

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE BILL 141  
Judiciary II Committee Substitute Adopted 4/13/11  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S141-PCS75211-RC-66

Short Title: Law Enforcement/Various Other Changes.

(Public)

Sponsors:

Referred to:

February 28, 2011

A BILL TO BE ENTITLED

AN ACT TO CREATE NEW FELONY FIRST-DEGREE TRESPASS OFFENSES, TO MAKE VARIOUS CHANGES REGARDING THE PROCEDURES FOR A MOTION FOR APPROPRIATE RELIEF, TO AMEND THE PROCEDURE FOR IMMEDIATE LICENSE REVOCATIONS FOR PROVISIONAL LICENSEES CHARGED WITH CERTAIN CRIMINAL MOVING VIOLATIONS, TO INCREASE THE BENCHMARK FOR PUBLICLY BIDDING LOTTERY COMMISSION CONTRACTS, TO MODIFY THE LOTTERY COMMISSION CONFLICT OF INTEREST PROVISIONS, AND TO CLARIFY THAT CERTAIN CHANGES TO PAYABLE ON DEATH CONTRACTS DID NOT CHANGE THE PROCEDURES FOR CREATING THOSE CONTRACTS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 14-159.12 reads as rewritten:

**"§ 14-159.12. First degree trespass.**

(a) Offense. – A person commits the offense of first degree trespass if, without authorization, he enters or remains:

(1) On premises of another so enclosed or secured as to demonstrate clearly an intent to keep out intruders; or

(2) In a building of another.

(b) Misdemeanor Classification. – First degree trespass is a Class 2 misdemeanor or misdemeanor except as provided otherwise by subsection (c) of this section.

(c) Felony Classification. – An offense under subsection (a) of this section is punishable as a felony in the following circumstances:

(1) Except as provided otherwise in subdivision (2) of this subsection, the offense is a Class I felony if it is committed on the premises of any of the following:

a. A facility that is owned or operated by an electric power supplier as defined in G.S. 62-133.8(a)(3) and that is either an electric generation facility, a transmission substation, a transmission switching station, a transmission switching structure, or a control center used to manage transmission operations or electrical power generating at multiple plant locations.

b. A dam or reservoir that is used by an electric power supplier as defined in G.S. 62-138(a)(3) to generate hydroelectric power.



\* S 1 4 1 - P C S 7 5 2 1 1 - R C - 6 6 \*

- 1                   c.     Any facility used or available for use in the collection, treatment,  
 2                   testing, storing, pumping, or distribution of water for a public water  
 3                   system.  
 4                   d.     Any facility, including any liquefied natural gas storage facility or  
 5                   propane-air facility, that is owned or operated by a natural gas local  
 6                   distribution company, natural gas pipeline carrier operating under a  
 7                   certificate of public convenience and necessity from the Utilities  
 8                   Commission, municipal corporation operating a municipally owned  
 9                   gas distribution system, or regional natural gas district organized and  
 10                   operated pursuant to Article 28 of Chapter 160A of the General  
 11                   Statutes used for transmission, distribution, measurement, testing,  
 12                   regulating, compression, control, or storage of natural gas.

13           (2)   If, in addition to the circumstances set out in subdivision (1) of this  
 14           subsection, the offense also includes any of the following elements, then the  
 15           offense is a Class H felony:

- 16           a.     The offense is committed with the intent to disrupt the normal  
 17           operation of any of the facilities, dams, or reservoirs described in  
 18           subdivision (1) of this subsection.  
 19           b.     The offense involves an act that places either the offender or others  
 20           on the premises at risk of serious bodily injury.  
 21           c.     The offense is committed by three or more persons acting in  
 22           concert."

23           **SECTION 2.(a)** G.S. 15A-1413 reads as rewritten:

24   "**§ 15A-1413. Trial judges empowered to act.**

25       (a)   A motion for appropriate relief made pursuant to G.S. 15A-1415 may be heard and  
 26       determined in the trial division by any judge ~~who~~ who (i) is empowered to act in criminal  
 27       matters in the district court district as defined in G.S. 7A-133 or superior court district or set of  
 28       districts as defined in G.S. 7A-41.1, as the case may be, in which the judgment was  
 29       ~~entered~~ entered and (ii) is assigned pursuant to this section to review the motion for appropriate  
 30       relief and take the appropriate administrative action to dispense with the motion.

31       (b)   The judge who presided at the trial is empowered to act upon a motion for  
 32       appropriate relief made pursuant to G.S. 15A-1414. ~~He~~ The judge may act even though he ~~the~~  
 33       judge is in another district or even though his ~~the judge's commission has expired.~~ expired;  
 34       however, if the judge who presided at the trial is still unavailable to act, the senior resident  
 35       superior court judge or the chief district court judge, as appropriate, shall assign a judge who is  
 36       empowered to act under subsection (a) of this section.

37       ~~(e)   When a motion for appropriate relief may be made before a judge who did not hear~~  
 38       ~~the case, he may, if it is practicable to do so, refer all or a part of the matter for decision to the~~  
 39       ~~judge who heard the case.~~

40       (d)   All motions for appropriate relief filed in superior court shall, when filed, be  
 41       referred to the senior resident superior court judge, who shall assign the motion as provided by  
 42       this section for review and administrative action, including, as may be appropriate, dismissal,  
 43       calendaring for hearing, entry of a scheduling order for subsequent events in the case, or other  
 44       appropriate actions.

45       All motions for appropriate relief filed in district court shall, when filed, be referred to the  
 46       chief district court judge, who shall assign the motion as provided by this section for review  
 47       and administrative action, including, as may be appropriate, dismissal, calendaring for hearing,  
 48       entry of a scheduling order for subsequent events in the case, or other appropriate actions.

49       (e)   The assignment of a motion for appropriate relief filed under G.S. 15A-1415 is in  
 50       the discretion of the senior resident superior court judge or chief district court judge as  
 51       appropriate. However, when practicable, a motion for appropriate relief filed under

1 G.S. 15A-1415 shall be assigned for review and administrative action to the judge who  
2 presided at the trial, accepted the guilty plea, or imposed the sentence depending on the nature  
3 of the relief sought."

4 **SECTION 2.(b)** G.S. 15A-1420 reads as rewritten:

5 **"§ 15A-1420. Motion for appropriate relief; procedure.**

6 (a) Form, Service, Filing.

7 (1) A motion for appropriate relief must:

8 a. Be made in writing unless it is made:

9 1. In open court;

10 2. Before the judge who presided at trial;

11 3. Before the end of the session if made in superior court; and

12 4. Within 10 days after entry of judgment;

13 b. State the grounds for the motion;

14 c. Set forth the relief sought;

15 c1. If the motion for appropriate relief is being made in superior court  
16 and is being made by an attorney, the attorney must certify in writing  
17 that there is a sound legal basis for the motion and that it is being  
18 made in good faith; and that the attorney has notified both the district  
19 attorney's office and the attorney who initially represented the  
20 defendant of the motion; and further, that the attorney has reviewed  
21 the trial transcript or made a good-faith determination that the nature  
22 of the relief sought in the motion does not require that the trial  
23 transcript be read in its entirety. In the event that the trial transcript is  
24 unavailable, instead of certifying that the attorney has read the trial  
25 transcript, the attorney shall set forth in writing what efforts were  
26 undertaken to locate the transcript; and

27 d. Be timely filed.

28 (2) A written motion for appropriate relief must be served in the manner  
29 provided in G.S. 15A-951(b). When the written motion is made more than  
30 10 days after entry of judgment, service of the motion and a notice of  
31 hearing must be made not less than five working days prior to the date of the  
32 hearing. When a motion for appropriate relief is permitted to be made orally  
33 the court must determine whether the matter may be heard immediately or at  
34 a later time. If the opposing party, or his counsel if he is represented, is not  
35 present, the court must provide for the giving of adequate notice of the  
36 motion and the date of hearing to the opposing party, or his counsel if he is  
37 represented by counsel.

38 (3) A written motion for appropriate relief must be filed in the manner provided  
39 in G.S. 15A-951(c).

40 (4) An oral or written motion for appropriate relief may not be granted in district  
41 court without the signature of the district attorney, indicating that the State  
42 has had an opportunity to consent or object to the motion. However, the  
43 court may grant a motion for appropriate relief without the district attorney's  
44 signature 10 business days after the district attorney has been notified in  
45 open court of the motion, or served with the motion pursuant to  
46 G.S. 15A-951(c).

47 (5) An oral or written motion for appropriate relief made in superior court and  
48 made by an attorney may not be granted by the court unless the attorney has  
49 complied with the requirements of sub-subdivision c1. of subdivision (1) of  
50 this subsection.

51 (b) Supporting Affidavits.

- 1 (1) A motion for appropriate relief made after the entry of judgment must be  
2 supported by affidavit or other documentary evidence if based upon the  
3 existence or occurrence of facts which are not ascertainable from the records  
4 and any transcript of the case or which are not within the knowledge of the  
5 judge who hears the motion.
- 6 (2) The opposing party may file affidavits or other documentary evidence.
- 7 (b1) Filing Motion With Clerk; Review of Motion by Judge/Clerk.
- 8 (1) The proceeding shall be commenced by filing with the clerk of superior  
9 court of the district wherein the defendant was indicted a motion, with  
10 service on the district attorney in noncapital cases, and service on both the  
11 district attorney and Attorney General in capital cases.
- 12 (2) The clerk, upon receipt of the motion, shall place the motion on the criminal  
13 docket. ~~The clerk shall promptly bring the motion, or a copy of the motion,~~  
14 ~~to the attention of the resident judge or any judge holding court in the county~~  
15 ~~or district.~~ When a motion is placed on the criminal docket, the clerk shall  
16 promptly bring the motion, or a copy of the motion, to the attention of the  
17 senior resident superior court judge or chief district court judge, as  
18 appropriate, for assignment to the appropriate judge pursuant to  
19 G.S. 15A-1413.
- 20 (b2) Noncapital Cases. – Assignment of Motion for Review; Initial Review of Motion;  
21 Time Frame for Hearings and Ruling on Motion.
- 22 (1) ~~In noncapital cases, the judge shall review the motion and enter an order~~  
23 ~~whether the defendant should be allowed to proceed without the payment of~~  
24 ~~costs, with respect to the appointment of counsel, and directing the State, if~~  
25 ~~necessary, to file an answer.~~ In noncapital cases, the resident superior court  
26 judge or chief district court judge, as appropriate, shall, within 30 days of the  
27 filing of the motion, assign the motion for initial review to the appropriate  
28 judge as provided in G.S. 15A-1413.
- 29 (2) The assigned judge, no later than 30 working days after the assignment,  
30 shall review the motion and issue a written initial review order that  
31 concludes the initial review of the motion in one of the following manners:  
32 (i) by dismissing the motion for lack of merit on its face, (ii) by directing  
33 the State, if necessary, to file an answer within 30 days of the date of the  
34 initial review order, or (iii) by dispensing with the requirement that the State  
35 file an answer and instead order a hearing. Unless the motion is dismissed,  
36 the initial review order shall also indicate whether the defendant shall be  
37 allowed to proceed without the payment of costs; indicate whether counsel  
38 shall be appointed; and calendar a hearing on the motion within the  
39 appropriate time period as set out in subdivision (3) of this subsection.
- 40 (3) Unless provided otherwise by this subsection, if the court determines that an  
41 evidentiary hearing is required, then the hearing must be held within 90 days  
42 from the date on which the initial review order was issued; if no evidentiary  
43 hearing is required, then the hearing must be held within 60 days from the  
44 date on which the initial review order was issued. If, in the initial review  
45 order, the court orders the State to file an answer and the court determines  
46 that an evidentiary hearing is required, then the evidentiary hearing must be  
47 held within 150 days from the date on which the initial review order was  
48 issued; if the court determines that the hearing is not an evidentiary hearing,  
49 then the hearing must be held within 120 days from the date on which the  
50 initial review order was issued. A notice of hearing must be made not less  
51 than five working days prior to the date of any hearing. The court, except for

1 good cause shown as provided in subdivision (4) of this subsection, must  
2 rule on a motion within 60 days from the date that the hearing concludes.

3 (4) Notwithstanding any other provision of this subsection, the court may, upon  
4 request of a party to the motion, grant an extension of time to comply with  
5 any deadline under this subsection, not to exceed 30 days. No subsequent  
6 request by the party to extend this deadline shall be granted unless the court  
7 enters a written order containing detailed findings of fact of extraordinary  
8 circumstances. Notwithstanding any other provision of this subsection, the  
9 senior resident superior court judge or chief district court judge, as  
10 appropriate, may, upon request of a judge assigned to review a motion for  
11 appropriate relief, grant to the assigned judge an extension of time to comply  
12 with any deadline under this subsection, not to exceed 30 days. No  
13 subsequent request by the assigned judge to extend this deadline shall be  
14 granted unless the senior resident superior court judge or the chief district  
15 court judge, as appropriate, enters a written order containing detailed  
16 findings of fact of extraordinary circumstances. The failure of the court to  
17 comply with the deadlines under this subsection is grounds for any party to  
18 petition the senior resident superior court judge or the chief district court  
19 judge, as appropriate, to reassign the motion of appropriate relief to a  
20 different judge empowered to act upon a motion for appropriate relief. The  
21 failure of the court to comply with the deadlines under this subsection also  
22 entitles any party to the motion for appropriate relief to seek a writ of  
23 mandamus to obtain compliance with the deadline.

24 (5) Notwithstanding any other provision of this subsection, failure to meet a  
25 deadline under this subsection is not a ground for the summary granting of a  
26 motion for appropriate relief or other summary relief, including without  
27 limitation, ordering the release of the prisoner.

28 (b3) Capital Cases. – Review and Calendaring of Motion. – In capital cases, the judge  
29 shall review the motion and enter an order directing the State to file its answer within 60 days  
30 of the date of the order. If a hearing is necessary, the judge shall calendar the case for hearing  
31 without unnecessary delay.

32 In capital cases, the judge shall review the motion and enter an order directing the State to  
33 file its answer within 60 days of the date of the order. If a hearing is necessary, the judge shall  
34 calendar the case for hearing without unnecessary delay.

35 (c) Hearings, Showing of Prejudice; Findings.

36 (1) Any party is entitled to a hearing on questions of law or fact arising from the  
37 motion and any supporting or opposing information presented unless the  
38 court determines that the motion is without merit. The court must determine,  
39 on the basis of these materials and the requirements of this subsection,  
40 whether an evidentiary hearing is required to resolve questions of fact. Upon  
41 the motion of either party, the judge may direct the attorneys for the parties  
42 to appear before him for a conference on any prehearing matter in the case.

43 (2) An evidentiary hearing is not required when the motion is made in the trial  
44 court pursuant to G.S. 15A-1414, but the court may hold an evidentiary  
45 hearing if it is appropriate to resolve questions of fact.

46 (3) The court must determine the motion without an evidentiary hearing when  
47 the motion and supporting and opposing information present only questions  
48 of law. The defendant has no right to be present at such a hearing where only  
49 questions of law are to be argued.

50 (4) If the court cannot rule upon the motion without the hearing of evidence, it  
51 must conduct a hearing for the taking of evidence, and must make findings

1 of fact. The defendant has a right to be present at the evidentiary hearing and  
2 to be represented by counsel. A waiver of the right to be present must be in  
3 writing.

4 (5) If an evidentiary hearing is held, the moving party has the burden of proving  
5 by a preponderance of the evidence every fact essential to support the  
6 motion.

7 (6) A defendant who seeks relief by motion for appropriate relief must show the  
8 existence of the asserted ground for relief. Relief must be denied unless  
9 prejudice appears, in accordance with G.S. 15A-1443.

10 (7) The court must rule upon the motion and enter its order accordingly. When  
11 the motion is based upon an asserted violation of the rights of the defendant  
12 under the Constitution or laws or treaties of the United States, the court must  
13 make and enter conclusions of law and a statement of the reasons for its  
14 determination to the extent required, when taken with other records and  
15 transcripts in the case, to indicate whether the defendant has had a full and  
16 fair hearing on the merits of the grounds so asserted.

17 (d) Action on Court's Own Motion. — At any time that a defendant would be entitled to  
18 relief by motion for appropriate relief, the court may grant such relief upon its own motion. The  
19 court must cause appropriate notice to be given to the parties.

20 (e) Nothing in this section shall prevent the parties to the action from entering into an  
21 agreement for appropriate relief, including an agreement as to any aspect, procedural or  
22 otherwise, of a motion for appropriate relief."

23 **SECTION 3.** G.S. 20-13.3 reads as rewritten:

24 "**§ 20-13.3. Immediate civil license revocation for provisional licensees charged with**  
25 **certain offenses.**

26 (a) Definitions. — As used in this section, the following words and phrases have the  
27 following meanings:

28 (1) Clerk. — As defined in G.S. 15A-101(2).

29 (2) Criminal moving violation. — A violation of Part 9 or 10 of Article 3 of this  
30 Chapter which is punishable as a misdemeanor or a felony offense. This  
31 term does not include the offenses listed in the third paragraph of  
32 G.S. 20-16(c) for which no points are assessed, nor does it include  
33 equipment violations specified in Part 9 of Article 3 of this Chapter.

34 (3) Judicial official. — As defined in G.S. 15A-101(5).

35 (4) Provisional licensee. — A person under the age of 18 who has a limited  
36 learner's permit, a limited provisional license, or a full provisional license  
37 issued pursuant to G.S. 20-11.

38 (5) Revocation report. — A sworn statement by a law enforcement officer  
39 containing facts indicating that the conditions of subsection (b) of this  
40 section have been met.

41 (b) Revocations for Provisional Licensees Charged With Criminal Moving Violation.  
42 — A provisional licensee's permit or license is subject to revocation under this section if a law  
43 enforcement officer has reasonable grounds to believe that the provisional licensee has  
44 committed a criminal moving violation, the provisional licensee is charged with that offense,  
45 and the provisional licensee is not subject to a civil revocation pursuant to G.S. 20-16.5.

46 (c) Duty of Law Enforcement Officers to Notify Provisional Licensee and Report to  
47 Judicial Officials. — If a provisional licensee's permit or license is subject to revocation under  
48 this section, the law enforcement officer must execute a revocation report ~~and must take the~~  
49 ~~provisional licensee before a judicial official for an initial appearance report.~~ It is the specific  
50 duty of the law enforcement officer to make sure that the report is expeditiously filed with a  
51 judicial official as required by this section. If no initial appearance is required on the underlying

1 criminal moving violation at the time of the issuance of the citation, the law enforcement  
2 officer must verbally notify the provisional licensee that the provisional licensee's permit or  
3 license is subject to revocation pursuant to this section and must provide the provisional  
4 licensee with written notice of the process for revocation and hearing under this section.

5 (c1) Which Judicial Official Must Receive Report. – The judicial official with whom the  
6 revocation report must be filed is:

7 (1) The judicial official conducting the initial appearance on the underlying  
8 criminal moving violation.

9 (2) The clerk of superior court in the county in which the underlying criminal  
10 charge has been brought if no initial appearance is required.

11 ~~(d) Judicial Official Must Receive Report; Procedure Upon Receipt of~~  
12 ~~Report.~~ Procedure If Report Filed With Judicial Official When Provisional Licensee Is Present.

13 – The If an initial appearance is required, the law enforcement officer must file the revocation  
14 report with the judicial official conducting the initial appearance on the underlying criminal  
15 moving violation. If a properly executed revocation report concerning a provisional licensee is  
16 filed with a judicial official when the person is present before that official, the judicial official  
17 shall, after completing any other proceedings involving the provisional licensee, determine  
18 whether there is probable cause to believe that the conditions of subsection (b) of this section  
19 have been met. If the judicial official determines there is such probable cause, the judicial  
20 official shall enter an order revoking the provisional licensee's permit or license. In addition to  
21 setting it out in the order, the judicial official shall personally inform the provisional licensee of  
22 the right to a hearing as specified in subsection (d2) of this section and that the provisional  
23 licensee's permit or license remains revoked pending the hearing. The period of revocation is  
24 for 30 days and begins at the time the revocation order is issued and continues for 30 additional  
25 calendar days. The judicial official shall give the provisional licensee a copy of the revocation  
26 order, which shall include the beginning date of the revocation and shall clearly state the final  
27 day of the revocation period and the date on which the provisional licensee's permit or license  
28 will again become valid. The provisional licensee shall not be required to surrender the  
29 provisional licensee's permit or license; however, the provisional licensee shall not be  
30 authorized to drive at any time or for any purpose during the period of revocation.

31 (d1) Procedure If Report Filed With Clerk of Court When Provisional Licensee Not  
32 Present. – When a clerk receives a properly executed report under subdivision (2) of subsection  
33 (c1) of this section and the provisional licensee named in the revocation report is not present  
34 before the clerk, the clerk shall determine whether there is probable cause to believe that the  
35 conditions of subsection (b) of this section have been met. If the clerk determines there is such  
36 probable cause, the clerk shall mail to the provisional licensee a revocation order by first-class  
37 mail. The order shall inform the provisional licensee that the period of revocation is for 30  
38 days, that the revocation becomes effective on the fourth day after the order is deposited in the  
39 United States mail and continues for 30 additional calendar days, of the right to a hearing as  
40 specified in subsection (d2) of this section, and that the revocation remains in effect pending  
41 the hearing. The provisional licensee shall not be required to surrender the provisional  
42 licensee's permit or license; however, the provisional licensee shall not be authorized to drive at  
43 any time or for any purpose during the period of revocation.

44 (d2) Hearing Before Magistrate or Judge If Provisional Licensee Contests Validity of  
45 Revocation. – A provisional licensee whose permit or license is revoked under this section may  
46 request in writing a hearing to contest the validity of the revocation. The request may be made  
47 at the time of the person's initial appearance, or within 10 days of the effective date of the  
48 revocation to the clerk or a magistrate designated by the clerk, and may specifically request that  
49 the hearing be conducted by a district court judge. The Administrative Office of the Courts  
50 must develop a hearing request form for any provisional licensee requesting a hearing. Unless a  
51 district court judge is requested, the hearing must be conducted within the county by a

1 magistrate assigned by the chief district court judge to conduct such hearings. If the provisional  
2 licensee requests that a district court judge hold the hearing, the hearing must be conducted  
3 within the district court district as defined in G.S. 7A-133 by a district court judge assigned to  
4 conduct such hearings. The revocation remains in effect pending the hearing, but the hearing  
5 must be held within three working days following the request if the hearing is before a  
6 magistrate or within five working days if the hearing is before a district court judge. The  
7 request for the hearing must specify the grounds upon which the validity of the revocation is  
8 challenged, and the hearing must be limited to the grounds specified in the request. A witness  
9 may submit his evidence by affidavit unless he is subpoenaed to appear. Any person who  
10 appears and testifies is subject to questioning by the judicial official conducting the hearing,  
11 and the judicial official may adjourn the hearing to seek additional evidence if he is not  
12 satisfied with the accuracy or completeness of evidence. The provisional licensee contesting the  
13 validity of the revocation may, but is not required to, testify in his own behalf. Unless contested  
14 by the person requesting the hearing, the judicial official may accept as true any matter stated  
15 in the revocation report. If any relevant condition under subsection (b) of this section is  
16 contested, the judicial official must find by the greater weight of the evidence that the condition  
17 was met in order to sustain the revocation. At the conclusion of the hearing, the judicial official  
18 must enter an order sustaining or rescinding the revocation. The judicial official's findings are  
19 without prejudice to the provisional licensee contesting the revocation and to any other  
20 potential party as to any other proceedings, civil or criminal, that may involve facts bearing  
21 upon the conditions in subsection (b) of this section considered by the judicial official. The  
22 decision of the judicial official is final and may not be appealed in the General Court of Justice.  
23 If the hearing is not held and completed within three working days of the written request for a  
24 hearing before a magistrate or within five working days of the written request for a hearing  
25 before a district court judge, the judicial official must enter an order rescinding the revocation,  
26 unless the provisional licensee contesting the revocation contributed to the delay in completing  
27 the hearing. If the provisional licensee requesting the hearing fails to appear at the hearing or  
28 any rescheduling thereof after having been properly notified, the provisional licensee forfeits  
29 his right to a hearing.

30 (e) Report to Division. — The clerk shall notify the Division of the issuance of a  
31 revocation order pursuant to this section within two business days of the issuance of the  
32 revocation order. The notification shall identify the person whose provisional license has been  
33 revoked and specify the beginning and end date of the revocation period.

34 (f) Effect of Revocations. — A revocation under this section revokes a provisional  
35 licensee's privilege to drive in North Carolina. Revocations under this section are independent  
36 of and run concurrently with any other revocations, except for a revocation pursuant to  
37 G.S. 20-16.5. Any civil revocation issued pursuant to G.S. 20-16.5 for the same underlying  
38 conduct as a revocation under this section shall have the effect of terminating a revocation  
39 pursuant to this section. No court imposing a period of revocation following conviction for an  
40 offense involving impaired driving may give credit for any period of revocation imposed under  
41 this section. A person whose license is revoked pursuant to this section is not eligible to receive  
42 a limited driving privilege.

43 (g) Designation of Proceedings. — Proceedings under this section are civil actions and  
44 must be identified by the caption "In the Matter of \_\_\_\_\_" and filed as directed by the  
45 Administrative Office of the Courts.

46 (h) No drivers license points or insurance surcharge shall be assessed for a revocation  
47 pursuant to this section. Possession of a drivers license revoked pursuant to this section shall  
48 not be a violation of G.S. 20-30.

49 (i) The Administrative Office of the Courts shall adopt forms to implement this  
50 section."

51 **SECTION 4.** G.S. 18C-151 reads as rewritten:



1 **"§ 18C-151. Contracts.**

2 (a) Except as otherwise specifically provided in this subsection for contracts for the  
3 purchase of services, apparatus, supplies, materials, or equipment, Article 8 of Chapter 143 of  
4 the General Statutes, including the provisions relating to minority participation goals, shall  
5 apply to contracts entered into by the Commission. If this subsection and Article 8 of Chapter  
6 143 are in conflict, the provisions of this subsection shall control. In recognition of the  
7 particularly sensitive nature of the Lottery and the competence, quality of product, experience,  
8 and timeliness, fairness, and integrity in the operation and administration of the Lottery and  
9 maximization of the objective of raising revenues, a contract for the purchase of services,  
10 apparatus, supplies, materials, or equipment requiring an estimated aggregate expenditure of  
11 ~~ninety thousand dollars (\$90,000)~~ three hundred thousand dollars (\$300,000) or more may be  
12 awarded by the Commission only after the following have occurred:

- 13 (1) The Commission has invited proposals to be submitted by advertisement by  
14 electronic means or advertisement in a newspaper having general circulation  
15 in the State of North Carolina and containing the following information:  
16 a. The time and place where a complete description of the services,  
17 apparatus, supplies, materials, or equipment may be had.  
18 b. The time and place for opening of the proposals.  
19 c. A statement reserving to the Commission the right to reject any or all  
20 proposals.  
21 (2) Proposals may be rejected for any reason determined by the Commission to  
22 be in the best interest of the Lottery.  
23 (3) All proposals shall be accompanied by a bond or letter of credit in an amount  
24 equal to not less than five percent (5%) of the proposal and the fee to cover  
25 the cost of the criminal record check conducted under G.S. 114-19.6.  
26 (4) The Commission has complied with the minority participation goals of  
27 G.S. 143-128.2 and G.S. 143-128.3.  
28 (5) The Commission may not award a contract to a lottery potential contractor  
29 who has been convicted of a felony or any gambling offense in any state or  
30 federal court of the United States within 10 years of entering into the  
31 contract, or employs officers and directors who have been convicted of a  
32 felony or any gambling offense in any state or federal court of the United  
33 States within 10 years of entering into the contract.  
34 (6) The Commission shall investigate and compare the overall business  
35 practices, ethical reputation, criminal record, civil litigation, competence,  
36 integrity, background, and regulatory compliance record of lottery potential  
37 contractors.  
38 (7) The Commission may engage an independent firm experienced in evaluating  
39 government procurement proposals to aid in evaluating proposals for a major  
40 procurement.  
41 (8) The Commission shall award the contract to the responsible lottery potential  
42 contractor or lottery supplier who submits the best proposal that maximizes  
43 the benefits to the State.

44 (b) Upon the completion of the bidding process, a contract may be awarded to a lottery  
45 contractor or lottery supplier with whom the Commission has previously contracted for the  
46 same purposes.

47 (c) Before a contract is awarded, the Director shall conduct a thorough background  
48 investigation of all of the following:

- 49 (1) The potential contractor to whom the contract is to be awarded.  
50 (2) Any parent or subsidiary corporation of the potential contractor to whom the  
51 contract is to be awarded.

1 (3) All shareholders with a five percent (5%) or more interest in the potential  
2 contractor or parent or subsidiary corporation of the potential contractor to  
3 whom the contract is to be awarded. For purposes of this subdivision,  
4 shareholders shall mean any natural person or those individuals with  
5 capabilities to make operating decisions for the potential contractor or parent  
6 or subsidiary corporation of the potential contractor to whom the contract is  
7 to be awarded.

8 (4) All officers and directors of the potential contractor or parent or subsidiary  
9 corporation of the potential contractor to whom the contract is to be  
10 awarded.

11 (d) The Commission may terminate the contract, without penalty, of a lottery contractor  
12 that fails to comply with the Commission's instruction to implement the recommendations of  
13 the State Auditor or an independent auditor in an audit conducted of Lottery security or  
14 operations.

15 (e) After entering into a contract with a lottery contractor, the Commission shall require  
16 the lottery contractor to periodically update the information required to be disclosed under  
17 G.S. 18C-152(c). Any contract with a lottery contractor who does not periodically update the  
18 required disclosures may be terminated by the Commission.

19 (f) No lottery contractor, potential contractor, or lottery supplier may pay, give, or  
20 make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or  
21 service, excluding food and beverages having an aggregate value not exceeding one hundred  
22 dollars (\$100.00) in any calendar year, to the Director, any member or employee of the  
23 corporation, or a member of the immediate family residing in the same household as any of  
24 these individuals."

25 **SECTION 5.** Section 5 of S.L. 2011-236 reads as rewritten:

26 "**SECTION 5.** This act becomes effective October 1, 2011, and applies to agreements  
27 executed on or after that date. Agreements executed prior to October 1, 2011, remain subject to  
28 the laws in effect at the time the parties executed the ~~agreement~~agreement; differences in  
29 wording between procedures authorized to establish agreements under the laws repealed by this  
30 act and under the superseding laws enacted by this act clarify the permitted procedures under  
31 the repealed laws."

32 **SECTION 6.** Section 1 of this act becomes effective September 1, 2012, and  
33 applies to offenses committed on or after that date. Section 2 of this act becomes effective  
34 December 1, 2012, and applies to motions for appropriate relief filed on or after that date.  
35 Section 3 of this act becomes effective December 1, 2012, and applies to offenses committed  
36 on or after that date. The remainder of this act is effective when it becomes law.