

**LEGISLATIVE OVERVIEW:
HIGHLIGHTS FROM THE 2015 SESSION**



Civil Law

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Criminal Law & Courts

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Civil Law

House Bill 174 ([Session Law 2015-178](#)): Landlord/Tenant-Foreclosure & Eviction Changes

House Bill 174 amends and enhances certain notice requirements and protections for tenants of real properties in foreclosure, allows purchasers of real property under option contracts to pursue monetary damages in civil actions that are separate from the summary ejectment proceedings, and makes other changes to the Homeowner and Homebuyer Protection Act. The act became effective October 1, 2015.

House Bill 352 ([Session Law 2015-71](#)): Standard of Proof/Public Safety Dispatchers

House Bill 352 increases the burden of proof in civil actions arising out of an act or omission by 911 telecommunicators, public safety telecommunicators, and dispatchers in the performance of their job duties at a public safety answering point (PSAP) or at a public safety agency that dispatches 911 calls after receiving them from a primary PSAP. The act requires the plaintiff to prove his or her case by clear and convincing evidence. Formerly, the plaintiff had the burden of proof by "a preponderance of the evidence." This act became effective on June 11, 2015, and applies to all actions arising on or after that date.

House Bill 376 ([Session Law 2015-153](#)): Civil Procedure/Modernize Expert Discovery

House Bill 376 amends the North Carolina Rules of Civil Procedure to align the procedure for discovery of expert witnesses with the practice in federal courts, and to clarify that the compensation that a court may award to an expert witness in civil actions is limited to the reasonable and necessary fees solely for actual time spent providing testimony. The act became effective October 1, 2015. The changes to expert discovery procedure apply to actions commenced on or after that date, and the change to expert witness compensation applies to motions or applications for costs filed on or after that date.

House Bill 597 ([Session Law 2015-57](#)): Mediated Settlement Agreements

House Bill 597 makes mediated settlement agreements enforceable as long as they are signed by the parties against whom enforcement is sought. The act applies to mediations conducted in superior court civil actions, in matters within the jurisdiction of the clerk of superior court or the district criminal courts, in actions involving equitable distribution, alimony, or support in district court, and at a community mediation center. The act became effective July 1, 2015, and applies to mediated settlement agreements entered into on or after that date.

House Bill 607 ([Session Law 2015-193](#)): Allow Protected Consumer Security Freezes

House Bill 607 requires a credit reporting agency to place a security freeze on the consumer report of a "protected consumer" upon request of the protected consumer's authorized representative. "Protected consumer" is defined as a person who is under the age of 16, is incapacitated, or for whom a guardian or guardian ad litem has been appointed. The act becomes effective January 1, 2016.

House Bill 765, [Session Law 2015-286](#): Regulatory Reform Act of 2015

Section 2.3: Amend Definition of "Employee" under the Workers' Compensation Act

Section 2.3 of House Bill 765 amends the definition of the term "employee" under the Workers' Compensation Act to exclude officers of certain nonprofit corporations who receive no remuneration for their service, other than reasonable reimbursement for expenses incurred in connection with the voluntary service. The new definition applies to nonprofit corporations subject to the Unit Ownership Act, the Condominium Act, the Planned Community Act, the Nonprofit Corporation Act, the Uniform Unincorporated Nonprofit Association Act, and any organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. If the nonprofit employs one or more persons who receive remuneration, the volunteer officers shall be counted solely for the purpose of determining the number of persons employed by the corporation. The provision does not apply to certain volunteer public safety workers who are currently covered by the definition of employee. This section became effective October 22, 2015.

Section 4.1: Environmental Self-Audit Privilege and Limited Immunity

Section 4.1. of House Bill 765 establishes a disclosure privilege for environmental audit reports that would generally prevent the use of the reports as evidence in civil or administrative proceedings. The provision also prohibits persons who conducted or participated in an audit or who significantly reviewed an audit report from being compelled to testify regarding the audit report or a privileged part of the audit, except in certain circumstances. In addition, the provision generally establishes immunity for owners and operators of facilities from imposition of civil and administrative penalties for a violation of environmental laws discovered through the conduct of an environmental audit and voluntarily disclosed to an enforcement agency in conformance with requirements established by the provision. The provision specifically provides, however, that waiver of penalties and fines must not be granted until the applicable enforcement agency has certified that the violation was corrected within a reasonable period of time (i.e., the enforcement agency retains discretion to assess penalties and fines for the violation until it is corrected). An owner or operator of a facility who makes a voluntary disclosure of a violation of environmental laws discovered through an audit is limited to exercise the privilege or immunity only once in a 2-year period, not more than twice in a 5-year period, and not more than three times in a 10-year period. These provisions do not apply to activities regulated under the Coal Ash Management Act of 2015.

The section requires DENR to: (i) submit these environmental self-audit privilege and immunity provisions to the United States Environmental Protection Agency (USEPA) and request the USEPA's approval to implement the provisions in concert with the State's legal authority to continue administering delegated, approved, or authorized federal environmental programs within the State; and (ii) report to the Environmental Review Commission (ERC) no later than December 1, 2015, and monthly thereafter, until approval to implement these provisions is received from USEPA. The section would become effective upon the date such approval is received from USEPA.

This section becomes effective when DENR receives approval from USEPA to implement the self-audit privilege and immunity provisions.

Senate Bill 2 ([Session Law 2015-75](#)): Magistrates Recusal for Civil Ceremonies

Senate Bill 2 permits magistrates to recuse themselves from performing all lawful marriages based upon a sincerely held religious objection, and permits assistant registers of deeds and deputy registers of deeds to recuse themselves from issuing all lawful marriage licenses based upon a sincerely held religious objection.

The recusal must be for a minimum period of six months, and continues after that time until the recusal is rescinded in writing. Officials who recuse themselves are not subject to prosecution for failing to perform the duties otherwise imposed upon them by law. The recusals are considered to be part of the recusing employee's personnel file and are not public records.

Each register of deeds must ensure that all qualified applicants for marriage licenses are issued a license, and each chief district court judge must ensure the availability of marriages performed by a magistrate during at least ten hours per week over at least three business days. If all of the magistrates in a county recuse themselves from performing marriage ceremonies, the chief district court judge must notify the AOC, which must ensure that a magistrate is available in that county for performance of marriages for the required times.

The bill took effect on June 11, 2015, after the General Assembly overrode the Governor's veto.

Senate Bill 119 ([Session Law 2015-264](#)): GSC Technical Corrections 2015

Section 56.2: Local Preemption/Shale Gas Provision

Section 56.2 of Senate Bill 119 does the following:

- Amends G.S. 113-415.1 governing local regulation of oil and gas activities to prohibit local ordinances that regulate, or have the effect of regulating, oil and gas activities within a jurisdiction, and to make invalid and unenforceable ordinances that place any restriction or condition not placed by the statutes governing oil and gas activities and use of horizontal drilling or hydraulic fracturing for that purpose. Prior to this change, the statute preempted local ordinances that prohibited or had the effect of prohibiting oil

and gas activities within a jurisdiction. This change was made effective retroactively to June 4, 2014.

- Amends G.S. 130A-309.205, which prohibits local ordinances that regulate, or have the effect of regulating, coal ash management activities, to clarify that such ordinances are "unenforceable," in addition to being invalid. This change was made effective retroactively to August 20, 2014.

Senate Bill 123 ([Session Law 2015-23](#)): Uniform Fraudulent Transfer Act

Senate Bill 123 amends the Uniform Fraudulent Transfer Act (UFTA) to adopt amendments approved by the Uniform Law Commission in 2014, and makes related conforming and technical amendments, as recommended by the General Statutes Commission. The act became effective October 1, 2015, and applies to a transfer made or obligation incurred on or after that date.

Senate Bill 596 ([Session Law 2015-107](#)): Protection against Unconstitutional Foreign Judgments

Senate Bill 596 provides that:

- A State court shall not recognize a foreign-country judgment obtained by a foreign government entity to compensate for the expenditure of public funds for government programs.
- A State court shall not recognize a foreign-country judgment if it is based on a foreign statute or rule of law which, as applied by the foreign court, would have been unconstitutional under either the United States Constitution or the North Carolina Constitution had it been applied by a court in North Carolina.
- If a proceeding in a foreign court is brought by a foreign government entity based upon rules of law adopted for the benefit of the foreign government entity that are applied *ex post facto* to conduct of the defendant or if the action imposes liability for harms to individuals without requiring proof of each element of the claim, then a State court must find that the action is fundamentally unfair and that its judgment is repugnant to the public policy of this State.

The Act became effective June 24, 2015, and applies to the recognition of foreign-country judgments on or after that date regardless of when the judgment was entered.

Senate Bill 678 ([Session Law 2015-177](#)): Amend Debt Collection Statutes

Senate Bill 678 amends Article 2 of Chapter 75 of the General Statutes to modify the requirements governing communications made by debt collectors who are not collection agencies to persons other than the debtor or the debtor's attorney, and to clarify that such

debt collectors are not prohibited from collecting court costs actually incurred. The act became effective on August 5, 2015.

Senate Bill 679 ([Session Law 2015-179](#)): NC Consumer Finance Act Amendments

Senate Bill 679 amends the Consumer Finance Act, which applies to loan companies that make direct consumer loans of \$15,000 or less, to:

- Allow for recovery of court costs by lenders in certain actions to recover loans
- Clarify provisions pertaining to multiple loan contracts
- Repeal a separate statute referencing loan limits that were made obsolete by the 2013 amendments to the Act
- Clarify provisions requiring additional notice and restrictions applicable to borrowers who are military service members
- Change a provision on enforcement of loans made outside of the State to conform to the loan amounts allowed under the Act as amended in 2013

The act became effective September 1, 2015.

Criminal Law

House Bill 97 ([S.L. 2015-264](#)): 2015 Appropriations Act

House Bill 97 contains several provisions related to criminal law and procedure. Some of those include:

- Section 16A.8, which provides grants for body-worn video cameras for law enforcement.
- Section 16C.1, which authorizes use of available funds to reimburse counties for convicted inmates, parolees, and post-release supervisees awaiting transfer to the state prison system.
- Section 17.3, which adds several felonies to the list of felonies requiring a DNA sample upon arrest for arrests occurring on or after December 1, 2015.

House Bill 148 ([S.L. 2015-125](#)): Insurance Required for Mopeds

House Bill 148 makes changes to the laws regarding mopeds as follows:

- Requires mopeds to be insured. Effective July 1, 2016.
- Clarifies that sellers of mopeds are not required to be licensed as motor vehicle dealers. Effective July 1, 2015.

- Clarifies that mopeds do not have to be issued a certificate of title, even though they are required to be registered. Effective July 1, 2015.

House Bill 173 ([S.L. 2015-247](#)): Omnibus Criminal Law Bill

House Bill 173 makes various criminal law changes, which became effective September 23, 2015 unless otherwise noted. Some of the changes included are as follows:

- Extends from 20 days to 40 days the period of time allowed beyond the court-established due date to pay a fine, penalty, or costs. This section becomes effective December 1, 2015, except that a failure to pay after 20 days occurring before the effective date of this act is not abated or affected by this act and the statutes that would be applicable but for this act remain applicable to that failure to pay.
- Requires the Administrative Office of the Courts (AOC) to maintain records of all criminal cases when a defendant in a criminal case withdraws an appeal for trial de novo in superior court and the superior court judge has signed an order remanding the case to the district court.
- Allows a chief district court judge to authorize any magistrate to appoint counsel and accept waivers of counsel for non-capital offenses. Also removes the restriction that prohibits magistrates from accepting guilty pleas and entering judgment for offenses of Intoxicated and Disruptive in Public pursuant to G.S. 14-444.
- Provides that if a defendant appeals an activation of a sentence based on a probation violation, probation supervision will continue under the same conditions until the termination of the supervision period or disposition of the appeal, whichever comes first.
- Conforms State law to the U.S. Supreme Court decisions in *Hall v. Florida* and *Brumfield v. Cain*. Specifically, this section changes the term "mental retardation" to "intellectual disability" and clarifies that an IQ of 70 is approximate and a higher score resulting from the application of the standard error of measurement does not prevent the defendant from being able to present additional evidence of intellectual disability.
- Changes the current requirement that bond be doubled for anyone charged with a new crime while on pretrial release for pending charge from a mandatory requirement to a permissive authorization. This section became effective October 1, 2015, and applies to conditions of pretrial release imposed on or after that date.

House Bill 215 ([S.L. 2015-289](#)): Procedure for Waiver of Jury Trial

House Bill 215 establishes the procedure for waiver of the right to a jury trial in criminal cases in superior court. This act sets forth when the defendant must give notice of intent to waive, when the defendant may revoke the waiver, and the procedure the judge must follow in granting consent. This act became effective October 1, 2015, and applies to defendants waiving their right to trial by jury on or after that date.

House Bill 273 ([S.L. 2015-150](#)): Clarify Cond. Discharge Law/No DWI Expunge

House Bill 273 clarifies that the provisions regarding deferred prosecution and conditional discharge for convictions of H and I felonies and misdemeanors under Structured Sentencing do not apply to convictions of impaired driving and that offenses involving impaired driving cannot be expunged. These provisions become effective December 1, 2015 and apply to persons placed on probation on or after that date, or petitions filed or pending on or after that date.

This act also modifies the statute requiring a new sentencing hearing in district court when the appeal for an implied consent conviction is withdrawn and remanded to only require a new sentencing hearing when there are new convictions to be considered. This provision becomes effective December 1, 2015, and applies to appeals filed on or after that date.

House Bill 383 ([S.L. 2015-181](#)): Clarify Statutory Scheme/Sex Offenses

House Bill 383 reorganizes, renames, and renumbers various sexual offenses to make them more easily distinguishable from one another, as recommended by the North Carolina Court of Appeals in a published opinion. This act becomes effective December 1, 2015, and applies to offenses committed on or after that date.

House Bill 465 ([S.L. 2015-465](#)): Women and Children's Protection Act of 2015

House Bill 465 makes various criminal and civil changes as follows:

- Defines statutory rape as engaging in a sexual act with a person who is 15 years old or younger. This becomes effective December 1, 2015.
- Makes administrative changes to improve collection and payment of child support to families. This became effective June 5, 2015.
- Permits electronic filing of documents in Chapter 50B and 50C cases under local rules approved by the AOC or under any uniform state rules adopted by the Supreme Court. This becomes effective December 1, 2015, and applies to documents filed and hearings held on or after that date.
- Makes it an aggravating sentencing factor to knowingly commit an offense that is seen or heard by a minor who is not an accomplice to the offense and clarifies that an assault is committed "in the presence of a minor" when the minor can see or hear the assault. This becomes effective December 1, 2015, and applies to offenses committed on or after that date.
- Permits the court to impose conditions of pretrial release in domestic violence cases to protect persons the defendant is dating or has dated. This becomes effective December 1, 2015, and applies to offense committed on or after that date.

- Requires registered sex offenders that committed federal crimes or crimes in other States that are substantially similar to sex offenses under State law to stay away from premises frequented by minors. This becomes effective December 1, 2015, and applies to offenses committed on or after that date.
- Creates a Maternal Mortality Review Committee within DHHS to study and recommend ways to prevent deaths resulting from complications of pregnancy or childbirth. This becomes effective December 1, 2015.
- Requires annual inspection by DHHS of clinics where abortions are performed, other than hospitals licensed under Chapter 131E of the General Statutes, and publication of the results of such inspections conducted on or after January 1, 2013 on DHHS' Web site and on the "Woman's Right to Know Act" Web site, and prohibit such clinics from employing persons less than 18 years of age. This became effective October 1, 2015.
- Requires physicians who perform abortions other than in a medical emergency to be board certified or certifiable in obstetrics or gynecology or possess sufficient training based on established medical standards in safe abortion care, abortion complications, and miscarriage management and to report certain information to DHHS. This became effective October 1, 2015.
- Increase to 72 hours the waiting period for women who voluntarily consent to an abortion. This became effective October 1, 2015.

House 529 ([S.L. 2015-186](#)): NC Drivers License Restoration Act

House Bill 529 provides that the additional period of revocation previously required by G.S. 20-28 for all Driving While License Revoked (DWLR) offenses applies only to convictions of DWLR when the license was revoked for impaired driving. This act also excludes any DWLR conviction that was not a DWLR for impaired driving from being classified as a "motor vehicle moving offense" for purposes of applying for a new drivers license unless the offense occurred in a commercial motor vehicle or the person held a commercial drivers license at the time of the offense. This act becomes effective December 1, 2015, and applies to offenses committed on or after that date.

House Bill 562 ([S.L. 2015-195](#)): Amend Firearm Laws

House Bill 562, as amended by Section 2 of House Bill 735 ([S.L. 2015-267](#)), makes various changes to the firearm laws as follows:

- Amends the exemptions to carrying a concealed weapon to allow DAs with a concealed handgun permit to carry a concealed handgun in a courtroom. Effective July 1, 2015.*
- Adds certain DPS employees and Administrative Law Judges who have concealed handgun permits to the list of exemptions to concealed carry, which would allow them to carry concealed handguns in some places the average person cannot, including courtrooms, assemblies where a fee is charged, etc. Effective July 1, 2015.

- Allows a person to carry a pocket knife in a closed position into the State Capitol Building. Effective July 1, 2015.
- Allows a person with a concealed handgun permit to carry concealed on their person within a locked vehicle on educational property and allows a person within a locked vehicle on educational property to move a handgun from concealment on their person to a closed compartment and vice versa even if momentarily it is not concealed. Effective July 1, 2015.
- Provides an affirmative defense to possession of a handgun on educational property if the person was authorized to have a handgun in a locked vehicle and removed the handgun from the vehicle only in response to a threatening situation in which deadly force was justified to defend self or others pursuant to G.S. 14-51.3. Effective July 1, 2015.
- Authorizes the Commissioner of Agriculture to prohibit the carrying of firearms on the State Fairgrounds during the State Fair. Law enforcement officers would be exempted, and persons with concealed handgun permits would still be authorized to have a handgun in their locked vehicle. This section also directs the Department of Agriculture, in consultation with the Department of Public Safety and the North Carolina Sheriffs' Association to study a method to allow persons to store handguns at the entrance to the State Fairgrounds. Effective August 5, 2015.
- Expands the shooting range protection act to provide that shooting ranges are only subject to noise ordinances that were in effect at the time the shooting range began operation and do not have to comply ordinances adopted later if there has been no substantial change in use. Effective July 1, 2015.
- Modifies the firearm rights restoration statute to ensure recognition of the restoration by federal law. Effective August 5, 2015.
- Eliminates some misdemeanors from the list of misdemeanor convictions that prohibit a person from obtaining a concealed handgun permit and makes most misdemeanor convictions only count against a person for 3 years in relation to prohibiting them from obtaining a concealed handgun permit. Certain specified assault convictions, stalking convictions, domestic violence convictions and convictions for assault on a law enforcement officer remain a prohibiting conviction permanently. Effective July 1, 2015.
- Authorizes the use of short-barreled rifles for hunting. Effective July 1, 2015.
- Reduces the offense of carrying a concealed handgun on private posted property from a Class 1 misdemeanor to an infraction and authorizes a fine of up to \$500. Effective December 1, 2015.
- Makes changes to the pistol permit process to create a uniform application and permit form and specifies what an applicant can be required to provide and what a sheriff may consider. This act also changes the appeal of a denial of a permit from a singular appeal to the chief district court judge in that district to an appeal to the superior court. Effective December 1, 2015.

- Requires the Department of Public Safety, in consultation with the Office of Information Technology Services and the FBI, to study the development of a system to allow background checks in private transactions. Effective December 1, 2015.
- Makes changes to the process of collecting and reporting information by the clerk to the National Instant Criminal Background Check System (NICS). Effective January 1, 2016.
- Prohibits a sheriff from requesting additional information for concealed handgun permit applications unless specifically authorized by statute. Effective October 1, 2015.
- Requires arresting law enforcement agencies to fingerprint persons charged with certain misdemeanors. Effective October 1, 2015.
- Expands statewide uniformity of firearm regulation to specifically prohibit local governments from adopting any regulation relating to taxation, manufacture, or transportation of firearms. This act also allows a person to bring an action for declaratory and injunctive relief against a local government that violates the section by adopting a regulation in violation of the law. Effective December 1, 2015.
- Requires certain State officials authorized by federal law to complete certifications required by federal law for transfer of certain weapons to complete those certifications within 15 days of request. Effective July 1, 2015.
- Requires a sheriff to make the request for any records concerning the mental health of an applicant for a concealed handgun permit within 10 days of receipt of the permit application and prohibit denial of the permit unless the applicant is determined to be ineligible pursuant to statute. This act prohibits additional fees being charged to the applicant for the background checks under this statute. Effective October 1, 2015.
- Amends G.S. 14-415.23, which limits local government regulation of carrying concealed handguns to allow a person to bring an action for declaratory and injunctive relief against the local government for violation of the statute. Effective December 1, 2015.
- Authorizes a permanent resident of the United States to obtain a North Carolina concealed handgun permit. Effective August 5, 2015.

*Please see the actual legislation for qualifying language for effective date of specific provisions.

House Bill 566 ([S.L. 2015-212](#)): Amend Eyewitness ID/Show-Up

House Bill 566 modifies the laws regarding eyewitness identification and "show-up" procedures, effective for all eyewitness identifications and show-ups conducted on or after December 1, 2015, as follows:

- Clarifies that law enforcement officers may be an eyewitness.
- Defines "show-up" to be a procedure in which an eyewitness is presented with a single live suspect for the purpose of determining whether the eyewitness is able to identify the perpetrator of a crime.

- Establishes minimum standards for show-ups as:
 - A show-up shall only be done when a suspect matching the description of the perpetrator is located in close proximity in time and place to the crime, or there is reasonable belief that the perpetrator has changed his or her appearance in close time to the crime, and only if there are exigent circumstances that require the immediate display of a suspect to an eyewitness.
 - A show-up shall only be done using a live suspect, and shall not be conducted with a photograph.
 - Investigators are to photograph the suspect to preserve a record of the suspect's appearance at the time of the show-up.
 - Requires the North Carolina Criminal Justice Education and Training Standards Commission to develop additional policies to become effective August 1, 2016, on the conduct of show-ups.

House Bill 570 ([S.L. 2015-48](#)): Facilitate Successful Reentry

House Bill 570 requires law enforcement, upon taking an individual into custody, and the courts, prior to the entry of a criminal order against an individual, to attempt to identify any outstanding warrants against an individual and to notify the appropriate law enforcement agencies of the individual's location. The Division of Adult Correction must work with law enforcement, district attorneys' offices, and the courts to develop a process to identify an inmate's outstanding warrants and seek to resolve the warrants while the inmate is in custody. This act became effective October 1, 2015.

House Bill 792 ([S.L. 2015-250](#)): Privacy/Protection From Revenge Posting

House Bill 792 creates a new offense of disclosure of private images for disclosing private images of a person's intimate parts or of the person engaged in sexual conduct, without the consent of the person when the person has a reasonable expectation of privacy, and with specific intent to cause harm. A first offense by a person under the age of 18 is a Class 1 misdemeanor. A second or subsequent offense by a person under 18 and any offense by a person 18 or older is a Class H felony. This act becomes effective December 1, 2015,

House Bill 879 ([S.L. 2015-58](#)): Juvenile Code Reform

House Bill 879 makes various changes to juvenile delinquency law as follows:

- Increases the age requirement for a juvenile's parent to be present during interrogation from 14 to 16 years old.
- Clarifies that an adjudicatory hearing is a separate hearing from a probable cause or transfer hearing and may be continued for good cause.
- Codifies the process for a motion to suppress evidence.

- Requires a juvenile court counselor to make reasonable efforts to meet with a juvenile who has had a complaint filed for a divertible offense and has not had a previous complaint.
- Clarifies that the district attorney may dismiss any allegations stated in a juvenile petition, with or without leave, either orally or in open court, or in writing with notice.
- Clarifies what prior adjudications count in determining delinquency history level.
- Clarifies that extension of probation must have notice and a hearing and allows extension after the period of probation has ended if the juvenile fails to appear in court.
- Clarifies that upon a probation violation the court may order a new disposition at the same level. The court may order a new disposition at the next highest level or order a period of secure confinement for up to twice the normally authorize period, but not both.
- Requires the court to provide notice of the ability to expunge juvenile offenses, if applicable.
- Clarifies that secure custody review hearings must be conducted every 10 days so long as a juvenile remains in secure custody pending disposition or placement pursuant to a disposition order, but may be waived for up to 30 day only with the consent of the juvenile, through counsel for the juvenile, either orally in open court or in writing.
- Requires that a juvenile under the age of 10 being transported for medical or psychiatric treatment while in secure custody, not be transported in physical restraints if they have no delinquency charge, unless it is reasonably necessary for the safety of the officer or authorized person or the juvenile.

These changes become effective December 1, 2015, and apply to offenses committed on or after that date.

House 909 ([S.L. 2015-98](#)): ABC Omnibus Legislation

House Bill 909 makes various changes to the Alcoholic Beverage Control (ABC) Commission laws as follows:

- Creates an antique spirituous liquor permit with a \$100 fee, which can be issued to a mixed beverage permittee and authorizes the sale of antique spirituous liquors at retail for use in mixed beverages for consumption on premises. Permittees are authorized to purchase antique spirituous liquor through the ABC Commission special order process.
- Makes it unlawful for any person to manufacture, sell, transport, import, deliver, furnish, purchase, consume, or possess powdered alcohol.
- Authorizes the Eastern Band of Cherokee Indians tribal alcoholic beverage control commission to issue: (i) permits in compliance with G.S. 18B-603(f), (ii) wine shipper permits, and (iii) commercial activity permits for commercial businesses that are located wholly on Indian Country lands. This section also grants them sole enforcement authority for those permittees to the extent the regulated conduct occurs on Indian Country lands. Both the Eastern Band of Cherokee Indians and the North Carolina Alcoholic Beverage Control Commission are required to equally recognize any permit issued by the other entity. This section also authorizes the issuance of "Tourism ABC Establishment" permits

for restaurants and hotels that meet that definition between Mileposts 460 and 469 of the Blue Ridge Parkway. The Eastern Band of Cherokee Indians tribal alcoholic beverage commission is given exclusive authority to issue "Tourism ABC Establishment" permits to those restaurants and hotels that are located wholly on Indian Country lands.

- Allows the holder of a distillery permit to sell, in closed containers, liquor that is manufactured at the distillery to visitors who tour the premises for off-premises consumption. The sales are allowed only in a county where the establishment of a county or municipal ABC store has been approved by election, and are be subject to the same time and day restrictions as ABC stores.

The liquor must listed as a code item for sale in the State and must be sold at the price set by the Commission pursuant to G.S. 18B-804(b). There must also be a sticker affixed to the bottle bearing the words "North Carolina Distillery Tour Commemorative Spirit."

Consumers are limited to purchasing no more than one of any North Carolina code item per 12-month period. A distillery must use a commonly adopted standard point of sale system to maintain searchable electronic records captured at the point of sale, to include the purchaser's name, drivers license number, and date of birth for at least one year from the date of purchase. The distillery is not permitted to sell any North Carolina code item to a customer who has purchased the code item in the last year. This section became effective October 1, 2015, the effective date of the ABC Commission's rules regulating the on-site sale of spirituous liquor at distilleries.

- Allows the holders of both off premises and on premises unfortified wine permits to sell unfortified wine (including cider) for off premises consumption if dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned, sanitized, resealable container that is filled or refilled and sealed for consumption off premises and that identifies the permittee and the date the container was filled or refilled.
- Provides that a brewery that enters into an "alternating proprietorship" arrangement with another brewery has not changed ownership and therefore does not lose its ABC permits. This section authorizes alternating proprietorships between affiliated breweries, provided the contract brewing arrangement is not used to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit where either brewery would not otherwise qualify for the permit (i.e., because the brewery exceeds the 25,000 barrel cap).
- Provides that the holder of a brewery permit may sell malt beverages to a nonresident wholesaler, nonresident malt beverage vendor, bottler, or other similar party for resale in this State if the malt beverages are shipped from the brewery to wholesalers licensed under Chapter 18B.

This section also allows the holder of a brewery permit to receive, in closed containers, and sell at the brewery, malt beverages produced inside or outside North Carolina under contract with a contract brewery. The contract brewery that manufactures the malt beverages is responsible for all aspects of manufacturing the product. The contract malt

beverages are permitted to be sold at affiliated retail outlets of the brewery physically located on or adjacent to the brewery. Any malt beverages received from a contract brewery must be made available for sale by the brewery to wholesalers for distribution to retailers, without discrimination, in the same manner as if the malt beverages were being imported by the brewery. This section authorizes contract brewing between affiliated breweries, provided the contract brewing arrangement is not used to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit where either brewery would not otherwise qualify for the permit (i.e., because the brewery exceeds the 25,000 barrel cap).

- Allows the ABC Commission to issue a guest room cabinet permit to an 18-hole golf course that (i) holds a mixed beverages permit or that is located in a county where ABC stores have heretofore been established but in which the sale of mixed beverages has not been approved, (ii) has management contracts for the rental of living units, and (iii) is located in a county with a population over 20,000 people by the last federal census.

Except as otherwise provided, this act became effective June 19, 2015.

Senate Bill 60 ([S.L. 2015-91](#)): No Contact Order/No Expiration

Senate Bill 60 allows a victim of a sexual offense (or a competent adult on behalf of a minor or incompetent victim) to obtain a permanent civil no-contact order against the person convicted of committing the offense. The order has no expiration date and violation of the order is a Class A1 misdemeanor. These provisions became effective October 1, 2015.

This act also allows a court order entered pursuant to 14-50.43 (criminal street gangs) to be extended beyond one year for good cause shown, after a hearing. This provision became effective June 19, 2015.

Senate Bill 78 ([S.L. 2015-5](#)): Off-duty Correctional Officers/Concealed Carry

Senate Bill 78 allows State correctional officers to carry a concealed weapon when off-duty. If the concealed weapon is a handgun, the officer must meet departmental firearms training standards. This act becomes effective December 1, 2015.

Senate Bill 212 ([S.L. 2015-105](#)): Handgun Standards for Retired Sworn LEO

Senate Bill 212 allows successful completion by a retired sworn law enforcement officer of the handgun qualifications for active sworn law enforcement officers to be sufficient for purposes of a concealed handgun permit. This act became effective October 1, 2015.

Senate Bill 238 ([S.L. 2015-282](#)): Stalking by GPS/Criminal Offense

Senate Bill 238 provides that knowing installation of an electronic tracking device, without consent, to track a person's location is cyberstalking, a Class 2 misdemeanor. There are 11

enumerated exceptions to the prohibition. This act becomes effective December 1, 2015, and applies to offenses committed on or after that date.

Senate Bill 621 ([S.L. 2015-108](#)): Registration Renewal Notice/Email

Senate Bill 621 authorizes the DMV to send the required combined vehicle property tax and State registration notice by e-mail, subject to the written consent of the owner of a vehicle. This act becomes effective January 1, 2016.