
FINAL LEGISLATIVE REPORT

2009

North Carolina Sheriffs' Association



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NORTH CAROLINA SHERIFFS' ASSOCIATION

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The 2009-2010 Session of the North Carolina General Assembly convened at 12:00 noon on January 28, 2009 and adjourned on August 11, 2009. During this Session, 1,658 House bills and 1,109 Senate bills were introduced, for a total of 2,767 legislative bills.

Of the 2,767 legislative bills introduced this Session, 618 laws were enacted, which is 22.3%. Governor Perdue vetoed one (1) bill.

This Final Legislative Report of the North Carolina Sheriffs' Association summarizes bills of interest to Sheriffs, Sheriffs' Office personnel and other criminal justice professionals. Included in this Final Legislative Report are summaries of: (1) relevant bills enacted into law this Session; and (2) relevant provisions of the 2009-2010 State Budget Bill.

For details about the legislative bills summarized below, please review the actual legislation. Copies of any of the legislation introduced or considered by this year's General Assembly is available on the General Assembly's world wide website: www.ncleg.net. You may also receive one copy of as many bills as you are interested in, free of charge, by calling the General Assembly's Printed Bills Office at 919-733-5648. They will need to know if it is a House Bill or Senate Bill and the bill number. (For example, Senate Bill 8.)

STATE BUDGET BILL
(SENATE BILL 202 as amended by House Bill 836)

IMPORTANT JUSTICE AND PUBLIC SAFETY PROVISIONS

1. Effective September 1, 2009, the court costs in criminal cases are increased as follows:
 - a. Raises from \$1.00 to \$3.00 the costs used to upgrade the telephone system (Fee rises to \$4.00 on July 1, 2010).
 - b. Establishes a \$2.00 fee to fund the Sheriffs' Standards Division and the Criminal Justice Standards Division operations. Allocates \$1.30 of this funding to the Criminal Justice Standards Division and \$0.70 of this funding to the Sheriffs' Standards Division. **This provision was supported by the North Carolina Sheriffs' Association.**
 - c. Establishes a \$5.00 fee for each Chapter 20 offense with the proceeds going to the State for support of the General Court of Justice. (Fee increases to \$10 on July 1, 2010).
 - d. Increases from \$100 to \$200 the fee charged a defendant who fails to appear, unless within 20 days the defendant appears or disposes of the case.
 - e. Imposes a \$25 fee for a defendant who fails to pay a fine, penalty or costs within 20 days of the date specified in the court's judgment.
 - f. Increases from \$300 to \$600 the fee assessed to convicted criminals to recover the cost of SBI crime lab analysis or a local government crime lab analysis.
 - g. Imposes a \$20 one time set up fee if a defendant is allowed by the court to pay monetary obligations on an installment plan.
 - h. Increases Community Service Parole Program fee to \$225 (previously \$200).
 - i. Increases the fine and costs for front seat adult seat belt charges (G.S. 20-135.2A) and motorcycle and moped helmet violations (G.S. 20-140.4) to a fine of \$25.50 (previously \$25) and court costs to \$100.50 (previously \$75).
2. Effective September 1, 2009 any cost or fee collected by the Administrative Office of the Courts that is remitted to another agency of the State or any of its political subdivisions shall be assessed a 10% "collection assistance fee" and that 10% shall be used to support the General Court of Justice and shall not be remitted to the agency of the State or its political subdivisions for which it was collected.

This fee will apply to reduce the net distributions provided under G.S. 7A-304:

- G.S. 7A-304(a)(1) \$5.00 to counties and cities for service of criminal process
- G.S. 7A-304(a)(2) \$12 or \$30 to counties for court facilities
- G.S. 7A-304(a)(3) \$6.25 to State Treasurer for LEO retirement and insurance
- G.S. 7A-304(a)(3a) \$1.25 to DOJ for the Sheriffs' Supplemental Pension Fund

- G.S. 7A-304(a)(3b) \$2.00 to DOJ for Sheriffs and Criminal Justice Standards Divisions
 - G.S. 7A-304(a)(5) \$15 to counties for defendants using pretrial release services
 - G.S. 7A-304(a)(7) \$600 to SBI in DNA cases
 - G.S. 7A-304(a)(8) \$600 to local government crime lab in DNA cases
3. Prohibits a judge from waiving the \$50 appointment fee charged to every defendant who is convicted and who obtained appointed legal counsel in a criminal case.
 4. Eliminates 48 vacant and filled positions in the Department of Justice.
 5. Eliminates the Fingerprint Card Program since all 100 counties have access to the Statewide Automated Fingerprint Identification System (SAFIS), which utilizes live scan devices.
 6. Directs that the Department of Justice may hire sworn personnel to fill positions in the SBI only if:
 - a. The position’s regular responsibilities involve warrant executions, property searches, criminal investigations, or arrest activities that are consistent in frequency with the responsibilities of other sworn agents;
 - b. The position is a promotion for a sworn agent who was employed at the SBI prior to July 1, 2007;
 - c. The position is a forensic drug chemist position which requires “responding to clandestine methamphetamine laboratories” as a primary duty;
 - d. The position is a forensic impressions analyst position which requires “responding to clandestine methamphetamine laboratories” as a primary duty; or
 - e. The position primarily involves supervising sworn personnel.
 7. Allows expansion of the GangNet Intelligence information database through the use of up to \$1.8 million in federal funds under the authority of the Governor’s Crime Commission.
 8. Allows use of federal funds to support overtime to expedite methamphetamine and violent criminal investigations under grants from the Governor’s Crime Commission.
 9. Eliminates funding for the Center for the Prevention of School Violence in the Department of Juvenile Justice and Delinquency Prevention.
 10. Eliminates the Support Our Students Program in the Department of Juvenile Justice and Delinquency Prevention.
 11. Allows use of \$6 million in federal funds under the authority of the Governor’s Crime Commission to implement a two year Gang Prevention and Intervention Pilot Program in Cabarrus, Mecklenburg, Nash, Edgecombe, Wilson and Halifax Counties.
 12. Eliminates funding for the Governor’s One on One mentoring program for lower risk youth in 46 counties.
 13. Closes the Alamance Multi-Purpose Home operated by the Department of Juvenile Justice and Delinquency Prevention.

14. Closes Samarkand Youth Detention Center effective July 1, 2010.
15. Eliminates the \$18 per day reimbursement paid to counties for prisoners serving their sentences of greater than 30 days and less than 90 days in the county jail. This will result in a reduction of \$10 million to counties across North Carolina. **This provision was opposed by the North Carolina Sheriffs' Association.**
16. Requires counties to provide suitable office space for probation offices so the Department of Correction will not be required to pay rent.
17. Provides funding for 18 additional Chief Probation/Parole Officer positions.
18. Reorganizes Community Corrections Districts and reduces the number of Judicial District Manager offices by 14 and thereby eliminates 14 Judicial District Managers in probation and parole.
19. Allows the Department of Correction to establish a fee to be paid by a unit of local government that requests a community work crew. The fee may not exceed the cost to the Department to provide the crew, not to exceed a daily rate of \$150 per work crew.
20. Eliminates 127 work crews that provide labor for State and local government entities.
21. Reduces by 20% the Road Squad and Litter Crew programs.
22. Allows use of federal funds to hire Community Corrections Intake Officers to free up probation officers from intake duties.
23. Allows use of federal funds to purchase 406 VIPER (interoperable communication) radios for probation/parole officers.
24. Expands the capacity of Nash and Pamlico Correctional Institutions by double-celling, effective September 1, 2009.
25. Expands Warren Correctional Center by double-celling effective November 1, 2009.
26. Closes the McCain Correctional Hospital effective April 1, 2010.
27. Closes the Umstead Correctional Center effective October 1, 2009.
28. Closes Guilford Correctional Center effective November 1, 2009.
29. Closes the Wilmington Residential Facility for Women effective September 1, 2009.
30. Closes Gates Correctional Center effective October 1, 2009.
31. Closes Union Correctional Center effective October 1, 2009.
32. Closes Cleveland Correctional Center effective December 1, 2009.
33. Expands Craven Correctional Institution by double-celling effective December 1, 2009.
34. In developing a proposal for future use of each closed correctional facility, the Department of Correction is required to give priority to converting the unit to other criminal justice use. Consistent with existing law and the future needs of the Department of Correction, the State may provide for the transfer or the lease of any of these facilities to counties, municipalities, State agencies, or private firms wishing to convert them to other uses.

35. Employees and retirees of the State of North Carolina or a unit of local government are authorized to purchase products and services produced by the Division of Correction Enterprises of the Department of Correction.
36. Provides one year funding only for the Law Enforcement Support Services (LESS) Division of the Department of Crime Control and Public Safety. It also requires LESS to adopt a fee structure to charge law enforcement agencies for LESS services so that the LESS program will be fully receipt supported by fiscal year 2010-11.
37. Transfers the State Capitol Police Division from the Department of Administration to the Department of Crime Control and Public Safety.
38. Requires the bingo licensing and boxing law enforcement functions within the Division of Alcohol Law Enforcement to be self-supporting by raising licensing fees.
39. Current law provides an automatic annual one step increase in the salaries of State Highway Patrol Troopers until they reach the top step of their pay grade. These annual step increases for Troopers are frozen for the next two years.
40. Provides \$150,000 to the Governor's Crime Commission to contract with the North Carolina Sheriffs' Association for "immigration enforcement services." **This provision was supported by the North Carolina Sheriffs' Association.**
41. The North Carolina Sheriffs' Association is required to submit a report to the General Assembly no later than March 1, 2010 on the operations and effectiveness of the Association's Illegal Immigration Project.
42. Allows the Governor's Crime Commission's use of up to \$5 million in federal funds to award grants that focus on gang prevention, treatment, intervention and re-entry with special emphasis on consulting with the Department of Juvenile Justice and Delinquency Prevention to engage the local Juvenile Crime Prevention Councils (JCPC) in development of gang prevention programs.
43. Allows the Governor's Crime Commission to use up to \$5 million in federal funds to provide VIPER (interoperable communication) radios for local government public safety agencies.
44. Allows the Governor's Crime Commission to spend \$200,000 in federal money to establish a Statewide Gang Task Force.
45. Requires a study to be conducted about consolidating the law enforcement agencies in State government for the purpose of coordinating the activities of these agencies and reducing duplication and overlapping of law enforcement responsibilities, training and technical assistance among state law enforcement agencies. The study will be conducted by the Office of State Budget and Management with a report to be filed by February 1, 2010.
46. Requires the Administrative Office of the Courts to develop guidelines to maximize efficient use of the time of probation officers and court personnel participating in probation revocation proceedings. Guidelines are due by December 1, 2009.
47. Authorizes the Administrative Office of the Courts to adopt guidelines for maximizing the efficient use of the time of law enforcement personnel participating in the Criminal District Courts.

48. Requires the Office of Indigent Defense Services to consult with the Administrative Office of the Courts, the Conference of District Attorneys, the North Carolina Sentencing and Policy Advisory Commission, and other interested parties and formulate proposals aimed at reducing future costs, including the possibility of decriminalizing minor misdemeanor offenses for which jail sentences are rarely or never imposed and improving the manner in which potentially capital cases are screened and processed.
49. Establishes a Youth Accountability Planning Task Force within the Department of Juvenile Justice and Delinquency Prevention to study whether the State should raise the juvenile age from 16 to 18 for criminal offenses.
50. Continues the previous authorization to the Department of Correction to pay \$40 per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the State Prison System (commonly referred to as "jail backlog"). **This provision was supported by the North Carolina Sheriffs' Association.**
51. Directs the State Board of Education, in conjunction with the Division of Motor Vehicles, to develop a plan by January 1, 2010 for a statewide permit for motor coach companies who transport students on school-sponsored trips.
52. Provides \$1.2 million per year to fund North Carolina's Tarheel Challenge Academy which is a quasi-military program for high school dropouts or expellees located in Sampson County and sponsored by the North Carolina National Guard.
53. Eliminates funding for three regional coordinators in the Community College System who provide education and training to law enforcement personnel.
54. Reduces funds at Broughton Hospital and Cherry Hospital by \$6 million.
55. Continues development of the Criminal Justice Data Integration Pilot Program in Wake County under the Office of the State Controller to integrate databases from various state agencies concerning criminal defendants.
56. Allows a county to use funds appropriated pursuant to the Criminal Justice Partnership Act, Article 6A of Chapter 143B of the General Statutes, to provide more than one community-based corrections program.
57. Provides that \$250,000 appropriated in 2008 shall remain with the Governor's Crime Commission to be used as a grant to the North Carolina Sheriffs' Association to assist the Sheriffs of North Carolina with training and technical assistance in the enforcement of the State's sex offender laws. **This provision was supported by the North Carolina Sheriffs' Association.**
58. Allows \$400,000 of federal funds to be used by the Governor's Crime Commission to provide supplemental grants as incentives to local governments to participate in the COPS Hiring and Recovery Program.
59. Reduces State funding for the North Carolina Victim Assistance Network (NCVAN) by 25%.
60. Currently, approximately 50 percent of local law enforcement agencies obtain access to the Division of Criminal Information (DCI) System through the State's Information

Technology Services (ITS) Office or through a private Internet provider. The fee for the telecommunication services necessary to access the DCI System through ITS or a private Internet provider is paid for by the local law enforcement agency.

The remaining law enforcement agencies obtain access to DCI through Department of Justice dedicated telecommunication circuits, which is paid for by the Department of Justice and provided at no charge to the local law enforcement agencies. Local law enforcement agencies will no longer be able to obtain DCI access through the dedicated Department of Justice telecommunications circuits at no charge and will be required to pay for telecommunication access to DCI through ITS or through a private Internet provider. Currently, it costs the Department of Justice \$459,599 to provide telecommunications circuits to those local law enforcement agencies at no cost.

61. Divides Prosecutorial District 11 into Prosecutorial District 11A (Harnett and Lee Counties) and Prosecutorial District 11B (Johnston County). This provision becomes effective January 15, 2011.
62. Requires the Joint Legislative Transportation Oversight Committee to study the feasibility of assessing a fee for services provided by the State Highway Patrol or the Department of Transportation for certain special events.
63. Clarifies that DWI treatment courts are a type of drug treatment court under the Drug Treatment Court Act.
64. Establishes the Joint Study Committee on Autism Spectrum Disorder and Public Safety to study ways to increase the availability of appropriate autism-specific education and training to public safety personnel, first responder units, judges, district attorneys, magistrates, and related organizations. The Committee may also study any other issue it deems relevant to Autism Spectrum Disorder and public safety.

HOUSE BILLS

HOUSE BILL 2, Prohibit Smoking in Certain Public Places, prohibits smoking in enclosed areas of restaurants and bars. A restaurant is defined to be a “food and lodging establishment that prepares and serves drink or food” and is regulated by the Commission for Public Health. A violation of this provision after being notified to stop smoking is an infraction punishable by a fine of no more than \$50.

Local governments can adopt ordinances limiting smoking in local government buildings and vehicles and in public places. Local ordinances may not prohibit smoking in tobacco shops, cigar bars, private clubs, designated smoking rooms in hotels and motels, movie production sets when smoking is by actors, and private residences and vehicles. A violation of local government ordinances, after being notified to stop smoking, is an infraction. Administrative penalties may be imposed against operators of businesses who allow unlawful smoking by the local health director.

Effective: January 2, 2010

HOUSE BILL 9, No Texting While Driving, makes it an infraction for the driver of a vehicle on a street or highway or public vehicular area to type a text message or read a text message unless

the vehicle is lawfully stopped or parked. This law does not apply to: (1) reading “any name or number stored in the device nor to any caller identification information”; (2) a law enforcement officer, member of a fire department or public or private ambulance while performing official duties; (3) use of factory-installed or aftermarket global positioning systems (GPS) or wireless communications devices used to transmit or receive data as part of a digital dispatch system; or (4) the use of voice operated technology. If operating a school bus, a violation is a Class 2 misdemeanor and is punishable by a fine of not less than one hundred dollars (\$100). Any other violation is an infraction and punishable by a fine of one hundred dollars (\$100) and the costs of court. No drivers license points or insurance surcharge can be assessed.

Effective: December 1, 2009

HOUSE BILL 23, Strengthen Child Labor Violation Penalties, raises the civil penalties that the Commissioner of Labor can impose for violations of child labor laws involving employment and record keeping, and makes certain violations a misdemeanor.

Effective: December 1, 2009

HOUSE BILL 43, School Board Members/Failure to Discharge Duty, adds school board members to the list of public officials including sheriff, magistrate and county and town officials listed in G.S. 14-230 who may be found guilty of a Class 1 misdemeanor and removed from office for willfully failing to perform their duties.

Effective: December 1, 2009

HOUSE BILL 67, License Plate Frame/State Name Visible/Study, makes it an infraction for an operator of a motor vehicle to cover the state name, year sticker, or month sticker on a motor vehicle registration plate with a license plate frame. This section does not prohibit transparent covers which do not prohibit or interfere with taking a photograph of the registration plate by a traffic control or toll collection system. A warning ticket can only be given for a violation of this law until November 30, 2010.

Effective: December 1, 2009.

HOUSE BILL 81, Notice of Special/Emergency Meetings, amends the open meetings law to allow notice of emergency meetings to be given by e-mail. Notices of regularly scheduled meetings must be e-mailed or posted within 48 hours of the meeting. If the public body has a webpage, then all meetings, regular and emergency, must be must be posted on the webpage prior to the meeting.

Effective: October 1, 2009

HOUSE BILL 85, Increase Raffle Prize Limit, raises the raffle prize limits that a non-profit organization can offer from \$50,000 to \$125,000. It also provides that if the raffle prize is real property the value cannot exceed \$500,000.

Effective: June 1, 2009

HOUSE BILL 97, Active Duty Hunting/Fishing License Exemption, allows North Carolina residents who are either a member of the Armed Services or a reservist on full time active duty and who are stationed outside North Carolina but who are in North Carolina on leave for 30 days or less to hunt and fish without a license. While hunting or fishing, the military personnel must have in their possession their military identification card and leave orders.

Effective: July 1, 2009

HOUSE BILL 98, License Renewal/Active Military Duty, provides that the Division of Motor Vehicles, no matter how far in advance of the date of expiration, is required to renew the drivers license of a member of the Armed Forces or of a reserve component of the Armed Forces who provides orders that place the member on active duty at a duty station outside this State. Also, a member of a reserve component of the Armed Forces whose drivers license expired while the person was on active duty outside this State shall be considered to have a valid license until 60 days after the date of release from active duty upon showing proof of the release date, unless the license was revoked. However, in no case is the license valid more than 18 months after the date of expiration. The Division of Motor Vehicles may allow a member of the Armed Forces or a reserve component of the Armed Forces of the United States serving on active duty and stationed outside this State to renew the member's drivers license by mail.

Effective: July 10, 2009

HOUSE BILL 105, Clarify Interstate Wildlife Violator Compact, adds Marine Fisheries violations to the list of wildlife offenses for which the Wildlife Resources Commission can revoke a state hunting and/or fishing license for violating the laws of another state that is a member of the compact.

Effective: October 1, 2009

HOUSE BILL 115, Joint DV Committee/Recommendations, amends the domestic violence protective order statutes in response to the Supreme Court of North Carolina's decision in State v. Byrd, 363 N.C. 214 (May 1, 2009). This legislation provides that a "valid protective order" includes an "emergency" and "ex parte" order entered under G.S. Chapter 50B. The Byrd decision said such orders were not "valid protective orders."

Effective July 24, 2009, law enforcement officers who have probable cause to believe a violation of an emergency or ex parte order occurred can arrest the violator. This applies even if the order was issued prior to July 24, 2009. However, a Temporary Restraining Order issued under Rule 65 of the Rules of Civil Procedure is not covered by the new law.

Beginning December 1, 2009, any action for a domestic violence protective order requires that a summons be issued and served and requires the defendant to answer within 10 days of the date of service. Attachments to the summons must include the complaint, notice of hearing, any temporary or ex parte order that has been issued, and other papers. [For an analysis of these changes by School of Government faculty member John Rubin, see the online memorandum available at:

<http://www.sog.unc.edu/programs/crimlaw/Byrd2.pdf>.]

Effective: July 24, 2009

HOUSE BILL 121, Regulation of Golf Carts by Local Governments, allows all cities and all counties to adopt local ordinances that regulate the operation of golf carts within their jurisdiction on any public street, road or highway where the speed limit is 35 miles per hour or less. City ordinances can only apply within the municipal limits of the city or on property owned or leased by the city and county ordinances can only apply in the unincorporated areas of the county or on property owned or leased by the county. Cities and counties are authorized to include in their ordinances a requirement for the registration of golf carts, charging of a fee for the registration, specification of who is authorized to operate golf carts and restrict the hours and

methods of operations of golf carts. By state law, no person less than 16 years of age is authorized to operate a golf cart on a public street, road or highway.

In recent years, numerous cities and counties across North Carolina have been able to get special local acts enacted by the General Assembly to allow the regulation of golf carts within their community. This legislation repeals numerous previously enacted local acts as they relate to golf carts but these acts may still apply to operation of utility vehicles.

Effective: October 1, 2009

HOUSE BILL 182, Traffic Calming Devices Residential Subdivisions, requires the Department of Transportation (DOT) to establish policies and procedures for the installation or utilization of “traffic tables or traffic calming devices” on State-maintained subdivision streets. The policies must require that an engineering study must be approved by DOT and there must be an agreement by at least seventy per cent (70%) of the residents of the subdivision to pay for the installation and maintenance costs of the traffic tables or traffic calming devices.

Effective: October 1, 2009

HOUSE BILL 186, Local Government Objections to ABC Stores, prohibits a local ABC board from locating an ABC store within an area of a municipality if the municipality, after a public hearing, passes a resolution in opposition. The local ABC board can petition the State ABC Commission to allow the ABC store at that location and the ABC Commission makes the final determination.

Effective: October 1, 2009

HOUSE BILL 191, General Statutes Clarifying Correction, makes various technical changes to the General Statutes. This legislation includes an exemption to G.S. 20-130.1 making it legal to possess or install an inoperable blue light on a vehicle that is inspected by and registered with the Division of Motor Vehicles as a specially constructed vehicle and that is used primarily for participation in shows, exhibitions, parades, or holiday/weekend activities, and not for general daily transportation. For purposes of this law, 'inoperable blue light' means a blue-colored lamp housing or cover that does not contain a lamp or other mechanism having the ability to produce or emit illumination.

Effective: August 26, 2009

HOUSE BILL 192, Child Witness Testimony/Procedures, authorizes a judge in a criminal case or juvenile delinquency proceeding to allow a child witness under the age of 16, who may suffer serious emotional distress if required to testify in open court in front of the defendant, to testify from a remote location outside the courtroom via video link. This video link must allow the defendant, the jury and the court to observe the demeanor of the child witness. The defense attorney must be in the same room as the child, even though the defendant is not, and must be allowed to cross examine the child and consult privately with the defendant.

Effective: December 1, 2009

HOUSE BILL 201, Add Division of LESS to CCPS, formally establishes the long-standing Law Enforcement Support Services (LESS) Division within the Department of Crime Control and Public Safety. The LESS Division is authorized to assist with the transfer of federal surplus property to state and local governments, including automobiles, store evidence containing DNA after conviction, store “Jane Doe” rape kits when there is no pending investigation and provide

undercover equipment for law enforcement officers. **This bill was supported by the North Carolina Sheriffs' Association.**

Effective: June 11, 2009

HOUSE BILL 206, Affordable Housing for Local Employees, allows the City of Brevard, Town of Rosman, Transylvania County and Transylvania County Board of Education to provide affordable housing for city and county employees and public school teachers.

Effective: June 23, 2009

HOUSE BILL 209, Sex Offender Registry/Liberties With Student, adds a conviction of taking indecent liberties with a student, G.S. 14-202.4(a), to the definition of sexually violent offenses that require the defendant to register as a sex offender.

Effective: December 1, 2009

HOUSE BILL 220, Write-In Candidate Rule, changes the law for write-in candidates in a party primary. A write-in candidate must agree that if defeated in the primary the candidate will not run for the same office in the general election. Previously it required a losing write-in candidate to agree not to run for any office in the general election.

Effective: January 1, 2010

HOUSE BILL 243, Mental Health/Law Enforcement Custody, allows a patient who is being evaluated for commitment to be temporarily detained at the place of initial evaluation if a 24-hour facility is not available. The initial facility may determine whether continued detention is appropriate and may release the patient or order outpatient treatment. If a 24-hour facility is not available at the end of seven days, the patient is to be released. Any release of the patient is reported to the clerk of court.

Effective: October, 1, 2009

HOUSE BILL 266, Use of Deadly Force by LEO/Collect & Publish, requires the Division of Criminal Statistics within the State Bureau of Investigation to compile statistics and publish an annual report on the number of deaths, by law enforcement agency, resulting from the use of deadly force by a law enforcement officer in the course and scope of official duties.

Effective: January 1, 2010

HOUSE BILL 274, Clarify Changes to State Law, makes the same change as House Bill 191 and exempts Law Enforcement Support Services [see House Bill 201] from certain titling and registration requirements for motor vehicles transferred to local law enforcement agencies.

A clarification is made to the school bus law, G.S. 20-218, to change the phrase "loaded with children" and "occupied by children" to "occupied by one or more child passengers." The bill makes other changes to the law that do not affect law enforcement.

Effective: August 28, 2009

HOUSE BILL 309, Internet Ticket Protection Resale Sunset. In 2008, legislation was enacted exempting resellers of tickets on the Internet from the scalping laws if certain restrictions are met and that legislation was effective August 3, 2008, but was due to expire on June 30, 2009. The expiration was repealed and the laws remain in effect.

Effective: July 6, 2009

HOUSE BILL 315, Plea Bargain Disclosure, provides that if a judge rejects a plea arrangement that involves a particular sentence and it is disclosed in open court, then the judge is required to have the rejection noted on the plea transcript and this plea transcript must be made part of the record.

Effective: December 1, 2009

HOUSE BILL 323, Prevent the Theft of Scrap Metals, requires a secondary metals recycler to issue a receipt signed by the person delivering the metal for recycling. In transactions involving catalytic converters that are not attached to a vehicle and central air conditioner evaporator coils or condensers, the person delivering the materials shall place next to that person's signature on the receipt, a clear ink impression of that person's index finger. This fingerprint can be captured electronically and need not be obtained if the recycler already has the fingerprint on file. The sheriff or chief of police may request that these receipts be electronically transferred directly to the law enforcement agency. These records are not public records and must be securely maintained as required by law and destroyed in a manner that protects the identity of the owner of the property, the seller of the property, and the purchaser of the property.

The new law also makes it unlawful for the secondary metals recycler to purchase any central air conditioner evaporator coils or condensers, or catalytic converters that are not attached to a vehicle, except from a company, contractor, or individual that is in the business of installing, replacing, maintaining, or removing these items. Any payment for these items as well as for any purchase in an amount greater than \$100 must be made by using a check, money order, or cash card where the purchaser's photograph is recorded. In addition, a secondary metals recycler may not purchase certain items except from a government or manufacturer who generates or sells these items in the ordinary course of business. These prohibited items include guardrails, street signs, traffic lights, utility covers, railroad property, historical markers, grave markers or metal marked with the name of a government, public utility or brewer. Purchases of beverage containers are exempt from this law.

Effective: October 1, 2009

HOUSE BILL 377, Authorize Emergency Management Certification Program, requires the Division of Emergency Management in the Department of Crime Control and Public Safety to establish, as a voluntary program, an Emergency Management Certification Program to strengthen and enhance the professional competencies of emergency management personnel in State and local emergency management agencies. Minimum educational and training standards will be established for Type IV (entry), Type III (basic), Type II (intermediate), and Type I (advanced) emergency management certification.

Effective: June 26, 2009

HOUSE BILL 379, Allows Mutual Aid Between State & Local Government, allows the Governor to enter into emergency management mutual aid agreements with political subdivisions of this State that are consistent with State emergency management programs and plans.

Effective: June 26, 2009

HOUSE BILL 380, Strengthen Local Emergency Management, allows the Division of Emergency Management within the Department of Crime Control and Public Safety to adopt

standards and requirements for local plans and programs consistent with federal and State laws and regulations. In addition, counties and municipalities may form joint emergency management agencies composed of a county and one or more municipalities within the county's borders, between two or more counties, or between two or more counties and one or more municipalities within the borders of those counties.

Effective: October 1, 2009

HOUSE BILL 381, Expand Division of Emergency Management Authority, clarifies and expands the authority of the Division of Emergency Management of the Department of Crime Control and Public Safety to identify hazards and risks of emergencies and disasters including: (1) coordinating with other State agencies which have primary responsibility for the adoption of hazard mitigation standards; (2) maintaining a hazard risk information system to conduct risk assessments; (3) maintaining a clearinghouse for methodologies for calculating and communicating hazard probability and loss estimation; and (4) utilizing and maintaining technology that enables efficient and effective communication and management of resources between political subdivisions, State agencies, and other governmental entities involved in emergency management activities.

Effective: June 26, 2009

HOUSE BILL 391, Community College May Offer Safe Driving Course, allows a community college to offer high school students a noncredit course in safe driving.

Effective: June 19, 2009

HOUSE BILL 406, Western Justice Academy/Wildlife Resources Firing Range, authorizes the Department of Justice and the Wildlife Resources Commission to jointly develop a plan for construction of a firing range for use by criminal justice officers attending the Western Campus of the North Carolina Justice Academy in Edneyville.

Effective: August 7, 2009

HOUSE BILL 435, Lee Vacancies. There are two General Statutes that establish the procedure for filling a vacancy in the Office of Sheriff. G.S. 162-5 applies to some counties and provides that when there is a vacancy in the Office of Sheriff, the county board of commissioners can appoint any qualified person of their choosing to serve the remainder of the Sheriff's term of office. G.S. 162-5.1 applies to the rest of the counties not covered by G.S. 162-5 and it provides that if the county executive committee of the former sheriff's political party nominates a replacement for the Sheriff within 30 days of the vacancy, the county board of commissioners are required to appoint the person nominated by the political party's county executive committee. This legislation removed Lee County from the coverage of G.S. 162-5 and placed Lee County under the coverage of G.S. 162-5.1.

Effective: May 21, 2009

HOUSE BILL 440, The Nicholas Adkins School Bus Safety Act, raises the punishment level for a driver who passes a stopped school bus and strikes a person resulting in death from a Class I felony to a Class H felony. The law also allows photographs and video, consistent with the Rules of Evidence, to be admitted in a passing a stopped school bus trial.

Effective: December 1, 2009

HOUSE BILL 473, Magistrates Can Carry Gun in Courthouse, allows a magistrate to possess a handgun in a building housing a court of the General Court of Justice other than a courtroom itself unless the magistrate is presiding in that courtroom. The magistrate must: (1) be in the building to discharge the magistrate's official duties; (2) have a concealed handgun permit issued in accordance with Article 54B of Chapter 14 of the General Statutes or considered valid under G.S. 14-415.24; (3) have successfully completed a one-time weapons retention training substantially similar to that provided to certified law enforcement officers in North Carolina, and (4) secure the weapon in a locked compartment when the weapon is not on the magistrate's person.

Effective: August 26, 2009

HOUSE BILL 538, Charlotte/Mecklenburg School Board Police, allows the Charlotte-Mecklenburg Board of Education to establish a campus police agency. The officers must be certified by the North Carolina Criminal Justice Education and Training Standards Commission. The territorial jurisdiction includes all property owned or leased to the board of education and that portion of any public road or highway passing through the property or immediately adjoining it, wherever located. The Charlotte-Mecklenburg Board of Education is authorized to enter into agreements with cities or the county (and Sheriff) to extend the territorial jurisdiction. This act applies only to the Charlotte-Mecklenburg Board of Education.

Effective: June 10, 2009

HOUSE BILL 551, Davidson/Taking of Foxes, provides an open season for taking foxes with weapons and by traps during the trapping season set by the Wildlife Resources Commission each year, with no tagging requirements prior to or after sale. There is no bag limit. This act applies only to Davidson County.

Effective: October 1, 2009

HOUSE BILL 616, Offense for Portable Toilets/Pumper Trucks, provides that unless the conduct is covered under some other provision of law providing for a greater punishment, it is a Class 1 misdemeanor to steal, take from a temporary location, destroy, deface, or vandalize a chemical or portable toilet as defined in G.S. 130A-290 or a pumper truck operated by a septage management firm.

Effective: December 1, 2009

HOUSE BILL 629, Small Claims Court/Trials, provides that except in a small claims action demanding summary ejection, if the time set for trial is earlier than five days after service of the magistrate summons, the magistrate shall order a continuance of the trial.

Effective: October 1, 2009

HOUSE BILL 630, Summary Ejection/Trials, requires that if a defendant in a summary ejection case is not reached by telephone or served with the summons and complaint for ejection, the officer must make at least one visit to the place of abode of the defendant within five days of the issuance of the summons, but at least two days prior to the day the defendant is required appear to answer the complaint, excluding legal holidays. The new law added that the visit must be "at least two days" prior to the day when the defendant must appear in court.

Effective: October 1, 2009

HOUSE BILL 631, Wearing of Medals by Public Safety Personnel, provides that uniformed public safety officers, including law enforcement officers, firefighters and emergency medical services personnel, are authorized to wear any medal, badge, ribbon, or other decoration awarded to such person by the armed forces of the United States, the North Carolina Air National Guard or the North Carolina Army National Guard, during the business week prior to Veterans Day, Memorial Day, and the Fourth of July and the day of and the business day immediately following these holidays.

The employer of a uniformed public safety officer can still prohibit wearing of the award if the employer determines that wearing of the military service medals poses a safety hazard and adopts the policy after the effective date of this law. The military service medals cannot be worn in a manner to cover the public safety officer's badge and the wearing of the medals is subject to applicable federal laws and regulations.

Effective: June 30, 2009

HOUSE BILL 650, Roanoke Rapids/Fremont/No Loiter for Drugs, adds the City of Roanoke Rapids and the Town of Fremont to the Town of Columbia and the City of Brevard in which it is a criminal offense to loiter in a public place or on property adjoining a public place for the purpose of violating the controlled substance laws.

Effective: December 1, 2009

HOUSE BILL 667, 2009 Viticulture/Enology Act, exempts from regulation by the ABC Commission the manufacture, possession, and consumption of alcoholic beverages for the purpose of conducting scientific, chemical, pharmaceutical, mechanical, industrial, and educational research in connection with teaching, research, or extension programs conducted by, or under the supervision of, an instructor at an accredited community college, public or private college or university, or an extension agent in connection with educational programs and activities offered by the North Carolina Cooperative Extension Service.

In addition this law allows a school that holds a viticulture (grape vine growing)/enology (study of wine and wine making) permit to sell wines manufactured during its viticulture/enology program at one non-campus location in a county where the school holds and offers classes. The permit may also be issued for a winery or a wine producer for sale of its own unfortified wine during hours when the winery or wine producer's premises is open to the public and at one other location in the county, subject to any local ordinance prohibiting Sunday sales.

The definition of "Sports Club" for purposes of obtaining ABC permits is amended to include an establishment that is substantially engaged in the business of providing equine boarding, training, and coaching services, and the establishment offers on-site dining, lodging, and meeting facilities and hosts horse trials and other events sanctioned or endorsed by the United States Equestrian Federation, Inc.

Effective: August 28, 2009

HOUSE BILL 676, Law Enforcement Jurisdiction in Iredell County, repeals the 1971 local act that gave the Town of Mooresville and the City of Statesville police officers jurisdiction throughout Iredell County. These officers are now limited to the traditional territorial jurisdiction of other city police officers. **This bill was supported by the North Carolina Sheriffs' Association.**
Effective: May 28, 2009

HOUSE BILL 701, Avery Tax Collector Appointive/Moore Pyrotechnics, allows the board of county commissioners of Moore County to delegate its authority to issue permits for pyrotechnics (fireworks) displays to the county fire marshal. This law applies to Moore County only.
Effective: June 11, 2009

HOUSE BILL 722, Paraphernalia Control Act, requires a retailer of splitters for cigars or glass tubes that are two to seven inches long and one-eighth to three-quarters of an inch in diameter, including those sold as a novelty holder, flower vase, or pen, which could be used as drug paraphernalia to place these items behind the counter. The retailer who sells or gives away a glass tube or cigar splitter must require the customer to: (1) present identification with a photograph that also includes the person's name and current address; (2) enter his or her name and current address on a record that the retailer maintains solely for the purposes of this law; and (3) sign his or her name, verifying by the signature that the glass tube or splitter will not be used as drug paraphernalia. This record must be maintained for at least two years and must be made available to any law enforcement officer within 48 hours of a transaction. It is a Class 2 misdemeanor for a retailer to violate this law and it a Class 1 misdemeanor for a customer to give a false statement. The retailer cannot retaliate against an employee who reports a violation of this law.
Effective: December 1, 2009

HOUSE BILL 764, 2009 Appointments Bill, makes appointments to various state boards and commissions upon the recommendation of the Speaker of the House of Representatives (Representative Joe Hackney) and the President Pro Tempore of the Senate (Senator Marc Basnight).

Upon the recommendation of President Pro Tempore Marc Basnight, Sheriff Rodney Midgett of Dare County is appointed to the North Carolina Sheriffs' Education and Training Standards Commission.

Upon the recommendation of Speaker of the House Joe Hackney, the following persons are appointed to the North Carolina Criminal Justice Education and Training Standards Commission:

The Honorable James K. Festerman of Rockingham County
Richard J. Armstrong of Wake County
Vernon Julius Bryant of Halifax County
Kevin G. Wallace of Wake County

Upon the recommendation of President Pro Tempore Marc Basnight, the following persons are appointed to the North Carolina Criminal Justice Education and Training Standards Commission:

Steve Johnson of Wake County
Terry Lee Waterfield of Pasquotank County
Annie Harvey of Wake County
Ricky Anderson of Pasquotank County

Upon the recommendation of President Pro Tempore Marc Basnight, the following persons are appointed to the Private Protective Services Board:

Sheriff Dick Jenkins of Nash County
Eric L. Jones of Cabarrus County

HOUSE BILL 767, Craven Road Hunting. Unless a person owns or possesses a leasehold interest in the real property immediately adjacent to the portion of the road on which the person is located, it is a Class 3 misdemeanor for that person to discharge a firearm from, on, or across the right-of-way of State Secondary Road 1862, known as Joyner Drive, from Adams Creek Road to the end of the State-maintained portion of the road. This law applies to Craven County only.

Effective: October 1, 2009

HOUSE BILL 775, Alternative Testimony/Children and Adults with Disabilities, allows a person with a developmental disability, or a person with mental retardation who is competent, to testify by remote testimony in a criminal trial and in any juvenile delinquency proceeding if the court determines by clear and convincing evidence: (1) that the witness would suffer serious emotional distress from testifying in the presence of the defendant; and (2) that the ability of the witness to communicate with the judge or jury would be impaired by testifying in the presence of the defendant.

The method of remote testimony must allow the trier of fact and all parties to observe the demeanor of the witness as the witness testifies in a similar manner as if the witness was testifying in open court. The court must ensure that the counsel for all parties, except a pro se defendant, is physically present where the witness testifies and has a full and fair opportunity for examination and cross-examination of the witness. This law is similar to House Bill 192 that involves testimony of children.

Effective: December 1, 2009

HOUSE BILL 787, Increase Penalty/Remove Serial # from Gun, makes it a Class H felony to alter, deface or remove the permanent serial number, manufacturer's identification plate, or other permanent distinguishing number or identification mark from any firearm. It is also a Class H felony for a person to sell, buy or possess a firearm on which the permanent serial number, manufacturer's identification plate, or other permanent distinguishing number or identification mark has been altered, defaced, destroyed or removed.

Effective: December 1, 2009

HOUSE BILL 816, Clarify Local Special Separation Allowance, provides that any city or county can employ a retired local law enforcement officer in a part-time capacity, in a public safety

position, and the officer will not cease receiving the Special Separation Allowance benefit so long as the retired officer's part-time employment does not require the officer's participation in the Local Governmental Employees' Retirement System. In order to not be required to participate in the Local Governmental Employees' Retirement System, a retired officer who goes back to work part-time must work less than 1,000 hours and must earn less than \$28,080 or less than 50% of compensation, excluding termination payments, reported to the Retirement System during the 12 months of service preceding the effective date of the officer's retirement.

This bill also clarifies that a retired local law enforcement officer's Special Separation Allowance benefit cannot be terminated if the officer returns to work for the State of North Carolina or a private business employer. After a local law enforcement officer retires, their Special Separation Allowance benefit will only be terminated: (1) upon the officer's reemployment by a local government in a capacity requiring participation in the Local Governmental Employees' Retirement System; (2) upon the death of the officer; or (3) on the last day of the month in which the officer becomes 62 years of age. **This bill was supported by the North Carolina Sheriffs' Association and numerous other associations.**

Effective: July 31, 2009

HOUSE BILL 825, Garbage Collection Trucks Parking on Highways, exempts a solid waste vehicle from the law that prohibits stopping on the main travelled portion of the highway outside a municipality found in G.S. 20-161(a). This exemption applies only while the vehicle is engaged in collecting garbage or recyclable material.

Effective: October 1, 2009

HOUSE BILL 838, Create Exemption/Size-Weight for Sage Haulers, adds trucks transporting sage from farm to market to the exemption from length requirements of G.S. 20-116(d) and weight requirements of G.S. 20-118(k) that is also provided to trucks transporting cotton (50 feet in length & 50,000 pounds in weight). The bill also repeals September 1 to March 1 as the effective time for these exemptions but retains the prohibition of operating on an interstate highway or over a bridge with a lower posted weight.

Effective: June 19, 2009

HOUSE BILL 867, Junked & Abandoned Vehicles, allows all municipalities to adopt an ordinance for towing and storage of abandoned or junked vehicles that are more than five years old and worth less \$100 or more than five years old and worth less than \$500, which ever the municipality chooses. This law also repealed other statutes that applied only to specified municipalities.

Effective: October 1, 2009

HOUSE BILL 882, Motor Vehicle Inspection Program Changes, requires a person to show proof of insurance to the Division of Motor Vehicles (DMV) in order to get a three-day trip permit that will allow them to drive a vehicle with an expired inspection to an inspection station to get the vehicle inspected.

Beginning December 1, 2009, it is a Class 3 misdemeanor for a person to perform a motor vehicle safety or emissions inspection without being licensed to do so by DMV.

Effective: July 17, 2009

HOUSE BILL 885, Targeted Picketing, makes it a Class 2 misdemeanor to engage in targeted picketing at the residence of a person when the picketing would cause a reasonable person to fear for their own safety or the safety of the person's family or cause substantial emotional distress. A residence means a single-family or multi-family dwelling but does not include the person's sole place of business or a place of public meeting. "Targeted picketing" means picketing, with or without signs, that is specifically directed toward a residence, or one or more occupants of the residence, and that takes place on that portion of a sidewalk or street in front of the residence, in front of an adjoining residence, or on either side of the residence. In addition, the person targeted by the picketing can seek a court injunction against threatened or future picketing. This law does not prohibit general picketing that proceeds through residential neighborhoods or that proceeds past residences.

Effective: December 1, 2009

HOUSE BILL 888, County Bow Hunting/Mineral Rights, prohibits hunting in Wayne County with guns, dogs, bow and arrow and crossbows on lands of another without permission. It also adds hunting with bow and arrow and crossbow to the existing prohibition against hunting without permission in Hyde County.

Effective: October 1, 2009

HOUSE BILL 889, Change Penalty for Misdemeanor Death by Vehicle, increases the punishment for misdemeanor death by vehicle from Class 1 to Class A1.

Effective: December 1, 2009

HOUSE BILL 898, No Killing of Grass Carp, makes it a Class 3 misdemeanor to possess grass carp, or to take grass carp by bow and arrow, from the Gaston or Roanoke Rapids reservoirs or from the section of the Roanoke River that runs between the Gaston and Roanoke Rapids reservoirs, unless the person possesses a special permit for that purpose issued by the Wildlife Resources Commission. This law applies only to Halifax, Northampton, and Warren Counties.

Effective: October 1, 2009

HOUSE BILL 926, Continuous Alcohol Monitoring Systems, allows evidence of 120 days use of a continuous alcohol monitoring system, such as SCRAM, to prove that a person is not using alcohol in order for the person to qualify for a reduction of the length of their drivers license revocation for offenders who are revoked for multiple driving while impaired (DWI) convictions or for causing injury while DWI. **This bill was supported by the North Carolina Sheriffs' Association.**

Effective: December 1, 2009

HOUSE BILL 937, Innocence Commission/Limited Witness Immunity, allows the chair of the North Carolina Innocence Commission to compel a witness who asserts his or her right against self incrimination to give testimony or produce evidence, if the chair determines that the testimony will likely be material to reach a correct factual determination in the case before the Commission. The order compelling testimony grants limited immunity to the witness. The order prevents a prosecutor from using the compelled testimony, or evidence derived therefrom, to prosecute the witness for previous false statements made under oath by the witness in prior proceedings. The limited immunity provided to the witness does not prohibit the witness from being prosecuted for false statements made under oath that are unrelated to the Commission's formal inquiry, false statements made under oath during the Commission's proceedings, or

prosecution for any other crimes. The prosecutor has a right to be heard prior to the chair issuing the order.

Effective: July 27, 2009

HOUSE BILL 955, Expand Membership/Currituck Game Commission, expands the membership of the Game Commission of Currituck County from five to seven members and prohibits floating blinds from being tied within 300 yards of any residence. This law applies only to Currituck County.

Effective: July 1, 2009

HOUSE BILL 969, Granville/Registered Land. In 1991 the General Assembly enacted local legislation for Granville County that allows landowners to register their land with the Sheriff of Granville County and the legislation makes it unlawful to hunt or possess weapons without permission on land that has been registered or on abutting portions of the highway. House Bill 969 amends that previously enacted law and provides that the sheriff is not required to file copies of the description of registered land for hunting with the Register of Deeds if all tracts accepted for registration are shown as a layer in Granville County's Geographic Information System in a manner that is accessible free of charge to the public and the Wildlife Resources Commission. This law applies only to Granville County.

Effective: June 18, 2009

HOUSE BILL 970, Granville County Hunting, makes it a Class 2 misdemeanor for a person to release a dog or dogs onto the property of another for the purpose of hunting deer, without the written consent of the landowner or lessee, if the property is posted or registered. This law applies only to Granville County.

Effective: October 1, 2009

HOUSE BILL 1002, Amend Public Health Related Laws, clarifies that a magistrate may hold a defendant, who poses a significant risk of transmission of the AIDS virus or Hepatitis B, for testing only when the magistrate finds probable cause that another individual "had a nonsexual exposure" to the defendant in a manner that poses a significant risk of transmission of the AIDS virus or Hepatitis B. Previously the law allowed holding the defendant if another individual "was exposed" to the defendant.

Effective: August 26, 2009

HOUSE BILL 1034, Allow Recorded Phone Messages/Public Safety, allows automatic dialing and recorded message players to notify persons of a product recall for a product they purchased, a prescription or over-the-counter medication recall or that a prescription has been filled but not picked up from a pharmacy.

Effective: July 27, 2009

HOUSE BILL 1037, Permit Access to Capital Defendants, requires the Department of Correction to allow the attorney of a defendant sentenced to death to have a meeting of at least one hour during regular business hours whenever a court issues an opinion affirming or reversing the case.

Effective: June 11, 2009

HOUSE BILL 1039, Guilty Plea Form Revisions, requires the Administrative Office of the Courts to modify the Transcript of Plea form for guilty pleas to include: (1) "Do you understand that following a plea of guilty or no contest there are limitations on your right to appeal?" and (2) "Do you understand that your plea of guilty may impact how long biological evidence related to your case (for example, blood, hair, skin tissue) will be preserved?". This revised form must be available for use by October 1, 2009.

Effective: June 11, 2009

HOUSE BILL 1077, Venue/Municipalities in Multiple Districts. The City of High Point resides partially in four counties, which are: Guilford, Forsyth, Davidson and Randolph. The majority of the City of High Point is located in Guilford County. This bill provides that criminal defendants charged by law enforcement officers of the City of High Point Police Department will have their cases disposed of at the court in High Point even if the criminal offense was committed in the portion of High Point located in one of the other three counties. This provision does not apply to law enforcement officers employed by any law enforcement agency other than the City of High Point Police Department. This legislation also authorizes the magistrates assigned to High Point to exercise their duties related to criminal court cases originating within the City of High Point, regardless of whether or not the criminal offense occurred in Guilford County or within the portion of High Point that is located within one of the other three counties.

Effective: December 1, 2009

HOUSE BILL 1078, Report School Violence to Superintendent/Require Notification Policy. G.S. 115C-288(g) requires a school principal to immediately notify the appropriate local law enforcement agency when the principal has knowledge of certain serious criminal offenses that occur on school property. In addition to notifying the appropriate local law enforcement agency, this legislation requires the principal or the principal's designee to notify the school superintendant (or the superintendant's designee) in writing or by electronic mail about any reports made to a law enforcement agency under this law. Effective at the beginning of the 2010-2011 school year, the principal will be required to make the notification to the school superintendant by the end of the work day in which the incident occurred when reasonably possible, but not later than the end of the following work day. This law also requires the school superintendant to provide the information to the local board of education. Local boards of education are required to adopt a policy on the notification to parents or legal guardians of any students alleged to be victims of any crime that is required to be reported to law enforcement and the superintendent under this law.

Effective: August 5, 2009

HOUSE BILL 1094, Require Documentation-Certain Special Plates, mandates that the Division of Motor Vehicles not issue a specialty license plate based upon military service unless the application is accompanied by a motor vehicle registration verification form signed by the Director of the Division of Veterans Affairs showing that the Division of Veterans Affairs has verified the applicant's credentials and qualifications to hold the specialty plate applied for by the person.

Effective: June 19, 2009

HOUSE BILL 1098, Protect Search and Rescue Animal, amends the statute that makes it unlawful to assault a law enforcement agency animal or an "assistance animal" trained to assist a

person with a disability to also make it unlawful to assault a “search and rescue animal” which is defined as an animal that is trained and may be used to assist in a search and rescue operation.
Effective: December 1, 2009.

HOUSE BILL 1109, State Fairgrounds Special Police/Mutual Aid, allows the State Fairgrounds Special Police of the Department of Agriculture and Consumer Services to enter into mutual aid agreements with other law enforcement agencies.
Effective: June 11, 2009

HOUSE BILL 1117, Sex Offender Can’t Drive Bus with Children, prohibits a person who is required to register as a sex offender from obtaining a commercial drivers license (CDL) with a “P” (passenger vehicle) or “S” (school bus) endorsement. The Division of Motor Vehicles (DMV) is required to disqualify the sex offender from using the CDL with a P or S endorsement, except if the sex offender has a valid CDL with a “P” or “S” endorsement issued prior to December 1, 2009, this driver will not be disqualified until the CDL expires as long as the driver is not convicted of another offense requiring registration as a sex offender. Driving a commercial passenger vehicle or school bus without an endorsement by a sex offender is a Class F felony. DMV is required to search the statewide registry and the National Sex Offender Public Registry of sex offenders before issuing a CDL with a “P” or “S” endorsement. A person who makes a false statement about being a registered sex offender in an affidavit to DMV is guilty of a Class I felony.
Effective: December 1, 2009

HOUSE BILL 1118, Standardize Wild Boar Season/Swine Study, standardizes the hunting season for wild boar and requires the Department of Agriculture and Consumer Services in consultation with the Wildlife Resources Commission to study issues related to the importation of “feral swine.”
Effective October 1, 2009.

HOUSE BILL 1129, Clarify Silver Alert-All Ages, allows a silver alert to be issued for any person suffering from dementia or other cognitive impairment regardless of age.
Effective: June 19, 2009

HOUSE BILL 1132, Renew Concealed Carry Permit/30 Day Limit, requires that at least 45 days prior to the expiration date of a concealed carry handgun permit, the Sheriff of the county where the permit was issued must send a written notice to the permit holder explaining that the permit is about to expire and that includes information about the requirements for renewal of the permit. This notice must be sent by first class mail to the last known address of the permit holder. Failure of the permit holder to actually receive the renewal notice that was sent by the Sheriff does not relieve the permit holder of the requirements to renew their permit prior to its expiration date. The State Bureau of Investigation already sends each Sheriff a list of the concealed carry handgun permit holders that are about to expire within 90 days, along with a set of mailing labels that the Sheriff can use to send a notice to the permit holders. This notice is not required to be a customized letter, and many Sheriffs are already sending these notices using a form notice that does not need to be customized with each individual permit holder’s name.

Previously, the permit holder must apply to renew their permit within 30 days of the permit’s expiration. This bill will allow permit holders to apply to renew their permit at anytime within

the 90 day period prior to the permit's expiration date. If the permit holder applies for renewal within the 90 period prior to the permit's expiration date, and if the Sheriff does not have sufficient time to renew or deny the renewal permit application prior to the permit's expiration, then the permit remains valid beyond the expiration date of the permit until the permit holder either receives a renewal permit or is denied a renewal permit by the Sheriff.

An additional change provides that if the permit holder does not apply to renew the permit prior to its expiration date, but does apply to renew the permit within 60 days after the permit expires, the Sheriff may waive the requirement of taking another firearms safety and training course. However, if the permit expires, applying within the 60 day period after the permit expires does not reactivate the permit and the permit remains expired until the Sheriff renews the permit, if it qualifies for a renewal.

An officer who has 20 or more aggregate years of part-time or auxiliary law enforcement service is added to the list of qualified former sworn law enforcement officers who are exempt from the firearms safety and training course requirement if they apply for a permit within two years of retirement. **This bill was supported by the North Carolina Sheriffs' Association.**

Effective: January 1, 2010

HOUSE BILL 1185, Habitual DWI-Reinstatement Petition/10 Years, allows the Division of Motor Vehicles (DMV) to conditionally restore a person's drivers license that was permanently revoked for habitual driving while impaired. Habitual driving while impaired is a fourth conviction within a 10 year period. The habitually impaired driver must show DMV that in the 10 years immediately preceding the person's application for a restored license the person has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any other criminal offense and is not currently a user of alcohol, unlawfully using any controlled substance, or an excessive user of prescription drugs. A conditionally restored license must include an alcohol concentration restriction of 0.00 and the use of an ignition interlock by the person.

Effective: December 1, 2009 and expires December 1, 2014

HOUSE BILL 1189, DHHS/Tracking Outpatient Commitments, allows the Secretary of the Department of Health and Human Services to designate one or more special police officers to make up a joint security force on the territory of the Long Leaf Neuro-Medical Treatment Center and the Eastern North Carolina School for the Deaf in Wilson County. These special police officers may arrest persons outside the territory of the named institutions but within Wilson County when the person arrested has committed a criminal offense on the territory of the named facilities and the arrest is made during the person's immediate and continuous flight from that territory.

Effective: July 17, 2009

HOUSE BILL 1190, Preservation of DNA & Biological Evidence, amends the statutes which govern the collection, testing, and preservation of DNA evidence in criminal investigations. Among the significant changes are: (1) requires that the defendant be provided prior to trial with a complete inventory of all physical evidence collected in connection with the investigation; (2) provides that a court "shall" rather than "may" order pretrial DNA testing at the defendant's request upon a sufficient showing, and if the results meet federal standards, shall require the State Bureau of Investigation to run the results through the FBI DNA database; (3) expands the

definition of biological evidence to include fingerprints, but limits the definition to material that may reasonably be used to incriminate or exculpate a person; (4) requires the State Bureau of Investigation to publish guidelines regarding the retention and preservation of biological evidence by January 1, 2010; (5) when physical evidence is offered or admitted into evidence in a criminal proceeding, the presiding judge must inquire of the State and defendant whether the evidence is reasonably likely to contain biological evidence and if that biological evidence is relevant to establishing the identity of the perpetrator in the case. If either party asserts that the evidence in question may have biological evidentiary value, and the court agrees, the court must order that the evidence be preserved; (6) if evidence has been designated by the court as biological evidence, the clerk of superior court that takes custody of that evidence must preserve the evidence and return the evidence to the collecting agency; (7) provides that a defendant may waive preservation of biological evidence but only after a court proceeding; (8) alters the time periods for which biological evidence must be kept after a conviction, and provides for the preservation and retention of biological evidence collected in connection with unsolved homicide and rape investigations; (9) if the physical evidence is of such a size or physical character that preservation is impractical or the evidence should be returned to the rightful owner, cuttings or swabs can be preserved rather than the physical evidence; (10) if stored evidence cannot be located, the court may hold a hearing on contempt or obstruction of justice and shall order an appropriate remedy including dismissal of criminal charges; (11) the custodian of the evidence must maintain all records documenting the possession, control, storage, and destruction of evidence related to a criminal investigation or prosecution of an offense carrying a sentence of death or life without parole or any homicide, sex offense, assault, kidnapping, burglary, robbery, arson or burning, for which a Class B1-E felony punishment is imposed and any criminal investigation of any homicide or rape, in which no charges are filed; (12) makes it a Class I felony to intentionally tamper with DNA evidence, and a Class H felony to do so if the evidence is for a crime of first-degree murder; (13) in connection with post-conviction DNA testing, requires that the defendant be given input into which facility undertakes the testing and appointment of counsel for indigents; and (14) establishes, effective June 26, 2009, the Joint Select Study Committee on the Preservation of Biological Evidence to study issues relating to preservation of evidence and DNA testing and to report to the legislature by April 1, 2010. In addition to General Assembly members and members of the public, this Committee will include the following persons or their designee: Attorney General, SBI Director, Director of Administrative Office of the Courts, President of the North Carolina Sheriffs' Association, President of the North Carolina Association of Chiefs of Police, President of the North Carolina Conference of Clerks of Superior Court, President of the North Carolina Advocates for Justice (formerly known as the North Carolina Academy of Trial Lawyers), and two District Attorneys.
Effective: December 1, 2009

HOUSE BILL 1198, Clarification/Hearing on License Restoration, provides that the five year waiting period required for a driver who is permanently revoked for impaired driving and a fatality to obtain a conditionally restored drivers license begins on August 30, 2007.
Effective: June 12, 2009

HOUSE BILL 1210, Facilitate Access to Emergency Supplies, authorizes the Governor, whenever a curfew has been imposed during a state of disaster, to require that: (1) persons transporting essentials in commerce to the curfew area, or assisting in ensuring availability, and persons assisting in restoring utilities be allowed to enter or remain in areas which they would otherwise be excluded; and (2) waive the maximum number of hours of service for motor

carriers and similar rules for persons transporting essentials or assisting in the restoration of utility services. The law also requires that the Secretary of the Department of Crime Control and Public Safety develop a certification system for persons transporting essentials in commerce or assisting in ensuring their availability, and persons assisting in restoring utility services, which includes allowing those individuals to enter or remain in a curfew area for those limited purposes. The law specifies that law enforcement officers or other local officials may specify the permissible route of ingress or egress for certified persons. The law authorizes the Governor to simultaneously seek applicable waivers of federal law, if the Governor declares the existence of an abnormal market disruption with respect to petroleum supplies, to facilitate the transportation of fuel within the State in order to prevent or address a fuel shortage emergency.

Effective: June 26, 2009

HOUSE BILL 1228, ABC Rules/Private Clubs, deletes the requirement that a private club have a waiting period for new members. The ABC Commission must report to the legislature about violations of ABC Commission rules by private clubs.

Effective: July 31, 2009

HOUSE BILL 1255, Sex Offender/Permanent No Contact Order, allows, at the request of the district attorney, a judge at the sentencing hearing of a defendant convicted of a sex offense to issue a permanent order to prohibit the defendant for the rest of his life from having any contact with the victim in the future, if the judge determines that reasonable grounds exist for the victim to fear future contact with the defendant.

Effective: December 1, 2009

HOUSE BILL 1256, Larceny of Motor Vehicle Part, provides that unless the conduct is covered under some other provision of law providing for a greater punishment, larceny of a motor vehicle part is a Class I felony, if the cost of replacing and installing the motor vehicle part is \$1,000 or more.

Effective: December 1, 2009

HOUSE BILL 1261, Protect Our Kids/Cyber Bulling Misdemeanor, establishes the crime of cyber-bullying. It is a misdemeanor to use a computer or computer network to post certain specified false or altered information about a minor or to sign up a minor to pornographic websites or electronic mail sites with the intent to intimidate or torment a minor or the minor's parents or guardian. If the perpetrator is age 18 or older, a violation is a Class 1 misdemeanor. If the perpetrator is under age 18, a violation is a Class 2 misdemeanor and the law allows for deferred prosecution and the charges to be dismissed and expunged if the perpetrator complies with conditions of probation.

Effective: December 1, 2009

HOUSE BILL 1272, Technical/Clarifying Changes/Juvenile Code, makes several technical corrections to the juvenile code including adding the offenses of rape and sex offense with a child by an adult to the list of offenses that identify an abused juvenile and clarifying who is to be served with the juvenile summons and other papers in a juvenile case. See House Bill 1449 also.

Effective: May 27, 2009

HOUSE BILL 1327, Schools Notified of Criminal Intelligence Information, allows a law enforcement agency to disseminate an assessment of criminal intelligence information [i.e., GangNet information] to the principal of a public or private school when necessary to avoid imminent danger to the life of a student or employee of the school or to the public school property. **This bill was supported by the North Carolina Sheriffs' Association.**
Effective: December 1, 2009

HOUSE BILL 1329, Consolidate Expunction Statutes, rewrites and consolidates into one location many of the expunction statutes which allow for arrest and/or convictions to be removed from the record of a person who meets the requirements of the law. After this amendment, the statutes with an age requirement will refer to the age of the person at the time the person committed the offense rather than at the time of conviction.

The consolidated expunction laws in Article 5 of Chapter 15A will apply to:

- (1) the first misdemeanor conviction for a person under age 18 [G.S. 15A-145];
- (2) a person under age 21 who is convicted of possession of alcohol pursuant to G.S. 18B-302(b)(1) [G.S. 15A-145];
- (3) a conviction of misdemeanor larceny pursuant to G.S. 14-72(a) more than 15 years ago and no prior felonies convictions and no convictions other than traffic violations during a 10 year period preceding the filing of the petition [G.S. 15A-145];
- (4) a first offender under age 18 who is convicted of gang related offenses but complies with probation for two years [G.S. 15A-145.1];
- (5) a first time drug offender under age 21 who is convicted of certain drug or drug paraphernalia offenses [G.S. 15A-145.2];
- (6) a first time drug offender under age 21 who is convicted of certain toxic vapor offenses [G.S. 15A-145.3];
- (7) any person of any age for a one time expunction if charged with a crime, either a misdemeanor or a felony, or charged with an infraction under G.S. 18B-302(i) prior to December 1, 1999, and the charge is dismissed, or a finding of not guilty or not responsible is entered [G.S. 15A-146];
- (8) any charges when dismissed due to identity theft [G.S. 15A-147];
- (9) any charges when dismissed based upon DNA records [G.S. 15A-148]; and
- (10) any charges when a pardon of innocence is granted by the Governor [G.S. 15A-149].

The expunction statutes require that the offender show good behavior after the charge, except for those based upon dismissal or acquittal [G.S. 15A-146], identity theft [G.S. 15A-147], DNA records [G.S. 15A-148] and a pardon of innocence [G.S. 15A-149].
Effective: December 1, 2009

HOUSE BILL 1342, Free Medical Exam-Victims of Rape/Sex Offense, provides for the Assistance Program for Victims of Rape and Sex Offenses of the Department of Crime Control and Public Safety to reimburse hospitals and other medical professionals who provide forensic medical exams of victims of rape or sex offenses. The victim and victim's insurance is not to be billed. The SBI approved sexual assault evidence collection kits must be used.

In addition, when determining eligibility for crime victims' compensation funds, the Director of the Crime Victims Compensation Commission for claims up to \$12,500 and no future economic loss, and the Crime Victims Compensation Commission for all other claims, shall consider if the crime victim was engaged in contributory misconduct that was a proximate cause of the claimant becoming a victim. However, contributory misconduct that was not a proximate cause of becoming a victim shall not lead to an automatic denial of a claim for crime victims compensation.

Effective: July 27, 2009

HOUSE BILL 1438, Video Conference Technology in Court Proceedings, requires the Administrative Office of the Courts, in consultation with the Department of Correction to conduct a pilot program to test the feasibility of using video conference or similar technology to conduct court proceedings involving defendants in the custody of the Department of Correction, instead of requiring live appearances in court for those defendants. The Administrative Office of the Courts must designate two counties to participate in the pilot, and the Department of Correction must designate one prison facility.

In addition, the Administrative Office of the Courts may designate one or more counties to participate in a pilot program involving persons in the custody of county jails or other local confinement facilities to test the feasibility of using video conferencing equipment.

All of these pilot programs may use video conferencing for initial appearance hearings, bond hearings, first appearance hearings and arraignments. If a defendant voluntarily and knowingly waives his or her right to appear in person, the court may also accept guilty pleas and impose sentences in cases in which the plea is taken by videoconference, conduct hearings on motions, and conduct probation modification or revocation proceedings. The videoconferencing cannot be used in a case where the defendant is charged with a capital felony. The North Carolina Rural Courts Commission, in cooperation with the Department of Correction, is required to study the effectiveness of the use of videoconferences for these proceedings and report its findings and recommendations for expansion or modification to the Chief Justice of the Supreme Court of North Carolina, the Secretary of Correction and the legislature by May 1, 2010. **This bill was supported by the North Carolina Sheriffs' Association.**

Effective: July 10, 2009

HOUSE BILL 1449, Juvenile Code Revisions, clarifies the authority of county departments of social services to release information to a federal, state or local governmental entity to protect a juvenile from abuse or neglect and to other entities under specified circumstances. The law also clarifies discovery in a juvenile proceeding and allows the chief district court judge to adopt local rules or enter an administrative order addressing the sharing of information among parties and the use of discovery. If a director of social services receives a report of abuse, neglect, or dependency regarding a juvenile whose legal residence is in another county, the director must

promptly notify the director in the county of the juvenile's residence, and the two directors must coordinate efforts to ensure appropriate action. The department of social services director who files a petition in a county other than the county of the juvenile's residence must provide a copy of the petition and notices of hearings to the director in the county of the juvenile's residence. The law allows a change of venue of a juvenile hearing only after an adjudication of abuse, neglect, or dependency, and provides standards and procedures for changes of venue after adjudication. The law also provides that a juvenile court counselor or any other person with cause to suspect that a juvenile is abused, neglected, or dependent or has died as a result of maltreatment, must make a report to the department of social services. The law also makes numerous other technical changes to juvenile and adoption proceedings. A comprehensive summary of this legislation by School of Government faculty member Janet Mason is available online at: <http://www.sog.unc.edu/programs/dss/otherresources.htm>.
Effective: October 1, 2009

HOUSE BILL 1452, Local Government Code of Ethics, requires governing boards of cities, counties, local boards of education, unified governments, sanitary districts, and consolidated city-counties to adopt a resolution or policy containing a code of ethics to guide actions by the governing board members in the performance of the member's official duties as a member of that governing board. All members of governing boards are required to receive a minimum of two hours of ethics education within 12 months after their initial election or appointment to the office and again within 12 months after each subsequent election or appointment to the office. The ethics education must cover laws and principles that govern conflicts of interest and ethical standards of conduct at the local government level.
Effective: January 1, 2010

HOUSE BILL 1453, State Maintenance Vehicles – Parking Capitol, allows Department of Administration vehicles to park without charge at any metered parking space located on the street blocks bordering the State's Capitol Square when performing work at or on the State's Capitol Square. No maintenance vehicle may be parked upon the State's Capitol Square in a location that obstructs the view of or access to any monument on the Square, unless the vehicle itself is needed to perform some maintenance function.
Effective: July 10, 2009

HOUSE BILL 1464, Clarify DV Laws/Arrest/Valid Protective Order, makes it mandatory for an officer to arrest, with or without process, an offender when the officer has probable cause to believe the offender has violated a valid domestic violence protective order. This law is intended to overrule the case of Cockerham-Ellerbee v. The Town of Jonesville, 176 N.C. App. 372 (2006) which held that the law did not require an arrest but left the decision up to the discretion of the officer.
Effective: July 31, 2009

HOUSE BILL 1595, Malt Beverage Special Permit, allows malt beverage tastings on premises holding a retail ABC permit in a manner similar to wine tastings. A representative of the brewery or wholesaler whose malt beverages are being featured at the tasting must be present. A malt beverage tasting consists of the offering of a sample of one or more malt beverage products, in amounts of no more than two ounces for each sample, without charge, to customers of the business. Any persons pouring malt beverage at a malt beverage tasting must be at least 21 years of age. A malt beverage special event permit is also created and this permit allows tasting and

sale of the malt beverages by the brewer or wholesaler. The cost of the special event permit is \$200 and the malt beverage tasting permit is \$100.

Effective: October 1, 2009

HOUSE BILL 1637, Modernize Precious Metal Business Permitting, makes numerous changes to the Precious Metals law. First, the law adds Palladium to the definition of precious metals. Next, the law modifies the definition of a dealer to include any person who purchases precious metals from the public, other than by an exempted transaction (was, a person engaging in the business of purchasing). The exempt transactions include: (1) direct purchases for their inventories by permanently located retail merchants from manufacturers or wholesalers of precious metals; (2) licensed pawnbrokers; and (3) barter and exchange of precious metals when the transaction does not include a sum of money. The law repeals the exemption for a retail merchant who purchases precious metal from the public incidental to a main business with those purchases constituting 10% or less of the total purchases. This merchant must now register and maintain records. An applicant or an employee may not have a conviction for a felony involving a crime of moral turpitude, or larceny, or receiving stolen goods or of similar charges “unless that person has had his or her rights of citizenship restored pursuant to Chapter 13 of the General Statutes for five years or longer” immediately preceding the date of application or employment. The Department of Justice is authorized to run fingerprint criminal history checks and charge an employee a fee for the check. The annual fee for a permit is raised from \$10 to \$180 and the initial fee for an employee compliance certificate is raised from \$3 to \$10 and an annual renewal fee of \$3 is imposed. The special occasion permit fee was raised from \$10 to \$180. All records of transactions must be consecutively numbered and signed by the licensed dealer or registered employee at the time of the transaction. Records must be filed in the manner authorized by the local law enforcement agency, which may include reporting electronically by transmission over a computer network, by facsimile machine, or by hand delivering hard copies to the local law enforcement agency. Regardless of the manner in which the local law enforcement agency allows reporting, a dealer shall provide a hard copy of records upon the request of a law enforcement agency. A dealer or employee is subject to a \$500 fine if any person not authorized by law enforcement views the records.

Effective: October 1, 2009 except a person who was exempt prior to October 1, 2009 has until January 1, 2010 to register and comply.

SENATE BILLS

SENATE BILL 5, Continuing Cross Bow Permit/Dealer & Manufacturer, adds a new G.S. 14-406.1 which provides that the sheriff shall issue to any corporation that is a manufacturer of crossbows, a wholesale dealer of crossbows, or a retail dealer of crossbows a permit to purchase or receive crossbows from any person, firm, or corporation offering to sell or dispose of crossbows. The permit must contain an identification number and have no expiration date. In determining whether to issue the permit, the sheriff shall apply the standards contained in G.S. 14-404, to the extent applicable (regarding the sheriff’s authority to issue or refuse to issue weapons licenses and permits). The permit satisfies the permitting requirements under Article 52 for each future purchase or receipt of a crossbow by the corporation. Notwithstanding G.S. 14-402, a manufacturer, wholesale dealer, or retail dealer of crossbows that is issued a permit under this section may receive a crossbow in the course of business without exhibiting the permit to the

person delivering the crossbow. The record keeping requirements for sales of weapons of G.S. 14-406 apply to crossbow retailers but not manufacturers or wholesale dealers of crossbows.
Effective: March 19, 2009

SENATE BILL 37, Motorsports Vehicle Combination Lengths, adds G.S. 20-116(n) to authorize the operation of vehicle combinations used in connection with motorsports events that include a cab or other motorized vehicle unit with living quarters and attached enclosed specialty trailer, which does not exceed 90 feet in length, to be operated on State highways provided the operation is for one of the following purposes: (1) driving to or from a motorsports competition event; (2) for trips to purchase fuel or conducting maintenance or repair on the competition vehicle; or (3) for other activities related to motorsports, including performance testing of the competition vehicle. The Department of Transportation may prohibit these vehicles from specific routes, pursuant to G.S. 20-115.1(b).
Effective: March 19, 2009

SENATE BILL 43, Require Boating Safety Education, makes it an infraction for a person who is under age 26 to operate a vessel with a motor of 10 horsepower or greater on the public waters of this State, unless the operator has met the requirements for boating safety education. The requirements include passing a boating safety course or being supervised by a person who is at least 18 years of age and who has met the requirements for boating safety education. The punishment for a violation of this section is an infraction and payment of court costs and no penalty. It is a defense to the charge if the person produces a certification card or proof that the person has completed and passed a boating safety course. A person under age 16 who is operating a personal watercraft must be accompanied by a person who is at least 18 years old and who has met the requirements for boating safety education. A vessel livery shall provide the operator of a leased personal watercraft with basic safety instruction prior to allowing the operation of the leased personal watercraft. "Basic safety instruction" includes directions on how to safely operate the personal watercraft and a review of the law relating to the operation of personal watercraft. A vessel livery that fails to provide basic safety instruction is guilty of a Class 3 misdemeanor.
Effective: May 1, 2010

SENATE BILL 64, Motorcycle Learner's Permit, clarifies that a person under age 18 with a full provisional license may obtain a motorcycle endorsement upon compliance with this new law. The bill modifies the requirements for a person under age 18 to obtain a motorcycle learner's permit to include a requirement that the person successfully complete the Motorcycle Safety Foundation Basic Rider Course or the North Carolina Motorcycle Safety Education Program Basic Rider Course. The learner's permit is valid for twelve months (was 18 months) and can be renewed for one additional six month period. The law also modifies the requirements for a person under age 18 to obtain a motorcycle endorsement.

The person who is less than age 18 must: (1) pass a written or oral test concerning motorcycles; (2) provide proof of successful completion of (a) the Motorcycle Safety Foundation Basic Rider Course or Experienced Rider Course, (b) the North Carolina Motorcycle Safety Education Program Basic Rider Course or Experienced Rider Course, or (c) any course approved by the Commissioner of Motor Vehicles consistent with the instruction provided through the Motorcycle Safety Instruction Program; and (3) pay the required fee. The law adds the same restriction to a driver's license with a motorcycle endorsement that applied to the learner's

permit which is that a motorcycle driver under age 18 may not drive a motorcycle with a passenger.

Effective: January 1, 2011

SENATE BILL 65, Amend Computer Solicitation of Child. Under current law, it is unlawful to solicit a child by computer to commit an unlawful sex act and this bill also makes it unlawful to solicit a child using “any other device capable of electronic data storage or transmission.” The amendment also requires that the person soliciting the child under age 16 (or who the person believes to be a child under age 16) to be at least five years older than the child. Previous law only required the person soliciting to be three years older than the child.

Effective: December 1, 2009

SENATE BILL 68, ABC Stores/School/Guilford, allows the Alcoholic Beverage Control (ABC) Commission, when determining whether to approve the location of a local ABC store selected by the local ABC board to consider if the location is within 1,000 feet of a church, public school or non-public school. This law applies only to Guilford County.

Effective: December 1, 2009

SENATE BILL 69, CCPS Wrecker Service Fee Rules, voids certain provisions of the Administrative Rules adopted by the State Highway Patrol which became effective on July 18, 2008. This provision provides that the State Highway Patrol may require that wrecker services, when responding to rotation wrecker calls, charge reasonable fees for services rendered and that any fee charged for rotation services not exceed the wrecker service’s charges for non-rotation service calls that provide the same service, labor and conditions. This legislation also requires each State Highway Patrol Troop Commander to include on the State Highway Patrol’s Rotation Wrecker List only those wrecker services which agree in writing to impose reasonable charges for work performed and present one bill to the owner or operator of any towed vehicle. It also provides that towing, storage and related fees charged may not be greater than fees charged for the same service for non-rotation calls that provide the same service, labor and conditions.

Effective: August 7, 2009

SENATE BILL 107, Implement Shellfish FMP Recommendations, amends various provisions of Chapter 113 of the General Statutes concerning the taking and sale of shellfish.

Effective: August 7, 2009.

SENATE BILL 138, Salvia Divinorum Unlawful, makes possession, sale or delivery or manufacture of the plant Salvia divinorum or Salvinorin A an infraction punishable by a \$25 fine for the first two offenses and a Class 3 misdemeanor for a third or subsequent offense. Salvia divinorum is a plant that is used in landscaping and decorating but when consumed can cause psychoactive effects. The law exempts: (1) employees or contractors of an accredited college or school of medicine or pharmacy at a public or private university in this State while performing medical or pharmacological research; and (2) possession, planting, cultivation, growing, or harvesting of a plant strictly for aesthetic, landscaping, or decorative purposes.

Effective: December 1, 2009

SENATE BILL 167, No Smoking/Cell Phones on Prison Grounds, makes it unlawful to use tobacco products on State correctional facilities (previously “inside” facilities) except for religious purposes. The bill also makes it unlawful to possess tobacco products on the premises

except in a locked motor vehicle in a designated parking area. Except as authorized by Department of Correction policy, no person shall possess a mobile telephone or other wireless communications device on the premises of a State correctional facility, except that an employee or visitor may possess such device in a locked motor vehicle in a designated parking area. The Department of Correction is required to post signs and publicize these prohibitions and penalties.

At the request of the North Carolina Sheriffs' Association, this legislation was amended to also apply to county jails and local confinement facilities and to provide that it is a Class 1 misdemeanor: (1) for an inmate to possess tobacco products or a mobile telephone; (2) for any person to give or sell to an inmate tobacco products or a mobile telephone; and (3) for any person to give tobacco products or a mobile telephone to another person for the purpose of delivery of the tobacco products or mobile telephone to an inmate. Local confinement facilities are required to ensure that sufficient notice is provided to inmates, staff and the public of these prohibitions and penalties through the posting of signs in prominent places at all local confinement facilities and by any other measures that the local confinement facilities deem necessary to sufficiently publicize these prohibitions and penalties. **This bill was supported by the North Carolina Sheriffs' Association.**

Effective: March 1, 2010

SENATE BILL 203, DMV Handicap Placard Enforcement, requires the Division of Motor Vehicles (DMV) to design the removable windshield handicap parking placard so that the expiration date can be seen from at least 20 feet away. The law also requires DMV to issue a placard registration card which must be in the vehicle in which the placard is being used, and the person to whom the placard is issued must be the operator or a passenger in the vehicle in which the placard is displayed. In addition, effective August 26, 2009 DMV is required to issue a special identification card free of charge to anyone whose driver's license is cancelled due to a medical condition.

Effective: January 1, 2010

SENATE BILL 252, Comply with Melendez-Diaz Decision, is a direct result of the Supreme Court of the United States decision of Melendez-Diaz v. Massachusetts, 557 U.S. ___ (June 25, 2009). The Supreme Court in a 5-4 decision ruled that the lab report showing that the white powdery substance seized from the defendant was cocaine is testimonial and thus inadmissible without the presence of the lab analyst to testify.

However, the Supreme Court said that notice and demand statutes are constitutional. A notice and demand statute is one where the defendant is notified of the State's intent to offer a lab report into evidence and if the defendant fails to object within a specified time period, the defendant waives the right to object and the report is admissible without the analyst testifying. The new law amends our existing notice and demand statutes to comply with this case. This new law provides that if the State gives the defendant 15 business days (three weeks) notice before trial of its intent to offer: (1) the chain of custody statement; (2) the drug analysis report; and/or (3) the chemical analyst's affidavit for analyzing blood or breath, and the defendant fails to file a written objection within five business days before trial (one week), the statement or affidavit is admissible. In addition, in an implied consent case if the defendant objects to the chemical analyst's affidavit in district court, then the "case shall be continued until the analyst can be present. The criminal case shall not be dismissed due to the failure of the analyst to appear, unless the analyst willfully fails to appear after being ordered to appear by the court." For

additional analysis see the online paper of School of Government faculty member Jessica Smith, whose online paper is available at:

<http://www.sog.unc.edu/programs/crimlaw/faculty.htm> (click on “Melendez-Diaz & 2009 North Carolina Legislation).

Effective: October 1, 2009

SENATE BILL 256, Clarify Local Government Evacuation Authority, allows a city or county to adopt an ordinance to compel an evacuation of or prohibit ingress into or egress from any part or all of a city or county during a locally declared state of emergency.

Effective: June 19, 2009

SENATE BILL 258, Authorize Voluntary Medical Registry Program, allows the Division of Emergency Management of the Department of Crime Control and Public Safety to establish a voluntary model registry for use by political subdivisions (counties and cities) in identifying “functionally and medically fragile persons” in need of assistance during a disaster. The registry is confidential and is not a public record under the public records law.

Effective: June 30, 2009

SENATE BILL 262, Expunctions/Purge Online Databases, requires that the clerk of superior court in each county, as soon as practicable after each term of court, file with the Administrative Office of the Courts (AOC) the names of persons granted a discharge or an expunction of their criminal record. The clerk of superior court is required to send a certified copy of an order granting an expunction to: (1) the sheriff, chief of police, or other arresting agency; (2) when applicable, the Division of Motor Vehicles and the Department of Correction; and (3) any State or local agency identified by the petition as bearing record of the offense that has been expunged. An agency receiving an expunction order shall expunge from its records all entries made as a result of the charge or conviction ordered expunged. An arresting agency that receives a certified copy of an expunction order shall forward a copy of the order with the form supplied by the State Bureau of Investigation (SBI) to the SBI. The SBI must forward the order to the Federal Bureau of Investigation.

A State agency [primarily the Administrative Office of the Courts (AOC)] that receives a certified copy of an expunction order must notify any private entity with which it has a licensing agreement for bulk extracts of data from the agency criminal record database to delete the record in question. The private entity shall notify any other entity to which it subsequently provides in a bulk extract data from the agency criminal database to delete the record in question from its database also. AOC is required to maintain a confidential file with the names of persons who have received an expunction or a discharge. This information is available to a judge trying to determine if a defendant has previously received an expunction and by court order or subpoena. A private entity which disseminates information that was expunged after it was notified can be sued and held civilly liable.

Effective: October 1, 2010

SENATE BILL 295, Clarify Closest Market, modifies the exemption from the truck weight restrictions for a truck hauling agricultural crops from the farm to market. A truck hauling agricultural crops from the farm where the crops are grown to “any market within 150 miles of that farm” (was, closest market to the farm) is exempt from the weight restrictions.

Effective: December 1, 2009

SENATE BILL 307, Regulate Ownership & Use of Certain Reptiles, requires venomous reptiles, large constricting snakes, or crocodilians, other than the American alligator, to be transported in secure containers that are escape-proof and bite-proof. Permanent enclosures shall be escape-proof, bite-proof and have an operable lock. The enclosure must be labeled with the type of reptile and a safety protocol including emergency contact information, identification of the local animal control office, first aid procedures and an escape recovery plan. If any of these reptiles escape, the owner or person in possession must “immediately” notify local law enforcement. It is unlawful for anyone to handle one of these reptiles in a manner that intentionally or negligently exposes another person to unsafe contact with the reptile. However, safe and responsible handling of reptiles for purposes of animal husbandry, exhibition, training, transport, and education is permitted under this law. When a law enforcement officer or animal control officer has probable cause to believe that a violation of this law has occurred, the officer is “authorized, empowered, and directed” to immediately investigate the violation or impending violation and to seize the reptile or reptiles involved. Venomous reptiles are to be delivered to the North Carolina State Museum of Natural Sciences and large constricting snakes or crocodilians to the North Carolina Zoological Park for examination to determine if the reptile is covered under the law. A violation of this law is a Class 2 misdemeanor. However, if a person, other than the owner of the reptile, the owner's agent, employee, or a member of the owner's immediate family, suffers a life threatening injury or is killed as a result of a violation of this law, it is a Class A1 misdemeanor. It is also a Class A1 misdemeanor to intentionally release into the wild a nonnative venomous reptile, a large constricting snake, or a crocodilian.

Effective: December 1, 2009

SENATE BILL 364, Apex Wheel Locks, adds the Town of Apex to the list of municipalities that can use wheel locks on illegally parked vehicles.

Effective: June 23, 2009

SENATE BILL 368, Various Changes in Motor Vehicle Law, makes numerous changes to the Motor Vehicle Code. Included is a requirement for a retired member of the State Highway Patrol to present a copy of the retiree's retired identification or retirement letter in order to obtain a Retired State Highway Patrol license tag after July 31, 2009. The law establishes a procedure for challenging civil penalties imposed by the Motor Carrier Section of the State Highway Patrol for commercial vehicle operators who violate Motor Carrier Safety Regulations. The red or orange flag required for a load on any vehicle that extends more than four feet beyond the rear of the bed must be not less than 18 inches both in length and width, (previously, was 12 inches). Any motor vehicle that has a gross vehicle weight rating of at least 10,001 pounds or more and is operated on the streets or highways of this State must be equipped with safe tires. For this section, a tire is unsafe if any of the following applies: (1) it is cut, cracked, or worn so as to expose tire cord; (2) there is a visible tread separation or chunking; (3) the steering axle tire has less than four thirty-seconds inch tread depth at any location around the circumference of the tire on any major tread groove; (4) any nonsteering axle tire has less than two thirty-seconds inch tread depth around the circumference of the tire in any major tread groove; or (5) the tread wear indicators are in contact with the roadway at any location around the circumference of the tire on any major tread groove.

The garbage and recycling vehicle exemption from the seat belt law was amended to only apply to the passenger in the truck but not the driver. The law clarifies that the prohibition against a

television, computer or video player being viewed by a driver while driving does not apply to global positioning systems, turn-by-turn navigation displays or similar navigation devices, factory-installed or aftermarket global positioning systems or wireless communications devices used to transmit or receive data as part of a digital dispatch system, equipment that displays audio system information, functions, or controls, or weather, traffic, and safety information. There is also an exception for law enforcement and emergency personnel. The bill also makes clarifying amendments to the requirement for marking business vehicles, G.S. 20-101, and brake requirements for vehicles, G.S. 20-124(e1) and (g).

Effective: October 1, 2009

SENATE BILL 381, Establish DV Fatality Review Team/Mecklenburg County, authorizes Mecklenburg County to set up a domestic violence task force comprised of local law enforcement personnel, an assistant district attorney, domestic violence service groups, personnel from the medical examiner's office, social services, mental health, the public school system and health care and a victim of domestic violence. The law provides for this group to review incidents of domestic violence resulting in a fatality after all civil and/or criminal litigation is completed and to make recommendations about handling domestic violence cases in the future. The task force is given access to confidential information but they cannot reveal the confidential information. This law applies to Mecklenburg County only.

Effective: June 1, 2009

SENATE BILL 411, Amend Survivor's Alternate Benefit, provides that when a law enforcement officer is killed in the line of duty, the principal beneficiary who is designated to be paid the accumulated retirement contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance if the officer had 15 years of service even if the officer had not attained the age of 50 years old. This change applies to any death occurring on or after January 1, 2007. **This bill was supported by the North Carolina Sheriffs' Association.**

Effective: June 16, 2009

SENATE BILL 423, Waive CDL Test Requirement for Military Personnel, allows the Division of Motor Vehicles (DMV) to waive the skill test required to obtain a commercial drivers license (CDL) if the applicant is a member of an active or reserve component of a branch of the United States armed forces and is regularly employed in a job requiring the operation of a commercial motor vehicle. The military applicant seeking a waiver must show that he or she has passed DMV's knowledge test for a CDL, has not had his or her drivers license revoked or been convicted of an offense which would result in a revocation, has not refused a chemical analysis, and has not been convicted of an offense arising out of a reportable crash for the past two years. The military applicant must also show that he or she has completed a skills test that was administered by a state with a classified licensing and testing system for the class of vehicle to be operated and has been operating the same class of commercial motor vehicle for the military for the past two years.

Effective: January 1, 2010

SENATE BILL 453, Use of Funds Received From Parking Meters, allows the City of Raleigh and Town of Chapel Hill to provide for parking meters that take credit cards or payment by other electronic means and to use the proceeds to defray the costs of operating the parking program or providing parking facilities.

Effective: June 25, 2009

SENATE BILL 458, GED HS Diploma/No Drug Convict/Bail Bondsman, requires bondsmen to have a high school diploma or equivalent, requires the Department of Justice (DOJ) to perform a fingerprint criminal history check at the request of the Commissioner of Insurance for all applicants for bondsmen and runners and allows DOJ to charge the applicants a fee. The Commissioner of Insurance is required to revoke the license of a bondsman or runner who has been convicted on or after October 1, 2009, of a misdemeanor drug violation under Article 5 of Chapter 90 of the General Statutes and deny an application for a license to any person convicted of a misdemeanor drug violation under Article 5 of Chapter 90 of the General Statutes within the previous 24 months of the date of the application for the license.

Effective: August 28, 2009

SENATE BILL 461, North Carolina Racial Justice Act, provides that no person shall be subject to or given a death sentence or be executed under any judgment that was sought or obtained on the basis of race. The bill allows convicted criminal defendants who received a death sentence and are currently incarcerated on death row, and criminal defendants who receive a death sentence in the future, to request a court hearing and attempt to have the death sentence converted to a sentence of life imprisonment without the possibility of parole if the defendant can prove “that race was a significant factor in decisions to seek or impose the sentence of death in the county, the prosecutorial district, the judicial division, or the State at the time the death sentence was sought or imposed.” Defendants who are currently on death row have one year to file a motion under this law.

Effective: August 11, 2009

SENATE BILL 464, Prevent Racial Profiling, modifies the traffic stop statistics reporting law to provide that each officer who makes a stop is to be assigned an anonymous identifying number by the officer’s agency and this anonymous identifying number is a public record and must be reported to the Division of Criminal Statistics to be correlated along with the traffic stop data collected. The law remains unchanged that the correlation between the anonymous identifying number and the actual name of the officer is not a public record. Any agency that is required to report must do so within 60 days of the close of each month. Any agency that does not submit the required information is ineligible to receive any law enforcement grants available by or through the State until the information is submitted.

G.S. 15A-401 was amended to provide that when a law enforcement officer arrests an adult who is supervising minor children who are present at the time of the arrest, the minor children must be placed with a responsible adult approved by a parent or guardian of the minor children. If it is not possible to place the minor children with a responsible adult approved by a parent or guardian within a reasonable period of time, the law enforcement officer shall contact the county department of social services.

Effective: January 1, 2010

SENATE BILL 467, Recover Pets/Relieve Overcrowding at Shelters, makes various changes to the law governing the authority of an Animal Control Officer and to the law governing the holding period for animals and the permissible means of disposition of animals after expiration of that holding period.

Effective: January 1, 2010

SENATE BILL 468, Authorize Insurance for Former Employees, authorizes a county that is providing health insurance under G.S. 153A-92(d) beginning October 1, 2009 to provide health insurance for any class of former officers and county employees who have at least 10 years of service before separating and who are not receiving benefits under G.S. 153A-93(a). This law also provides for options for paying for the insurance, to be determined by the county and the amendments in the act to G.S. 153A-93(d1) and (d2) apply to an officer or employee who separates from service with the county on or after October 1, 2009.

Effective: August 28, 2009

SENATE BILL 488, Establish Proportionate Sentencing Lengths, modifies the prison sentence ranges for Class B1 thru G felonies for Prior Record Levels II –VI. **This bill was supported by the North Carolina Sheriffs' Association.**

Effective: December 1, 2009

SENATE BILL 489, Even Out Prior Criminal Record Points, modifies the definition of the Prior Record Levels so that Prior Record Level I is “not more than 1 point (was 0 points); Level II is at least 2 and not more than 5 points (was 1-4); Level III is 6 to 9 points (was 5 to 8); Level IV is 10 to 13 points (was 9 to 14); Level V is 14 to 17 points (was 15 to 18) and Level VI is at least 18 points (was at least 19). This change applies to crimes committed on or after December 1, 2009. **This bill was supported by the North Carolina Sheriffs' Association.**

Effective: December 1, 2009

SENATE BILL 499, Edgecombe/No Hunting on the Land of Another, makes it a Class 3 misdemeanor to hunt on the land of another without having on one's person while hunting the written permission, signed and dated for the current hunting season, of the landowner or lessee, or their designee. This law applies to Edgecombe County only.

Effective: October 1, 2009

SENATE BILL 509, Revenue Laws Technical, Clarifying, and Administrative Changes, makes numerous changes to the Tax Code. The bill also amends G.S. 105-330.3 (assessor's duty to list classified motor vehicles; application for exempt status) effective July 1, 2011 to add the following provision: “A person who willfully attempts, or who willfully aids or abets another person to attempt, in any manner to evade or defeat the taxes subject to this Article [i.e., the motor vehicle taxes in Article 22A of Chapter 105], whether by removal or concealment of property or otherwise, is guilty of a Class 2 misdemeanor.”

The bill further provides effective July 1, 2011, that a limited registration plate is issuable to a person who applies, either directly or through a dealer licensed under Article 12 of Chapter 20, for a title to a motor vehicle and a registration plate for the vehicle and who submits payment for the applicable title and registration fees but does not submit payment for any municipal corporation property taxes on the vehicle. A person who submits payment for municipal corporation property taxes receives an annual registration plate. The limited registration plate must be clearly and visibly designated as "temporary." The plate expires on the last day of the second month following the date of application for the limited registration plate. The plate may be used only on the vehicle for which it is issued and may not be transferred, loaned, or assigned to another. If the plate is lost or stolen, the vehicle for which the plate was issued may not be

operated on a highway until a replacement limited registration plate or a regular license plate is received and attached to the vehicle.

Effective: August 7, 2009

SENATE BILL 513, Notice of Hearing/Unsupervised Probation, requires notice of a hearing in response to a violation of unsupervised probation to be given either by personal delivery to the person on probation or by United States mail. If the person on probation fails to appear after service by mail, the court may terminate the probation and enter appropriate orders for the enforcement of any outstanding monetary obligations as otherwise provided by law or have the person served in accordance with Chapter 15A. If the person appears, then the court can enter any orders modifying and enforcing probation the same as authorized in a case involving supervised probation. This bill amends G.S. 143B-262.4(f) (community service) to clarify that mailed notice may be addressed to the last known address available to the preparer of the notice and reasonably believed to provide actual notice.

Effective: December 1, 2009

SENATE BILL 514, Magistrates Provide Appointment of Counsel, allows a magistrate who is a licensed attorney to appoint legal counsel for criminal defendants when authorized by the Chief District Court Judge.

Effective: July 1, 2009

SENATE BILL 526, School Violence Prevention Act, prohibits bullying or harassing behavior on a school bus, on school property or at a school function. Bullying or harassing behavior is defined as any pattern of gestures or written, electronic, or verbal communications, or any physical act or any threatening communication that places a student or school employee in actual and reasonable fear of harm to his or her person or damage to his or her property or creates a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities, or benefits. Bullying or harassing behavior includes, but is not limited to, acts reasonably perceived as being motivated by any differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, socioeconomic status, academic status, gender identity, physical appearance, sexual orientation, or mental, physical, developmental, or sensory disability, or by association with a person who has or is perceived to have one or more of these characteristics. School employees must report such behavior and students "should" report such behavior. Any act of reprisal or retaliation against a victim, witness, or a person with reliable information about an act of bullying or harassing behavior is prohibited. By December 31, 2009 each school district must adopt a policy prohibiting bullying and harassing behavior and establishing remedial action for those persons who engage in the conduct.

Effective: June 30, 2009

SENATE BILL 543, Durham Motor Vehicles Levy, repeals the City of Durham's authority to levy a vehicle tax of up to \$10 to be used for general purposes and replaces it with authority to levy a vehicle tax of up to \$5 for any vehicle resident in the city to support local public transportation. This law only applies to the City of Durham.

Effective: June 25, 2009

SENATE BILL 563, Pyrotechnics Safety Permitting Act, allows pyrotechnics (fireworks) to be discharged at a concert or public exhibition if all individuals who exhibit, use, handle, or

discharge the pyrotechnics have completed the training required under G.S. 58-82A-2 and are under the direct supervision of a display operator who holds a display operator permit issued by the State Fire Marshal. The display operator must be present at the concert or public exhibition and must personally direct all aspects of exhibiting, using, handling, or discharging the pyrotechnics. The display operator must have written permission of the city or county. Written permission shall not be given by a city or county unless the display operator provides proof of insurance in the amount at least \$500,000 or the minimum amount required under the North Carolina State Building Code, whichever is greater. The State Fire Marshal, in consultation with the State Fire and Rescue Commission, must establish guidelines, testing, and training requirements for a display operator and the assistants.

Effective: February 1, 2010

SENATE BILL 564, Statewide Nuisance Notice Authority, allows a city or county to give notice one time each calendar year to a property owner who is a chronic violator of the city or county nuisance ordinance. The notice must be sent by certified mail and after this notice the city or county can take action to remedy the violation, and the expense of the remedial action shall become a lien upon the property. A chronic violator is a person who owns property whereupon, in the previous calendar year, the city gave notice of a violation of the public nuisance ordinance at least three times.

Effective: October 1, 2009

SENATE BILL 584, Amend Private Protective Services Act, specifically excludes from licensing by the Private Protective Services Board a person engaged in computer or digital forensic services or in the acquisition, review, or analysis of digital or computer-based information and a person engaged in network or system vulnerability testing, including network scans and risk assessment and analysis of computers connected to a network. Investigations by the Attorney General for the Private Protective Services Board are not public records until the investigation is complete and a report is presented to the Board. The law requires that the Private Protective Services Board and the Alarm Systems Licensing Board, respectively, conduct a background investigation to determine whether the applicant meets the requirements for a license, registration, or certification or permit (private protective services only) upon receipt of an application. The new law allows the Department of Justice to provide a criminal record check to both boards for a new or renewal applicant. Also, the Joint Legislative Commission on Governmental Operations is required to study the regulation and impacts of digital forensics and report to the General Assembly when it reconvenes in 2010.

Effective: October 1, 2009

SENATE BILL 628, Release Control Substance Reporting Data to Chief Medical Examiner, requires the Department of Health and Human Services to release data in the Controlled Substances Reporting System to county medical examiners for the purpose of investigating the death of an individual. This bill also provides that data in the Controlled Substances Reporting System can be shared with anyone authorized by law to prescribe or dispense controlled substances and persons licensed to practice medicine can retain the data that they receive in a patient's confidential healthcare record.

Effective: August 7, 2009

SENATE BILL 631, DMV Bureau of License and Theft/Vehicles, allows the Bureau of License and Theft of the Division of Motor Vehicles (DMV) to keep for undercover operations or

compliance checks any vehicle it seizes or any vehicle seized by the United States Government that is transferred to DMV. When the vehicles are no longer of any use, they are to be sold as surplus property and the monies paid to the appropriate school fund. DMV must reimburse the appropriate school fund for diminution in value of any vehicle seized by DMV during its period of use by DMV. Any vehicle that has been modified to increase speed shall be used in the performance of official duties only and not for resale, transfer, or disposition other than as junk.
Effective: August 26, 2009

SENATE BILL 643, Amend Drug Exam Regulation, requires that if a preliminary screening procedure or other screening test for drug use by a prospective employee produces a positive result, then a confirmatory test is required unless the prospective employee signs a written waiver at the time or after they receive the preliminary test result. All screening tests for current employees that produce a positive result must be confirmed by a second examination of the sample utilizing gas chromatography with mass spectrometry or an equivalent scientifically accepted method.
Effective: August 29, 2009

SENATE BILL 649, Modify Speed Zone Restriction, provides that the speed limit on streets in areas that are annexed into a municipality remain as posted until both the Department of Transportation and the municipality adopt ordinances changing the speed. The law also requires the Department of Transportation to post speed limit signs at the beginning and ending of each segment of a highway work zone indicating the fine for speeding in that segment of the work zone. Previously the law only required posting of work zone speed limit at the beginning of the work zone and a sign indicating the end of the work zone. A law enforcement officer issuing a citation for a speeding violation while in a highway work zone must indicate the vehicle speed and speed limit posted in the segment of the work zone and determine whether or not the individual committed a Class 2 misdemeanor violation of G.S. 20-141(j1) (more than 15 m.p.h. over the posted speed limit or speeding over 80 m.p.h.)
Effective: The speed limit for newly annexed areas is effective June 30, 2009. The highway work zone changes are effective on December 1, 2009.

SENATE BILL 652, Prohibit Sale of Novelty Lighters, makes it an infraction to sell at retail, give, or distribute for retail sale or promotion, a novelty lighter. A novelty lighter is a lighter that is designed to resemble a cartoon character, toy, gun, watch, musical instrument, vehicle, animal, food or beverage, or similar articles, or that plays musical notes. This law does not prohibit: (1) transportation of novelty lighters through this State; (2) storage of novelty lighters in a warehouse within this State; (3) a novelty lighter manufactured prior to January 1, 1980; (4) devices used primarily to ignite fuel for fireplaces or grills; and (6) standard disposable or refillable lighters printed or decorated with logos, labels, decals or artwork or heat shrinkable sleeves, but which do not otherwise resemble a novelty lighter. Each violation is punishable by a penalty of \$500. However, for any violation committed from October 1, 2009 until September 30, 2010, there is to be no penalty imposed for the first offense.
Effective: October 1, 2009

SENATE BILL 661, Allocate Water Costs/Landlord Tenant Changes. G.S. 42-34(b) sets out the procedure for a tenant to stay the execution of a magistrate's order of summary ejection while the case is pending on appeal to district court. One of the requirements to appeal is that the tenant must agree in writing to continue paying the "contract rent" as it becomes due. If the

tenant or the landlord disputes the amount of the payment or the due date, that party may file a motion with the Clerk of Court for a modification of the terms of the written agreement filed by the tenant. This bill provides that while the motion for a modification is pending, “no writ of possession or other execution of the magistrate’s judgment shall take place.”

Effective: October 1, 2009

SENATE BILL 674, Amend Rabies Laws, adds ferret to the list of animals (cats and dogs) that are required to be vaccinated. The law also allows stray or feral animals to be euthanized and tested after biting a human being.

Effective: October 1, 2009

SENATE BILL 713, Removal of Electronic Monitoring Device, makes it a crime for any person to remove, destroy or circumvent the operation of any electronic monitoring device, or solicit another to do so, when the device is used as part of a house arrest program or to track the location of the person as a condition of pretrial release or bond, probation or parole or post-release supervision. This law does not apply to persons who are on electronic monitoring as a result of the sex offender registration program which has its own punishment or to a juvenile offender. If a person who is required to comply with electronic monitoring as a result of a conviction for a criminal offense violates this law, the violation is a felony one class lower than the most serious underlying felony or a misdemeanor one class lower than the most serious underlying misdemeanor, except that, if the most serious underlying felony is a Class I felony, then violation of this section is a Class A1 misdemeanor. If a person is required to comply with electronic monitoring as a condition of bond or pretrial release, a violation of this law is a Class 1 misdemeanor. Violation of this section by any other person is a Class 2 misdemeanor.

Effective: December 1, 2009

SENATE BILL 726, Amend House Arrest Laws/Adult/Juvenile, clarifies that a juvenile who is on house arrest may leave the house for school, counseling, work, or other similar specific purposes, provided the juvenile is accompanied in transit by a parent, legal guardian, or other person approved by the juvenile court counselor. An adult who is on pretrial house arrest with electronic monitoring must remain in the house unless the court authorizes the offender to leave for the purpose of employment, counseling, a course of study, or vocational training. The offender is required to wear a device which permits the supervising agency to electronically monitor the offender's compliance with the condition. When a convicted offender is placed on probation under house arrest with electronic monitoring, the court in the sentencing order may authorize the offender to leave the offender's residence for employment, counseling, a course of study, vocational training, or other specific purposes and may modify that authorization. The probation officer may authorize the offender to leave the offender's residence for specific purposes not authorized in the court order upon approval of the probation officer's supervisor. This law applies to offenses committed on or after December 1, 2009.

Effective: December 1, 2009

SENATE BILL 764, Real Estate/Settlement Agent Embezzlement, clarifies that a settlement agent at a loan closing who fails to properly disburse the funds is subject to being charged with embezzlement.

Effective: December 1, 2009

SENATE BILL 820, Create New Titling Categories, adds three new types of motor vehicles that will have the title and registration branded as a “specially constructed vehicle.” These vehicles are: (1) a “replica vehicle” which is a vehicle, excluding motorcycles, that when assembled replicates an earlier year, make, and model vehicle; (2) a “street rod vehicle” which is a vehicle, excluding motorcycles, manufactured prior to 1949 that has been materially altered or has a body constructed from nonoriginal materials; and (3) a “custom-built vehicle” which is a vehicle, including motorcycles, reconstructed or assembled by a non-manufacturer from new or used parts that has an exterior that does not replicate or resemble any other manufactured vehicle. This category also includes any motorcycle that was originally sold unassembled and manufactured from a kit or that has been materially altered or that has a body constructed from non-original materials. This law also provides for a Vehicle Classification Review Committee to review the Division of Motor Vehicles (DMV) classification of vehicles. The new law provides that an inoperable vehicle can be titled but not registered until inspected by a member of the License and Theft Bureau of DMV. An “inoperable vehicle” is defined as a motor vehicle that is substantially disassembled and for this reason is mechanically unfit or unsafe to be operated or moved upon a public street, highway, or public vehicular area. Effective August 5, 2009, DMV is not required to be notified that a new engine has been installed in a motor vehicle unless the engine number is the “sole means to identify the vehicle.” The law also makes other technical changes to titling requirements for vehicles that are 35 years old or older.

Effective: October 1, 2009

SENATE BILL 920, Probation Reform, makes substantial changes to the probation system. This law allows a probation officer to have access to the juvenile record of a probationer who the officer is assigned to supervise. This access is limited to a juvenile record that shows an adjudication of delinquency for an offense that would be a felony if committed by an adult and then, only if the offense for which the person is placed on supervised probation was committed while the person was less than 25 years of age. The judicial district manager for the probation office must designate a staff member to obtain juvenile records from the Clerk of Superior Court. Juvenile records must be kept confidential and destroyed within 30 days of the termination of probation. The term “intensive probation” is changed to “intensive supervision” and allows the Division of Community Corrections to make rules which must be followed by a probationer under intensive supervision.

The law also adds as a regular condition of supervised probation that the probationer must: (1) submit to a warrantless search of the probationer's person and of the probationer's vehicle and premises while the probationer is present, for purposes directly related to the probation supervision, including a drug screening for which the probationer must pay the actual costs, if the test is positive; (2) submit to warrantless searches by a law enforcement officer of the probationer's person and of the probationer's vehicle (but not premises), upon a reasonable suspicion that the probationer is engaged in criminal activity or is in possession of a firearm, explosive device, or other deadly weapon listed in G.S. 14-269 without written permission of the court; and (3) not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for him or her by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors, or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used.

The following conditions of probation apply to each defendant subject to intermediate punishment, unless exempted by the court: (1) if required in the discretion of the defendant's probation officer, perform community service and pay the community service fee; (2) not use, possess, or control alcohol; (3) remain within the county of residence unless granted written permission to leave by the court or the defendant's probation officer; and (4) participate in any evaluation, counseling, treatment, or educational program as directed by the probation officer, keeping all appointments and abiding by the rules each program.

Probation officers can be ordered to supervise an offender's conditions of a deferred prosecution agreement. If a defendant fails to appear at a probation hearing, the hearing can be held in his absence. If there are pending criminal charges against the probationer in any court of competent jurisdiction, which, upon conviction, could result in revocation proceedings against the probationer for violation of the terms of his probation, the probation period is tolled until all pending criminal charges are resolved. The probationer remains subject to the conditions of probation, including supervision fees, during the tolled period. If the probationer is acquitted or if the new charge is dismissed, the time spent on probation during the tolled period shall be credited against the period of probation.

A minimum of 24 hours of community service must be performed by a defendant convicted of driving while impaired (DWI). The time limits for performing community service for a conviction of DWI and shoplifting are repealed. The community service coordinator title is now changed to a judicial services coordinator who is authorized to report the defendant back to court for failing to perform community service or pay monies due the State based upon a probationary judgment or deferred prosecution agreement. If the court determines that there was a willful failure to pay the prescribed fee or to complete the work as ordered within the applicable time limits, the court must revoke any limited driving privilege issued in the impaired driving case until community service requirements have been met. For additional information, see the summary and analysis of this law by School of Government faculty member Jamie Markham at the link entitled, "Probation Reform: Summary and Analysis of S.L. 2009-372: <http://www.sog.unc.edu/programs/crimlaw/faculty.htm>. **This bill was supported by the North Carolina Sheriffs' Association.**
Effective: December 1, 2009

SENATE BILL 929, No Set Aside of Bond Forfeit/Actual Notice, provides that a court may not set aside a bail bond forfeiture if, before executing the bail bond, the surety or bail agent had actual notice of the defendant's failure to appear on two or more prior occasions in the case for which the bond was executed.
Effective: January 1, 2010

SENATE BILL 931, Commercial Drivers License Changes, provides that an out-of-state prayer for judgment continued, including any payment of a fine or court costs, if the offender holds a commercial drivers license (CDL) or if the offense occurs in a commercial motor vehicle is to be considered a conviction for purposes of the Motor Vehicle Code. A holder of a CDL is disqualified for life, without the possibility of reinstatement, if that person has had a commercial drivers license reinstated in the past and is convicted of another major disqualifying offense as defined in 49 C.F.R. § 383.51(b). Allows the Division of Motor Vehicles (DMV) to consider offenses by the holder of a commercial drivers license involving a noncommercial motor vehicle that are more than 10 years old in determining whether to revoke a person's drivers license. This

bill amends the CDL law to allow operation of a commercial motor vehicle in this State if the driver holds a license recognized by the federal government for driving a commercial motor vehicle. The law makes it unlawful for an employer to allow a driver to drive a commercial motor vehicle during any time period in which the driver, the commercial motor vehicle being operated, or the motor carrier operation, is subject to an out-of-service order. In addition to the criminal penalties, a driver of a commercial motor vehicle without the proper license and endorsement is subject to civil penalties set forth in federal regulations.

Effective: March 31, 2010

SENATE BILL 978, Firearms Qualify Sites/Expand Commission Powers, requires the North Carolina Criminal Justice Education and Training Standards Commission (Commission) to coordinate with local and State law enforcement officers and with the community college system to provide multiple firearms qualification sites throughout the State where a qualified retired law enforcement officer may satisfy the firearms qualification criteria required for a concealed carry permit. The Commission is authorized to enter orders to prevent a school from offering programs or courses or an instructor from teaching if they do not comply with the Commission requirements for law enforcement training.

Effective: August 28, 2009

SENATE BILL 984, Access to Juvenile Records/Violent Offenders, allows a prosecutor to share a juvenile record with a law enforcement officer or magistrate, but the prosecutor may not allow the record to be copied. On or after December 1, 2009, law enforcement officers, the magistrate, the courts, and the prosecutor are given access to the juvenile record of a defendant who is less than 21 years of age and is charged with a criminal offense involving a Class A1 misdemeanor or a felony and if (1) the juvenile record of the defendant contains an adjudication of delinquency for an offense that would be a Class A1 misdemeanor or a felony if committed by an adult and (2) the adjudication occurred 18 months or less before the defendant reached 16 years of age or the adjudication occurred after the defendant reached 16 years of age. This juvenile record may be used for purposes of pretrial release, plea negotiating decisions and plea acceptance decisions. Information obtained regarding any juvenile record shall remain confidential and shall not be placed in any public record. **This bill was supported by the North Carolina Sheriffs' Association.**

Effective: December 1, 2009

SENATE BILL 990, Increase Penalty/Timber Theft, provides that a person who is guilty of cutting, injuring or removing timber is to be punished the same as larceny. That is, if the timber is valued at more than \$1,000, the punishment is a Class H felony and if timber is valued at \$1,000 or less, the punishment is a Class 1 misdemeanor. Previously, the punishment was a Class 1 misdemeanor regardless of the value.

Effective: December 1, 2009

SENATE BILL 1000, Motor Vehicle Size and Weight Law Changes, limits the length of vehicles with two or more axles to 40 feet. The maximum length for combination truck and trailer units does not apply to vehicles operated in the daytime when transporting poles, pipe, machinery or other objects of a structural nature which cannot readily be dismembered, nor to such vehicles transporting such objects operated at nighttime by a public utility when required for emergency repair of public service facilities or properties, provided the trailer length does not exceed 53 feet in length. The 55 feet limit for a truck towing a house trailer is repealed. Self-

propelled farm equipment, with or without implements, cannot exceed 25 feet in width on highways except for fully controlled access facilities.

Effective: December 1, 2009

SENATE BILL 1008, Antlerless Deer Tag Fee, provides for a \$10 Bonus Antlerless Deer License which allows a person with a big game hunting license or an exemption from licensing to take two antlerless deer during seasons by methods approved by the Wildlife Resources Commission.

Effective: July 1, 2009

SENATE BILL 1009, Hunting License Exemption for Special Events, expands the authority of the Wildlife Resources Commission to grant exemptions to a variety of hunting and fishing license requirements for organized events, when the event is consistent with the conservation objectives of the Commission. Under current law, the Commission is authorized to grant exemptions from fishing license requirements for certain fishing events.

Effective: October 1, 2009

SENATE BILL 1011, Amend Trap Sizes, provides that conibear type traps that have an inside jaw spread or opening (width or height) greater than seven and one-half inches and no larger than 26 inches in width and 12 inches in height may only be set in the water and in areas in which beaver and otter may be lawfully trapped. Reference to trap number 330 of the conibear type or size is deleted.

Effective: October 1, 2009

SENATE BILL 1017, Enhance Protections Against Identity Theft, makes modifications to shorten the time a credit reporting agency has to impose a security freeze on a person's credit report as a protection from identity theft. Allows a register of deeds and clerk of superior court to remove social security numbers, drivers license numbers and other identifying numbers from internet web sites available to the public in order to protect a person's identity from theft. A creditor that is owed money for services provided to a crime victim as a result of the criminally injurious conduct inflicted on the victim may not communicate any information about the debt to a consumer reporting agency during the pendency of an application for an award from the Crime Victims Compensation Commission. Prior to charging or collecting any fee or compensation from a consumer for obtaining, providing, or monitoring the consumer's credit report on behalf of the consumer, a credit monitoring service must provide a clear and conspicuous written description of a consumer's right to one free credit report per year as required by federal law.

Effective: October 1, 2009

SENATE BILL 1018, Ban Certain Single-Use Bags, bans the use of plastic bags and non-recycled paper bags by certain retailers on the Outer Banks. Signs must be posted by the retailers indicating the ban. This law is enforced by the Secretary of the Department of Environment and Natural Resources through the assessment of an administrative penalty that will not exceed \$100 for a first violation, \$200 for a second violation within any 12-month period and \$500 for each additional violation within any 12-month period.

Effective: September 1, 2009

SENATE BILL 1062, Strengthen Domestic Violence Protective Orders/Pets, allows a domestic violence protective order to provide for possession, care or custody of an animal owned by any party or a minor child.

Effective: August 5, 2009

SENATE BILL 1076, Modify Criminal Justice Partnership Program, modifies the eligibility requirements for the Criminal Justice Partnership Program (Program) to provide that an offender sentenced to a nonincarcerative community punishment is eligible for the Program, if the Division of Community Corrections determines that the offender would benefit from Program participation, based upon the results of a risk assessment. This bill also adds a requirement that the Department of Correction provide the General Assembly no later than February 1 of each year: (1) details of personnel, travel, contractual, operating, and equipment expenditures for each program type; and (2) an explanation of the variance for counties whose expenditures deviate proportionally from the average percentage expenditure for each program type.

Effective: December 1, 2009

SENATE BILL 1078, Delay Bond/Probationer Arrested For Felony, provides that when conditions of pretrial release are being determined for a defendant who is charged with a felony offense and the defendant is currently on probation for a prior offense, a judicial official is required to determine whether the defendant poses a danger to the public prior to imposing conditions of pretrial release and must record that determination in writing. If there is insufficient information, the defendant can be held without bond for up to 96 hours in order to gather information to make this determination. If the defendant is determined to be a danger, the judicial official must impose a secured bond, or house arrest with electronic monitoring (pursuant to Senate Bill 726).

Also, if a person on probation is arrested for a violation of any of the conditions of probation and has a pending charge for a felony offense or is a convicted sex offender, the judicial official must determine whether the probationer poses a danger to the public prior to imposing conditions of release and must record that determination in writing. If the judicial official determines that the probationer poses a danger to the public, the probationer shall be denied release pending a revocation hearing. If there is insufficient information to make this determination, then the offender can be held in jail up to seven days for the judicial official to gather the necessary information to determine if the offender is a danger to the public.

Effective: December 1, 2009

SENATE BILL 1089, Low-Risk Probationers May be Unsupervised, allows a probation officer to transfer a misdemeanor from supervised to unsupervised probation if the misdemeanor is not subject to any special conditions of probation and was placed on probation solely for the collection of court-ordered payments, and the risk assessment shows the misdemeanor to be a low-risk offender. Previously, this transfer was only authorized after the probationer had paid all of the money owed.

Effective: July 1, 2009

SENATE BILL 1091, Clarify Weight Measurement/Meth Trafficking, clarifies that the charge of trafficking methamphetamine or amphetamine is based on the weight of the entire powder or liquid mixture rather than the weight of the actual amount of the controlled substances in the powder or liquid mixture.

Previously, one statute made it unlawful to traffic in both methamphetamine and amphetamine and the penalties for either violation were the same. This bill creates a separate statute for trafficking in amphetamine and reduces the penalties for this offense by two Class levels from the previous law. The penalties for trafficking in methamphetamine remain unchanged. **This bill was supported by the North Carolina Sheriffs' Association.**
Effective: September 1, 2009