



**NORTH CAROLINA GENERAL ASSEMBLY
CONFERENCE REPORT
Senate Bill 182**

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[NO] Title Change

[NO] For Committee Substitute

To: The President of the Senate
The Speaker of the House of Representatives

The conferees appointed to resolve the differences between the Senate and the House of Representatives on Senate Bill 182, A BILL TO BE ENTITLED AN ACT TO ELIMINATE APPEALS FOR INFRACTIONS, TO MODIFY APPEALS TO THE SUPERIOR COURT IN PROBATION REVOCATIONS IN WHICH THE DEFENDANT HAS WAIVED A HEARING, TO AMEND THE LAW PERTAINING TO RESENTENCING UPON THE REVERSAL OF A SENTENCE ON APPELLATE REVIEW, TO MAKE CHANGES REGARDING THE PROCEDURES FOR A MOTION FOR APPROPRIATE RELIEF, AND TO RECLASSIFY CERTAIN MISDEMEANORS AS INFRACTIONS, House Committee Substitute Favorable 7/18/13, Fifth Edition Engrossed 7/23/13, submit the following report:

The Senate and the House agree to the following amendments and the Senate concurs in House Committee Substitute Favorable 7/18/13, Fifth Edition Engrossed 7/23/13, as amended:

on page 3, line 45, through page 4, line 42, by rewriting those lines to read:

"SECTION 4. If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 20-35, as amended by Section 18B.14(g) of that bill, reads as rewritten:

"§ 20-35. Penalties for violating Article; defense to driving without a license.

(a) Penalty. – Except as otherwise provided in subsection (a1) or (a2) of this section, a violation of this Article is a Class 2 misdemeanor unless a statute in the Article sets a different punishment for the violation. If a statute in this Article sets a different punishment for a violation of the Article, the different punishment applies.

(a1) The following offenses are Class 3 misdemeanors:

- (1) Failure to obtain a license before driving a motor vehicle, in violation of G.S. 20-7(a).
- ~~(2) Failure to carry a valid license while driving a motor vehicle, in violation of G.S. 20-7(a).~~
- ~~(3)~~(2) Failure to comply with license restrictions, in violation of G.S. 20-7(e).
- ~~(4) Operation of a motor vehicle with an expired license, in violation of G.S. 20-7(f).~~



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- ~~(5)~~ Failure to notify the Division of Motor Vehicles of an address change for a drivers license within 60 days after the change occurs, in violation of G.S. 20-7.1.
- ~~(6)~~(3) Permitting a motor vehicle owned by the person to be operated by an unlicensed person, in violation of G.S. 20-34.
- (a2) A person who does any of the following is responsible for an infraction:
 - (1) Fails to carry a valid license while driving a motor vehicle, in violation of G.S. 20-7(a).
 - (2) Operates a motor vehicle with an expired license, in violation of G.S. 20-7(f).
 - (3) Fails to notify the Division of an address change for a drivers license within 60 days after the change occurs, in violation of G.S. 20-7.1.
- (b) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 4.
- (c) Defenses. – A person may not be ~~convicted of~~ found responsible for failing to carry a regular drivers license if, when tried for that offense, the person produces in court a regular drivers license issued to the person that was valid when the person was charged with the offense. A person may not be convicted of found responsible for driving a motor vehicle without a regular with an expired drivers license if, when tried for that offense, the person shows all the following:
 - (1) That, at the time of the offense, the person had an expired license.
 - (2) The person renewed the expired license within 30 days after it expired and now has a drivers license.
 - (3) The person could not have been charged with driving without a license if the person had the renewed license when charged with the offense."

SECTION 5. If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 20-176, as amended by Section 18B-14(h) of that bill, reads as rewritten:

"§ 20-176. Penalty for misdemeanor or infraction.

(a) Violation of a provision of Part 9, 10, 10A, or 11 of this Article is an infraction unless the violation is specifically declared by law to be a misdemeanor or felony. ~~Violation~~ Except as otherwise provided in subsection (a1) of this section, violation of the remaining Parts of this Article is a misdemeanor unless the violation is specifically declared by law to be an infraction or a felony.

(a1) A person who does any of the following is responsible for an infraction:

- (1) Fails to carry the registration card in the vehicle, in violation of G.S. 20-57(c).
- (2) Fails to sign the vehicle registration card, in violation of G.S. 20-57(c).
- (3) Fails to notify the Division of an address change for a vehicle registration card within 60 days after the change occurs, in violation of G.S. 20-67.

(b) Unless a specific penalty is otherwise provided by law, a person found responsible for an infraction contained in this Article may be ordered to pay a penalty of not more than one hundred dollars (\$100.00).

(c) ~~Except as otherwise provided in subsection (c2) of this section, and unless~~ Unless a specific penalty is otherwise provided by law, a person convicted of a misdemeanor contained in this Article is guilty of a Class 2 misdemeanor. A punishment is specific for purposes of this

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subsection if it contains a quantitative limit on the term of imprisonment or the amount of fine a judge can impose.

(c1) Notwithstanding any other provision of law, no person convicted of a misdemeanor for the violation of any provision of this Chapter except G.S. 20-28(a) and (b), G.S. 20-141(j), G.S. 20-141.3(b) and (c), G.S. 20-141.4, or a second or subsequent conviction of G.S. 20-138.1 shall be imprisoned in the State prison system unless the person previously has been imprisoned in a local confinement facility, as defined by G.S. 153A-217(5), for a violation of this Chapter.

~~(e2) A person who does any of the following is guilty of a Class 3 misdemeanor:~~

- ~~(1) Fails to carry the registration card in the vehicle, in violation of G.S. 20-57(c).~~
- ~~(2) Fails to sign the vehicle registration card, in violation of G.S. 20-57(e).~~
- ~~(3) Fails to notify the Division of Motor Vehicles of an address change for a vehicle registration card within 60 days after the change occurs, in violation of G.S. 20-67.~~

(d) For purposes of determining whether a violation of an offense contained in this Chapter constitutes negligence per se, crimes and infractions shall be treated identically."

SECTION 6. If Senate Bill 402, 2013 Regular Session, becomes law, then G.S. 113-135(a), as amended by Section 18B-14(m) of that bill, reads as rewritten:

"(a) Any person who violates any provision of this Subchapter or any rule adopted by the Marine Fisheries Commission or the Wildlife Resources Commission, as appropriate, pursuant to the authority of this Subchapter, is guilty of a misdemeanor except that punishment for violation of the rules of the Wildlife Resources Commission is limited as set forth in G.S. 113-135.1. Fishing without a license in violation of G.S. 113-174.1(a) or G.S. 113-270.1B(a) is punishable as ~~a Class 3 misdemeanor~~ an infraction. Otherwise, unless a different level of punishment is elsewhere set out, anyone convicted of a misdemeanor under this section is punishable as follows:

- (1) For a first conviction, as a Class 3 misdemeanor.
- (2) For a second or subsequent conviction within three years, as a Class 2 misdemeanor."";

and on page 4, line 45, by adding to the end of that line, following the period, the following new sentence:

"Prosecutions for offenses committed before the effective date of this section are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions."

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The conferees recommend that the Senate and the House of Representatives adopt this report.

Date Conferees approved report: July __, 2013.

Conferees for the Senate

Conferees for the
House of Representatives

Peter S. Brunstetter, Chair

Paul Stam, Chair

Harry Brown

Chuck McGrady

Thom Goolsby

Rick Glazier

Submitted _____

ADOPTED _____

ADOPTED _____

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Message Received _____

Ordered Enrolled _____