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Public Law for the Public's Lawyers Fall 2019 Civil Law (mostly) Update

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Before we get started!

I want to take a moment to thank my colleagues at the Legislative Analysis Division whose contributions in the form of bill summaries were used exclusively to prepare the content found in each slide. Please refer to the bottom right-hand corner of the screen for more information on which Legislative Analysis Division employee's bill summary was used for the particular Session Law being presented.

THANK YOU!

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Statistics for the 2019-2020 Biennium "Long Session" thus far...

- ▶ House bills introduced: 1023
- ▶ Senate bills introduced: 694
- ▶ Bills signed by the Governor: 193
- ▶ Bills vetoed by the Governor: 10
- ▶ Vetoed bills overridden by the General Assembly: 0
- ▶ Bills pending the Governor's signature as of 11/7/2019: 7
- ▶ Enacted local bills: 42
- ▶ Enacted public bills that became law without the Governor's signature: 2

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S.L. 2019-2 Restore Court of Appeals Membership.

4

- ▶ Prior to S.L. 2019-2 becoming law on February 27, 2019, S.L. 2017-7 reduced the Court of Appeals from 15 to 12 judges by abolishing the first three seats that became vacant on or after January 1, 2017, and before the expiration of the incumbent judge's term.
- ▶ 15 judges had been previously allocated to the court from 2000-2017.
- ▶ S.L. 2019-2 restores the number of judges on the Court of Appeals to 15.*

*Original content prepared by Wendy Graf Ray.

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S.L. 2019-13 Allow Game Nights.

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S.L. 2019-13 Allow Game Nights.

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- ▶ Effective June 1, 2019, S.L. 2019-13 authorizes nonprofit organizations and some employers and trade associations (25 or more members) to operate "game nights" where games of chance are played and prizes are awarded by raffle at facilities serving alcoholic beverages.
- ▶ Under prior law, G.S. 14-292 created a criminal offense punishable as a Class 2 misdemeanor for operating a game of chance or playing a game of chance where money or anything of value is bet, excluding the NC State Lottery, Class III Tribal-State Gaming Compact, beach bingo games, bingo games by tax-exempt organizations, and raffles by tax-exempt organizations.

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S.L. 2019-13 Allow Game Nights.

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- ▶ Conditions of Game Nights Generally:
 - ▶ Be a tax-exempt organization that has operated continuously for 5 years and be exempt from taxation under Section 501 (c)(3), 501(c)(4), 501(c)(5), or 501(c)(6) of the federal Internal Revenue Code. A qualified facility must have one of the following permits: on-premises malt beverage, on-premises unfortified wine, on-premises fortified wine, or mixed beverages.
 - ▶ Employers with 25 or more employees and trade associations with 25 or more members are also allowed to conduct game nights for their employees, or members and guests at no cost or charge to the attendees.
 - ▶ The tax-exempt organization must obtain a permit from the State Alcohol Law Enforcement (ALE) Headquarters. The application fee is \$100 to ALE for each game night event.
 - ▶ Only applies east of I-26.

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S.L. 2019-13 Allow Game Nights.

8

- ▶ Limitations generally:
 - ▶ Organization limitations:
 - ▶ 4 game nights per year
 - ▶ 1 per quarter
 - ▶ Qualified facility limitations:
 - ▶ 2 game nights per month
 - ▶ 2 events per week
 - ▶ Same-week events must be held by different organizations on different nights.

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S.L. 2019-13 Allow Game Nights.

9

- ▶ General limitations:
 - ▶ 5 hour maximum duration.
 - ▶ No events between 2:00 am and 12:00 noon Monday through Saturday
 - ▶ No events between 2:00 am and 2:00 pm on Sundays
 - ▶ No cash prizes, including no gift cards issued by a financial institution and usable at multiple unaffiliated sellers of goods or services.
 - ▶ Prizes awarded through raffle only.
 - ▶ Cost of the prizes and expenses (excluding food, beverages, and entertainment) must not exceed the proceeds from the event. (Does not apply to events conducted by employers or trade associations that are not exempt organizations)
 - ▶ Any game night vendor must receive a fixed fee
 - ▶ Any proceeds from the game night must be used to further the organization's tax-exempt purposes.
 - ▶ The following games are the only games allowed: roulette, blackjack, poker, craps, simulated horse race, and merchandise wheel of fortune*

*Original content prepared by Susan Stone.

9

S.L. 2019-18 Craft Beer Distribution & Modernization Act.

10

- ▶ Beginning May 30, 2019, S.L. 2019-18 allows brewery permittees that sell fewer than 100,000 barrels of malt beverages produced by the brewery each year to self-distribute up to 50,000 barrels of malt beverages manufactured by the brewery per year to unaffiliated retail permittees.
- ▶ Under previous law, only a brewery permittee that sells fewer than 25,000 barrels of malt beverages per year may obtain a malt beverage wholesaler permit to distribute the malt beverages manufactured by the brewery. A brewery not exceeding the 25,000 barrel limit may also sell the malt beverages manufactured by the brewery, and malt beverages produced under a contract brewing arrangement, at not more than three other locations in the State.*

*Original content prepared by Chris Saunders.

10

2019-182 ABC Regulatory Reform Bill.

11

- ▶ Allows the holder of a distillery permit to obtain permits for on-premises malt beverage, on-premises unfortified wine, on-premises fortified wine, and mixed beverages and sell those types of alcoholic beverages for consumption at the distillery.
- ▶ Allows the holder of a distillery permit to sell mixed beverages for consumption at the distillery. If a distillery elects to sell mixed beverages containing spirituous liquor other than that produced at the distillery, the distillery must obtain a mixed beverages permit.
- ▶ Authorizes ABC stores to allow the purchase of individual bottles of spirituous liquor purchased through the special order process, and to sell in store any bottles received in excess of what was purchased by the requesting customer.

11

2019-182 ABC Regulatory Reform Bill.

12

- ▶ Allows spirituous liquor tastings to be conducted in ABC stores. A local board holding tastings must provide North Carolina distillery permit holders with reasonable opportunities to conduct tastings. This part creates additional limitations on spirituous liquor tasting conducted in ABC stores including the following:
 - ▶ Events may only be held between 1:00 p.m. and 7:00 p.m. and may not last more than 3 hours.
 - ▶ Each store may hold no more than 3 per calendar week, and no more than 2 at the same time.
 - ▶ A consumer may sample no more than 1/2 oz. in any calendar day.
 - ▶ Advertising is limited to posting at the ABC store and local board offices, and notification to mixed beverage permittees.
 - ▶ No employee of a local board may participate in or conduct a tasting in an ABC store.

12

2019-182 ABC Regulatory Reform Bill.

13

- ▶ Authorizes the sale of more than one alcoholic drink to a patron at one time, but no more than two at one time, with the following limitations:
 - ▶ Not more than two alcoholic beverage drinks at one time if the alcoholic drinks are (i) a malt beverage, (ii) unfortified wine, or (iii) fortified wine.
 - ▶ Not more than one alcoholic drink at one time if the drink is a mixed beverage or contains spirituous liquor.
- ▶ This provision does not apply at a stadium, athletic facility, or arena on the campus or property of a public college or university; or during a sports event sponsored by a public college or university.

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2019-182 ABC Regulatory Reform Bill.

14

- ▶ Authorizes a common area entertainment permit for common areas in multi-tenant establishments, which would allow customers to exit a permitted premises with an open container and consume the alcohol in the common area of a multi-tenant establishment.
- ▶ A multi-tenant establishment does not include a shopping mall that has more than 50% of the shopping mall's common areas, measured in acreage or square footage, enclosed and air-conditioned. This part would provide requirements for the common area, limits patrons to one alcoholic drink at a time, requires the container to clearly identify the premises from which the beverage was purchased and establishes other restrictions for this permit.
- ▶ The fee for a common area entertainment permit would be \$750.

14

2019-182 ABC Regulatory Reform Bill.

15

- ▶ Effective December 1, 2019, authorizes the establishment of a delivery service permit that would allow a permit holder's employee or independent contractor to deliver malt beverages, unfortified wine, or fortified wine on behalf of a retailer to an individual purchaser. Deliveries may only be made during lawful sales times for the jurisdiction and may not be made to jurisdictions that have not authorized the sale of the alcoholic beverages.
- ▶ A delivery service permittee may not deliver to the premises of another licensed retailer or more than 50 miles from the retailer's licensed premises.
- ▶ Penalties for delivering to residence halls of colleges up to \$1,000 for a first violation, \$1,500 for a second violation within three years of the first violation, and \$2,000 for a third or subsequent violation within three years of the first violation.
- ▶ The fee for a delivery service permit would be \$400.

*Original content prepared by Susan Stitz and Chris Saunders.

15

S.L. 2019-26 Dental Bill of Rights.

16

- ▶ Beginning January 1, 2020, S.L. 2019-26 will amend the methods of claims payment for dental services, add requirements for third party access to dental provider network contracts, and include dental plans for purposes of coverage determinations.
- ▶ Restrict any agreement between an insurer and a provider of dental services from accepting credit card payments as the only payment method for dental services.

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S.L. 2019-26 Dental Bill of Rights.

17

- ▶ Will allow an insurer to grant third party access to its provider network contract if all of the following are met:
 - ▶ The insurer allows any provider who is part of the carrier's provider network to choose not to participate in third party access.
 - ▶ The insurer identifies all third parties with granted access on its website.
 - ▶ The accessing third party complies with the provider network contract terms.
- ▶ Prohibits an insurer from subsequently retracting its coverage determination for a dental plan after the services or supplies have been provided.*

*Original content prepared by Jessica Boney.

17

S.L. 2019-34 Mini-Truck Classification.

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S.L. 2019-34 Mini-Truck Classification.

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- ▶ Effective June 21, 2019, mini-trucks are now defined as a category of motor vehicle under Chapter 20 of the General Statutes.
- ▶ A mini-truck is defined as a motor vehicle designed, used, or maintained primarily for the transportation of property; and having four wheels; an engine displacement of 660cc or less; an overall length of 130 inches or less; an overall height of 78 inches or less; and an overall width of 60 inches or less.
- ▶ Mini-trucks have restrictions that include only operating on streets or highways where the posted speed limit is 55mph or less.
- ▶ Must be equipped with certain equipment similar to that of a low speed vehicle.
- ▶ Be registered and insured.*

*Original content prepared by Howard Manilla.

19

S.L. 2019-34 Mini-Truck Classification.

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S.L. 2019-41 Allow Repeat Referral to Teen Court.

21

- ▶ Beginning June 21, 2019, S.L. 2019-41 allows a juvenile to be referred to a teen court program more than once, by removing the prohibition on referring a juvenile to a teen court program if the juvenile has been referred to a teen court program previously.
- ▶ Under prior law, a juvenile court counselor could not refer a juvenile to a teen court program if the juvenile had 1) been referred to a teen court program previously, or 2) was alleged to have committed any of the following offenses:
 - ▶ Driving while impaired;
 - ▶ A Class A1 misdemeanor;
 - ▶ An assault in which a weapon is used; or
 - ▶ A controlled substance offense under the NC Controlled Substances Act other than a simple possession of a Schedule VI drug or alcohol.*

*Original content prepared by Tawanda Foster Antle.

21

S.L. 2019-49 ABC Regulation and Reform.

22

- ▶ Under prior law, the ABC Commission was authorized to take any of the following actions against a permittee for violations of the ABC laws:
 - ▶ Suspend the permittee's permit for a specified period of up to 3 years.
 - ▶ Revoke the permittee's permit.
 - ▶ Fine the permittee up to \$500 for the first violation, up to \$750 for a second violation, and up to \$1,000 for a third violation.
 - ▶ Suspend the permittee's permit and impose a fine.

22

S.L. 2019-49 ABC Regulation and Reform.

23

- ▶ S.L. 2019-49 does the following:
 - ▶ Require second or third violations of the ABC laws not involving acts of violence, a controlled substance, or prostitution to occur within three years in order to result in the imposition of fines.
 - ▶ Increases the maximum fines for violations of the ABC laws involving acts of violence, a controlled substance, or prostitution occurring upon the premises, and for these types of violations, authorize the ABC Commission (Commission) to impose conditions on the operating hours of a business.
 - ▶ Increase from \$5,000 to \$10,000 the maximum amount the Commission can accept in compromise in lieu of a permit revocation for certain violations.
 - ▶ Repeal the Commission's authority to issue a permit to a person at least 19 years old who is a manager of a business, thereby requiring all persons to be at least 21 years old to obtain an ABC permit.

23

S.L. 2019-49 ABC Regulation and Reform.

24

- ▶ S.L. 2019-49 does the following:
 - ▶ Allow permittees to seek review of Commission permit decisions before an administrative law judge.
 - ▶ Changes the definition of a "private club" to include only establishments that are 501(c) businesses and that have been in operation for at least 12 months before applying for an ABC permit.
 - ▶ Creates a new definition of "private bar" and exempts them from regulation as a food and lodging establishment in the same way that "private clubs" are exempt from such regulation. A private bar is defined to mean an establishment that is organized and operated as a for-profit entity that is not open to the general public but is open only to the members of the organization and their guests for the purpose of socializing and engaging in recreation. Previously permitted private clubs are grandfathered and eligible for renewal under the new definitions.*

*Original content prepared by Susan Stitz and Jennifer Redford.

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S.L. 2019-52 ABC/University Athletic Facility. 25

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S.L. 2019-52 ABC/University Athletic Facility. 26

- ▶ S.L. 2019-52 authorizes public colleges and universities to allow alcohol sales at stadiums, athletic facilities, and arenas located on school property.
- ▶ Under prior law, G.S. 18B-1006(a) prohibited the issuance of permits for the sale of alcoholic beverages to businesses on the campus or property of a public school, college or university, unless a specific exception applied.

26

S.L. 2019-52 ABC/University Athletic Facility. 27

- ▶ Requirements for issuance of permits:
 - ▶ The Board of Trustees must vote to allow the issuance of permits at that particular stadium, athletic facility, or arena, (does not include community colleges)
 - ▶ The Board must notify the Alcoholic Beverage Control Commission of that vote.
 - ▶ If a mixed beverage permit is issued, sales of mixed beverages are not allowed when the stadium, athletic facility, or arena is being used for a sports event sponsored by the public college or university.*

*Original content prepared by Chris Saunders and Susan Site.

27

S.L. 2019-52 ABC/University Athletic Facility.

28

- ▶ Currently, UNC-Pembroke is the only institution out of The UNC System's 17 campuses that has not authorized alcohol sales.



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S.L. 2019-54 Allow Donations of Expired Drugs.

29

- ▶ Previously, a pharmacist could only accept drugs that bear an expiration date that is later than six months after the date the drug is donated through the Drug, Supplies, and Medical Device Repository Program.
- ▶ S.L. 2019-54 amended the requirements for drugs donated to pharmacists or free clinics participating in the Drug, Supplies, and Medical Device Repository Program to only require that the drug not have reached its expiration date.*

*Original content prepared by Theresa Michala and Shawn Middlebrooks.

29

S.L. 2019-70 Right to Try Adult Stem Cell Treatments.

30

- ▶ Under current law, individuals with terminal illnesses may receive treatment that includes investigational drugs, biological products, and devices.
- ▶ Beginning December 1, 2019, S.L. 2019-70 will allow patients with certain severe chronic or terminal illnesses to use investigational adult stem cell treatments for those diseases. It will prohibit state officials from interfering with eligible patients' access to adult stem cell treatments.
- ▶ It will allow eligible patients with chronic or terminal illnesses to receive adult stem cell treatment that is in clinical trials on humans, but that has not yet been approved by the Food and Drug Administration, provided that treatment meets all of the following criteria:
 - ▶ It is administered by a licensed physician.
 - ▶ It is overseen by an institutional review board.
 - ▶ It is provided at an accredited medical school, a facility affiliated with an accredited medical school, and any facility approved by an institutional review board.

*Original content prepared by Jason Moran-Rates.

30

S.L. 2019-72 Continuing Education for General Contractors.

31

- ▶ S.L. 2019-72 establishes a continuing education requirement for general contractors of eight hours a year, effective for licenses renewed on or after January 1, 2020.
- ▶ Under current law, there is no continuing education requirement for a general contractor's license. A general contractor, or applicant for licensure must pass an examination and pay a renewal fee annually.
- ▶ Beginning January 1, 2020, the continuing education requirement will be for eight hours of instruction per year. Two of the eight hours must be a mandatory course approved by the State Licensing Board for General Contractors, the remaining six are to be elective courses.

*Original content prepared by Tina Griffin, Jeff Hudson, and Shawn Middlebrooks.

31

S.L. 2019-73 Vacation Rental Act Changes.

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S.L. 2019-73 Vacation Rental Act Changes.

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- ▶ **BACKGROUND AND CURRENT LAW:** The Vacation Rental Act was enacted in 1999 to regulate the competing interests of landlords, real estate brokers, and tenants when individuals rent privately owned residences to tourists for vacation, leisure, and recreational purposes.
- ▶ It provides protections to consumers who rent a vacation property for fewer than 90 days and imposes certain duties upon landlords, including the duty to comply with all applicable building and housing codes and to keep the property in a fit and habitable condition.
- ▶ Cities and counties are authorized to perform periodic inspections for hazardous and unlawful conditions in buildings within their territorial jurisdiction when there is reasonable cause to believe that unsafe, unsanitary, or otherwise hazardous or unlawful conditions may exist in a residential building or structure.

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S.L. 2019-73 Vacation Rental Act Changes.

34

- ▶ However, cities and counties are not authorized to do any of the following, among other things:
- ▶ Adopt or enforce any ordinance that would require any owner or manager of rental property to obtain any permit or permission from the local government to lease or rent residential real property or to register rental property with the local government, except when an individual rental unit has either more than four verified violations in a rolling 12-month period or two or more verified violations in a rolling 30-day period, or upon the property being identified within the top ten percent (10%) of properties with crime or disorder problems as set forth in a local ordinance.
- ▶ Require that an owner or manager of residential rental property enroll or participate in any governmental program as a condition of obtaining a certificate of occupancy.
- ▶ Levy a special fee or tax on residential rental property that is not also levied against other commercial and residential properties, unless expressly authorized by general law or applicable only to an individual rental unit or property with a certain number of verified violations, and the fee does not exceed five hundred dollars (\$500.00) in any 12-month period in which the unit or property is found to have verified violations.

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S.L. 2019-73 Vacation Rental Act Changes.

35

Wilmington's New Short Term Rental Rules Met With Diverging Views

BY JENNIFER COLE FOR THE WILMINGTON STAR-NEWS

Landlords are now legally able to profit from renting their homes for fewer than seven days. However, those who have been profiting from short-term "whole-house" rentals in residential districts might be facing a loss when the regulations go into effect March 1, if the Wilmington City Council approves them in a final vote June 16.

The new short-term rental regulations recently approved in the city of Wilmington are welcomed by those who want to preserve residential areas; however, some property owners and Realtors believe the rules will have a negative impact on the city.

New regulations also address "whole-house" rentals by allowing them in some commercial and mixed-use districts only.

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S.L. 2019-73 Vacation Rental Act Changes.

36

WILMINGTON, NC (WNAU) — After more than two years of debate, laws go into effect Friday regulating short-term rentals like Airbnb's.

Although some members of city council argued that allowing these types of rentals could endanger the city, council ultimately voted January 22 to allow them with some restrictions.

Any house in a non-residential area of Wilmington can be a short-term rental.

Homeowners must be within 25 miles of the rental and be accessible for 24 hours per day as well as have guaranteed parking per one bedroom.

Any house in a non-residential area of Wilmington can be a short-term rental.

36

S.L. 2019-73 Vacation Rental Act Changes.

37

- ▶ S.L. 2019-73 now provides that the existing statutes authorizing local governments to perform periodic inspections for hazardous and unlawful conditions, and limiting local governments' ability to regulate residential real property as described in the previous slide, also apply to properties covered by the Vacation Rental Act.*

*Original content prepared by Amy Darden and Chris Saunders.

37

S.L. 2019-90 NC Missing Person Information Sharing.

38

- ▶ S.L. 2019-90 requires law enforcement agencies to enter missing or unidentified persons' information into the national missing and unidentified persons system (NamUS) after thirty days have passed and the person has not been found or identified.
- ▶ A parent, spouse, guardian, legal custodian, or person responsible for the supervision of a missing person may submit a report to the North Carolina Center for Missing Persons (Center), after first submitting a report to the proper law enforcement agency that the person is missing.

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S.L. 2019-90 NC Missing Person Information Sharing.

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- ▶ Prior to October 1, 2019:
 - ▶ A law enforcement agency must immediately arrange for information submitted to be entered into the national missing persons file in accordance with criteria set by the Federal Bureau of Investigation/National Crime Information Center (FBI/NCIC); inform on-duty law enforcement; initiate a statewide broadcast to appropriate law enforcement to be on the lookout; and send a copy of the report to the Center.
 - ▶ If the report involves a child, the law enforcement agency must also immediately notify the Center and the National Center for Missing and Exploited Children.
 - ▶ The parent, spouse, guardian, legal custodian, or person responsible for the missing person must immediately notify the law enforcement agency and the Center if the missing person has been located.

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S.L. 2019-90 NC Missing Person Information Sharing.

40

- ▶ After October 1, 2019:
 - ▶ A law enforcement agency may enter missing or unidentified person information into NamUS at any time, but must enter the information into NamUS in either of the following circumstances:
 - ▶ A missing person has been missing for more than 30 days.
 - ▶ An unidentified person has not been identified for more than 30 days following the person's death.
 - ▶ If a law enforcement agency does enter information into NamUS, the law enforcement agency must do both of the following:
 - ▶ Include all information regarding the missing or unidentified person, including medical records, DNA records, and dental records.
 - ▶ Enter into NamUS the fact that a missing person has been found or an unidentified person identified, if either of these circumstances occurs following the original entry of the person's information into NamUS.*

*Original content prepared by Brad Krehley and Shawn Middlebooks.

40

S.L. 2019-91 Freedom to Work/OLB Reform.

41

- ▶ Highlights: S.L. 2019-91 makes the following changes to occupational and state agency licensing board laws:
 - ▶ Requires administrative agencies, governmental officials, and courts in civil proceedings to consider a certificate of relief favorably.
 - ▶ Defines a "State agency licensing board."
 - ▶ Clarifies standards for a licensing board's use of an applicant's criminal history in making determinations.
 - ▶ Requires recognition by licensing boards of certain apprenticeship and training experiences.

41

S.L. 2019-91 Freedom to Work/OLB Reform.

42

- ▶ Backgrounds: an individual may petition a court for a certificate of relief to relieve some of the collateral consequences associated with criminal convictions that could impede their reintegration into society. A petitioner may obtain a certificate of relief if he or she has three or fewer prior Class H or I Felony convictions, as well as any prior misdemeanor convictions.
- ▶ Occupational licensing boards are defined as "any board, committee, commission, or other agency in North Carolina which is established for the primary purpose of regulating the entry of persons into, and/or the conduct of persons within, a particular profession or occupation, and which is authorized to issue licenses.
- ▶ Prior to October 1, 2019, "State agencies, staffed by full-time State employees, which as a part of their regular functions may issue licenses, were not considered occupational licensing boards, or defined under law, even if their functions were similar.

42

S.L. 2019-91 Freedom to Work/OLB Reform.

43

- ▶ S.L. 2019-91 makes the following changes:
 - ▶ Requires an administrative agency, governmental official, or civil court to consider a certificate of relief favorably in determining whether a conviction should result in a disqualification.
 - ▶ Defines a "State agency licensing board" as any State agency, staffed by full-time State employees, which as part of their regular functions issue licenses.
 - ▶ Requires no later than October 31 of each year, that each occupational licensing board and state agency licensing board file with the Secretary of State, Attorney General, and the Joint Legislative Administrative Procedure Oversight Committee, an annual report with the number of applicants, and of that number, licenses granted; and, the number of applicants with a conviction record, and of that number, licenses granted, licenses denied for any reason, and licenses denied because of a conviction.

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S.L. 2019-91 Freedom to Work/OLB Reform.

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- ▶ S.L. 2019-91 makes the following changes:
 - ▶ Prevents an occupational licensing board from automatically denying licensure because of an applicant's criminal history unless a federal law governing a particular occupation requires the denial.
 - ▶ A board may deny an applicant a license on the basis of a conviction of a crime, but only if the applicant's criminal history is directly related to the duties and responsibilities for the licensed occupation, or is for a crime that is violent or sexual in nature.
 - ▶ Prior language permitted denials based upon crimes involving fraud and "moral turpitude."
 - ▶ Requires an occupational licensing board to consider the following additional factors favorably:
 - ▶ Completion or participation in rehabilitative drug or alcohol treatment.
 - ▶ A certificate of relief granted pursuant to G.S. 15A-173.2.

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S.L. 2019-91 Freedom to Work/OLB Reform.

45

- ▶ According to John Rubin, the Albert Coates Professor of Public Law and Government at the UNC School of Government, a crime of moral turpitude is:

Crime of moral turpitude: Defined in case law as "act[s] of baseness, villainess, or depravity in the private and social duties that a man owes to his fellowman or to society in general." *Dew v. State ex. rel. North Carolina Dept. of Motor Vehicles*, 127 N.C. App. 309 (1997) (quoting *Jones v. Brinkley*, 174 N.C. 23, 27 (1917)). There is no statutory definition for a "crime of moral turpitude"; rather, the definition has evolved through civil and criminal case law holding particular crimes to be of moral turpitude. Criminal

www.f110220001.ncg.unc.edu/about/f110220001

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S.L. 2019-91 Freedom to Work/OLB Reform.

46

- ▶ S.L. 2019-91 makes the following changes:
 - ▶ Requires a board to make written findings specifying the factors deemed relevant to deny an applicant a license.
 - ▶ Requires a board to disclose in an application whether the board requires applicants to consent to a criminal history record check, factors considered when making a determination of licensure, and any appeals process if the board denies an applicant licensure.
 - ▶ Requires access to criminal history records be provided, or a copy delivered to an applicant by a provider, if the board requires an applicant to submit a criminal history record.
 - ▶ Requires a board to notify the applicant in writing of any specific issues related to their criminal history, and afford the applicant an opportunity to provide additional documentation. If there is an issue related to a criminal conviction, an applicant would have 30 days to respond.

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S.L. 2019-91 Freedom to Work/OLB Reform.

47

- ▶ S.L. 2019-91 makes the following changes:
 - ▶ Requires a board following a hearing denying an applicant licensure, to issue a written order referencing the criminal conviction(s) considered as part or all of any basis for the denial, and an explanation of the board's rational for the denial. The board must also provide reference for an appeal process and cannot prevent an applicant from reapplying for a period exceeding two years.
 - ▶ Allows individuals with a criminal history to petition a board for a predetermination as to whether or not the individual's criminal history will likely disqualify the person from obtaining a license. This petition may be filed at any time including before an individual starts or completes any mandatory education or training requirements. The board must notify the individual of their determination within 45 days and the board may charge a fee of not more than \$25.00 for each petition.
 - ▶ If a board determines that the applicant would likely be denied licensure based on their criminal history, the board must notify the person in writing of the predetermination and certain other rights and information related to the predetermination.

47

S.L. 2019-91 Freedom to Work/OLB Reform.

48

- ▶ Finally, S.L. 2019-91 makes the following changes:
 - ▶ Requires occupational licensing boards to recognize certain apprenticeships and training, and to grant a license to applicants who complete a recognized apprenticeship, pass an examination if one is deemed to be necessary, and complete any other requirements established by law or administrative rule of the licensing agency, except preclicensing education requirements.
 - ▶ This does not apply to professions requiring advanced knowledge acquired by a prolonged course of specialized intellectual study, including those requiring a college or advanced degree.*

*Original content preserved by Towards Fairer AEs and Jeremy Ray

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S.L. 2019-117 Register of Deeds Updates.

49

- ▶ S.L. 2019-117 does the following:
 - ▶ Changes the margins required on all instruments, except UCC financing statements, presented for registration on paper at the register of deeds. The margins are increased from 1/4 inch to 1/2 inch.
 - ▶ Currently, these instruments must have a blank margin of 3 inches at the top of the first page and at least 1/4 inch on the remaining sides of the first page and on all subsequent pages.
 - ▶ Creates a new section under G.S. 161-30 for electronically recorded maps or instruments. These maps and instruments would not be required to have the name and address of the person to whom the instrument is to be returned on the face of the document. The register of deeds is not required to return the item, but may do so in accordance with an authorizing agreement.

49

S.L. 2019-117 Register of Deeds Updates.

50

- ▶ S.L. 2019-117 does the following:
 - ▶ Effective December 1, 2019, modifies the existing criminal statute for filing false liens and encumbrances by doing the following:
 - ▶ Makes it illegal to present for filing or recording a false lien or encumbrance against the real or personal property of an owner or beneficial interest holder.
 - ▶ Allows the register of deeds to refuse to record the purported lien or encumbrance if they have a reasonable suspicion that the instrument is materially false, fictitious, or fraudulent.
 - ▶ Requires that the party submitting an instrument pay the filing fee.
 - ▶ Clarifies that the presentation of an instrument that is determined to be materially false, fictitious, or fraudulent shall constitute a violation of G.S. 75-1.1, unfair or deceptive trade practices.*

*Original content prepared by Amy Darden.

50

S.L. 2019-130 Law Enforcement Mutual Aid.

51

- ▶ Under current law, G.S. 160A-288 authorizes police departments and sheriff's offices in North Carolina to enter into mutual aid agreements with other police departments and sheriff's offices within North Carolina. Officers acting under a mutual aid agreement have the same jurisdiction as the agency they are assisting, and are subject to the law commands of that agency, but remain under the administrative control of and are paid by their employing agency.

51

S.L. 2019-130 Law Enforcement Mutual Aid.

52

- ▶ S.L. 2019-130 authorizes municipal police departments, county police departments, and sheriff's offices to enter into mutual aid agreements with a municipal police department, a county police department, or a sheriff's office of another state if the laws of the other state allow out-of-state mutual aid agreements.*

*Original content prepared by Bill Patterson and Susan Sizemore.

52

S.L. 2019-140 Amend Administrative Procedure Laws.

53

- ▶ Authorize Rule Technical Changes
 - ▶ Under prior law, an agency can make certain types of technical changes to its rules without publishing notice of the text in the North Carolina Register or holding a public hearing, but such a change must still be submitted to the Rules Review Commission (RRC).
 - ▶ S.L. 2019-140 provides that these types of technical changes do not need to be submitted to the RRC and authorizes the Codifier of Rules to make certain types of technical changes to an agency's rules. The Codifier may only do this after consultation with the agency.

53

S.L. 2019-140 Amend Administrative Procedure Laws.

54

- ▶ Clarify Contested Case Policy
 - ▶ Under prior law, a person aggrieved by an agency action is not required to petition the agency for rulemaking or to seek or obtain a declaratory ruling before seeking judicial review.
 - ▶ S.L. 2019-140 now provides that a person aggrieved by an agency action (including a failure to reach a settlement through informal procedures or a final agency decision) is not required to petition the agency for rulemaking or to seek or obtain a declaratory ruling before commencing a contested case.

54

S.L. 2019-140 Amend Administrative Procedure Laws.

55

- ▶ Amend Periodic Review of Rules Process
 - ▶ Under the former process for the periodic review of rules, agencies must classify their rules as necessary with substantive public interest, necessary without substantive public interest, or unnecessary. Agencies must then readopt the rules that were classified as necessary with substantive public interest. Such rules are subject to notice and public comment requirements and review by the Rules Review Commission. Rules classified as unnecessary or necessary without substantive public interest were not subject to readoption.

55

S.L. 2019-140 Amend Administrative Procedure Laws.

56

- ▶ Amend Periodic Review of Rules Process
 - ▶ S.L. 2019-140 eliminates the category of "necessary without substantive public interest" so that all rules are to be classified as either "necessary" or "unnecessary." Rules that are classified as necessary are subject to readoption. This applies to agency rule reports submitted on or after October 1, 2019.*

56

S.L. 2019-140 Amend Administrative Procedure Laws.

57

PART III. AMEND PERIODIC REVIEW OF RULES PROCESS
SECTION 1401.01. PERIODIC REVIEW OF EXISTING RULES
 § 1401.01.01. For purposes of this section, the following definitions apply:

(2) **Necessary rule.**— Means any rule other than an unnecessary rule.

(3) **Necessary with substantive public interest.**— Means any rule for which the agency has received public comments within the past two years. A rule is also "necessary with substantive public interest" if the rule affects the property interest of the regulated public and the agency knows or suspects that any person may object to the rule.

(4) **Necessary without substantive public interest.**— Means a rule for which the agency has not received a public comment concerning the rule within the past two years. A "necessary without substantive public interest" rule includes a rule that requires administrative action that is readily ascertainable to the public, such as an address or a telephone number.

(5) **Public comment.**— Means written comments objecting to the rule, in whole or in part, or objecting to an agency's determination of the rule, in necessary or unnecessary, received by an agency from any member of the public, including an association or other organization representing the regulated community or other members of the public.

(6) **Unnecessary rule.**— Means a rule that the agency determines to be obsolete, redundant, or otherwise not needed.

*Original content prepared by Jeffrey Hudson, Brad Krehely, and Amy Darden.

57

S.L. 2019-141 Allow Use of Oyster Shells as Serving Dishes.

58

- ▶ S.L. 2019-14 permits restaurants to re-use oyster shells to serve cooked, shucked oysters, provided that all of the following apply:
 - ▶ The restaurant posts a sign advising the public oyster shells are re-used to serve cooked oysters.
 - ▶ The shell is protected from contamination by boiling it for 10 minutes, drying it, and refrigerating it until it is used.
 - ▶ The shell is re-used within 48 hours after the oyster is removed from the shell.



*Original content prepared by Jason Moran-Rates.

58

S.L. 2019-152 State Human Resources Act Amendments.

59

- ▶ Current law requires the Office of State Human Resources (OSHR) to establish a written program for State employee workplace safety, health, and workers' compensation.
- ▶ G.S. 143-583 requires the OSHR to maintain a model program of safety and health requirements as a guide for State agencies in development of their own individual programs as required by law; establish guidelines for the creation and operation of safety and health committees; and adopt policies to govern, and guidelines for delegation of certain functions, for the administration of workers' compensation programs to State agencies.

59

S.L. 2019-152 State Human Resources Act Amendments.

60

- ▶ S.L. 2019-152 now directs the OSHR to provide consultative and technical services to assist State agencies in establishing and administering safety and health programs required by law, and monitor compliance with the State Employees Workplace Requirements Program for Safety, Health, and Workers' Compensation.*

* Original content prepared by Brad Kehely, Howard Marzke, and Kristen Hamt.

60

2019-163 Allow Sports/Horse Race Wagering Tribal Lands.

61



61

2019-163 Allow Sports/Horse Race Wagering Tribal Lands.

62

- ▶ Under prior law, only the following types of games could be lawfully conducted on Indian lands held in trust by the United States government for and on behalf of federally recognized Indian tribes in North Carolina:
 - ▶ Gaming machines
 - ▶ Live table games
 - ▶ Raffles, as identified in G.S. 14-309.15(b); and
 - ▶ Video games, as defined in G.S. 14-306 and G.S. 14-306.1A

62

2019-163 Allow Sports/Horse Race Wagering Tribal Lands.

63

- ▶ S.L. 2019-163 adds sports and horse race wagering to the list of "Class III" games which may be lawfully conducted on Indian lands. Sports and horse race wagering are defined as follows:
 - ▶ Sports wagering.— The placing of wagers on the outcome of professional and collegiate sports contests.
 - ▶ Horse race wagering.— Fixed odds or pari-mutuel wagering on thoroughbred, harness or other racing of horses, including simulcasting and off track betting.
- ▶ For purposes of both wagers, the wager is deemed to occur where it is initiated and received, all of which must occur on Indian lands within the State lawfully permitted to conduct Class III gaming activities.

*Original content prepared by Amy Darden and Jeremy Ray.

63

S.L. 2019-168 Abuser Treatment/Time of Expiration.

64

- ▶ Under current law, Chapter 50B of the General Statutes governs domestic violence and provides the remedies available to victims of domestic violence.
- ▶ Protective orders entered under Chapter 50B of the General Statutes are for a fixed period of time not to exceed one year. The aggrieved party may file a motion before the expiration of the current order to renew the order for a fixed period of time not to exceed two years.
- ▶ The court may renew a protective order for good cause.

64

S.L. 2019-168 Abuser Treatment/Time of Expiration.

65

- ▶ Beginning December 1, 2019, S.L. 2019-168 will make the following changes:
 - ▶ If a court orders a defendant to attend an abuser treatment program, the defendant must begin regular attendance in the abuser treatment program within 60 days of the entry of the court's order.
 - ▶ At the time of its order, the court must also set a date and time as soon as practicable for a review hearing to assess whether the defendant has complied with that part of the order.
 - ▶ When ordering a defendant to attend an abuser treatment program, the court shall also specify a date and time for a review hearing with the court to assess whether the defendant has complied with that part of the order.
 - ▶ The review hearing shall be held as soon as practicable after 60 days from the entry of the order or order, the date of hearing for the compliance review to be given to the defendant and held with the court on the same day as the entry of the order.
 - ▶ The clerk shall issue a notice of hearing for the compliance review to be given to the defendant in court or to be served on the defendant together with the order.
 - ▶ Prior to the compliance review hearing, the defendant may present a written statement from the abuser treatment program showing compliance, upon receipt of the written statement the clerk shall remove the review hearing from the case folder and the defendant will not be required to appear. This clerk will also notify the plaintiff that the defendant has complied with the order and that no 60-day review hearing will occur.
 - ▶ Clarify that a domestic violence protection order expires at 11:59 pm on the last day the order is valid unless specifically stated in the order and any subsequent court order entered supersedes similar provisions in protective orders issued under Chapter 50B.²

²Original content prepared by Towanda Foster Aris.

65

S.L. 2019-188 Truth in Caller ID Act

66

- ▶ Under current law, Article 4 of Chapter 75 of the General Statutes regulates telephone solicitations made through voice communications, however, it does not currently regulate solicitations made through telephonic text messages. It also prohibits a telephone solicitor from knowingly using any method to block a telephone subscriber's caller identification service.
- ▶ Persons who violate Article 4 are potentially subject to a civil penalty in the amount of \$500 for the first violation, \$1,000 for the second violation, and \$5,000 for any subsequent violation occurring within two years of the first violation, unless they show that the violations were the result of a mistake, in which event the penalty is \$100 for each violation occurring within two years of the first violation.

66

S.L. 2019-188 Truth in Caller ID Act

67

- ▶ Beginning December 1, 2019, telephone solicitations made through text communications will be subject to the same prohibitions and penalties provided in Article 4 as regular telephonic solicitations made through voice communications.
- ▶ Telephone solicitors will be prohibited from causing misleading information to be transmitted to users of caller identification technologies or blocking or misrepresenting the origin of their solicitation. It will not be a violation of this prohibition for solicitors to use the name and number of the entity on whose behalf the solicitation is being made rather than the solicitor's name and number.*

*Original content prepared by Bill Patterson.

67

S.L. 2019-225 PTS Day/Cardiac Task Force/Titus's Law/Data.

68

- ▶ S.L. 2019-225 does the following:
- ▶ Designates June 27 as Posttraumatic Stress Injury Awareness day in North Carolina.
 - ▶ Addresses parental consent and the disposition of fetal remains by requiring in every instance of unintended fetal death resulting from accidental injury still birth, or miscarriages:
 - ▶ Consent from the mother before disposing of fetal remains:
 - ▶ If the mother is unable to give consent, then consent from the father before disposing of fetal remains;
 - ▶ If both parents are unable to give consent within 7 days, then the fetal remains are to be disposed of in accordance with applicable laws and regulations.
 - ▶ Directs disposal of fetal remains only by burial, cremation, or incineration in accordance with applicable laws and regulations. Fetal remains developed beyond the second trimester of gestation shall only be disposed of by burial or cremation.*

*Original content provided by Jessica Boney.

68

S.L. 2019-215 Amend Cartway Path/Septic Tank Laws.

69

- ▶ Under G.S. 136-69, certain persons may attempt to obtain a cartway across the property of another by instituting a special proceeding in the superior court of the county where the property is located. A cartway will be granted only if:
 - ▶ The person seeking the cartway is engaged in or preparing for one of the following activities on their property: cultivating land; cutting timber; working quarries, mines, or minerals; operating an industrial or manufacturing plant; or operating a public or private cemetery.
 - ▶ The property is landlocked, lacking a public road or other adequate means of transportation to and from the property.
 - ▶ The court determines that a cartway is necessary, reasonable, and just. If the court determines that a cartway should be granted, it will appoint a jury of view comprising of three disinterested property owners to lay off a cartway of not less than 18 feet in width.
 - ▶ Prior to the enactment of S.L. 2019-215 there was no maximum width for the cartway that may be established through this procedure.
 - ▶ S.L. 2019-215 now authorizes a jury of view to lay off a cartway of not less than 18 feet in width and not more than 30 feet in width.*

*Original content prepared by Shawn Middlebrooks.

69

Thank you all!

70

- ▶ Additional information and summaries on any of these session laws can be found at:
 - ▶ <https://www.ncleg.gov/Legislation> or
 - ▶ <https://www.lrs.sog.unc.edu>

VIEW BILL DRAFT	
VIEW AVAILABLE BILL SUMMARIES	
EDITION	FISCAL NOTE
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Edition 1	
Edition 2	
Edition 3	
Ratified	
SL 2019-140	

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