
Chapter 113: Conservation and Development		
113-60.21 to -60.29	Violating open-burning laws	Class 3 misdemeanor
Chapter 115C: Elementary and Secondary Education		
115C-288(g)	Failure by principal to report certain offenses committed on school grounds	Class 3 misdemeanor
115C-332(h)	Willfully giving false information on public school employment application that is basis for criminal history check	Class A1 misdemeanor
115C-378, -380	Failing to require child to attend school	Class 3 misdemeanor
Chapter 122C: Mental Health, Developmental Disabilities, and Substance Abuse Act of 1985		
122C-66(a)	Abuse or exploitation of Ch. 122C patient	Class 1 misdemeanor
122C-66(b)	Reporting of violation of 122C-66(a); ²³⁷ Failure to report by employee Harassment of employee on account of report	Class 3 misdemeanor Class 3 misdemeanor
Chapter 130A: Public Health		
130A-25(a), 14-3(a)	Public health violation other than violation of health control measures	Class 1 misdemeanor ²³⁸
130A-185, -25(a), 14-3(a)	Failure by owner to have dog or cat vaccinated against rabies	Class 1 misdemeanor
Chapter 136: Roads and Highways		
136-18(5)	Violating Department of Transportation rules	Class 1 misdemeanor
136-26	Roads or highways closed for construction or maintenance: Driving into new construction work Removing or damaging barriers, notices, or warning lights	Class 1 misdemeanor Class 1 misdemeanor
136-90	Obstructing highway	Class 1 misdemeanor
136-91	Placing injurious object in road	Class 3 misdemeanor
136-197	Boarding train by intoxicated person after being forbidden by conductor	Class 1 misdemeanor

237. A violation of G.S. 122C-66(b) is punishable by a fine up to \$500 only.

238. Violations of health control measures (which are covered by G.S. 130A-25(b) and (c), not by G.S. 130A-25(a)) are not subject to structured sentencing. *See* G.S. 15A-1340.10 (exempting such violations from structured sentencing). Violating a health control measure is a misdemeanor, punishable by a term of imprisonment of no more than 2 years in McCain Hospital, the North Carolina Correctional Center for Women, or any other facility designated by the Secretary of Correction after consultation with the State Health Director. The person may not be released before completion of the prison term unless the court determines that release would not create a danger to the public health. *See* G.S. 130A-25(b), (c) (specifying punishment for violations of control measures and quarantines under G.S. 130A-144 and -145).

Statute	Description of Offense	Punishment
Chapter 148: State Prison System		
148-45(a)	Escape from state prison system by misdemeanor (first offense)	Class 1 misdemeanor ²³⁹
148-45(b)	Escape from state prison system: ²⁴⁰ by felon	Class H felony
	by any person previously convicted of escape or attempted escape from state prison system	Class H felony
148-45(d)	Aiding escape from state prison system	Class 1 misdemeanor
148-46.1	Self-injury by prisoner to avoid assigned work	Class H felony

239. G.S. 148-45(g)(1) provides that failure to return to the custody of the Department of Correction from work release or other temporary release is treated as escape, punishable under the applicable subsections of G.S. 148-45. *See State v. Washington*, 54 N.C. App. 683, 284 S.E.2d 330 (1981) (although failure to return from work release in violation of subsection (g) of G.S. 148-45 is punishable as escape under subsection (a) or (b), it is a separate offense and must be specifically charged). G.S. 148-45(g)(2) provides that if a person who would otherwise be guilty of a first violation of subsection (g)(1) (failure to return from temporary release) voluntarily returns within 24 hours, he or she shall not be charged with escape. If a person commits a subsequent violation of subsection (g)(1), however, failure to return is an escape even if the person returns within 24 hours.

240. *See* note 239.

Index to Punishment Chart for North Carolina Crimes

References in this index are to statute numbers, except that offenses without a specific statute number, such as common-law offenses, are listed by page number. Each statutory or page reference corresponds to a separate entry in Part 1, "Punishment Chart for North Carolina Crimes." For example, the statutory references for "assault on government official" are 14-33(c)(4) and 14-34.2; each statute number refers to a separate offense in the punishment chart. Some offenses in the punishment chart have multiple statutory references, but only the first statute number is listed in the index.

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 - of illegitimate child, 49-2
- Abduction. *See* Kidnapping and abduction
- Abortion and related offenses, 14-44, -45. *See also* Concealing birth of child
- Accessory to felony
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Part 2
Punishment Chart for North Carolina
Motor Vehicle Offenses

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Description of Punishment Chart for Motor Vehicle Offenses

This chart lists (in numerical order by section number) the more common and/or more important motor vehicle offenses. The first column gives the section number that creates the offense, and an asterisk (*) beside the section number indicates that the court must require the defendant (if convicted) to surrender his or her driver's license pursuant to Chapter 20, Section 24(a), of the North Carolina General Statutes [hereinafter G.S.]; the clerk of court must then give the defendant a dated receipt. The second column briefly describes the offense; but there is no attempt to cover all of the elements of a particular offense in this description. The third column gives the section number of the statute that contains the punishment, and the last column indicates whether the punishment is an infraction, misdemeanor, felony, etc.

Each year the chief district court judges adopt a "waiver list," designating those offenses that are waiverable and those in which a mandatory court appearance is required; those requiring a

mandatory court appearance are so indicated in the last column. All other offenses are waiverable—meaning that they can be paid off without going to court. (The 2004 waiver list is contained at Appendix A to this chart.)

Driver's license revocations and suspensions are indicated in the footnotes for many of the more serious offenses. The abbreviations DMV and CMV are used to refer to the Division of Motor Vehicles and the Commissioner of Motor Vehicles; DOT refers to the North Carolina Department of Transportation; app. stands for appearance. G.S. 20-16, "Authority of Division to suspend license," sets out the North Carolina driver's license point system. It can be found in its entirety in Appendix B. The 1999 General Assembly amended G.S. 20-16, and added a new 20-16.01, to provide for a higher schedule of points and an increased fine for a violation committed while operating a commercial vehicle. *See* Appendixes B and C.

Punishment Chart for North Carolina Motor Vehicle Offenses

Offense Statute	Description of Offense	Punishment Statute	Punishment
Driver's License Violations			
<i>Driving without License or Violating Restrictions</i>			
20-7(a)	Operating motor vehicle without N.C. license (see G.S. 20-8 for exceptions)	20-35	Class 2 misdemeanor
20-7(a)	Driving class of motor vehicle which driver's license does not entitle a person to drive	20-35	Class 2 misdemeanor
20-7(a)	Failure to carry license while operating vehicle [production of license valid at time of charge is a good defense, G.S. 20-35(c)]	20-35	Class 2 misdemeanor
20-7(al)	Operating motorcycle without having proper driver's license endorsement	20-35	Class 2 misdemeanor
20-7(e)	Operating vehicle in violation of restriction noted on license	20-35	Class 2 misdemeanor
20-7(l),(m)	Operating vehicle in violation of restriction noted on instruction or learner's permit	20-35	Class 2 misdemeanor
<i>Age Limits</i>			
20-10	Operating a public passenger vehicle if under age 18	20-35	Class 2 misdemeanor
20-10	Operating any road machine, tractor, etc., on state highway, age 14 or under	20-35	Class 2 misdemeanor
20-10.1	Unlawful for any person under age 16 to drive a moped on highway or public vehicular area	20-35	Class 2 misdemeanor

Offense Statute	Description of Offense	Punishment Statute	Punishment
<i>Learner's Permit</i>			
20-11(c), (e), (h)	Unlawful for any person to drive in violation of restriction of limited learner's permit, limited provisional license, or temporary permit.	20-11(l)	Class 2 misdemeanor or
	Violation of time or supervising driver restriction is driving without license (NOL).	20-35	
	Any other restriction violation is an infraction ¹	20-176	Infraction
<i>Impaired Driving Instructor</i>			
20-12.1	Unlawful to instruct while impaired ^{2, 3}	20-35	Class 2 misdemeanor (mandatory app.)
<i>Driving with Suspended or Revoked License</i>			
20-16.1(b)*	Violating limited driving privilege for excessive speeding ⁴	20-16.1(b)(4) 20-28(a)	Class 1 misdemeanor (mandatory app.)
20-28(a)*	Driving while license is suspended or revoked ⁵	20-28(a)	Class 1 misdemeanor (mandatory app.)
20-28(a)	Driving of vehicle by a restoree of a suspended or revoked license without the requisite financial responsibility	20-28(a) 20-7 20-35	Class 2 misdemeanor (mandatory app.)
20-28(al)	Driving without reclaiming license revoked pursuant to G.S. 20-16.5. (Immediate Civil Revocation) ⁶	20-28(a1) 20-35	Class 2 misdemeanor
20-28(d)*	Driving a vehicle while person is disqualified and revoked ⁷	20-28(d) 20-24(a)	Class 1 misdemeanor (mandatory app.)
20-28(d)*	Driving a commercial motor vehicle during disqualification ⁸	20-28(d) 20-24(a)	Class 1 misdemeanor (mandatory app.)

*Pursuant to G.S. 20-24(a), the court must require the driver convicted of this offense to surrender his or her driver's license to the court.

1. See G.S. 20-11(m) for insurance status of permittee.

2. G.S. 20-16(8a) authorizes DMV to suspend a license for "impaired instruction under 20-12.1," for a period of up to 1 year pursuant to G.S. 20-19(c).

3. This is an implied consent offense under G.S. 20-16.2.

4. Under G.S. 20-16.1(b)(4) the punishment is the same as for driving while license suspended in violation of G.S. 20-28.

5. For a first offense under this section, the license is revoked for an additional year; for a second offense, 2 additional years; a third or subsequent offense brings permanent revocation. The licensee is entitled to apply for restoration of the license early according to schedule set forth in G.S. 20-28(c).

6. A person convicted of driving while license revoked under these circumstances is treated as if convicted of driving without a license (NOL) for purposes of punishment and points (G.S. 20-28(a1)).

7. Driver is treated as if revoked under 20-28(a).

8. G.S. 20-28(d) provides additional disqualification periods for this offense. Class C regular license is not taken by court.

Offense Statute	Description of Offense	Punishment Statute	Punishment
<i>Illegal Activity Relating to License</i>			
20-29	Refusing to give uniformed officer information required by statute, such as name, address, or vehicle owner; or giving false information; or refusing to surrender or produce license upon demand of court or DMV	20-29	Class 2 misdemeanor
20-29	Driver of a car involved in an accident refusing to give information required by statute	20-29	Class 2 misdemeanor
20-29.1	Failure to observe restrictions imposed by DMV about the kinds of vehicles a licensee may operate	20-7 20-29.1 20-35	Class 2 misdemeanor
20-30(1)	Displaying or possessing any license or learner's permit known to be invalid ⁹	20-35 20-16(a)(6) 20-19(c)	Class 2 misdemeanor (mandatory app.)
20-30(2)	Counterfeiting, selling, lending, or knowingly permitting the use of any driver's license or learner's permit by one not entitled thereto ⁹	20-35 20-16(a)(6) 20-19(c)	Class 2 misdemeanor (mandatory app.)
20-30(3)	Displaying or representing as one's own a license not issued to the person displaying it ⁹	20-35 20-16(a)(6) 20-19(c)	Class 2 misdemeanor (mandatory app.)
20-30(4)	Refusing to surrender to DMV a driver's license that has been revoked or suspended	20-35	Class 2 misdemeanor (mandatory app.)
20-30(5)*	Using or allowing others to use false names and addresses in license applications or renewals ¹⁰	20-35 20-17(8) 20-19(f)	Class 1 misdemeanor (mandatory app.)
20-30(5)*	Making false statements, concealing material facts, or otherwise committing a fraud in applying for a license or permit ¹⁰	20-35 20-17(8) 20-19(f)	Class 1 misdemeanor (mandatory app.)
20-30(6)	Reproducing or possessing a reproduced copy of a license or permit	20-35	Class 2 misdemeanor (mandatory app.)
20-30(7)	Offering simulated license for sale	20-30(7)	Class I felony (mandatory app.)
20-30(8)	To possess more than one commercial license, or to possess a commercial license and a regular license	20-35	Class 2 misdemeanor (mandatory app.)
20-30(9)*	Use of false license or permit in commission of felony	20-30(9)	Class I felony (mandatory app.)
20-31*	Making a false affidavit or knowingly swearing or affirming falsely to any matter or thing required by the statutes to be sworn to ¹⁰	20-31 20-17(5)	Class I felony (mandatory app.)
20-32	Causing or permitting an unlicensed minor to drive on a highway	20-35	Class 2 misdemeanor

*Pursuant to G.S. 20-24(a), the court must require the driver convicted of this offense to surrender his or her driver's license to the court.

9. Under G.S. 20-16(a)(6) and -19(c), DMV may suspend a person's license for 1 year or less upon conviction of this offense.

10. Under G.S. 20-17(8) and -19(f), DMV must revoke a person's license for 1 year upon conviction of this offense.

Offense Statute	Description of Offense	Punishment Statute	Punishment
20-34	Allowing motor vehicle to be driven in violation of license law	20-35	Class 2 misdemeanor (mandatory app.)
<i>Parking Privileges for Handicapped Drivers</i>			
20-37.6(c3)	Selling of a handicapped license plate or windshield placard	20-37.6(c3) 20-176(c)	Class 2 misdemeanor (mandatory app.)
20-37.6(e)(1)	Parking in a handicapped space without displaying a handicapped license tag or windshield placard ¹¹	20-37.6(f)(1)	Infraction
20-37.6(e)(2)	Using or attempting to use handicapped license tag or windshield placard when not entitled to do so ¹¹	20-37.6(f)(1)	Infraction
20-37.6(e)(3)	Parking in front of a handicapped ramp or curb cut ¹¹	20-37.6(f)(1)	Infraction
20-37.6(e)(4)	Those responsible for designating parking spaces as handicapped using signs not conforming to G.S. 30-37.6(d) ¹¹	20-37.6(f)(2)	Infraction (mandatory app.)
<i>Special I.D. Card</i>			
20-37.7	Engaging in fraud or misrepresentation in applying for and using a special identification card	20-37.7(e)	Class 2 misdemeanor (mandatory app.)
Commercial Licenses			
20-37.12 (a)	Driving a commercial vehicle without a valid commercial driver's license with applicable endorsements ¹²	20-37.21 (a)	Class 3 misdemeanor (mandatory app.)
20-37.12(b)	Driving a commercial vehicle in violation of an out-of-service order ¹²	20-37.21 (a), 20-17.4	Class 3 misdemeanor (mandatory app.)
20-37.18(a)	Possessing a commercial driver's license and failing to notify DMV within 30 days of a traffic conviction ¹³	20-37.21(b)	Infraction (mandatory app.)
20-37.18(b)	Possessing a commercial driver's license and failing to notify the employer within 30 days of a traffic conviction ¹³	20-37.21(b)	Infraction (mandatory app.)
20-37.18(c)	Failing to notify the employer on the next business day that the commercial driver's license has been suspended, revoked, or canceled or that the privilege to drive a commercial vehicle has been lost ¹³	20-37.21(b)	Infraction (mandatory app.)
20-37.19(a)	Failure to require an employee to notify the employer that commercial driver's license has been suspended, revoked, or canceled or the privilege lost ¹⁴	20-37.21(c)	Infraction (mandatory app.)

11. Penalty of \$100 to \$250.

12. Fined no less than \$250 for first offense and no less than \$500 for second or subsequent offense. Driving commercial vehicle in violation of "out-of-service order" results in disqualification to drive commercial vehicle for 90 days to 3 years.

13. Penalty of no less than \$100 and no more than \$500.

14. Penalty of no less than \$500 and no more than \$1,000.

Offense Statute	Description of Offense	Punishment Statute	Punishment
20-37.19(b)(1)	Knowingly allowing, permitting, or authorizing a driver to drive a commercial vehicle while the commercial license has been suspended, revoked, or canceled, etc. ¹⁴	20-37.21(c)	Infraction (mandatory app.)
20-37.19(b)(2)	Knowingly allowing, permitting, or authorizing a driver to drive a commercial vehicle when the driver has more than one driver's license ¹⁴	20-37.21(c)	Infraction (mandatory app.)
Vehicle Registration			
20-50	Owning a vehicle which is not registered with DMV or which is not displaying current registration plates (unless vehicle is exempt from registration by statute)	20-176(a),(c)	Class 2 misdemeanor
20-57(c)	Failure to display registration card	20-176(a),(c)	Class 2 misdemeanor
20-63(a)	Willfully failing to surrender illegible registration plates upon request of DMV	20-63(a)	Class 2 misdemeanor
20-63(d)	Failing to place registration plate at proper place on vehicle	20-176(a),(c)	Class 2 misdemeanor
20-63(e)	Failing to clean registration plates after being requested to do so by an officer	20-63(e)	Class 3 misdemeanor
20-63(f)	Willfully operating vehicle with a registration plate which has been altered	20-63(f)	Class 2 misdemeanor (mandatory app.)
20-63(g)	Willfully altering, disguising, or concealing numbers on a registration plate	20-63(g)	Class 2 misdemeanor (mandatory app.)
20-71(a)	Altering certificate of title, registration card, or application for such with fraudulent intent	20-71(a) 20-177	Class I felony (mandatory app.)
20-71(a)	Forging or counterfeiting certificate of title or registration card	20-71 (a) 20-177	Class I felony (mandatory app.)
20-71(a)	Knowingly using an altered, forged, or falsified certificate of title or registration card	20-71(a) 20-177	Class I felony (mandatory app.)
20-71(b)	Possessing a blank N.C. certificate of title or facsimile with fraudulent intent	20-71(b)	Class I felony (mandatory app.)
Salvage Titles			
20-71.4(a)	Failing to disclose that a vehicle was flooded, reconstructed, or salvaged or that it was damaged when repair cost was over 25% of fair market value	20-71.4(a)	Class 2 misdemeanor (mandatory app.)
20-71.4(b)	Removing the title or supporting documents to any vehicle to conceal damage	20-71.4(b)	Class 2 misdemeanor (mandatory app.)
Transfer of Title or Interest			
20-72(b)	Delivering or accepting a certificate of title assigned in blank	20-72(b)	Class 2 misdemeanor (mandatory app.)
20-73(a)	Failing to apply for certificate of title within required time ¹⁵	20-73(c)	Class 2 misdemeanor (mandatory app.)

¹⁵. Subject to a civil penalty of \$10.

Offense Statute	Description of Offense	Punishment Statute	Punishment
20-74	Knowingly making a false statement about the date a vehicle was sold or acquired	20-74	Class 3 misdemeanor
Dealer Plates			
20-79(e)(1)	Driving a vehicle with dealer license plates in violation of restrictions ¹⁶	20-79(e)(1)	Infraction
Car Theft and Related Offenses			
20-102.1	Knowingly making false report of vehicle theft to DMV or officer	20-102.1	Class 2 misdemeanor
20-106	Receiving or transferring stolen vehicles	20-106	Class H felony (mandatory app.)
20-106.1	Failure to return a rented vehicle with intent to defraud	20-106.1	Class I felony (mandatory app.)
20-107(a)	Willfully tampering with or removing parts from a vehicle without owner's consent	20-107(a)	Class 2 misdemeanor (mandatory app.)
20-107(b)	Tampering with or attempting to steal vehicle	20-107(b)	Class 2 misdemeanor (mandatory app.)
20-108(a)	Knowingly possessing, selling, receiving, etc., a vehicle that has had any identification or serial number altered or removed	20-108(a)	Class 2 misdemeanor (mandatory app.)
20-109(a)	Knowingly altering or removing any serial or identification numbers on parts of a vehicle, or knowingly placing an unauthorized number on any vehicle or part or allowing such actions	20-109(a)	Class I felony (mandatory app.)
20-109(b)	Intentionally concealing or misrepresenting true identity of a vehicle by altering or defacing a serial number, or allowing such actions on one's vehicle, or using or selling parts of a vehicle containing serial numbers with intent to conceal the identity of the vehicle	20-109(b)	Class I felony (mandatory app.)
Violation of Registration Provisions			
20-111(1)	Operating a vehicle which is not registered with DMV or which is not displaying current registration plates	20-176(a),(c)	Class 2 misdemeanor
20-111(2)	Knowingly displaying or possessing an altered, expired, or revoked registration card or plate	20-176(a),(c)	Class 2 misdemeanor (mandatory app.)
20-111(3)	Giving, lending, or borrowing a registration plate for use on another vehicle	20-111(3)	Class 3 misdemeanor
20-111(4)	Failing to surrender to DMV, upon demand, any title certificate, registration card, or plate which has been suspended or canceled	20-176(a),(c)	Class 2 misdemeanor
20-111(5)	Using false names or addresses or concealing or misrepresenting material facts in registration applications	20-111(5)	Class 1 misdemeanor

16. Subject to a penalty of \$50.

Offense Statute	Description of Offense	Punishment Statute	Punishment
20-111(6)	Giving, lending, selling, or obtaining any title certificate for any purpose other than registration, sale, etc., of vehicle for which issued	20-111(6)	Class 2 misdemeanor
Perjury			
20-112*	Knowingly making any false affidavit or swearing or affirming falsely	20-112 20-17(5)	Class I felony (mandatory app.)
Failure to Obey Directions of Police or Firefighters			
20-114.1(a)	Willfully failing or refusing to comply with lawful orders of law-enforcement officer related to control of traffic	20-176(a),(c)	Class 2 misdemeanor (mandatory app.)
20-114.1(b)	Willfully failing or refusing to comply with lawful orders of firefighters (at scene of fire) or rescue squads (at scene of an accident) related to traffic control	20-176(a),(c)	Class 2 misdemeanor (mandatory app.)
Equipment Violations			
<i>Tires</i>			
20-122.1	Driving with unsafe tires	20-115 20-176(a),(b)	Infraction
<i>Steering Mechanism</i>			
20-123.1	Failing to maintain steering mechanism in good working order	20-115 20-176(a),(b)	Infraction
<i>Speedometer</i>			
20-123.2	Operating a vehicle without a working speedometer ¹⁷	20-123.2(b) 20-141(o)	Infraction
<i>Brakes</i>			
20-124(a)	Absence of brakes sufficient to stop and control vehicle	20-115 20-176(a),(b)	Infraction
20-124(a)	Failure to maintain brakes in conformity with regulations	20-115 20-176(a),(b)	Infraction
20-124(c)	Failure to maintain originally equipped brakes, including failure to maintain two separate means of applying brakes	20-115 20-176(a),(b)	Infraction
20-124(d)	Absence of at least one brake on motorcycle used on highway	20-115 20-176(a),(b)	Infraction
20-124(e)	Absence on trucks of brakes sufficient to stop vehicle within required distances	20-115 20-176(a),(b)	Infraction
20-124(el)	Absence of brakes acting on all wheels on specified trucks or tractor-trucks with trailers	20-115 20-176(a),(b)	Infraction
<i>Selling Unapproved Brake Fluid or Lining</i>			
20-124(h)	Selling any unapproved brake fluid or lining	20-124(h)	Class 2 misdemeanor

*Pursuant to G.S. 20-24(a), the court must require the driver convicted of this offense to surrender his or her driver's license to the court.

17. Penalty of no more than \$25 and no license or insurance points. Also, a violation of this section is a lesser included offense of G.S. 20-141 (speeding restrictions). See 20-141(o).

Offense Statute	Description of Offense	Punishment Statute	Punishment
<i>Horns and Warning Devices</i>			
20-125(a)	Driving a vehicle without a horn audible up to 200 feet in normal conditions	20-115 20-176(a),(b)	Infraction
20-125(a)	Using a siren, compression, or spark plug whistle when not allowed	20-115 20-176(a),(b)	Infraction
20-125(a)	Using a horn for other than a reasonable warning or making any unnecessary loud or harsh sound by horn or other warning device	20-115 20-176(a),(b)	Infraction
<i>Mirrors</i>			
20-126(a)	Driving a vehicle on streets without a rearview mirror which provides unobstructed view (exempted vehicles in statute)	20-115 20-176(a),(b)	Infraction
20-126(a)	Driving a loaded vehicle which renders a rearview mirror ineffective without using a mirror that reflects the rear view	20-115 20-176(a),(b)	Infraction
20-126(b)	Operating a vehicle without an outside mirror on the driver's side	20-115 20-176(a),(b)	Infraction
20-126(c)	Operating a motorcycle on streets without a rearview mirror that provides an unobstructed view of at least 200 feet	20-115 20-176(a),(b)	Infraction
<i>Windshields</i>			
20-127(a)	Operating a vehicle without a windshield wiper for cleaning snow, rain, moisture, etc., from the front windshield	20-115 20-176(a),(b)	Infraction
20-127(b)	Having tinted windows or windshield not meeting state standards	20-127(d) 20-176(a),(c)	Class 2 misdemeanor
<i>Mufflers</i>			
20-128(a)	Driving vehicle when muffler not in sufficiently good working order to prevent excessive noise or smoke	20-115 20-176(a),(b)	Infraction
20-128(b)	Using a muffler cut-out	20-115 20-176(a),(b)	Infraction
20-128(c)	Operating a motor vehicle without required emission control devices	20-115 20-176(a),(b)	Infraction
20-128.1(a)	Operating a gasoline-powered vehicle that emits visible air contaminants for longer than 5 seconds ¹⁸	20-128.1(d) 20-176(a),(b)	Infraction
20-128.1(a)	Operating a diesel-powered vehicle that emits visible contaminants of a specific shade or density for longer than 5 seconds ¹⁸	20-128.1(d) 20-176 (a),(b)	Infraction
<i>Lights</i>			
20-129(a)(1)	Failing to have lights on from sunset to sunrise	20-115 20-176(a),(b)	Infraction
20-129(a)(2)	Failing to have lights on when a person cannot be seen clearly 400 feet ahead	20-115 20-176(a),(b)	Infraction
20-129(a)(4)	Failing to have lights on when windshield wipers are in use due to rain, fog, etc. ¹⁹	20-129(a)(4)	Infraction
20-129(b)	Absence on vehicle of at least two headlamps (statute lists exceptions)	20-115 20-176(a),(b)	Infraction

18. A person charged under this section has 30 days in which to repair the vehicle.

19. Fined \$5, but no court costs or license or insurance points.

Offense Statute	Description of Offense	Punishment Statute	Punishment
20-129(c)	Absence on motorcycle of headlamp complying with requirements of statute	20-115 20-176(a),(b)	Infraction
20-129(c)	Failure to keep motorcycle lamps lighted while motorcycle in use on highway or public vehicular area	20-115 20-176(a),(b)	Infraction
20-129(d)	Absence of any of required rear lamps as listed in statute	20-115 20-176(a),(b)	Infraction
20-129(e)	Absence of required lamps or reflectors on bicycles used at night	20-115 20-176(a),(b)	Infraction
20-129(f)	Absence of required lights on other vehicles (farm tractors, etc.; see statute for details)	20-115 20-176(a),(b)	Infraction
20-129(g)	Selling or operating a vehicle or motorcycle without a stop lamp	20-115 20-176(a),(b)	Infraction
20-129.1(1)	Absence of two reflectors and one stop light on rear of bus or truck	20-115 20-176(a),(b)	Infraction
20-129.1(2)	Absence of additional specified lights and reflectors on certain trucks or buses	20-115 20-176(a),(b)	Infraction
20-129.1(3)	Absence of two clearance lamps on front, and one stop light at rear, on truck tractor	20-115 20-176(a),(b)	Infraction
20-129.1(4)	Absence of specified lights and reflectors on certain trailers or semi-trailers	20-115 20-176(a),(b)	Infraction
20-129.1(5)	Absence of specified lights and reflectors on certain large pole-trailers	20-115 20-176(a),(b)	Infraction
20-129.1(6)	Absence of required reflectors and stop lights on certain smaller trailers	20-115 20-176(a),(b)	Infraction
20-129.1(7),(8)	Failure on vehicle of front-clearance lamps to reflect an amber color, or rear lamps and brake lights to reflect a red color	20-115 20-176(a),(b)	Infraction
20-129.1(10)	Absence of combination marker lamp mounted on the bottom side rail at or near the center of each side of certain trailers showing amber color	20-115 20-176(a),(b)	Infraction
20-130.1(a)	Installing or using a red light on a vehicle (<i>see</i> 20-130.1(b) for vehicle exceptions)	20-130.1(e)	Class 1 misdemeanor (mandatory app.)
20-130.1(c)	Installing or using a blue light on a vehicle (<i>see</i> 20-130.1(d) for vehicle exceptions)	20-130.1(e)	Class 1 misdemeanor (mandatory app.)
20-130.3	Driving a vehicle in forward motion while displaying white or clear lights on the rear of the vehicle (does not apply to backup lights)	20-115 20-176(a),(b)	Infraction
20-134	Failing at required times to display certain lights on the front and rear of a vehicle parked or stopped on a highway (attended or unattended)	20-115 20-176(a),(b)	Infraction
<i>Seat Belts</i>			
20-135.2A	Failure of driver or front seat occupant to have seat safety belt properly fastened ²⁰	20-135.2A(e)	Infraction

20. Penalty of \$25; and court costs of \$50. Under G.S. 20-135.2A(f) and -135.2B(d), no license or insurance points are assessed.

Offense Statute	Description of Offense	Punishment Statute	Punishment
20-135.2B	Transporting children in the open bed of a pickup truck	20-135.2B(c)(d)	Infraction (\$25 penalty but no court costs or points)
<i>Smoke Screens</i>			
20-136*	Driving, using, or possessing a vehicle with a mechanism capable of discharging an unusual amount of smoke or gas, or possessing such device	20-136(b) 20-17(a)(3)	Class I felony (mandatory app.)
<i>Child Restraint Systems</i>			
20-137.1	Transporting child less than 16 years of age without being secured in passenger restraint system or seat belt. Additional requirement for children less than age 5 and less than 40 pounds and for children under age 8 and less than 80 pounds ²¹	20-137.1(c),(d)	Infraction
Rules-of-the-Road Violations			
<i>Impaired Driving</i>			
20-138.1*	Driving a vehicle while impaired or after consuming sufficient alcohol so that, at any relevant time after driving, the driver has a concentration of .08 ²²	20-138.1(d) 20-179(g) 20-17(a)(2)	Level One: Up to \$4,000 and 30 days (minimum) to 24 months (mandatory app.)
20-138.1*	Driving a vehicle while impaired or after consuming sufficient alcohol so that, at any relevant time after driving, the driver has a concentration of .08 ²²	20-138.1 (d) 20-179(h) 20-17(a)(2)	Level Two: Up to \$2,000 and 7 days (minimum) to 12 months (mandatory app.)

*Pursuant to G.S. 20-24(a), the court must require the driver convicted of this offense to surrender his or her driver's license to the court.

21. Maximum \$25 penalty, 2 license points but no insurance points.

22. The driving-while-impaired sentencing statute (G.S. 20-179) contains several unique provisions. The punishments listed in this chart are the minimums and maximums allowable under the statute for each level of punishment, but for each level there are other relevant sentencing provisions.

Level One: 30 days to 24 months in jail. At least 30 days must be imposed, and this sentence cannot be suspended unless the defendant serves at least 30 days in jail. There is also a fine of up to \$4,000.

Level Two: 7 days to 12 months in jail. At least 7 days must be imposed, and this sentence cannot be suspended unless the defendant serves at least 7 days in jail as a condition of special probation. There is also a fine of up to \$2,000.

Level Three: 72 hours to 6 months in jail. A minimum of 72 hours must be imposed, and this sentence can be suspended only if the defendant meets certain conditions. The judge must require that the defendant do at least one of three things: 1) not drive for at least 90 days; 2) perform at least 72 hours of community service; or 3) serve at least 72 hours in jail under the special probation statute. There is also a fine of up to \$1,000.

Level Four: 48 hours to 120 days in jail. A minimum of 48 hours must be imposed, and this sentence can be suspended only if the defendant meets certain conditions. The judge must require that the defendant do at least one of three things: 1) not drive for 60 days; 2) perform 48 hours of community service; or 3) serve 48 hours in jail under the special probation statute. There is also a fine of up to \$500.

Level Five: 24 hours to 60 days in jail. A minimum of 24 hours must be imposed, and this sentence can be suspended only if the defendant meets certain conditions. The judge must require that the defendant do at least one of three things: 1) not drive for 30 days; 2) perform 24 hours of community service; or 3) serve 24 hours in jail under the special probation statute. There is also a fine of up to \$200.

Under any level of punishment, if the defendant is placed on probation a substance abuse assessment is required, as is education or treatment as required by G.S. 20-17.6.

Under G.S. 20-17(a)(2), DMV must revoke a driver's license when it receives a record of the driver's final conviction of "impaired driving under G.S. 20-138.1."

A trial judge (under G.S. 20-179.3) may allow a limited driving privilege if punishment level 3, 4, or 5 was imposed and the criteria established by that statute are met.

Offense Statute	Description of Offense	Punishment Statute	Punishment
20-138.1*	Driving a vehicle while impaired or after consuming sufficient alcohol so that, at any relevant time after driving, the driver has a concentration of .08 ²²	20-138.1(d) 20-179(i) 20-17(a)(2)	Level Three: Up to \$1,000 and 72 hours (minimum) to 6 months (mandatory app.)
20-138.1*	Driving a vehicle while impaired or after consuming sufficient alcohol so that, at any relevant time after driving, the driver has a concentration of .08 ²²	20-138.1(d) 20-179(j) 20-17(a)(2)	Level Four: Up to \$500 and 48 hours (minimum) to 120 days (mandatory app.)
20-138.1*	Driving a vehicle while impaired or after consuming sufficient alcohol so that, at any relevant time after driving, the driver has a concentration of .08 ²²	20-138.1(d) 20-179(k) 20-17(a)(2)	Level Five: Up to \$200 and 24 hours (minimum) to 60 days
20-138.2(a)*	Impaired driving in a commercial vehicle or after consuming sufficient alcohol so that, at any relevant time after driving, the driver has a concentration of .04 ²³	20-138.2(e) 20-179 20-17(a)(2)	Level 1 to Level 5 (mandatory app.)
20-138.2A	Operating commercial vehicle after consuming alcohol	20-138.2A(c) 20-179 20-17(a)(13) 20-17.4	Class 3 misdemeanor \$100 penalty for first offense (mandatory app.)
20-138.2B*	Driving school bus, school activity bus or child care vehicle after consuming alcohol	20-138.2B(c) 20-17(a)(14) 20-179	Class 3 misdemeanor \$100 penalty for first offense (mandatory app.)
20-138.2C	Operating commercial vehicle while possessing alcoholic beverages	20-176(a),(b)	Infraction
20-138.3(a)*	Driving by person under age 21 after consuming alcohol or drugs ²⁴	20-138.3 (c) 20-13.2	Class 2 misdemeanor (mandatory app.)
20-138.5(a)*	Driving while impaired after being convicted of three or more offenses involving impaired driving within 7 years	20-138.5(b) 20-138.5(d)	Class F felony (mandatory app.)
20-138.7(a)*	Transporting open container of alcoholic beverage after consuming alcohol ²⁴	20-138.7(e)	Class 3 misdemeanor for first offense (mandatory app.)
20-138.7(a1)	Possession of alcoholic beverage in vehicle on highway, except for exemptions in 20-138.7(a2).	20-138.7(e)	Infraction

*Pursuant to G.S. 20-24(a), the court must require the driver convicted of this offense to surrender his or her driver's license to the court.

23. Under G.S. 20-17.4 a person convicted of this offense will be disqualified from driving a commercial vehicle.

24. G.S. 20-13.2 requires revocation of the driver's license for a violation of G.S. 20-138.3. G.S. 20-17(a)(12) requires revocation for a second conviction under G.S. 20-138.7.

Offense Statute	Description of Offense	Punishment Statute	Punishment
<i>Reckless Driving</i> ²⁵			
20-140(a)	Driving carelessly and heedlessly	20-140(d)	Class 2 misdemeanor (mandatory app.)
20-140(b)	Driving without due caution	20-140(d)	Class 2 misdemeanor (mandatory app.)
20-140(f)	Reckless driving of commercial vehicle	20-140(f)	Class 2 misdemeanor
<i>Use of Controlled-Access Highways</i> ²⁶			
20-140.3(1)	Driving across a curb, dividing section, or dividing line on controlled-access highways	20-176(a),(b)	Infraction
20-140.3(2)	Making a left, semicircular, or U-turn when there is no opening provided for that purpose in the dividing curb, separation, or line on controlled-access highways	20-176(a),(b)	Infraction
20-140.3(3)	Driving in the wrong lane or wrong direction on controlled-access highways	20-176(a),(b)	Infraction
20-140.3(4)	Driving onto or from any controlled-access highway when such entrances and exits are not established by public authority	20-176(a),(b)	Infraction
20-140.3(5)	Stopping, parking, or leaving a vehicle (attended or unattended) on any part of the right-of-way	20-176(a),(b)	Infraction
20-140.3(6)	Failing to yield the right-of-way when entering the highway to a vehicle already traveling on highway	20-176(a),(b)	Infraction
<i>Motorcycles and Mopeds</i>			
20-140.4(a)(1)	Operating a motorcycle or moped with more persons than it is designated to carry ²⁷	20-140.4(c) 20-135.2A(e),(f)	Infraction
20-140.4(a)(2)	Operating a motorcycle or moped without an approved safety helmet ²⁷	20-140.4(c) 20-135.2A(e),(f)	Infraction
<i>Speeding</i> ²⁸			
20-141(a)	Driving faster than is reasonable and prudent under conditions	20-176(a),(b)	Infraction
20-141(b)	Operating vehicle in excess of following speeds (except where otherwise permitted in G.S. Ch. 20): 35 mph inside municipal corporate limits (for all vehicles); 55 mph outside municipal corporate limits (except as otherwise posted)	20-176(a),(b)	Infraction

25. Reckless driving violations are subject to the following provisions for revocation or suspension of license: discretionary suspension under G.S. 20-16(a)(9) and -19(a) is not to exceed 6 months for conviction of one or more charges of reckless or aggressive driving (and one or more charges of speeding in excess of 55 mph and not more than 80 mph) within a 12-month period. Mandatory revocation under G.S. 20-17(a)(6),(7), and -19(f) is for 1 year for conviction upon one charge of reckless or aggressive driving while illegally transporting intoxicants for the purpose of sale or for two charges of reckless or aggressive driving in 12 months.

26. G.S. 136-89.58 also creates certain controlled-access road offenses that roughly parallel those in G.S. 20-140.3 (but are Class 2 misdemeanors).

27. Fined according to G.S. 20-135.2A(e) and (f): \$25 penalty and \$50 court costs, but no license or insurance points.

28. All speeding violations are subject to the following provisions for suspension or revocation of license: discretionary suspension under G.S. 20-16(a)(10) and -19(b) is not to exceed 12 months if the person has been convicted of operating a motor vehicle over 75 mph where the maximum speed is less than 70 mph. Discretionary suspension under G.S. 20-16(a)(9) and -19(a) is not to exceed 6 months if the person has within a 12-month period been convicted of two or more charges of speeding over 55 mph and not more than 80 mph (or one or more charges of reckless driving and one or more charges of speeding in excess of 55 mph and not more than 80 mph). Mandatory suspension under G.S. 20-16.1 is for 30 days upon conviction of exceeding the speed limit by more than 15 mph if the person was also exceeding 55 mph at the time of the offense (or for 60 days upon conviction of a second or subsequent offense that occurred within 1 year of the first or prior offense). Same provisions apply if driver was exceeding 80 mph. A judge may grant limited driving privileges to a first offender under G.S. 20-16.1(a). *See also* G.S. 20-141(o) which makes 20-123.2 (defective speedometer) a lesser included offense of a 20-141 violation.

Offense Statute	Description of Offense	Punishment Statute	Punishment
20-141(e)	Violating speed limit set by local authority for streets not in state highway system (not to be more than 55 mph, and effective only if signs are posted)	20-176(a),(b)	Infraction
20-141(e1)	Violating speed limit on school property	20-141(e1)	Infraction (minimum \$25)
20-141(f)	Violating speed limit set by local authority on streets in the state system and within corporate limits (effective when Department of Transportation passes concurring ordinance and signs are posted)	20-176(a),(b)	Infraction
20-141(g)	Violating minimum speed limit established on state highways or by local authorities (effective when appropriate signs giving notice are erected)	20-176(a),(b)	Infraction
20-141(j1)*	Driving more than 15 mph over speed limit ²⁹	20-141(j1) 20-16.1	Class 2 misdemeanor (mandatory app. if driver going over 55 mph)
20-141(j1)*	Driving over 80 mph ²⁹	20-141(j1) 20-16.1	Class 2 misdemeanor (mandatory app.)
20-141(j2)	Driving in highway work zone in excess of posted speed ³⁰	20-141(j2)	Infraction (penalty of \$250)
20-141(m)	Failing to reduce speed as necessary to avoid accident	20-176(a),(b)	Infraction
<i>School Zones</i>			
20-141.1	Violating speed limits set by the Board of Transportation or local authority for areas near schools (effective when signs are erected giving notice of school zone, speed limit, and days and hours)	20-141.1	Infraction (minimum penalty is \$25)
<i>Racing, Death by Vehicle, and Eluding Arrest</i>			
20-141.3(a)*	Engaging in prearranged speed competition with another motor vehicle ^{31, 32}	20-141.3(a) 20-141.3(d)	Class 1 misdemeanor (mandatory app.)
20-141.3(b)	Willfully engaging in speed competition with another motor vehicle (not prearranged) ³³	20-141.3(b) 20-141.3(e)	Class 2 misdemeanor (mandatory app.)
20-141.3(c)*	Allowing or authorizing others to use one's motor vehicle in prearranged speed competition ³¹	20-141.3(c) 20-141.3(d)	Class 1 misdemeanor (mandatory app.)

*Pursuant to G.S. 20-24(a), the court must require the driver convicted of this offense to surrender his or her driver's license to the court.

29. License suspended when speed is also over 55 mph. *See* G.S. 20-16.1. Mandatory app. required for more than 15 mph over limit while also over 55 mph.

30. Must pay \$250 penalty, in addition to other G.S. Chapter 20 penalties.

31. Under G.S. 20-141.3(d) a driver convicted under this subsection has his or her license revoked for 3 years by the CMV; after 18 months DMV may issue a new license upon such terms and condition as it sees fit. G.S. 20-141.3(f) apparently makes the provisions of G.S. 20-24 applicable to this offense. Thus under G.S. 20-24(a), the court should pick up the defendant's driver's license.

32. Under G.S. 20-141.3(g) any vehicle used by a person convicted under this subsection is to be forfeited and sold at public auction. If the owner of the vehicle can show that it was used in prearranged racing without his or her consent and that there were no reasonable grounds to believe it would be so used, the vehicle may be recovered.

33. Under G.S. 20-141.3(e) the CMV may suspend for up to 1 year the license of a driver convicted under this subsection.

Offense Statute	Description of Offense	Punishment Statute	Punishment
20-141.3(c)*	Placing or receiving a bet or wager on a prearranged speed competition ³¹	20-141.3(c) 20-141.3(d)	Class 1 misdemeanor (mandatory app.)
20-141.4(al)*	Unintentionally causing death when driving while impaired ³⁴	20-141.4(b) 20-17(a)(9)	Class G felony (mandatory app.)
20-141.4(a2)*	Unintentionally causing death while engaged in violation other than DWI ³⁴	20-141.4(b) 20-17(a)(9)	Class 1 misdemeanor (mandatory app.)
20-141.5*	Speeding or otherwise attempting to elude arrest ³⁵	20-141.5	Class 1 misdemeanor or Class H felony (mandatory app.)
<i>Aggressive Driving</i>			
20-141.6	Aggressive Driving ³⁶	20-141.6	Class 1 misdemeanor (mandatory app.)
<i>Failing to Stop for Railroad Signal or Tracks**</i>			
20-142.1(a)	Failing to stop at railroad grade crossing for electrical signal, gate, audible signal, or train in hazardous proximity to crossing	20-142.1 (d) 20-176(a),(b)	Infraction
20-142.1(b)	Driving through crossing gate while gate is closed, opening, or closing	20-142.1(d) 20-176(a),(b)	Infraction
20-142.2	Failure to stop at stop sign erected at dangerous railroad crossing by Department of Transportation	20-142.2 20-176(a),(b)	Infraction
20-142.3	Failing to stop; certain kinds of vehicles at all railroad crossings (exceptions noted in statute)	20-142.3(c) 20-176(a),(b)	Infraction
20-142.4(a),(b)	Crossing a railroad track with a tractor or with other equipment that normally has an operating speed of 5 mph or less without giving notice to a railroad superintendent	20-142.4(f) 20-176(a),(b)	Infraction
20-142.4(a),(c)	Crossing a railroad track with a tractor or with other equipment that normally has an operating speed of 5 mph or less without stopping first, listening and looking in both directions, and crossing when safe (doesn't apply to crossings where authorities have determined no trains are running)	20-142.4(f) 20-176(a),(b)	Infraction
20-142.4(a),(d)	Crossing a railroad track with a tractor or with other equipment that normally has an operating speed of 5 mph or less when signal, gates, or flagman are giving a warning	20-142.4(f) 20-176(a),(b)	Infraction

*Pursuant to G.S. 20-24(a), the court must require the driver convicted of this offense to surrender his or her driver's license to the court.

** Mandatory appearance required only for driver of commercial vehicle who violates 20-142.1 to -142.5.

34. Under G.S. 20-17(a)(9) and -19(f), DMV must revoke for 1 year the license of a driver convicted of death by vehicle. If the offense involved impaired driving, then the revocation is permanent (G.S. 20-19(i)).

35. This offense is usually a misdemeanor, but it is a felony if any two of the aggravating factors in subsection (b) are present.

36. Aggressive driving violations are subject to the following provisions for revocation or suspension of license: discretionary suspension under G.S. 20-16(a)(9) and -19(a) is not to exceed 6 months for conviction of one or more charges of reckless or aggressive driving (and one or more charges of speeding in excess of 55 mph and not more than 80 mph) within a 12-month period. Mandatory revocation under G.S. 20-17(a)(6),(7), and -19(f) is for 1 year for conviction upon one charge of reckless or aggressive driving while illegally transporting intoxicants for the purpose of sale or for two charges of reckless or aggressive driving in 12 months.

Offense Statute	Description of Offense	Punishment Statute	Punishment
20-142.5	Driving into intersection, crosswalk, or railroad grade crossing in manner to obstruct vehicles, pedestrians, or trains	20-142.5 20-176(a),(b)	Infraction
<i>Driving on Wrong Side of Road/Left-Hand Side of Road</i>			
20-146(a)	Failing to drive on right half of highway of sufficient width (exceptions noted in statute)	20-176(a),(b)	Infraction
20-146(b)	Failing to drive in the right lane when driving below speed limit (except when passing or turning left)	20-176(a),(b)	Infraction
20-146(c)	Driving to left of center on a road with four or more lanes and two-way movement of traffic, except when authorized by signs or to avoid obstructions	20-176(a),(b)	Infraction
20-146(d)(1)	Failure to: (a) drive within a single lane or (b) ascertain that a lane change can be made safely	20-176(a),(b)	Infraction
20-146(d)(2)	Driving in center lane of road with three or more lanes and two-way traffic, unless passing a vehicle, turning left, or in accordance with traffic signs	20-176(a),(b)	Infraction
20-146(d)(3)	Failure to: (a) obey traffic control devices directing that specified traffic use a designated lane or (b) obey traffic control devices designating lanes for traffic moving in certain direction	20-176(a),(b)	Infraction
20-146(d)(4)	Failure to obey devices as to lane changes	20-176(a),(b)	Infraction
20-146(e)	Impeding traffic by using lane next to median of dual-lane highway, unless traveling at speed limit or preparing to turn left (road must be posted)	20-176(a),(b)	Infraction
20-146.1(a)	Depriving a motorcycle of full use of a lane (except when two motorcycles are abreast in a single lane)	20-176(a),(b)	Infraction
20-146.1(b)	Operating more than two motorcycles abreast in single lane	20-176(a),(b)	Infraction
20-147	Failing to drive vehicle on right half of highway in crossing an intersection of two highways or of a highway and railroad right-of-way, unless the right side is obstructed	20-176(a),(b)	Infraction
20-147.1	Operating passenger vehicle in left lane of multilane highway while towing another vehicle (subject to some exceptions)	20-176(a),(b)	Infraction
20-148	Failing to pass a vehicle going in the opposite direction to the right, and leaving at least half of the road, if possible, for vehicle going in opposite direction	20-176(a),(b)	Infraction
<i>Improper Passing</i>			
20-149(a)	Passing another vehicle going in same direction without passing at least 2 feet to left of other vehicle (G.S. 20-150.1 permits passing on right in certain instances)	20-176(a),(b)	Infraction
20-149(a)	When passing on the left, returning to right lane before being safely clear of the passed vehicle	20-176(a),(b)	Infraction
20-149(b)	When being passed by another vehicle on the left, failing to give way to the right on hearing an audible warning signal from passing vehicle (not applicable if being passed on right under G.S. 20-150.1) ³⁷	20-176(a),(b) 20-149(b)(1) 20-149(b)(2)	Infraction; or Class 1 misdemeanor; or Class 2 misdemeanor (mandatory app.)

37. This offense is usually an infraction, but it is a misdemeanor if a collision results (Class 1 in case of serious injury, and Class 2 when there is any personal injury or property damage).

Offense Statute	Description of Offense	Punishment Statute	Punishment
20-150(a)	Passing on left when the left side of roadway is not clearly visible and free of traffic for sufficient distance to allow movement in safety	20-176(a),(b)	Infraction
20-150(b)	Passing on the crest of a grade or on a curve when driver cannot see roadway ahead for at least 500 feet	20-176(a),(b)	Infraction
20-150(c)	Passing at a railway grade crossing or at an intersection, unless allowed to do so by a police officer	20-176(a),(b)	Infraction
20-150(d)	Driving to left of a visible center line on the crest of a hill or on a curve	20-176(a),(b)	Infraction
20-150(e)	Passing another vehicle when signs or markings clearly indicate that passing should not be attempted	20-176(a),(b)	Infraction
20-150.1	Passing on right permitted	No violation	
<i>Following Too Closely</i>			
20-152(a)	Following a vehicle more closely than is reasonable and prudent, with regard for speed of other vehicles, traffic, and road conditions	20-176(a),(b)	Infraction
20-152(b)	When following a vehicle and being passed by another, failing to allow passing vehicle enough space to reenter his original lane of traffic (subject to exceptions listed in statute)	20-176(a),(b)	Infraction
<i>Improper Turning</i>			
20-153(a)	When approaching or turning right at an intersection, failing to keep vehicle as close as practicable to the right curb	20-176(a),(b)	Infraction
20-153(b)	When approaching intersection to turn left, failing to use extreme left-hand lane lawfully available	20-176(a),(b)	Infraction
20-153(b)	When turning left, failing to turn into a lane lawfully available to traffic leaving the intersection	20-176(a),(b)	Infraction
20-153(c)	Failure to obey lawful traffic control devices modifying the general turning rules of G.S. 20-153	20-176(a),(b)	Infraction
20-154(a)	Starting, stopping, or turning without first seeing that the movement can be made safely	20-176(a),(b)	Infraction
20-154(a)	Failure to sound the horn before making a movement that may affect pedestrians	20-176(a),(b)	Infraction
20-154(a)	Failure to give a signal of intention when stopping, starting, or turning when another vehicle may be affected (requirements for signals set out in statute)	20-176(a),(b)	Infraction
20-154(a)	Backing a vehicle in unsafe manner or in a manner that interferes with other traffic	20-176(a),(b)	Infraction
<i>Failing to Yield Right-of-Way</i>			
20-155(a)	When two vehicles enter intersection at approximately the same time, failure by driver on left to yield right-of-way	20-176(a),(b)	Infraction
20-155(b)	Failure to yield to oncoming traffic when turning left	20-176(a),(b)	Infraction
20-155(c)	Failure to yield to pedestrian at clearly marked crosswalks or regular pedestrian crossing (exceptions noted in statute)	20-176(a),(b)	Infraction
20-155(d)	When approaching a traffic circle, failing to yield to vehicle already in circle	20-176(a),(b)	Infraction
20-156(a)	When entering a public highway from a private road, failing to yield to traffic on the highway	20-176(a),(b)	Infraction

Offense Statute	Description of Offense	Punishment Statute	Punishment
20-156(b)	Failure to yield right-of-way to police, fire, and other emergency vehicles with sirens and lights on	20-176(a),(b)	Infraction
20-157(a)	Upon approach of a fire, police, rescue vehicle, etc., with lights and siren on, failing to stop on right side of road until emergency vehicle passes	20-157(a)	Class 2 misdemeanor (mandatory app.)
<i>Actions Prohibited in Emergencies</i>			
20-157(b)	Following closer than one block any fire apparatus traveling in response to a fire alarm	20-176(a),(b)	Infraction
20-157(b)	Driving into or parking within one block where fire apparatus has stopped to answer an alarm	20-176(a),(b)	Infraction
20-157(c)	Outside of a city, following closer than 400 feet any fire apparatus traveling in response to a fire alarm	20-176(a),(b)	Infraction
20-157(c)	Outside of a city, driving into or parking within 400 feet of where fire apparatus has stopped to answer an alarm	20-176(a),(b)	Infraction
20-157(d)	Driving over a fire hose or any other equipment that is being used at a fire	20-176(a),(b)	Infraction
20-157(d)	Blocking firefighting apparatus from its source of supply	20-176(a),(b)	Infraction
20-157(e)	Parking or leaving a vehicle within 100 feet of police, fire, or rescue vehicles which are investigating or assisting at an accident	20-176(a),(b)	Infraction
20-157(f)	Failure to change lanes when passing stopped emergency vehicle	20-176(a),(b)	Infraction
<i>Failing to Stop</i>			
20-158(b)(1)	Failure to stop at intersections in obedience to posted stop sign or failure to yield right-of-way after stopping at stop sign	20-176(a),(b)	Infraction
20-158(b)(2)	Failure to stop at intersection and yield right-of-way when traffic light emits a steady (or strobe) red light (also failure to enter intersection with due care when light is green)	20-176(a),(b)	Infraction
20-158(b)(3)	Failure to stop at intersection and yield when a flashing red light controls traffic in driver's lane	20-176(a),(b)	Infraction
20-158(b)(4)	Failure to proceed with caution and yield the right-of-way to vehicles in or approaching the intersection when a flashing yellow light controls the intersection	20-176(a),(b)	Infraction
20-158(b)(5)	When required to stop, (1) failing to stop at the appropriate marked line, (2) if no line, failing to stop before marked crosswalk, or (3) if no crosswalk, failing to stop at the point nearest the intersecting street where the driver has a view of approaching traffic	20-176(a),(b)	Infraction
20-158(c)(1)	Failure to obey a stop sign and yield right-of-way at place other than at an intersection	20-176(a),(b)	Infraction
20-158(c)(2)	Failure to obey a traffic light emitting a steady red light at place other than an intersection	20-176(a),(b)	Infraction
20-158(c)(3)	Failure to stop and yield to pedestrians or other vehicles at a flashing red light at place other than an intersection	20-176(a),(b)	Infraction

Offense Statute	Description of Offense	Punishment Statute	Punishment
20-158(c)(4)	Failure to proceed with caution or yield at a yellow traffic light at place other than an intersection	20-176(a),(b)	Infraction
20-158(c)(5)	When required to stop,(1) failing to stop at the appropriate marked line,(2) if no line, failing to stop before marked crosswalk, or (3) if no crosswalk, failing to stop before proceeding past the signal device	20-176(a),(b)	Infraction
<i>Failure to Yield at Yield Signs</i>			
20-158.1	Failure to yield at intersections where yield signs have been erected	20-176(a),(b)	Infraction
<i>Driving through Safety Zones or on Sidewalks</i>			
20-160	Driving through or over a safety zone or driving on a sidewalk (except upon a driveway)	20-176(a),(b)	Infraction
<i>Failure to Yield, Causing Serious Bodily Injury</i>			
20-160.1*	Failure to yield while approaching intersection, or while turning at stop or yield sign, or while entering roadway, and then causing serious bodily injury ³⁸	20-160.1	Infraction (mandatory app.)
<i>Parking on Highway</i>			
20-161(a)	Outside of the city limits, parking or leaving a vehicle (attended or unattended) on the paved or main-traveled portion of road or bridge (unless vehicle is so disabled that it was impossible to avoid stopping)	20-176(a),(b)	Infraction
20-161(b)	Outside of the city limits, parking or leaving a vehicle on the shoulder of the road (unless the vehicle can be clearly seen 200 feet away and does not obstruct normal traffic)	20-176(a),(b)	Infraction
20-161(c)	Failing to display warning signals on any truck, truck tractor, trailer, or semi-trailer in a manner required by the U.S. Department of Transportation and DMV as long as the vehicle is disabled on any portion of the highway	20-176(a),(b)	Infraction
20-161.1	Parking or leaving a vehicle at night on a road or on a side road entering a highway while shining its bright lights when facing oncoming traffic	20-176(a),(b)	Infraction
20-162(a)	Parking or leaving a vehicle (attended or unattended) (1) in front of a private driveway, (2) within 15 feet of a fire hydrant,(3) within 15 feet of fire station entrance, or (4) within 25 feet from the intersection of curb lines or, if none, then within 15 feet of the intersection of property lines	20-176(a),(b)	Infraction
20-162(b)	Parking or leaving a vehicle (attended or unattended) in a public vehicular area, street, highway, or road designated as a fire lane	20-176(a),(b)	Infraction
20-163	Leaving a vehicle unattended on a highway or public vehicular area without stopping engine, setting the brake, properly parking the vehicle	20-176(a),(b)	Infraction

*Pursuant to G.S. 20-24(a), the court must require the driver convicted of this offense to surrender his or her driver's license to the court.
 38. The fine for this offense is \$500, and the Division of Motor Vehicles must revoke the person's license for 90 days.

Offense Statute	Description of Offense	Punishment Statute	Punishment
<i>Traveling Wrong Way on One-Way Street</i>			
20-165.1	Willfully going wrong way on one-way street designated and marked as such	20-176(a),(b)	Infraction
Accident Responsibility Laws			
20-166(a)*	Failure to stop by driver who knew or should have known he or she was involved in accident and that accident caused death or injury to any person ³⁹	20-166(a) 20-17(a)(4)	Class H felony (mandatory app.)
20-166(b)*	Failure of driver, as set forth in G.S. 20-166(a), to give required information and render assistance ³⁹	20-166(b) 20-17(a)(4)	Class 1 misdemeanor (mandatory app.)
20-166(c)	Failure of driver involved in accident causing property damage or personal injury or death (if driver did not know of injury or death) to stop at scene of accident	20-166(c)	Class 1 misdemeanor (mandatory app.)
20-166(c1)	Failure of driver, as set forth in G.S. 20-166(c), to give required information	20-166(cl)	Class 1 misdemeanor (mandatory app.)
20-166.1(a)	Failure by driver to make required reports, by quickest means, to police if accident involves personal injury, death, or \$1,000 or more in property damage	20-166.1(k) 20-176(c) 20-4.01(33b)	Class 2 misdemeanor (mandatory app.)
20-166.1(b)	Failure by driver involved in accident to make report of financial responsibility to DMV if so requested by DMV	20-166.1(k) 20-176(c)	Class 2 misdemeanor (mandatory app.)
20-166.1(c)	Failure by driver in collision with parked vehicle to make a timely report to owner and DMV	20-166.1(k) 20-176(c)	Class 2 misdemeanor (mandatory app.)
Transportation of Spent Nuclear Fuel			
20-167.1	Transporting spent nuclear fuel without notifying State Highway Patrol ⁴⁰	20-167.1(d)	Class 3 misdemeanor (mandatory app.)
Violations at Pedestrian Crosswalks			
20-173(a)	Where traffic control signals are not in operation, failing to yield to pedestrians at a marked crosswalk or at an unmarked crosswalk near an intersection	20-176(a),(b)	Infraction
20-173(b)	Passing a vehicle stopped at a pedestrian crosswalk	20-176(a),(b)	Infraction
20-173(c)	When entering highway from private road or driveway, failing to yield to pedestrians or bicyclists on sidewalk	20-176(a),(b)	Infraction
Standing, Sitting, or Lying in Street			
20-174.1	Willfully standing, sitting, or lying on a highway in such a manner as to impede traffic	20-174.1(b)	Class 2 misdemeanor

*Pursuant to G.S. 20-24(a), the court must require the driver convicted of this offense to surrender his or her driver's license to the court.

39. G.S. 20-17(a)(4) and -19(f) require license revocation for 1 year.

40. Minimum fine is \$500.

Offense Statute	Description of Offense	Punishment Statute	Punishment
Soliciting Rides, Employment, or Business on Highways			
20-175(a)	Standing in any portion of a state highway for purpose of soliciting a ride from a driver (except upon the shoulders of the highway)	20-176(a),(b)	Infraction
20-175(b)	Standing or loitering in the main traveled portion, including the shoulders and median, of a state highway or street, or stopping a vehicle for the purpose of soliciting employment, business, or contributions that impedes the movement of traffic	20-176(a),(b)	Infraction
Violating Limited Driving Privileges			
20-179.3(j)*	Violating conditions of limited driving privilege ^{41, 42}	20-179.3(j) 20-28(a) 20-16.1(b)(4)	Class 1 misdemeanor (mandatory app.)
Failure to Dim Lights			
20-181	Failure to dim headlights when meeting another vehicle or when following another at a distance of less than 200 feet	20-181	Infraction (up to \$10 penalty)
Equipment Inspection Laws			
20-183.8(a)	Failing to display a current and valid inspection certificate ⁴³	20-183.8(a)	Infraction
20-183.8(c)	Forging inspection certificate	20-183.8(c)	Class I felony (mandatory app.)
Passing Stopped School Bus			
20-217(a)	Failure to stop and remain stopped when approaching a stopped school bus engaged in receiving or discharging passengers	20-217(e)	Class 2 misdemeanor (mandatory app.)
Bus Driver Rules			
20-217(d)	Stopping school bus to receive or discharge passengers where passengers would have to cross a roadway	20-217(e)	Class 2 misdemeanor
20-218(b)	Driving a loaded school bus over 45 mph, or driving a school activity bus over 55 mph	20-218(c)	Class 3 misdemeanor (mandatory app.)
20-218.2	Driving an activity bus of nonprofit organization for a nonprofit purpose over 55 mph	20-218.2	Class 3 misdemeanor (mandatory app.)
Insurance Violations			
20-313(a)	Operating or allowing vehicle registered in this state to be operated without the "required financial responsibility"	20-313(a)	Class 1 misdemeanor (mandatory app.)
20-313.1(a)	Making a false certification concerning financial responsibility	20-313.1(a)	Class 1 misdemeanor (mandatory app.)
20-313.1(b)	Giving false information to DMV concerning another's financial responsibility, knowing or having reason to believe that such information is false	20-313.1(b)	Class 1 misdemeanor (mandatory app.)

*Pursuant to G.S. 20-24(a), the court must require the driver convicted of this offense to surrender his or her driver's license to the court.

41. Under G.S. 20-16.1(b)(4) the punishment is the same as for driving while license revoked in violation of G.S. 20-28.

42. For a first offense under this section, the license is revoked for an additional year; for a second offense, 2 additional years; a third or subsequent offense brings permanent revocation. The licensee is entitled to apply for restoration of the license early according to schedule set forth in G.S. 20-28(c).

43. Penalty of no more than \$50.

Appendixes to Punishment Chart for North Carolina Motor Vehicle Offenses

Appendix A

2004 Waiver List

UNIFORM POLICIES RELATING TO TRAFFIC OFFENSES

TRAFFIC OFFENSES FOR WHICH COURT APPEARANCE IS MANDATORY (Adopted by the Conference of Chief District Court Judges, September 29, 2004 pursuant to N.C.G.S. 7A-148)

Applies To Offenses Committed On Or After December 1, 2004

1. All pleas of not guilty.
2. All felonies.
3. Impaired instruction. [G.S. 20-12.1]
4. Driving while (license) suspended, revoked or disqualified, or permitting an owned vehicle to be so operated. [G.S. 20-28; G.S. 20-34]
5. Driving a commercial motor vehicle without being licensed to do so, or driving a commercial motor vehicle while license suspended, revoked, or subject to a disqualification or out of service order. [G.S. 20-28(c); G.S. 20-37.12]
6. Possess fictitious, cancelled, revoked, suspended or altered license or identification card, or counterfeit, sell, lend, or permit use of license or identification card by another, or any other violation of G.S. 20-30 or G.S. 20-37.8.
7. Any violation involving false affidavit, or false statement under oath, or perjury. [G.S. 20-31; G.S. 20-112; G.S. 20-313.1; G.S. 20-17(5)]
8. Selling handicapped parking placards. [G.S. 20-37.6(c3)]
9. Any violation of the vehicle registration laws involving stolen or altered registration plates or certificates.
10. Failure to obey directions of a traffic officer, or of a fireman at the scene of a fire. [G.S. 20-114.1]
11. Unlawful use of red or blue lights on vehicle. [G.S. 20-130.1]
12. Driving while subject to an impairing substance. [G.S. 20-138.1]
13. Driving a commercial vehicle while subject to an impairing substance. [G.S. 20-138.2]
14. Operating commercial vehicle after consuming alcohol. [G.S. 20-138.2A]
15. Operating school bus, school activity bus, or child care vehicle after consuming alcohol. [G.S. 20-138.2B]
16. Driving by person under age 21 while drinking or after having consumed alcohol or controlled substance. [G.S. 20-138.3]
17. Driving with open container after drinking. [G.S. 20-138.7]
18. Careless and reckless driving. [G.S. 20-140(a), (b), (f)]
19. Driving in excess of 80 mph. [G.S. 20-141]
20. Exceeding the applicable speed limit by over 15 mph while driving over 55 mph. [G.S. 20-141(j1)]
21. Racing (prearranged, spontaneous, permitting such use of an owned vehicle, betting on prearranged racing). [G.S. 20-141.3]
22. Death by vehicle. [G.S. 20-141.4]
23. Driving to elude arrest. [G.S. 20-141.5]
24. Aggressive driving. [G.S. 20-141.6]
25. Any violation of G.S. 20-142.1 through G.S. 20-142.5 (railroad grade crossing violations), if the driver is driving a commercial motor vehicle.
26. Failure to give way to the right when being passed. [G.S. 20-149(b)]
27. Failure to stop for emergency vehicles. [G.S. 20-157(a)]
28. Failure to yield involving serious bodily injury. [G.S. 20-160.1]
29. Failure to stop, etc. at the scene of an accident, or failure to report such an accident. [G.S. 20-166; G.S. 20-166.1]
30. Transporting spent nuclear fuel without notifying Highway Patrol. [G.S. 20-167.1]
31. Passing stopped school bus. [G.S. 20-217]
32. Any violation of the financial responsibility laws. [Chapter 20, Articles 9A and 13]
33. Violations of motor carrier safety and hazardous material regulations. [G.S. 20-396]
34. Any violation charged in the same citation, warrant, magistrate's order, or summons with a mandatory court appearance violation.

OTHER POLICIES RELATING TO TRAFFIC OFFENSES:

1. G.S. 7A-148 provides that the Conference of Chief District Court Judges shall prepare a "uniform schedule" of waivable traffic offenses and otherwise promote the "uniform administration of justice." In accordance with this statutory mandate, all judicial districts must adhere to this schedule, and individual judicial district policies deviating from this schedule are prohibited.
2. Where more than one charge is made on a uniform traffic citation, the defendant shall be fined only for the offense carrying the highest fine. Only one bill of costs will be assessed.
3. When a defendant is charged with two traffic offenses arising out of the same transaction, only one citation should be used. If an additional one or two offenses arising out of the same transaction are charged, they should be placed on a separate citation.
4. The traffic offenses waiver list does not apply to littering charges under G.S. 14-399(c) or (c1), if the defendant is charged with a second offense under the subsection.
5. An offense may be waived under #30 on the traffic offenses waiver list if it does not otherwise appear on these lists and it is located in one of the following Articles or Parts of Articles in Chapter 20 of the North Carolina General Statutes: Article 2 (G.S. 20-5 through 20-37.02); Article 3, Part 9 (G.S. 20-115 through 20-137.2), Parts 10 and 10A (G.S. 20-138.1 through 20-171.2), and Part 11 (G.S. 20-172 through 20-175); and Article 3A (G.S. 20-183.2 through 20-183.8G).

(over)

TRAFFIC OFFENSES FOR WHICH COURT APPEARANCE MAY BE WAIVED

(on execution of written waiver of appearance and trial, and plea of guilty/responsible)
(Adopted by the Conference of Chief District Court Judges, September 29, 2004 pursuant to N.C.G.S. 7A-148)

Applies To Offenses Committed On Or After December 1, 2004

A. Speeding Violations:

1. Speed over the applicable limit (including a limit imposed by permit on a commercial vehicle) and over 55 mph but not over 80 mph	0-5	6-10	11-15	
Costs plus fine of	\$0	\$10	\$25	
2. Speed over the applicable limit (including a limit imposed by permit on a commercial vehicle) but 55 mph or under	0-5	6-10	11-15	16 & over
Costs plus fine of	\$0	\$10	\$25	\$50
3. Exceeding a safe speed. [G.S. 20-141(a)]				\$ 25 and costs
4. Speeding in school zone or on school property. [G.S. 20-141(e1); G.S. 20-141.1]				\$ 25 and costs
5. Driving too slowly. [G.S. 20-141(h)]				\$ 5 and costs
6. Speeding in a work zone. [G.S. 20-141(j2)]				\$ 250 and costs
7. Failure to reduce speed to avoid accident. [G.S. 20-141(m)]				\$ 25 and costs

B. Other Violations:

1. Driving without, or with expired non-commercial drivers license (except when revoked or suspended), or operating motorcycle without proper license endorsement, or knowingly permitting an owned vehicle to be so operated [G.S. 20-7]	\$ 50 and Costs
2. Illegal parking in handicapped space. [G.S. 20-37.6]	\$100 and costs
3. Operating vehicle with improper dealer plates. [G.S. 20-79(e)(1)]	\$ 50 and costs
4. Use of darkened windows in motor vehicle. [G.S. 20-127(b)-(d)]	\$ 50 and costs
5. Failure to use headlights when wipers on. [G.S. 20-129(a)(4)]	\$ 5
6. Failure to dim lights. [G.S. 20-131; G.S. 20-181]	\$ 10 and costs
7. Failure to use seat belts. [G.S. 20-135.2A]	\$ 25 and \$50 costs
8. Transporting child under 12 in open bed or open cargo area. [G.S. 20-135.2B]	\$ 25
9. Failure to use appropriate child restraint system. [G.S. 20-137.1]	\$ 25 and costs
10. Transporting alcohol in commercial vehicle. [G.S. 20-138.2C]	\$ 50 and costs
11. Possession of open container of alcoholic beverage in motor vehicle. [G.S. 20-138.7(a1)]	\$ 10 and costs
12. Failure to wear helmet, or having too many passengers, on motorcycle or moped. [G.S. 20-140.4]	\$ 25 and \$50 costs
13. Driving the wrong way on a dual-lane highway. [G.S. 20-146]	\$ 25 and costs
14. Driving left of center. [G.S. 20-148]	\$ 10 and costs
15. Improper passing, except as provided in No. 26 on mandatory appearances. [G.S. 20-149; G.S. 20-150; G.S. 20-150.1]	\$ 25 and costs
16. Following too closely. [G.S. 20-152]	\$ 25 and costs
17. Improper turn, starting, stopping and/or improper signal. [G.S. 20-153; G.S. 20-154]	\$ 10 and costs
18. Failure to yield right of way. [G.S. 20-155; G.S. 20-158.1]	\$ 25 and costs
19. Failure to yield right of way to emergency vehicles or failure to properly pass parked emergency vehicles, except as provided in No. 27 of mandatory appearances. [G.S. 20-156; G.S. 20-157]	\$ 25 and costs
20. Failure to stop for stoplight or traffic control signal or stop sign. [G.S. 20-158]	\$ 25 and costs
21. Failure to yield to pedestrian. [G.S. 20-158(b)(2)c]	\$100 and costs
22. Driving the wrong way on a one-way street. [G.S. 20-165.1; G.S. 20-169]	\$ 25 and costs
23. Failure to remove from the roadway a vehicle involved in an accident. [G.S. 20-166(c2)]	\$ 10 and costs
24. Violation of bicycle helmet law. [G.S. 20-171.9]	\$ 10
25. Violation of vehicle inspection law. [G.S. 20-183.8(a)]	Costs
26. Any parking violation other than violation of the handicapped parking laws.	Costs
27. Violation of the vehicle registration laws, except as in No. 9 of mandatory appearances	\$ 25 and costs
28. Height, length and width violations. [G.S. Ch. 20, Art. 3, Part 9]	\$ 10 and costs
29. Improper vehicle equipment. [G.S. Ch. 20, Art. 3, Part 9]	\$ 25 and costs
30. Any other traffic violation for which court appearance is not mandatory as explained in the policies on side 1	\$ 10 and costs
31. Littering under G.S. 14-399(c)	\$250 and costs
32. Littering under G.S. 14-399(c1)	\$ 25 and costs

NOTE: Policies applicable to the use of this waiver list are listed on side 1.

ABC OFFENSES FOR WHICH COURT APPEARANCE MAY BE WAIVED

(on execution of written waiver of appearance and trial, and plea of guilty/responsible)

(Adopted by the Conference of Chief District Court Judges, September 29, 2004 pursuant to N.C.G.S. 7A-148)

Applies To Offenses Committed On Or After December 1, 2004

1. **Mail Alcoholic Beverages:**
Had alcoholic beverage (mailed) (shipped) from outside this State without having the appropriate ABC permit. [G.S. 18B-109(a)] \$ 25 and Costs
2. **Consume On Off-premises:**
(Consume) (Being a permittee, allow consumption of) (malt beverages) (unfortified wine) on premises having only an off-premises permit, to wit: (give address or identify). [G.S. 18B-300(b)] \$ 25 and Costs
3. **Consume At ABC Store:**
(Consume) (Offer to another person) (fortified wine) (spirituous liquor) (mixed beverages) on premises of ABC store or on property used or occupied by local ABC board, to wit: (name or give address of store or property). [G.S. 18B-301(f)] \$ 25 and Costs
4. **Consume On Street Or Sidewalk:**
(Consume) (Offer to another person) (fortified wine) (spirituous liquor) (mixed beverages) on a (public road, street, highway) (sidewalk), to wit: (identify street or sidewalk). [G.S. 18B-301(f)] \$ 10 and Costs
5. **Public Display At Athletic Contest:**
Display publicly (fortified wine) (spirituous liquor) (mixed beverage) at (name event), an athletic contest. [G.S. 18B-301(f)] \$ 25 and Costs
6. **Possess/Consume On Unauthorized Premises:**
(Possess) (Consume) (fortified wine) (spirituous liquor) (mixed beverages) upon premises (give address or identify) where such (possession) (consumption) is not authorized by law. [G.S. 18B-301(f)] \$ 10 and Costs
7. **Possess/Consume After Prohibited:**
(Possess) (Consume) (fortified wine) (spirituous liquor) (mixed beverages) while on premises (give address or identify) where a person has been forbidden to (possess) (consume) beverages by the (owner) (person in charge) of the premises, to wit: (name person). [G.S. 18B-301(f)] \$ 25 and Costs
8. **Possess Beer/Unfortified Wine by 19- Or 20- Year-Old:**
Possess (malt beverage) (unfortified wine) by a person (19) (20) years old. [G.S. 18B-302(b), (i)] \$ 25 and Costs
9. **Possession Of Open Container Of Alcoholic Beverage In Motor Vehicle [G.S. 20-138.7(a1)]** \$ 10 and Costs
10. **Sell To Intoxicated Person:**
Being (a permittee) (a permittee's employee) (an ABC store employee) (sell) (give) any alcoholic beverage to a person known to him to be intoxicated. [G.S. 18B-305(a)] \$ 100 and Costs
11. **Sell/Consume At Raffle/Bingo:**
Being the (owner) (person in charge) of the premises (sell) (consume) (allow the [sale] [consumption] of) any alcoholic beverage in a room while a (raffle) (bingo) game is being conducted. [G.S. 18B-308] \$ 50 and Costs
12. **Transport Unfortified Wine Without Permit:**
Transport more than 20 liters of unfortified wine, without the appropriate purchase-transportation permit. [G.S. 18B-400; G.S. 18B-102(a)] \$ 10 and Costs
13. **Transport Spirituous Liquor/Fortified Wine Without Permit:**
Transport more than 8 liters of (fortified wine) (spirituous liquor) (fortified wine and spirituous liquor combined) without the appropriate purchase-transportation permit. [G.S. 18B-400; G.S. 18B-102(a)] \$ 10 and Costs

(over)

14. **Transport Open Container Of Fortified Wine/Spirituos Liquor:**
Transport 1 liter or less tax-paid (fortified wine) (spirituous liquor) in passenger area of motor vehicle in other than the manufacturer's unopened original container. [G.S. 18B-401(a)]\$ 25 and Costs
15. **Beer/Wine Drinking By Driver:**
Consume (malt beverages) (unfortified wine) while driving a motor vehicle on a highway or public vehicular area. [G.S. 18B-401(a)]\$ 25 and Costs
16. **Transport In For-Hire Vehicle:**
Transport in a for-hire vehicle over 8 liters of (fortified wine) (spirituous liquor) (a combination of fortified wine and spirituous liquor) owned by a passenger in said vehicle. [G.S. 18B-401(b)]\$ 10 and Costs
17. **Bring Alcohol Into State:**
Bring into North Carolina alcoholic beverages purchased out of State in amounts greater than (that which may be legally transported within the State) (4 liters of spirituous liquor). [G.S. 18B-402; G.S. 18B-102(a)]\$ 10 and Costs
18. **Transport Unfortified Wine With Permit:**
Transport over 100 liters of unfortified wine while possessing a purchase-transportation permit. [G.S. 18B-403(a); G.S. 18B-102(a)]\$ 10 and Costs
19. **Transport Fortified Wine/Spirituos Liquor With Permit:**
Transport over 40 liters of (fortified wine) (spirituous liquor) (fortified wine and spirituous liquor combined) while possessing a purchase-transportation permit. [G.S. 18B-403(a); G.S. 18B-102(a)]\$ 10 and Costs
20. **Transport More Fortified Wine/Spirituos Liquor Than Allowed By Permit:**
Transport more than the amount of (fortified wine) (spirituous liquor) specified on the purchase-transportation permit of a mixed beverage permittee. [G.S. 18B-403(a); G.S. 18B-102(a)]\$ 50 and Costs
21. **Fail To Display Permit:**
Failed to display purchase-transportation permit to a law enforcement officer upon request. [G.S. 18B-403(e)]\$ 10 and Costs
22. **Violation Of Local Ordinance [G.S. 18B-300(c)]:**
 - i. Consume (malt beverages) (unfortified wine) on public street or on property owned, occupied or controlled by the (City of _____) (County of _____) in violation of (give citation and caption of local ordinance that prohibits consumption)\$ 10 and Costs
 - ii. Possess open container of (malt beverages) (unfortified wine) on public street or on property owned, occupied or controlled by the (City of _____) (County of _____) in violation of (give citation and caption of local ordinance that prohibits open containers)\$ 10 and Costs
 - iii. Possess (malt beverages) (unfortified wine) on public street, alley, or parking lot temporarily closed by (City of _____) (County of _____) in violation of (give citation and caption of local ordinance that prohibits open possession)\$ 10 and Costs
23. **Littering [under G.S. 14-399(c) only]**\$ 250 and Costs
24. **Littering [under G.S. 14-399(c1) only]**\$ 25 and Costs

OTHER POLICIES RELATING TO ABC OFFENSES:

1. G.S. 7A-148 provides that the Conference of Chief District Court Judges shall prepare a "uniform schedule" of waivable ABC offenses under G.S. Chapter 18B and shall otherwise promote the "uniform administration of justice." In accordance with this statutory mandate, all judicial districts must adhere to this schedule, and individual judicial district policies deviating from this schedule are prohibited.
2. An offense is not waivable if the defendant has been convicted of any violation of the ABC laws within the previous two years; provided however offenses under G.S. 18B-302(i) shall be waivable notwithstanding any violations of the ABC laws within the previous two years.
3. When a defendant is charged with two offenses arising out of the same transaction and both are waivable under this schedule, they should be charged on the same citation. If additional waivable offenses are charged, a separate citation should be used for each two additional offenses.
4. When two charges are made on a citation, the defendant shall be fined only for the offense carrying the highest fine, and only one bill of costs will be assessed.
5. When a defendant is charged on the same citation with an offense waivable under this schedule and one offense that is not waivable, the defendant must appear in court to answer both the waivable and non-waivable charge.
6. This schedule does not apply to littering charges under G.S. 14-399(c) or (c1), if the defendant is charged with a second offense under the subsection.

Appendix B

North Carolina Motor Vehicle Point System

§ 20-16. Authority of Division to suspend license.

(a) The Division shall have authority to suspend the license of any operator with or without a preliminary hearing upon a showing by its records or other satisfactory evidence that the licensee:

- (1) through (4) Repealed by Session Laws 1979, c. 36;
- (5) Has, under the provisions of subsection (c) of this section, within a three-year period, accumulated 12 or more points, or eight or more points in the three-year period immediately following the reinstatement of a license which has been suspended or revoked because of a conviction for one or more traffic offenses;
- (6) Has made or permitted an unlawful or fraudulent use of such license or a learner's permit, or has displayed or represented as his own, a license or learner's permit not issued to him;
- (7) Has committed an offense in another state, which if committed in this State would be grounds for suspension or revocation;
- (8) Has been convicted of illegal transportation of alcoholic beverages;
- (8a) Has been convicted of impaired instruction under G.S. 20-12.1;
- (8b) Has violated on a military installation a regulation of that installation prohibiting conduct substantially equivalent to conduct that constitutes impaired driving under G.S. 20-138.1 and, as a result of that violation, has had his privilege to drive on that installation revoked or suspended after an administrative hearing authorized by the commanding officer of the installation and that commanding officer has general court martial jurisdiction;

- (9) Has, within a period of 12 months, been convicted of two or more charges of speeding in excess of 55 and not more than 80 miles per hour, or of one or more charges of reckless driving and one or more charges of speeding in excess of 55 and not more than 80 miles per hour;
- (10) Has been convicted of operating a motor vehicle at a speed in excess of 75 miles per hour on a public road or highway where the maximum speed is less than 70 miles per hour;
- (10a) Has been convicted of operating a motor vehicle at a speed in excess of 80 miles per hour on a public highway where the maximum speed is 70 miles per hour; or
- (11) Has been sentenced by a court of record and all or a part of the sentence has been suspended and a condition of suspension of the sentence is that the operator not operate a motor vehicle for a period of time.

However, if the Division revokes without a preliminary hearing and the person whose license is being revoked requests a hearing before the effective date of the revocation, the licensee retains his license unless it is revoked under some other provision of the law, until the hearing is held, the person withdraws his request, or he fails to appear at a scheduled hearing.

(b) Pending an appeal from a conviction of any violation of the motor vehicle laws of this State, no driver's license shall be suspended by the Division of Motor Vehicles because of such conviction or because of evidence of the commission of the offense for which the conviction has been had.

(c) The Division shall maintain a record of convictions of every person licensed or required to be licensed under the provisions of this Article as an operator and shall enter therein records of all convictions of such persons for any violation of the motor

vehicle laws of this State and shall assign to the record of such person, as of the date of commission of the offense, a number of points for every such conviction in accordance with the following schedule of convictions and points, except that points shall not be assessed for convictions resulting in suspensions or revocations under other provisions of laws: Further, any points heretofore charged for violation of the motor vehicle inspection laws shall not be considered by the Division of Motor Vehicles as a basis for suspension or revocation of driver's license:

Schedule of Point Values

Passing stopped school bus	5
Reckless driving	4
Hit and run, property damage only	4
Following too close	4
Driving on wrong side of road	4
Illegal passing	4
Running through stop sign	3
Speeding in excess of 55 miles per hour	3
Failing to yield right-of-way	3
Running through red light	3
No driver's license or license expired more than one year	3
Failure to stop for siren	3
Driving through safety zone	3
No liability insurance	3
Failure to report accident where such report is required	
Speeding in a school zone in excess of the posted school zone speed limit	3
Failure to properly restrain child in a restraint or seat belt	2
All other moving violations	2
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle	1

Schedule of Point Values for Violations while Operating a Commercial Motor Vehicle

Passing stopped school bus	8
Rail-highway crossing violation	6
Careless and reckless driving in violation of G.S. 20-0140(f)	6
Speeding in violation of G.S. 20-141 (j3)	6
Reckless driving	5
Hit and run, property damage only	5
Following too close	5
Driving on wrong side of road	5
Illegal passing	5
Running through stop sign	4
Speeding in excess of 55 miles per hour	4
Failing to yield right-of-way	4
Running through red light	4
No driver's license or license expired more than one year	4

Failure to stop for siren	4
Driving through safety zone	4
No liability insurance	4
Failure to report accident where such report is required	4
Speeding in a school zone in excess of the posted school zone speed limit	4
Possessing alcoholic beverages in the passenger area of a commercial motor vehicle	4
All other moving violations	3
Littering pursuant to G.S. 14-399 when the littering involves the use of a motor vehicle	1

The above provisions of this subsection shall only apply to violations and convictions which take place within the State of North Carolina. The Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle shall not apply to any commercial motor vehicle known as an "aerial lift truck" having a hydraulic arm and bucket station, and to any commercial motor vehicle known as a "line truck" having a hydraulic lift for cable, if the vehicle is owned, operated by or under contract to a public utility, electric or telephone membership corporation or municipality and used in conjunction with installation, restoration or maintenance of utility services.

No points shall be assessed for conviction of the following offenses:

Overloads
Over length
Over width
Over height
Illegal parking
Carrying concealed weapon
Improper plates
Improper registration
Improper muffler
Improper display of license plates or dealers' tags
Unlawful display of emblems and insignia
Failure to display current inspection certificate.

In case of the conviction of a licensee of two or more traffic offenses committed on a single occasion, such licensee shall be assessed points for one offense only and if the offenses involved have a different point value, such licensee shall be assessed for the offense having the greater point value.

Upon the restoration of the license or driving privilege of such person whose license or driving privilege has been suspended or revoked because of conviction for a traffic offense, any points that might previously have been accumulated in the driver's record shall be cancelled.

Whenever any licensee accumulates as many as seven points or accumulates as many as four points during a three-year period immediately following reinstatement of his license after a period of suspension or revocation, the Division may request the licensee to attend a conference regarding such licensee's driving record. The Division may also afford any licensee who has accumulated as many as seven points or any licensee who has accumulated as many as four points within a three-year period

immediately following reinstatement of his license after a period of suspension or revocation an opportunity to attend a driver improvement clinic operated by the Division and, upon the successful completion of the course taken at the clinic, three points shall be deducted from the licensee's conviction record; provided, that only one deduction of points shall be made on behalf of any licensee within any five-year period.

When a license is suspended under the point system provided for herein, the first such suspension shall be for not more than 60 days; the second such suspension shall not exceed six months and any subsequent suspension shall not exceed one year.

Whenever the driver's license of any person is subject to suspension under this subsection and at the same time also subject to suspension or revocation under other provisions of laws, such suspensions or revocations shall run concurrently.

In the discretion of the Division, a period of probation not to exceed one year may be substituted for suspension or for any unexpired period of suspension under subsections (a)(1) through (a)(10a) of this section. Any violation of probation during the probation period shall result in a suspension for the unexpired remainder of the suspension period. Any accumulation of three or more points under this subsection during a period of probation shall constitute a violation of the condition of probation.

(d) Upon suspending the license of any person as authorized in this section, the Division shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing, not to exceed 60 days after receipt of the request, unless a preliminary hearing was held before his license was suspended. Upon such hearing the duly authorized agents of the Division may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the Division shall either rescind its order of suspension, or good cause appearing therefor, and may extend the suspension of such license. Provided further upon such hearing, preliminary or otherwise, involving subsections (a)(1) through (a)(10a) of this section, the Division may for good cause appearing in its discretion substitute a period of probation not to exceed one year for the suspension or for any unexpired period of suspension. Probation shall mean any written agreement between the suspended driver and a duly authorized representative of the Division and such period of probation shall not exceed one year,

and any violation of the probation agreement during the probation period shall result in a suspension for the unexpired remainder of the suspension period. The authorized agents of the Division shall have the same powers in connection with a preliminary hearing prior to suspension as this subsection provided in connection with hearings held after suspension. These agents shall also have the authority to take possession of a surrendered license on behalf of the Division if the suspension is upheld and the licensee requests that the suspension begin immediately.

(e) The Division may conduct driver improvement clinics for the benefit of those who have been convicted of one or more violations of this Chapter. Each driver attending a driver improvement clinic shall pay a fee of twenty-five dollars (\$25.00).

(e1) Notwithstanding any other provision of this Chapter, if the Division suspends the license of an operator pursuant to subdivisions (a)(9), (a)(10), or (a)(10a) of this section, upon the first suspension only, a district court judge may allow the licensee a limited driving privilege or license for a period not to exceed 12 months, provided he has not been convicted of any other motor vehicle moving violation within the previous 12 months. The limited driving privilege shall be issued in the same manner and under the terms and conditions prescribed in G.S. 20-16.1(b)(1), (2), (3), (4), and (5).

(e2) If the Division revokes a person's driver's license pursuant to G.S. 20-17(a)(16), a judge may allow the licensee a limited driving privilege for a period not to exceed the period of revocation. The limited driving privilege shall be issued in the same manner and under the terms and conditions prescribed in G.S. 20-16.1(b)(1), (2), (3), (4), (5), and (g). (1935, c. 52, s.11; 1947, c. 893, ss. 1, 2; c. 1067, s. 13; 1949, c. 373, ss. 1,2; c. 1032, s. 2; 1953, c. 450; 1955, c. 1152, s. 15; c. 1187, ss. 9-12; 1957, c. 499, s. 1; 1959, c. 1242, ss. 1-2; 1961, c. 460, ss. 1, 2(a); 1963, c. 1115; 1965, c. 130; 1967, c. 16; 1971, c. 234, ss. 1, 2; c. 793, ss. 1, 2; c. 1198, ss. 1, 2; 1973, c. 17, ss. 1, 2; 1975, c. 716, s. 5; 1977, c. 902, s. 1; 1979, c. 36; c. 667, ss. 18, 41; 1981, c. 412, s. 4; c. 747, ss. 33, 66; 1981 (Reg. Sess., 1982), c. 1256; 1983, c. 435, s. 10; c. 538, ss. 3-5; c. 798; 1983 (Reg. Sess., 1984), c. 1101, s. 4; 1987, c. 744, ss. 1, 2; 1987 (Reg. Sess., 1988), c. 1037, s. 75; 1989, c. 784, s. 9; 1991, c. 682, s. 3; 1999-330, s. 7; 1999-452, s. 10; 2000-109, s. 7(d); 2000-117, s. 2; 2000-155, s. 10; 2001-352, s. 2.)

Appendix C

Double Penalties for Commercial Drivers

§ 20–16.01. Double penalties for offenses committed while operating a commercial motor vehicle.

Any person who commits an offense for which points may be assessed pursuant to the Schedule of Point Values for Violations While Operating a Commercial Motor Vehicle as provided in G.S. 20–16(c) may be assessed double the amount of any fine or penalty authorized by statute. (1999–330, s. 8)

Index to Punishment Chart for North Carolina Motor Vehicle Offenses

Major offenses are listed in alphabetical order, showing the section number for each.

Accident responsibility laws

- failure to give information, 20-166(c), (c1)
- hit-and-run, death or injury, 20-166(a)
- hit-and-run, property damage, 20-166(c)
- report of accident, 20-166.1

Activity bus speed limits, 20-218.2

Backing vehicle, 20-154(a)

Bus drivers, 20-217, -218

Car theft and related offenses

- altered serial number, 20-108, -109
- false report of theft, 20-102.1
- removing vehicle parts, 20-107
- rented vehicle (failure to return), 20-106.1
- stolen vehicles, 20-106

Certificates of title, 20-72 through -74

Child care vehicle, 20-138.2B

- commercial licenses
- driving while impaired, 20-138.2, -138.2A, 138.2C
- driving without a commercial license, 20-37.12(a)
- failure to report traffic conviction, 20-37.18
- license suspended, revoked, cancelled, 20-37.19(a), (b)
- more than one license, 20-37.19(b)(2)
- penalties and points. *See* Appendixes B and C

Dealer plates, 20-79

Death by vehicle, 20-141.4

Dim lights, 20-181

Driver's license points. *See* Appendix B

Driver's license violations

- age limits, 20-10, -10.1

- driving without license (NOL) or violating restrictions, 20-7, -29.1

- illegal activity relating to license, 20-29, -29.1, -30 through -32, and -34

- learner's permit, 20-11, -12.1

- limited driving privilege, 20-16.1, -179.3

- no operator's license, 20-7(a)

- parking privileges for handicapped drivers, 20-37.6

- special I.D. card, 20-37.7

- suspended or revoked license, 20-16.1(b), -28

- Driving while impaired offenses, 20-138.1, -138.2, -138.2A, -138.2B, -138.2C, -138.5, -138.7

Emergency vehicles, 20-130.1, -157

Equipment violations

- brakes, 20-124
- child restraint systems, 20-137.1
- dim lights, 20-181
- horns and warning devices, 20-125
- lights, 20-129, -129.1, -130.1, -130.3, and -134
- mirrors, 20-126
- mufflers, 20-128
- seat belts, 20-135.2A, -135.2B
- selling unapproved brake fluid or lining, 20-124(h)
- smoke screens, 20-136
- speedometer, 20-123.2, 20-141(o)
- steering mechanism, 20-123.1
- tires, 20-122.1
- windshields, 20-127

Following too closely, 20-152

Hit-and-run, 20-166, 20-166.1

Inspection laws, 20-183.8(a), -183.8(c)

Insurance violations, 20-313(a), -313.1

Limited driving privileges, 20-16.1, -179.3

Motorcycles and mopeds, 20-140.4

No operator's license (NOL), 20-7

Nuclear fuel, 20-167.1

Parking for handicapped, 20-37.6

Passing, 20-149 through -150.1, 20-217

Pedestrian crosswalks, 20-173

Perjury, 20-112

Pickup truck, transporting children, 20-135.2B

Police or fire directions, 20-114.1

Racing, 20-141.3

Registration, 20-50 through -71

Right-of-way, 20-155 through -158

Rules-of-the-road violations

aggressive driving, 20-141.6

controlled-access highways, 20-140.3

death by vehicle, 20-141.4

dim lights, 20-181

driving after consuming alcohol, 20-138.2A, -138.2B,
-138.2C, -138.3, and -138.7

driving while impaired (DWI), 20-12.1, -138.1, 138.2,
-138.5, and -138.7

fire, police, and rescue vehicles, 20-156, -157

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motorcycles and mopeds, 20-140.4, -146.1

one-way streets, 20-165.1

parking, 20-161, -161.1, -162, and -163

passing, 20-149 through -150.1

passing stopped school bus, 20-217

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railroad grade crossings, 20-142.1 through -142.5

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wrong way on one-way street, 20-165.1

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Railroad signals, 20-142.1, -142.2, -142.3, -142.4, -142.5

Salvage titles, 20-71.4

School activity bus, 20-138.2B, -218

School bus driver consuming alcohol, 20-138.2B

School bus speed limits, 20-218

Soliciting rides, employment, or business on highways,
20-175

Speeding, 20-141

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Standing, sitting, or lying in street, 20-174.1

Stopped school bus, 20-217

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Vehicle registration

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