

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 409
PROPOSED HOUSE COMMITTEE SUBSTITUTE S409-PCS15382-CI-35

Short Title: Crim Law & Proc Changes/Civ Youth Grps/Signs.

(Public)

Sponsors:

Referred to:

March 30, 2023

A BILL TO BE ENTITLED

AN ACT TO AMEND THE OFFENSE OF BREAKING OR ENTERING INTO OR
BREAKING OUT OF RAILROAD CARS, MOTOR VEHICLES, TRAILERS,
AIRCRAFT, BOATS, OR OTHER WATERCRAFT; TO PROVIDE THAT MULTIPLE
ACTS OF CERTAIN FINANCIAL CRIME OFFENSES MAY BE AGGREGATED IN
CERTAIN CIRCUMSTANCES WHEN DETERMINING THE LEVEL OF PUNISHMENT
TO BE IMPOSED; TO PROVIDE THAT PROVING IT WAS THE REGULAR PRACTICE
OF A BUSINESS ACTIVITY TO MAKE A MEMORANDUM, REPORT, OR DATA
COMPILATION MAY BE MADE BY AN UNSWORN DECLARATION UNDER
PENALTY OF PERJURY; TO ALLOW CIVIC YOUTH GROUPS TO ADDRESS
STUDENTS IN PUBLIC SCHOOL UNITS DURING CIVIC FOCUS WEEKS; AND TO
REQUIRE MONETARY COMPENSATION TO OWNERS OF ON-PREMISES
ADVERTISEMENTS FOR THE REPLACEMENT OR UPGRADE OF
NONCONFORMING SIGNS DUE TO A CHANGE IN LOCAL GOVERNMENT
REGULATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-56 reads as rewritten:

"§ 14-56. **Breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft.**

(a) ~~If it is unlawful for any person, with the intent to commit any felony or larceny therein, breaks or enters to break or enter any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind, containing any goods, wares, freight, or other thing of value, or, after having committed any felony or larceny therein, breaks break out of any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind containing any goods, wares, freight, or other thing of value, that person is guilty of a Class I felony. value. It is prima facie evidence that a person entered in violation of this section if he the person is found unlawfully in such a railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft.~~

~~(a1) If any person violates subsection (a) of this section, that person is guilty of a Class H felony if both of the following conditions are met:~~

~~(1) The railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is owned or operated by any law enforcement agency, the North Carolina National Guard, or any branch of the Armed Forces of the United States.~~

~~(2) The person knows or reasonably should know that the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is owned or~~



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operated by any law enforcement agency, the North Carolina National Guard, or any branch of the Armed Forces of the United States.

(a2) The following classifications apply to an offense under subsection (a) of this section:

(1) An offense is a Class H felony if the goods, wares, freight, or other thing of value taken has a value exceeding one thousand five hundred dollars (\$1,500), but no more than twenty thousand dollars (\$20,000), aggregated over a 90-day period, or if all of the following conditions are met:

a. The railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is owned or operated by any law enforcement agency, the North Carolina National Guard, or any branch of the Armed Forces of the United States.

b. The person knows or reasonably should know that the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is owned or operated by any law enforcement agency, the North Carolina National Guard, or any branch of the Armed Forces of the United States.

c. The offense does not involve the taking of goods, wares, freight, or any other thing of value that would be punishable under subdivision (2), (3), or (4) of this subsection.

(2) An offense is a Class G felony if the goods, wares, freight, or other thing of value taken has a value exceeding twenty thousand dollars (\$20,000), but no more than fifty thousand dollars (\$50,000), aggregated over a 90-day period.

(3) An offense is a Class F felony if the goods, wares, freight, or other thing of value taken has a value exceeding fifty thousand dollars (\$50,000), but no more than one hundred thousand dollars (\$100,000), aggregated over a 90-day period.

(4) An offense is a Class C felony if the goods, wares, freight, or other thing of value taken has a value exceeding one hundred thousand dollars (\$100,000), aggregated over a 90-day period.

(5) An offense is a Class I felony for any other offense under subsection (a) of this section that is not otherwise covered under subdivisions (1) through (4) of this subsection.

(b) It shall not be a violation of this section for any person to break or enter any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind to provide assistance to a person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind if one or more of the following circumstances exist:

(1) The person acts in good faith to access the person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind in order to provide first aid or emergency health care treatment or because the person inside is, or is in imminent danger of becoming unconscious, ill, or injured.

(2) It is reasonably apparent that the circumstances require prompt decisions and actions in medical, other health care, or other assistance for the person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind.

(3) The necessity of immediate health care treatment or removal of the person from the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is so reasonably apparent that any delay in the rendering of treatment or removal would seriously worsen the physical condition or endanger the life of the person.

(c) Acts occurring in more than one county that would constitute a violation of subsection (a) of this section and involve the taking of goods, wares, freight, or any other thing of value may

1 be aggregated into an alleged violation of subsection (a) of this section. Each county where a part
2 of the charged offense occurs has concurrent venue as described in G.S. 15A-132."

3 **SECTION 2.** G.S. 14-86.1(a) reads as rewritten:

4 "(a) All conveyances, including vehicles, watercraft, or aircraft, used to unlawfully
5 conceal, convey, or transport property in violation of G.S. 14-71, 14-71.1, or 14-71.2, used by
6 any person in the commission of armed or common-law robbery, used in violation of
7 G.S. 14-72.7, used by any person in the commission of any larceny when the value of the property
8 taken is more than two thousand dollars (\$2,000), used by any person in the commission of an
9 offense under G.S. 14-56, or used by any person in the commission of organized retail theft in
10 violation of G.S. 14-86.6 shall be subject to forfeiture as provided herein, except that:

11"

12 **SECTION 3.** Article 81B of Chapter 15A of the General Statutes is amended by
13 adding a new section to read:

14 "**§ 15A-1340.16F. Aggregation of multiple financial crime offenses.**

15 (a) Definition. – For purposes of this section, the term "financial crime offense" means
16 any of the following:

17 (1) Acts of embezzlement punishable under Article 18 of Chapter 14 of the
18 General Statutes.

19 (2) Acts of false pretenses punishable under G.S. 14-100.

20 (3) Acts of exploitation of an older adult punishable under G.S. 14-112.2.

21 (b) Aggregation. – If a person is convicted of two or more of the same financial crime
22 offenses, the financial crime offenses may be aggregated for sentencing if it is found that both of
23 the following conditions are met:

24 (1) The person committed the financial crime offenses against more than one
25 victim or in more than one county.

26 (2) The financial crime offenses are based on the same act or transaction or on a
27 series of acts or transactions connected together or constituting parts of a
28 common scheme or plan.

29 (c) Venue. – Each county where a part of the violations aggregated under subsection (b)
30 of this section occurs shall have concurrent venue as described in G.S. 15A-132.

31 (d) Pleading. – The pleading for financial crime offenses aggregated under this section
32 shall allege the facts set out in subsection (b) of this section and identify the financial crime
33 offenses to which the aggregation shall apply. The pleading is sufficient if it alleges that the
34 defendant committed the financial crime offenses against more than one victim or in more than
35 one county and that the financial crime offenses are based on the same act or transaction or on a
36 series of acts or transactions connected together or constituting parts of a common scheme or
37 plan.

38 (e) Procedure. – The State shall prove the issues set out in subsections (b) and (f) of this
39 section beyond a reasonable doubt during the same trial in which the defendant is tried for the
40 financial crime offenses unless the defendant pleads guilty or no contest to the issues. If the
41 defendant pleads guilty or no contest to the financial crime offenses but pleads not guilty to the
42 issues set out in subsection (b) or subsection (f) of this section, then a jury shall be impaneled to
43 determine the issues.

44 (f) Punishment. – If convictions for two or more of the same financial crime offenses are
45 aggregated in accordance with this section, the court shall use the aggregated value of the money,
46 goods, property, services, chose in action, or other thing of value when determining the level of
47 punishment to be imposed. Notwithstanding any provision of law to the contrary, financial crime
48 offenses aggregated under subsection (b) of this section are punishable as follows:

49 (1) If the aggregated value of the money, goods, property, services, chose in
50 action, or other thing of value exceeds one thousand five hundred dollars

1 (\$1,500), then the aggregated offenses shall be punished as one Class H
 2 felony.

3 (2) If the aggregated value of the money, goods, property, services, chose in
 4 action, or other thing of value exceeds twenty thousand dollars (\$20,000), then
 5 the aggregated offense shall be punished as one Class G felony.

6 (3) If the aggregated value of the money, goods, property, services, chose in
 7 action, or other thing of value exceeds fifty thousand dollars (\$50,000), then
 8 the aggregated offenses shall be punished as one Class F felony.

9 (4) If the aggregated value of the money, goods, property, services, chose in
 10 action, or other thing of value exceeds one hundred thousand dollars
 11 (\$100,000), then the aggregated offense shall be punished as one Class C
 12 felony."

13 **SECTION 4.** G.S. 8C-1, Rule 803, reads as rewritten:

14 **"Rule 803. Hearsay exceptions; availability of declarant immaterial.**

15 The following are not excluded by the hearsay rule, even though the declarant is available as
 16 a witness:

17 ...

18 (6) **Records of Regularly Conducted Activity.** – A memorandum, report, record,
 19 or data compilation, in any form, of acts, events, conditions, opinions, or
 20 diagnoses, made at or near the time by, or from information transmitted by, a
 21 person with knowledge, if (i) kept in the course of a regularly conducted
 22 business activity and (ii) it was the regular practice of that business activity to
 23 make the memorandum, report, record, or data compilation, all as shown by
 24 the testimony of the custodian or other qualified witness, ~~or~~ by affidavit or by
 25 document under seal under Rule 902 of the Rules of Evidence made by the
 26 custodian or witness, or by a certification that complies with 28 U.S.C. § 1746
 27 made by the custodian or witness, unless the source of information or the
 28 method or circumstances of preparation indicate lack of trustworthiness.
 29 Authentication of evidence by affidavit shall be confined to the records of
 30 nonparties, and the proponent of that evidence shall give advance notice to all
 31 other parties of intent to offer the evidence with authentication by affidavit.
 32 The term "business" as used in this paragraph includes business, institution,
 33 association, profession, occupation, and calling of every kind, whether or not
 34 conducted for profit.

35"

36 **SECTION 5.(a)** G.S. 115C-81.45 is amended by adding a new subsection to read:

37 **"(e) Civic Youth Group Presentations. –**

38 (1) The following definitions apply in this subsection:

39 a. Civic focus week. – Either of the following:

40 1. The week of Patriot's Day, September 11, as established by 36
 41 U.S.C. § 144.

42 2. The week of Constitution Day, September 17, as established
 43 by 36 U.S.C. § 106.

44 b. Civic youth group. – One of the following youth membership
 45 organizations located in North Carolina whose purpose includes the
 46 promotion of civic and citizenship education as required by the
 47 standard course of study among elementary, middle, and high school
 48 students:

49 1. Big Brothers Big Sisters of America.

50 2. Boy Scouts of America.

51 3. Boys and Girls Clubs of America.

1 4. Future Farmers of America.

2 5. Girl Scouts of the United States of America.

3 (2) Local boards of education shall provide opportunities in each school within
4 the local school administrative unit for civic youth groups to address students
5 during a civic focus week that allow those groups to address how involvement
6 can further students' educational interests and civic participation to improve
7 their schools, communities, and themselves.

8 (3) A civic youth group must provide 30 days written notice to the principal of a
9 school of the group's interest in addressing students during a civic focus week.
10 The principal shall provide written approval indicating the specific date and
11 time during the civic focus week for the civic youth group to address the
12 students and the location where the address may occur. The civic youth group
13 shall be provided at least 10 minutes during the instructional day to address
14 students.

15 (4) The principal of each school may designate a single event to observe a civic
16 focus week when all civic youth groups may address students, with time
17 allocated equally among the requesting civic youth groups. For an event
18 designated under this subdivision, a principal is not required to:

19 a. Allocate more than 50 minutes to the event.

20 b. Allow a civic youth group to speak more than once each school year."

21 **SECTION 5.(b)** G.S. 115C-218.75 is amended by adding a new subsection to read:

22 "(n) Charter schools shall provide opportunities for civic youth groups to address students
23 during a civic focus week in accordance with the provisions of G.S. 115C-81.45(e)."

24 **SECTION 5.(c)** G.S. 115C-238.66 is amended by adding a new subdivision to read:

25 "(22) Civic youth groups. – Regional schools shall provide opportunities for civic
26 youth groups to address students during a civic focus week in accordance with
27 the provisions of G.S. 115C-81.45(e)."

28 **SECTION 5.(d)** G.S. 116-239.8(b) is amended by adding a new subdivision to read:

29 "(25) Civic youth groups. – Laboratory schools shall provide opportunities for civic
30 youth groups to address students during a civic focus week in accordance with
31 the provisions of G.S. 115C-81.45(e)."

32 **SECTION 5.(e)** This section is effective when it becomes law and applies beginning
33 with the 2024-2025 school year.

34 **SECTION 6.** Part 1 of Article 9 of Chapter 160D of the General Statutes is amended
35 by adding a new section to read:

36 "**§ 160D-912.1. On-premises advertisements.**

37 (a) As used in this section, the following definitions apply:

38 (1) Nonconforming sign. – An on-premises advertisement that was lawfully
39 installed but which does not comply with current ordinances or regulations.

40 (2) On-premises advertisement. – A sign identifying or advertising a business,
41 person, activity, goods, products, or services located on the premises where
42 the sign is installed and maintained.

43 (b) A local government may not enact or amend an ordinance of general applicability to
44 require the owner of a nonconforming sign to bring the sign into compliance with current
45 regulations without doing one of the following:

46 (1) Paying monetary compensation to the owner of the nonconforming sign. Upon
47 payment of monetary compensation for the sign, the local government shall
48 own the sign and remove it at a time mutually agreed upon by the owner of
49 the sign and the local government.

50 (2) Reimburse the owner an amount equal to the difference of the fair market
51 value of the nonconforming sign and the reasonable cost to bring the sign into

1 compliance. Upon being reimbursed, the owner of the nonconforming sign
2 shall bring the sign into compliance with the current regulations in a timely
3 manner.

4 (c) Monetary compensation is the fair market value of the nonconforming sign in place
5 immediately prior to its removal and without consideration of the effect of the ordinance or any
6 diminution in value caused by the ordinance requiring its removal. Monetary compensation shall
7 be determined using the factors listed in G.S. 105-317.1(a).

8 (d) Monetary compensation or reimbursement is not required under this section for any
9 of the following:

10 (1) The local government and the owner of the nonconforming sign enter into a
11 voluntary agreement allowing for the removal of the sign after a set period of
12 time in lieu of monetary compensation. A local government may adopt an
13 ordinance or resolution providing for a relocation, reconstruction, or removal
14 agreement.

15 (2) The nonconforming sign is determined to be a public nuisance or detrimental
16 to the health or safety of the populace.

17 (3) The removal of the nonconforming sign is required for opening, widening,
18 extending, or improving streets or sidewalks, or for establishing, extending,
19 enlarging, or improving any of the public enterprises listed in G.S. 160A-311,
20 and the local government allows the nonconforming sign to be relocated to a
21 comparable location.

22 (4) The nonconforming sign is subject to removal pursuant to statutes, ordinances,
23 or regulations generally applicable to the demolition or removal of damaged
24 structures.

25 (e) If the local government and the owner of the nonconforming sign are unable to agree
26 on the monetary compensation or reimbursement, then the local government may bring an action
27 in superior court for a determination of the monetary compensation or reimbursement to be paid.
28 In determining monetary compensation, the court shall consider the factors set forth in subsection
29 (c) of this section.

30 (f) The provisions of this section shall not be used to interpret, construe, alter, or
31 otherwise modify the exercise of the power of eminent domain by an entity pursuant to Chapter
32 40A of the General Statutes."

33 **SECTION 7.** Sections 1 through 3 of this act become effective December 1, 2023,
34 and apply to offenses committed on or after that date. Section 4 of this act becomes effective
35 December 1, 2023. Except as otherwise provided, the remainder of this act is effective when it
36 becomes law.